

Vasant P. Pethe

## Compulsion in Family Planning : Some Fundamental Considerations

**T**HIS paper attempts to focus attention on some of the basic issues and considerations involved in the question of compulsion in family planning, which under the present contraceptive technology, only means compulsory sterilisation. It does not deal in detail with the various arguments for compulsory sterilisation by themselves but rather with the premises underlying them. In particular, it attempts to indicate the theoretic-philosophical problems involved in providing a rational or ethical justification for compulsion in family planning. It raises the question whether such a justification is at all possible and whether a search for a justification is doomed to be a futile exercise. This exercise has great relevance even today, because despite the recent unhappy experience of coercive measures in some areas, there is a responsible school of thought which honestly believes that only severe measures including compulsory sterilisation can effectively solve India's problem of poverty and population.

The debate on population problem and policy in India prior to the Emergency was characterised by four major issues : (1) Whether India is over-populated; (2) If it is, should the population menace be met by socio-economic development and transformation or by family planning programme ? (3) If the latter family planning approach is adopted, should we adopt natural-moral methods or artificial methods of birth control ? (4) If artificial methods are

accepted, which method best suits the population ? It is naive to suppose that all of these questions are settled and the last word has been said on each. A new dimension was added to the debate, when a bill for compulsory sterilisation of eligible persons was introduced in the Legislative Assembly of Maharashtra State in March 1976.

The justification given for the drastic measure for compulsory sterilisation by the Government of Maharashtra was as follows : "If this alarming growth of population is not checked, it may be impossible to remove poverty and realise the fruits of economic development of the State". To begin with we raise two issues about the propriety of the legislation. The first relates to the timing of the introduction of the bill. Was the time for introducing legal compulsion in family planning appropriate, considering the drastic and extreme nature of the measure ? Emergency had created unprecedented conditions in which censorship and prohibition of free discussion were doubly dangerous : firstly, because they blocked all channels of the expression of frank and honest opinion, permitting unbridled action by Government and their "more loyal than the king" officials, and secondly because, they encouraged convert careerist and psychopants within bureaucracy and outside to toe the line of Government thinking. While the time was, thus, most inappropriate from the point of view of public good, the authoritarian elements in the Government and outside (including new extra-constitutional seats of power) had apparently thought Emergency to be most opportune time for the purpose. With no apparent approval by the masses, such a measure could be implemented only under a repressive regime of a dictatorial government and with its brute police force. In dictatorial regime, it is the single will of the dictator, which governs the choice of policy measures. This choice can be rational only to the extent that any individual confronted with the problem of choice can be rational.<sup>1</sup>

Assuming, however, the working of a democratic polity, an important question is : Should compulsory sterilisation be universally applied when we have no historical precedent of the adoption of compulsory sterilisation as a means of population control ? Compulsory sterilisation was adopted in some count-

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1. Kenneth Arrow observes : "In ideal dictatorship there is but one will involved in choice, . . . The methods of dictatorship . . . are, or can be, rational in the sense that any individual can be rational in his choices".—*Social Choice and Individual Values*, by Kenneth J. Arrow, John Wiley and Sons, New York, 1951, p. 2.

ries only for eugenic purposes (e.g. Germany, U.S.A.), but nowhere as a policy for the quantitative control of population. Hence we do not have any experience to guide us on the possible social, economic, psychological, moral and other consequences of compulsory sterilisation. Would it be advisable in the situation to apply compulsory sterilisation universally to eligible persons ? An alternative would be to try it out on an experimental basis on a selected number of people or areas. The purpose of such a laboratory type of experiment would be to gather data and assess the effects of compulsory sterilisation at the individual, group *and* societal levels. However, such an experiment would hardly be acceptable to the people. The very first question would be : who should be included in this experiment and why ? People would certainly protest that they are being used as guinea-pigs. The difficulty is to design such an experiment without involving discrimination of one kind or another; any such discrimination would be the negation of a democratic process. Hence the dilemma : On the one hand, we can not apply compulsory sterilisation for population control universally in the absence of knowledge regarding its probable effects, and on the other, we cannot have this knowledge without implementing such a programme on an experimental basis, that is bound to be discriminatory and hence unacceptable. This dilemma has disastrous theoretical consequences. Because of the lack of data today and of its near impossibility in the future, any justification for compulsory sterilisation becomes per force purely hypothetical. The arguments for the policy are made in vacuum, without any data base. Consequently, there are more of platitudes than scientific reasoning in the relevant literature.

