

ABOLITION OF CHILD LABOUR - CHASING A MIRAGE OR REALITY

By

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“The child name is Today, He cannot wait for tomorrow”.

—*Gabriel Samuel* (Noble Prize Winner)

“We are guilty of many errors and facts but our worst crime is in abandoning the children, neglecting the life of many of the things we need can wait, the child cannot. Right now is the time by when bones are being formed his blood is being made and his senses are being developed. To him we cannot answer tomorrow his name is today”.

—*Gabriel Mistral* (Noble Laureate)

J. Hansaria quoted “I am the child, all the world waits for my coming, All earth watches with interest to see what I shall become. Civilization hangs in balance. For what I am, the world of tomorrow will be. I am the child. You hold in your hand my destiny, you determine largely, whether I shall succeed or fail.

“Give me I pray you, these things that make for happiness, train me, I beg you, that I may be blessing to the world”. It may be said that the aforesaid appeal lies at the back of saying that “child is the father of the man” to enable fathering of valiant and vibrant man the child must be groomed well in the formative years of his life. — *M.C. Mehta v. Tamil Nadu*, 1996 (6) SCC 756.

Child of today cannot develop to be a responsible and productive member of tomorrow's society unless an environment which is conducive to his social and physical health is assured to him. Every nation, developed or developing, links its future with the status of the child. Childhood holds the

potential and also sets the limit to the future development of the society. Children are greatest gift to the humanity. Mankind has best hold of itself. The parents themselves live for them. They embody the joy of life in them and in the innocence relieving the fatigue and drudgery in their struggle of daily life. Parents regain peace and happiness in the company of the children. The children signify eternal optimism in the human being and always provide the potential for human development. If the children are better equipped with a broader human output, the society will feel happy with them. Neglecting the children means loss to the society as a whole. If children are deprived of their childhood – socially, economically, physically and mentally – the nation gets deprived of the potential human resources for social progress, economic empowerment and peace and order, the social stability and good citizenry. The founding fathers of the Constitution, therefore, have bestowed the importance of the role of the children its best for development. *Dr. Bhim Rao Ambedkar*, was far ahead of his time in his wisdom projected these rights in the Directive Principles including the children as beneficiaries. Their deprivation has deleterious effect on the efficacy of the democracy and the rule of law.

Over the years there is a phenomenal increase in the child labour despite of Child Labour Abolition Protection Act 1986. Through the Act was enacted 20 years ago yet the child labour is not significantly reduced. It raises the fundamental doubt whether child labour can be abolished in total or is it a distant vision of far off island which we may never reach

“Victories are gained,
Peace is preserved,
Progress is achieved,
Civilization is built up,
History is made,

Not on the battlefields where ghostly murders are committed in the name of patriotism, not in the council chambers where inspired speeches are spurned out in the name of debate, not even in factories where are manufactured round instruments to strangle life, but in educational institutions which are seed beds of culture, where children in whose hands quiver destinies of future are trained. —*Unnikrishnan v. A.P.*, 1993 – SCC Page 1993.

Art 3 of convention rights of child – in all actions concerning children the best interest of the child shall be a primary consideration.

Art 25(1) of UDR “Every one has a right to a standard of living for health, well being of his family including, clothing, housing and medical care to extent of permitted by public and community resources.”

Art 25 “Every one has a right to standard of living adequate for health and well being of himself and his family including food.”

In universal declaration of human rights, UN has proclaimed that childhood is entitled to special care and assistance and convinced that family as the fundamental group of society and natural environments for the growth of well being of all its members and particularly children should be afforded the necessary protection and assistance so that it can fully assure its responsibilities within community for recognising that the child fully and harmonious development of his or her personality should grow in a family environment in an atmosphere of happiness love and understanding.

Child labour problem is not only increased in alarming proportions but also manifesting

in extreme forms of sexual exploitation and moral degeneration.

HIV @ Rs.100/-

Off Puri’s holy precinct, unholy sex tourism has made Pentakota, a small fishing hamlet, paradise for paedophiles.

Pentakota is a major attraction for paedophiles because

The entire sex trade is geared to service paedophiles. Children below 13 offer sex for a few hundred rupees. Some 20-odd message parlours offer child prostitutes to clients. Driven by extreme poverty, many families have harnessed their children to the trade to supplement income. Police, the local authorities and even the State Government have turned a blind eye to the problem.

