

**8th Anand Swaroop Gupta Memorial International Moot Court
Competition 2024 Moot Problem**

1. Since time immemorial, forests have been an intrinsic part of human ecosystem. Forests have played an essential role in social, economic and religious activities of humankind in psychological and material ways. They have acted as shelter and protection to a large number of living beings starting with pre-historic man. For several thousands of years, primitive man used forests as hunter and food gatherer . In the later stages, forests were utilised for suitable agricultural pursuits and in modern times, urbanisation affected the forest cover. The forests constitute the major forms of natural landscape and are amongst the most important natural resources of the world.
2. The Rio Convention, United Nations Framework Convention on Climate Change (UNFCCC), United Nations Convention on Biological Diversity (CBD), and United Nations Convention to Combat Desertification (UNCCD), acknowledge the important contribution of the forests. All of them together are making constant efforts to increase the synergy of the purpose related to its conservation.
3. In 2015, all nations signed the Paris Agreement which aims to limit rising world temperature.
4. Forest fire is responsible for the loss of huge forest areas worldwide and simultaneously endangering livelihood sources. Despite these major challenges, forest fire management is inadequate, lacking appropriate policy, capacity building, and mechanical equipment.
5. Hulton is a highly populated developing country in Asia. As per the Forest Survey of Hulton Report, 2011, Hulton has forest cover of 692,027 km², comprising 21.05 percent of the total geographic area of the country. Hulton has much variance in its forest vegetation as a result of its diversified climatic and physiographic conditions. The forests of the country differ considerably. There are trees over 70 meters in height as well as trees less than 7 meters in height. Hulton is one of the 12-mega biodiversity countries of the world.
6. Hulton is also amongst the top five countries in terms of largest carbon footprint in the world. High and rapid industrial , infrastructural developments in Hulton are considered cause for adverse impacts on climate change.
7. It has been predicted that warming of the planet beyond 1.5 C above preindustrial levels will be increasingly devastating for human health across the planet.
8. Various states of Hulton have witnessed large scale and uncontrolled forest fires. These fires have undermined the ecological sustainability of an already endangered biological zone. Emissions released by forest fires include carbon dioxide CO₂, carbon monoxide (CO), and methane (CH₄), organic aerosols and black carbon, non- methane organic compounds, nitrogen oxides (NO_x), and Sulphur dioxide (SO₂). These emissions affect the efficiency of both atmospheric and surface absorption of solar energy, with resultant cooling and or warming effects.

9. There have been more than a 3,000 major forest fires across the country in past three four years in Hulton. Various states of Hulton have witnessed large scale and uncontrolled forest fires. The peak forest fire season in the country begins usually in March. Forest fires can be expected to increase significantly in the coming years as temperatures increase.
10. There have been fires in the non-fire-prone wet forests of different states of Hulton. Forest fires can be expected to increase significantly in the coming years as temperatures increase.
11. Cascadea is a small hilly state in Hulton having glaciers, the life line of major rivers of Hulton. Forest fires are causing a devastating effect on its glaciers and have been covered by 'black carbon' causing them to melt faster. The ecological balance maintained by the region of Cascadea and adjoining states is essential for the entire region and the country.
12. Citizens have a fundamental duty under Article 51A - (g) - "It shall be the duty of every citizen of India to protect and improve the natural environment including forests, lakes, rivers and wildlife and to have compassion for living creatures."
13. The forest fires have largely been caused by humans, local land mafia and other mafia who have been engaged in cutting wood for commercial purpose. There are large numbers of forest officials appointed at the expense of public money, but regardless of the same, no clear action has been taken by the said authorities.
14. Various statutes of Hulton and Cascadea uniformly provide, inter-alia, prevention of pollution and restoration of ecology. The National Forest Policy 1988 - Section 4.8.2 acknowledges the high occurrence of forest fires in the country and thereby mandates special precautions to be taken during the fire season through improved and modern management practices. Section 3 of the EP act 1986 confers powers on the Central Government to take all measures as it deems necessary or expedient for the purpose of protecting and improving the quality of the environment and preventing, controlling and abating environmental pollution.
15. SDG 13 aims to reduce greenhouse gas emissions that cause climate change and drive adaptation actions. SDG 13 requires long-term finance and local collaboration. Hulton was a one of the countries to adopt Sustainable Development Goals in 2015.
16. The forest fire sensitive areas are mapped throughout Hulton and they are as for which pre-fire alerts are received from Forest Survey of Hulton, are kept on high vigil.
17. Fire emissions contribute to climate change by increasing greenhouse gas concentrations, thereby increasing atmospheric radiative forcing, increasing aerosol concentrations, thereby increasing reflectivity of incoming solar energy, and changing the earth's albedo by depositing more light absorbing particles (e.g., black carbon) at the earth's surface. Emission estimates identify CO₂ as the gas most heavily emitted by biomass burning; CO₂ is also the dominant greenhouse gas contributor to global climate change because of its heat absorbing characteristics and very long residence time in the atmosphere.

18. The state of of Cascadea has failed to take preventive steps required as a precautionary measure. The result is loss of forest biodiversity, degradation of environment and air quality in particular thereby affecting public health besides leading to a long term effect of climate change. Precautionary principle is one of the basic principles of environmental jurisprudence and is linked to Article 21 of Constitution of Hulton.

19. Concerned by the situation caused by the forest fires , an advocate named Nithima Sah filed the petition before the High Court of Cascadea against the Hulton's Ministry of Environment, Forest& Climate Change ; Government of Cascadea; Central Pollution Control Board ; Cascadea Pollution Control Board in December 2023. The petitioner states that large swathes of virgin forest lands, along with diverse biological species have already become extinct as a consequence of these preventable forests. If no urgent steps are taken, further devastation would be caused to a huge chunk of flora and fauna which are considered as wealth of the nation.

