



ORIGINAL RESEARCH PAPER

Law

LEGISLATIVE CONTROL MEASUREMENT AND JUDICIAL RESPONSE OF NOISE POLLUTION IN INDIA

KEY WORDS:

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| Maya Devi | Research scholar of Shoolini University |
| Sandeep Kumar* | Research scholar of Himachal Pradesh University Shimla*Corresponding Author |
| Manish Bhatia | Research scholar of Shoolini University |

1. INTRODUCTION:

Pollution of the environment is a major issue all over the world. Excessive presence of solid, gaseous, liquid, and noise in the atmosphere in concentrations that can be harmful to living and non-living things is referred to as environmental pollution. Noise is often considered a pollutant, and it has major negative consequences for humans, livestock, birds, plants, and non-living things. Noise pollution is becoming more and more of a problem, especially in urban and industrial areas. Highways, airports, factories, and urban areas where development is taking place are all considered high-noise zones. Noise was a kind of execution in China for those who disobeyed the gods. Until they died, guilty people were exposed to the sounds of flutes, drums, and cries of people 24 hours a day, 7 days a week. Noise is a form of wave-like emission that occurs in the atmosphere. It's a nebulous public foe. In the new era of industrialisation and technological development, it has increased.

1.1 Meaning of Noise

The law Lexicon describes noise as a noisy, jumbled, or meaningless sound. Noise is any sound that is unpleasant to the person who hears it. We are constantly surrounded by noise, whether inside the house or outside. Noise can be characterised scientifically as a sound with no discernible musical quality, as well as an unwanted or undesired sound. Also pure musical tones can be interpreted as noise, particularly when they are noisy or very high in pitch. A collection of noisy, harsh, non-harmonic sounds or vibrations that are disruptive and distracting to the ear is referred to as noise.

1.2 Noise Pollution

Noise pollutes the air as sound passes in vast quantities into it. Various human actions generate a large amount of noise. When unwanted sound is emitted into the environment, it is referred to as "noise pollution" in ecological terms. Pollution is described as the production of excessive sound in the atmosphere that degrades the quality of life.

1.3 Definition of Noise:

1.3.1 According to Encyclopaedia Britannica- Noise 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."

1.3.2 According to Environment Health Criteria-12, "noise is a considered as any unwanted sound that may adversely affect and well-being of individuals or the population."

1.3.3 In Bijayanand Patra v. Distt. Magistrate, Cuttack AIR 2000 Ori 70,72, per A.P. Pasayat J, acting CJ.

It was observed that "Noise pollution simply connotes unwanted sound in the atmosphere. It is unwanted because it lacks the agreeable amicable quality. Noise is, therefore, sound but it is pollution when the effects of sound become undesirable."

2. CONTROLLING LEGISLATION INDIA HAS A LOT OF NOISE POLLUTION:

Most of India's major cities have high levels of noise pollution, usually about 70 decibels, such as Delhi (89 decibels), Kolkata (87 decibels), Mumbai (85 decibels), Chennai (89 decibels), Cochin (80 decibels), Nagpur (75 decibels), and so on. The majority of Indian cities are affected by noise pollution as a result of an increase in the number of vehicles and other noise contaminants as a result of unregulated urban population growth. The most significant sources of noise pollution in Indian cities are loudspeakers and road noise.

There is no detailed legislation in India that deals solely with the issue of noise pollution. However, various laws contain provisions to reduce and control noise pollution. The noise pollution falls under the category of 'Public Nuisance.' A individual who has been harmed by pollution may file a lawsuit against the polluter.

2.1 India's Constitution

The Indian Constitution does not contain any provisions directly related to noise pollution control. Article 21 of India's Constitution, on the other hand, guarantees the security of life and personal liberty. It states that no one's life or personal liberty can be taken away from them unless they follow a legal procedure. Article 21 has been extended by the Indian judiciary, and the right to a fair and healthy environment is now considered part of the right to life secured by Article 21. The right to a healthy atmosphere clearly requires the right to a quiet night.

Article 39(e) of the Indian Constitution, which is a directive principle of state policy, directs the state to ensure that the health and strength of workers, men and women, and young children are not abused, and that citizens are not forced to engage in occupations that are unsuitable for their age or strength due to economic necessity. Every citizen of India is obligated under Article 48-A of the Constitution to protect and improve the natural environment, including forests, lakes, rivers, and wildlife, as well as compassion for all living things. As a result People have a responsibility to improve the atmosphere and reduce noise pollution.

