CHAPTER VI

CONCLUSION AND SUGGESTION

Excessive sound beyond permissible limit is repugnant with the civilized order. Noise is certainly a pollution in the society. It is proved beyond any doubt, excessive noise above 65 dB (A) adversely affect the community health causing hearing impairment, neurological and psychological problems and this could also have other serious long term health and behavioural impact on the community. In the case Barrabazar Fireworks Dealer Association & others1 the Honourable Calcutta High Court has remarked the war of decibels have started all over the World” The noise problem of the past are incomparable with those plaguing modern society. The roar of aircraft, the thunder of heavily laden lorries, the thumps and whines of industry and the tremendous sound causes by the microphones and loudspeakers causing a noisy background to our lives. This extent of noise is not only a source of annoyance but also damaging to the health and is increasing with economic development.

At this juncture in most of the developed countries specific and/or comprehensive legislations have been made and scientific methods for investigation of noise pollution have been invented and some of them are discussed in details in this paper. The science of audiometer and other branch related to sound have been developed and it becomes comfortable to device various legal provisions to control and prevent noise pollution. But it is very unfortunate that in India still we have no any comprehensive legislation to deal with the noise problems.

It is evident from this paper that in India, in absence of a specific legislation for control and prevention of the noise pollution, one has to

approach various branches of law and regulations to get remedy and it is needless to mention that the available provisions in various branches of law are inadequate, unscientific and crude one.

6.1 'Scattered' Laws Vs Comprehensive Law :-

The regulatory approach has always been the principal method by which the authorities have attempted to control the noise pollution problem. There is a distinction between the basic philosophy behind the early types of regulation and the philosophy, which is becoming accepted as more realistic now that the problem should be understood in a better way. The major difference between noise and other pollution is its depth and breadth of social interaction. The other remarkable difference is that with noise, the population is involved much more widely and directly as both producer and sufferer. Thus there exist a sociological and psychological side to noise pollution. The problem of noise is closely related with human behaviour and failure to ascertain this problem contributed to early lack of progress in dealing with the situation. Noise is a unique legislative problem, which requires some different kind of solution, which are generally not applied for the other kind of pollution problems.

In our country the existing national approaches to noise regulation is only same 'scattered' regulations and laws and which are not sufficient to combat the menace of increasing noise problem. Furthermore these laws are not well-defined one. This system (scattered laws) tends to lack coherence because the intention of the law enforcement mechanism is always to enforce the main part of an Act and as a result they often ignore to enforce its noise clause. As for example though the noise has been recognized as an air pollutant in The
Air (Prevention and Control Pollution) Act, 1981 but those enforcing the law have always emphasis to curb air pollution as a whole, without showing much more care to the problem of noise. Even the court and lawyers have not been able to become familiar with the various dimensions of the problem of noise pollution, in large extent due to this legal scenario regarding noise, existing in India. The authorities are consequently even less inclined to apply fully the legal abatement tools available to them to curb noise. The consequence of lack of coherence is that, it is much more difficult to fix the aim and object to curb noise pollution because with no overall pattern to the legislation and little cooperation between departments, improvement can not be coordinated with other areas of progress, making prediction of potential success very difficult. Again due to the 'scattered' regulations and laws, it is not possible to pay proper attention to deal with the noise problem in India as a whole, because the individual regulations are each enacted for a specific purpose and even some times for local and temporary conditions. Again under this system it is not possible to make programming and control of expenditure on noise control as the duty to control noise entrusted upon various departments by this piecemeal legislations. This is also a grim reality that in India there is no basic stated philosophy behind the scattered legislations related with noise pollution, which is very much required to indicate desirable future directions.

Many developed countries have enacted specific legislations to Control Noise Pollution. Long, back in the year 1960 the Parliament of England enacted the Noise Abatement Act, which is a comprehensive law to deal with the noise problem and in this paper it is discussed in full length about the gradual enactment of other noise legislations in
U.K. U.S.A. has also lashed it with the U.S. Noise Pollution and Abatement Act, 1970 to combat the noise pollution and thereafter the other various noise legislations are enacted to deal with some specific noise problem with an aim to wage the battle with the Noise Pollution as a whole. More widely based laws regarding noise control are passed in some countries like Germany, Sweden, Switzerland etc. Even Japan has already initiated a comprehensive environmental management under the Anti Pollution Basic Law. A small country like Israel too has taken initiative to control noise pollution. But it is very unfortunate that though the problem of noise pollution is very acute in India but still we have no comprehensive legislation to deal with the noise pollution. A comprehensive legislation means a compact legislation, which attempts to bind together all the elements of a noise control effort, i.e. education, regulation and other direct and indirect methods, into a single body. The comprehensive law only can give a structure to noise abatement and can fill the lacuna of the existing scattered laws and weld the whole into a set of laws that can be proved effective to bring a compact noise abatement programme. A comprehensive legislation provides a single reference document for deciding questions of priority and responsibility in order to avoid the overlap or inaction problems that easily occur otherwise, and it contains a set of unambiguous objectives to carry on the programme, with some hope of being able to predict progress and certainly this cannot be achieved by the scattered regulations and laws. A comprehensive law can only be able to avoid problems of major inconsistency between the jurisdiction of the departments and this co-ordination and definition of precise objectives means that progress can be achieved for less cost by encouraging efficient use of resources. Through only a comprehensive legislation responsibility can be
entrusted upon single specialized body with overall responsibility for administering such a programme, a team could be assembled to look into all the aspects of noise regulations-enforcement, economics, education etc. So as to effectively deal with a problem, here say as to noise problem. As for example in U.S.A. by virtue of the Noise control Act 1972. 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 of different class of noise. The Administrator of the Environmental Protection Agency shall coordinate the programmes of all Federal Agencies relating to noise research and noise control.

So, in the light of above discussion it is clear that only a comprehensive legislation can effectively supply a legal tool which may enable the Centre, State, Local and Other authorities to take decision which to use in a particular case. India can only be able to triumph over the state of appealing menace of noise pollution by enacting a comprehensive legislation regarding noise pollution.

6.2 FLAWS IN THE EXISTING ‘SCATTERED’ LAWS IN INDIA TO DEAL WITH NOISE PROBLEMS :-

It is already discussed in length about the various existing laws in India, which controls the noise pollution. it is also mentioned that in post constitutional and post Stockholm conference, a number of legislations are enacted to deal with the various environmental problems. The aim of this chapter is to indicate about the flaws and lacunas of those Acts, which simultaneously deals with the various dimensions of the environmental problems as well as noise problems.
also. Ban has been imposed regarding the use of any fuel or appliance within any air pollution control area or areas. Again under section 22 of the Act it is stated that in air pollution control area no one will be permitted to discharge the emission of any air pollutant in excess of the standard fixed by the State Board. From the above provision it seemed that as if the polluters get permission to emit any extent of air pollutant outside the air pollution control area. In the country like India, where particularly in some areas the standard of air drastically going down, there such type of provisions really bear no justification.

