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2nd Amity National Judgment Writing Competition 2018

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Foreword



Maj. Gen. P.K. Sharma (Retd.)

Director, ALS

A definitive touchstone of excellence in Legal Education is the quality culture invading the Institution. Today Legal Education remains at the intersection of keeping pace with the rising needs of mankind vis-à-vis quick changing patterns in Governance and Science & Technology and focuses on learning rather than instructing. This brings Amity Law School, Gurugram on the fore-front as an Institution, equipped with state of the art facilities for imparting quality Legal Education. The hallowed vibrations of our grounds provide a special environment of value learning in a multi-dimensional and participatory way where budding lawyers shape their future.

If great lawyering aptitudes are fundamentals for an Advocate, Judgment Writing Competitions as part of Legal Education in Law Schools can be one of the best resources for augmenting the same. Here, at Amity Law School, Gurugram we comprehend this need to support Judgment Writing and seek to make a sound pool of youthful Legal advisors. In Judgment Writing, students learn how to analyse the facts, find out the issues involved and by applying the appropriate laws arrive at a legally sound conclusion.

I believe Judgment Writing Competitions look at the comprehensive characteristic of how Laws learnt in school rooms or colleges are in fact put to effect and implemented in courtrooms. The given facts and situations play a vital role and law is applied in its true sense to these facts to set required legal precedents and pave way for judge-made law.

After the grand success of our earlier initiative of organising the 1st Judgment Writing Competition, we are pleased to announce that Amity Law School is now organising the 2nd National Judgment Writing Competition. This Competition aims to capture the essence of Judges and decision-making from young Law Students ambitious to join the respected Judicial Services. This is a small effort to impart the dynamic role that judgments play in a society, particularly when Judicial Activism is on the rise and is paving the way for social justice in India. Thus, Amity Law School, Gurugram by including this in its curriculum is making an exemplary stride towards showering light on a reformation in the legal education system in India.

Best Wishes

Message



Monica Yadav

Assistant Professor, ALS

Judgments play a dynamic role in any society. A good judgment augments the objectives and purpose of the underlying Laws. A Judge must have the skills to put to effect the Laws and implement them in courtrooms, where facts and situations play a vital role. Law is applied in its true sense to these facts to set required legal precedents.

Judiciary is one of the three pillars of a Democracy and is one of the most prestigious career options for every Law Student. Amity Law School, Gurgaon is organizing their 2nd Judgment Writing Competition, 2018. This competition pursues to capture the essence of Judges and decision-making from young Law Students ambitious to join the Judicial Services. It is an opportunity for Law students to participate with passion, with the motive of learning and improving the art of applying analytical reasoning and enhance their writing abilities. My best wishes to all the budding Lawyers.

ORGANISING COMMITTEE

1. Convener - Maj. Gen. P. K. Sharma (Retd.)

Director, Amity Law School

2. Faculty Convener - Ms. Monica Yadav

Asst. Professor, Amity Law School

3. Student Convener

Himanshu Saini

Sowjanya R. Sai

Amity Law School



The **VISION** of the Amity Law School is to strive to be an internationally recognised leader in socially relevant legal research and education in India and Commonwealth States.

In pursuing its vision, the Amity Law School has as its mission, the creation and sustenance of a research based academic environment that is grounded in values of social justice and excellence.

The values of the Amity Law School are fully aligned with those of the University with a view to create a culture that reflects these values.

We cherish:

Academic freedom, creative and innovative thought, ethical standards and integrity, accountability and social justice; and.

We foster:

- An inquiry-led and evidence-based approach to creating knowledge; and
- Academic citizenship, whereby we commit ourselves to harnessing our intellectual abilities in the interest of our nation and humanity.

We recognise that:

In a resource-constrained world where vast disparities remain, the Faculty must endeavour to produce graduates who appreciate the importance of community engagement, entrepreneurial endeavours and innovative actions in generating employment and development in our local communities.

The Art of Judgment Writing

The judgment writing consumes the major part of Judge's work. Taking into account the mounting arrears, and the number of cases in the daily cause list, the burden of judgment writing sometimes becomes intolerable. The Judges by their experience, find methods to reduce this burden, by writing brief opinions. The judgment, however, should serve the requirement of law without compromising with the quality.

