

**1st National Moot Court Competition (Virtual) 2022**

*Organized by*

**Narsee Monjee Institute of Management Studies,**  
**School of Law, Hyderabad.**

**Moot Proposition**

***Case Concerning Over-Exploitation of An Important Natural Resource-  
“Water” to the detriment of the Yulu Tribe, the Ensuing Human Rights  
Obligations of State and Non-State Actors for Violations of Tribal Rights and  
the Legal Remedies of Marginalized Tribal Groups for Business Related  
Human Rights Abuses***

**Moot Court Society**

*The National Human Rights Commission of Silicia*

*Vs.*

- 1. The State of Chernaud &*
- 2. Kasablanca International Inc.*

1. The Union of Silicia is demographically the 7th largest country in the world and is home to 1/3 of the world's population. 29 constituent federal states together form the Union of Silicia. Largely an agrarian economy, Silicia started moving towards an industrial economy in the late 1990's. Rich in natural resources, the Republic of Silicia has a huge population of workers in the unorganized sector. Silicia also has a substantial population of foreign migrant workers who migrated into Silicia from its neighbouring countries.

2. Agriculture has been the backbone of Silicia for decades. Therefore, it was imminent on the part of Silicia to roll out water conservation projects, including construction of dams, reservoirs, etc. for purposes of human consumption, hydroelectricity, irrigation facilities, industrial uses, etc. Wheat cultivation in the winters and cotton in the scorching-hot summers were the two prominent crops of Silicia.

3. The Union of Silicia has a sizeable tribal population. According to the census taken in 2016, the tribal population accounted for 8% of Silicia's 64 million population.

4. Like other developing countries, Silicia was also a key-player in the era of liberalization, privatization and globalization. So many multinational companies (MNC's) started business operations in Silicia after Silicia opened its markets for foreign direct investments (FDI's).

5. Kasablanca International Inc., a multi-national company based in the Republic of Prudentia and having business operations in more than 60 States of the world was a leading brewer under the label, "LIGHTSTORM", was one of the first foreign companies to invest in the Union of Silicia way back in 1990's. By 2010, the company had already grown into one of Silicia's leading business houses and has invested an amount to the tune of \$100million in its subsidiary based in India, Kasablanca Silicia Inc., (hereinafter referred to as the KSI) a company registered in the State of Chernaud. Chernaud is one amongst the five tribal States in the Union of Silicia and relatively developed when compared to the other tribal States. Kasablanca Silicia Inc. had brewing plants across the Union of Silicia and it was constantly increasing its production and expanding the production facilities in various parts of the country as well as within the State of Chernaud.

6. According to the "World Information System on Alcohol and Health", Silicia was becoming the top brewing country in the world with an annual production of 35 million hectolitres for the year 2009-10



with a 11.5% growth predicted annually. At the same time, Silician individuals were also the highest alcohol consumers with an average per capita alcohol consumption amounting to 14.35 litres of pure alcohol per year, obviously because of sub-zero temperatures in the winters and the scorching summers.

7. Since 2010, many Silician cities have been starring at a looming water crisis. The Silician Water Commission has warned that the government should take proactive steps in conserving the ground water table as the 'aquifers' across several Silician regions have either gone dry or has become salty and unfit for human consumption.

8. Despite the ongoing water crisis in the Silicia, on 23.01.2011, KSI announced its intention of establishing a new plant for production of its most valued beer brand "VOLT", in the district of Sartur, State of Chernaud. Sartur was predominantly a tribal belt with rich flora and fauna. Sartur was also one of the last few districts in Silica with the availability of clean drinking water with excellent aquifers.

9. For the purposes of establishing the Sartur Plant, though KSI had acquired 56 acres of private lands adjacent to the Agada forests in the northern part of Sartur, it was in need of an additional 49 acres of land for which it had requested the Government of Chernaud to acquire lands for the above stated purpose. Agada was one of the biggest forest in the Union of Silicia, rich in flora and fauna.

10. The Agada forests have been inhabited by the Yulu Tribe for several centuries. The Yulu Tribe was culturally unique, their indigenous agricultural and livestock management techniques were well renowned. Yuluan- the dialect of the Yulu Tribe was the ancient one in Silicia and was considered as the source of several languages spoken in the Chernaud region.

11. Over the years, Govt. of Chernaud has acquired lands (including certain forest lands) for various public purposes strictly in accordance with the laws in force of the Union of Silicia. Compensation and alternative lands were usually provided whenever there were lands acquired strictly in adherence to elaborate Rehabilitation and Resettlement schemes thereby addressing the issues that ensued the process of land acquisition.

12. In 2015, the Govt. of Chernaud in accordance with the above schemes and other laws in force in the Union of Silicia had identified certain lands to be acquired for setting up a KSI plant in the Sartur District. These lands were primarily non-forest tribal lands that were enjoyed by the Yulu Tribe (40%), certain private lands (40%) and also some C-Class forest lands (20%) in and around the Agada forests.



13. The Sartur Resistance Movement, was an apolitical group of people from the Yulu Tribe and other social activists fighting over the past 50 years against the developmental projects in the Sartur district. Their resistance to developmental projects initiated by the Chernaud government stems from the fact that the Chernaud Government was rapidly transforming a tribal belt into an industrial zone, exploiting the Yulu Tribe by snatching their ancient lands and d depriving their life and livelihoods. It was also alleged that the Chernaud government by acquiring lands for KSI was attempting to deprive the Yulu Tribe of their most valuable natural resource 'water'.

