1. Natural Right to Quietness
2. Concept of Noise Pollution
3. Actionable Noise
4. Sources of Noise Pollution
5. Effects on Human Beings
6. Effects on Other Living Beings and Non-Living Things
7. Extent of the Problem
8. Noise Hazard in Kochi
9. Statutory Control of Noise Pollution
10. Judicial Contributions
11. Inadequacy of Existing Law
12. Legislative Measures
13. General Measures
14. Administrative Measures
15. Conclusion
AIR QUALITY CONTROL: THE NOISE REGULATIONS

Noise is a type of atmospheric pollution and it is one of the undesirable consequences of technological civilization. It is an unwanted sound without agreeable musical quality. The roar of traffic, the passage of trains and aeroplanes, the bustle of crowds and the working of industry and the public utilities deafen the ears. Even homes are not free from noise. The excessive noise from whatever source it comes from is undoubtedly physiologically and psychologically harmful. It is an insidious form of air pollution as it invades the air environment in dangerous proportions. It also causes annoyance. Noise as a potentially harmful pollutant is also being recognized as a great nuisance these days, affecting the quality of life especially in urban centres.

7. Surveys in many countries reveal that noise is menacingly becoming a threat to the quality of life. In the United States, perceiving the gravity of noise pollution, noise is ranked second only to crime. In West Germany, 45 % of the population considers protection against noise more important than construction of new roads. In Japan, there are more complaints against noise than any other forms of pollution. See Jim and Phyllis Mac Neil, “Towards a Quieter World–Noise Pollution Control in 1980s”, Magazine,p.29, as cited in Agarwal, N., Noise Pollution, National Seminar on Law Towards Environmental Protection, February 10–12, 1984, Chandigarh.
Natural Right to Quietness

In an organized society, rights are being related with duties towards others including neighbours. According to the natural law theory, every person is entitled to enjoy his natural right to quietness. This implies that there cannot be any interference to quietness by any form including noise pollution. In ancient India, there was great appreciation accorded to silence and it is from this attitude that the concept of shanti emerged. The sage who was greatly venerated was a muni, a man of solemn silence. The casual connection between silence and shanti (quietness) and the spiritual strength and physical powers of the sage was recognized in ancient India. In the earlier days, noise was only associated with war at the international level, and as an expression of anger at the individual level. However, it was only with the dawn of the industrial and technological revolution that the environment lost its natural calmness.

Concept of Noise Pollution

The word noise is derived from the Latin word ‘nausea’ and it means an excessive, offensive, persistent or startling sound. The best definition of noise is sound which is undesirable by the

8 Church of God (Full Gospel) in India v. KKRMC Welfare Association, A.I.R. 2000 S.C. 2772 at p. 2774, per M.B. Shah and S.N. Phukan, JJ.
11 Psychologists define the term noise in terms of its psychological effect on human beings. In the words of Harell, “Noise is an unwanted sound which increases fatigue and under some industrial conditions, causes deafness”. Blum defines noise as “a distracter and therefore interfering with efficiency”. According to Tiffin, J., “Noise is sound which is disagreeable to the individual and which disturbs the normal way of an individual”. For Viles, “noise is an unpleasant sound”. See Chhatwal et al., Encyclopedia of Environmental Pollution and its Control, Vol. III (1989), p.2. In scientific sense, noise is described in terms of frequency intensity of sound. The loudest sound that a person can withstand without discomfort is about 80 dB. See Chhatwal et al., Id., pp.17–18.
12 V.D. Kulshreshta, “Noise Pollution Emerging Challenges and Regulation” in Agarwal, S.L.(Ed.) Legal Control of Environmental Pollution, Tripathi (1998), p.188.

250
recipient\textsuperscript{14}. But this definition is subjective and it differs from the scientific description of noise. An objective definition of noise related to the measurement and assessment techniques is yet to be drawn up by law. Noise becomes pollution when the intensity and frequency of the sound is likely to affect the quality of environment\textsuperscript{15}. It is aptly said:

"Noise becomes a pollutant when it contaminates the environment and affects the health of persons, their activities and mental abilities"\textsuperscript{16}.

The presence of noise in the open atmosphere or in confined space is generally considered undesirable, except possibly by the person responsible for it. This is because noise pollution does not exist in the space immediately surrounding the person. Thus, noise pollution relates to loudness of the sound becoming irritating or unbearable. A decibel is the standard unit for the measurement of noise. The zero on a decibel scale is at the threshold of hearing, the lowest sound pressure that can be heard. On this scale, 20 dB is whisper, 40 dB is the noise in quiet place, 60 dB is normal conversation, 80 dB in bus, 100 dB in train and 140 dB is the level at which sound becomes physically painful\textsuperscript{17}.

**Actionable Noise**

A legally significant definition of noise is a difficult discern, as noise is not purely a matter of acoustics but of psychology. Subjective factors such as mental attitude, environment, time, place etc. are important in the determination of actionable noise which differs and is hard to qualify. The law cannot take into account every unwanted noise. On the other hand, any sound which becomes excessive, unnecessary or unreasonable has to be put under regulation in order

\textsuperscript{14} Cited in David Hughes, *Environmental Law*, supra, n.4 at p.311.
\textsuperscript{16} Air (Prevention and Control of Pollution) Act, 1981, S. 2(a).
\textsuperscript{17} This proposition is advanced by Smith, the noted Industrial Psychologist of the 20\textsuperscript{th} century. For details, see Chandra Pal, *supra*, n.1 at p.178.
to shield public interest against its undesirable and harmful effect or for its cessation. Scientific methods to that extent may be useful in determining situations where noise steps out from its background and becomes actionable. Noise is more than just a nuisance. It constitutes a real and present danger to people's health. Therefore, noise pollution is now recognized as a kind of air pollution and noise is included as an air pollutant in Section 2(a) of the Air (Prevention and Control of Pollution) Act, 1981.

**Sources of Noise Pollution**

The sources of noise pollution are numerous but they may be broadly grouped under two classes namely, industrial and non-industrial. The industrial source includes the noise from various industries and big machines working at a very high speed and high noise intensity. Non-industrial source of noise includes the noise created by transport/vehicular traffic, loudspeakers and the neighborhood noise generated by man-made sources such as commercial, social, religious and political activities, and natural sources.

1. **Industrial**

Noise is an inescapable by-product of industrial environment which is increasing very fast with the advancement in industrialization. Industrial noise includes noise from various machineries like boilers, foundary, flour mill, cutting machines, lathe machine etc. The workers are the immediate sufferers of the noise hazards of industrial functioning. Industries located in the residential areas, particularly such as printing press, agro-based

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18 See Chhatwal et al., supra, n.11 at p.18.
19 Inserted by Act 47 of 1987, which came into effect from 1-4-1988.
20 See Chhatwal et al., supra, n.11 at p.66.
21 There are restrictions on the use of loud speakers and permission has to be obtained from the local administrative authorities for its use.
22 *Everyman’s Encyclopedia*, p.189; *Encyclopedia Americana*, supra, n.5 at p.492.
23 Workmen’s Compensation Act, 1923 provides for compensation for absolute deafness.
industries, automobile repairing, grinding mills, general engineering etc. are other industrial sources of noise pollution that continuously affect the public living in the vicinity. People living near to noisy manufacturing plants can be disturbed by sources such as fans, motors, and compressors installed outside the buildings. Interior noise can also be transmitted to the community through open windows and doors, and even through building walls. These interior noise sources have significant impact on industrial workers, among whom noise-induced hearing loss is very common.

2. Non-Industrial

The non—industrial sources of noise pollution include loud speakers, automobiles, aircrafts, trains, construction work, and projection of satellites in space. The extensive use of loudspeakers in religious, political and personal functions is the most disturbing source of noise pollution especially to the urban people. Though the use of loudspeakers is governed by administrative restrictions and laws, their widespread use continues as the restrictions and the laws are not properly enforced. Noise radiations from automobiles are a major source of noise pollution in the urban areas. Trucks, buses, heavy vehicles, passenger cars, their engine roar due to improper maintenance and ear piercing blow of horns produce undesirable sounds to the annoyance of the people living in residential areas adjacent to the roads. Similarly, the fast growth of air traffic, the invention of supersonic aircrafts and the devices employed to scare birds have contributed to the creation of aircraft noise.

25 The Bihar Control of the Use and Play of Loudspeakers Act, 1955 is one of the Acts regulating the use of loudspeakers.
26 Heavy vehicles such as trucks and buses generate sound levels exceeding 90 dB.
27 Jet planes are one of the biggest irritants in today’s noisy world.
28 In order to scare away birds from the air fields, various types of devices for making noise in the form of strong noise stimuli are being used. One among them is the automatic gas cannon which produces loud bangs at regular intervals by exploding propane or acetylene gas. Such devices increase noise pollution at airports. See Chhatwal et al., supra, n.11 at p.70.
29 The intensity of aircraft noise in some of the busy airports range as high as 140 dB during the peak hours. This intensity is quite near to the threshold of pain (140 dB). See David Hughes, supra, n.4.
noise. Aircrafts generally generate unbearable roar during take offs and landings. Aircraft noise\textsuperscript{30} is obstructive, persistent and unpleasant besides being a serious health hazard for the communities living in areas nearby the airport.

The impact of noise from steam engines, fast trains and railway operations has been reported to be maximum in the residential areas where railway tracks pass through. In view of the increasing speeds and frequencies of the railway services, the community needs protection from the point of noise control. Construction activities are also potential sources of noise pollution especially to the people living near the sites of construction. Construction noise sources include pneumatic hammers, air compressors, bulldozers, loaders, dump trucks and their back-up signals, and pavement breakers. Projection of satellites into space is also now recognized as a new source of air and noise pollution, as the lifting of satellites with the aid of highly explosive rockets produce deafening noise.

**Effects of Noise Pollution**

Noise is an important health issue that affects more than hearing\textsuperscript{31}. The effects of noise pollution is multifaceted and inter-related. It has ill effects not only on human beings but also on other living and non-living things. High noise is proved to cause biochemical changes in man, elevates levels of blood catecholamine, cholesterol white cell counts and lymphocytes fatigue. Shift of threshold limit of hearing leads to loss of hearing, changes in metabolism, and blood circulation. In these circumstances, noise is now being recognized as a serious public health hazard as opposed to a nuisance and the health effects of the hazardous noise exposure are

\textsuperscript{30} Chhatwal \textit{et al.}, supra, n.11 at p. 69.

now considered to be an increasingly important public health document\textsuperscript{32}.

