

80% of individual's health is determined by behaviours, the social and environmental conditions in which they live, work and play.

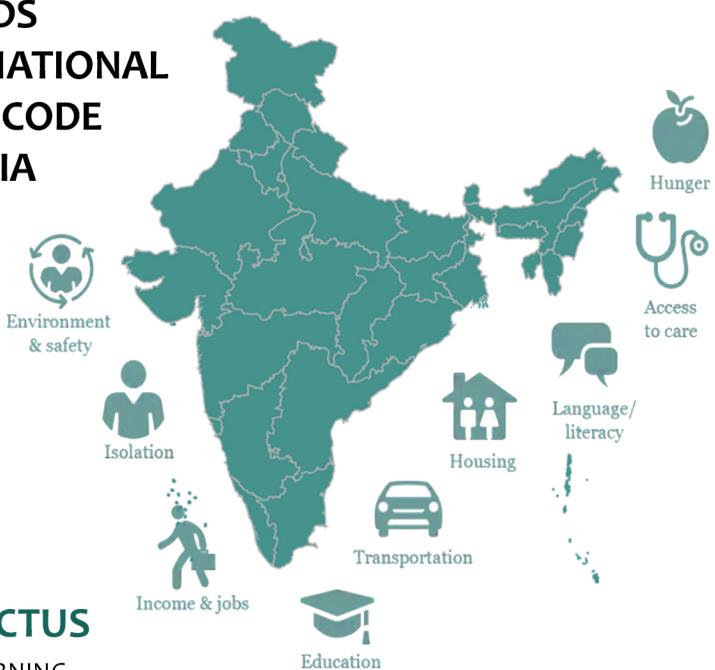


The Second Prof. N R Madhava Menon National Law Reform Competition

For Law Students, 2019-2020

on

TOWARDS DRAFT NATIONAL HEALTH CODE FOR INDIA



PROSPECTUS

RULES GOVERNING
THE COMPETITION

Organized By

Mar Gregorios College of Law

Trivandrum, Kerala

in association with

Menon Institute of Legal Advocacy Training (MILAT)

Trivandrum, Kerala



MAR GREGORIOS COLLEGE OF LAW, TRIVANDRUM

Mar Ivanios Vidya Nagar, Nalanchira, Trivandrum – 695015

ANNOUNCING

**THE SECOND PROF. N R MADHAVA MENON NATIONAL
LAW REFORM COMPETITION FOR LAW STUDENTS**

2019-2020

ON

**TOWARDS DRAFT NATIONAL HEALTH CODE
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PROSPECTUS AND RULES

GOVERNING THE COMPETITION

SECOND NATIONAL LAW REFORMS COMPETITION

INTRODUCTION

Law reform competition is a unique experiment introduced by Mar Gregorios College of Law, Trivandrum to encourage students of Law to develop research capabilities to understand the role of law in society and to propose meaningful reforms to the existing law and its practice to advance the Constitutional Goals of JUSTICE, Social, Economic and Political. It encourages law students to look beyond the conventional role of lawyers in dispute resolution and administration of justice and gives them experimental learning on the larger role of Nation-building through Policy development and social engineering.

The first such competition held between 2016-'17 involved over 200 students from a dozen law colleges / Law institutions spread across India on the subject of a Draft Uniform Civil Code for India. The Draft, duly edited and compiled, was received by the Chairman of the Law Commission of India from the Governor of Kerala, Mr. Justice P.Sathasivam in a grand function held at the College Campus under the Chairmanship of His Beatitude Moran Mor Baselios Cardinal Cleemis Catholicos, the Patron of College. The students who prepared the Draft were honoured with cash awards and certificates.

Mar Gregorios College of Law, which received the Institutional Excellence Award in 2018 from the Society of Indian Law Firms and Menon Institute of Legal Advocacy Training, is seeking to institutionalize the competition because of its proved merit in improving the quality of legal education in the country. Hence the announcement for the second edition for 2019-20 on the subject of Draft National Health Code.

