

BARRISTER M K NAMBYAR CHAIR



ON CONSTITUTIONAL AND ADMINISTRATIVE LAW, SCHOOL OF LEGAL STUDIES



FIRST NATIONAL MOOT COURT COMPETITION - 2023 08-11 March, 2023

INFORMATION BROCHURE

Organised by

SCHOOL OF LEGAL STUDIES

Kannur University, Dr. Janaki Ammal Campus Dharmadam - Melur Rd, Palayad, Kerala 670 661

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ABOUT KANNUR UNIVERSITY

Kannur University was established by Act 22 of 1996 of the Kerala Legislative Assembly. The university known as "Malabar University" had come into existence earlier, with the promulgation of an ordinance by the Governor of Kerala on November 9, 1995. The University was inaugurated on March 2, 1996. The Kannur University Act, 1996 aims to establish a teaching, residential, and affiliated university in Kerala, promoting the development of higher education in the Kasargod and Kannur revenue districts, as well as the Mananthavady Taluk of Wayanad district.

Kannur University is unique in the sense that it is a multi-campus university with campuses spread over various locations under its jurisdiction. The Act envisages that the university shall establish, maintain, manage, and develop campuses at Kannur, Kasaragod, Nileswaram, Mangattuparamba, Mananthavady, Payyannur, Thalassery, Manjeshwaram, and such other places as are necessary for providing study and research facilities to promote advanced knowledge in science and technology and other relevant disciplines.



ABOUT SCHOOL OF LEGAL STUDIES

The Department of Law at Kannur University has two centres of legal studies functioning on two different campuses. One of the centres, the School of Legal Studies, is functioning at the Dr. Janaki Ammal Campus, Palayad, Thalassery, and the other is the newly emerged School of Legal Studies at the Manjeswaram Campus, Kannur University. The Department of Law was founded in 1996, primarily with the objective of promoting legal education in the Malabar region. The School of Legal Studies is an institution acknowledged for its continuing commitment to academic excellence and service to the public. This legal institution spells out its role as a resource for the legal development of nation. It shall always be responsive to the challenges of social change and relevant to the growing legal and other law-related needs of the people.

School of Legal Studies has been established to transmit knowledge of the law so as to achieve distributive justice for all. The institution trains students for the practise of law, instilling in them the ethical responsibilities of the legal profession and the social responsibilities of working for the attainment of a just and humane society. It helps to ensure justice in our society and the full protection of human rights. The School of Legal Studies prepares students for leadership by encouraging them to be innovative and responsive to society's needs and aspirations.

The institution is fully equipped to provide its students with an innovative and stimulating environment. The students are equipped to develop a legal temper. Legal education of high quality integrates legal concepts with a practical understanding of the law. The programmes develop the general skills and core competencies essential for legal education. The focus is on the development of the capacity to analyse and reason, oral and written communication, knowledge application, intellectual curiosity, and professional integrity.



MESSAGE FROM THE PATRON

പ്രൊഫ, ഗോപിനാഥ് രവീന്ദ്രൻ വൈസ് ചാൻസലർ

Prof. Gopinath Ravindran Vice-Chancellor







I am happy that The School of Legal Studies, Kannur University, under the auspices of Barrister M K Nambyar Chair, is organising an all-India moot court competition on a constitutional issue that is having socio-political and legal repercussions.

The event will be riched by the presence of constitutional experts, lawyers, judges, and other legal luminaries. I am sure that the moot court apart from being a competitive event will enhance law education.

I invite you to Kannur University and to Kannur, a land rich in traditions and history known for its natural beauty.

Kannur 27 January 2023

Prof. Gopinath Ravindran

ABOUT BARRISTER M. K. NAMBYAR CHAIR ON CONSTITUTIONAL AND ADMINISTRATIVE LAW



MK NAMBYAR

The Barrister M.K. Nambyar Chair on Constitutional and Administrative Law was established in 2005, and it was decided that the Chair shall be an independent permanent one in Kannur University and shall be attached to the School of Legal Studies. Shri K.K. Venugopal, Senior Advocate of the Supreme Court and former Attorney General of India, provided a donation to establish the Barrister M.K. Nambyar Chair, and Justice K.T. Thomas was appointed as honorary professor. The chair was established with the goal of providing opportunities for youngsters to gain expertise in constitutional and administrative law. Various seminars, conferences, lecture series discussions, and colloquia were held under the auspices of the Barrister M. K. Nambyar Chair in accordance with the objectives outlined during the Chair's establishment.