**Effects on Human Beings**

Human beings are the common receptors of noise pollution. Though it is easy to show that excessive noise could result in the loss of hearing in human beings, it is difficult to show to what extent the effects of noise can prevail on individuals. Noise can produce serious physical and psychological stress on human beings. Impact of noise depends upon the sound's pitch, its frequency, time pattern and length of exposure. Noise has both auditory and non-auditory effects depending upon the intensity and the duration of the noise level. It affects sleep, hearing and communication, mental and physical health. It may even lead to madness in people.

The effects of noise pollution on human beings are generally physiological, and psychological.

**(i) Physiological Effects**

It is now medically confirmed that noise disturbs the biological organism of human beings. It is found that noise level in excess of 90 decibels for continuous period can cause loss of hearing. A single exposure of 150 decibels is known to cause permanent injury to the internal mechanism of the ear\textsuperscript{33}. Physiological indications such as occupational deafness\textsuperscript{34}, noise related diseases such as stomach ulcers, cardiovascular and circulatory disorders, respiratory


\textsuperscript{33} Ibid

\textsuperscript{34}Physicists, physicians and psychologists are of the view that continuous exposure to noise level above 80 – 90 dB is unsafe. Numerous studies and surveys have confirmed that prolonged exposure to high noise levels bring about some degree of hearing loss. 50 to 60 % of the workers in a plant with noise level of about 105 dB are reported to be losing hearing capacity. In U.S.A, at least 8 percent of the workers are facing occupational hearing problems due to prolonged exposure to noise. See Agarwal, N., supra, n.7.
diseases, dizziness, headache and rise in blood pressure are reported in individuals exposed to different levels of noise. It may lead to abortions and other congenital defects in unborn children. An analysis of more than 2,25,000 births in Los Angeles showed that there were more birth defects among babies whose mothers lived near the international airport than those who lived in quieter areas.

(ii) Psychological and Behavioral Effects

Noise is recognized as a major factor causing tension in the modern age. Psychiatrists and Psychologists have recently noted the connection between excessive noise and physiological disorders. It is now regarded as a slow agent of death.

The psychological and behavioral effects created by excessive noise include annoyance, speech interference, fatigue, psychosomatic disorders, tension related diseases, sleep interference, mental illness, and emotional distress. The psychological and behavioral effects are of far reaching consequences in industry where the ability to communicate by speech is indispensable and its interference may cause disruption of work, inefficiency, accidents, inconvenience and violent behaviour. The increasing noise pollution may have economic implications in that way also. World Health Organization has estimated a loss of 4 billion dollars to the American Industries

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37 The study was undertaken by Dr. Norwells Jones, Professor of Psychology at the University of California; Also see Bruce L.Welch and Anne Maria (Eds.) Physiological Effects of Noise, New York(1970), p.152.
38 Bailey, "Noise is a Slow Agent of Death", as cited in Nayak, supra, n.13 at p.204.
39 A study conducted at London's Heathrow airport has indicated a higher incidence of mental disorders compared with those outside the range of aircraft din. Similarly, a French Study has indicated that noise is the cause for 70 % of neurosis in Paris. See "Noise Pollution a Serious Risk", Indian Express, Chandigarh, June 16, 1987, p.6.
40 Studies conducted in Russia have also revealed that every decibel above the permissible level reduces labour efficiency by one percent. See Agarwal, N., supra, n.7.
41 The relation between increasing noise and increased rate of crime cannot be overruled.
annually due to reduced working efficiency, absenteeism, accidents and compensation claims arising from noisy working conditions\textsuperscript{42}.

Loss of concentration and memory are also other inevitable consequences of noise pollution. Surveys have demonstrated the effect of noise pollution on student’s ability to concentrate in their studies\textsuperscript{43}. Noise pollution may also bring disturbing consequences on the personality make up of children. Long exposure to noise and the resulting lowered performance level among children may bring lack of confidence in them. It also hampers the personality development of a growing child\textsuperscript{44}.

**Effects on Other Living Beings and Non-Living Things**

The adverse effects of noise pollution are also felt on other living beings. It has been observed that several birds have stopped laying eggs\textsuperscript{45} due to noise pollution. Animals subjected to chronic effects of intense noise are found to migrate to other places. It is also found that there is a decrease in the number of migratory birds in a place which is subject to intense noise pollution. The mating environment and tranquility of their habitat is interrupted and the sense of direction-finding is jeopardized\textsuperscript{46}. Empirical studies conducted on animals reveal that aircraft noise of an intensity of 120 to 150 dB can cause miscarriage in them. Exposure to 150 to 160 dB noise would be fatal to certain animals. Prolonged and chronic noise can produce high blood pressure, stomach ulcers, and other serious consequences in animals also\textsuperscript{47}.

\textsuperscript{42} See Nayak, R.K., supra, n.13 at p.200.
\textsuperscript{43} A survey conducted by the Society for Clean Environment in Mumbai has revealed that 36 per cent of the population in the city constantly encounter noise pollution. Of them, 76 percent encounter lack of concentration, 69 percent complained of disturbed sleep and 65 percent of restlessness.
\textsuperscript{44} For details, see Chhatwal et al., supra, n.11 at p.63.
\textsuperscript{45} Silver foxes in America are reported to have stopped laying eggs in noisy environment.
\textsuperscript{46} Mathur,L.N., “Noise Pollution and its Control” in Musharraf Ali, S.(Ed.), Legal Aspects of Environmental Pollution and its Management, CBS Publishers, Delhi, p.166.
\textsuperscript{47} It is also reported that Sport fish are believed to be sensitive to sound. Guinea pigs exposed to short periods of noise pollution have been found to be affected with damage of the auditory ear hair cells.
Chapter 7  Air Quality Control: The Noise Regulations

The high intensity of noise affects non-living things too. Buildings are affected by it. In India, there are reports about cracks that have developed in ancient monuments due to sonic booms.⁴⁸

**Extent of the Problem**

Noise tends to be unpleasant and irritating to the ear. In urban centres it is becoming a serious health menace. This is to a great extent due to increasing industrialization, traffic density, overcrowding due to population explosion and urbanization. The problem of noise is further aggravated by widespread use of loud speakers and exploding of crackers. Metropolitan cities of Delhi, Mumbai, Chennai and Kolkata are among the noisiest cities in the world. It is estimated that in Mumbai noise levels range from 57 to 91 dB.⁵⁰ The noise levels in Chennai according to a study report of the Tamil Nadu Pollution Control Board, varied between 52.7 dB to 119.4 dB. In Delhi, it varies from 50 to 120 dB.⁵¹ Kolkata has an average noise level of 87 dB.⁵² The noise levels in metros are far more than the national ambient noise standard.⁵³

As noise levels are increasing in India both in time and space, noise pollution needs to be curbed. If not, the modern life thriving on the advancement of science and technology in cities would be impossible. Complete cessation of noise is virtually impossible, but avoidable noise could be and must be avoided through legal and extra legal methods.⁵⁴ In view of the subjective effects of noise on

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⁴⁹ In India, such incident has reported in respect of the Khajuraho temple in Madhya Pradesh.


⁵³ The ambient noise standards for industrial areas are 75 dB for day time and 70 dB for night, for commercial areas 65 and 55 dB, for residential areas 55 and 45 dB and for silence zones, it is 50 and 40 dB during the day and night hours respectively. See *Annual Report 1989—1990*, supra, n.51 at p. 37.

⁵⁴ Pramod Singh, *supra*, n. 2 at pp.121-122.
individuals and the society, legislative and administrative controls are indispensable. Control mechanism has gained strength to a certain extent with the coming into operation of the Air(Prevention and Control of Pollution) Act, 1981 and the inclusion of noise as a pollutant by the Amendment Act 47 of 1987, thus bringing it within the scope of air pollution. Consequently, the Central and State Pollution Control Boards assumed added role of prevention and control of noise pollution by formulating noise standards for industries, automobiles, domestic appliances and the general ambient noise standards, as well as by conducting surveys as part of monitoring of ambient noise levels.

**Noise Hazard in Kochi**

Recent studies undertaken in Kochi City\(^5^5\) reveal that on an average, buses produce noise in excess of 90 decibels with their care-free honking. Even without the blaring of the horns, buses produce noise in excess of 80 decibels. This is when the rules regarding the ambient air quality standards in respect of noise allows just 75 decibels during day even in industrial areas, while in residential areas, it is 55 decibels and in silence zones it is down to 50. The study shows that there is scant concern for silence zones, though areas up to 100 meters from hospitals, educational institutions, courts and the like come under the silence zones. The study concludes by noting that the most vulnerable are the newborns and premature babies in hospitals who may be permanently deafened by such high decibel levels. Another high risk group is the traffic policemen who bear this onslaught for eight hours in a day. On an average, the study revealed that a person like a traffic policeman in continuous proximity to the honking would receive 319 blasts of the horn in two hours. The study suggests educating the drivers and conductors by making them

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55 Study was undertaken by the Kochi Chapter of the Indian Medical Association and the Association of Oto Laryngology in association with the State Pollution Control Board on September 30, 2008. For details, see the news item under the caption "Honking Makes Hearing Difficult". *The New Indian Express*, October 6, 2008, Kochi Edition, p.3.
aware that they themselves are at a greater risk of hearing loss than others.

**Statutory Control of Noise Pollution**

The increasing menace of noise pollution is greatly threatening public health. Despite the same, an exclusive Act dealing with the problem of noise and its control is lacking in the Indian legal system, whereas many countries of the world have already enacted specific laws to control the noise menace. Noise in India is actionable mainly under the law of torts. Apart from that there are also some stray legal provisions, scattered in different statutes for the control of noise. They are analyzed briefly to show how efficacious they are in tackling the problem of noise pollution.

