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ANALYZING THE LEGAL FRAMEWORK AND IMPLEMENTATIONAL CHALLENGES OF NOISE POLLUTION CONTROL ORDER, 2000: A FOCUS ON RELIGIOUS PRACTICES AND NOISE POLLUTION REGULATION

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LIST OF ABBREVIATIONS

| | |
|-------|---------------|
| Ct | Court |
| Fed | Federal |
| S. Ct | Supreme Court |
| App | Appendix |
| v. | versus |
| Supra | above |
| Infra | below |
| P. | Page |
| Art. | Article |
| Sec. | Section |
| S. | Section |
| Crim. | Criminal |
| Civ. | Civil |

| | |
|-------|--------------|
| Con. | Constitution |
| Corp. | Corporation |

CASES

- Lakshmindra Swamiar vs. The Commissioner of Hindu Religious Endowments, Madras (1954) AKA Shirur Mutt Case
- Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association (2000)
- Re: Noise Pollution (2005)
- M.S. Appa Rao v/s The Government of Tamil Nadu by its Secretary. Home Department, Fort St. George, Madras & Others
- Gurugram Mosque Loudspeaker Case (2017)
- Burrabazar Fire Works Dealers vs The Commissioner Of Police
- P.A. Jacob vs The Superintendent of Police

RESEARCH METHOD

I am resorting to the Doctrinal Method of Research in this paper. Doctrinal research is a theoretical study where mostly secondary sources of data are used to seek to answer one or two legal propositions questions or doctrines.

LITERATURE REVIEW

In this literature review, I will talk about other Research Papers I referred to that did not include the challenges in implementing the Noise Pollution Control Order, of 2000. However, the blog written by Ranjit Singh on SCC Online titled Legal Control of Noise Pollution: A Critical Evaluation did contain implementational challenges contained in the noise pollution control order of 2000 however the same was brief and the same has been discussed extensively in this paper. Also, I have included the critical analysis of this Noise Pollution Control Order, 2000. I also conducted a study on various judgments of the Courts that highlighted Noise Pollution activities in the light of religious activities. I took the example of Islam, Hindu, Christian, and Buddhist perspectives. Further, I also took the principle of Essential Religious Practices (ERP).

Finally in the end I have also written some suggestions about how to curb all the challenges.

RESEARCH PROBLEM

- The implementational challenges associated with noise pollution control regulation, 2000.
- Different judgments that the courts give regarding noise pollution in light of religious activities.

RESEARCH OBJECTIVE

1. To engage in an extensive study of legal provisions in the Noise Pollution Control Order 2000.
2. To identify the implementation challenges associated with noise pollution control regulation,2000.
3. To study the various judgments/decisions given by courts regarding noise pollution in light of religious activities.

RESEARCH QUESTION

1. What are the legal provisions laid down in the Noise Pollution Control Order of 2000?
2. What are the implementational challenges associated with noise pollution control regulation,2000?
3. What are the judgments given by various courts in India regarding noise pollution in the light of religious activities?

ABSTRACT

This research paper delves into the legal framework governing noise pollution control, with a specific focus on the Noise Pollution Control Order, of 2000. The study aims to comprehensively analyze the existing legal provisions contained in the said order and their efficacy in addressing the growing concerns associated with excessive noise levels.

The research explores the complexities and challenges in the implementation of noise control measures outlined in the order. It examines the effectiveness of the legal framework in mitigating noise pollution and protecting the well-being of individuals and communities.

Key areas of investigation include the identification of legal gaps, ambiguities, and potential areas for improvement within the Noise Pollution Control Order, of 2000.

The study combines legal analysis, case studies, and empirical data to provide a comprehensive overview of the hurdles faced in implementing noise pollution control measures. The findings aim to contribute to the ongoing discourse on environmental law and policy, offering insights that can inform future legislative amendments and enhance the practical effectiveness of noise pollution control measures.

CHAPTERISATION

Chapter 1: Introduction

The Noise Pollution (Regulation and Control) Rules, 2000, is an order issued under the Environment (Protection) Act, 1986, by the Ministry of Environment and Forests in India.

These rules are aimed at regulating and controlling noise pollution in various environments.

The Noise Pollution Control Order, 2000 has been drafted with the following objectives:

Prescribing Noise Standards: The order prescribes ambient air quality standards for noise in different areas, such as industrial, commercial, residential, and silence zones.

