Topics to be Covered

Prevention and Control of Water, Air, Noise and Land Pollution a. The Water (Prevention and Control of Pollution) Act, 1974

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- ii. Central and State Pollution Control Boards: Constitution, Powers and Functions
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The Air (Prevention and Control of Pollution) Act, 1981

The Air (Prevention and Control of Pollution) Act, 1981 was enacted to combat the growing issue of air pollution and to ensure that the quality of air is maintained in urban and industrial areas. The Act gives powers to the Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs) to monitor and control air quality. Below is a detailed explanation of the various provisions of the Act, along with relevant case laws and sections.

i. Air Pollution: Definition

Air Pollution refers to the presence of harmful substances in the air, which can harm human health, the environment, and the climate. These pollutants include gases, vapors, dust, or other particulate matter that can impair air quality. The primary pollutants identified in the Act are:

- **Carbon Monoxide (CO)**: A colorless, odorless gas that can interfere with the body's ability to transport oxygen, leading to health problems.
- Sulfur Dioxide (SO₂): A toxic gas produced primarily by the combustion of fossil fuels, especially in industries and vehicles. It can irritate the respiratory system and contribute to acid rain.
- **Particulate Matter (PM)**: Fine particles, including dust, soot, and liquid droplets, that are suspended in the air. These can cause respiratory problems and contribute to smog.

Case Law: M.C. Mehta v. Union of India (1987) In this case, the Supreme Court issued guidelines for industries in Delhi, particularly those contributing to air pollution. The Court took a strict approach against industries that violated air quality standards, especially in highly polluted urban areas. The case emphasized the role of the government and industries in controlling air pollution and set the tone for future rulings on air pollution control in India.

ii. Central and State Pollution Control Boards: Constitution, Powers, and Functions

The Central Pollution Control Board (CPCB) and the State Pollution Control Boards (SPCBs) are the primary regulatory authorities under the Air Act.

Central Pollution Control Board (CPCB):

- **Constitution**: Established under **Section 3** of the Air Act, the CPCB advises the central government on air pollution issues, sets air quality standards, and coordinates efforts to control air pollution at the national level.
- **Powers and Functions**: The CPCB can monitor air quality, take enforcement actions against industries, issue guidelines, and provide technical assistance for pollution control. It also plays a role in research and development related to pollution control.

State Pollution Control Boards (SPCBs):

- **Constitution and Powers**: Set up under **Section 4** of the Air Act, SPCBs operate at the state level, implementing and enforcing the provisions of the Air Act. They are empowered to monitor air quality within their states and take actions against violations.
- **Functions**: The SPCBs regulate industrial emissions, issue consent for the operation of industries, and ensure that industries comply with the prescribed air quality standards.

Case Law: Vellore Citizens Welfare Forum v. Union of India (1996) In this case, the Supreme Court discussed the role of the Pollution Control Boards in controlling industrial emissions, particularly in relation to industries contributing to air pollution in cities like Vellore. The Court directed the CPCB and SPCBs to monitor the emissions from industries and to ensure that they comply with the air quality standards established by the Act. The case highlighted the growing role of pollution boards in regulating industrial emissions.

iii. Air Pollution Control Areas

The Act allows the declaration of **Air Pollution Control Areas** to limit air pollution by regulating industrial activities, vehicular emissions, and other sources of air pollutants in specific areas. In these areas, stricter controls are applied to reduce pollution levels and maintain air quality.

 Section 19: This section empowers the government to declare an area as an Air Pollution Control Area where the emission of pollutants from industries, vehicles, and other sources must meet prescribed standards. Such areas may include urban regions, industrial zones, or areas with significant environmental concerns.

Case Law: Indian Council for Enviro-Legal Action v. Union of India (1996) In this case, the Supreme Court addressed the issue of industrial pollution, particularly in zones where industrial activities were contributing to high levels of air pollution. The Court ordered the implementation of stringent pollution control measures and highlighted the need for pollution control areas to regulate industrial emissions and protect the environment.

iv. Consent Requirement: Procedure, Grant/Refusal, Withdrawal

Under **Section 21** of the Air Act, industries and other entities emitting air pollutants must obtain consent from the respective Pollution Control Boards (CPCB and SPCBs) before operating or discharging pollutants. The consent is granted or refused based on whether the entity complies with the prescribed air quality standards.

