**MOOT PROPOSITION**

1. Union of Adisthan is a democratic country which is composed of people belonging to different cultures and religions. The Constitution of Adisthan grants various fundamental rights and also respects international treaties and conventions. Adisthan is a Federal Democratic Republic with rule of law, independent judiciary, free media and vibrant civil society. The rights with respect to the Lesbian, Gay, Bisexual, Transgender, Queer and Inter-sex (LGBTQI) community gained momentum and attention from people belonging to various walks of life post its Apex Court’s decision on 06-09-2018.
2. Further, Adisthan is also a signatory to the United Nations Human Rights Council (UNHRC). On various occasions, Adisthan has held abstentions under the International Gay and Lesbian Human Rights Commission (IGLHRC) which was established in pursuance of the statutory provisions of UNHRC. Additionally, Adisthan abstained from voting when the question of extending the mandate of the Special Rapporteur (SR) for protection against violence and discrimination based on Sexual Orientation and Gender Identity (SOGI) was considered.
3. Srinispur is a modernised state in the Union of Adisthan. Citizens of Srinispur have advocated for the fulfilment of constitutional rights at various instances. Mr. Mike and Mr. Ross are childhood friends and have graduated together from the Govt. Medical College (GMC), Srinispur. Mr. Mike and Mr. Ross were secretly in a relationship from 2015. However, they never told this to anyone as they feared societal ostracization. During their last month of college, they conducted a rally for the rights of LGBTQI Community which was headed by Mr. Mike in the year 2017.
4. Post the Apex Court’s decision in 2018, they deliberated and finally decided to get married despite facing opposition from their families. Mr. Mike and Mr. Ross decided to solemnize their marriage as per the provisions of the Special Marriage Act, 1954 (SMA,1954). On 25-11-2019, they submitted a notice as per the specifications given under Section 5 of the SMA, 1954 to the marriage officer, Vasanthpuram district, Srinispur. The marriage officer in pursuance of his obligation under section 6(2) of the SMA, 1954, published the notice submitted by Mr. Mike and Ross on 05-12-2019.
5. Mr. Hilton, father of Mr. Ross filed an objection on 18-12-2019 stating that same sex marriage (SSM) is not permissible under the SMA, 1954 and it is against contemporary social morality. He pointed out to Section 4(c) of the Act in support of his contention. Mr. Hilton submitted several reasons for supporting this contention namely:
6. If same-sex civil marriage becomes common, it would give rise to an imminent danger of the children of same-sex couples turning out to be lesbian couples. Moreover, children will be denied of either a mother or father. The roles of both the parents are inevitable and essential to the proper growth and well-being of a child.
7. He argued that, from a sociological perspective, the primary purpose that marriages serve is to secure a mother and father for each child who is born into a society.
8. Moreover, the predicament of this Western culture is that, it fosters an anti-natalist mindset that fuels population decline, which in turn puts tremendous social, political, and economic strains on the larger society. Same-sex marriage would only further undercut the procreative norm long associated with marriage.
9. On the basis of this objection, the Marriage Officer of Vasanthpuram refused to solemnize their marriage and the decision was communicated to Mr. Mike and Mr. Ross on 15-01-2020. Mr. Mike and Mr. Ross vehemently opposed the decision of the marriage officer. On the contrary, they were of their opinion that the practice of prohibiting same-sex marriage grossly infringed with their personal liberties and their right to life at large. With the Supreme Court unanimously declaring a part of Sec. 377 to be unconstitutional, they were convinced that an obstruction to same-sex marriages explicitly defeats the sole objective behind decriminalising homosexuality.

The Couple being highly disappointed, continued to live together and were weighing their options for a legal remedy.

1. On 23-01-2020, Mr. Mike & Mr. Ross approached an NGO named LAW ADDICTS who fight for the rights of LGBTQI [Lesbian, Gay, Bisexual, Transgender, Queer, Intersex] section of society in Adisthan. LAW ADDICTS after consultation with their panel of legal experts filed a Public Interest Litigation before the Supreme Court of Adisthan under Article 32 of the Constitution challenging the validity of the decision of the Marriage Officer and seeking the intervention of the Court for preventing the discrimination on the basis of sex.
2. The petitioners submitted the following prayers before the Court:
3. A declaration may be made to the effect that any discrimination based on sexual orientation is the violation of Art 14, 15, 19 and 21 of the Constitution.
4. Direction must be issued to the Union Government to introduce necessary amendments to the Special Marriage Act for the solemnisation of the Marriage of transgender people and same sex marriages.
5. The Apex Court decided to hear the petition on 09/08/2020 and issued notice to Union of Adisthan and State of Srinispur. Both the Union of Adisthan and the State of Srinispur submitted that the petitions may be dismissed.

***Nota Bene:***

* All references, actual, deeming or fictional; are fictional.
* The laws, legal system and legal history of the Union of Adisthan are Pari Materia to the Union of India in all respects. The SC of Adisthan functions in the same manner as the SC of India.
* The participants are encouraged to explore the facts and laws pertinent, legal principles and theories.
* The participants are free to incorporate any other direction that they want the Apex Court to issue in their prayer as they deem necessary in addition to what has been provided in the Moot Problem.
* Participants may frame as many issues as they deem necessary.
* Minimum of three issues should be framed and argued.