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Legal Control of Noise Pollution in India: A Critical Evaluation

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ABSTRACT

Noise is consequence of everything that we do. It forms part of our everyday background and for the most part we just accept it or at least tolerate it. Nevertheless, noise has the capacity to cause conflict between those who are generating it and those who hear it but do not wish to. So, Noise pollutant has become a great nuisance these days. It is spreading so fast that it has started polluting the environment of the society. Due to rapid growth of urbanization, industrialization and advancement of science and technology, the problem of noise pollution has emerged as one of the serious problem and it has become a serious challenge of the quality of life of the people in most of the countries. Mankind's capacity to create noise has increased dramatically. Noise surrounds us, the roar of vehicular traffic, the bustle of crowds, rapid industrialization, and the passage of trains and aeroplanes. The home can also be invaded by noise, the amplified music and dogs may also become causes for noise. Under this article we will critically analysis legal provisions regarding control of noise pollution in India.

Keywords: Noise, effect, pollution, nuisance, crime, law, sound, environment, industrialization, urbanization

INTRODUCTION

Noise pollution did not create much public concern due to ignorance about the serious effect of noise on both workers in industry in particular and the public in the community in general. Noise is an important environmental pollutant like noxious gases that befoul our air, water and soil. It destroys bridges and produces cracks in buildings. The noise can cause skin and mental diseases. It has been revealed that noise is a technology created problem and that the overall noise doubts every ten years keeping pace with our social and industrial progress. According to Robert Koch a Nobel prize winner German bacteriologist "A day will come man will have to fight merciless noise as the worst enemy of health."[1] The problem of noise pollution has already crossed the danger point and noise like smog, is threatening as a slow agent of death.[2] It is hard to find, even in rural areas, any place where the only sound are those produced by nature.[3]

MEANING AND CONCEPT OF NOISE POLLUTION

Noise is a type of atmospheric pollution in the form of waves. It is a shadowy public enemy. It has increased in the modern age of industrialization and technological advancement.[4]

Many Industrial psychologists and environmentalists have defined the term noise. According to Blum, noise acts as a distracter and, therefore, it interferes with the efficiency of people. J. Tiffin states that noise is a sound which is disagreeable to the individual and which disturb the normal activities of an individual. Harrell defines noise as 'an unwanted sound which increases fatigue & under some industrial conditions it causes deafness'.

[1] Vijaya lakshmi. Dr. (Miss) K.S. " Noise Pollution" in Martin J. Bunch, V. Madha Suresh and T. Vasantha Kumaran, eds, Proceeding of the third International Conference on Enviroment and Health, Chennai, India, 15-17 December, 2003. Chennai: Department of Geography, University of Madras p. 597-603

[2] Bijayananda Patra v.District magistrate, cuttak, A.I.R.2000 Ori. 70

[3] Quoted in Gurdip Singh '*Enviormental Law'* p.198

[4]Singh, K.P and Singha, S: Noise Pollution Impact and Control in Environmental Management, 1983

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The Wilson Committee of Britain on the problem of noise in its report in 1963 – Noise (Final Report) commd. 2056 – defined 'noise as 'sound which is undesired by the recipient'.

E. Gross[5] observed that noise is any unwanted disturbance within a useful frequency band such as electric wave in any transmission Channel or devise.

According to Environmental Health Criteria – 12[6] 'noise is considered as any unwanted sound that may adversely affect the health and well-being of individuals or the populations'.

In Chambers 21st century dictionary the definition of noise has undergone a change. Noise pollution stand carved out as phrase separately from noise. Noise – a sound; a harsh disagreeable sound, or such bound; an excessive or annoying degree of noise in a particular area, e.g. from traffic or aero – plane engines.

The term "noise pollution" has not been defined in the Central Legislative Acts anywhere. But *Environment (Protection) Act,* 1986 recognizes noise as an "environmental pollution" and empowers the Central Government to frame the rules prescribing the maximum permissible limits for noise in different areas.[7] In 1987, amendment to the *Air (Prevention And Control of Pollution) Act,* 1981 expanded the definition of "air pollution" to include noise.[8] Therefore, it is necessary to understand the meaning of "noise" and "pollutant"

MEASUREMENT OF NOISE

Noise researchers says that noise levels in excess of 90 decibels (unit for measuring noise intensity) for continuous periods can cause loss of hearing. A single exposure of 150 decibels is known to cause permanent injury to the ear's internal mechanism. In cities like Bombay, Calcutta & Delhi, the average noise level has been found to be between 65 and 90 decibels. The effect of environmental noise on the foetal development during pregnancy has been subject to the research. It is found that constant exposure to noise 110 and 120 decibels can produce narrowing of vision, vertigo and disruption of equilibrium in the unborn baby keeping the present development pace into account. It is observed that the noise level too doubles its present value every six years. This turn affecting the hearing capability of the large number of peoples.

