

CONTROL OF NOISE POLLUTION AND INDIAN LEGISLATION: A HARD NEED OF THE TIME

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ABSTRACT

Noise pollution is a rising problem in the world. In various countries especially health problem due to noise pollution has been increasing day by day in urban and industrial areas. Laws have to change according to the changing trends of the society from time to time and a strong foundation for environmental jurisprudence in India helped in the protection and preservation of its environment as well as its people. The paper deals with laws and policy in the path of development of the environmental jurisprudence.

INTRODUCTION

We, in India, have a traditional liking about noise and all our happy and sad moments of life are expressed through noise. Most of the people in India do not consider noise as pollution as part of routine and modern life. *The noise pollution is not a unique problem for developing countries like India only. In China, till third century B.C., instead of hanging men for dangerous crimes, noise was used for their torturing*¹. Now the day's man is facing a growing problem with noise pollution which affects warmly on the health of a person, his activities and mental

abilities. Noise is not simply a local problem, it remains a global dilemma that disturbs everyone and calls for precautionary actions in any environmental planning situation.

MEANING AND DEFINITION

The word "noise" descends from the Latin word "nausea," meaning seasickness, or, more generally, any similar sensation of disgust, irritation or distress. Noise means wrong sound in the wrong place at the wrong timeⁱⁱ and any unwanted sound, it is a potential hazard to health and communication

dumped into the environment with regard to the adverse effect it may have on unwilling earsⁱⁱⁱ. Noise pollution is considered as one of the major factors affecting the quality of life in urban areas^{iv}. Sound becomes undesirable^v when it disturbs our normal activities such as working, sleeping, and during conversations^{vi}. A number of adverse health effects, both direct and indirect, have been related to exposure to persistent or high levels of noise^{vii}. Wild life are feeling stressed by noise pollution^{viii}. At times, music for some can be noise for others^{ix}.

Noise is a type of atmospheric pollution and it is one of the undesirable consequences of technological civilization^x. It is an unwanted sound without agreeable musical quality^{xi}. Noise as a potentially harmful pollutant is also being recognized as a great nuisance these days^{xii}. Noise pollution is thus another environmental pollutant to be formally recognized as a genuine threat to human health and the quality of life^{xiii} that is sometimes called disturbing the peace^{xiv}.

"Noise is not a measure of the progress of technology but a sign of regression"^{xv}. According to business dictionary "A form and level of environmental sound that is generally considered likely to annoy, distract or even harm other people."^{xvi} The encyclopedia Britannica defines noise as "In acoustics noise is defined as any undesired sound." According to this definition, "a sound of church bells may be music to some and noise to others. Usually noise is a mixture of many tones combined in a non-musical manner."^{xvii}

According to an American jurisprudence analyst "noise as an unwanted sound that produces unwanted effects, Sound without value and sources are aircraft and airports, vehicular traffic, railways, industrial activities^{xviii}. *This noise problem is mainly due to growing busy traffic.*^{ix} *Heavy traffic volumes, higher speeds, and greater number of trucks and buses in general and motor bikes in particular, improper stoppage of buses at locations rather than desired bus stoppage, improper parking of four wheelers along the road create enormous noise*^{xx}.

Sound converted into pollution when the intensity and frequency of the sound is likely to

affect adversely the quality of environment^{xxi}. World Health Organization stated that "Noise must be recognized as a major threat to human well-being"^{xxii}. Therefore, noise is included as an air pollutant.^{xxiii}

Environment (Protection) Act, 1986 recognizes noise as an "environmental pollution"^{xxiv}.

According to Environmental Health Criteria-126 'noise is considered as any unwanted sound that may adversely affect the health and well-being of individuals or the populations'.^{xxv}

So we can consider that Noise pollution is the sound in the environment that are caused by persons and that threaten to the health or welfare of human or animal population or Environment.

SOURCES

Sources of noise classified into indoor and outdoor.

Indoor - In residential areas, Sources of noise may such as lawn movers, vacuum cleaners heat pumps, ventilation, radio, television, generators, electric fans, coolers, air-conditioners, home appliances, and family fight. Noise like other pollutants is a by-product of population, transportation, industrialization, urbanization and modern civilization^{xxvi}.

