

MOOT COURT SOCIETY | SYMBIOSIS LAW SCHOOL, NOIDA
Symbiosis International (Deemed University), Pune

11th ASCENT Moot Court Competition, 2022

Moot Proposition

1. In the year 2024, a team of researchers from the State of Queensgarden published what has come to be regarded as the most influential paper of the century – *An essay on the latent ability of humans to perceive proprio vigore and comprehend low-beta-wave functions in mice and other related rodents*. The paper discussed the foundation for what would eventually become the ability to read another person’s thoughts. It laid down the protocol for training to hone the skill.
2. Upon release, the paper was universally condemned as being specious, and based on the overactive imaginations of its authors, who were known fans of science fiction. However, the authors stood by their paper, offering it for peer-review, which the paper grudgingly passed. As the scientific community slowly began to accept the possibility that humans could, in fact, perceive the brain-waves of mice, another set of authors, from the State of Wiffesgard, published a paper claiming to establish that humans can perceive the brainwaves of other humans as well, and set out a detailed protocol for what means can be used to exercise this ability.
3. The paper made it clear, however, that current technologies do not allow for the ability to be actually exploited, and discussed the experience with the earlier paper – that even reading mice brain required heavy expenditure for the machinery required, and the gains were essentially discovering that the mice primarily thought of food.
4. A very large amount of research and money were poured into the subject in the immediate years to come, with the best scientific minds attempting to find means by which the protocol established by the Wiffesgardian scientists can be implemented using current technologies. Over time, as funding started drying out, interest in the subject, too waned, and it was chalked up for a topic that generations of the future might be interested in. The concept, too, was relegated to dusty books in libraries.
5. Until 144 years later to the date, a team of scientists in a government research facility in the State of Wyvesgarden (as Wiffesgard eventually came

- to be named) accidentally fabricated a semiconductor that showed a very high level of sensitivity to human brain theta-wave functions. The Government of India quickly swooped in, took the project over, and swore the scientists to secrecy, warning them that the discovery is protected by the Official Secrets Act, 1923. As is wont with any governmental secret, the discovery was leaked to the public two weeks later, and soon every government and private research facility across the world started working on either bettering the semiconductor or figuring out how to put it to use.
6. In a year's time, multiple methods had been developed for ingesting/injecting a shard of a variant of the semiconductor and getting it past the blood-brain barrier and as close as possible to the parietal-lobe. International treaties were executed making it mandatory that such devices are not implanted, whether voluntarily or otherwise, in persons under the age of 18. India signed the treaties as well, and enacted appropriate laws regulating the sale of such devices and penalizing any instance of attempt to implant the device on minors.
 7. People could soon now read others' thoughts, with the added caveat that the other person could also prevent their thoughts from being read. Soon being able to read another's thought became as easy (or as difficult) as attempting to eavesdrop on a telephone call. Schools began having telepath classes, and cafes started having telepath booths. Helmets proclaiming to prevent thoughts from being read were also sold, though they were mere gimmicks. Governing bodies of various sports promptly issued fresh rules prohibiting mind-reading of all forms before or during games.
 8. Though reasonably convenient, the evolution of humans over millions of years with an inclination towards speaking as the primary means of communications meant that mind-reading became a fad – a thing that only scientists and youngsters were interested in. The issue with mind-reading was that now that people know it could be done, and knew how to hide their thoughts, pretty much all of them simply hid their thoughts until people only mind-read when it was consensual and both parties were interested in it for any reason.
 9. Until Ms. Day Bosch was arrested by the Government and charged with sedition in the year 2172 for sedition and conspiracy to wage war. The trial received a lot of attention from the public because the prosecution attempted to lead in evidence the testimony of Ms. Day Bosch's neighbour, who claimed she had read Ms. Day Bosch's mind and discovered the intent to overthrow

- the central government. The matter was eventually dismissed, and Ms. Day Bosch was acquitted since the State was unable to prove the charges.
10. The matter, however, impelled the Union of India to enact the Indian Penal Code (Thoughtcrime Amendment) Act, 2172, which was swiftly passed in the Parliament with an overwhelming majority. The Act made the thinking of seditious thoughts an offence the same as committing sedition by spoken or written words.
 11. Within three days of the act coming into force. Ms. Day Bosch and her colleague Ms. Shriya Sharma were arrested by the police. The charge was that Ms. Day Bosch and Ms. Shriya Sharma had committed sedition. Ms. Day Bosch and Ms. Shriya Sharma both promptly challenged the Indian Penal Code (Thoughtcrime Amendment) Act, 2172 by way of a Writ Petition under Article 32 of the Constitution of India. The Supreme Court stayed their trial as well as the application of the Act pending decision in the Petition.
 12. Ms. Day Bosch and Ms. Shriya Sharma opposed the amendment as being in violation of the constitutional guarantee of freedom of thought. Ms. Shriya Sharma, who was named Ms. Day Bosch's co-conspirator, further argued that the Act fails to distinguish between persons who receive a thought (which still amounts to a thought once received), and a person who is articulating a thought, and ought to be struck down for this reason as well. The Union of India opposed the Petition, contending that the Constitution does not guarantee freedom of thought in express terms, and certainly not in Part III.
 13. Meanwhile, Emma Zone, the e-commerce empire run by Ms. Santa Youngeshwari, had quickly bought into the trend of mind-reading. It updated its personal home-automation devices to be able to listen to thoughts that are articulated by willing humans. Thoughts were then used as a means to place orders on the e-commerce website run by Emma Zone. Since it did not require a hardware change, the update was pushed through software updates to all personal home-automation devices sold by Emma Zone, with an option to device owners to opt-in for the service, which many did.
 14. However, trouble soon began to surface as people started complaining about orders being placed on their behalf by Emma Zone's devices based on fleeting thoughts, where there was no real intent to actually purchase anything specific. Despite this, the service offered by Emma Zone became wildly popular, especially in houses with children since parents could discreetly order whatever they preferred without children realizing orders are being placed.

