

### Sound System Laws in Pakistan concerning the National Action Plan against Terrorism

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The primary aim of this study is to critically analyze the newly promulgated laws that deal with the misuse of loudspeakers and sound systems. After the tragedy of army public school in 2014, the government of Pakistan adopted a National Action Plan to eliminate the menace of terrorism from the country. Different laws were passed by the government to deal with all activities related to extremism and terrorism. The Punjab sound system (Regulation) Act 2015 (PSSRA 2015) was passed in the Province of Punjab to deal with this menace and other provinces also passed on a similar pattern. The study will compare the new laws with the repealed law i.e. The West Pakistan regulation and control of loudspeakers and sound amplifiers ordinance 1965 (RCLS 1965). This paper provides historical background, structural differences, and effectiveness of new laws as compared to repealed law. The researcher also collects data through interviews with police officials and prosecution officers in the province of Punjab. The findings of the study concluded that the new laws improved the overall situation regarding the misuse of loudspeakers, better law and order condition, more convictions, and a decrease in the violations. The findings of the study reported that the religious places and marriage halls were the most reported places for misuse of loudspeakers. Stiff resistance from defense lawyers and poor police investigations were among the main challenges reported by the prosecutors while dealing with such cases in courts. The minimum amount of Rs. 25000/- of compulsory fine in the new law, the summary trial procedure for offenses, non-bailable nature of offense was among the most significant feature of the new law. The results of the study reported that the new laws have significantly helped in controlling the misuse of loudspeakers due to enhanced punishments and strict enforcement. The results of the study recommend the need to dedicate the special prosecutors in courts dealing with the offenses, dedicated and specially trained judges of lower courts, and to improve the investigation standards of Police officials to ensure conviction.

**Keywords:** Loudspeaker, sound systems, crime, terrorism, national action plan, criminal justice system, Pakistan

#### INTRODUCTION

Frequent use of loudspeakers, sound amplifiers, and sound systems are not only the major contributing factors towards the public nuisance and noise pollution in Pakistan, but it also fans religious extremism, intolerance, sectarian hatred, and terrorism. Loudspeakers are most used at marriage ceremonies, religious gatherings, at homes, at mosques, etc. In Pakistan, the misuse of loudspeakers is very common, and different people use them for different reasons. It is ironic that most people even do not consider this misuse a crime and unethical act.

“A loudspeaker is an electroacoustic transducer which converts the electrical audio signal into a corresponding sound” (Michael, 2013). Dynamic Speaker is the most used type of loudspeakers, which is invented by Edward W. Kellogg and Chester W. Rice in 1925. Noise is defined as unwanted sound and, the term Noise Pollution is used for the unwanted sound which not only creates nuisance but also detrimental for human health and comfort (Senate Public Works Committee, 1972).

According to a Lahore police spokesperson, since the national action plan (NAP) has been enforced, the police have arrested more than 3,200 people after registering 2,711 cases against them. The police have also seized 2,600 loudspeakers and amplifiers besides thousands of books, pamphlets, and CDs (The Nation, 9 March 2015).

Misuse of loudspeakers and sound systems is not only detrimental to peace and security, but it also causes noise pollution which is very dangerous for human health. Florence

Nightingale recognized noise pollution as the cruelest abuse of care which can be harmful to both sick and healthy people (Nightingale, 1860). Noise is an unwanted sound that creates a disturbance, undesirability, and unacceptability for a person (Kryter, 1985).

Noise pollution created by the loudspeakers and sound systems is very harmful to human health. Even a relatively low level of noise created by any device affects human health badly (Kiernan, 1997). Many of the medical problems are directly associated with noise pollution. Bond (1996) concluded that high sounds can cause sleep disorder and hypertension in adults and kids.

One of the most obvious health issues related to noise pollution is a sleep disorder. There are many subjective and objective evidence available, that related the noise with sleep disturbances (Ohrstrom et al., 1988). A study by the Civil Aviation Authority showed that total sleep disturbances in the localities near airports are much higher than in other places due to noise pollution generated by airplanes (DORA Report, 1980). Noise disturbance can cause many health issues during sleep. It may cause an increase in heart rate, blood pressure, and other irregular body movements (Vallet et al., 1983).

