CHAPTER – IV

LEGALISITIVE CONTROL ON NOISE POLLUTION

Noise is a disturbance to the human environment and escalating at such a high rate due to the advancement of science and technology all over the World, that it will become a major threat to the quality of human lives. Noise has become one of the important pollutants of environment and has posed a pressing problem to the international community. Environmental problems have assumed new dimensions. Many parts of earth contains “dangerous levels of pollution in water, air, earth and living beings; major and undesirable disturbance to the ecological balance of the biosphere, destruction and depletion of irreplaceable resources and gross deficiencies harmful to physical, mental, and social health of man...”¹

The problem of pollution cannot be a concern of any particular territory. “With the goal of establishing a new and equitable global partnership through the creation of a new levels of cooperation among states, key sectors of societies and people, working towards international agreements which respect the interests of all and protect the integrity of the global environmental and developmental system, recognizing the integral and interdependent nature of the earth, our home”²

From the above statement it is evident that to control the environmental pollution, it needs a collective action of all the nations. One of the objectives of the W.N. Treaty 1945 s to promote social progress and better standard of life.³

¹. quoted from Stockholm declaration 1972
². quoted from the second paragraph of the Preamble of the RIO Declaration on Environment (1992)
³. quoted from the preamble to the charter of the United Nations 1945
Development and Environment are positively related to each other and consideration must be paid to maintain harmony between development and environment. In August – September 1980 in the General Assembly in its international Development strategy for the decade 1981 – 1990 had clarified that in the developing countries rapid development will escalate their capacity for improving environment. The main aim of this strategy is to ensure that the process of economic development be such that it should necessarily be sustainable for a long time. The Pearson Commission known as Commission on International Development which was established by the president of the World Bank Group, stated in its 1969 report that in order to make a safe and prosperous World, the common problems of people is needed to be solved. This report mainly contains ten objectives, which are as follows:

1. The Promotion of private foreign investment with of setting of special risks for investors.
2. Increases in aid, should be directed at helping the developing countries to reach a path of self sustained growth.
3. The creation of a framework for free and equitable trade, involving the abolition by developed countries of import duties and excessive taxes on those primary commodities, which they themselves do not produce.
4. Debt relief should be a legitimate form of aid.
5. The institutional basis of technical assistance should be strengthened.
6. Debt relief must be a legitimate form of aid.
7. Control of the growth of population.
8. Procedural obstacles should be identified and removed.
9. Development aid should be increasingly multilateralised.
10. Greater resources should be devoted to education and research.

Not only that, The Universal Declaration of Human Right, 1948 gives emphasis on quality of life under Art 3 and under its Art 25 recognizes but also the right to standard of living, adequate for the health and well being of himself and his family has been guaranteed. Art 29 of the declaration imposes duty of the man toward the community only by which the free and full development of the personality of a man could be possible.

So, there remains a close relationship between development and conservation of environment. This relationship was acknowledged in 1972 Stockholm conference on Human Environment. In fact, it was only in the year 1972 the consciousness of the growing world to protect the environment from pollution had reached at its climax and which was reflected through the historic conference specifically on environment was summoned by the General Assembly.

4.1 THE IMPORTANCE OF STOCKHOLM CONFERENCE :-

The Stockholm conference has rightly been reckoned as the first major attempt to solve the global problems of conservation and regulation of human environment by international agreement on a universal level. The said conference has made it clear that at this crucial juncture the claim of pollution free environment has to be considered as a pragmatic reality and it would be the duty of all sovereign state to ensure pollution free environment by taking appropriate measures. Stockholm conference considered the need for a common outlook and for common principles to inspire and guide the peoples of the World in the preservation and enhancement of the human environment. It proclaims that man is both creature and moulder of the environment which gives him physical sustenance and affords him the opportunity for
intellectual, moral, social and spiritual growth. Both aspects of man’s environment, the natural and the man made are essential of his well being and to the enjoyment of basic human rights—even the right to life itself.

The Stockholm conference recognized that the protection and improvement of human environment is a major issue, which affects the well being of peoples and economic development throughout the World. It is made clear that in the developing countries most of the environmental problems are caused by under development structures. Millions continue to live far below than the minimum levels required for a decent human existence, deprived of adequate food and clothing, shelter and education, health & sanitation. In order to find out the remedy of this problem, it declared that the developing countries must direct their efforts to development, bearing in mind their priorities and the need to safeguard and improve the environment. It is further stated that for this purpose, the industrialized countries should make efforts to reduce the gap between themselves and the developing countries. In the industrialized countries, environmental problems are generally related to industrialization and technological development. Here it is pertaining to mention that noise is an inescapable by product of industrial environment.

The Declaration of 1972 further proclaims that the natural growth of population continuously presents problems on the preservation of the environment and adequate policies and measure should be adopted, as appropriate, to face these problems. It is accepted in this declaration that through indifference or ignorance we can do massive and irreversible harm to the early environment on which our life and well being depend. Conversely, through fuller knowledge and wiser action, we can achieve
for our posterity and ourselves a better life in an environment more in keeping with human needs and hopes. Through the adoption of these sentences the declaration clearly gave stress and emphasis to the need of mass awareness to protect the environment from pollution. The further statements made in para 6 of the proclamation of the declaration adds more evidence in support of this assertion “There are broad vistas for the enhancement of environmental quality and the creation of a good life. What is needed is an enthusiastic but calm state of mind and intense but orderly work. For the purpose of attaining freedom in the world of nature, man must use knowledge to build in collaboration with nature, a better environment. To defend and improve the human environment for present and future generation has become an imperative goal for mankind a goal to be pursued together with, and in harmony with, the established and fundamental goals of peace and of world wide economic and social development”.

In order to protect and develop the human environment the declaration has taken two-tire scheme that is to one by the individual and other way by the collective effort. It is stated in para 7 that individuals in all walks of life as well as organizations in many fields by their values and the sum of their actions will shape the World environment of the future. Local and national governments will bear the greatest burden of large-scale environmental policy and action within their jurisdictions. International co-operation is also needed in order to raise resources to support the developing countries in carrying out their responsibilities in this field. A growing class of environmental problems, because they are regional or global in extent or because they affect the common international realm, will require extensive co-
operation among nations and action by international organizations in the common interest.

The principles set forth in Stockholm declaration is reflected in the law and practice of each state as well as the international level. Twenty-six principles have been incorporated into the declaration which states of common conviction.

In principle 1, it is stated that man has the fundamental right to freedom, equality and adequate conditions of life, in an environment of a quality that permits a life of dignity and well being. So, this declaration advocates for a quality environment and imposes a duty on individual to protect the environment for present and future generations. In this regard, this united nation conference resolved to restrain or eliminate apartheid, racial segregation, discrimination, colonial and other forms of oppression and foreign domination.

In its principle 2, this conference resolves to protect the air water, land, flora and fauna and the representative of natural ecosystem for the benefit of present and future generations.

In its principle 3, it is stated to maintain, restore and improve the vital renewable resources of the earth.

In principle 4, again the responsibility of the man is reminded to safe guard and wisely manages the heritage of wild life and its habitat.

In principle 5, it is stated to use the non-renewable resources in a proper way to make a friendly environment.

In principle 6, a caution is given regarding discharge of toxic and other substances and people as a whole directed to support the just struggle of the peoples of all countries against pollution.

In principle 7, it is stated that states should take all possible steps to prevent pollution of the seas.
In principle 8, the emphasis is given over economic and social development in order to ensure a favorable living and working environment and also for the improvement of quality of life.

In principle 9, it is stated that the environmental deficiencies can be remedied by the exchange of financial and technological assistance, which only may ensure proper development.

In principle 10, it is stated that stability of prices and adequate earnings for primary commodities and raw materials are part of the environmental management.

In principle 11, all states are directed to adopt such environmental policy, which may ensure better living condition.

In principle 12, it is stated that for healthy environment the developed country should provide the technical and financial assistance to the developing countries so those developing countries can bear the cost for incorporating environmental safeguards.

In principle 13, states are directed to adopt integrated and coordinated approach to their development planning in conformities with the scheme to make human environment.

In principle 14, states for national planning and principle 15 stated that the planning must be applied to human settlement and urbanization with a view to avoiding adverse effects on the environment.

In principle 16, it is advocated for the incorporation of demographic principles and in principle 17, it is stated to entrust the task of controlling planning and managing environmental resources on the hand of appropriate national institutes and in principle 18 it is said that science and technology should be applied for the common good of mankind.
In principle 19, the emphasis is given on education and mass awareness to make one human environment and for this, responsibility is also attributed on mass media.

In principle 20, the emphasis is given on scientific research and development for solving the environmental problems and stress is also given on the exchange of scientific information and experience in between the states.

In principle 21, the states are directed to ensure in accordance with the international law and charter of united nation that activities within their jurisdiction should not cause damage to the environment of other states.

In principle 22, the states are instructed to co-operate each other and develop international law further so that the compensation can be paid to the victims off pollution.

In principle 23, it is stated to fix such criteria according to the standard and values of each state and in principle 24 once again it is said to protect and improve environment in a co-operative spirit.

In principle 25, it is stated that state shall ensure that international organisations should play a coordinated, efficient and dynamic role for the protection and improvement of the environment.

Last but not least, in principle 26, one most important matter is incorporated to save the earth from destruction. It is stated in this principle that man and his environment must spared the effects of nuclear weapons and all other means of mass-destruction and States must reach on an agreement to destroy such weapons. In this respect it is pertaining to mention that for disarmament and to save the environment from radioactive elements, the Antarctic treaty, 1959, partial Test Ban Treaty 1963, outer space Treaty 1967. Treaty for the prohibition of
Nuclear Weapon in Latin America 1967, Treaty on Non-proliferation of Nuclear weapons 1968 General Assembly’s Declaration of principles Governing the Sea Bed and the ocean floor and the sub - soil thereof, beyond the limits of National Jurisdiction, 1970. The United Nations convention on the Law of Sea, 1982 etc. are some of the important treaties and declaration initiated by the world body.

4.2 THE IMPACT OF GOVERNING COUNCIL FOR ENVIRONMENTAL PROGRAMME :-

In pursuance with the Stockholm declaration General Assembly of United Nation established a Governing Council for Environmental Programme popularly known as UNEP. The Chief function of the UNEP is to enhance the quality of life.

In the areas of ‘Basic human needs’ programme the aim of the UNEP is to promote environmentally sound patterns of development in the specific areas of food, shelter, health and poverty. The UNEP has recognised the limits of human environment by its various assessment programmes. In the assessment of the outer limits the five specific subject areas were designed for actions by UNEP which are as following:-

1. The characteristics and causes of the climate change.
2. The nature and impact on the environment of the deliberate weather modification.
3. The dimensions and significance of risks to the stratospheric ozone layers.
4. The limited capacity of society to modify their behaviour in the interest of the sound environmental management.
5. Bio-productivity and to ensure the sustainable utilization of species and economic system.
The UNEP through providing various tools, stimulating information and awareness tried to solve the 'specific developments problems' of the states. UNEP also helps to integrate and harmonize international approaches to regional and global problems. A number of pilot projects have been launched by UNEP. As the Stockholm declaration, 1972 adopted the resolution for establishment of voluntary environment fund, in order to materialise this resolution the 'voluntary fund' for environmental programmes was established with effect from January 1, 1973. One of the greatest achievements of the Governing Council of UNEP is the arranging of the United Nations Conference on Human Settlement, which is popularly known as HABITAT. The main resolution of the HABITAT is that the nations must avoid the pollution of biosphere and oceans and should join in the efforts to end irrational exploitation of all environment resources whether non renewable or renewable in the long term. It also directed the states to give stress on balanced development for all regions.

The UNEP has developed a global environment monitoring system and become a basic international instrument for coordinating environmental operations among the countries. Another achievement of the UNEP is the emphasis on information and environmental training and education. UNEP jointly with UNESCO established the ongoing Global International Environment Education Programme, popularly known as IEEP, for development of consciousness and awareness regarding environmental problems through a proper education in this field. in the world community specially in the developing world it is created an environmental ethics and consciousness.

Various environmental laws have been legislated in parity with
management of UNEP in national forums to curb pollution. In fact UNEP has played a catalyst role behind the formation of various conventions which successively been able to put some kind of pressure on the governments to take specific measure for ensuring pollution free environment. The 1998 UN Task Force report sought to revitalize UNEP further. An effort has also been made to explore possibilities of an expanded structure and a new mandate under the trusteeship council.

4.3 Nairobi Declaration :-

The world community again scrutinized the tenth anniversary of the 1972 Stockholm declaration in Nairobi from 10th to 18th May 1982. Once again through Nairobi convention the states were requested to build on the progress so far achieved and a deep concern was also expressed regarding the present worldwide state of environment and recognized the urgent necessity of intensifying the efforts at the global, national and regional level.

4.4 The Rio Conference on Environment and Development:-

Between 1972 and 1982, the problems of extinction of species, deforestation, water pollution, desertification, depletion of the ozone layer and climate change became increasingly evident. Various treaties were made to deal with them. Later on the world community under the aegis of U. N. decided to hold a conference on environment and development at Rio in Brazil in 1992, to review the 20 years of state of environment after the Stockholm declaration made in the year 1972. The aim of the Rio conference popularly known as Earth Summit was also to develop an agenda for the 21st century. 103 heads of governments from the 170 countries attended this conference with several hundreds of NGOS. The Secretary General of United Nations conference on
Environment and Development termed it as a ‘Parliament of the planet’ and he also remarked “If we fail at Rio, it will be one of the greatest breakdown even in international relations especially concerning North and South”. The conference covered 18 sectoral environmental and developmental issues and some cross-sectoral issues. The resultant of the conference is Rio declaration which consists of 27 principles, Agenda 21, consists 800 page policy programme on 40 different issues, the United Nations Framework Convention on climate change, the convention on Biological Diversity and a set of forestry principles.

Before convening the Earth Summit in 1983 the General Assembly of the United Nations set up a commission headed by Norway’s Prime Minister Gro Harlem Brundtland in order to submit a report regarding the state of world environment and development beyond 2000. The report of the commission under the heading of “our common future” has given a very clear message that if the current mode of unsustainable development will be continued then future will be in danger. This prompted the General Assembly to convene a special conference on safeguarding environment from further degradation beyond repair. On 22nd December 1989, 159 states members of the U. N. General Assembly passed resolutions (44 / 228 and 44 / 207) expressing their resolve to draft, as soon as possible, a world convention in this regard. Thereafter the preparatory committee of UNCED held its first session at Nairobi from 6th to 31st August 1990. On 21st December 1990 the General Assembly through its resolution 45 / 212 constituted the Intergovernmental negotiating Committee to conduct “a single inter - governmental negotiating process” on a framework convention on climate change. Apart from that the preparatory committee agreed to
adopt Agenda 21 i.e., proposals of achieve environmentally sound, sustainable economic development in all countries in Rio de Janeiro.

Some of the main issues like finances for curbing pollution, climate change, forest, technology transfer, biological diversity, sustainable development, institutional framework etc. haunted the UNCED.

The Rio Declaration on Environment and Development (1992) adopted 27 principles. The principles are as follows:

1. Human beings, being a centre of concerns for sustainable development are entitled to a healthy and productive life in harmony with nature.

2. States at the time of using and exploiting their own resources in accordance with the charter of united nations and principles of international law should ensure that they do not cause damage to the environment of other state or of areas beyond the limits of national jurisdiction.

3. The right to development should be in consonant with the developmental needs of present and future generation.

4. In order to achieve sustainable development environmental protection shall constitute an integral part of the development process.

5. Emphasis should be given on eradication of poverty by all states and people, as it is an indispensable requirement for sustainable development.

6. Special priority should be given on the situation and needs of developing countries, particularly on the least developed and most environmentally vulnerable countries and international
7. State shall co-operate in a spirit of Global partnership to conserve, protect, and restore the health and integrity of the Earth’s ecosystem and developed countries should come ahead with their technologies and financial resources to build up a global environment for sustainable environment.

8. In order to achieve higher quality of life for all people, states should promote demographic policies.

9. States should co-operate to strengthen indigenous capacity building for sustainable development by improving scientific understanding through exchanges of scientific and technological knowledge.

10. State shall facilitate and encourage public awareness and participation by making information widely available and at the national level each individual shall have appropriate access to information concerning the environment including information on hazardous materials and activities in their communities. Effective access to judicial and administrative proceedings including redress and remedy shall be provided.

11. State shall enact effective environmental legislation, which should reflect the environmental and developmental context.

12. States should co-operate to promote a supportive and open international economic system that would lead to economic growth and sustainable development in all countries to better address the problems of environmental degradation. Trade policy measures for environmental purposes should not constitute a means of arbitrary or unjustifiable discrimination or a disguised restriction on international trade. Unilateral actions to deal with
environmental challenges outside the jurisdiction of the importing country should be avoided. Environmental measures addressing trans-boundary or global environmental problems should, as far as possible, be based on an international consensus.

13. States shall develop national law regarding liability and compensation for the victims of pollution and other environmental damage and also for the adverse effects of environmental damages with in an expeditious and more determined manner.

14. States shall co-operate effectively and restrain themselves to transfer any such substances to other states, which may cause severe environmental degradation.

15. States shall take precautionary measures to protect the environment.

16. National authorities should endeavour to promote the internationalization of environmental costs and the use of economic instruments, taking into account the approach that the pollution should, in principle, bear the cost of pollution, with due regard to the public interest and without distorting international trade and investment.

17. Environmental impact assessment, as a national instrument, shall be undertaken for proposed activities that are likely to have a significant adverse impact on the environment and are subject to a decision of a competent national authority.

18. States shall immediately notify the other states regarding any national disaster or other emergencies that are likely to produce sudden harmful effects on the environment of those states.
19. States shall provide prior and timely notification and relevant information to potentially affected states on activities that may have a significant adverse trans-boundary environmental effect and shall consult with those states at an early stage and in good faith.

20. It recognized the vital role of women in environmental management and development.

21. The creativity, ideals and courage of the youth of the world should be used to achieve sustainable development and to ensure a better future for all.

22. Indigenous people and the other local community’s knowledge and traditional practices should be utilized in environmental management and development.

23. The environment and natural resources of people shall be protected.

24. In times of armed conflict also the states shall respect international law in order to protect environment.

25. Peace, development and environmental protection are interdependent and indivisible.

26. States shall resolve all their environmental disputes in accordance with the charter of the United Nations.

27. States shall co-operate to carry out the principle obtained in the declaration and should further develop the International Law in the field of sustainable development.

Another net outcome of the Summit is Agenda 21, which is not a legally binding document, but a policy document expected to guide International actions. Following UNCED the UN Commission of
sustainable development was created to enhance global co-operation between countries and to facilitate the implementation of Agenda 21.

4.5 The Role of Specialized Agencies:-

Under Art 22 of the U. N. Charter the General Assembly has established a number of specialized Agencies and launched many programmes, conferences and projects to fulfil the mandate for Art 55 for higher standard of living and social progress and for the solution of health and related problems. These have produced several reports on prevention of natural and man made hazards of atomic radiation to marine pollution, outer space to underground exploitation of Nuclear Tests. Similarly these agencies have been performing an appreciable role to grow environmental awareness within the developing countries. The role of UN Secretariat is very important in this aspect, as it involves the following unit for the environmental protection.

i) The Office of Science and Technology

As an advisory body considers the subjects such as Development and Rational utilization of natural resources, the identification and control of pollutant etc.

ii) The Social Development Division

The relevant areas of concern for this division includes studies of the social aspect of industrialization, and urbanization, Research and Training programme for regional planning and development and utilization of human resources.

iii) The Centre for Housing, Building and Planning

The main area of responsibility covers the development of measures designed to prevent deterioration of the human environment due to urban sprawl, over crowding noise, air and water pollutant, traffic congest etc.
iv) The Recourses and Transport Division

Within its preview it covers the planning of integrated development of whole river basins involving the need for difficult tradeoffs and the pollution free transportation in the internal water basin.

v) The Public Administrative Division

It deals with the environmental questions through such activities as a comparative study of administrative aspects of urbanization, study of genetic code, territorial eco-system etc.

The studies and finding of these divisions of secretariat have been utilized in different programmes of U. N. and sometimes special programmes have been launched to solve the specific problems. But divisions deal with the environment on fragmented basis. Apart from the direct role played by the UN a special place shall be assigned to the various specialized agencies of UN such as UNDP, FAO, IMCO, IAEA, ICAO, World Bank, ILO, WHO, UNESCO, who have been working effectively in the field of environment for making it healthy and pollution free.

UNDP

This is an important agency of UN. The full name of this organization is United Nations Development Programme. It helps to finance a large number of resources, survey and projects related to conservation such as afforestation and land reclamation. Study of ecological changes and training programme such as Watershed Management Training Institute (Argentina), Forestry Training Institute (Philippines) and several other training institutes, have in operation in Turkey, Chile, Lebanon and Jordan which gives training for the
application of an environmental approach to the decision makers in the Economic Development.

**FAO**

The full name of this specialized agency of UN is Food and Agricultural organisation. FAO is deeply involved in conservationist aspects of soil forest and territorial water. It has laid down certain norms to be followed by member states and organisations such as water quality criteria for fish, integrated pest control techniques, pulp and paper mills effluents and the use of sewage effluents for agriculture forest and fisheries. It has organised several conferences on Technical Aspects of Marine Pollution on Living resources and fishing etc. it has established various commissions, conducted conventions and launched associations for the protection of living resources of earth.

**WMO**

The full name of this organisation is World Meteorological Organisation and it has been well known for its programme of World Weather Watch based on International Monitoring System with world data processing centres in the United States, Russia and in New Zealand. The advents of satellite techniques have facilitated it to keep watch on an atmospheric and maritime pollution in the four major oceans of the world. Moreover in co-operation with USA and International Council of Scientific Union it has launched a Global Atmospheric Research Programme for monitoring and surveillance of atmospheric changes of world. Besides, it has worked in standardization of instrument and techniques for data collection and analysis and studies of relationship between air pollutants, meteorology and plant damages. It has also developed a liaison with IAEA on the measurement of isotopes in precipitation.
IMCO

The full name of this agency is The International Maritime Consultative Organisation. It was the repository of 1954 International Convention for the Prevention of Pollution of the Sea by oil. In the control of marine environment, it has developed new methods for removal of oil from the sea, technique for protecting coastal areas from pollution and the detection and penalization of deliberate pollution.