Outdoor -Outdoor sources of noise includemidnight mass-azan from mosques^{xxvii}, traffic, flying aircraft, drilling, industries, construction, D.G. sets, laying loud music during festivals like Deepavali, Ganesha Chaturthi, *kavad yatra*^{xxviii}, and other occasions^{xxix}. It is caused by machines, transportation systems, poor urban planning etc. Urban noise is another issue waiting to be solved through proactive measures^{xxx}.

CAUSES AND EFFECT

Problems related to noise and health^{xxxi} include hearing loss, stress, permanent loss of memory^{xxxii}, hypertension, sleep disturbance, cardiovascular diseases changes in social

behaviour^{xxxiii} and hinder cognitive development in children^{xxxiv}, physiological disorder^{xxxv} dizziness, insomnia^{xxxvi} distraction and lost productivity, and a general reduction in the quality of life.^{xxxvii} Unnecessary noise interferes with people's daily activities at school, at work, at home, and during leisure time.^{xxxviii}

LEGISLATIVE ATTEMPTS TO CONTROL THE NOISE

Our government participated in The world environmental conference held at Stockholm, 1972. After this participation government has declared that it is our responsibility to control pollution and protect Environment. India became one of the few countries of the world which enshrined in its Constitution, a commitment to environmental protection and improvement.

First time two provisions, namely Article 48A and Article 51(A) (g), having a direct bearing on environment, were added to the Constitution in 1976.^{xxxix} Article 48A states: "The state shall endeavour to protect and improve the environment and to safeguard the forest and wild life of the country." These provisions reflect the growing concern of the government over environment. But clearly, these provisions do not expressly mention the term 'industrial disasters' or "Noise".

Article 48(A) instructs the state to protect and improve the environment and to ensure safeguard the forest and wild life of the country. Article 47 is imposing a duty of the state to improve public health. Article 51 of the DPSP mandates that the state shall endeavour to substitute for international law and treaty obligations.

A numbers of legislations in India has been enacted for conservation and protection of environment but only a few of them talking about preventing noise pollution. Section 268 & 290 of I.P.C. ,Section 133 of Cr. P.C. indirectly deals with noise. Air (Prevention and Control of Pollution) Act, 1981, Air (Prevention and Control of Pollution) Rules, 1983, Environment Protection Act 1986,

Environment (Protection) Rules, 1986 includes noise as air pollution. The Noise standards for fire-crackers were notified by the Environment (Protection) (Second Amendment) Rules, 1999^{xl} The Motor Vehicles Act, 1988, The Central Motor Vehicles Rules, 1989 etc. are provides some restrictions on noise.

Noise Pollution (Regulation and Control) Rules, 2000 framed by the Central Government under the provisions of the Environment (Protection) Act, 1986. Rule 5 of Environment (Protection) Rules, 1986^{xli}. Rule 3 of the Noise Pollution (Regulation and Control) Rules, 2000 provides for ambient air quality standards in respect of noise for different areas/zones as specified.

GOVERNMENTAL POLICY TO CONTROL THE NOISE^{xlii}

Governmental Policy implies the commitment to fulfill or achieve the divine objectives.

(1) Ambient noise standards were notified in 1989, which formed the basis for State Pollution Control Boards to initiate action against violating sources.

(2)The vehicular noise standards to reduce traffic noise, notified in 1990, have been made more stringent vide a notification in September 2000 and was effective from January, 2003.

(3) Noise standards for diesel generator-set were prescribed in Dec. 1998. Govt. has been pursuing with State Pollution Control Boards, generator manufacturing and major users, for implementation of these standards. Presently these standards are being revised it mandatory for all generator manufacturers to provide acoustic enclosure at the manufacturing stage itself.

(4) Noise standards for fire-crackers were developed in October, 1999. Central Pollution Control Board had carried out a compliance testing of the fire crackers available in the market and also taken up with the Department of Explosives for compliance with these standards.