By enacting the Air Act of 1981, simply some additional power has been conferred upon the central and State Pollution Control Boards because originally these Boards are constituted by virtue of Water Act 1974. It is surprising enough that though this additional power is conferred upon the Central and State Pollution Control Boards but no such specific provision has been made to enhance the strength of the member of the Boards. The existing member strength of the Central Board and State Board is not enough to take stock of standard of air from each and every corner of the country and it is also not possible to keep vigil upon all the activities of the polluters. It would have been better had the control and prevention of air pollution entrusted to some integrated agency. Furthermore there is also a considerable shortcoming in the composition of the Boards to deal with the various dimensions of the environmental problems. The aim of this chapter is to indicate about the flaws and lacunas of those Acts, which simultaneously deal with the various dimensions of the environmental problems as well as noise problems.
6.2.1 **The Air (Prevention and Control of Pollution) Act, 1981**

It is really a matter of grave concern that even after seeing the legal activity in U.S.A. and U.K. and some other O.E.C.D Countries, our union parliament did not think it proper to treat noise as an air pollutant even in the year 1981 and that is why we find that originally in the Air (Prevention and Control of Pollution) Act, 1981 there was no such provision as to deal with noise pollution. But only in the year 1987 by virtue of the amendment in the Air Act, 1981 noise has been recognized as an air pollutant. Beside this demerit there are a number of shortcomings and flaws are there in this parent Act itself and which are as follows :-

(1) **One of the most remarkable flaws of this Act is that no guidelines are specifically provided to deal with the air pollution. It simply has given emphasis upon the object, what it intend to achieve and the constitution and functions etc. of the Central and State Pollution Control Board.**

(2) **Under Section 19 of the Act the State Government may after consultation with the State Board may notify any area within the State as of Board also because no such provision is made to keep the legal experts in the Boards who can be able to take the effective legal measures against the polluters and can help the Boards to take decision within the legal frame work to make it more effective and meaningful. Rather doing this, provisions are made to induct some representatives of the vested interest and they can play a vital role to influence the resolution of the Boards.**
(3) Provisions related to taking of samples of emissions or air for the purpose of lab. Testing is also not free from the flaws.

(4) No direct power is conferred upon the Board to restrain the polluters from emitting excess of air pollutant than the standard laid down by it. Under Sec. 22 A for this purpose the State Boards are required to make application before the court for restraining the polluters from doing so. This process will surely linger to check air pollution immediately.

(5) Central Board and the State Board are bound to comply with the rules and regulations made by the respective central and State Governments. Even the duration of the service of the members of a Board depend upon the sweet will of the central and State Government. In this situation it is quiet natural that central or State Pollution Control Boards cannot become active against the government inaction regarding pollution.

(6) No such mechanism is incorporated into this Act to enable the Board to take impartial & bold attitude against the polluters.

(7) Very Week 'citizenship suit’ provision is incorporated into the Air Act, 1981. Before filing the suit the citizens are required to give sixty days notice to Board regarding his intention to file a suit, gives enough time to the polluters to escape from their liabilities. Again as only the Board is entitled to collect sample of emissions and air, practically there remains no scope of collecting evidence before the citizens to prove their claims.

(8) The State Pollution Control Board at their own cannot fix the standard for the quality of air and for this, the State Boards have to depend upon central Pollution Control Board. This scheme
imposes a restriction upon the State Boards to take prompt action on the basis of the situation of their respective states.

(9) The Air Act, 1981 has failed to pay proper attention to eradicate noise pollution. Being the control of air pollution is its prime targets, it under rates the control of noise pollution, though noise is recognized as an air pollutant. Only some incidental not any direct of specific provision is incorporated into the Air Act, 1981 to control noise pollution.

6.2.2 THE ENVIRONMENT (PROTECTION) ACT, 1986

This Act for the first time attempt to lay down comprehensive law on environment and goes beyond the scope of the water and Air pollution Act respectively enacted in the year 1974 and 1981. The Act purports to inculcate environmental ethics in every citizen. As the act takes a comprehensive view in its totality, therefore noise pollution can not be viewed in isolation or apart from it and sufficient scope is made under section 6 to give effect to control noise pollution.

So the Environment (Protection) Act is a very strong and purposeful legislation enacted by the Parliament to control and check pollution. But this Act is also not free from the flaws. This Act has been linked to a cobra whose fangs have been removed. It raises its broad head and hisses menacingly but if anyone praise its jaws open, he or she will find it has no fangs. This is rightly said as because this Act --

(i) has narrow area of operation, weak citizens suit provision, unscientific provisions relating to fixing of liability of corporate officials etc. Under the Act a person cannot directly file a petition in court on questions of environment. A citizen for this purpose is required to give a notice of not less than 60 days to the central
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Government of his intention to make a complaint. One can only go to the court if the central Government does not act according to the notice within this period.

(ii) the Act has not prescribed any machinery to ensure their implementation. Neither the worker nor the citizen is given access to get information about the standard maintained by the industries to curb pollution and also have no right to monitor or sue any industry without the permission of Board.

(iii) another drawback of this Act is that in case of offences committed by a company, a director, manager or other officer is liable to be proceeded against only if it is proved that the offence is committed with the consent or connivance of such a person or is attributable to any neglect on the part of such an officer. These provisions give an opportunity to the employer to brisk from their liability.

(iv) Environment (Protection) Act. 1986 is supposed to be enacted for healthy environment means to ensure that the air what we breath, the water what we drink, the food what we eat and the sound what we hear should be healthy one. In view of the alarming properties of noise, and its impact, it is needed to make a comprehensive programme or mechanism to control noise through technology and by the active approach of the administrator, judiciary and public. But this Act failed to incorporate any such provision within its gamut.

(v) Actually the reason behind the enactment of Environment (Protection) Act, 1986 was the Bhopal gas tragedy. But no such provision is inserted into the Act to impose any restriction on
those persons who run the multinational, national companies or other avocations and deal with the hazardous substances. Only for this reason the need is felt to enact Public Liability Insurance Act and accordingly which was enacted in the year 1991.

(vi) One of the most controversial provision of this Act is section 24(2) which states, "Where any act or omission constitute an offence punishable under any other Act than the offender found guilty of such offence shall be liable to be punished under the other Act and not under this act". This proves that the Act is not an integrated statute.

