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A Comprehensive Study on Nuisance, Health and Hygiene System in India

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Abstract: In this manuscript, the authors have performed a comprehensive study on nuisance, health & hygiene system in India. Good health is the fundamental right of every human being. Internal and external growth of a person is not possible without good health. Good health is essential to lead both a quality and successful life. Beyond being a personal responsibility, health is a national and international responsibility, and also, a worldwide social goal.

This conclusion about health is a selection of the latest view on this issue. Health is a topic about which different schools of thoughts have existed right from the early days. A conservative interpretation of health had been "absence of disease". At times, indifferent attitude of the people towards health has also been discussed. Much dissimilarity exists in different definitions and standards of health. Spread of education and awareness has brought a positive change in the overall attitude of individuals, governments and social organizations towards health, and targets have been set to achieve not only "health", but "optimum health" for people.

Keywords: health, hygiene, nuisance, environment, impact.

INTRODUCTION

Nuisance means anything which causes inconvenience annoyance or damage. Nuisance is of two kinds: (1) Public nuisance or common nuisance, and (2) private nuisance. Public nuisance is a common annoyance which affects the public and is a substantial annoyance to all the subjects. Private nuisance is anything which causes material discomfort and annoyance to a man in the use of ordinary purpose of his house or property. It is an act affecting some particular individual or individuals as distinguished from the public at large. In order to constitute a public nuisance there must be an act or an illegal omission. It is not necessary that the act should be illegal. But as soon as an act becomes a nuisance, it becomes illegal not because it is per se illegal, but because it has an injurious effect upon and is intolerable to the public. It is no defence to a charge of public nuisance that the act done was in assertion of one"s right in property, or that it was done on one"s own property or that it had been done from time immemorial. In cases of public nuisance the grievance lies in the inconvenience in fact caused, and not in the intent or knowledge of the person responsible as occupier of the premises on which the nuisance is created or of the owner, if the premises are in fact, unoccupied.[1] It is no defence to a charge for nuisance against a master or employer that the nuisance was caused by acts of his servants, if they were done in the course of their employment.[2]

There may be an act or illegal omission causing an injury, it does no necessarily amount to a public nuisance unless the injury so caused is common to the public. It is not a sine qua non that a public nuisance should injuriously affect every number of the public within its range of operation. It is sufficient that it should affect people in general who dwell in the vicinity.[3] The question whether the number of persons injuriously affected by a nuisance is sufficiently large to be designated as the public is a question of fact which the Court will have to decide, having regard to the nature of the nuisance and its effect upon the pubic generally or upon a section of the public complaining of its existence.

Public:- By public is meant general public and not an individual of particularly refined susceptibilities. Where a respectable man of 55 years of age passed urine in a grazing ground under cover of a tamarind tree in a village it was held that it may be that the habit of promiscuous urination is opposed to the interests of public health, decency and morals, but it would not be itself constitute an offence of public nuisance. In most of the villages there are no public latrines and it is a common

[1] *Attorney General v. Tod Heatley*, (1987), 1 Ch. 560.
[2] *R. v. Stephens*, (1986) L.R. 1 Q.B. 702.
[3] *Phiraya Mal v. Emperor*, (1904) P.R. No. 9 to 1904.

practice to pass off urine in public places, of course, without any indecent exposure and it does not cause any annoyance to villagers in general.[4]

Prostitution:- Common injury must be to the public at large and not to a particular individual.[5] It the prostitution is carried on in clandestine or hidden manner, there can be no public nuisance although persons who come to know of the immoralities committed in the house may feel their moral sense outraged. In a case, a traveler was putting up in a Dak Bunglow and on his invitation a prostitute paid him a visit. She had been warned against visiting that place. Since both the elements of common injury and injury to the public were wanting she could not be convicted for public nuisance.[6] Therefore, bare solicitation of chastity, even in a public place, is not a public nuisance, as it proves or suggests no fact relating to any common injury or annoyance.[7]

Sale of meat or fish:- Mere sale of meat or fish near or on a public road, cannot be deemed a nuisance,[8] through the fact that such exposure is offensive to the religious susceptibilities may be a matter for executive action. The kind of annoyance aimed at by the section is not the annoyance which the religious ideas of class of people may suffer on account of an otherwise innocent act of another section of the public.[9]

