

Environmental Law

Q1) What is environment?

The word "Environment" is derived from the French word "Environmer", means encircle and encompasses within it the land, water, flora, fauna, living creatures, forests and everything on the earth. Thus environment is everything which surround us.

Environment is clearly defined under Section 2 (a) of the Environment (Protection) Act 1986 as "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-organism and property".

It is important that the environment of which land, water, air, human beings plants and animals are the components be preserved and protected from degradation to enable maintenance of the ecological balance.

Q2) What is Environment Pollution?

Environment is clearly defined under Section 2 (a) of the Environment (Protection) Act 1986 as "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-organism and property.

"Environmental Pollution" means the presence in the environment of any environmental pollutant'. "Environmental pollutant" means any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.

Q3) What are the different kinds of pollutions?

1. AIR POLLUTION: As per Section 2 of Air Pollution Act, 1981, Air Pollution means the presence in the atmosphere of any air pollutant. Air pollutant means any solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to human beings or living creatures or plants or property or environment. Example: Smoke, fly ash, pesticides present in air.

2. **WATER POLLUTION:** As per Section 2(6) of Water (prevention and control of pollution) Act, 1974, water pollution means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or any other liquid, gaseous or solid substance into water (whether directly or indirectly) which may or likely to create a nuisance for domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms.
3. **LAND POLLUTION:** Land and soil pollution takes place mainly due to the disposal of solid and semi-solid waste from agricultural practices and from poor sanitation, soil erosion, consequent upon land use changes, deforestation, excessive use of chemical fertilizers, pesticides, insecticides, herbicides, polluted waste water from industrial and urban areas. Urbanization coupled with the desire of men to live comfortably has further aggravated the problem.
4. **FOOD POLLUTION:** Food is one of the most essential resources of human survival. Pollution of food begins when the seeds need to be protected from use of chemicals. Again chemicals are used to protect plant growth, flowers, fruits and vegetables.
5. **RADIO-ACTIVE POLLUTION:** The advent of nuclear weapons and also to have more and more such destructive weapons has led the exposure level to radiations caused by such tests increase. Radio-active pollution immediately affects the man and it is his health which is at stake. There is every possibility that water sources particularly the rivers and sewers are likely to be affected by such radiation. Man may be exposed to such contamination directly by the radioactive particles in air, radioactive gases and absorption of contaminants by respiratory tract and indirectly by consuming food chains.
6. **NOISE POLLUTION:** The word noise simply connotes unwanted sound or ordinarily by noise we can mean a sound which is unpleasant that exerts a pressure on our mind. The sources of noise pollution are numerous, but broadly it can be divided into two. • Industrial and • Non- industrial. The effects of noise are becoming deadlier day to day. It impairs our sensibility, physiological, psychological; it may lead to loss of hearing, speech

interference, loss of efficiency, various diseases, and interference with sleeping besides certain other miscellaneous effects

Q4) What are the causes of pollution?

Ans) Causes of pollution and environmental degradation are of two types:

1. Natural causes

2. Man-made causes

Natural Causes- Drought, flood, cyclone, earthquake, molten lava of volcano, hurricane, twister, torrents, epidemic are the main natural causes / factors which cause environmental pollution. Since they are agents of nature and man has no control over them, they are known as natural causes.

Man-Made Causes There are four main man-made causes:

- a. **Population growth:** The rise in urban population is at a very high rate. This indicates an increasing demand for fuel, food, water, pollution - free air, space to live in and healthy conditions of life. Increasing population of urban areas has created the problem of land pollution, air pollution, water pollution, unsanitary conditions, slums - all cumulatively adversely affecting the quality of life. This is why Kolkata and Delhi are rated as 'choked cities'. The Supreme Court had to order shifting of polluting industries from Delhi and not to ply vehicles which are more than 15 years old.
- b. **Poverty :** The problems of slums, pavement dwelling, unsanitary conditions, commotion, shortage of food, increased demand of coal, firewood and kerosene, shelter and energy are intimately connected with poverty leading to environmental degradation and human health problems.
- c. **Urbanization:** Rapid and unplanned urbanization had also contributed to environmental pollution and degradation of human environment. This is the result of rapid population growth and unending migration of the poor from small towns and villages to urban centres. Now more than one-fifth population of the nation lives in urban areas. Therefore, urban population of metropolitan cities is increasing day by day. Slums are a major problem of big cities and significant contributors to environmental degradation
- d. **Industrialization:** Industries degrade the environment and pollute it in the following ways:

- i. Use of natural resources by industries destroys nature and affects the natural environment. The great demand and need of industries has resulted in overexploitation and stress on natural resources.
- ii. Residues of industries known as effluents are released in water and land without any treatment which pollutes the water and land, affecting the aquatic life and underground water.
- iii. Fossil fuel used by industries like coal, kerosene, diesel and atomic energy also pollutes the air in the form of smoke and radioactive particles.
- iv. Noise, also a major by-product of industries and industrial products, causes noise pollution.
- v. Industrial wastes - particularly hazardous waste and radioactive waste - have also become a major environmental pollution problem.

Q5) Write short note on Stockholm Conference:

Ans) The United Nations Conference on Human Environment held in June, 1972 at Stockholm placed the issue of the protection of biosphere on the official agenda of international policy and law.

The agenda of the conference consisted of the following:

Planning and management of human settlements for environmental quality.

Environmental aspects of natural resources management.

Identifications and control of pollutants and nuisances of broad international significance.

Educational, information, social and cultural aspects of environmental issues.

Development and environment.