WORLD BANK

The World Bank has been making efforts to apply environmental criteria on major economic development. Industrial projects and to the evolution of development goal and strategies. In 1970 the then president of World Bank Mr. Mcnamara declared that no loans be made in future without screening for the possible environment side effects. This bank had established a unit to foresee the environmental consequences of proposed development projects. The unit consists of eminent Ecologists, Biologists and system analysis of the world.

UNESCO

This agency is a well-known agency for its various social activities. It has been deeply involved with research on natural resources and programmes of such problems as Arid Zones Research and Humid Tropics Research. It has also launched an International Hydrological Decade in 1958 under the banner of Intergovernmental Oceanographic Commission. For monitoring the ocean environment, it has launched an integrated global station system with world meteorological organisation. In 1968 it has launched a long-term programme on ‘Man and Biosphere’ to supplement a social science programme and ‘Environment design for living’ which began in 1966. The report of Secretary-General has highly appreciated the works done by UNESCO. UNESCO gives emphasis on
the principle that development programmes must be framed on the basis of sound ecological norms. Not only that a via media was emerged by the successful participation of UNESCO and the regional economic commissions of ECOSOC. It secured the way for on going and planned activities of UN in the environmental sphere. The United Nation is performing its marine pollution arrangement programme with the collaboration of UNESCO and other agencies. UNESCO charter observed that the defense of peace must be called in the minds of man, so the reforming of institutions to cope with environmental needs will require new commitments, new values and new thinking patterns. A series of work have been undertaken by UNEP with the close cooperation of other UN agencies, as UNEP is joint venturing with UNESCO for the Arid Zones Programme. UNESCO has launched a practical programme in the form of a pilot project for the promotion of the applied and appropriate studies and research and training in this direction. In 1975 UNESCO with UNEP jointly established the on going global international environmental education programme as major programme designed to develop an overall programme and directions for the environmental education at all levels.

WHO

Prof. Stephen S. Goodspeed pointed out about the World Health Organisation “is typical of the specialised agency with multi purposes functions and well defined objectives”. The main functions of the WHO are to raise the standard of health of the people. The preamble of the WHO defines health as a state of complete physical mental and social being and not merely the absence of diseases or infirmity. The World Health Organisation is providing its services to eradicate diseases and to raise the standards of the people of world. To secure good health is not
at all possible without achieving healthy and pollution free environment, so from the very inception this organisation is working significantly in the field of environmental matters. The traditional concerns of WHO has been focussed on following three aspects :-

i) The definitions of the environmental standard for the human adaptability as to various stress factors.

ii) The identification of environmental hazards air, water, soil and food pollution’s the effect of pesticides, the ecology of disease vectors, the abuse of drug etc. In 1969 it had led to the establishment of an international reference centre for air pollution and a year latter on international reference centre on water supply.

iii) The study of the effect of induced changes with environment such as rapid populations, massive migration, urbanisation, rapid industrialisation and the construction of irrigation dams and man made lakes.

Besides these three specified area, it has launched several projects in the developing countries for the related areas of its interest. It had made pioneering endeavours before the advent of UNEP. Today gradually increasing pollution has reached on alarming and appalling stage. Population pollution is the main concerning topic of today, because we know that our earth on which we are living is not expanding and the arithmetical progress of population in this juncture is really a matter of grave concern. In this the WHO has taken a very effective and bold step in order to check rapid growth of population. This organisation is providing various types of assistance to the states for implementing family planning programmes.

The WHO has also taken a leading and direct role to control noise pollution. WHO recommends some permissible limits of noise, which
are just advisory upon the member states. WHO has fixed 45dB as a “safe noise level” The report prepared by WHO on “Noise”\textsuperscript{1} stated that in working environment the noise than 75dB. Is an increasing predicable risk. It is also stated in this report that in other occupational domestic environments acceptable noise levels can be established on the basis of speech communication criteria. For good speech intelligibility indoors background noise level of loss then 45 dB (A) leq are required. At night sleep, a bedroom noise limit should be confined within 35dB(A) leq. About noise annoyance it recommends that general daytime outdoor noise levels of less than 55 dB (A) leq are desirable to prevent any significant community annoyance.

**ILO**

The full name of this agency is International Labour Organization. It is concerned with occupational health and hazards since 1919. It has specific concern over the problem of labourer and since from its birth it resolves to provide healthy environment to the working class. Its main activity is to prevent dust in mining and air pollution control in the industrial sectors. Besides it has an international occupational safety and Health information centre in Geneva, which distributes abstract materials dealing with air pollution. It has more than 30 national centres for such information. ILO in its convention NO. 148 held in the year 1977 in Geneva adopted a resolution that is to protect the workers against health hazards resulting from air pollution, noise and vibration. The term ‘noise’ used in this convention includes all types of sound, which result in hearing loss and harms the health. While, the vibration includes any vibration which transmits into human body and is harmful

\textsuperscript{1} NB- world Health organisation, Environment Health Criteria 12 – Noise – 1 P – 13 (1980)
to health. This convention also recommended that each member state should take measures for prevention and control against occupational hazards in working environment resulting from air noise and vibration and to enforce them through their national laws and regulation. Through this convention of ILO the responsibility is conferred upon the employer to carry out the conditions of monitoring air pollution, noise and vibration in the working environment. The employers have also been instructed to ensure the regular inspection and maintenance of machine and installations with respect to the emission of harmful substance, dust, noise and vibration.

Worldwide the noise now has been recognised as an air pollutant. The above International Summits, which are discussed here though not directly deal with the noise problem, but as noise causes hearing loss, stress, high blood pressure, sleep loss, lost productivity and a general reduction in the quality of life and opportunity for personal and collective tranquility, these summits are very much relevant for curbing noise pollution. These summits will also be proved helpful to get healthy environment and also to ensure right to development.

4.6 INTER NOISE 95

The 1995 International Congress on Noise Control Engineering was held in Newport Beach, California on 1995, July 10 – 12. More than 700 engineers attended the three-day congress, which had as its theme applications of Noise Control Engineering. Three distinguished lecturers addressed the theme of the congress or Masare Kayasu of the Acoustical Engineering Laboratory in Japan gave a comprehensive account of applications of noise control engineering in Japan. He described the history of noise legislation in Japan and then covered a number of key areas in which noise control engineering has been
applied. These include transportation noise, which included road, rail and air transportation, construction equipment noise, noise inside buildings and machinery noise control. Professor Jiri Tichy of the Pennsylvania State University presented his lecturer in “Application for active control results presented at the ACTIVE 95 symposium which immediately preceded INTER NOISE 95. The third plenary lecture was presented by Robert D. Bruee of Collaboration in Science and Technology, Inc. in Houston, Texas USA. He discussed the progress that has been made in control of noise in the workplace since the 1930s. He reviewed the relationship between noise and hearing loss, the use of hearing protection, the role of measurements and their importance in the progress, which has been made and gave examples of noise control in the workplace. In addition to the three distinguished lectures fifty technical sessions were held during the congress. Three hundred and twenty four papers were presented at the meeting and appear in the congress proceeding.

In INTER NOISE 95 the emphasis is given on applications, practical techniques for the control of noise in many different areas, including surface and air transportation, noise control in the community, noise control in the design stage of machinery and standards and regulation for noise control.

4.7 OECD CONFERENCE ON NOISE ABATEMENT POLICIES

Environment ministers of OECD countries, in their meeting on 7th and 8th May, 1979 has examined a report on changes in the state of the environment which showed that noise constituted a persistent problem that threatened to increase significantly in the future. They expressed their concern that effective measure should be taken to arrest these trends. It was also discussed that though many OECD member countries
have already adopted and are continuing to develop steps for noise abatement but during the last 20 years, there is a significant increase in noise levels. Above 15% of the population in OECD countries is currently exposed to external daytime sound level greater than 65 dBA (leq). More than half of the population of OECD countries is exposed to an external daytime sound level exceeding 55 dBA (leq) a level that is considered in many countries to be a long-term objective for the protection of the noise environment. It is further more realized that noise has spread both in time and space and due to the increase in noise, it became a major disturbances in the life of citizens as it interferes with daily activities and with sleep and creates a feeling of annoyance. It was also opined that if policies and regulation are not framed to control noise, especially vehicle noise then the number of people exposed to unacceptable noise level will increase in the future and an estimation was forecasted that 5 percent from existing 15 percent could increase in the year 2000 who have to expose more than 65 dBA. To reduce vehicle noise suggestion was given for making a better traffic management. In order to reduce noise from commercial aircraft, the suggestion was given for replacing of old noisy aircraft, action at individual airports, proper land use planning and sound proofing. Emphasis was also given to reduce the extension of noise from road traffic.

It was also observed in this conference that noise abatement is an essential element in policies concerning the environment and the improvement of the quality of life and that is why it should be integrated effectively into such policies. The existence of a wide diversity of independent sources of noise and the consequent involvement of many different authorities in noise abatement require a strong cohesion, between these authorities and a particular attention to the enforcement of
decisions and regulations. Certain factors are discussed on which the effectiveness of enforcement depends those are:

- The relative importance accorded to noise abatement among other policy priorities.
- The financial and technical means and the manpower available (or able to be made available) at central, regional and local levels.
- The distribution of competence between the various central authorities responsible, as well as between the central regional and local authorities.
- The delegation of significant responsibilities (especially concerning the use of noisy products, equipment and infrastructures) to local authorities.
- The specific character and feasibility of the policy methods and actions selected.
- The will of the public to contribute to a quite environment.
- The civic sense of those citizens who are responsible at one time or another for the production of noise.

It was also opined by the member states in this conference that noise abatement should be integrated at all levels of decision-making and with other relevant policies. Noise abatement should be incorporated into comprehensive and coherent national programmes.

It was further stated through the conference that the establishment of clear and quantified objectives is an essential element in noise abatement policy, which implies a timetable governing the stages, and target dates set for the achievement of these objectives, taking into account the economic constraints. It was accepted that the average noise levels indoors should not exceed 40 to 45 decibels. In order to ensure reasonable sleep conditions an average noise level indoors of less than
33 decibels must be assured at night. However certain OECD countries have set even lower levels as objectives.

It was also realized that in order to attain a minimum level of acoustic comfort, it would be necessary to set, as an objective in urban areas, a maximum outside noise level in the proximity of housing of 60 to 65 decibels during the day and 50 to 55 dB at night. These levels were set forth as minimum objectives one.

Regarding the topic on Noise Abatement and Energy Conservation it was stated that there is not necessarily a real conflict between measures for noise abatement and those directed towards energy conservation. Rather these two types of action can without any doubt, be mutually reinforcing. Free flowing urban traffic, speed limits and traffic restraints, sound-proofing of housing latest commercial aircraft, heavy lorries etc. are quieter and at the same time less energy consuming and more fuel efficient. So planning should be formed in such a way, which may ensure simultaneously energy conservation and reduction in noise level. It was also opined that as a preventive measure, the member states should refrain the people to build their houses at near the sources of noise and emphasis should be placed on reduction at source. Protection from noise must be made an integral part of urban planning and land use management.

Through this conference emphasis was given on the replacement of noisy vehicles. It was stated that the appropriate bodies should decide as soon as possible on a reduction in the noise emission level of motor vehicles of 5 to 10 dBA according to vehicle type (1). This reduction should come into effect between 1985 and 1990 in order for effects of this change to be fully perceived by the year 2000. It was also opined that traffic management is an important means of reducing noise, air
pollution and energy consumption. The emphasis was also given for the adoption of a timetable to ensure the end of the production of the aircraft not conforming to chapter 3 of ICAO Annex 16.¹

Stress was also given to make a progressive noise abatement policy and which should have a system of finance at its disposal. In order to achieve this, some examples of economic incentives were also provided. Such as:

- Charges levied on the main sources of noise in particular means of transport (cars, heavy lorries, motorcycles, aircraft etc.)
- Tax relief for the quietest installations or plant or expenses incurred in taking noise abatement measures.

It was recommended through this summit that in the field of aircraft noise, application of systems of noise charges or of airport tax rebates should be extended. Though this system is already in operation in OECD countries but the emphasis was given through the summit on establishment of relationship between the charge paid and the level of noise emitted. It was further recommended to impose a practicable noise charge or other fiscal incentives with regard to motor vehicles. This tax system should be adapted in such a way, which may encourage the use of quiet vehicles.

The OECD conference had also given stress on the need of education and information to make the people aware with the ill effects of noise pollution. The summit has given emphasis on campaigns through media and introduction of courses on acoustics and noise in primary and secondary education as well as in higher and adult education.

¹. Note as an incentive to replace non acoustically certified aircraft conforming with chapter 3 of the ICAO. Annex 16 a dispensation of 2 years may be granted to airline companies who undertake such a replacement.
This conference had taken a resolve that immediate protective measures must be taken without waiting for the effects of noise abatement strategies to make themselves fully felt in the distant future. It was stated that these measures comprise in the first instance the acoustic insulation of the most exposed dwellings and in certain countries the payment of compensation when no other satisfactory measure can be adopted. The introduction of right to compensation can, moreover, also constitute a powerful incentive to take appropriate measure for curbing noise pollution. In cases of exposure to an excessively high level of noise compensation and acoustic insulation should be made available. It was also advised by this summit that at the judicial and administrative level the condition and circumstances should be set up clearly that when the acoustic insulation may be made available and when the remedy for damage caused by the noise will be provided in the form of compensation.

Under the heading of International Cooperation and Harmonization in the Field of Noise Abatement, it was realized in the summit that international cooperation constitutes a valuable instrument for helping to improve the noise environment. Such cooperation can involve the drawing up of common principles, the promotion of joint research effort, the exchange of information, and the encouragement of concerted action. It was further stated that International Co-operation can equally lead to the harmonization of policies of some of their constituent elements. Such harmonization takes place essentially with regard to standards applied to products – the source of noise – which are treated internationally, in order, on the one hand to ensure that commercial constraints do not constitute an obstacle to the improvement of the environment and on the other hand to avoid distortions of
competition and no tariff barriers to trade. It was also stated in this summit that international harmonization should be dynamic and should contribute to continuous progress. This harmonization should cover the procedures for measuring the noise emitted by motor vehicles, domestic appliances, construction and industrial equipment. Again this harmonization, it was stated could cover the standards relating to the durability of silencing equipment and standardised procedures for checking vehicles in use should be coordinated at the international level. It was suggested through the summit that care should be taken to ensure that efforts towards common noise measurement methods do not hold back the process of strengthening noise emission limits and other abatement measures. The emphasis was given on the exchange of experience and information and upon a regular evaluation of the costs and effectiveness of noise abatement strategies.

So, from this above discussion it can be concluded that the main aim of the OECD conference on noise abatement policies, 1980 are:

1. To assess progress to date in the field of noise abatement and to examine prospects for the future.
2. To evaluate and discuss the policy instruments available for a more effective implementation of noise abatement policies.
3. To take into account the economic aspects of noise (abatement costs, social costs, noise charges and compensation for damage) and
4. To recommend measures that would lead to greater international co-operation and harmonization in noise abatement policies.

1. Source: do not constitute an obstacle to the improvement. Introduction by Laurens Jan Brinkhorst President of the Conference
4.8 LEGAL CONTROL ON NOISE POLLUTION IN THE UNITED STATE OF AMERICA:

A measure aimed at "the promotion of an environment for all Americans free from noise jeopardizing their health and welfare," the Noise control Act Authorized a noise control programme encompassing all federal activities and promotes assistance to all communities in the United states for the creation and improvement of noise abatement programs.

Till before the 1960s, noise control was not handled in the U.S.A. Seriously. In the year 1968 by virtue of an amendment to the Federal Aviation Act gave the federal Aviation agency authority to prescribe standards for measuring and controlling civil aircraft nose, including sonic boom. In 1970 an amendment to Clean Air Act authorized the establishment of an office of Noise Abatement and control within the U.S. Environmental protection Agency. The EPA also called for public hearings and a special report by the EPA to congress and the consequence of that had given the shape of Noise Control Act 1972.

Under the heading of findings And Policy', Sec. 2 of the Noise Control Act of 1972 states about the followings:

1. that inadequately controlled noise presents a growing danger to the health and welfare of the Nation's Population, particularly in urban areas;

2. that the major sources of noise include transportation, vehicles and & equipment machinery, appliances, and Other products in commerce, and

---

1. Sec. 2 (a) of the Noise Control Act, 1972
3(a) that. While primary responsibility for control of noise rests with state and local governments, federal action is essential to deal with major noise sources in commerce control of which require national uniformity of treatment.

(b) The congress declares that it is the policy of the United States to promote an environment for all Americans free from noise that jeopardizes their health or welfare. To that end, it is the purpose of this Act to establish a means for effective coordination of federal research and activities in noise control, to authorize the establishment of federal noise emission standard for products distributed in commerce, and to provide information to the public respecting the noise emission and noise reduction characteristics of such products.

A majority of population has now got the protection of state legislation and regulation. The EPA has been responsible for programmes in noise abatement known as ECHO (Each community Helps Others); and for the preparation of model Noise Control ordinances in respect to different Classes of noise. Many Federal agencies are assigned the responsibility to control noise pollution. EPA has undertaken the following programmes:

- Regulations on new products that are major sources of noise, including such controls as anti tampering warranty and useful life provisions.
- Regulations on the operation interstate motor and rail carriers.
- Labeling of products that produce noise capable of adversely affecting public health or welfare or products that are marketed for their noise attenuation characteristics.
• Public information dissemination to inform citizens of the hazards of noise to public health and welfare.

• Providing technical assistance to state and local units of government desiring to develop and enforce noise abatement and control programmes.

• Certification of low noise Emission products.

**CONTROL METHODS :-**

In U. S. A. the major sources of noise are motor vehicles and equipment, machinery, appliances, and other commercial products. Primary responsibility for controlling noise remains upon state and local governments, but in order to provide uniformity of treatment federal controls are required under the NCA. That is why it is incorporated into the Sec. 4 (a) of Noise control Act that the congress authorizes and directs that federal agencies shall to the fullest extent consistent with their authority under Federal laws administered by them, carry out the programmes within their control in such a manner as to further the policy declared in Sec 2(b); that is the policy of the United State is to promote an environment for all Americans free from noise that jeopardizes their health and welfare etc., that each department, agency or instrumentality of the executive, legislative and judicial branches of the Federal Government, having jurisdiction over any property or facility or engaged in any activity resulting or which may result, in the emission of noise shall comply with Federal state, interstate and locate requirements respecting control and abatement of environmental noise to the same extent. That any person is subject to such requirements only the president is given the power to exempt any single activity or facility, including noise emission sources or classes thereof, of any department,
agency or instrumentality in the executive branch from compliance with any such requirement if he determines it is to be in the paramount interest of the United States to do so.¹

However generally this exemption is provided in the hand of president i) any military weapons or equipment which are designed for combat use ii) any rockets or equipment which are designed for research, experimental or developmental work to be performed by the National Aeronautics and Space Administration or iii) to the extent provided by regulations of the administrator, any other machinery or equipment designed for use in experimental work done by or for the federal Government.²

Any such exemption is provide only for one year, however additional exemption may be granted for periods of not to exceed one year upon the President making a new determination. The President shall report each January to the congress after exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting such exemption.³

The Administrator i.e., the Administrator of the Environmental Protection Agency Shall coordinate the programs of all Federal agencies relating to noise research and noise control.⁴

If at any time the Administrator has reason to apprehend that a standard or regulation can not protect the public health and welfare then he may request any Federal Agency to provide revised report on that. After getting such request that Federal Agency is required to submit

---

¹. Sec 4(b) of Noise Control Act
². Sec 3(B) of Noise Control Act
³. Sec 4(B) of Noise Control Act
⁴. Sec 4(C)(1) of Noise Control Act
within the date specified by the Administrator but such time should not be less than ninety days from the date of making the request.\textsuperscript{1}

On the basis of the consultation with Federal agencies the Administrator time to time publish the report on the status and progress of Federal activities relating to noise research and control.\textsuperscript{2}

Here it is pertaining to mention that in USA the term "environmental noise" means the intensity, duration and the character of sounds from all sources.\textsuperscript{3}

This Act makes it mandatory for the Administrator to publish information within twelve months from the date of enactment of this Act, regarding the levels of environmental noise and the attainment and maintenance of which in defined areas under various conditions are required to protect the public health and welfare with an adequate margin of safety. To do this task the Administrator is required to consult with appropriate Federal Agencies.\textsuperscript{4}

The Administrator is required to identify product or products which in his judgement are major sources of noise and should provide techniques for control of noise from such product including available data on the technology, costs and alternative methods of noise control.\textsuperscript{5}

The above observation and findings is needed to be put in Federal Registrar and copies shall be made available to the general public.\textsuperscript{6}

Not only that the Administrator of U. S. Environmental protection Agency was required to publish feasible 'noise emission standards' not later than 18 months after October 27, 1972, for any of the

\textsuperscript{1} Sec 4(c)(2) of Noise Control Act
\textsuperscript{2} Sec 4(c)(2) of Noise Control Act
\textsuperscript{3} Sec 3(11) of Noise Control Act
\textsuperscript{4} Sec 5(a)(2) of Noise Control Act
\textsuperscript{5} Sec 5(b) of Noise Control Act
\textsuperscript{6} Sec 5(d) of Noise Control Act
source of noise like construction equipment's including vehicles, any motor or engine and 'electrical or electronic equipment.\textsuperscript{1}

At the time of fixing the noise emission standard for the various products, beside his own view the Administrator shall consider the standard provided by other laws designed to safeguard the health and welfare of persons inducing standers under the National Traffic and Motor Vehicles Safety Act of 1966, the Clear Air Act and the Federal Water Pollution Control Act. Any such noise emission standard shall be a performance standard and it may contain the testing procedures necessary to assure compliance with the emission standard in such regulation.\textsuperscript{2}

After publication of any regulation under this section, the Administrator shall allow the interested person an opportunity to participate in rule making.\textsuperscript{3}

Each manufacturer of a noisy product must warrant to the final purchaser that the product has been designed, built and equipped to operate at, or below, the sound level required by the EPA at the time of its manufacture. Any state or local governments can establish and enforce controls on environmental noise through the licensing regulation or restriction of the use, operation or movement of any product or combination of products but that should not go beyond those limitation set in the NCA. However a state or local government can give petition to EPA to change a noise requirement at any time on the ground that a more stringent standard is required for public health and welfare. After getting this petition the Administration shall publish notice of receipt of such petition in Federal Register and within ninety days of receipt of

\begin{itemize}
\item[\textsuperscript{1}] Sec. 6(a)(1) and Sec. 6(2)(A) of Noise Control Act
\item[\textsuperscript{2}] Sec. 6(c)(1) of Noise Control Act
\item[\textsuperscript{3}] Sec. 6(c)(1) of Noise Control Act
\end{itemize}
such petition either respond by publication of revised regulation or publication in the Federal Register of a decision, not to publish such proposed regulation at that time, together with a detailed explanation for such decision.¹

**PROHIBITED ACTS:**

No one is permitted to remove sound deadening devices or modify products or change their operating characteristics to increase their sound or to remove any notice, which is affixed to a product u/s 8(b) of NCA, which indicates the level of noise it emits or its effectiveness in reducing noise. Products can only have their devices or elements of design can be removed for maintenance purposes.²

Any cost cannot be beared by the dealer for the use of any sound deadening devices as per the requirement of noise emission standard as it is a liability of the manufacturer solely.³

No advertisements for the product can contain the cost or dollar values of the noise emission control devices unless substantiated by the Bureau of labour statistics of the U. S. Department of Labour (DOL). This provision of the Act prevents the manufacturer from making exaggerated advertising claims.⁴

Manufacturers must maintain records, time to time submit reports to the EPA, and develop information about their products. Testing can also may be needed by the EPA in order to verify any claims made in reports or records. Penalties and violations may be assessed if records, reports and information about the product are not provided. The punishment may be by a fine of not more than $10 000 or by

---

1. Sec. 6(c)(1) & Sec. 6(e)(2) & Sec. 6(f) of Noise Control Act
2. Sec. 6(d)(1) of Noise Control Act
3. Sec. 6(d)(2) of Noise Control Act
4. Sec. 6(d)(3) of Noise Control Act
Imprisonment for not more than six months or by both.\(^1\)

State and local governments cannot change the federal noise limits. Noise limits a product may not be changed even if a component is added to a product by manufacturer.\(^2\)

There are criminal penalties for violating the NCA that cannot exceed $25,000 per day of violation, imprisonment or both the monetary penalty and the imprisonment.\(^3\)

**CITIZEN SUITS:**

There is also a provision of citizen suit is incorporated in the Noise control Act.\(^4\) According to this any person other than the United States may commence a civil actions on his own behalf against i) any person including the United States and any other government agency, for the violation of any noise control requirement or against the Administrator of EPA for his failure to perform any act or duty under this Act and which is not discretionary with such Administrator or against the Administrator of the Federal Aviation Administration where there an allegation against him for failure to perform any act or duty under section 611 of the Federal Aviation Act of 1958 and' which is not discretionary with such Administrator. However before starting any action that person is required to give sixty days notice to the Administrator of the EPA and to the alleged violator of such requirement. The district courts of the United States shall have jurisdiction to restrain the violators from violating such noise control requirement or can order the Administrator to perform the duty assigned on him. The court at the time of issuing the final decree may award cost

---

1. Sec. 13 of Noise Control Act
2. Sec. 10 of Noise Control Act (a) Except (a)
3. Sec. 11 of Noise Control Act
4. Sec. 13 of Noise Control Act
of litigation in favor, of any party to the suit.