6.2.3 THE NOISE POLLUTION (REGULATION AND CONTROL) RULES, 2000

No doubt the Rules are clearly a step forward although no attempt has been taken to create comprehensive legislation on noise pollution. Framing of these Rules are also an attempt to piece-meal approach to some specific problems encountered over the years. Though it is mentioned in Rule 4 that the noise level in any area/zone shall not exceed the ambient air quality standards in respect of noise as specified by the schedule, but it is not prescribed that what mechanism will be obtained to control noise. It is again mentioned in the same rule that the authority shall be responsible for the enforcement of noise control measures but nowhere it is mentioned what should be the noise control measures. Though in the schedule of the said Rule the whole area is classified into four standard areas such as, Industrial area, commercial area, residential Area, and silence zone and limitation on emission of noise is fixed on the basis of these four areas but the Noise Pollution
Rules, 2000 is totally silent about the regulation for road vehicles, mechanism to control traffic, road design, introduction of sound insulation system, regulations for checking noisy aircrafts, provisions for Railways, building design and provisions for constructional sites, vehicles design, provision and regulation for factories and industries etc. to control noise pollution. Practically we have no rules, regulations or legislation to control industrial noise, Aircraft noise, Railway noise or for checking noisy products and Noise pollution Rules, 2000 even failed to introduce any satisfactory path to check the noise products and Noise Pollution Rules, 2000 even failed to introduce any satisfactory path to check the noise from these products. Furthermore, through this rules 2000, No attempt has been made to formulate any mechanism for land use or development map or plan under which permission could be given for construction of new residential houses within certain limits of the airport or an industry. This Noise Rules 2000 actually failed to consider the question of public health properly. Only by fixing the ambient air quality standard can will not change the existing scenario in the field of noise unless a scientific approach will be taken along with the enactment of comprehensive legislation to curb the noise pollution as a whole. However after going through the whole Noise Rules, 2000 it appears that the greater importance is attached upon the list of microphone, loudspeaker and music. Of course this attempt of the State is appreciable but even if we will compare this aspect of the Rules, 2000 with the long before enacted English Control of Pollution Act, 1974 we will find that even this aspect of the Noise Rules, 2000 is not satisfactory one. Only Sec. 62 of the English Control of Pollution Act, 1974 is sufficient to make the distinction in between Noise Rules, 2002 and the above stated Act.
Section 62 of the English Control of Pollution Act, 1974, operating as perfect control of street noise and the term ‘street’ under the section is defined to mean a highway, any other road, footway, square of court which is for the time being open to public. Sec. 62 of the Act reads as follows:-

62(1) Subject to the provisions of this section, a loudspeakers in a street shall not be operated –

a) between the hours of nine in the evening and eight in the following morning for any purpose;

b) at any other time, for the purpose of advertising any entertainment, trade or business.

c) if the loudspeaker forms part of public telephone system.

d) if the loudspeaker -

i) is in or fixed to a vehicle, and

ii) is operated solely for the entertainment of or for communicating with the driver or a passenger of the vehicle or where the loud speaker is or forms part of the horn or similar warning instrument of the vehicle, solely for giving warning to other traffic, and

iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity;

e) otherwise than on a high way by persons employed in connection with a transport undertaking used by the public in a case where the loudspeaker is operated solely for
making announcements to passengers or to other persons to be employed.

f) by a traveling showman on land which is being used for the purpose of pleasure fair;

g) in case of emergency clause (b) of subsection (1) of section 62 does not apply to the operation of a loudspeaker between the hours of noon and seven in the evening on the same day of the use of loudspeaker.

i) is fixed to a vehicle which is being used for the conveyance of a perishable commodity for human consumption; and

ii) is operated solely for informing members of the public (otherwise than by means of words) that the commodity is on sale from the vehicle; and

iii) is so operated as not to give reasonable cause for annoyance to persons in the vicinity.

While construing the words “cause of annoyance” it was held in Raymond Vs Cook\(^1\) that is was sufficient that an instrument was calculated to cause annoyance and it was not necessary to produce actual annoyance to persons.

The provisions of section 62 have banned the use of loudspeaker in a street, and the ‘street’ defined as a highway and any other road, footway or square or court which is for the time being open to the public. The expressions open to the public, which also occurs in section

\(^1\) (1958) 3 All ER 407
(4) of the Street Offences Act, 1959 seems to have the same meaning as the phrase to which the public has access. Therefore the expression 'street' would cover every road etc. on which members of the public are found who have obtained access without overcoming a physical obstruction or defying a prohibition, express or implied, in other words, have in fact access either as a matter of right or by tolerance. Above, stated expression was made in the case Harrison Vs Hill⁴, and Buchanan Vs Motor Insurers Bureau.⁵

In comparison between Rule 5 and Rule 8 of Noise Rules, 2000 and sec. 62 of English Control of Pollution Act, 1974 is more scientific and broad than the above stated provisions of Noise Rules, 2000 of India. In Sec. 62 of the English control of Pollution Act, 1974 prescribes except the exception mentioned in this section no one shall be permitted to operate the loudspeaker in a street in between 9 p.m. to 8 a.m. where as Noise Rules 2000 of India prescribes the time period for above purpose is 10 p.m. to 6 a.m. This fixing of time period by the Noise Rules 2000 is not only unscientific but shameful too, especially in the light of the observation of the division beech of Calcutta High Court in the case of Burrabazar Fire works Dealers Association & others Vs The Commissioner of Police, Calcutta & others⁶ where it has been held “...it does not require the exercise of any research work to hold that the sound pollution in other developed countries like Europe and America is not so bad or worse like that of India where sound has become a menace to the society”.

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1. 132 SC (J) 13
2. (1955) [All ER 607]
3. 1997 (2) CLJ 468
Not only that in Rule 7(1) Noise Rules 2000 it is prescribed that a person may, if the noise level exceeds the ambient noise standard by 10dB (A) or more as given in the schedule against any area/zone, make a complaint to the authority, needless to mention that perhaps as an ornamental matter this provision is incorporated into the Noise Rules, 2000 because how it is possible for every citizen to measure the level of noise to observe whether it exceeds 10 dB(A) or more from the given standard and for this it is needed to keep the sound meter by the each and every citizen. Whether it is possible to implement this Rule in reality especially when even after passing of 58 years of independence, half of the Indian is still illiterate one.

One another serious flaw of this Noise Rules 2000 is that it has not provided any specific punishment against the polluters. Mere fixing of noise emission standard shall not be proved fruitful without the prohibitory and penal measures.

**6.3 In India the areas where either exist insufficient legislation or no legislation regarding noise control:**

**6.3.1 Traffic Noise**

Regulations to control traffic noise can be classified into three main categories such as limitations on the noise emission of new vehicles, “in-use” regulation and traffic management method. In India practically there is no such legislation, which deals with control of traffic noise. Only some specific sections of motor vehicles Act and Motor vehicles Rule 1989 deal with only the up keeping of motor vehicles and horns and about which it is discussed here in details. There
is no such legislation in India to deal with 'in-use' regulation of vehicle or traffic management or any legal measure, which has been developed to impose limitation on the noise emission of new vehicle.

What is not possible in India even in 2004, long before in 1981 in U.K. the Government has taken the bold measure and established the quiet Heavy vehicle for the 1990s Project, which in short form is known as QHV90. The purpose of this project is to help the vehicle and engine industries by providing these with the knowledge and expertise so that it can be able to follow more stringent noise Legislation of the future. The main object of the QHV90 is to promote research work to reduce the noise of the engine. This step of the Government proves effective to remarkably reduce the vehicle noise from the engines. The QHV90 also has take initiative to make the silencer as a complete silencer by the way of computer programming to restrict the noise attenuation. Regarding legislative measure in U.K., Regulation 97 of Road Traffic Regulation, 1986 provides that no motor vehicle shall be used on a road in such a manner as to cause any excessive noise, which could have been avoided by the exercise of reasonable care on the part of the driver. Regulation 98 of the same regulation states that when a vehicle is stationery, the action of any machinery attached to or forming part of the vehicle must be stopped as far as may be necessary for the prevention of Noise. Regulation 99 of the said Regulations prohibits the sounding of any horn, gong, bell or siren fitted to or carried on a vehicle which is stationary on a road other than at times of danger to another moving vehicle on or near the road or when moving on a restricted road between 11.30 p.m. and 1 a.m. Prohibition is also imposed on sounding any gong, bell, siren except when the tone horn fitted to or carried on a vehicle for emergency purpose, or to raise alarm about the theft or
attempted theft of the vehicle contents, or to summon help for the driver, conductor or inspector of a bus. Not only that, earlier it is already mentioned in this paper that under the Noise and statutory Nuisance Act 1993, noise emitted from vehicle, caused by it or by car repairs, car radios, car alarms and parked refrigerator vehicles can be declared as statutory nuisance noise.

