

She was unable to earn a living, which could support her 5 children. In exasperation she killed all 5 children by drowning them and finally jumped into a well. She was rescued and committed under Section 302 of IPC for killing her children. High Court held poverty cannot justify grave offences and ruled out poverty as an excuse for murdering her children and her own attempt.

2. In reference to Maragatham:- husband and wife starving about for 10 days could not find work and no one gave them food. They decided to end their lives along with 1½ year months baby and jumped into a

well. The baby slipped and was drowned. Those two were rescued by a passer-by. They were convicted of attempt to murder of their female infant and Section 307 read with Section 34 IPC and under Section 309 for attempt to commit suicide.

Hence poverty or any other reason should not throw the child into quagmire of child labour. Child born in a poor family can be poor but need not necessarily a child labour. Poverty should not be the legitimate cause of child labour and the abolition of child labour does not have to wait for the ending of poverty.

JUDICIAL RADIANCE AND PUBLIC REFRACTIONS

By

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Recently, two news clips published in a leading newspaper in Andhra Pradesh, almost in quick succession, caught the curiosity of countrymen. One relating to “purported unsavoury remarks passed by a higher Court against an executive wing of the State, and another one to show how ‘effectively’ law is respected and implemented by that executive wing”. More curious is the magnanimity of the media found in projecting a trivial accidental affair as a tremendous tact of our governance. These two episodes stirred in my sleepy mind, not anger or emotion or empathy, but anguish. Hence the common man spirit sounds that —

In the temple of the three functioning premises of the State, the Judiciary is placed as the SENTINEL ON THE QUIVIVE. The ultimate end product of law is delivered by Judiciary alone. Judiciary is entrusted with

such a pious and pristine obligation. In the process of discharging this obligation, Judiciary is being subjected to excoriation, sometimes for non-performance and sometimes for over-performance *i.e.*, that the Judiciary remains complacent without using the atomic powers bestowed upon it under Article 141 and Article 142 of our Constitution when it ought to perform; and sometimes making inroads into the orbit of the Legislature and Executive with hyper-activity.

Of late, the intra-institutional apathy and inter-institutional avarice beget bizarre incidents in public life and social serenity. Public opinion appears to have been dazed by the frequency of jurisdictional confusions of institutional interplay, Media too, now a day, maintains that the public is witnessing many instances where one organ of the

Government is intruding into the regime of other, albeit the three power-stores of the State are mandated to co-ordinate with each other for good governance. The 'Cash for Query' flurry provoked Legislature to arraign Judiciary with "super-chamber attitude" and constrained-Judiciary responded through its judicious observations of public despair towards Legislative inertia in more than one decision, more particularly when the legislative deeds are not in comport with the spirit of the Constitution and constitutional philosophy.

It may not be amazing to note when the Legislator arrogates himself to be the omnipotent in making or unmaking laws, but it will be curious if Judiciary is advised to be on the defensive. AFTERALL, JUDICIAL FUNCTION IS NOT CONFINED NECESSARILY TO LEGAL JUSTICE OR ABSOLUTE JUSTICE. BUT EXTENDS TO VINDICATE 'TRANSCENDENTAL JUSTICE'. Our Indian judicial system under the knighthood of Supreme Court, not only maintained the role of the adjudicator, dispenser of justice but also confirmed its role as 'bulwark of civil liberties', creator of rights for uncared or Little-Indians. Our judicial system certainly may feel proud of many serene and sensitive Judges who remained as manifestations of justice in the law world. *Krishna Iyer*, J. observes, "A Judge is a social engineer and people's sentinel and fulfils himself not merely by adjudicating on the cases he tries, but by catalyzing moral-material transformation, not as a blinkered professional, but as a dignified surrogate constitutional daring to catalyze public opinion when evil forces hold to ransom progressive values.", and further quotes the observation of Karl Marx that, "Philosophers have interpreted the world; our task is to change it. I would add, in a similar strain, Judges have adjudicated disputes, but their constitutional task is to transform society too." (*Krishna Iyer*, V.R.J. on a book-review "Judicial Strictures" of Dr. T.N. Arora-The Hindu dated 26-2-2002).

"A judgment is not a product of cold facts, remorseless logic and pitiless conclusions"- it may be a noble sentiment farther from truth. (*Gadigepa Mahadevappa v. State*, AIR 1990 KN 4).

