



# G- Journal of Environmental Science and Technology

(An International Peer Reviewed Research Journal)

Available online at <http://www.gjestenv.com>

## Noise Pollution and its Enacting Laws in India

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### ARTICLE INFO

**Received:** 10 Oct 2013

**Revised :** 16 Oct 2013

**Accepted:** 29 Oct 2013

#### Key words:

Noise pollution, Policy makers, Pollution Component Threat, Legislation.

### ABSTRACT

Never before in the history, has the environment pollution drawn such attention of policymakers, academicians and the court in India. The present concern for preservation and conservation of environment arises from the hazardous impact on the human actions. Human demands are increasing day by day with the growth of population and modernization. For a long time many individuals have accepted noise as a part of their environment. The development of various engines, technological machinery in industries, jet planes, automobiles etc all contributed to increasing noisy environment. Noise is now regarded by many people as a pollution component that contributes to deterioration of the environment. Noise pollution is infect a threat to million that could be as dangerous as the pollution of the atmosphere. The recently intensified effort to save the environment has succeeded impressively in bringing the subject to wide public notice. It has helped to identify problems and arise concern. But it has been deficient in solutions. For very good reason effective steps to save the environment will require a highly expert knowledge of governmental machinery, knowledge of political infighting, knowledge of how tough and enforceable legislation might be written and how such legislation has been systematically enacted. The focus of present day policies is to use emission free technologies to be useful in preserving and conserving precious natural environment.

### 1) INTRODUCTION

The grand industrial development, the successful Green Revolution, the transport explosion, the rapid growth of cities and haphazard management of natural resources has adversely affected environmental balance. Environmental pollution in India has increased manifold. One of the greatest problems confronting the modern civilized world is pollution, which literally means fouling the natural habitat and environment, air pollution, water pollution, land pollution, marine pollution; solid wastes pollution and noise pollution are some type of pollution.

**History and Growth of Noise Pollution:** The word noise is derived from the Latin word, nausea. Noise may be defined as 'sound without value' or any noise that is undesired by the recipient a better definition of noise is "wrong sound" in the wrong place, at the wrong time. Sound is not a chemical; it is simply a wave motion in air. As such it does not accumulate in the environment. Sound waves travel through the medium from the source where the sound is produced to the recipient or listener. Sound waves consist of variations in pressure or oscillations of the medium in which they travel. The rate of oscillations is called the frequency of the sound and is measured in cycles per second or hertz (Hz). The frequency determines the pitch of the sound received by the listener. High pitched sounds have high frequencies and these are more

disturbing to the individual than low frequencies, because of the varying sensitivity of the human ear.

#### Source of Sound:

- Industries or factories noise.
- Noise from construction and civil engineering works.
- Transport noise.
- Domestic noise.
- Noise from communities and gathering.

**(a) Industries Noise:** Machineries of Industries run in compact spaces produce unpleasant sound of higher decibels. Industrial noise can be classified into three types : (i) Impact and percussive noise is produced by presses; punch and stamp machines, Pneumatic drills, milling machines, writers and routers, (ii) The impact noise is caused when two surface meet each other. Some times at high speed and vibration occurs at the point of contact followed by amplification and resonance (iii) the third type of industrial noise is aerodynamic noise. Aerodynamic noise is produced by a blow lamp or torch, fans and dust extractors.

**(b) Noise from Construction and Civil Engineering Works:** Noise from construction sites has been generally far worse

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than noise originating from factories. There are two main reasons. One is that construction is carried out any where the erection of roads, bridges and buildings becomes necessary. The other has been that civil engineering equipment is inebriety noisy. Some common equipment noise generation is given below.

Construction Machinery / Equipment Noise	
Machinery / Equipment	Noise level
Tractor	93 db
Rock drill	87 db
Concrete mixture	75 db
Diesel compressor	80 db
Road Roller	95 db
Diesel	90 db
Electric Rod Cutter	

(c) **Transport Noise:** Transport noise originates from road traffic (i.e. vehicular), air craft and rail traffic.

(i) **Road Traffic Noise:** It is produced by all vehicles like motor cycles, scooters, cars, buses, trucks, auto rickshaws and many such vehicles becomes a major source of noise pollution. Some common noise levels are given below.

Transport Noise	
Vehicle Type	Noise level as surveyed by BBA (dB)
Luxury limousine	77 db
Small passenger car	79 db
Passenger car	84 db
Sports Car	91 db
Motor-cycle (2 cylinder- 4 stroke)	94 db
Motor Scooter (1 Cylinder – 2 stroke)	80 db

(ii) **Air Craft Noise:** There are peak noise levels when air craft are flying overhead or are taking off and landing at airports and the peak frequency varies with the number and the type of air craft and the operational height. The noise is mainly produced from air craft engine. The noise generated by different types of aircraft is given in table.