As a token of appreciation for the significant contribution made by Prof. N.R Madhava Menon to the advancement of Legal education in India, the management of Mar Gregorios \College of Law instituted a Chair of Legal Education in his name in 2018 and the second edition of the competition is sponsored by Prof. N.R Madhava Menon Chair on Legal Education.

ABOUT THE SPONSORS

(a) Mar Gregorios College of Law (MGCL), Trivandrum

Mar Gregorios College of Law was established by the Malankara Syrian Catholic Church in the year 2012 at the initiative and with the blessings of His Beatitude Moran Mor Baselios Cardinal Cleemis, Major Archbishop - Catholicos of Trivandrum who is the Patron of the college. The college is dedicated to the venerable memory of late Archbishop Benedict Mar Gregorios who was a great spiritual leader and an educationist par excellence. This college which provides for both post-graduate and under-graduate programmes in law, is located on a sprawling verdant campus, “Mar Ivanios Vidya Nagar”, at Nalanchira in Trivandrum. MGCL, as a centre of excellence in legal education aims to integrate legal knowledge, skills and ethics through its rigorous academic activities and innovative teaching methods.

Mar Gregorios College of Law has been conferred with institutional excellence award 2017 by **Society of Indian Law Firms (SILF)** and **Menon Institute of Legal and Advocacy Training (MILAT)**. Mar Gregorios College of Law is the first ever law school to organize a law reforms competition in association with **MILAT** and with the support of Law Commission of India.

The college is indebted to MILAT and its Chairman Prof. Dr. N. R. Madhava Menon, for his inspiring guidance and support for all meaningful activities of the college.

(b) Menon Institute of Legal Advocacy Training (MILAT)

Menon Institute of Legal Advocacy Training is an educational charity registered at Trivandrum (Kerala) as a Society to impart skills training among law persons and promote legal education for responsible citizenship among youth. MILAT also undertakes research for law reform and development of the legal profession. Prof. (Dr.) N. R. Madhava Menon who pioneered legal education reforms through the Five-Year Integrated LL.B. programme and the National Law School movement from Bangalore in the 1980s, is the Chairman of MILAT.

THE THEME OF SECOND LAW REFORMS COMPETITION:

The health sector in India is governed by an array of Laws, values and regulations that is causing so much confusion among the people in general and those working in this field. Almost every aspect of the health care sector is flooded by regulations and regulatory mechanism sometimes overlap in powers and functions. Health care professionals are required to

spend more time complying with rules relating to the work rather than actually doing the work itself.

The right to health and healthcare though not protected as a Fundamental Right, has now been recognised as a basic right by way of judicial interpretation. However, it is included within the ambit of the Directive Principles of State Policy contained in Art. 39(e), 39(f), 42 and 47 in Part IV of the Constitution of India. The constitution therefore, assigns predominant responsibility to States for providing health care services. In addition, in terms of distribution of sectoral responsibilities in the federal set up, health is a State subject. However, a number of items related to health are listed in the Concurrent list and thus, the Central Government has enough scope to influence the context and the prospects in the health sector through its policies, budgetary allocation etc. There is therefore, a considerable amount of legislation both by the Central and State governments respectively, which deal with the subject matter of health and healthcare. In this competition, therefore, an attempt is being made to consolidate, re-state and propose appropriate amendments to health and healthcare laws in the form of a National Health Code classifying the rights and duties of respective governments and specifying the powers and function of implementation agencies.

Students teams (Not more than 20 in numbers) from participating colleges can choose any one sector of the total health laws and draft the revised law to become part of the proposed National Health Code. For example, it may be related to health care services delivery, regulation of health care institutions, regulation of the health professions, promotion and control of Medical Education, health rights and access, health research etc....

SPECIFIC OBJECTS OF THE COMPETITION.

