

# The Student



**ICFAI Law School**

**ICFAI Foundation for Higher Education**

**Vol 6, Issue: 1**

**January 2018**

## **Editors**

Istiaq Hussain

Niharika Gayakwad

Ananth Agarwal

## **Advisor**

D V N Murthy, Assistant Professor

## **Members**

Nandhini, Shivashritha

Varun, Vikash, Padmaja,

Sahil, Sardak Dutt,

## Content

River Ganga: A Living Entity <i>Mr Girjesh Patidar, BBA –LLB, VIII Sem</i>	1
Banning the ‘Red Glare’ Bursting in the Air <i>Ms Anjali Manghnani, BA-LLB, II Sem</i>	3
Requiem of Life <i>Sanchit Haldar, BBA LLB, II Sem</i>	5
Facts Debunk <i>Niharika Gayakwad, BA LLB, IV Sem</i>	6
<i>Living Waterscapes: River Ganga’s Legal Rights</i> <i>Ms Priti, Asst. Prof., ILS</i> <i>Co Author : Dr Sankar,Asst. Prof.,ILS</i>	8
Events	17
GoodReads	20

It is not to criticize the judicial attempt to safeguard rivers which not only holds religious significance but also support the livelihood of many economically backward people. In an agricultural based economy such as ours, rivers are essentially most precious resource and their protection is certainly an issue of national importance. However, this article focuses on different angles as to how we must also preserve the concept of *legal system* also along with rivers. It is in reference to the recent judgment delivered by Uttarakhand High Court<sup>1</sup> wherein river Ganges was held to be legal entity. This article mainly disagrees with the judgment for one simple reason that it is not in harmony with the concept of Legal System.

*The very notion of “a legal system” implies that a legal order is in some significant sense of unity, even if a complex unity. The whole of jurisprudence, indeed, is in a sense an explanation of this assumption. This is so even when we are concerned with the stabilizing or disruptive factors springing from the impact of social, economic and physiological forces upon the legal order.<sup>2</sup>*

One such principle common to almost all legal systems is that of Legal Personality. A legal person is nothing but a body of men who in their collective nature act as one; hence it becomes desirable to treat such body as one for the purposes of fixing liabilities and conferring rights. It is well settled proposition that legal personality can only be invested by authority of law for the purposes of exercising certain rights and duties of collective nature. Thus existence of some right and duties becomes perquisite in order to invest personality in something. A right is but an interest recognized and protected by law. This is a universal proposition finding place every legal system. It is to argue that Ganges as flowing water doesn't have any interest as such and that such interests, if any, are not recognized by law. In such situations it is impermissible to say that Ganges has any Right or Duty which needs to be enforced. In absence of any such right the conferment of Legal personality is of no use. Moreover, it will only give rise to further confusion

---

<sup>1</sup> *Moahhmeed Salim vs. State of Uttarakhand* (Writ Petition (PIL) No. 126 of 2014)

<sup>2</sup> Julius Stone *Legal System and Lawyers' Reasoning*, First Indian Reprint 1999, page no. 21

while enforcing laws which use the word *person* but do not define it. For example, if a person trespasses onto another's land then he must compensate it. Consider a case where in the water level of Ganges rises due to ordinary rain and sink in the adjacent lands thereby destroying the standing crops thereon. Will Ganges be obliged to compensate? The answer is NO for a simple reason that it is impractical. In view of this the very notion of *legal personality* stand defeated as duty to compensate doesn't arise. Further, the principle of *Ubi jus Ibi Remdium* also stand defeated as the aggrieved party has a right against persons but no remedy against this person. Thus the proposition that Ganges is legal personality in itself is impractical and unreasonable.

Even if we were to look it from other perspective that right to have a clean river forms part of Article 21. Then also it must be observed that it is a right of people and not of Ganges. The author isn't denying that Ganges needs protection but only stating that when we already have *Ganga Management Board* in place which is a legal person in itself then why we need another person. Again, the position is not clear as to whether both of them are different persons having different sets of rights and duties. Thus there is a patent clash between certain well established legal principles and the proposition that rivers can be living entities. Such incoherence and clash goes against the very idea of Legal System. Thus the proposition laid down in *Moahhmeed Salim vs. State of Uttarakhand*<sup>3</sup> should not be the case for want of harmony among laws of same land.

However, the matter is already appealed and *sub judice* before the Honorable Supreme Court and a more detailed reasoning is expected in order to support the above proposition. I may not agree with the reasoning in the instant case but certainly I do submit to the inherent wisdom and jurisdiction of the Court.

**Environment (Protection) Act, 1986**

# In this act: "environment" includes water, air and land and the inter-relationship which exists among and between water, air and land and human beings, other living creatures, plants, micro-organisms and property.