REMEMBERING BARRISTER M K NAMBYAR

Barrister M. K. Nambyar, an illustrious lawyer of the Supreme Court and the Madras High Court, who died in 1975, pulled no punches when it came to defending the fundamental rights and basic structure of the Constitution. It was he who laid the very foundation for the idea of the basic structure of the Constitution when he argued in the *I.C. Golaknath* v. *State of Punjab* case in the Supreme Court in 1967 that Parliament had no power to amend the fundamental rights under Part III of the Constitution. He took his cue from the principle expounded by the German thinker Dieter Conrad in this regard. Since then, various facets of the basic structure doctrine have evolved through a slew of Supreme Court judgments. Nambyar believed that the struggle for independence and the enactment of the Constitution had secured for the citizens their fundamental rights. Later, in 1973, his stand was proved right when the Supreme Court stated in the *Kesavananda Bharati case* that Article 368 did not empower Parliament to alter the basic structure of the Constitution.

Nambyar's appearance in 1950 in the *A.K. Gopalan case*, the first constitutional case in the country, catapulted him to the position of a constitutional lawyer, and that too at the beginning of his legal practise in the Supreme Court after he shifted practise from the Madras High Court. It was a case challenging the detention of Communist leader A.K. Gopalan. The case was one of seminal significance regarding the interpretation of fundamental rights and their interplay. In the case, Nambyar argued that procedural due process and principles of natural justice should be read into the expression "except according to the procedure established by law" in Article 21. However, it was only twenty-eight years later that the Supreme Court accepted the argument and ruled in *Maneka Gandhi's case* that the expressions meant a procedure "which is just, fair, and reasonable." If Nambyar's far-sighted arguments were accepted in the *A.K. Gopalan case*, it would have led to a healthy development of constitutional law.

"There was a commitment about him in the garb of fundamental rights. He fought the case (A.K. Gopalan) not for the ideology of his client, who was a communist, but for the ideology of human rights, which finds expression in Part III (of the Constitution)."

-V.R. Krishna Iyer, former Supreme Court judge.

THEME OF THE MOOT COURT COMPETITION

This year, the Department Council decided to conduct an all-India moot court competition on a constitutional issue that is having socio-political and legal repercussions. The competition educates participants as well as students at the host institution about the various aspects of the reservation issue. The host institution will ensure the presence of constitutional experts, lawyers, judges, and other legal luminaries during the competition days.

MOOT PROPOSITION

- 1. The Republic of Mewar is a Sovereign Socialist Secular Democratic Republic with a written constitution and a parliamentary system of government. The state guarantees fundamental rights in Part-III of its Constitution, which assures fundamental rights to its people. From Articles 14 to 18, the concept of equality as a fundamental right is enshrined in the Constitution. Article 14 assures equality before the law and equal protection under the law to everyone within the territory of Mewar.
- 2. Moreover, Articles 15(4) and 15(5) provide reservations in educational institutions for the advancement of the socially and educationally backward classes (SEBC), the scheduled castes (SC), and the scheduled tribes (ST). Article 16(4) allows for reservations in appointments or posts for any backward class of citizens who, in the opinion of the state, are not adequately represented in state services. The makers of the Constitution of Mewar use quota systems in the form of reservation policies by reserving seats for underrepresented categories of citizens in public employment, educational institutions, and legislative bodies, also known as affirmative action.
- 3. In the Constitution (One Hundred and Third Amendment) Act, 2019, a new pool of reservations named the "economically weaker section" was introduced by the Parliament of Mewar by incorporating Articles 15 (6) and 16 (6). The state has been empowered, inter alia, to provide for a maximum of ten per cent reservation for "the economically weaker

¹ See annexure-1.