1. **Noise as a Public Nuisance under the Criminal Law Regime**

The Indian Penal Code, 1860 treats noise as a public nuisance under Section 268. Under this provision, people who run offensive trade and thereby or by any offensive means corrupt the air or cause any loud and continued noise that cause injury or annoyance to the

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56 It is true that Noise Pollution (Regulation and Control) Rules, 2000 was framed by the Central Government under the provisions of the Environment (Protection) Act, 1986 read with R.5 of the Environment (Protection) Rules, 1986, but still it has not fully addressed the problem of noise pollution.

57 Model legislations on noise pollution control in other countries are, Noise Abatement Act, 1960 of England and the U.S. Noise Control Act, 1972. The Noise Abatement Act, 1960, S.2 provides that loudspeakers shall not be operated: (a) between the hours of nine in the evening and eight in the following morning for any purposes, (b) at any other time for the purpose of advertising any entertainment, trade or business. Exceptions are, of course, provided in the Act like the use of loudspeakers by the Police, Fire Brigade etc. For details, see The Control of Acoustic Environment, Pen.Uni. Press, Walton Hall, Great Britain (1961). The U.S. Noise Control Act, 1972 is an excellent legislative attempt containing policy statements on noise abatement programme, identification of major noise sources and control mechanism. See for text of the Act, Lal’s Commentaries on Water and Air Pollution and Environment (Protection) Law, Delhi Law House(5th edn.,2008), pp.1373–89 and for the reference of the enactments of some other countries, see Kulshreshtha, V.D., “Noise Pollution : Emerging Challenges and Regulation” in Agarwal, S.L.(Ed.), supra, n.47 at p.188.

58 Section 268 reads: “A person is guilty of public nuisance who does any act or is guilty of any illegal omission which 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”.

260
health, comfort or convenience of those dwelling in the neighborhood are liable to prosecution for causing public nuisance.

Noise can also be made punishable under Section 290 of the Code by considering it as a public nuisance not provided in the Code, for which the punishment prescribed is fine extending to two hundred rupees. The question of nuisance by noise is one of the major problems and depends upon the circumstances of the concerned case. Neither the right to make noise can be acquired by prescription nor can it be accepted as a defence to a charge of public nuisance.

The Criminal Procedure Code, 1973 under Section 133 empowers an Executive Magistrate to pass conditional order requiring the person causing nuisance including that of noise, to remove such nuisance. This provision can be utilized in case of nuisance of air environment. Under this provision, Executive Magistrate can adopt immediate remedial measures to prevent danger or injury of a serious nature to the public. For prevention of danger to human life, health or safety, the Magistrate can also direct a person to abstain from certain acts. In Madhavi v. Thilakan, Justice Chettur Sankaran Nair of the Kerala High Court adopted a positive approach to the problem of noise pollution by holding that running of workshop causing nuisance by air pollution and noise pollution in violation of the order passed under Section 133 of Criminal Procedure Code cannot be justified on the ground that it provides livelihood to some

61 The High Court of Madhya Pradesh in Krishna Gopal v. State of M.P 1984 Crl. L.J. 396, has made use of Section 133 of the Cr. P.C as a potent measure for the control of noise pollution. In this case, the High Court, on revision restored the order of the S.D.M for the removal of a glucose factory and a boiler from the locality which boomed round the clock, emitted smoke, ash and disturbed the sleep of a heart patient and others living next door. The Court observed that manufacturing of medicines in a residential locality with the aid of installation of a boiler resulting in the emission of smoke therefrom is undoubtedly injurious to health as well as the physical comfort of the community.
63 1988 (2) K.L.T. 730.
persons. Thus, the Court has regarded right to a safe air environment free from noise as more important than the right to livelihood.

Even amidst such progressive judicial trends projecting the harmful consequences of noise, nuisance by noise has not been given a serious consideration under the criminal law regime. It is not even considered as a public nuisance under Section 268 of the Indian Penal Code but often relegated to the residuary provision under Section 290, which prescribes just nominal punishment not having any deterrent effect. The provisions in the Indian Penal Code are inadequate to meet the increasing menace of noise pollution, in view of the recent scientific and industrial developments.

The penal provisions also do not lead to uniform application in all criminal cases of noise nuisance. There have been very rare prosecutions for nuisance by noise as the offence of public nuisance under Section 290 is non-cognizable. The indifferent attitude of courts in maintaining such actions is another factor for less prosecution. Courts generally show reluctance to treat nuisance by noise as actionable public nuisance even if it does affect all the residents of a locality or sometimes regard it as insignificant.

2. Noise Control under the Police Act, 1861

The Police Act, 1861 deals with noise pollution indirectly by envisaging provisions to regulate the conduct of assemblies and processions on public roads. As part of it, the police authorities can prescribe the routes and timings for taking out processions. The police officers can also require by notice for the procurement of license in cases where convening of the assembly or procession is

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64 See Dwarka Prasad v. B.K. Roy Choudhary, A.I.R. 1950 Cal. 349, per Sen and K.C. Chunder, JJ.
65 See Ivour Hydens v. State of Andhra Pradesh, 1984 Cr.L.J.16, wherein the Andhra Pradesh High Court in revision quashed the order of conviction of the lower court and held that playing radio loudly was too trivial an act to be taken cognizance of and is to be considered as excusable under Section 95 of the Indian Penal Code.
66 The Police Act, 1861, S.30 envisages that the District Superintendent or the Assistant District Superintendent of Police are authorized to direct the conduct of all assemblies and processions on public roads or in the public streets.
likely to cause a breach of peace. Police officers are also empowered to regulate music in the streets on the occasion of festivals and ceremonies. The regulatory power extends to stopping, dispersing or declaring the assemblies or processions that are unlawful and also which violate the conditions of license\textsuperscript{67}. The Act envisages penalty for violation of the conditions of license with regard to the use of music or the conduct of assemblies or processions\textsuperscript{68}.

3. Noise Control under the Railways Act, 1890

Railway engines and carriages are a big source of noise in India. But, railway locomotives enjoyed statutory protection under the Railways Act, 1890 against any action for the noise created by it\textsuperscript{69}. The Act also did not contain any provision for regulating noise caused by railway locomotives.

The Railway Act, 1890 has been repealed by the Railways Act, 1989, and the new enactment also does not contain any specific provision to control noise pollution resulting from railway locomotives. Railway locomotives are let free from statutory control, probably for the reason that railways constitute the largest means of public transportation in India. But the noise from locomotives has been substantially reduced with the introduction of electrical and diesel engines and with the use of welded tracks for running the trains. However, shunting operations even now continue near residential areas causing a great deal of noise and annoyance to the general public.

\textsuperscript{67} Id. S.30-A.
\textsuperscript{68} Penalty prescribed extends to a fine not exceeding two hundred rupees. See, Id. S.32. Under the Bombay Police Act, Police Inspectors are authorized to allow the use of loudspeakers and they are conferred with wide discretion in the matter suggesting the possibility for its abuse.
\textsuperscript{69} The Railways Act, 1890, S.16 gives statutory authority for the use of locomotives to the railway administration.
4. Noise Control under Civil Aviation law

The impact of civil aviation on the environment is evident in the rising public concern regarding noise which it generates. In 1968, at the sixteenth Assembly session of the International Civil Aviation Organization (ICAO) at Buenos Aires, a resolution was adopted requiring ICAO to study the problem of noise pollution from aircrafts. This led to the development of 'International standards and recommended practices' for aircraft noise. These standards require all aircrafts to undergo the process of noise certification by the authorities of the state of registry of the aircraft regarding compliance of the said standards. India is a member state of ICAO and has also accepted the noise specifications.

Under the Indian Aircrafts Act, 1934, causing of willful damage or injury is actionable. Although there is no specific provision relating to control of noise pollution from aircrafts, the Government can make rules to control noise pollution for safeguarding health. This has led to the incorporation of noise restriction regulations and safety regulations in the Aircraft Rules. To enforce the rules, Airfield Enforcement Committees headed by Secretaries of the State Governments with broad based membership from Civil Aviation Department, Municipal Corporations, Health Departments etc. are established at all airports. Though there are regulations, they are not enforced and that no airline has been penalized for infringement of

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70 An Aeronautical Information Circular was issued by the Civil Aviation Ministry banning the operation of aircrafts which are not noise certified after December 31, 1987.
71 Rule making powers are conferred by Aircraft Act, 1934, S.8A and the Indian Aircrafts(Public Health) Rules, 1946.
72 R.81–B is directed at clean air around airports to avoid bird hitting by the aircrafts. Under the rule, slaughtering or flaying animals, depositing or dropping any rubbish, garbage or polluted matter which attracts or may attract birds within a radius of 10 Kms. from the aerodromes is prohibited. Violation of the Rule entails prosecution and a person who is found guilty may be sentenced to imprisonment which may extend up to 2 months or fine or with both. The Rule has been recently amended and the punishments have been made more stringent.
the noise regulations. Apart from that, no measures are taken to cut down noise pollution by imposing night curfews.

5. Noise Control under the Motor Vehicles Act

The Motor Vehicles Act, 1939 empowered the State Government to make rules for regulating equipment and maintenance of motor vehicles and trailers. Section 70 of the Act also authorized the State Government to make rules to reduce noise emission and prohibit carrying of appliances or the use of trailer with motor vehicles, causing annoyance or danger. It also envisaged periodical testing and inspection of vehicles by authorities.