The petitioner has sought to highlight the issue and to know as to what measures are being taken by the Central Government and the Authorities concerned to prevent further damage and curb such preventable fires. It has been prayed to direct the respondents to immediately take necessary steps in order to curb existing fires in the forests of the state of Cascadea and further to ensure that such disaster is not repeated in future and to immediately take steps to restore the ecology of these forests.

20. The petitioner contends that National Policy on Disaster Management recognises only earthquakes, floods, wind, cyclones and landslides were recognised as disasters, glacial lake outbursts and heatwaves. Unfortunately, National Crisis Management Committee is responsible for forest fires. Forest fires are placed together with mine disasters, ports and harbour emergencies, oil field fires, and oil spills, etc.

21. The petitioner seeks directions to make citizens liable for breach of their Fundamental Duty under Article 51A(g).

22. Cascadea and other states also lack district fire management plan before the onset of the forest fire season.

23. Silvicultural and forest management tools are not efficiently employed to manage forest.

24. There exists a grave mistrust and disconnection between the villagers and the forest department. No attempt has been made by the forest department to remove the mistrust and ameliorate any difficulty that works inter-se the villagers and the officers of the forest department. The policy of revenue generation, although important, works in isolation to the National Forest Policy of Participatory Management.

25. However, the respondent submits that in the past one year, no active forest fire has been detected by satellites, and no forest fire points information is received from Forest Survey of Hulton (FSH). Almost all the recent fires incidents were of surface fire. All such incidents have been tackled and the fire in the entire region

has been doused. All the fire prevention practices are carried out every year during the winter season, immediately preceding the Forest Fire season every year.

26. The respondent contends that general weather conditions in the recent years for the state of Cascadea have been displaying erratic pattern in comparison to previous years, as inferred from Hulton Meteorological Department (HMD) data pertaining to temperature and rainfall. According to HMD rains have been less, as compared to previous years. Heat waves have further rendered the forest extremely vulnerable to fires across the country, and many incidents of forest fires have been reported in the current forest fire season.
27. As per the respondent, most of the forest fires in Cascadea are anthropogenic. The main reasons are negligence on the part of local villagers, tourists etc. Further, the role of local land mafia and other mafia who have been engaged in cutting wood for commercial purposes is subject to investigation and where it is indicated, action will be taken under relevance provisions of law.
28. The state of Cascadea also proposes to prepare Biological Check Dams using pine needles on a large scale. This will reduce the biological fuel load in the pine forest. The alternative use of pine needles-like energy Production, fuel briquettes, etc. are being seriously contemplated.
29. The respondent also submits that Nitihima is trying to project an ideal text book like chapter on firefighting management without dealing with the ground realities pertaining to state of Cascadea . It is important to mention that, there is tremendous geographic/altitudinal variation within the state. The terrain ranges from 200 meters to nearly 7817 meter, above sea level.
30. A reply to the petition has been filed on behalf of Cascadea Pollution Control Board, wherein preliminary submissions have been made stating that the present petition in general relates to issues of forest fires which does not fall within the mandate of the respondent Board. Hence it deserves to be dismissed . Further, as per the Department of Forest, Government of Cascadea has the mandate to protect the forest from fires which has not be arrayed as party respondent.
31. It has been reported in the media that incident of fire have been reported by various States. Therefore, it is evident that forest fires are affecting all across the country, and Cascadea is no exception. In Cascadea , the quality of forest floor litter (majorly Pine needles) highly inflammable by nature is one of the main cause of such fire.
32. As per the Forest Fire Disaster Management Report published by National Institute of Disaster Management, more than 95 % of the forest fires are due to manmade causes. While the majority of the forest fire are caused by human beings deliberately or due to negligence, the anthropogenic causes of forest fires include shifting cultivation carried out by farmers, setting fires to produce new flushes of grass in the dry season, fires started by poachers and smugglers to hide the stumps of illicitly felled trees, fires set by villagers to clear off path of dry litter, facilitating collection of non-timber forest produces by igniting fire, setting agricultural fields on fire after a harvest, fires set by villagers residing in or near the forest to keep the

wild animals away from their crop and cattle, disposing un-extinguished cigarettes, bidis, and match sticks in the forest areas, unextinguished camp fires, sparks from transformers installed in the forest area etc.

33. The petition shall be heard on March , 2024. The issues raised before the High Court are :

- (i) Whether being a mute spectator, in the natural calamity and ecological disaster of forest fires, the Central government has failed in its duties under Part IV of the Constitution of Hulton and as a party to SDGs.
- (ii) Whether the right of health and life has been continuously affected by unchecked forest fires owing to inaction by the Government of Cascadea.
- (iii) Whether forest fire needs to be covered in the National Policy on Disaster Management.
- (iv) Whether manmade activities are responsible for rise in forest fires in Hulton, making the local community of Cascadea also responsible for climate change and other consequences.
- (v) Whether lack of trust between the villagers and the Forest Department is also a responsible factor for rise in forest fires.

Note: The Laws of Hulton are to be presumed pari-materia to the laws of India.

Disclaimer: The facts stated in the present case are fictitious and have been drafted solely for the purpose of the competition. The facts, names, locations and dates bear no resemblance to any person, event or happening whether dead or alive. Any resemblance, if any, is purely coincidental. This problem does not intend to hurt the feelings of any section of society or to offend any person or organisation.