Noise is characterized by its sound level, its frequency spectrum and its frequency spectrum and its variation over time. The term sound level refers to a physical measure thus corresponds to the hearer subjective of concept of loudness. It is a function of the magnitude of the pressure fluctuations about the ambient farometric air pressure. One can speak of the strength of these fluctuations in terms of several variables, the most common being sound intensity and sound pressure.

The measure of noise is known as decibel. The word decibel is made of two words 'deci' means 10 and 'bel' is derived from the name of the scientist Graham Bell, who invented it. In logarithmic scale, decibel (db) is a standard unit for measurement of sound. The permissible decibel scale for different places is as follows:

1. The Softest sound that can be heard by human ear is called db (zero decibel)
2. Each tenfold increase in sound intensity is represented by an additional 10dB. Thus a 10dB sound is 10 times as intense as the faintest audible sound (that still is not very much).

The sound level in a quiet library is about 1000 times as intense as the faintest audible sound. Therefore, sound level in the library is 10 dB + dB or 30 dB.

In India, Mumbai, Kolkata, Delhi, Chennai, and Nagpur are the noisiest cities. The society for clean Environment appropriately names ' so clean' and Nagpur University submitted a study[9] that the noise levels of these cities are much higher than 45 decibels prescribed by the WHO (World Health Organization). Accepted noise levels are shown under below table 1.

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[5] Peterson and E.Gross Ir: Hand book of Noise Measurement,210(5th Ed.1965)

[6]Noise published by UNEP & WHO, Geneva20(1980)

[7] Section 6(2)(b) of the *Environment (protection)Act*,1986

[8] Section 2(a) of the (Air prevention and Control of pollution) Act,1986

[9] Kids may become deaf in Noisy Nagpur, *The Hindustan Times*, New Delhi, December 14,1998

Table1. *Acceptable Noise Level*[10]

Residential	Bed Room	25db
	Living Room	40db
Commercial	Office	30-45db
	Conference	40-45db
	Restaurants	40-60db
Industrial	Workshop	40-60db
	Laboratory	40-50db
Educational	Class Room	30-40db
	Library	35-45db
Hospital	Wards	20-35db

FACTORS AND SOURCES OF NOISE POLLUTION

Factors Responsible For Continuance of Noise Pollution

Urbanization

Urbanization is the main factor responsible for noise pollution. Due to rapid growth of Urbanization the problem of noise pollution increases day by day. Due to urbanization the problem of noise pollution has emerged as one the serious problems and it has become a serious challenge to the quality of life of the people in most of the countries.

Industrialization

Industrialization is the major factor of noise pollution in India. Due to rapid growth in industrialization and advancement of science and technology the problem of noise pollution has become a serious problem and serious challenge to the quality of life of the people in India.

Growth in Population

India is a second largest nation in population growth. Due to growth in population the problem of noise pollution is growing day by day in residential area. In India, the problem of noise pollution is wide spread due to population growth.

Poverty & Illiteracy

Due to poverty and illiteracy people are not much aware about effects & control of noise pollution. 40% people of India are living under poverty & illiteracy, so they are not much aware about their rights. Thus, poverty and illiteracy is a great factor which leads to noise pollution.

Non-Cooperation of Governmental Agencies

The governmental agencies are not much aware to implement the laws to control noise pollution. It is the duty of the law enforcing agencies to implement the law to control noise pollution but instead of this they are not much aware about the serious problems of noise pollution.

Customs, Festivals or Religious Ceremonies

Religious and social functions and other festivities including mela's, playgrounds, political gathering, Ramayan Paths, Akhand Paths, offering of Azan Prayers, etc are the main factors responsible for noise-pollution.

Thus, these are various factors responsible for noise pollution in India.

Sources

The most important change which is evident in most places (more particularly in India) in this century is the explosion of human population. This has exerted pressure on all available resources. But one of them is significant rise of noise level. Not only raised human vocals but also sounds from various sources like construction sites, radio, microphone, automobiles, airplanes, railway engines, irrigation pumps etc. break the silence of the environment.

