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Lee, Luke T.

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Compulsory Sterilization and Human Rights

by Luke T. Lee

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- 7/ *Population in the UN System: Developing the Legal Capacity and Programs of UN Agencies*, by Daniel G. Partan (a summary of a book, see item 3 above.) (1972).
- 8/ *The World's Laws on Voluntary Sterilization For Family Planning Purposes*, by Jan Stepan and Edmund H. Kellogg (1973).
- 9/ *Law and Population Growth in Singapore*, by Peter Hall (1973).
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Compulsory Sterilization and Human Rights

BY LUKE T. LEE

**Director of the Law and Population Programme
The Fletcher School of Law and Diplomacy
Tufts University**

Compulsory Sterilization and Human Rights

BY LUKE T. LEE

It is possible to argue a case for coercion of the individual in the name of the greater good. But how serious does the threat to society have to be to make the case compelling?

In a statement on 16 April 1976, Dr. Karan Singh, Minister of Health and Family Planning, announced the following policy on compulsory sterilization for India:

The question of compulsory sterilization has been the subject of lively public debate over the last few months. It is clear that public opinion is now ready to accept much more stringent measures for family planning than before. However, the administrative and medical infrastructure in many parts of the country is still not adequate to cope with the vast implications of nation-wide compulsory sterilization. We do not, therefore, intend to bring in Central legislation for this purpose, at least for the time being. Some States feel that the facilities available with them are adequate to meet the requirements of compulsory sterilization. We are of the view that where a State legislature, in the exercise of its own powers, decides that the time is ripe and it is necessary to pass legislation for compulsory sterilization, it may do so. Our advice to the States in such cases will be to bring in the limitation after three children, and to make it uniformly appli-

cable to all Indian citizens resident in that State without distinction of caste, creed or community.¹

On 21 July 1976, the Maharashtra legislature passed the Maharashtra Family (restriction on Size) Act, 1976, which provides:

...it shall be the responsibility of every person after the appointed date to restrict the size of family to not more than three and in the case of a person having either all three male or all three female children to restrict the size of family to not more than four children and of every person who on that date has three or more children to ensure that such number of children is not exceeded, and for that purpose, every eligible person shall get himself sterilized at an approved institute...²

The law would, upon approval by the Union Government, apply to males under the age of 55 and females under the age of 45. Violation of the law would entail an imprisonment of six months to two years or a fine of Rs. 100 to 500. An estimated 2.2 million couples will be covered by the measure. Similar attempts to limit births through compulsory sterilization have been reported in

Government officials acknowledge that India's family planning program dating from 1950's has not produced the desired results. Over 34 years of efforts, 17.5 million couples of 1 of 103 million in the reproductive ages of 15 to 45 use contraceptive devices, said S. N. Agarwala, director of the Institute of Population Studies in Bombay. The present rate of decline in the birth rate by half a percent per year achieved under the present system is unlikely to yield quick results.

Mandatory Moves in China
According to news reports of China in recent years, a compulsory birth control drive has been tried there. In some areas administrators have experimented with penalties against families that have more than two children—denying them, for instance, additional food and clothing for additional offspring.

In many areas women have had two children urged to be sterilized. In addition to birth control, the Chinese have late marriages, before 23 for men and 20 for women.

By WILLIAM BORDERS
Special to The New York Times
NEW DELHI, Jan. 7—India's Minister of Health and Family Planning warned today that if birth control measures might have to be made into a law.

"Family discipline is the most debatable self-imposed restriction on the number of children a family can have," he said. "The Government is not prepared to take such steps, and I do not think it will ever be made compulsory at the federal level."

Why is the Government beating around the bush? There is hardly any area of life now that is not under Government control. You could say that anybody who has more than three children will not be given bank credit, or fertilizer.

Mr. Singh replied that such kinds of measures were among "a package of incentives and disincentives I am planning."

"We want to proceed step by step," he said. "If that doesn't help, we might have to resort to making it a law."