(5) Noise standards for petrol and kerosene generator sets were notified in September, 2000, and will be effective from September, 2002. The sale of these generator sets will be prohibited if not certified by the testing agencies.

(6) The Noise Rules, 2000, regulates noise due to loudspeakers and also prescribed procedures for noise complaint handling.

(7) Central Pollution Control Board has taken up a study on aircraft noise monitoring in Indira Gandhi International Airport, Delhi.

JUDICIAL APPROACH ON NOISE POLLUTION

Recently, Courts in India have accepted a healthy environment as part of the Fundamental Right to life. "Everyone has a right to a standard of living adequate for the health and well-being of himself and his family."^{xliii} Under several multilateral and bilateral treaties, India has accepted obligations to control industrial disasters expressly or by implication.^{xliv} The higher judiciary has been constant focus in planning and monitoring of measures for pollution control.

In *T. Damodar Rao vs. The Special Officer, Municipal Corporation of Hyderabad*,^{xlv} the Andhra Pradesh High Court clearly stated that the right to environment is part of the right to life guaranteed by Art. 21 of the Constitution of India. The citizens have right to sleep peacefully^{xlvi}, and also a right to a decent environment^{xlvii} as highlighted by the Supreme Court in various decisions which are all well known in the field of pollution.^{xlviii}

In *Madhavi vs. TilaKan*^{xlix} the Kerala High Court recognised the right to live in peace, to sleep in peace and in quality superior to mere animal existence. Supreme Court in its Judgment held that freedom from noise pollution is a part of the right to life under Article 21 of the Constitution. This Court has also held that as between 10 p.m. and 6 a.m. which is the time for the people to sleep and have peace, no noise pollution can be permitted.¹

The 186th Reports of the Law Commission of India also find that if an industry is closed on grounds of pollution, "it may lead to unemployment of hundreds of employees. If the polluting industry is not shifted, there could be serious danger to the health and well-being of citizens in the locality."^{li}

The Indian judiciary is having a clear vision on environmental protection. However the problem of law making and amending is really difficult in this area. As there are certain things like industrialization, urbanization, cultural and moral values of humanity that hamper legal norms which are really hard to be interpreted out.

CONCLUSION/ SUGGESTIONS

After the analysis of above laws and cases, we find that *the movement against noise pollution is weak in India. Most of the people do not consider it a pollutant, and take it as a part of routine life*^{lii}. The laws available are insufficient to control Noise Pollution. The judiciary attempts to seal in the gaps where there is laciness of the legislation. Despite of these legislations, rules and regulations, protection and preservation of the environment is still a pressing issue of noise pollution. After this there is a hard need for an effective and efficient enforcement of the constitutional order and the otherscatterednoise legislations. There is a need for creating general awareness towards the hazardous effects of noise pollution.^{liii}

The Pollution Control Board has adverted to the relevant provisions concerning the prohibition of noise pollution and mechanism for dealing with the complaints. District Magistrate, Police Commissioner or any other Officer designated for that purpose to ensure proper maintenance of ambient quality in respect of the noise levels under the concerned Rules^{liv}.

Central government has proposed Motor Vehicle (Amendment) Bill 2016^{lv}. according to Sec. 190 (2) Any person who drives or causes to be driven, in any public place a motor vehicle, which violates the standards prescribed in relation to road

safety, control of noise and air- pollution, shall be punishable fine and insufficient imprisonment. Like

air and water pollution measurements, noise measurements must include in the laws.

