

SHRI I. M. NANAVATI MEMORIAL NATIONAL MOOT COURT COMPETITION
2022-23
Moot Proposition

1. Indica, is one of the South Asian emerging nations, with a population of more than 1.30 billion people. With more than 1,26,756 species of known and categorized plants, animals, fungi, and microorganisms, it is ranked as one of 17 mega-diverse countries. Indicia's border is surrounded by water on its three sides, and the Himalayan Mountains are to its north.

2. The most abundant and diverse flora and fauna groups can be found in the maritime ecosystem. Indica's 8,118 km of coastline is spread across the 10 coastal states and seven union territories, including the islands of Andaman and Nicobar and Lakshadweep. The country has an Exclusive Economic Zone (EEZ) covering 2.02 million sq km and a continental shelf covering 468,000 sq km. The remarkable diversity of Indican coastal waters can be attributed to the geomorphological and climatic changes that occur along the coast.

3. Oil is an ancient fossil fuel that we use to heat our homes, generate electricity, and power large sectors of our economy. But when oil accidentally spills into the ocean, it can cause big problems. Oil spills can harm sea creatures, ruin a day at the beach, and make seafood unsafe to eat. It takes sound science to clean up the oil, measure the impacts of pollution, and help the ocean recover.

4. Oil spills from ships are a significant source of ocean pollution, particularly when they involve crude oil. A huge concern is an atmospheric pollution, which is the term for materials transported by the wind to the ocean. At the deepest ocean layers, even deep-sea mining contributes to pollution and disruption. Deep in the water, drilling for minerals including cobalt, zinc, silver, gold, and copper causes the formation of dangerous sulphide deposits.

5. Thousands of oil spills occur globally every year. Most of these spills are small, for example when oil spills while refuelling a ship, but these spills can still cause damage, especially if they happen in sensitive environments, like beaches, mangroves, and wetlands. Large oil

spills are major, dangerous disasters. These tend to happen when pipelines break, big oil tanker ships sink, or drilling operations go wrong. Consequences to ecosystems and economies can be felt for decades following a large oil spill.

6. The Delta shipping Limited is a company incorporated in 2003 rendering specialized marine services relating to the oil, ports, power and marine infrastructure domain with manpower of 200 employees, founded by ex- naval officers and it is an ISO 9001 company with a sterling reputation being the only Indica owned/controlled company engaged in the business of marine terminals and seawater system management, geosciences services including offshore surveys and geotechnical investigation and erection, procurement and commissioning of marine structures and seawater intake and outfall pipelines.
7. On June 10, 2021, a ship named 'R.S.Carrier', owned by Delta Shipping Limited voyaging from Indomesa to Dohej carrying more than 57824 metric tons of coal and also containing 1148 tonnes of fuel oil and 35 tonnes of diesel which was imported by the Milta Group started sailing.
8. The ship was in its voyage and started leaking on 12th August 2021 in the Exclusive Economic Zone of Indica broadened towards the west Coast, due to water ingression in ballast tanks due to technical faults. Consequently, it led to oil spills over the sea causing environmental damage to the aquatic life and thus causing marine pollution. It has entire affected Indica's Western Coastal Zones including the contiguous Zone and Territorial Sea.
9. During its voyage it was noticed that in month of August the cargo on ship was found leaking into the ocean. Spilt oil was discovered along the beaches by the month of October the Kumbai city, a district of Naharashtra in Monkern region. Although it is unknown how much oil has leaked, it was determined from satellite photography that the ship had been constantly spilling oil since last 2-3 month. The said carrier while passing through the Indica Ocean to Arabian sea from Indonesia to Dohej touched the periphery of many Indica States like – kaila in south, to Nagoain south west to , Naharashtra and Mahajat
10. On the basis of the newspaper item reported on October 23rd , 2021 in the Indica

Express, stating that there is oil spill at Maharashtra in Konkarn region consequent to which, there is environmental pollution, loss of marine lives, fishermen unable to venture out for fishing, no action has been taken, as per the National Oil Spill Disaster Contingency Plan (NOS-DCP) , introduced under the National Disaster Management Authority, Ministry of Home Affairs. The oil layer was deemed to be sufficiently thick to ordinarily necessitate the deployment of an oil spill response. The southwest monsoon, which generally comes between May to September, which makes any mitigating attempts more difficult.

11. Early findings offer a gloomy picture. By the 30th October 2021, 307 marine animals, including 258 turtles, 43 dolphins, and 6 whales, had been discovered dead throughout the western coastal Zones, and ever since, then the reports of dead animals along the beaches keep on coming. As a result of the oil spill, there has also been damage to the mangroves and the marine ecology of the Konkarn coast.
12. Oil spills in Konkarn coastal zones have affected the fisheries also. The spill affected the 11 fishing villages in Konkarn district. A prohibition on the landing of contaminated fish by the Konkarn Municipal Corporation immediately after the spill caused the fish price to plummet by 25-50%. The Preventive orders and the notification from various government agencies and wide publicity by media to refrain from eating fish kept the fishing eating public at bay, resulting in drop in demand and fall in fish prices, Around 60 fish markets across Konkarn were empty for the week. The industry has suffered the loss of rupees 50-60 crores because of the ban. A large number of retail shops that had a stock of frozen fish also met a loss in selling their merchandise at a low price
13. The effects of the oil disaster on Konkarn's tourism industry were also seen. There was an economic slowdown. It has been discovered that tourism suffered greatly following the disaster, even in the neighboring States where the beaches were mainly clear of oil. Hotels and eateries all around the Konkarn District had trouble arranging events, and Internet search analytics revealed a sharp decline in traveler interest in the area. Negative effects included decreased visitor traffic due to lack of available visitor services (accommodations, charter boats, air taxis), labour shortage in the tourism industry due to workers seeking high-paying spill clean-up jobs, thus increasing the costs for industry businesses