Noise pollution was previously confined to a few special areas like factory or mill, but today it engulfs every nook or corner of the globe, reaching its peak in urban areas. Industries, automobiles,

[10] *The Times of India*, August 24,1986

rail engines, loudspeakers, lottery ticket sellers, hawkers, pop singers, etc are the main ear contaminators of the city areas and its market place. The regular rattling of engines and intermittent blowing of horns emanating from the caravan of automobiles do not allow us to have any respite from irritant noise even in suburban zones.[11] However, the noise pollution's most apparent victims today are the residents of neighbourhood large airports. The introduction of jet planes has considerably increased their misery.[12]

The sources of noise pollution may be broadly classified into two classes:

Industrial Sources

The industrial sources may include noise from various industrial operations in cities, like boilers, machineries, foundries, flour mills, cutting machines, etc. Noise is a byproduct of energy conservation and every industry produces noise. Pollution due to big machines working a high speed have high-noise intensity.[13]

Non-Industrial Sources

Non – industrial sources of noise pollution can further be divided into the following categories.

(a) Loudspeakers

One of the common factors creating noise pollution is indiscriminate use of loud speakers. In India no function or ceremonies complete without a loud speaker which has all the characteristics of creating the public nuisance. Generally, it has been observed that loudspeakers create big annoyance to the public during sleeping hours. It has been observed that on certain occasions the continuous use of loud speakers create disturbance to the students during examination periods.

Frequent use of loudspeakers by Temples, Mosques, Churches, Gurdwaras and other place of worship has increased noise pollution and its occurrence is increasing day-by-day. Loudspeakers are also blaring loud noise by various persons, groups and companies to popularize their products.

(b) Construction Works

In India, urbanization is developing very fast and huge buildings are being constructed with fastest speed. During demolition of old sites and construction of new buildings huge machines which produce a lot of noise are being commissioned and it has become a common scene in every big city where construction work is in progress. A lot of noise is created during the construction or repair work of roads in cities.

(c) Automobiles

Automobiles constitute the largest single group of noise menace. In a city, 60 to 70 percent of noise may come from road traffic. Slow speed of five to twenty km/ph during peak hours increase the emission rate of atmospheric and noise pollution. In India in cities road lengths are much less than desired, being 7 percent of the total area instead or 20 to 30 percent, so the vehicles densities become alarmingly high resulting in increased noise level.

(d) Trains

In India steam and diesel engines are commonly used by railways which produces a lot of noise. The impact of noise pollution by trains is maximum in residential areas with the introduction of fast trains, the noise has been substantially increased.

(e) Aircrafts

The use of air crafts of many types is generating many types of noise. The higher speed of an aircraft is the greater noise polluter. The supersonic aircrafts have added more noise especially for living beings who live near aerodromes. The noise from these planes can break window panes, crack plaster and shake buildings.

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[11] Campbell, R.R and Wade, J.L : Society and Environment, The coming cllission, 197 (1972),Allen and Bacon Inc.

[12] Ibid,197

[13] Noisy Patriot, September 25, 1983 quoted in Satish Shastri, *Pollution and the Environmental Law*, p.163

Major cities around the world have banned flights at night to prevent citizen having to put up with the deafening roar of jets. As our geographical position does not permit banning of night international flights, we will have to wait till we can enforce this legislation.

(f) Radio, Microphones

Radio and microphones can cause noise pollution if they are switched on with high volume. Present day interest in western music and dance by youngsters with high volume causes noise pollution.

(g) Projection of Satellites in Space

A new source of noise pollution is Satellites, projected into the space with the aid of high explosive rockets. Application and use of these rockets produce deafening noise at the time of 'lift off' a satellite. Tons to TNT and other explosives are used in those operations which create noise pollution as well as air pollution.

Noise problem may also be due to mining activities and the sufferers are workers, community or those who dwell near it. Noise and vibrations are caused by quarrying equipments, heavy earth moving machines, drills and blasting operations. The major categories of such noise on the basis of sources are fixed plants, mobile plants and transportation vehicles.

There are lots of environmental sources of noise pollution that cannot be ignored. The continuous noises are the most distressing. Noise coming from sources such as dripping taps and ticking of clocks can contribute to environmental noise pollution.

EFFECT OF NOISE POLLUTION

Noise and human civilization will always go together. Noise is one of the main pollutants causing most hazardous consequences for human life. Excessive noise is an inescapable product of industrial environment which is increasing very fast with the advancement in industrialization.

Noise is an unwanted, unpleasant and annoying sound caused by vibration of the matter. Vibrations impinge on the ear drum of a human or animal and setup a nervous disturbance, which we call sound. When the effects of sound are undesirable that it may be termed as "Noise." Noise from industry, traffic, homes and recreation can cause annoyance, disturb sleep and affect health. Thus, sound is a potentially serious pollutant and threat to environmental health.

