Sleep: A Human Rights Issue
[Invited Commentary for Sleep Health]

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REVISED DRAFT (Updated: 14 December 2015)

The final published version of this article is available online at
http://dx.doi.org/10.1016/j.sleh.2015.12.007
https://www.sleephealthjournal.org/article/S2352-7218(15)00195-3/fulltext
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In October 2009, a group of homeless individuals (the Plaintiffs) sued the U.S. city of Boise, Idaho, its police department, and its police chief in federal court to challenge Boise’s enforcement of certain city ordinances prohibiting camping and sleeping in public outdoor places on nights when there was insufficient shelter space to accommodate the city’s homeless population.¹ The lawsuit alleged that Boise’s enforcement of these ordinances on such nights effectively criminalized the Plaintiffs’ status of being homeless and therefore amounted to cruel and unusual punishment¹⁰— a violation of the Eighth Amendment to the U.S. Constitution.² Citing the U.S. Government’s interest in protecting individuals against “unconstitutional and abusive policing” and in “ensuring that justice is applied fairly, regardless of wealth or status,” the United States Department of Justice filed a Statement of Interest on behalf of the U.S. Government in this lawsuit on August 6, 2015.³ In its Statement of Interest, the U.S. Government urged the Court to rule in favor of the Plaintiffs on their Eighth Amendment claim. More specifically, the U.S. Government argued:

When adequate shelter space exists, individuals have a choice about whether or not to sleep in public. However, when adequate shelter space does not exist, there is no meaningful distinction between the status of being homeless and the conduct of sleeping in public. Sleeping is a life-sustaining activity — i.e., it must occur at some time in some place. If a person literally has nowhere else to go, then enforcement of the anti-camping ordinance against that person criminalizes her for being homeless.³⁰

The U.S. Government thus argued that because sleeping is a “universal and unavoidable consequence[] of being human”⁴ that is “necessary for human survival,” penalizing homeless individuals for sleeping in public when they cannot access shelter space constitutes cruel and unusual punishment.³⁰
Although the lawsuit was ultimately dismissed on procedural grounds in September 2015, the U.S. Government’s Statement of Interest raised some issues of relevance to the sleep health community. Legally speaking, the U.S. Government’s position in the Boise case was a narrow one in that it was limited to the context of enforcing certain local ordinances against homeless individuals who could not find overnight shelter. It is a stretch to conclude from this position that the U.S. Government believes that sleep is a legal right in the U.S. On the other hand, by characterizing sleep as a “life-sustaining activity” and a “universal and unavoidable consequence of being human,” the U.S. Government acknowledges the essential role of sleep in human health and well-being and, therefore, arguably recognizes access to sleep as a basic human right.

The concept of “human rights” refers to fundamental freedoms, immunities, and benefits that, according to modern international values, all human beings should be able to claim as a matter of right in the society in which they live. Whereas legal rights are created and enforced by legal systems, human rights are inherent to all human beings. In theory, human rights can be protected, enforced, and even violated by law, but they cannot be extinguished by law: basic human rights continue to exist even when laws violating them exist. Thus, for example, a law authorizing the torture of criminal suspects violates a suspect’s basic human right to be free from torture and other cruel, inhumane, or degrading treatment, but it in theory does not take away the suspect’s right to claim this basic human right.

Several internationally-recognized basic human rights are enumerated in the Universal Declaration of Human Rights, including the aforementioned right to be free from torture (Article 5), the “right to life” (Article 3), and the “right to a standard of living adequate for the health and well-being of [oneself]” (Article 25). Furthermore, the preamble to the Constitution of the
World Health Organization asserts that “[t]he enjoyment of the highest attainable standard of health is one of the fundamental rights of every human being without distinction of race, religion, political belief, economic or social condition.” Thus, health and well-being are recognized internationally as human rights issues.

Arguments recognizing sleep as a human rights issue due to its essential role in maintaining human health have been raised previously in non-U.S. legal contexts. For example, in 2012, the Supreme Court of India explicitly recognized sleep as a basic human right and a legal right in a case arising out of a night-time police raid on an encampment of sleeping protesters. In his concurring judgment, Justice Chauhan wrote:

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

Justice Chauhan also asserted that “the concept of sound sleep has been associated with sound health,” which is an “inseparable facet” of the right to life protected under the Indian Constitution. Recognition of sleep as a human rights issue by governmental and legal entities (as illustrated respectively in the Boise and the Indian cases) raises the profile of sleep health as a societal concern. Although these cases may not lead to immediate public policy changes, their recognition of sleep as a human rights issue infuses the public discourse about the importance of sleep health with loftier ideals about what it means to be human. Such recognition also elevates the work of sleep researchers and practitioners from serving the altruistic purpose of improving human health at the individual and population levels to serving the higher altruistic purpose of promoting human rights for all people. These conditions create an environment in which policy

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change that values individual and population sleep health can occur gradually over time,
particularly in societies with strong democratic traditions.

Some readers may dismiss such rhetoric as overly idealistic, hokey, or Pollyannaish. Yet if one accepts the premise that science, medicine, and public health all aim to improve the human condition, then one also should be able to understand the acceptability of researchers and practitioners recognizing the relevance of human rights to their fields of study and practice. Human rights, after all, are based on ideals aimed at optimizing the human condition for everyone.

References


2 U.S. CONST. amend. VIII (“Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.”).


4 Jones v. City of Los Angeles, 444 F.3d 1118, 1136-37 (9th Cir. 2006), vacated after settlement, 505 F.3d 1006 (9th Cir. 2007).


12 *INDIA CONST.* art. 21 (“No person shall be deprived of his life or personal liberty except according to procedure established by law.”).