The Stockholm Conference agendas, proclamations, principles and subsequent global, environment protection efforts shows the worlds realization of the need to preserve and protect the natural environment.

In United Nations Conference on Human Environment, at Stockholm the then Prime Minister of India Mrs. Gandhi while displaying the nations commitment to the protection of environment, said. "The natural resources of the earth, including the air, water, land flora and fauna and especially representative sample of the nature ecosystem must be safeguard for the benefits of present and future generations through careful planning or management, as appropriate.

Natural conservation including wildlife must therefore receive importance in planning for economic development”.

To comply with the principles of the Stockholm Declarations adopted by the International Conference on Human Environment, the Government of India, by the Constitution 42 Amendment Act, 1976 made the express provision for the protection and promotion of the environment, by the introduction of Article 48A and 51A (g) which form the part of Directive Principles of State Policy and the Fundamental Duties respectively.

Q6) What are the constitutional provisions regarding Environmental Protection?

Ans) In 1976, the Constitution's 42nd Amendment was passed and provisions regarding the protection of environment were incorporated into it. In the Chapter of Directive Principles of State Policy, a new provision in the form of Article 48A was incorporated which runs as follows:

“48-A. Protection and Improvement of Environment and safeguarding of Forests and Wildlife - The State shall endeavor to protect and improve the environment and to safeguard the forests and wildlife of the country.”

Fundamental Duties: Article 51A was also incorporated by the 42nd Constitution amendment. Sub-clause (g) of Article 51A is important which provides “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.”

The above mentioned constitutional provisions impose two-fold responsibilities. On the one hand, they give directive to the State for the protection and improvement of environment and on the other they cast a duty on every citizen to help in the preservation of natural environment.

Q7) Write Short note on the Convention on Biological Diversity

Ans) In 1992, at the Earth Summit held in Rio de Janeiro, Brazil, world leaders agreed on a comprehensive strategy for "sustainable development" by meeting our needs while ensuring that we leave a healthy and viable world for future generations.

The Convention on Biological Diversity, which was adopted at Rio, is a pact among the vast majority of the world's governments (190 of them) to make sure that as the world continues to develop, the diverse biological resources we need for sustenance of life on earth are not used up. This balance is called Sustainable Development. The Convention on Biological Diversity (CBD) came into force on 29th December 1993. The convention contained 42 Articles and 3 Annexures.

In the language of the United Nations, a Convention is an international agreement, or treaty, and the governments who sign it are called Parties to the Convention. The three goals of the Convention are:

- a) the preservation of biological diversity
- b) the sustainable use of its components
- c) the fair and equitable sharing of the benefits from the use of genetic resources.

Q8) What is Kyoto Protocol?

Ans) The Kyoto Protocol was adopted on 11th December 1997. Owing to a complex ratification process, it came into force on 16th February 2005. Currently, there are 192 Parties to the Kyoto Protocol. It is an international treaty to reduce greenhouse gas emissions. Kyoto Protocol applies to 6 greenhouse gases; carbon dioxide, methane, nitrous oxide, hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride. It is an extension to the 1992 United Nations Framework Convention on Climate Change.

In short, the Kyoto Protocol operationalizes the United Nations Framework Convention on Climate Change by committing industrialized countries and economies in transition to limit and reduce greenhouse gases (GHG) emissions in accordance with agreed individual targets. The Convention itself only asks those countries to adopt policies and measures on mitigation and to report periodically. The Kyoto Protocol only binds developed countries, and places a heavier burden on them under the principle of "common but differentiated responsibility and respective capabilities", because it recognizes that they are largely responsible for the current high levels of GHG emissions in the atmosphere.

Q9) What are the constitution provisions regarding environmental protection?

Ans) Article 253 of the Constitution empowers Parliament to legislate on any matter for implementing the international obligations and decisions taken at the international conference, association or other body's meeting.

Under Article 253, implementing the decisions of the Stockholm Conference of 1972, which was an international conference, was within the competence of the Parliament and accordingly Parliament passed many laws, viz. the Water (Prevention and Control of Pollution) Act, 1974, the Water (Prevention and Control of Pollution) Cess Act, 1977 and the Air (Prevention and Control of Pollution) Act, 1981. The Environment (Protection) Act of 1986 has also been passed to implement decisions arrived at the International Conference at Stockholm (1972) to preserve natural resources.

A) Inclusion of Articles 48-A and 51-A(g) relating to environment was a reassertion of the powers of Parliament provided under Article 253. Thus, in a way it was an implementation of the international obligation of the country as per the decisions taken at the Stockholm Conference of 1972.

B) Right to Pollution free and Healthful Environment - Fundamental Right

The Environmental laws which have been passed by the Parliament and State legislatures are based on the recognition of clean environment as a human right or fundamental right. Any attempt to defile, damage the natural environment would amount to violation of the human right to a clean environment. Chapter III dealing with 'fundamental right' (Articles 12 to 35) does not have any direct bearing on environmental degradation or eco-imbances, and has not even referred to these words at all. But the judicial pronouncements of the Supreme Court of India and State High Courts have significantly contributed in giving a newer and finer perspective to environment protection in the form of fundamental right. The Constitutional Scheme to protect and preserve the environment has been provided under Articles 21, 48-A and 51-A(g) which includes fundamental right to have healthful & pollution free environment, constitutional obligation of the State and fundamental duty of all the citizens of India to protect and improve the natural environment.

C) Right to Equality and Environment

The Indian Constitution guarantees 'right to equality' to all persons without any discrimination. This indicates that any action of the 'State' relating to environment must not infringe upon the right to equality as enshrined in Article 14 of the Constitution. The Stockholm Declaration, 1972 also recognized this principle of equality in environment management and it called up all the world's nations to abide by this principle.