The local administration refuses to even acknowledge the problem. The police prefers to turn a blind eye. Journalists are discouraged from reporting on the flesh trade lest it bring a bad name to Puri that attracts about 40,000 visitors daily and upto two lakhs during religious festivals like the rath yatra. It is only very recently that State Health Minister *Bijoyshree Routray* made an oblique admission of the problem and said the Government would take “necessary measures” to curb HIV. There is still no word yet on cracking down on the sex trade which has put Pentakota on the international paedophile map.

In Tandur of A.P. parents collecting Rs.1,000/- to 3,000/- for surrendering their children to adoptive parents to Bethany Home. It was thriving business to take adoptive children through other States. It is observed that it is not only the poverty which lead to the child labour but also the greediness, and no deterrence of law. As the Pandora box of child adoption racket was busted when the daughter-in-law was freed to give away her baby to the brokers by her in-laws against her wishes. In these cases, there was no

evidence of poverty the whole thanda was in a good position and were able to survive.

There is also ban on voluntary agencies from placing children in adoption and prohibited the relinquishing of a child “for reasons of poverty, number of children and un-wanted girl child” by biological parents to an orphanage or other voluntary agencies. Yet the sale of children continues unabated.

According to theory of punishment the law acted as a deterrent to the parents in the cases where the child is put to sale in the open market was neither had deterrence of law nor was ashamed of doing.

This clearly shows that overall socio economic goals becoming a far cry and child labour degenerating to all forms of exploitation. Boys and girls exploited for not just child labour but for immoral trafficking and sexual abuse.

In recent times not a single political leader worth his stature, has ever talked on the issues of population control or need for small family norm, prevention of child labour and for the protection of child rights.

India is second largest populated country but its child population is higher than that of China. Can we afford to waste our manpower resource in the form of child labour?

The focus on child labour by media leaves much to be desired. In an era of cut throat competition by different channels, the kissing of *Kareena*, engagement of *Aishwarya*, birthday of *Amar Singh*, Politicians trading accusations and washing their dirty linen in public attract the media’s attention and emerge as headlines while the basic contentious issues like poverty, unemployment, population explosion, illiteracy, child labour, remain uncovered, unattended and untouched.

In *Nakara v. Union of India*, case 1983 S.C 130, Supreme Court emphasized “to provide 2007-Journal—F-4

decent standard of life to working people and especially provide security from cradle to grave”.

In the case of *Ashray Adhikar Abhiyan v. Union of India*, AIR 2002 SC 554, Supreme Court held that Right to life means right of a person to be protected from “womb to Tomb”. That means it clearly indicates that before the birth, till the end of the life or till he is buried, life has to be protected according to Art.21 of Constitution.

If we consider the age group 5-14, and the definition of worker as in the Census of India, then, in 2001, there were 12.6 million child workers in the country. We have more child workers than the entire population of Belgium. More than 50 per cent of child workers (6.7 million children) are concentrated in the five States of U.P., A.P., Rajasthan, Bihar, and M.P.

While poverty is the seed-bed for child labour, the persistence of child labour depends critically on the demand for it. This demand for child labour, as shown by *C.P. Chandra Sekhar*, is either from employers who want to make larger profits by employing cheap workers or from small employers or household enterprises who use child labour to survive in low productivity activities. It is the greed of the employer to maximize profits by minimizing cost on labour, in order to remain competitive in the era of cut throat competition in the market that encourages child labour .

Child labour is predominantly a rural phenomenon. Rural areas account for 85 per cent of child workers and the incidence of child labour is higher in rural areas than in urban areas. Almost 80 per cent of estimated child workers are employed in the agricultural sector. Nevertheless, there are some urban pockets with a high incidence and visible concentration of child labour in specific industries such as gem polishing in Jaipur, slate making in Markapur, and silk weaving in Varanasi.

Although the incidence of child labour has declined over the years, clearly it remains a big problem. Furthermore, there are a large number of children who are not recorded as working but who are not attending school either, and can be viewed as potential child workers.

Detailed documentation of the specific types of labour done by children in different parts of India that reveals the exploitative contracts and abysmal conditions of work. As Neera Burra has shown, children work long hours (12-14 hours a day in the lock making industry of Aligarh) for low wages (a child's wage was one-tenth an adult wage in gem polishing in Jaipur) in dangerous work environments (close to hot furnaces in the glass factories of Firozabad). Literacy among child workers is very low, they suffer ailments at an early age, and their life expectancy is unlikely to be high. There is also a gender division of labour with girls engaged in specific jobs, generally at lower wages than boys.