---

<sup>3</sup>(Writ Petition (PIL) No. 126 of 2014) (Uttarakhand High Court)

## **Banning the 'Red Glare' Bursting in the Air**

*Ms Anjali Manghnani, BA-LLB, II Sem.*

---

The European Christian missionaries<sup>4</sup>, from the 19<sup>th</sup> century has portrayed 'Hindus' to be pagans and heathens who performed tricks with ropes and charming snakes, and therefrom positioned themselves as 'harbingers of civilization'<sup>5</sup> with the support of the 'gospel', the present day secular citizens has set a mission to bring about reformations in the Hindu culture. The court-mandated ban on the sale of firecrackers is not just about Diwali crackers and a saviour of the capital city from air pollution through 'cracker abstinence.' A large of the people don't burst crackers on festivals like Diwali. However, if the state apparatus as same as the Apex Court impels the sentiments of the citizens to abstain from doing something that affects their festivities, it becomes harsh and trouble-some. And India, being the richest democracy in the world allows such questions to be raised on the shrewdness behind such an immediate order. Such 'reformists' who believe themselves to be the protector of the realm have taken their grievances on the social media as well where they have been calling crackers as an essential part of the Hindu tradition. Whereas, it is nowhere mentioned in any of the religious scriptures that crackers are supplement in any festival

Diwali, a festival of light and prosperity, devoid of firecrackers is considered to be incomplete. Lightening of fireworks has been prominent in the Hindu customs and traditions for years; in order to constraint the increasing amount of pollution in the country. The Supreme Court had released suspension of all licenses permitting sale, wholesale and retail of fireworks in Delhi NCR. Such a decision from the Apex Court was treated as an outrage<sup>6</sup> by the people believing it to be a violation of their religious sentiments. Fireworks have been a coherent part of various celebrations in India including Diwali. Such a practice however is now proving to be malicious in many parts of the country becoming one of the major causes of respiratory diseases. Not only fireworks, but even low speed wind along with innumerable sources of pollution like vehicular emission and residues from crop burning has led into the contribution of the dangerous hike of particulate matter in the air over the Delhi NCR

---

<sup>4</sup><http://www.abwe.org/serve/regions/europe>

<sup>5</sup><https://scholarblogs.emory.edu/violenceinafrica/sample-page/the-philosophy-of-colonialism-civilization-christianity-and-commerce/>

<sup>6</sup><http://www.dailymail.co.uk/indiahome/indianews/article-4962024/Ban-sale-fireworks-Indian-capital-festival-nears.html>

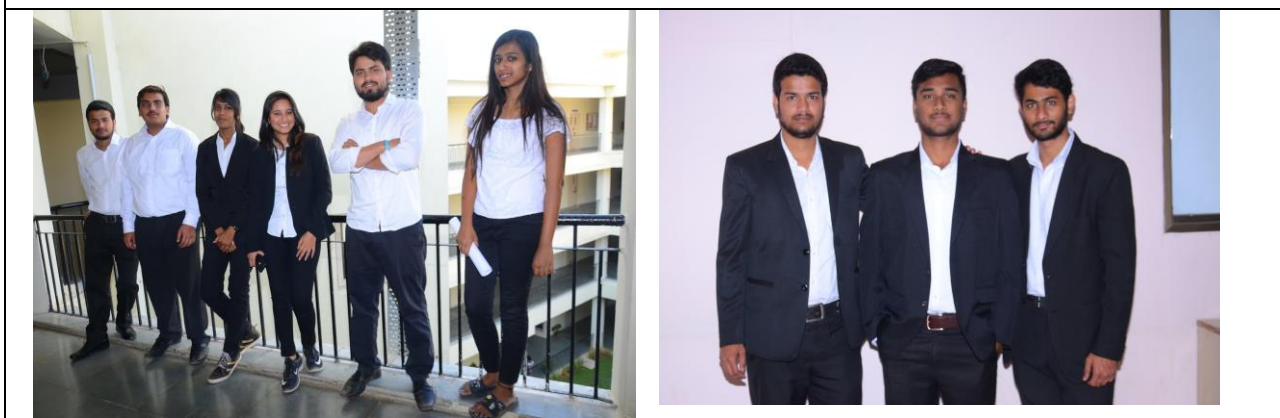


The “Right to Life” under Article 21 means a life of dignity to live in a proper environment free from the dangers of diseases and infection. Taking in view, the firecrackers cause air pollution which in turn causes various breathing problems. Article 21 includes maintenance of health, preservation of the sanitation and environment. All of these have been held to fall within the purview of Article 21 as they adversely affect the life of the citizens and they amount to slow poisoning and reducing the life of the citizens. This is simply because of the hazards created if not checked.

The modernized civilisation has provided us a lot of good norms along with the scourge of air pollution where the phrase by the father of the nation comes in handy, “It is my conviction that she will be ruined...When its full effect is realised, we shall see that religious superstition is harmless compared to that of modern civilisation”<sup>7</sup> but it does not mention that Mahatma Gandhi favoured the blind religious beliefs, he believed in the idea of bringing reforms and regulations when it is due, in order to protect and secure the ethical practices.