Many studies related some cardiovascular issues the noise pollution. Falk & Woods (1973) discovered that some heart issues including heart rate, blood pressure, and heart muscles are related to exposure to loud noise. Sonnenberg (1984) examined the link between mental stress, gastric acid secretion, health diseases, and

noise. Some studies suggest that noise pollution even affects the wound healing process (Wysocki, 1996).

There are strict laws in different countries against the use of loudspeakers and sound systems. The USA has passed laws to establish the sites where human-caused noise pollution i.e. loudspeakers and sound systems is prohibited (Geary, 1996). In many countries of the European Union, noise maps are created for different regions to deal with the issue of noise pollution (New Scientist, 1998).

Unfortunately, the un-restrained and frequent use of loudspeakers and sound system is not considered illegal by most people in Pakistan. Most of the people who use loudspeakers for different purposes even don't realize that they are doing an illegal act, but they do it as a matter of right. The irony is that even most of the affected people even don't know about their rights and laws regulating the use of such loudspeakers and other sound-amplifying devices.

Many research studies revealed that misuse of loudspeakers and sound systems is detrimental to human health and can cause many problems like hearing impairment (partial or total inability to hear), interference with spoken communication, and sleep disturbances. According to some recent medical researches, continuous exposure to loud noises can cause different cardiovascular disturbances. Continuous exposure to loud and unwanted sounds can also be detrimental to mental health. It can develop negative social behavior and annoyance reactions in the people.

Therefore, this study is conducted to compare the new laws (e.g., The Punjab Sound System (Regulation) Act 2015, The Sindh Sound System (Regulation) Act 2015, etc.) with repealed Law (The West Pakistan Regulation and Control of Loud Speakers and Sound Amplifiers Ordinance 1965). This paper provides historical background, structural and differences, and effectiveness of new laws as compared to repealed law. The study will be helpful for policymakers, law enforcing agencies such as police and prosecution, lawyers, faculty members, and students of various law departments to increase their understanding of the current status of laws related to the misuse of loudspeakers and sound systems.

### **Objectives of the Study**

The study is conducted to obtain the answers to the following objectives.

- 1-To critically analyze and examine The Punjab Sound System (Regulation) Act 2015
- 2-To compare the Punjab Sound System (Regulation) Act 2015 with The West Pakistan Regulation and Control of loudspeakers and Sound Amplifiers Ordinance 1965
- 3-To trace the historical background of the laws related to the misuse of loudspeakers
- 4-To provide recommendations to improve the implementation of laws related to the misuse of loudspeakers.

### **Historical Background of Issue**

The use of loudspeakers in the sub-continent was started at the beginning of the 20<sup>th</sup> century. After the emergence of Pakistan as a separate sovereign state in 1947, the use of loudspeakers increased many folds especially in the religious places all over the

newly independent Islamic Country. It became a source of nuisance and inconvenience for the people and was also used by different extremist and sectarian elements to propagate their ideas. This misuse of loudspeakers at religious places started to create sectarian hatred and religious extremism in Pakistan. The problem threatened the public order and sectarian harmony in society and hence Government adopted The West Pakistan Regulation and control of loudspeakers and Sound Amplifiers Ordinance 1965 to control the situation.

### **The West Pakistan Regulation and Control of loudspeakers and Sound Amplifiers Ordinance 1965**

In 1965, the Government of Pakistan promulgated The West Pakistan Regulation and Control of loudspeakers and Sound Amplifiers Ordinance 1965. The preamble of that law described its purpose in these words "to prevent public nuisance and the voicing of utterances of a controversial nature likely to cause public disorder, to regulate, control and prohibit in the interest of public order, decency and for the prevention of incitement to the commission of any offense the use of loudspeakers and sound amplifiers".

According to s.2 of RCLS 1965, the use of loudspeakers and sound systems is prohibited at different places and different times.

According to s.3 of RCLS 1965, "Whoever contravenes the provisions of section 2, shall in addition to any other penalty to which he may be liable under any other law for the time being in force be punished with simple imprisonment for a term which may extend to one month, or with fine, which may extend to two hundred rupees or with both".

