

USING LAW TO COMBAT WATER POLLUTION

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01

**WHAT IS
WATER
POLLUTION?**

01 WHAT IS WATER POLLUTION?

When there is contamination of water or alteration of the properties of water or discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water, which is likely to create a nuisance or render the water harmful or injurious:



- **to the health and safety of the public;**
- **for domestic, commercial, agricultural, industrial and other legitimate uses;**
- **for the life and health of animals, plants and other aquatic animals, it is called WATER POLLUTION.**

What is often reported to be water pollution?



INDUSTRIAL

- Chemicals : Arson, Lead, Mercury, Nitrates & Sulphur
- Oils and Petrochemicals



DOMESTIC

- Sewage
- Waste



AGRICULTURAL

- Chemical Fertilisers
- Insecticides & Pesticides

What are the sources of water pollution?

POINT SOURCE POLLUTION

Single Identifiable Source

NON-POINT SOURCE POLLUTION

Pollution resulting from a diffusion of sources



02

**LAWS AND
INSTITUTIONS
AVAILABLE**

LAWS AND INSTITUTIONS AVAILABLE

Institutions responsible for the monitoring of water pollution

| | | |
|-----------------|--|---|
| LAW | <ul style="list-style-type: none">• Water Act 1974 | <ul style="list-style-type: none">• Environment Protection Act 1986 |
| CENTRAL | <ul style="list-style-type: none">• Central Pollution Control Board | <ul style="list-style-type: none">• Ministry of Environment Forest and Climate Change (MOEFCC), New Delhi |
| STATE | <ul style="list-style-type: none">• Karnataka Pollution Control Board, Bangalore | <ul style="list-style-type: none">• Ministry of Environment Forest and Climate Change (MOEFCC), Regional Office |
| REGIONAL | <ul style="list-style-type: none">• Regional PCBs | |

Kinds of permission needed

A. Consent to Establish (CTE):

Any industry, operation or process which is likely to discharge sewage or effluent into a body is required to take prior permission from the State Pollution Control Board (SPCB) as per the Water Act, 1974 before it sets up the discharge point or outlet.

B. Consent to Operate (CTO):

Prior permission from the SPCB before beginning actual production. CTOs are given for a specific period of time depending on the type of industry. an industry, operation or process, which is likely to discharge sewage or effluent into a water-body.

C. Environmental Clearance (EC)

For certain projects or activities (as listed in the Environment Impact Assessment Notification 2006), it is mandatory to obtain prior Environmental Clearance (EC). The EC usually contains a set of conditions that needs to be complied with. It could contain conditions on the water requirements.

Available legal provisions

Under the Water Act

As the Water Act , no person is allowed to knowingly cause or permit any poisonous, noxious or polluting matter determined in accordance with such standards as may be laid down by the State Board

- to enter (whether directly or indirectly) into any Stream or well or sewer or on land;
- impede the proper flow of the water of the stream in a manner leading or likely to lead to a substantial aggravation of pollution due to other causes or of its consequences.

Emergency measures

In case of any accident or other unforeseen act or event and the Sate Board considers it necessary to take immediate action, then it is allowed to take emergency measures as per section 32 of the Water Act. (Remedies mentioned in Section II)