**QUIET COMMUNITIES RESEARCH PUBLIC INFORMATION :-**

In cooperation with other Federal Agencies The EPA uses grants, contracts and federal actions to promote the development of effective state and local noise control programme, to provide an adequate Federal noise control research programmes designed, to meet the objective of NCA and to otherwise carry out the policy of this Act. Educational programs are promoted through educational materials and curricula, volunteer organizations, radio and television programmes publication to develop and disseminate information about noise and public health. EPA also sponsors and conducts research about noise and its psychological and physiological effects on people, animals, wildlife and property. The determination of dose response relationships suitable for decision-making is emphasized. Noise abatement technology is permitted through demonstration projects. State and local noise control programmes are encouraged to use monitoring equipment. The economic impact of noise on property and human activities is another research topic. Economic incentives, including noise emission charges are to be reserved to help to control noise.

The nation wide quite community’s programme is initiated under which grants are allocated to state and local government and regional planning agencies for the purpose of

i) Identifying and determining the extent of noise problem in a jurisdiction

ii) Planning, developing and establishing a noise control capacity such jurisdiction including purchasing Initial equipment.
iii) Developing abatement plans for areas around major transportation facilities including airports, highways and rail yards.

iv) Evaluating techniques for controlling noise and demonstrating the best available technologies for each jurisdiction.

The other function of quiet communities programme is to provide loan to state and local government in their various noise control programmes, development and implementation of a quality assurance programme, conduct of studies and demonstration to determine the resources and personal needs of state and local governments development of educational and training material and programmes including national and regional workshops to support state and local noise; abatement and control programs in consonant with the noise emission standard of the Federal authority.

A national noise environmental assessment program has been developed and implemented to identify trends in noise exposure and response, ambient levels of noise, and compliance data to determine the effectiveness of noise abatement actions. Regional technical assistance centers are established with universities and private organization.\(^1\)

**LOW NOISE EMISSION PRODUCTS :-**

The term “low noise emission product” means any product, which emits noise below the level of the noise emission standards.\(^2\)

The Administrator may establisher low noise Emission product Advisory committee to assist him in determining which products quality as low noise emission products. Any person seeking to have a class or model of product Certified under this section is required to file a

---

1. Sec. 14 of Noise Control Act
2. Sec. 15(4) of Noise Control Act
certification application before the Administration. After receiving this application the Administrator shall publish it in the Federal Register and within ninety days determines whether such product is a low noise emission product. In order to reach in this conclusion the Administrator shall conduct whatever investigation is necessary. If the Administrator finds that the product is a low noise emission product then, within one hundred and eighty days of such determination the Administrator justify that neither this certified low noise emission product can be the substitute of any product purchased by the Federal Government for the use of its agencies. Here it is pertaining to mention that the Federal government agencies are required to purchase low noise emission product in lieu of the other products. So long the low noise products do not exceed 125 percent of the retail price of competing products. Administrator is required to test the certified low noise emission products time to time, which the Government is purchasing and which can be suitable for the use of public.1

**AIRCRAFT NOISE STANDARDS AND NCA :-**

Regulation of aircraft noise is achieved in USA through federal legislation. Congress has historically struggled with the proper balance between the interest of individual owning land near airports and societies & interest in the existence and expansion of airports. Early federal statutes made the intention of the congress clear that they intended to entrust responsibility for the ownership and development of airports to state and municipal governments. The Air commerce Act of 1926 provided that airports are under the "jurisdiction and control of municipalities concerned." This policy was further encouraged by the Civil Aeronautics Act of 1938, which prohibited the Administrator of

---

1. Sec. 15 of Noise Control Act
civil Aeronautics from acquiring any airport. After the innovation of commercial air traffic in 1958, congress enacted the Federal Aviation Act of 1958, in place of Civil Aeronautics Act (CAA)

Under these early statutes, local governments were given responsibility for setting and enforcing rules and regulations governing airport but the federal government were given the responsibility over the air space in United States. Utilizing its commerce power, congress provided the federal government "complete and exclusive national sovereignty in the airspace" over the United States. To accommodate increased air travel Congress granted citizens of the United States" a public right of freedom of transit in air commerce through Federal Aviation Act created Federal Aviation Administration (FAA) and In this said : Act it is made clear that the term 'FAA' means Administrator of the Federal Administration.\(^1\)

FAA replaced the local government as the primary authority for aviation safety. The Act contemplated a unified and coordinated air transportation system. The Federal Aviation Act of 1958 gave the FAA broad authority to control and regulate the use of navigable airspace and aircraft operations. It focused on safety and economic issues and did not directly address the increasing aircraft noise problem. The FAA relied on voluntary cooperation among aircraft and engine manufacturers, the airlines and airport operators to handle aircraft noise problems. In1968 congress amended the Federal Aviation Act authorizing the FAA to include noise considerations as a factor in approving jet aircraft and engine design. The control and Abatement of Aircraft Noise and sonic Boom Amendable directed the FAA to develop standards for measuring aircraft noise and to provide for the control and abatement of aircraft

\(^1\) Sec. 611 (a) (1) of Federal Aviation Act of 1958
noise at the source. In doing so the FAA had to ensure that its standard were "consistent with the highest degree of safety and "economically reasonable technologically practicable and appropriate for the applicable aircraft, aircraft engine, appliance or certificate".¹

With statutory authority under the 1968 amendment, the FAA issued Federal Aviation Regulation (FAR) by which created a system for measuring aircraft noise and established maximum levels of noise output for both newly certified aircraft and existing older aircraft. Under the scheme of this amendment Act breaks noise emissions into three different levels or "stages" based on an aircraft size and number of engines.

NOISE CONTROL ACT OF 1972

In 1972 Congress directed EPA to establish the office of Noise Abatement and control popularly known as ONAC. Congress ordered ONAC to complete a one year investigation and study of the effects of noise on public health and welfare.

In 1972 in response to ONAC report, congress enacted the Noise Control Act (NCA). Under section 7 (a) of the Noise control Act, 1972 the Administrator, after consultation with appropriate Federal. State and local agencies and interested persons shall conduct a study of the (1) adequacy of Federal Aviation Administration flight and operational noise controls; (2) adequacy of noise emission standards on new and existing aircraft, together with recommendations on the retrofitting and phase out of existing aircraft; (3) Implications of identifying and achieving levels of cumulative noise exposure around airports and (4) additional measures available to airport operators and local government to control aircraft noise. He shall report on such study to the committee

¹. Sec. 447 15(b) of Federal Aviation Act, 1958
on interstate and Foreign commerce of the House of Representatives and the committees on Commerce and public works of the senate within nine months after the date of the enactment of this Act.

Sec. 611 of the Federal Aviation Act of 1958 is amended by the enactment of Noise Control Act, 1972 in order to afford present and future relief and protection to the public health and welfare from aircraft noise and sonic boom. The NCA drew EPA into the comprehensive scheme of federal control of aircraft noise. It directed ONAC to conduct a study of adequacy of the FAA noise regulations, and to propose regulations for the control and abatement of noise, which EPA considered necessary to public health and welfare. But even with the introduction of EPA to the regulatory scheme, the FAA retained its primary responsibility for regulation of aircraft noise under Noise Control Act, 1972. Here it is needed to mention that the FAA failed to implement many of EPA's recommendations, straining the relationship between the two agencies.

In 1978, Congress enacted the Quiet Communities Act, authorizing ONAC to create a grants programme and offer technical assistance to state and local governments in order to stimulate noise abatement. ONAC assisted communities by hosting training programs, writing and distributing model state and local noise ordinances and establishing a program designed to help localities to purchase low noise emission products.

In 1976 in response to problems occurring under Federal Aviation Regulation (FAR), FAA limits the noise emissions of existing aircraft by applying stricter standards retroactively to all aircraft. This provision actually caused the new financial burden on US. which compelled the
cgress to enact the Aviation Safety and Noise Abatement Act of 1979
known as ASNAA.

ASNAA directed the Department of Transportation (DOT) after
consultation with EPA and other Federal, state and interested agencies,
to establish a comprehensive single programme for measuring airport
noise and compatibility. ASNAA extended technology implementation
deadline. It established a noise compatibility planning system comprised
of financial incentives to induce both airport and aircraft operators to
adopt anti-noise pollution policies. Planning is only mandatory if the
airport desires federal aid for development; Under ASNAA'S planning
system DOT developed a uniform system for measuring aircraft noise
levels and determined compatible land uses for areas with various noise
levels. Based on this information, airport proprietors may develop noise
exposure maps for their airports, pointing out problem noise areas and
any incompatible uses in those areas. After completion of approved
noise compatibility maps, airport operators quality for federal grants to
develop their proposed noise compatibility programs.

In addition to its financial incentives ASNM provides airport
proprietors with other inducement for submitting noise compatibility
programs. The noise exposure maps enable airport operators to limit
potential liability for noise pollution by notifying potential purchasers
of, property near the airport of the possibly high noise levels.

**AIRPORT NOISE ABATEMENT ACT, 1980**

Airport Noise Abatement Act, 1980-popularly known as ANAA
recognized land as a major factor. The activities that people perform in
certain locations have a strong connection to the amount of noise that
can be tolerated. Residential land use has the
least tolerance for noise as many dwelling units are constructed of less dense building materials which have a greater tendency to transmit sound to their interiors. The Department of Transportation must consult with the EPA to establish a single system of measuring noise at airports. Noise exposures maps are to be prepared and submitted to the DOT. They must be prepared in consultation with public planning agencies in the areas surrounding the airports and must comply with the criteria stated in the ANAA. For any changes in airport operations or runways, maps should be revised to indicate any changes in land use compatibility. Noise compatibility programs should be indicated on the airport map, and be implemented at the airport. The noise programme may include the following programme:-

- Restricting the use of the airport to a type or class of aircraft based on the noise characteristics of the aircraft.
- Preferential siting of runways.
- Constructing barriers and acoustical shielding.
- Soundproofing public building.
- Changing flight procedures for landings and takeoffs or
- Acquiring land, air rights, easements, development rights and other interests to ensure land use compatibility.

The DOT may provide grants in making sound proof or can acquire residential buildings if the noise exposure contours so indicate. But the Fund are limited for the above purposes. Airport noise compatibility planning grants may be made to a sponsor of an airport to develop information necessary to prepare and submit a noise exposure map and related information or a noise compatibility planning grants may be made to a sponsor of an airport 10 develop information
necessary to prepare and submit a noise exposure map and related information or a noise compatibility programme.

Noise exposure maps and related information that are submitted to DOT may be admitted into evidence or used in a civil action asking for relief for noise resulting from airport operations but not a partial list of land uses submitted to DOT, The subsonic not the supersonic aircraft of all foreign air carriers must comply with noise standard of the United States.

Quiet aircraft technology is promoted through Acts and Research program for both propeller and motor driven aircraft. The aim of the research programme are to apply high technology that is cost beneficial and to determine if more research is necessary to supplement existing research activities. If NASA determines that additional research development is necessary and can contribute to developing quiet aircraft technology, then the DOT and NASA shall do so.

**AIRPORT NOISE AND CAPACITY ACT OF 1990**

The constant lobbying efforts of the air industry, congress passed the Airport Noise and Capacity Act. Of 1990 known as ANCA to integrate the increasing number of individualized noise restriction imposed on airports by local operators. In enacting ANCA, congress emphasized a national noise policy that considers local interests in aviation noise management through the use of new technologies, use or revenue from passenger facility fees and review of current operations. The another attempt of ANCA to balance the competing interest of the airline industry and citizens residing near airport, consists of two separate programmes. Firstly ANCA directs the DOT to establish a national aviation noise policy and programme for reviewing airport noise and access restrictions of the operation of stage two and stage
three aircraft and secondly ANCA provides for a national phase out of stage two aircraft operating in or out of U.S. airports and requires the airline industry to achieve 100% stage three fleet of quieter aircraft by the year 2000. In 1991 the FAA began administering new Federal Aviation Regulation (FAR) and implements provision of ANCA by establishing a national programme for reviewing airport noise and access restrictions on stage two and stage three aircraft operations.

**RAILROAD MOTOR CARRIER NOISE EMISSION STANDARD UNDER NOISE CONTROL ACT, 1972 :-**

By the enactment of NCA it is made mandatory that within nine months after the date of enactment the Administrator shall publish noise emission regulation which will consist noise emission standards, setting such limits on noise emission resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad and motor carriers engaged in interstate commerce in addition to the noise emission standards fixed by the Administrator under see-6. The aim is to reduce the degree of noise by applying best available technology, taking info account the cost of compliance. The proposed standard or regulation shall be promulgated only after consultation with the secretary of transportation and shall be enforced within such period, which will be deemed proper by the Administrator after consultation with the secretary of transportation. Thereafter the secretary of transportation shall carryout such regulations through the use of his powers and duties of enforcement and inspection authorized by the Safety Appliance Acts, the Interstate Commerce Act and the Department of Transportation Act but subject to the provisions of Noise control Act. 1972. The state or local governments are not entitled to adopt any rule or
regulation not identical with the noise emission standards fixed by the Administrator.¹

4.9 NOISE POLICY IN EUROPEAN COMMISSION :-

Environmental noise caused by traffic, industrial, and recreational activities are one of the main local environmental problems in Europe. The 1993 Fifth Environmental Action programme has taken target to develop noise abatement programme to minimise the exposure of noise by the year 2000. Due to the legislation and technological progress significantly reduce the noise from individual sources. As for example the noise from individual cars has been reduced by 85% since 1970 and the noise from lorries by 90%. Likewise for aircraft the noise footprint around an airport made by a modern jet has been reduced by a factor of 1 compared to an aircraft with 1970s technology.²

However it was felt by going through the available data of past 15 years, that significant improvement in exposure to environmental noise has not been achieved. The growth and spread of traffic in space and time and the development of leisure activities and tourism have partly offset the technological improvements. Forecast road and air traffic growth and expansion of high-speed rail risk caused the noise problem most grim one. Some sources such as railways and a wide range of noisy equipment used outdoors and in absence of community or international standards setting emission limits make the situation appalling one. A number of member states are planning national legislation for those products, which could cause problem for the functioning of the single market.

¹ Sec. 17 & 18 of the Railroad Motor Carrier Noise Emission Standard under Noise Control Act, 1972
² From Future Noise Policy European commission, Brussels, 1996
In the light of the poor state of data on noise exposure and the shortcoming a Green paper is published by the European commission from Brussels in the year 1996. The aim of this paper is to develop the Fifth Action programme, to stimulate public discussion and to review the overall noise situation and community and national action taken to date followed by the outline of a framework for action covering the improvement of reformation and its comparability and future options for the reduction of noise from different sources. The commission believes that changes in the overall approach are required if a noise abatement policy is to be made successful. The proposed new framework outline options for future action.¹

1. A proposal for a directive is providing for the harmonization of methods of assessment of noise exposure and the mutual exchange of information. The proposal could include recommendations on noise mapping and provision of information on noise exposure to the public. In a second stage consideration could be given to the establishment of target values and the obligation to take the action to reach the targets.

2. The next phase of action to reduce road traffic noise will address type noise and look at the possibilities of integrating noise costs into fiscal instruments, amending community legislation on roadworthiness tests to include noise and at the promotion of low noise surfaces through community funding.

3. More attention needs to be paid to rail noise where some member states are planning internal legislation and where there is considerable opposition to the expansion of rail capacity due to excessive noise. In addition to supporting research in this field the

commission will investigate the possibility of introducing legislation setting emission limit values, negotiated agreements with the rail industry on targets for emission values and economic instruments such as variable track charge.

4. In air transport the commission is also looking at a combination of instruments. These would include greater stringency in emission values and the use of economic instruments to encourage the development and use of lower noise aircraft as well as the contribution of local measures such as land use planning could make. A specific framework directive on airport charges is planned for 1996. A consultation paper on stringency in emission values is to be presented in the near future.

5. The commission plans to simplify the existing legislation setting emission limits for a limited range of outdoor equipment and will propose a framework directive covering a wider range of equipment including construction machinery, garden equipment and other and incorporate the existing seven directives. The principal feature of the new legislation will be the requirement to label all equipment with the guaranteed noise level. Limit values will only be proposed for equipment for which there is already noise legislation and limited range of highly noisy equipment.

It is further concluded, "one of the main aims of this paper is to help to give noise abatement a higher priority in policy making. It is focusing on the areas where community action in cooperation with member states and local authorities can be of added value. The options for action on measurement methods and exchange of information cover important steps for the establishment of an overall framework for action. More
work is required to assess the best combination of instrument to be applied to the different modes of transport”.¹

### 4.10 NOISE POLICY IN GREAT BRITAIN :-

There are now a number of regulations of Acts are enacted by the Parliament in order to cover noise problems in England and Wales. Key noise sources, the relevant legislations and enforcing authority in the United Kingdom is given below:

<table>
<thead>
<tr>
<th>Sl.No</th>
<th>Noise sources</th>
<th>Relevant Legislation</th>
<th>Enforcing authority</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Aircraft and airports</td>
<td>Civil Aviation Act, Department for Transport &amp; international Civil Aviation regulations for noise</td>
<td>Authority certification</td>
</tr>
<tr>
<td>2.</td>
<td>Burglar alarms (cars and houses) &amp; Intruder alarms (houses)</td>
<td>Environmental Protection Act, 1990</td>
<td>Local authority</td>
</tr>
<tr>
<td>3.</td>
<td>Construction sites</td>
<td>Control of Pollution Act, 1974</td>
<td>Local authority</td>
</tr>
<tr>
<td>4.</td>
<td>Dogs &amp; animals</td>
<td>Environmental Protection Act, 1990</td>
<td>Local authority</td>
</tr>
<tr>
<td>5.</td>
<td>Domestic &amp; neighborhood noise</td>
<td>Environmental Protection Act, 1990</td>
<td>Local authority</td>
</tr>
<tr>
<td>6.</td>
<td>Entertainment noise</td>
<td>Public Entertainment licensing-local Government (Miscellaneous)</td>
<td></td>
</tr>
</tbody>
</table>

¹ Future Noise policy, European commission, Green Paper, Brussels 1996
CHAPTER IV: Legal Control On Noise Pollution

(Miscellaneous Provisions Act) 1976 & Environmental Protection Act, 1990

7. Motor vehicles and Motor cycles
   Road Traffic Act, Police 1988 and numerous regulations and orders made under the Act

8. Occupational Health and safety Executive
   Noise at work Local authority regulations 1989

9. Public works and highways, railways and airports
   Land Compensation Act, 1973, Principally noise insulation grants unitary authorities

10. Waste disposal sites (including landfill, incinerators and transfer stations)
    Environment Agency (for sites operating under a permit issued by the agency or subject to waste regulation) Local authority (county and unitary authorities)

In U.K. the noise is regarded as a major source of nuisance over a period of more than century. Perhaps the first enacted law in this regard is London County Council Act 1937 which provided that any excessive
or an abatement zones. It enable the local authority to take action to prevent noise from specified premises of an intensity greater than the level prevailing at the time the zone was declared and in certain circumstances the authority could also requires those noise levels to be reduced. But the problem of aircraft noise was not covered by this Act. Under this Act the local authorities can serve a notice imposing requirements on the construction works to minimize noise.

**Noise Act Powers of Confiscation:**

Under section 10 of the Act a local authority officer or other authorised officer may enter the dwelling and seize and confiscate equipment, which it is thought is or has been used to emit noise. Section 10 (7) clarifies the power of a local authority under section 81 (3) of the Environmental Protection Act 1990 to seize noise-making equipment in order to abate noise nuisance. This came into force in September 1996 but does not apply to Northern Ireland.

