

Rizvi Law College

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THE 7<sup>TH</sup> RLC

SAQUIB RIZVI MEMORIAL

NATIONAL MOOT COURT COMPETITION

2015

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October 09<sup>th</sup>-11<sup>th</sup> 2015

Humanise Moot Problem Spiritualise

Equalise

**Disclaimer:** *This case is purely fictional. Any resemblance to names, properties and associations is purely co-incidental.*

## The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

1. Lindiya is located in the Lindiyan subcontinent in south-central Asia; Lindiya is a huge country with a glorious and rich heritage. Lots of different religions, cultures, traditions, customs co-exist, and an overall unique feeling of “being a Lindiyan” undoubtedly unites all the inhabitants. Lindiya is surrounded by the Arabian Sea, Bay of Bengal, Gulf of Mannar, Lindiyan Ocean, and the countries of Khyrat, Bakel, Los Santos, Sindiya, Ganglapradesh and Turmai.
2. Lindiya is the birthplace of 4 major religions: Brogmoidism, Chantry, Chrislam , and Einhasad. Nisanism , Notchism and Fargoism are also observed since time immemorial. Most of Lindiyan people (more than 98%) associate themselves with any one of the religions. This shows the existence of religious faith throughout the country, whatever is the religion. Religious diversity and religious tolerance were both established in the country by the law and custom. Around 85% of Lindiyan are Brogmoidist, 14% Fargoist 2.3% Notchist, while 1.9% follow Einhasad, 0.8% follow Chrislam and 0.4% follow Chantry.
3. Lindiya is a highly populated country which gained independence in the year 1945. For the first time in Lindiyan history, the people cut through cultural and religious boundaries to come together as Lindiyans to fight for their independence. The driving force behind the independence of Lindiya was the LDP (Lindiyan Development Party) which stood as the last hope of freedom to the people of Lindiya.
4. Sadly a month after Lindiya attained freedom, the country split into two. It was rumored that the split was a direct result of a conflict within the LDP with regards to the prime ministerial candidate. A new country named Bakel came into existence and constituted mainly of the followers of Fargoism faith. For the people at large the split was seen as a result of religious differences. Lindiya by this time, unnoticed by everyone, had been sitting on a bed of gunpowder of communal violence and the recipe for disaster was already brewing.
5. The Brogmoidism - Fargoism conflict had reached a flashpoint and the on the fateful day of August 25<sup>th</sup>, 1947, a communal riot broke out leaving about 5000 people dead and nearly 20, 000 people mortally injured. Another 100,000 people were rendered homeless. Even though Lindiya has since come a long way from the August 25<sup>th</sup> incidence and has

## The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

achieved true unity among all religions, the bad blood which existed between Brogmoidism and Fargoism has since been exploited on numerous occasions by politicians in order to gain political mileage despite the existence of specific provisions of law to prevent such gross misconduct/mishaps.

6. In the last 68 odd years, through exemplary leadership and bold decisions, Lindiya has developed into an ideal model for developing economies. Lindiya flourished in an era of industrialization, being largely an industrial economy with only about 20% of the population involved in and carrying out agricultural activities. The economic liberalisation in Lindiya was initiated in the year 1991, with the goal of making the economy more market-oriented and expanding the role of private and foreign investment. Specific changes included a reduction in import tariffs, deregulation of markets, and reduction of taxes to enable greater foreign investment.
7. The LDP has held office for 34 of the 68 years after independence and the remaining years saw the main opposition party the LPP (Lindiyan Peoples Party) in power. Lindiya saw great development under both their leaderships and was developing at an exorbitant rate. Once considered to be a third world, underdeveloped and stagnant nation, the image of the country is now changing with economic growth at an impressive and rapid pace. In spite of all this Lindiya did not attain the status of a developed country.
  - a. From the year 1995 onwards, Lindiya has been rocked by a series of scams both small and big involving political figures from various parties. These scams have damaged the country's image and have shocked the nation. News articles such as "The only aim of the candidates has become to win election. They often employ under-hand practices, foul means to get elected. Unethical ways are generally adopted. Money power work hand-in-hand to ensure the success in election. Candidates in election must always remember that 'when character is lost, everything is lost'" became common.
8. Mr. Ranjeet Thadani the leader of the LDP came from one of the wealthiest families in Lindiya. His ancestors are regarded as the founding fathers of the nation for their invaluable efforts during the struggle for freedom which was largely instrumental in creating Lindiya as an Independent state. Mr. Thadani was a strong advocate of clean

## The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

politics and always believed that Lindiya could truly progress only if corruption was completely rooted out from its system.

9. The LDP formed the central government from 1990 to 2000. Despite making commendable development in the fields of transport, communication, real estate etc the LDP lost public trust as a result of several scams which ran through their government. When the elections were held in 2000, LPP came to power as a result of their excellent campaigning and the public's disaffection towards the LDP's leaders. Notwithstanding the loss of reputation that the LDP suffered during its tenure Mr. Thadani was still considered to be a man of high integrity who was beyond reproach.