Under the circumstances, it is crucial for the advocates of compulsion in family planning to furnish a valid justification for compulsory sterilisation as the means of population control. This justification can be provided in terms of a rational and/or ethical choice in favour of compulsory sterilisation. The rational choice will have to be argued in terms of the Tightness of the policy, The conclusion that the policy is right will have to flow, through logical reasoning, from the basic premises, say, about the relationship between population and the socio-economic or other variables. The conclusion would have a greater (or less) scientific basis, the greater (or less) the possibility of the premises being empirically verified. The scientific validity of the conclusion will depend also upon the degree to which the abstract model (about the relationship between population and other variables) corresponds *to* the reality.

The problem of ethical choice is more complicated. Ethics involves questions of the good and the bad. The conclusion arrived at by an individual truth-seeker as to whether a given entity, event or policy is good or bad emanates, in the ultimate analysis, from the value judgement on the part of the individual concerned. This itself is a function of his own personality and culture pattern to which he belongs. As a result, this judgement is bound to be relative and subjective, if not entirely speculative.<sup>2</sup>

In support of compulsory sterilisation, it is necessary to identify the economic, political, social or ethical reasons, justifying its rational or ethical acceptance. The question of criteria for justification is itself a complicated one. Optimisation of the general good obviously could be the main touchstone, but it is equally obvious that it does not lead us anywhere. Common good will have to be concretised in terms of a single or several factors (e.g. economic cost or benefit, human dignity or human rights). When several factors are considered, there would be the problem of mutual conflict between them and of their relative ranking. Here would arise the need to work out simultaneous optimisation of various criteria.

Once the criteria are specified, it is necessary to define them precisely. Many criteria (e.g. human dignity) are conceptually so nebulous as to raise formidable difficulties of commensurability and comparison. Some are of the nature of attributes defying commensurability. These difficulties make it almost impossible to weigh the relative gains and losses of the policy of compulsory sterilisation so as to gauge its net result.

Some of these difficulties raise the fundamental question as to whether it is at all possible for the advocates of compulsory sterilisation to present a convincing justification for it in terms of a logical-rational and/or ethical-philosophical choice. All other questions such as administrative feasibility, medical infrastructure availability, etc. are subsidiary to this basic theoretical question.

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2. "The greater difficulties of a theory of ethics are due to the greater variability of men's moral judgements and their dependence on all sorts of conventions which differ according to *time* and *place*".—Cohen Morris R. *Studies in Philosophy and Science*, Henry Holt and Co., New York, 1949, p. 24.

## II

In the light of the above discussion, we may critically examine a few of the more important arguments advanced in favour of compulsion in family planning. The economic argument is advanced as the king-pin in support of compulsory sterilization by its advocates. According to the National Population Policy Statement: "We are facing a population explosion of crisis dimensions . . . which has largely diluted the fruits of the remarkable economic progress that we have made over the last two decades".<sup>3</sup> The Maharashtra bill for compulsory sterilisation (March 1976) stated : "It is noticed that the population of the State has increased and is increasing despite the family planning programmes of the State, adversely affecting the development plans of the State. If this alarming growth in population is not checked, it may be impossible to remove poverty and realise the fruits of economic development of the State. It is, therefore, considered *expedient* to check the growth in population through compulsory sterilisation . . ."V The Congress Election Manifesto declared : "The problem of liquidating poverty is mainly linked with population growth, It will be unwise to allow our planned development efforts to be wiped out by the population explosion"

This argument is essentially Malthusian or neo-Malthusian in nature. Its basic premise is *that in* an unequal race between population growth and the development of resources in general and of food supply in particular, poverty, stagnation, under-development or slow growth are the inevitable outcomes. Hence, the demographic situation characterised by over-population required population control to be achieved by using artificial methods of birth control. Of late, the alarmist neo-Malthusians have argued that we have reached such an explosive stage in the population growth that it has become imperative to

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3. Karan Singh, *National Population Policy Statement*, New Delhi, 16 April 1976, p. 1.

4. (1) **A Bill to Provide for Compulsory Sterilisation of Certain Persons**, *Gazette of the Government of Maharashtra, Part-V, 30 March 1976, p. 240*, (2) Also vide "In Defence of Compulsory Sterilisation", by Mrs. Kumudini Dandekar, *Economic and Political Weekly*, 22 May 1976. After describing the unsatisfactory food situation, Mrs. Dandekar observes : "Against this bleak background of the trends in foodgrains production, one can hardly think of solving any other problems—such as those of the houseless, the landless, backward castes and classes, women, beggars or slum-dwellers?"—(p. 772).

5. **Family Planning and Election Manifestos**, V. P. Pethe, *Economic and Political Weekly*, 5 March 1977, p. 421.

adopt even compulsory or compulsuasive (an euphemism for compulsion) measures.