15. However, the complaint reached a crescendo when Ms. Knight Yakupt, a sitting MP's daughter discovered one day that Emma Zone had placed extremely expensive orders for baby-care products. "I am only just entering my third trimester; I was just fondly imagining how it would be to dress my child up in various outfits. I don't even know its gender yet!" Ms. Knight Yakupt had complained on social media, calling out Ms. Santa Youngeshwari and Emma Zone for the gross mistake. The orders were promptly cancelled by Emma Zone at Ms. Knight Yakupt's request.
16. However, the post went viral, with multiple people joining in on the ruckus, and the subject being even discussed in the legislature of the State of Wyvesgarden. Ms. R. E. Assov, who ran the e-commerce website Slipcar – Emma Zone's biggest competitor in India, began an open campaign against thought-based purchases, arguing that such a concept is completely alien to contract law, since there is no real proposal that is accepted, but a mere thought of a proposal. Emma Zone began a counter-campaign in support of thought-based purchase, arguing that just because contract law did not originally envision thoughts as a way of communicating a proposal, does not mean that the same cannot be subsumed in the law of contracts.
17. A month later, the State of Wyvesgarden passed the Wyvesgarden Thought Contracts (Prohibition) Act, 2172, declaring that any agreement entered into through mere thoughts of any one party is void *ab initio*. The law put an immediate end to the concept of "you thought it, you bought it" that Emma Zone was espousing.
18. Ms. Santa Youngeshwari and her company, Emma Zone India Private Limited filed a Petition under Article 32 of the Constitution of India challenging the Wyvesgarden Thought Contracts (Prohibition) Act, 2172, contending that the Act was repugnant to the Contract Act, 1872 and that the State of Wyvesgarden had no legislative competence to pass a law dealing with any aspect of the law of contracts, since the Contract Act, 1872 deals with the same subject.
19. The State opposed the Petition, contending that the Contract Act, 1872 does not contemplate of a transaction where a party has not really communicated any proposal. It argued that such a unilateral transaction is not a contract, but an instance of a company cashing in on the lack of control humans have over their mind. It argued that the State made the law to protect its citizens from being exploited for their thoughts. The Union of India refrained from taking a stand or making submissions on the issue.

20. The Supreme Court has listed both matters to be heard together and listed the matter for final hearing. It directed the parties concerned to file their written submissions, requiring Petitioners in both matters to file a joint memorandum and Respondents to similarly file a joint memorandum. It framed the following issues for the hearing, and directed that unless compelling reasons are shown, no further issues would be taken up for hearing:
- 20.1. Whether the Constitution of India guarantees a right to freedom of thought.
 - 20.2. Whether the Indian Penal Code (Thoughtcrime Amendment) Act, 2172 is constitutionally sustainable.
 - 20.3. Whether the Wyvesgarden Thought Contracts (Prohibition) Act, 2172 is constitutionally sustainable.

Notes:

- i) The names, characters and incidents are fictitious, and are created for academic purposes.
- ii) The parties are at liberty to re-arrange the issues, and to create sub-issues. Sub-issues have to be wholly capable of being subsumed in the issue as formulated by the Supreme Court.
- iii) Neither the Union nor the State has passed any law since 2022 till the time the proposition is set in, nor have any Courts rendered any judgement that are relevant to the present proposition.
- iv) The maintainability of the Petitions and *locus standi* of the parties are not in dispute.
- v) The language of the Wyvesgarden Thought Contracts (Prohibition) Act, 2172 is not relevant for the present proposition.
- vi) The relevant provision of the Indian Penal Code (Thoughtcrime Amendment) Act, 2172 is as below:
2. Amendment of Section 124A of the principal Act.—*In Section 124A of the principal Act, after the words "whoever by words, either" shall be added the words "thought,".*
- vii) The parties do not challenge the law of sedition *per se*, and are only limiting it to the Indian Penal Code (Thoughtcrime Amendment) Act, 2172.
- viii) The parties do not dispute the scientific principles, discoveries and inventions set out in the various paragraphs set out above. All laws of sciences, subject to the discoveries set out above, still apply.

***** ALL THE BEST! *****