According to s.5 of RCLS 1965, an offense under this Ordinance is declared as cognizable. It means that FIR is lodged against the person who violates this law. But nothing is mentioned regarding the nature of the offense as bailable or non-bailable, so according to Cr.P.C., the offenses were bailable.

According to s.7 of RCLS 1965, the court may order the confiscation of any loudspeaker or sound amplifier or apparatus used in the commission of the offense.

This law was passed in 1965 and it was enacted according to the need of that specific era. There was no terrorism in the country at that time and the intent of that law was not to fight extremism and terrorism. Hence it was a lenient law with a limited number of fines and punishments which failed to create deterrence in this new era.

### **Dissolution of One Unit and adoption of law at Provincial Level**

In 1970, One-Unit (West Pakistan) is dissolved and four Provinces were established i.e. Punjab, Sindh, Balochistan, and NWFP. All provinces adopted the West Pakistan Regulation and control of loudspeakers and Sound Amplifiers Ordinance 1965 without any structural modifications. The only name of the Ordinance is changed and instead of West Pakistan, every Province inserted its name.

### **The Punjab regulation and control of loudspeakers and sound amplifiers ordinance 1965**

In 1974, Punjab Province adopted the old West Pakistan regulation and control of loudspeakers and Sound Amplifiers

Ordinance 1965 and renamed it as “The Punjab Regulation and control of loudspeakers and Sound Amplifiers Ordinance 1965”.

For the next 42 years, no amendment was made in the law and it became outdated and useless. This law failed to meet the needs of modern times and failed to curb the misuse of loudspeakers. In 2007, the Punjab Government amended the act and enhanced the punishment under this law for violators. Section 3 of the Ordinance was amended, and the term of punishment enhanced up to 3 months from one month and the fine increased up to 2000 rupees from 200 rupees. But this amendment is not a significant one and failed to achieve the desired objectives.

This old and outdated law failed to tame the violators and the rising tide of extremism and terrorism in Pakistan. Especially the use of the mosque’s loudspeakers to promote one’s own religious and sectarian ideas and spread of hatred against other sects was on the rise. In 2015, the Government of Pakistan established a National Action Plan against terrorism and passed many new and strict laws which also included new laws and ordinances against the use of loudspeakers and sound systems.

#### **The Punjab Sound System (Regulation) Act 2015**

Under the National Action Plan, a law to curb the use of loudspeakers in the province of Punjab is known as The Punjab Sound System (Regulation) Act 2015 (PSSRA 2015). According to its preamble, “Whereas it is expedient for purposes of preventing public nuisance and the voicing of utterances of a controversial nature likely to cause public disorder; to regulate, control and prohibit the use of certain sound systems in the Province in the interest of the environment, public order, decency and the prevention of incitement to terrorism or the commission of any offense, and to deal with ancillary matters”.

Followings are the important features of The Punjab Sound System (Regulation) Ordinance 2015.

#### **Punishments Enhanced & Discretionary Powers of Judges Curtailed**

First, this Ordinance provides strict and enhanced punishments for offenders. According to s.6 of PSSRA 2015, “if a person contravenes any provision of section 3 or 4, he shall be liable to the punishment of imprisonment which may extend to six months and fine which shall not be less than twenty-five thousand rupees but shall not exceed one hundred thousand rupees”.

If we compare the punishment clause of this new Ordinance with the previously repealed West Pakistan Regulation and Control of loudspeakers and Sound Amplifiers Ordinance 1965, the punishment is enhanced and also discretion of the judge is curtailed. According to The West Pakistan Regulation and Control of Loud Speakers and Sound Amplifiers Ordinance, the judge can award punishment of imprisonment which may extend to two months, and fine which may extend to two hundred rupees (In 1974, Punjab Government amended the Ordinance and increased the fine from 200 to 2000 rupees). It means it is the discretion of the judge whether to give imprisonment of one month or no imprisonment at all or whether to fine 2000 (maximum) or 1 rupee.