Air Craft Noise	
Air Craft Type	Noise level as surveyed by BBA (dB)
1- VC 10	110 db
2- DC 8	112 db
3- Boeing 707	115 db
4- Boeing 737	110 db
5- BAC III	119 db
6- Boeing 747	114 db
7- DC 10	110 db
8- HS Trident 3	119 db
9- Lock heed Tristor 1093	105 db

(d) **Domestic Noise:** Noise is also generated from domestic appliance like washing machines, spin dryers, food mixtures,

grinders, vacuum cleaners, cookers, radio, TV, telephone and many such appliances also becomes a major source of unpleasant sound. Some common noise levels are given below.

Occupational Noise Levels	
Domestic Appliance	Noise Level (dBA)
Washing machine	82
Food mixture	90
Grinders	87
Vacum cleaners.	70

(e) **Noise from communities and gathering:** Gatherings of people in festivals, processions, marriages, meetings, rallies, etc is another major source of noise. The sound produced from hunting, slogans, high pitched music, speeches, songs, use of microphones, etc associated with such gatherings are also injurious to our health.

The lowest audible sound is one decibel and louder sounds are measured upward on a logarithm scale. Twenty decibels is ten times 10 decibels and 80 decibels and 30 or so if it is dropped on a parquet library floor. Sounds of 80 decibels or more are uncomfortable to human ears. Decibel levels of 90 or more, are estimated by otologists to present a health hazard. Decibel levels of 100 or more a definite threat to hearing.

(i) However, central pollution Control Board Committee recommended the permissible level of noise at various places in the country as per the notification under schedule III of part II sec. 3 (i) of extraordinary Gazette of India by the ministry of Environment and Forests. Govt. of India, New Delhi, December 26, 1989.

Noise Standard		
Area	Noise Level (dBA)	
	Day	Night
Industrial	75 dB	70 dB
Commercial	65 dB	55 dB
Residential	55 dB	45 dB
Silence Zone	50 dB	40 dB

Note: (i) Day time shall mean from 6 AM to 10 PM.

(ii) Night time shall mean from 10 PM to 6 AM.

(iii) Silence zone is an area comprising not less than 100 meters around hospitals, educational institutions, courts, religious places or any other area which is declared as such by the competent authority.

(iv) Mixed categories of areas may be declared as one of the four above mentioned categories by the competent authority.

### CAUSES OF NOISE POLLUTION

- (i) Traffic noise is the main source of noise pollution caused in urban areas. With the ever-increasing number of vehicles on road, the sound caused by the cars and exhaust system of autos, trucks, buses and motorcycles is the chief reason for noise pollution.
- (ii) With the low flying military aircrafts soaring over the national parks, wasteland and other vacant areas, the level of noise pollution has drastically increased in these previously unaffected zones.
- (iii) People living beside railway stations put up with a lot of noise from locomotive engines, horns and whistles and switching and shunting operation in rail yards. This is one of the major sources of noise pollution.

- (iv) To meet the demands of the basic necessity of living, the construction of buildings, highways and city streets causes a lot of noise. Pneumatic hammers, air compressors, bulldozers, loaders, dump trucks and pavement breakers are the major sources of noise pollution in construction sites.
- (v) Though not a prime reason, industrial noise adds to the noise pollution. Machinery, motors and compressors used in the industries create a lot of noise which adds to the already detrimental state of noise pollution.
- (vi) Plumbing, boilers, generators, air conditioners and fans create a lot of noise in the buildings and add to the prevailing noise pollution.
- (vii) Household equipments, such as vacuum cleaners, mixers and some kitchen appliances are noisemakers of the house. Though they do not cause too much of problem, their effect cannot be neglected.

#### **EFFECTS OF NOISE POLLUTION:**

Noise is always irritating, annoying, unpleasant, unbearable and injurious to our health. It affects the work of people of places like hospitals, schools, offices, libraries, etc. Which require a calm, peaceful and serene atmosphere. The following are some of the important effects of sound or noise pollution.

- (i) Irritation, annoyance.
- (ii) Reduction of work efficiency.
- (iii) Impairment of loss hearing.
- (iv) Insomnia or sleeplessness.
- (v) Hypertension (or increase in blood pressure)
- (vi) Nervous disorders and brain damages
- (vii) Sweating, nausea and fatigue.
- (viii) Ailments of stomach and brain.
- (ix) Increase in cholesterol level in blood leading to hypertension, heart ailments and strokes.
- (x) Pregnant women are vulnerable to high noise levels. Exposure to loud noise stimulates stress hormones which invariably give rise to premature contractions.

