

Q.1 Explain the constitution and composition of Joint Boards under the Water (Prevention and Control of Pollution) Act, 1974.

Joint Boards under the Water (Prevention and Control of Pollution) Act, 1974, play a crucial role in addressing water pollution issues. Here are some key pointer notes on their constitution and composition:

Establishment: Joint Boards are established under Section 13 of the Water (Prevention and Control of Pollution) Act, 1974.

Constitution: Joint Boards typically consist of members from various stakeholders involved in water pollution control and prevention.

Composition:

Chairperson: Usually, a representative from the Central Pollution Control Board (CPCB) or State Pollution Control Board (SPCB).

Members:

1. Representatives from CPCB and SPCB.
2. Experts in the field of water pollution control and management.
3. Representatives from relevant government departments and ministries.
4. Non-governmental organizations (NGOs) working in the field of environmental protection.
5. Representatives from industries or industrial associations affected by water pollution regulations.

Secretary: Appointed by the CPCB or SPCB to assist in administrative functions.

Functions:

Formulation of Policies: Joint Boards participate in formulating policies and guidelines for the prevention and control of water pollution.

Review and Monitoring: They review the implementation of pollution control measures and monitor water quality parameters.

Recommendations: Joint Boards make recommendations to the CPCB or SPCB regarding measures to be taken for pollution control.

Public Awareness: They may organize awareness campaigns and programs to educate the public about water pollution issues and solutions.

Research and Development: Joint Boards may facilitate or support research and development activities aimed at improving water pollution control technologies and methods.

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They prepare reports documenting their findings, recommendations, and actions taken, which are submitted to the CPCB or SPCB.

Powers:

Joint Boards may have certain delegated powers to enforce pollution control regulations within their jurisdiction.

They may conduct inspections of industrial units and other sources of pollution to ensure compliance with regulations.

Collaboration: Joint Boards often collaborate with other regulatory bodies, research institutions, and international organizations to address water pollution challenges effectively.

Role in Dispute Resolution: In cases of disputes or conflicts related to water pollution issues, Joint Boards may act as mediators or arbitrators to resolve conflicts between different stakeholders.

Advisory Nature: While Joint Boards play a significant role in formulating policies and recommendations, their decisions are often advisory in nature, and the ultimate authority lies with the CPCB or SPCB.

These pointers outline the basic structure and functions of Joint Boards under the Water (Prevention and Control of Pollution) Act, 1974, highlighting their importance in combating water pollution and ensuring sustainable water management practices.

Q1(a). Discuss the case M.C. Mehta vs Union of India (Ganga River Pollution Case) 1988 AIR 1115

Background- The River Ganga, the lifeblood of many civilizations, is being polluted by both domestic and industrial waste. M.C. Mehta filed a PIL under Article 32 of the constitution in the Supreme Court, arguing that the river's water, which is considered holy and is consumed by many people, must be protected.

Facts-

- The tanneries in Kanpur were responsible for the majority of the industrial waste.

- The tanneries argued that they were not directly discharging waste into the Ganges but into municipal drains, and that it was the Municipality's responsibility to prevent the mixing of the two.
- They also contended that the equipment required for regulatory mechanisms was too expensive and that the closure of these tanneries would lead to job losses.

Judgement- The court stated that public health cannot be compared to unemployment and revenue. The court also criticised the Municipality for its failure to act and called for appropriate action. The court demanded an effective drainage and sewage system.

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Q1(d). Explain the agreement to be made under Section 13

Under Section 13 of the Water (Prevention and Control of Pollution) Act, 1974, agreements may be made between the State Pollution Control Boards (SPCBs) and various stakeholders to facilitate the prevention, control, and abatement of water pollution. These agreements play a crucial role in implementing pollution control measures effectively.

Q.2 Discuss the provisions of the Air (Prevention and Control of Pollution) Act, 1981 regarding the Penalties and Offences by Companies and Government Department.

The Air (Prevention and Control of Pollution) Act, 1981, contains provisions aimed at regulating and controlling air pollution in India. It includes specific provisions related to penalties and offenses committed by companies and government departments. Here's a discussion of these provisions:

Penalties for Violations:

The Act stipulates penalties for various violations related to air pollution control measures, emissions standards, and compliance with directives issued by the Central Pollution Control Board (CPCB) or State Pollution Control Boards (SPCBs).

Companies found violating the provisions of the Act may be liable to pay fines as prescribed under the law.

Offenses by Companies:

Section 21 of the Air Act, 1981, deals with offenses by companies. It holds companies responsible for offenses committed under the Act.

If any offense under the Act is committed by a company, every person in charge of, and responsible to, the company for the conduct of its business at the time of the offense, as well as the company itself, shall be deemed to be guilty of the offense.

This provision ensures that companies cannot evade responsibility for violations by holding individuals within the company accountable.

Penalties for Offenses by Companies:

When a company is found guilty of an offense under the Air Act, 1981, it may be liable to pay fines as determined by the court.

The fines imposed on companies may vary depending on the nature and severity of the offense. The Act provides discretion to the court to impose penalties deemed appropriate based on the circumstances of each case.

Government Departments and Penalties:

Section 22 of the Air Act, 1981, addresses offenses by government departments.

If any offense under the Act is committed by any department of the government, the head of the department shall be deemed to be guilty of the offense and shall be liable to be proceeded against and punished accordingly.

This provision holds government departments accountable for compliance with air pollution control regulations, ensuring that they adhere to the same standards as private entities.

Penalties for Offenses by Government Departments:

Similar to penalties for companies, government departments found guilty of offenses under the Air Act may be liable to pay fines as determined by the court.

The fines imposed on government departments aim to ensure accountability and compliance with air pollution control measures.

Enforcement Mechanisms:

The enforcement of penalties and prosecution of offenses under the Air Act, 1981, is typically carried out by the CPCB and SPCBs, in coordination with law enforcement agencies and the judiciary.

These agencies have the authority to investigate violations, issue notices, and initiate legal proceedings against offenders.

In conclusion, the Air (Prevention and Control of Pollution) Act, 1981, imposes penalties on companies and government departments for offenses related to air pollution control. These provisions aim to deter violations, ensure accountability, and promote compliance with air quality standards and pollution control measures.

Q.2(a) What are the offenses by Government Department under the air Prevention and Control of pollution Act?