• Consent Procedure:

1. The industry or entity must submit an application to the Pollution Control Board specifying the type and quantity of pollutants it intends to release into the air.

- 2. The Pollution Control Board evaluates the application based on compliance with environmental standards.
- 3. If the application meets the requirements, the consent is granted; otherwise, it may be rejected.
- 4. If consent is granted, the entity must follow the prescribed emission limits.
- **Grant, Refusal, and Withdrawal**: The Pollution Control Board has the authority to grant, refuse, or withdraw consent based on whether the industry adheres to air quality standards and pollution control measures.

Case Law: M.C. Mehta v. Union of India (1998) In this case, the Supreme Court directed the closure of certain industries in Delhi for not complying with air pollution control standards. The Court emphasized that industries must obtain the necessary consent and adhere to emission standards to operate legally. The case highlighted the strict enforcement of the consent requirement and the consequences of violating pollution control norms.

v. Sample of Effluents: Procedure; Restraint Order

The Air Act provides procedures for the collection of **samples of air pollutants** emitted by industries and other sources. If industries fail to comply with air pollution standards, the Pollution Control Boards have the authority to issue a **restraint order** under **Section 31A**.

- **Procedure for Sampling**: The Pollution Control Board can collect samples of air pollutants from the industrial units and analyze the concentration of harmful substances. The samples are then tested to ensure compliance with air quality standards.
- **Restraint Order (Section 31A)**: If an industry is found violating the emission standards, the Pollution Control Board can issue a restraint order to stop the discharge of pollutants. If necessary, the industry may be required to cease operations until it complies with pollution control measures.

Case Law: M.C. Mehta v. Union of India (1988) The Supreme Court in this case issued directions for the prevention of vehicular pollution, particularly in Delhi. The Court emphasized the importance of sampling and monitoring air pollutants and directed the Pollution Control Board to take action against sources that failed to comply with pollution control standards. The case set the tone for action against polluting vehicles and other industrial units.

vi. Citizen Suit Provision

Section 35 of the Air Act provides the Citizen Suit Provision, allowing individuals or organizations to file suits in court against air pollution and demand actions necessary to control it. This provision empowers citizens to seek legal recourse when they believe that air quality is being compromised.

• Section 35: This section allows citizens to approach the courts if they believe that air pollution is affecting their health, environment, or quality of life. The provision encourages public participation in environmental protection and ensures that industries and government bodies are held accountable for air pollution.

CaseLaw:TajMahalHotelCase(1996)In this case, the Supreme Court dealt with industrial pollution and referenced the Citizen SuitProvision under the Air Act. The Court allowed citizens to file suits for pollution control anddirected authorities to take immediate steps to mitigate the pollution. The ruling emphasized therole of citizens in holding industries accountable and seeking justice for environmental damagecaused by air pollution.

The Water (Prevention and Control of Pollution) Act, 1974

The Water (Prevention and Control of Pollution) Act, 1974 was enacted to prevent and control water pollution and maintain the wholesomeness of water bodies. It provides the legal framework for regulating effluents, protecting water resources, and ensuring that industrial, domestic, and

agricultural activities do not degrade water quality. Below is a detailed explanation of the provisions of the Act, with reference to relevant sections and case laws.

i. Water Pollution: Definition

Water Pollution refers to the contamination of water bodies (such as rivers, lakes, and groundwater) by harmful substances. These substances include domestic sewage, industrial effluents, agricultural runoff, and solid waste that introduce toxins, chemicals, and pathogens into water bodies, rendering them unsafe for drinking, agriculture, and other human uses.

• Section 2(1)(i) defines water pollution as the presence of any solid, liquid, or gaseous substance in water that causes harm or makes water unfit for its intended use.

