

### Queries & Clarifications:

**We have recently received queries from teams, who have sought a clarification on the Moot Problem as under:**

Q1. The problem is an international problem and there are some sections and some acts are referred, therefore the query is that can we refer the Indian acts or we only have to prepare our arguments referring those acts and sections which are mentioned in the problem.

A1. Participants can use the material provided within the Moot Problem and are also expected to apply principles of criminal law prevalent in common law jurisdictions and demonstrate the rational and desirability of applying the same in a cogent manner. Tomorrowland courts consider leading common law precedents as being highly persuasive in nature.

Q2. The allegations of UHM on Mr Williams in the Criminal court was based on Call records obtained from the official network provider. But what is meant by call records in the problem. Is it the call log of Mr. William or the Telephonic conversation record (phone tapping) and if it is the phone tapping should we assume that all the legal requirements were fulfilled by the UHM for the same.

A2. Call records refer to the call logs and not to intercepted conversations.

Q3. Whether the order of the Boomtown Criminal Court making Ferrero Williams an accused in the OWG Scam was valid?

The doubt is, does it mean that whether the order of the BCC making Ferrero Williams an accused in the OWG Scam was valid in law that has been provided in the moot problem? or whether the order of BCC is correct or not (in terms of reasoning and in applying the law given)?

A3. In view of the issue framed, there is no clarification required. Participants are expected to confine themselves to the moot problem.

Q4. 1) Section 15 of Corrupt Activities (Prevention and Punishment) Act is not provided in the moot problem, please specify the same

2) Whether Corrupt Activities (Prevention and Punishment) Act is pari materia to the provisions of Prevention of Corruption Act 1988?

3) Whether section 15 of Corrupt Activities (Prevention and Protection) Act is triable exclusively by court of session?

A4. Section 15 of the Corrupt Activities (Prevention and Punishment) Act is not provided as it is not necessary for adjudication of any of the issues that arose before the Supreme Court of Tomorrowland. In view of this position, Q.2 and Q.3 are not required to be answered.

Q5. 1. On page number 4 at footnote 2 citing Section 105 of the Tomorrowland Criminal Justice code, there seems to be a typing error in the following sentence "every investigation under this law and any other criminal law shall be completed **without**

**expeditiously**", please refer the online problem for observing the same and kindly clarify through a reply to this mail.

2. On page number 9 under the notes section we seek explanation with regards note number IV.

A5. 1. Corrigendum: Please read Section 105(1) as follows:

**105. Conclusive Report of Special Police on completion of investigation:**

(1) Every investigation under this law and any other criminal law shall be completed expeditiously...

2. Note number IV is self-explanatory.

Q6. If the team agrees, can the researcher in the first round be a mooter (orator) in the second round?

In other words, can the researches in one round be an orator in another round?

A6. We would like to point out that there are individual awards for best speaker and best researcher. The award for the best speaker is determined on the basis of the cumulative scoring of the individual participant over the two preliminary rounds.

In such a scenario, it is not possible for us to permit the researcher in one round to be the orator/speaker in the second round.

Q7. In the last paragraph of moot problem, there is mention of maintainability of appeals is not in issue in these proceedings. I couldn't understand that whether appellant has right to appeal or not.

Even in this moot problem, there is not mention about right to appeal. The case was directly brought into supreme court. So we can make argument about the right to appeal or not.

A7. The problem is self-explanatory and no clarification is required.

Q8. 1. Is the company (GLG Constructions) being prosecuted for the acts of the individuals?

2. Is alter ego in the facts synonymous to lifting of the corporate veil?

3. *"Whether the Order dated 14th February 2016 passed by the Supreme Court of Tomorrowland is **violative** of Articles 3 and 6 of the Constitution Act of 1930?"*

-Can the wording in the above-mentioned issue be altered or rephrased in the memorandum and arguments or is it mandatory to argue the issue as per phrasing used in the proposition? (ie: **violative of Articles 3 & 6**)

A8. In response to Q.1 and Q.2, no clarification is required and participants are expected to rely upon the moot problem. As regards question no. 3, participants are required to argue on the basis of the issue framed in the moot problem and it cannot be rephrased or changed.

Q9. Rule 14 says:

Each team must submit the Memorial for the Applicant and the Respondent in PDF Format, no later than 6:00pm [Indian Standard Time] on 15.11.2014 to [info@kkluthramoot.org](mailto:info@kkluthramoot.org).

Memorials submitted after 9:00pm [IST] on 15.11.2014 will incur a deduction of ½ mark for each day of delay, with the first deduction being made at 9:01pm [IST] on 15.11.2014.