#### **EFFECTS OF NOISE ON LIFE AND LIBERTIES:**

Personal liberty means a bundle of rights, essential for the existence of human life. In *Maneka Gandhi v. Union of India*\*\* , the Supreme Court pointed out that the expression “personal liberty” does not mean only liberty of the persons but also liberty or rights attached to the person (*Jus-personam*). A division bench of the Delhi High Court observed in *AV Chardel v. Delhi University*\* that the expression “life and personal liberty” includes a variety of rights, which though not enumerated in Part-III of the Constitution, can be included in various aspects of liberty provided they are necessary for the full development of human personality. Further in

*Francis Coralie v. Union Territory of Delhi, Justices PN Bhagwati, Fazal Ali, Murtaga*, while stressing the quality of life and its enjoyment within the purview of **Article 21** has rightly said: “the right to life enshrined in **Article 21** cannot be restricted to mere animal existence. It means something much more than just physical survival. The right to life includes the right to live with human dignity and all that goes along with it.” Thus the expression “personal liberty” is not confined to the protection of limb and faculty but includes everything essential for the enjoyment of life with all human dignity.

A very important question how far the violation of liberties essential for life caused by the environmental pollution lies

within the scope of **Article 21** has been discussed by the **High Court of Andhra Pradesh in T. Damodar Rao v. S. O. Municipal Corporation, Hyderabad**\*. It observed: “The enjoyment of life and its attainment and fulfillment guaranteed by Article 21 of the Constitution embraces the protection and preservation of nature’s gifts without which life cannot be enjoyed. There can be no reason why practice of violent extinguishment of life alone should be regarded as violative of **Article 21** of the Constitution. The slow poisoning by the polluted atmosphere caused by environmental pollution and spoliation should also be regarded as amounting to violation of **Article 21** of the Constitution.

Similar question has recently been discussed by **Rajasthan High Court in LK Koolwal v State**\*, while issuing the writ of *mandamus* against the municipal corporation of Jaipur, the Court observed: “Maintenance of health, preservation of sanitation and environment falls within the purview of Article 21 as it adversely affects the life of the citizen and it amounts to slow poisoning and reducing the life of the citizens because health hazards are created.”

Rights to sleep, food, recreation, peaceful living and conversation, etc. are such basic liberties without which the enjoyment of life with all human dignity is not possible. If these were disturbed by noise, their violation would certainly lie within **Article 21** of the Constitution especially in those cases where the license for the use of such sources of noise has been granted directly by the state administration or indirectly through its corporate bodies. In these circumstances the state should not be allowed to run away from its responsibility if it fails to control the manner of use of such sources of noise which ultimately results into the violation of personal freedoms besides causing a problem of environmental pollution through noise.

#### **NOISE POLLUTION CONTROL BY ENACTING LAWS IN INDIA:**

India has been quick to realize the hazards of environment pollution. The Govt. of India for the first time asserted its concern in the fourth five year plan (1969-74). A department of environment was established at the centre in 1980, to act as nodal agency for conservation and its protection. The successive plans also emphasized the necessity and importance of environmental protection. National Environment Advisory Committee was constituted in 1983 to identify and high light the environmental issues and measures for the implementation of environment policy and to organize public debate on national issue of environmental importance. In 1992, the Central Government has made the Environmental Audit compulsory. Industries are now required to submit Environmental Audit Report from the fiscal year 1993.

In our country, the Supreme Court has played very crucial role in preserving the noise pollution in the cities. The various decisions has forced the government to check noise pollution of places like offices, hospitals, schools, colleges, libraries etc in the cities and metropolitan cities.

#### **LEGAL CONTROL OF NOISE POLLUTION:**

**(a) Constitution of India Right to Life:** Article 21 of the Constitution guarantees life and personal liberty to all persons. It is well settled by repeated pronouncements of the Supreme Court that right to life enshrined in Article 21 is not of mere survival or existence. It guarantees a right of persons to life

with human dignity. Anyone who wishes to live in peace, comfort and quiet within his house has a right to prevent the noise as pollutant reaching him.

**Right to Information:** Everyone has the right to information know about the norms and conditions on which Govt. permit the industry which effect the environment.

**Right to Religion and Noise:** Right to religion does not include right to perform religious activities on loud speaker and electronic goods which produce high velocity of noise.

