

FIRST EDITION

**MOOT COURT**  
COMPETITION

Organisers:



British  
High Commission  
New Delhi



O.P. JINDAL GLOBAL  
INSTITUTION OF EMINENCE DEEMED TO BE  
UNIVERSITY  
*A Private University Promoting Public Service*

## Instructions

1. The facts presented below represent the first communication by a client, prior to any form of judicial proceedings. The purpose of the exercise is to evaluate applicable laws, precedents, legal risks, rights and remedies.
2. Based on the facts below, prepare a Strategy Note which encapsulates the following:
  - (i) Identification of legal issues. This should include issues focussed on the client's rights and remedies (cases/litigation that may be initiated by her) as well as her risks (cases/litigation that may be initiated against her)
  - (ii) Within each issue, consider applicable substantive law as well as procedural law
  - (iii) The purpose of the exercise is to identify legal options in terms of kinds of remedies which may be sought and which forum they would be available at
  - (iv) On the basis of the above, outline a proposed legal strategy of next-steps, considering:
    - a. What remedies to pursue
    - b. Routes for mitigating her concerns
3. The Strategy Note must be between 5-8 pages (Times New Roman, 12, 1.5 spacing).
4. Brevity is encouraged.
5. The Strategy note will be identified on:
  - (i) Knowledge of substantive and procedural law (20 marks)
  - (ii) Presentation of strategy- Towards this end, participants are encouraged to think of how they would structure the note to present it in a manner that is effective (20 marks)
  - (iii) Language- Ability to communicate in a manner that is sensitive and understandable by non-lawyers (20 marks)
  - (iv) Application of mind in evaluating options(20 marks)
  - (v) Creativity- e.g. consideration of research that is not purely legal such as time studies of trials or canvassing of innovative legal remedies based on precedent (20 marks)

[<participant@xmail.com>](mailto:participant@xmail.com)

Dear Counsel,

Thank you so much for agreeing to speak to me. Before I came to your office to meet you, I thought I would send across the details of the incident in question. As I indicated earlier, I am a British citizen and my stay in Delhi is only until 31st March as of now.

I am attaching a weblink of yesterday's article in the Globe- it's a leading digital newspaper in the UK. The contents of the article are mostly true - to the best of my knowledge anyway. The article contains allegations of sexual harassment by an employee of Scambook against my husband who is the 'senior official' at Scambook mentioned in the article, and is an Indian citizen. The @NeverBackDown post is also ostensibly by the same employee, though I have no idea who that is. However, the article also refers to an incident that concerns my husband and me.

I am concerned about my identity being revealed, as I am unaware of any other senior official in the Company who is married to a British citizen. The article also mentions a video that is allegedly circulating on whatsapp which concerns me, however I am not aware of it, nor have I been contacted about the veracity of the same. For your knowledge, the incident in question happened in New Delhi, and I am looking to go back to the UK, which is where we got married, and file divorce proceedings. But I am concerned about getting caught up in legal action in India.

I have a bunch of queries and considerations and I am quite conflicted on what I want to do. I am told that the legal system in India can be very drawn-out and I don't want to get stuck here. If I file something or if something is filed against me, I'm concerned about being unable to travel back. I am here on a tourist visa and my job is in the UK.

I also think I may want to consider my options for remedies, but the article says that marital rape is not criminalized in India? I am also wondering- what if they file stuff against me? If they figure my identity, would they assume the video was consensual and file something against me? I am also concerned about these random reports of drug use and the statement by

the police. I am hearing that there are to strict laws in India in these areas? Can I take action to prevent arrest maybe?

I am sorry I know this is a little scattered- but I am also wondering if I can prevent my name getting disclosed?

I am looking forward to your thoughts. Maybe you could outline what my options are?

Warmly,

Joanna Smith.

## THE GLOBE

### **Another #MeToo incident shocks the world! A senior official of Scambook has been accused of sexual harassment**

In yet another #MeToo incident, the anonymous twitter account @Neverbackdown has posted a series of tweets that talk about the incident of a young female staffer at ScamBook who was sexually harassed by a ‘senior official’ at Scambook. The Globe has learnt that the staffer in question has provided intimate and scandalous details of the ‘men’s club’ that exists at the MNC where the senior male members of the staff hold parties without their families and spouses. At one such party last year, the female staffer alleges that the ‘senior official’ molested her and told her, “*If you want a promotion you will keep quiet, because nobody will believe you anyway*”. The survivor then also tried to approach the ‘higher ups’ at the organisation but was made to believe that it was all ‘in her head’, and that he is a ‘married man’ so she should not ‘ruin his career’.

The survivor has also spoken to the publication stating that she was shocked at the behaviour because she thought the accused was happily married to a British citizen. However, after confiding in a friend as to her harassment, she found out that was a video circulating on whatsapp which showed the accused raping his wife at a party. The Globe has attempted to verify the authenticity of the video however, the faces are not clearly visible, but it is clear that there were certain drugs used at the beginning of the video.

The Globe has also contacted the police in India. However, in yet another turn of events, an anonymous source at the Police made a statement that “*foreign women are the root cause of all these problems, they drink and take drugs and then try to blackmail their husbands by releasing these videos themselves. We are looking into what action can be taken against these individuals under The Narcotic Drugs and Psychotropic Substances Act, 1985.*” The Globe also approached Ms. Mann, the head of the Commission for Women who stated that while she had not seen the video, the offence in question was not a crime at all as “*marital rape does not find place in the Indian Penal Code, 1860*” and that “*these are issues between a husband and wife, they must figure it out themselves.*”

The Globe has received no comments from the Media Relations at Scambook about the present incident, or their policies to prevent sexual harassment in the workplace. However, anonymous sources within the Company have said that they are contemplating appropriate legal action.

Despite the #MeToo movement, 57 percent of women said they have experienced some form of sexual harassment in the workplace, ranging from sexist jokes to inappropriate touching.