Under the Air (Prevention and Control of Pollution) Act, 1981, offenses by government departments pertain to violations of the provisions of the Act or any regulations framed under it. Here are some examples of offenses that may be committed by government departments:

- Failure to Comply with Emission Standards
- Negligence in Implementing Pollution Control Measures
- Discharge of Pollutants Without Proper Treatment
- Non-Compliance with Directives
- Violation of Monitoring and Reporting Requirements
- Operation of Polluting Activities Without Consent
- Obstruction of Inspections or Investigations
- Failure to Take Corrective Action
- Unauthorized Disposal of Hazardous Waste
- Non-Cooperation with Regulatory Authorities

Q.2(b) Discuss the case *Murli S. Deora v. Union of India* AIR 2002 SC 40

In an attempt to protect the health of non-smokers, the Court held that allowing smoking in public places would amount to an indirect violation of the right to life of non-smokers. It said that smoking in public was injurious to the health of passive smokers who were helpless victims of air pollution caused by smoking.

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"Director" refers to individuals who serve on the board of directors of a company or exercise significant influence over its management, including those with formal titles as well as those who wield de facto control.

Q.2(d) Who has the power to punish under the Air (Prevention and Control of Pollution) Act, 1981

The Central Pollution Control Board (CPCB) has the power to enforce the Air (Prevention and Control of Pollution) Act, 1981. The Act provides for the control and abatement of air pollution.

The State Pollution Control Board can also apply to a court to restrain an offender from emitting air pollutants.

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Q1. Explain the environment under the Environment Protection Act 1986

According to Section 2(a)

- Environment includes water, air and land and the inter relationship which exist among and between water, air, land and human beings, other living creatures, plants, microorganism and property.
- Environment is the sum total of all conditions and influences that affect the development in life of all organs.

The definition under section 2(a) is wide enough as it is inclusive in nature.

Case: - Hospital Mazdoor Sabha AIR1960 In this case it was held that the definition is inclusive. It is to be interpreted in broad and not in a narrow sense. The word "include" may be taken in the sense of "means".

Q1(a). Definition of Environmental Pollutant.

- Environmental pollutant means any solid, liquid or gaseous substance present in such concentration as maybe or tends to be injurious to the environment.
- The substances making the environment injurious are termed as environmental Pollutants such as toxic substances, street film etc.

Q1(b). Discuss the General Powers of Central Government under section 3 of the Environment Protection Act 1986.

- Section 3(1) says that 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 and for preventing, controlling and abating the environmental pollution.
- Section 3(2) provides that the measures taken by the central government includes the measures related to following matters-

- i. coordination of action
- ii. planning and execution
- iii. standards for the quality of environment
- iv. emission or discharge of environmental pollutants
- v. prevention of accidents
- vi. handling of hazardous substances
- vii. examination of manufacturing processes
- viii. sponsoring investigations and research
- ix. inspection of any premises, plant, equipment, machinery, manufacturing or other processes, materials or substances
- x. establishment or recognition of environmental laboratories
- xi. collection and dissemination of information
- xii. preparation of manuals

- Section 3(3) empowers Central Government to constitute authorities for the purpose of exercising or performing powers and functions including

Powers to issue directions and power for taking measures as mentioned above

Q1(c). Examine the case law Vellore Citizens Welfare Forum V. Union of India (AIR 1996) under the Environment Protection Act 1986.

- In this case the tanneries were found discharging intricate effluents into agriculture fields, roads, waterways and open lands
- which ultimately discharged in the rivers
- which was the main source of water supply to the residents of areas.
- In such a situation the court issued directions for maintaining standards stipulated by the pollution control board.

The court further directed the High Court of the state to constitute a special bench called "Green Bench" to deal with the case and other environmental matters.

- In this case the Supreme Court has directed the central government to constitute authority as laid down in section 3(3).

Q2. Discuss the forest (conservation) act 1980.

- The Forest (Conservation) Act, 1980 is a significant environmental legislation in India aimed at conserving forests and protecting their ecosystems.
- It was enacted to regulate and control the diversion of forest land for non-forest purposes like mining, industrial projects, infrastructure development, etc.
- The act was passed in response to growing concerns about deforestation and its adverse impacts on the environment, biodiversity, and the livelihoods of forest-dependent communities.

Key provisions of the Forest (Conservation) Act, 1980 include:

- **Regulation of Diversion of Forest Land:**
 - The Act prohibits the state governments and other authorities from diverting forest land for any non-forest purpose without prior approval from the central government.
 - This approval is granted by the Ministry of Environment, Forests and Climate Change (MOEFCC).
- **Approval Process:**
 - The Act mandates a rigorous process for seeking approval for diverting forest land. It requires the concerned state government or authority to submit a proposal to the central government detailing the reasons for diversion,
 - the extent of forest land to be diverted, and the compensatory afforestation measures to be undertaken.
- **Compensatory Afforestation:**
 - Any diversion of forest land for non-forest purposes must be compensated by afforestation in an area of the same size or larger in the same state or elsewhere.
 - This ensures the maintenance and enhancement of forest cover and ecosystem services.
- **Environmental Safeguards:**
 - The Act includes provisions to ensure that the diversion of forest land is carried out with minimum environmental impact.
 - It requires the central government to consider the ecological, environmental, and socio-economic aspects before granting approval.
 - Additionally, the Act empowers the central government to impose conditions for mitigating adverse impacts and for the protection of wildlife and biodiversity.
- **Penalties and Enforcement:**
 - Any person or authority found guilty of diverting forest land without prior approval can face imprisonment or fines or both.

Narmada Bachao Andolan vs. Union of India & Ors. (2000):

- Although primarily concerning the construction of dams, this case also touched upon the issue of forest conservation.
- The Supreme Court directed the government to strictly adhere to environmental laws, including the Forest (Conservation) Act, 1980, while implementing large-scale development projects that could potentially impact forest ecosystems.

Q2. (a) Examine the case Samatha vs. state of Andhra Pradesh (1997)

Samatha vs. State of Andhra Pradesh (1997):

- This case dealt with the rights of tribal communities over forest land.
- While not directly related to the Forest (Conservation) Act, 1980, the judgment emphasized the importance of recognizing and protecting the customary rights of forest-dwelling communities.
- It underscored the need for sustainable forest management practices and the involvement of local communities in conservation efforts.
- This case highlights the role of the Forest (Conservation) Act, 1980, in safeguarding forest resources and promoting sustainable development.
- They underscore the importance of judicial oversight in ensuring compliance with environmental laws and the protection of forest ecosystems for the present and future generations.