**Directive Principal of State Policy:** The state has the object to make the environment pollution free.

**Fundamental Duties:** every citizen of the country has the fundamental duty to clean the environment.

**(b) Cr.P.C. Section 133:** Here Section 133 is of great importance. Under Crpc. Section 133 the magisterial court have been empowered to issue order to remove or abate nuisance caused by noise pollution Sec 133 empower an executive magistrate to interfere and remove a public nuisance in the first instance with a conditional order and then with a permanent one. The provision can be utilized in case of nuisance of environment nature. He can adopt immediate measure to prevent danger or injury of a serious land to the public. For prevention of danger to human life, health or safety the magistrate can direct a person to abstain from certain acts.

**(c) I.P.C. Public Nuisance 268-295:** Chapter IV of Indian Penal code deals with offences relating to public health, safety, ...decency , morals under Sections 268, 269, 270, 279, 280, 287, 288, 290 291 294. Noise pollution can be penalized with the help of above section. Private remedies suits in the area may related to public nuisance under A299. This article punishment in case of Public nuisance law of torts covers. A person is guilty of public nuisance who does any act or is guilty of an illegal omission which causes any common injury, danger, or annoyance to the pubic 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. A common nuisance is not excused on the ground that it causes some convenience or advantage. Whoever commits a public nuisance in any case not otherwise punishable by this code, shall be punished with fine, which may extend to Rs. 200.

**(d) Law of Torts Noise pollution is considered as civil wrong:** Under law of torts, a civil suit can be filed claiming damages for the nuisance. For filing a suit under law of torts a plaintiff is required to comply with some of the requirement of tort of nuisance which are as follows:-

1. There should be reasonable interference.
2. Interference should be with the use & enjoyment of land.
3. In an action for nuisance actual damage is required to be proved. As a general rule either the presence or absence of malice does not matter. But in some cases deviation from the rule has been made.

In *Christe Vs Davey* the extent of noise & the amount of disturbance caused thereby was ignored & it was held that the noise which arose due to the practice of lawful profession, & without any malice, could not be considered to be actionable nuisance.

In *Hollywood Silver Fox Farm Ltd. Vs Emmett* It was held that presence of malice was a factor in determining liability for noise amounting to nuisance. The court said that even on

his own land was nuisance, & the defendant was liable in damages.

**(e) Factories Act Reduction of Noise and Oil of Machinery:-** The Factories Act does not contain any specific provision for noise control. However, under the Third Schedule Sections 89 and 90 of the Act, noise induced hearing loss, is mentioned as notifiable disease. Similarly, under the Modal Rules, limits for noise exposure for work zone area have been prescribed.

**(f) Motor Vehicle Act. Provision Relation to use of horn and change of Engine:-** In Motor vehicle Act rules regarding use horns and any modification in engine are made.

**(g) Railways Act, 1890 and noise:** A large amount of noise pollution is advanced by the noise emitted from railway engines and carriages. There is no check to curb this noise pollution under the Railways Act, 1890 (Act No. IX OF 1890) statutory authority for the use of locomotives to railways administration.

**(h) The Aircrafts Act, 1934:** Under Section 5 of the Aircrafts Act 1934 Central Government has power to make rules for manufacture, possession, use, operation, sale, import or export any aircraft and this may cover the regulation of air transport services and the prohibition of the use of aircraft . The Act has many other provisions but there is no provision for the control of noise. In this regard it is suggested that aerodromes be constructed far away from the residential areas of a city in order to protect residence from the noise created by frequent take off and landing.

**(i) The Noise Pollution (Regulation and Control Rules, 2000) :**

1. Use of Loud Speaker is to banned Educational Institution, means a school, seminary, college, university, professional academies, training institutes or other educational establishment. Loud speaker also banned hospital, nursing homes and clinics.
2. The state government shall categorize the areas into industrial, commercial, residential or silence areas / zones for the purpose of implementation of noise standards for different areas.
3. The state government shall take measures for abatement of noise including noise emanating from vehicular movements and ensure that the existing noise levels do not exceed the ambient air quality standards specified under the rules.
4. All development authorities, local bodies and other concerned authorities while planning developmental activity or carrying out functions relating to town and country planning shall 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.
5. A Loud Speaker or a public address system shall not be used except after obtaining written permission from the authority.
6. A loud speaker shall not be used at night (between 10 pm to 6 am).
7. The state government may subject to such terms and conditions as are necessary to reduce noise pollution permit use of loudspeakers during night hours (between 10 pm to 12 mid night) on or during any cultural or religious festival occasion of a limited duration not exceeding fifteen days in all during a calendar year. (vide S.O. No. 1088 (E) Dt. 11<sup>th</sup> October 2002)

## **JUDICIARY AND NOISE POLLUTION:**

In Raghunandan Prasad(i) the engine of a factory was causing noise so as to be a serious nuisance to be the people living in the neighborhood the forbade the working of engine from 9 P.M. to 5 A.M.