- sections" of citizens other than "the scheduled castes," "the scheduled tribes," and the non-creamy layer of "the other backward classes." At the outset, the amendment in question does not mandate but enables reservation for EWS and prescribes a ten per cent ceiling limit.
- 4. A batch of transferred cases, transfer petitions, writ petitions, and the petition for special leave to appeal challenged the Constitution (One Hundred and Third Amendment) Act, 2019, which came into effect on January 14, 2019, and a five-judge constitutional bench of the Supreme Court of Mewar heard the matter.
- 5. The amendment in question is premised essentially on three-fold grounds: first, that making special provisions, including reservation in education and employment, based on economic criteria is entirely impermissible and offends the basic structure of the Constitution; second, that in any case, exclusion of socially and educationally backward classes, i.e., SCs, STs, and non-creamy layer OBCs, from the benefit of these special provisions for EWS is inexplicably discriminatory and destroys the basic structure of the Constitution; and third, that providing for ten per cent additional reservation directly breaches the fifty per cent ceiling of reservations already settled by the decisions of this Court; and destroying the basic structure of the Constitution.
- 6. After hearing the petitioners and respondents, the bench decided the above case through four separate judgements with different reasoning. Three judgements upheld the Constitution (One Hundred and Third Amendment) Act, 2019, delivering the three different judgements with different reasoning, and one dissenting judgement was delivered by Justice Kali along with the Chief Justice of Mewar, holding that the Constitution (One Hundred and Third Amendment) Act, 2019, is violative of equality principles, i.e., the exclusion of the SC, ST, and OBC, and hence against the basic structure of the Constitution. Aggrieved by the error in the face of the record of the judgement of the Supreme Court of Mewar, one of the petitioners in the above case, named Akha Khan, filed a review petition before the Supreme Court of Mewar on the following grounds:
 - 1. In the Review, the petitioner challenged the word "economically" appearing in the Constitution (One Hundred and Third Amendment) Act, 2019, as the word "economically" cannot be isolated from the word "weaker sections." The amendment excludes SC/ST/OBCs from the purview of the weaker sections and is hence violative of Art. 46 of the Constitution of Mewar.

- 2. In Chandra Savari,² case the Supreme Court held that reservation shall not exceed 50% ceiling limit and it cannot be solely on the basis of economic criteria, therefore the impugned judgement of 10% EWS reservations in addition to existing reservation is violative of the basic structure of the constitution.
- 3. The different reports and studies relied upon by the Parliament and Supreme Court to determine the Economically Weaker Section are insufficient to determine the economically weaker section, and the 10% reservation to EWS is disproportionate, and there is no rationale or justification whatsoever for giving high per cent reservation to a smaller number of people who belong to EWS.
- 4. The EWS reservation allotted to unaided and private educational institutions is against Article 19(1)(g) of the Constitution. The ceiling of the EWS income, determined by many of the states in Mewar, is Rs. 8 lakhs. The Mewar Income Tax Act, which mandates income tax on earnings above Rs 2.5 lakh is contradictory with the EWS ceiling limit of 8 lakhs.

² Indra Sawhney v. Union of India, 1993 SCC 477.

Annexure -1

The amended Provisions

- 1. In article 15 of the Constitution, after clause (5), the following clause shall be inserted, namely:
 - '(6) Nothing in this article or sub-clause (g) of clause (1) of article 19 or clause (2) of article 29 shall prevent the State from making, —
 - (a) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5); and
 - (b) any special provision for the advancement of any economically weaker sections of citizens other than the classes mentioned in clauses (4) and (5) in so far as such special provisions relate to their admission to educational institutions including private educational institutions, whether aided or unaided by the State, other than the minority educational institutions referred to in clause (1) of article 30, which in the case of reservation would be in addition to the existing reservations and subject to a maximum of ten per cent. of the total seats in each category.

Explanation. —For the purposes of this article and article 16, "economically weaker sections" shall be such as may be notified by the State from time to time on the basis of family income and other indicators of economic disadvantage.'

- 2. In article 16 of the Constitution, after clause (5), the following clause shall be inserted, namely:
 - "(6) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favour of any economically weaker sections of citizens other than the classes mentioned in clause (4), in addition to the existing reservation and subject to a maximum of ten per cent. of the posts in each category."

Note: The laws, reports, data and statistics are pari-materia to the Union of India.

DISCLAIMER

The material in the Competition Case is not intended to and does not attempt to resemble any incident or any person living or dead. Material in the Competition Case is fictitious and any resemblance to any incident or person, if any, is not intended, but merely co-incidental.

RULES AND REGULATIONS

PART I: GENERAL

SUBJECT MATTER AND DATE:

Barrister M K Nambyar Chair, School of Legal Studies conducting First National Moot Court

Competition- 2023, from 08-11 March, 2023.

PARTICIPATION AND ELIGIBILITY:

a) Team Member Eligibility:

Students enrolled in a full-time bachelor's degree programme affiliated with the Bar Council of

India (three- or five-year) law programme at the time of the competition are eligible to compete in

the competition. Each college, law school, or university may enter one team only.

Team Composition:

A team shall be composed of either:

Two members: both speakers,

OR

Three members: two speakers and one researcher.