Q2. (b) What do you mean by protected forests

Section 20 of the Indian Forest Act, 1927:

- pertains to the declaration of protected forests by the state government.
- Under this section, the state government has the authority to declare any land, which is not already included in a reserved forest or a village forest, as a protected forest for the purpose of better forest conservation and management.

provisions related to protected forests under Section 20 of the Indian Forest Act, 1927:

- Declaration of Protected Forest:
 - The state government may, by notification in the official gazette, declare any forest land or waste land, which is the property of the government, to be a protected forest.
- Restrictions on Use and Entry:
 - Once a forest area is declared as a protected forest, certain restrictions may be imposed on the use of forest resources and the entry of people into the forest.
 - These restrictions are intended to prevent unauthorized activities that could harm the forest ecosystem.
- Management and Conservation:
 - The state government is responsible for the management, protection, and conservation of the protected forests.
 - It may appoint forest officers and other personnel to oversee the management activities and enforce the provisions of the Indian Forest Act, 1927, within the protected forest area.
- Penalties:
 - Any person who contravenes the provisions related to protected forests, such as unauthorized felling of trees, grazing of cattle, or other prohibited activities, may be liable for penalties as specified.
 - The Act provides for fines and imprisonment for such offenses.

Q2. (c) Discuss about village forest.

Section 28 of the Indian Forest Act, 1927, deals with the establishment and management of village forests.

A village forest is a forest area managed jointly by the residents of a village or a group of villages, under the supervision of the state forest department.

The primary objective of village forests is to involve local communities in the conservation and sustainable management of forest resources, while also meeting the needs of the community for fuelwood, fodder, and other forest products.

Management by Village Panchayat: The village panchayat or committee is responsible for protecting the forest, preventing unauthorized activities, and ensuring sustainable use of forest resources by the local community.

Utilization of Forest Produce: The local residents are allowed to collect and use certain forest produce like fuelwood, fodder, and minor forest produce for their personal and community needs, subject to regulations prescribed by the state government.

Now, let's discuss some case laws related to village forests:

Gram Sabha of Village Nirkhera vs. State of Madhya Pradesh (2004):

- In this case, the Madhya Pradesh High Court emphasized the importance of involving local communities in the management and conservation of village forests.
- The court highlighted the role of the Gram Sabha (village assembly) in safeguarding the rights and interests of the local community in village forest areas.

T.N. Godavarman Thirumulpad vs. Union of India & Ors. (1997):

- Although this case primarily revolves around the protection of forests, the Supreme Court of India acknowledged the significance of village forests and emphasized the need to involve local communities in forest conservation efforts.

- They highlight the need for recognizing and safeguarding the rights of local communities in village forest areas and promoting their active participation in sustainable forest management practices.

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- In such a situation the court issued directions for maintaining standards stipulated by the pollution control board.

The court further directed the High Court of the state to constitute a special bench called "Green Bench" to deal with the case and other environmental matters.

- In this case the Supreme Court has directed the central government to constitute authority as laid down in section 3(3).

Q2. Discuss the forest (conservation) act 1980.

- The Forest (Conservation) Act, 1980 is a significant environmental legislation in India aimed at conserving forests and protecting their ecosystems.
- It was enacted to regulate and control the diversion of forest land for non-forest purposes like mining, industrial projects, infrastructure development, etc.
- The act was passed in response to growing concerns about deforestation and its adverse impacts on the environment, biodiversity, and the livelihoods of forest-dependent communities.

Key provisions of the Forest (Conservation) Act, 1980 include:

- **Regulation of Diversion of Forest Land:**
 - The Act prohibits the state governments and other authorities from diverting forest land for any non-forest purpose without prior approval from the central government.
 - This approval is granted by the Ministry of Environment, Forests and Climate Change (MOEFCC).
- **Approval Process:**
 - The Act mandates a rigorous process for seeking approval for diverting forest land. It requires the concerned state government or authority to submit a proposal to the central government detailing the reasons for diversion,
 - the extent of forest land to be diverted, and the compensatory afforestation measures to be undertaken.
- **Compensatory Afforestation:**
 - Any diversion of forest land for non-forest purposes must be compensated by afforestation in an area of the same size or larger in the same state or elsewhere.
 - This ensures the maintenance and enhancement of forest cover and ecosystem services.
- **Environmental Safeguards:**
 - The Act includes provisions to ensure that the diversion of forest land is carried out with minimum environmental impact.
 - It requires the central government to consider the ecological, environmental, and socio-economic aspects before granting approval.
 - Additionally, the Act empowers the central government to impose conditions for mitigating adverse impacts and for the protection of wildlife and biodiversity.
- **Penalties and Enforcement:**
 - Any person or authority found guilty of diverting forest land without prior approval can face imprisonment or fines or both.

Narmada Bachao Andolan vs. Union of India & Ors. (2000):

- Although primarily concerning the construction of dams, this case also touched upon the issue of forest conservation.
- The Supreme Court directed the government to strictly adhere to environmental laws, including the Forest (Conservation) Act, 1980, while implementing large-scale development projects that could potentially impact forest ecosystems.

Q2. (a) Examine the case Samatha vs. state of Andhra Pradesh (1997)

Samatha vs. State of Andhra Pradesh (1997):

- This case dealt with the rights of tribal communities over forest land.
- While not directly related to the Forest (Conservation) Act, 1980, the judgment emphasized the importance of recognizing and protecting the customary rights of forest-dwelling communities.
- It underscored the need for sustainable forest management practices and the involvement of local communities in conservation efforts.
- This case highlights the role of the Forest (Conservation) Act, 1980, in safeguarding forest resources and promoting sustainable development.
- They underscore the importance of judicial oversight in ensuring compliance with environmental laws and the protection of forest ecosystems for the present and future generations.

Q2. (b) What do you mean by protected forests

Section 20 of the Indian Forest Act, 1927:

- pertains to the declaration of protected forests by the state government.
- Under this section, the state government has the authority to declare any land, which is not already included in a reserved forest or a village forest, as a protected forest for the purpose of better forest conservation and management.

provisions related to protected forests under Section 20 of the Indian Forest Act, 1927:

- Declaration of Protected Forest:
 - The state government may, by notification in the official gazette, declare any forest land or waste land, which is the property of the government, to be a protected forest.
- Restrictions on Use and Entry:
 - Once a forest area is declared as a protected forest, certain restrictions may be imposed on the use of forest resources and the entry of people into the forest.
 - These restrictions are intended to prevent unauthorized activities that could harm the forest ecosystem.
- Management and Conservation:
 - The state government is responsible for the management, protection, and conservation of the protected forests.
 - It may appoint forest officers and other personnel to oversee the management activities and enforce the provisions of the Indian Forest Act, 1927, within the protected forest area.
- Penalties:
 - Any person who contravenes the provisions related to protected forests, such as unauthorized felling of trees, grazing of cattle, or other prohibited activities, may be liable for penalties as specified.
 - The Act provides for fines and imprisonment for such offenses.

Q2. (c) Discuss about village forest.