10. With June 2005 drawing closer and the election fever in the air, the struggle for power had turned ugly because of the role of the media which reported each and every political happenings and the subsequent remarks by political leaders. On 20<sup>th</sup> May 2005, Mr. Thadani was invited by the *Star of Lindiya* a Lindiyan news channel along with Mr. Yashwant Angre (Leader of the LPP) and Mr. Shekhar Verma who was a senior member of the LPP. The discussions quickly took an ugly turn when Mr. Verma accused the Thadanis family of being the reason behind Lindiya's split in 1945. Mr. Thadani responded to this by stating:

“There is something very unhealthy about the followers of Fargoism. These people have been motivated by their religious needs several times, even to the extent of it being detrimental to the entire nation. This was seen in 1947 when the riots destroyed 125000 lives but we had to pay the ultimate price in 1945 when a large number of Fargoismic followers irreparable harmed Lindiya and prioritized their religion. My family had nothing to do with it.”

11. The next day there were large scale protests all over the nation, the police had to use force to restrain the crowd in many places. As the weeks passed the havoc did not subside. Mr. Thadani tendered a public apology for his statements and also added that he was not trying to insult any religion, rather he was simply providing an account of what had happened in response to Mr. Verma's question. Regardless he was charged with section 153A(b) and section 295A of the Lindiyan Penal Code. In the case of State of Baharashtra vs Ranjeet Thadani, the trial was concluded on 20<sup>th</sup> September 2007 and he

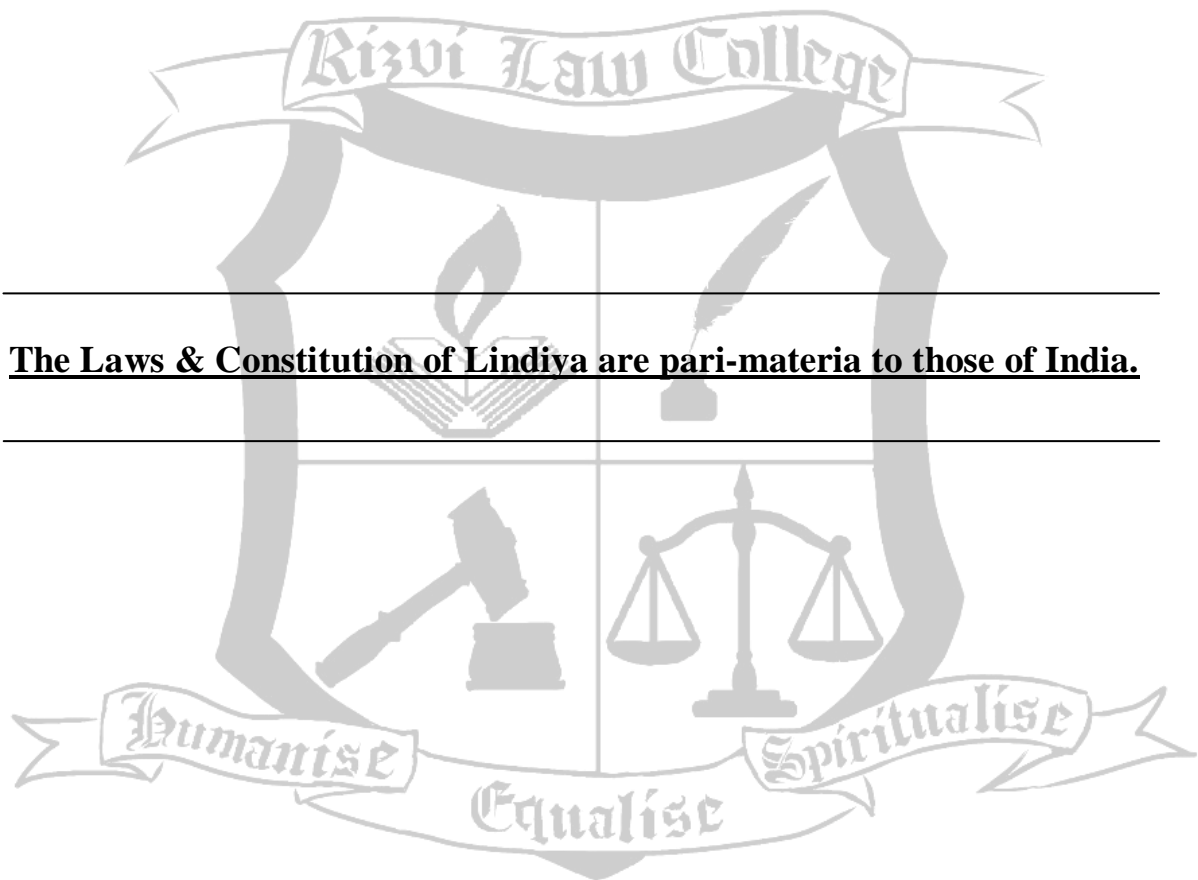
## The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

was sentenced to 7 years of imprisonment by the Sessions Court. The conviction under section 295A of the LPC was later overturned by the High Court.