However, the rules made by States did not contain effective control measures to reduce noise pollution except that the use of horns and silencers were regulated. There was inadvertence by States in the implementation of the rules also, which made the judiciary to intervene to implement the letter and spirit of law. Such a trend is seen reflected in Rabin Mukherjee v. State of West Bengal, wherein the grievance pertained to nuisance and noise pollution created by the transport operators by indiscriminate installation and

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73 For a critical evaluation of the state of noise pollution at the Indian Airports, see Bhatia, H.S., “Containing Airport Noise”, The Hindustan Times, New Delhi, April 28, 1988, p.11.
74 See Motor Vehicles Act, 1939, ss. 20, 21 J, 41, 68, 69, 70, 91 and 111-A.
75 For example, the following Delhi Motor Vehicles Rules, 1940 are really appreciable and should be incorporated by other States as well. These Rules are as follows: 5.5 Horn:-(1) Every motor vehicle shall be fitted with a horn or other approved device available for immediate use by the driver of the vehicle and capable of giving audible and sufficient hearing of the approach or position of the vehicles; (2) No motor vehicle shall be fitted with any multi-toned horn giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise; (3) Nothing in sub rule (2) shall prevent the use of vehicles used as ambulances or fire fighting or salvage purposes of a vehicle used by police officers in the course of their duties or on other similar vehicles of such sound signals as may be approved by the Provincial Government; (4) Every transport shall be fitted with a bulb horn (taxis and motor cycle rickshaws shall be, however, provided with either two electric horns with two switches or one electric horn and one bulb horn). 5.6 Silencers:-(1) Every motor vehicle shall be fitted with a device (hereinafter referred to as a silencer) which, by means of expansion chamber or otherwise reduces, as far as may be, reasonable and practicable, the noise that would otherwise be made by an escape of exhaust gases from the engine. (2) Every motor vehicle shall be so constructed or equipped that the exhaust gases from the engine are discharged downwards so as to impinge on the road surface. 5.9 Noise:-Every motor vehicle shall be so constructed and maintained as not to cause undue noise when in motion. Identical provisions have been incorporated in the Punjab Motor Vehicles Rules, 1940 and the Bengal Motor Vehicles Rules, 1940.
76 A.I.R. 1985 Cal. 222.
use of electric and artificially generated air horns that caused unduly rash shrill, loud and alarming noise. Justice Bhagabati Prasad Banerjee of the Calcutta High Court, after considering the serious physiological and psychological effects of noise pollution on various aspects of human life, held that it is the duty of the State and its authorities to enforce Rule 114 of the West Bengal Motor Vehicles Rules, 1940 and to punish the violators. The Court further directed the State Government to issue notification forthwith notifying to all transport vehicle operators about the restrictions provided in Rule 114 on the use of electric and other artificially generated air horns and directed the operators to remove such horns forthwith and to use only bulb horns in the State. The court granted 15 days time to the operators to change the electric and air horns and to fit their vehicles with bulb horns with a warning that failure to remove such prohibited horns from their vehicles would entail penal action.

The above approach of the High Court is laudable. High Court has recognized the importance of giving wide publicity to the statutory restrictions as a condition for compliance. Such positive trends are seen reflected in other decisions as well.

The Motor Vehicles Act, 1939 was repealed by the Motor Vehicles Act, 1988 and the new enactment also empowers the Central Government to take steps to control noise pollution. The new Act also envisages penalty for violation of noise pollution standards.

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77 The use of such horns was in violation of R.114 of the West Bengal Motor Vehicles Rules, 1940 which provide that every transport vehicle should be fitted with a bulb horn.
78 The Court also directed the State Government to notify that no transport vehicle fitted with electric and air horns would be issued with fitness certificate under S.38 of the Motor Vehicles Act.
79 The decision of the Bombay High Court in Citizens Action Committee v. Civil Surgeon, Mayo Hospital, A.I.R. 1986 Bom.136 deserves mentioning in this context, as in the above case, the Court directed the Commissioner of Police, Nagpur city to take steps to declare silence zone around Mayo Hospital and Medical College Hospital within 6 weeks.
81 Under Section 190(2), any person who drives or causes or allows to be driven, in any public place a motor vehicle which violates the standards prescribed in relation to road safety, control of noise and
Though under this, some measures have been taken towards noise control\(^82\), power has not been effectively utilized.

### 6. Noise Control under the Factories Act, 1948

High intensities, high frequencies and intermittency of noise often cause annoyance to the industrial workers. However, Factories Act, 1948 do not envisage measures to meet the above situation, except that it makes it obligatory on the part of occupier of every factory to keep the factory clean and free from any drain, privy or other nuisance\(^83\). The expression ‘nuisance’ in Section 11 can be considered to include noise. In the third schedule under Sections 89 and 90 of the Act, noise induced hearing loss is mentioned as a notifiable disease\(^84\). Noise limits for work zone area have been prescribed in Model Rules framed under the Factories Act, 1948. It is pertinent to note that under Section 35 of the Act, protection to the eyes of the employees is recognized, but protection to ears is nowhere granted\(^85\).

### 7. Noise Control under the Air (Prevention and Control of pollution) Act, 1981

Regulation of noise pollution did not fall within the gamut of Air Act, till the 1987 amendment. The amendment recognized noise as an air pollutant by amending Section 2(a)\(^86\). Thus, noise pollution

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\(^82\) See The Factories Act, 1943, S.1 1.

\(^83\) Under Section 89 of the Factories Act, any medical practitioner who detects any notifiable disease, including noise induced hearing loss, in a worker, has to report the case to the Chief Inspector of Factories, along with all other relevant information. Failure to do so is a punishable offence.

\(^84\) However, in the Schedules under Ss.89 and 90 of the Factories Act, noise induced hearing loss is mentioned as a notifiable disease.

\(^85\) The term ‘air pollutant’ has been defined to mean any solid, liquid or gaseous substance including noise present in the atmosphere in such concentration as may be or tend to be injurious to human beings or other living creatures or plants or property or environment.
through the medium of air is also covered under the Act. Resultantly, the provisions of the Act on increased penalties, citizens' suit and the issuance of injunction by Magistrates can be invoked to control noise pollution. The Central and State Boards can also exercise the powers and functions under Sections 16 and 17 of the Air Act for preventing and controlling noise pollution and can also lay down noise standards. Accordingly, noise standards have been prescribed for industries, automobiles, domestic appliances and for other sources. Besides this, ambient noise standards for industrial, commercial, residential areas and silence zones have been laid down both for day time and night time. Other sources covers public address system, aircraft operations, railway operations, construction activities and bursting of crackers.

An evaluation of the various statutory provisions contained in the Air Act shows that it is not adequate enough to prevent and control noise pollution. The provisions of the Act on increased penalties, citizens' suit and the issuance of injunction by Magistrates can be invoked to control noise pollution. The Central and State Boards can also exercise the powers and functions under Sections 16 and 17 of the Air Act for preventing and controlling noise pollution and can also lay down noise standards. Accordingly, noise standards have been prescribed for industries, automobiles, domestic appliances and for other sources. Besides this, ambient noise standards for industrial, commercial, residential areas and silence zones have been laid down both for day time and night time. Other sources covers public address system, aircraft operations, railway operations, construction activities and bursting of crackers.

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88 Under the noise standards for industries, exposure to continuous or intermittent noise louder than 115 dB should not be permitted and that exposure to pulse or impact noise should not exceed 140 dB in relation to peak acoustic pressure.
89 Noise limits prescribed for automobiles relates to manufacturing stage and it covers two wheelers, three wheelers and four wheelers without any distinction between passenger or commercial vehicles.
90 Noise limits for domestic appliances covers window air conditioners, air coolers and refrigerators.
91 These standards have been laid down by the Central Pollution Control Board in the reporting year 1989-90 under Section 16 of the Air Act.
92 Silence Zone includes areas up to 100 metres around certain premises like hospitals, educational institutions, and courts. Honking of vehicle horns, use of loudspeakers, bursting of crackers and hawkers noise are banned in these areas declared as silence zones.
93 The Code for controlling noise from public address system envisages licensing, ban on use between 9 p.m. and 6 a.m., mode of use and further prohibits the use of public address system for advertisement and commercial activities.
94 The Code of Practice for controlling noise from aircraft operations prohibit location of aerodrome in cities and also impose conditions on take off, boarding and un-boarding operations, night-time operations, idling period and maintenance and repair of aeroplane works.
95 The Code of Practice for controlling noise from railway operations obligates erections of caustic barrier, reducing speed and avoiding whistling within municipal and residential limits to the extent possible.
96 The Code of Practice for controlling noise from construction activities mandates the placement of acoustic barriers, fencing near construction sites and prescribes the maximum noise level as 75 dB in industrial areas and 65 dB in other areas.
97 The Code of Practice for controlling noise from bursting of crackers bans manufacture and sale of crackers having an impulsive noise of more than 90 dB at five meters distance from the site of bursting, manufacture and bursting of joined crackers, bursting of crackers between 9 p.m. and 6 a.m. It also permits bursting of crackers only during public festivals. See Annual Report 1989-1990, supra, n.51 at pp.47-48.
control noise pollution. The Act suffers from inherent loopholes. Though standards for control of noise pollution have been prescribed, it remains unimplemented on account of absence of effective control mechanism.

8. Noise Control under the Environment (Protection) Act, 1986

The Environment (Protection) Act, 1986 makes no specific reference to noise as an 'environmental pollutant'. However, noise seems to have been impliedly included in the category of pollutant in view of Section 6(2)(b) of the Act. Moreover, the Act takes a comprehensive view of environment in its totality and therefore, noise pollution cannot be viewed in isolation or apart from it. Thus, in the absence of any exclusive Act dealing with the control of noise pollution, the protection of environment would come within the purview of the Environment (Protection) Act. However, these provisions do not envisage effective ways to control noise pollution.

9. Noise Control under Noise Pollution (Regulation and Control) Rules, 2000

Judicial interdictions and the mounting public pressure for a specific legislation to combat noise pollution eventually led to the framing of the Noise Pollution (Regulation and Control) Rules, 2000. The Rules provide for ambient air quality standards in respect of noise for industrial area, commercial area, residential area and silence zone both during day time and night time. Day time

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98 Environment (Protection) Act, 1986, S.2(b) defines 'environmental pollutant' as meaning any solid, liquid or gaseous substance present in such concentration as may be, or tend to be, injurious to environment.

99 Environment (Protection) Act, 1986, S. 6 (2) (b) authorizes the Central Government to make rules providing for the maximum allowable limits of concentration of various environmental pollutants including noise for different areas by issuing notification in the Official Gazette.


