BLOGS

Passage-Based Questions on Environmental Law for CLAT PG [Part 1]

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Passage I

Some of the salient principles of “Sustainable Development”, as culled-out from Brundtland Report and other international documents, are Inter-Generational Equity, Use and Conservation of Natural Resources, Environmental Protection, the Precautionary Principle, Polluter Pays principle, Obligation to assist and cooperate, Eradication of Poverty, and Financial Assistance to the developing countries. We are, however, of the view that “The Precautionary Principle” and “The Polluter Pays” principle are essential features of “Sustainable Development”.

The “Precautionary Principle” – in the context of the municipal law – means:

(i) Environmental measures – by the State Government and the statutory authorities must anticipate, prevent, and attack the causes of environmental degradation.
(ii) Where there are threats of serious and irreversible damage, lack of scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.
(iii) The “Onus of proof” is on the actor or the developer/industrialist to show that his action is environmentally benign.

“The Polluter Pays” principle has been held to be a sound principle by this Court in *Indian Council for Enviro-Legal Action v. Union of India, J.T. (1996) 2 196*. The Court observed, “We are of the opinion that any principle evolved in this behalf should be simple, practical and suited to the conditions obtaining in this country”.

The Court ruled that once the activity carried on is hazardous or inherently dangerous, the person carrying on such activity is liable to make good the loss caused to any other person by his activity irrespective of the fact whether he took reasonable care while carrying on his activity. The rule is premised upon the very nature of the activity carried on. Consequently, the polluting industries are absolutely liable to compensate for the harm caused by them to villagers in the affected area, to the soil and to the underground water and hence, they are bound to take all necessary

measures to remove sludge and other pollutants lying in the affected areas.

The “Polluter Pays” principle as interpreted by this Court means that the absolute liability for harm to the environment extends not only to compensate the victims of pollution but also the cost of restoring the environmental degradation. Remediation of the damaged environment is part of the process of “Sustainable Development” and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology.

*(Extract from **Vellore Citizens Welfare Forum v. Union of India, 1996 (5) SCC 647**)*

1. Which of the following best describes the burden of proof according to the Court’s interpretation of the Precautionary Principle under municipal law?

a) Before taking action, the state must prove environmental harm

b) The victims must prove that the harm is irreversible

c) The industrialist or actor must demonstrate that the activity is ecologically benign

d) Before taking preventive action, scientific assurance is required

2. Which of the following best sums up the extent of liability under the Polluter Pays Principle?

a) Only pollution victims are eligible for compensation

b) Liability is limited to fines levied by statutory agencies

c) Liability encompasses both environmental restoration and compensation

d) Liability is contingent upon evidence of negligence or fault

3. Assertion (A): Polluting industries are fully accountable for environmental damage under Indian environmental jurisprudence.
Reason (R): Regardless of reasonable care, liability results from the activity’s inherent danger.

a) Both A and R are true, and R correctly explains A

b) Both A and R are true, but R does not explain A

c) A is true, but R is false

d) A is false, but R is true

4. Which Indian legislative framework gives authorities the power to repay remediation costs, hence operationalising the Polluter Pays Principle?

a) Environment (Protection) Act, 1986

b) Water (Prevention and Control of Pollution) Act, 1974

c) National Green Tribunal Act, 2010

d) Air (Prevention and Control of Pollution) Act, 1981

5. Which constitutional provision was the main basis for the explicit incorporation of the Precautionary Principle into Indian environmental law?

a) Article 21

b) Article 32

c) Article 19(1)(g)

d) Article 14

Passage II

The State, in particular has duty in that behalf and to shed its extravagant unbridled sovereign power and to forge in its policy to maintain ecological balance and hygienic environment. Article 21 protects right to life as a fundamental right. Enjoyment of life and its attainment including their right to life with human dignity encompasses within its ambit, the protection and preservation of environment, ecological balance free from pollution of air and water, sanitation without which life cannot be enjoyed. Any contra acts or actions would cause environmental pollution. Environmental, ecological, air, water, pollution, etc. should be regarded as amounting to violation of Article 21.

Therefore, hygienic environment is an integral facet of right to healthy life and it would be impossible to live with human dignity without a humane and healthy environment. Environmental protection, therefore, has now become a matter of grave concern for human existence. Promoting environmental protection implies maintenance of the environment as a whole comprising the man-made and the natural environment. Therefore, there is a constitutional imperative on the State Government and the municipalities, not only to ensure and safeguard proper environment but also an imperative duty to take adequate measures to promote, protect and improve both the man-made and the natural environment.