In U.S.A. under the Noise control Act of 1972 the Administrator of EPA is authorised to publish proposed noise emission regulations for motor carriers engaged in interstate commerce. Such proposed regulations shall include noise emissions resulting from operation of motor carriers engaged in interstate commerce and which reflect the degree of noise reduction achievable through the application of the best available technology, taking into account the cost of compliance.

On the other hand in European union, through actions under the communities 3rd and 4th Framework programmes for research and Technological Development, an increasing number of project has been launched with an intention to understand fundamental concepts or developing solutions to technological problems relating to noise. The following research programme has been supported

- Reduction of noise from equipment in the industrial and Materials Technologies programme especially noise from motor vehicles, railways and aircraft.

- Measurement of noise and vibration in the standards, measurements and testing programme.

- Research in the telematics applications programme, testing the efforts of advanced road traffic management strategies on noise
levels, and supporting pilot projects providing environmental information on noise levels in urban areas.

Directive 77/143/EEC sets out the basic provisions for roadworthiness tests and includes noise as one of the items to be part of the test. This procedure is incorporated to ensure that the exhaust silencers are intact and no tempering on it has taken place. It is needed to mention here that in Japan, there are periodic noise inspections for in use vehicles in the street. In some Australian States vehicles are subjected to on road spotting and subsequent testing. Data shows in New South Wales thousand of vehicles are tested each year and average reductions of emission of 1 dBA have been achieved at relatively low cost. As per the Green paper, published by the European commission in Brussels in 1996, following measure was stated to be taken to control road traffic noise. “To this end the commission will focus on cost / effectiveness assessments of a variety of options and in addition to addressing type / road noise and whether any new emission limit values are appropriate will consider”.

- In the context of the current review of vehicle taxation, whether more differentiation in existing annual vehicle and fuel taxes to take account of noise costs could be an effective instrument.

- A technical revision of the test procedure (ISOR362) to make it better, reflect realistic driving condition.

- Amending community legislation on roadworthiness tests to include specific noise testing of in use vehicles.

- Actions to promote the use of low noise surface”.
6.3.2 AIR CRAFT AND AIR PORT NOISE :-

In India it is discussed in this paper that still neither we have any suitable legislation to control Air Craft and Air port noise and nor we have the land use and development map and plan.

On the other hand in U.K. they have a comprehensive law in this regard styled Civil Aviation Act, 1982. As per the provisions of this Act is concerned order can be passed for regulating, amongst other things, the licensing and operation of aerodromes, operational safety, the prohibition of air craft flying over specified areas of the United Kingdom and the prohibition of Landing and taking off unless there are in force certificate of compliance with noise standard as specified in the order and those conditions are complied with. Sec. 5 of the said Act empowered the authority, the power including the power to require the civil aviation Authority to consider environmental matters, including noise and vibration attributable to the use of aircraft for civil aviation, when licensing and re-licensing an aerodrome. It also direct the authority to act, to take action to prevent or deal with noise or vibration attributable to air craft used for the purpose of civil aviation. Section 78 (1) of the civil Aviation Act, 1982 provides details of the operation and measures to be taken for the purpose of controlling noise solely with the object that the aircraft shall at all times be operated in a manner which is calculated to cause the least disturbance practicable in surrounding areas of the airport. The Act also provides control of noise of Aircraft in an aerodrome. Section 79 of the Act empowered the secretary of State to make a scheme requiring the Aerodrome Manager to make grants towards the cost of insulating such classes of building or parts of
buildings as he may think fit. In its white paper, 1985 the U.K. Government vowed that it was committed to mitigate as far as practicable the effects of aircraft noise and other disturbance and that its objective continued to be to bring about progressive reductions in aircraft noise at night at these airports, allowing only movements by quieter aircraft. It claimed in this white paper that its policy on night noise was firmly based on research into the relationship between aircraft and sleep disturbance, and that in order to preserve a balance between environmental and aviation interests this should continue to be the basis for decisions. In U.K. the Air Navigation (Noise Certification) Order 1990, prohibits, subject to certain exceptions, the aircraft the way which it applies from taking off or landing in the United Kingdom unless there is in force in respect of that aircraft a certificate of compliance with its standards as to noise specified in the order excepting aircrafts belonging to Military, Navy and Air force. The said order applies to every propeller driven airplane having a maximum weight of 9000 kg, supersonic civil aeroplane excluding Concorde, micro light airplanes and all other subsonic airplanes with certificated take off distances of more than 610 meters.

In Europe 92/14/EEC, which came into force in April 1995, latest in a series of legislative measures, started right from 1979 (Directives 80/51/EEC and 89/629/EEC) aimed to impose restriction on aircraft noise. In European community subsonic non noise certified aircraft have been excluded from airports for a long period and as per the terms of Directive 92/14 the aircrafts which were 25 years old have been banned from European Community airports since April 1995 unless granted exemptions designed to avoid unreasonable economic hardship to the airlines of developing nations. In air transport, the European
commission is looking to develop an integrated approach to noise reductions based on an assessment of a combination of instruments. The assessment will 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 in local measures such as land use planning could make. Not only that in the air transport sector, economic instrument in the form of airport charges are already widely used to promote environmental aims as well as other purposes.

Already legal steps to control aircraft noise in USA are discussed in details in this paper.

6.3.3 **Industrial and Construction Noise** :-

In India, it is already discussed that Factories Act, 1948 contain no such provisions to control noise. However by the Noise Rules, 2000 an attempt has been made to keep a specific standard of noise emission within industrial area but not inside the industry and no control mechanism or any guideline is provided to check the emission of excessive noise. No such specific legislation is also there in India to deal with construction noise.

In U.K. steps have been taken to control industrial noise. Such steps are taken in the form of non-statutory government advisor circular to local planning authorities to take noise factors into account in considering applications for permission to build noise-producing installations in residential areas. The main legislative power lies into the hands of local authorities to deal with the noise from existing buildings and premises and for this they are empowered to serve notices requiring
abatement of noise amounting to a “statutory nuisance”. Originally this power of controlling noise was conferred upon them by the Noise Abatement Act, 1960, which is now embodied in the Control of Pollution Act, 1974. This Act also empowers the local authorities to deal with noise from construction sites, and it also enables them to set up “noise abatement zones”. This setting up zone will help to initiate a gradual remedial process where noise emissions from factories etc. are excessive. In a noise abatement zone a register of measured noise levels from various types of premises is maintained and it is then illegal for these premises to cross that level without permission. The premises can also be directed to reduce their noise emission. Further more Noise at work regulation is formulated in the year 1989 which empowered the local authorities and the Health and Safety Executive to regulate noise control in factories, offices, retail and places of entertainment.