- Section 28 of the Indian Forest Act, 1927, deals with the establishment and management of village forests.
- A village forest is a forest area managed jointly by the residents of a village or a group of villages, under the supervision of the state forest department.
- The primary objective of village forests is to involve local communities in the conservation and sustainable management of forest resources, while also meeting the needs of the community for fuelwood, fodder, and other forest products.
- Management by Village Panchayat: The village panchayat or committee is responsible for protecting the forest, preventing unauthorized activities, and ensuring sustainable use of forest resources by the local community.
- Utilization of Forest Produce: The local residents are allowed to collect and use certain forest produce like fuelwood, fodder, and minor forest produce for their personal and community needs, subject to regulations prescribed by the state government.

Gram Sabha of Village Nirkhera vs. State of Madhya Pradesh (2004):

- In this case, the Madhya Pradesh High Court emphasized the importance of involving local communities in the management and conservation of village forests.
- The court highlighted the role of the Gram Sabha (village assembly) in safeguarding the rights and interests of the local community in village forest areas.

T.N. Godavarman Thirumulpad vs. Union of India & Ors. (1997):

- Although this case primarily revolves around the protection of forests, the Supreme Court of India acknowledged the significance of village forests and emphasized the need to involve local communities in forest conservation efforts.
- They highlight the need for recognizing and safeguarding the rights of local communities in village forest areas and promoting their active participation in sustainable forest management practices.

Q1. Discuss about the national green tribunal.

- The National Green Tribunal (NGT) is a specialized judicial body established in India under the National Green Tribunal Act, 2010.
- It was set up to handle cases related to environmental protection, conservation of forests and other natural resources, and enforcement of any legal rights relating to the environment.
- The National Green Tribunal plays a vital role in ensuring environmental justice and promoting sustainable development in India.
- Its specialized structure comprising judicial and expert members enables it to handle complex environmental cases effectively.
- By providing a dedicated forum for environmental disputes, the NGT has contributed significantly to the protection and conservation of India's natural resources and the enforcement of environmental laws.

Q1. (a) Explain the structure of National Green Tribunal

Structure of the National Green Tribunal: Section-4

Chairperson:

- The NGT is headed by a full-time Chairperson.
- The chairman is a retired Judge of the Supreme Court of India. (section-5)
- The Chairperson is appointed by the President of India on the recommendation of a selection committee consisting of the Chief Justice of India or his nominee, a Supreme Court Judge, and an eminent environmentalist nominated by the President. (section-6)

Judicial Members:

- The NGT consists of judicial members.
- Who are either retired judges of the Supreme Court or High Courts. (section-5)
- They have expertise in environmental matters and play a crucial role in adjudicating cases related to environmental issues. (section-6)

Expert Members:

- Apart from judicial members, the NGT also has expert members who possess specialized knowledge or practical experience in environmental matters. (section-4&5)
- They are appointed based on their expertise in fields such as environmental science, biodiversity conservation, and pollution control. (section-6)

Q1. (b) Discuss the jurisdiction of national green tribunal.

The NGT has the jurisdiction over all civil cases that involve a substantial question relating to the environment. It hears cases related to:

- Environmental protection and conservation of forests, rivers, lakes, and other natural resources.
- Prevention and control of pollution, including air, water, and soil pollution.
- Enforcement of any legal rights relating to the environment.
- Damage to public health due to environmental pollution.

The NGT has the power to hear and decide cases filed under various environmental laws, including the Water (Prevention and Control of Pollution) Act, 1974, the Air (Prevention and Control of Pollution) Act, 1981, the Environment (Protection) Act, 1986, and the Biological Diversity Act, 2002, among others.

Q1. (c) Explain the case of M.C. MEHTA VS. UNION OF INDIA, AIR 1987, 1086 SC

A writ petition was filed by M.C. Mehta, seeking closure for Shriram industries because it had been engaged in manufacturing of hazardous substances and located in a densely populated area of Kirti Nagar.

Issues:

- What is the scope of art 21 and art 32 of the constitution
- Whether the rule of absolute liability or Rylands vs Fletcher rule to be followed?
- Issue of the compensation to be awarded

Judgement:

- Chief Justice Bhagwati demonstrated his deep concern for the safety of the Delhi people from the leakage of hazardous substances, such as the one here oleum gas.
- The court the power under Article 32 is not confined to preventive measures where fundamental rights are threatened with being infringed, but it also extends to remedial measures where the rights are already infringed (*Bandhua Mukti Morcha v. Union of India*).
- It was held that the compensation measure must be correlated with the industry's magnitude and capacity in order to have a deterrent effect for the compensation.
- The court adopted a new "no fault" (absolute liability) liability standard.

Q2. What is meant by a sustainable development?

- Sustainable development refers to a mode of human development where economic progress is achieved without compromising the ability of future generations to meet their own needs.
- It integrates three key dimensions: economic, social, and environmental, often referred to as the "three pillars" of sustainability.
- Achieving sustainable development requires a holistic approach that balances these dimensions.
- Various frameworks and initiatives, such as the United Nations' Sustainable Development Goals (SDGs), have been established to guide countries and organizations in their pursuit of sustainable development.
- The SDGs comprise 17 interconnected goals that address a wide range of global challenges, from ending poverty and hunger to promoting sustainable cities and combating climate change.
- Implementing sustainable development practices involves collaboration among governments, businesses, civil society, and individuals.
- It requires innovative solutions, technological advancements, and changes in consumption and production patterns to create a more resilient and sustainable future for all.

Q2. (a) Precautionary Principle

- The precautionary principle emphasizing the need for proactive measures to protect the environment and human health, even in the absence of full scientific certainty.
- The precautionary principle in India has been recognized and applied in various environmental and public health cases to safeguard human health and the environment in the face of scientific uncertainty.
- One notable case where the precautionary principle was invoked is the Vellore Citizens Welfare Forum v. Union of India (1996) case.
- The case revolved around the pollution of the Palar River due to the discharge of untreated effluents from tanneries and other industries in the Vellore district of Tamil Nadu.
- The Vellore Citizens Welfare Forum case exemplifies the application of the precautionary principle in Indian environmental law.

Q2. (b) Polluter Pay Principle

- The "Polluter Pays Principle" is a fundamental principle of environmental law.
- The principle holds that those who pollute the environment should bear the costs of pollution control and cleanup measures.
- In India, this principle has been incorporated into environmental jurisprudence to ensure that industries and individuals responsible for environmental degradation are held accountable for their actions.

- In the case of *Indian Council for Enviro-Legal Action v. Union of India* (1996), the Supreme Court of India reaffirmed the Polluter Pays Principle in the context of industrial pollution in the Ganges River basin.
- Industries responsible for polluting the Ganges River must bear the costs for installing effluent treatment plants and implementing pollution control measures to prevent further pollution.