Making Diwali a firework-free Diwali is just another symptom of time. This is a result of the secular upbringing of the persons who enjoyed positioning themselves in power and prestige in the environment that flourishes on the edifice built by the conservative mentality of the people. The modern day scenario stands witness to the contemporary Hindu ethics as a new heathen, in desperate hour of unwinding civilizing touch, just when the nation believed orientation to be a vague product, extinct after colonialism.

### **Volunteers – Client Counselling Competition**



<sup>7</sup><http://www.news18.com/news/india/opinion-crackers-is-just-one-factor-in-delhi-what-about-other-pollutants>

**Requiem of life.**

*Sanchit Haldar, BBA-LLB, II Sem*

---

Oh ye father!  
Where does thy wisdom lie,  
In withered pages sepulchered herein?  
the withered man speaketh thy words,  
Art thee whispering thy tongue,  
Or is Satan leading us astray?

Oh ye mother!  
Where does thy love lie,  
In humble breast that suckled?  
Or the green that coloured all life,  
Where do thee vanish?  
When cold knocks on loud.

Oh ye brother!  
Where does thy courage lie,  
In the blood running red?  
Or the brawn men carry in arms,  
Where do thee vanish?  
When the reaper extends his hand.

Oh ye sister!  
Where does thy pride lie,  
In the crest of land?  
Or the race I was born in,  
Where do thee vanish?  
When Satan works his mind.

**Environment (Protection) Act, 1986**

# In this act: “environmental pollutant” means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.



### **Cats**

Cat originally means 'dog.' The word comes from the Latin *catulus*, a small dog or puppy.

### **No Man Needed**

Parthenogenetic reproduction could occur among human females yet remain unnoticed. Indeed, such a woman could have a husband and be totally unaware of her own condition. Also known as virgin-birth.

### **Winter Is Coming**

Global warming is a long-term trend, but that does not mean that every year will be warmer than the previous one. Day to day and year to year changes in weather patterns will continue to produce some unusually cold days and nights, and winters and summers, even as the climate warms.

Climate change means not only changes in globally averaged surface temperature, but also changes in atmospheric circulation, in the size and patterns of natural climate variations, and in local weather. La Niña events shift weather patterns so that some regions are made wetter, and wet summers are generally cooler. Stronger winds from polar regions can contribute to an occasional colder winter. In a similar way, the persistence of one phase of an atmospheric circulation pattern known as the North Atlantic Oscillation has contributed to several recent cold winters in Europe, eastern North America, and northern Asia.

### **Cracking Knuckles give you Arthritis**

THE MYTH: People who crack their knuckles are slowly twisting their hands into hideous wizened claws.

THE TRUTH: Multiple studies have found no link whatsoever between the annoying habit and arthritis. The cracking sound isn't bones being mangled out of shape but the release of pockets of gas from between joints. That said, long periods of knuckle cracking may contribute toward lower grip strength. So pack it in.

### **The Gory Supper**

In 1621, though Pilgrims celebrated a feast, it was not repeated in the years to follow. In 1636, a murdered white man was found in his boat and the Pequot were blamed. In retaliation settlers burned Pequot villages. Additionally, English Major John Mason rallied his troops to further burn Pequot wigwams and then attacked and killed hundreds more men, women and children. According to Mason's

reports of the massacre, “We must burn them! Such a dreadful terror let the Almighty fall upon their spirits that they would flee from us and run into the very flames. Thus did the Lord judge the heathen, filling the place with dead bodies.”

The Governor of Plymouth William Bradford wrote: “Those that escaped the fire were slain with the sword; some hewed to pieces, others run through with their rapiers, so that they were quickly dispatched and very few escaped. It was conceived they thus destroyed about 400 at this time. It was a fearful sight to see them thus frying in the fire...horrible was the stink and scent thereof, but the victory seemed a sweet sacrifice, and they gave the prayers thereof to God, who had wrought so wonderfully for them.”

The day after the massacre, William Bradford who was also the Governor of Massachusetts Bay Colony, wrote that from that day forth shall be a day of celebration and thanks giving for subduing the Pequots and “For the next 100 years, every Thanksgiving Day ordained by a Governor was in honor of the bloody victory, thanking God that the battle had been won.”

### **Louis M. Brown and Forrest S. Mosten International Client Consultation Competition**



## **Introduction**

The Uttarkhand High Court on March 20<sup>th</sup> 2017, has taken a decision, declaring the river Ganges and Yamuna to be a living entities. The landmark judgement on *Mohd. Salim v. State of Uttarakhand and others*, stated that these rivers “[A]cts like a natural person but only through a designated person . . . for a bigger thrust of socio-political-scientific development, evolution of a fictional personality to be a juristic person becomes inevitable. . . [Also] to protect the recognition and the faith of society, Rivers Ganga and Yamuna were required to be declared as the legal persons/living persons” (Writ Petition (PIL) No. 126 of 2014). This judgement on Ganges and Yamuna to be a living entities, came following the legal status given to river Whanganui situated in Northern Island of New Zealand, making Ganges the second river in the world to have such legal status.