In U.S.A. under the Noise Control Act of 1972 the E.P.A. shall after consultation with appropriate Federal agencies compile and publish a report or series of reports in order to (I) Identify products (or classes of products) which in his judgment are major sources of noise, and (2) give information on techniques for control of noise from such products including available data on the technology, costs and alternative methods of noise control. Regarding construction equipment, transportation equipment any motor or engine or any equipment of which motor and engine forms an integral port, any electrical or electronic equipment, any product which is identified as major source of noise, the EPA is empowered by the said Act to published proposed regulation to control noise which shall include a noise emission standard to protect the public health and welfare. The degree of noise reduction is achievable through the application of best available technology and cost
of compliance. The Act provides the penalty measures also against the violators (polluters) and which is dealt in this paper elaborately.

In Germany, The German Federal Pollution Protection Act, 1974 incorporates within it construction Noise law, and considerably extended the available means of control. This Act is based on industrial noise mainly and imposes conditions on trade and production. The provisions of the said Act are aimed at the design, construction and operation of industrial plants and all kinds of equipment. Control of industrial noise in Germany starts in the planning process means the noise limits are imposed on new industrial development at the approval and permit stage and local authorities are empowered in this regard to see this affair.

In Netherlands, the Noise Abatement Act (1979) provides for industrial and construction noise mostly through land planning. The regional authorities are empowered by this Act to license noisy premises and also use to keep observation regarding the problem of new development in an already noisy area so that step can be taken to assess the position of this places properly. At the time of issuing the license, condition in the form of specification of noise level boundary and by fixing the noise zone system can be attached. Compensation can be made to a noise producer if he is required to comply with licensing conditions which exceed his ability pay or are otherwise considered unreasonable but this provision of course is in consonant with polluter pays principle which underlies the whole law. Operators of establishments much contribute the administrative costs of implementing the legislation through charges on all license holders. In noisy areas the new industries are required to go through the noise
reception requirements for specified sensitive land use in the area and existing industries are also required to take step to reduce the noise problem and any other problem if exists there.

Here it is pertaining to mention that in India Industries under the Environment (Protection) Act 1986 and other pollution Acts can be made responsible only if the Pollution Control Board officials decide to nab them. Of course there is no flaw in this provision but when these provision is compared with in real terms one may find that due to the lack of infrastructure, political pressure, corruption and peculiarity of the constitution of the Board (induction of the interested member into the Board i.e., representative of industries, avocations etc.) often place the Board in a position to allow the industries to go free. It is unfortunate that yet these matters are not attempted to be addressed by any suitable legislation in India. The Clean Air Act of USA provides that the workers shall not be discharged or discriminated against for raising the issue of pollution or calling for stoppage of work due to apprehension of excessive emission of pollution. In Sweden also the law allows workers to strike work in the event of flouting of environment regulations by the management. This is of course a very bold step and perhaps the easiest way of controlling and monitoring pollution but neither any such provision is incorporated into the Environment (Protection) Act, 1986 not any intention is made by the Government even after passing of so many years to simply meeting its mind for this purpose. The Indian Government is perhaps in deep slumber in this regard.
6.3.4 Railway Noise :-

In India though the railway engines and carriages are one of the important source of pollution but an analysis of the Railway Act in previous chapter has made it clear that it gives statutory protection to railway locomotive.

On the other hand in many countries serious efforts have been taken to control both the internal and external noise produced or emitted by the railway. In Germany the Federal Pollution Control Act specifies procedures to be taken in planning new railways, including the public participation. In U.S.A., the Noise Control Act, 1972, empowered the EPA to impose regulation which shall include noise emission standard setting such limits on noise emissions resulting from operation of the equipment and facilities of surface carriers engaged in interstate commerce by railroad. The duty has further been castigated to reduce noise by using best available technology. The EPA is not only extending its regulation to cover just locomotive and rail car emission, but all aspects of rail emission. European Council by its Directive 96/48/EC of 23. 7. 96 has directed the problem of noise from high-speed rail. The Directive makes it mandatory that operation of the trans - European high-speed rail network must remain within the statutory noise nuisance limit.

The comparative study on legislative measures regarding control of some specific source of noise is made here, not only with a sole intention to establish that how India is lagging behind in this front, but also to present some model legislation of some developed countries in this matter so that a better initiatives can be taken to combat noise pollution. The flaws of some ‘scattered’ legislation regarding noise
control is also highlighted here for their rectifications so that a more effective and scientific legislation can be enacted, which may ensure the healthy environment to its citizen and can save the environment from further destruction.

Environmental pollution by noise is in its peak form. In a developing and over populated country like India, the problem of noise pollution assumes alarming dimensions and dangerous proportions. The unplanned and densely populated towns and cities, the unreasonably noisy operation of vehicles in residential areas, the worse condition of roads, the import of noisy culture especially by the young, the mushroom growth of unplanned urban colonies and uncontrolled noise some traffic, the increasing tendency of involvement of loudspeakers and microphones in religious activities and festivals, watching television, listening radio or record players and making disco dance by playing record player in streets, open concerts and at a high pitch, lack of land planning, rapid industrial development especially in already industrialized areas, running of diesel propelled generators in densely populated area, bursting of crackers in festivals, indiscriminate use of microphones by the political leaders in the name of freedom of speech and expressions, lack of urge on the part of the Government of having environment impact assessment, lack of effective and suitable legislation to control noise, lack of a comprehensive legislation to control noise, lack of awareness among the people regarding degradation of environment and about the ill effect of noise, lack of initiative on the part of the Government to encourage research works so as to reduce noise, lack of proper enforcement mechanism to control noise, etc. are the main reasons of enhancement of the noise pollution in
such a greater extent in India and make the situation worse, appalling and grim one.

A citizen of this country has a right to live in such a society, which is peaceful and free from mechanical and artificial sound as because noise creates a tremendous health hazard and has adverse effect on the citizen. A person cannot develop his personality to the fullest extent, if there remains no healthy environment and also can not think properly or can give proper concentration to his work if his mind is not in peace and this peace cannot be attained if the surrounding situation is not peaceful and pleasurable. Noise is contrary to civilized order and it cannot be said to be good for the society. If the pollutants will not be checked then, no doubt it would be the beginning of the end of the civilisation. It should be the cardinal duty of the Government to ensure its subjects fresh air, peaceful and healthy environment. Perhaps, it is the high time for the legislature to rise to the occasion and enact a comprehensive legislation to control noise pollution.

6.4 Suggestions:-

From the above discussion, it is clear that in India noise is now perceived as one of the major disturbance in the life of citizen. Noise has spread both in time and space. In India the quality of the noise is steadily deteriorating and really this is a very worrying situation. Unless vigorous noise abatement policies are quickly put into effect the situation will continue to worse. Though in the year 1992 in India the policy is made on abatement of pollution but that is not proved so much effective and that is why still now the scenario of environment in our country is quite appalling and continues to causes a great deal of
concern. Quality of life cannot be acceptable without a satisfactory noise environment and there can be no real environmental policy without an overall and sustained policy against noise. Here some suggestions are provided to combat the gigantic problem of noise pollution.