Before writing a judgment a Judge must remember that he is performing a public act of communicating his opinion on the issues brought before him and after the trial by observing fair procedures. He is required to tell the parties of the decision, on the facts brought before him, with application of sound principles of law, his decision, and what the parties are supposed to do as a necessary consequent to the judgment or to appeal against it. It is basically a communication to the parties coming before him for a decision.

The style of judgment writing is constantly changing. The Latinism and legal clichés are the days of past. It may not be wise to use metaphors and idioms, to prove a point. The judges avoid using words or expression showing gender-bias. There is some difference of opinion regarding the use of footnotes, appendices, and other adds to communication. The judges in America use footnotes, whereas Judges in Canada and Australia find them offending. Brevity, simplicity and clarity have always been the watchwords for effective judicial writing.

The diversity of opinion in judgment writing is the strength of the common law judicial tradition. It provides a never-ending stream of ideas and ways of communicating them. The experimental variety helps to develop the law. It is the privilege of each succeeding generation of judges to nurture the proud heritage and advance this precious legacy.

Excerpt taken from - *The Art of Writing Judgment*

- By Justice Sunil Ambwani,

Judge, Allahabad High Court, Allahabad

Full text available at - www.ijtr.nic.in/webjournal/3.htm

COMPROMIS

1. Bindustan was a country located in the sub-continent of South Central Asia which was divided into several princely states, having a glorious and rich heritage, where multifarious religious groups existed – which was administered by the British. In 1947, the British decided to partition Bindustan into two countries and give a dominion status to the successor government. On the midnight of 15th August 1947, the British rulers handed the nations over to the successor governments and coincided it with the partition, in which Bindustan was divided along religious lines into the dominance of Indigo and Zakistan. The partition was accompanied by violent riots, mass casualties, and the displacement of nearly 15 million people belonging to different religions – due to religious violence tramped across the newly drawn border. The population of undivided Indigo in 1947 was approx. 390 million. After the partition, there were 330 million people in Indigo which consisted of the majority of Hindus and 30 million each in West Zakistan, and East Zakistan (now Sangladesh), which was dominated by Muslims.
2. After Independence, the Constitution framers of Indigo, focused on the socio-economic conditions of the country and realizing the aspiration of its citizens in an independent country – framed a constitution which not only guaranteed certain inalienable fundamental rights and adopted the principles of welfare state but also outlined the objectives of socio-economic development in terms of Directive Principles of State Policy. At the time of framing the Constitution, 70% were Hindus, 20% Muslims while 5% followed Christianity and the remaining 5% followed other religions. The Constitution did not clearly define Citizenship and hence, after 8 years of independence, The Citizenship Act, 1955 was passed by the Government of Indigo which provides for the acquisition and determination of Citizenship in Indigo.
3. In late 1960's, the inhabitants of Chittagong Hill Tracts, comprising of Chakma's and Hajong's, who were Hindus and Buddhists respectively, fled erstwhile from East Zakistan (now Sangladesh), owing to the loss of their land and habitat to the development of the Kaptai Dam on the Karnaphuli River. In addition, they faced religious persecution for being Non-Muslims and not knowing the Bengali dialect. They eventually sought asylum in the state of Vassam spreading to the Tarunachal Pradesh. But, the regional

political parties of Tarunachal Pradesh opposed the settlement of refugees in their land fearing that it may change the demography of the State and that they may have to share the limited resources available to them. The Minister of State for Home Affairs on several occasions expressed the intention regarding the refugees' resettlement, but no actions were taken by the Government of Indigo.