Noise pollution is a serious threat to public health and welfare. Noise is a major health hazard. Noise is a stressor on the human body. It causes "fight to flight" syndrome, releasing cortical and other harmful chemicals into the flood stream. Overtime, these chemicals build up in the body, leading to a host of health problems, including cardiovascular disease, aggression, Chronic fatigue, headaches, high flood pressure, mental illness, and anxiety.

In addition, a growing body of evidence confirms that noise pollution has both temporary and permanent effects on the endocrine and autonomic nervous systems. The effects of noise, its intensity and sources are shown in the following table.

Table2. *Noise – Its Intensity and Effects*

Sr.No.	Source	Decibel (DBA)	Effects observed
1	Faintest audible sound	0	Threshold of audibility
2	Leaves breathing	10	Very quiet
3	Whisper rustling	20	Very quiet
4	Rural area at night	30	Quiet
5	Library	40	Quiet
6	Day time conservation in Living room	53	Quiet
7	Freeway Traffic (50 ft.) Vaccum cleaner	70	Annoying
8	Restaurant	60	Intrusive
9	Crowded Bazar, Garbage disposal, train (50 ft.)	80	Hearing damage
10	Jet at 1000 feet subways out board motor, motorcycle 25 feet of Jack hammer flinders, Newspaper press, Train whistle.	100-110	Serious hearing
11	Aircrafts (at 100 feet)	120	Human pain Threshold
12	Jet take off (200 feet) Steel Mill, Live rock, Music, Aircraft carrier deck	120-140	Ear drum rapture
13	Jet take off (close range), Siren and Loud horns.	150-180	Ear drum rapture.

According to Prof. Gral, Professor at Marburge University, more than 155 dB of sound may burns the skin and 198 dB may cause of death.[14]

There is no doubt that the noise affects human health adversely. There is large amount of scientific literature, regarding noise effects on living or non living things.

LEGAL PROVISIONS REGARDING CONTROL OF NOISE POLLUTION

The concern of the government for providing clean environment through environmental policy, planning and management has been very deep and sincere since 1970s. This is very clear from the national plan documents. The management of environmental despoliation was for the first time clearly provided in the Fourth Five Year Plan (1969-74). This plan highlighted the environmental issues in the following words:

"It is an obligation of each generation to maintain the productive capacity of land, air, water and wild life in a manner which leaves its successors some choice in the creation of a healthy environment. The physical environment is a dynamic complex and interconnected system in which action in one part affects others. There is also the interdependence of living things and their relationships with land, air and water planning for harmonious development recognizes unity nature and man".

Since then the environmental matters have assumed significance and the Sixth Five Year Plan (1980-1985) also attached importance to the subject of environmental conservation and control. Perceiving the problems of environment and its impact on national development environmental management has come to occupy a place of priority at the hands of government. That the government is seized of the matter is clear from the fact that now a separate Department of Environment (DOE) has been created to tackle the ecological crisis problems. Some states too have also set up their department of environment.[15]

The Bhopal gas tragedy of 1984, one of the world's worst industrial disasters which claimed 30,000 lives and crippled 1,50,000 revealed several inadequacies in our safety and environmental legislations, particularly in its capacity to prevent and deal with consequences of catastrophic accidents involving hazardous chemicals. After the disaster, the Government of India and Indian public has become aware and are now more vigilant in protecting environment. In the period following Bhopal disaster, there have been major changes and new enactments in the following laws were included;

I. 1987 amendments to the Factories Act, 1948 and the rules;
II. Enactment of a new Environment (Protection) Act 1986 and a series of rules; under, including 1992 amendment to Environment Protection Rules;
III. Manufacture Storage and Import of Hazardous Chemical Rules, 1989;
IV. The Public Liability Insurance Act, 1991;
V. Revised Motor Vehicle Act, 1988;
VI. Central Motor Vehicle Rules, 1989 with latest amendments;
VII. Narcotic Drugs and Psychotropic Substance Act, 1985;
VIII. The Bhopal Gas Leak Disaster (Processing of Claims) Act, 1985;

The above mentioned changes, amendments and enactments taken together have provided a significant frame work for the preservation and control of major accidents involving noise pollution, hazardous chemicals and have placed new responsibilities on and in challenging role for key factors i.e. industry and its top management workers and their organizations, regulatory agencies and local authorities and people residing in the vicinity of the industry. The effective implementation and enforcement of these provisions, the establishment of a suitable supporting infrastructure and maintenance and the role awareness among key factors would continue to remain challenges in the years to come.[16] The fitting of multi-toned horns and emission of excessive smoke are prohibited under Central Motor Vehicle Rules, 1989.[17]

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[14] Dr. Raghuvanshi and Mrs. Raghuvanshi , 'Paryavaran tatha Pardushan'

[15] Quoted in V.K. Prabhakar, *Environmental Protection and Law* p.109

[16] Quoted in Vishawajit Gupta *Environment and Law*

[17] Rule 119 and Rule 115(2)

The object of this article is to critically examine the existing laws with a view to have comparative understanding of the same, so that necessary help may be taken from these enactments for reaching at true solution of problem of noise pollution.