Such is the greatness of Judiciary, Judge and judgment. It is an undeniable truth, though could not be proved, it is a sentimental fact, that common man regards every utterance of Judge or justice as reverential as that of a judgment though spoken on non-judicial plane. This public sentiment and opinion ought to be respected even by the robed intellectuals and justice-angels. That is why probably, Judges adopt self-restraint and do not relish such a 'free expression' as enjoyed by an ordinary citizen in their due discharge of functions and administration of justice. Dr. T.N. Arora states without inhibition that, "The Judge's Bench is a seat of power. Not only do Judges have power to make binding decisions, their decisions legitimate the use of power by other officials. The Judges have the absolute and unchallenged control of the Court domain. But they do not misuse their authority by intemperate comments or undignified banter. The Court has the inherent power to act freely upon its own conviction or any matter coming before it for adjudication but it is a general principle of the highest importance of the proper administration of justice that derogatory remarks ought not to be made unless it is absolutely necessary for the decision of the case to animadvert some body's conduct." (1) (Dr. T.N. Arora 'judicial strictures' – Universal Law Publishing Co. Delhi – 2002-P-)

We could see craze for sometime political superiority in the guise of political jingoism particularly after 1970 which numbed the rational thinking of the common gentry. This movement is further buttressed by executive co-ordination and co-operation, even shadowing judicial ambience. When judicial system could not be subdued by overt eulogy or covert controls, some vested

artisans resorted to indirect onslaught on legal edifice by distortions and misguidance affecting the gullible public. Here and there, we could notice certain unpleasant developments purporting to be tussles between Legislature and Judiciary, Executive and Judiciary and institutions are projected by certain individuals to be on head on collision. Naturally, institutions are animated by individuals only. The Presiding Officers of Courts are constrained to respond with anguish to apprise the people of the role of Courts and the nexus between 'law in theory' and 'law in practice'. In this precarious pursuit, the 'expression of the anguish' of law-servants is unwittingly being dubbed as 'expression of anger'.

Media is becoming more quixotic, assumes to serve the public by disclosure of facts and information, and infrequently projects a trivial matter as an explosive enigma. The sneezing of a nose is described as an outcome of torrential drench. Should such an affair be an alarming debatable public issue? Duty performance is a transcendental expression remaining dispassionate and decisive. Recently, we read "wit and repartee" like sequences between Legislature and Judiciary and Executive and Judiciary. On both the occasions, the Judiciary appears to have exhibited docile stance leaving the public to appreciate the events and incidents. Media's daring investigative quality should be to subserve the public needs but not to subvert the public peace, either directly or indirectly resulting in institutional prejudice. Even a casual observation of the Chief Justice of India in a public function is reported to have been misquoted and distorted by a newspaper in Hyderabad. Whom should the public counsel or caution—Legislature, Executive or Judiciary or media? Oh! These are the four pillars of our democracy. Of course, Legislator is counselled or cautioned once in five years by the public, but common man is aghast at the inter-institutional pride of Executive and judiciary

and newspaper barons. Let not the public feel that commonsense has become uncommon and a rare species. Institutions represent public reflections but not public refractions.

As a simple Indian, I hold the Legislature in great esteem, Executive in reverence and Judiciary in veneration, and Media with respectful affection. Legislature and Executive are always acquainted with "agitation tempo" of public and mass; these two wings are expected to receive the heat bearable or unbearable, and Media is to be honest to the core to expose the evil and vindicate the virtue. For Judiciary, there is no other go but to absorb everything, palatable or unpalatable, for the system is expected to remain idealistic.

The Supreme Court rightly observed in *State of Rajasthan v. Prakash Chand Jain*, that, "by casting aspersions on the Judges personally or using intemperate language against them, the critics, whoever they may be, strike a blow at the prestige of the institution (judicial) and erode its credibility." Remember what justice said in *M.R. Parashar v. Farooq Abdullah* – 'those who attack Judiciary must remember that they are attacking an institution which is indispensable for the survival of the rule of law but which has no means of defending itself.'

Despite all oddities and foul propaganda in the society, in the public esteem, the place of Judiciary is still venerable and a Judge is distinctly unique from other sovereign representatives. It is pertinently relevant to extract few lines from the "Canons of Judicial Ethics", an inaugural lecture by Justice R.C. Lahoti –

"When a Judge sits on trial, he himself is on trial. The trust and confidence of 'we the people' in Judiciary stands on the bedrock of its ability to dispense fearless and impartial justice. Any action which may shake that foundation is just not

permitted.... A Judge is constantly under public gaze. "Judicial office is essentially a public trust". Society is, therefore, entitled to expect that Judge must be a man of high integrity, honesty and required to have moral vigour, ethical firmness and impervious to corrupt or venial influences. He is required to keep most exacting standards of propriety in judicial conduct. Any conduct which tends to undermine public confidence in the integrity and impartiality of the Court would be deleterious to the efficacy of the judicial process. Society therefore expects higher standards of conduct and rectitude from a Judge. It is therefore a basic requirement that Judge's official and personal conduct be free from impropriety; the same must be in tune with the highest standard of propriety and probity. The standard of conduct is higher than that expected of a layman and also higher than that expected of an advocate".

Patience and tolerance.

The greatest quality of a Judge is to have patience which is sister virtue of calmness. Calmness is as essential as fearlessness and honesty to the exercise of good judgment in times of aroused feelings and excited passion.