Due to different factor which also includes but not limited to the pressure from lawyers and lack of interest, normally judges made routine to fine the violator with partly amount of fine. Due

to this ignorable or no punishment for offense people openly violated the law because they know that if caught, they will pay a fine of some hundred rupees.

In PSSRA 2015, the discretionary power of the judge is curtailed, and the quantum of punishment is also enhanced. Now the judge can award imprisonment up to six months under the new law and there is a limit to the minimum level of fine which is 25000 rupees and the maximum limit of the fine is 100000 rupees. Now it is the discretion of the judge to forgo the imprisonment but even a judge cannot impose fine less than 25000 rupees of fine as it is prohibited in the Ordinance.

This curtailment of discretionary power along with active prosecution is playing a positive role as violators have to pay heavy fines. This payment of heavy fines created deterrence and ultimately reduced the violation of the law.

#### **Non-Bailable Offence**

Another important characteristic of this new law is that the legislature declared the offense as non-bailable. In repealed law, the offenses were bailable which means the person who committed an offense under the repealed law; could get bail as a matter of right. By making the offense non-bailable, the legislature increased the deterrence for violators as violator has to spend some time in jail before applying for bail in the court.

According to s.8 of PSSRA 2015, “An Offence under this Ordinance shall be cognizable and non-bailable. (2) A Magistrate of the first class shall conduct the trial of an offense under this Ordinance under the provisions of Chapter XXII of the Code relating to the summary trials”.

#### **Summary Trial of Offence**

According to s.8.2 of PSSRA 2015, the summary trial procedure is provided for the offenses. This is another important feature of this new law that makes it more effective as compared to the repealed law. Under the repealed law, there was no provision of summary trial, and the regular trial was adopted for the offenses.

Regular trial under Cr.P.C. is a lengthy procedure that takes a lot of time because all the formalities of the criminal trial must be fulfilled in a regular trial. On the other hand, Summary trial is the procedure of trial given in Cr.P.C. which takes less time for the trial of the offense. A summary trial is suitable for relatively minor and petty offenses and it bypasses the lengthy procedure of regular trial i.e. formal recording of statements of witnesses, cross-examination of witnesses, statements u/s 342 Cr.P.C., etc.

Now due to the procedure of the Summary trial is provided for the offenses under PSSRA 2015, the judges can conclude the trial and award punishments to the offenders in a short time. This feature also increased the deterrence of law and enhanced its effectiveness.

#### **The Balochistan Sound Systems (Regulation) Act 2016**

In 2016, the Balochistan Government also repealed the old Balochistan Regulation of Loudspeakers and Sound Amplifiers Ordinance 1965 and promulgated The Balochistan Sound Systems (Regulation) Act 2016. This new law is also in the same pattern as adopted by Punjab Government and provides the same punishment as given in PSSR Ordinance 2015. Similarly, the

offenses are made non-bailable and a summary trial procedure is adopted for the offenses.

### **The Sindh Sound System (Regulation) Act 2015**

In 2015, the Sindh Government also passed a new law to curb this menace and passed The Sindh Sound System (Regulation) Act 2015 is also on the same pattern as adopted by other provinces. It provides strict punishments, summary trial procedure, and made offenses non-bailable.

### **RESEARCH METHODOLOGY**

This qualitative research study was conducted using interviews and document analysis. The study was divided into two phases; the first phase of the study comprised of document analysis of different laws in which different laws were reviewed which are; the West Pakistan Regulation and Control of Loud Speakers and Sound Amplifiers Ordinance 1965, the Punjab Regulation and Control of Loud Speakers and Sound Amplifiers Ordinance 1965, the Punjab Sound System (Regulation) Act 2015, The Balochistan Sound Systems (Regulation) Act 2016, The Sindh Sound System (Regulation) Act 2015. A thorough review of literature such as newspaper articles, research papers, and books was also conducted to gain an in-depth understanding of the significance of the issue.

In the second phase, 10 police officials and 05 prosecutors from Punjab Province were recruited through purposive sampling for interview. They were asked questions related to common places where misuse of the loudspeaker is most frequently occurs, their opinion about the effectiveness of new laws, whether it contributed towards a decrease in misuse of loudspeakers, significant features of new laws, difficulties in the trial of offenses, rate of convictions in court and suggestions for the further improvements.