**Environmental Protection Act, 1990:**

Under section 80 of the EPA a statutory noise is defined as noise emitted from premises so as to be prejudicial to health or a nuisance.... If a noise is deemed a nuisance, the local authority must serve an abatement notice. If the offender fails to comply with the notice, proceeding can be taken in the Magistrate Court or an injunction unreasonable or unnecessary noise which is injurious or dangerous to health, would be a noise nuisance and which might be dealt with summarily under the Public Health Act, 1936. By enactment of Noise Abatement Act, 1960 the noise is regarded as a statutory nuisance. In 1970 the Government Constituted the Noise Advisory Council under the chairmanship of the secretary of states for environment to regulate the affairs of noise and also to prevent and abate the noise. The council is
also empowered to make recommendations to ministers and also to provide advice on such matters. In Great Britain Part - III of the Control of Pollution Act 1974 deals with the noise problem and the noises resulting from construction sites, loud speaker and certain premises in noise abatement zones have been covered under this Act. ‘Noise Abatement zone’ this very concept was introduced into local government planning in Britain in 1974 by enactment of this control of Pollution Act 1974 and which significantly extended the powers of local authorities to deal with noise problems. It made it statutory duty of every local authority to inspect the areas within their jurisdiction time to time in order to detect noise nuisances, and to assess what action they should take to exercise powers conferred upon them by the Act in relation to noise. If a noise is deemed a nuisance, an abatement notice must be served by the local authority. If the offender fails to comply with the notice, proceeding can be taken in the Magistrates court or an injunction sought in the High Court under the said section of the EPA and occupier of premises affected by noise nuisance can complain directly to the magistrate Court. Civil action can also be taken to abate noise nuisance. The Environmental Protection Act of 1990 requires a local authority or council (district, borough, city or unitary) to investigate complaints received alleging statutory nuisance. Most noise sources come within the scope of this procedure.

**THE CIVIC GOVERNMENT (SCOTLAND) ACT, 1982**:

Under 5.54 CG(S)A any person who plays a musical instrument, radio, TV, record player or other device or who sings so as to cause annoyance to any other person must stop when requested to do so by a Police Constable. The Police also have powers to seize any instrument or device where they suspect an offence has been committed.
THE CRIME AND DISORDER ACT, 1998:

The Act was implemented on 1 April 1999. It allows all councils to issue an anti-social behavior order to anyone causing harassment, alarm or distress-including noise pollution. Disobeying an order carries a penalty of up to five years in prison. The legislation is aimed at cases where noise is only one aspect of the problem.

NOISE AND STATUTORY NUISANCE ACT, 1993:

Under the NASNA noise in the street from the following sources can be declared a statutory nuisance. Such as noise emitted from a vehicle, caused by it or by car repairs, car radios, car alarms and parked refrigerator vehicles. The use of loudspeaker is banned between 9.00 P.M. and 8 a.m. unless licensed by the local authority.

AUDIBLE INTRUDER ALARMS

Proposals were put forward in 1995 under the NASNA to give local authorities powers to control noise from alarms, but there are currently no plans to implement these. However in London the London Local Authorities Act, 1991 gives local authorities the power to prosecute owners or occupiers of buildings whose alarms cause annoyance to people in the vicinity.

CAR ALARMS

A proposal to amend the construction and Use Regulations to help control nuisance from car alarms was put forward for consultation in 1991. No further action has been taken.

CONSTRUCTION SITE NOISE

Under the Control of Pollution Act 1974 local authorities can serve a notice imposing requirements on the construction works to minimize noise.
STATUTORY NUISANCE PROCEDURE:

The Environmental Protection Act of 1990 requires a local authority or council (district, borough, city or unitary) to investigate complaints received alleging statutory nuisances.

Except transportation noise (aircraft, road traffic and railway) and noise from premises subject to control under the integrated Pollution and Prevention Control (IPPC) regime. A council must take reasonable steps to investigate the complaints it receives and decide whether or not there is a statutory nuisance.

The law does not specify maximum sound levels or advise on acceptable times of day or duration for noise. The noise must materially interfere with the normal use of a house or garden to be designated as a statutory nuisance. The following examples are typical problems that have been resolved under this procedure:

- Misfiring intruder alarms
- Noises that run for prolonged periods, such as fans
- Intermittent noises, such as cooling units
- Regular noisy parties during the day
- Occasional noisy parties in the small hours of the morning

If the council decides there is not a statutory nuisance, the aggrieved person may be able to take their own action through the courts. Many types of council have leaflets detailing this procedure.

If the council decides that there is a statutory nuisance, it should serve a notice on the person causing the noise problem, but will often try to resolve matters informally. Once a notice is served the recipient must deal with the nuisance within a stated period or run the risk of being prosecuted as it is already stated here. The council can do the work itself to abate the nuisance and recover the cost from the offending party.
4.11 LEGAL CONTROL OF NOISE POLLUTION IN INDIA :-

We have a number of diverse laws relating to noise control under criminal Law, local government law, law of torts, the law relating to town and country planning including noise control rules.

LAW OF TORTS AND CONTROL OF NOISE

In India the common law tort action is still an effective legal step to take legal action against the polluter. Actually our most of the laws have their routes in the common law and by virtue of Art 372 (1) not only the Indian legislative enactments but also common law of the land, which was being administered by the courts in India, continues to apply. Under Art 372 “all the laws in force” includes not only the personal law viz the Hindu and Mohammedan laws, but also the rules of the English common law e.g. the law of torts as well as customary laws, the rules of interpretation of statutes etc.¹

The common law aspects of environmental law in India are nuisance, Trespass, negligence and strict liability, which can be effectively remedied by the application of law of torts. As per the legal control of noise pollution is concerned the remedy available under law of torts relating to nuisance. Victims can seek damages for noise injury and also can refrain the polluters from their noisy activities on the ground of nuisance under law of torts. The word ‘nuisance’ is derived from the French word ‘nuire’ which is meant to do hurt or to annoy. Nuisance liability based on an ancient common law concept that one should not use ones land so as to injure the property of other and expressed in the Latin phrase. “Sic utere tuo ut alienum non laedas.” Stephen defined nuisance as any thing done to the hurt or annoyance of

¹ Amina (Inre.) AIR 1992 Bom. 214.
the lands, tenements or heriditaments of another and not amounting to a 
trespass. Blackstone describes nuisance as something that causes hurt, 
inconvenience or damage.

Nuisance is of two kinds -

a) Public general or common

b) Private

PUBLIC NUISANCE

A person is guilty of public nuisance who does any act or is 
guilty of an illegal omission, which causes any common injury, danger 
or annoyance, to the public or to the people in general. In other words an 
act or omission, which materially affects the reasonable comfort, 
convenience, health, safety or quality of life of a class of persons, is a 
public nuisance. Public nuisance is an act affecting the public at large or 
some considerable portion of it; and it must interfere with rights of the 
members of the community. In order to obtain the private right of action 
in respect of a public nuisance -

1. Plaintiff must show a particular injury to himself beyond that 
which is suffered by the rest of public. In other words the plaintiff 
has to prove that the damage what he has suffered is more than 
the damage the general public had to suffer.

2. Such injury must be direct and not consequential one.

3. The injury must be shown to be of a substantial character, not 
fleeting or evanescent.
PRIVATE NUISANCE

Winfield defines private nuisance as "Unlawful interference with a persons use or enjoyment of land or some right over, or in connection with it." For filing a suit under law of torts a plaintiff is required to comply with some of the requirements of tort of nuisance. The essentials are –

1. Unseasonable interference

2. Interference with the use of Enjoyment of land, which consists two elements, that is injury to the property or injury to the comfort or health of occupants of certain property.

3. Plaintiff has to prove that actual damage caused to him.

Private nuisance includes (i) wrongful disturbance of easement or servitudes e.g. obstruction of light and air, disturbance of right to support, (ii) Wrongful escape of deleterious substances into another’s property e.g. smoke smell, fumes, gas, noise, water, electricity etc.

From the above discussion it is clear that the law of torts can be used as an instrument to control the noise pollution. It is the right of a person to use his property peacefully. Right and duties or co-relative and from this proposition it can also be said that neighbors of that property are under duty not to disturb the peaceful use of another’s property. Therefore this inference can also be drawn that one should not make such intensity of noise which may cause annoyance to other. No person has the right to disturb the peace of mind of others by making noise on his property.

In the case Soltau vs De Held¹ the plaintiff used to reside in a house next to a Roman catholic chapel of which the defendant was the priest and the chapel bell was rung at all hours of the day and night. It was held that ringing was a public nuisance and the plaintiff was held entitled to an injunction. In the case Andreac Vs Selfridge & Co.² it was held that if a person demolishes his house or building in unreasonable manner, which spreads dust and noise to the detriment of hotel proprietor then at person, will be held liable to pay damages for the nuisance caused by dust and noise.

In Attorney General Vs P.V.A. Quarries³ some quarry owners conducted their operations in such a manner that personal discomfort was caused to the neighboring householders by vibration and by dust coming from the quarry which settled on their houses and garden. It was held that the nuisance from vibration causing personal discomfort was sufficiently widespread to amount to a public nuisance and the injunction against the quarry owners was justified which restrain them from carrying on their operations in the above manner.

In Allen Vs Flood⁴ it was held that quietness and freedom from noise are indispensable to the full and free enjoyment of a dwelling house. No proprietor has an absolute right to make or produce noise even on his own land because, the right which is conferred upon people is always with a condition that it must not be exercised in a manner which may cause to the nuisance to his neighbors or to the public.

In Vanderpant VS Mayfair Hotel Co.⁵ it was held that noise will

---

¹. (1851) 2 sim NS-1333
². (1938) [ch]
³. (1957) 1 All ER 894
⁴. (1898) AC 1, 101
⁵. (1930) 1 Ch 138
create an actionable nuisance only if it materially interferes with the ordinary comfort of life, judged by ordinary, plain and simple notions and having regard to the locality; the questions being one of degree in each case.

In this case the defendant installed an electric floor mill adjacent to the plaintiffs house which was situated in a bazaar locality and noise and vibrations produced in such an extent and intensity was so grave due to the running of the mill which completely snatched the peace and freedom from the plaintiff to follow their ordinary pursuits of life and did not have a rest at night and it was held that the running of the mill amounted to a private nuisance which should not be permitted.

In Bamford Vs Turnley\(^1\) it was held that as to what amount of noise is a noise of annoyance and sustain an action depends on the surrounding circumstances i.e., the place, time and duration of exposure of noise whether permanent, occasional or continual.

In Ball Vs Ray\(^2\) it was held that disturbing to neighbours throughout the night by the noises of horses in a building, which was converted into a stable, was a nuisance.

In Bellamy Vs Wells\(^3\) it was held that it is an act of nuisance to attract a large and noisy crowd outside a club kept open till 3 a.m.

In Walker Vs Brewster\(^4\) it was held that collection of noisy and disorderly people outside a building in which entertainments by music and fire works have been arranged for profit, is an instance of nuisance.

\(^1\) (1860) 33 & S62, 72
\(^2\) (1873) LR 8 Ch. App 467
\(^3\) (1800) 90 L.J. Ch 156
\(^4\) (1867) 1 R 5 Eq 25
In Christie Vs Davey\(^1\) the defendant being irritated by considerable amount of music lessons by the plaintiff, a music teacher, living in the adjoining house, maliciously caused discomfort to the plaintiff by hammering against the party wall, beating of trays, whistling and shrieking. In this case granting injunction against the defendant North J. Said; "In my opinion, the noise" which were made in the defendants house were not of legitimate kind. They were what, to use the language of Lord Selborne in Gaunt Vs Funnel\(^2\) ought to be regarded as excessive and unreasonable. I am satisfied that they were made deliberately and maliciously for the purpose of annoying the plaintiffs. If what has taken place has occurred between two sets of persons, both perfectly innocent, I should have taken an entirely different view of the case. But I am persuaded that what was done by the defendant was only for the purpose of annoyance; and in my opinion it was not a legitimate use in defendants house to use it for the purpose of vexing and annoying his neighbours."

In Radhey Shyam Vs Gur Prasad\(^3\) Gur Prasad and another filed a suit against Radhey shyam and others for a permanent injunction with an intention to restrain them from installing a flourmill within the vicinity of their locality. It was alleged that the noise, which would emit from the mill would cause nuisance and breach their peace. It was held that addition of an extra noise in a noisy locality by, the running of the impugned machines would seriously interfere with the physical comfort of the plaintiff and thus imposed injunction from opening such will.

\(^1\) (1893) 1 Ch 316  
\(^2\) (LR 8 Ch 8)  
\(^3\) AIR 1978 All 86
In Hollywood Silver Fox Farm Ltd. Vs Emmett\(^1\) the plaintiff had the business of breeding silver fox on their land styled Hollywood silver fox Farm Ltd. The vixen of these animals are extremely nervous during the breeding season and if they are disturbed by any loud noise, that may not breed during the season, may miscarry or kill their young ones. The defendant maliciously caused guns to be fired on his land but as near as possible to the breeding pens with a view to cause damage to the plaintiff by interfering with the breeding of vixen. Even though the firing took place on defendants own land over which the defendant was entitled to shoot the court held that the plaintiff was entitled to an injunction and damages.

In the case Duttamal Chiranjilal Vs Ladly Prasad\(^2\) the flour mill of the defendant close to the house of plaintiff caused a lot of noise and vibration and which resulted to a great inconvenience to the members of the family of the plaintiff. It was held that though the citizen has a fundamental right under Art 19 (1)(g) of the Constitution of India to carry on trade or business but it can not abrogate or nullify the law relating to nuisance.

In the case R Vs Shorrock (Peter)\(^3\) the defendant let out a field on his farm to three people for a week and then went away for the week and. An ‘acid house’ party on the field lasting 15 hours caused a major noise nuisance. People even who have resident up to four miles away make complaints against this nuisance. The landowner pleaded about his innocence regarding the occurring of such incident. It was held that it was not necessary to prove that the owner had actual knowledge of nuisance, as it was enough to show that he was responsible for the

---

1. (1936) 2 K.B., 468
2. AIR 1960 All 632
3. (1993) 3 All ER 917 C.A.
nuisance and knew or ought to have known to him. It was also held that the owner should have been aware that there was a real risk of the sort of nuisance that was created and accordingly, constructive knowledge of the nuisance was there. Thus the landowner and organizers were convicted of the offence of public nuisance.

In the case Halsey Vs Esso Petroleum Co. Ltd.\(^1\) the complaints of noise from boilers, pumps and heavy tanker lorries were held to be nuisance and the court granted an injunction.

In Thompson and others Vs Smiths-Ship-Repaires (North Shields) Ltd.\(^2\) six persons were working in various noisy jobs and other noisy occupations. All of them suffered varying degrees of hearing loss. They claim damages against their respective employers. The court laid down the degree of employers liability in cases of occupational noise exposure after taking into consideration the following factors :-

a) The period from which legal liability was considered to begin.

b) What was considered to be the breach of duty on the part of the employer;

c) Apportioning of liability between different employers; employers were working also under other employers.

d) The apportionment of liability in cases where the onset of deafness occurred before the employers could be expected to take preventive measures to protect employees.

\(^1\) (1984) 1 ALL ER 881 QB.D
\(^2\) (1984) 1 ALL ER 881 QB.D
It was made clear that employers are liable for negligence if they fail to take reasonable steps to protect employees from known source of danger.

In the case Betts Vs penge\(^1\) it was laid down that it was sufficient to sustain conviction of the persons if it can be proved that his act or default were in such a state as to interfere with the personal comfort of the occupier maybe not necessarily being injurious to health. It was also held to no such distinction is required in between public and private nuisance as to the determination of the question of whether a statutory nuisance existed.

In Colls case\(^2\) Earl of H Alsbury L.C. said: 'A dweller in towns can not expect to have as pure air as free from smoke, smell and noise as if he lived in the country and distant from other dwellings, and yet an excess of smoke, smell and noise may give a cause of action, but in each of such cases it becomes a question of degree and the questions is in each case whether it amounts to a nuisance which will give a right of action.

In the case Polsue & Alfieri Ltd. Vs Rushmer\(^3\) it was held that to give a house holder a right to an injunction against a neighbour for carrying on a noisy business in a trade district, the noise must amount to a nuisance, regard being had to nature and habits of the neighborhood and to the pre existing noises.

In the case Saltau Vs Deheld\(^4\) it was held that the constant daily ringing of a peal of heavy bells in a house actually adjoining a private residence is an instance of actionable nuisance.

---

1. \((1942)\) 2 KB. 154
2. Colls VS Home and colonial store ltd. (1904)
3. \((1907)\) AC 121
4. \((1851)\) 2 Sim NS 133
From the above case decisions it is very clear that whenever emission of sound reaches into the stage of nuisance and started to interfere with the personal comfort of any person or poses a danger to the life of a person then remedy is available under law relating to nuisance. But what amount of noise is necessary in order to term it nuisance and to get the remedy in any case is not motioned in any legal rule. The question so entirely depends on the surrounding circumstances the place, time, mode or duration all are the factors, which are taken into consideration in order to bring it under the preview of actionable nuisance. Noise will create an actionable nuisance only if materially interferes with the ordinary comfort of life, judged by ordinary plain and simple notions having regard to the locality which indicates sufficiently that the law of torts cannot provide uniform rules to cases of nuisance. Under law of tort a case maybe of actionable before a judge and may not be an actionable nuisance before other Judge. Thus a state of uncertainty prevails under law of torts related to nuisance and it is not possible to combat noise pollution completely as it is not sufficient to deal with the noise as an actionable wrong in all situation. As in the case Jeukins Vs Jackson,\(^1\) where a nuisance was caused to tenant of a room in a house by reason of the floor above being used for dancing and other entertainment causing noise and vibration, the Court gave nominal damages but declined to grant an injunction on the ground of balance of convenience.

In South work London Borough council Vs Mills\(^2\) it was held that normal activities of tenants of a neighboring flat do not amount to a

---

1. (1888) 40 ch D71.
2. (1999) 4 All ER 44 9p-460 (HL)
nuisance even though the noise comes from them as because of insufficient use of soundproofing.

So now it is clear that how the ambit of law of tort is narrow to deal with the noise problem. Furthermore, where undertakers act under a statutory obligation irrespective of the saving clause not exempting them from liability in nuisance, they will not be held liable under law of torts for causing any nuisance.

 PROCEDURE OF FILING A SUIT IN THE CASE OF PUBLIC NUISANCE

Section 91 of the civil procedure code provide for filling a suit in respect of public nuisance and other wrongful acts affecting the public. Here it is needed to mention that where a person commits a public nuisance can be made liable to criminal prosecution or he may be proceeded against under section 91 of the code of civil procedure or he may be sued for damages by a private individual if he has suffered special damage due to such nuisance. These remedies are concurrent and one does not bar the other.

Section 91 authorises the filing of a suit for a declaration and injunction or for some other appropriate relief of by the Advocate-General or by two or more persons with the leave of the court.

LAW OF CRIMES AND CONTROL OF NOISE

Under section 268 of the Indian Penal code excessive noise has been recognized as public nuisance and it is a crime.

Sec 268 of I P.C reads as follows:-

“A person is guilty of a public nuisance who does not act or is guilty of an illegal omission, which causes any common injury,
danger or annoyance to the public or to the people in general who
dwell or occupy property in the vicinity or which must necessarily
cause injury, obstruction danger or annoyance to person who may
have occasion to use any public right. A common nuisance is not
excused on the ground that it causes some convenience or
advantage.

So basically public nuisance is defined under this above stated
section. Jowitt defines public nuisance as an act which interferes with
the enjoyment of a right which all members of a community are entitled
to such as right to fresh air, to travel on the highways, not to be exposed
to danger to health from infectious diseases, unwholesome food etc.\(^1\)

Section 268 of I.P.C. is actually borrowed from the definition of public
nuisance from the authors of the Digest of criminal law.\(^2\)

In order to bring an offence under section 268 of I.P.C. following
ingredients are necessary.

(1) that there was some act or illegal omission,

(2) that it was done by the accused;

(3) that it caused any injury, danger or annoyance ;

(4) that the said injury etc. was common to the public or to the people
   in general

Here, first of all, it is required to prove (1) \& (2) and then it is needed to
relate (3) i.e., it must necessarily cause injury, obstruction, danger or
annoyance and thereafter it must be shown persons fell victim under (4).
There are 11 specific case of nuisance specifically dealt with under the

---

Penal Code are:

1. Spread of infection
2. Fouling water
3. Making atmosphere noxious to health
4. Adulteration of food, drugs and drinks
5. Rash driving
6. Rash navigation
7. Endangering public ways
8. Negligent handling of poisons, combustibles and explosives
9. Negligence with respect to
   a. machinery
   b. building
   c. animals
10. Spread of obscenity
11. Public gambling

1. Sec. 269-271
2. Sec. 272
3. Sec. 278
4. 272-276
5. Sec. 279
6. Sec. 280-282
7. Sec. 281-283
8. Sec. 284-286
9. Sec. 287
10. Sec. 288
11. Sec. 289
12. Sec. 292-294
13. Sec. 294A
Beside these, section 290 is incorporated into the I.P.C, which covers all other type of nuisance, which not specifically mentioned under above stated sections and made punishable. Generally some minor acts of nuisance about which provisions are made

But this provision is also not sufficient to deal with all type of criminal cases of nuisance. The Indian penal code which is originally enacted in the year 1860, the period in which even it was hard to imagine about such scientific and industrial developments which has taken place in this 21st century and naturally the Indian penal code drafters had no idea about such an extent of noise pollution by so many irritants of the modern society. The provisions of I.P.C deal with nuisance are considerably dwarf before this horrible menace of noise pollution.

**PROVISIONS UNDER CRIMINAL PROCEDURE CODE**

Under section 133 of Cr. P.C. the Magisterial Court have been empowered to issue order to remove or abate nuisance caused by noise pollution. Cases of public nuisance, which can be remedied under this section fall under the following six categories.

1. the unlawful obstruction or nuisance to any way, river or channel lawfully used by the public or to a public place;
2. the conduct of any trade or occupation, or the keeping of any goods or merchandise, injurious to the health or physical comfort of the community;
3. the construction of any building, or disposal of any substance as is likely to occasion conflagration or explosion;
(4) a building, tent or structure, or a tree as is likely to fall and cause injury to persons

(5) an unfenced tank, well or excavation near a public way or place; and

(6) a dangerous animal requiring destruction, confinement or disposal.

