

## LEGAL REASONING

### Passage 1

Under English Law, agreements which restrain marriage are discouraged as they are injurious to the increase in population and the moral welfare of the citizens. Back in 1768, a precedent was set by the Court of King's Bench in *Lowe v. Peers* where the defendant had entered a promise under seal to marry no one but the promisee, on penalty of paying her 1000 pounds within three months of marrying anyone else. The Court found the contract void as it was purely restrictive and carried no promise to carry on either side.

In *Hartley v. Rice*, it was held that a bet between two men that one of them would not marry within a specified time was void as it gave one of the parties a pecuniary interest in the man's celibacy. Further, under English Law brokerage contracts or promises made on the consideration of procuring or bringing about marriage are held illegal on several social grounds. According to Chitty, a contract whose object is to restrain or prevent a party from marrying, or a deterrent to marriage in so far it makes any person uncertain whether he may marry or not, is against public policy. English Law, however, does not find agreements which partially restrain marriage to be void and in this, it parts ways with Indian law as stated in the Indian Contracts Act, 1872.

In India, contractual relationships between two or more parties are mainly dealt with by the Indian Contract Act, 1872, enacted by the British imperial government which exercised control over the country at that time. Section 26 of the Indian Contract Act of 1872 states that every agreement in restraint of marriage, except those in restraint of marriage of minors, is void.

Further, unlike Section 28 which makes agreements only in complete restraint of legal proceedings void, the choice of words of Section 26 keeps its scope rather general without forwarding a difference between partial or complete restraint of marriage and has been interpreted to hold an agreement serving to either result as void.

1. Which one of the following can be reasonably concluded from the passage above?
  - (a) India observes the same common law principles when it comes to contracts.
  - (b) English law treats partial restraint of marriage as void as the same stands in contravention to its public policy.
  - (c) Indian law has adopted a distinct approach in matters pertaining to restraint of marriage.
  - (d) Indian law exclusively deals with the issue of partial restraint of marriage.
2. Which of the following is true as per the author's submissions?
  - (a) In every case agreement in restraint of marriage is void.
  - (b) English law treats partial restraint at par with total restraint.
  - (c) Section 26 is narrowly tailored in its interpretation of validity of a contract.
  - (d) In India partial restraint of marriage is void.
3. According to the passage which of the following is the main reason behind invalidity of a contract?
  - (a) The contract if it is even slightly restrictive in nature.
  - (b) The contract must carry promise on both the sides.
  - (c) The contract must be averse to the public opinion.
  - (d) Both (a) and (c).
4. A suit was filed by the Air Hostesses working at XYZ Ltd., which were catering to domestic flights and also to international travel. The Air Hostesses had filed the plaint against Employees Service Regulations which provided that an air Hostesses retired from service in case of marriage, if it took place within four years of the service. With reference to the passage, decide the validity of the condition.
  - (a) Valid as it was owing to the practical needs of the business as well as the society in general.
  - (b) Valid as only absolute and not partial restrictions are contrary to the provisions of the contract laws.
  - (c) Valid as the air hostesses weren't forced to not marry at all.
  - (d) Invalid as the condition no matter for how less a time, does form the character of restraint on marriage.

5. A Muslim woman had married a man without the consent of her nearest male relative. Her nearest kin instituted a case in the court. It was contended by the kin that being part of the Pathan community, Makhad, the bridegroom who married the woman without the consent of her nearest male relative must pay to the man an amount called 'rogha' or bride-price under customary Muhammadan law. Decide the validity of the claim.
- Valid as the ceremonial customary rules being specific in nature override general contractual principles.
  - Invalid as any customary practice imposing a limitation on marriage would be deemed invalid.
  - Valid as such practices qualify as inherent religious practices and derive validity from personal laws and not contractual principles.
  - Invalid because an Islamic marriage is a contract and hence must observe the principles governing the validity of a contract.

## Passage 2

Nuisance is an unlawful interference with a person's use or enjoyment of land, or of some right over, or in connection with it. Nuisance is an injury to the right of a person in possession of a property to undisturbed enjoyment of it and result from an improper use by another person in his property. Stephen defined nuisance to be "anything done to the hurt or annoyance of the lands, tenements of another, and not amounting to a trespass." The distinction between nuisance and trespass is clear. Trespass is direct physical interference with the plaintiff's possession of land through some material or tangible object while nuisance is an injury to some right accessory to possession but no possession itself. However, both may overlap when the injury is to possessory as well as to some right necessary to possession. In order to establish nuisance, there should exist a wrongful act and damage or loss or inconvenience or annoyance caused to another. Such inconvenience must be such which the law considers as substantial or material.

