



## PROPOSITION FOR VAKALAT, 2021.

1. Mordor is the largest constitutional democracy in the world. It is also a sovereign, secular, socialist, republic. Mordor is a nation which has seen rapid industrialization in the past three decades since its economy was opened for the first time in 1889. Previously an agrarian economy, this rapid industrialization propelled Mordor to become the 6<sup>th</sup> largest economy in the world. By 2016, over 65% of the working population in Mordor was employed in one form of industry or other.
2. With industrialization came exploitation, and over the period of 1990-2000s, several laws were enacted to safeguard the interests of the workers. It was during this period that Mordor saw the rise of Trade Unions and social welfare legislations. From 1995 to 2019, the Central Government in Mordor was run by the Red Party of Mordor [**"RPM"**], and it was the RPM government which oversaw the promulgation of these legislations. By 2019, there existed over 27 central legislations pertaining to labour and employment.
3. In March, 2019, Mordor's economy experienced a slump owing to the corona virus outbreak. With the general elections coming up in July, it soon became an election issue. Although all the major Trade Unions in the country were supporting RPM, in terms of donations, campaigning, etc., the oppositions party, the Mordor Janhit Party [**"MJP"**] gained a lot of political ground on RPM in the run up to the election. News outlets, purportedly affiliated to the RPM, claimed that the MJP had strong support from the industrialists in the country.



4. The general elections of July, 2019 saw the BJP come to power with a thumping majority in both the Houses of the Parliament. On 22 August, 2019, Home Minister, Mr. SR Khan, speaking at a press conference, said

*“More is not necessarily good, and that is precisely what is happening in our country. We have so many laws relating to labour, but how effective are they? Data with the government discloses that the laws are not very effected. They are complicated, overlapping and contradictory which makes both, enforcement and compliance difficult. Our Government, to stimulate our slowing economy is planning on streamlining our labour laws.”*

5. Soon thereafter, on 24 August, Mr. Marks, the erstwhile Prime Minister of Mordor, the General Secretary of the RPM, was asked for his opinion on Mr. Khan’s statement at a RPM Party event. Mr. Marks was quoted saying,

*“There was no data with our Government which would substantiate Mr. Khan’s claims. And I am not going to be convinced if you tell me that in such a short span of time the BJP has been in power, it has already conducted its research, gathered its data, deliberated on the issues, and has made up its mind. No data has been put forward by this Government. They have only given us empty words, and we all know where these words are coming from.”*

6. In the weeks that followed, Mr. Marks’ comments stirred up quite the controversy, with several Information Petitions being filed with the Central Government asking for the data referred to by Mr. Khan. However, the Central Government refused to provide the requested data citing “national security” reasons.



7. On 7 September, 2019, Mr. Ray-Gun, announced a massive amendment to the existing framework of labour laws in Mordor. The MJP Government proposed 3 new labour codes which would subsume the existing 27 central labour legislations. Mr. Ray-Gun, speaking at a press conference said,

*“These new laws reduce the existing complications in our labour laws and will comprehensively increase the ease of doing business. It will help small and medium sized industries which have found it difficult to maintain businesses during these difficult times for our economy. It will be a new day for industrialists and industrialized Mordor.”*

8. The proposed amendments were met with stiff opposition from not just the Trade Unions purportedly affiliated to the RPM, but also the common people of Mordor, a majority of whom were employed in industries. The critics of the proposed amendments claimed that in a bid to increase ease of doing business, the MJP government was watering down on the protection afforded to the workers in Mordor. It was argued by them that the new laws reeked of the “suit-boot” touch and would effectively turn into a weapon of exploitation of the weakest and the poorest in the country.

9. Mr. Angles, a senior party member in RPM and a close aide of Mr. Marks, speaking at a press conference on 12 September, 2019, said,

*“I don’t think this new government understands what national security is. Their refusal to share information on “national security” grounds is ridiculous. And then they plan to bring about these draconian, exploitative laws with no regard for the millions of our workers who make this great nation of Mordor. This government is incapable of deciding what is good for this*



*country and its people. They are only trying to mislead us, and to profit their industrialist friends.”*

10. However, turning a blind eye to the growing opposition towards the proposed amendments, the MJP government tabled the proposed 3 new codes in the Lower House on 15 September, 2019 and the same was passed without much discussion by the evening of 16 September, 2019. The codes were then tabled before the Upper House on 18 September, and were passed the same evening. MJP enjoys a majority in both these houses.
11. On 19 September, 2019, the RPM called a nation-wide strike opposing the new labour laws. The Trade Unions relayed this message to their respective members on 20 September, 2019 and by 22 September, the entire nation came to a standstill with people taking to the streets in large numbers. News reports estimated that nation-wide, close to 300 million people were out on streets, protesting at different places.
12. There was no official statement from the Central Government, however, there was heavy air deployment of the Army in the cities of *Lux-Al Bari*, *Lal Shehar*, and *Gandalfpur* on 28 September, 2019 where the Army stayed on standby. Gandalfpur is also the capital of Mordor. These three cities were worst affected by the protests, with the situation being almost siege-like. These three cities had been cut-off from the rest of the country owing to the fact that protestors had surrounded them from all sides.
13. On 1 October, after the protests had been going on for 10 days, the internet was suddenly cut in the areas surrounding the cities of Lux-Al Bari, Lal Shehar and Gandalfpur. The central internet carrier, Reliable Internet Inc., cited maintenance reasons for the same. However, some alternate media outlets claimed that this was a concerted move by the Central Government to take



