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## RIGHT TO SLEEP: THE NEED FOR PROPER LEGISLATIONS UNDER INDIAN LAW FOR RECOGNIZING RIGHT TO SLEEP AS A FUNDAMENTAL RIGHT

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### ABSTRACT

*The constitution of India guarantees certain unfringeable rights to all its citizens, these are covered under the right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights and right to constitutional remedies. These rights although fundamental, are not absolute in nature and can be subjected to certain restrictions established by the procedure of law. Various fundamental rights have been time and again been deliberated by the judges, however one right has remained under the shadows way too long to be ignored any longer. This paper aims to shed light upon this right, by highlighting various provisions and gaps in the research on this topic using the non – doctrinal method of research. Even today, many citizens are unbeknownst to the existence of this right and this paper shall help them in making them aware of this very rudimentary right which they are entitled to.*

*This area has not received the same importance as its fundamental counterparts, and has many undiscovered facets that need to be researched upon to uphold the principles of justice equity and liberty.*

**Keywords** – Sleep, Noise Pollution, Traffic, Overtime, Right to Religion,

### I. INTRODUCTION

**Relevance of the problem** – This right would be, the right to sleep. Even National Sleep Day is celebrated on 17<sup>th</sup> March every year. Despite of not finding its mention in the document of the Nation, the Constitution, it has recently been upheld by the Judiciary in various judgements. The provisions of this right were further clarified in *Maneka Gandhi v. Union of India*,<sup>55</sup> wherein the Supreme Court mentioned various rights to be covered under right to life and personal liberty, including the right to sleep. Hence right to sleep can be termed as a Fundamental right, which although subject to due process of law, entitles every citizen to the right to live their life

peacefully without any interruption by others. It also overlaps with Right to Privacy, in which – “No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honour and reputation”.<sup>56</sup> Hence, right to sleep is also a right to privacy in which one has the right not to be disturbed by anyone during the entirety of the slumber.

**Statement of Problem** – Right to Sleep lacks cognisance as a fundamental right since it doesn't imply grave damage to one's rights such as the right to equality or right to vote, however it still constitutes as a vital component of fundamental rights. Further, it is often

<sup>55</sup> *Maneka Gandhi v. Union of India*, (1978) 1 SCC 248 (India)

<sup>56</sup> UN General Assembly, Universal Declaration of Human Rights, 10 December 1948, 217 A (III)



included under the right to privacy hence making it difficult to conduct research specific to this right. Equality also plays an important role in this right, as the underprivileged face relatively more violation of this right as compared to the privileged class. It also gets overpowered by other stronger rights such as Right to Religion and Right to Freedom of Speech and Expression and hence faces backlash for the same. It also has a scientific element to play, concerning the health of individuals who suffer from sleep deprivation from students to 9 to 5 workers

**Issues Raised** - In spite of the vital relevance of this right in today's world, it finds little research by legal professionals and media alike and it continues to persist in the shadows as an unknown right of which many remain blissfully unaware. The lack of clarification regarding this law also plays a key role as people have only judicial precedents to rely upon to realize the specifications of this right. Even authorities of the State and Centre are not aware of the instructions regarding this right. Various loopholes are hence existent in the execution of these provisions inevitable which encroachers manipulate to transgress the same. This can be seen in the infamous *Ramlila Maidan v/s Home secretary*<sup>57</sup>, in which peaceful protesters were brutally attacked by police authorities while they were asleep and this launched a nation-wide uproar regarding the violation of fundamental rights of the injured. The court held that this constituted to violation of a very basic and fundamental right to sleep, performed with intention and a lack of lawful justification.

Additionally, various factors such as lenient laws regarding noise pollution by factories and fireworks, sounds produced by religious activities and weddings, working overtime in relevant professions, rights of the homeless and traffic noise, all contribute towards the violation of right to sleep of an individual.

**Objective** -This paper hopes to bring into spotlight, the various provisions established by law to ensure proper protection of this right. These statements might seem irrelevant *prima facie*, but after finishing the research I hope the readers also acknowledge the significance of the same in accordance with my views. Besides apprising people of their legal right, it also serves the purpose of enlightening the readers the serious consequences one can face due to sleep deprivation and harmful side effects of lack of sleep.