The Malthusian position has been subjected to severe criticisms from various quarters. First, the Malthusian view is held to be theoretically untenable and empirically erroneous.<sup>6</sup> Secondly, according to the Marxists, poverty and underdevelopment are not the results of overpopulation as contended by neo-Malthusians but of the capitalist mode of production and the defective socio-economic organisation. Hence, the correct strategy to attack poverty is the one which leads to the fundamental and revolutionary changes in the economic, social and institutional framework of the society. Too much obsession with the population problem misfires and more importantly, distracts one's attention from the pivotal issue which is social transformation and social reconstruction.<sup>7</sup> Thirdly, the political-spiritual tradition in this country rejects the Malthusian position. According to this tradition, there would not be poverty at all if all people work. This tradition is opposed in principle to the use of artificial method of birth control.<sup>8</sup>

The relevant issue for us, however, is whether and how far this position provides specifically a justification for compulsion in family planning. Here, both problems regarding the (a) correctness of justification; and (b) its adequacy need scrutiny. In this connection, several points concerning content as well as method arise. In the first place, the inferences and the policy conclusions

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6. See Marx, Vol. I of his *Capital*. Malthus in the Twentieth Century, by Alan T. Peacock, Introduction of Malthus, edited by D. V. Glass, Watts and Co., London, 1953.

7. According to Vasily Nemchinov (Member, Academy of Sciences, USSR): "... given a rational social system, the achievements of modern science and technology should make it possible to attain a genuine abundance of food. ... The solution of world's food problem lies not in reducing the growth of the population, but in the radical reorganisation of the economic and technical aspects of agricultural production". (World Population and Resources, PEP, Allen and Unwin, 1955, p. 282), quoted in Myrdal Gunnar, *Asian Drama*, p. 1476.

8. Mahatma Gandhi had maintained, ; "It is absurd to say that India is over populated and that the surplus population must die. I am sure that if all the land that is available was properly utilised and made to yield to its capacity, it would maintain the whole population... If all laboured for their bread and no more, than there would be enough food and enough leisure for all. Then there would be no cry of overpopulation, no disease, and no such misery as we see around" Mahatma -. Life of M. K. Gandhi Vol. IV, 1952, pp. 30 and 43. According to Vinobaji: "Man is born with two hands but only one mouth and should therefore have no difficulty in feeding himself, whatever the increase in population". Quoted in *Asian Drama*, Gunnar Myrdal, p. 1512, footnote 2).

(including conclusion regarding compulsory sterilisation) as deduced by the Malthusians from their basic premise appear to be quite a logically valid set. However, the question is : does logical validity mean the same thing as justification ? Logical validity indicates the formal mutual consistency between the propositions. To this extent, the Malthusian model may be valid. But justification invokes the Tightness of the propositions including their basic premises. The conclusions cannot have any justification, if the premises are wrong. Thus, the justification for compulsory sterilisation would be baseless, if and to the extent that the Malthusian premises are shaky and unsure—which indeed they are.

Secondly, we must take into account the nature of the inferences themselves. The inference that there is overpopulation pertains to the Malthusian assessment regarding the demographic situation and is descriptive in nature; while the inference that population growth needs regulation by compulsory sterilisation concerns action and is prescriptive in nature. As such, it needs more than logical consistency for its justification. Moreover, we do not know the consequences of implementing a programme of compulsory sterilisation. So the inference in question cannot be said to provide the necessary justification.

In the third place, historically, Malthus himself distinguished between the various measures for the control of population. Logically, he inferred that all checks to population resolve into vice, misery and moral restraint. He justified only moral restraint to regulate population growth. Thus, there is more than mere logical consistency, which is called for in a justification in the present context.<sup>9</sup> The neo-Malthusians stick to the basic Malthusian model in justifying compulsory sterilisation. The question is : Do ends justify means ? Malthus thought they do not; hence, he rejected vice and misery. Neo-Malthusians do not seem to care for the nature of means to achieve end.

Fourthly, the rationality as the basis for justification as implied in the Malthusian position is mainly the capitalist rationality. Its touchstone is econo-

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9. "It is not in superseding the necessity of checks to population . . . but in directing these checks in such a way as to be the least prejudicial to the virtue and happiness of society, that government and human institutions produce their great effect. . . . And this (moral restraint) is the only mode of keeping population on a level with the means of subsistence, which is other checks . . . resolve themselves into some form of vice or misery". Malthus T. P.—A Summary View of the Principle of Population, reprinted in Glass D. V. : *Malthus*, pp. 152-53.

mic growth and its aim is maximisation in economic product even at the cost of equity. This was perhaps quite alright in early stages of capitalism. However, new criteria of justification for policy measures have emerged with the evolution of human society. Perhaps, of late distributive equity has got precedence over economic growth and this is totally ignored by the Malthusians. To this extent, the justification for compulsory sterilisation along the Malthusian line, even if accepted for the sake of argument, is grossly inadequate.