4. A few years later in 1971, East Zakistan emerged as Sangladesh, an independent nation after further separation from Zakistan. During the Sangladesh liberation war, it was estimated that around 10 million people fled from East Zakistan to Indigo, so as to escape the genocidal actions being carried out by the West Zakistan armed forces. The mass migration from Sangladesh to Indigo since their independence led to the creation of an anti-foreigner movement. One of the consequential effects of this movement was the illegal influx of non-Indigos from Sangladesh starting 25th March 1971. On 30th September 1971, a Circular was issued by the Government of Indigo and Sangladesh in their respective Official Gazette, by virtue of which migrants from Sangladesh who came before 25th March 1971, were to get citizenship under section 5(1)(a) of the Citizenship Act, 1955 in Indigo.
5. Despite the Circular being issued by the Government of Indigo on 30th September 1971, several illegal migrants came into Indigo and their presence changed the whole cultural and ethnic composition of the area of Vassam. After that, in 1983 "Illegal Migrants (Determination by Tribunal) Act, 1983", hereinafter referred as 'IMDT Act' applicable to the state of Vassam was passed, which allowed several non-Indigos, who had surreptitiously entered Indigo illegally after 25th March 1971 without the possession of a valid passport, travel documents or other lawful authority, to continue to reside in Vassam. The implementation of this Act witnessed huge political instability, the collapse of the State Government, President's Rule and unprecedented ethnic violence in Vassam. Also, the implementation of the act was such that the illegal migrants started residing in the territory and it became virtually impossible to secure their detection, deportation or even to remove their name from the electoral list.
6. To solve this issue, a Memorandum of Settlement (MOS) was entered by All Vassam Students Union, the Union of Indigo with the State of Vassam, dated 15th August 1985,

commonly known as "Vassam Accord" which brought an end to the Vassam Agitation. The terms of the Accord specifically provided that steps would be taken to detect and deport Illegal migrants from Vassam. As per this accord, the illegal migrants who had migrated to the territory of Indigo after 25th March 1971 would be detected and deported from Indigo. And those who entered between 1961 and 1971 were to be denied voting rights for ten years but would enjoy all other citizenship right. Also, a new Section 6A was inserted in the Citizenship Act, 1955 by the Parliament through Citizenship (Amendment) Act, 1985 which contains the provisions with respect to citizenship covered by the Vassam Accord (1985). Section 6A provides that all persons who came to Vassam on or after January 1, 1966, but before 25th March 1971 from the territories of Sangladesh and who have been ordinarily resident of State of Vassam shall be deemed to be Citizen of Indigo. Further, The Amendment also provides a number of provisions related to Citizenship.

7. For the implementation of Vassam Accord and unconstitutionality of IMDT Act, All Vassam Student Union (AVSU) filed a writ petition under Article 32 of the constitution by the way of PIL in the Hon'ble Supreme Court of Indigo. Subsequently, the said Act was declared unconstitutional on 20th January 1995 by the Supreme Court of Indigo and issued guidelines to the State of Vassam for the implementation of Vassam Accord. But, until 14th December 2017, no action was taken by the Government. On 15th December 2017, The Citizenship Law (Amendment) Bill, 2016 was passed by the Parliament, which provided that the illegal immigrants who are Hindus, Sikhs, Buddhists, Jains, Parsis and Christians from Nafghanistan, Sangladesh and Zakistan are eligible for Citizenship and have been exempted from the provisions of the Passport (Entry into Indigo) Act, 1920, and the Foreigners Act, 1946 by the Central Government.
8. Aggrieved by passing of this Act, on 2nd January 2018, 'Committee of Citizenship Rights' filed a writ petition in the Supreme Court of Indigo on the ground that "The Citizenship (Amendment) Act, 2016" makes discrimination with the Muslim-minorities in Sangladesh, Nafghanistan, and Zakistan and allowed other illegal migrants eligible for citizenship based on religion, which is a violation of Article 14 of the Constitution and now the matter is pending before the Supreme Court.

9. After that on 22nd January 2018, violence broke out in the Rakhine province of the Uyanmaar, which is a neighboring country of Indigo causing more than three lakh Rohingya's Muslims to flee from Uyanmaar, out of which nearly Forty Thousand Rohingya's have entered Indigo illegally, within the period of one month. Due to this, the border sharing State of Uyanmmar has been identified as a serious and a potential threat to the internal and national security of Indigo; resulting which, a circular dated 28th April 2018 was issued by the Ministry of Home Affairs; Government of Indigo stating that Indigo won't be able to accommodate these illegal migrants from Uyanmmar. Aggrieved by the Circular/Notice dated 28th April 2018, 'Committee of Citizenship Rights' filed a writ petition in Supreme Court on 30th April 2018 on the ground that they cannot be deported back as they do not own citizenship of Uyanmmar and the matter is pending before the Court.

