

Lecture 15. The Environment Protection Act, The Air Act, The water Act, The Wildlife Protection Act and Forest Conservation Act

The Environment Protection Act, 1986

The Environment Protection Act, 1986 was constituted on 19 Nov, 1986, to provide protection and improvement of environment and for matters connected with environment. The spirit of the proclamation adopted by the United Nations Conference on Human Environment, held in Stockholm in June 1972, was implemented by the Government of India by creating this act.

There are four main chapters and different clauses under various chapters which lay down the standards, policies and act of environmental degradations and policies for improvement of environment and prevention of human beings from environmental hazards.

Chapter I - describes the definitions of various entities that are related to environment.



Chapter II - describes the role of central government to take measures for environment protection and its improvement along with the economic development. It includes the appointment of officers, power to give directions, rules to regulate environmental pollution, laying down procedures and standards for industrial waste, emissions, hazardous waste etc.

Chapter III - Deals with the prevention, control and abatement of environmental pollution. As per the guidelines, a person running an industry or operation cannot emit or discharge environmental pollutants in excess of the permissible limit. Central government or its officers may take samples of air, water, soil or other substance from any factory for the purpose of analysis and upon failure to satisfy the norms, shall liable to be proceeded against and punished accordingly. Penalty- Imprisonment of five years with a fine upto one lakh rupees or it extend to Rs 5000 every day.

Chapter IV - lists miscellaneous clauses which are not pertaining to environment but are guidelines for functioning and conduct of officers and government representatives and these guidelines must be laid before parliament for its validity.

The Air (Prevention And Control of pollution) Act,1981

As a control of the UN conference on Human environment held on June 1972, steps were taken to prevent all natural amenities and with this in view, this act has been enacted in 1981. It consists of 7 chapters and 54 sections.

Chapter-I : This chapter defines the following terms such as air pollutant, air pollution, approved fuel ,automobile, chimney emission, control equipment etc.,

Chapter-II : It deals with the information regarding CPCB and SPCB, their constitutions, terms and conditions of service of members, delegation of powers to various officials.

Chapter-III : This chapter emphasizes the function of central board and state board such as to collect , compile and publish the data regarding air pollution and to guide the concerned industry for the effective prevention and control of air pollution.

Chapter-IV : This deals with prevention and control of air pollution. The boards are authorized to declare the air pollution control areas, instruct regarding the emission standards from automobiles and restrict the activities of certain industries. According to this chapter the industrial people are not permitted to allow excess pollutants with respect to standards and in such cases the board has the power to enter, inspect and collect sample, find out the reports in the state laboratories. On the basis of the report appeal can be made and the persons may be punished.

Chapter-V : This chapter deals with the fund, accounts and auditing of the central and state boards.

Chapter-VI : If the industry or person fails to follow the standards, they will be punished. **Punishment:** Imprisonment for not less than one year and 6 months, it may extend to 6 years and with fine.

Chapter-VII : It deals with the power to amend the schedules, the necessity of state board to maintain a register containing relevant particulars and about the power of central and state government to make rules regarding the air pollution control.

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

The Water Act was enacted by Parliament Act, 1974 purpose to provide for the prevention of control of water pollution and the maintaining or restoring of wholesomeness of water. As on day, it is applicable in all the states of India. This act consists of 8 chapters and 64 sections

Chapter-I : This chapter explains the terms such as board, central ,stateboard, member, outlet sewer sewage effluent, trade effluent, stream and pollution.

Chapter-II : It elaborates about the constitution of central board , state board, committees, terms and conditions of service of members, meeting of the board. It also explains about delegation of powers to chairman, member secretary, officers and other employees of the board.

Chapter-III : It deals with the constitution, composition and the special provision of joint board. For eg. A Joint board for the river Cauvery includes officials from Karnataka, Tamilnadu and Pondicherry along with the Central board officials.

Chapter-IV : This chapter deals with the functions of central board, state board and their powers to give directions to concerned authorities.

