
LETTER TO EDITOR

Smart City and Public Health: Legal Issues and Challenges in India

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Abstract:

Starting in the year 2008 and travelling through a number of European and Asian Countries, the smart city has recently arrived in India. In June 2015, the Smart city Mission Transform Nation was launched from Delhi by the Prime Minister of India. The definition of “smart city” varies from state to state and country to country. According to the researcher, the smart city means the city where the healthy citizens and environment is balanced. The researcher has used doctrinal research and secondary source for research purpose. It is necessary that while developing smart cities, the public health is of major concern for the Government and Citizens. Smart city is based on smart environment, smart people that is public health and, smart living. The objectives of the article are to find out the legal issues and challenges on public health in the smart city and to study the judicial scenario.

Keywords: Smart City, Public Health, Legal, Environment

Introduction:

Under the Smart City Mission, Government of India pledged to create one hundred smart cities by 2020 by way of regenerating existing areas through retrofitting, redevelopment. (Ministry of Urban Development, India 2015). Cities are increasingly seen not just as the engines of innovation and economic growth but, also the level at which solutions to wicked problems can be produced to comfort the lives of its citizens [1]. Globally, cities are grappling with rapid urbanization and problems related to resource management, sustainable

development, and climate change mitigation. To overcome these challenges, policy makers and academicians are focusing on the idea of smart city [2].

There are different challenges in Indian smart cities which are dense population, traffic jams, high level of pollution, unaffordable housing resulting in urban sprawl and slums, high cost of livings, corruption, irresponsible governance, low level of health care, and educational facilities and strained infrastructure in terms of frequent power cuts and water shortages. The researcher has focused on the public health challenge in the smart cities.

Legal Issues and challenges:

Air Pollution

It creates public health issues like asthma and other respiratory illnesses. In India, the Air (Prevention and Control of Pollution) Act, enacted in 1981. According to the Air Act pollution means presence in the atmosphere of air pollutants (solid, liquid or gaseous substances) which are injurious to human beings, other living creatures or environment [3].

Penalties are provided under the act for contravention of provisions of the act and polluting the air as imprisonment for a term which may extend to three months or with fine which may extend to ten thousand rupees or with both, and in the case of continuing contravention, with an additional fine which may extend to five

thousand rupees for every day during which such contravention continues after conviction for the first such contravention) [4].

In *Krishna Gopal Vs. State of MP*, 1986 Cr. L.J 396, P-400, 401, the High Court has mentioned the main causes of air pollution as public nuisance, vehicular pollution and Industrial pollution [5].

1) Vehicular Pollution

In *MC Mehta Vs UoI*, AIR 2002 SC 1696, Supreme Court of India first time ordered to convert all public transport to CNG Vehicles. Regarding air pollution and threat to public health, fine-particle related pollution leads to lung cancer. Court also took a note of following research reports-

A study by Chittaranjan Cancer Institute and Environmental Biology Laboratory, Department of Zoology of Kolkata University, between Nov1997 and May 1999, revealed that 43% of children in Kokata were suffering from respiratory disorders.

According to World Bank study, using 1992 data, the annual health cost to India was upto Rs 5,550 crores due to ambient air pollution, out of this, in Delhi, it was found to be Rs. 1,000 crores

A study by a swadeshi consultancy, eco-traffic reported that cancer potency of diesel vehicles is more than two times than that of petrol vehicles in India.

The Supreme Court directed following measures to control air pollution [6].

1. to lower sulphur content in diesel
2. to ensure supply of only lead free petrol
3. to phase out of grossly polluting old vehicles
4. to lower the benzene content in petrol

2) Water Pollution

The Water Pollution (Prevention and Control of Pollution) act 1974 section 43 provides penalty for contravention of provisions of the act with imprisonment of not less than one year and six months which may extend to six years and with fine.

According to the act 'water pollution' means such contamination of water or such alteration of the physical, chemical or biological properties of water or such discharge of any sewage or trade effluent or of any other liquid, gaseous or solid substance into water (whether directly or indirectly) as may, or is likely to create a nuisance or render such water harmful or injurious to public health or safety, or to domestic, commercial, industrial, agricultural or other legitimate uses, or to the life and health of animals or plants or of aquatic organisms [7].

In case of subsequent offence, the act provides for publication of the names of the offenders, name and place of residence, the offence and the penalty imposed. (Section 46 of Water Pollution Act 1974).

In *MC Mehta v. UoI*, AIR 1988 SC 115 Supreme Court empowered municipalities and State Board to take immediate steps for remedying the problem. The apex court gave certain significant directions to the Kanpur Mahapalika [8]. Some of them are:

1. Kanpur Mahapalika should take action under the provisions of byelaws to prevent water pollution of river Ganga.
2. To take steps to increase size of sewers in labour colonies.
3. To construct sufficient number of public latrines and urinals

3) Food and Safety Challenges

According to World Health Organisation (2016) “the risk of food borne diseases is most severe in low and middle income countries is linked to preparing food with hygiene and inadequate conditions in food production and storage; lower levels of literacy and education; and insufficient food safety legislation or implementation of such legislation”. In India, food-borne diseases can be erratic and often go unreported, but in a nationwide 2006 study 13.2% of households reported food-borne illness [9].

In India Food Safety and Standards Act 2006 is the primary law for regulation for food products and formulation and enforcement of food safety standards. The most important challenge in the implementation of food safety in county like India is the insufficient number of laboratories.

4) Inadequate Infrastructure

Inadequate infrastructure negatively impacts on public health in India such as water sanitation and education. People have no proper access to improved drinking water like municipal or borewell. Most of the housing society's people relied on the water supplied by tankers which is surface water, unprotected and possibly contaminated. Because of Inadequate public latrines in India people have no choice but to practice open places outside the home. In Some parts of India there is no awareness of good hygiene practices which spread diseases. A good beginning has been made by 74th Amendment in the Constitution of India by decentralisation of urban local government throughout the country.

Way Forward:

1. Mobile ICT can support health monitoring and intervention at multiple scales ranging from personal data collection to an entire city and beyond. At the individual level, mobile devices have become a mainstay for personal healthcare. Recent statistics report that 52% of smartphone users gather health related information on their phones and 61% of users have downloaded mobile health applications [10].
2. Right to life under Article 21 of the Constitution of India includes right to breathe pollution free air and get clean drinking water. These are the basic human rights for public health and environment protection in smart cities.
3. Food is not only essential requirement, but also a major contributor to the quality of life. Collaborative effort between government and private sector can increase the number of laboratories for food safety in Indian smart cities.
4. Primary Health Care should be declared to be a key for development of smart cities.
5. There is an urge to create smart cities all over the world to surpass challenges posed by traditional and conventional cities.

Conclusion:

Smart city is a city where health of the citizens is balanced in every sphere. The root causes of public health issues should be removed rather than curing the illness. It is important to prioritize public health and wellness goals in government planning and smart city mission.

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