Child labour is a by-product of failure of implementation of many socio-economic development programmes and failure of their implementation, Ex the programmes like family welfare programmes. Employment guarantee scheme, universalisation primary education, Poverty alleviation programmes *etc.* Integrated child development services functioning includes immunization, supplementary nutrition, health and education, growth monitoring, pre-school education and referred services.

The Constitution of India is solicitous of children well being, development and their rights. The practices of Indian politics are unconstitutional and even as anti constitutional politics Union Labour Minister concedes the existence of child labour as a 'Harsh reality'.

All the ratifications of conventions and amendments are a mere window dressing. The problem as it was nearly 20 years ago

when we first took it up has perpetuated itself over the two decades and still continuing.

In spite of the best programmes and projects were enumerated by State and Central Government still child labour is enormously seen in every place. No matter of type of work or place of work and age of child, he/she used as commodity or an item which fetches some benefit to the parents, if the child is very young like months baby she is sold for any purpose tale item for some rupees 200/-, 300/- or 800/- as in case of Buddhia of Orissa. If child is of age 5-12 they can be used as servants in the homes in the guise of helping hand. If they are of 12-18 they are directly registered as employees in any company or industry or shop or establishment (Sanghi Industries, Hyderabad) as a cheap labour flouting all laws.

It is commonly argued that child labour cannot be stopped (and may be even harmful to end) till such time as poverty is reduced, and, therefore, the main policy thrust should be towards the eradication of poverty. The grounds for this argument are usually two: (a) one, a concern for the household that depends on the earnings of the child worker, and, (b) secondly, the inability to enforce a ban on child labour in a situation of poverty.

Even though Child Rights Commission 2005 has been enacted in it. Even after one year their activities are not known and there are no evidence whether the officers have been appointed. Only few NGO are working and they are neither supported whole heartedly by the Government nor acknowledgement was made by the Government for their work.

Hazardous work and legislation

The current legislation in India does not ban all forms of child labour. The Child Labour (Prohibition and Regulation) Act, 1986 is concerned only with "the engagement of children in certain employment" and

accordingly lists specific occupations (Part A) and processes (Process B) in which the employment of children is banned or is to be regulated. The occupations specified in the Act include work in the railways, ports, and the sale of fireworks, and the processes specified include bidi making, carpet weaving, and the manufacture of soaps, matches and cement.

On August 1, 2006, the Ministry of Labour added the following occupations to the list of hazardous occupations: domestic servants, workers in dhabas, restaurants, hotels, motels, teashops, resorts, spas or other recreational centres. The notification will become effective on October 10, 2006. This is a welcome step but far from adequate.

Implicit in the above legislation is the view that certain types of employment are hazardous and only child labour in those employments is to be prohibited or regulated. The ILO Convention (No.182) on the Worst Forms of Child Labour, 1999, also attempts to make a distinction between hazardous and non-hazardous employment. The convention seeks the immediate elimination of certain types of child labour including slavery (sale of children, debt bondage *etc.*), prostitution, drug trafficking, and other hazardous activity (or “work which is likely to harm the health, safety or morals of children”).

There is no doubt that bonded labour and other extremely exploitative forms of child labour should be ended at once, and require priority attention. Nevertheless, there are area problems with defining hazardous activity, ultimately all forms of labour has to be banned to the well being of children.

It is a universal law of nature that all species looks after the young one's offering food, shelter and emotional care. It is a Travesty of fate that parents in a civilized society abdicate their responsibility and expose the large chunk of the future citizens to the

nakedness poverty, illiteracy, starvation, suffering and depriving the society and the nation their share in productivity and progress.

It is a queer quirk of fate or tryst with destiny that where parents are expected to provide for their young off springs instead coerce them into eternal bondage of shackles of child labour perpetuating the condemnation of childhood and depriving the quality of life and preventing from blooming into responsible citizens. It is a bizzare case of role reversal.

It is high time that the society and legislation take cognizance of the violation of parental responsibility to provide for the children instead parents expect the child labour as a source of additional income to the large family.

Perusal of definition of man reveals harsh reality that child is never considered as an individual entity even for the sake of Fundamental Rights under Constitution.

India is the first country in the world to launch Family Planning Programme in 1951 and our country is committed to voluntary sterilization.

The Family Planning Programme was enacted in 1955 and even after 50 years of the implementation of the programme there is awful lack of awareness among the poor sections of the society regarding adverse effects of large size family and need to adopt small size family norm. Clearly the family welfare programme lost its focus and Government health functionaries failed to prove their existence.