A proceeding under section 133 is taken in case of emergency where the public shall be put to great inconvenience and shall suffer an irreparable loss or injury if the nuisance is not removed at once by adopting the summary procedure contained in chapter XB. Whenever any question arises as to the invasion of public right, the Magistrate is empowered under this section to take action and to remove the cause of nuisance. The power under this section can be exercised by the Magistrate on receipt of a police report or other report on the basis of any of the six circumstances as it is stated above. A District Magistrate or a Sub-Divisional Magistrate or any other Executive Magistrate specially, empowered in this behalf by the State Government can only pass a conditional order which must fix a time within which and a place where a person to whom it is directed may appear before the Magistrate and move to have the order set aside or modified. The order of the Magistrate should not be vague, indefinite and ambiguous but any order duly made by a Magistrate under this section can be called in question in any Civil Court.

The order of the Magistrate will be served to the person against whom it is made by the manner of serving summons under Cr. P.C. or if it is not possible then the order can be notified by such proclamation or can be published in such manner as the rules framed by
the State Government and copy of the order can be attached or can be stack up in any conspicuous place.¹

After getting the notice a person against whom it is made either may perform the act within the time and the manner as it is specified in the order or can appear before the court in accordance with such order and show cause against the same.²

If the person against whom the order is passed fail to perform the act according to the directions set forth in the order or appear and show cause shall be punished with imprisonment of either six months or fine or both, when such disobedience causes or tends to cause obstruction, annoyance or injury to any person lawfully employed be punished with simple imprisonment for a term which may extend to one month or fine of two hundred Rs. Or both. This order should be absolute order one.³

The Party against whom a provisional order is made and after his appearing before the court will be asked by the magistrate that whether in respect of the way, river, channel or place and if he denies then the magistrate is required to enquire about the matter and the aforesaid party is also required to produce legal evidence in support of his claim. If the above conditions are fulfilled, the magistrate cannot proceed further and must stay the proceedings until the matter of existence of such right has been decided by a competent court.⁴

When the party, against whom an order is made under sec.133 appears in response of show-cause, the magistrate is bound to

---

¹ Sec. 134 of Cr.P.C.
² Sec. 135 of Cr.P.C.
³ Sec. 136 of Cr.P.C.
⁴ Sec. 137 of Cr.P.C.
take evidence as in a summons case. If on taking evidence magistrate is satisfied that it is reasonable and proper he can make the conditional order absolute otherwise further proceedings may be stopped.\(^1\)

For the purpose of enquiry the magistrate can direct for a local investigation by any person whom he thinks fit or can summon and examine an expert.\(^2\)

At the time of giving direction for local investigation the Magistrate can furnish written instruction for the guidance of the investigator and can also direct who will bear the expenses for investigation or when an expert is summoned and examined by the magistrate. The report of the investigation may be read as evidence in the case.\(^3\)

After passing of absolute order the concerned party is required to act as per the direction of the order or will remain liable for penalty and Magistrate is also empowered to ask for sale of any movable or immovable property or attachment of the property as the case maybe.\(^4\)

If at the time of making order u/s 133 the Magistrate considers that immediate measure should be taken to prevent imminent danger or injury of a serious kind to the public he may issue an order of injunction.\(^5\)

A District Magistrate or Sub Divisional Magistrate or any other Executive Magistrate empowered by the State Government or the

---

1. Sec. 138 of Cr.P.C.
2. Sec. 138 of Cr.P.C.
3. Sec. 140 of Cr.P.C.
4. Sec. 141 of Cr.P.C.
5. Sec. 142 of Cr.P.C.
District Magistrate in this behalf may order any person not to repeat or continue a public nuisance.¹

If the Magistrate is satisfied that there is danger to human life or disturbance of public tranquility or a riot or an affray and considers that immediate prevention or speedy remedy is desirable, he even can pass an ex-parte order. Any order passed by the Magistrate for above stated situation will generally remains in force for two months but State Government may enhance the period of order up to six month. An order under this section may be directed to a particular individual or to persons residing in a particular place or area or to the public generally when frequenting or visiting a particular place or area.²

THE CONSTITUTIONAL PROVISIONS AND PROTECTION OF ENVIRONMENT

Our constitution envisages tripartite picturesque of justice viz, Justice – Social, economic and political is directed in the preamble. The concept of justice is enshrined in the Constitution to actualization of the goal of full and free development of every individual. The full and free development of individual is not possible unless a healthy environment and pollution free environment will be provided to them. In fact the environmental protection has been given a Constitutional status in the Indian Polity. As because the word ‘environment’ not used in any of the provision of the original text of Constitution and as only by 42nd Amendment Act, 1976. Act 48 A and Art 51- A(g) is inserted into the Constitution some critics express their doubt that whether Constitutional makers were concerned with the matter of environment or not. It is

¹. Sec. 143 of Cr.P.C.
². Sec. 144 of Cr.P.C.
submitted here humbly that by going through the provisions of the Constitution in detail, their remains no chance of having any doubt about the concern of the Constitutional makers regarding clean and natural environment and public health.

Article 39(e) of the Constitution provides: The State Shall in particular, directs its policy towards securing –

"that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength"

Article 47 enjoins upon the State to raise the level of nutrition and the standard of living and to improve public health. And finally as a logical outcome of Ms Maneka Gandhi’s ruling on due process, fairness and reasonableness Art 21 of the Indian Constitution assumed far reaching significance and even right to get healthy environment is held to be a part of right to life guaranteed in Art 21 of the Constitution. So, naturally we are bound to come in this Conclusion that Constitutional makers were very much aware about the need to make the environment, pollution free otherwise the existence of whole mankind may come at stake.

But it is true that only after the international concern regarding pollution which was expressed through Stockholm conference in 1972, Art 48A and 51A(9) was inserted into the Constitution in the year 1976 to combat with the noise pollution.

Article 48A provides that the State shall endeavour to protect and improve the environment to safeguard the forest and wildlife of the country.
And Article 51A(g), which is included in part IV A of the Constitution under the heading of ‘Fundamental Duties’ provides “to protect and improve the natural environment including forests, lakes, rivers, and wildlife, and to have compassion for living creatures”.

**FUNDAMENTAL RIGHTS Vs DIRECTIVE PRINCIPLES**

From the above discussion it is clear that all the express provisions regarding environment are kept in part IV i.e. under the chapter of Directive Principles of State policy and naturally the question may arise that whether under Indian Constitution a less importance or significance is attached to the matter of pollution as because the Directive Principles of State policy are non justiciable right.

The answer of above question is certainly will be in negative form because both the fundamental right under part III and Directive Principle of State Policy under part IV of the Constitution constitute a code of human rights. The fundamental right comprises mainly of civil and political right and they are justiciable in courts of law where as the directive principles comprise of economic, social and cultural right and may not be justiciable one, yet, under Art 37 these principles have been declared to be fundamental in the governance of this country. Directive principles are not completely free from sanctions because in this democratic country vigilant public opinion is the real force and which have the potentiality to compel the government to implement the directives otherwise they have to answer before the electorate. Representative democracies have no meaning without economic and social justice to the common man. The purpose of the fundamental right is to create an egalitarian society to free all citizens from any coercion or restriction and to provide liberty to all. On the other hand the purpose of the directive principles are to fix certain social and economic goals by
bringing about a non-violent revolution. Both the fundamental rights and Directive principles together they form the core of the Constitution. While fundamental right constitute the individual rights of the people, Directive principles constitute the ‘Collective human rights’ of the people. The freedoms of few have to be abridged in order to ensure the freedom for all. It is in this sense that part III and part IV together constituted “the conscience” of the Constitution. If the State fails to create condition in which all could enjoy the fundamental freedoms, the freedom of the few will be at the mercy of the many and than all freedoms will vanish.

As the directive principle are not enforceable by Court earlier the view was taken by our judiciary that in case of any conflict between fundamental right and directive principles the fundamental right would prevail.¹ Though the Court did not abandon its thinking immediately but in Mohd. Hanif Qureshi Vs State of Bihar² clearly spoke of harmony between the fundamental rights and directive principles.

At the time of dealing with Zamindari Abolition cases such as in the case of State of Bihar Vs Kameshwar singh³ the supreme Court took the modified attitude and justified the Zamindiri Abolition Act.

In Re Kerala Education Bill⁴ the Supreme Court laid emphasis on harmonious construction at the time of interpreting Fundamental rights and directive principle.

---

1. State of Madras VS Champakam Dorairajan; AIR 1951 SC 226
2. AIR 1958 SC 731
3. AIR 1952 SC 352
4. AIR 1957 SC 956
In Keshavananda Bharati Vs State of Kerala\textsuperscript{1} the Supreme Court has said that fundamental rights and directives are supplement to each other. Directive principles prescribe the goal to be attained and the fundamental rights lay down the means by which that goal is to be achieved and justified the inclusion of Art 31C to give effect to the principles contained in Art 39 (b) and (c).

But being encouraged with the decision of Keshabananda Bharati case when the government by Constitution 42\textsuperscript{nd} Amendment Act, 1976 tried to amend once again Art 31C to cover not only Art 39(b) & (c) but to all directive principles by overriding fundamental rights completely, the supreme court in Minerva Mills case declared this said Amendment Act is unconstitutional. In this case it was also opined by the Supreme Court that Fundamental rights and Directive principles are complementary to each other and no need to sacrifice one for the sake of other.\textsuperscript{2}

Finally in State of Tamil Nadu Vs L. Abu Kavur Bai it was held, that Court should make a real attempt to evade any confrontation between directives and Fundamental rights.\textsuperscript{3}

So in the light of above judicial interpretation it can be said provisions regarding protection of environment contained in part IV of the Constitution carry immense importance and the government is bound to provide clean and healthy environment to the people as per the Constitutional dictum is concerned.

\textbf{ART. 21 AND ENVIRONMENT}

\begin{itemize}
\item 1. AIR 1973 SC
\item 2. AIR 1980 SC 1789
\item 3. AIR 1984 SC 626
\end{itemize}
Art 21 reads as,

"No person shall be deprived of his life or personal liberty except according to procedure established by law"

The Supreme Court has contributed significantly to enhance the ambit of Art 21, which now not only save the life and personal liberty of the people from executive action but also from the legislative action. Earlier in A.K. Gopalan Vs Union of India the Supreme Court had given a very restrictive meaning to the 'personal liberty' as well as 'procedure established by law'. In this case it was held that whenever legislature will legislate a law after observing proper procedures means the Constitutional limitations as well as procedure of enactment of law by the legislature, then that law will be regarded as valid law and can even deprive a person from his life as well as personal liberty as that law is getting sanction from Art 21. It was also held that there is no relation between the fundamental rights and each right deals with the different purposes. The Supreme Court overruled the defence pleaded by the A.K. Gopalan, the petitioner, that his detention under Preventive Detention Act, 1950 was invalid as it violates his right under Art 19(1)(d) and he claimed the said Act should satisfy the requirement of Art 19(5). It was held by the court that when a person is deprived from his liberty totally then Art 21 comes to play its role and when there is a partial deprivation from personal liberty mean a person is partially deprived from his right of movement then only it will be examined by the court that whether impugned Act is violative of Art 19 or not.1

But in Maneka Gandhi2 case Supreme Court not only overruled Gopalan's case but also has added new dimensions to the

---

1. AIR 1950 SC 27
2. AIR 1978 SC 594
concept of personal liberty of an individual and has included in its judgement almost all the points of defence of the petitioner of A.K. Gopalan Vs union of India case.

In Maneka Gandhi case it was held that 'Procedure established by law' not only connotes to follow any methodical procedure but the procedure should be fair, Just, reasonable and valid one. The principle of reasonableness, which was an essential element of equality or non-arbitrariness, pervaded Art 14 like a brooding omnipresence and the procedure contemplated in Art 21 must answer the test of reasonableness in order to be in conformity with Art 14. It was also held that a law depriving a person of 'personal liberty has not only to stand the test of Art 21 but it also must stand the test of Art 19 means whether it is personal deprivation or full deprivation from personality, a law must satisfy the requirements of both Art. 19 & 21. Thus the Supreme Court has made it clear in this case that there exist a relation between Art 14, 19 and 21. Regarding personal liberty, Bhagwati, J. (as he then was) observed:

"The expression 'personal liberty' in Art 21 is of widest amplitude and it covers a variety of rights which go to constitute the personal liberty of men and some of them have raised to the status of distinct fundamental rights and given additional protection under Art 19".

It was also stated by Bhagawati, J. -

"The attempt of the Court should be to expand the reach and ambit of the Fundamental Rights rather then to attenuate their meaning a and content by a process of judicial construction"

And thus in Maneka Gandhi case by accepting the principle of natural Justice virtually the Supreme Court imported the concept of 'due

---

1. AIR 1950 SC 27
process of law’ of American Constitution as both give emphasis on ‘fairness’ and ‘reasonableness’. In Sunil Batra vs Delhi Administration\textsuperscript{1} Krishna Iyer, J. has observed that though in our Constitution there was no provision of ‘due process of law’ but in this branch of law after cooper and Maneka Gandhi’s case the consequence is same.

It is this information of Article 21, which the court has extended further so as to include the right to a wholesome environment. Environmental pollution which spoils the atmosphere and there by affects the life and health of the person has been regarded as amounting to violation of Article 21 of the Constitution. In this connection it will be worthwhile to mention Rural Litigation and Entitlement Kendra vs State of U.P.\textsuperscript{2} it was observed in this case,

“Consciousness for environmental protection is of recent origin. The United nations conference on world environment held in Stockholm June 1972 and the follow up-action there after, is spreading the awareness. Over thousands of years men had been successfully exploiting the ecological system for his sustenance but with the growth has been and is being cut down and man has started made it possible and convenient for man to approach the places which were hither to beyond his Ken. The consequences of such interference with ecology and environment have not come to be realized. It is necessary that the Himalayas and the forest growth on the mountain range should be left uninterfered with so that there may be sufficient quantity of rain. The top soil may be preserved without being eroded and the natural setting of the area may remain in tact. We had commended earlier to the State of Uttar Pradesh as also to the union of India that afforestation activity may be carried out in the whole

\textsuperscript{1} AIR 1978 SC 1675
\textsuperscript{2} AIR 1985 SC 359
valley and the hills. We have been told that such activity has been under taken. We are not oblivious of the fact that natural resources have got to be tapped for the purposes of social development but one can not forget at the same time that tapping of resources have to be done with requisite attention and care so that ecology and environment may not be affected in any serious way, there may not be any depletion of water resources and long-term planning must be undertaken to keep at the national wealth. It has always to be remembered that these are permanent assets of mankind and are not intended to be exhausted in one generation”

The case arose from indiscriminate, haphazard and dangerous lime stone mining in the Mussorrie Hill Range of the Himalayas in the western part of the Uttar Pradesh. The mining and the quarrying work in the region had been going on for long period there. The mining involved blasting of hills with dynamite and also deep digging in to the hillside, which resulted in, cave and slumping. As a consequence of such indiscriminate quarrying were that a large area of the valley had been stripped of vegetation and frequent landslides and denudation of Hills makes a great threat to the ecology and the environment of the valley.

In Municipal Council Ratlam vs Vardhichand case\(^1\) both the V.R.Krishna Iyer and O.Chinappa Ready, JJ observed that public nuisance occurred because of pollutants being discharged by big factories to the detriments of poorer section is a challenge to the social Justice, component of the rule of law. Justice Krishna Iyer also observed that there two codes I.P.C. and Cr.P.C. are of ancient vintage, the new social justice orientation imported to them by the Constitution of India makes it a remedial weapon of versatile case. Social Justice is due to

\(^1\) AIR 1980 SC 1633
people and therefore the people must be able to trigger off the jurisdiction vested for their benefit in any public functionary like a magistrate u/s 133cr.P.C. In this said case the Court rejected the plea of the municipality that due to its financial inability it is not able to perform the statutory liability conferred upon it by the statutory provisions.

This was a most complex environmental case before the Apex Court and which was really handled by the Apex Court very carefully. The Supreme Court make decision in such an way by which balance is maintained in between the integrity of environment, ecological system and the industries so that the problem of unemployment should also not take place. In this case the Court ordered the closure of certain lime stone quarries, which were too much serious and hazardous to the environment. The Court had ordered the U.P. Government to undertake reforestation programmes so that the integrity of the ecological system of the valley should remain unchanged. It had also formed a monitoring committee comprising with central-state and local officials and two public spirited persons to see the programme of reforestation and the activity of lime stone quarries in the valley.

But Court completely had ignored this point of defence and directed the State government to take immediate step to stop pollution and also asked municipal council to construct a sufficient number of public latrines to provide water supply and to ensure better sanitation within a period of six months. Supreme Court strictly had pointed out that industries couldn’t make profit at the expense of public health. The Court had also given warning that either follow the direction or face the punishment enshrined in sec 188 of I.P.C. The Supreme Court had ordered that states are supposed to respect human rights under part III of
the Constitution regardless of its budgetary provision. The judgement given by the honorable Court in this case is remarkable also from the sense that it had interpreted section 133 of Cr.P.C. to impose a mandatory duty on a magistrate to remove a public nuisance whenever one exists.

In Shri Sachidananda Pandey vs State of Bihar\(^1\) the Supreme Court had held.

“Today society’s interaction with nature is so extensive that the environmental question has assumed proportions affecting all humanity. Industrialization, urbanization, explosion of population, over exploitation of reasons, depletion of traditional sources of energy and the search for new sources of energy and raw materials, the disruption of natural ecological balances, the destruction of a multitude of animal and plant species for economic resource and some times for no good reason at all are factors which have contributed to environmental deterioration. While the scientific and technological progress of man has invested him with immense power over nature, it has also resulted in unthinking use of the power, encroaching endlessly on nature. If man is able to transform deserts into oasis, he is also leaving behind deserts in the place of cases. In the last century a great German materials philosopher warned mankind: “let us not, however, flatter ourselves over much on account of our human victories over nature. For each of such victory nature takes its revenge on use. Each victory, it is true, in the first place brings about the results we expected, but in the second and third places it has quite different unforeseen effects which cancel the first”

---

1. AIR 1987 SC 1109
Ecologists are of the opinion that the most important ecological and social problem is the widespread disappearance all over the world of certain species of living organisms. Biologists forecast the extinction of animal and plant species on a scale that is incomparably greater than their extinction over the course of millions of years. It is said that over half of the species, which become extinct over the last 2000 years, did so after 1900. The international Association for the protection of nature and natural resource calculates that now, on average, one species or subspecies is lost every year. It is said that approximately 1000 bird and animal species are facing extinction at present. So it is that the environmental question has become urgent and it has to be properly understood and squarely met by man. Nature and history, it has been said, are two component parts of the environment in which we live, move and prove ourselves. In India, as elsewhere in the world uncontrolled growth and the consequent environmental deterioration are fast assuming menacing proportions and all Indian cities are afflicted with this problem. The once imperial city of Calcutta is no exception. The question raised in the present case is whether the Government of west Bengal has shown such lack of awareness of the problem of environment in making an allotment of land for the construction of a Five star Hotel at the expense of zoological garden that it warrants interference by Court. Obviously, if the Government is alive to the various considerations requiring thought and deliberation and has arrived at a conscious decision after taking them into account, it may not be for Court to interfere in the absence of mala fides. On the other hand, if relevant
considerations influence the decision, the Court may interfere in order to prevent a likelihood of prejudice to the public .... When the Court is called upon to give effect to the directive principle and the fundamental duty, the Court is not to shrug its shoulders and say that priorities are a matter of policy and so it is a matter for the policy making, authority. The least that the Court may do is to examine whether appropriate considerations are borne in mind and irrelevancies excluded. In appropriate cases, the Court may go further, but how much further must depend on the circumstances of the case. The Court may always give necessary directions"

The significant part of this judgement is to make it clear that judiciary will interfere only in the reasonable cases.

**CONSTITUTIONAL REMEDIES**

Without the provisions of remedy rights cannot sustain. Where there is no remedy, there is no right. It is only the provision of remedy which makes the right real and for this an effective machinery for the enforcement of rights are required. Our Constitution makers not only have incorporated a long list of fundamental rights but also provided for an effective remedy for the enforcement of these rights both under Art 32 and Art 226. Under Article 32 which is itself a fundamental right, empowers a victim to approach directly before the Supreme Court by 'appropriate proceedings' for the enforcement of the fundamental rights and Supreme Court is empowered to issue appropriate directions or orders or writs including writs in the nature of habeas corpus, mandamus, prohibition, quo-warranto and certiorari for the enforcement of any fundamental rights. The High Courts under Article 226 is empowered to enforce not only fundamental rights but for any other
rights by issuing writs. In this sense Art 226 is wider than Art 32. Thus under Art 32 and 226 of the Constitution the Supreme Court and High Court possess a wide and authoritative power to grant relief and prevent environmental damage especially in the light of the new and wide dimensions of Art 21 through in context of its broad interpretation, made by the judiciary.

In M.C. Mehta vs Kamal Nath case the Court found that M/S Sapna Motel had interfered with the natural flow of river and thus disturbed the environment and ecology of the area. In this case initially the Court directed a notice to be issued to show cause why pollution fine not to be imposed. But latter on the Court withdrew the notice holding that the fine can not be imposed upon M/S Sapna Motel without there being any trial and without there being any finding that the Motel was guilty of offence under the environmental law. The Court held that pollution is a civil wrong. By its very nature, it is a Tort committed against the society as a whole. A person, therefore, who is guilty of causing pollution, has to pay damages for restoration of the environment and ecology. He has also to pay damages to those who have suffered loss on account of the offender. The powers of the Supreme Court under Article 32 are not restricted and it can award damages in any PIL case or in any writ petition. In addition to damages, the person guilty of causing pollution can also be liable to pay exemplary damages so that it may act as a deterrent for others not to cause pollution in any manner. The considerations for which fine can be imposed upon a person guilty of committing an offence are different from those on the basis of which exemplary damages can be awarded. The imprisonment or fine or both cannot be imposed upon a person in proceedings under Art 32 and 226

1. AIR 2000 SC 1997
of the Constitution of India. In this case the Court had given order to pay damages.

**INDIAN CONSTITUTION & LEGISLATIVE POWERS**

Apart from the aforesaid provisions, the Constitution of India empowered the parliament and the State legislatures enough to enact the laws regarding environmental protection. As the distribution of power is an essential element of a federal state, the present Constitution adopts the method followed by Government of India Act, 1935 and divides the powers between the union and states in three lists: - Union list, State list and the Concurrent list. The parliament is empowered to make law with respect to matters specifically enumerated in the union list of the seventh schedule and the State legislature with respect to matters contained in State list. Concurrent list is regarded as a ‘twilight zone’ and both the union and State legislatures are empowered to make law with respect to the matters enumerated in concurrent list. However Art 246 of the Constitution of India makes Parliamentary legislation on matters in the concurrent list paramount. The residuary power is also vested in the Parliament under Art 248. It says that Parliament has exclusive power to make any law with respect to any mater not enumerated in the concurrent list or the State list. Entry 97 in the union list also vests the similar power to Parliament.