In MaujRaghu(ii) A rice mill working at night during season will not disentitle the inhabitants of locality to relief under this section if it is established that such working is a nuisance.

In Ram Avtar(iii) The appellatant carried on a trade of auctioning vegetable in private house the noise caused by the auctioning caused discomfort to person living in society. An order was passed restraining auctioning g of vegetable in the their house. It was held by supreme court that the order was not justified merely because the applicant carried on auctioning gin connection with which the carts were brought they could not be taken as cause of problem Section 133 was held not intended to stoop such trades merely because of discomfort caused by the noise.

In Himmat Singh(iv) Where there were fodder tals in a residential colony to which fodder was brought daily during nights by trucks which were unloaded in the morning and fodder was cut during the day by electric operated machines. It was held that the carrying on the trades causing intolerable noises emanating offensive smells and spreading dust containing articles of fodder cut was public nuisance as noise pollution.

Some other important cases are also having great relevance in this regard: In Govindsingh (v) the court examined the emerging parameters of public nuisance. The Supreme Court on special leave to appeal noted that the evidence disclosed the emission of smoke injurious to health and physical comfort of people living or working in the proximity of appellatant bakery and held this as a case of public nuisance.

In Maulan Mufti Syed and Other (vi) V. State Of West Bengal AIR 1999 CAL 15 The court held imposition of restriction on the use of microphone and loud speakers by the state government between 9 pm to 7 am which inter alia include recitation of azan on microphone in early hours before 7 AM is not violative of Article 25 of constitution guaranteeing of freedom of religion. Latest authority of Supreme Court is a land mark judgment in the field of noise pollution.

## **THE SUGGESTION TO CONTROL NOISE POLLUTION:**

Do not use car horns unnecessarily. Areas like hospitals and campuses are silence zones and honking is prohibited there. Avoid loud music, which hurts your ears and others' ears. Firecrackers are extremely loud, so don't try and burn them unnecessarily.

Motors, machines and vehicles also produce loud noises when not maintained properly. Proper maintenance should be carried out for better performance.

If you are working in an area where there are loud noises, you must wear earplugs to prevent loss of hearing.

When going to theme parks and such, avoid riding on the rides which produce a lot of noise. One example is the ATV, which is like a huge motorbike.

Turn off the engine of your car or motorbike when you are not using it. It stops the annoying hum, and reduces air pollution Better off, walk or cycle to school! It does wonders to the environment, reduces the amount of air pollution and noise, and makes you fit.

## **CONSEQUENCES OF ANY VIOLATION IN THE SILENCE ZONE / AREA:**

Whoever, in any place covered under the silence zone / area commits any of the following offence, he shall be liable for penalty under the provision of the Act.

- (i) Whoever, plays any music or uses any sound amplifiers.
- (ii) Whoever beats a drum blows a horn either musical or pressure or beats any instrument.
- (iii) Whoever exhibits any mimetic, musical or other performances of a nature to attract crowds.

## **COMPLAINTS TO BE MADE TO THE AUTHORITY:**

- (a) A person may, if the noise level exceeds the ambient noise standard by 10 dB (A) or more given in the corresponding columns against any area / zone make a complaint to the authority.
- (b) The authority shall act on the complaint and take action against the violator in accordance with the provisions of these rules and any other law in force

## **CONCLUSION**

We have made the law relating to noise pollution but there is need to creating general awareness towards the hazardous effects of noise pollution. Particularly, in our country the people generally lack consciousness of the ill effects which noise pollution creates ad how the society including they themselves stand to beneficiary preventing generation and emission of noise pollution. The target area should be educational institutions and more particularly school. The young children of impressionable age should be motivated to desist from playing with firecrackers, use of high sound producing equipments and instruments on festivals, religious and social functions, family get-togethers and celebrations etc. which cause noise pollution. Suitable chapters can be added into textbooks, which teach civic sense to the children and teach them how to be good and responsible citizen which would include learning by heart of various fundamental duties and that would obviously include learning not to create noise pollution and to prevent if generated by others. Holding of special talks and lectures can be organized in the schools to highlight the menace of noise pollution and the role of the children in preventing it . For these purpose the state must pay its role by the support and cooperation of non-government organizations (NGOs) can also be enlisted. So that we can make our mind and pledge to gift a pollution free environment to our precious coming generation.

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