The nexus between family welfare programme and child labour is axiomatic. It is analysed that children from large size family are mostly engaged as child labour. It is not clear as to what the intentions of the Government are. It has soft approach on family planning and no concrete policy on

eradication of child labour. Political leaders are afraid of openly speaking in support of small size family as they do not want to risk their vote bank by displeasing the people.

It is clear that Government have not made any substantive efforts to persuade the parents to have limited size family or fixing the responsibility of parents to up bring the child. In either case there is a gross negligence of parents to choose the number of children that they should have so that they can bring up with responsibility and care and child labour can be prevented. If it cannot restrict the citizens to have number of children they would like to have, it should atleast fix the accountability or responsibility to lookafter the children or else democratic choice may become synonymous with exploitation and victimization of children.

Because the Family Planning Act is only a voluntary Act, which is neither compulsory nor mandatory, there are no sanctions if citizens are not following. Even when people are flouting the laws, and making a mockery of State legislations. Can the State afford to be a mute spectator of all this. The assumption that child belongs to only parents like any tangible property and State has no role to interfere or can State afford to say that it is only a private affairs of couple, then the statement "every todays child is tomorrows State's wealth" has no meaning.

The family planning based on their consent and volition. We are opposed to impose coercive methods and any disincentives to the parents producing large number of children. Ironically this policy has encouraged large size families.

The Doctrine of Welfare State instilled a sense of dependence of parents on the paternalistic role of State, adding insult to injury, large size family coupled with increased dependence on the sops and schemes fuelled the spiralling rise of incidence of child labour. As a result any parents could have unlimited

number of children as a matter of rights but with no responsibility to lookafter the children born to them.

There is no penal provision in any existing laws which punishes parents who forces the child into child labour.

This resulted in blame game. Parents of poor family blame it on large family size and lack of economic opportunity to be provided by the State. Experts blame it on poverty, unemployment illiteracy, ignorance, lack of comprehensive economic measures and economic policies.

Do the parents accept the fact that it is their duty to give the child everything which keeps him alive with human dignity? When the parents are aware that they do not have adequate means of livelihood to bring up the children, why give birth to large number of children and blame child labour on poverty? There is no mechanism in place to check and account for parental responsibility.

Poor families living in slums tend to have large families hoping that the children will contribute supplementary income to the family. These short term gains interfere with the future of their children and breed further poverty. Hence it is not clear whether poverty is a "cause" or "effect" of child labour.

Surprisingly no critics has ever attributed it to lack of accountability on the part of parents to look-after the children and in the event of absence of abdication of responsibility should attract penal provision to be imposed on parents of every child who are found engaging in child labour.

The child labour exists today not only as a problem in itself but as a cumulative effect of failure of administrative machinery, lack of political will, lack of commitment and lack of vision on the policy makers, lack of committed bureaucracy leading to social disorganization, cultural disequilibrium,

disparities in standards of living moral degeneration, and child exploitation. Our political rulers remorselessly abdicate responsibility and while judicial activism confine to few selective issues and bureaucracy grappling to provide a semblance of make believe administration.

A scrutiny of existing legal provisions fail to offer any hope and leave much to be desired.

There are obviously many gaps in the existing legislation as it excludes several dangerous processes. It is prohibited for a child to work in a sawmill but not in a carpenter's workshop. Working with agricultural machinery is prohibited but field labour using a sickle is permitted.

The decision of the Government to ban child labour in teashops and hotels is based on the recommendations of a Technical Advisory Committee headed by the Director General of the Indian Council of Medical Research. This committee based its recommendations on the argument that children to physical violence, psychological traumas, and at times even sexual abuse. They also argued that working long hours affected their "health and psyche," and made them "easy prey to sex and drug abuse as they came in contact with all kinds of people." This incisive argument is, of course, applicable to children working in many other activities and industries. Is a child worker engaged in stitching buttons on to shirts in a tiny garment enterprise not subject to long hours of work and abuse by the employer? The line between hazardous and non-hazardous child labour is a thin one.

Section 3 of child labour prohibition and Regulation Act 1986:

State that prohibition of employment of children in certain occupations and process. No child shall be employed or permitted to work in any of the occupations set forth in

Part 4 of the Schedule or in any workshop, wherein any of the process set forth in Part B of Schedule is carried on.

Provided that nothing in this section shall apply to any workshop where in any process is carried on by the occupier with the aid of his family or to any school established by or receiving assistance or recognition from Government

In the guise of aiding the family the child is exploited by the family members themselves. Though new list of employment banned has been included in the schedule to Part A and B. But second part of the Section 3 has not been touched by the Legislators.