D) Freedom of Trade and Commerce and the Environment

Most of the pollution is mainly from trade and business - particularly from industries. It has been found that tanneries, acid factories, tie and dye factories, distilleries and nowadays the hotel industries are contributing to environmental pollution. Thus, it all relates to fundamental right to freedom of trade and commerce/business guaranteed under Article 19(1)(g) of the Indian Constitution. Some of these industries or businesses/trades are carried on in a manner which endangers vegetation, animals, aquatic life and human health. But, time and again, it has been made clear that this freedom of trade and commerce is not absolute and is subject to certain reasonable restrictions. Therefore, any trade or business which is offensive to flora or fauna or human beings cannot be permitted to be carried on in the name of the fundamental right. In *M.C. Mehta v. Kamal Nath*, the Supreme Court made it abundantly clear that if a hotel is discharging untreated effluent into the river Beas, thereby disturbing the aquatic life and causing water pollution, it cannot be permitted to work. 'Any disturbance of the basic environment elements, namely air, water and soil, which are necessary for life, would be hazardous to life'. Thus, the court in the exercise of jurisdiction under Article 32 may only award damages but can also levy 'fine'.

E) Right to Life and Right to Clean, Healthy Environment

Article 21 of the Indian Constitution, though it guarantees right to life and personal liberty, does not directly confer right to clean, unpolluted and healthy environment. But the various judicial pronouncements on various occasions have expanded the right to life and personal liberty to include this right by recognizing various 'unarticulated liberties' as recognized implicitly by Article 21.

In *M.C. Mehta v. Kamal Nath*, It was clarified by the Supreme Court that 'any disturbance of the basic environment elements, namely air, water and soil, which

are necessary for 'life', would be hazardous to 'life' within the meaning of Article 21 of the Constitution.

Various provisions of the other environmental laws, e.g. provisions of the Water (Prevention and Control of Pollution) Act, 1974, or the Air (Prevention and Control of Pollution) Act, 1981 have also been enforced by the Court under Article 21 of the Constitution.

F) Right to Constitutional Remedies and Environment

Constitutional duty of protection of fundamental rights has been cast on the Supreme Court of India under Article 32 and on the State High Courts under Article 226 of the Constitution. Article 32 is a fundamental right and the Supreme Court of India entertains a writ petition for the enforcement of fundamental rights. Since the denial of the right to clean, healthful and unpolluted environment and its various attributes have been recognized by the Supreme Court as violative of right to equality [Article 14], right to freedom [Article 19(1)], right to life [Article 21], the Supreme Court has issued orders, directions and writs of mandamus, certiorari, etc from time to time. Similarly, the High Courts of the States are also empowered to issue orders, directions and writs under Article 226 for the enforcement of fundamental rights.

G) Directive Principles of State Policy and the Environment

Chapter IV (Article 36 to Article 51) deals with the Directive Principles of State Policy. Some of them specifically deal with the various facets of human health and environment. These Directive Principles sometimes become complimentary to the fundamental rights and are enforced by Courts of law. The following are some of the Directive Principles related to environment

Article 47: 'The State shall regard the raising of the level of nutrition and standard of living of its people and the improvement of public health as among its primary duties...'

Article 48-A: 'The State shall endeavour to protect and improve the environment and to safeguard the forests and wildlife of the country.'

Q10) Short note on Precautionary Principle (PP)

Ans) The precautionary principle, proposed as a new guideline in environmental decision making, has four central components:

1) taking preventive action in the face of uncertainty;

- 2) shifting the burden of proof to the proponents of an activity. Precautionary Principle (PP) is a rule of evidence and particularly it deals with the burden of proof in environmental cases. This principle shifts the burden on the polluter - individual / industrialist / entrepreneur - to prove that his activity / industry / process / operation is not a health hazard, damaging the environment and his action is 'environmentally caring
- 3) exploring a wide range of alternatives to possibly harmful actions; and
- 4) increasing public participation in decision making.

Q 11) Short note on Polluter Pay Principle

Polluter Pay principle:

The 'polluter pays' principle is the commonly accepted practice that those who produce pollution should bear the costs of managing it to prevent damage to human health or the environment. For instance, a factory that produces a potentially poisonous substance as a by-product of its activities is usually held responsible for its safe disposal. The polluter pays principle is part of a set of broader principles to guide sustainable development worldwide (formally known as the 1992 Rio Declaration). The principle underpins most of the regulation of pollution affecting land, water and air.

Q12) What is sustainable development?

sustainable development means economic development that is conducted without depletion of natural resources. Sustainable development is development that meets the needs of the present, without compromising the ability of future generations to meet their own needs.

Examples: Using recycled materials or renewable resources in development activities is an example of sustainable development. Building a new community in a previously undeveloped area without destroying the ecosystem or harming the environment is an example of sustainable development.

Q13) Environment Protection and IPC?

Ans) There are various sections in the Indian Penal Code, 1860 that make polluting the environment punishable. They can be used to prevent pollution in the environment. Chapter XIV of the IPC, containing Section 268-294-A, deals with the offences that are related to safety, public health, etc. These

provisions make public health a priority and make any act punishable which pollutes the environment and makes the life of an individual dangerous. Section 268 of IPC classifies environmental crimes as a public nuisance and it defines the term public nuisance as :

- a) If any person does any illegal act, or omission then he/she is guilty of an offence.
- b) Such an act must have caused a 'common injury' or danger. Annoyance to the public, or to the people of a vicinity, or such an act must violate someone's public right.
- c) A common nuisance is not excused on the ground that it causes some convenience or advantage.