Game houses:- Houses maintained for game houses attract a number of disorderly persons and thus cause annoyance to the neighbours. In England, a common gaming house is, as such, a nuisance,[10] but the position of India is different. In Han Nagit,[11] it was held that in the absence of any statutory provision, the mere keeping of a game house cannot be penalised, unless there is evidence of an actual annoyance to the public. This view was accepted by Madras High Court also in Thandu v. Arayudu.[12]

Setting up Tazia:- In Muttvmira[13], some Mohammedans had set up an image during the Mohurrum festival on a piece of waste land farming part of the village site and in the proximity of a Hindu temple. Setting up of the image was likely to cause annoyance to Hindus. Mohammedans were held not liable for an offence under this section because this section was not intended to apply to acts and omissions calculated to offend the sentiments of a class. The erection of a place of worship in a particular spot is likely to offend the sentiments of the adherents of other creeds residing in the neighborhood, but the Penal Code does not regard such an act as public nuisance. Similar view was adopted in another

HEALTH

Good health is the fundamental right of every human being. Internal and external growth of a person is not possible without good health. Good health is essential to lead both a quality and successful life. Beyond being a personal responsibility, health is a national and international responsibility, and also, a worldwide social goal. This conclusion about health is a selection of the latest view on this issue. Health is a topic about which different schools of thoughts have existed right from the early days. A conservative interpretation of health had been “absence of disease”. At times, indifferent attitude of the people towards health has also been discussed. Much dissimilarity exists in different definitions and standards of health. Spread of education and awareness has brought a positive change in the overall attitude of individuals, governments and social organizations towards health, and targets have been set to achieve not only “health”, but “optimum health” for people.

Although there is a lack of consensus on any particular definition of health, but the definition accepted by World Health Organized by majority of nations, it states: “Health is a state of complete physical, mental and social well-being, and not merely an absence of disease or infirmity.” Critics of this definition maintain that health cannot be a condition or state, because it is a continuous process of adjustment between changing requirements and standards of living. Many consider

[4] *In re* Vedagiri Perumal Naidu, A.I.R. 1937, Mad. 130.
[5] *Latiader Nath v. Menindra Nath*, A.I.R. 1950 Cal. 331.
[6] *Masanud Begam*, 2 N.W.P. 11C.R. 349.
[7] *Rajt*, (1895), Un-rep Cr. C. 765.
[8] *Paung The Rt*, (1580), P.L.I. 94.
[9] *Janaki Prasad v. Karamat Hussain*, A.I.R., 1931, All. 674.
[10] *Rogier* I.B. & C, 272.
[11] 7. B.H.C.R., 74.
[12] I.L.R. 14 Mad. 364
[13] I.L.R. 7 Mad, 590.

this as an idealistic definition. According to some others, it is almost impossible for a person to be simultaneously active at biological, social and mental levels, thud in background of this definition, we all are unhealthy or sick.

Types of Health Indicators

Concept of health has many dimensions, therefore to ascertain health, various health indicators are required. Health indicators can be divided into two main categories:

- Direct or Specific Indicators: The health indicators that the directly related to medical science and health services are included in this category. The most important of specific indicators are:
    - Mortality Indicators
    - Morbidity Indicators
    - Disability Rates
    - Health Care Delivery Indicators
    - Health Policy Indicators
- Indirect of General Indicators: These indicators are based on society, polities, nutrition, environment, economic level, consumption level, standard of living etc. These indicators directly or indirectly influence the health of individual and community. Following are some of the general indicators:
    - Social and Mental Indicators
    - Nutritional Status Indicators
    - Utilization Rates
    - Environmental Indicators.
    - Indicators of Quality of life.

Another classification divides the indicators into three categories: social, indicators, basis need indicators, and health for all indicators.

Biological Determinants

Heredity and genetic determinants have remarkable influence on the physical and mental health of the individuals/families. Boundaries of abilities and potentials set by heredity or genetic heritage are often less modifiable than other determinants. So many diseases i.e., mental retardation, metabolic disorders, chromosomal abnormalities, some cases of disabilities etc. have the genetic origin. Community health nurses have a responsibility to provide proper genetic counseling to people who are at risk of having biologically/genetically impaired children and in refer those who want help to appropriate resources. In some cases abortion (MTP service) is advised to prevent the birth of a deformed child.