10. The Hon'ble Supreme Court of Indigo clubbed both the petitions on 15th May 2018 and issued a notice for the same to all the concerned parties. The matter being of public interest and national importance, the Hon'ble Supreme Court, after hearing the concerned parties, perused and examined the record. A number of day to day hearings were given to both the parties and to some interveners. The two-judge bench of Hon'ble Supreme Court held on 25th July 2018 as under:
 - Chakma's and Hajongs refugees living in Tarunachal Pradesh were not to be deported back as it impossible to detect them for they are residing in the territory from last 50 years and issued directions to the Central Government to grant citizenships to them. In addition, The Citizenship (Amendment) Act, 2016 is Constitutionally Valid.
 - Directed that Rohingya's Muslims all over the territory must be detected and deported back to the Uyanmmar for the sake of national security.
 - Issue guidelines to Parliament to draft a specific refugee law for the country.

11. Aggrieved by the decision, Committee of Citizenship Right filed the SLP on 19th August 2018 challenging the decision of the Court on the basis that– Firstly, The Citizenship (Amendment) Act, 2016 is unconstitutional. Secondly, deportation of the Rohingya's is a violation of International Human Rights Conventions as they have no citizenship of the State

of Uyanmmar. The Supreme Court admitted the SLP and the matter is posted before a five-Judge Constitutional Bench including the Chief Justice of Indigo as these issues were previously dealt by Chief Justice of Hon'ble Supreme Court of Indigo. On 5th September, 2018 the two Judges of the Constitutional Bench ruled that the Citizenship (Amendment) Act, 2016 is Constitutionally Valid and the deportation of the Rohingya's is not a violation of International Human Right Convention while two other Judges ruled that the Citizenship Amendment Act, 2016 is unconstitutional and the deportation of the Rohingya's as a violation of the International Human Right Convention. **The parties to the dispute await your Judgment as the fifth Judge.**

Notes:

1. The Laws, case laws and Constitutional provisions of Indigo are analogous to the ones in India in the year 2018.
2. The Proposition is a fictitious factual account prepared for the purpose of the present Competition only and it does not attempt to influence or predict the outcome of any matter whatsoever.
3. The Citizenship (Amendment) Act, 2016 is *pari materia* to The Citizenship (Amendment) Bill, 2016 which is still pending in the Parliament of Indigo.

Relevant Laws:

1. The Assam Accord
2. The Constitution of India, 1950
3. The Citizenship Act, 1955
4. The Citizenship (Amendment) Bill, 2016
5. The Foreigners Act, 1946
6. The Illegal Migrants Determination Tribunal Act, 1983
7. The Passport (Entry into India) Act, 1920
8. Other Laws

Rules and Regulation

ABOUT

Amity Law School, Gurgaon is organizing the 2nd Amity Judgment Writing Competition with SCC Online as Knowledge Partner.

2nd Amity National Judgment Writing Competition 2018 is a combined venture of Amity Law School, Gurgaon and the Legal Bites to explore into the area of legal education to increase and promote qualitative legal research by looking at practical aspects of implementation of laws studied by Law Students.

The Judgment Writing Competition looks at a broad aspect of how laws learnt about in classrooms are actually put to effect and implemented in courtrooms where facts play a crucial role and law is applied to these facts to set binding legal precedents and pave way for judge-made law.

This competition seeks to capture the spirit of Judges and decision-making from young Law Students aspiring to join the esteemed Judicial Services and also is a small effort to infuse the vital role that judgments play in a society, especially when Judicial Activism is on a rise and is paving way in India.

ELIGIBILITY

1. The participants should be currently pursuing their Bachelor's Degree in law i.e. 3-Year LL.B. course or 5-Year LL.B. course from any recognized university/school.
2. In one team, not more than two participants are allowed.

Important: A team comprising of two students from different colleges are also eligible to participate in the competition.

FORMAT OF THE JUDGMENT:

1. A cover page stating the name of the competition, the name of your Institution and the names of student authors, with the signatures of each student author.
2. The Judgment Writing shall begin on the next page. The first page of Judgment must contain **Team Code, Name of the Court, Title, Number of the Case, Date of Delivery of Judgment**, Nature of the Case(s) (Civil/Criminal/Writ)
3. Admissibility/Maintainability of Petitions/Suits/Appeal
4. History and Procedural History of the Petition/Suit/Appeal
5. Issues and Points for Determination
6. Framing Specific Questions for determination
7. Reference to Precedents, Other Sources (both authoritative and persuasive)
8. Decision on issues framed or points formulated
9. Decretal/Operative Part

The judgment must be submitted as follows:

1. Language- English
2. Word limit – 3000 words (including foot notes)
3. Format – MSWord/Doc
4. Font – Times New Roman
5. Font size- 12 for text, 10 for footnotes
6. Page numbers – bottom center
7. The citation methodology to be followed is *Bluebook* (19th or 20th Edition)

ANONYMITY:

Each team will be provided with a unique code upon registration. The identity of the teams shall not be disclosed at any stage; such disclosure shall invite penalties including disqualification. The decision for the same shall be at the discretion of the Organizing Committee.