6.4.1 A comprehensive legislation and policy

In details, in this paper, it is discussed here the merits of a comprehensive legislation and policy regarding control of noise pollution and the demerits of the ‘scattered laws and policies’ what we have in India as to the control of noise pollution. From the very beginning the Government of our country is slow to recognize the problem of noise pollution. The comparative study, which is made in this paper regarding legislation and policies in between India and other developed countries, clearly shows the inactiveness on the part of the Government of India. Noise abatement must be systematic and should be based on a coordinated range of actions and methods programmed over time. The appalling noise situation in India immediately needs the replacement of ‘scattered’ laws and regulation by ‘comprehensive’ laws and regulations regarding noise control. The existence of noise pollution and consequent involvement of many different authorities in noise abatement programme needs, immediately, a strong cohesion & cooperation in between these authorities so that attention can be paid particularly and in an uniform way to implement and enforce the laws and regulations to control noise pollution as a whole.

6.4.2 Dynamic noise abatement policies and programmes

If the urge is to control noise legally then the approach to the problem must by dynamic one, means policy as to the noise abatement
must include varied and complementary strategies, such as economic incentives, in order to maintain a constant stimulus on efforts and technology aimed at reducing noise. As for instance in USA, the EPA, in coordination with other federal agencies, uses grants, contracts, and federal actions to help State and Local governments so that they can develop their own noise control programme. Beside this educational and research programme is also carried on by the EPA under Noise control act 1972. The Noise abatement policy should carry on all such programmes, which are needed for managing and improving the quality of life. The dynamic approach of the policy signifies the approach should be progressive and should not only fix the noise emission standard but also incorporates the way of maintaining the noise emission standard. The policy regarding noise control should consist the integrated form of infrastructure projects, proper town planning, scheme regarding regulation of vehicle, railways, aircraft, neighborhood noise, housing developments etc. So it is suggested that it is the need of the hour to immediately initiate with a dynamic noise abatement policy so as to come out from the grim problem of noise.

6.4.3 Proper planning regarding environmental matters

Environment planning process has to set policies, priorities and techniques in such a way so that pollution can be reduced at source and also to check the already enhance pollution in the environment and to achieve this a proper monitoring system should be there to assess and reassess the state of pollution in the environment. Environment planning also helps to make a balance between check of pollution and economic development. Though the government of India has already adopted a policy of the environmental planning but implementation of that policy
has not been intensified. Furthermore the problem of noise pollution has not been addressed by this environmental policy of 1992 of Government of India with much importance. This policy statement of 1992 failed to assess progress to date in the field of noise abatement and to examine prospects for the future, failed to assess properly about the prevailing noise situation and also failed to inform about any prospect regarding this in future, failed to take into account the economic aspects of noise such as abatement costs, social costs, noise charges and compensation for damage and also failed to recommend any coherent programme to control noise. It is suggested that the scheme of the policy should be formulated in such a way, which may set timetable to govern the stages and target dates to achieve a desired results regarding abatement of noise. Following plans and steps are suggested here to get triumph over some specific source of noise :-

A. Traffic Noise

Traffic noise is the biggest source of noise in India. But it is unfortunate that the only legislation styled Motor Vehicles Act, 1988 which deal with this field failed to address this problem properly except regulation regarding the use of horns by the motor and other road vehicles. Following measures can be taken to control traffic noise :-

i) Noise should be regulated as close to source as possible and that should be in planning stages

ii) Prohibition should be imposed on movement of heavy vehicles at night, at least from the residential area and this process may prove effective to reduce noise annoyance.

iii) Ban on Pressure horns to be effectively implemented.
iv) Well designed silencers and mufflers be installed on the vehicles, preferably at the manufacturers level.

v) Synchronised traffic signaling to be introduced on Ring Road and all other major traffic corridors including National Highways.

vi) A comprehensive traffic management plan including effective implementation and extension of traffic restriction, construction of tunnels, subways, flyovers be chalked out on priority, and sound insulation system should be introduced.

vii) Open or vertically retained cutting design of the road should be made.

viii) The Road Transport Authority should strictly ensure that motor vehicles will not receive fresh registration or renewal of registration, unless the horn fitted in vehicles meets the prescribed standard and the engine exhaust silencers as per specified norms. The RTA shall also positively ensure that multitone horns and accessories for audio alarms / indications, producing noise beyond permissible limits are not used by the vehicles.

ix) The road humps should be specifically designed to reduce the road traffic speed because big humps create more road noise than small humps.

x) Like in U.S.A the noise emission standard should be developed for transportation equipment including recreational vehicles, motors or engines and electric and electronic equipment and for this purpose the Government must encourage to use the best available technology. There should be an authority who will only
give the green signal for selling of the new vehicles after being satisfied by it that the vehicles are complying with the noise emission standards.

xi) We can also import the procedure of "Manufacturers warranty" process from USA which makes it mandatory that each manufactures of a noisy product must warrant to the final purchaser that the product must warrant to the final purchaser that the product has been designed, built and equipped to operate at, or below the required sound level.

xii) A mechanism is needed to be formulated in such a way, which should strictly observe and enforce the noise standards of motor vehicles in residential areas. If the owners of the motor vehicles will be found as violating the rules regarding noise control then 'noise abatement fee' along with the registration fee should be charged compulsorily and for continuous offence the fine or imprisonment or both can be imposed.

xiii) Vegetation buffer zones must be created in different parts of the city. Steps are required to be taken for roadside plantations. Ashok, neem, tamarind, coconut etc. are noise-absorbing plants, which can be planted along roadside.

xiv) Improvement in vehicle technology or traffic engineering, proper town planning and careful orientation of housing may considerably reduce the noise. Of course, these are costly to implement but not so expensive from the 'right to peace'. It requires a comprehensive noise management mechanism and must include the road and traffic engineers, architects and town planners and those
representatives of people who have a sound technological knowledge and obviously experts from the field of law and medical. New laws and regulations are needed to be formulated from these broad objectives.