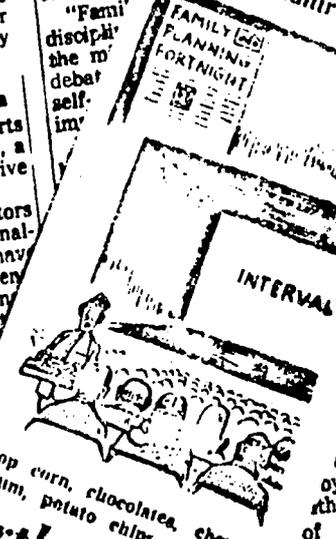
In the growing discussion about curbing population growth, the Government is taking such steps, and I do not think it will ever be made compulsory at the federal level.

The northern states, for example, have a long history of population control. In Punjab, for instance, the Government has been successful in reducing the birth rate. In West Bengal, the Government has been successful in reducing the birth rate.

But it is not clear how the Government will be able to reduce the birth rate in the rest of the country. The Government has been successful in reducing the birth rate in Punjab and West Bengal, but it has not been successful in reducing the birth rate in the rest of the country.

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This is it!
By Sudhir Dar

Aim to Penalize Couples For Not Limiting Births

NEW DELHI, Feb. 25—The Indian Government, acting to encourage sterilization, has announced a plan to penalize government employees who do not limit their families to two children. The Indian capital is under the Government administration.

The plan, similar in state assemblies across the country, also provides incentives to couples with one sterilized spouse or with one who has signed a pledge to undergo sterilization after having two children.

The penalties, which the Government said would become effective "almost immediately," directly or indirectly curtail a couple's access to almost the entire range of government assistance—from loans, jobs and housing to medical care, schools and drinking water.

The plan does not provide for imprisonment for couples who fail to comply, but legislation being drafted in other states does. The West Bengal government is drafting a bill providing that if a couple has three children, one spouse must be sterilized, or face a fine, imprisonment or both.

The current birth rate in West Bengal is 38 per 1,000 population; the population is nearly 50 million, and a baby is born every 19 seconds. About 22 million babies are now born annually in India, leading to an annual population increase of 13 million. The population is now 600 million, and Prime Minister Indira Gandhi said that the Government today has the target for zero growth in the state.

Birth control set-up may be revamped

NEW DELHI, Dec. 16—The family planning set-up may be drastically changed if the Government's targets are not fulfilled. The Centre has directed the States to weed out inefficient workers engaged in the family planning programme.

In a circular to Chief Secretaries, Health and Family Planning, Union Secretary, Mr. Gian Prakash, said that the Government has decided to approach the States with a new system. He has indicated that the existing system may be changed if there is no appreciable improvement in performance of the staff.

NEW DELHI, Jan. 19. The Government of India has decided to observe February as family planning month. The Union Minister for Health and Family Planning, Dr. Karan Singh, in a letter to the Chief Ministers of the States has appealed to them to make concerted efforts to give the programme the maximum thrust and convert it into a mass movement, says an official statement.

Steps to population growth

NEW DELHI, Jan. 21 (UPI)—Prime Minister Indira Gandhi has said that usually women are found to be in favour of smaller families "but it is their husbands who create difficulties."

She said that the Health Ministry was going to discuss them. She said that the Health Ministry was going to discuss them. She said that the Health Ministry was going to discuss them.

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Package plan to boost family planning

NEW DELHI, Jan. 20—Union Health Minister G. S. Dhillon today formed the MP's Consultative Committee attached to his Ministry to study incentives and disincentives to be considered by the Government to promote family planning in a big way.

