



INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed Edition :

www.ijlra.com

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NOISE POLLUTION CAUSES, CONSEQUENCES AND AVAILABLE LEGAL REMEDIES

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Abstract

With the remarkable growth of science and technology, today's metropolitan centres have grown not just in size but also in terms of the living conditions they give. This has resulted in a growing public awareness of noise pollution, which has become a part of our daily life. Studies have been carried out to determine the extent of the damage caused by noise from various natural and man-made sources. One of the modern world's scourges is noise. It's an unwelcome byproduct of our technological culture, and it's becoming a more harmful and disruptive pollution in the environment. In the fight against air and water pollution, there is a growing public awareness and even some progress, but a third threat-noise pollution-has only just begun to garner attention. People's daily lives have been invaded by undesired and disruptive sounds since the industrial revolution, particularly in urban surroundings. Traffic noise, which was previously tolerated without complaint, has recently become intolerable. Indeed, noise has come to be related with an individual's mental, physical, emotional, and psychological well-being, whether they be humans or animals. Noise might be regarded an assault on an individual in legal terms.

Key Words: Noise pollution, environmental legislation, pollution-related laws.

Introduction

Unwanted or offensive sounds that intrude unnecessarily into our regular activities are referred to as noise pollution. It comes from a variety of places, the majority of which are linked to urbanization: road, air, and rail transportation; industrial noise; and neighbourhood and recreational noise. High noise levels are caused by a number of variables, including: a) rising population, especially where it leads to increased urbanisation and urban consolidation. Noise levels are often increased as a result of activities related with city living. b) Increased traffic volumes on the road, rail, and air. The public's awareness of environmental noise has grown, and

citizens now demand the federal, state, and municipal governments to lower noise levels.¹ Although noise is a serious environmental issue, quantifying the expenses associated with it is often challenging. In a 1995 OECD assessment on the social costs of land transport, four areas of impact from transportation noise were identified.²

- a) Productivity losses due to poor concentration, communication difficulties/fatigue due to insufficient rest
- b) Health care costs to rectify loss of sleep, hearing problems or stress
- c) Lowered property values d) Loss of psychological well-being.

The economic costs of noise can include costs associated with building noise barriers alongside major transport routes, insulating affected buildings and the lowering of property prices for residential and commercial buildings.

Existing Legislative Noise Control Measures

"A person is guilty of public nuisance if he does any act or makes any illegal omission that causes any common injury, danger, or annoyance to the public or to the people in general who dwell or occupy property in the vicinity, or which must necessarily cause injury, obstruction, danger, or annoyance to persons who may have occasion to use any public right."³

"Whoever commits a public nuisance in any circumstance not otherwise penalised by this Code shall be penalised with a fine which may extend to Rs 200/-".⁴ The Magistrate has the jurisdiction under Section 133 of the Criminal Procedure Code to issue a conditional order compelling the person who is causing the nuisance to remove it.

Major Noise Sources

Congestion on the highways One of the most common and growing environmental issues in cities is road traffic noise. It was calculated in 1991 that in Sydney:

- a) 1.5 million households were exposed to OECD-defined as unpleasant outdoor traffic noise levels (between 55 and 65 dB (A)), affecting sleep and amenity.

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¹ Kumar, Brind, Sharad V. Oberoi, and Akash Goenka. "A brief review of the legislative aspects of noise pollution." *Workshop on Environmental Pollution: Perspectives and Practices, organized by Institute of Engineering and Technology, Lucknow*. Vol. 53. 2004.

² Declaration of noise as an offence on personal liberty and healthy living.

³ Section 268 of the Indian Penal Code 1860.

⁴ Section 290 of the Indian Penal Code 1860.

- b) It was predicted that 350,000 of these residents are exposed to noise levels that are considered inappropriate (higher than 65dB(A)), limiting their behaviour patterns and causing health impacts (ABS 1997b).

The NSW Road Traffic Noise Taskforce reported in 1994 that road traffic noise has become a major urban environmental problem because:

- a) Historically, land use planning and transportation planning have not been well integrated, allowing residential developments and major transportation corridors to be built in close proximity without appropriate buffer zones or building treatment.
- b) There has been a growing reliance on road mobility in the community, as well as a reluctance to implement or accept partial solutions incorporating increased public transportation use.
- c) Traffic on many existing highways that run through densely populated regions has increased well beyond assumptions set during road planning or construction.
- d) Potential remedies, aside from new vehicle noise standards, are difficult, often expensive, and necessitate coordinated measures by multiple authorities and the community. While the problem is well-known in the community, there is a general lack of knowledge of its scope and potential solutions.⁵