wind out of the protestors' sails. On 2 October, the Army, which was on standby until now, was deployed and in 16 hours, all three protest sites had been cleared out. News outlets reported that the Army dealt with the protestors with a rather heavy hand. Some images which surfaced on the internet showed the Army meting out brutalities on the unarmed protestors.

14. On 4 October, the head office of RPM, situated in Lal Shehar was raided by the Central Agency of Investigation ["CAI"]. The CAI seized all computers and other electronic devices found at the head offices of RPM. Several papers were also seized. Further, all party officials on the premises were arrested, including Mr. Marks and Mr. Angles. In a press release issued by the CAI on the evening of 4 October read,

*“CAI has received intelligence that the RPM was working with foreign elements with an intent to destabilise the Government of Mordor. We have strong suspicion that certain RPM officials were involved in a massive conspiracy to funnel foreign funds and have diverted them to fund the so-called labour protests. These individuals, with the enemies of Mordor, have attempted to cease the functioning of the government under the guise of lawful protests. Further, CAI has also seized several crucial pieces of evidence, and we shall be filing a detailed chargesheet soon. We are confident that the enemies of our great nation will be brought to justice. CAI shall endeavour to make an example out of these anti-nationals.”*

The CAI accordingly filed an FIR bearing number 420 of 2019. It was later found out that the CAI neither had a warrant for search and seizure nor for the arrests it made.



15. The CAI filed a chargesheet on 31 October, 2019 before a Special Court in Lal Shehar against Mr. Marks, Mr. Angles from RPM. Apart from them, a few Trade Union leaders were also arraigned as accused persons, namely Mr. Stalling, Mr. Zeezake and Mr. Calmoo. All give were charged under sections 120B, 124-A, 153-A read with section 34 of the IPC. According to the CAI, these five individuals had conspired to create unrest in the country and have attempted to sow dissatisfaction against the government. They further claimed that they attempted to create animosity between different communities in the country.
16. To substantiate its charges, and to satisfy the Special Judge that there existed a prima facie case, the CAI relied heavily on emails and WhatsApp chats of the accused persons retrieved from the devices seized by the CAI from the RPM head office. However, no section 65B certificate under the IT Act was procured by the CAI. The CAI also attached the 24 August and 12 September statements made by Mr. Marks and Mr. Angles, respectively to the chargesheet to substantiate the charges of sections 124-A and 153-A of IPC against them. The remaining three accused persons were arraigned by way of section 34 of the IPC.
17. The trial commenced and was concluded on 23 January, 2020. The conclusion of the trail saw the acquittal of all three Trade Union Leaders. Mr. Marks and Mr. Angles, however, were convicted of all charges and the matter was listed for hearing on sentencing. In the interim period, Mr. Marks and Mr. Angles challenged the decision of the Special Court before the Hon'ble High Court of Lal Shehar, invoking Section 372 and 374(2) of the CrPC which is the main legislation on procedure for administration of substantive criminal law in Mordor.



18. After hearing both the sides, the High Court reserved the matter for final arguments and framed the following issues,
- I. Whether the evidence obtained by CAI without an arrest warrant is admissible as evidence?
  - II. Whether a 65-B certificate under the IT Act is required for admitting the WhatsApp chats and emails purportedly seized by the CAI?
  - III. Whether the charges of Section 124-A and Section 153-A have been adequately established by the Prosecution?

#### NOTES

- (i) The laws of Mordor are para materia to the laws of India.
- (ii) The facts stated in the proposition are to be assumed to be a part of the chargesheet, save and except the various news reports and internet reports.
- (iii) You're open to frame more issues, however the three mentioned in Paragraph 18 remain the primary issues.

This proposition has been authored by Mr. **Swapnil Srivastava** who is currently working as an Associate at MZM Legal, Mumbai, a leading white-collar crimes firm in the country, for **Neeti Shastra**. He is a graduate from National Law University, Jodhpur with specialisation in criminal law, and a keen interest in Cyber Law, Constitutional Law, Public International Law and Public Policy.

Mr. Swapnil has participated in several criminal law moots, both in India and internationally, and has won several accolades. He has also coached several teams for national and international moots, and they have gone on to do phenomenally well. He has previously judged as well as drafted problems for various moot court competitions.