Number of Participating Teams:

On a first-come, first-served basis, a maximum of forty (40) teams will compete. In case there is

an odd number of participating teams, SLS will nominate a non-competing dummy team that will

not proceed beyond the preliminary rounds.

Team members must carry current identity cards issued to them by their institution. Team members

shall not reveal their identity or their institution's identity in any manner whatsoever during the

competition, in the memorials, or even at the request of judges, failing which the team will be

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disqualified. Throughout the moot court competition, participants should wear an identity card that

contains a team code issued by the organisers.

Official Language:

The official language of the competition is English. All competition rounds, including the written

submissions (memorials), shall be in English.

Dress Code:

The participants shall adhere to following dress code when present in any court room during the

Competition.

a. Girls: White salwar and kurta or white shirt and black trousers along with black

coat and black shoes.

b. Boys: White shirt, black trousers and black tie along with black coat and black

shoes.

PART II: REGISTRATION PROCESS:

The registration confirmation shall be on a first-come, first-served basis. Each team shall register

by filling out the Google Form titled "National Moot Court Competition" on or before February,

10, 2023, at 11:59 p.m. Registrations received after the given deadline shall not be accepted under

any circumstances. The participants should inform the completion of the registration process

within 24 hours via email to mootcourtbmk@gmail.com.

Registration Form: https://forms.gle/kt2MhvqgPBqUJbDK8

REGISTRATION CHARGES:

Registration fee (non-refundable): INR 5,000 (five thousand only) per team. The registration fee

is payable online via UPI or NEFT. A scanned copy of the receipt for online registration fee

payment must be submitted along with the duly completed Google form. Each team shall submit

only one Google form. Requests for a refund of the registration fee shall not be entertained. The

details of the fee receipt and registration should also be sent to <u>mootcourtbmk@gmail.com</u>.

Mode of Payment: UPI/NEFT

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UPI ID- hodlegal@sbi

NEFT:

Bank Name: SBI

Account Name: HEAD OF THE DEPARTMENT, SLS (FOR BARRISTER MK NAMBIAR CHAIR)

Account Number: 67214873034

IFSC: SBIN0000926

Branch: SBI Thalassery

CIF Number: 77082552579

No change in the names of the participants shall be permitted after the receipt of the Registration Form, except at the sole discretion of the organizers. Each team shall be assigned a "Team Code" by the organisers upon validation of their Registration Form and receipt of online payment of registration fees. Thereafter, the teams shall use their designated "team code" for all correspondence with the organisers. The same team code must be used by the teams during the submission of memorials and during all the rounds of the competition.

PART III: FORMAT OF THE COMPETITION

• ROUNDS:

The competition will consist of four rounds in total.

• Preliminary rounds:

In the preliminary rounds, each team will present arguments for both sides in different courts.

Quarter-Final rounds:

Sixteen teams will advance to the quarter final rounds in four courts based on their total wins, total marks in the preliminary rounds, and total marks in the playoffs (in case of a tie).

• Semi-Final rounds:

Four teams that win the quarter-final round will proceed to the semi-final rounds in two courts.

• Final Round:

The winner from each of the two courts in the semi-final round will proceed to the final round.

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PROCEEDINGS:

In the preliminary, quarterfinal, and semi-finals rounds, each team will have 30 minutes for argument. Each team member shall argue for at least 12 minutes. In the final round, each team will have 45 minutes for arguments, and each team member shall argue for at least 20 minutes. This time period includes rebuttals. Only one speaker can speak in rebuttal. Any team member shall not visit or join any court room other than his own until that round is over. Teams may use laptops during proceedings without interfering with or disturbing the court proceedings. The judges' decision on the conduct of proceedings will be final in their respective courts.

PART IV: MEMORIALS

Submission of Memorials:

All memorial submissions must confirm to the following general criteria: Teams will be penalised for failure to abide by these requirements. On or before March 2, 2023, soft copies of the memorials (as a Microsoft Word file) must be e-mailed to mootcourtbmk@gmail.com. A hard copy of the memorial should be submitted at the time of physical registration at the School of Legal Studies on March 8, 2023.