Regulating Permissible Noise Levels: It establishes permissible noise levels for different zones during different periods, categorizing areas based on their nature and use.

Prohibiting Specific Activities: The order restricts or prohibits the use of loudspeakers or public address systems during certain hours in residential areas and near educational institutions, hospitals, and courts.

Controlling Vehicular Noise: It includes provisions for controlling noise emanating from vehicular movements and restrictions on the use of multi-toned horns.

Construction Activities: The order places restrictions on construction activities in residential areas during specific hours to minimize noise disturbances.

Noise Measurement Procedures: It prescribes procedures for the measurement of noise levels, including the use of sound level meters, calibration, and reporting.

Responsibilities of Local Authorities: The order outlines the responsibilities of local authorities in enforcing the rules, conducting noise surveys, and taking preventive or corrective measures.

Zoning of Areas -

Residential Zones: Permissible noise levels are generally lower during daytime and nighttime in residential areas.

Commercial Zones: Permissible noise levels are higher than in residential areas, but restrictions on loudspeakers are still in place.

Industrial Zones: Industrial areas have specific permissible noise levels, and industries are required to comply with these standards.

Silence Zones: Areas near educational institutions, hospitals, and courts are designated as silence zones, with stringent restrictions on noise levels.

Key Provisions of the Noise Pollution Control Order of 2000

Rule 3: Establishment of Ambient Air Quality Standards for Noise in Different Zones –

Ambient air quality standards for noise levels shall be delineated for distinct zones as specified in the Schedule. The state government is tasked with classifying areas, including Industrial, Commercial, Residential, and Silent Zones. Measures must be taken by the State Government to mitigate noise from sources such as vehicular movements, fireworks, loudspeakers, and sound-producing instruments. The State Government must ensure that prevailing noise levels remain within the defined ambient air quality limits. All development authorities must factor in noise pollution considerations while planning developmental activities. The state government has the authority to declare an area extending not less than 100 meters around Hospitals, Educational Institutions, and Courts as a silence area/zone, and such designations shall be duly notified.

Rule 5: Regulations Governing the Use of Loudspeakers/Public Address Systems (and Sound-Producing Instruments) –

The utilization of the aforementioned devices is permissible only upon obtaining written permission from the relevant authorities. Their usage is prohibited during nighttime, except within enclosed premises for communication purposes, such as auditoria, conference rooms, or community halls, and in cases of public emergencies. Under exceptional circumstances, the state government may grant permission for the use of loudspeakers or public address systems between 10:00 pm and 12:00 am or during specific cultural or religious festivals, not exceeding 15 days. In granting such exceptions, the state government may impose specific terms and conditions that must be adhered to, and it is required to specify the duration for which the exemption is granted in advance. The noise level at the periphery of public places where these devices are employed shall not exceed 10dB above the ambient noise standard or 75dB, whichever is lower. Privately owned sound systems or instruments must maintain a peripheral noise level not exceeding 5dB above the ambient noise standards for the respective area.

Rule 7: Filing a Complaint with the Authority –

If the noise level surpasses the ambient noise standards by 10dB or more than the prescribed limit in the respective area, individuals may complain to the authority, as defined under Rule 2, Clause c. The authority is obligated to take appropriate action against the offender, following the provisions outlined in these rules and any other applicable laws.

Rule 8: Authority's Authority to Restrict or Cease Music, Sound, or Noise –

Upon receiving a report from the officer in charge of the police station or any other credible information, the authority, if satisfied that it is necessary to prevent annoyance, disturbance, discomfort, or injury, or the risk thereof, to the public or any person residing in the area, may issue a written order. The authority is empowered to direct any person to prevent, prohibit, control, or regulate the occurrence or continuation of vocal or instrumental music, sounds resulting from playing, beating, clashing, blowing, use of loudspeakers or public address systems, noise from the bursting of firecrackers, or the conduct of any trade, vocation, operation, or process causing the noise. The authority has the discretion to revoke, modify, or alter the order after affording a reasonable opportunity for the concerned party to present their case.

Chapter 2: Analysing the Legal Framework and Implementational Challenges of Noise Pollution Control Order, 2000

Let's take a closer look at some of the challenges when using noise measurements.

1. Regulatory and Monitoring issues

- Ensuring compliance with noise regulations can be difficult as there is limited funding for ongoing monitoring and enforcement.
- Direct technology monitoring should be done to characterize and measure noise that creates financial and transportation problems.