Finally, the question of compulsory sterilisation cannot be confined within the narrow realm of rational choice for at least two reasons. Firstly, as a means of population control it has special features, viz. (i) it is a drastic measure; (ii) it involves an assault on human body and so is invidious of human dignity; and (iii) no redemption is possible in most cases on account of its virtual irreversibility. Secondly, the question of compulsory sterilisation involves numerous social, psychological and ethical questions of great importance and complexity both at the individual and societal levels. As such, the Malthusian frame, however broadly conceived, can not be adequate for the justification of compulsory sterilisation. It is significant that more recently there has been a shift in position taken by the votaries of compulsory sterilisation. The Manifesto of the pre-split Congress Party, rescinded the idea of compulsion in family planning without abandoning the Malthusian position. Such a logical contradiction is not as important as expediency and pragmatism to political parties. But to academicians, it is certainly crucial; for an academician, having once characterised the demographic situation as one of crisis dimensions requiring compulsory sterilisation, it is illogical, given the same demographic situation, to withdraw support for compulsory sterilization,

### III

Let us now consider the ethical-philosophical aspects. Here problems become more formidable and subtle as the choice is almost entirely dependent on the individual investigator's moral judgement. This judgement reflects the sum-total of his own assessment of a given situation, his biases, predilections and background, the social class to which he belongs and his system of values. All these lend subjectivity and relativity to ethical judgements. Not that they are totally speculative; it only involves consideration of normative criteria. Normative ethicists have identified universally recognisable criteria which may throw light on the goodness or badness of a policy. The criteria relevant for

compulsory sterilisation include human dignity, human freedom and rights, distributive equity and justice, community survival. It is possible to probe into the various facets of these norms. The meta-ethical criteria may help us arrive at a sounder judgement about goodness or harmfulness of the policy.<sup>10</sup> However, the basic question remains : in the ultimate analysis, ethical choice is relative and subjective and is determined by the individual truth-seeker's own assessment, his system of priorities and the relative importance he may attach to conflicting values (e.g. freedom Vs. stability). If this were not so, we would not have found equally ardent supporters for diametrically opposite social systems such as modern capitalism on the one hand and communism on the other, or for that matter for democracy as against dictatorship.

We may delineate the intricacies involved in ethical choice with reference to a few arguments advanced in support of compulsory sterilisation. The philosophy of compulsion emanates from some basic postulates concerning human behaviour, one of which has been that the human being is essentially selfish, irrational and irresponsible and that in pursuing his own interest, he may not care for consequences at the societal level. From this emerges the normative verdict that this behaviour "ought to be" disciplined by coercion. In the present context, it has been argued that the masses of people, especially in the rural areas, indulge in irrational, injudicious and irresponsible procreative behaviour leading to poverty, unemployment and starvation for the society.<sup>11</sup>

This view has been challenged. A diametrically opposite premise is advanced, viz. that man is essentially a rational and responsible being, that informa-

10. "There is a growing agreement among ethicists that the rationality of moral claims is to be judged by the extent to which they satisfy the following criteria : knowledge of facts; vivid imagination of how others are affected by our actions; and impartiality with respect to both our interests and our passions, so that what obtains for one person obtains for another and for ourselves as well". Population Policies and Ethical Acceptability, by Arthur J. Dyck, in *Rapid Population Growth*, National Academy of Sciences, 1971, p. 620.

11. "In spite of such advantages of the compulsion, it was not tried upto now because in the democratic set-up one has to depend on the inner urges of individuals to take judicious actions to avoid personal calamities which become national calamities in the absence of judicious action. ... With worsening of the population growth, other weapons (besides birth control) to fight the problem of population growth became more ineffective and the end-result was poverty-unemployment-starvation and general inaction on the part of individuals to solve their own problems", *Compulsion for Sterilisation — An Unprecedented Revolution*, by Mrs. K. Dandekar, *Journal of the Institute of Economic Research*, Dharwar, Jan.—July 1976, pp. 6, 7.

tion and education can enhance this quality, that family planning should be entirely voluntary, and that dissemination of information and education could be counted Upon to strengthen family planning programme. It is further argued that while the couples may not consciously consider the number of children they should have, the fact of a large number of children are born to them is a response on their part to the prevailing socio-economic situation in general and mortality conditions in particular. Hence, their procreative behaviour can not be branded as injudicious or irresponsible. During the pre-transition period of high death rates, high birth rates ensured not merely family but also societal survival. Considering the relatively high mortality in rural areas and among the poorer sections of the population, a large number of children not merely ensures family survival but also group/community survival.<sup>12</sup> The optimists believe that with fall in death rates among these communities, birth rates would begin to fall through the appropriate changes in social mores and norms. The theory of Demographic Regulation holds that "every society tends to keep its vital process in a state of balance such that population will replace losses from death and grow to an extent deemed desirable by collective norms."<sup>13</sup> Even so, the basic point remains that an individual's judgement regarding human behaviour evolves out of countless factors and influences and there are probably no *a priori* grounds on which given judgements could be accepted or rejected off-hand. It is true, that this has a double edge and one can neither support nor oppose compulsory sterilisation. However, it is reasonable to expect that the benefit of doubt on such an important issue as compulsory sterilisation vis-a-vis the nature of human behaviour should go, especially in a liberal society, to the no-compulsion than to the compulsion thesis.