CONTENTS OF MEMORIALS:

Memorials must contain the following:

- Cover page with the Competition Title, Court Name, Case Name, Document Title (i.e.
 "Memorial for the"), and Team Code.
- Table of Contents
- Index of Authorities
- Statement of Jurisdiction
- Statement of Facts
- Issues
- Summary of Arguments
- Arguments
- Prayer

FORMAT OF MEMORIALS:

HARD COPIES:

Memorials shall be drafted and submitted as follows:

- **Microsoft Word document** (compatible with Windows)
- Cover: Do not use plastic, leatherbound, or hardbound material. Use ordinary card paper.
- Cover Page: blue cover for petitioner; red cover for respondent.
- **Paper:** white paper inside; A4 size.
- **Printing:** Both sides of the sheets
- Maximum page count (total): 35 (page = one side of sheet)
- Maximum page count (arguments): 20 (page = one side of sheet)
- **Numbered:** Bottom-Centre.
- Font: Times New Roman; 12 points for text; 10 points for footnotes.
- **Line spacing:** 5 for text; 1 for block quotes of more than 50 words in the text; 1 for footnotes.
- Paragraph spacing: 2 for text, 1.5 for footnotes
- **Mode of Citation:** Bluebook 21st Edition, white pages (law review) format.

SOFT COPIES:

The memorial for each side shall be a single document. The document files shall be named "(TEAM CODE) Memorial for Petitioners" and "(TEAM CODE) Memorial for Respondents." The subject of the mail submitting memorials shall be "Memorial – Name of your institution"; e.g., "Memorial – ABC College." Do not write the name of your institution on the memorials. A memorial that has been submitted will be considered final and cannot be revised.

ADHERENCE OF MEMORIALS TO PRESCRIBED FORM AND CONTENT:

Memorials that do not comply with the above specifications will suffer penalty points. Memorials received from another team during a round must be returned to the court clerks as soon as the round is completed. Teams shall not put any mark or matter on any such memorial they receive.

MARKING CRITERIA

PENALTY:

PART V: ADJUDICATION

DESCRIPTION	PENALTY
Failure to include all sections of the Memorials	5 marks for each section
Failure to include necessary information on the	2 marks each
cover page of the memorandum, or use of a	
colour on the cover page contrary to the	
scheme provided.	
Disclosure of identity of the team or of	5 marks – one time penalty
institution being represented (in Memorials)	
Delay in submission	1 mark per hour of delay
Use of incorrect font style, font size or line	1 mark per violation, maximum of 10 marks
spacing	per side
Incorrect Margins	2 marks - one time penalty
Excessive length of any section of the	5 marks for 200 extra words
Memorials	
Plagiarism in Memorials	10 – 25% 5 marks
	Beyond 26% memorial disqualified

MEMORIALS:

Each memorial will be marked as given below:

Sr.No.	Criteria	Marks
1	Proper and articulate analysis of issues arising out of facts	10
2	Understanding and ability to explain the legal principles clearly	10
3	Presentation and content of argument	10
4	Use of legal sources	10
5	Variation in approach	10
	Maximum marks	50
Less po	enalty points	

ORAL ROUNDS

Each judge in each round will mark each team member according to criteria given below:

Criteria	Maximum Marks	
	Speaker 1	Speaker 2
Knowledge of facts and identifying issues	5	5
Knowledge, statement and understanding of legal provisions and principles	15	15
Arrangement, presentation and content of argument	10	10
Logical reasoning, clarity, brevity and ingenuity of arguments	10	10
General Presentation, Court Etiquettes, Advocacy Skills, Time Management	10	10
	50	50
TOTAL	100	100

AWARDS

Prizes for the competition are as follows:

- ➤ Winning Team: A trophy, winners' certificate and prize money of 50000/- (Rupees Fifty thousand only)
- ➤ Runners-up team: A trophy, winners' certificate and prize money of 25000/- (Rupees Twenty five thousand only)
- > **Best Memorials**: Shield and certificate and prize money of 10000/-(Rupees Ten thousand only)
- ➤ Best Student Advocate of the Competition: Shield and certificate and prize money of 10000/- (Rupees Ten thousand only)
- Members of each team will receive certificate of participation.

PART VI: MISCELLANEOUS

ORGANISERS' EXTRA-ORDINARY POWERS

All participants are expected to maintain decorum in the court during the competition and conduct themselves in a manner befitting the legal profession. The organisers reserve the right to take appropriate action for any unethical, unprofessional, or immoral conduct. [The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, and Anti-Ragging Rules]

The organisers' decision as regards the interpretation of rules or any other matter related to the competition shall be final and binding. If there is any situation that is not contemplated in the rules, the organisers' decision on it shall be final and binding.

The organisers reserve the right to vary, alter, modify, or repeal any of the above rules without any prior notification, if so required and as they may deem appropriate. Any issue or matter concerning the competition will be decided by the conveners. Any grievance may be addressed to the Head of the Department, School of Legal Studies, Kannur University, whose decision will be final.