The various entries in the lists of the seventh schedule to the Constitution relevant to environment are as follows

**List I - Union List**

*Entry No.*

6. Atomic energy and mineral resources necessary for its production.
14. Entering into treaties and agreement with foreign countries and implementing of treaties, agreement and convention with foreign countries.

24. Shipping and navigation on inland water ways.

25. Maritime shipping and navigation including shipping and navigation on tidal waters.

29. Airways, regulation and organisation of air traffic and of air dorms.

52. Industries the control of which by the union is declared by parliament by law to be expedient in the public interest.

53. Regulation and development of oil fields and mineral oil resources.

54. Regulation of mines and mineral development to the extent to which such regulation and development under the control of union is declared by parliament by law to be expedient in the public interest.

56. Regulation and development of interstate rivers and river valleys.

57. Fishing and Fisheries beyond territorial water

List - II - State List

Entry No.

6. Public health and sanitation, hospitals and dispensaries.


14. Agriculture including agricultural education and research protection against pests and prevention of plant diseases.

15. Prevention, protection and improvement of stock and prevention of animal diseases.
17. Water, that is to say, water supplies, irrigation and canals, drainage and embankment, water storage and water power subject to the provisions of

*Entry 56 of List - I*

17. Land that is to say, rights in or over land, land tenures including the relation of landlord and tenant and the collection of rents, transfer and alienation of agricultural land, land improvement and agricultural loans, colonization.


*List - III - Concurrent List*

*Entry No.*

17. Prevention of cruelty to animals.

17.A Forests

17.B Protection of wild animals and birds

18. Adulteration of Food stuffs and other goods.

19. Drugs and poisons, subject to the provisions of Entry no. 59 of list -1 with respect to opium.

20. Economic and social planning.

20A Population control and Family planning.

29. Prevention of the extension from one State to another of infectious or contagious diseases or pests effecting man animals or plants.

32. Shipping and navigation on inland waterways as regards mechanically propelled vessels.

36. Factories

37. Boilers.
40. Archaeological sites and remains other then those declared by or under law made by parliament to be of national importance.

Apart from these Art. 252 vests a very wider power in Parliament. According to this Article if the legislature of two or more states passes resolution to the effect that it is desirable to have a law passed by the Parliament on any matters in the State list, if it shall be lawful for Parliament to make laws regulating that matter. Art 253 empowers the parliament to make any law for the whole or part of the territory of India for implementing treaties and international agreements and conventions. Parliament can effectively use its power of making law under this aforesaid two article to legally combat with environmental pollution.

POST CONSTITUTIONAL ACTS AND RULES REGARDING CONTROL OF ENVIRONMENTAL POLLUTION

We have had about 200 legislation dealing with various aspects of environment protection. But in tune with the Stockholm conference, which was held in the year 1972, some specific statutes are enacted and some rules are also found exclusively to deal with major environmental pollution problems.

Those are : - (Chronologically given)

➢ The Wild Life (Protection) Act, 1972
➢ The Wild Life (Transaction and Taxidermy) Rules 1973
➢ The Wild Life (Stock Declaration) / Central Rules, 1973
➢ The Water (Prevention and Control of Pollution) Act, 1974
➢ The Water (Prevention and Control of Pollution) Rules, 1975
The Central Board for the Prevention and Control of Water Pollution (Procedure for Transaction of Business) Rules, 1975
The Water (Prevention and Control of Pollution) Cess Act, 1977
The Water (Prevention and Control of Pollution) Cess Rules, 1978
The Forest (Conservation) Act, 1980
The Forest (Conservation) Rules, 1981
The Air (Prevention and Control of Pollution) Act, 1981
The Air (Prevention and Control of Pollution) Rules, 1982
The Air (Prevention and control of Pollution) (Union Territories) Rules, 1983
The Wild Life (Protection) Licensing (Additional Matters for Consideration) Rules, 1983
The Environment (Protection) Act, 1986
The Environment (Protection) Rules, 1986
The Hazardous Wastes (Management and Handling) Rules, 1989
The Manufacture Storage and Import of Hazardous Chemicals Rules, 1989
The public Liability Insurance Act, 1991
The Public Liability Insurance Rules, 1991
The Wildlife (Protection) Rules 1995
The Wild life (Specified Plants Conditions for Possession by License) Rules, 1995
The National Environment Tribunal Act, 1995
The Chemical Accidents (Emergency Planning Preparedness and Response) Rules, 1996
The National Environment Appellate Authority Act, 1997
National Environment Appellate Authority (Appeal) Rules, 1997
The Bio-Medical Waste (Management and Handling) Rules, 1998
The Recycled Plastics Manufacture and Usage Rules 1999
The Noise Pollution (Regulation and Control) Rules, 2000
The Ozone Depleting Substances (Regulation and Control) Rules, 2000
The Municipal Solid Wastes (Management and Handling) Rules, 2000
The Batteries (Management and Handling) Rules, 2001
The Biological Diversity Act, 2002

THE AIR (PREVENTION AND CONTROL OF POLLUTION) ACT, 1981 AND NOISE POLLUTION

In order to implement the decisions of stock home conference of which India was also a participant for the purpose of preservation of the quality of air and control of air pollution the parliament of India has passed the Air (Prevention and Control of Pollution) Act 1981 by virtue of its power under Article 253 of the Constitution.

The object of this Act is to prevent control and abatement of air pollution. As regards the framework and the provisions of this Act is concerned is almost similar with the Water Act of 1974. The Air Act defines air pollution to mean the presence in the atmosphere of any air pollutant\(^1\) and air pollutant originally defined as to mean any solid, liquid or gaseous substance present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.\(^2\)

One remarkable draw back of this Air Act 1981 is that it has not included in its gamut the regulation of noise pollution but only after the 1987 amendments.

---
1. Sec. 2b of the Air Act
2. Sec. 2a of the Air Act
noise has been recognized as an air pollutant and now the definition of air pollutant reads as follows:

"Air pollutant" means any solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creature or plants or property or environment.

In the case Burrabazar Fire Works Dealers Association & others Vs commissioner of police, Calcutta and others\(^1\) it was held that noise is also a pollutant within the meaning of this section.

The Act provides for enforcement machinery by constituting Central Pollution Control Board and State Pollution Control Board. However it is needed to mention here that actually the above Boards are constituted by the enactment of Water (Prevention and Control of Pollution) Act, 1974 and to enable an integrated approach to environmental problems, the Air Act, 1981 simply enhanced the authority of central and State Boards established under Water Act, 1974 to include in its functions air pollution control.\(^2\)

**CONSTITUTION OF STATE BOARDS**:

The Constitution of State Boards provides for a chairman nominated by the concern State who must have knowledge or practical experience in respect of matters relating to environmental protection. The board in addition to the chairman can comprise of a 15 members provided.

i) Among such member not exceeding five should be nominated by the State government and who will represent the government.

---

\(^1\) AIR 1998 Cal 121 at page. 133
\(^2\) Sec. 3 & 4 of the Water Act, 1974
ii) Among such members, not exceeding five should be nominated by the State government from the members of local government or authorities functioning within such State.

iii) State government should nominate, not exceeding three members to represent about the interests of agriculture, fishery or industry or trade or labour or any other matter, which in the opinion of State Government ought to be represented.

iv) The State government has to be nominated two persons represent the companies or corporations, controlled and managed by State government

v) The State government must appoint a full time members secretary having such qualifications knowledge and experience of scientific, engineering or management aspects of pollution control.

And above all there not less then two of such members are required to be inducted who have special knowledge or practical experience in respect of matters relating to the improvement of the quality of air or the prevention, control or abatement of air pollution.¹

**POWER AND FUNCTION OF CENTRAL POLLUTION CONTROL BOARD²:**

The main function of the central pollution control board is to improve the quality of air and to prevent and control or abate air pollution in country but without prejudice to the performance of its function under the Water (Prevention and Control of Pollution) Act,

---

¹ Sec. 5 of the Air Act, 1981
² Sec. 16 of the Air Act, 1981
1974. Particularly the functions of the central pollution control board are:-

i) Advise the central Government on any matter concerning the improvement of the quality of air and the prevention, control or abatement of air pollution.

ii) Plan for executing a nation wide program for the prevention, control or abatement of air pollution.

iii) Co-ordinate the activities of the State boards and resolve disputes among them,

iv) Provide technical assistance and guidance to the State Boards and to carry out and sponsor investigation and research relating to problems of air pollution and prevention, control or abatement of air pollution.

v) The central Board may give direction to the State boards and if the central govt. is of the opinion that any State board has defaulted in complying with any direction given by the central Board and in consequence of such default a grave emergency has arisen then it can direct the central Board to perform any of the function of such State Board in relation to such area for such period and for such purposes as per the direction is concerned.¹

vi) Plan and organize the training of persons engaged or to be engaged in programmes for the prevention, control or abatement of air pollution on such terms and conditions as the central board will specify;

vii) Take mass awareness programme through mass-media regarding the prevention, control or abatement of air pollution;

¹ Sec. 16(z)(dd) and Sec. 18(1) & (2)
viii) Collect, compile and publish technical and statistical data relating to air pollution and also the measures so as to combat with this menace;

ix) Lay down standards for the quality of air;

x) Collect and disseminate information in respect of matters relating to air pollution;

xi) Can establish or recognise a laboratory or laboratories to enable the central Board to perform its above stated functions.

xii) The central Board can appoint committee or committees to delegate any of its above stated functions.

xiii) Can do such other things, as it is required by it to properly implement the purpose of the Act.

FUNCTIONS OF STATE BOARDS :-

Subject to the provision of this Act and without prejudice to any of its functions under the Water (Prevention and Control of Pollution) Act 1974 the following function are performed by a State Board.

i) To plan a comprehensive programme for the prevention control or abatement of air pollution and to secure the execution of that plan.

ii) To advise the State government on any matter concerning the prevention, control or abatement of air pollution.

iii) To collect and disseminate information relating to air pollution.

iv) To collaborate with the central Board in organizing the training of persons engaged or to be engaged in program’s relating to prevention control or abatement of air pollution and to organize mass-education program for the above purposes.

v) To inspect, at all reasonable times, any control equipment, industrial plant or manufacturing process and to give by order
such direction to such persons as it may consider necessary to take steps for the prevention, control or abatement of air pollution. Here it is needed to mention that the State government may after consultation with the State Board declare any area or areas within the State as pollution control area or areas.\(^1\) The State government can also extend the area of air pollution control or can create new air pollution control or can merge one or more existing air pollution control area or merge one or more existing air pollution control areas.\(^2\)

The State Government may after consultation with the State Board is of opinion that use of any fuel other then an approved fuel or burning of any material in any air pollution control area may prohibit the use of that fuel\(^3\)

Under section 24 of Air Act, 1981 any person empowered by a State Board has a right to enter, at all reasonable times with the required assistance for the following purposes:-

a) for the purpose of performing any of the functions of the State board entrusted to him.

b) for the purpose of examining any testing any control equipment, industrial plant, record, register, document or any other material object or for conducting a search of any place if he believes or if he has reason to believe that an offence under this Act or the rules made there under, has been committed or about to be committed and every person operating any control equipment or any industrial plant in an air pollution control area are bound to provide all

---

1. Sec. 19(1) of the Air Act, 1981
2. Sec. 19(2)(a) & (b) of the Air Act, 1981
3. Sec. 19(3) & 19(5) of the Air Act, 1981
assistance to him and other wise will be held guilty under this Act.

vi) to inspect air pollution control areas at such intervals, as it may think necessary, assess the quality of air therein and take steps for the prevention, control or abatement or air pollution in such areas. Here it is pertaining to mention that under sec. 21 of The Air Act, 1981, no person shall with out the previous consent of the State board, establish or operate any industrial plant in any air pollution control area. Therefore industrial operators are required to obtain a consent order like permit form the State Board for the operation of an existing industry or for an industry yet to be established. Upon making an application for the procurement of a consent order in the prescribed form and along with the prescribed fees, the State board upon making such inquiry as it may deem fit, may for reasons to be recorded in writing within a period of four months from the date of submission of application grant the consent, subject to such conditions and for such period as may be specified in the order or refuse such consent. The State Board is authorised after giving a reasonable opportunity of being heard to the person concerned, to cancel the already given consent even before the expiry of the period which was granted earlier or can refuse to provide further consent if any condition precedent was attached with earlier permission and the person concerned (operator etc.) fail to fulfil those conditions as such erection or reerection of specified chimney or such other conditions as the State Board may specify in this behalf. These conditions are variable and subject to the technological improvements.
vii) Lays down the standards for emission of air pollutants into the atmosphere from industrial plants and automobiles or for the discharge of any air pollutant into the atmosphere from any other source excluding ship or an aircraft. However before fixing the standard of emission of air pollutants, the State Boards are required to consult with the Central Board and must adhere to the standards for the quality of air laid down by the Central Board. The State Board may fix the different standard for emission of air pollutants by the different industrial plants having regard to the quantity and composition of air pollutants into the atmosphere from such industrial plants.

Here it is also required to mention about the sec 22 of this Air Act, 1981 which prohibits any person to discharge or cause or permit to be discharged the emission of any air pollutant in excess of the standard fixed by the State Board within the air pollution control area. Under section 22A when there is an apprehension to the Board that there remains a probability of emission of air pollutants in any air pollution control area by any operator of any industrial plants excess than the standard fixed by it, then the Board may make an application before a Metropolitan Magistrate or a Judicial Magistrate of the First class for restraining such person from emitting such air pollutant. On receipt of the application the court may make such order as it deems fit and can direct any person to refrain himself from emitting the noise excess from the standard fix by the concerned Board and if that person fail to comply with such direction then Board is authorised to take such action as it is directed by the court in its order. All expenses incurred by the Board in implementing the direction of the Court
is recoverable from the polluter as arrears of land revenue or as of public demand. Under section 23 of the Air Act, 1981 where in any area the emission of any air pollutant into the atmosphere is in excess of the standard laid down by the State Board occurs or is apprehended to occur due to accident or any other unforeseen act or event, the person in charge of the premises from where such emission occurs or is apprehended to occur is required to intimate the Board or to such agency or authority as may be prescribed forthwith. After getting the information the State Board and the agencies or authorities shall take such remedial measures as is needed to mitigate the emission of such air pollutants, as early as practicable. If the State Board or said authority or agencies have incurred any expenses for the above purposes can be recovered from the person concerned in charge of the premises together with the interest as arrears of land revenue or of public demand.

(viii) to advise the State government with respect to the suitability of any premises or location for carrying on any industry which is likely to cause air pollution.

(ix) to perform such other function as may be prescribed or as may from time to time be entrusted to it by the central Board or State Government.

Here it is pertaining to mention that section 47 of the Air Act 1981 provides the power to State Government to supersede State Board, if at any time the State Government is of opinion.

(a) that a State Board constituted under this Act has persistently made default in the performance of the functions as per the provisions of this Act.
(b) that circumstances exist which render it necessary in the public interest to do so.

(x) A State Board may establish or recognize a laboratory or laboratories to enable the State Board to perform its function under this section efficiently.

In context of this function section 28 of the Air Act, 1981 is an important provision one where the State Government may by notification in official Gazette establish one or more State laboratories or specify one or more laboratory or institutes as State air laboratories to carry out the functions entrusted to the State Air laboratory under this Act and after consultation with the State Board, the State Government may make rules prescribing the function of the State Air laboratory the procedure of submission of sample of air pollutants before the State air laboratory for analysis or tests, the form of the laboratory’s report there on and the fees payable in respect of such report or for such other matters which are necessary for carrying out the function of State air laboratory.

Under sec. 25 of the Air Act the State Board of any of its authorised officer may call for any information as to the type or level of the emission of air pollutants and also have the right to inspect the premises of any such industry in order to verify the correctness of such information or for any other purposes.

Under sec. 26 of the Air Act, 1981 a State Board or any officer authorised by it may take the samples of air or emission from any chimney, flue or duct or any other outlet for the purpose of its analysis. However the concerned Board or officer is required to serve notice in the spot either to the occupier or any of his agent regarding his intention to have it so analysed and there after that sample will be placed in a
container or containers which shall be marked, sealed and signed by
both the person taking the sample and the occupier or his agent and
without any delay the containers will be sent before the laboratory. If the
occupier or his agent willfully absents himself or refuses to sign on the
said container consists of sample then the concerned person is required
to put his signature only.

Under sec. 31A subject to the provisions of this Act and any
direction of the Central Government a State Board has the power to
direct the closure, prohibition or regulation of any industry, operation or
process or the stoppage or regulation of supply of electricity, water or
any other services as it may deems fit. So whenever the State Board will
make any direction under this section to any officer, person or authority
they are bound to comply with such directions.

For failure to comply with the direction issued by a Board u/s 21,
22 and sec 31A a penal provision is prescribed under sec. 37 of the Air
Act, 1981, according to which for such default imprisonment, not less
than one year and six month (can be extended up to six years) and fine
and for continuation of the offence an additional fine which may extend
to five thousand rupees for every day can be imposed for non complying
with the direction.

Sec. 31 of the Air Act provides the provision for appeal, which
enable the aggrieved person to prefer an appeal before the appellate
authority, constituted by the State Government, within 30 days. The
appellate authority may condone this period of limitation if it thinks that
the appellant was prevented by sufficient cause from filling the appeal in
time. Such appellate authority before taking any decision is required to
hear both the appellant and the concerned State Board.
So under this Act, the Central and State Boards are also empowered to prevent and control of noise pollution respectively including the laying down of noise slandered. But above all it is worthwhile to mention here that the Air Act, 1981 is not an adequate legislation to prevent and control the noise pollution and all this Act itself suffers from inherent short comings and no control mechanism is provided under this Act to control noise pollution effectively.

THE ENVIRONMENT (PROTECTION) ACT, 1986 AND CONTROL OF NOISE POLLUTION :-

The Act intends to inculcate environment ethics in every citizen. In the wake of the Bhopal tragedy and to further implement the principles taken in Stockholm declaration 1972 a more comprehensive, bolder and general piece of legislation is enacted in the year 1986 titled as The Environment (Protection) Act, 1986. The new Act for the first time attempt to lay down comprehensive law on environment and goes beyond the gamut and scope of the Water Act, 1974 and Air Act 1981. The Act was enacted for the purpose of the protection of environment, regulation of discharge of environmental pollutants and handling of hazardous substances, speedy response in the event of accidents which have the potentiality to pose threat to the environment and deterrent punishment to those who endanger human environment, safety and health.

THE SALIENT FEATURES OF THE ACT:-

Following are the salient features of the Environment (Protection) Act, 1986 :-
1. The definitions of environment reads as, "environment"\(^1\) includes water, air and land and the interrelationship which exists among and between water, air and land, and human beings, other living creatures, plants, micro-organism and property. From this it is evident that a very wide definition of environment is given under the Act. Thus water, air, land and other natural resources which sustains life are all natural wealth and ruthless exploitation of these natural wealth will naturally invite zoological imbalance.

The term "environmental pollutant"\(^2\) as the definition has been given in the Act, means any solid, liquid or gaseous substance present in such concentration as may or tend to be injurious to environment.

Thus as per this definition is concerned it is made clear that the pollutant alters the physical, chemical and biological characteristics of the air, water, soil and other natural resources and which makes unfit or injurious for human beings, animals and the living organism. Again environmental pollution\(^3\) is also defined in the Act, which mean the presence in the environment of any environmental pollutant. Thus the term signifies the ecological imbalance and in this way a scientific definition of 'environment', 'environmental pollutant' and "environmental pollution" is given by the Act.

2. This Act is said to be a more effective and lashed with bold measure to fight with the problem of pollution as compared to all previous laws in this regard. Under the Act the Central

---

1. Sec. 2(a) of the Environment (Protection) Act, 1986
2. Sec. 2(b) of the Environment (Protection) Act, 1986
3. Sec. 2(c) of the Environment (Protection) Act, 1986
Government has been empowered to take all appropriate measures to prevent and control pollution and to establish an effective machinery to achieve these objects. Under this Act the central Government is empowered to co-ordinate the actions of the State Governments, officers and their authorities can make planning and execution of a nation wide programme for the prevention control and abatement of environmental pollution, can lay down standard for the quality of environment, can impose restriction to carry on any industries or any other operation in certain areas, make produce and safeguards for prevention of accidents, and for the handling of hazardous substances, can examine the manufacturing process, materials and substances in order to ascertain whether they cause environmental pollution, carry out and sponsor investigations and research, can inspect any premises, plant, equipment, machinery, manufacturing etc. can establish environmental laboratories, perform the task for collection and dissemination of information, can prepare manuals, codes or guides relating to the environmental problems etc.

Besides these wide powers, the central Government is also empowered to constitute an authority for enforcing the power vested in it and to frame rules for that purpose.

3. Under Environment (Protection) Act, 1986 the Central Government may by rules provide for\(^1\) :-
   (a) Standard of quality of air, Water or Soil for various areas
   (b) Permissible limits of pollutants for different areas.
   (c) Procedures and safeguards for the handling of hazardous substances

---

\(^1\) Sec. 6 of the Environment (Protection) Act, 1986
(d) The prohibition and restrictions on handling of hazardous substances in different areas
(e) Prohibiting and restricting industries in different areas and
(f) Procedure and safeguards for preventing accidents which may cause environmental pollution and also provides remedial measures.

Sec. 7 and 9 of the Act mandate that no person carrying on any industry, process or operation shall discharge or emit or permit discharge or emission or any environmental pollutant in excess of permissible standard or limit. But where it does occur or is apprehended to occur due to any accident or unforeseen act or event, the person in charge of the place where it occurs or is apprehended must prevent or mitigate the environment pollution caused by it and must intimate and help the authorities concerned in preventing or mitigating pollutions. Expenses incurred by such authority in order to do this task may be recovered from the concerned persons as arrears of land revenue.

4. A special procedure can be prescribed for handling hazardous substances and no person can handle such substances except in accordance with procedure.¹

5. The Central Government has been vested with powers of entering and inspecting any place through any person or agency authorised by it.²

Under Sec. 12 to 15 of the Act a person authorised by the Central Government shall have the right to enter and inspect any place, plant, test equipment etc. for achieving the object of the

¹ Sec. 8 of the Environment (Protection) Act, 1986
² Sec. 10 of the Environment (Protection) Act, 1986
Act, in preventing or mitigating the pollution. The officer empowered by the Government may take samples of air, water, soil or other substances from any factory premises or other place for analysis. The Government may establish or recognize environmental laboratories or appoint or recognize Analysts for the analysis of air, water, soil or other substances.