*(Extract from **Virender Gaur v. State of Haryana, (1995) 2 SCC 577**)*

6. The state must shed its extravagant unbridled sovereign power. This suggests that:

a) The State has complete control over environmental issues

b) Environmental governance necessitates moderation and prudent use of authority

c) Environmental infractions are covered by sovereign immunity

d) The primary responsibility for environmental conservation is on the individual

7. Which of the following principles was established in Virender Gaur v. State of Haryana?

a) Article 14 of the Constitution guarantees the right to a clean environment

b) Article 21 of the Constitution guarantees the right to a wholesome, clean, and sanitary environment; and

c) Only private businesses are subject to absolute liability, not state operations

d) Only Parliament has the authority to safeguard the environment

8. Which of the following cases made it clear that Article 21 of the Constitution includes the right to a pollution-free environment for the first time?

a) Subhash Kumar v. State of Bihar

b) Vellore Citizens Welfare Forum v. Union of India

c) Virender Gaur v. State of Haryana

d) Indian Enviro Legal Council v. Union of India

9. Which article in the Constitution requires citizens to have the fundamental duty to protect and improve the environment?

a) Article 21

b) Article 51A(g)

c) Article 48

d) Article 19(1)(g)

10. The Supreme Court has emphasised the connection between public health, sanitation, and the right to life in:

a) M.C. Mehta v. Kamal Nath

b) Vellore Citizens Welfare Forum v. Union of India

c) Municipal Council, Ratlam v. Vardhichand

d) Rural Litigation and Entitlement Kendra v. State of U.P.

Passage III

India faces a number of pressing near-term challenges that directly impact the right to a healthy environment, particularly for vulnerable and indigenous communities including forest dwellers. The lack of reliable electricity supply for many citizens not only hinders economic development

but also disproportionately affects communities, including women and low-income households, further perpetuating inequalities.

Therefore, the right to a healthy environment encapsulates the principle that every individual has the entitlement to live in an environment that is clean, safe, and conducive to their well-being. By recognizing the right to a healthy environment and the right to be free from the adverse effects of climate change, states are compelled to prioritize environmental protection and sustainable development, thereby addressing the root causes of climate change and safeguarding the wellbeing of present and future generations. It is imperative for states like India, to uphold their obligations under international law, including their responsibilities to mitigate greenhouse gas emissions, adapt to climate impacts, and protect the fundamental rights of all individuals to live in a healthy and sustainable environment.

*(Extract from **M.K. Ranjitsinh v. Union of India, 2024 INSC 280**)*

11. In order to protect the welfare of current and future generations, states must:

a) Give impacted communities prompt compensation

b) Concentrate solely on renewable energy

c) Limit the growth of the industry

d) Deal with the underlying causes of climate change

12. States are bound by recognition of the right to a healthy environment and protection from the adverse effects of climate change to:

a) Concentrate only on climate adaptation

b) Give environmental preservation and sustainable development top priority

c) Postpone goals for economic growth

d) Assign accountability to private actors

13. Which constitutional rights did the Supreme Court connect to the impacts of climate change in M.K. Ranjitsinh v. Union of India?

a) Articles 14 and 21

b) Articles 19 and 21

c) Articles 21 and 48A

d) Articles 21 and 58A(g)

14. Which of the following cases provided the framework for environment clearances to make way for development projects?

a) A.P. Pollution Control Board v. M.V. Nayudu (2001)

b) Subhash Kumar v. State of Bihar (1991)

c) Sher Singh vs State of Himachal Pradesh (2014)

d) Lafarge Umiam Mining v. Union of India (2011)

15. Which doctrine permits courts to impose environmental limitations even in cases when there is insufficient scientific proof of harm?

a) Polluter Pays Principle

b) Precautionary Principle

c) Inter-generational Equity

d) Public Trust Doctrine

Answers And Explanations

1. (C)
2. (C)
3. (A)
4. (C)
5. (A)
6. (B)
7. (B)
8. (A) In Subhash Kumar v. State of Bihar (1991), the Supreme Court ruled that the right to a healthy environment is covered by Article 21. They established an expansive reading of the word “life” in Article 21, incorporating environmental protection in the right to life, by adhering to the liberal philosophy that began in the Rural Litigation case.
9. (B)
10. (C) In the case Municipal Council, Ratlam v. Shri Vardhichand (1980), residents sued the Ratlam Municipality for failing to provide basic sanitation. The ruling established that local governments are required to provide basic civic services (such as drainage and clean water) and cannot use “lack of funds” as an excuse, connecting the “Right to Life” (Article 21) to the Right to a Healthy Environment. Public interest litigation (PIL) on environmental issues was made possible by the court’s decision for the council to construct drainage, emphasising municipal accountability.

11. (D)
12. (B)
13. (B)
14. (D) Lafarge Umiam Mining (P) Ltd. v. Union Of India (2011 INSC 461) offers a crucial analysis of how economic growth and environmental preservation interact within the Indian legal system. This ruling recognises the role of local communities in environmental clearance operations and emphasises the importance of adhering to regulatory regulations. It emphasises that economic development initiatives can move forward without jeopardising environmental integrity as long as due diligence and appropriate disclosures are made. But it also establishes a precedent that any departure or deception may result in the revocation of clearances, protecting environmental goals.
15. (B) According to the precautionary principle, the lack of solid scientific evidence should not be used as an excuse for inaction when there is a risk of serious environmental harm. It adopts the strategy of “being safe rather than sorry.”