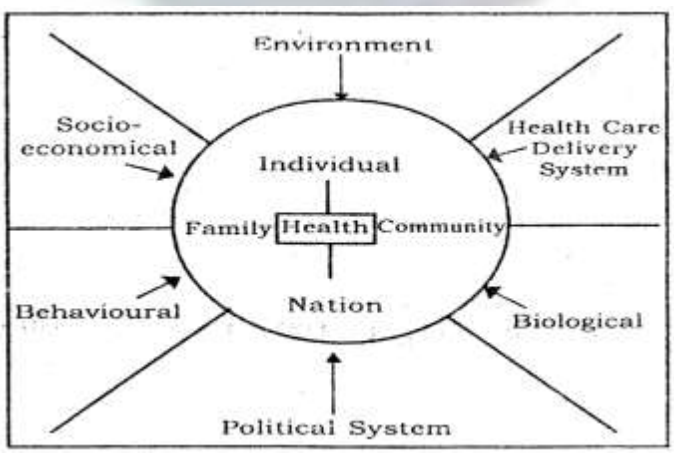

Fig.1: Determinants of Health and OLOF

CONCEPTS OF HEALTH

Divergent views have been prevalent about health; therefore, there is no such single concept of health, which is acceptable to all. Owing to the scientific and experimenting nature of man, concept of health is being established as worldwide target and the standard of quality life, beyond being a personal issue. The changing concepts of health can be summarized as follows:

Biomedical Concept

This concept maintains that the absence of disease is health. This concept is based on the principle of germs. According to it, human body is a machine, disease is the failure of machine and the treatment means repair of machine. Effects of environmental, social and cultural factors on health were ignored by this concept; as a result, this concept has been discarded.

Ecological Concept

A transient balance between man and his environment has been hypothesized by this concept and the cause of disease is considered to be the imbalance or the maladjustment between these two. According to this concept, ill-health is related to flaws or defects in man and his environment, but the related research could not prove that merely by improving the adjustment of man with his environment, the complete goal of health can be achieved. This concept also overlooked the other reasons of diseases.

Psychosocial Concept

According to social scientists, health is not only a biomedical issue; rather, it is also influenced by social, psychological, economical, cultural and political factors. In other words, this concept implies the health is a biological and social issue.

Coordinating Concept

This concept includes all other concepts discussed above. It recognizes social, cultural, economic, political and environmental factors affecting health. It considers implication of ancient as well as latest concepts of health, essential far the preservation and improvement of health. According to it, there is an important relation between health and different areas at society.

Concept or Well-Being

This concept is based on the definition of health given by World Health Organization. Although this concept does not explain “well-being” or “welfare” part clearly, but, in reference to health it implies improvement in the standard and quality of life.

Standard of life refers to standard of living or level of living. It includes various components, i.e., health, education, occupation, food consumption, clothing, housing, recreation along with leisure, human rights and social security. These all characteristics influence the human well-being, directly or indirectly. Although health component is the most important among all because impaired health always affects the level of living.

The quality of life is related to the individual‟s feelings of satisfaction, happiness or sadness about a number of life concerns. The quality of life is defined as “a complete measure of physical, mental and social well-being as perceived by each individual or by group of individuals, that is to says happiness, satisfaction and gratification as it is experienced in such life concerns as health, marriage, family work, financial situation, educational opportunities, self-esteem, creativity, belongingness and trust in others.”

So, the standard of living along with quality of life must be increased to attain the feeling of well-being. This concept symbolizes the progressive perspective.

ENVIRONMENT AND IT'S IMPUTE

The gaseous and particulate added to the atmosphere by the activities of men are considered to be pollutant when their concentrations are sufficient to produce harmful effects. The majority of man-made emissions to the atmosphere also have natural sources and in many cases these are larger than the pollutant ones. The world as we know it developed in the presence of these chemicals which cannot therefore be considered to be harmful gases but only if they produce unacceptable effects at concentrations above the natural background level. After formation pollutants are emitted to the atmosphere and dispersed. Once mixed with the air, some an pollutants-such as the inert fluorinated hydrocarbons used in sprays-persist unaltered and become mixed throughout the atmosphere where they potentially have a global influence. More reactive pollutants have a shorter lifetime in the atmosphere and are removed either by conversion to normal atmospheric constituents or by deposition on the surface of the earth. In the process they may react with other atmospheric constituents to form secondary pollutants, which are also removed by the same process. Both the primary pollutants and the secondary pollutants can cause alteration to the chemical composition of soils and waters, and direct damage to biological systems and property. In certain cases, a synergistic interaction occurs where the total effect is enhanced over and above the sum of the effects of the individual pollutants present. Laboratory studies can provide information under controlled on the effect of pollutants on materials plants, animals and to a limited extent on humans. This approach also provides for controlled conditions and the removal of unwanted variable and allows for the unequivocal association of level of effect with concentration.