Chapter-V : It explains the power of state government to collect samples of effluent, analyze in government laboratory and publish the results. On the basis of the result they may restrict the outlets and discharges into stream or well.

Chapter-VI : It deals with the maintenance of funds of central and state board, budgets, annual report submission, account and auditing.

Chapter-VII : This elaborates about the penalty in case of offences committed by companies.
Punishment: Imprisonment for not less than one year and six months but which may extend to 6 years with fine. In case of failure, an additional fine of Rs.5000/ will be imposed for every day. In such case the names of the offenders may be even published.

Chapter-VIII : It explains about the central and state water laboratories, analysts, reports of the analysts, protection, action in good faith and about the power of central and state government to formulate the rules. Important sections under this act are

Under Section 19 : The entire National Capital Territory of Delhi has been declared as water pollution prevention control area.

Under Section 21 : Officials of DPCC can take samples of the water effluent from any industry stream or well or sewage sample for the purpose of analysis.

Under Section 23 : Officials of the state boards can enter any premises for the purpose of examining any plant, record, register etc. or any of the functions of the Board entrusted to him.

Under Section 24 : No person shall discharge any poisonous, noxious or any polluting matter into any stream, or well or sewer or on land.

Under Section 25 : No person shall without the previous consent to establish shall

- a. Establish or take any step to establish any industry, operation or process or any treatment and disposal system for any extension or addition thereto, which is likely to discharge sewage or trade effluent into a stream or well or sewer or on land or
- b. Bring into use any new or altered outlet for the discharge of sewage or
- c. Begin to make any new discharge of sewage.

Under this section the state board may grant consent to the industry after satisfying itself on pollution control measures taken by the unit or refuse such consent for reasons to be recorded in writing.

Under Section 27 : A state board may from time to time review any condition imposed by it on the person under section 25 and 26 and may vary or revoke that condition.

Under Section 28 : Any person aggrieved by the order made by the State Board under Section 25, 26 or section 27 may within thirty days from the date on which the order is communicated to higher authority, prefer an appeal to such authority (referred to as the appellate authority) as the State Govt. may think fit to constitute .

Under Section 33 : The State Board can direct any person who is likely to cause or has cause the pollution of water in street or well to desist from taking such action as is likely to cause its pollution or to remove such matters as specified by the Board through court.

Under Section 33A : DPCC can issue any directions to any person, officer or authority, and such person, officer or authority shall be bound to comply with such directions. The directions include the power to direct:-The closure, prohibition of any industry, Stoppage or regulations of supply of electricity, water or any other services

Under Section 43 : Whoever contravenes the provisions of Section 24 shall be punishable with imprisonment for a term which shall not be less than one year and six months but which may extend to six years with fine.

Under Section 45 : If any who has been convicted of any offence under section 24, or Section 25 or Section 26 is again found guilty of an offence involving a contravention of the same provision shall be on the second and on every subsequent conviction be punishable with imprisonment for a term which shall not less than two years but which may extend to seven years with fine.

Under Section 45A : Whoever contravenes any of the provisions of this act or fails to comply with any order or direction given under this act for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment which may extend to three months or with fine which may extend to ten thousand rupees or with both.

The Wildlife (protection) Act, 1972

This act is framed for the protection of wild animals, birds and plants. This act comprises 7 chapters and 66 sections. This act extends whole of India except Jammu and Kashmir.

Chapter-I: It deals with the definitions of terms such as habitat, hunting, national park, reserved forest, sanctuary etc.

Chapter-II : It clearly explains the authorities to be appointed, formation of wildlife advisory board and its duties.

Chapter-III : It emphasizes the maintenance of record of wild animals killed or captured. Details regarding hunting of wild animals and regarding the license holder are elaborated.

Chapter-IV : It gives a notes on sanctuaries, national parks, game reserves ,permission to enter a sanctuary , prohibited areas, district collector's power in maintaining these areas and also includes the power of central government to declare such areas as national parks and sanctuaries.