What principles should then guide the State, if there are indications that individual actions are having prejudicial consequences for the society- Here, Mills's 'maxims' may be of help.<sup>11</sup> According to his first maxim, "the individual is not accountable to society for his actions, in so far as these concern the

12. "The population would grow slightly in 'normal' times, because the customs governing fertility would provide a birth rate slightly higher than the usual death rate. This would build up a population surplus as a sort of demographic insurance against catastrophe." Population of India and Pakistan, Kingsley Davis, Princeton University Press, 1951, p. 26.

13. **Principles of Demography** by Donald J. Bogue, **John Wiley and Sons, 1969, p. 51.**

14. John Stuart Mill, *On Liberty*, Edited by A. Castell, Appleton-Century-Crofts, New York, 1947, pp. 95-96.

interests of no person but himself". However, if other individuals' interests are not good, Mill states that "Advice, *Instruction*, **persuasion**,... are the Only measures by which society can justifiably express its dislike or disapprobation of his conduct". This maxim can be a legitimate basis for a voluntary family planning movement at the national level.

If individual's actions are indeed prejudicial to interests of others or society, Mill prescribes his second maxim : "Secondly for such actions as are prejudicial to the interests of others, the individual is accountable, and may be subjected either to social or legal punishment, if society is of the opinion that the one or the other is requisite for its protection". However, Mill warns that harm to others does not always justify punishment, for it may be unavoidable because of bad social institutions. He states : "In many cases an individual, in pursuing a legitimate object, necessarily and therefore legitimately causes pain or loss to others, . . . Such oppositions of interest between individuals often arise from bad social institutions, but are unavoidable while these institutions last". In our case, the legitimate question to ask is whether poverty, etc. for others (or society) is caused because of the so-called irresponsible procreative activity by certain individuals needing their compulsory sterilisation or by bad social institutions, needing their overall replacement or reconstruction.

#### IV

This brings us to another philosophical question, viz. the relative spheres of freedom, interests and rights of the individual versus those of the society. Interestingly enough, apart from the argument regarding social stability and survival, the advocates of compulsory sterilisation contend that for the strengthening of human rights and interests, compulsory sterilisation is imperative. It is argued that liberty is not licence and compulsion is used in many spheres of life and nobody grudges it. Examples given range from traffic rules through minimum age at marriage, monogamy, tax laws, non-adulteration of food-stuffs, drug acts, etc. to compulsory vaccination. The most cited example is that of compulsory primary education. If compulsion is justified in areas such as education, why not in field of family planning? The argument looks quite plausible. However, if one goes deeper, the analogy seems to be misplaced in many respects. First, the legislation regarding compulsory primary education for children is directed against parents rather than children who are really the beneficiaries of the legislation. Secondly, it represents a compensating action against parental neglect of children who are not yet in a position to have the

freedom of choice. Thirdly, there is no law regarding compulsory education for adults who are supposed to weigh the relative advantages and disadvantages of choices open to them. Finally, if future generations are to enjoy the right to education, there is no other alternative policy measure except by introducing compulsory education at the primary stage. These considerations would show that compulsory primary education and compulsory sterilisation do not stand on the same footing. In particular, there are alternatives to compulsory sterilisation and these have not proved total failures in some countries. On reflection, one may find out significant qualitative differences between compulsion in family planning on the one hand and compulsion used in other spheres of life one may choose to specify on the other. The least that these differences would indicate is that every case of coercive intrusion by the State in the private affairs of the individual has to be studied on its merits and has to have specific justification of its own.

Further, I have some basic objections to the above kind of justification. Such justification is based on an argument by analogy—if 'argument' it can be called; in the first place, though analogical argument has great appeal, as scientific method, it represents the weakest link in logical thinking. Analogy may provide an illustration, but it can produce neither evidence nor proof. Secondly, persons citing seemingly parallel examples to justify a given course of action tend to see only the similarity and to underplay or totally ignore the dissimilarities. Using the same analytical strategy, the opponents in the debate can cite examples where force is thought to be unjustified or has proved to be a gross failure. The best example is that of prohibition (where medically, gains in health are quite apparent). Thirdly, the analogical argument made to justify compulsory sterilisation can have disastrous consequences. Starting just from ordinary traffic rules, one can jump step by step to a justification for a social system which is totally authoritarian in character. In fact, if compulsory sterilisation is accepted, any interference in private family life, however arbitrary, would merit justification. The upshot is: analogical arguments do not lead us anywhere—often they mislead. The argument that liberty is not limitless is well-taken. However, this does not mean that the state can use force in an arbitrary manner. In fact, every major case of state interference in a democratic polity has to be evaluated on merits. In a delicate and momentous decision-making such as adopting force in family planning, analogical reasoning can not have any locus standing as a basis for scientific justification.