Impact of Water Pollution:

- Health: Contaminated water can lead to diseases like cholera, typhoid, and dysentery.
- Ecology: Water pollution harms aquatic life and disrupts ecosystems, causing loss of biodiversity.
- Environment: Polluted water affects agricultural productivity and can render water bodies unusable for recreational or other purposes.

Case Law: Indian Council for Enviro-Legal Action v. Union of India (1996) In this case, the Supreme Court emphasized the responsibility of industries to avoid water pollution and the duty of the government to take proactive measures to control pollution. The Court held that industries must adhere to water pollution control norms and take all necessary steps to prevent contamination of water bodies. ii. Central and State Pollution Control Boards: Constitution, Powers, and Functions

Central Pollution Control Board (CPCB) and **State Pollution Control Boards (SPCBs)** are empowered to enforce the provisions of the Water Act and regulate water pollution at the national and state levels, respectively.

Central Pollution Control Board (CPCB):

- Section 3: Establishes the CPCB and outlines its powers and functions. The CPCB is responsible for advising the central government on pollution control, monitoring water quality, and coordinating with state boards for effective pollution control measures.
- **Functions**: The CPCB monitors the quality of water, sets water quality standards, collects data, and provides technical assistance to state boards.

State Pollution Control Boards (SPCBs):

- Section 4: Establishes the SPCBs in each state. These boards are tasked with implementing the provisions of the Water Act at the state level.
- Functions: The SPCBs are responsible for issuing consent to industries for discharging effluents, monitoring water quality, and enforcing water pollution control measures within their respective states.

CaseLaw:M.C.Mehtav.UnionofIndia(1987)In this case, the Supreme Court directed state pollution control boards to actively monitor and
enforce the provisions of the Water Act, ensuring that industries adhered to water pollution control
standards. The Court emphasized the need for state-level action in controlling water pollution and
protecting public health.

iii. Water Pollution Control Areas

The Water Act allows the government to declare certain areas as **Water Pollution Control Areas** where industrial activities or discharges that pollute water bodies are regulated.

• Section 5: This section authorizes the government to declare an area as a Water Pollution Control Area. In such areas, the discharge of pollutants into water bodies is tightly regulated, and industries must comply with stricter pollution control measures.

CaseLaw:GangaPollutionCase(1985)The Supreme Court dealt with the pollution of the Ganges River and ordered various measures tocontrol water pollution, including the closure of polluting industries along the river. This caseunderscored the need for special pollution control measures for vital water bodies like the Ganga.

iv. Sample of Effluents: Procedure; Restraint Order

The Act provides a procedure for taking samples of effluents discharged into water bodies and issues restraint orders when industries discharge untreated or harmful effluents.

- Section 21: This section provides the procedure for the collection of samples of effluents from industries and other establishments. The Pollution Control Board can take samples to determine whether the effluent complies with prescribed water quality standards.
- Section 33: If an industry discharges untreated or harmful effluents into water bodies, the Pollution Control Board can issue a **restraint order** to stop the discharge until corrective measures are taken. This can include the temporary closure of the polluting industry.

CaseLaw:M.C.Mehtav.UnionofIndia(1988)The Supreme Court issued a restraint order against industries discharging untreated effluents intothe Ganga River. The Court emphasized the need for strict action against industries that violatewater pollution control standards, including the closure of non-compliant units.

v. Consent Requirement: Procedure, Grant/Refusal, Withdrawal

Industries must obtain **consent** from the Pollution Control Board before discharging effluents into water bodies. This ensures that effluent discharges are regulated and do not exceed prescribed limits.

- Section 25: This section requires industries to apply for consent from the respective Pollution Control Board before discharging any effluent into water bodies. The board will grant consent if the industry meets the prescribed water quality standards.
- Section 26: This section allows the Pollution Control Board to refuse or withdraw consent if the industry does not comply with pollution control standards or if the industry has failed to take corrective measures after being notified.

CaseLaw:TajMahalHotelCase(1996)In this case, the Supreme Court emphasized the need for industries to obtain consent beforedischarging effluents into water bodies. The Court ruled that industries must meet prescribedstandards and cannot operate without obtaining prior consent from the Pollution Control Boards.

vi. Citizen Suit Provision

Section 49A of the Water Act provides a **Citizen Suit Provision**, allowing any citizen to approach the court against water pollution and seek relief. This provision empowers the public to hold polluting industries and government authorities accountable for failing to protect water bodies.