Nuisance is of two kinds. Public nuisance is defined in Section 268 of IPC as "an act or illegal omission which causes any common injury, danger or annoyance, to the people in general who dwell, or occupy property, in the vicinity, or which must necessarily cause injury, obstruction, danger or annoyance to persons who may have occasion to use any public right." Public nuisance can only be subject of one action; otherwise a party might be ruined by a million suits. In the following circumstances, an individual may have a private right of action in respect a public nuisance.

1. He must show a particular injury to himself beyond that which is suffered by the rest of public i.e. he must show that he has suffered some damage more than what the general body of the public had to suffer.
  2. Such injury must be direct, not a mere consequential injury; as, where one is obstructed, but another is left open.
  3. The injury must be shown to be of a substantial character, not fleeting or evanescent.
6. Abhilaksh's neighbour has a mango tree the branches of which spread to his garden. Every year during the season, the braches shed lots and lots of leaves due to which Abhilaksh is unable to maintain his own garden which is located there. Decide.
- This amounts to trespass as plaintiff's possession of land is interfered with through some material object.
  - This amounts to nuisance as this is interference with a right accessory to possession but not possession itself.
  - This is a case of overlapping of both nuisance and trespass.
  - None of the above.
7. Shuk's neighbour wishes to grow the most beautiful sunflowers in the world. He watched on YouTube that the more pollen a sunflower releases, the more beautiful they are. He procures a special variety of sunflowers which release a lot of pollen and plants them in his kitchen garden. The entire colony is now fed up of the pollen grains in the air and cannot breathe properly. Shuk in addition is also allergic to pollen grains and develops rashes on the skin. The colony collectively files a suit for public nuisance. Shuk files a private action suit too.

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- (a) Shuk's suit shall be entertained for he is suffering additionally from the sunflowers.
- (b) Shuk's suit shall not be entertained as a public nuisance suit has been filed already.
- (c) Shuk's suit shall be entertained for he is in the closest proximity to his neighbour.
- (d) Shuk's suit shall not be entertained as he should not contribute to multiplicity of proceedings.
8. Please refer to the facts above. Abhilaksh's neighbour, near the mango tree has planted some ayurvedic herbs which smell like ammonia. Irritated, Abhilaksh cannot go near his garden located right next to the mango tree on his side of the land. Decide.
- (a) This amounts to trespass as plaintiff's possession of land is interfered with through some material object.
- (b) This amounts to nuisance as this is interference with a right accessory to possession but not possession itself.
- (c) This is a case of overlapping of both nuisance and trespass.
- (d) None of the above.
9. Please refer to the facts above. Shuk, due to the pollen grains in the air, developed breathing difficulties. Consequently, he had to see the doctor and had to get expensive medicines. When the public nuisance suit was filed against his neighbour, he also filed a private action suit asking for medical expenses.
- (a) Shuk's suit shall be entertained for he is suffering additionally from the sunflowers.
- (b) Shuk's suit shall not be entertained as a public nuisance suit has been filed already.
- (c) Shuk's suit shall be entertained for he is in the closest proximity to his neighbour.
- (d) Shuk's suit shall not be entertained as his injury is merely consequential.

### Passage 3

The Supreme Court has observed that the beneficiaries of the policy taken out by the insured are also 'consumers' under the Consumer Protection Act, even if they are not parties to the contract of insurance. Referring to the definition of 'consumer' under Section 2(d) of the Act, the bench noted that the definition of consumer under the Act is very wide and it not only includes the person who hires or avails of the services for consideration but also includes the beneficiary of such services who may be a person other than the person who hires or avails of services. It said:

"The definition of consumer under Section 2(d) quoted hereinabove is in 2 parts. Sub clause (i) of Section 2(1)(d) deals with a person who buys any goods and includes any user of such goods other than the person who buys such goods as long as the use is made with the approval of such person. Therefore, the definition of consumer even in the 1st part not only includes the person who has purchased but includes any user of the goods so long as such user is made with the approval of the person who has purchased the goods. As far as the definition of the consumer in relation to hiring or availing of services is concerned, the definition, in our view, is much wider. In this part of the section, consumer includes not only the person who has hired or availed of the services but also includes any beneficiary of such services. Therefore, an insured could be a person who hires or avails of the services of the insurance company but there could be many other persons who could be the beneficiaries of the services. Observing thus, the bench held that the definition of 'consumer' includes beneficiaries who can take benefit of the insurance availed by the insured. Consumer Protection Act clearly provides that a beneficiary of the services, other than the insured is a consumer under the Act, it added.

10. A cold storage by the name of Sunshine Freezers entered into an insurance contract with an insurance agency Modified India Insurance. The insurance company under the insurance policy is liable to indemnify the cold store with regard to the value of goods in case of any mishap. The cold storage services were availed by some farmers who stored their agricultural produce in the same cold store. Three months into the contract, the cold storage catches fire and all the goods stored are destroyed. This caused panic among the farmers. The insurance company refused to reimburse Sunshine Freezers. The farmers filed a complaint against the repudiation of the claim of the cold storage by the insurance company. Based on the understanding of the passage decide accordingly.