Q2. (c) Stockholm Conference 1972

The United Nations hosted the very first conference on the Human Environment which was held in 1972 in Stockholm (Sweden), and officially it is known as the Stockholm Declaration of 1972.

The main principle of the Stockholm declaration was "to serve as a practical means to encourage and to provide guidelines to protect and improve the human environment and to remedy and prevent its impairment".

This conference was organized in Stockholm (Sweden) from 5th to 16th June 1972 and tried to find a way to tackle the air, land and water pollution by working together as a unit to safeguard the human environment for a better tomorrow.

The Stockholm Conference also led the United Nations Environment Programme (UNEP) in December 1972.

The Stockholm Conference was attended by 114 government delegations. The Stockholm Declaration, 1972 comprises the proclamation of 26 principles.

Q1. Explain the preamble of Indian constitution.

- The Preamble of the Indian Constitution is an introductory statement that outlines the fundamental values, objectives, and guiding principles of the Constitution.
- It serves as the soul and essence of the Constitution.

Let's break down its key components:

- WE, THE PEOPLE OF INDIA: This emphasizes that the power and authority of the Constitution come from the people of India.
- SOVEREIGN: India is an independent nation and not under the control of any foreign power.
- SOCIALIST: The term 'socialist' signifies the commitment to achieving social and economic equality for all citizens.
- SECULAR: India is a secular country, meaning it maintains a neutral stance in matters of religion.
- DEMOCRATIC: India is a democracy, where the government is elected by the people and operates based on the principles of equality and freedom.
- REPUBLIC: The country is a republic where the head of the state is elected, rather than being a hereditary position.
- JUSTICE: Emphasizes the commitment to social, economic, and political justice for all citizens.
- LIBERTY: Guarantees freedom of thought, expression, belief, faith, and worship to all citizens.
- EQUALITY: Ensures equality of status and opportunity for all citizens.
- FRATERNITY: Emphasizing the dignity of the individual and the unity and integrity of the nation.

Q1. (a) Explain from judicial decisions whether the Preamble is a part of the Constitution or not?

The Preamble is indeed a part of the Indian Constitution.

It is not just a mere introductory statement but has been recognized by the Supreme Court of India as an integral part of the Constitution.

In the case of *Berubari Union and Exchange of Enclaves vs. Union of India* (1960),

- The Supreme Court held that the Preamble can be used as a key to unlock the minds of the framers of the Constitution.
- Preamble is not a part of constitution

Later, in the landmark judgment of *Keshavananda Bharati vs. State of Kerala* (1973)

- The Supreme Court reaffirmed the importance of the Preamble.
- The Court held that the Preamble is a part of the Constitution and can be amended.

Q1. (b) Can the Preamble be amended?

- The Preamble is indeed a part of the Indian Constitution.
- It is not just a mere introductory statement but has been recognized by the Supreme Court of India as an integral part of the Constitution.
- Later, in the landmark judgment of *Keshavananda Bharati vs. State of Kerala* (1973),
- the Supreme Court reaffirmed the importance of the Preamble. The Court held that the Preamble is a part of the Constitution and can be amended.

- Any amendment that destroys or alters its basic features, such as its secular or democratic character, would be considered unconstitutional.

Q1. (c) Review the case of Keshavananda Bharati vs. State of Kerala (1973) in the context of the preamble.

Certainly! The case of Keshavananda Bharati vs. State of Kerala (1973) is one of the most landmark judgments in the constitutional history of India, particularly in the context of the Constitution's basic structure and the Preamble.

Key Issues:

- Whether the Parliament had the power to amend any part of the Constitution, including Part III dealing with fundamental rights.
- What is the scope and extent of the amending power of the Parliament?

Judgment:

- The Supreme Court, in a historic verdict, upheld the validity of the Kerala Land Reforms Act, 1963, but with certain reservations.
- The Court introduced the doctrine of the "basic structure" of the Constitution,
- Which means that while the Parliament has the power to amend the Constitution, it cannot alter its basic structure or essential features.

Q2. What do you mean by right to equality.

- The right to equality guarantees equal treatment to all people by prohibiting legal discrimination based solely on class, ethnicity, religion, gender, or birthplace
- It is regarded as a fundamental component of the constitution
- The right to equality includes both positive and negative equality – necessitates equal treatment as well as forbids uneven treatment
- The Right to Equality includes Articles 14 – 18

Q2. (a) explain the article 14 of Indian constitution

Article 14 states: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India."

Key Features of Article 14:

Equality before the Law:

- This means that every person, whether a citizen or a foreigner, is equal before the law and no one is above the law.
- It ensures that there is no discrimination in the application of general laws.

Equal Protection of the Laws:

- This ensures that the State cannot deny any person equal protection of the laws.
- It means that similarly situated individuals must be treated alike under similar circumstances.
- The law should not be applied arbitrarily or discriminate against individuals without a reasonable basis.

State of West Bengal v. Anwar Ali Sarkar (1952):

- In this case, the Supreme Court held that Article 14 ensures equality before the law and equal protection of laws.
- It emphasized that the law should be general in character and should not discriminate between individuals similarly situated.

Q2. (b) Article 14 recognizes reasonable classification and not class legislation. Explain

- Article 14 of the Indian Constitution recognizes the concept of "classification" but prohibits "class legislation."
- Classification refers to the grouping of persons or things based on certain characteristics or criteria.
- It is a natural process that often occurs in legislation to achieve specific objectives or goals.
- Class legislation, on the other hand, refers to laws that discriminate against particular classes of persons without any reasonable basis.
- It involves treating individuals differently solely based on factors such as race, religion, caste, sex, or place of birth, without any rational or justifiable reason.

Q2. (c) discuss the changing dimensions of right to equality in light of the judgement of E.P. Royappa vs state of tamil nadu.

- Mr. E.P. Royappa, a civil servant, challenged his premature retirement on the grounds of arbitrariness and discrimination.
- The Court, held that the right to equality is not merely a formal equality but includes substantive equality.
- Equality means equal treatment in equal circumstances, and any differentiation must be based on a reasonable classification.
- The judgment highlighted the importance of fairness, reasonableness, and non-arbitrariness in state actions, particularly in administrative decisions affecting individuals' rights.
- The E.P. Royappa case marked a shift in the understanding of the right to equality by emphasizing its substantive dimension.

LL.B. (INTEGRATED) SEMSTER IV
PAPER – CONSTITUTION OF INDIA- 2
UNIT - I

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Q1. Explain the preamble of Indian constitution.

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Q1. (a) Explain from judicial decisions whether the Preamble is a part of the Constitution or not?

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Q1. (b) Can the Preamble be amended?