Preventive Measures

1. Criminal Procedure Code 1973

- Preventive Action in Chapter X (sections 133 to 146) of the Criminal Procedure Code of 1973, preventive intervention is provided in the case of public nuisance. Section 133 of the criminal process code contains the following provisions: Section 133. Conditional order for nuisance removal: Whenever a District Magistrate, a Sub-Divisional Magistrate, or any other Executive Magistrate specially empowered in his behalf by the State Government considers:
 - That any unlawful obstruction or nuisance should be removed from any public place or from any way, river, or channel which is or may be lawfully used by the public: or
 - Any building or substance disposal that is likely to cause a firestorm or explosion should be avoided or stopped: or
 - That any building, tent, or structure, or any tree, is in such a state that it is likely to fall and

⁵ Kamboj, N.S. (1993). Control of Noise Pollution. Deep & Deep Publications, New Delhi. pp 1-19, 146-151.

injure people living in the neighbourhood or passing by, and that, as a result, the removal, repair, or support of such building, tent, or structure, or the removal or support of such tree, is required: or

- That any tank, well, or excavation near to such a route or public place be fenced in such a way as to prevent public danger; or
- That any dangerous animal be destroyed, confined, or otherwise disposed of. In the case of *Viridichand v. Ratlam Municipality*⁶, the Supreme Court of India added a new dimension to this provision. 6th. "The criminal procedure code operates against statutory bodies and others regardless of the cash in the coffers – otherwise, a profligate statutory body or pachydermia governmental agency may legally defy duties the law by urging in self-defense a self-created bankruptcy or preventer expenditure budget," Justice Krishna Iyyer wrote in his decision. That's not possible." The administrative authorities' apathy and carelessness in adopting a "non-concern" attitude toward public difficulties was also highlighted in a Himachal Pradesh High Court verdict. "When loudspeakers are allowed to annoy the neighborhood, it is the responsibility of the police and the Deputy Commissioner to take appropriate action against individuals who are causing a nuisance, not to wait for the suffering public to protest to the police," the ruling states.

(ii) Preventative Measures In accordance with Section 1908 of the Civil Procedure Code

Preventive action can also be initiated under the Civil Procedure Code in the event of a public disturbance. Section 91 of the Civil Procedure Code states that "in case of public nuisance or other wrongful act affecting or likely to affect the public, a suit for a declaration and injunction or for such other relief as may be appropriate in the circumstances of the case, may be instituted: (a) By the Advocated General, or (b) With the leave of the court, two or more persons, even though no special damage has been caused to such persons by reason of such public nuisance or other wrongful act affecting or likely This section shall not be construed to limit or affect any right of action that may exist independently of its provisions.

Local Enactments

There are numerous local enactments in various states that include provisions aimed at reducing noise pollution. Enactments in the states of Madhya Pradesh, Bihar, and Rajasthan provide for the regulation of the use and play of loudspeakers. Similarly, the Punjab Gram Panchayat Act of 1952

⁶ AIR 1980 SC 1622

requires the Gram Panchayat to make arrangements for carrying out the Sabha's requirements in the following areas: • Section 19(h): public health and sanitation, • Section 19(x): measures to promote the moral, social, and material well-being or convenience of the Sabha's inhabitants. Thus, a Gram Panchayat can control or outright prohibit the use of loudspeakers, which is one of the most common sources of noise pollution in villages, by passing a resolution. Excessive noise can now be proven to inflict physical and mental harm, directly damaging a person's health, according to scientific studies. As a result, excessive loudness can be viewed as a kind of assault and battery in tort law, and the courts must uphold the action.

Title 42 of the United States Code, Public Health and Welfare (Chapter 65, Noise Control) 4901

The Congress finds:

- that inadequately controlled noise poses a growing threat to the health and welfare of the nation's population, particularly in urban areas;
- that the major sources of noise include transportation vehicles and equipment, machinery, appliances, and other commercial products; and
- that, while state and local governments bear primary responsibility for noise control, the federal government has a role to play as well. Dealing with substantial noise sources in commerce, which demand national uniformity of management, necessitates federal involvement. Remedies for Damages Tort law is a body of law that governs how people are treated when they are remedies available under tort law, which is entirely made up by judges, are an important area where judicial activism can help regulate "noise pollution." Noise pollution is actionable if it causes annoyance, in which case the tort of "nuisance" can be pursued. Excessive noise can create physical and emotional injury, which can have a direct impact on a person's health, according to scientific studies. As a result, in tort law, excessive loudness can be viewed as a kind of assault and battery, and the courts must uphold the action.

Legislative Solutions

Law is a tool for social change, and the legislature is the body in charge of enacting laws. All other authorities, including as administrative agencies, courts, and other social organisations involved in environmental protection, obtain their authority from legislation passed by the legislature and function within the legal framework. As a result, the most effective strategy to governmental and judicial action against noise pollution is legislative action. The existing remedies are dispersed

across several statutes and are insufficient and ineffective in dealing with this new and technical by-product of society's technological growth. Many developing countries, such as the United States, the United Kingdom, and Japan, have already established comprehensive noise pollution laws. There is no particular and thorough legislation in India to regulate noise pollution. The Central Government should pass comprehensive regulations dealing with various types of noise pollution and how to manage them as soon as possible. Otherwise, the State has a fundamental obligation to provide conditions in society that allow a person to fully develop his or her identity. One of these requirements is to protect the natural environment.

