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Q7

Does the right to clean environment entail legal regulation on burning crackers during Diwali? Discuss in the light of Article 21 of Indian Constitution and judgements of the apex in this regard.

UPSC Civil Services Mains 2015 · GS II · 12 marks · Indian Constitution

Indian Constitution - historical underpinnings, evolution, features, amendments, significant provisions and basic structure.

Core demand of the question

- Discuss, in the light of **Article 21** and Supreme Court judgments, whether the right to a clean environment entails legal regulation of burning crackers during Diwali

Revision summary

Article 21 includes a right to a healthy environment and to freedom from unreasonable noise.

Subhash Kumar, M.C. Mehta and Vellore supply the environmental reading; the **2005** In Re Noise Pollution case restricts cracker hours.

Article 25 does not protect a right to burst crackers at any hour; **Article 19(1)(g)** is limitable under 19(6).

The right therefore entails time, place and quality regulation, especially in polluted cities.

A complete ban needs a stricter proportionality test; non-enforcement is the practical failure, not the absence of power.

Introduction

Article 21 protects life and personal liberty. The Supreme Court has read into that Article a right to a healthy environment, clean air and freedom from unreasonable noise. Diwali is a religious and cultural festival; crackers are also a trade. The question is not whether Diwali may be celebrated, but whether the Constitution allows the State and the courts to regulate how crackers are burnt.

Body

Article 21 and a clean environment

- **Subhash Kumar v. State of Bihar (1991)** treated the right to pollution-free water and air as part of **Article 21**.
- M.C. Mehta cases on air and on the Taj, **Vellore Citizens' Welfare Forum v. Union of India** (precautionary principle and polluter pays), and **Virender Gaur v. State of Haryana** tied municipal and industrial pollution to the right to life.
- **Noise is a pollutant:** the Environment (Protection) Act, 1986, and the **Noise Pollution (Regulation and Control) Rules, 2000**, fix ambient standards and silence zones.
- If crackers push particulate matter and decibels past what a child, an old person, or an animal can bear, the State's **Article 21** duty is not optional charity; it is a legal duty to regulate.

Judgments on crackers and noise

- **In Re:** Noise Pollution (V), (2005) 5 SCC 733, the Supreme Court restricted the time for bursting firecrackers, typically keeping the night hours (about 10 p.m. to 6 a.m.) out of bounds, and it treated religious practice as subject to public health and to others' rights.
- The Court has not held that **Article 25** gives an unbounded right to explode crackers; essential religious practice does not include a particular explosive or a particular hour.
- **Article 19(1)(g)** of manufacturers is subject to 19(6) reasonable restriction in the interest of the general public; licensing, composition of chemicals, and sale hours are classic police-power tools.
- High Courts have, in several cities, added local restrictions on decibels, on the type of cracker, and on sale to children; those orders rest on the same **Article 21** reading.
- **The apex court has thus already answered the core:** regulation is not only permitted; in a polluted city it may be required.

Does the right "entail" legal regulation?

- **Entail means the right is incomplete unless the State makes and enforces rules:** time, place, noise limit, chemical content, and a ban on the most toxic varieties where air is already unsafe.
- **A total, permanent, nationwide ban is a harder question:** proportionality under **Articles 14, 19 and 25** would ask whether less restrictive means (green crackers, shorter windows, no-sale in silence zones) can protect life.
- For Diwali nights in dense cities, time regulation and quality regulation follow directly from the 2005 noise judgment and from the air-quality limb of **Article 21**.
- **Enforcement is the weak limb:** illegal sale, police inaction, and a social contest over "tradition" can make a good order a paper order.
- Animal welfare and the rights of the sick and of infants support regulation even when a healthy adult claims a cultural licence to burst at midnight.

A balanced constitutional answer

- Celebrate Diwali; regulate crackers. That is the line of **Article 21** as the Court has drawn it.
- Rules should be published before the festival, applied without communal targeting, and backed by seizures and fines, not only by a press note.

Flow diagram

Article 21 life -> Clean air and quiet
 Noise Pollution 2005
 Clean air and quiet -> Regulate crackers
 Noise Pollution 2005 -> Regulate crackers
 Arts 19 and 25 -> Proportional limits not unbounded ban
 Regulate crackers -> Time place quality rules

Conclusion

Yes. The right to a clean environment under **Article 21** entails legal regulation of burning crackers during Diwali. The **2005** noise-pollution judgment and the clean-air cases already support time, place and quality limits. A total ban must still meet proportionality; regulation is the constitutional minimum, not an attack on the festival.

Facts & figures

Article 21

No person shall be deprived of life or personal liberty except according to procedure established by law; read to include a healthy environment.

Subhash Kumar v. State of Bihar (1991)

Recognised the right to pollution-free water and air as part of **Article 21**.

In Re: Noise Pollution (2005)

Supreme Court restricted hours for firecrackers and treated noise as a public-health and rights issue, not a pure religious liberty.

Noise Pollution (Regulation and Control) Rules, 2000

Fix ambient noise standards and silence zones under the Environment (Protection) Act, 1986.

Article 25

Freedom of religion is subject to public order, morality and health; it does not freeze a particular explosive practice.

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