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Q1. (c) Review the case of Keshavananda Bharati vs. State of Kerala (1973) in the context of the preamble.

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Q1. What does Article 19 include?

All citizens shall have the right to freedom of speech and expression; (b) to assemble peaceably and without arms; (c) to form associations or unions or co-operative societies; (d) to move freely throughout the territory of India; (e) to reside and settle in any part of the territory of India; and (g) to practise any profession, or to carry on any occupation, trade or business.

Bijoe Emmanuel v. State of Kerala [(1986)3 SCC 615]

The Supreme Court held that no person can be compelled to sing National Anthem, "if he has genuine conscientious objections based on religious faith". Standing up respectfully while the National Anthem is being sung is good enough as freedom under Art. 19 (1) (a) also includes freedom of silence.

Q1(a). Who can claim article 19 of Indian constitution?

- This implies that all citizens have the right to express their views and opinions freely.
- This includes not only words of mouth, but also a speech by way of writings, pictures, movies, banners, etc.

Q1(b). What restrictions can be imposed on Freedom of Speech

Freedom of speech is not absolute. Article 19(2) imposes restrictions on the right to freedom of speech and expression. The reasons for such restrictions are in the interests of:

1. Security 2. Sovereignty and integrity of the country 3. Friendly relations with foreign countries 4. Public order 5. Decency or morality 7. Defamation 8. Contempt of court 9. Incitement to an offence

Q1(c). Discuss The Freedom of Press Under Freedom of Speech and Expression

Brij Bhushan v. State of Delhi (1950)

Supreme Court highlighted that restriction on the liberty of the press unless it creates a danger to the State is the restriction on the freedom of speech and expression.

Romesh Thapper v. State of Madras (1950)

The Court, while ruling on the validity of the impugned order that banned the entry and circulation of the weekly magazine into certain parts of Madras, held that the freedom of speech and expression includes freedom of propagation of ideas that can only be ensured by circulation.

Sakal papers v. Union of India (1961)

The right to freedom of speech and expression which is an integral part of our democratic society includes the freedom of the press, freedom of circulation, freedom of publication, and dissemination of one's views and opinions.

Indian Express Newspapers v. Union of India [(1985) 1 SCC 641]

It has been held that the press plays a very significant role in the democratic machinery. The courts have duty to uphold the freedom of press and invalidate all laws and administrative actions that abridge that freedom. Freedom of press has three essential elements.

1. Freedom of access to all sources of information,
2. Freedom of publication, and
3. Freedom of circulation.

Q1(d) Explain the growing dimensions of Article 19 from judicial decisions.

Commercial Advertisement

The validity of the Drug and Magic Remedies (Objectionable Advertisement) Act, which put restrictions on advertisement of drugs in certain cases and prohibited advertisements of drugs having magic qualities for curing diseases was challenged on the ground that the restriction on advertisement abridged the freedom. The Supreme Court held that an advertisement is no doubt a form of speech but every advertisement was held to be dealing with commerce or trade and not for propagating ideas. [Hamdard Dawakhana v Union of India (1960)]

The Supreme Court ruled that the MTNL has no right to hold back Tata Press Ltd from publishing Tata Yellow Pages. [Tata Press v. MTNL (1995)]

Territorial extent of freedom- In a landmark judgement of Maneka Gandhi v. Union of India [AIR 1978 SC 597], the Supreme Court held that the freedom of speech and expression has no geographical limitation and it carries with it the right of a citizen to gather information and to exchange thought with others not only in India but abroad also.

Union of India v. Association for Democratic Reforms-

The Supreme Court observed in "One sided information, disinformation, misinformation and non-information, all equally create an uninformed citizenry which makes democracy a farce. Freedom of speech and expression includes right to impart and receive information which includes that voters have a right to know about their candidates and also freedom to hold opinions".

Secretary, Minister of I & B v. Cricket Association board, Bengal [(1995)2 SCC 161]

Government has no monopoly on the electronic media and a citizen has under Article 19(1), a right to telecast and broadcast to the viewers/listeners through electronic media any important event.

Q2. Which rights are protected under Article 21?

"No person shall be deprived of his life or personal liberty except according to procedure established by law." This means that a person's life and personal liberty can only be disputed if that person has committed a crime. However, the right to life does not include the right to die, and hence, suicide or an attempt thereof, is an offence.

Q2(a). What is personal liberty under Article 21?

"Personal liberty" includes all the freedoms which are not included in Article 19. The right to travel abroad is also covered under "personal liberty" in Article 21.

Kharak Singh v. State of U.P. [AIR 1963 SC 1295]

UP Police performed domiciliary visits to make sure that he was at home in the nights. This was challenged. SC held the following-

1. Personal liberty is not confined only to bodily restraint or confinement in prisons but includes all those things through which life is enjoyed.
2. Personal Liberty means much more than mere animal existence.
3. Article 19 gives some of the freedoms required to enjoy personal liberty, while Article 21 constitutes the rest.
4. Since there was no law which could justify domiciliary visits, they were held to be an unauthorized intrusion into a person's life and were held to be in violation of Article 21.

Q2(b). What is the procedure for deprivation of life or personal liberty? Explain with the help of decided cases.

"Procedure established by law"

Constitution makes no distinction between a law made by the legislature & ordinance issued by president; both are equally subject to limitation which the Constitution has placed upon that power i.e. "procedure established by law" It extends both to substantive as well as procedural laws. A procedure not fulfilling these attributes is no procedure at all in the eyes of art.21

In American Constitution, the corresponding provision is-

"No person shall be deprived of his life or liberty or property except by due process of law" Here, 'due process' refers to a just, fair and a reasonable procedure.

A.K. Gopalan v. State of Madras [1950 SC 27]

A communist leader A. K. Gopalan was detained under Preventive Detention Act, 1950. The first major constitutional issue came out of the preventive detention of communist leader A. K. Gopalan. The issue was whether somebody's detention could be justified merely on the ground that it had been carried out "according to the procedure established by law," as stipulated in Article 21 of the Constitution. Or, would that procedure be valid only if it complied with principles of natural justice such as giving a hearing to the affected person?

In this case, the Supreme Court, taking a narrow view of Article 21, refused to consider if the procedure established by law suffered from any deficiencies. Three decades later, Supreme Court took a new approach on this issue in the Maneka Gandhi case of 1978. The provocation was the arbitrary law that had allowed the Janata Party government to take away Maneka's passport without any remedy. Importing the American concept of due process, the Supreme Court ruled that the procedure established by law for depriving somebody of their life or personal liberty had to be "just, fair and reasonable".

Q2(c). Is the right to pollution-free air and water included in the right to life?