Under Indian Penal Code, 1860

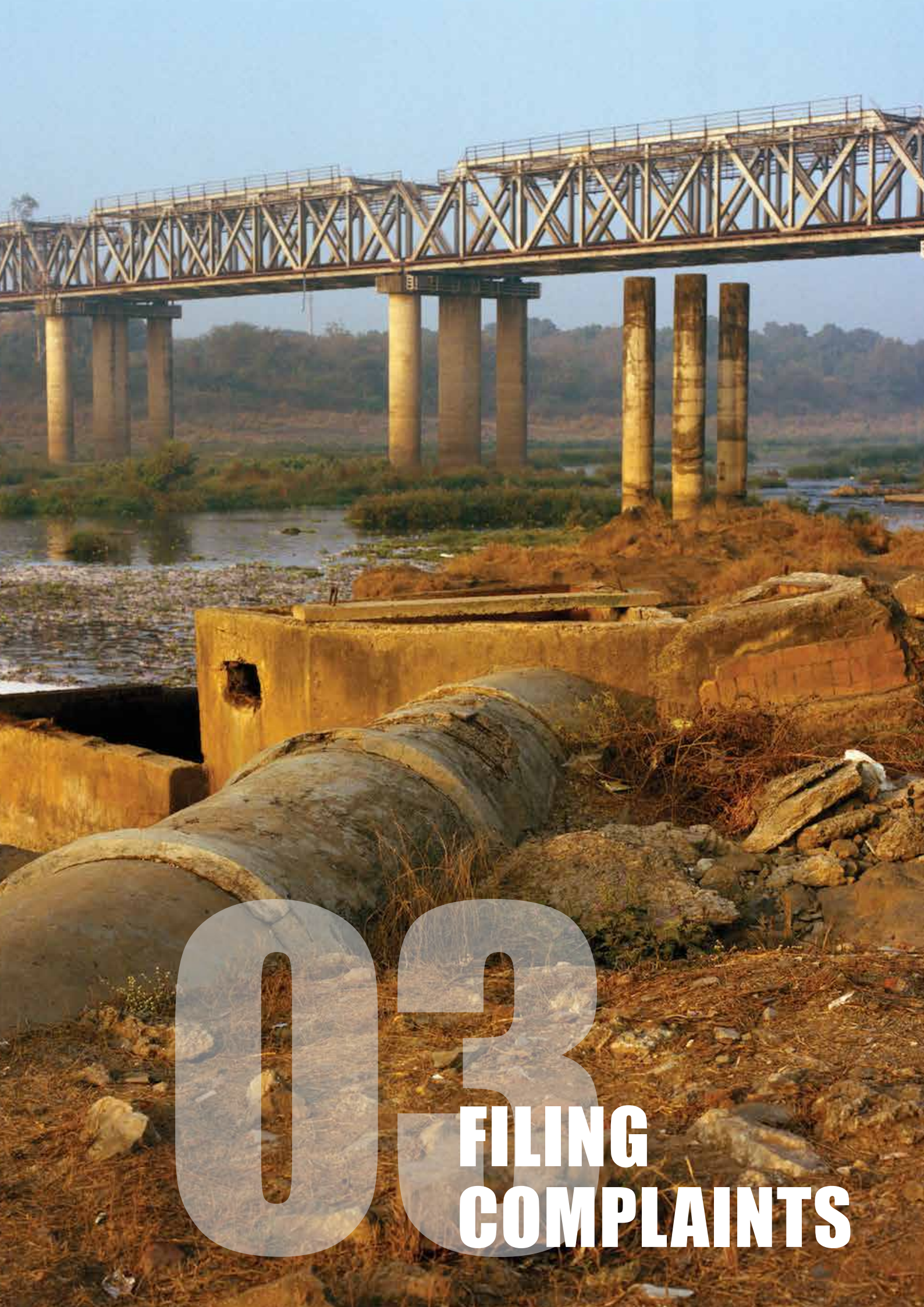
Section 268, which defines a public nuisance can be in instances where there is public nuisance due to water pollution. Public nuisance is when due to any act or omission there is any common injury, danger or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or people who may have occasion to use any public right. This section can be used alongwith Section 19, which defines a judge, to file a complaint with the District Collector.

Under the Factories Act, 1948

A factory is a premise wherein a manufacturing process takes place, involving either 10 workers with power or 20 workers without power.

Before commencing operations, the factory owner must submit a notice to the Chief Inspector (CI) stating the name, address, manufacturing process, number of workers etc. The CI conducts enquiries and thereafter grants a license.

For hazardous processes, a Site Appraisal Committee (SAC) is set up to grant license. The SAC has members from the SPCB and CPCB among others. The CI and people appointed by him have the power to enter and take samples at any reasonable time



03

**FILING
COMPLAINTS**

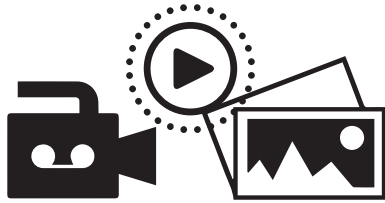
03 FILING COMPLAINTS

The earlier section explains the various laws one can use to combat water pollution. Simply knowing the law is however not enough. Unless the law is used in a proper manner, effective remedies shall be difficult to achieve. This section lists out the way in which the law should be used.