B. Constructions & Industrial Noise

Practically in India there is no law to control Industrial noise. At this circumstances the following measures is needed to be taken to control construction & industrial noise.

i) Industrial noise like other source of noise must be dealt with on same basis i.e. measures should be taken at the source, in the way of transmission and lastly at the receiver. Making a change in design and operation of machines, vibration control, soundproof cabins and sound absorbing materials can reduce the noise from the industries and factories.

ii) A provision is needed to be made for induction of the local planning authority within the local administrative functionaries and duties should be assigned on them to ensure that noise from new sources should not go beyond the ambient level. Permit system should be strictly maintained so that no industry should be set up in noisy areas unless proper scientific method is maintained by that industry in question which will ensure that by permitting for establishment of industry will add no further noise.

iii) It is needed to incorporate such provision in the Environment (Protection) Act, 1966 and in the Factories Act or the Industrial Dispute Act which will enable the employers of factories or industries that whenever they will find the excessive emission of
pollution inside the factory or industry they will immediately stop to render their services unless the concerned authority will take steps to improve the situation. This is a very easy method of controlling noise inside the factory or industry and this provision is already incorporated in the clean Air Act of USA and Sweden is also following the same step.

iv) The duty should be entrusted upon the employers of the factories and industries to provide better health facilities to the worker and to undertake ‘audible tests’ time to time or within a fixed period of time.

v) ’Ears cuffs’ should be provided to the workers while they are at work or on duties.

vi) The Central Pollution Control Board and State Pollution Control Board must scan the state of environment in the factories and industries and Ministry of Environment should encourage the employer to use modern technologies to reduce nose. The task of Ministry of Environment should be to devote itself totally for eradication of pollution rather to deal with only political matters.

vii) A ‘fund’ is needed to be made in order to compensate the noise victims of the factories and industries. This ‘fund’ should be made imposing ‘noise abatement fee’ on each and every factory and industry at the time of granting registration or renewal of the registration. Not only that penalty also can be imposed upon the owners or employer of a factory or industry for any omission in observing noise rules and regulations.
viii) It is needed to be observed that the ‘Ambient Air Quality Standard’ prescribed by the Noise Rule, 2000 should not be disturbed at any time either by the factory or industrial noise or by construction work. No construction work should be allowed to take place at night and without the permission of the local authority any construction work should not take place. It is the high time to induct experts in the local bodies and before granting permission it is needed to ask the applicant about the measures what he or she has taken to maintain ambient noise standards. Only the experts in environmental matter can properly assess the measures taken by the applicants before giving permission to start construction work or they can also give necessary advise for undertaking the measures in order to maintain the ambient noise level.

C. **RAILWAY NOISE :-**

Seeing the horribleness of the state of noisy atmosphere in India, no longer the Railway Act be permitted to go without having any provisions for controlling noise pollution emitted from the railway engines and locomotives. Immediate measures are needed to be taken to control both internal and external noise produced or emitted by the railways. Specific rules and regulations are needed to be formulated, so that rail network must remain within the statutory noise nuisance limit. It is also needed to observe that railway track should not pass through residential areas. The Seriousness to control railway noise can be seen in Japan, which spent 8 percent of the total construction budget for this purpose. Now a days the countries like Germany, U.K., U.S.A. etc. are seriously implementing the laws, rules, regulations to control railway noise and specific procedures are being taken in these countries.
regarding planning new railways, including public participation. It is suggested to erect acoustic barrier near the railway tracts and also to reduce speed and avoid whistle within and along the municipal limits and habitation zones. India should adopt legislation or recommendations in this regard, which may set emission limits for noise exposure in sensitive areas. It is also needed to frame a proper land use plan especially for new infrastructure development.

**D. AIRCRAFT NOISE :-**

The Aircraft Act, 1934 or the Indian Aircrafts (Public Health) rules, 1946 is not sufficient to deal properly with the aircraft & aerodrome noise. It is suggested that provisions are needed to be incorporated regarding operational safety, the licensing and operation of aerodromes and the prohibition of aircraft flying over same noise sensitive areas, either in the said Act or Rules. Aerodrome should be located away from the habitation zones and is needed to frame proper land use plan so that growth of the city may not extend up to the aerodrome. Prohibition should be imposed regarding night time operations of the aircraft Height restrictions, specified approach path for airports, fixing of noise emission standard in design stages of aircraft can be proved effective to control noise from aircraft.

**E. NEIGHBOURHOOD NOISE :-**

Much of the noise pollution we experience results from various activities of the individuals who believe it is their fundamental right to make noise. Some people think that they should be free to act as they wish and without any interference from others or the State. Noise more
than most pollutants is closely related to manners. Noisy neighbours do not care about the impact of their act on others. Often neighbours make noise by indiscriminate use of microphones loudspeakers or by any other way, under the wrong conception about the fundamental right. This short of nuisance is always tried to be protected under the protective shield of Art 19(1) of the Indian Constitution i.e., freedom of speech and expression, freedom to assemble peaceably and without arms, to form associations or unions, to move freely throughout the territory of India and also the use of loudspeaker and bursting of crackers in religious activity is often claimed as a fundamental right under Art 25 of the Constitution which guarantees right to religion. This is no doubt a wrong conception about the fundamental right and also from the wrong conception about the property right and freedom because right to property has no nexus with committing of nuisance. In the light of this peculiar situation what is prevailing in India following measure can be taken to control neighbourhood noise.

i) Although Article 19 and Art 25 to Art 28 is subjected to reasonable restrictions and restrictions are clearly mentioned there on but at this alarming situation, the Indian Parliament should use its constituent power and specifically insert within this Article that rights under Art 19 or Art 25 is subjected to reasonable restriction on ground of noise as it is a pollutant.

ii) By way of amendment of the constitution the right to sleep and leisure should be recognized as a fundament right under part III of the constitution. Here it is needed to mention that in the case of Moulana Mufti Syeed Md. Noorur Rahman Barkati Vs State of
West Bengal\(^1\), the Calcutta High Court already recognized these above stated rights as fundamental right under Article 21 of the constitution and supreme court has also confirmed this above judgment, Amendment will only establish these rights specifically.

iii) It is needed to enforce strictly the rules provided in Noise Rules, 2000 strictly.

iv) The Government must provide the noise meter to each and every Police stations which will enable them to take the note of the state of emission of noise in particular area and to nab the culprits into book.

v) The legislation like Noise Act, 1996 U.K. is also needed to be enacted here which enable the authorities in U.K. to forfeit and confiscate the equipment from dwellings used to make noise unlawfully at night.

vi) No person shall be allowed to make noise by using any noisy mechanical device or by any other way, which may cause annoyance to other.

vii) There should be restriction on any noisy conduct at night or on the late night party, which may cause disturbance and annoyance to the other people. For this a necessary amendment is required in Noise Rules, 2000 and a specific time period during which restriction shall be imposed is also needed to be mentioned.

viii) Often the hooligans and anti socials by consuming intoxicating liquor or any other intoxicated substance behaves unruly at night

\(^1\)AIR 1999 Cal 15 (para 27)
and indulging in shouting or using horn at high pitch which is really a nuisance and needed to be checked in the line of the late Night Refreshment Houses Act, 1969 enacted in the U.K to restrict such type of conduct which cause noise nuisance.

ix) At the time of giving permission for use of loudspeakers the Police or any authority concerned should fix sound limiter so that people can be saved from becoming captive listeners.

x) In U.S.A. the EPA must determine which products according to NCA 1972 qualify as low noise emission product and thus suitable to use by the public. Like USA in India also it is needed to determine the low noise products and introduction of ‘Manufacturers’ warranties’ system, so that the people will always purchase quietest products like Air conditioning, refrigeration, heating systems etc.

xi) More power is needed to be conferred upon Pollution Control Board in order to enable them to take cognizance of the polluters and the direction issued by the Board should be carried on by the Police, otherwise the Board should have the power to take action against Police also.

xii) Loudspeakers should not be allowed for advertisement and commercial activities.

xiii) Noisy hawking procedure is needed to be checked, basically inside the railway compartment.

xiv) It is strictly needed to be maintained the division of Zones as it is provided in Noise Rules, 2000. It is needed to mention here that
still the hospitals, nursing homes, school-colleges are not free from the clutches of noise pollution. Any type of playing of music or use of horns and loudspeakers should completely be restricted in Vicinity of the said places.

xv) Manufacture and sale of crackers having an impulsive noise more than 90dB (A) at 5 meters distance from the site of bursting should be banned.

xvi) Public awareness against the ill effect of noise pollution is very much necessary. Through the use of mass media, print media and introduction of subject like environmental pollution in schools, colleges and universities the people can be made aware, about the ill effect of noise on health and mind and this will help people to listen Radio, to watch T.V. at low volume or people will learn gradually where and how to use mobile in ‘silent mode’ and people will also not go to please their God by using loudspeaker and microphones. Teaching and awareness campaign will help people to adopt good manners. Good manners of the people itself will make the society free from the noise pollution.