• Section 49A: This section allows citizens to file a suit in the court for the enforcement of the provisions of the Water Act, especially if water bodies are being polluted by industrial discharges or other harmful activities. It is a key provision that ensures public participation in environmental protection.

CaseLaw:SubhashKumarv.StateofBihar(1991)The Supreme Court ruled that the right to clean and potable water is a fundamental right underArticle 21 of the Indian Constitution. In this case, the Court allowed citizens to file suits under theWater Act to protect water resources from pollution, emphasizing the right to life and health.

Noise Pollution Control Order, 2000

The Noise Pollution Control Order, 2000, outlines the permissible noise levels for different zones, including residential, commercial, industrial, and silence zones. These zones are classified based on the type of area and the time of day (daytime or nighttime). The permissible limits for noise are expressed in decibels (dB), and they vary by the nature of the area and the time period.

Here are the restricted area zone limits for noise as per the Noise Pollution (Regulation and Control) Rules, 2000:

1. Silence Zones:

- Daytime (6:00 AM 10:00 PM): 50 dB(A) - The permissible noise level in a silence zone is very low to maintain peace and tranquility. These areas include hospitals, educational institutions, and areas of worship.
- Nighttime (10:00 PM 6:00 AM):
 40 dB(A) The noise level is strictly controlled during the night to prevent disturbances and ensure a quiet environment for rest.

2. Residential Areas:

- Daytime (6:00 AM 10:00 PM):
 55 dB(A) Residential areas are allowed moderate noise levels during the day to accommodate daily activities.
- Nighttime(10:00PM-6:00AM):45 dB(A) Noise levels must be kept low during the night in residential zones to ensure a
peaceful environment.
- 3. Commercial Areas:
 - Daytime (6:00 AM 10:00 PM):
 65 dB(A) Commercial areas, including markets, offices, and other business centers, are permitted higher noise levels due to business activities.

Nighttime (10:00 PM - 6:00 AM):
 55 dB(A) - Although slightly reduced at night, commercial areas still allow some level of noise during nighttime hours for necessary operations.

4. Industrial Areas:

- Daytime (6:00 AM 10:00 PM): 75 dB(A) - Industrial zones are allowed the highest noise levels due to the nature of industrial operations and machinery.
- Nighttime (10:00 PM 6:00 AM): 70 dB(A) - Industrial areas can have slightly reduced noise levels at night compared to the daytime but are still allowed a higher limit due to industrial activities.

General Notes:

- Daytime is considered to be from 6:00 AM to 10:00 PM, and Nighttime is from 10:00 PM to 6:00 AM.
- The **silence zones** are highly restricted and require strict adherence to the prescribed noise levels.
- These limits are subject to enforcement by local authorities and the **Pollution Control Boards** at both the **Central** and **State** levels.

Land Pollution: Definition and Impact

Land pollution refers to the degradation of land due to the disposal of harmful substances such as industrial waste, agricultural chemicals, and untreated sewage. This pollution not only degrades the quality of soil and water but also threatens the health of humans and wildlife. Major causes of land pollution include improper waste disposal, deforestation, and the excessive use of chemicals in agriculture.

Regulatory Framework for Land Pollution

While **land pollution** is not specifically governed by a standalone law, it is regulated under various environmental protection statutes in India. The **Environment Protection Act, 1986**, provides a broad framework for environmental protection, including land pollution control, and empowers the government to take necessary measures to protect land resources.

Key Provisions Relevant to Land Pollution:

1. Environment Protection Act, 1986:

- Under Section 3 of the Act, the central government is authorized to take measures to protect and improve the environment. This includes controlling the pollution of land, water, and air.
- Section 5 empowers the government to take preventive measures, including setting standards for environmental quality and emissions.

2. Hazardous Waste Management Rules, 2016:

• These rules regulate the handling, storage, and disposal of hazardous waste, which is a significant contributor to land pollution. Industries producing hazardous waste are required to follow strict protocols for its disposal.