In India, no effective and elaborate law has been made for controlling the noise pollution. The war of decibels has started all over the world. In India there are two weapons for fighting against the decibel level. First weapon is pollution control statutes and the other is provided in our Constitution under Articles 19(1) (a) and 21.

In fact, there is no dearth of laws on the control of noise pollution, but statutory provisions alone are of little or no use unless they are implemented effectively. In the following text some of the laws dealing directly to the issue of the noise pollution have been discussed.

CONTROL OF NOISE POLLUTION UNDER THE CRIMINAL LAW

The problem of noise pollution can be tackled under the criminal law as well.

Noise Pollution Control under the Indian Penal Code (1860)

Noise is considered as public nuisance under Section 268[18] of the Indian Penal Code and thus, there is a criminal liability of a person relating to his illegal omission resulting in common injury, danger or annoyance to the people in general.

The acts of public nuisance have been made punishable under Section 290 of the Indian Penal Code which provides that whoever commits a public nuisance in any case not otherwise punishable by the Code shall be punished with the fine which may extend to two hundred rupees.

Chapter XIV of India Penal Code deals with offences relating to the public health, safety, convenience, decency, and morals under section 268, 269, 270, 278, 279, 280, 287, 288, 290, 291, and 294. Sections 188, 295, 296, 337, 399, 441, 425, 426, 503, noise pollution can be penalized with the help of above sections. The legal solutions to noise pollution may be characterized as private or public remedies.

Private Remedies against Nuisance

The private law suits in the area may relate to public nuisance under Section 290 of the Indian Penal Code. This Section provides punishment in cases of public nuisance. If any individual suffers any loss of hearing or any other hurt or injury on account of any act done on the part of the government in exercise of its non-sovereign functions then the government can be held liable for damages under Article 299 of the constitution of India. Under certain circumstances a limit may be put on the usefulness of instituting law suits relating to nuisance. In urban areas, it will be difficult to identify infinite number of sources of noise pollution. The burden of proving hazard of the noise pollution can put insurmountable barriers to a plaintiff's suit. In certain cases private citizen cannot sue where large public interest is to be served such as carrying out of highways, construction of airports, operation to clear forest, creation of municipal green belts and the like such programmers activities

But these provisions do not lead us to uniform and certain rules for application to the criminal cases of nuisance. The Indian Penal Code was drafted when there were no such scientific and industrial developments and therefore the Indian Penal Code's drafters had no idea of such noise pollution by so many irritants of the modern society. The provisions of the Indian Penal Code are inadequate to cope with increasing menace of noise pollution. Provisions of Indian Penal Code where noise producing objects are used under the cover of some statuary provisions. In other words such objects statutorily authorized to produce noise e.g., locomotives, aeroplanes and helicopter etc.

Noise Pollution Control under the Code of Criminal Procedure, 1973

The provisions of Criminal Procedure Code, 1973 (Cr. P. C) can also be invoked to prevent the pollution of almost all kinds, including noise pollution. Under S.133 and S.144 of Criminal Procedure Code, the Executive Magistrates have been authorized to issue certain conditional orders.

[18] Section 268 of Indian Penal Code provides: "A person is guilty of a public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger or annoyance to the public or to the people in general who dewel or occupy property in the vicinity, or which necessarily cause injury, obstruction, danger opr annoyance to persons who may have occasion to use any public right. Acommon nuisance is not excused on the ground that it causes some convenience or advantage."

This section empowers the Magistrate,[19] on police report or on other information, to remove, prohibit or regulate any public nuisance or any trade or occupation, injurious to health or physical comfort of the community as noise sometimes amount to public nuisance and also may cause physical discomfort to the people, its control will lie within the ambit of the aforesaid sections of the Code.[20] The object of such order is to face the problem of law and order temporarily as the duration of such order is merely of two months.