### **Findings**

Police, Prosecution, and Judiciary are the three parts of the Criminal Justice System. The responsibility to enforce The Punjab Sound System (Regulation) Ordinance 2015 lies on the Punjab Police. The responsibility of the Punjab Criminal Prosecution Service is to prosecute the violators booked by the Punjab Police in the Court of law. Any investigation or study on this topic is incomplete without meeting with the members of Police and Prosecution who are responsible for enforcement and implementation of these laws.

### **Interview with Police Officials**

To assess the ground realities associated with the enforcement of this law, 10 members of the Punjab Police Force from the Province of Punjab were interviewed by the researcher. All of them were asked the following set of questions.

1. What are the places where misuse of the loudspeaker is commonly reported?
2. What is your opinion regarding The Punjab Sound System (Regulation) Ordinance 2015?
3. Whether PSSRA 2015 helped to improve the situation?
4. Is there any actual decrease noted in the violations regarding misuse of loudspeakers?
5. What is the most striking feature of PSSRA 2015?

The respondents were asked a question related to what the places are where misuse of the loudspeaker is commonly reported.

The most misused places indicated by the respondents were the religious places (Masjids, Imam Bargah, etc.) and marriage halls.

Another question asked to the respondent is about their opinion regarding PSSRA 2015. Most of the respondents replied positively about it and considered it useful which is helping to control the situation regarding the misuse of loudspeakers.

The respondents were also asked a question related to the improvement of the overall situation after the implementation of the new law. All the respondents reported that after the promulgation and implementation of the new law, the overall situation improved in their vicinity.

When asked about the most impressive feature of the new law, most respondents pointed towards the heavy fines and enhanced punishments. They indicated that due to the minimum limit of fine people are getting more cautious about the issue of loudspeaker usage during religious and other social gatherings. They also indicated that by changing the nature of offense from bailable to non-bailable, this law strengthens the Police Department.

The respondents were also asked a question that whether the violation regarding misuse of loudspeakers decreased after the implementation of the new law. All of them replied in the affirmative.

### **Interviews with Public Prosecutors**

To ascertain the actual situation in the courts, interviews with 5 Public Prosecutors were conducted who are dealing with the cases of The Punjab Sound System (Regulation) Act 2015 in different courts. Following questions were asked to them during the interviews.

1. What is your opinion regarding PSSRA 2015?
2. Is it more convenient to get a conviction in the cases registered under the new law?
3. What is the conviction rate in the cases registered under the new laws?
4. Whether PSSRA 2015 helps to improve the situation?
5. What difficulties a prosecutor face during the trial of these offenses?
6. Recommendations for further improvements to get more convictions.

The respondents were asked the question about their opinion regarding the newly implemented PSSRA 2015. All the respondents are of the unanimous view that this new law is the effective and right step in the right direction. The respondents were asked another question about the conviction rate in the cases registered under PSSRA 2015. All the respondents indicated the increase in the conviction rate due to the effectiveness and strict implementation of the newly promulgated law.

Then respondents were asked the question, whether it is easy to get a conviction in cases registered under PSSRA 2015 in the courts. Most respondents respond affirmatively but 2 respondents replied that they have to work hard in the courts to get the conviction.

Respondents were asked the question, whether this law improved the situation. All of them replied that due to heavy fines and strict prosecution the overall situation is improved especially in the urban areas of the district.

The respondents were asked about the difficulties which they face during the trial of cases registered under this law. They indicated the main difficulties include the stiff resistance from the accused's lawyer in the court, the rush of work in the court, lack of prosecution strength at the district level, and poor investigation from police.

The respondents were also asked the question about their recommendation for the improvement in the implementation of this law in our criminal justice system. They indicated that the need to establish dedicated courts for the trial of these cases, dedicated prosecutors for the prosecution of offenses under this law, legal training of lawyers regarding the importance of these laws, and improvements in the training skills of police officials.