- (a) No relief will be granted to the Farmers as there was no privity of contract between the farmers and the insurance company because the policy was taken by the cold store and not by the farmers and therefore, they cannot be called 'consumers'.
- (b) The insurance company is being liable to pay for the damage caused by the fire only to the Sunshine Freezers.
- (c) Since farmers are financially impoverished and have suffered huge losses. They are entitled to be reimbursed. However, in the lack of a privity of contract they can only claim damages from Sunshine Freezers.
- (d) Since, farmers are also the beneficiaries of the services given by the Insurance Company. They are entitled to receive compensation from the Insurance Company.
11. Mrs X bought a new I-phone. Within a month of its purchase, she lost it on a train. Mr Y found it lying on the berth of the train. He tried to look for the owner of the phone but to no avail. So, he kept the phone for his use. Three months later, while picking up a call, the phone blew up in the hands of Mr Y. Mr Y filed a complaint against Apple Inc. before the National Consumer Dispute Resolution Forum.
- (a) Mr Y is not a consumer because he did not own the phone in the first place.
- (b) Mr Y has been using the phone for a period of three months which is sufficient enough for him to be deemed as the consumer.
- (c) Mr Y is an indirect beneficiary of the services of Apple therefore he is a consumer and is entitled to compensation.
- (d) Mr Y is not a consumer within the meaning of the Consumer Protection Act.
12. Smita bought a washing machine for the purpose of gifting it to her sister-in-law, Priti. After 5 months of use the machine started to act up. Priti tried contacting the company for their services but they outrightly refused. Smita filed a complaint against the washing machine company:
- (a) Smita cannot file a complaint because she is not the immediate consumer of the product anymore.
- (b) Only Priti can file the complaint because she has been using the machine with the approval of Smita and is a beneficiary of services of the washing machine company. Therefore, she is the consumer in the instant case.
- (c) Priti cannot be called the consumer of the services of the washing machine company because there was no consideration on her part.
- (d) Smita can file the complaint as she is a consumer.
13. Strictly based on the understanding of the passage which of the following will be a 'Consumer'?
- (a) A person who receives a laptop as a scholarship because he is a beneficiary.
- (b) A person who shoplifts a phone from the electronics market.
- (c) A person who found a phone lying on the road.
- (d) All of the above.

#### Passage 4

Section 41 of the CrPC commends: When police may arrest without warrant (a document issued by a legal official authorizing the Police to make an arrest). Sub-section (1)(a) says that whoever commits, in the presence of a police officer, a cognizable offence. However, Section 41(2) specifies that no person concerned in a non-cognizable offence shall be arrested except under a warrant or order of a Magistrate.

In this section, three situations have been indicated before making an arrest, namely, against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists. If the above circumstances are present, then also, to justify the arrest it is necessary to follow any condition as mentioned below; (a) to prevent such person from committing any further offence; (b) for proper investigation of the offence; or (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; (d) to prevent such person from making any inducement, threat



or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to police officer (e) as unless such person is arrested, his presence in the Court whenever required cannot ensured.

Thus, any of the above conditions have been fulfilled, Police can make an arrest, and this, of course, will be applicable for the offence punishable up to 7 years. Besides, the police are required to record the reasons in writing for making such arrest. However, in case of woman, the police officer shall not touch the woman for making her arrest, unless the police officer is a female and the circumstances require. Besides, to avoid arbitrary arrest, there is also a statutory provision u/s. 41-B that every police officer while making an arrest shall bear an accurate, visible and clear identification of his name, will prepare a memorandum of arrest, attested by a witness from arrestee's family or a respectable member of the locality, where the arrest is made.

14. A notification was issued by the Central Government which clarified that aiding any convict in hiding or escaping is a cognizable offence. A complaint was filed against Vishesh, by one of his neighbours, Shashank, for helping a murder convict in hiding from the police and in concealing the incriminating evidence. The police officer after filing the complaint immediately rushed to find Vishesh and arrested him, as per the guidelines issued under the notification. Vishesh challenged his arrest on the grounds that there is no proper evidence that he had done anything to help any convict in hiding or escaping. Is Vishesh's arrest legal?

- (a) Yes, Vishesh's arrest is legal as he was helping an offender who was accused of murdering a person. This aid in itself is a crime for which he had to be arrested immediately; otherwise he would have run away from the clutches of the police.
- (b) No, Vishesh's arrest was not legal as there is no proper evidence that he actually did anything that he was accused of. He cannot be arrested on mere allegations of a neighbour.
- (c) Yes, Vishesh's arrest is legal as he was accused of helping a convict in hiding from the police and it could be reasonably presumed that had he not been arrested immediately, he would have tampered the incriminating evidence or disappeared the convict or any other relevant information necessary to prove his guilt.
- (d) No, Vishesh's arrest was not legal as the police officer was not authorised by any Magistrate to arrest Vishesh and neither the officer had any warrant issued against him to make his arrest.