CONTROL OF NOISE POLLUTION UNDER OTHER CENTRAL LEGISLATIONS

Aircraft Act, 1934

The Central Government has power to make rules under of the Aircraft Act 1934[21] for manufacture, possession, use, operation, sale, import or export of any aircraft and this may cover the regulation of air transport services and the prohibition of the use of aircraft. But there is no vision for the control of noise. In this Act it has been suggested that aerodromes be constructed a away from residential areas of a city in order to protect residents from noise created by frequent take-off and landing.

Under the Indian Aircraft (Public Health) Rules, 1946, the government can make rules to control noise pollution. Under these rules there is a statutory duty of the factories to provide adequate measures for the control of noise. Thus, the government can make rules to control the noise generated by the aircrafts and take different measures to protect the people from health hazards.

Noise Control under Railway Act, 1890

A huge amount of noise is emitted from railway engines and carriages. There are no checks to curb this noise pollution under the Railway Act, 1890. Railway engine have statutory protection and nobody can get any relief against railway engine although they are major polluters. Section 16 of the Railway Act, 1890 (Act 9 of 1890) give a statutory authority for the use of locomotive to railway administration. Section 16 says -:

Right to Locomotive-

"Railway administration may with the previous sanction of the (Central Government) use upon a railway locomotive engine or other motive power and rolling stock to be drawn or propelled thereby."

In English Common Law it would have an actionable nuisance to use engine which were a source of danger and it would have been no defense that they have made safe. It was decided in Railway Company v Truman[22] that the statutory protection, however, possessed by railway companies in respect of various nuisance which are necessarily incidental to the management of their business, e.g., noise and vibration are not a good defense.

In India railway engine, are at liberty to produce noise as much as they can and there is no check upon them. Railways Act 1989, provide for punishment due to nuisance. It also includes nuisance by noise. If any person commits any nuisance of obscene language he may be removed from railway and his ticket and pass shall be forfeited and in addition imprisonment of 6 months and fine of Rs.500 can be imposed.

The Police Act, 1861

The Police Act, 1861[23] covers the problems of noise arising from music, which is one of the aspects of noise pollution. Under the provisions of this Act Superintendents of Police are authorized to regulate the extent of which music may be used in streets on the occasions of festivals and ceremonies. However, the scope of the said provision is very limited because under the said provision only the problem of musical noise on the occasions of festivals and ceremonies in public can be controlled and it is silent about the musical noise which arises from private premises or on occasions other than festivals or ceremonies.

[19] Section 133 and section 144 of Criminal Procedure Code

[20] Ibid

[21] Section 5 of the Aircraft Act 1934

[22] 11 AC 43 (1895)

[23] Section 30 (4) of the Police Act, 1861

Air (Prevention and Control of Pollution) Act, 1981

Although originally, the Air (Prevention and Control of Pollution) Act 1981 was enacted exclusively for the control of air pollution, but by Amendment Act 1987, the problem of noise was also covered within the definition of air pollutants under this Act.[24] In this Act no specific provision for the control of noise pollution has been made.

Thus, noise pollution can be controlled under various provisions of this Act, under Section 16(2)(6) of the Air Act it is the function of the Central Pollution Control Board to plan and cause to be executed a nation wide program for the prevention, control or abatement of air pollution.

Similarly under this Act, [25] the State Pollution Control Board has got the powers not only to include the noise within its plan and comprehensive program for the prevention, control or abatement of air pollution but also to lay down the standards for noise along with the standards of air pollutants regarding industrial plans and automobiles.[26]

The Environment (Protection) Act, 1986 and the Environment (Protection) Rules, 1986

Section 6 of the Act empowers the government to make rules to regulate environmental pollution. Under this Section[27] the Central Govt. can make rules providing for "the maximum allowable limits of concentration of various environmental pollutants (including noise) pollution in different areas."

Thus, the Central Government has the power to control noise pollution by laying down the maximum allowable limits of noise in the environment. There is also general power of the Central Government [28]to take measures to protect and improve the quality of environment and preventing, controlling and abating environmental pollution.

Accordingly, the central govt. has enacted the Environment (Protection) Rules which provides for the maximum allowable limits of various environmental pollutants including noise.

Entry 89 of schedule-1 of the Environment (Protection) Rules, 1986; provides the noise standards for fire crackers and it prohibits the manufacture, sale or use of fire-crackers generating noise level exceeding 125 db(A) or 145 db(C) at 4 meters distance from the point of bursting.

