

Changing dimension of Right to life



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An Irish Proverb goes on to say that the beginning of health is sleep. The state of sleep has been described by Homer in the famous epic Iliad as "sleep is the twin of death". Aristotle, the great Greek philosopher has said that all men are alike when asleep.

Sleep is an unconscious state or condition regularly and naturally assumed by man and other living beings during which the activity of the nervous system is almost or entirely suspended. It is the state of slumber and repose. It is a necessity and not a luxury. It is essential for optimal health and happiness as it directly affects the quality of the life of an individual when awake inducing his mental sharpness, emotional balance, creativity and vitality. It is believed that a person who is sleeping, is half dead. His mental faculties are in an inactive state. Sleep is a biological and essential ingredient of the basic necessities of life. If sleep is disturbed, the mind gets disoriented and it disrupts the health cycle. Sleep, therefore, is a self rejuvenating element of our life cycle and is, therefore, part and partial of human life. The state of sleeping is assumed by an individual when he is in a safe atmosphere. It is for this reason that this natural system has been inbuilt by our creator to provide relaxation to a human being. The muscles are relaxed and this cycle which has a normal recurrence every night and lasts for several hours. It is so essential that even all our transport systems provide for facilities of sleep while travelling. Sleep is therefore, both, life and inherent liberty which cannot be taken away by any unscrupulous action.

Sleep is a natural process which is inherent in a human being, if disturbed obviously affects basic life. It is for this reason that if a person is deprived of sleep, the effect thereof, is treated to be torturous. Disruption of sleep has a wide range of negative effects. If disruption is brought about

in odd hours preventing an individual from getting normal sleep, it also causes energy dis balance, indigestion and also affects cardiovascular health. These symptoms, therefore, make sleep so essential that its deprivation would result in mental and physical torture both. It also impairs the normal functioning and performance of an individual which is compulsory in day-to-day life of a human being. The disruption of sleep is to deprive a person of a basic priority, resulting in adverse metabolic effects. It is a medicine for weariness which if impeded would lead to disastrous results. Deprivation of sleep has tumultuous adverse effects. It causes a stir and disturbs the quiet and peace of an individual's physical state. To take away the right of natural rest is also therefore violation of a human right. It becomes a violation of a fundamental right when it is disturbed intentionally, unlawfully and for no justification. To arouse a person suddenly, brings about a feeling of shock and be numbness. The pressure of a sudden awakening results in almost a void of sensation. Such an action, therefore, does affect the basic life of an individual. It is sheer intrusion in right to privacy.

Law relating to right to privacy

Art. 12 of the Universal Declaration of Human Rights (1948) refers to privacy and it states: "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Article 17 of United Nation's International Covenant on Civil and Political Rights states that "no one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, or to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference and attacks."

Article 8(1) of the European Convention for the Protection of Human Rights and Fundamental Freedoms signed in 1950 says that 'everyone has the right to respect for his private and family life, his home and his correspondence'.

Right to privacy has been held to be a fundamental right of the citizen being an integral part of Article 21 of the Constitution of India. The Constitution of India does not merely speak for human right protection. Our Constitution professes for collective life and collective responsibility on one hand and individual rights and responsibilities on the other hand. Privacy and dignity of human life has always been considered a fundamental human right of every human being like any other key values such as freedom of association and freedom of speech. Therefore, every act which offends or impairs human dignity tantamount to deprivation pro tanto of his right to live and the State action must be in accordance with reasonable, fair and just procedure established by law which stands the test of other fundamental rights.

Important verdicts on Right to Privacy which include right to sleep

In *Kharak Singh v. State of U.P* the Supreme Court held that domiciliary visits (visits by the Police in the night to the private house for the purpose of ensuring that the suspect is staying at home) of the police men were an invasion on the petitioners personal liberty. There it was held by a majority that regulation 236(b) providing for domiciliary visits was unconstitutional for the reason that it abridged the fundamental right of a person under Article 21 and since Regulation 236(b) did not have the force of law, the regulation was declared bad.

In *Govind v. State of Madhya Pradesh*, the Supreme Court held that right to privacy is a part of life under Article 21 of the Constitution. The Court held that the power conferred under MP Police Regulations 855 and 856 authorizing the domiciliary visits had the force of law and therefore, be treated as reasonable restriction on the right to privacy.