15. Indumati was the MLA of Dholakpur region. Her opposition party made Chhutki, a local leader, their campaign ambassador during the election period. She was very popular among the local public and so it was easy to predict that if she continues to campaign for the Indumati's opposite party, she will definitely lose in the coming elections. Suddenly one day, Chhutki was killed on her farm and it was alleged that Indumati murdered her. Police after getting the information went to arrest Indumati but she refused to cooperate and denied the allegations. The police officer forcefully took her to the station and locked her up in a cell. She filed a petition against the police officer for forcefully making her arrest and touching her despite being a male officer. Decide:

- A. No police officer shall touch the woman while making her arrest, if she is denying the same, as an accused is also entitled to the right of their body and personal liberty under the Indian Constitution.
- B. A woman police officer can touch the woman while making her arrest only if the accused is not cooperating or is reluctant to go to the police station.
- C. A male officer shall not touch the woman while making her arrest as it would be against the dignity of a woman.
- D. A police officer can touch the woman while making her arrest if the accused is not cooperating or is reluctant to go to the police station.

Which of the following is/ are correct?

- (a) Only D
- (b) Both B and C
- (c) Only B
- (d) None of the above.

16. Which of the following circumstances are necessary to justify the arrest of a person without any warrant or order from the Magistrate?

- (a) If any credible information has been received against a person for committing a non-cognizable offence, such person shall be arrested to prevent him from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to police officer.
- (b) If any reasonable complaint has been filed against a person for committing a cognizable offence, such person shall be arrested to prevent him from committing any further offence.
- (c) If any reasonable suspicion exists against any person for committing any offence, such person shall be arrested for proper investigation of the offence.
- (d) If any credible information has been received against a person for committing any cognizable offence, such person shall be arrested to prevent other person from committing the same offence.
17. Misha was a habitual offender. She was involved in many crimes including counterfeiting currency, but she was able to escape from the police every time. Sarla, a police officer, while she was on her honeymoon vacation in Goa, got an anonymous phone call informing about Misha's whereabouts in Goa. She immediately rushed to the place and found Misha. She tried to arrest Misha and when she resisted, Sarla forcefully took her to the nearest police station and locked her up. Sarla was later punished under Section 41B of CrPC. Decide Why?
- (a) Because while making the arrest, Sarla was not working under the colour of her office and neither she was bearing a clear identification of her name.
- (b) Because while making the arrest, Sarla forcefully arrested Misha and locked her in a police station not under her jurisdiction.
- (c) Because while making the arrest, Sarla was not in the area which is under her jurisdiction. Therefore she should have informed the local police instead of making the arrest herself.
- (d) Because while making the arrest, Sarla forcefully arrested Misha which is prohibited as no police officer shall touch the woman while making her arrest, if she is denying the same.
18. On 18<sup>th</sup> Feb, 2020, the Chief Minister of Lanka was lynched by an angry mob, due to his discriminatory policies against the Suryavanshis. Rita, one of the leaders of the Suryavanshis group, was arrested on the next day from her house. Although she resisted her arrest and demanded memorandum of arrest from the police officer, she was not provided anything and was locked up in a cell. She later challenged her arrest in the court as being illegal and arbitrary. Decide:
- (a) Rita's arrest was not arbitrary as she was apprehended of leading a mob that lynched the Chief Minister of Lanka, which is a cognizable offence and no document is required while making arrest in such cases.
- (b) Rita's arrest was arbitrary as it is mandatory for a police officer to provide the accused of all the necessary documents and inform them about the offence for which they are being arrested.
- (c) Rita's arrest was arbitrary as she was forcefully arrested by a police officer even when she resisted her arrest and demanded the memorandum of her arrest.
- (d) Rita's arrest was arbitrary as it is mandatory for a police officer to prepare a memorandum of arrest, attested by a witness from arrestee's family or a respectable member of the locality, where the arrest is made.

### Passage 5

Expressing concern over the seriousness of the prevalence of the horrific social evil of child pornography, the Jairam Ramesh Committee has recommended important amendments to the Protection of Children From Sexual Offences Act, 2012 and the Information Technology Act, 2000 besides technological, institutional, social and educational measures and state level

initiatives to address the alarming issue of pornography on social media and its effects on children and the society as a whole. The 40 recommendations made by the Adhoc Committee relate to adoption of a broader definition of child pornography, controlling access for children to such content, containing generation and dissemination of Child Sexual Abuse Material (CSAM), making accountable the Internet Service Providers and online platforms for denying access to children and removing such obscene content from online sites besides monitoring, detection and removal of content, preventing under-age use of such content, enabling parents for early detection of accessing such content by children, enabling effective action by the governments and authorized agencies to take necessary preventive and penal measures etc.