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- ⁱ Narendra Singh and S. C. Davar, Article;" Noise Pollution- Sources, Effects and Control", J. Hum. Ecol., © Kamla-Raj 2004 16(3): 181-187 (2004)
- ⁱⁱ Quoted in -B.K. Sharma "Soil and Noise Pollution",Goel Publishing House, Meerut,2001
- ⁱⁱⁱ A. K. Dasarathy, T.S Thandavamoorthy., Article: "Pollution Due To Noise from Selected Places",IOSR Journal of Mechanical and Civil Engineering;Volume 10, Issue 3 (Nov. - Dec. 2013)
- ^{iv} B.C. Pradhan Et. al., "Study of noise pollution in Angul Town, Odisha, India"IJREASVolume 6, Issue 6 (June, 2016)
- ^v David Hughes, "Environmental Law", Butterworth, London (1986) p.311
- ^{vi} Husain M., Patil S.L. "Noise Pollution in SSBT'S College Campus" SSRG International Journal of Civil Engineering (SSRG-IJCE) – volume 2 Issue 3 (2015)
- ^{vii} EEA Report No. 10/2014, "Noise in Europe:Luxembourg" Publications Office of the European Union, (2014)
- ^{viii} Peng C, Zhao X and Liu G,"Noise in the Sea and Its Impacts on Marine Organisms":International Journal of Environmental Research and Public Health Published online (2015)
- ^{ix} Parivesh-"Newsletter on Noise Pollution", Central Pollution Control Board (CPCB), Vol. 3 (iv) (1996) available at http://www.cpcb.nic.in/newsletter_archive.php?pno=1
- ^xChandra Pal, "Environmental Pollution and Development": Environmental Law, Policy and Role of Judiciary, Mittal Publications, New Delhi (1999)
- ^{xi}Pramod Singh, "Environmental Pollution and Management", Chugh Publications, Allahabad (1985), p.111.
- ^{xii}G.A. Spater, , "Noise and the Law", 63 Mich. Law Rev.(1965) p.1373
- ^{xiii} Lawrence K. Wang, et.al. "Advanced Air and Noise Pollution Control", Volume 2 Handbook of Environmental Engineering: Humana Press Inc. New Jersey (2005)
- ^{xiv} Quoted in :In Re: Noise Pollution - Implementation of the Laws for restricting use of loudspeakers and high volume producing sound systems: MANU/SC/0415/2005
- ^{xv} Professor Gunther Lehman, President of International Association against Noise has observed, Quoted in P R Yadav: "Human Ecology", Discovery Publishing House, New Delhi 2004, p. 20
- ^{xvi}<http://www.businessdictionary.com/definition/noise-pollution.html> Last visited on 22-08-1006
- ^{xvii} The Encyclopaedia Britannica (Vol.16, 1968, p.558)
- ^{xviii}AnuraagShukla,article: "Laws related to sound pollution in India": IPleaders Intelligent Legal Solutions,(2015)
- ^{xix} B.C. Pradhan Et. al., "Study of noise pollution in Angul Town, Odisha, India" IJREAS Volume 6, Issue 6 (June, 2016)
- ^{xx} B.C. Pradhan Et. al., "Study of noise pollution in Angul Town, Odisha, India" IJREAS Volume 6, Issue 6 (June, 2016)