I. GATHERING EVIDENCE: A. DOCUMENTS

| TYPE OF DOCUMENT | AVAILABLE AT | USEFUL FOR |
|---|---|---|
| CTO CTE | SPCB | <ul style="list-style-type: none"> ● Identification of the point/outlet of discharge. ● Period of Consent. ● Nature and Composition of the kind of effluent that is released. |
| EC (based on size and nature of industry) | Category A: MoEFCC, New Delhi | <ul style="list-style-type: none"> ● There will be conditions with respect to water discharge, if the project/activity is likely to cause water pollution. ● Reading these and seeing whether they are being followed is what the EC conditions are useful for. |
| | Category B: State level Environmental Impact Assessment Authority (SEIAA) | |
| | Category B2 (minor minerals): District Level Environmental Impact Assessment Authority (DEIAA)T | |
| | Also available at the SPCBs | |
| Monitoring and Compliance Reports of EC | MoEFCC Regional Offices (one should specify this also in specific state level handouts). | <ul style="list-style-type: none"> ● It will be useful to find whether previously conditions with respect to water discharge where complied with. |
| Previous show cause, closure, direction notice issued | SPCB | |



B. PHOTOGRAPHS AND VIDEO CLIPS

Photographic evidence is always useful to portray what the on-ground situation is like. It is important to record the date and time of when the photo was taken or the video was made.



C. NEWSPAPER REPORTS

If the matter has been reported by a newspaper, it can be additional evidence to support a complaint. However, it must be ensured that the report in question is authentic and has been validated before using it as evidence.

II. FRAMING THE COMPLAINT:



WHEN CAN A COMPLAINT BE FILED?

A complaint can be made in the following cases:

- When no permission has been taken.
- When there is a violation of conditions specified
- In case of violation of provisions of the laws specified in the above section.



WHAT SHOULD THE COMPLAINT CONTAIN?

- The nature of the violation.
- The impact which the violation is having on people nearby.
- Supporting evidences.
- Stating the remedy sought.

WHO MUST THE COMPLAINT BE SENT TO?

| | |
|---|--------------------------------|
| Violations of CTO, CTE and the provisions of the Water Act | The regional office of an SPCB |
| | The head office of an SPCB |
| Violations of EC conditions | MoEFCC, Regional Office |
| | SEIAA |
| | DEIAA |
| Public Nuisance | District Collector/Magistrate |

WHAT ARE THE LEGAL OPTIONS FOR ADMINISTRATIVE REMEDIES?

| SITUATION | REMEDY AVAILABLE |
|---|---|
| Operation without any consent | A notice can be served by the SPCB in which certain conditions with respect to operation will be mentioned. |
| Non-compliance of conditions specified in the consent | <ul style="list-style-type: none"> ● Show-cause notice can be served by the SPCB. ● Issuance of a stop work order by the SPCB. |
| No response to the show cause/ breach of promise made in the show cause | <ul style="list-style-type: none"> ● Closure, prohibition or regulation of the polluting activity. ● Stoppage of supply of water, electricity or any other such service. |
| Failure to comply with directions issued under the Water Act | Punishable by way of imprisonment and/or penalties. |
| Non-compliance of specified in the EC | <ul style="list-style-type: none"> ● Punishable by way of imprisonment and/or penalties as per the EPA, 1986 which could mean either a prison term of up to 5 years, or a fine of Rs. 1 lakh or both. ● Revocation of EC for non-compliance. |
| Public Nuisance | An order will be passed by the District Collector. |
| Emergency (when it appears to the State Board any poisonous, noxious or polluting matter is present in any stream or well or on land by discharge of such matter or has entered into such stream or well due to any accident or other unforeseen act or event, and if the Board is of opinion that it is necessary or expedient to take immediate action) | <ul style="list-style-type: none"> ● The matter can be removed and disposed from the stream or well or on land ● The pollution caused by the presence of such matter can be remedied or mitigated ● Orders can be issued to restrain or prohibit the person concerned from discharging such matter |

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These advocates are fighting on the front lines to ensure that people can protect their land, access essential services, and take part in the decisions that govern their lives.

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