Section 290 of IPC makes the offence of public nuisance punishable with a fine extending up to Rs. 200. Therefore, if any act or omission of polluting the environment is committed harming any citizen then the same shall be subject to prosecution. Section 290 also makes noise pollution an offence.

Q14) Environment Protection and CRPC?

Ans) The Indian Criminal Procedure Code of 1973, under its Chapter X, "Maintenance of public order and tranquility, provides preventive and mitigating measures for public nuisance cases pertaining to water, air, soil, and unsanitary/unhygienic conditions.

Section 133 provides for the remedy to environmental pollution in general by empowering a District Magistrate and Sub-Divisional Magistrate to stop the nuisance. Any order made under this provision shall not be questioned in any civil court.

There are certain other penal provisions primarily in two environmental legislations which are The Water (Prevention and Control of Pollution) Act, 1974, and Environment (Protection) Act, 1986. Section 47 of the Water Act makes a person vicariously liable for an offense committed by a company with that person being in charge of the business of the company. And another is Section 16 which of the Environment Act which is pari materia (similar) to Section 47 of the Water Act.

Q15) How the Preamble of the Indian Constitution leads to environment protection?

Ans) By 42nd Amendment to the Constitution, the Parliament, with an object of sensitizing the citizens of their duty, incorporated Article 51A in the Constitution, inter alia, requiring a citizen to protect and improve the natural environment including the forests, lakes, rivers and wild life and to have a compassion for living creatures.

Q16) Enlist various acts related to environment protection.

Ans. Following laws are enacted by Government of India for environmental protection:

- i) The Environment (Protection) Act, 1986
- ii) The Air (Prevention & control of Pollution) Act, 1981
- iii) Wildlife Protection Act, 1972
- iv) The Water (Prevention and Control of Pollution) Act, 1974

Q17) . Why do we refer Environment Protection Act 1986 as an umbrella Act?

Ans. In the wake of Bhopal tragedy, the Government of India enacted the Environment (Protection) Act, 1986 (EPA) under article 253 of the constitution. The purpose of the Act is to act as an "umbrella" legislation designed to provide a frame work for Central government , co-ordination of the activities of various central and state authorities established under previous laws, such as Water Act & Air Act.

The potential scope of the Act is broad, with "environment" defined to include water, air and land and the inter-relationships which exist among water, air and land, and human beings and other living creatures, plants, micro-organisms and property. Environment (Protection) Act is a landmark legislation to provide a single focus in the country for the protection of environment and to plug loopholes in the earlier laws.

Q18) What are the objectives of EPA 1986?

Ans) The chief aims and objectives of the Environment Protection Act, 1986 are listed below.

- a) Implementing the decisions made at the United Nations Conference on Human Environment held in Stockholm.
- b) Creation of a government authority to regulate industry that can issue direct orders including closure orders.

- c) Coordinating activities of different agencies that are operating under the existing laws.
- d) Enacting regular laws for the protection of the environment.
- e) Imposing punishments and penalties on those who endanger the environment, safety and health. For each failure or contravention, the punishment includes a prison term of up to five years or a fine of up to Rs. 1 lakh, or both. This can also be extended for up to seven years in cases.
- f) Engaging in the sustainable development of the environment.
- g) Attaining protection of the right to life under Article 21 of the Constitution.

Q19) Short Note on Biosphere?

Ans) The biosphere, which includes the ground and the air, is characterized as the region of the planet where organisms live. The biosphere is defined as the region on, above, and below the Earth's surface where life exists.

The biosphere is characterized as an area that contains all living organisms and the products of their activities. As a result, it plays a critical role in the maintenance of ecosystems, i.e., the existence of species and their reciprocal interactions. Biosphere is critical for climate regulation.

Q20) Write short note on Johansberg Convention?

Ans) The Johannesburg Convention was organized by the United Nations (UN) in Johannesburg in August - September 2002. It is also called Earth Summit 2002.

Earth Summit 2002 produced the Johannesburg Declaration on Sustainable Development, i.e an international agreement on the environment and sustainable development. The Johannesburg Declaration reiterates most of the proposals from the Rio Declaration on Environment and Development. It had a broader agenda than the Rio Summit in 1992. Sustainable development means development (i.e., increased or intensified economic activity; sometimes used as a synonym for industrialization) that meets the cultural and physical needs of the present generation of persons without damaging the ability of future generations to meet their own needs. In the summit, various key issues were addressed, including Poverty, Water quality and availability, Cleaner energy, Health, Good governance, Technology, Production and Consumption, Oceans and Fisheries,

Tourism. Other related issues such as globalization, women's rights were also discussed.

Q21) What is transnational pollution?

Ans) Transnational pollution is "pollution whose physical origin is situated wholly or in part within the area under jurisdiction of one state and which has adverse effects, other than effects of a global nature, in the area under jurisdiction of another state.

Q22) Write short note on absolute liability ?

Ans) In Absolute Liability, the defendant does not have any scope for defence or exceptions but is held completely liable for the damages caused by them in all circumstances. This rule applies to the natural or the non-natural use of any land. In Absolute Liability, the presence of hazardous or inherently dangerous substances or objects is necessary. In Absolute Liability, the escape of such dangerous things is not necessary, but the mere use of a hazardous substance makes the party subject to this rule. It is applicable to damage caused to people inside as well as outside the defendant's premises. The damages paid to the victims are exemplary in nature and are much greater as the defendants are liable for people's lives and environmental conditions in such cases. The examples of Absolute Liability are Bhopal Gas tragedy, Uphaar Cinema case (1997) etc.