Article 42 of the Constitution refers to "fair" and "humane" working conditions not only for a small group of affluent individuals, but also for the vast majority of wage earners who work in factories and industrial establishments. The implementation or separate legislation to regulate noise is an urgent necessity in light of the industrial development increase in automotive traffic on roads and the ever-increasing views of aircrafts for transportation.

In this regard, the United States Noise Pollution and Abatement Act of 1970 can be used as a model, with revisions and modifications made as needed to meet the needs of our society. The act's following aspect can be incorporated:

- a. A Central Board for Noise Pollution Control, comprised of experts from the fields of science, technology, and law, must be established for the aim of devising noise control policies and programmes.
- b. Similar boards might be established in all states and metropolitan areas.
- c. Noise levels for motor vehicles, aircraft, industrial establishments, and railways may be set. Similarly, the use of loudspeakers should be limited, both in terms of noise intensity and the days of the week when it is authorised.
- d. An administrative structure must be in place with the authority to provide immediate and effective remedy to noise victims, as judicial remedies are time-consuming and costly. Because of the technical nature of the problem, specialised and special courts must be established to deal with matters of noise pollution. It is proposed that a summary procedure for the trial of such instances be established.
- e. Enforcement agencies, including administrative structures, should be held accountable for failing to carry out their responsibilities.
- f. A specific charge on all automobiles and other sources of noise pollution may be levied in order to generate adequate funding to undertake noise pollution management programmes and policies.

Collaboration with the General Public

Until the public is aware of their rights and the many remedies available for enforcing them, the law will stay dormant. This is especially true in the case of noise pollution, because our people are still unaware of the serious consequences of noise pollution. The Indian Constitution also makes it a "fundamental duty" for all citizens to conserve the environment. "Every citizen must have the duty to safeguard and improve the natural environment, including forests, lakes, rivers, and wild life, and to have compassion for living beings," according to Article 51-A(g).⁷ It will be impossible to achieve any tangible outcomes just by adopting laws, forming boards, and regulating noise levels. All of these methods will be accepted and effective if the public is informed of the negative effects of noise and the different therapies available to control it. People's active participation and cooperation are critical to the success of any or all programmes aimed at ensuring a pollution-free environment. The following measures will be effective in obtaining and securing public cooperation, as well as making the natural environment a people's movement:

- I. Educating the public on the harmful effects of noise pollution through mass media such as cinema, radio, television, and government public relations agencies.
- II. Informing the public about the many legal and other remedies accessible to them for noise pollution control.
- III. Using educational and social groups to actively engage individuals in the environmental conservation movement.
- IV. Supporting and funding environmental-oriented social organisations.

Cooperation on a Global Scale

International cooperation can also play a significant role in delaying the onset of the noise pollution problem. International initiatives and cooperation must be matched by national action. This collaboration can benefit underdeveloped countries, which lack the latest technology and lack the financial resources to run their own research programmes. International cooperation can aid in noise pollution mitigation in the following ways. a) Technology exchange with equipment that produces less noise. b) The exchange of research programmes aimed at diverse noise control methods. b) An exchange of legal and non-legal approaches for reducing noise pollution. b) Learning from others' successes and failures. There has already been a shift in policymakers', legislators', and courts' attitudes in India, which are the three main institutions for the successful implementation of any programme. There is now a new Department of the Environment. Water

⁷ Part-IVA regarding Fundamental Duties of Citizens.

and air pollution prevention legislation has been enacted.

Conclusions and Suggestions

The following are the conclusions and recommendations that are appropriate for use in the Indian context:

1. The present enactments in India that are directly or indirectly related to the problem of noise pollution are considered to be insufficient to manage it at a national level. As a result, some particular and effective regulation to limit noise pollution in the country is required, legislation that is best suited to Indian culture and social structure.
2. The government's promotion of noise standards from diverse component sources at specified times of the day.
3. Recognition of citizens' entitlement to a noise-free environment by some constitutional safeguard.
4. Declaration of noise as a violation of one's personal liberty and the right to a healthy lifestyle.
5. The establishment of separate courts for the trial of noise cases.
6. Set volume and pitch levels for loudspeakers used in religious settings, processions, public gatherings, and festivals.
7. Payment of compensation to those who have been harmed.
8. Assign responsibility for rigorous vigilance on noise sources to local bodies and administrative officials, as well as teaching them on how to deal with noise violations.
9. Appoint inspectors in local governments to keep an eye on the spread of noise caused by social activities.
10. All vehicles' pressure horns must be removed. Public concerns against the use of pressure horns by government vehicles, administrative authorities, municipal governments, and wealthy individuals.
11. Industrial and noisy trades / works should be prohibited in residential areas.