Noting that the purveyors of child pornography seem always to be one step ahead of the regulators, the Committee stressed on the need for implementation of its recommendations as an integrated package of measures and not piecemeal to have any value and impact. The Committee urged the Prime Minister to take up the subject of child pornography and the measures required to combat it in one of his forthcoming 'Man Ki Baat' broadcast besides taking the lead in building up a global political alliance to combat child pornography on social media like the International Solar Alliance initiative. The Committee has broadly sought to address two main issues viz., access of children to pornographic material on social media and circulation of pornographic material on social media in which children are abused.

Currently, neither Section 67 of the IT Act nor Section 293 of the Indian Penal Code defines child pornography. Its definition derived from what constitutes pornography, which is defined as "any material which is lascivious or appeals to the prurient interests or if its effect is such as to tend to deprave or corrupt the minds of those who are likely to see, read and hear the same." Therefore, Law enforcement agencies should be able to break end-to-end encryption to hunt down distributors of child pornography online, Committee has urged as the nation looks to regulate social media.

19. Under the POCSO Act, 2012, school management should be responsible for safety of children within schools and any other programmes with which the school is associated. A high-school girl, incapacitated by alcohol, was publicly and repeatedly sexually assaulted by her peers in the school, several of whom documented the acts on social media. Based on the author's reasoning and the mandate of the law in the passage above, choose the most appropriate option.
- (a) School management is liable because management is the owner of the school.
  - (b) School management is liable, because safety of children within school is the prerogative and duty of the management.
  - (c) School management is not liable, because victim's peers are not under management's direction and control.
  - (d) School management is liable, because management is the master and the act was committed by the servant during the course of his duty.
20. In spite of many penal laws and the recent POSCO Act, 2012 prescribing severe punishment for crimes against children, the number of such cases has increased. There are a few of the cases of abuse of children, ranging from 11 months to 10 years, reported in the Media. Based on the author's argument, which is the most plausible cause behind rising crimes against children?
- I. Collective failure of technological, institutional, social and educational measures and state level initiative.
  - II. Lack of a broader definition of child pornography.
  - III. Non-cooperation of Internet Service Provider with Law enforcement agencies in providing decryption keys.
  - IV. Existence of inefficient Police Administration.
- Choose the most appropriate choices.
- (a) All of the above
  - (b) Only IV
  - (c) II & III
  - (d) I, II & III

21. A man is said to commit "rape" who has sexual intercourse with woman against her will. Lax was madly in love with Shi. Shi loved Joy. Joy loved Aparna and Aparna loved Lax. Lax confessed his love to Shi but she rejected with disdain. Lax couldn't bear this. He decided to teach Shi a lesson. In order to take revenge he kidnapped her took her to a secluded place and disrobed her entirely. He video-taped the entire act in his camera and said he would put it on internet. Shi apologizes and promises to marry him if he lets her go. Lax declines and puts the clip on internet. Decide.
- Lax is guilty for rape.
  - Lax is not guilty of rape.
  - Lax is guilty under Information technology act.
  - Lax may be guilty under other laws but not IPC as when IPC was enacted there were no mobile phones.
22. Union Government shall be empowered through its designated authority to block and/or prohibit all websites/ intermediaries that carry child sexual abuse material. In such a situation, according to the author, should the Government be empowered?
- No, Government should not be empowered since vesting of such powers is liable to be abused.
  - No, Government should not be empowered since the Fundamental Right may get restricted.
  - Yes, Government should be empowered since the Government must be swift in taking the cognizance of the child sexual abuse cases.
  - Yes, Government should be empowered but after making appropriate amendments in the Information Technology Act.
23. A complaint was lodged with the Inspector of Police alleging that her daughter studying in 7<sup>th</sup> standard and other girl children were sexually abused by the Headmaster of the school. During enquiry it came to light that in the washrooms CCTV was installed. Based on the author's reasoning in the passage above, does the aforesaid case deserves judicial intervention?
- No, it is more of a case of psychological health of Headmaster than the described crime.
  - Yes, judges can solve all the socio-psychological problems afflicting the society.
  - Yes, case involves a heinous crime committed upon children of tender age. Judicial attention is an imperative.
  - No, judiciary should perform a limited role until the criminal case is lodged.
24. Heinous crime alleged to have been committed by the offender is to be dealt with an iron hand. The victim girl, aged about 15 years, was alleged to have subjected to continuous sexual assault and video graphed for more than three years by no one else than her own father. Based on the inference drawn, what should be the author's stand on the punishment to be awarded to father?
- Author would welcome any punishment provided it curbs the menace of child pornography.
  - Author would welcome severest of the punishment with stringent of measures to curb the child pornography.
  - Author would oppose any punishment if it does not come with banning the child pornography.
  - Author would oppose the punishment and any attempt to completely ban the pornography.