The division bench of Uttarkhand High Court “exercising the *parens patrie* jurisdiction” pronounced the status of “river Ganga and Yamuna, all their tributaries, streams, every natural water flowing with flow continuously or intermittently of these rivers, were declared as juristic/legal persons/living entities having the status of a legal person with all corresponding rights, duties and liabilities of a living person in order to preserve and conserve river Ganga and Yamuna.” The new status confirmed that when someone pollutes the Ganga, the law would observe it equal to harming a human being<sup>8</sup>. It is anticipated that the legal status of river Ganga might not only control pollution, but also preserve the water bodies. This is for the first time in the history of the Indian legal system that a river has been regarded as a living entity.

## **Background of the case**

River Ganga is one of the major water source in India; which is also associated with various

---

<sup>8</sup><http://www.hindustantimes.com/india-news/uttarakhand-hc-says-ganga-is-india-s-first-living-entity-grants-it-rights-equal-to-humans/story-VoI6DOG71fyMDihg5BuGCL.html>

myths and rituals. The Hindus in India worship this river as Goddess and carry religious value on it. People believed that bathing in river Ganga will purify the soul from sins and assist to the attainment of Moksha/ Nirvana (emancipation). However, due to the growing industrialization, its religious attraction, and certain rituals such as Jal Samathi (water burial) the river turned into a hazardous body for the public and the environment. The tradition of Jal Samathi was addressed by the religious heads to an extent<sup>9</sup>. Religious attraction such as Kumbh Mela, which is famously described as the largest gathering of mankind in History, pollutes the Ganga in alarming level. In addition, it is estimated that more than 3,000 million litres of untreated sewage from the towns along the river are pumped into the Ganga on a daily basis.

Given the growing environmental hazard of river Ganga a Public Interest Litigation (PIL)<sup>10</sup> was filed by Md. Salim a resident of Haridwar, Uttarakhand in the year 2014. Following the petition in June 2014, the Central government had set up the 'Namami Gange' project in an attempt to cleanse and preserve the river. In furtherance to which a budget of Rs. 20,000 crore for five years (2015-2020) was allocated for the same purpose. The Namami Gange project addressed the issue of pollution focusing on the following key focus:-

**1. Creating Sewerage Treatment Capacity:-** 63 sewerage management projects under implementation in the States of Uttarakhand, Uttar Pradesh, Bihar, Jharkhand and West Bengal. 12 new sewerage management Projects Launched in these states. Work is under construction for creating Sewerage capacity of 1187.33 (MLD).Hybrid Annuity PPP Model based two projects has been initiated for Jagjeetpur, Haridwar and Ramanna, Varanasi.

**2. Creating River-Front Development:-** 28 River-Front Development projects and 33 Entry level Projects for construction, modernization and renovation of 182 Ghats and 118 crematoria has been initiated.

---

<sup>9</sup> Jal Samadhi is not completely eradicated but in the year 2013 the “akharas” (organization of different sects of Hindu religion) have gathered and decided to give land burial instead of water burial for the saints and sadhus; concerning to the pollution. The latest development on this decision as on May 2017; is the demand of Akhil Bharatiya Akhara Parishad for land to conduct land burial to the saints and sadhus. This proposal is still under consideration.

<sup>10</sup> Public Interest Litigation is a class action suit where any public spirited individual can file a petition on behalf of the aggrieved persons if they are indigent or poor. The rule of *locus standi* is diluted in these cases.

3. **River Surface Cleaning**:-River Surface cleaning for collection of floating solid waste from the surface of the Ghats and River and its disposal are afoot and pushed into service at 11 locations.

4. **Bio-Diversity Conservation**:- Several Bio-Diversity conservation projects are namely: Biodiversity Conservation and Ganga Rejuvenation, Fish and Fishery Conservation in Ganga River, Ganges River Dolphin Conservation Education Programme has been initiated. 5 Bio-Diversity centre's at Dehradun, Narora, Allahabad, Varanasi and Barrackpore has been developed for restoration of identified priority species.

5. **Afforestation**:- Forestry interventions for Ganga through Wildlife Institute of India; Central Inland Fisheries Research Institute and Centre for Environment Education has been initiated. Forestry interventions for Ganga has been executed as per the Detailed Project Report prepared by Forest Research Institute, Dehradun for a period of 5 years (2016-2021) at project cost of Rs.2300 Crores. Work has been commenced in 7 districts of Uttarakhand for medicinal plants.

6. **Public Awareness**:- A series of activities such as events, workshops, seminars and conferences and numerous IEC activities were organized to make a strong pitch for public outreach and community participation in the programme. Various awareness activities through rallies, campaigns, exhibitions, shram daan, cleanliness drives, competitions, plantation drives and development and distribution of resource materials were organized and for wider publicity the mass mediums such as TV/Radio, print media advertisements, advertorials, featured articles and advertorials were published. Gange Theme song was released widely and played on digital media to enhance the visibility of the programme. NMCG ensured presence at Social Media platforms like Facebook, Twitter, YouTube etc.