Perhaps, the most basic and nagging point is : is it possible to pin point the

justification for compulsory sterilisation in terms of the strengthening or enhancement of interests of individual or society as claimed by its supporters? Compulsory sterilisation may cause a harmful as well as a beneficial input on individual or societal interests. Once this is agreed, several difficulties crop up. Probably, the most vexing and insoluble difficulty pertains to the measurement and balancing of the good or harm done to individual or societal interests by compulsory sterilisation. Further complication is that this valuation and balancing has to be done by each individual citizen in his own purely personal capacity and judgement. For a given reason, one individual's valuation may be high and another's low. As a result, one individual's balancing cannot be set against another's to arrive at total gain or total harm so as to decide whether or not compulsory sterilisation has a valid justification.

## V

The issues regarding compulsory sterilisation cannot be nicely divided into various types such as economic, political, legal, psychological, ethical, etc. There are problems where many may intermingle. The mix of such problems can be best seen, if we look at the issue from the point of view of an individual family. In this connection, it would be interesting to look into the arguments made by Asok Mitra, which have been controverted by V. M. Dandekar.<sup>15</sup> Mitra feels that it is important to consider the impact of a small family norm at two levels: (i) at the national level; and (ii) at individual household level. While he concedes that there are benefits of a falling birth rate at the national level, he argues that they are not evident for the vast majority of households at the individual level. In fact, he asserts that a large family is still regarded as an asset: First, "as a means of acquiring more earners" and second, "as a means of sharing household chores". Dandekar points out that while Mitra sees the productive and earning side of a large family, he forgets that the family members are first the consumers. While both may have points, none has given any evidence.<sup>16</sup>

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15. (1) Issues in Population Policy, Presidential Address by Prof. Asok Mitra, *Demography India*, Nos. 1 and 2, 1976, pp. 6, 7. (2) Convocation Address of "UPS, Bombay, by Prof. V. M. Dandekar, UPS Newsletter, July-October 1977, pp.6, 7. (3) Also Preface by Prof. A. R. Kamat in *Population Problems of India* edited by Dr. A. R. Kamat, Central Family Planning Institute, 1969.

16 Some studies indicate that a large number of children are desired for economic reasons. Preliminary findings of a most recent study of 573 households in Laguna province (Phillipines) by Bryan Boulier of Princeton University's Office of Population Research indicate that "Children contribute not only to income-earning activities but also to home production and child care activities". Princeton University OPR Newsletter, Jan. 1977, p. 7.

The real question is whether the economic benefit (in terms of total earnings) is more than the cost (in terms of consumption requirements to which people are used at a given point of time) in the case of a large family than in the small. This question has to be answered not merely in real or monetary terms but also in terms of the psychology of the family heads i.e. whether they feel that a large family enables them to earn more or earn enough to survive and subsist. Further, in a social situation where the masses do not entertain high or rising expectations, are used to low standards of living and accept poverty as a way of life, the question of economic gain or cost may appear to them as of minor importance, or even irrelevant. These aspects are important while considering the question of compulsory sterilisation. The psychological element and the peculiar social situation introduce serious difficulties in enforcing a small family norm by compulsion in a free society, even if factually the economic cost-benefit calculus may endorse a small family norm.

The third reason cited by Mitra is that a large family provides a "means of insurance, continuity and abundant caution against loss of family member through death which can come suddenly at all ages particularly at infancy or at young ages". Dandekar accepts this, though he points out that "we should note that with the decline in infant and child mortality, this factor should decline in importance". But, it is exactly here that an issue has to be joined in a debate over compulsory sterilisation. Can one justify compulsory sterilisation to force a small family norm of two or three children, when prevailing mortality conditions can not ensure the survival of all? Another pertinent point is that in addition to significant decline in infant and toddler mortality, comprehensive social security programme (in terms of employment guarantee, minimum wage, old age security, etc.) has to precede a policy of compulsory sterilisation for enforcing three-child families. An interesting corollary is that policy of compulsory sterilisation may not be needed with significant fall in mortality and social security programme, for then the prevailing family size norm may swing towards a small family norm through changes in peoples' attitudes and practices! According to A. R. Kamat, economic motive for having a large number of children would dwindle in importance, provided the levels of living go up, education spreads and there is guarantee regarding employment and social security against old age.<sup>17</sup>

Next, Mitra argues that a large family is needed as "a means of subsistence,

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17. Family Planning—Some Thoughts (manuscript) by A. R. Kamat, p. 6.