ANALYSIS OF NOISE POLLUTION (REGULATION AND CONTROL) RULES, 2000)

Noise pollution (Regulation and Control) Rules, 2000 have been enacted to regulate the level of noise pollution in urban areas, including metropolitan cities, from various sources of noise pollution. But these Rules are inadequate or insufficient to control the noise pollution. Many factors leading to noise pollution have not been covered by these Rules. The provisions under the Rules are not adequate. So at first we discuss the various rules of this Act and after that we will critically analyze the various provisions of this Act for controlling noise pollution.

Noise Pollution (Regulation and Control) Rules 2000

The Noise Pollution (Regulation and Control) Rules, 2000 framed by the Central Government under the provisions of Environment (Protection) Act, 1986 read with Rule 5 of the Environment (Protection) Rules 1986.

The statement of objects and reasons of these Rules provides that the increasing ambient noise level in public places from industries, construction activities, generator sets, loudspeakers, public address systems, music systems, vehicular horns and other mechanical devices have deleterious effects on human health and the psychological well being of the people. Therefore, it is considered necessary to regulate and control noise producing and generating sources with the objective of maintaining the ambient air quality standards in respect of noise.

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[24] Under Section 2(1) of *Air (Prevention and Control) of pollution Act, 1981* "air pollutant" means any solid, liquid or gaseous substance (including noise w) present in the Atmosphere in such concentration as may be or tend to be injurious to human being or living creature or plants or property or environment

[25] Section 17 (1) of *Air (Prevention and Control) of pollution Act*, 1981

[26] Section 17(1) (g) of *Air (Prevention and Control) of pollution Act*, 1981

[27] Section 6(2) (1) of *Environment (protection) Act,*1986

[28] Section 3 of *Environment (protection) Act,*1986

Procedure under the Act

Under these Rules the loudspeakers or public address system shall not be used except after obtaining written permission from the competent authority or a loudspeaker or public address system shall not be used at night (between 10.00 p.m. to 6.00 a.m.) except in closed premises for communication within, e.g., Auditorium, Conference rooms, Community halls and Banquet Halls.[29]

Under these Rules, whoever, in any place covered under the Silence Zone area commits any offence relating to noise pollution shall be liable for penalty under the provisions of the Act[30] or the competent authority shall take action against the violator in accordance with the provisions of these Rules and any other law in force.[31]

Thus, these are the various provisions provided under the Noise Pollution (Regulation and Control) Rules, 2000. But these rules are inadequate to cover the whole area for controlling of noise pollution. Recently, the Supreme Court gave directions to an amicus curiar to give suggestions to implement the noise standards with regard to firecrackers. In response to the court's earlier order issued in 1998, inability has been shown about implementing noise standards prescribed under the Rules of 2000 because of lack of manpower as well as equipment and infrastructure for enforcing the noise pollution. The Central Pollution Control Board suggested that power to issue licenses for manufacture and sale of fire crackers should be vested in State Government.

Analyses of Noise Pollution (Regulation and Control) Rule, 2000

The critical examination of the Act & experience during past years has proved that the Act is inadequate and insufficient for controlling the noise pollution. The various drawbacks of the Act are as follows:

1. Present Rules under the Act does not cover the whole area for controlling of noise pollution. It only covers the noise of loudspeakers and amplifiers within the area of its operation. The noise of aircrafts, trains, domestic animals, transport, industry and commercial establishments has not been covered by the Rules.
2. The punishment provided under the Rules is not adequate and deterrent as compared to effect of noise on the health and environment. Because of providing less punishment the Act becomes inadequate. No time limit is prescribed in the Rules for trial under the Act. The delay in the decision frustrates the object of the Act.
3. There are no provisions made under the Rules for public awareness, public participation or public coordination for controlling the noise pollution.
4. There is wide gap between the Act in theory and its implementation in practice.
5. Under Rule 4(2) of the Act authority is responsible for the enforcement of noise pollution control measures. But the role of the authority to control the noise pollution is inactive.
6. There is no provision for coordination between the different Departments of Government in the Rules for controlling noise pollution. For example in the same areas, the planning department of the city sanctions the plans for construction of residential houses and on the other hand, the Industrial Department grants the licenses for factories. As a result the inhabitants are facing lot of difficulties in such areas due to industrial pollution. Therefore, the coordination among various departments of the Government must be ensured under these Rules.
7. There are no provisions for permanent restrictions on noise producing areas for controlling of noise pollution.

So, these are various limitations of Rules for controlling noise pollution. Many provisions which could be helpful to control noise pollution should be maintained in the Rules. These provisions should be implemented in the whole country. The provisions for public awareness, public coordination and public participation to control noise pollution should be mentioned in the Rules.