According to the Indian Supreme Court, the right to life includes the right to a clean environment and pollution-free water. The Supreme Court has also ruled that the right to live in a pollution-free environment is a fundamental right under Article 21 of the Constitution.

M.C. Mehta v. Union of India [AIR 1988 SC 1115]

SC held that a pollution free environment i.e. pure air, pure water, edible food do form an essential part of right to life.

Subhash Kumar v. State of Bihar [AIR 1991 SC 4201 420]

Right to pollution free air and water falls within the ambit of Article 21.

Vellore Citizens Welfare Forum vs. Union of India [(1996) 5 SCC 650]

Precautionary principle and polluter pay principal have been accepted as law part of the of land. "Green benches" have been formed in pursuance of these two principles. Thus the two concepts aim towards ensuring a pollution free atmosphere and creates an extra burden on the private companies and factories etc to be have more self-monitoring mechanisms towards ensuring rights of the citizens

Q2(d). Whether the rights of prisoners are protected under Article 21 or not?

Yes, the rights of prisoners are protected under Article 21 of the Constitution of India. Article 21 states that no person can be deprived of their life or personal liberty except through legal procedures. This article protects two aspects of rights: the right to life and the right to personal liberty.

Sunil Batra v. Delhi Administration (AIR 1978 SC 1575]

It was held that custodial violence to the arrested person is a grave violation of person's right to life.

Rudal Shah v. State of Bihar [AIR 1983 SC 1086]

Supreme Court held that the Court has power to award monetary compensation in appropriate cases where there has been a violation of the Constitutional rights of the citizens. In this case, the SC directed the Bihar Government to pay compensation of Rs. 30,000/- to Rudal Shah who had to remain in the jail for 14 years because of the irresponsible behaviour of the State Govt. Officers even after his acquittal.

Prem Shankar Shukla v. Delhi Administration [AIR 1980 SC 1535]

The petitioner was an under-trial prisoner in Tihar jail. He was required to be taken from jail to magistrate court and back periodically in connection with certain cases pending against him. The trial court has directed the concerned officer that while escorting him to the court and back, handcuffing should not be done unless it was so warranted. But handcuffing was forced on him by the escorts. He therefore sent a telegram to one of the judges of Supreme Court on the basis of which the present habeas corpus petition has been admitted by the court. To handcuff is to hoop harshly and to punish humiliatingly. The minimum freedom of movement, under which a detainee is entitled to under Art.19, cannot be cut down by the application of handcuffs. Handcuffs must be the last refuge as there are other ways for ensuring security.

LL.B. (INTEGRATED) SEMSTER IV
INTERNAL EXAM
PAPER – CONSTITUTION OF INDIA- 2

UNIT -II

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Q1. What does Article 19 include?

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Q1(a). Who can claim article 19 of Indian constitution?

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Q1(b). What restrictions can be imposed on Freedom of Speech

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Q1(c). Discuss The Freedom of Press Under Freedom of Speech and Expression

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Q1(d) Explain the growing dimensions of Article 19 from judicial decisions.

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Q1. Define article 25 of Indian Constitution

Article 25. Freedom of Conscience and free profession, practice and propagation of religion

(1) Subject to public order, morality and health and to the other provisions of this part,

all persons are equally entitled to freedom of conscience and the right freely to profess, practice and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law-

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.-The wearing and carrying of kripa shall be deemed to be included in the profession of the Sikh religion.

Explanation II.-In sub-clause (b) of clause (2), the reference to Hindu shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.

Q1. (a) Define the word religion with the help of relevant case law.

The term 'religion' has not been defined in the Constitution and it is a term which is not susceptible of any precise definition.

Commr., Hindu Religious Endowments, Madras v. Lakshmindra Thirtha Swamiar of Shirur Mutt, AIR 1954 SC 282:

- The Supreme Court has observed that religion is certainly a matter of faith with individuals or communities and it is not necessarily theistic.
- Religion is the belief which binds spiritual nature of men to super-natural being.
- It includes worship, belief, faith, devotion etc., and extends to rituals. Religious right is the right of a person believing in a particular faith to practice it, preach it and profess it.

S.R. Bommai v. Union of India, AIR 1994 SC 1918: The Supreme Court has held that secularism is a basic feature of the Constitution.

Q1. (b) Explain right to freedom of religion

Clause (1) of 25-Article-

- Guarantees to every person and not merely to the citizens of India.
- The freedom of conscience and the right freely to profess, practice and propagate religion.
- This right is subject in every case to public order, morality, health and other provision of Part III.

Ratilal Panachand Gandhi v. State of Bombay, AIR 1954 SC 388: Freedom of Conscience connotes a person's right to entertain beliefs and doctrines concerning matters which are regarded by him to be conducive to his spiritual well-being.

A.S. Narayana Deekshitulu v. State of Andhra Pradesh, AIR 1996 SC 1765: An Act was constitutional which regulated only the secular activities connected with religion and not matters which are integral part of religion.

Q1. (c) What are the restrictions on freedom of religion?

1. Religious liberty subject of public order, morality and health.

2. Regulation of economic, financial, political and secular activities associated with religious practices (clause (2)(a)]

3. Social Welfare and Social reforms Under this clause State is empowered to make laws for social welfare and social reforms. (Clause 2(b))

Javed v. State of Haryana, 2003 AIR SCW 3892:

- The Supreme Court has held that section 175(1)(q) of the Haryana Panchayati Raj Act, 1994.
- Disqualified person having more than two children from contesting election for the post of Sarpanch and Panch in Panchayat does not violate article 25 of the Constitution.

Mohd Hanif Quareshi v. State of Bihar, AIR 1958 SC 731:

- The court held that the sacrifice of cow on the Bakrid day was not an essential part of the Mohammedan religion.

S.P. Mittal v. Union of India, AIR 1983 SC 1:

- The Supreme Court held that neither the Aurobindo society nor Auroville constituted a "religious denomination" and the teachings of Shri Aurobindo did not constitute a 'religion'.

Q.2 What are the constitutional remedies?

(1) The right to move the Supreme Court by appropriate proceedings for the enforcement of the rights conferred by Part-III is guaranteed.

(2) The Supreme Court shall have power to issue directions or orders or writs, including writs in the nature of habeas corpus, mandamus, prohibition, quo warranto and certiorari, whichever may be appropriate, for the enforcement of any of the rights conferred by this Part.

(3) Without prejudice to the powers conferred on the Supreme Court by clauses (1) and (2), Parliament may by law empower any other court to exercise within the local limits of its jurisdiction all or any of the powers exercisable by the Supreme Court under clause (2).

(4) The right guaranteed by this article shall not be suspended except as otherwise provided by this Constitution.