3. Solid Waste Management Rules, 2016:

• These rules address the management of municipal solid waste, ensuring proper segregation, storage, and disposal, thus preventing land pollution due to waste accumulation.

4. The Bio-Medical Waste Management Rules, 2016:

These rules govern the disposal of bio-medical waste, which can be a significant cause of land pollution if not properly managed.

Specific Land Pollution Prevention Measures:

- **Proper Waste Disposal:** Ensuring industries, municipalities, and individuals properly dispose of hazardous and non-hazardous waste through landfills or recycling.
- Hazardous Waste Management: Guidelines for industrial establishments on the safe disposal of hazardous waste materials to prevent soil contamination.

• Land Rehabilitation: The government and various agencies are also responsible for reclaiming contaminated lands through rehabilitation and restoration projects.

Case Law: Indian Council for Enviro-Legal Action v. Union of India (1996)

Facts of the Case:

• The case involved industrial pollution in various parts of India, particularly regarding the disposal of hazardous waste. The petitioner, Indian Council for Enviro-Legal Action (ICLEA), filed a petition against the hazardous disposal of industrial waste by certain industries, causing significant land pollution.

Supreme Court's Decision:

- The Supreme Court of India took strong action in the case and issued directions to industries to take remedial actions regarding the disposal of hazardous substances. The Court highlighted the duty of industries to manage hazardous waste in an environmentally sound manner.
- The Court also ordered industries to pay compensation for the damage caused by land pollution and mandated that hazardous waste be properly disposed of to prevent further degradation of land resources.
- Key Legal Principles Established:
 - **Strict Liability:** The Court held that industries causing environmental damage, including land pollution, are strictly liable for the harm caused, irrespective of fault.
 - Environmental Compensation: Industries were directed to pay for the restoration and rehabilitation of contaminated land.

Impact of the Case:

• This case is significant because it underscored the importance of holding industries accountable for land pollution and the harmful effects of improper waste disposal. It also reinforced the principle that the right to a healthy environment is a fundamental right under Article 21 of the Constitution of India.

Other Relevant Provisions and Regulations:

- The Waste (Management and Handling) Rules, 2000:
 - These rules focus on the safe disposal of solid and hazardous waste to prevent contamination of land resources. It ensures industries follow procedures for waste management, preventing dumping in landfills that could lead to land pollution.
- The National Environmental Tribunal Act, 1995:
 - Establishes tribunals for the adjudication of cases related to environmental damage, including land pollution. This Act provides a mechanism for addressing grievances related to land pollution and seeks to compensate victims.

Soil Erosion and Its Regulation in Indian Environmental Law

What is Soil Erosion?

Soil erosion refers to the removal of the topsoil by natural forces such as wind, water, and human activities like deforestation, poor agricultural practices, and urbanization. Topsoil is the most fertile layer of soil, essential for agriculture, water retention, and supporting biodiversity. When soil erosion occurs, it can lead to the degradation of land, reduced agricultural productivity, loss of biodiversity, and increased flooding due to reduced soil retention capacity.

Impact of Soil Erosion

The consequences of soil erosion are far-reaching:

- Agricultural Losses: Soil erosion reduces the fertility of the land, making it less suitable for cultivation and impacting crop yields.
- Water Pollution: Eroded soil can carry harmful chemicals and sediments into water bodies, leading to water pollution.
- **Flooding**: The loss of soil means less water retention, contributing to increased runoff and the risk of flooding.

• Loss of Biodiversity: Erosion leads to the destruction of habitats, affecting plant and animal life.

Soil Erosion in the Context of Indian Environmental Law

While **soil erosion** itself is not specifically addressed in a single standalone law, various environmental laws in India aim to mitigate its effects indirectly by focusing on land degradation, soil conservation, and sustainable land management practices. These laws work towards controlling the factors contributing to soil erosion, such as deforestation, unregulated agricultural practices, and improper land use.