At this junction the definition of family under Section 3 of child labour abolition and prohibition act needs a redefinition. The existing definition of family provides a licence to exploit the child not only to parents but also by his relatives like uncles, aunty, etc.

Section 4 – Power to amend the Schedule :-

To add any occupation or process to the schedule and thereupon the schedule shall be deemed to have been amended. It took 20 years to the Government to amend the add some of work places and banning, domestic servants – But in 20 years of time many children have lost their childhood and these provisions will not get back their childhood. This shows concern and political will of our politician lack, and our bureaucracy committed to implementation of our constitutional provisions.

Different Acts define who the child means with different age parents, Trade Union Act, Section 21 of the Trade Union Act 1926 is still not amended.

Section 21 – Any person who has attained the age of fifteen years may be a member of registered Trade Union. He shall enjoy all rights of a member.

Child labour usually refers to children upto the age of 14, following the ILO Convention. The International Labour Office (ILO) resolution on age of employment, concerning Minimum Age for Admission to Employment (Convention No.138), recommends that no person below 15 years be considered suitable for employment (on the grounds that a child should compulsorily complete a certain number of years of school). The United Nations Convention on the Rights of the Child (1989), however, refers to children as person below the age of 18.

Section 10 of Child labour (Prohibition and Regulation) Act 1986 says if there is any dispute as to age of child the Inspector has to refer to Medical Authority for the decision of the child.

There is a need to strengthen the inspections by the Labour Department, and the Inspectors function their duties with consciousness and commitment. Callous attitude of the Inspectors is very well exposed by the media (TV9) in 2006 June where around 200 and above children were employed by Sanghi Group of Industries (bus met with accident) in the night shift neither the Government nor the Court took the cognizance of issues.

Article 40 – Article 15(3) empowers State to make special provision for women and children.

Article 24 – Prohibits the employment of children in factories *etc.* Article 39(e) State is under obligation to safeguard the health of children and afford of opportunities to grow with dignity. Article 45, it provides for free and compulsory education for children.

Article 23 – Prohibition of traffic in human beings and preord labour.

Article 36 states that State Parties shall protect the child against all other forms of exploitation prejudicial to any aspects of the child's welfare.

Article 38 speaks about endeavour to secure social order for the protection of welfare of people. Article 47 obligated the State to raise the level of nutrition and standard of living and improve public health.

Article 51-A enjoins that it shall be the duty of every citizen to develop scientific temper, humanism and the spirit of inquiry and to strive towards excellence in all spheres of individual and collective activities so that the nation constantly rises to higher levels of endeavour and achievement.

Article 51(a) – 86th Amendment Act 2002, (k) who is a parent or guardian to provide, opportunities for education to his child or as the case may be ward between the age of six and fourteen years.

As Chief Justice, *Balakrishnan* hopes to improve the legal system by making legal aid available to the poorer sections of society. "The problem is not lack of laws," he says. "It is the issue of making ordinary people aware of the laws. But with exploitative contractors and colluding officials, nobody bothers to implement those laws. The legal system should be alert enough to act proactively in such cases."

Suggestions and Remedial Measures

In respect of child labour, India is faring badly in the modern world. As *Myron Weiner* has argued, "Modern States regard education as a legal duty," and, "compulsory primary education is the policy instrument by which the State effectively removed children from the work force."

Brazil 'Bolsa Escola' Model

In Brazil, in addition to a law on universal schooling, there has been a special programme the 'Bolsa Escola' which provides "educating grants" or school stipends based on household monthly wages which enable poor families to send their children to school. This

was accompanied by laws banking child labour and greatly strengthened the programme of labour inspection to discover and punish cases of using child labour. As a result UNICEF has estimated that the incidence of child labour in Brazil fell by half over the decade upto 2003.

On the contrary many advanced nations have enacted legislation fixing the responsibility of parents and imposing extreme penal provision on parents even in the instances where use of any coercive measures to correct the behaviour.

Israel 'Kibbutz' Model

In Israel Society children live in communal dormitories called Kibbutz where they are raised by child "care-takers" or "educators". They eat and sleep in dormitories and spend all of the night away from their parents. They see their parents periodically. This results in collective method of child rearing wherein it is compulsory for the parents to deposit their children and the expenses are borne by the community. This system prevents neglect of children and any possible exploitation either by the society or by parents and guarantees education to the children.

In China the Government made new Law for hiring of a minor punishable by a fine of 5000 yens per worker.