The specific objects of the competition are, inter alia, the following:

- (i) Mobilize law students and teachers to share a new mission for legal education based on the constitutional vision of a “Sovereign, Socialist, Secular, Democratic Republic”, aspiring for Justice, Social, economic and Political for all citizens as envisaged in the Preamble to the Constitution;
- (ii) Make legal education more socially relevant, professionally productive and interesting to the learner;
- (iii) Teach through clinical processes the vast and varied skills of socio-legal research including problem identification, facts gathering, problem solving, legislative drafting, legal advocacy, legal writing etc.

- (iv) Develop a closer understanding of social reality for social context learning of law, realize the reasons for divergence between law in the books and law in action and to building capacities for bridging the gaps.

REGISTRATION AND ORGANISATION

1. The duration of the Law Reform competition is eight months: from April 2019 till 30th of January, 2020. The competition is to be held once in two years and the third edition is to be held in 2021-2022.
2. Registration of participants will be open for one month between first April to 30th April, 2019.
3. Registration is open to law colleges/law universities and each competing team will comprise a minimum of 15 and up to a maximum of 20 students, who shall remain students of the college till the submission of the report i.e., 30th October, 2019. Each college can enter only one team and select only one topic for competition. However, the teams shall give three choices of topic in accordance with their preference. The organising committee reserves the right to assign any one from among the three topics.
4. Application for registration is to be submitted by the Head of the College in the prescribed form attached with the Prospectus and accompanied with registration fee of Rupees Five Thousand (Rs.5,000/-) in the form of a bank draft drawn in the name of Mar Gregorios College of Law, Trivandrum. If for any reason, the college cannot be registered, the fee will be returned in full.
5. The final list of registered colleges with details of participating students will be announced on April, 2019 on the website of the college and will be communicated by e-mail to the Head of the participating college as well.
6. Any query concerning the conduct of the competition will be answered till the end of May, 2019 only. Queries are to be addressed to the Competition Convener (.....), Mar Gregorios College of Law to the following e-mail: nlrc@mgcl.ac.in
7. The organizers have constituted an Advisory Committee to oversee the competition consisting of eminent academicians, judges and lawyers under the chairmanship of Prof. Dr. N. R. Madhava Menon, Honorary Director of the Kerala Bar Council M. K. Nambyar Academy for Continuing Legal Education, and Chairman of MILAT.

8. There is an Organising Committee constituted by the Mar Gregorios College of Law consisting of teachers and students of the college.
9. A high-powered jury comprising of one retired Supreme Court Judge, one eminent legal educator and a distinguished social scientist will adjudge the reports and declare the winners.
10. The five top winners will be given monetary awards besides other prizes. The first prize will be Rupees—fifty thousand and five other prizes of Rupees twenty thousand each.
11. The college may convene a final evaluation meeting to which all participants will be invited. The participating teams will present their final draft report. This will be followed by a formal Valedictory function where the results of the competition will be announced and awards distributed.
12. The organizers reserve the copyright to publish or otherwise utilize the reports with due acknowledgements to the contributors.

ROLE AND RESPONSIBILITIES OF PARTICIPATING TEAMS

1. The Teams will select any one theme of the proposed draft Code relating to health regulation such as Regulation of medical and clinical establishments, Regulation for Medical practitioners, Drug research and clinical trial regulation, Health Insurance Sector, Rights of Patients etc. They will then study in depth the existing law on the selected subject at central and state level consulting authoritative texts and their judicial interpretations.
2. The teams may prepare codified versions of the existing law relating to health sector on the basis of the theme given to them and identifying the areas of conflict among these different laws as well as incompatibility if any with the Constitution and human rights instruments. The doctrinal study may take 1 or 2 months' time, if the team divides the work among the 20 students and agree on standardized methodologies of legal research.
3. The above exercise constitutes mostly the library component of the competition employing largely doctrinal research methods. Many mini discussion meetings and seminars may have to be convened during this period to monitor progress and evolve consensus on the state of the law on the topic selected for research. A lot of legal research and writing will happen to gather the law and articulate it with clarity and precision.
4. The second major phase of the project is empirical field study for gathering the views, opinions and experiences of the stakeholders such as health care professionals, paramedical staff, support staffs, different categories of patients, biomedical researchers, and so on. who are

likely to be affected by the law. This phase involves an empirical study about the appropriateness of various provisions to be incorporated which will govern the theory and practice in health care sector so that the health right of people are fully honoured.