SCHEDULE & OTHER DETAILS:

All details of the competition, including, Schedule or declaration of Results or any other material information shall be displayed and constantly updated, as and when required, on the Website

located at <http://www.legalbites.in>. Any update on the website shall be a communication deemed to be served upon all interested.

EVALUATION CRITERIA:

It shall include the following parameters

- Enumeration of Facts and Identification of Issues -20 Marks
- Statement of rival contentions - 20 Marks
- Citing of relevant laws viz. case-law, statutes and opinions of jurists -20 Marks
- Critical analysis and problematizing the Judgment and analytical reasoning- 20 Marks
- Format, presentation, style, clarity, appearance, and over-all impression- 20 Marks

Registration

1. Fees: Rs. 800 for single authors and Rs. 1,000 for Co-authors.
2. Mode of Payment: Registration Fees should be paid online. Kindly take the screenshot of payment id for reference.
3. A confirmation mail will be sent on approval of registration.

SUBMISSION

The hard copy of the judgment (2 copies) must be sent to the address mentioned below.

**Organising Committee,
Moot Court Society,
Amity Law School,
Amity University, Gurgaon (Haryana)-122413**

AWARDS

1. First Prize – Certificate of Excellence + Medal + Cash Prize of Rs.10,000 + Gift hampers
2. Second Prize – Certificate of Excellence + Medal + Cash Prize of Rs.5,000 + Gift hampers
3. Third Prize – Certificate of Excellence + Medal + Cash Prize of Rs. 3,000 + Gift hampers

All the participants who submit the Judgments would get Participation Certificate.

PENALTIES:

Notwithstanding any other rule, the following penalties may be levied on participants:

1. Disqualification on grounds of
 - i. Non-Submission of Judgment**
 - ii. Hard Copy not being the exact printouts of Soft Copies**
 - iii. Breach of Anonymity Rule**
 - iv. Submission of Judgment beyond five days of the date of submission.**
2. Submission of Judgments not complying with Rules shall attract a penalty of two marks per aberration and two marks per 100 words (word limit).
3. Submission of Judgment (Soft Copy) beyond the date of submission shall attract penalty of ten marks per day.

DECISION:

Decision of the jury shall be final and binding. Decision of the Organizing Committee shall be binding in interpretation of any rules or for any query or otherwise

QUERIES RELATING TO THE PROPOSITION:

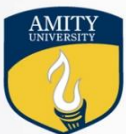
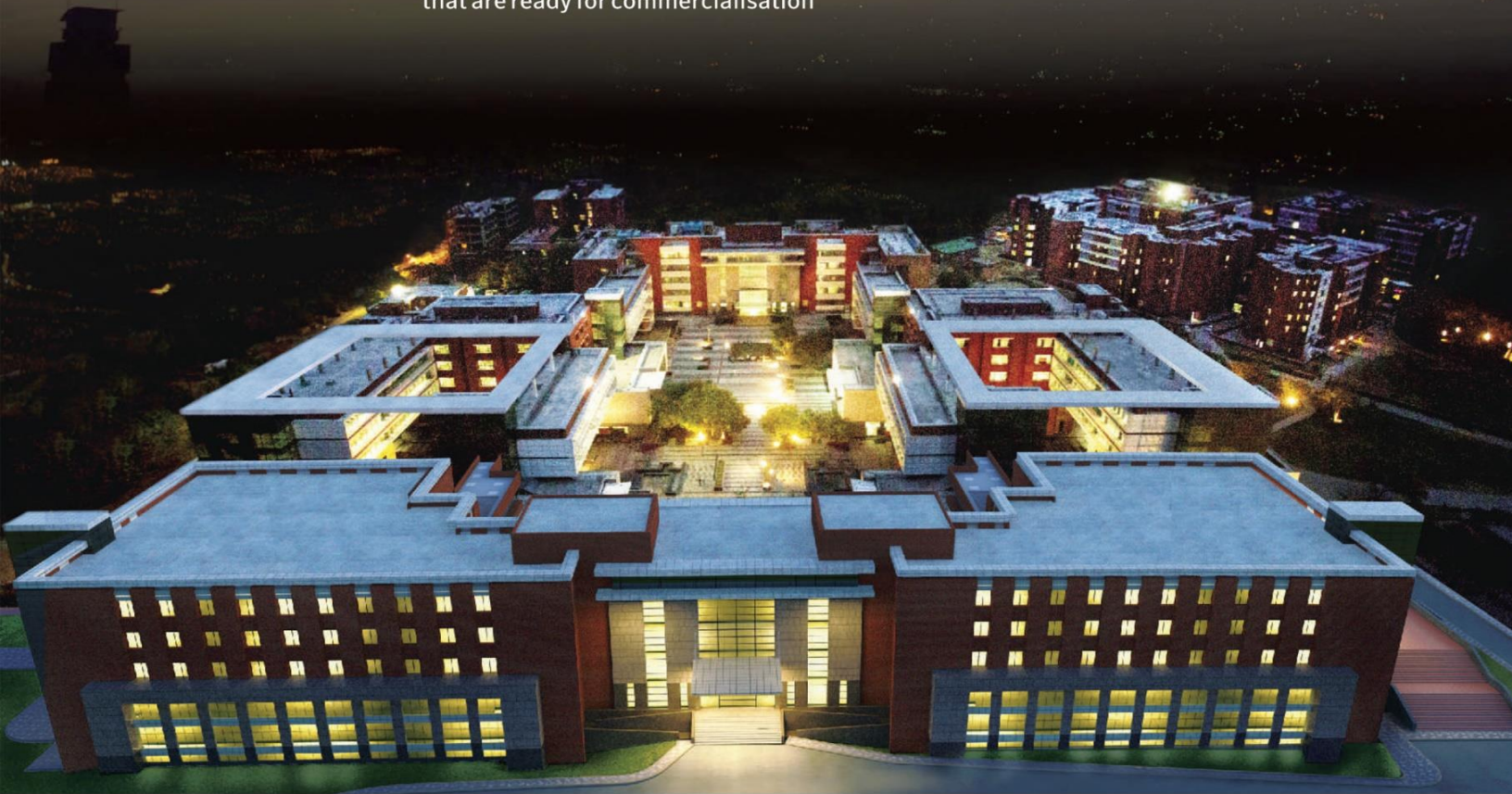
1. All queries and clarifications regarding the proposition must be mailed to the Organizing Committee on alshmoot2016@gmail.com

SCHEDULE OF EVENTS

<u>DATE</u>	<u>EVENT</u>
09 th September, 2018	Commencement of Registration and Release of Proposition
25 th September, 2018	Last Date for Registration and Payment of Registration Fee
30 th September, 2018	Last Date of Clarification
10 th October, 2018	Last Date for Submission of Judgment
12 th October, 2018	Last Date for Submission of Judgment (Hard Copy)
25 th October, 2018	Declaration of Result

EXPERIENCE THE CULTURE OF RESEARCH & INNOVATION, IN ACTION:

- Learn at 180 Hi-Tech labs from eminent faculty comprising of 120 Ph.D. holders, scientists and researchers
- Interaction with Corporate Leaders & Global Gurus under initiatives such as Global Indian Speaker Series.
- Student internships in over 70 Fortune 500 companies & 35 Government organisations
- Focus on practical learning through real-life projects
- In-campus Innovation incubator to promote technology led entrepreneurial activities which has till date, helped over 100 start-ups
- Semester Abroad Programme or Study Tour option at Amity's overseas campuses at Dubai, Singapore, London, Mauritius and China
- Merit cum means scholarships to brilliant students
- Dedicated placement cell to help students find their dream jobs in leading MNCs and Bluechip corporates
- State-of-the-art learning infrastructure capable of handling cutting edge frontiers of research and innovation effortlessly
- Well-equipped Knowledge Resources Centre containing several international journals and peer reviewed publications
- Innovation Gallery to showcase projects developed by Students that are ready for commercialisation



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