6. Sec. 15, 16, & 17 of the Act deal with offences committed under this Act and also provides punishments. According to section 15 of the Act any person who fails to comply or who contravene any provision of the Act or rules or orders or direction under the Act shall be regarded as an offence and can be convicted for imprisonment for a term up to five years or fine up to 1 lakh rupees or both. If the person concerned continues his offenses then an additional fine up to Rs. 5000 per day shall be imposed.

Sec 16 of the Act states that if the offence is committed by a company, firm etc., then the officer, director manager etc. of these avocations will be held liable unless they prove, the offence was committed without their knowledge or consent and they took all due diligence to avoid the commission of the offence and there was no negligence on their part.

Sec 17 of the Act provides that in case the offence is committed by a Government Department, the head of such Department shall be held liable unless he proves that the offence was committed without his knowledge and he exercise all due diligence to prevent the commission of offence. In this situation if any officer of the such Government Department will be found guilty then he will remain liable for his act and will get punishment.
7. The Act has adopted a new stand with regard to the question of \textit{locus standi} which enable a citizen to approach before a court provided he should give a notice of not less than sixty days of the alleged offence and his intention to make a complain to the Central Government or any other competent authority.\textsuperscript{1}

8. The Act gives immunity to the officers of the Government to do any act in accordance with the powers vested or functions entrusted on them under this Act. No civil court shall have jurisdiction to entertain any suit against the action or any direction issued by the central Government or by any authority, authorized or constituted by it.\textsuperscript{2}

9. The Central Government is also empowered to make rules for carrying out the purposes of this Act.\textsuperscript{3} Every rule made under this Act shall be laid down, as before each house of Parliament.\textsuperscript{4}

So from the above discussion it can be concluded that the Environment (Protection) Act, 1986 is the first Act dealing with the issue of environment as a composite whole. Both the earlier enacted Act i.e., Water (Prevention and Control of Pollution) Act 1974 and Air (Prevention and Control of Pollution) Act 1981 confined themselves to either Air or water pollution while this Act of 1986 takes a comprehensive view of pollution and vowed to provide pollution free environment, a healthy environment which only can provide healthy mind and healthy body. As because the noise pollution presents a growing danger to the health and welfare of the nations population, certainly it makes its place in Environment (Protection) Act, 1986. The Environment

\begin{itemize}
  \item[1.] Sec. 19(b) of the Environment (Protection) Act, 1986
  \item[2.] Sec. 20 & Sec. 21 of the Environment (Protection) Act, 1986
  \item[3.] Sec. 25 of the Environment (Protection) Act, 1986
  \item[4.] Sec. 26 of the Environment (Protection) Act, 1986
\end{itemize}
(Protection) Act, 1986 deals with all kind of pollution i.e., air, and noise as well as also regulating the treatment of hazardous materials. For the first time, under the Environment Act, there is a recognition of a much more complex relationships between the pollutants and the environment. Under Sec 6 & Sec 25 of the said Act the Central Government is empowered to make rules for prevention, abatement and control of pollution and by virtue of this the central Government can also make the rules for prevention of noise pollution or control of noise pollution. As the Central Government has the power to make rules and laying down standards of quality of air, water or soil for various areas and purposes and to specify maximum allowance limits of concentration of pollutants under this Act, certainly the Central Government can prescribe the standard of emission of noise from the various sources. But in spite of these it is very sad to mention that noise is not specifically included within the gamut of the definition of ‘environmental pollution’ defined in section 2(a). The definition of “environmental pollutant” defined in sec. 2(b) is also not so broad to include noise pollution clearly. Though however, as the Act takes a comprehensive view of environment in its totality, the provision of controlling noise pollution obviously is there but the Act itself has lot of inherent flaws, e.g. it restricts the right of environmentalists to go to court on ecological issue, the Act is not proved effective to deal with noise pollution. What is warranted for is an uniform law or legislation for controlling noise pollution.
CIVIL AVIATION LAWS RELATING TO CONTROL OF NOISE POLLUTION:

The Air Craft Act, 1934 does not provide any specific provision for the control of noise pollution however causing of willful injury or danger is actionable one. Under Sec 8 and Sec 8A of the Act, Government is empowered to enact the rules for the protection of public health. By virtue of this section Indian Aircrafts (Public Health) rules 1946 is made where noise restriction regulation and safety regulation are incorporated. To enforce rules in every airport, Airfield Environment committees are constituted. Secretaries of the State Government head these Committees with broad-based membership from Civil Aviation Department, Municipal Corporations, and Health Department etc. These committees supervise about disposal of wastes, removal of unauthorized slums or eating-places and also strictly maintains the cleanliness of airports as well as environment. By virtue of the above stated section of the Indian Aircrafts Act, 1934 Government can make rules to control noise as the noise emitted from aircraft seriously affects health as it is described detail in 2\textsuperscript{nd} chapter.

Here it is needed to mention that in the year 1968 at the sixteenth Assembly session of the ICAO (International Civil Aviation Organisation) at Buenos Aires passed a resolution, which conferred a duty on ICAO to make study on the problem of noise pollution from the aircraft. On the basis of that resolution ICAO prepared International standards and Recommended practices for aircraft noise. These were adopted by the ICAO in the form of Annexure 16 and incorporated in its chapter 3 under which all aircrafts are required to be noise certified by the authorities of the State of registry of the aircraft and this certificate
will only be granted when satisfactory evidence will be provided that the aircrafts comply with the requirements (almost) of Annex 16 of ICAO.

Being a member State of ICAO accepted noise limitations of ICAO 16 and issued a circular styled Aeronautical Information circular which lays down that aircrafts which are not noise certified in accordance with Annex 16 will not be allowed to operate in India after 31st December 1987.

It may be mentioned here that theoretically we may have noise restriction at the airport but practically in and around of the airports are invaded by noise. The residential complexes are rapidly increasing by the side of airports as we are still lacking the land use and development map and plan, which reflects the state of affairs regarding question of public health. Actually we require a comprehensive law to curb not only the aircraft noise but also for providing noise free healthy environment around the airports and steps should be taken to have a planning and permission for making any residential complex by the side of airports, which can only be done by means of a suitable legislation in this regard like UK and U.S.A.

THE NOISE CONTROL MECHANISM UNDER THE MOTOR VEHICLES ACT 1939 :-

Motor Vehicles Act has covered the problem of noise pollution caused by the different types of motor vehicles. Section 20, 21J, 41, 68(l), 70, 90, 111A of the Motor Vehicles Act of 1939 empowers a State Governments to make rules regarding up keeping of motor vehicles and control of noise produced by them in its jurisdiction. The Central Motor Vehicles Rule, 1989 framed under the Central Motor Vehicles Act, 1988 to control noise. Rule 119(1) requires that every motor vehicle shall be fitted with an electric horn or other device approved by the Bureau of
Indian Standard and approved by the registration authority for the reason of driver who can be able to give warning of the approach position of vehicle. Rule 119(2) provides that no motor vehicle shall be fitted with any horn giving a succession of different noise or with any other sound-producing device giving an unduly harsh, shrill, loud or alarming noise. Rule 120(1) provides that every motor vehicle shall be fitted with device referred to as silencer, which by means of an expansion chamber or otherwise reduce the noise.

**POLICE ACT 1861 AND NOISE CONTROL**:

This Act specifically has conferred power upon the Police authority to control noise in certain situations or circumstances. Section 30 of the Police Act, 1861 provides –

a) The District Superintendent or Assistant Superintendent of Police may, as occasion requires, direct the conduct of all assemblies and processions on the public roads or in the public streets or thoroughfares and prescribe the routes by which, and the times at which, any procession may pass.

b) He may also, on being satisfied that it is intended by any person or class of persons to convene or collect an assembly in which any such road, street or thoroughfare, or to form a procession which would, in the judgement of the Magistrate of the district or of the Sub-division of a district, if uncontrolled, be likely to cause a breach of peace, required by general or special notice that the persons convening or collecting such assembly or directing or promoting such procession shall apply for a license.

c) On such application being made he may issue license specifying the names of the licenses and defining the conditions on which alone such assembly or such procession is to be permitted to take
place and otherwise giving effect to this section, provided that no fees shall be charged on the application for grant of any such license; and

d) He may also regulate the extent to which music may be used in the streets on the occasions of festivals and ceremonies.

Sec 32 provides a penal provision for disregarding and disobeying order issued under Sec 30. Sec 34 of the Act is incorporated with a view to prevent and content slaughtering of animals, clearing of carcass, cruelty to animals, throwing dust into streets and indecent exposure of persons. Section 34A of the Act imposes conditions on the use of microphones, if in the opinion of the District Magistrate, or any Sub-divisional Magistrate or a Magistrate of the first class that it is necessary to do for the purpose of preventing annoyance or injury to health of the public or any section thereof for the purpose of maintaining public peace and tranquility, such officer, may, by an order, prohibit, restrict or regulate or impose conditions on the use or operation in any area within his jurisdiction or in any vehicle within such area of microphones or loud speakers or other apparatus for amplifying human voice or for amplifying music and other sounds.

Under Sub section 3 of the said section of the Act the Police officer not below the rank of sub-inspector may also take such steps or use such force as may be reasonably necessary for securing compliance with any order made under subsection (1) and may also take penal action.

But here it is needed to mention that these provisions are merely enabling provisions one, however to some extent the Act helps in
the prevention and control of pollution relating to the noise, visual and odour.

**RAILWAYS ACT, 1890 AND NOISE :-**

A large proportion of noise is emitted from railway engines and carriages but it is surprising enough that the Railways Act, 1890 does not incorporate any single provision regarding control of noise pollution, rather, Sec 16 of the said Act provides a statutory authority to railway locomotives and has armoured it with a statutory protection against all shorts of nuisance. The section reads as follows:-

(i) A railway administration may with the previous sanction of the Central Government use upon railway locomotive engines or other motive power, and rolling stock to be drawn or propelled there by.

The Railway Act of 1989, which has repeated the said earlier Act, also does not contain any specific provision dealing with the control of noise pollution resulting from railway locomotives.

**FACTORIES ACT 1948 AND NOISE CONTROL :-**

It is already discussed in details how the noise emitted from the factories and industries jeopardizes not only the health of the people work in side these avocations but also the peoples who reside adjacent to the factories or industries. But it is unfortunate that except section 11 of the Factories Act no such other provisions are there which deals with the noise pollution. Sec. 11 makes it obligatory on the part of an occupier for keeping every factory clean and free from any drain, privy or other nuisance. Means Section 11 of the Factories Act, 1948 deals with the 'cleanliness'. Section 11 reads as follows :-
Every factory shall be kept clean and free from effluvia arising from any drain, privy or other nuisance and in particular:

a) Accumulation of dirt and refuse shall be removed daily by sweeping or by any other effective method from the floors and benches of workrooms and from staircases and passages and disposed of in a suitable manner;

b) The floor of every workroom shall be cleaned at last once in every week by washing causing disinfectant, where necessary, or by some other effective method.

c) Where a floor is liable to become wet in the course of any manufacturing process to such extent as is capable of being drained, effective means of drainage shall be provided and maintained.

d) All inside walls and partitions, all ceilings or tops of rooms and all walls, sides and tops of passage and staircases shall:

I. Where they are painted otherwise than with washable water paint or varnished be repainted or revarnished at least once in every period of five years.

II. Where they are painted otherwise than with washable water paint, be repainted with at least one coat of such paint at least once in every period of three years and washed at least once in every period of six months;

III. Where they are painted or varnished or where they have smooth impervious surfaces, be cleaned at least once in every period of fourteen months by such method as may be prescribed.
IV. In any other case, be kept white washed or colour washed, and the white washing or colour washing shall be carried out at least in every period of fourteen months;

V. All doors and window frames and other wooden or metallic framework and shutters shall be kept painted or varnished and the painting or varnishing be carried out at least once in every period of five days.

From this long section it makes it clear about the non-caring attitude of the lawmakers regarding the ill effects of noise. The only word ‘nuisance’ which is used here can be interpreted to control noise pollution emitted from a factory.

SOME STATE ENACTMENTS REGARDING CONTROL OF NOISE POLLUTION :-

CALCUTTA SUBURBAN POLICE ACT AND NOISE CONTROL

Sec 17D provides power to prohibit, restrict regulate or impose condition on the use of microphone. Under this section it is stated if the commissioner of police, Calcutta is of the opinion that it is necessary so as to do for the purpose of preventing annoyance to, or injury to health of public or from any section thereof, or for the purpose of maintaining public peace and tranquility, he may order to prohibit, restrict, regulate or impose condition on the use or operation in any area within the suburbs of the town of Calcutta or in the vehicle in such area, of microphone, loudspeakers and /or other apparatus for amplifying human voice or amplifying music or other sounds. If anybody contravenes the order, the microphone or the loudspeaker may be seized and persons
violating the order may be punished with fine, which may extend to Rs. 100.

**BOMBAY POLICE ACT, 1951 AND NOISE CONTROL**

The Bombay Police, Act 1951 incorporated the problem of noise emitted from musical instruments, horns or other noisy instruments. Under section 33 (1) of this Act the commissioner of police and district magistrate have been empowered under the Act to make rules for licensing, controlling or prohibiting the playing of music or beating of drums, tom – toms (Indian drums) or other instruments and blowing or sounding of horns or other noisy instruments in or near streets or public places. Under this section they have also been empowered to regulate the conduct and behaviour or action of persons constituting assemblies and processions on or along the streets or public places where in the noise caused by public processions may be covered. Bombay Police Act, 1951 also empowers them to prescribe the procedure in accordance with which any license or permission to be obtained under the Act.

**DELHI POLICE ACT, 1978 AND NOISE CONTROL**

Section 30 of Delhi Police Act deals with the power of police commissioner to prohibit the continuance of music, sound or noise and this power can be used by him only after obtaining the report from any officer-in-charge of any police station. This power is vested upon the police for the purpose of preventing annoyance, disturbance, discomfort or injury, or risk of annoyance, disturbance, discomfort or injury to the public or to any person dwelling or occupying the property, in the vicinity. For this regard, the commissioner of police can issue directions against any person requiring him for preventing, prohibiting, controlling or regulating any vocal or instrumental music or sound caused by the
playing, beating, clashing, blowing or use of any apparatus producing sound, or use of loudspeakers causing disturbance or carrying on any trade, avocation resulting into noise.

Sec. 32 (ii) of the Act makes it mandatory for the police commissioner to provide a hearing opportunity to the person before issuing any direction against him.

**MADRAS CITY POLICE ACT AND NOISE CONTROL :-**

Madras city police Act also contain the provision to control noise pollution. As per the provision of this Act is concerned when anybody beats a drum or tom-tom or blows a horn or trumpet or beats or sound any brass or other instruments or utensils or plays any music or use any sound amplifier in violation of the conditions imposed by police commissioner, who is empowered under this Act to issue the conditions as regards the time and places for the above stated purposes, will be liable to be fined of rupees not exceeding 250/- or of imprisonment which may extent to three months.

**UTTAR PRADHESH MUNICIPALITIES ACT, 1916 :-**

Under section 298 of the Uttar Pradesh Municipalities Act, the municipal boards are empowered to make bye laws in order to promote or maintain the health, safety and convenience of the inhabitants of the municipality.

As because the noise is a major source of nuisance and causes serious health problems and as it is one of the main factor of causing inconvenience to the people, the municipal board is quite capable make rules for the control, preventing and abating of noise either from the loudspeaker or from any other sources of noise.
**DELHI MOTOR VEHICLE RULES, 1940 :-**

Delhi Motor Vehicles rules are formulated for controlling noise pollution also; the rules are made regarding horn use of silencers and special consideration at the time of construction of motor vehicle to minimize noise.

**RULES REGARDING HORN UNDER DELHI MOTOR VEHICLE RULES, 1940** :-

1. Every motor vehicle shall be fitted with a horn; other approved device available or immediate use by the driver of the vehicle is capable of giving audible and sufficient hearing of the approach or position of the vehicles.

2. No motor vehicles shall be fitted with any multi toned horn giving succession of different tones or with any other sound producing device giving an unduly harsh, shrill, load of alarming noise.

3. Nothing in sub rule (2) shall prevent the use of vehicle used as ambulance or for fire fighting or salvage purposes or an vehicles used by police officers in the course of their duties on other similar vehicles of such sound signals as may be approved by a provincial government.

4. Every transport vehicle shall be fitted with a bulb horn (taxis and motor cycle, rickshaws would be however provided with either two electric horns with two switches or one electric horn and one bulb horn)

**RULES FOR SILENCERS UNDER OF DELHI MOTOR VEHICLES RULES 1940** :-

1. Rule 5.5 of Delhi Motor Vehicles Rules, 1940  
2. Rule 5.6 of Delhi Motor Vehicles Rules, 1940
1. Every motor vehicle shall be fitted with a device (Referred here as silencer) which by means of an expansion chamber or otherwise reduces as far as may be reasonable and practicable the noise that would otherwise be made by an escape of exhaust gases from the engine.

2. Every motor vehicle shall be constructed of equipped that the exhaust gases from the engines are discharged downwards so as to impinge on the road surface.

Under Rule 5.9 of the said motor vehicle rules states that every motor vehicle shall be constructed and maintained in such a way which should not cause noise when in motion.

Here it is required to mention that ambient air quality standards in respect of noise for different categories of areas (residential, commercial, industrial and sensitive) have been notified under the Environment (protection) Act, 1986 which are as follows

**AMBIENT AIR QUALITY STANDARDS AS PER THE NOTIFICATION MADE UNDER EPA, 1986 :-**

<table>
<thead>
<tr>
<th>Category of area</th>
<th>Limits in decibels (dB)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Day</td>
</tr>
<tr>
<td>Industrial area</td>
<td>75</td>
</tr>
<tr>
<td>Commercial area</td>
<td>65</td>
</tr>
<tr>
<td>Residential area</td>
<td>55</td>
</tr>
<tr>
<td>Silence zone</td>
<td>50</td>
</tr>
</tbody>
</table>

**NOISE STANDARDS AT MANUFACTURING STAGE AS PER THE NOTIFICATION MADE UNDER EPA, 1986 :-**
At the manufacturing stage for automobiles, domestic appliances and construction equipment following noise limits have been prescribed.

<table>
<thead>
<tr>
<th>Limits in dB (A)</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Motorcycle, Scooters and Three wheelers</td>
</tr>
<tr>
<td>b) Passenger cars</td>
</tr>
<tr>
<td>c) Passenger / Commercial vehicles up to 4MT</td>
</tr>
<tr>
<td>d) Passenger or Commercial vehicles above 4MT and upto 12MP</td>
</tr>
<tr>
<td>e) Passenger or Commercial vehicle exceeding 12MT</td>
</tr>
<tr>
<td>f) Window Air conditioners of 1 to 1.5 ton</td>
</tr>
<tr>
<td>g) Air coolers</td>
</tr>
<tr>
<td>h) Diesel Generators for domestic purposes</td>
</tr>
<tr>
<td>i) Refrigerators</td>
</tr>
<tr>
<td>j) Compactors (rollers) Front Loaders, Concrete Mixers cranes (Movables) vibrators and saws</td>
</tr>
</tbody>
</table>

Besides above, the code of practice for controlling noise other than industries and automobiles has been brought out for the following areas:

- Public Address Systems
- Aircraft Operations
- Railway Operations
- Construction Activities and ;
- Bursting of crackers

**UTTAR PRADESH MOTOR VEHICLES RULES, 1949** :-
115 of the Motor Vehicles Rules provides that horn or approved device should be capable of giving audible and sufficient warning of the approach or position of the vehicle. The word 'audible' and 'sufficient' denotes that the horn should not cross the limit of audible range and it should be used only for the purpose of signal. And rule 119 of the said rules states that every motor vehicle should be so constructed and maintained as not to cause undue noise while in motion.

**MADHYA PRADESH CONTROL OF MUSIC AND NOISE ACT :-**

Under the Madhya Pradesh control of Music and Noise Act the loud music on public streets and private places after midnight and before 4 a.m. is prohibited.\(^1\) The musical noise arising from hotels, shops and restaurants adjacent to Public Street lies within the purview of the Act\(^2\). The District Magistrate has been empowered to declare any noise as nocturnal (nocturnal means that type of noise which cause annoyance or serious inconvenience to the public or to individuals during night) and to prohibit it in certain areas and localities.\(^3\) Under the Act the use of loudspeaker or amplifiers for broadcasting any speech, sermon, music or gramophone has specifically been prohibited after midnight till 4 a.m.\(^4\) incase of violation of any such provision fine up to 100 Rs or one month imprisonment or both can be imposed.\(^5\)

**THE BIHAR CONTROL OF THE USE AND PLAY OF LOUDSPEAKERS ACT, 1955 :-**

Under this Act the provisions are incorporated to deal with the menace

---

1. Act no. 14 of 1961
2. Sec. 3 of the Act
3. Sec. 5 of the Act
4. Sec. 6 of the Act
5. Sec. 10 of the Act deals with penal provision.
of noise it is made clear under the Act that no person shall use and play loudspeaker\(^1\):-

a) Within the prescribed distance from a hospital or the building of a telephone exchanger.

b) Within the prescribed distance from any educational institution maintained, managed, recognized or controlled by the State Government or University established under law for the time being in force or a local authority, or admitted to such University or any hostel maintained managed or recognized by such institution or hostel is in the use of students.