- ^{xxi} William H. Rodgers, Handbook on Environmental Law, St. Paul: West Pub. Co. (1977), p.55
- ^{xxii} Quoted in Vishal Shah, "Emerging Environmental Technologies", Springer Dordrecht Heidelberg Newark, 2010
- ^{xxiii} Section 2(a) of the Air (Prevention and Control of Pollution) Act, 1981
- ^{xxiv} Section 6(2)(b), Environment (protection) Act, 1986
- ^{xxv} Noise, published by UNEP & WHO, Geneva 20 (1980)
- ^{xxvi} MODULE - 4 Chapter 10 "Contemporary Environmental Issues", available on <http://download.nos.org/333courseE/10.pdf>
- ^{xxvii} Moulana Mufli Syed Mohammed Noorur Rehman Barkati vs. State of West Bengal, A.I.R.1999 Cal.15
- ^{xxviii} Amar ujala E-paper, 02-06-2017, shahjahanpur Edition, p. 10
- ^{xxix} 'State of Environment Report Bangalore' Environmental Management & Policy Research Institute, Bangalore (2008)
- ^{xxx} 'State of Environment Report Bangalore' Environmental Management & Policy Research Institute, Bangalore (2008)
- ^{xxxi} Bappa Sutradhar, "Pollution- Noise Pollution And Its Impact On Suffering India", The Journal Of Bengal Geographer (2012)
- ^{xxxii} Vartika Singh and Pramendra Dev, "Environmental impacts of noise pollution", A case study of Saharanpur City, Western Uttar Pradesh, India., Int. J. Earth. Sci. Engin., 03 (6), 869-874, (2010)
- ^{xxxiii} Vartika Singh and Pramendra Dev, Environmental impacts of noise pollution: A case study of Saharanpur City, Western Uttar Pradesh, India. Int. J. Earth. Sci. Engin., 03 (6), 869-874, (2010)
- ^{xxxiv} A. K. Dasarathy and T.S. Thandavamoorthy, FIE Pollution due to noise from selected places, IOSR J. Mechan. Civil Engineer. 10 (3), 12-16, (2013).
- ^{xxxv} P. A. Savale, Review Paper "Effect Of Noise Pollution On Human Being: Its Prevention And Control", Journal of Environmental Research And Development, Vol. 8 No. 4, April-June 2014
- ^{xxxvi} Arshdeep Singh and Jaypreet Singh Kohli, "Effect of pollution on common man in India", A legal perspective, Advances in Life Science and Technology, 4 (1), 35-41, (2012)
- ^{xxxvii} About Noise, Noise Pollution, and the Clearinghouse, NCP
<http://www.nonoise.org/aboutno.html> last visited on 23-07-2015
- ^{xxxviii} Limalemla Jamir Et. al., Article, "Community Noise Pollution in Urban India": Need for Public Health Action, Indian Journal for Community Medicine. (2014) Jan-Mar; 39(1)
- ^{xxxix} Lok Sabha Debates, series 5, vol LXV, session 18, number 5 of October 29, 1976, col. 94-116; India, Rajya Sabha Debates, official report, vol XCVIII No 5, Nov. 9, 1996 col. 158-171

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- ^{xi} Central Pollution Control Board:2007 - 08 available on http://cpcb.nic.in/Fire_Crackers.php
- ^{xli} Air (Prevention and Control of Pollution) Act 1981 Amendment Act, 1987
- ^{xlii} <http://cpcb.nic.in/faq1.php> last visited 14-05-2017
- ^{xliii} Article 25 ,Universal Declaration of Human Rights, (1948)
- ^{xliv} International treaties and agreements entered into by India shall not have the force of a municipal law without appropriate legislation (Varghese Vs. Bank of Cochin, AIR 1980 SC 470). If there are no contrary legislations, Indian courts will respect international law (Gramophone Company Vs Birendra AIR 1984 SC 667). If there are express contrary legislations, Indian courts will prefer Indian law (Ali Akbar Vs UAR, AIR 1966 SC 230). It does not mean that Indian courts will out rightly reject norms of international law, rather courts will try to interpret municipal law in such a way that possibly any established principle of international law are not violated. An international treaty may even be implemented by exercise of executive power under Art. 53 of the Constitution of India (In re Berubari Union, AIR 1960 SC 845).
- ^{xlv} AIR 1987 A.P. 171.
- ^{xlvi} AIR1998Cal121, AIR1999Cal115, (1999)3CALLT76(HC), 2001(4)ALD698
- ^{xlvii} AIR2008Ker48, AIR2016HP42, MANU/DE/0353/2010, JT2003(5)SC1, MANU/GT/0007/2015
- ^{xlviii} MANU/GT/0009/2014, MANU/HP/0453/2016, AIR2015MP117, AIR2016HP42
- ^{xlix} 1988 (2) K.L.T. 730.
- ^l Forum, Prevention of Environment and Sound Pollutionvs. Union of India (UOI) and others. AIR2006SC348
- ^{li} Government of India, "Proposal to Constitute Environment Court", Reports of the Law Commission of India, (New Delhi; Universal Law Publishing Co., 2007), p.186.13
- ^{liiii} Narendra Singh et.al, " Noise Pollution- Sources, Effects and Control", J. Hum. Ecol., © Kamla-Raj 2004 16(3): 181-187 (2004)
- ^{liii} Dileep B. Nevatia vs Union Of India Ors MANU/GT/0114/2014
- ^{liv} Rajendra Kumar Verma vs The State Of M.P. And Ors, AIR2015MP117
- ^{lv} Bill No. 214 of 2016