5. The research questions and tools to be employed for the field research have to be prepared carefully taking into account of various sectors based on the subject allotted to the team. For example, a team allotted with the topic regulations pertaining to clinical establishments has to look in to the current practices and nature of establishments, its socio legal implications in the society, views of the professionals, social security aspects, rights of patients (patients) and other stakeholders, governmental authorities its liability and responsibilities. The names and socio-economic profile of the individuals and organizations interacted with will have to be fully documented and acknowledged in the report.
6. This part of the project is the soul and most difficult part of the competition and it may take anything between 2 to 3 months (summer vacation) of time, and the data has to be prepared using sampling techniques and eliciting the views objectively and systematically. Students may seek the help of statisticians to prepare sampling method and questionnaire. They will have split themselves in groups of three to five in each group, decide on the issues around which interviews have to be taken and document the strengths and weaknesses of law in action. The research questions have to be formulated carefully in order to comprehend the proposed legislation. The questions and tools employed for the study should be explained and appended to the final report.
7. The third step in the project is re-visiting the law as clarified in the first phase in the context of the practice of it gathered from the stakeholders of the law in the second stage. The purpose is to find the differences between the existing laws and need to be regulated. The formation of a new law, its procedure, its authorities or its administration are to be addressed in line with international health standards.
8. This exercise will naturally lead to ideas on how the new laws are to be structured/drafted in order to propose the reform proposals (in terms of norms and principles or in terms of institutions and procedures) through reflective analysis of the law gathered and field data collected.

The final stage is report writing which must be written in six parts as given below:

- a) Problem identification and planning and execution methods. Law on the problem identified as found from analysis of various statutes, judicial decisions, international regulations and other sources.

- c) Research questions and methodology adopted for field study, challenges experienced and how resolved.
 - d) What are the findings of the field study? Findings explained.
 - e) Draft of the reform proposal in the form of a legislation or amendments to the existing legislation on the topic studied with explanatory notes and comments.
 - f) Experience sharing in learning law in social context and impressions about rule of law and its maintenance in plural societies.
9. This part of the project may take another two months for the group to complete. Four hard copies of the study should be submitted along with the digital copy. Copies should be typed in A4 size paper and bound properly. Ordinarily no report should be more than 200 pages in length and in no case more than 300 pages with appendices and foot notes included.
10. The Head of the College should certify that the study was conducted according to the rules of the competition and the college and the students involved agree to surrender the copyright provided proper acknowledgment is made. This would, however, not prevent the college concerned in making use of the document for their own use including publication, of course, after the results of the competition is announced.

INSTITUTIONALISING THE COMPETITION

Law reform competition is a long-drawn, complex and innovative way of legal learning. For a large plural society like India, law making is a complex exercise if it has to reflect the will of the People. In this exercise, people can play a role independent of government. People in general, are not sufficiently informed of the dynamics of law making and the requirements of legislative drafting in order to make it effective and socially acceptable. Therefore, law reform competition is uniquely suited for law schools where legal and research talents are available in plenty. If it is organised in competitive terms and professionally institutionalized, it can, - not only help law reform at State and Central levels, but will also enable law students to learn law in its functional setting. The Law Commission will find it useful in their work.

The organizers of the competition will be happy to collaborate and partner with law schools in organising the future editions of the Law Reform Competition towards institutionalising it in legal education in the country.

Mar Gregorios College of Law, Trivandrum

Mar Ivanios Vidya Nagar, Nalanchira, Trivandrum – 695 015
e-mail: mgcltvvm@gmail.com Tel: 0471-254 1120