## II. LITERATURE REVIEW

<sup>57</sup> *Ramlila Maidan Incident v. Home Secretary*, (2012) 5 SCC 1 (India)

Source information	Research objective	Problem or gap addressed	Findings and conclusions	Limitations or weaknesses	Implications or suggestions for future research	How your research can fill the gap
<b>Noise Pollution</b>						
<b>Environmental noise and sleep disturbances: A threat to health?</b> <sup>58</sup>	To analyse whether environmental noise is a main cause of sleep deprivation and other disorders	Although daytime traffic and other activities are a main reason for lack of sleep, the effects are much more profound during nocturnal hours.	Sleep deprivation not only causes tiredness and fatigue but could also lead to heart failure, stroke, diabetes.	Fails to consider how these noises have a different effect on the elders and children, more vulnerable to high volumes of noise.	Mention the effects of lack of sleep in students and overtime workers, with emphasis on the quality of sleep.	I would compare the regulations established by government in different countries for sounds playing at night after specified timings.
<b>Effects of noise pollution in India- A retrospective analysis</b> <b>Sanjoy Deka</b> <sup>59</sup>	To examine the physical and psychological effects of lack of sleep	Examines various sources of noise pollution, with emphasis on transport noise.	Many places in India, especially Delhi and Vishakhapatnam have higher decibels of noise due to air and road traffic, compared to other cities	Refrains from mentioning the various constitutional safeguards available to citizens against noise pollution.	A. 25 of the Constitution should find a mention as the right to life and personal liberty.	I would personally also add that right to sleep is also overlapping with right to privacy and can be correlated with the

<sup>58</sup> Halperin, D., 2014. Environmental noise and sleep disturbances: A threat to health?. Sleep science, 7(4), pp.209-212.

<sup>59</sup> Deka, S., 2011. Effects of noise pollution in India-A retrospective Analysis. The Legal Analyst, 1, pp.123-129.

						same.
<b>Working overtime and importance of sleep</b>						
<b>Working Overtime Hours: Relations with Fatigue, Work Motivation, and the Quality of Work<sup>60</sup></b>	Understanding the relationship between working overtime and subsequent fatigue	Success in establishing the relation between mental health and working overtime.	The quality of work would deteriorate as the workers would not get enough sleep and fail to perform excellently.	Although the plight of overtime workers is pressed upon, the importance of sleep isn't given the same recognition.	There would be a mention of the incompetence of the workers and the company else they needn't push people into working extra for the same work.	I would also mention the plight of students along with professional personnel who are also working as hard as the office goers.
<b>The Extraordinary Importance of Sleep<sup>61</sup></b>	Probing human sleep, discerning abnormalities, and discovering significant relationships between sleep and health	Not only identifies the existence of various sleep disorders and related ailments but also explores its prevalence in present scenario.	Highlights the correlation of industrial disasters as the effect of lack of sleep amongst the workers.	Sheds light on the need of a good quantity of sleep while neglecting the quality of that sleep.	The author should give suggestions on how night shift workers can manage to get adequate sleep without sacrificing the quality of the job.	Acknowledge physical ailments such as heart attacks or strokes along with the mental complaint due to sleep deprivation.

<sup>60</sup> Beckers, D.G., van der Linden, D., Smulders, P.G., Kompier, M.A., van Veldhoven, M.J. and van Yperen, N.W., 2004. Working overtime hours: relations with fatigue, work motivation, and the quality of work. *Journal of Occupational and Environmental Medicine*, pp.1282-1289.

<sup>61</sup> Worley, S.L., 2018. The extraordinary importance of sleep: the detrimental effects of inadequate sleep on health and public safety drive an explosion of sleep research. *Pharmacy and Therapeutics*, 43(12), p.758.