Chapter-V : It tells about the trade of wild animals, animal products etc., This chapter clearly explains that any animal killed , captured or trapped is a government property and also elaborates regarding the regulation of transfer of animal.

Chapter-VI : This chapter explains about the penalties when found guilty under this act, 2 years imprisonment, Rs.2000/- fine ,either or both. And in a sanctuary or animal park, when an offence is committed, imprisonment for maximum 6 years, minimum 6 months and fine not less than Rs.500/- will be levied.

Chapter-VII : It deals with protection given to officers for action taken in good faith and explains the power provided to central and state government make to rules regarding the protection of wild life.

The Wildlife Protection Act , 1972

The Wildlife Protection Act of 1972 refers to a sweeping package of legislation enacted in 1972 by the Government of India. Before 1972, India only had five designated national parks. Among other reforms, the Act established schedules of protected plant and animal species; hunting or harvesting these species was largely outlawed.

The Act provides for the protection of wild animals, birds and plants; and for matters connected therewith or ancillary or incidental thereto. It extends to the whole of India, except the State of Jammu and Kashmir which has its own wildlife act. It has six schedules which give varying degrees of protection. Schedule I and part II of Schedule II provide absolute protection - offences under these are prescribed the highest penalties. Species listed in Schedule III and Schedule IV are also protected, but the penalties are much lower. Schedule V includes the animals which may be hunted. The plants in Schedule VI are prohibited from cultivation and planting. The hunting to the Enforcement authorities have the power to compound offences under this Schedule (i.e. they impose fines on the offenders). Up to April 2010 there have been 16 convictions under this act relating to the death of tigers.

Government of India enacted a comprehensive legislation Wildlife Protection Act of 1972 with the objective of effectively controlling poaching and illegal trade in wildlife and its derivatives. This has been amended (and signed) in January, 2003 and punishment and penalty for offences under the Act have been made more stringent.

Offences pertaining to hunting of endangered species and altering of boundaries of protected areas

For offences relating to wild animals (or their parts and products) included in schedule-I or part II of Schedule- II and those relating to hunting or altering the boundaries of a sanctuary or national park the punishment and penalty have been enhanced, the minimum imprisonment prescribed is three years

which may extend to seven years, with a minimum fine of Rs. 10,000/-. For a subsequent offence of this nature, the term of imprisonment shall not be less than three years but may extend to seven years with a minimum fine of Rs. 25,000. Also a new section (51 - A) has been inserted in the Act, making certain conditions applicable while granting bail: 'When any person accused of the commission of any offence relating to Schedule I or Part II of Schedule II or offences relating to hunting inside the boundaries of National Park or Wildlife Sanctuary or altering the boundaries of such parks and sanctuaries, is arrested under the provisions of the Act, then notwithstanding anything contained in the Code of Criminal Procedure, 1973, no such person who had been previously convicted of an offence under this Act shall be released on bail unless -

(a) The Public Prosecutor has been given an opportunity of opposing the release on bail; and

(b) Where the Public Prosecutor opposes the application, the Court is satisfied that there are reasonable grounds for believing that he is not guilty of such offences and that he is not likely to commit any offence while on bail".

In order to improve the intelligence gathering in wildlife crime, the existing provision for rewarding the informers has been increased from 20% of the fine and composition money respectively to 50% in each case. In addition to this, a reward up to Rs. 10,000/- is also proposed to be given to the informants and others who provide assistance in detection of crime and apprehension of the offender.

At present, persons having ownership certificate in respect of Schedule I and Part II animals, can sell or gift such articles. This has been amended with a view to curb illegal trade, and thus no person can now acquire Schedule I or Part II of Schedule II animals, articles or trophies except by way of inheritance (except live elephants).

Stringent measures have also been proposed to forfeit the properties of hardcore criminals who have already been convicted in the past for heinous wildlife crimes. These provisions are similar to the provisions of 'Narcotic Drugs and Psychotropic Substances Act, 1985'. Provisions have also been made empowering officials to evict encroachments from Protected Areas.