7. **Industrial Effluent Monitoring**:- Real Time Effluent Monitoring Stations (EMS) has been installed in 572 out of 760 Grossly Polluting Industries (GPIs). Closure notice have been issued to 135 GPIs so far and others have been given deadlines for compliance to stipulated norms and for installations of online EMS.

8. **Ganga Gram:-** Ministry of Drinking Water and Sanitation (MoDWS) identified 1674 Gram Panchayats situated on the bank of River Ganga in 5 State (Uttarakhand, Uttar Pradesh, Bihar, Jharkhand, West Bengal). Rs. 578 Crores has been released to Ministry of Drinking Water and Sanitation (MoDWS) for construction of toilets in 1674 Gram Panchayats of 5 Ganga Basin States. Out of the targeted 15, 27,105 units, MoDWS has completed construction of 8, 53,397 toilets. Consortium of 7 IITs has been engaged in the preparation of Ganga River basin Plan and 65 villages has been adopted by 13 IITs to develop as model villages. UNDP has been engaged as the executing agency for rural sanitation programme and to develop Jharkhand as a model State at an estimated cost of Rs. 127 Crore.

Furthermore, the Uttarakhand High Court had delivered a judgment on 5<sup>th</sup> December 2016 directing the states of Uttarakhand and Uttar Pradesh to cooperate with the Central government to form the Ganga Management Board so that rapid steps could be taken to purify and preserve the holy river. In spite of all the efforts with regards to river Ganga no progress was made in by the two state governments. Therefore earlier in the month of March 2017, the Uttarakhand High Court came down heavily on the Union and both the state governments for doing “nothing concrete” to clean the river. The Court slammed them for wasting efforts on reviving a lost river Saraswati but not taking efforts on maintaining Ganga. Consequently, the Court also expressed deep trepidations over the deteriorating state of Ganga and Yamuna and extreme displeasure over the callous attitude displayed by the State Governments in showing non-cooperation with the Central Government regarding constitution of the Ganga Management Board.

...

### **Concept of a juristic person**

The word ‘person’ is derived from the Greek word ‘persona’ which meant actor’s mask through which his voice must be sounded. After a while, it came to be used for the part played by the actor and then for the actor himself. In the legal system, the word person is used for those who could play part in the legal drama as owners of rights and duties and as parties in a court of

law. A juristic person denotes a being or an entity capable of bearing legal rights and duties “The prime case of a person is a human being, and personality would seem to entail the possession of those characteristics belonging particularly to mankind i.e., the power of thought, speech and choice” (P J Fitzgerald, 299).

According to legal theory, a person is any being whom the law regards as capable of exercising rights or performing duties. Persons are of two kinds- natural and legal. Human being is regarded as a natural person whereas legal persons may be real or imaginary beings who for the purpose of legal reasoning are treated in greater or less degree in the same way as human beings. The law attributes personality to a legal person. There are different kinds of things which law selects for personification e.g. corporations, institutions like universities, libraries, hospitals, idols, charitable fund, estates etc. these entities are treated as minors and certain authorities are given the role to represent them in court of law as they are the legal guardians of the legal entities.

### **Petition at the Supreme Court**

A special leave petition (SLP) was filed by the Central government and the Uttarakhand state government against the judgement of the High Court in the Supreme Court of India under Article 136 of the Constitution. The petition states the difficulties in handling and administrating the High Court order. Besides this, another pertinent issue raised in the Supreme Court was whether in case of human casualties in a flood, the affected people can file suit for damages against the chief secretary of the state; and whether state government would be liable to bear such financial burden<sup>11</sup>. Also whether the state and its officers will be liable in case of pollution in the rivers in another state through which it flows<sup>12</sup>.

The petition also questioned whether the High Court had not exceeded its writ jurisdiction in passing the order as granting the status of living entities to the rivers was neither pleaded nor prayed in the writ petition filed by Md. Salim. Uttarakhand minister and state government spokesperson Mr. Madan Kaushik cited the High Court order of March 20<sup>th</sup> 2017

---

<sup>11</sup><http://www.dnaindia.com/india/report-sc-stays-uttarakhand-hc-s-order-declaring-river-ganga-yamuna-as-living-entity-2494783>

<sup>12</sup><http://indianexpress.com/article/india/sc-stays-uttarakhand-hc-order-on-ganga-yamuna-living-entity-status-4740884/>



which stated that the Chief Secretary and the Advocate General would act as the “legal parents” of the Ganga and Yamuna rivers. “Since the matter of cleaning the Ganga is not just restricted to Uttarakhand, as it also flows through West Bengal, how could the Chief Secretary and the Advocate General tackle all the issues related to the river,” he asked<sup>13</sup>. On 7<sup>th</sup> July 2017, the Hon’ble Supreme Court of India stayed the judgement of Uttarakhand High Court which declared the rivers Ganga and Yamuna as legal entity.