help and company in old age". He further states that a man at the age of 67 would expect to see at least one son alive, if he is a father of 6-7 children. Dandekar feels that before raising such an issue, the preliminary question to ask and answer is : What proportion of men are of age 67 and above? Obviously, this is a small proportion (say less than 5 per cent). He then asks : "Shall we base a public policy to meet the requirements of this small minority"? Dandekar is against coercion in family planning. But the supporters of compulsion can use this very argument to justify compulsory sterilisation. In any case, normative considerations would preclude any definitive answer to the question raised by Dandekar. Is it justifiable to go ahead with compulsory sterilisation, before economic security is provided to the unfortunate human beings overage 67, however small this group may be?

**Mitra's** fifth reason is : "satisfaction of various kinds in the absence largely of other means of satisfaction in such stages of poverty". Dandekar wonders whether "poor and hungry people derive emotional satisfaction seeing starving children; and the more they are, the greater is the emotional satisfaction. I do not know. May be it is so". In the present context, the relevant point is not merely one of specification of the psychological satisfaction but also of its valuation. It is difficult to question their genuineness, if these satisfactions are rated high by the concerned individuals.

Mitra's sixth and last point is that a large family is needed "as a benefit whose value is great but whose costs by way of maintenance, up-bringing and education, are hardly perceived at all . . ." Dandekar contends : "I am not sure that facts will support this contention. But supposing they do, does it not mean abuse of children?" All the points mentioned so far are relevant here : Do people regard cost-benefit ratios, even if unfavourable, of relevance and importance, considering the low levels of living to which they are used? If people 'perceive' the way they do, do facts (even if contrary to perception) take precedence over people's perception and if so, why? If there is abuse of children, should we not extend the question of abuse to total manpower in the country? And if this occurs, why does it occur? Who is responsible for it—the persons having large families or the socio-economic order which makes large families a sort of insurance for the poor man in the absence of security at the societal level?

For an over-view of the debate, we may note some additional points. Firstly, the list of six reasons for a large family as given by Mitra is grossly inadequate.

One should add many more and the intensity of given motives can be deeper than one may imagine. According to Socrates, there are three ways in which human beings satisfy their deep longing for immortality. One of these is to have children.<sup>18</sup> Secondly, one cannot view costs and benefits of children in terms purely of economic calculus. In fact, one may classify reasons for a large family into a variety of classes like economic, social, cultural, psychological etc. Many of these defy precise meaning, much less commensurability. This, in turn, defies comparison between the net values claimed for a three-child family norm enforced through compulsory sterilisation at the national level and at the individual household level.

It is pertinent whether, in advocating a two- or three-child family norm through compulsion, we are not doing injustice to the masses by applying an urban-elist norm, totally misplaced in the socio-economic situation in which they live.<sup>19</sup> We may be projecting our own biases regarding an ideal family size and, wittingly or unwittingly, imposing our own perception of rationally and ethically justifiable procreative behaviour. A three-child family norm is quite alright for economically well-placed families, with very low infant mortality risks. These families have easy access to information and education on family planning and have the wherewithal to buy suitable contraceptives. In this class, each contraceptive user is a special case receiving special care and attention. For them, compulsory sterilisation is irrelevant.

In effect, the axe of compulsion would fall, by and large, on the poor masses. This is very inequitable. One can not bear with socio-economic inequalities and, at the same time, a policy of compulsory sterilisation that would in effect

18. "... moral nature seeks, as far as may be, to perpetuate itself and become immortal. The only way in which it can achieve this is by procreation. ... So do not feel surprise that every creature naturally cherishes its own progeny; it is in order to secure immortality that each individual is haunted by this eager desire and love". The Symposium by Plato, translated by W. Hamilton, Penguin Books, Baltimore, 1961, pp. 88, 89.

19. "In some of the literature, there is a distinct elitist strain, implying that only certain people are in a position to formulate population policy and that the rest of mankind must be propagandized, Won over by incentives, or compelled to act in such ways considered to be desirable by the experts. In contrast to such elitism, ethically acceptable population policies should be based on sympathetic understanding of the people who will be affected. To guarantee this, many voices must be heard". Population Policies and Ethical Acceptability, by Arthur J. Dyck in Rapid Population Growth, National Academy of Sciences, 1971, p. 635.

fall only on the poor for no fault of theirs. Hence, the least one could expect from the advocates of compulsory sterilisation is that they should come out also with a package of compulsions for the affluent in the overall development policies which would significantly accelerate the process towards socio-economic equity and justice. Until this happens, it is not merely unjust but also hypocritical on the part of the well-off middle and rich classes to advocate compulsory sterilisation to force their norm on the masses.