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[29] Rule 5 of Noise Pollution (Regulation and Control) Rules, 2000.

[30] Rule 6 of noise Pollution (regulation and

[31] Rule 7 (2) of Noise Pollution (Regulation and Control) Rules,2000

These Rules only cover the Noise of loudspeakers and amplifiers within the area of its operation. So, the noise from other sources should be covered by these Rules. Proper punishment must be provided in these Rules. The coordination among various departments of Government must be ensured under these Rules for controlling noise pollution. Permanent restrictions for controlling noise pollution must be provided under these Rules.

CONCLUSION AND SUGGESTION

The study reveals that the law, pertaining to noise control is inadequate to curb the problem of noise pollution. The constitutional provisions and various legislative enactments are insufficient for controlling the noise pollution. We find that the remedies available in Law of Torts and Law of Crimes are inadequate to control the noise pollution. It is very difficult to place restrictions on noise produced by railway engines and aero planes. The Environment Protection Act, 1986 is inadequate to curb the problem of noise pollution.

Motor Vehicles Act, 1988 provides certain restrictions on noise produced by horns and it also requires a silencer to be fitted with every motor vehicle. But the Act has failed to mention the limit of noise which a vehicle may be entitled to produce.

Industrial laws have no direct provision for abatement of noise except in terms of nuisance in the Factories Act, 1948. The Noise Pollution (Regulation and Control) Rules, 2000 are inadequate. These Rules only covers the noise of loudspeakers and amplifiers. The noise from other sources has not been covered by the Rules. There is no strict law for control of noise pollution at international level. Due to globalization, technological advancement the problem of noise pollution has been increased in all developed and developing countries. It has become a serious threat to all living and non living things. Therefore, in the existing Indian set-up there are many factors, which are responsible for the ineffectiveness of laws and continuous noise pollution. Some of the factors are as follows:

- Wide gap between law in theory and its implementation in practice.
- Illiteracy and unawareness among general public about the problem of noise pollution
- Public non-cooperation towards control of noise pollution.
- Inactive role of Judiciary to control or curb the problem of noise pollution.
- Inadequate laws for controlling of noise pollution.
- Rapid growth of urbanization and industrialization.
- Ineffective laws to prevent pollution of environment by automobiles, loudspeakers and other innumerable sources of noise.
- Customs, festivals or religious ceremonies.
- Political interference in pollution control matters

So, these are various factors which causes noise pollution or which are responsible for the ineffectiveness of laws and continuance of noise-pollution.

SUGGESTIONS REGARDING CONTROL OF NOISE POLLUTION

1. Use of the loudspeakers should be for restricted purposes and that too with the permission of competent authority. The level of its volume and the duration of use should be explicitly defined for various purposes.
2. The use of loudspeakers with in 500 meters of hospitals and educational institutions should be strictly banned.
3. The domestic noise coming from radio, tape recorders, television sets, mixers, washing machines, cooking operations can be minimised by their selective and judicious operation. By usage of carpets or any absorbing material, the noise generated from felling of items in house can be minimised.
4. Automobile drivers should be required to make minimum use of horns, especially pressure horns, in the populated areas.

5. Automobile producing sounds above a defined level, whether due to defective silencer or some other defects, must not be permitted to ply on roads.
6. Any industrial complex, small scale or large scale must not be permitted with in 5 kms from the border of any city.
7. Flying of air crafts, below a definite altitude, near the cities should not be allowed except under emergency conditions.
8. Fire works especially those of exploding nature should be discouraged.
9. Environment courts should be established for control of noise pollution.
10. Standards for noise emission for motor vehicles should be revised.
11. Social consciousness on noise pollution may be raised through a nationwide awareness campaign.
12. At present, there is no specific and detailed legislation to control noise pollution. Government should pass the "Noise Pollution Control Act" to curb the grave problem of noise pollution. Creation of unnecessary noise should be punishable under law.
13. Public awakening is very important for the control and prevention of noise pollution. Due to illiteracy most of the persons lack any idea about the ways in which noise pollution could be controlled. In this regard television, radio, internet, and news papers, should give a campaign for wide publicity of noise pollution.
14. By plantation noise pollution can be reduced. Plants are efficient absorbers of noise, especially noise of high frequency.

It is fact beyond any doubt that a law covering all types of pollution is urgently needed, but equally important will be its implementation and enforcement. Steps will have to be taken to ensure that any law intended to control pollution is enforced by the authorities and abided by the people earnestly and sincerely. Law protects all if people abide by it. Ours is a country known for peace, let us pledge to preserve its peacefulness.

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