Q23) What is Ecology?

Ans) Ecology is the study of interrelationship of organism (plants, animal, microbes) with physical (temperature, water, air, soil, light etc) as well as biotic environment. Here, environment refers to all the conditions that influence and affect the development and sustainability of life of all organisms present on the earth. It is immediate surroundings of living organisms in which it lives and operates.

Q24) Write short note on grazing land?

Ans) grazing land is a field covered with grass or herbage and suitable for grazing by livestock. synonyms: lea, ley, pasture, pastureland. With the persistent deforestation and conversion of forest land for residential/industrial use, the size of grazing land is falling considerably. Government, through various acts like Forest Conservation Act 1980, aims preservation of grazing land by prohibiting conversion of forest land into agriculture or grazing land.

Q25) What is nuclear radiation?

Ans) Nuclear radiation refers to the emission of particles like photons during reactions that particularly include the nucleus of an atom. Nuclear radiation is also recognized as ionising radiation. The particles emitted by nuclear reactions can remove electrons from atoms and molecules and ionise them because they are suitably energetic. Though nuclear energy is considered important and is used in many applications like power generation as it produce very little pollution when compared to fossil fuels, they certainly do not come without their risks (example Chernobyl nuclear disaster).

The most damaging of nuclear radiation effects involves DNA. Energy from the radiation damages the DNA, or genetic material, within the cell. The body can repair damage from small amounts of radiation, but large amounts can result in cell death and even cancer.

Nuclear radiation can impact the environment in three primary ways: improper disposal of nuclear waste, direct exposure via disasters and through the mining process of uranium

The disaster at Chernobyl provided researchers with an example of how nuclear radiation affects the environment after a large-scale meltdown. Plants and animals within the affected area take up radioactive particles, and these move through the ecosystem through bioaccumulation.

Radiation pollution within waterways also accumulates within fish and other aquatic organisms, and runoff from radiation within the soil provides additional contamination.

Q26) What is UNEP?

Ans) The United Nations Environment Programme (UNEP) is the leading environmental authority in the United Nations system. UNEP uses its expertise

to strengthen environmental standards and practices while helping implement environmental obligations at the country, regional and global levels.

Its mandate is to provide leadership, deliver science and develop solutions on a wide range of issues, including climate change the management of marine and terrestrial ecosystems, and green economic development. The organization also develops international environmental agreements; publishes and promotes environmental science and helps national governments achieve environmental targets.

UNEP six areas of concentration

- a) Climate change. UNEP strengthens the ability of countries to integrate climate change responses by providing leadership in adaptation, mitigation, technology and finance.
- b) Post-conflict and disaster management UNEP conducts environmental assessments in crisis-affected countries and provides guidance for implementing legislative and institutional frameworks for improved environmental management
- c) Ecosystem management Facilitates management and restoration of ecosystems in a manner consistent with sustainable development, and promotes use of ecosystem services.
- d) Environmental governance UNEP supports governments in establishing, implementing and strengthening the necessary processes, institutions, laws, policies and programs to achieve sustainable development at the country, regional and global levels, and mainstreaming environment in development planning.
- e) Harmful substances UNEP strives to minimise the impact of harmful substances and hazardous waste on the environment and human beings.
- f) Resource efficiency/sustainable consumption and production UNEP focuses on regional and global efforts to ensure natural resources are produced, processed and consumed in a more environmentally friendly way

Q27) Write short note on right to development?

Ans) Right to live in a pollution free environment given under Article-21 of our Constitution held in Subhash Kumar v. State of Bihar (1991). At the same time the right to development puts an obligation on the State to ensure benefits of development of citizenship. In the recent Rajeev Suri case, the supreme court

while dealing with the central vista project considered the balance between environment and development. Environment does not mean compromising the development. Similarly development does not mean compromising the environment. Both are two pillars of sustainable development.

We know that some of the rights not expressly mentioned in our Constitution have been recognized as Fundamental Rights by the judiciary. Right to environment prescribed as guidelines under Article-21 & Article-48A. Right to life means to have more than survival and not mere animal existence. Right to development was in a document produced at 1992's United Nations Conference on Environment and Development (UNCED) in Rio De Janeiro, Brazil popularly known as Earth Summit. According to Principle-3 of the declaration, the right to development must be fulfilled to equitably meet and develop the environmental needs of present and future generations.

Q28) Write salient features of Environment Protection Act?

Ans) The Environment (Protection) Act (EPA) was enacted in 1986 with the objective of providing the protection and improvement of the environment. It empowers the Central Government to establish authorities charged with the mandate of preventing environmental pollution in all its forms and to tackle specific environmental problems that are peculiar to different parts of the country. The Act is one of the most comprehensive legislations with a pretext to protection and improvement of the environment. The EPA Act was enacted under Article 253 of the Indian Constitution which provides for the enactment of legislation for giving effect to international agreements.

Salient Features of EPA.

a) Powers of the Central Government: The Central Government shall have the power to take all such measures as it deems necessary for the purpose of protecting and improving the quality of the environment in coordination with the State Governments.

b) The Central government is also empowered to:

Plan and Execute a nation-wide programme for the prevention, control and abatement of environmental pollution.

Lay down standards for the quality of environment in its various aspects.

Lay down standards for emission or discharge of environmental pollutants from various sources.

The restriction of areas in which any industries, operations or processes or class of industries, operations or processes shall/ shall not be carried out subject to certain safeguards.