101 The Noise Pollution (Regulation and Control) Rules, 2000, R.3.
standard for industrial area is fixed as 75 dB, for commercial area as 65 dB, for residential area as 55 dB and for silence zone as 50 dB. Night time standard for industrial area is fixed as 70 dB, for commercial area as 55 dB, for residential area as 45 dB and for silence zone as 40 dB. The power to categorize areas to take measures for abatement of noise is vested with the State Government. Rules mandate all development authorities and local authorities to take into consideration all aspects of noise pollution as a parameter of quality of life to avoid noise menace and to achieve the objective of maintaining the ambient air quality standards in respect of noise. Authorities have been designated vested with the responsibility to enforce noise pollution control measures. Restrictions are also imposed on the use of loudspeakers/public address system which envisages licensing and prohibition on its use between 10 p.m. and 6 a.m. subject to relaxation permissible for the State Government upon conditions during night hours between 10 p.m. and 12 midnight during cultural or religious festivals of limited duration not exceeding 15 days in a calendar year. Penalty is also prescribed for activities in violation of the rules in the silence zone. If the noise level exceeds the ambient noise standards prescribed in respect of an area, any person can make a complaint to the competent authority which can proceed against the violator by taking appropriate action, and on failure by the authorities to take abatement measures, the aggrieved party can approach the court after expiry of 60 days and the court can take prosecution steps. There is also power conferred upon the authority to prohibit the continuance of music, sound or noise becoming annoyance,

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102 Day time is explained to mean from 6 a.m. to 10 p.m. and night time as 10 p.m. to 6 a.m. Silence zone means areas up to 100 meters around hospitals and educational institutions and courts, declared by the competent authority who can also notify mixed categories of areas.
R. 3 (4).
R. 4.
R. 5.
106 As amended by Gazette Notification dated October 11, 2002.
R. 6. Activities include playing music, using sound amplifiers, beating drum or tom–tom, blowing horn, exhibiting mimetic, musical or other performances to attract crowds.
R. 7.
disturbance, discomfort or injury to the public\textsuperscript{109}. Rules have also been prescribed for air quality standards in respect of noise with regard to domestic appliances, firecrackers and noise limits for industries, automobiles, generator sets, etc.

However, the rules are not free from loopholes. The rules fix different ambient air quality levels for firecrackers and industrial activities when both are of equal damage to health. The rules are silent on noise from stationed vehicles, when the prohibition against the use of multi-toned horns is hardly enforced, though regulated by the Motor Vehicles Act 1988. Police and ambulance sirens are still used in ordinary transport vehicles as horns, and mufflers are disengaged or absent even in Euro certified vehicles.

Despite the same, the rules are clearly a step forward although they do not attempt to create comprehensive legislation on noise pollution, and continue with the piece-meal approach to specific problems encountered over the years. It is found that the legislative vacuum has often forced judges' efforts to create and regulate a fine balance between competing demands—from religion, the environment, public health, law and order etc. As a result, notwithstanding the progress made in understanding and documenting the various negative effects of noise pollution, there is still much that remains undone. In a welfare State, as aptly observed by the Supreme Court, it is the obligation of the State to ensure sustaining conditions congenial to good health\textsuperscript{110}.

### Judicial Contributions

The evil effects of noise pollution are enormous. It causes various physical and mental ailments. The extent of damage depends upon the duration and the intensity of noise that some times leads to

\textsuperscript{109} R. 8.

serious law and order problems\textsuperscript{111}. Judiciary in India has been treating noise pollution as amounting to violation of right to life and a form of abuse of freedom of speech and expression, thereby signaling the State of its solemn obligation to protect the citizens from noise pollution. In their efforts, the courts have also elevated freedom from noise pollution to the status of a fundamental right\textsuperscript{112}.

(i) Judiciary on Industrial Noise

According to the World Health Organization, noise working environment has resulted into lower efficiency and increased errors\textsuperscript{113}. The first verdict on the necessity to curb industrial noise pollution came from the Karnataka High Court which recognized industrial noise pollution as a health hazard in \textit{V.Lakshmipathy v. State of Karnataka}\textsuperscript{114}. The Court ordered the closure of industries which were established in the area marked as residential area in the Development Plan of the city. The Court was satisfied from the evidence adduced to prove the existence of air pollution and noise pollution affecting the environment and detrimental to the members of the public who lived in that area. The Court also held that the persistent pollution which is offensive and detrimental to public health is violative of Article 21 of the Constitution.

In \textit{M.C. Mehta v. Union of India}\textsuperscript{115} a public interest litigation was filed in the Supreme Court seeking a direction to the Haryana Pollution Control Board to control air and noise pollution caused by stone crushers, pulverizes and mine operators in Faridabad, within a radius of five kms. from the tourist resorts of Badkal lake and Surajkund. It was reported that noise levels in the area were far exceeding the permissible limits and particularly noise levels became

\textsuperscript{111} T. Leelakrishnan, \textit{P. Environmental Law in India}, Butterworths, New Delhi (2\textsuperscript{nd} edn., 2005), p.165.
\textsuperscript{113} Ateeque Khan, "Legal Control of Noise Pollution in India", in Musharraf Ali, S.(Ed.), supra, n.46 at p.175.
\textsuperscript{114} A.I.R. 1992 Kant. 57, \textit{per} H.G. Balakrishna, J.
\textsuperscript{115} (1996) 8 S.C.C. 462.
unbearable at the time of blasting operations by using explosives. This was having an adverse impact on the local ecology. Besides rock blasting, the movements of heavy vehicles and operation of mining equipment and machinery caused considerable pollution in the form of noise and vibrations. The Court held that to preserve the environment and control pollution within the vicinity of the two tourist resorts, it was necessary to stop mining in the area. Further, the Court instructed to develop a green belt of 200 meters at 1 Km radius all around the boundary of the two lakes and to leave another 800 meters as a cushion to absorb the air and noise pollution. Further, it was directed that trees should be planted on both sides of the roads leading to the mines and lakes to minimize the noise pollution. The Haryana Pollution Control Board also declared this tourist area as a sensitive area, as the ambient air quality standards are more stringent in sensitive areas than in other areas.

In Citizens Council, Jamshedpur v. State of Bihar\(^{16}\) the local residents raised an objection under Article 226 against the permission granted to the Handloom and Khadi Board to organize an exhibition in a public park. Their complaint was mainly based on noise pollution generated from the exhibition. But the complainant failed to produce evidence to show that the exhibition would be a health hazard and would cause noise pollution. In the above circumstances, the High Court declined to grant any relief. This is a case wherein the court has considered noise pollution as insignificant. Instead of asking the organizers to file an undertaking placing on record that the exhibition would not turn to be noisy or a public nuisance, the court simply dismissed the writ petition thus giving free license to the organizers to make the environment noisy. It is submitted that asking the petitioner to place evidence on noise pollution to sustain the writ petition is uncalled for in a writ proceeding, and amounts to punishing the petitioner for having

\(^{16}\) A.I.R. 1999 Pat. 1, per R.A.Sharma and B.P.Sharma, JJ.
Chapter 7

**Air Quality Control: The Noise Regulations**

approached the court with clean hands. Such hyper-technical approach of the court has reasonably obstructed the preventive and control measures against noise pollution.

Yet in another case, *Vedkaur Chandel (Smt) v. State of H.P.*, the Division Bench of the Himachal Pradesh High Court considered noise pollution from a tyre retreading unit. In this case, Chief Justice D.Raju and Justice Kamlesh Sharma reminded the Pollution Control Board that it has a heavy responsibility to ensure that before production starts the industry takes necessary precaution not to cause air, water and noise pollution. The Court emphasized that the Industry must fulfill all the conditions of the NOC issued by the Pollution Control Board.

Similarly, in *Shobha Ramasubramanyam v. Member-Secretary, Chennai Metropolitan Development Authority* the Madras High Court declared that noise produced by the use of heavy machinery and heavy iron weight was more than 86 decibel and in excess of the standard and was thus disturbing the peace of the neighbourhood. Therefore, the Court ordered for the closure of the works forthwith. Further, the Court rightly pointed out that environmental rights are ‘third generation rights’, to be zealously protected by all the organs of the State.

The Supreme Court again in *Sheikh Ikrem Sheikh Ismail v. State of Maharashtra*, took a hard stand against the attitude of manufacturers in commencing manufacturing operation without installing measures to avert noise pollution, and mandated that parties engaged in manufacturing operations should give concrete proposal as to how they intend to adhere to the prescribed norms regarding noise pollution.

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117 A.I.R. 1999 H.P. 59
118 A.I.R. 2002 Mad. 125, per Subhashan Reddy, C.J. and Sivasubramaniam, J.
119 2007(4) S.C.C. 217, per Arijit Pasayat and Lokeshwar Singh Panta, JJ.
(ii) Court Balances Religious Rights with Noise-free Environment

Noise has adverse impact on the health of the people. That being so, can one be permitted to add to noise pollution or violate noise pollution norms in the name of religion was a significant question that arose for the consideration of the courts in India time and again. The debate gained attention in Acharya Maharajshree Narendra Prasadji\textsuperscript{120}, and then passed on to Om Birangana Religious Society\textsuperscript{121} in which court reiterated the principle in the following words:

"No right in an organized society can be absolute. Enjoyment of one's right must be consistent with the enjoyment of rights also by others. One fundamental right of a person may have to coexist in harmony with the exercise of another fundamental right by others, also with reasonable and valid exercise of powers by the State in the light of the Directive Principles in the interest of social welfare as a whole.\textsuperscript{122}

In this case, petitioner, a religious organization challenged the order of the Sub-Divisional Magistrate issued under Section 34-A of the Police Act forbidding them from using microphone while performing poojas and other religious ceremonies, which according to the petitioner violated their right under Article 25. The question involved in this case was whether the right to propagate religion includes the right to use loudspeakers and microphones for the purpose of chanting religious tenets or religious texts. Court held that Article 25 is subject to Article 19 (1) (a) and on a proper construction of both the provisions, it cannot be said that a citizen should be coerced to hear anything which he does not like or which he does not require. The Court expressed its strong view in the following words:

"A citizen has a right to leisure, right to sleep, right not to hear and right to remain silent. He has also the right to read and


\textsuperscript{122} Per Bhagwati Prasad Banerjee, J.
Thus, the Court held that microphones or loudspeakers can be used in a religious place only for the purpose of communicating the speeches or religious teachings to the persons who are attending the function alone and that it cannot be operated in such a manner as to give a reasonable case for annoyance to any person in the vicinity.

Proceeding in the same direction, in *Veerateswaran*[^124^], the Madras High Court categorically took the view that in the name of religion, nobody can be permitted to add to noise pollution or violate noise pollution norms. Court held that pollution of all kinds including noise pollution comes within the purview of 'personal liberty' guaranteed under Article 21 of the Constitution. Considering the adverse health effects of noise, even if there is a religious practice to use voice amplifiers, it should not adversely affect the rights of others including that of being not disturbed in their activities. The reasoning of the court is guided by the principle that right to religion does not include right to perform religious activities on loudspeaker and electronic goods which produce high velocity of noise.