Monsanto multinational seed co, was first to oppose for child labour involved in the agricultural sector. It has launched a campaign against child labour and it also paid higher price to farmers who did not engage child labour. A case of incentive for not engaging.

Chennai Corporation implemented NCLP when it came up with innovative idea called "school on wheels"

Even in India, the experience of Kerala shows that near universal schooling and a

very low incidence of child labour can be achieved at a relatively low level of per capita income.

Though there are stringent punishment for the child abuse (recent amendment), there is no evidence to show how these are implemented. In spite of the fact that Act has been passed in 1986, the number of cases booked are far and few and convicted cases are negligible.

In *Maharashtra State Board of Secondary and Higher Education v. K.S. Gandhi*, (1999) 2 SCC 716 = (1999) AIR SCW 879, right to education at the secondary stage was held to be a fundamental right. In *J.P. Unnikrishnan v. State of Andhra Pradesh*, (1993) 1 SCC 645 = 1993 AIR SCW 863, a Constitution Bench had held education upto the age of 14 years to be a fundamental right; right to health has been held to be a fundamental right; right to potable water has been held to be a fundamental right; meaningful right to life has been held to be a fundamental right. The child is equally entitled to all these fundamental rights. It would, therefore, be incumbent upon the State to provide facilities and opportunity as enjoined under Article 39(e) and (f) of the Constitution and to prevent exploitation of their childhood due to indigence and vagary.

Either forced or voluntary – is occasioned. Due to economic necessity; exploitation of their childhood due to poverty, in particular, the poor and the deprived sections of the society, is detrimental to democracy and social stability, unity and integrity of the nation.

In *MC Mehta v. Tamil Nadu's* case (supra), in Para 27, it has noted the causes for failure to implement the constitutional mandate and has given various directions in that behalf. We, therefore, reiterate the directions given therein as feasible inevitable. We, respectfully agree with them and reiterate the need for their speedy implementation. Supreme Court observed that education

would be assured in suitable institution with a view to make him a better citizen. It would be duty of Inspectors to see that this call of the Constitution is carried out. As the Article 45 mandates of compulsory education for all children until they complete the age of 14 years required to be free.

The problem of child labour needs a fresh look and radical change in attitude and requires a multipronged strategy. It is high time that we adopt any of the models as discussed above.

It is high time that we changed our strategy to tackle child labour through introduction of “compulsory parenting” or “compulsory education”.

It implies that it is compulsory for parents to get their children educated if they can afford *i.e.* compulsory parenting or compulsorily send their children to the nearest school run by Government free of cost *i.e.* compulsory education. Parents should have no choice but send their children in any case. The idea is that each child should undergo education compulsorily under his parents or if the parents cannot afford the child should be sent compulsorily to the nearby schools run by the Government free of cost failing which penal provision is imposed on the parents. It should be no longer be just universalisation of education but compulsory education, so that child gets the opportunity to study and parents do not push him into child labour. The prohibition of child labour Act should be so amended as above and to prescribe penal provisions to the parents who deviate from their fundamental responsibility. A district should be a unit of collection so that executive head of the district keeps a watchful eyes on its implementation. A separate department or organisation should be created to monitor the overall programme.

“It is time to end all forms of child labour, and to recognise that all children

have a right to education and leisure and other means to develop their physical and mental capabilities during childhood.” We ought to entrust the responsibilities for implementation of the principles. Periodical reports of the progress made in that behalf be submitted to the Registry of the Supreme Court. We should remember and remind ourselves that it is only strong knowledgeable and virtuous children who can make the country strong and great.

We may have left family planning to the voluntary choice of parents but at least education of child should be made compulsory under all circumstances. Since we cannot enforce the adoption of small size family norm, it is time that we enforce compulsory education.

In this context it is worth pointing out that poverty as may be seed bed for the child labour. But it is not so in the way of other developing countries like Africa, Zambia, Ghana, Ivory Coast, Libya, Zimbabwe could do better in spite of lower income levels. We can learn some valuable lessons from their experience and incorporate it into our strategy.

Historical experience (of the now advanced countries) as well as the comparative development experience (of newly industrialised countries) clearly demonstrates that the achievement of universal school education and the abolition of child labour was not dependent on the level of per capita income or the level of industrialisation or the socio-economic status of families. Thus, rather than income growth preceding a reduction in child labour, the chronology was, in fact, that the spread of mass education and accompanying reduction in child labour preceded economic growth (and can be viewed as a pre-condition for economic development).

1. In reference to *Sreerangyee* case of Kerala – A woman deserted by the husband.

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

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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