2. Public Awareness and Behaviour Change

- Indicates a lack of awareness that the public requires more education about the health effects of air pollution.
- Noise-related behavioural changes such as loud noises or negative noise are very problematic.

3. Technology limitations

- Designing and using good audio equipment faces challenges such as high initial costs, cost savings, and the difficulty of converting results into different audio formats.

4. Legal and Regulatory Challenges

- Unknowns or inconsistencies in noise regulations can make management and compliance with technology-based regulations difficult. Technology evolves and sounds need to be updated regularly.

5. Urban Planning and Design Issues

- Do not assume that noise in urban planning will make the problem worse by interfering with noise generation.
- Making improvements to reduce noise pollution in cities is a difficult and expensive task.

6. Interagency Cooperation

- Lack of coordination between different government agencies responsible for noise control, land use planning, and environmental protection can lead to fragmentation and poor performance.

Effectively solving these problems requires a strategic approach that combines unregulated development, technological innovation, community engagement, and regular monitoring and evaluation. It requires government, determination, and the community to work together to achieve effective and efficient pollution control.

Dispute Analysis of Noise Pollution Control Regulation, 2000

The Act and experience have proven that the Act is inadequate in pollution control. The disadvantages of the law are as follows: The current provisions of the law do not cover the entire field of pollution control.

- Cover up the noise of the speakers and noise only during operation. Noise from planes, trains, pets, traffic, workplaces, and businesses is not covered by the regulations.
- Discipline based on inappropriate and harsh rules compared to the impact of noise on health and well-being. black. The law was embarrassed by its lack of discipline.
- There is no time limit for the trial in legal proceedings. The closure in this decision serves the purpose of the Law.
- The Code does not criticize public concerns, public participation, or public participation in noise control.
- There is a big difference between the invoice sound and the control sound. ideas and their practical applications. According to Rule 4(2) of the Order, the competent authority is responsible for pollution control. But the authorities responsible for controlling the noise did nothing.
- The Anti-Corruption Act does not allow participation by foreign governments. For example, the planning department of a large city in the same region is the department responsible for preparing infrastructure development plans and issuing licenses to factories. For this reason, people living in similar areas face many problems due to human-induced pollution.

- There is no point in imposing restrictions on noise-producing areas to control noise.

So, these rules have color restrictions to control noise. Many details that will help control noise need to be kept in the code. These regulations need to be implemented throughout the country. The main points of public awareness, public cooperation, and public participation in noise control should be set out in the Code. These regulations only concern the noise level of speakers and amplifiers in their operating environments. For this reason, noise coming from other places should also be included within the scope of this law. These rules should lead to appropriate discipline. According to this law, pollution control must ensure the cooperation of various units of the state. These regulations should prohibit any restrictions on noise control.

Chapter 3: To Look at Various Judgements Regarding Noise Pollution in light of Religious Activities

Religious perspectives on noise pollution can vary, and the legal aspects of addressing noise pollution may depend on the specific religious context and legal jurisdiction. In many countries, laws related to noise pollution are generally secular and not explicitly based on religious principles. However, some religious communities may have their own guidelines or teachings regarding noise.

For example:

Islamic Perspective: In Islam, there is a concept of "Sadaqah Jariyah," which refers to continuous charity. Some Muslims argue that causing noise pollution may disturb the peace and negatively impact the community, and therefore, it goes against the principles of Sadaqah Jariyah. However, specific legal cases based on Islamic religious teachings may not be widespread.

Hindu Perspective: Hinduism promotes the idea of ahimsa (non-violence) and emphasizes respect for all living beings. Excessive noise can be seen as a form of violence or disturbance to the environment. While there may not be specific religious case laws, the principles of ahimsa may be invoked in legal arguments.

Christian Perspective: Christianity doesn't have specific teachings on noise pollution, but the broader principles of love thy neighbour and maintaining peace could be invoked in discussions related to noise disturbance.

Buddhist Perspective: Buddhism emphasizes mindfulness and tranquillity. Excessive noise may be considered a hindrance to meditation and peaceful living. Legal arguments may draw upon these principles to address noise pollution.

In legal systems, it's more common to find regulations and statutes that address noise pollution without necessarily invoking religious principles. These laws are often based on public health and environmental concerns. If there are legal cases related to noise pollution in religious contexts, they are likely to be argued based on existing secular laws.