### (iii) Religious Practices and Noise Pollution

In *Noise Pollution (In Re) v. Union of India*[^125^], the Supreme Court held that considerations like bursting firecrackers at night on the belief that certain festivals were accompanied customarily by such practices cannot come in the way of the enforcement of fundamental right to live in peace and comfort in an atmosphere free from pollution of any kind, such as caused by noise and foul poisonous gases.

[^123^]: Id., p.479.
[^125^]: (2005) 5 S.C.C. 728, per Dr.A.S.Anand, C.J. and Lahoti, Ashok Bhan, JJ.
However, the Court has approached the issue of noise regulation in religious institutions with caution and reverence and most of the decisions have been based on the bare facts of the case without offering any comment by the judiciary about the religious practices themselves.

Azan and midnight mass—Azan from the mosques early in the morning or the midnight mass conducted by Christian priests argue on the basis of their fundamental rights. It would be worthwhile to examine what these rights are and what limitations are placed by law on the exercise of these rights. It is true that Constitution guarantees to all persons freedom of conscience and the right to profess, practice and propagate religion. It is equally recognized that every religious denomination has the right to manage its own affairs in matters of religion. However, these constitutional entitlements are subject to public order, morality and health. Reasonable restrictions put on the enjoyment of these constitutionally guaranteed freedoms would not be unconstitutional or illegal if such restrictions promote or support public order, morality and health. In this context the observation of Chief Justice Chagla of the Bombay High Court is significant. He stated thus:

“A sharp distinction must be drawn between religious faith and religious practices. What the State protects is religious faith and belief. If religious practices run counter to public order, morality or health, the practices must give way for the good of the people.”

The courts in India have also considered the issue of noise in the form of amplified music from religious buildings on a number of occasions.

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126 Azan is not a form of propagation but it is an essential and integral part of religion to meet at the prayer from a call being made through Azan. Traditionally and according to the religious order, it is to be given by the Imam or the person in charge of the Mosques through their own voice, this is sanctioned under the religious order. See Moulana Mufti Syed Mohammed Noorur Rehman Barkati v. State of West Bengal, A.I.R.1999 Cal.15, per Bhagabati Prasad Banerjee and Ronojit Kumar Mitra, J.J.

127 The Constitution of India, Art.25.

128 Id. Art.26.

occasions. The Supreme Court in *Church of God (Full Gospel) in India v KRR Majestic Colony Welfare Association*\(^{130}\), considered a case involving a complaint on behalf of local residents that the use of loudspeakers and musical instruments in the appellant's prayer hall caused excessive noise contrary to the Environment (Protection) Act, 1986. A single judge of the Madras High Court had directed the police to ensure that the church turned their music down. On appeal, the church claimed that its members have right to profess and practice religion and hence the order of the High Court infringed their fundamental right under Article 25.

In this case, the effects of noise pollution on health were closely analyzed by the Supreme Court in the following words:

"In these days the problem of noise pollution has become more serious with the increasing trend towards industrialization, urbanization and modernization and is having many evil effects including danger to health. It may cause interruption of sleep, affect communication, loss of efficiency, hearing loss or deafness, high blood pressure, depression, irritability, fatigue, gastro-intestinal problems, allergy, distraction, mental stress, and annoyance, etc. This also affects animals alike. The extent of damage depends upon the duration and intensity of noise..."\(^{131}\)

Reacting to the contentions raised placing reliance on Articles 25 and 26, the court affirmed that rights under Articles 25 or 26 of the Constitution were subject to public order, morality and health. No religion prescribed or preached that prayers were required to be performed through voice amplifiers or by beating drums. In any case, if there was practice, it should not adversely affect rights of others including that of being not disturbed in their activities\(^{132}\). Further, it was emphasized by the court that reasonable restrictions must be imposed for the use of loudspeakers and voice amplifiers\(^{133}\). Thus,

\(^{131}\) Id., p.286.
\(^{132}\) Id., p.290.
\(^{133}\) Ibid.
the court has taken the view that fundamental freedom to religion should not be allowed to cause noise pollution.

In Pavithran K.V. v The District Superintendent of Police\textsuperscript{134}, a single judge of the Kerala High Court while interpreting Rule 5 (2) of the Noise Pollution (Regulation and Control) Rules, 2000 held that the use of loud speakers cannot be allowed beyond 12 p.m. even in religious or cultural functions.

(iv) Passive Approach

A neutral approach was shown by the court in noise pollution case, though the issues involved therein required serious consideration. In Chairman, Guruvayur Devaswom Managing Committee, Guruvayur v. Supdt. of Police\textsuperscript{135}, the Kerala High Court permitted the use of loud speakers which were put at the height of 3 meters in the temple premises as per the expert opinion given by the Pollution Control Board and their assurance that the audibility of the devotional songs was limited within the temple premises and will not cause noise pollution.

Similarly, a Bench of the Supreme Court\textsuperscript{136} validated the power of State Government to permit use of loudspeakers or public address system during night hours and during cultural or religious occasions on specific conditions, however holding that this power is limited by the message that it should be exercised with due care and caution and in public interest and the power could not be further delegated and that it shall be exercised by reference to the State as a unit and not by reference to Districts\textsuperscript{137}.

\textsuperscript{134}2005 (1) K.L.T. 650, per K.M. Joseph, J.
\textsuperscript{135}A.I.R. 1998 Ker.122, per U.P.Singh, C.J. and Sankarasubban, J.
\textsuperscript{136}Per R.C.Lahoti and Ahok Bhan, JJ.
Following this, in *Forum for the Prevention of Environmental and Sound Pollution v. Union of India*, a Division Bench of the Kerala High Court also took similar view of the matter and held that Rule 5 of the Noise Pollution (Regulation and Control) Rules, 2000 which empowers the State Government to permit use of loudspeakers or public address system during night hours between 10 p.m. and 12 mid night and during cultural or religious occasions on certain specified conditions is legal and valid. In the instant case, Court upheld the action of the State Government in granting such permission as it was in strict conformity with the stipulation contained in Cl.(3) of Rule 5. At the same time the Court drew the attention on the absence of any provision in the Rules giving opportunity to the citizens to raise their objections in the matter of grant of permission. In the light of the view thus expressed, court should have treated the writ petition filed in the representative capacity as the vindication of citizens’ objections against the grant of permission to use loudspeakers.

(v) Strict Enforcement Approach

Courts have often canvassed for the strict enforcement of noise regulations, treating noise pollution as a grave public health hazard. In *Anand Parthasarathy v. Revenue Divisional Officer*, the Kerala High Court directed the Government of India to enforce strictly the prescribed standards regarding noise in letter and spirit. The Court issued several guidelines for the guidance of the implementing agencies in dealing with noise pollution cases, which *inter alia* include, separate court for dealing with noise pollution cases. The Court also held that all District Magistrates and Sub Divisional Magistrates should be empowered to issue prohibitory orders under Section 144 of Cr.P.C limiting the hours of use of loudspeakers or public address system in religious places and for other special

139 2000 (1) K.L.T. 566.
gatherings and functions\textsuperscript{140}. According to the Court, pollution causes material injury to a man and hence noise is a pollutant, as it is of contaminating nature, causing nuisance and detrimental to the health of a person. Thus, court held that noise pollution results in violation of Article 21 of the Constitution.

In \textit{Ahmed Koya v. Rajan}\textsuperscript{141} a Division Bench of the Kerala High Court took the view that as the State Government is yet to implement Rule 3 of the Noise Pollution (Regulation and Control) Rules, 2000, which provides for identification of various zones for the purpose of regulation and control of noise pollution, there is no justification for granting permission to the petitioners to use loud speakers for commercial and advertisement purposes. It also held that loud speakers or public address systems should not be generally used, but only used as an exception, in extreme cases of necessity.

Similarly in \textit{Aravindakhan v. Superintendent of Police}\textsuperscript{142}, a single judge of the Kerala High Court\textsuperscript{143} held that whatever be the justification or necessity for playing devotional songs in the early morning and at dusk or at any time it has to be in conformity with rules that are in force. The Court further made it clear that the purpose of the Noise pollution (Regulation and Control) Rules, 2000 notified by the Ministry of Environment and Forests, Government of India is to regulate and control noise producing and generating source stations. The State Government had been obliged under Rule 3 to take necessary steps for notification of the zones/areas into industrial, commercial, residential or silent zones for the purpose of implementation of noise standards applicable to different areas. Therefore, the court reiterated that the standards prescribed in the Rules with regard to the use of loudspeakers equally applies to all religious functions performed in places of worship and prayer,

\textsuperscript{140} \textit{Per} K.S. Radhakrishnan, J.
\textsuperscript{141} 2002 (2) K.L.T. 335. \textit{per} R. Rajendra Babu and C.N Ramachandran Nair, JJ.
\textsuperscript{142} 2002 (3) K.L.T. 860.
\textsuperscript{143} M. Ramachandran, J.
including devotional songs. Thus, the court stood for strict implementation of the rules in letter and spirit.

Yet again in *Neelakandan Namboodiri v. State of Kerala*\(^{144}\), Justice A.K. Basheer of the Kerala High Court directed the State Government to take appropriate necessary action to implement Noise Pollution (Regulation and Control) Rules, 2000. In this case, the petitioner contended that the Police/Transport authorities are not entitled or empowered to take action against the use of air horns as there is no specific reference to air horn in the Central Motor Vehicles Act, 1989 and the rules made thereunder as well as under the Noise Pollution (Regulation and Control) Rules, 2000. Negativing the said contention, the Court held that Rule 119(2) of the Central Motor Vehicles Rules, 1989 mandates that no motor vehicle shall be fitted with any multi toned horns giving a succession of different notes or with any other sound producing device giving an unduly harsh, shrill, loud or alarming noise. Further, Rule 120(2) specifies the maximum permissible noise level for different categories of vehicles, which ranges between 80 dB (A) and 91 dB (A). The Court therefore held that the Government is empowered to take action to regulate noise pollution and to maintain air quality standards in respect of noise.