Forest (Conservation) Act,1980

Earlier the Indian Forest Act, 1927 was adopted to include reserved forests, village forests, protected forests and non-Govt. forests. This act regulated the duty levied on timber and other forest producers. But this act does not in to consideration about conservation protection of forests. In addition this act does not consider or include the tribal who were the most conservators and protectors of forest. Hence the forests (conservation) Act, 1980 was adopted. This act has different sections to deal with various concepts related to conservation of forests.

1. This Act has the main aim to protect all types of forests.
2. Thus indirectly help to maintain the ecosystem and biological diversity.

3. This Act, stresses that the state government would be empowered to declare a reserve forests as unreserved and any forest land cannot be used for non-forest purpose i.e., any purpose other than afforestation.
4. This act further checks the operations that must be carried out in forests such as mining which will cause ecological imbalance leading to environmental deterioration.
5. According to this act the central government has the authority to maintain an ecological balance in the forest extending from the tropical to temperate regions.
6. This act was enacted and strictly followed on the basis of the fact that forest is a valuable treasure. Forest is defined as an ecosystem in which trees are dominant form of vegetation, the plants, animals and the soil play an important role.
7. This act comprises of five important sections
 - The first section deals with the usage of the forestland for non-forest purpose as described earlier.
 - The next section explains the constitution of forest advisory committee.
 - The next section explains the penalties when the act is violated. It includes simple imprisonment up to a period of 15 days. In such case the authority responsible for that area will also be punished.
 - The next section explains the power of central government to make rules regarding the forest conservation.

Background

- Indiscriminate and massive diversion of forest land for non forestry purposes since independence.
- Approximately 4.3 million ha. of forest land diverted during 1950 to 1980 for non forestry purposes.
- In 1980, the Forest (Conservation) Act was enacted for providing a higher level of protection to the forests and to regulate diversion of forest lands for non forestry purposes.
- FC ACT, 1980 – Prior approval of the Central Government is essential for de-reservation of forest lands and / or diversion of forest lands for non-forestry purposes.
- It is a Regulatory Act, not prohibitory.
- The Act is an interface between conservation and development.
- Permits judicious and regulated use of forest land for non-forestry purposes.

By its order of 1996, the Apex Court has extended the provisions of the Act to all forests irrespective of ownership.