### III. CRITICAL ANALYSIS

Sleeping is as fundamental to one's livelihood as is breathing and eating. Although there are no such laws protecting these other vital functions, there exists a certain right which safeguards the right to sleep. It is believed to fall under the ambit Article 21 of the Indian Constitution which, while discussing the Right to Life and Personal Liberty, states that – "No person shall be deprived of his life or personal liberty except according to procedure established by law."<sup>62</sup> This right was upheld in the landmark case of *Maneka Gandhi v. Union of India*<sup>63</sup>, in which the passport of the petitioner was unlawfully detained by the authorities, citing public interest as its base. This was held to be unconstitutional by the Supreme Court who, through this decision, changed the entire landscape of Indian law by establishing right to travel as unfringeable thus forming a golden triangle or trinity of rights, namely A. 14<sup>64</sup>, A. 19<sup>65</sup> and A.22<sup>66</sup>. Even the *Olga Tellis v Bombay Municipal Corporation*<sup>67</sup> outlined the right of the homeless to dwell and rest on the footpaths and streets.

That year, the right to sleep did not find much approval by the Judiciary, in incident that occurred in Ramlila Maidan led by a popular Yogic Guru, *Baba Ramdev*. A coup of peaceful protestors was attacked with water guns, tear gas and lathi charge by the police officials under sec 144 of IPC<sup>68</sup>. This case was *suo moto* taken up by the Supreme Court, noting the gross violation of right to privacy in loss of proportion to the use of allaying the crowd. This was the first case in which the right to sleep was given nation wide cognisance.

<sup>62</sup> Indian Const. art. 21

<sup>63</sup> *Supra*, 1

<sup>64</sup> Indian Const. art. 14

<sup>65</sup> Indian Const. art. 19

<sup>66</sup> *Supra*, 4

<sup>67</sup> *Olga Tellis v Bombay Municipal Corporation*, (1985) 3 SCC 545

<sup>68</sup> The Code of Criminal Procedure (Amendment) Act, 2008, § 144 No. 5, Acts of Parliament, 2008 (India).

### Various factors can be listed to be blamed for the damage to this right;

#### • NOISE POLLUTION

Noise pollution caused by fireworks also play a major role in contributing towards noise pollution. Besides noise pollution, they are also a leading cause of air pollution which also interferes with the rights of a person. This can be seen in the case of *Burrabazar Fire Works Dealers v. The Commissioner of Police*<sup>69</sup>, wherein only crackers below the specified decibels were held to be legal. Similar approach of the court was also seen in *Mohan Fireworks V. State of West Bengal*<sup>70</sup>.

#### • TRAFFIC

Noise pollution, especially that caused by traffic has been one of the major causes contributing to sleeplessness, especially among urban dwellers. Researchers have successfully proven that traffic noises at night, especially those of traffic are responsible for increase in heart rate during the sleep cycle.<sup>71</sup> In fact road, rail and air traffic when combined, have differently affect the pattern of sleep.<sup>72</sup> A mixed result was obtained when sleep patterns of children and adults was observed wherein children were believed to attain more sleep, contrary to the findings of a wrist actigraphy.<sup>73</sup>

#### • RELIGIOUS ACTIVITIES

Early morning sermons in *Mosques, Temples and Churches* are not new to a country like India which guarantees the right to practice and profess any religion, provided it does not go against public order.<sup>74</sup> However this sometimes causes nuisance especially to the urban areas where located nearby and disturbs the sleep of the people in early hours of dawn with their microphones, preaching religious beliefs. This

<sup>69</sup> *Burrabazar Fire Works Dealers v. The Commissioner Of Police*, AIR 1998 Cal 121

<sup>70</sup> *Mohan Fireworks V. State of West Bengal*, (1999) 3 CALLT 76 HC

<sup>71</sup> Griefahn, B., Bröde, P., Marks, A. and Basner, M., 2008. Autonomic arousals related to traffic noise during sleep. *Sleep*, 31(4), pp.569-577.

<sup>72</sup> Basner, M., Müller, U. and Elmenhorst, E.M., 2011. Single and combined effects of air, road, and rail traffic noise on sleep and recuperation. *Sleep*, 34(1), pp.11-23.