2.2 1860 Indian Penal Code

Sections 269 to 294 of the Indian Penal Code, 1860, deal with a variety of nuisances. Noise nuisance is covered by Section 290 of the IPC. "According to Section 290, "Anyone who causes a public nuisance in any way not otherwise prohibited by this code is subject to a fine of up to two hundred rupees. A complaint can be made to any Magistrate whose jurisdiction includes the town, and criminal proceedings can be initiated against the individual who is causing the public nuisance."

2.3 Provisions of the 1973 Criminal Procedure Code

According to Section 133 of the CrPC, whenever a District Magistrate, a Sub-division Magistrate, or any other Executive Magistrate specially empowered in this behalf by the State Government considers that any unlawful nuisance should be removed, he may order its removal after receiving a police

report or other information and taking such evidence (if any) as he thinks fit. If he believes that any unlawful nuisance should be removed, he will issue an order to do so, including noise pollution-related nuisances.

2.4 1908 Civil Procedure Code

Noise pollution may be treated as a public nuisance or a wrongful act affecting the public under Section 91 of the Civil Procedure Code of 1908. (1) A suit for a declaration and injunction, or any other remedy as may be necessary in the circumstances of the case, may be brought in the case of a public nuisance or other unjust act involving, or likely to affect, the public. (a) by the Advocate-General, or (b) with the court's permission, by two or more people, even though no real harm has been caused to them as a result of the public nuisance or other wrongful act.

(2) Nothing in this section shall be construed as limiting or affecting any right of action that may exist apart from its provisions.

2.5 1939 Motor Vehicles Act

Sections 20, 21J, 41, 68(1), 70, 90, and III-A of the Motor Vehicle Act of 1939 allow a State Government to establish rules for the maintenance of motor vehicles and the regulation of noise made by them in its jurisdictions. Examining the Motor Vehicles Rules enacted by different states reveals that there is little substantive in place to regulate noise emissions other than minor restrictions on horns and silencers that produce noise.

The horn is defined in Rule 5.5 of the Motor Vehicles Rules, 1940, in order to reduce noise pollution. Rule 5.6 specifies the type of silencer to be used to avoid noise emission. Every vehicle must be designed and maintained in such a way that it does not produce unnecessary noise while in motion, according to Rule 5.9.

2.6 1890 Railway Act

It is proposed that by replacing steam engines with electric or diesel engines, noise emissions caused by railway engines can be minimized. If shunting operations are carried out far away from residential areas, a significant amount of noise can be minimized.

2.7 Tort law it is a branch of law that deals with disputes between people. Noise pollution is not actionable ipso facto under tort law, but it is actionable if it causes nuisance, in which case action for the tort of nuisance can be brought. "Unlawful interference with a person's use or enjoyment of property, or any right over, or in connection with it," according to the definition of nuisance as a tort. Noise that causes personal irritation, annoyance, or discomfort falls under the category of private nuisance, for which a civil suit in the form of damages or reimbursement may be brought in the court. The court will offer adequate defence to a noise pollution victim if the laws are liberally interpreted in favour of the complainant in light of changing circumstances and social considerations.

2.8 The Noise Pollution (Regulation and Control) Rules of 2000 are a set of rules that regulate and control noise pollution.

The Noise Pollution (Regulation and Control) Rules, 2000 were enacted by the Central Government in exercise of the powers conferred by Section 3 (2)(ii); Section 6(2)(i)(b); and Section 25 of the Environment Protection Act, 1986, read with rule 5 of the Environment Protection Rules, 1986, for the regulation and control of noise producing and generating sources.

Main purpose behind bringing Noise Pollution Rules:

While increasing ambient noise levels in public places from various sources, such as industrial activity, construction activity, generator sets, loud speakers, public address systems, music systems, vehicular horns, and other

mechanical devices, have negative effects on people's health and psychological well-being, it is thought necessary to regulate and control noise production.

3.Noise-related guidelines for ambient air quality:

(1) For different areas/zones, the ambient air quality requirements in terms of noise shall be as defined in the Schedule, which is as follows:

| Area Code | Category of Area/Zone | Limits in day time | dB (A) Leq Night Time |
|-----------|-----------------------|--------------------|-----------------------|
| A. | Industrial area | 75 | 70 |
| B. | Commercial area | 65 | 55 |
| C. | Residential area | 55 | 45 |
| D. | Silence Zone | 50 | 40 |

Note:

- Daytime is described as 6 a.m. to 9.00 p.m.
- Night time is described as 9 p.m. to 6 a.m.
- A silence zone is defined as a 100-meter radius around hospitals, educational institutions, courts, religious sites, or any other area designated as such by the competent authority.
- The competent authority can declare mixed categories of areas to be one of the four categories listed above.
- The time weighted average of the sound level in decibels on scale A, which is comparable to human hearing, is denoted by dB(A) Leq.
- A decibel is a measurement unit for noise.