Any major interference by Government in the privacy of individuals or families needs a specific justification, especially in the case of the extreme and invidious measure of compulsory sterilisation. J. S. Mill's three objections to government interference apply aptly to family planning. He says the interference should be avoided when the thing to be done is likely to be better done by individuals than by the government . . . In many cases, though individuals may not do the particular thing so well, on the average, as the officers of government, it is nevertheless desirable that it should be done by them, rather than by the government, as a means to their own mental education—a mode of strengthening their active faculties, exercising their judgment, and giving them a familiar knowledge of the subjects with which they are thus left to deal . . . The third and most cogent reason for restricting the interference of government, is the great evil of adding unnecessarily to its power. Every function superadded to those already exercised by the government, causes its influence over hopes and fears to be more widely diffused, . . ."<sup>20</sup> Legal compulsion in family planning could be a prelude to an all-pervasive power that the government may exercise. The short and little experience that we had in the form of reported atrocities and excesses in family planning during the Emergency period stands testimony to this danger.

## VI

The issue of compulsory family planning has received attention at many international forums. All of the forums, under the auspices of the United Nations, have rejected coercion and reiterated that an individual has a basic human right to decide how many children he should have and at what intervals. Article 16 of the Universal Declaration of Human Rights states, among other things, that men and women of full age have the right to marry and found a family and that the family is the natural and fundamental group of society. In December 1966,

20. John Stuart Mill *On Liberty*; Edited by A. Castell, pp. 111-12.

the U. N. General Assembly declared that "the size of the family should be the free choice of each individual family." The same position is taken by the UNESCO, World Health Assembly, Teheran Declaration on Population by thirty Heads of State of Government (including India) of 10 December 1966, Article XVIII of the latter declaration on Human Rights Aspects of Family Planning states : "Couples have a basic human right to decide freely and responsibly on the number and spacing of their children and right to adequate education and information in their respect".

The World Population Plan of Action adopted by World Population Conference at Bucharest in 1974 recommended that "all countries respect and ensure, regardless of their overall demographic goals, the right of persons to determine, in a free, informed and responsible manner, the number and spacing of their children . . . programmes should be established and promoted to provide guidance, information and services in order that individuals and couples may determine the number and spacing of the children they desire through education means . . . care being taken to ensure that they are carried out with absolute respect for the fundamental rights of the human being, that they preserve the dignity of the family, and that no coercive measures are used."<sup>21</sup>

Significantly the right to adequate education and information on family planning in the Teheran Declaration is related to the right to family size, with the obvious objective of ensuring "responsible" decision-making concerning family size and spacing. In this connection, the United Nations Fund for Population Activities (UNFPA), has clarified. "It may be seen that the Teheran Proclamation and the Declaration on Social Progress and Development have laid down certain minimum conditions for the exercise of the family planning right. Still other conditions may be implied as being necessary to enable couples to determine 'freely and responsibly' the number and spacing of children"<sup>22</sup>. Their composite list of 14 such conditions, without which the family planning right would be illusory includes the right : (a) to adequate education and information on family planning; (b) of access to the means of practising family planning; (c) to the equality of men and women; (d) of children, whether born in or out of wed-

21. Report of the World Population Conference, United Nations, 1974, p. 11 and 14.

22. United Nations, the Population Debate : Dimensions and Perspectives, Papers of the World Population Conference, Bucharest, 1974, Vol. II, 1975. Paper on Law and World Population by UNFPA, pp. 620-21.

lock, to equal status under the law and to adequate support from natural parents; (*e*) to work; (*f*) to an adequate social security system, including health and old-age insurance; (*g*) to freedom from hunger; (*h*) to an adequate level of living; (*i*) to freedom from environmental pollution; (*j*) to liberty of movement; (*k*) of privacy; (*l*) of conscience; (*m*) of separation of Church from State, law from dogma; and (*n*) to social, economic and legal reforms to conform with the above mentioned rights".

Where do we go from here, so far as India's population policy is concerned? Apart from the political expediency, the fundamental scientific-philosophical considerations indicate that the sooner we give up the talk about compulsive measures, the better it is for the family planning movement. The fourteen conditions specified by the UNFPA can form a sound basis for a policy of family planning. The coercive measures adopted during the Emergency have already had a backlash effect. The emergency hangover is still there in the minds of the people in the country side. Family Planning gained a bad image in the public eye.

We have to start with a clean slate. The best way is to give a formal recognition to the right relating family size and family planning, as the basic human right. The Constitution of India has nothing to say on this matter; it is imperative that our Constitution recognises, in keeping with the United Nations declarations, that every couple has a basic human right to : (i) family size; (ii) spacing of children; (iii) education and information on family planning, and (iv) choice of a method of family planning. Perhaps, this could place the family planning movement back on the rails by moving the fear complex among the masses and by restoring confidence among the family planning workers.