### **Positive Effects of New Laws related to Loudspeakers and Sound Systems**

Overall, after the formulation and implementation of the new law regarding Loudspeakers, it is observed that the situation is getting better and under control. There are many factors behind this improved situation.

- First, under the umbrella of the National Action Plan, Law enforcing Agencies and Police took some strict actions against the violators.
- Secondly, the newly established Criminal Prosecution Department in all provinces of Pakistan played a crucial role in courts where the conviction rate in such cases improved dramatically. The presence of a Prosecutor in the court in these offenses makes it difficult for lawyers to pressurize the judges and demand illegal concessions for their clients. Similarly, the presence of the Prosecutor on behalf of the State also served as a check on the discretionary power of judgment regarding the award of punishment in these cases.
- Thirdly, the minimum limit of fines set in this new law played the most important role. Under the law now judge cannot impose petty fines on violators at the request of lawyers or under any other pressure. The minimum limit of the fine is twenty-five thousand rupees and the judge is bound to fine the convict at least 25000 rupees. Once the violator pays such a heavy fine, he thinks twice in the future before misusing the loudspeaker on the pretext of religion, etc.

The findings of the study concluded that the new laws improved the overall situation regarding the misuse of loudspeakers, better law and order condition, more convictions, and a decrease in the violations.

The findings of the study reported that the religious places and marriage halls were the most reported places for misuse of loudspeakers. Stiff resistance from defense lawyers and poor police investigations were among the main challenges reported by the prosecutors while dealing with such cases in courts. The minimum amount of Rs. 25000/- of compulsory fine in the new law, the summary trial procedure for offenses, non-bailable nature of offense was among the most significant feature of the new law.

It is also observed that in some cases lawyers manage to get probation or fine lesser than 25000 which is unlawful.

### **CONCLUSION**

The study analyzed the newly promulgated laws to check the misuse of Loudspeakers and then compared them with the

repealed laws. Based on empirical data, the study revealed many important factors related to the efficiency and importance of the newly promulgated PSSRA 2015.

The results of the study concluded that the new laws have significantly helped in controlling the misuse of loudspeakers. The major factors are enhanced punishments in terms of heavy fine with ranges from 25000 to 10000 along with imprisonment up to 6 months, curtailment in the discretion of the court by fixing the minimum limit of fine, making offense non-bailable, provide a summary trial procedure for offense, efforts of Prosecutors in court and strict enforcement by Police.

### **Suggestions/ Recommendations**

The Study Recommends that.

- Law Ministry needs to make sure that all cases registered under PSSRA 2015 must be properly prosecuted by the specially appointed prosecutor in the court. It is easy for the lawyer of the accused to get concessions from the judge in absence of the Prosecutor. Similarly, the absence of the Prosecutor in the court during the trial makes it easy for the judge to use its discretionary power and award lesser punishments. Therefore, it is recommended that the presence of a prosecutor in the court during the proceedings under this law is vital and necessary for the conviction.
- Law Ministry needs to increase the strength of Prosecution by making new appointments because the study shows that there is an acute shortage of prosecutors especially in the far-flung districts of Punjab. Due to the shortage of Prosecutors, it is not possible to appoint a separate Prosecutor who is only entrusted with the Prosecution of offenses under PSSRA 2015.
- The Higher Judiciary needs to train those judges who are dealing with the cases related to PSSRA 2015. It is learned during the study that although the minimum amount of fine under this law is 25000 rupees yet in some instances lawyers of the accused manage to get the fine below 25000 rupees which is against the law. Lahore High Court needs to implement some sort of check and balance on those judges who are dealing with the cases under this law.
- During this study, it is also observed that violators were sent on probation and hence they escaped the heavy fine which is mandatory under the law. High Court needs to clarify the issue of whether the offenders can be sent on probation in the cases of PSSRA 2015. In our legal system rules regarding probation are not followed in true spirit and hence violators prefer probation instead of a fine which ultimately reduces the deterrence and hurts the true spirit of this law.
- To further increase the conviction, rate a better investigation from Police is a pre-requisite. Still, the standards of investigation of Police are not up to the mark and results in more acquittals. Police Officers need more training to improve their investigating skills regarding these laws.

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