Leq. "A" in dB (A) The frequency weighting of noise measurements corresponds to the human ear's frequency response characteristics.

(Leq.) It's the noise level's energy mean over a given time span.

(2) (Leq.) It's the energy mean of the noise level for a given time period. The State Government shall take steps to reduce noise from vehicular movements, horn blowing, the bursting of sound-emitting fire crackers, the use of loud speakers or public address systems, and the use of sound-producing instruments, and ensure that established noise levels do not exceed the ambient air quality requirements set forth in these laws.

(3) When planning developmental activity or carrying out functions relating to towns and country planning, all development authorities, local bodies, and other concerned authorities shall take into account all aspects of noise pollution as a criterion of quality of life in order to prevent noise threats and achieve the goal of preserving ambient air quality levels in terms of noise.

4. Usage of loudspeakers/public address systems is restricted (Rule 5):

(1) Only after receiving written permission from the authority can a loudspeaker or public address device be used.

(2) Except in near premises for contact inside, such as auditoria, meeting rooms, banquet halls, and community halls, a loudspeaker or public address device shall not be used at night (between 10 p.m. and 6 a.m.).

The Noise pollution (Regulation and Control) (Amendment) Rules, 2000, Rule 5 (3), states that the State Government can, subject to such terms and conditions as are necessary to reduce noise pollution, permit the use of loud speakers or public address systems during night hours (between 10 p.m. and 12 a.m.) on or during any cultural or religious festive occasion of a limited duration no longer than 15 days.

5. Rule 5-A provides-

(1) Except in the case of a national emergency, no horn shall be used in silence zones or at night in residential areas.

(2) No sound-emitting fire crackers can be used in the silence zone or at night.

(3) In residential areas and silence zones, sound-emitting building equipment shall not be used or worked at night.

6. NOISE POLLUTION COURT DECISION (JUDICIAL RESPONSE):

6.1 In P.A. Jacob v. Superintendent of Police, Kottayam

The Kerala High Court ruled in this case that "the right to expression implies the right to silence." It also means the ability to listen freely. The right to free expression is clearly subordinate to the maintenance of peace and public order. According to the court's observation, it is the state's responsibility to maintain and protect "freedom of speech and expression," but without creating "noise pollution."

6.2 In State of Rajasthan v. Chawla

"It cannot be said that public health does not require regulation of the use of such apparatus by day or night, or in the vicinity of hospitals, schools, offices, or occupied localities," the Supreme Court said. The power to legislate in relation to public health requires the power to restrict the use of amplifiers as noisy noise producers when a user's right to do so, in violation of the comfort of others, becomes a manifest nuisance to them."

6.3 In Raghunandan v. Emperor

The Allahabad High Court has ruled that the nuisance caused by running the factory engines from 9 p.m. to 5 a.m. is harmful to the physical comfort of those who live in the factory's vicinity and is punishable under Section 133 of the Criminal Procedure Code.

6.4 In Dhanna Lal V. Chittu Singh

The Madhya Pradesh High Court granted a perpetual injunction prohibiting defendant from operating a flour mill near plaintiff-home respondent's because the mill's vibrations and noise interfered with plaintiff-physical respondent's comforts abnormally and unreasonably, despite the fact that the municipal committee had granted a licence for the flour mill's operation and that the licence had been renewed by saying the municipal committee.

6.5 In Himmat Lal v. Police Commissioner

The Supreme Court ruled that public health is a legitimate reason to limit loudspeaker use. However, such regulatory power should not be exercised in an arbitrary, extreme, or unfair manner if no norms for its exercise are established.

6.6 In Redhey Shiam v. Gur Prasad

The High Court has ruled that if a man causes a nuisance, he cannot claim to be acting reasonably, and that a person may seek an injunction to stop the nuisance even if they are in a noisy area and there is a substantial increase in the existing noise caused by the introduction of machines, instruments, or performances in the premises in question, which materially affect the physical comforts.

CONCLUSION:

As one of the more obvious effects of contemporary civilization, noise pollution has been successfully combated by the Indian court. The aforementioned evidence shows that noise pollution has grown to be a serious hazard to the environment and, consequently, to people's safety, and that it must be reduced at the source. Noise is an unwanted and unpleasant sound that makes people feel uneasy. Decibels are the units used to measure sound intensity (dB). The human ear can detect sounds as weak as 1 Db. Loudness pollution has become a problem as a result of the increased noise around civilizations. Vehicles, aeroplanes, industrial equipment, loudspeakers, crackers, etc. are a few of its main causes. This study found that several laws have been passed to reduce noise pollution, and the judiciary has also played an important role in reducing noise pollution. The legislature has also

passed a number of noise pollution-related laws.

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