In *Trichur District Private Bus Owners Association v. State of Kerala*\(^{145}\), the Kerala High Court again held that prohibition of use of air horns in motor vehicles is justified by the provisions of the Noise Pollution (Regulation and Control) Rules and the Environment (Protection) Act and hence it does not infringe the fundamental right guaranteed under Article 19 (1) (g) of the Constitution of India. Recently, a Division Bench of the Kerala High Court\(^{146}\) directed the Government to take urgent steps to implement Rule 3 of the Noise Pollution (Regulation and Control) Rules, 2000 read with Rule 359 of

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144 2004 (1) K.L.T. 335.
145 2005 (3) K.L.T.190, per K.S. Radhakrishnan and Thottathil B. Radhakrishnan, JJ.
146 Order dated 21-01-2009 in W.P.(C) No.32109/2008 filed by Dr.Abraham Paul, IMA Kochi Branch President & 3 Ors.
the Kerala Motor Vehicles Rules, as expeditiously and file status report\textsuperscript{147}.

\textbf{(vi) Right without Good Health is Denial of Life}

The ill effects of noise pollution have been viewed by the courts as denying to individuals their right to lead a life in good health. Stressing this concept the Madhya Pradesh High Court in Sayeed Masqood Ali v. State of M.P.\textsuperscript{148} declared that reverence for life is a fundamental principle of morality and life without good health is denial of life. The Court also observed that noise is undoubtedly psychologically harmful as an invisible and insidious form which causes irreversible harm. According to court, it thus violates the right to life which includes the right to health. Therefore, the court directed that the Noise Pollution (Regulation and Control) Rules, 2000 must be implemented in letter and spirit\textsuperscript{149}.

\textbf{(vii) Noise-free Environment and Right to Life}

The insertion of Articles 48 and 51A in the Constitution\textsuperscript{150} has bestowed a positive obligation upon the State as well as on the citizens to protect and improve the environment. This commitment is envisaged by dual approach by way of directives to the State and by imposing a positive duty on every citizen to help in the preservation of the natural environment. There is also an obligation on the State to promote and protect public health\textsuperscript{151}. Noise pollution and the

\textsuperscript{147} Rule 3 authorizes competent authorities to declare areas comprising not less than 100 meters around hospitals, educational institutions and courts as silence zones and Rule 359 of the Kerala Motor Vehicles Rules prohibit the use of horns in such places. The petitioner in this case highlighted the nuisance of noise arising from honking of horns by vehicles near hospitals which was causing disturbance to the working of the hospital and to the patients. According to the petitioner, this situation arose because of non-declaration of such areas as silence zones.

\textsuperscript{148} In this case, the petitioner was a cardiac patient who was residing adjacent to an eye hospital and beside a Dharamsala. The Dharamsala, run by the State accommodates various categories of persons and many religious functions were held in it throughout the year. It was also made available for holding marriages and other functions with loudspeakers which were used at a very high pitch disturbing the petitioner and other residents of the area.

\textsuperscript{149} A.I.R. 2001 M.P. 220; Also see Free Legal Aid Cell v. Govt. of NCT of Delhi, A.I.R. 2001 Del. 455.

\textsuperscript{150} Inserted by the Constitution 42\textsuperscript{nd} Amendment Act, 1976.

\textsuperscript{151} For further on the State obligation to protect public health, see Chapter-II, supra.
consequent nuisance interfere with the peaceful enjoyment of life of the people and it is hazardous to health also. Hence such activity is violative of the constitutional duty imposed on every citizen of India under Article 51-A to protect and improve the natural environment.

It is now settled that Article 21 guarantees the right of persons to life with human dignity. This means that any one who wishes to live in peace, comfort and quietness within his house has a right to prevent the noise as pollutant reaching him. Indian judicial opinion has been uniform in recognizing the right to live in noise pollution free surroundings as a fundamental right protected by Article 21 of the Constitution and noise pollution beyond permissible limits is considered as an inroad into that right.

In *State of Rajasthan v. G. Chawla* the constitutionality of Ajmer (Sound Amplifier Control) Act, 1952 was challenged as violative of freedom of speech and expression and also on the ground that the State Government has no power to enact such laws under the Constitution. The question before the Supreme Court was whether the State legislature has the right to prevent and control loud noise and make it punishable. The Court held that the prevention and control of noise by the Government will come under reasonable restrictions which are provided in Article 19 (2) of the Constitution. The freedom of speech and expression is not absolute, and the restrictions in the interest of public order are constitutionally valid.

In this case the Court made it clear that the States 'have the right to control loud noises when the rights of such user, in disregard to the comfort and obligations to others, emerge as manifest nuisance to them'. By this significant observation, the Court affirmed the constitutional validity of laws controlling loud noise enacted by 152 Available at http://en.wikipedia.org/wiki/noise_mitig. accessed on 08-09-2008. 153 Noise Pollution Restricting Use of Loud Speakers and High Volume Producing Sound Systems (In Re), (2005) 5 S.C.C. 733. 154 A.I.R. 1959 S.C. 544, per S.R. Das, C.J. and S.K.Das, Gajendragadkar, Wanchoo, Hidayatullah, JJ.
various States\(^5\) and confirmed that these laws are within the permissible limits of the Constitution and within the reasonable restrictions on the freedom of speech and expression. The freedom cannot be used to transgress the right of others to live peacefully. Whenever the noise becomes nuisance and health hazard to others then the provision of reasonable restriction comes into operation in the interest of public and this provision has the super hand over the individual constitutional freedom.

In *Ananda Prabhu\(^6\)*, a single judge of the Kerala High Court\(^7\) while considering the question as to whether the freedom of speech and expression extends to the use of mechanical devices and whether the State can regulate such use, held that the freedom involves the right to use amplifiers and hence held that the complete ban on the use of loudspeakers are not coming under reasonable restrictions justifiable under Article 19(2) because it stand across the person's right to speech and expression\(^8\).

However, a different view was endorsed later in *P.A. Jacob v. Supdt. of Police, Kottayam*\(^9\), wherein Justice Chettur Sankaran Nair pronounced a very significant verdict by which Court declared that Article 21 guarantees freedom from tormenting sounds, which is negatively the right to be let alone, and positively is the right to be free from noise\(^10\). Exposure to high noise is a known risk and it is

\(^5\) M.P. Control of Music and Noises Act, 1951; Rajasthan Noises Control Act, 1963; Bihar Control of the Use and Play of Loudspeakers Act, 1955 etc.

\(^6\) Dr. Ananrha Prabhu v. District Collector, A.I.R.1975 Ker.117.

\(^7\) Per George Vadakkel, J.

\(^8\) The Court agreed with the decision of the Division Bench of the Gujarat High Court in *Indulal v. State*, A.I.R.1963 Guj.259, wherein it was held that freedom of speech and expression includes the freedom to use loudspeakers. The Court in *Indulal* was considering the challenge made to S.33(i) (iii) of the Bombay Police Act and the rules made thereunder which empowered the Commissioner and District Magistrate to prohibit the use of loudspeakers.


\(^10\) In this case petitioner challenged the order of the Sub Inspector of Police refusing permission to use loudspeakers to campaign on the custom prevailing in the 'Knana' christian community by which its members could only marry from that community. Sanction was refused on law and order grounds. Petitioner challenged the action on the contention that freedom of speech and expression implies freedom to use amplifying devices.
proved to cause bio-chemical changes in the human body. Thus, the court aptly held:

“Compulsory exposure of unwilling persons to dangerous and disastrous levels of noise, would amount to a clear infringement of their constitutional guarantee of right to life under Article 21. Right to life, comprehends right to a safe environment, including safe air quality, safe from noise”.

Later, the Supreme Court also approved the above dictum and issued explicit directions regulating/banning the use of loudspeakers and honking of horns between 10 p.m. and 6 a.m. in all residential areas and further held that the restrictions imposed on the time of bursting firecrackers during festivals did not violate the religious rights of any person161.

The Supreme Court went further in terms of judicial activism in noise pollution control in the more recent case of Noise Pollution Restricting Use of Loudspeakers and High Volume Producing Sound Systems (In Re)162. The facts of the case are striking and alarming. It was of the rape of a 13-year-old girl whose cries for help went unheard due to loud music coming from loudspeakers used for religious performances and devotional songs. Later on that day, she set herself alight and died from her injuries. An engineer filed a public interest petition calling for more rigorous enforcement of the relevant noise regulations163. Court ultimately came out with severe restrictions on the use of loudspeakers and firecrackers in this case, to avert such incidents in future.

The Court noted that Article 21 of the Constitution guaranteeing life and personal liberty encompasses a right to live in

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161 Forum, Prevention of Environmental and Sound Pollution v. Union of India, A.I.R. 2006 S.C.348; See also “Apex Court is Forced to Crack the Whip”, The Tribune, Chandigarh, July 10, 2005 at p.10.
163 In a separate case, which was tagged on to the proceedings before the Supreme Court, an NGO aimed at preventing environmental and sound pollution challenged an amendment to the rules whereby the State Government was empowered to permit the use of loudspeakers or public address systems during night hours between 10 p.m and 12 midnight.
peace, comfort and quiet, and that Article 19(1)(a) guaranteeing the right to freedom of speech and expression could not be used to defeat this fundamental right. It also described at some length the perils of noise pollution in India and proceeded to observe that the executive had shown a lack of will to implement the laws, and failed to provide proper equipments for measuring noise levels. Court also lamented on the limitations of the law. It noted that problems in relation to firecrackers applied more specifically to developed jurisdictions due to the density of the population and frequency of celebrations. As regards freedom of religion, the Court stated that the restriction did not breach anybody's right to such freedom, noting further that Diwali is mainly associated with pooja and not with firecrackers, that no religious text prescribes firecrackers and it is considered a festival of lights and not noises. Finally, the Court in a characteristically prescriptive mode set out various means by which the problem of noise pollution was to be curtailed.