Essential Religious Practices (ERP) doctrine

It is a legal principle that protects the core religious practices and beliefs of individuals or communities from government interference. The recognition of this doctrine varies across jurisdictions, and legal cases involving ERP often revolve around the tension between religious freedom and other societal interests. The landmark judgment on the Essential Religious Practice Doctrine given by the Indian court which happens to be the first case in India in which such a concept was recognized is:

Shirur Mutt Case (1954)

¹ *The Commissioner Hindu Religious Endowment Madras v. Shri Laxmindar Tirtha Swamiyar of Shirur Mutt [Shirur Mutt Case] 1954 AIR 282, 1954 SCR 1005*

The Shirur Mutt Case was a landmark case in India that established the Essential Religious Practices doctrine. The court held that the state could not interfere with essential religious practices unless they were contrary to public order, morality, or health. This case laid the foundation for the protection of religious freedoms in India.

This case involved the challenge to the Bombay Prevention of Excommunication Act, 1949, by the Dawoodi Bohra community. The court held that the Act interfered with the essential religious practices of the community, violating their fundamental rights.

OTHER CASES PORTRAY CONFLICT BETWEEN NOISE POLLUTION AND RELIGIOUS ACTIVITIES

²Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association (2000)

The Supreme Court of India, in this case, addressed the issue of noise pollution from religious establishments. The court laid down guidelines restricting loudspeakers between 10:00 pm and 6:00 am and specifying permissible noise levels.

³In Re: Noise Pollution (2005)

The Supreme Court, in response to a letter addressed to the Chief Justice of India, issued directives to address noise pollution across the country. The court emphasized the need for strict implementation of noise pollution control rules and guidelines during festivals and religious events.

However, noise pollution issues related to religious practices, especially the use of loudspeakers during religious events, have been the subject of legal scrutiny. Here are a couple of instances that illustrate the broader conflict between the right to religion and concerns about noise pollution:

Instances have been reported where complaints were filed regarding the use of loudspeakers during the call to prayer (Azan) from mosques. These cases often involve a delicate balance between the freedom to practice one's religion and the right to a peaceful environment.

² *Church of God (Full Gospel) in India v. K.K.R. Majestic Colony Welfare Association*, (2000) 7 SCC 282

³ *In Re: Noise Pollution - ... vs Unknown* AIR 2005 SC 3136, 2005 (3) AWC 2685 SC, 2005 (5) BomCR 553, 121 (2005) DLT 547 SC, 2005 (4) JCR 4 SC, JT 2005 (6) SC 210, (2005) 5 SCC 733

Resolutions to these cases may include discussions on appropriate sound levels and time restrictions for religious announcements.

¹P.A. Jacob vs. The Superintendent of Police

In the legal matter of P.A. Jacob versus The Superintendent of Police, the High Court of Kerala affirmed that the right to speech inherently encompasses the right to silence. This signifies the freedom not only to express oneself but also the liberty to abstain from listening and the right not to be compelled to listen. The court emphasized an individual's ability to refuse to read a publication or switch off electronic devices like radios or televisions. However, it underscored the inability to prevent the intrusion of sound from a loudspeaker, thereby highlighting the potential infringement on the right to be left alone. The court ruled that encroaching upon the mental or auditory space of another person constitutes an invasion of privacy, emphasizing that no one possesses the right to commit auricular or visual aggression. Notably, the court stressed that a loudspeaker, being a mechanical device, cannot be employed without restrictions, and its use should not cause harm to others.

²Burrabazar Fireworks Dealers Association vs. Commissioner of Police, Calcutta

In the case of the Burrabazar Fireworks Dealers Association against the Commissioner of Police, Calcutta, it was established that citizens cannot be compelled to become captive listeners to the deafening sounds produced by noisy fireworks. While such displays may bring pleasure to a few individuals, others should not be subjected to a situation where their fundamental rights, as guaranteed under Article 19 and other constitutional provisions, are compromised or rendered meaningless. The judgment, invoking Article 19 in conjunction with Article 21 of the Indian Constitution, emphasized that citizens have the right to a decent environment, peaceful living, uninterrupted sleep at night, and the right to leisure. These rights are deemed necessary under Article 21, acknowledging the significance of a tranquil and harmonious living environment.