<sup>73</sup> Öhrström, E., Hadzibajramovic, E., Holmes, M. and Svensson, H., 2006. Effects of road traffic noise on sleep: Studies on children and adults. *Journal of environmental psychology*, 26(2), pp.116-126.

<sup>74</sup> Indian Const. art. 25

has been repeatedly discerned by the courts in cases such as *Om Birangana Religious Society v. The State*<sup>75</sup>, *Guruvayur v. Superintendent of Police*<sup>76</sup> and *Moulana Mufti Syed Mohammed Noorur Rehman Barkati v State of West Bengal*.<sup>77</sup> Here, the court held that it was unconstitutional to use microphones in Mosques and Temples to preach one's religion as one of the exceptions to Right to Religion<sup>78</sup> is that it must not be against public order or lead to public unrest.

Noise pollution laws were made more stringent in the *kk* wherein the duration and dates for religious activities were cut down in the in light of *Prevention of Environment and Sound Pollution v. Union of India & Others public interest*.<sup>79</sup> It only allowed loud music to be played for 10:00 pm to 12:00 am in the night, only for 15 religious days of the year.

Many religions believe in ascetism, the practice of refraining from vital sources of life such as food, water, shelter also including sleep. Although there exists liberty within each person to follow whatever practice they deem as a worship to their God, besides being illogical, sleep deprivation for the sake of religious expression also becomes unscientific as it can lead to harmful effects to cognitive function<sup>80</sup>

#### • **SLEEP DEPRIVATION – PSYCHOLOGICAL IMPLICATIONS IN STUDENTS**

Efforts have to be made to inculcate provisions for the wellbeing of students in higher education institutes. On average, college students are getting less than 8 hours of sleep every day.<sup>81</sup> This leads to dreariness, daytime sleepiness and fatigue, are phenomena to which no student is a stranger. This is mostly due to the

<sup>75</sup>Om Birangana Religious Society v. The State, (1996) 2 CALLT 474 HC

<sup>76</sup> Chairman, Guruvayur Devaswom Managing Committee, Guruvayur v. Superintendent of Police, AIR 1998 Ker. 122

<sup>77</sup> Moulana Mufti Syed Mohammed Noorur Rehman Barkati v State of West Bengal, AIR 1999 Cal. 15

<sup>78</sup> *Supra*, 14

<sup>79</sup> Forum, Prevention of Environment. & Sound Pollution v. Union of India, (2005 AIR SCW 3525)

<sup>80</sup> Farré-i-Barril, N.M., 2012. Sleep deprivation: Asceticism, religious experience and neurological quandaries. Religion and the Body. Leiden: Brill, pp.217-234.

<sup>81</sup>Lee, C. J., Nolan, D. M., Lockley, S. W., & Pattison, B. (2017). Law-based arguments and messages to advocate for later school start time policies in the United States. Sleep health, 3(6), 486–497.

plethora of subjects and assignments to which they are subjected to on a daily basis. This drives them further towards harmful alternatives to attaining that sleep, including supplements such as caffeine, drugs and alcohol.<sup>82</sup>

#### **IV. CONCLUSION/RECOMMENDATIONS**

While much scientific bearing is dwelled upon the topic of sleep, the same enthusiasm is lacking when it comes to the field of law. Rarely any scholarly research papers are published based on this right, considering it to be too trivial or amusing to people, since it doesn't necessary harm the sentiments of a particular sect or religion. However, I deem it just as important as any other fundamental right guaranteed under the Constitution. Till date we only have judicial precedents to rely upon for reference, most of which only use the right to sleep as an accompanying right along with other rights such as right to privacy or right to religion and fails to establish its own identity. With clear provisions regarding this law, there will be lesser violation of this right, ensuring the most basic and foremost of right to every citizen of India.

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<sup>82</sup> Lund HG, Reider BD, Whiting AB, Prichard JR. Sleep patterns and predictors of disturbed sleep in a large population of college students. J Adolescent Health. 2010;46(2):124–132.



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