## **The way forward**

While the idea of declaring a river as a living entity and thereby entrusting the same rights to it as that of a human might be new to India, but countries like Ecuador and New Zealand already have codified laws recognizing nature’s rights in their legal system. Ecuador actually became the first country to recognise the ‘Rights of Nature’ in its Constitution<sup>14</sup>. Rather than treating it as a property, and hence right-less, the Constitution treats nature as having the “right to exist<sup>15</sup>, persist, maintain and regenerate and restore<sup>16</sup> its vital cycles.” In New Zealand, the local Maori culture<sup>17</sup> and its beliefs and the role of the “Te Awa Tupua”<sup>18</sup> or the Whanganui<sup>19</sup> in the lives of the tribal people were key in the decision of their Parliament to grant it legal rights<sup>20</sup>.

---

<sup>13</sup> <http://indianexpress.com/article/india/centre-approaches-sc-over-uttarakhand-hc-order-on-ganga-4666732/>

<sup>14</sup> Chapter Seven, Articles 71 to 74 recognize the “rights of nature” in the Constitution of **the Republic of Ecuador**

<sup>15</sup> Article 71, Constitution of **the Republic of Ecuador**

<sup>16</sup> Article 71, Constitution of **the Republic of Ecuador**

<sup>17</sup> According to the Maori Culture, they consider the river as their ancestor; as the famous tribal proverb states "Ko au te awa. Ko te awa ko au," which means I am the river, the river is me.

<sup>18</sup> Te Awa Tupua is the Māori way of viewing the Whanganui river as a whole, an integrated entity from the mountains to the sea.

<sup>19</sup> Te Awa Tupua is a spiritual and physical entity that supports and sustains both the life and natural resources within the Whanganui River and the health and well-being of the iwi, hapū, and other communities of the River-Part 1 subpart 13 of the Te Awa Tupua (Whanganui River Claims Settlement) Bill.

<sup>20</sup> Part 3 subpart 69 of the Te Awa Tupua (Whanganui River Claims Settlement) Bill states as follows-

The Crown acknowledges the importance of the Whanganui River as a source of physical and spiritual sustenance for iwi and hapū of Whanganui, including—

(a) as home for the iwi and hapū of Whanganui, with 143 known marae along the length of the River; and

(b) as a means of travel, trade, and social and cultural connection for the people of the River; and

(c) as a food basket and fishery; and

(d) as a source of rongoā and other resources.

After the decision of the Uttarakhand High Court, the Madhya Pradesh government decided to confer legal status to the river Narmada. If this is continued, then all the states would start conferring their primary rivers with legal status, as there can be no discrimination among the rivers on this ground. This may lead to administrative issues as several rivers have presence in multiple states which could create more problems than solutions. Further in case any developmental works like building dams, barrages etc. are proposed by the governments it could be difficult to bend the rules and anyone could challenge it stating it is leading to exploitation of the river.

Moreover the academicians have highlighted that the Constitution of India doesn't recognize the rights of nature distinctively unlike Ecuador, so interpretations by the judiciary conferring such rights on nature may go against the spirit of the Constitution. So, when decisions like conferring status of legal entity to nature are taken, they must be thoroughly analysed in line with the Constitutional provisions. The decision of the Uttarakhand High Court was welcomed by several Environmentalists, Activists and residents. Hemant Dhyani, who is a part of Ganga Ahwan - an organisation fighting against big dam projects on the Ganges opined that the judgement has come as a big boost and that he would use it to approach the Supreme Court and Parliament and get it done.

**River Ganga**



Source:

Google Images

## Exhibit-1

### Juristic persons/Legal entities

<i>Case Law</i>	<i>Citation</i>	<i>Decision</i>
<i>Yogendra Nath Naskar v. Commission of Income Tax</i>	<a href="#"><u>(1969) 1 SCC 555</u></a>	The Supreme Court held that a Hindu idol is a juristic entity capable of holding property and of being taxed through its Shebaites who are entrusted with the possession and management of its property
<i>Ram Jankijee Deities v. State of Bihar,</i>	<a href="#"><u>(1999) 5 SCC 50</u></a>	The Supreme Court held that a Hindu idol is a juristic entity capable of holding property, thereby stating that to protect the recognition and the faith of society
<i>'Shiromani Gurudwara Prabandhak Committee, Amritsar v. Shri Som Nath Dass &amp; others</i>	AIR 2000 SC 1421	The Supreme Court held that the concept 'Juristic Person' arose out of necessities in the human development- Recognition of an entity as juristic person- is for subserving the needs and faith of society.

<i>Moorti Shree Behari ji v. Prem Dass &amp; others</i>	AIR 1972 Allahabad 287	Allahabad High Court held that a deity can sue as a pauper
<i>Shiromani Gurdwara Parbandhak Committee, Amritsar v. Somnath Dass and Others.</i>	Date of Judgment: 29/03/2000	Supreme Court held that Guru Granth Sahib can hold and use the gifted properties given to it by its followers out of love, in charity" and ``this is by creation of an endowment like others for the public good, for enhancing the religious fervour including feeding the poor.