- c) The Central Government may appoint officers under this Act for various purposes and entrust them with the corresponding powers and functions.
- d) The stoppage or regulation of the supply of electricity or water or any other service.
- e) **Restriction on Pollutant Discharge:** No individual or organisation shall discharge/emit or permit to discharge/emit any environmental pollutant in excess of the prescribed standards.
- f) **Compliance with Procedural Safeguards:** No individual shall handle or shall be caused to handle any hazardous substance except in accordance with the procedure and without complying with the safeguards, as prescribed.
- g) **Establishment of Environmental Laboratories:** The Central Government, as per the Act, is entitled to establish environmental laboratories. Recognise any laboratory or institute as environmental laboratories to carry out the functions entrusted to such a laboratory.
- h) **Appointment of Government Analyst:** A Government Analyst is appointed by the Central Government for the analysing the samples of air, water, soil or other substance sent to a recognised environmental laboratory.
- i) **Penalties for Offences:** Non-compliance or Contravention to any of the provisions of the Act is considered as an offence. Any offences under the EPA are punishable with the imprisonment of upto five years or a fine upto one lakh rupees or both.
- j) **Offences by Companies:** If an offence under this Act is committed by a company, every person directly in charge of the company, at the time of the commitment of offence, is deemed to be guilty unless proven otherwise.
- k) **Offences by Government Departments:** If an offence under this Act has been committed by any Department of Government, the Head of the Department (HoD) shall be deemed to be guilty of the offence unless proven otherwise.

Q29) What is Environment Impact Assessment?

Ans) Environment Impact Assessment is a process through which an environmental impact of a proposed development is evaluated. While undertaking Environmental Impact Assessment (EIA), the inter-related socio-economic, cultural, and human-health impacts are considered.

Objectives of EIA

- a) Identifying, predicting, and evaluating economic, environmental, and social impacts of development activities.**
- b) Providing information on the environmental consequences for decision making.**
- c) Promoting environmentally sound and suitable development by identifying appropriate alternatives and mitigation measures.**
- d) It is government-policy that any industrial project in India has to secure EIA clearance from the Environment Ministry before approval for the project itself**

Q30) Write short note on UN declaration on right to development?

Ans) The right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedoms can be fully realized.

The right to development has a complex relationship with the right to a healthy environment. The idea that economic development comes at the price of environmental degradation was common during the second half of the 20th century.

Principle 3 of the Rio Declaration establishes that 'The right to development must be fulfilled so as to equitably meet developmental and environmental needs of present and future generations.' Furthermore, Principle 4 states the fact that, 'In order to achieve sustainable development, environmental protection shall constitute an integral part of the development process and cannot be considered in isolation from it.

Similarly, the shared principles of the 2030 Agenda for Sustainable Development affirms 'Sustainable development recognizes that eradicating poverty in all its forms and dimensions, combating inequality within and among

countries, preserving the planet, creating sustained, inclusive and sustainable economic growth and fostering social inclusion are linked to each other and are interdependent.'

Q31) Who issues certificate of ownership under Wildlife Protection Act 1972?

Ans) As per Section 42, The Chief Wild Life Warden may, issue a certificate of ownership in such form, as may be prescribed, to any person who, in his opinion, is in lawful possession of any wild animal or any animal article, trophy, uncured trophy and may, where possible, mark, in the prescribed manner, such animal article, trophy or uncured trophy for purposes of identification. Provided that before issuing the certificate of ownership in respect of any captive animal, the Chief Wild Life Warden shall ensure that the applicant has adequate facilities for housing, maintenance and upkeep of the animal.

Q32) Write a note on Public Trust Doctrine?

Ans) Public trust Doctrine was propounded by the Roman Empire 1500 years ago which state that "the air, the water, and the sea are all common to the public and is entitled to be used by anyone due to the law of nature.

Traditionally Public trust doctrine was only limited to protect the rights like the right to fisheries, hunting, boating, navigation for anchoring or standing. But in the present scenario, it checks the state action for management of the resources and it also questions its action. It mentions the state as a trustee holds all the resources for the benefit of the public. It is the duty of the state to preserve, prevent and protect the resources for the public use. The state is expected to perform its positive duty.

The Public Trust Doctrine Imposes certain restriction on the government.

There are some resources which may not be used by the public but it should be stored by the government for the public. These resources are the gift of nature and it cannot be sold by the government. The property must be maintained and its adaptation should not lead to private use. There are certain limits and No individual should be allowed to cross these limits.

The doctrine is first mentioned in case of *M C Mehta v Kamal Nath* where the Indian Supreme Court applied Public Trust Doctrine with regard to the protection and preservation of natural resources.

Q33) Write a note on Public Liability Insurance Act 1991?

Ans) The Public Liability Act 1991 was ordained to provide direct assistance to people affected by accidents related to handling hazardous materials and other coerced and related matters. Coverage insurance is claimed when someone is injured at the place of business. Places like shopping centres, night clubs, and theatres need this type of insurance to protect themselves. The incident of Bhopal Gas Leak in December 1984 was considered to be one of the main reason for enactment of this law and aims to provide immediate assistance to victims of accidents involving hazardous industries.

Q34) Write a note on Bhopal Gas Leak?

Ans) Bhopal Gas Leak is considered the worst industrial disaster in the world that happened on a cold winter night in the early hours of December 03, 1984. Around midnight, a chemical reaction began at the Union Carbide (India) Limited plant, which resulted in the release of a deadly gas methyl isocyanate (MIC) from one of the tanks. As a result, the gas cloud gradually tumbled enveloping the city within its deadly folds. Both the city and the lake had become a gas chamber. Nearly 3,000 people died in the tragedy, and thousand more were physically injured and affected in various forms.