### Passage 6

Nuisance (from archaic nocence, through Fr. Noissance, nuisance, from Lat. nocere, "to hurt") is a common law tort. It means that which causes offence, annoyance, trouble or injury. A nuisance can be either public (also "common") or private. A public nuisance was defined by English scholar Sir J. F. Stephen as, "an act not warranted by law, or an omission to discharge a legal



duty, which act or omission obstructs or causes inconvenience or damage to the public in the exercise of rights common to all Her Majesty's subjects".

Private nuisance is the interference with the right of specific people. Nuisance is one of the oldest causes of action known to the common law, with cases framed in nuisance going back almost to the beginning of recorded time. Under the common law, persons in possession of real property (land owners, lease holders etc.) are entitled to the quiet enjoyment of their lands. However this doesn't include visitors or those who aren't considered to have an interest in the land. If a neighbour interferes with that quiet enjoyment, either by creating smells, sounds, pollution or any other hazard that extends past the boundaries of the property, the affected party may make a claim in nuisance.

The boundaries of the tort are potentially unclear, due to the public/private nuisance divide, and existence of the rule in *Rylands v Fletcher*. Writers such as John Murphy at Lancaster University have popularised the idea that *Rylands* forms a separate, though related, tort. This is still an issue for debate, and is rejected by others (the primary distinction in *Rylands* concerns 'escapes onto land', and so it may be argued that the only difference is the nature of the nuisance, not the nature of the civil wrong.)

In summation, Nuisance means an unlawful interference with a person's enjoyment of property. Property right in the land is necessary for an action in Private nuisance. Private nuisance is an obstruction to the right of private parties. Public nuisance is an obstruction to the right of public in general.

25. Ms. Malone lived in a house belonging to her husband's employer. Ms. Malone's husband was a tenant, and she had a license to live at the property. Whilst using the lavatory, the toilet cistern was dislodged by vibrations caused by the next-door neighbour's electricity generator, which fell on her causing her injuries. She sued her neighbour for nuisance. Decide.
- She can sue for nuisance irrespective of her proprietary claim in the house.
  - She can't sue as she lacks a proprietary interest over the house.
  - It depends on the nature of the house whether it's a public or private property.
  - Interest in the property has no correlation with the suit for nuisance.
26. A large tower was constructed in the Docklands area of East London which goes by the name of One Canada Square. Residents in the area experienced interference with the television signals due to the construction of One Canada Square. Some of the claimants were homeowners whilst others were family members, lodgers and others without a proprietary interest in the property affected. Decide, whether interference with one's television reception amounted to actionable nuisance?
- No, Interference of television signals does not constitute an actionable nuisance.
  - Yes, Television signals are a property thus any interference with the same constitute nuisance.
  - No, Building a tower upon a land is a legal right thus obstruction is a natural concomitant.
  - Residents ought to shift to other television operator providing seamless services.
27. Whether it was necessary for the claimant to have a property interest before a claim of nuisance could be launched?
- Yes, Television signals are a kind of intangible property.
  - Yes, only claimants with property rights can launch actions for private nuisance.
  - No, Television signals are not property.
  - No, as in the given facts interference with enjoyments of property is absent.
28. Murugan incorporated a company named Murugan Metal Mart (MMM). MMM generates a great amount of metal waste during the course of repairing and maintenance of plant and machinery. MMM dumps the metal waste in a nearby place assuming nobody will notice. Dumping however backfires sometimes. For example once MMM tried dumping the waste on the road adjacent to the business premise it ended up blocking it partly causing difficulty to vehicle users and passersby. Can the road users in general sue MMM for the private nuisance?

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- (a) Yes, the road is a public property no one can be excluded from its use.  
(b) No, the road was blocked in part.  
(c) No, the road users cannot sue for the private nuisance.  
(d) Yes, MMM has violated the environmental norms interfering in the enjoyment of the road use.
29. If MMM is liable then on being sued by sole road user, then the suit will lie under?  
(a) Private Nuisance.  
(b) Public Nuisance.  
(c) Cannot be determined.  
(d) MMM is not liable for any kind of nuisance.
30. Suterpech was the owner of a large country house with over a thousand acres of land. This land was close to a copper smelting factory which had long been in operation. The smelting factory discharged noxious gases as a result of its operation, which were considered to be a normal part of the smelting operation. As a result, trees on the claimant's land were damaged by the fumes and noxious gases. The Suterpech sued for nuisance. Whether the Factory was liable for causing Nuisance?  
(a) Yes, Factory is liable for nuisance for causing discomfort due to release of noxious gases.  
(b) No, Suterpech's claim of nuisance won't be entertained as Suterpech itself came near to nuisance source.  
(c) Real Estate business should be aware about the surroundings. Suterpech is the wrong doer.  
(d) Yes, Suterpech's claim will succeed as the factory has violated the right to clean environment under A.21.