(viii) Resolves the Conflict between Right to Life and Right to Trade

The noise from use and bursting of firecrackers came up before the Calcutta High Court in *Burrabazar Fire Works Dealers Association v. The Commissioner of Police, Calcutta*. In this case, the Court held that Article 19(1) (g) did not guarantee 'absolute right' to practice profession and to carry on business and trade if it is causing noise pollution or is a health hazard and disturbs the peace. Any firework producing excessive noise is a health hazard and disturbs peace. Taking a highly activist and beneficial approach, the Court put severe restrictions on the manufacture, storage and sale of fireworks even in the absence of specific legislation for controlling the same. The High Court relied on the Constitution, specifically Article 19(1)(a) read with Article 21, to hold that citizens have a right to a decent environment,

164 1997 (2) Cr.L.J. 468.
right to live peacefully, right to sleep at night and right to leisure, which are all the necessary ingredients of the right to life.

Similarly, the apex Court in *Noise Pollution-Restricting Use of Loudspeakers* (*In Re*) case set certain guidelines intended to control noise pollution arising from the use of firecrackers. Firstly, it was noted that on a comparison of the two systems, i.e., the present system of evaluating fire crackers on the basis of noise level, and the other where the firecrackers are evaluated on the basis of chemical composition, the court felt that the latter method was more practical and workable in Indian circumstances and therefore, it should be followed until replaced by a better system. Secondly, it was directed that the Department of Explosives (DOE) should undertake necessary research activity and come out with a chemical formulae for each type or category or class of firecrackers and specify the proportion/composition as well as the maximum permissible weight of every chemical used in manufacturing firecrackers. Thirdly, it was pointed out that the DOE may divide the firecrackers into two categories:—(i) sound emitting firecrackers and (ii) colour/light emitting firecrackers and that there shall be a complete ban on bursting sound emitting crackers between 10 p.m. and 6 a.m. Court felt that it is not necessary to impose restrictions as to time on bursting of colour/light emitting firecrackers.

**Court Acknowledges Citizens' Right to Protest and Necessity for Special Courts**

The Court has acknowledged Citizen's right to resist the conduct of meetings at residential areas using loudspeakers and becoming a potential source of noise pollution. In *New Road Brothers v. Commissioner of Police*166, the Court stressed the duty of

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165 2005 (3) K.L.T. S.N.66 (SC), per R.C. Lahoti and Ashok Bhan, JJ.
166 1999 (2) K.L.T. 59.
authorities to oversee that meetings are conducted in open grounds, instead of residential areas to the maximum possible extent.

The Court found that the problem of noise pollution has already crossed the danger point and 'noise like smog is threatening as a slow agent of death' which warrants initiation of immediate remedial measures. Thus, the Orissa High Court in *Bijayananda Patra v. District Magistrate, Cuttack*\(^{167}\) observed that to deal with cases of noise pollution, special courts have to be established and further directed the Central and State Governments to take legislative measures to prevent the fast-growing menace of noise pollution. Court also stressed the necessity for 'permanent monitoring bodies' to make periodic review of the situation.

(x) Court Suggests Remedial Measures

In *Free Legal Aid Cell v. Govt. of NCT of Delhi*\(^{168}\), Chief Justice Arijit Pasayat and Justice D.K. Jain of the Delhi High Court discussed about the remedial measures that can be adopted to reduce the ill effects of noise pollution. The court mainly suggested the need to adopt environment eco-friendly technology while designing and manufacturing machinery so that it do not create more sound than the allowable sound limits. It also suggested to make roads sound proof, plant trees on both sides of roads and outside big factories and industries, create public awareness among masses. Court also felt that houses of God should be kept peaceful and noise free as it is rightly said that God is not deaf. Flights of aeroplanes should also be planned to curb noise. Above all, court stressed on the need for a noise code regulating all aspects of noise pollution.

\(^{167}\) A.I.R.2000 Ori.70. In this case the petitioner prayed for a writ to prevent noise pollution arising from the use of loudspeakers and fireworks and consequential health hazard caused in the State of Orissa.

\(^{168}\) 2001(3)K.L.T.(S.N.)140.
Chapter 7 Air Quality Control: The Noise Regulations

Inadequacy of Existing Law

The existing law against noise pollution is highly insufficient to meet the growing challenges. Considering the magnitude and the gravity of the problem, comprehensive legislation has become the need of the hour and it should be revised from time to time depending upon the changing nature of the noise sources, so that the relationship between noise and health is not affected.

However, there is an inordinate reluctance to introduce statutory noise controls in the form of exclusive legislation in India. Some Central Acts deal with noise nuisance, as do some State laws\(^1\), but it is generally left to private citizens to take nuisance actions in respect of noise. This is unsatisfactory because nuisance actions are effective only in cases involving single stationary continuous sources of noise. Nuisance action under the Indian Penal Code is a poor remedy as it is nominally punitive rather than preventive or compensatory. The provisions of other legislations dealing with noise pollution, too, are inadequate as they cover restricted area of noise pollution control and do not provide for remedies based on scientific calculations.

Legislative Measures

It is high time to enact a specific, detailed and uniform legislation, taking into consideration the analysis about the sources,

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\(^1\) The Bihar Control of the Use and Play of Loudspeakers Act, 1955 is an exclusive legislation enacted with a view to control the noise from loudspeakers. Section 3 of the Act provides restrictions against the indiscriminate use of loudspeakers. It reads as follows: No person shall use and play a loudspeaker: (a) within such distance as may be prescribed from a hospital, a building in which there is a telephone exchange, or (b) within such distance as may be prescribed from any educational institution maintained, managed, recognized or controlled by the State Government, or a University established under any law for the time being in force, or a local authority or admitted to such university or any hostel maintained/managed or recognized by such institution when such institution or hostel is in the use of students. The cognizance of an offence would be, under Section 6 of the Act, on a complaint made by or at the instance of the person aggrieved by such offence or upon a report in writing made by any Police Officer concerned. Similar enactments have also been passed in Rajasthan and Madhya Pradesh. These legislations are important and need to be followed by other States, in so far as they incorporate meaningful measures to control noise from loudspeakers.
effects and control of noise pollution and the Indian social and economic aspects on noise pollution control. Additionally, the existing enactments dealing with noise also need to be elaborated and effective provisions incorporated by suitable amendments which provide for enhanced punishment for nuisance by noise in the Indian Penal Code or alternatively, Sections 278 and 290 be amended to enhance the present prescribed punishment of fine to a maximum of ten thousand and five thousand rupees respectively and a sentence of imprisonment for a maximum of three years to five years may also be specified in both the Sections. The offence should be made cognizable and non-bailable. In cases where the offence of public nuisance is committed by a Company or concern, the officials responsible for running the business that causes the noise nuisance should be held liable for imposition of the proposed sentence of imprisonment\textsuperscript{170}.

Industrial laws such as the Factories Act need to incorporate safety provisions against noise pollution to safeguard the workers, such as provision for ear plugs, muffs and insulation in addition to the provisions for the reduction of noise at source such as by proper machine design, maintenance, lubrication, use of baffles, use of sound proofing materials like walls, ceilings, floors etc. The Motor Vehicles Act should provide for a provision specifying the limit of noise in terms of decibels.

**General Measures**

Apart from the legislative measures, adoption of certain strategies and policies have also become necessary and expedient in public interest and in the interest of public health. Those measures include installation of decibel meters in highways and public places, greenbelt vegetation in densely populated areas and in residential

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premises, technological modification of machineries\textsuperscript{171}, inclusion of noise level specification while designing machinery and transport system, identification of potentially hazardous areas by undertaking sound level surveys, supply of personal protection devices like earplugs to those living in the noisy industrial environment, evolving planned programme on acoustical protection, making people conscious of their right to a quiet life\textsuperscript{172}, creating awareness through electronic and print media.

**Administrative Measures**

Administrative measures to control noise pollution should include making licensing of public address system, fireworks display and other noise generators compulsory, specify the place, restrict their use at night, limit the period, monitor the activity, seize and confiscate the equipments, compensate the victims, enhance the penalty, make registration mandatory for the provider, etc. In respect of public address system, amplifier power should be limited to keep the noise level low\textsuperscript{173}.

Noise made by vehicles should be reduced by banning honking and streamlining traffic flow, besides ensuring good body and silencer designs. The rules framed in keeping noise levels low should be implemented strictly and all products should be labeled according to noise standards. Noise checking squads should be appointed and they should function as separate units under the control of District Medical Officers. Special Courts should be constituted in every District to try and deal with cases of noise pollution and those courts should dispose of cases within a time frame, after following summary

\textsuperscript{171} This should be done in such a way that machineries only produce sound associated with minimum possible frequency from the machines. See P.R. Trivedi and Gurdeep Raj, *Environment Ecology*, Akashdeep Publishing House, New Delhi (1\textsuperscript{st} edn., 1992), Reprint (2002), pp.501-502.

\textsuperscript{172} With the above objective, at the domestic level, each individual must be made aware of his role in eliminating noise and at the administrative level, proper legislation and its strict enforcement should be mooted.

trial procedure. There is also the need to create Monitoring Committees at the State level consisting of experts and such Committees should be called upon to submit periodical reports regarding the state of enforcement of the laws regulating noise pollution and also prescribe new standards/make suggestions for its due enforcement and amendment to the rules. Executive instructions should be brought from time to time to give effect to the suggestions/recommendations made by the monitoring committees. Enforcement authorities should be made accountable for non-performance of their duties by imposing personal liability on them.174 A special tax must be imposed on all vehicles and other sources of noise pollution in order to raise funds to implement the programmes and policies of noise pollution control. That apart, it is of equal significance to prescribe vibration standards, create noise cells in all State Pollution Control Boards and adopt environmental noise mapping.

Conclusion

Noise pollution is a silent attacker which is directly and indirectly responsible for health hazards, sickness and other ailments and loss of income due to reduced work. It has also added to the sufferings of human beings. Environmental degradation arising from noise pollution and other factors has become a major cause of worry for future generations. One should not experiment with a system in a way that imposes unknown and potentially large risks on future generations.175

The law pertaining to noise pollution in India which exists in disparate bits of legislations and the judicial uncertainty prevailing in the arena has not only proved to be inadequate, but also inefficacious.

to serve the purpose. Hence, in the Indian socio-economic perspective, there is a clear need for a comprehensive legislation to curb noise pollution. Regulations which mainly vest powers in the executive authorities to check noise pollution is also proving ineffective for want of determination and positive action on their part.