In *People's Union for Civil Liberties v. Union of India*, the famous phone tapping case, the Apex Court entertaining a Public Interest Litigation, held that Telephone tapping was a serious

invasion into an individual's right to privacy which was a part of right to life and personal liberty.

Daily Rated Casual Labour v. Union Of India The citizens/persons have a right to leisure; to sleep; not to hear (noise pollution) and to remain silent. The knock at the door, whether by day or by night, as a prelude to a search without authority of law amounts to be police incursion into privacy and violation of fundamental right of a citizen. Illegitimate intrusion into privacy of a person is not permissible as right to privacy is implicit in the right to life and liberty guaranteed under our Constitution. Such a right has been extended even to woman of easy virtues as she has been held to be entitled to her right of privacy.

In *Ram Jethmalani v. Union of India*, the Apex Court had dealt with the right of privacy elaborately. It was held that Right to privacy is an integral part of right to life. That was a cherished Constitutional value. It is important that human beings be allowed domains of freedom that are free of public scrutiny unless they act in an unlawful manner.... The notion of fundamental rights, such as a right to privacy as part of right to life, is not merely that the State is enjoined from derogating from them. It also includes the responsibility of the State to uphold them against the actions of others in the society, even in the context of exercise of fundamental rights by those others".

In *Forum, Prevention of Environment and Sound Pollution v. Union of India*, the Supreme court issued several directions including banning of using the fireworks or fire crackers except between 6.00 a.m. and 10.00 p.m. There shall be no use of fire crackers in silence zone i.e. within the area less than 100 meters around hospitals, educational institutions, courts, religious places. It is in view of this fact that, in many countries there are complete night curfews (at the airport i.e. banning of landing and taking off between the night hours), for the reason that the concept of sound sleep has been associated with sound health which is inseparable facet of Article 21 of the Constitution.

Disturbing Sleep Violates Fundamental Right

'An individual is entitled to sleep as comfortably and as freely as he breathes. Sleep is essential for a human being to maintain the deli-

cate balance of health necessary for its very existence and survival.' Sleep is, therefore, a fundamental and basic requirement without which the existence of life itself would be in peril. To disturb sleep, therefore, would amount to torture which is now accepted as a violation of human right. It would be similar to a third degree method which at times is sought to be justified as a necessary police action to extract the truth out of an accused involved in heinous and cold-blooded crimes. It is also a device adopted during warfare where prisoners of war and those involved in espionage are subjected to treatments depriving them of normal sleep.

Can such an attempt be permitted or justified. Judicially and on the strength of impartial logic, the answer has to be in the negative as a sleeping crowd cannot be included within the bracket of an unlawful category unless there is sufficient material to brand it as such. The facts as uncovered and the procedural mandate having been blatantly violated, is malice in law and also the part played by the police and administration shows the outrageous behaviour which cannot be justified by law in any civilized society.

Conclusion

The judgment of the Supreme Court was

indeed like a lullaby for the citizens of the country in general. The State cannot adversely affect the natural and personal freedom implicitly read by the Court to include right to sleep. As far as the enforceability of the right to sleep is concerned, with such laudable judgments, excessive State/police actions can be controlled. Police shall not resort to midnight operations. The citizens should get right to remedy for such late night police operations. The 'judicial right' expanding the new vistas would open scope and hope for the needy and deserving indigent public would get in future, their rights realized through the judgment.

However, the Supreme Court was not 'definitely dealing in Ram Leela Maidan Case', with the rights of homeless persons who may claim right to sleep on footpath or public premises... 'but restricted the case only to the extent as under what circumstances a sleeping person may be disturbed. The Apex Court categorically maintained that the State authorities cannot deprive a person of that right to sleep anywhere and at all times. The verdict creates a hope for many homeless pavement dwellers and reminds the governments' responsibility to protect the right to sleep of the indigent, homeless orphans, pavement/street dwellers including the vulnerable women, adolescents, kids and the aged.

REFERENCE

1 AIR 1963 SC 1295

2 Air 1975 sc 1378

3 AIR 2004 SC 1442, (2004) 2 CALLT 39 SC, JT 2004 (1) SC 152

4 (1988) 1 SCC 122

5 (2011) 9 SCC 751

6 AIR. 2006 SC 348

7 Re-Ramlila Maidan Incident Dt . V. Home Secretary decided on 23 February, 2012 available at <http://www.indiankanoon.org/doc/17021567>