### Passage 7

When a criminal offence is committed by several persons in furtherance of common intention of all, each of such persons is liable for that act in the same manner as if it were done by him alone. Joint liability can be explained as when two or more persons commit any criminal act and with the intention of committing that criminal act, then each of them will be liable for that act as if the act is done by them individually.

The ingredients of joint liability are:

- (i) A criminal act is done by several persons;
- (ii) The criminal act must be to further the common intention of all;
- (iii) There must be participation of all the persons in furthering the common intention.
- (iv) Nothing is an offence which is done by a person who is, or who by reason of a mistake of fact and not by reason of a mistake of law in good faith believes himself to be, bound by law to do it.

Let us take a hypothetical situation- There are two persons A and B. Both of them decided to rob a bank to earn some quick money. Both of them decided in advance that they will not hurt anybody and they will only take the money. After reaching the bank A tells B to guard the gate of the bank while he takes the money. When A was taking the money, security guard came running towards A. A out of fear, stabbed the security guard with a knife due to which he died. After that A ran with B along with the knife. In this case, even though B had no intention of killing the security guard but he will also be liable for the murder of security guard and robbery along with A. Considering the aforesaid, court must be mindful that at any site of offence it is not at all necessary that only two persons are present i.e. accused and victim, but a number of other persons like witnesses are also present at the scene of crime most of the time. So making a person liable just because he was present at the scene of crime or was near to the victim is not justified.

31. Police had gone to arrest A at his home. B, C and D were also present at that time. When all the three persons saw police coming, they came out of the house and gave a blow on the police and they drove them away. Which of the following statement is correct in this regard?

- 
- (a) Police is guilty as they lacked the arrest warrant.  
(b) Police is not guilty as they can arrest without a warrant in case of cognizable offences.  
(c) B, C and D are liable as they gave the blows with a common intention to evade the arrest.  
(d) Police and the B, C and D, both are liable.
32. A and B were accused of Rape committed in the wee hours of the New Year. Police Department decided to kill the offenders. Decision was taken in order to control the crowd hysteria demanding instant justice. They took the offenders in custody and took them to the crime scene to conduct the reconstruction of events leading to the commission of Rape. During the reconstruction Police department shot dead the offenders from a point-blank range. Which of the following statement is correct in this regard?  
(a) Police department is guilty of murder.  
(b) Police department is not guilty of murder.  
(c) Only the officers who shot are guilty of murder.  
(d) Instant Justice is the need of the hour to restore faith in the Rule of Law.
33. Head constable Jang along with his party proceeded for patrolling. They observed footprints of four camels entering into Indian Border from Pakistan. The footprints were followed. When his party reached outside a village, it was observed that the footprints of the two camels were diverted towards one village and the other two camels went straight. Suddenly, there was a firing occurred between the accused party and the security forces. Gyan, who was just moving here and there quietly sat under a tree. Prosecution charged Gyan and the infiltrators for the offences committed with common intention. Decide whether Gyan is guilty?  
(a) Gyan is guilty as his presence points to his involvement.  
(b) Gyan is guilty as he being a resident of border village must have been aware of the attempts of infiltrations.  
(c) Gyan is not guilty. Mere presence cannot be taken as a fact involving common intention.  
(d) Border police is liable as they failed to guard the Indian Territory.
34. An occurrence took place in the Big Bazaar Street in which Raman was murdered by Max, Nellie was attempted to be murdered by Mark and Mani was attempted to be murdered by Mike. In respect of these offences, each of the three accused was directly charged for their overt act and constructively charged for the overt acts of the other accused. Mike said that it was by chance that he was present at the site of offence and he had not participated in the commission of the offence. Mike further added that other accused had a prior enmity with the Raman. Mike was convicted by the trial court for committing offences of murder and criminal intimidation. He appealed with the pleading that he was only with friendly terms with Max and Mark and he did not share common intention with them to murder. Decide whether Mike is innocent or not?  
(a) Conduct of Mike in accompanying the offenders proves his complicity in the offences committed.  
(b) Mere presence of the Mike at the scene of occurrence along with offenders cannot be concluded that the Mike is guilty.  
(c) Mike's appeal will be dismissed as the defence he has taken is weak in the eyes of law.  
(d) Mike should be let free otherwise he will become a hardened criminal once he is incarcerated.
35. Benjamin was a 22 year old man who was in love with the sister of James. James didn't like his intimacy. Once, Benjamin came with his younger brother and called the sister of James to come out. Instead of the sister, James came out. There was a heated exchange of words. Benjamin slapped James on the cheek. Then Benjamin snatched hockey stick from his younger brother and gave one blow on the head of James due to which his skull was fractured. James died in hospital 10 days later. Both Benjamin and his brother were charged for murder. Decide the guilt of brother.