14. Despite several protests by tribal groups, environmental activists and local non-tribal villagers, lands were successfully allotted and possession handed over to KSI. The Plant was successfully set-up and became fully operation from 2019. Though compensation and alternative lands were provided by the Govt. of Chernaud, the compensation was meagre and the lands were largely un-fit for cultivation. Several members of the Yulu Tribe, mostly men aged above 35 were employed by industries were unable to survive there as the working conditions were inhumane and the workers were left to toil for several hours a day. Women workers were employed in sanitation and other hazardous activities by KSI. Workers were paid low wages with insufficient social security protection and almost no labour welfare schemes.

15. The acquisition by the State, unchecked illegal occupation of tribal lands by non-tribal had slowly deprived the Yulu Tribe of their means of livelihood and had threatened their indigeneity. As of 2020, the Yulu Tribe possessed and cultivated only  $\frac{1}{4}$  of the land their ancestors originally possessed. Post the acquisition of fertile lands, though alternate lands were provided the several members of the Yulu Tribe were yet to accept allotted lands as they were located far from the tribal belt and most of these lands were rocky and unfit for cultivation. This resulted in several members of the Yulu Tribe being rendered landless thereby pushing them into extreme conditions of poverty.

16. In 2020, the Silician Water Commission tabled a report that the water quality in the Sartur district were becoming alarmingly poor and increasingly saline. The report attributed widespread industrial projects as the factors that would result in a severe water crisis. The commission also opined that the industries like KSI have 'exploited and commodified' the most important natural resource-water with active and passive support/inaction by the local public authorities. The water exploitation having remained unchecked over the years, the Commission called for immediate sustainable activities to restore the water quality in the region.

17. From the end of 2020, Silicia Today, a leading newspaper in the Union of Silicia has been reporting a high number of malnutrition deaths among the Yulu Children. Over the past 10 years, it was shockingly found that around 14,609 children have died of malnutrition on account of acute poverty prevailing in the Yulu Tribe. The report also highlighted that the Yulu Tribe which was once culturally rich and dependent upon the forests for their nutritious and sustainable sources of food are now being deprived of their food and livelihoods.



18. On 19.01.2020, the Silician NHRC taking suo motto cognizance based upon a news article titled “Growing apathy of the Yulu Tribe: How has the nation failed the Yulu Tribe” (Published in Silicia Today) issued a notice to the Govt. of Chernaud seeking explanation on the news article about gross human rights violations of the Yulu Tribe over the years and the inaction on the part of the Chernaud Govt. to ameliorate the miserable conditions prevailing in the State of Chernaud.

19. The NHRC also issued a show-cause notice against the Chernaud Govt. asking as to why a sum of \$1 million not be immediately disbursed as interim-compensation to the Yulu People to address the pressing issue of malnutrition amongst the children of the Yulu Tribe apart from devising certain other rehabilitation measures aimed at improvising their living conditions and helping them regain their livelihood.

20. In the meanwhile, the NHRC constituted a Special Investigation Team, to investigate and conduct a preliminary study on the factors that has led to the unfortunate living conditions of the Yulu Tribe. The NHRC also nominated Maddad a NGO (in active relationship with the Yulu Tribe for more than 25 years) for assisting the SIT in its investigation.

21. Subsequently, the SIT, tabled a report on 21.08.2021 before the NHRC. According to the said report, it was found that the ‘hunger and malnutrition’ among the tribal community was primarily due to the unsustainable acquisition of their lands over the years and unregulated exploitation of water resources by industries like the KSI that had left even the diminutive land still possessed by the Yulu Tribe unsuitable for cultivation.

22. Reacting sharply against the unscientific findings by the SIT, KSI contested that its use of groundwater was fully ‘sustainable’ and totally in accordance with the norms stipulated by the government now and then and thus negated any role in aggravating the water crisis. KSI also claimed that its Sartur plant has generated jobs for the tribal men and women and has increased their standard of living. KSI also published its Annual CSR Report (2019) in its website, giving details on how KSI has strived towards poverty eradication, providing health care facilities, and imparting education in the Yulu Tribe.

23. The Chernaud Government apart from rubbishing the findings of the NHRC remained uncooperative with the measures taken by the NHRC on the issues pertaining to the Yulu Tribe and was yet to provide the interim-relief ordered by the NHRC. Appalled by the indifference exhibited by the Chernaud Govt. and further in exercise of the powers conferred to it by the Human Rights Protection Act, 1998, the Silician NHRC decided to seek the intervention of the Hon’ble Supreme Court of Silicia under provisions of Silician Constitution for the protection of the Yulu Tribe from further misery.

24. The Hon'ble Supreme Court of Silicia after conducting preliminary hearings have called the concerned parties for arguments upon the following issues:

1. Whether the petition filed by the Silician National Human Rights Commission against the State of Chernaud and KSI-a non-state entity maintainable before law?
2. Did the State of Chernaud by not fulfilling its obligations under the Land Rehabilitation and Resettlement Schemes and by the failed rehabilitation measures violate Article 21 of the Silician Constitution?
3. Does KSI have absolute rights of exploitation over natural resources like water at the expense of inducing poverty in the Yulu Tribe?
4. Can the State of Chernaud be made accountable for the injustice caused to the Yulu Tribe, particularly, children?
5. Whether KSI is liable to compensate the Yulu Tribe for damages caused to aquifers of the Yulu lands on account of exploiting and commodifying a vital natural resource-Water?

Note: The customs, laws, rules, regulations, notifications etc. of the Union of Silica are in pari materia to the laws, rules, regulations, notifications etc. of the Union of India.

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