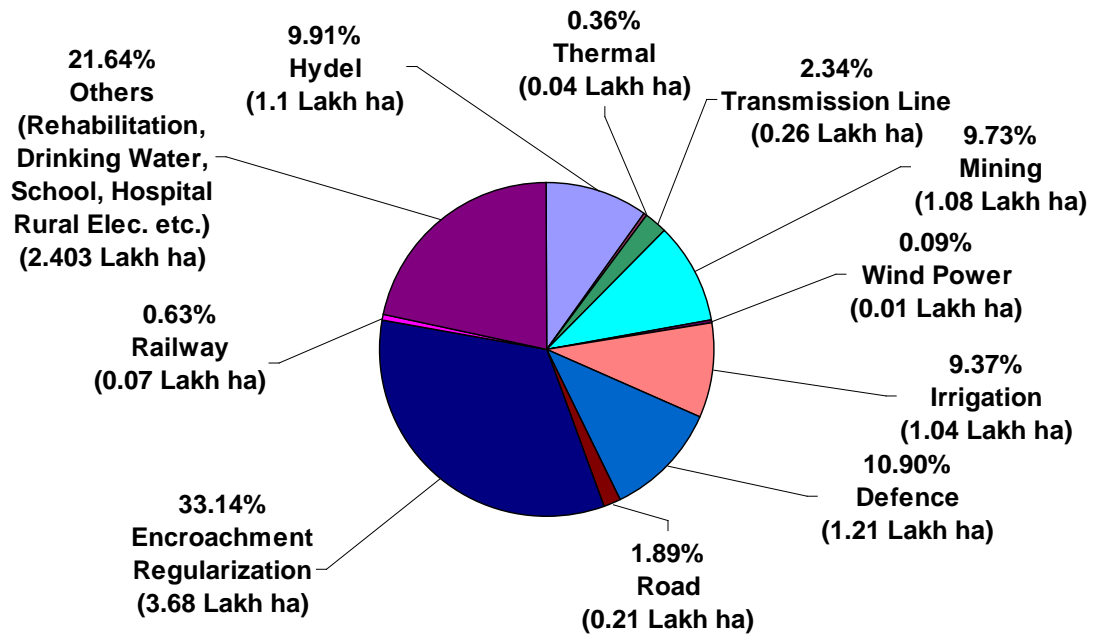
Procedure for Forest Clearance -

- Proposals recommended by the State / UT Govts. Forwarded to the Central Govt. for approval under Section 2 of the Act.
- Proposals examined by Forest Advisory Committee (FAC) constituted under Section 3 of the Act.
- Decisions taken on the basis of the recommendations of the FAC.
- FC Rules, 2003 prescribe specific time limits for processing the cases.

Impact of this Act

- During 1950-80, the rate of diversion of forest land for non-forestry purposes was – 1,50,000 hectares per annum
- After enactment of the FC Act, 1980, the rate of diversion of forest land for non-forestry purposes came down to about 35,000 ha per annum

Sector-Wise area diverted under FC Act, 1980 (in Percentage)



Policy Initiatives of Moef

- Simplified Format of Application
- Specific time limit for States and Central Govt. for expeditious processing of proposals (90/60 days for State Governments for fresh/renewal cases and 60 days for Central Government)
- Regional Offices to process cases up to 40 ha (increased from 20 ha)

- Site inspection by Regional Offices mandatory for proposals involving more than 100 ha of forest land (increased from 40 ha)
- General approval for underground laying of electrical cables and electric wires, drinking water supply/water pipelines, telephone lines, etc.
- General approval, up to 1 ha, for public utility projects, to be executed by Government Departments, like schools, dispensary/hospital, electric and telecommunication lines, drinking water, rainwater harvesting structure, minor irrigation canal, non-conventional sources of energy, skill up-gradation/vocational training centre, power sub stations, communication posts and police establishments like police stations/outposts/watch towers.

Forest Advisory Committee (FAC)

- FAC is a seven member Committee under the chairmanship of DGF & SS, MoEF.
- Three non official members – eminent experts in forestry and allied disciplines – appointed for a period of two years.
- ADGF, MoEF; Additional Commissioner (Soil Conservation), Ministry of Agriculture.
- IGF (FC) -- Member Secretary
- Meeting not less than once a month, generally at New Delhi
- Quorum is Three.

Certain conditions are stipulated at the time of granting approval under FC Act:

- Compensatory Afforestation,
- Catchment Area Treatment,
- Phased Reclamation of mining area
- Safety zone Area
- Rehabilitation of Project affected families, if any.
- Muck disposal plan
- Wildlife management plan etc.

Lecture 15. The Environment Protection Act, The Air Act, The water Act, The Wildlife Protection Act and Forest Conservation Act

1	UNICED is expanded as _____ (United Nations conference for environmental development)
2	Environment Act was passed in the year ----- -(1986)
3	World Environment Day falls on (June 5th)
4	The Air (Prevention & Control of Pollution) Act, was passed in the year ----- -(1981)
5	Section ----- of the Air Act says that no person shall, without the previous consent of the State Board, establish or operate any industrial plant in an Air Pollution Control Area (21/22)
6	The Water (Prevention and Control of Pollution) Act, was passed in the year ----- -(1974)
7	The Wildlife Protection Act was passed in the year ----- -(1972)
8	Approximately ----- of forest land diverted during 1950 to 1980 for non forestry purposes (4.3 million ha)
9	The information regarding CPCBOSPCB and their terms, powers are given in ---- of the air(prevention and control of pollution)act,1981. (chapter II)
10	The joint board of Cauvery river includes---
	a)officials from Karnataka
	b)officials from tamil nadu and Pondicherry
	c)central board official,
	d)all the above