- (a) Brother is not liable as he had no idea about Benjamin would hit James.
  - (b) Brother is guilty as he acted in concert making hockey stick available.
  - (c) Only Benjamin is guilty of murder.
  - (d) James should not have acted possessively of his sister.
36. Anukul, a soldier, who has been felicitated for his bravery during the Kargil War, emerged as a role model amongst his contingent of Western Command. His name is taken for being a soldier who obediently followed the codes of armed conflict. Recently, during a skirmish on the Line of Actual Control he shot down a Chinese soldier. It was done on the orders of superior officer. Decide whether Anukul acted in conformity with the commands of the law?
- (a) Yes, Anukul acted within the remit of law under good faith.
  - (b) No, Anukul should have violated the orders as it was against the Right to Life of Chinese Soldier.
  - (c) Yes, Anukul is cannot be wrong that is why he is awarded for bravery.
  - (d) Good faith cannot be accorded as it is a clear cut case of malice in fact.

### Passage 8

Public interest Litigation differs from ordinary litigation. It does not involve the enforcement of the right of one person against another. Rather, this type of litigation is filed to provide justice to the deprived sections of the society. It is a collaborative effort that encompasses the petitioner, the court and the government. It is commendable to see that courts have taken all possible measures to allow access to public spirited persons and NGOs to file petitions on behalf of those who cannot approach the court. In simple terms, a PIL is a petition that an individual or a non-governmental organisation or citizen groups, can file in the court seeking justice in an issue that has a larger public interest. It aims at giving normal people an access to the judiciary to obtain legal redress for greater cause.

In India, a PIL can be filed in the Supreme Court under Article 32 and in the High Courts under Article 226 of the Constitution of India.

The Supreme Court has taken various steps that have given a healthy boost to PIL. The procedural requirement are very easy and relaxed as compared to filling of the other ordinary petitions. Even a letter, post card, newspaper report and email addressed to the Supreme Court by a person, acting in Public interest has been accepted as a petition. Any simple information received by the court complaining of a legal injury against a person or a group of person, who cannot approach the court directly( because of poverty, disability, social backwardness and the like) can be treated as a PIL. The court understand that in such cases it would be unfair to except a person to incur expenses and approach the court through ordinary litigation.

Also, the Supreme Court has relaxed the rule of locus standi while filling PILs. Locus Standi means the ability of a person to approach to the court having sufficient connection to the case in hand. In other words, a person who actually suffered a legal harm has the ability to approach a court seeking a remedy. However, in the case of PIL, any public spirited person, who may not be directly affected by the legal harm, can approach the court, seeking a remedy. It is pertinent to be noted that once the PIL has been filed, it cannot be withdrawn. The court might also take suo moto cognizance of matters involving public interest. Suo moto is the power of the court to initiate proceeding against a party by its own motion. However, the procedure to file a PIL is similar to that of a writ petition.

37. As per the information given above what is article 32 in the passage directs to?
- (a) Filling PIL in the High Court u/a 32
  - (b) Filling PIL in the Supreme Court u/a 32.
  - (c) Registration to the PIL.
  - (d) None of the above.



38. According to the above information which is most likely to be the correct statement?
- (a) PIL cannot be filed in the High Court under article 32 and in the Supreme Court under article 226 of the Constitution of India.
  - (b) A letter, a post card, newspaper report or email addressed to the Supreme Court by a person acting in the interest of the public will not be accepted as a petition.
  - (c) Any simple information received by the court complaining of the legal injury against a person or a group of person, who cannot approach to the court directly because of poverty, disability, social backwardness and the like, can be treated as a PIL.
  - (d) All of the above.
39. According to the above information in the passage which is the incorrect statement?
- (a) Supreme Court has relaxed the rule of locus standi while filling PILs.
  - (b) Any simple information received by the court complaining of the legal injury against a person or a group of person, who cannot approach to the court directly because of poverty, disability, social backwardness and the like, can be treated as a PIL.
  - (c) A PIL is a petition that not every individual or a non-governmental organisation or citizen group, can file in the court seeking justice in an issue that has a private interests. It aims at giving common people an access to the judiciary to obtain legal redress for a greater cause.
  - (d) All of the above.
40. According to the passage what rule is relaxed by the supreme court of India while filling the PILs as per given in the passage?
- (a) Standi locus
  - (b) Rule of equality before law.
  - (c) Public service complaints.
  - (d) Both (a) and (c)