© Copyrights





## Louis M. Brown and Forrest S. Mosten International Client Consultation Competition

---

The valedictory session of **Louis M. Brown and Forrest S. Mosten International Client Consultation Competition** organized by ICFAI Law School, commenced on 21 January 2018.



The event witnessed the presence of eminent judicial personality; Chief Guest Hon'ble Sri Justice M.S.Ramachandra Rao, Judge, High Court of Judicature at Hyderabad for the state of Telangana and Andhra Pradesh; Guest of Honour Hon'ble Sri Justice Challa Kodanda Ram, Judge, High Court of Judicature at Hyderabad for the state of Telangana and Andhra Pradesh; Hon'ble Sri Justice A. Shankar Narayana, Judge, High Court of Judicature at Hyderabad for the state of Telangana and Andhra Pradesh.

The program also saw the presence of Dr M.R.K. Prasad, Principal, V.M.Salgaocar College of Law, Goa; Dr A.V.Narasima Rao, Dean, ICFAI Law School, Hyderabad; and was presided by Prof. J. Mahender Reddy, Vice Chancellor, IFHE.



in the competition with great enthusiasm; and advised the participant to take the International

Client Consultation Competition platform primarily for exhibit knowledge and inculcate learning. He further mentioned that irrespective of winning or losing the competition every participant should work hard to achieve their goals in the Law Profession.



Follo  
wing  
the  
Vice



Chancellor, IFHE; Prof. Jayanthi Reddy, co-coordinator for the Louis M. Brown and Forrest S. Mosten International Client Consultation competition read the report of the event. She shared in brief the scheme of the competition which commenced from 19th January 2018. Out of thirty five (35) teams which registered for the competition, thirty one (31) were chosen to participate by the organizing college. The

competition started with the two preliminary rounds which were conducted on 20th January and were adjudged by advocates and senior advocates of the Telangana High Court. Top six teams qualified for the semifinals which were conducted on 21st January and adjudged by retired judges of High Court of Telangana, Advocate General of High Court of Telangana, and Additional Solicitor Generals of India. Further the finals – for the top two teams – was conducted on 21st January itself and was judged by Hon'ble Sri Justice M S Ramachandra Rao, Judge, High Court of judicature at Hyderabad for the state of Andhra Pradesh and Telangana.



The Chief Guest of honour, Hon'ble Sri Justice M S Ramachandra Rao, Judge, High Court of judicature at Hyderabad for the state of Andhra Pradesh spoke to the audience highlighting how the legal education has seen so many changes from the earlier times. He has shared an anecdote from his personal experience regarding the same. He also recognized the fact that most students are opting for corporate firms above litigation due to several constraints. He

urged the students to follow the ethical standards of the legal profession. He called for strong “ethical” sensibilities among the students which should be cultivated. In the end he congratulated ICFAI Law School for conducting the competition and playing a pivotal role in shaping up the present generation of lawyers.



Prof. M.R.K. Prasad, Principal, V.M. Salgaocar College of Law, Goa, began by pointing out “gaps” in legal education due to which the lawyers to some extent were not able to shine in the law profession. He referred to the education system through The Carnegie Foundation’s critique on American Legal System which states “Law Schools create people who are smart without a purpose.” He insisted that law schools in producing lawyers who are sensitive towards the society, and meanwhile valued the role of ICFAI Law School for working towards bringing brilliant lawyers of the future who fills the “gap” in the legal education system.

Prof AV Narasimha Rao, Dean, ILS, Hyderabad underlined the importance of Alternative Dispute Resolution in the present times. Also how competition such as Client counseling, Judgement writing, Moot court will help the students in achieving the best in the profession. He informed the audience that participation is more important in competition where one can learn through out of the class exposure. Furthermore he asked to treat winning and losing competition as secondary. He thanked the participants, the faculty members and the student volunteers for the smooth conduction of the competition. He announced the results of the competition.



1. V M Salgaocar College of Law, Goa, emerged as winners and
2. Dr Rammanohar Lohia National Law University won the runner-up

The valedictory ceremony concluded by vote of thanks proposed by Prof D V N Murty, Faculty Associate and Co-coordinator for the Louis M. Brown and Forrest S. Mosten International Client Consultation competition, ILS Hyderabad.



### **The Myth of the Cave - Plato**

AND now, I said, let me show in a figure how far our nature is enlightened or unenlightened: Behold! human beings living in an underground den, which has a mouth open toward the light and reaching all along the den; here they have been from their childhood, and have their legs and necks chained so that they cannot move, and can only see before them, being prevented by the chains from turning round their heads. Above and behind them a fire is blazing at a distance, and between the fire and the prisoners there is a raised way; and you will see, if you look, a low wall built along the way, like the screen which marionette players have in front of them, over which they show the puppets.