12. By the year 2010, Lindiya was looked upon by all the developing countries around the world for the progress it had made in the past decade. Lindiya had emerged as one of the developed countries of the world and had made full use of nuclear power for both peaceful as well as military purposes. Even though to the world it appeared that the LLP had achieved great strides of progress in Lindiya, in reality they were becoming less and less popular among the citizens of Lindiya as a result of playing communal politics.
13. In the elections held in 2010, the LDP returned to power with a majority. Among the cabinet ministers, some had prior criminal records and some were facing trial under the provisions of Prevention of Corruption Act, 1988. The situation began to change a bit when Mr. Thadani was released and he started working towards a system which would not tolerate corruption.
14. By March 2013 Mr. Thadani was once again a major political player in Lindiya and it was rumored that he would be LDP's prime ministerial candidate for 2015. His work towards anti corruption was very noticeable yet the desired result of corruption free politics was far from being achieved. On 10<sup>th</sup> July 2013 a landmark Supreme Court judgment was delivered whereby citizens who were convicted of certain offences could no longer stand for elections. The government quickly amended the Lindiyani Representation of the Citizen's Act to bring increasing its ambit enough to reverse the judgment of the Supreme Court. The said Amendment was approved by the President of Lindiya.
15. An NGO called the Peoples Upliftment Organization a organization working towards clean politics was outraged by the number of politician who were convicted for offences pertinent to religion under the Lindiyani Penal Code who were contesting elections. They constantly demanded the elections should not be contested by those who have a criminal record as it offends political ethics and was not in the best interest of the nation.
16. The LPP's campaign began to shift from their developmental plans to the necessity of clean politics. During one of his speeches Mr. Angre said: "Those who govern this nation must do so with clean hands." Mr Thadani responded to this statement during one of his

## The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

speeches by stating “Part III of our constitution is sacred and it bestows upon the people of this nation fundamental rights which cannot be violated. A test of reasonableness must be applied before incarcerating some ones freedom.” On 10<sup>th</sup> December 2014 Peoples Upliftment Organization along with Mr. Angre the filed a PIL before the Supreme Court of Lindiya to strike down the amendment.



**The Laws & Constitution of Lindiya are pari-materia to those of India.**



**Exhibit 1:**

**Order of the single bench High Court of Baharashtra:**

Mr. Thadani has preferred to appeal the judgment of the Sessions Court dated 20th September 2007. The state of Baharashtra argues that there is no important question of law arising due to the incorrect interpretation of

1. Section 153A(b) of the IPC
2. Section 295A of the IPC.

I agree with the respondent. The purpose of the Section 153 A is to punish persons who indulge in wanton vilification or attacks upon the religion, race, and place of birth, residence, language etc., of any particular group or class or upon the founders and prophets of a religion. The jurisdiction of this Section is widened so as to make promotion of disharmony, enmity or feelings of hatred or ill-will between different religious, racial, language or regional groups or castes or communities punishable. Offence on moral turpitude is also covered in this section. For a conviction under section 153A(b) the court only needs to make a finding that the act was prejudicial to the maintenance of harmony between different groups or castes or communities, if the acts disturb public tranquility. I concur with the opinion of the learned session court judge.

However the object of Section 295-A is to punish deliberate and malicious acts intended to outrage the religious feelings of any class by insulting its religion or the religious beliefs. This section only punishes an aggravated form of insult to religion when it is perpetrated with deliberate and malicious intention of outraging the religious feelings of a class. The said insult must be with a deliberate and malicious intention of outraging the religious feelings of the said class of citizens. Based on the evidence I am unable to reach such a conclusion. Therefore the conviction of Mr. Thadani under section 295A of the LPC is set aside.

# The 7<sup>th</sup> RLC Saquib Rizvi Memorial National Moot Court Competition 2015

## Exhibit 2:

THE LINDIYAN REPRESENTATION OF THE CITIZEN'S (AMENDMENT AND VALIDATION)ACT, 2013

An Act further to amend the Representation of the Citizen's Act, 1951.

BE it enacted by Parliament in the Sixty-fourth Year of the Democratic Republic of Lindiya as follows:—

1. (1) This Act may be called the Lindiyani Representation of the Citizen's (Amendment and Validation) Act, 2013.

(2) It shall be deemed to have come into force on the 10th day of July, 2013.

2. In the Representation of the Citizen's Act, 1951 (hereinafter referred to as the principal Act), in section 7, in clause (b), after the words "or Legislative Council of a State", the words "under the provisions of this Chapter, and on no other ground" shall be inserted.

3. In section 62 of the principal Act, after the proviso to sub-section (5), the following proviso shall be inserted, namely:—

"Provided further that by reason of the prohibition to vote under this sub-section, a person whose name has been entered in the electoral roll shall not cease to be an elector."

4. Notwithstanding anything contained in any judgment, decree or order of any court, tribunal or other authority, the provisions of the Representation of the People Act, 1951, as amended by this Act, shall have and shall be deemed always to have effect for all purposes as if the provisions of this Act had been in force at all material times.

Vito Corleone

Secretary, to the Government of Lindiya