The Act further states that cognizance of the offence will be taken on a complaint made by the aggrieved party or at his instance or upon a report in writing made by any police officer.\(^2\)

**PUNJAB INSTRUMENT (CONTROL OF NOISE) ACT, 1956** :-

The Punjab instrument (Control of Noise) Act 1956 cover the problem of the noise emitted from loudspeaker, amplifier and other apparatus provided it amounts to nuisance or creates obstruction in streams or causes annoyance to neighbours and students and that badly affect the health of the people.\(^3\) If any instrument, is audible beyond the premises then for the use or display of such instrument require the permission of District Magistrate who can attach the necessary conditions, at the time of granting permission.\(^4\) This Act also prohibited to use such instrument between 10 p.m. and 6 a.m.\(^5\) and the penal provision what is prescribed by the Act for violation of its above stated

---

1. Sec. 3 of the Act
2. Sec. 6 of the Act
3. Sec. 1 of the Act
4. Sec. 3 of the Act
5. Sec. 4 of the Act
provisions, is either imprisonment up to six months or a fine up to Rs.1000 or both.¹

4.12 **ENVIRONMENTAL POLICY SPECIALLY TO CONTROL NOISE POLLUTION OF GOVT. OF INDIA :-**

In the year 1992 the policy statement on Abatement of Pollution, is adopted in the form of legislation and regulation, fiscal incentives, voluntary arguments, educational programmes and information campaigns so that the various types of pollution can be controlled and checked. The main focus of activities of the policy has been on issues such as promotion of clean and low waste technologies, waste water minimization, reuse/recycling, improvement of water quality, environment audit, natural resource accounting, developing of mass based standards, institutional and human resources development etc. The issue of pollution prevention and control is designed to control it by a combination of command and control methods as well as voluntary and regulations, fiscal measures, promotion of awareness and involvement of public. Specific environmental audit manuals have been prepared to help the industries in preparing environmental statement. A software package styled ‘Paryavaran’ is made for analysis of information regarding submitted environmental statements and after due analysis of the information the report regarding this is made available to all. Training programme for the officials of central Pollution control Board and State Pollution Control Board is also initiated. India has prepared pollution abatement strategy, which includes the legal framework and the Environment Authorities.

In addition to pollution control Boards, 6 Environmental Authorities have been constituted under the Environment (Protection)
Act, 1986 including the National Environment Appellate authority: These are

- The Central Ground water Authority-Aqua Culture Authority

- Dahanu Taluka Environment (Protection) Authority

- Environment pollution (Prevention & Control) Authority of National Capital Region of Delhi

- Loss of Ecology (Prevention and payment of Compensation) Authority for State of Tamil Nadu

- National Environment Appellate Authority, 1997

An 'Ecomark' label has been introduced to denote the environment friendly consumer products. The Bureau of India scheme (BIS) and the Directorate of marketing and Inspection (DMI) is the implementing agency for this scheme. Under the scheme for adoption of clean technology in small scale industries and for extending necessary technical support, training and awareness programmes for personnel in Small Industry Development Organisation and for entrepreneurs are being organised. Waste Minimisation Circles are being established to promote group efforts in increasing productivity and improving the environmental conditions in small and medium scale industries through adoption of Waste minimization techniques. Fifteen such waste Minimisation circles so far have been established.

An Indian centre for the promotion of cleaner Technologies popularly known as ICPC with a network in institutions including industries, academic institutions and other user agencies being set up.
The central pollution control Board in consultation with State pollution control Boards has identified 24 areas in the country as critically polluted areas. These are Bhadraviti (Karnataka), Chembur (Maharashtra), Digboi (Assam), Gobindagarh (Punjab), Greater Cochin (Kerela), Kala-Amb (Himachal Pradesh), Parwanoo (Himachal Pradesh), Korba (Madhya Pradesh), Manash (Tamilnadu), North Arcot (Tamil Nadu), Pali (Rajasthan), Talcher (Orissa), Vapi (Gujrat), Visakhapatnam (Andhra Pradesh), Dhanbad (Bihar), Durgapur (West Bengal), Howrah (West Bengal), Jodhpur(Rajasthan), Nagda-Rattam (Madhya Pradesh), Ankleshwar (Gujrat), Tarapur (Maharashtra).

In order to stop Vehicular pollution following initiatives are taken:-
1. Emission standards for tractors were notified on 8.9.1999 under the central Motor vehicles Rules and come into effect from 1.10.1999.
2. India 2000 Emission Norms akin to Euro-I Norms was notified on 28.8.1997 under the central Motor vehicles Rules is effective from 1.4.2000 for the entire country required major modification in the engine design.

Ambient standards in respect of noise for different categories of areas (residential, commercial, industrial) and silence zones have been notified under the Environment (protection) Act, 1986. Noise limits have been prescribed for automobiles, domestic appliances and construction equipment at the manufacturing stage. Standards have been evolved and notified for the gen sets, fire crackers and coal mine. Regulatory agencies have been directed to enforce the standard for control and regulate noise pollution. Following steps are taken to control noise pollution in the country.
1. Ambient noise standards were notified in 1989, which formed the basis for State pollution control Boards to initiate action against violating sources.

2. The vehicular noise standard notified in 1990 which are being implemented by Ministry of science and Technology to reduce traffic noise. These standards have been made more stringent vide a notification in September 2000 and come into effect from January 2003.

3. Noise standard for diesel generator sets were prescribed in December, 1998. Government after due consulting with the State pollution control Boards, generator manufacturing and major ushers for implementation of these standards, revised the above standard and makes through a notification, it mandatory for all generator manufacturers to provide acoustic enclosure at the manufacturing stage itself. This will have a major impact on noise from diesel generators.

4. Noise standards for petrol and kerosene generator sets were notified in September, 2000 and come into effect on or from September, 2002. the sale of these type of generators is made prohibited it not certified by the testing agencies.

5. Noise standards for firecrackers were developed in October, 1999. Central Pollution Control Boards had carried out a compliance testing of the firecrackers available in the market and also taken up with the Department of Explosives for compliance with these standards.

6. The Noise Rules, 2000, regulates noise due to Public Address System/ Loud speakers and also prescribed procedures for noise handling compliant.
7. Central Pollution Control Board has taken up a study on aircraft noise monitoring in Indira Gandhi International Airport, Delhi and which will be followed by development of guidelines/standards for aircraft noise.

**THE NOISE POLLUTION (REGULATION AND CONTROL) RULES, 2000 :-**

The purposes which prompted the Government to make this rule made clear by the Government itself in its notification which reads as:-

"Whereas the increasing ambient levels in public places from various sources, inter-alia, industrial activity, generator sets, loud speakers, public address systems, Music systems, vehicular horns and other mechanical devices have deleterious effects on human health and the psychological well being; of the people; it is considered necessary to regulate and control noise producing and generating sources with the objective of maintaining the ambient air quality standards in respect of noise."

In exercise of the powers conferred by Sec 3(2)(ii), 6(2)(i)b and Sec.25 of the Environment (protection) Act, 1986 and by virtue of rule 5 of the Environment (Protection) Rules, 1986 the central Government makes the Noise Pollution (Regulation and control) Rules, 2000.

Following provisions are there in the Noise Pollution (Regulation and Control) Rules, 2000 :-

1. Ambient air quality standards in respect of noise for different areas/zones

---

1. Ministry of Environment and Forest Notification S.O. 123(E)

2. Rule 3 of the Noise Pollution Rules, 2000
i) The following ambient air quality standards are provided in respect of noise for different areas/zones as per the schedule annexed with the rules:

<table>
<thead>
<tr>
<th>Area</th>
<th>Category of Area</th>
<th>Limits in dB(A) leg</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Day Time</td>
</tr>
<tr>
<td>A</td>
<td>Industrial area</td>
<td>75</td>
</tr>
<tr>
<td>B</td>
<td>Commercial area</td>
<td>65</td>
</tr>
<tr>
<td>C</td>
<td>Residential area</td>
<td>55</td>
</tr>
<tr>
<td>D</td>
<td>Silence Zone</td>
<td>50</td>
</tr>
</tbody>
</table>

In this schedule it is also mentioned:

1. Day time shall mean from 6:00 a.m. to 10:00 p.m.
2. Night time shall mean from 10:00 p.m. to 6:00 a.m.
3. Silence zone means an area comprising not less than 100 meters around hospitals, educational institutions, and courts. This silence zone is a zone, which are declared as such by the competent authority.
4. Mixed categories of area may be declared as one of the four above-mentioned categories by the competent authority.

The State Government may categorize the areas into industrial, commercial, residential or silence area/zones for the purpose of implementation of noise standards for different areas.

---

1. Rule 3(i) as it is mentioned in the Schedule of the Noise Rules, 2000
2. 3. dB(A) leg as denotes the time weighted average of the level of sound in decibels on scale A which is relatable to human warning 'A' in dB(A) leg denotes the frequency weighting in the measurement of noise and correspondence to frequency response characteristics of the human ear: leg: it is an energy man of the noise level over a specific period.
3. Rule 3(2) of the Noise Pollution Rules 2000
iii) The State Government shall take measures for abatement of noise including noise emanating from vehicular movements and ensure that the existing noise level do not exceed the ambient air quality standards specified under these rules.¹

iv) All development authorities² local bodies and other concerned authorities while planning development activity or carrying out functions relating to town and country planning shall take into consideration all aspects of noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise.³

v) An area comprising not less than 100 meters around hospitals, educational institutions and courts may be declared as silence area/zone for the purpose of these rules.⁴

2. Responsibility as to enforcement of noise pollution control measures:-

i) The noise levels in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified in the schedule.⁵

ii) The country shall be responsible for the enforcement of noise control measures and the due compliance of the

---

1. Rule 3(3) of the Noise Pollution Rules 2000
2. 'authority' is defined in Rule 2(c) which reads “authority” means any authority or officer authorized by the central Govt. or as the case may be, the State Government in accordance with the laws in force and includes a District Magistrate, Police commissioner or any other officer designated for the maintenance of the ambient air quality standards in respect of noise under any law for the time being in force.
3. Rule 3(4)
4. Rule 3(5)
5. Rule 4(1)
ambient air quality standards in respect of noise.  

3. Restrictions on the use of loud speaker/public address system:  
   i) A loudspeaker or a public address system shall not be used except after obtaining written permission from the authority.
   ii) A loud speaker or a public address system shall not be used at night (between 10:00 p.m. to 6:00 a.m.) except in closed premises for communication within i.e. auditoria, conference rooms, community halls and banquet halls.

4. Consequence of any violation in silence zone/area whoever in any place covered under the silence zone/area commits any of the following offence, be liable for penalty under the provisions of the Act.
   i) Whoever plays any music or uses any sound amplifier.
   ii) Whoever, beasts a drum or tom-tom or blows a horn either musical or pressure or trump or beats or sound any instrument, or
   iii) Whoever exhibits any mimetic, musical or other performance of a nature to attract crowds.

5. Complaints to be made to the authority
   i) A person may, if the noise level exceeds the ambient noise standards by 10dB(A) or more given in the corresponding
CHAPTER
JV: Legal Control
On Noise Pollution

1. Rule 7(1)
2. Rule 7(2)
3. Rule 8(1)
4. Rule 8(1)

Columns against any area/zone make complaint to the authority.

6. i) The authority shall act on the complaint and take action against the violator in accordance with the provisions of these rules and any other law in force.

ii) Power to prohibit etc. continuance of music sound or nuisance.

1. If the authority is satisfied from the report of an officer in charge of a police station or the information received by him from any source that it is necessary for him to take action in order to prevent annoyance, disturbance, discomfort or injury to the public or to any person who dwell or occupy property on the vicinity, he may, by a written order issue such directions as he may consider necessary to any person for preventing, prohibiting, controlling or regulating:

   a) the incidence or continuance in or upon any premise or apparatus or contrivance which is capable of reducing or reproducing sound or the carrying on, or upon, any premises of any trade, avocation or operation or process resulting in or

   b) any vocal or instrumental music sounds caused by playing, beating, clashing, blowing or use in any manner whatsoever of any instrument including loudspeakers, public address systems, appliance or apparatus or contrivance which is capable of reducing or reproducing sound or the carrying on, or upon, any premises of any trade, avocation or operation or process resulting in or
attended with noise.

ii) The authority concerned is empowered to alter, modify or rescind such said order either suo motu or on the application of the aggrieved person.¹

**4.13 POLICY STATEMENT ON ENVIRONMENTAL PROTECTION IN WEST BENGAL :-**

The Government of West Bengal has taken a large number of development projects in pursuance of its policy statement on Industrial Development made in the year 1994 to get rid of an already overburdened environment scenario.

The responsibility for environment protection and abatement of pollution, is not entrusted upon any particular department rather an integrated approach is taken by the Government of West Bengal in this matter to reconcile pro-development and pro environment and to achieve these goals responsibility is imposed on all Government Departments and Agencies, public authorities like the Panchayats and the Municipalities, Police, Industrial units, non Government organisations and community based organisation.

The following are the salient features of the policy statement on Environmental protect and conservation of Natural resources of the Government of West Bengal.

1) To keep and control water, air and noise pollution within permissible limit.

2) Rivers, reservoirs, water bodies and watersheds in the State are stated to be protected from encroachments so that the ecological

¹. Rule 8(2)
balance can be developed to provide for agriculture, irrigation, industrial, drinking and other civil purposes.

3) Formulation of a scheme to control specific environmental pollution problems created by the organized industries and in established industrials area within 10 years.

4) The coastal zone from Midnapore to Sundarbans of about 220 Kms in length is stated to be preserved, protected and restored in phases under integrated coastal zone management plans.

5) Action plans are stated to be prepared in phases for improving the physical environment and their sustainability by way of increasing their efficiency, productivity, health and reducing their risks and hazards of the cities and towns.

6) A forestation, wasteland development, protection and enhancement of bio-diversity and wildlife will be accelerated, and reserved and protected forests will be enriched with qualitative genetic improvements.

7) Special care for water and waste management by applying scientific process of demand management.

8) Location of industries, urban development, other major infrastructural and civil facilities will be implemented in accordance with this policy.

9) It is stated to give stress and extra consideration to establish and encourage working relationships between public-private, Government-industry, industry academia, Non Governmental organisation, community based organisation, Government-media, Government people etc and to achieve this, emphasis is stated to be given on to generate increased awareness and to promote active participation in all environmental projects in the state
various tiers of public authorities and societal organisations are requested to come forward & to become an active participant of the above stated project.

10) For protection of environment, conservation of natural resources, abatement of pollution and for promoting environmental awareness a coordination machinery among various Governmental Departments such as Agriculture, Irrigation, Industry, Municipal affairs, Urban Development, Health, Public Health, Development and planning, Transport, Rural Development, Panchayat, Science & Technology, Home, Law, I & CA etc. will be set up to prepare specific actions plans, achieve Interdepartmental cohesion and monitor the progress and implementation of this policy statement. For this, the Environment Department will act as the modal department.

11) It is stated that Government will provide sufficient funds by exploring all possibilities of national and inter national finances in order to implement this policy.

12) Proposal is given to make necessary amendment of legislations and regulations relating to environmental protection and conservation of natural resources so as to make them simpler, more easily endorsable, and more easily to understand in the larger interest of the Society.

13) The basic aim of this policy is to intensify the developmental activities by taking into account the preservation and conservation of environment and natural resources.

**THE FORMATION OF THE DEPARTMENT OF ENVIRONMENT:**

It is already mentioned that after the Stockholm conference, and as being a member of this conference India has enacted number of
legislations in the field of environment and first of which was the Water (Prevention and Control of Pollution) Act, 1974. In compliance with the requirements of this Water Act, 1974, the West Bengal Pollution Control Board came into being in September 1974. However during that time the West Bengal pollution control Board was under the administrative control of the Health Department, Government of West Bengal. The Environment Department was constituted on 2nd June, 1982.

The Environment Department is entrusted with the following business :-

1) Environment & Ecology.
2) Prevention and control of pollution of Air, water and land.
3) Performs the role of coordinator between Department & Agencies of the State and the Union Government concerned with policies and schemes relating to environment.
4) All matters related with
   a) The Bengal Smoke Nuisance Commission and
   b) The West Bengal Pollution control Board.

**SOME OF THE INITIATIVES OF THE DEPARTMENT OF ENVIRONMENT :**

The Department of Environment has taken a major programme of Environment awareness so that to make the people conscious about their duties and obligation to preserve and improve the state of environment in their locality. The most remarkable progress in this area to deal with the National Green crops programme, sponsored by the Government of India. It is implemented in 19 districts including Kolkata and West Bengal Pollution Control Board is working as a nodal agency for this programme and is being assisted by paschimbange Bigyan mancha is also assisting for the implementation of this programme. Schools are
forming Eco-club in its premises, which is one of the main objects of the programme. The Department is providing funds to lunch various project on this development of environmental awareness including observance of the world Environment Day on 5th June each year. During the year 1997-98 the Local Participatory Environment Management in Rural Areas was introduced by the Department of Environment, West Bengal. The Schemes of this programme are to provide proper sanitation facilities, drinking water, control of Indoor pollution by installation of smoke less chullah, plantation of trees etc. in some selected villages.

The Department of Environment is performing as a nodal department and the Tata Energy Research Institute is National Host Institution for the preparation of State of Environment (SOE) Report as per the direction of the Ministry of Environment & Forests (Union) which has launched a scheme during the 10th Five year plan for assisting the State Governments and Union Territories. So as to enable them to prepare a State of Environment (SOE) Report.

**RESEARCH PROJECT :-**

The Department of Environment, Government of West Bengal has initiated number of Research Projects and made funds available for the same. Some of them are :-

- Research on wet land and coastal Environment
- Pictorial Directory of common aquatic and wetland plants of West Bengal.
- Impact of air pollution on human health.
- Developing malaria control strategies through parasitological studies and vector manipulation.
- Disposal of clinical waste
- Biodiversity strategy and Action plan for West Bengal.
Mapping of polluting industries.

Earthworm as indicator of soil health.

Biodiversity of Flora & Fauna, fisheries and agriculture in West Bengal.

Subjective issues of environmentalism.

The Department of Environment, Government of West Bengal works mainly through.

The West Bengal pollution Control Board

The Institute of wetland management & Ecological Design.

Universities/Research Institutes

Other local authorities and Government organizations

NGO/Civil Society organisation.

WEST BENGAL POLLUTION CONTROL BOARD AND NOISE ROOMS :-

West Bengal Pollution Control Board came into being in September 1974 and one of the important area which is nurtured by it, is control of noise Pollution. In conformity with the directives of Calcutta High Court, delivered by it in different times in different cases as such Om Birangana Religious Society Vs State and other, the West Bengal Pollution Control Board passed the order simultaneously on 01.04.96 and 24.02.97 by which the use of microphones are prohibited after 9 p.m. and before 7 a.m. and it was made mandatory that the loudspeakers should be fitted with 'sound limiter'. Microphones should not be allowed to operate for any time in the silence zone i.e. 100 Mtrs. around the premises like educational institutions and College, Court and Library during their official work and also the Hospitals, Nursing Homes 24 hours.
During the time of the use of loudspeaker following noise level is chalked out, which is made mandatory and is required to be maintained strictly.

<table>
<thead>
<tr>
<th>Area</th>
<th>Day time</th>
<th>Night time</th>
</tr>
</thead>
<tbody>
<tr>
<td>Industrial</td>
<td>75 dB/Leq</td>
<td>70 dB/Leq</td>
</tr>
<tr>
<td>Commercial</td>
<td>65 dB/Leq</td>
<td>55 dB/Leq</td>
</tr>
<tr>
<td>Residential</td>
<td>55 dB/Leq</td>
<td>45 dB/Leq</td>
</tr>
</tbody>
</table>

Where day time is reckoned in between 6.00 a.m. to 9.00 a.m., Night time is reckoned in between 9.00 p.m. to 6.00 a.m. and it is made mandatory that loudspeaker should not be allowed to use without prior permission of the local police station / Sub Divisional Officer / District Magistrate as the case may be and it is also made mandatory that during the time of any function in the street necessary passage should be remained open for passerby.

By its order of 29th January, 1998 it is ordered that during the time of the use of loudspeaker noise level should be maintained. Loudspeaker should not be allowed to use without prior permission of police authorities as it is mentioned in its earlier order. By its order on 11th March, 1998 it is made mandatory that loudspeaker should not be used or let out without sound limiter for the purpose of use in open air. Sound limiter will control the noise level or the loudspeakers as per the prescribed standards fixed up by the Environment(Protection) Act, 1986.

**NORMS IN RESPECT OF ORGANISING FUNCTIONS THROUGH THE USE OF LOUDSPEAKER:**

By its order on 11th August, 1998 between 7.00 a.m. to 9.00 p.m. loudspeakers can be used in cultural or any other functions maintaining
the given noise limit and conditions by it. After 9.00 p.m. cultural function can be arranged within a temporarily covered area, with sound absorbing materials provided —

a) Maintaining the ambient noise level outside the covered area, as prescribed under Environment (Protection) Act, 1986

b) No microphones or loudspeakers should be fitted or operated outside such covered area.

c) Before organizing any cultural function permission should be obtained from the police Authority as it is mentioned in its earlier Order.

Again by the same order, open air functions are made prohibited in residential areas three days before the important examinations such as secondary Examinations or higher Secondary Examination where interest of the large number of students are involved and this restriction will remain in force for such period as notified by the West Bengal Pollution Control Board.

**Restriction in Use of Fire Works:**

By virtue of the order of West Bengal pollution Control Board on 26th September, 1997 some fire works (crackers etc.) which have the potentiality to generate 90 dB or more impulse noise were banned such as chocolate Bomb, Chain crackers (kalipatka) Loose crackers, Dhani Patka, Dodoma, Seven shorts, Rocket Bomb etc. However Forest Department and Airport authority can use banned fire works for their official purposes with prior permission of the West Bengal pollution Control Board.

By its order on 19th March and 7th may of 1997 imposed restriction upon use of Air horn in the vehicles.
Here it is needed to mention that above all these activities after the formulation of the Noise Regulation Rules 2000, the State of West Bengal as well as its nodal agency i.e., West Bengal pollution Control Board is also Supposed to follow these uniform rules.

4.14 CONCLUSION :-
On the basis of this above discussion it can be said that though the international concern regarding environmental pollution reflected through the various covenants, summits etc. like Stockholm Conference, united nations environment programme, The RIO conference on environment and development and more particularly for eradication of noise pollution the summits like inter noise 95, OECD conference on noise abatement policies of 1979, Noise policy of European commission made specifically through publication of ‘Green paper’ from Brussels in the year 1996, and many other covenants and treaties as a whole, but in spite of this it can be said that very little considerations have been paid by the international community regarding the problem of noise pollution. But side by side it is also discussed how the specialised agencies of the United Notions performing the splendid job to control pollution including noise in order to make the environment a human environment. In details the legislation’s regarding noise control of United States of America, United Kingdom, European Commission and side by side the relevant legislation to control noise pollution of India, both the central and state legislation has been discussed so as to find out the drawbacks of existing legislation of the India. From the above study it is clear that even in this 21st millenium the lawmakers fail to feel the problem of noise pollution properly and that is why still we have no specific legislation to control noise pollution. The environmental policy
of the Union Government and the Government of West Bengal also has been discussed, as the focal point of the research is the India as a whole with special reference to condition of the Greater Kolkata. At the end the above discussion suggests for the enactment of a comprehensive legislation to overcome this gigantic problem of noise pollution, which has created really a hell like situation in India.