Q.2 (a) What is the meaning of the writs of habeas corpus?

- Habeas Corpus is a Latin word meaning which literally means 'to have the body of'. It is an order issued by the court to a person who has detained another person, to produce the body of the latter before it.
- Habeas corpus is a fundamental legal principle that safeguards individual liberty by protecting against unlawful and arbitrary detention.
- Article 21 states that no person shall be deprived of his life or personal liberty except according to the procedure established by law.

Maneka Gandhi v. Union of India (1978): The Court emphasized the importance of fair procedure and natural justice in depriving a person of his or her personal liberty.

Q.2 (b) discuss the case Adm Jabalpur vs Shivkant Shukla (1976)

- The most controversial and widely criticized judgments concerning habeas corpus in India.
- The case arose during the period of Emergency declared in India.
- Fundamental rights, including the right to personal liberty, were suspended by the government.

Issue: whether a person's right to move to a court for a writ of habeas corpus challenging their detention was suspended during the Emergency.

Supreme Court's Judgment:

- In a 4-1 majority judgment, the Supreme Court held that the right to move any court for habeas corpus was suspended during the Emergency.
- The Court opined that the presidential order suspending the right to habeas corpus under Article 359(1) of the Constitution was valid, and therefore, individuals could not approach the courts to challenge the legality of their detention during the Emergency.
- Justice H.R. Khanna was the alone dissenting judge in this case.
- He vehemently opposed the majority view and upheld the significance of habeas corpus as a fundamental right. Justice Khanna's dissenting judgment has been widely celebrated for its defense of individual liberty and constitutional values.

Q.2 (c) Define PIL with the help of case laws.

Public Interest Litigation. -

- The concept of Public Interest Litigation requires that a legal wrong or legal injury is caused to a person or a determinate class of persons.
- By reason of violation of any constitutional or legal right or any burden is imposed in contravention of any constitutional or legal provision or without authority of law.
- Where any such legal injury or illegal burden is threatened, and such person or determinate class of persons is by reason of poverty
- Helplessness or disability or socially or economically disadvantaged position unable to approach the court.
- any other person on his or their behalf, can approach the Supreme Court under article 32 or the High Court under article 226.

B.A.LL. B SEMSTER IV
PAPER – CONSTITUTION OF INDIA- 2
UNIT - IV

Q.1 Explain the relation between fundamental rights and DPSP.

- The directive principles differ from fundamental rights in this respect that while Fundamental Rights are justiciable but Directive Principles of State Policy are non-justiciable.
- Fundamental rights are mostly rights of the individuals against the State, whereas Directive Principles are guidelines for the State to be followed for general welfare of the society as a whole.
- According to article 37, Directive Principles, though they are fundamental in the governance of the country and it shall be duty of the State to apply these principles in making law.
- State of Madras v. Champakam Dorairajan, AIR 1951 SC 226

Q.1 (a) The provisions contained in Part III and Part IV are complementary and supplementary to each other.

- In the case of Unni Krishnan J.P. v. State of Andhra Pradesh, 1993 The Supreme Court has reiterated the same principle that the Fundamental Rights and Directive Principles of State Policy are supplementary and complementary to each other.
- The provisions in Part III should be interpreted having regard to the Preamble and Directive Principles of State Policy.

Q.1 (b) Explain the case Kesavananda Bharati Sripadgalvaru v. State of Kerala, 1973 in reference with the relation between part III & IV

- The Supreme Court has said that fundamental rights and directive principles aim at the same goal of bringing about a social revolution and establishment of a welfare State.
- They can be interpreted and applied together.
- They are supplementary and complimentary to each other.
- It can well be said that Directive Principles prescribe the goal to be attained and the Fundamental Rights lay down the means by which that goal is to be achieved.

Q.1 (c) Explain the case Minerva Mills Ltd. v. Union of India, 1980.

- The Supreme Court held that harmony and balance between Fundamental Rights and Directive Principles of State Policy, is an essential feature of the basic structure of the Constitution.
- It has been observed that the Indian Constitution is founded on the bedrock of the balance between Parts III and IV.
- To give absolute primacy to one over the other is to disturb the harmony of the Constitution.
- The Court observed that though the Directive Principles are unenforceable by the courts and the courts cannot direct the legislature or executive to enforce them.

- once a legislation in pursuance of them has been passed, the courts can order the State to enforce the law, particularly when non-enforcement of the law leads to denial of fundamental rights.

Q.2 When and where was Fundamental Duties added to the Constitution?

- The Fundamental Duties were added to the Indian Constitution through the 42nd Amendment Act, 1976.
- They are listed under Article 51A of the Constitution.
- The amendment aimed to emphasize the moral and civic duties of citizens towards the nation.
- The last duty (k) was added by the Constitution 86th Amendment Act, 2002.

Q.2 (a) Explain the fundamental duties.

The Fundamental Duties of citizens are outlined in Article 51A of the Indian Constitution. Here's a summary of the Fundamental Duties:

It shall be the duty of every citizen of India:

- To abide by the Constitution and respect its ideals and institutions which inspired the national struggle for freedom.
- To uphold and protect the sovereignty, unity, and integrity of India and defend the country and render national service when called upon.
- To promote harmony and the spirit of common brotherhood among all the people of India.
- To value and preserve the rich heritage of our composite culture and to protect and improve the natural environment

Q.2 (b) Discuss about the concept of fundamental duties.

The concept of Fundamental Duties in the Indian Constitution reflects the belief that rights and duties are two sides of the same coin.

While rights empower citizens, duties remind them of their responsibilities towards the nation, society, and fellow citizens.

Importance of Fundamental Duties:

- Promotion of Civic Consciousness
- Balance Rights with Responsibilities
- Preservation of National Unity and Integrity
- Protection of Environment and Cultural Heritage

Q.2 (c) Explain the Characteristics of Fundamental Duties

Non-Justiciable:

- Unlike Fundamental Rights, which are legally enforceable through courts, Fundamental Duties are non-justiciable.
- This means that citizens cannot be legally compelled to fulfil these duties, but they serve as moral obligations.

Guiding Principles: Fundamental Duties serve as guiding principles for citizens' behaviour and conduct.

Dynamic in Nature: The list of Fundamental Duties is not exhaustive and can be amended or expanded by Parliament to reflect evolving societal values and challenges.

AIIMS Students' Union v. AIIMS, AIR 2001 SC 3262:

- The Supreme Court observed that article 51A does not expressly cast any fundamental duty on the State.
- The duty of every citizen of India is the collective duty of the State.

B.A.LL.B. SEMSTER IV
PAPER – CONSTITUTION OF INDIA- 2
UNIT - I

NAME OF STUDENT.....	DATE.....
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