¹ P.A. Jacob vs The Superintendent Of Police, AIR 1993 Ker 1

² Burrabazar Fire Works Dealers vs The Commissioner Of Police AIR 1998 Cal 121

³**Appa Rao, M.S. vs. Govt. of T.N.**

In the case of Appa Rao, M.S. against the Government of Tamil Nadu, the Madras High Court, as cited in a 2005 Supreme Court judgment, issued a writ of mandamus. This writ directed the State Government to impose stringent conditions for licensing the use of amplifiers and loudspeakers. Furthermore, the court directed the Director-General of Police (Law and Order) to enforce a complete ban on the use of horn-type loudspeakers, amplifiers, and air horns in automobiles. The ruling aimed to regulate the use of sound-amplifying equipment to balance the rights of individuals and maintain public order, emphasizing the need for restrictions to ensure a peaceful coexistence of citizens.

Gurugram Mosque Loudspeaker Case (2017)

In 2017, a case arose in Gurugram where residents filed a complaint against the use of loudspeakers at a mosque. The Haryana State Pollution Control Board issued a notice, and the case was taken to court. The court's decision balanced the right to practice religion with the need to control noise pollution, and it reportedly led to guidelines for the use of loudspeakers in religious places.

These cases reflect the judiciary's efforts to strike a balance between the right to religious freedom and the need to address noise pollution concerns, especially during religious activities such as poojas, Azaan, and other rituals. Court judgments often provide specific guidelines and directives to regulate the use of loudspeakers and prevent excessive noise levels during religious practices.

CONCLUSION

In conclusion, the establishment and enforcement of a comprehensive Noise Pollution Control Order are imperative in addressing the multifaceted challenges posed by excessive noise in our environment. This legal framework serves as a crucial tool for safeguarding both public health and the delicate ecological balance. By acknowledging the diverse sources of noise pollution,

³ *M.S. Appa Rao v/s The Government of Tamil Nadu by its Secretary. Home Department, Fort St. George, Madras & Others Writ Petition Nos. 12165 of 1985, 12629 of 1985 & 20444 of 1992 Decided On, 15 February 1995*

ranging from industrial activities to urban development, a well-crafted control order can provide a nuanced approach to regulation.

The effectiveness of such regulations lies not only in their formulation but, more importantly, in their rigorous implementation. Striking a balance between economic activities and environmental protection is a delicate task, and the Noise Pollution Control Order becomes a linchpin in achieving this equilibrium. Through robust enforcement mechanisms, including monitoring, penalties, and public awareness campaigns, authorities can ensure compliance and foster a culture of responsibility among individuals and industries alike.

Moreover, the control order should be adaptive and responsive to technological advancements and emerging trends in noise pollution. Continuous research and periodic reviews of the regulatory framework will be essential to address evolving challenges and incorporate innovative solutions. Collaboration between government agencies, environmental organizations, and the public is indispensable for the sustained success of noise pollution control efforts.

Ultimately, the significance of a Noise Pollution Control Order extends beyond immediate environmental concerns; it reflects our commitment to creating a society that values the wellbeing of its citizens and respects the delicate balance of nature. Through collective efforts, we can strive towards quieter and more sustainable environments, ensuring that future generations inherit a world where the right to a peaceful and healthy living environment is preserved.

SUGGESTIONS

Public Awareness Campaigns: Launch comprehensive campaigns to educate the public about the harmful effects of noise pollution and the importance of compliance with noise control measures.

Stringent Regulations: Enforce strict noise control regulations with clear penalties for violations. Regularly update and revise these regulations to address emerging challenges.

Technology Implementation: Invest in and promote the use of noise-reducing technologies in industries, transportation, and construction. Encourage the development of quieter machinery and vehicles.

Urban Planning: Integrate noise control measures into urban planning processes. Designate quiet zones, and buffer areas, and implement zoning regulations that limit noisy activities in residential areas.

Community Engagement: Involve local communities in noise control initiatives. Encourage them to report noise violations and provide feedback on the effectiveness of implemented measures.

Noise Barriers: Install physical barriers like noise walls or greenery along busy roads or near industrial areas to shield residential areas from excessive noise.

Public Transportation Improvements: Promote the use of public transportation and invest in noise reduction technologies for buses, trains, and other modes of public transit.

Industry Collaboration: Collaborate with industries to develop and adopt noise reduction technologies. Offer incentives for businesses that voluntarily implement noise control measures.

Enforcement Agencies: Strengthen enforcement agencies responsible for monitoring and enforcing noise regulations. Ensure they have the resources and authority to address noise pollution effectively.

Incentives for Compliance: Provide incentives for businesses and individuals who proactively comply with noise control measures, such as tax breaks or certification programs for noisefriendly establishments.

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