Wildlife was killed, injured, and contaminated. The business was totally cut off. People's lives were affected. The environment was polluted disturbed ecology and wildlife. An estimated 40 tons of methyl isocyanate (MIC) gas leaked from the Union Carbide Factory.

The Union of India immediately enacted the Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985 (the Bhopal Act) for speedy trial of this case and to prevent the accused from escaping liability. The Union of India tried to litigate the case before the foreign courts but the foreign courts dismissed their petition citing a jurisdictional conflict.

As a result, the suit was then filed in the District Court of Bhopal, claiming damages of Rs. 3.5 billion. This interim compensation was awarded by the district court. The company appealed in the High Court of Madhya Pradesh for reducing this interim compensation amount and they succeeded. The High Court of Madhya Pradesh reduced this amount to Rs. 2.5 billion. The appeal was then filed in the Apex Court which applied the doctrine of absolute liability and granted a compensation order of 470 million dollars which was not even 15% of the original claim. This incident opened the eyes of Indian government, which passed many enactments like Environment Protection Act 1986, Factories Act 1987, Public Insurance Liability Act 1991 amongst other measures for mitigating such types of disasters.

Q35) What is marine pollution?

Ans) Marine pollution is a combination of chemicals and trash, most of which comes from land sources and is washed or blown into the ocean. This pollution results in damage to the environment, to the health of all organisms, and to economic structures worldwide

This type of pollution occurs when human activities, notably the use of fertilizer on farms, lead to the runoff of chemicals into waterways that ultimately flow into the ocean. The increased concentration of chemicals, such as nitrogen and phosphorus, in the coastal ocean promotes the growth of algal blooms, which can be toxic to wildlife and harmful to humans. The negative effects on health and the environment caused by algal blooms hurt local fishing and tourism industries. Marine trash encompasses all manufactured products—most of them plastic—that end up in the ocean. Littering, storm winds, and poor waste management all contribute to the accumulation of this debris, 80 percent of which comes from sources on land. Common types of marine debris include various plastic items like shopping bags and beverage bottles, along with cigarette butts, bottle caps, food wrappers, and fishing gear. Plastic waste is particularly problematic as a pollutant because it is so long-lasting. Plastic items can take hundreds of years to decompose. Some of the sources of marine pollution are as under:

a) Pollution directly enters the ocean in the form of sewage.

- b) Oil spills from ships also cause marine pollution. It is one of the major toxins that contaminate ocean water which does not clean up so easily.
- c) Ocean pollution is also caused due to the toxins and chemicals entered into seawater through industrial & agricultural wastes.
- d) Deep-sea mining affects the base level of the ocean. The pollutants that release through mining of metals such as silver, gold, copper etc. into the seawater affect the life of the marine ecosystem.
- e) Marine water also gets polluted through land runoff. It occurs when excessive water from rain, flood etc. after penetration enters into the sea water. This water enters the oceans along with contaminants such as pesticides, oil, fertilizers, waste from land animals etc. and pollutes the ocean water.
- f) Acid rain is also responsible for marine pollution. During acid rains, the sulphuric acid and nitric acid mix with marine water, increasing the acidity of the water

Q36) Write a note on Hazardous Substance management?

Ans) As per Section 2(e) of the Environmental Protection Act, 1986 "Hazardous Substance" has been characterized as "an element or preparation which, by reason of its synthetic or physic-synthetic properties or managing, is a danger to cause harm to individuals, other existing animals, flora, microorganisms, other belongings or the earth.

Harmful and Other Wastes (Management and Transboundary Movement) Rules, 2016 are the essential guidelines which address the supervision of harmful waste in India. They were set up under the Environment (Protection) Act, 1989, which gives the Central Government the capacity to "acknowledge all such measures as it might consider essential or convenient for the purpose of protecting and improving the quality of the environment and counteracting, controlling and abating ecological pollution". These standards were endorsed after the Bhopal Gas Tragedy Case to counteract further such cases. According to Section 4 of these rules, The occupier and government are required to follow specified process and obligations towards handling and disposal of hazardous waste. Section 16 of the Hazardous and Other Wastes (Management and Transboundary Movement) Rules, 2016 lists out the proper procedure for

treatment, storing and removal facility of hazardous and other waste which has to be followed by concerned industry and government authorities.

Q37) What is Nuisance?

Ans) Nuisance is the unlawful interference with a person's use and enjoyment of his own land/property. It can be attributed to any sort of disturbance that hampers one's ability to enjoy his space without hindrance. Public nuisance: Public nuisance is caused when the action of one affects many individuals or affects a community at large. It is an act or omission that affects the health, safety, and/or the dignifiable standard of living of many people at once.

Ram Lal vs Mustafabad Oil And Cotton Ginning(1968): It was held that when the noise level crosses a certain threshold value it should be considered as a public nuisance. It falls under the category of noise pollution. It is a public nuisance as it causes discomfort to many at once. It is important to note that it does not matter whether the activity that caused harm was legal. The fact that it is causing harm is enough to award compensation.

In cases of nuisance, to determine liability it is important to look at two factors:
Foreseeability: If the accident/incident was foreseeable and could be prevented then the defendants are to be held liable.

Reasonableness: In nuisance cases, the burden of proving unreasonableness is often difficult because the reasonableness of the defendant's conduct is determined by weighing its utility against the gravity of harm to the plaintiff.

Q38) What is Global Warming?