Relevant Provisions and Acts Addressing Soil Erosion:

1. The Environment Protection Act, 1986

- Section 3 of the Act grants the government power to take measures to protect and improve environmental quality, including preventing land degradation caused by soil erosion. While the Act doesn't explicitly mention soil erosion, it provides a framework for preventing land degradation through the implementation of regulations related to deforestation, water conservation, and land reclamation.
- The **Section 5** provisions allow the government to set guidelines for soil conservation as part of broader environmental management practices.

2. Forest Conservation Act, 1980

Deforestation is one of the primary causes of soil erosion. The Forest
 Conservation Act aims to conserve forest lands and regulate deforestation, thus preventing soil erosion caused by the clearing of forested areas for agriculture or urbanization. The Act makes it mandatory for the government to seek approval before depleting forest areas, which directly impacts soil erosion control.

3. The National Watershed Development Project for Rainfed Areas (NWDPRA)

 This project under the Ministry of Rural Development focuses on reducing soil erosion in rainfed areas through watershed management. The project involves controlling water runoff, promoting sustainable land use practices, and enhancing water retention capacity, all of which prevent soil erosion. • The government supports soil conservation techniques, such as terracing, contour plowing, and afforestation, to address the root causes of soil erosion.

4. The National Green Tribunal (NGT) and Soil Erosion

- The **National Green Tribunal** (NGT) has played a significant role in cases involving land degradation and soil erosion. It can issue directives related to afforestation, soil conservation, and preventing activities contributing to erosion.
- In various cases, the NGT has directed the authorities to take remedial actions in areas facing severe erosion due to unsustainable land management and deforestation.

5. The Central and State Pollution Control Boards (CPCB and SPCB)

- Although the primary function of the Central Pollution Control Board (CPCB) and State Pollution Control Boards (SPCBs) is pollution control, these bodies also indirectly address soil erosion by regulating agricultural practices and promoting sustainable land management.
- These agencies enforce laws and standards related to agricultural runoff, use of fertilizers and pesticides, and waste disposal, all of which can influence soil conservation efforts.

6. Soil Conservation Act (Proposed)

India has discussed the implementation of specific **Soil Conservation Acts** that aim to control soil erosion. These laws would focus on the management of agricultural and forest lands to prevent soil erosion. Although such legislation is not yet enacted, proposals are in place to create frameworks to manage soil erosion on a national scale.

Case Law Related to Soil Erosion

Case: Rural Litigation and Entitlement Kendra v. State of Uttar Pradesh (1985)

• Facts: This case concerned the issue of deforestation in the Rajaji National Park area, which contributed to soil erosion and reduced agricultural productivity in nearby regions. The case addressed how unregulated deforestation can lead to serious environmental degradation, including soil erosion.

Supreme Court Decision: The Court issued directions for the protection of forests and the implementation of sustainable land management practices to prevent further soil erosion. The Court emphasized the role of afforestation in curbing soil erosion and protecting the land from degradation.

Case: Indian Council for Enviro-Legal Action v. Union of India (1996)

- Facts: While the case primarily focused on hazardous waste disposal, it also addressed land degradation and soil erosion resulting from improper waste disposal and industrial practices. The Court called for strict measures to control land pollution and the impacts on soil and water bodies.
- Supreme Court Decision: The Court directed industries to adopt cleaner and more sustainable practices, including controlling soil erosion caused by their activities.

Soil Erosion Control Measures in India

1. Afforestation and Reforestation:

 Planting trees on barren and deforested lands is a proven technique to control soil erosion. India's national afforestation programs and various state-level initiatives aim to restore forest cover and protect soil from erosion.

2. Watershed Management:

• Watershed management is a comprehensive approach to controlling water and soil erosion by managing water resources in a particular area. The focus is on controlling runoff, conserving water, and preventing soil erosion in catchment areas.

3. Contour Plowing:

- Plowing along the contours of the land instead of straight lines can reduce water runoff and soil erosion. It is a common practice in hilly areas, especially in regions affected by soil erosion.
- 4. Terracing:

 Creating terraces on steep land helps reduce water runoff and minimizes soil erosion. This technique is especially useful in agricultural regions prone to soil degradation.

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