14. According to Emnesty International, an NGO working globally, oil pollution in the Kumbai is destroying the vital resource on which they depend. Oil pollution kills fish, their food sources and fish larvae, and damages the ability of fish to reproduce, causing both immediate damage and long-term harm to fish stocks. Oil pollution also damages fishing equipment. Oil spills and waste dumping have also seriously damaged agricultural land. Long-term effects include damage to soil fertility and agricultural productivity, which in some cases can last for decades. In numerous cases, these long-term effects have been unrecognised.
15. Looking at all these factors the Indica Coastguard authority stepped in and conducted a survey of the situation. Water samples were collected by the team from the shore of various states and a number of measures were done to control the damage caused. As a result nearly 200 crores costs were incurred to the Indica Government. The report of the Indica's Coast Guard Authority includes that R.S. carrier owned by Delta shipping Limited has caused all damage alongside the kumbai coastal area and many other places where the leaked shipped had passed by.
16. Further assessment revealed that the authority had taken measures to contain the oil spills, however, the ships and their agents have not yet taken suitable measures to remove the oil from the ocean. Milta enterprises have taken no action to control the pollution caused by the spillage. The impact of the oil spill has been clearly noticed and is visible on the mangroves of Kumbai.
17. Looking to the larger interest of the public the petition was filed on 7th July 2022 before the Hon'ble Supreme Court of India by Mr Manohar Lamba, a public spirited person, heading a non-governmental organization working on the protection of coasts and marine environment from pollution, coastal conservation, coastal ecology, fisheries and connected livelihood of marginalized ever since in the year 2007. The Petitioner claims to be an organization of traditional fishermen working for the protection, conservation and restoration of the coastline for the welfare of the people living in the coastal areas and involved in traditional fishing in the said district as well as for the protection of the coastline.
18. Mr Manohar Lamba has also drawn the attention of the Hon'ble Court that despite

receipts of acknowledgement of various representations, no response is forthcoming and left with no other option. The petitioner was constrained to invoke the original jurisdiction of the court. Mr Manohar Lamba questioned the significance of environmental jurisprudence, in relation to pollution caused by the oil spillage in territorial waters, contiguous zone and the Exclusive Economic Zone of the city and its impact on fisheries and Tourism and consequences and liabilities arising therefrom.

19. Water currents and the wind force have accelerated the oil slick to drift over large areas, impacting the open ocean, coastal areas, and marine and terrestrial habitats in the path. The damage to the coastal, marine ecology has increased by the day. There is serious threat to various aspects of the coastal area and marine environment particularly in Indica. The applicant filled the case against different authorities including Delta shipping company and Malta Enterprise to be held liable for the damage to the marine ecosystem. The authorities includes Maharashtra Maritime Board, and Maharashtra Pollution Control Board as they are the instrumentalities of the state who are vested with statutory power to maintain and protect the environment and ecology. They are also liable to pay compensation for restitution and restoration of the ecology, and ecosystem on the basis of the 'Polluter Pays Principle and for loss caused to different Industries.
20. The Notice was issued by the Hon'ble Supreme court in the said matter and the petitioner requested that the movement of the ship be allowed only after detailed safety measures and regulations are in place in accordance with the 'Polluter Pays Principle. According to the petitioner, 'person responsible for causing adverse impact on the environment is liable to pay compensation. The Petitioner claims that on account of damage caused to aquatic flora & fauna, mangroves, fishermen and the damage done to the environment including subsoil, water, and the entire ecosystem of the coastal state. The Respondents have a joint and several liabilities to pay compensation claimed in the petition. The petitioner stated that the respondents are liable for the damage caused and they are responsible to pay compensation for damage.
21. The petitioner also stated that the compensation has to be paid for negligence in the upkeep of the ship and cargo and the persistent pollution caused by them to the marine environment and to the socio-economic growth of the entire coastal line. The compensation amount would be utilized for restoring the mangroves to their original

position or plantation of accepted species in that area as well as to ensure that no further pollution results from the leakage of the ship and the cargo. The Compensation amount should also be paid to various agencies and industries including the Coast Guard for the expenses they have incurred for the prevention and control of pollution.

22. The Respondents in the said petition in the Supreme Court responded that , the Indian Coast Guard has dispatched their oil pollution response ship namely ‘jaltaral’ to deal with the said pollution and disaster caused thereof. The Respondent Board caused the coastal monitoring and collection of seawater samples at various beaches to assess the oil content in sea water and submitted to the Central Lab for further analysis. A slick of oil formed by the ship's leaky cargo covered more than 180 nautical miles of the western Coastal Zone. 2158 gallons of dispersants, which help to emulsify oil so that bacteria can more easily break it down, were poured into the leak and applied aerially to the slick in order to remove oil from the ocean. Booms were used to contain some of the slick after which the captured oil was syphoned off or burnt by the Indica Coast Guard authority.

23. The Authority in charge had decided to take a daily review of the incidence and held daily meetings of all concerned stakeholders for further necessary steps to combat the oil spill and prevent it from spreading into the sea.

24. After hearing both the parties the Hon’ble Supreme Court has kept the matter for final hearing on 22nd January 2023.

Note: The Laws of Indicia are in Pari Materia to that of India.

Disclaimer: The Problem is a hypothetical Moot Problem. It is only for the academic purpose having no concern with any pending/decided cases before any court and all details and names of the parties are fictitious and have nothing to do with reality even if found similar it is only coincident.