6.5 SOME OTHER SUGGESTIONS CHANGES IN THE OVERALL APPROACH :-

In the light of the poor state of data on noise exposure and the shortcomings, which have already been identified in the analysis of existing policy measures, the changes in the overall approach are required if a noise abatement policy is to be made successful. This requires a framework based on shared responsibility involving target setting, monitoring a progress and measures to improve the accuracy
and standardisation of data to help and improve the coherency of different actions.

6.5.1 SPECIAL COURTS

It is the high time to set up the special courts to deal with the cases related with noise pollution in a summary manner. This procedure will encourage the people to come openly against the polluter. Separate environmental courts can also be set up as an alternative of this special court, which will deal with the cases on environmental matters including noise.

6.5.2 CHANGES IN PENAL PROVISIONS

The noise pollution is nothing but the consequence of modernization, industrialization, mechanization, uncontrolled noise some traffic, urbanization etc. Naturally when the IPC is framed and drafted in the year, 1890, as at that time no such type of development has taken place, the offence of public nuisance has failed to acknowledge the various dimensions of the pollution including noise pollution properly. A more than hundred years of an old legislation can not be the remedy of every problem and it is not the fault of this legislation but it is the fault of the law makers who should respond to the changing needs of the people by strengthening the penal law which can effectively deal with the environmental problem along with the problem of noise properly. There should be an independent provision in the IPC to deal with offence of nuisance caused by noise. This offence is needed to be regarded as cognizable and non-bailable under the Criminal Procedure Code and a heavy fine or imprisonment for certain duration or both is needed to be imposed. It is suggested that a special session judge should deal with the
offences of public nuisance and he should be such type of person who must have a very high knowledge of the various dimensions of environment. The judge and public prosecutor should be provided proper training regarding environmental matters. Due to the weakness of the existing penal provision regarding nuisance the attitude of the courts towards the nuisance has been lukewarm.

6.5.3 ENVIRONMENTAL IMPACT ASSESSMENT :-

Though the Environmental impact assessment is one of the most notable planning introductions of the 1960s but this impact assessment is still in its nascent stages in India. Despite the advancement in the understanding, still the development in already industrialised urban areas and the mushroom growth of unplanned urban colonies basically in vicinity of noisy areas are going on. This situation can be avoided by two ways. Firstly, it is the need of the hour to frame a comprehensive legislation and the State Government and local authorities should be strongly guided by that legislation and the public must be made more educated about the dangers of noise exposure and they should be involved more and more decision making bodies for proper planning. The right to get information should be treated as fundamental right (This right has been confirmed by the Judiciary in many cases) and people should be given more information regarding the decision or any steps taken by the authorities in environmental matters.

6.5.4 CITIZENS' SUIT

In this paper it is discussed in length regarding the week citizen suit provision in the Environmental (Protection) Act, 1986. Now the lawmakers should respond to the crying need of the time and bring
necessary amendment in the Act of 1986 so as to enable the citizen to file a direct suit before the court regarding environmental matters.

6.5.5 Division of Responsibility

In order to make an effective programme to curb noise pollution it is needed to chalk out a complete framework so that it can be easily identified at what level action is to be taken. There should be a coordination between every department to control noise pollution in their respective spheres and for this it is needed to formulate proper planning and guidelines. The best way of tackling the problem of pollution including noise in a vast and highly populated country like India is to frame out a hierarchy of pollution control machinery which should involve the local and other authorities more and more to deal with the matter of pollution. There should be enough guideline about the power and responsibility of the each and every authority, which will come under the system of hierarchy. The top of the hierarchy should consist of the experts in the environmental matters, scientists of different fields and legal personalities etc. and should be headed by a person like the Administrator of EPA in U.S.A. This body should be given an autonomous status and should be kept out of the political influences. Quasi-Judicial power is needed to vest upon this authority so that they can be able to take administrative as well as the judicial actions against the polluters. This body should also take the programme of encouraging research to control pollution and should encourage for the production of low noise emission products and for this, the proposed body should provide necessary technology and incentives to the manufacturers, producers etc. This proposed body should also chalk out the effective programmes to aware the people about the ill effect of noise pollution
and should give special attention to the school and college students so that they adopt good manners and can make a good moral which is very much necessary to combat noise pollution.

6.5.6 **Environmental Courts**

In India with the passing of the times, gradually the problem of pollution including noise is going complex and grim. To deal with this problem aptly and for satisfying the just claim of the victims it is needed to tackle these matter more carefully, with skill and expertise hand. For this, it is needed to set up separate environmental courts in each and every districts in India and specially the Judges who have a deep knowledge in the field of pollution matters should be appointed as a judge of these environment courts. Separate environment court only can provide the speedy and quick remedy and can address the matter of pollution in an effective way. Not only the separate environmental courts will encourage the citizen to bring the cases on pollution before the notice of the court more and more, as they will get an essay forum to redress their grievances against the polluters, but this process will also check the malice activities of polluters.

Last but not least it is the need of the hour to frame a comprehensive programme on noise abatement mean to say not just laws on the statute book but a varied set of measures which can address the problem of noise pollution in an effective manner and can reduce it considerably so that people can restore back their peace of mind and enjoyment of life. An effective noise control programme should be coupled by two measures i.e., planning and enforcement. A noise programme is needed to be chalked out carefully with definite objectives, priorities and should be lashed out with means of
enforcement. There is no instance of any country, which gets triumph over the problem of noise pollution by scattered legislation, rules, regulations or policies. There is no alternative of comprehensive noise pollution programme and India should adopt it without any further delay and must ensure its proper enforcement also. Biasness, corruption, nepotism, nexus in between crime and politics has already shaken the democratic set up of this country. We are still bearing the curse of the poverty and illiteracy, even in this 21st century. Without ensuring the development of the people, pollution cannot be controlled. A comprehensive noise programme in India should address this problem and mechanism is needed to innovate for the impartial enforcement of this programme. For the sake of our, ours future generations and for the sake of whole civilization, pollution including noise is needed to be controlled promptly otherwise the future will not forgive us. A proper land use planning, education, administrative support, noise charges and incentives, invention of best technologies to control noise etc. can only make the noise abatement programme in India effective one.