I see.

And do you see, I said, men passing along the wall carrying all sorts of vessels, and statues and figures of animals made of wood and stone and various materials, which appear over the wall? Some of them are talking, others silent.

You have shown me a strange image, and they are strange prisoners.

Like ourselves, I replied; and they see only their own shadows, or the shadows of one another, which the fire throws on the opposite wall of the cave?

True, he said; how could they see anything but the shadows if they were never allowed to move their heads?

And of the objects which are being carried in like manner they would only see the shadows?

Yes, he said.

And if they were able to converse with one another, would they not suppose that they were naming what was actually before them?

Very true.

And suppose further that the prison had an echo which came from the other side, would they not be sure to fancy when one of the passersby spoke that the voice which they heard came from the passing shadow?

No question, he replied.

To them, I said, the truth would be literally nothing but the shadows of the images.

That is certain.

And now look again, and see what will naturally follow if the prisoners are released and disabused of their error. At first, when any of them is liberated and compelled suddenly to stand up and turn his neck round and walk and look toward the light, he will suffer sharp pains; the

glare will distress him, and he will be unable to see the realities of which in his former state he had seen the shadows; and then conceive someone saying to him, that what he saw before was an illusion, but that now, when he is approaching nearer to being and his eye is turned toward more real existence, he has a clearer vision—what will be his reply? And you may further imagine that his instructor is pointing to the objects as they pass and requiring him to name them—will he not be perplexed? Will he not fancy that the shadows which he formerly saw are truer than the objects which are now shown to him?

Far truer.

And if he is compelled to look straight at the light, will he not have a pain in his eyes which will make him turn away to take refuge in the objects of vision which he can see, and which he will conceive to be in reality clearer than the things which are now being shown to him?

True, he said.

And suppose once more, that he is reluctantly dragged up a steep and rugged ascent, and held fast until he is forced into the presence of the sun himself, is he not likely to be pained and irritated? When he approaches the light his eyes will be dazzled, and he will not be able to see anything at all of what are now called realities.

Not all in a moment, he said.

He will require to grow accustomed to the sight of the upper world. And first he will see the shadows best, next the reflections of men and other objects in the water, and then the objects themselves; then he will gaze upon the light of the moon and the stars and the spangled heaven; and he will see the sky and the stars by night better than the sun or the light of the sun by day?

Certainly.

Last of all he will be able to see the sun, and not mere reflections of him in the water, but he will see him in his own proper place, and not in another; and he will contemplate him as he is.

Certainly.

He will then proceed to argue that this is he who gives the season and the years, and is the guardian of all that is in the visible world, and in a certain way the cause of all things which he and his fellows have been accustomed to behold?

Clearly, he said, he would first see the sun and then reason about him.

And when he remembered his old habitation, and the wisdom of the den and his fellow prisoners, do you not suppose that he would felicitate himself on the change, and pity him?

Certainly, he would.

And if they were in the habit of conferring honors among themselves on those who were quickest to observe the passing shadows and to remark which of them went before, and which followed after, and which were together; and who were therefore best able to draw conclusions as to the

future, do you think that he would care for such honors and glories, or envy the possessors of them? Would he not say with Homer,

“Better to be the poor servant of a poor master,” and to endure anything, rather than think as they do and live after their manner?

Yes, he said, I think that he would rather suffer anything than entertain these false notions and live in this miserable manner.

Imagine once more, I said, such a one coming suddenly out of the sun to be replaced in his old situation; would he not be certain to have his eyes full of darkness?

To be sure, he said.

And if there were a contest, and he had to compete in measuring the shadows with the prisoners who had never moved out of the den, while his sight was still weak, and before his eyes had become steady (and the time which would be needed to acquire this new habit of sight might be very considerable), would he not be ridiculous? Men would say of him that up he went and down he came without his eyes; and that it was better not even to think of ascending; and if anyone tried to loose another and lead him up to the light, let them only catch the offender, and they would put him to death.

No question, he said.

This entire allegory, I said, you may now append, dear Glaucon, to the previous argument; the prisonhouse is the world of sight, the light of the fire is the sun, and you will not misapprehend me if you interpret the journey upward to be the ascent of the soul into the intellectual world according to my poor belief, which, at your desire, I have expressed—whether rightly or wrongly, God knows. But, whether true or false, my opinion is that in the world of knowledge the idea of good appears last of all, and is seen only with an effort; and, when seen, is also inferred to be the universal author of all things beautiful and right, parent of light and of the lord of light in this visible world, and the immediate source of reason and truth in the intellectual; and that this is the power upon which he who would act rationally either in public or private life must have his eye fixed.

I agree, he said, as far as I am able to understand you.

Moreover, I said, you must not wonder that those who attain to this beatific vision are unwilling to descend to human affairs; for their souls are ever hastening into the upper world where they desire to dwell; which desire of theirs is very natural, if our allegory may be trusted.

Yes, very natural.

(the use of this article is for education purpose only)