



# MOOT PROPOSITION

1. Ms. Henna Duggal is a single woman living in Pakistan. She works as a journalist and loves her job. One day, during one of her field investigations, she meets a local businessman and they immediately fall in love. They get married and in two years and they are blessed with a baby boy.
2. Everything is going well, until the husband's behaviour starts to change. He is no more interested in staying home, taking care of the baby, or even talking to Henna and their baby. This goes on for several months. Henna becomes suspicious and confronts her husband. The husband, not happy with the confrontation, becomes violent and starts to hit Henna. Henna, fearing for her and her baby's safety, picks up a vase lying in her arm's reach and hits the husband on his head. The husband bleeds profusely and dies on the spot.
3. The neighbours, on hearing the scuffle, call the police, and Henna is arrested and charged for culpable homicide under Section 299 of the IPC. Her baby is given up to the Pakistani foster system under the JJ Rules 2016 Juvenile Justice (Care and Protection of Children) Model Rules, 2016. For the purposes of this moot proposition, all laws of India are applicable to Pakistan.
4. While Henna is held as an under-trial detainee for a month in Karachi district jail and is heartbroken by the injustices of the system, she makes a break for it. With the help of her fellow inmates and one jail security officer, she manages to escape the district jail. Disheartened by losing her child and having had her life practically destroyed, she decides to commit suicide by jumping into the Indus River. She manages to do so when no one was looking. She truly thought this would be the end of her troubles.
5. After jumping into the river, she immediately loses consciousness and wakes up to find herself in the Indian territory of Punjab. Turns out, her body had flowed from Pakistan all the way to India without dying, albeit some minor injuries.
6. A few officers in the 129th Battalion of the Border Security Forces notice this, and as soon as Henna gets out of the river, she is arrested by the BSF for illegal entry into the territory of India. She is now kept as an under-trial detainee as a Foreign National Prisoner (FNP) at Ferozpur jail in Punjab.
7. The conditions in the jail are atrocious. A dire lack of fresh food, water, sanitation, or security makes things even harder. One day, the chief head of the



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- jail administration, one Mr. Shah calls Henna to his private office. Henna obliges, and Shah rapes her. This continued to happen for 2 months.
8. After 2 months, the assigned jail doctor on a scheduled prison visit examines all the inmates of Ferozepur jail, and finds out that Henna is pregnant. Both Henna and Shah know that it is his baby, but neither speak about it.
  9. Nine months later, Henna, due to State's refusal to grant her permission for abortion, gives birth to a boy within the premises of Ferozepur jail.
  10. Now, as her trial proceeds for illegal entry in India, the public prosecutor for the state of Punjab claims a right to the illegitimate baby boy, as he claims him to be an Indian citizen since he was born on Indian soil. He also claims that illegal entry of a Pakistani national into the territory of India should be dealt with the highest punishment under law. The state appointed defence lawyer, on behalf of Henna, claims numerous unspeakable human rights violations, both under international human rights and humanitarian legal instruments, as well as the Constitution of India. He also claims that BSF jawaans have also abused their powers in inflicting punishment on Henna.
  11. The matter is now listed for final hearing under Punjab High Court. Identify all criminal issues, both substantive and procedural, under national and international laws, and present arguments from both sides.