So what about memorials submitted between 6pm and 9pm? No penalty? In that case what's the point of fixing the submission time as 6 pm?

- Also, is GLG a corporation or a company?
- Can we use the SEBI Act or the Negotiable Instruments Act? There has been no appendix provided and hence the confusion.

A9. **Corrigendum:** Please read Rule 14 as follows:

1. Each team must submit the **Memorial** for the **Applicant** and the **Respondent** in PDF Format, no later than 9:00pm [Indian Standard Time] on 15.11.2014 to [info@kkluthramoot.org](mailto:info@kkluthramoot.org). The Organizers will not be responsible for the non receipt of the soft copies of the memorials. Teams are requested to ensure that soft copies vide email are sent well in time and that the attachments can be viewed.
2. The problem is self-explanatory and there is no clarification required. Participants are expected to confine themselves to the moot problem.

Q10. 1. On page 6 of the Moot Problem, 2nd Paragraph (3rd point of the order of Boomtown Criminal Court) the 6th line states that "in control of the affairs of GLG" and 10th line states that "a highly placed employee of GLG". Please clarify if "GLG" should be replaced by "GLG Constructions" which seems to be more appropriate for the better understanding of the proposition made therein.

2. Whether UHM has been made a party in the Trial by Boomtown Criminal Court?

A10. The problem is self-explanatory and requires no further clarification.

Q11. We had gone through the problem for the Luthra moot competition. Recently one of us read the preceeding year's problems and memorials. The problems contain statutes as well while this year's problem does not other than the few given in the footnotes. What do we base our arguments on?

A11. No clarification is required and participants are expected to rely upon the moot problem.

- Q12. 1. When it has been said that additional legal issues that arise may be raised, does this mean that we are supposed to have contentions in addition to the three that have already been given, i.e, are we supposed to have 4th and 5th contentions? Or is it the case that our additional legal issues would have to fit as sub-contentions within the three main contentions given in the problem?
2. Section 15 of the Corrupt Activities (Prevention and Punishment) Act has not been footnoted in the moot problem. We would like to know what it contains. Are we supposed to find a law that is *pari materia* to this section in any common law country?
- A12. 1. There is no clarification required. The participants are expected to rely upon the moot problem.
2. Section 15 of the Corrupt Activities (Prevention and Punishment) Act is not provided as it is not necessary for adjudication of any of the issues that arose before the Supreme Court of Tomorrowland.
- Q13. 1. In the exchange between Mr. Bailish and Mr. Lannister it is quoted that 8 million dollars was to be exchanged as the speed money. However, the amount the police recovered was 7 million dollars. We wish to know if the difference of one million was deliberate or a typographical error in the problem.
2. We wish to know if it is to be taken for granted that the laws are *pari materia* with the laws of India as there has been no mention of the same regarding the moot problem.
- A13. No clarifications are required for the queries. The participants are expected to rely upon the moot problem.
- Q14. **Kindly clarify the year mentioned in problem page 4 as year mentioned i.e. 2016.....**
- Subsequently on 10th January 2016, the Special Police filed a Conclusive Report under Section 1052 of the Tomorrowland Criminal Justice Code before the Boomtown Criminal Court alleging that Mr. Bailish, GLG Constructions and Mr. Lannister were guilty of corruption under Section 15 of the Corrupt Activities (Prevention and Punishment) Act. It was further stated in the Conclusive Report that even though Mr. Ferrero Williams was the Managing Director of GLG Constructions, no evidence was found against him though it was a matter of record that he had had several meetings (five in total) with Mr. Lannister at his office in the days preceding the IR and these meetings also included Mr. Bailish. Under the Tomorrowland Criminal Justice Code, once a Conclusive Report is filed by the Special Police, the presiding Judge of
- A14. No clarification is required and participants are expected to rely upon the moot problem.
- Q15. 1. In case there is no act or law in force are legal maxims accepted as a reference or perusal in court of law?

2. The moot problem provides for application of common law principles but can the acts/laws of countries which follow common law principle be used by us in our contentions?

3. What law/ section in Tommorowland deals with admissibility of call records as evidence?

4. I would also like to know from what date till what date we would get accommodation?

A15. Query Nos. 1 and 2: The problem is self-explanatory and requires no further clarification.

Query No. 3: The Section / Act / Rule regarding admissibility of call records is not relevant to any of the issues framed and requires no clarification.

Query No. 4: Accommodation will be provided to the outstation teams from 15.01.2015 to 19.01.2015 (12 noon).

