



ENVIRONMENTAL LAW

UNIT – II

Constitution • PIL • Environmental doctrines

Twenty slides in this unit

1. Article 21

2. Articles 48A and 51A(g)

3. Other constitutional hooks

4. PIL standing

5. Absolute liability

6. Polluter pays

7. Precautionary principle

8. Public trust

9. Inter-generational equity

10. Sustainable development

11. Role of the judiciary

12. Doctrines as a toolkit

13. State as regulator and as polluter

14. Remedies the court actually uses

15. Exam paragraph you can reuse

16. Revision

17. Revision

18. Cases

19. Takeaways

20. Close

Article 21

Life includes the right to live with dignity in a healthy environment.

Subhash Kumar

Clean water and air.

Maneka overlay

Procedure must be fair when a plant is sited.

Positive duty

State must regulate, not only refrain.

Limit

Art. 21 is not a veto of every project.

Articles 48A and 51A(g)

42nd Amendment 1976. Directive to the State; fundamental duty of citizens.

48A

Protect and improve environment; safeguard forests and wildlife.

51A(g)

Have compassion for living creatures; protect nature.

Not directly a sword

They colour Art. 21 and statutory discretion.

Together

Duty of State + duty of citizen.

Other constitutional hooks

Equality, trade and federal lists also matter.

Art. 14

Arbitrary clearance fails.

Art. 19(1)(g)/19(6)

Trade vs reasonable environmental limits.

Lists

Forests, protection of wild animals – Concurrent.

Art. 253

Treaties implemented by Parliament (EPA after Stockholm).

PIL standing

Environmental victims are often many and poor. PIL lets a public-spirited person knock on the Court.

Letter petitions

Accepted in the Mehta era.

Continuing mandamus

Order + report + next order.

Committees

Court uses scientists as extra eyes.

Abuse

Later benches warn against proxy commercial PIL.

Absolute liability

Oleum: hazardous enterprise is absolutely liable. No Rylands exceptions.

Who

Inherently dangerous industry.

Damages

Deterrent, matched to capacity.

Vs negligence

No need to prove want of care.

Bhopal shadow

The doctrine is a mass-disaster answer.

Polluter pays

The polluter bears prevention, clean-up and compensation costs.

Vellore / Bichhri

Indian adoption.

Not a licence

Paying does not authorise endless pollution.

EPA / NGT

Restitution directions.

Who is the polluter

Operator + sometimes lessor / parent.

Precautionary principle

Serious or irreversible harm + scientific uncertainty → do not wait. Burden often shifts to the developer.

Rio 15

International parent.

Vellore

Domestic adoption.

A.P. PCB

Siting of polluting industry.

Vs prevention

Prevention is for known harms; precaution is for uncertain ones.

Public trust

State is trustee of air, water, forests and the seashore for the public, including the unborn.

Kamal Nath

Beas riverbed and a motel.

Illinois Central parent

US public-trust idea.

Cannot gift commons

At throwaway private use.

Lakes and ridges

Later SC/NGT applications.

Inter-generational equity

Present use must leave options for those not yet here.

Stockholm / Rio

International source.

Vellore

Indian statement.

Forests / climate

Typical fact patterns.

Pair with trust

Trustee also for the future.

Sustainable development

The working compromise: development with safeguards, not development versus environment as enemies.

Brundtland

1987 definition.

Narmada

Balancing test, not a total ban.

EIA

The operational tool.

NGT Act preamble

SD is a statutory object.

Role of the judiciary

Indian environmental law is court-led. Statutes arrived; doctrines were written in judgments.

Strength

Fills delay and capture of agencies.

Risk

Courts managing cities and rivers for decades.

NGT 2010

Specialist shift.

Still writes

Art. 21 cases continue.

Doctrines as a toolkit

In a problem question, pick the doctrine that matches the fact.

Hazardous leak

Absolute liability.

Uncertain harm

Precaution.

River grabbed

Public trust.

Past dump

Polluter pays + restore.

State as regulator and as polluter

Municipal sewage and PSU mines are frequent defendants.

No immunity

Oleum logic reaches public units.

Sewage

Cities as polluters of rivers.

PSU mines

Godavarman and later NGT.

s.17 EPA

Government departments are bound.

Remedies the court actually uses

Closure, restoration, compensation, bonds, transfer to NGT, monitoring committees.

Injunction

Stop work.

Damages

To victims and to restore.

Mandamus

Force the Board to act.

Continuing order

Report back.

Exam paragraph you can reuse

'Indian environmental constitutionalism is Art. 21 coloured by Arts. 48A and 51A(g), enforced through PIL, and given teeth by Oleum, Vellore and Kamal Nath.'

Then add facts

Medium + harm + defendant.

Then add statute

Water / Air / EPA section.

Then remedy

What should the forum do?

One line limit

Art. 21 is not anti-development by itself.

CASES

Landmark authorities

Oleum gas leak (1987)

Absolute liability.

Vellore Citizens (1996)

Precaution, polluter pays, SD.

Kamal Nath (1997)

Public trust.

Subhash Kumar (1991)

Art. 21 environment.

T.N. Godavarman (1996-)

Forest continuing mandamus.

Narmada Bachao (2000)

SD balancing on a dam.

Key takeaways

- 01 Art. 21 + 48A + 51A(g) is the constitutional set.
- 02 PIL and continuing mandamus built the doctrines.
- 03 Oleum = absolute liability.
- 04 Vellore = precaution + pays + SD.
- 05 Kamal Nath = public trust.
- 06 Match doctrine to facts; do not dump all five every time.

End of UNIT – II

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