Patience implies the quietness or self-possession of one's own spirit under sufferance and provocation. Since it has tranquilizing effect, patience is the best remedy for every affliction. The Bible says that if patience or silence be good for the wise, how much the better for others – unwise or not so wise. Sometimes we turn our anger upon the person responsible for hurting us; we are also likely to blame someone for any kind of mishap. By learning to be patient, one can cultivate the art of reigning in bad temper and hasty decision-making. Patience yields many good things. It is also a necessary ingredient of genius. Patience can solve problems, avert wars and disasters, and lead

us to the path of truth A learned man tells us that misfortune can be turned into fortune through wisdom To be patient one has to be humble. To cultivate patience, anger management plays a crucial role. (Bar Council of India. ND – "Canons of Judicial Ethics" inaugural speech by Justice R.C. *Laboti*-Universal Law Publishing Co)

As a learner of law, I understand the term JUDICIAL as a multi-dimensional radiance of justice and peace, a light of humanity of the people, and for the people. The war of words of the chieftains may provide a ground for cheap publicity in media and ultimately confuse the innocent public. Let us be courageous to acknowledge certain basic facts in our society – We, the people of India proclaim—

1. That our India *i.e.*, Bharat is not only a Union of States but also a union of sentiments, sensitiveness and sophistication.
2. This being a land of Karma, "We, the people" are wise enough to distinguish between religion and spiritualism and hence we foster heterogenous culture and life.
3. "We, the people ..." produced CONSTITUTION a paramount law unanimously and proclaimed profoundly that Legislature is mortal (though not fugitive); Executive is immortal (not individual but institution) and Judiciary to be Eternal (in terms of rendering justice).
4. "A Judge is a Trustee: the people are beneficiaries: his constituency – the people of India." (Courtesy – *Krishna Iyer, J.*)

Above all, Law is dynamic and judicial activity is creative. *Soli Sorabjee*, a gem in legal firmament stated once – "indignant critics forget that it is the Executive's failure to perform its duty and the notorious tardiness

of Legislatures that impels judicial activism and provides its motivation and legitimacy. When gross violations of human rights are brought to its notice, the Judiciary cannot procrastinate, it must respond.”

LEGISLATURE OR EXECUTIVE OR JUDICIARY OR MEDIA IS NOT THE TARGET OR END OF LAW; BUT LAW SHOULD BE THE GOAL OR END OF

THE LEGISLATURE OR EXECUTIVE OR JUDICIARY.

NONE OF THESE INSTITUTIONS SHOULD ‘TARGET’ THE LAW.

“HE WHO IS SLOW TO ANGER IS BETTER THAN THE MIGHTY AND HE THAT RULES HIS SPIRIT TAKES A CITY.”

THE CENTURIES OF THE VENERABLE NARASAPUR BAR — A TRIBUTE

On the occasion of the Inauguration of the Court Building Complex on 31-3-2007

By

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Hon’ble the Chief Justice Sri. *G.S. Singhvi* and Hon’ble Justice Sri *D.S.R. Varma*, Hon’ble Justice Sri. *Eshwaraiah*, Hon’ble Justice Sri *V.V.S. Rao*, Hon’ble Justice Sri *C.Y. Somayajulu*, Hon’ble Justice Sri *Bhavani Prasad*, Hon’ble Justice Sri *D. Appa Rao* and Hon’ble Justice Sri. *Nooti Rama Mohana Rao*

1. The Godavari Districts are the eldorados of the State of Andhra Pradesh. This littoral, Cosy Town of Narsapur, is blessed by the august presence of the eminent personalities of your Lordships. Narsapur, sprawled near the banks of the Vasista Godavari, in the southernmost part of West Godavari District is the place that has seen the glorious past of the judicial institutions set up by the French, the British and now it is witnessing today one more epoch-making event of opening the Court Complex to accommodate not only the Courts of Magistrate, Junior Civil Judge, Senior Civil Judge and no less a Fast Track Court, presided over by the Judicial Officer of the cadre of a District Judge, to function under the Indian Jurisprudential System. It is pertinent

to make a reference here, in this connection, that Narsapur, prior to the advent of the French and the British, witnessed the presence of the Dutch, who left their legacy on the soil of Narsapur, in the form of the everlasting building situate in the YN College Campus, which is a cynosure and an eye-opener to the present architects and contractors whose structures are not even seeing ten decades. Narsapur is the sacred place, near which, the vibrant River Godavari, completes its divine mission and confluences with the mighty Bay of Bengal, at a visible place called Antarvedi.

Similar French and British Structures are still found, at Machilipatnam towards the West of Narsapur if we go by the sea and at Rajahmundry, situate on the north-east of the River Godavari. My humble attempt here is, to highlight that Narsapur and its surrounding parts are the witnesses of the global judicial traditions, inasmuch as the typical judicial institutions of the French and the British, laid the foundation of modern way of administering justice long ago, in this area,