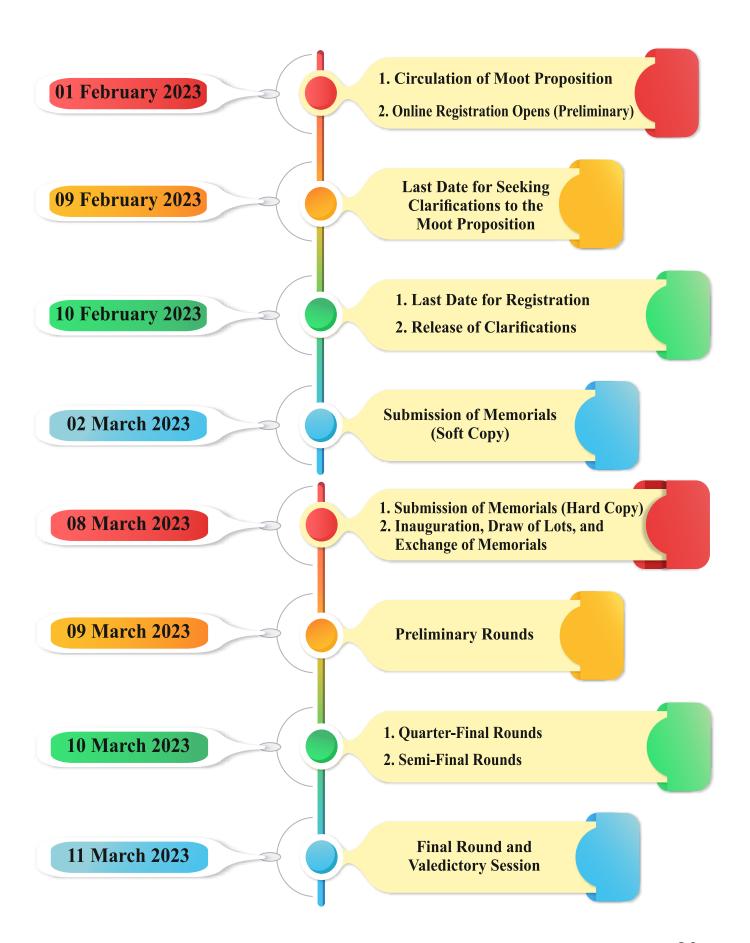
Food and Accommodation

Accommodation and food will be provided to the participants by the organisers only on the days of the competition. Internal commutation will be provided by the Institution.

DISCLAIMER

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TIMELINE OF COMPETITION



REGISTRATION FORM

BARRISTER M K NAMBYAR CHAIR ON CONSTITUTIONAL AND ADMINISTRATIVE LAW, SCHOOL OF LEGAL STUDIES FIRST NATIONAL MOOT COURT COMPETITION- 2023 08-11 March, 2023

PARTICIPATING INSTITUTION Name:				
Address & Contact Details:				
PARTICIPANTS		PASTE PARTICPANT'S		
Speaker 1 Name (Ms./Mr.):		PHOTOGRAPHS OVER HERE		
Phone:_				
Speaker 2 Name (Ms./Mr.):				
Phone:_				
Researcher Name (Ms./Mr.):_				
Phone:				
FACULTY- IN-CHARGE				
Name: Designation:				
Contact Details:	Participa	nt's Signature		
Principal/HOD/Faculty in-charge Signature				
SEAL				
Date: Place:				

ORGANISING COMMITTEE

Chief Patron

Prof. Gopinath Ravindran (Hon'ble Vice Chancellor)

Patron Prof. Sabu A (Hon'ble Pro-Vice Chancellor)

Convenor of the Programme

Dr. Sheena Shukkur, Head of the Department, School of Legal Studies

Contact

Faculty Conveners

Dr. Kavitha Balakrishnan Kum. Presanna Kumari E S Mrs. Shruthi A K Dasan: 9747740452 Mrs. Najmathulail P: 919496959080 Mrs. Sheeja J: 9961743616 Mr. Nikhilesh N: 9037884213

Student Conveners

Miss. Liyana Jabeen Miss. Dhyana Dinesh

Miss. Aleena

Mr. Mizbah Kauser

Miss. Alfiya Kareem Mr. Akshay S Mr. Vishnu Dev



SCHOOL OF LEGAL STUDIES, Kannur University,

Dr. Janaki Ammal Campus Dharmadam - Melur Rd, Palayad, Kerala 670661.