Q16. Is it alright if we just have Indian decisions in the second issue? We could not find any foreign decisions based on court's power to summon additional accused.

A16. No clarification is required.

Q17. Whether "Right to appeal" to High Court under "Article 55 of constitution Act, 1930" is the "Fundamental Right" or "Legal Right" under the Constitution of Tomorrowland? and;

Whether right under Article 55 of Constitution of Tomorrowland forms the part of basic structure of the **Constitution** of Tomorrowland?"

Whether the importance of "Article 55 of Constitution of Tomorrowland" is same as that given to "Article 226" in the Constitution of India?

A17. No clarification is required.

Q18. Paragraph 5 on page 6 of the Moot Proposition states- "Any prayer for any relief made by any of the parties (directly or indirectly) which may impede the progress of the Trial". Is this referring to challenge to an order of a Court in the nature of an "appeal"?

A18. The problem is self-explanatory and no further clarification is required.

Q19. Special Police Tapped the Conversation between Mr. Lannister and Mr. Bailish:

1. Whether Telephone calls of Mr. Lannister, Mr Bailish and Mr. williams were under Surveillance or;
2. A random conversation was tapped by the Special Police?

A19. The problem is self-explanatory and requires no further clarification.

Q20. Whether the Supreme Court of Tomorrowland has power under Art. 25 (Supervisory Powers of Supreme Court) to review its own order dated February 14, 2016?

- A20. No clarification is required and participants are expected to rely on the moot problem.
- Q21. What is the provision to discharge an additional accused under the Tomorrowland Criminal Justice Code?
- A21. No clarification is required and participants are expected to confine themselves to the moot problem.
- Q22. Whether charges have been framed against Mr. Williams? If yes, what are those charges as it is specifically mentioned that "the Tomorrowland Criminal Justice Code and the Corrupt Activities (Prevention and Punishment) Act does not contain a provision enabling an individual to be held "vicariously liable" for the acts of a Company/firm."
- A22. The problem is self-explanatory and requires no further clarification.
- Q23. What is the status of UHM in the proceedings by virtue of being impleaded as a party by the Supreme Court?
- A23. The problem is self-explanatory and requires no further clarification.
- Q24. Where are the games being conducted?
- A24. The problem is self-explanatory and requires no further clarification.
- Q25. As found in para 11, kindly expound upon the hurdles faced in the construction of the village?
- A25. The problem is self-explanatory and requires no further clarification.
- Q26. para 12, line 10- "those glib assumptions have taken a battering in the last 8 months... people are still being killed in protests... workers are dying in the rush to finish the village'
- a. why have the protests been on prior to the beginning of preparation for the games (which was 4 months ago); and why were the protests leading to deaths?
- b. kindly explain why and how "workers are dying..."
- A26. The problem is self-explanatory and requires no further clarification.

- Q27. para 16, line 8- were the meetings with Lannister held after Mr. Williams came back from the foreign trip or before?
- A27. The problem is self-explanatory and requires no further clarification.
- Q28. para 18- the judge found UHM to be in possession of crucial evidence, but section 195 on page 6 says 'material evidence'. Are the two to be taken to be synonymous?
- A28. The problem is self-explanatory and requires no further clarification.
- Q29. page 7 line 1 says "due to the interpretation espoused by the special police of the order passed by the Supreme Court of Tomorrowland, Mr williams challenged the Order.." Kindly explain what this interpretation was.
- A29. The problem is self-explanatory and requires no further clarification.
- Q30. Note III says that we should apply principles of criminal law prevalent in common law jurisdictions. However, where the section from the statutes/constitution of Tomorrowland is provided in the factsheet, which will have higher value before the Court?
- A30. Participants can use the material provided within the Moot Problem and are also expected to apply principles of criminal law prevalent in common law jurisdictions and demonstrate the rational and desirability of applying the same in a cogent manner. Tomorrowland courts consider leading common law precedents as being highly persuasive in nature.
- Q31. Does section 15 of the Corrupt Activities (Prevention and Punishment) Act expressly mention mens rea as one of the essential conditions to prove the crime?
- A31. The problem is self-explanatory and requires no further clarification.
- Q32. Whether the liability of GLG due to the acts of Mr bailish is in contention?
- A32. The problem is self-explanatory and requires no further clarification.
- Q33. Are the statements given in the newspaper reports to be taken as facts or allegations/speculations?
- A33. The problem is self-explanatory and requires no further clarification.

Q34. Is GLG constructions a wholly owned subsidiary of GLG? Further, does it have the same Board of Directors?

A34. The problem is self-explanatory and requires no further clarification.