Ans) Global warming is a gradual increase in the earth's temperature generally due to the greenhouse effect caused by increased levels of carbon dioxide, CFCs, and other pollutants. Global warming is the phenomenon of a gradual increase in the temperature near the earth's surface. This phenomenon has been observed over the past one or two centuries. This change has disturbed the climatic pattern of the earth. However, the concept of global warming is quite controversial but the scientists have provided relevant data in support of the fact that the temperature of the earth is rising constantly.

There are several causes of global warming, which have a negative effect on humans, plants and animals. These causes may be natural or might be the outcome of human activities. Causes of global warming includes deforestation, use of vehicles, industrial development, use of chemicals/fertilisers in agriculture, chlorofluorocarbon etc. Effects of global warming includes rise in temperature, climate change, increase in disease, high mortality rates, loss of natural habitat etc.

Q39) In Navratri festival a Garba dance programme was continued after 10 pm in high decibels in the compound of one of the Housing society regularly. Despite of many complaints from the disturbed surrounding locality residents it wasn't stopped. a. Who would be the appropriate authority to lodge a complaint and under what grounds. b. What are the actions that can be taken against the Respondents? c. Explain the remedies under the Indian Penal Code.

Ans) For Navratri festival, local authorities provide special permission wherein the limit on sound, time limits are also mentioned and needs to be abide by the respective group of people/organisers. If any body breaks these norms, then the same can be considered as public nuisance and any person suffering due to this can lodge a police complaint u/s 268 for causing public nuisance. The punishment for such nuisance is a fine up to Rs. 200. If you continue to make noise even after the Court directs you to stop the noise, the punishment is jail time up to 6 months along with a fine under IPC.

Since noise pollution causes significant harm to the environment and surroundings, it is taken seriously under the law and is also punishable under Environment protection act 1986. As per Section 15, the punishment for this offence is jail time up to five years and/or a fine up to Rs. 1 Lakh. If the noise pollution continues, then one may be punished with an additional fine of Rs. 5000 for every day the pollution happens. If the noise continues for more than a year despite orders to stop it, then you may be punished with jail time up to 7 years.

Q 40) What is Taxidermy and trophy in Wildlife Protection Act?

Ans) Taxidermy is the art and science of preserving a dead animal using stuffing and mounting techniques. The Wildlife Protection Act (1972) defines taxidermy as the means of curing, preparing and preserving or mounting of trophies. Under the Act, hunting and taxidermy of scheduled species is banned. Possession of wildlife trophies and derivatives has to be declared by the owner, and tagged by the Forest Department to receive an ownership certificate. trophy" means the whole or any part of any captive animal or wild animal, other than vermin, which has been kept or preserved by any means, whether artificial or natural, and includes, rugs, skins, and specimens of such animals mounted in whole or in part through a process of taxidermy, and antler, horn, rhinoceros horn, feather, nail, tooth, musk, eggs, and nests etc.

Q41) Explain 'Day' and 'Night' as per the Noise Pollution Rules 2000?

Ans) As per the Noise Pollution Rules 2000, Day time shall mean from 6.00 a.m. to 10.00 p.m. and Night time shall mean from 10.00 p.m. to 6.00 a.m. In industrial areas, the permissible limit is 75 dB for daytime and 70 dB at night. In commercial areas, it is 65 dB and 55 dB, while in residential areas it is 55 dB and 45 dB during daytime and night respectively.

Q42) Explain the provisions relating to collection of samples and the procedure to be followed under the Air Act?

Ans) As per Section 26 of The Air (Prevention And Control Of Pollution) Act, 1981, A State Board or any officer empowered by it in this behalf shall have power to take samples of air or emission from any chimney, flue or duct or any other outlet, for the purpose of analysis, in such manner as may be prescribed. The person taking the sample shall— (a) serve a notice on the occupier or his agent, in such form as may be prescribed, of his intention to have the sample for analysis.

collect a sample of emission for analysis in the presence of the occupier or his agent, ;

cause the sample to be placed in a container or containers which shall be marked and sealed and shall also be signed both by the person taking the sample and the occupier or his agent;

send, without delay, the container or containers to the laboratory established or recognised by the State Board

in a case where the occupier or his agent wilfully absents himself, the person taking the sample shall collect the sample of emission for analysis to be placed in a container or containers which shall be marked and sealed and shall also be signed by the person taking the sample, and in a case where the occupier or his agent is present at the time of taking the sample but refuses to sign the marked and sealed container or containers of the sample of emission as required, the marked and sealed container or containers shall be signed by the person taking the sample, and the container or containers shall be sent without delay by the person taking the sample for analysis to the laboratory and such person shall inform the Government analyst in writing, about the wilful absence of the occupier or his agent, or, as the case may be, his refusal to sign the container or containers.

Q 43) Under the Environment Protection Act, explain the power to give directions?

Ans) As per section 5 of Environment (Protection) Act, 1986, the Central Government may, in the exercise of its powers and performance of its functions under this Act, issue directions in writing to any person, officer or any authority and such person, officer or authority shall be bound to comply with such directions. These directions may include, the closure, prohibition or regulation of any industry, operation or process; or stoppage or regulation of the supply of electricity or water or any other service.

Q 44) Define Hazardous System?

Ans) Hazardous substance' means any substance or preparation which, by reason of its chemical or physico-chemical properties or handling, is liable to cause harm to human beings, other living creatures, plant, micro-organism, property or the environment.

Q 45) What is reserved forest?

Ans) Reserve forests are the most restricted forests and are constituted by the State Government on any forest land or wasteland which is the property of the Government. In reserved forests, local people are prohibited, unless specifically allowed by a Forest Officer in the course of the settlement.