Effect on human health and human activities

The effects of air pollution on humans, animals and vegetation has already been discussed in earlier sections. Air pollution can affect the health of workers within the industrial premises, causing absenteeism, sickness and drop in production. Industrial hygiene measures are being taken by many industrial managements to combat these occupational disease. However, apart from the effects on industrial workers, air pollution also affects larger segments of general population. The notorious London smog of 1952, which lasted for 5 days causing 4000 deaths, is an example. Epidemiological and toxicological studies indicate a link between air pollution and respiratory conditions like chronic bronchitis, bronchial asthma, pulmonary emphysema and lung cancer. The vulnerability to air pollution depends upon age, sex, general health status, nutrition, pre-existing diseases, concurrent exposures, concentration and nature of the pollutants involved, extent of exposure, temperature and humidity at the time of exposure. People who are very young or Very old and infirm, people of poor health, smokers, people with asthma, bronchitis and coronary heart disease are usually more vulnerable, Irritation of nose, eyes and throat and bad odours due to air pollutants cause annoyance, allergy and health hazards.

HEALTH SYSTEM IN INDIA

India is the biggest democracy of the world with population 1.21 billion (Census-2011) with 35 states including Federal states and Union territories. It includes 28 states, 6 union territories and Delhi which has special status of NCR (2001). India has a federal form of government. The functions are distributed between centre and states according to the constitution. According to the 7th schedule of constitution, three lists are made for the division of functions :

1. ***Union List***
   Functions of the centre are included in this. Defence, foreign relation etc. comes in this list.

2. ***State List***
   In this list, the areas of responsibilities of the states are included. Finance, health, home, local administration etc. comes under this list.

3. ***Concurrent List***
   In this list, matters of national significance which requires the joint effort of centre and state are included Public health, medical aid, sanitation, education, social welfare, etc. comes under this category.

Thus health is an area which comes mainly under the State Government but the role of Central Government is also significant. Providing assistance to state for health is a constitutional responsibility of Central Government.
We may classify the health organization of our nation under three headings.

- Health Organisation at Central level,
- Health Organisation at State level.
- Health Organisation at District level.

CONCLUSION AND SUGGESTIONS

The authors have discussed the various concepts about nuisance, health and hygiene system in India and their impacts.

Public Nuisance and Private Nuisance – It is apparent from the above provisions that the Indian Penal Code is concerned with public nuisance and not private nuisance. As a general rule, there are acts which seriously interfere with the health, safety, comfort, or convenience of the public generally or which tend to degrade public morals. Thus, persons who carry offensive trades and thereby corrupt the air, or by any means cause loud and continuous noises and there by occasion injury or annoyance to those dwelling in the neighbourhood in respect of their health, or comfort and convenience, are liable to be prosecuted for causing a public nuisance. Erecting gun powder mills near a town, keeping large quantities of materials for making fireworks near a street working rice husking machine at night in a residential quarter of a city, and keeping a common gaming-house are public nuisances.

Before any finding can be arrived at that a public nuisance has been committed the elements contained in S. 268, T.P.C. must affect the public at large dwelling in the vicinity and not particular individual. If prostitution is carried on in a clandestine or hidden manner in a house, there can be no public nuisance although persons who come to know of the immoralities committed in the house may feel their moral sense outraged.[14]

The throwing of rubbish into one's own garden is ordinarily not a public nuisance unless it affects the hygienic conditions of the vicinity. Where the accusation was, that the petitioner raised the level of the rastha in front of his northern house and constructed a cross bund across the rastha with the result that the flow of rain water was impeded and the stagnation, caused annoyance to the complainant and others; that was a clear case of public nuisance having been made out.[15]

The present section does not deal with private nuisance which effects some particular individual or individuals as distinguished from the public at large. Private nuisance affords a remedy of civil action for damages, or an injunction or both. Section 269 dues not contemplate that the act done must be immediately dangerous to life. If by contact with a leper, disease of leprosy Is likely to be contacted and the disease may ultimately prove dangerous to life, the action of the leper in moving freely among healthy persons who might contact the disease would be regarded as doing an act which is negligent and which he had reason to believe is likely to spread infection of disease which is dangerous to life.

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