While some States like Punjab, Haryana and Maharashtra had done "very well," Dr. Karan Singh expressed his "deep concern" over the unsatisfactory performance of several States. In particular, he referred to the "sudden slump" in

the states of Punjab³ and West Bengal.⁴

The proposed measures reflect the limited success of voluntary family planning programmes which the Indian Government has pursued since the early 1950s. As S.N. Agarwala, Director of the Institute of Population Studies in Bombay, noted:

After 24 years of efforts only 17.5 million couples of a total of 103 million in the reproductive ages of 15-45 years use contraceptive devices.⁵

According to Government estimates, 12 per cent of the fertile couples have been protected against conception by the sterilization of one partner—usually the man. About two per cent of the others use conventional contraceptive techniques, and one or two per cent use IUD's.⁶

But are these draconian measures compatible with human rights? Did the World Population Conference not recommend that "no coercive measures be used in family planning programmes"?? This paper seeks to clarify some of the issues presented by resort to compulsory sterilization, in particular its compatibility with human rights. The discussion which follows summarizes the arguments for and against compulsory sterilization solely from the viewpoint of human rights. This emphasis on human rights is based on the premise that formulation of population policy falls within the domain of sovereign right so long as it is compatible with human rights.

Arguments for Compulsory Sterilization

Coercion and Human Rights

There is a tendency to consider the use of force to achieve a desired end as anathema to human rights, even for the avowed purpose of strengthening human rights. Holders of this view deny that the end can ever justify the means. Carried to its logical conclusion, this means that the person whose face is struck should "turn the other cheek".

And yet even the Bible is not unequivocal on this subject. For we find in it many instances of "eye for eye, tooth for tooth". Grotius, the father of modern international law, held that a "just war" (which involves the use of force) was sanctioned by natural law, as opposed to an "unjust war." Even the United Nations Charter upholds the "inherent right of individual or collective self-defence"⁸ which envisages, of course, a measure of coercive forces.

At the United Nations Symposium on

Population and Human Rights, held in Amsterdam, January 1974, there were repeated discussions on the compatibility of coercive measures with human rights, and the participants were unable to reach an agreement. The nature of the dilemma posed for the participants and their ambivalent reactions to it may be gleaned from the following passage of the report:

Throughout the course of the Symposium, there was concern among some participants about the possibilities and dangers of States using coercion. Most participants considered that coercive policies were unjustified and would amount to a serious denial of important human rights. Certain individual rights are so fundamental and inalienable, such as the right to life, freedom from degrading treatment and freedom of conscience, that any interference with them would be intolerable. Other participants argued that it is impossible to take a categorical position on this matter. There is first the problem of *defining coercion*. Some forms of action, like compulsory sterilization, might well be regarded as unjustifiable coercion, but it might be otherwise with fiscal and other measures which penalize parents of large families. Secondly, coercion might be applied in different areas, and it is impossible to say that it is unjustified under all circumstances. Some participants were not willing to agree, for example, that a State is never justified in restricting or qualifying the right of movement or emigration in order to mitigate problems of unplanned urbanization or to deal with losses that arise from the "brain drain." Thirdly, some participants felt that it is possible to exaggerate the conflict of interests between the individual and the State. In many countries, it is realistic to look at the State as interposing itself between the individual and powerful forces, both external and internal, which are exploiting national resources for the benefit of a privileged few. Nevertheless the Symposium was unanimous in its view that it is of the utmost importance to insist that all population policies must pay particular attention to avoid violation of the fundamental rights of the individual, the family and of the community.⁹

It is necessary to put coercive measures in perspective. Coercion is a means to influ-

ence behaviour. As such, it may be an integral part of a legal order making certain behaviour or conduct compulsory for the benefit of all. Since human rights are of a legal character¹⁰ they, too, imply or sometimes even explicitly invoke the use of coercion or compulsion to achieve certain ends. Thus, the "right" to education includes also a coercive element to help ensure that the "right" is enjoyed. Article 26(1) of the Universal Declaration on Human Rights provides:

Everyone has the right to education...
Elementary education shall be compulsory...¹¹

Similar provisions may be found in the Declaration of the Rights of the Child¹² and the 1966 International Covenant on Economic, Social and Cultural Rights.¹³

Coercive measures are resorted to not only

Coercion may be implied in specification of a minimum age requirement

in education, but also in health. Thus, from the very beginning of WHO's existence, compulsory treatment of certain diseases has played an important rôle in its programmes. For example, the First World Health Assembly specifically recommended:

that governments take—subject to the conditions in their countries—preventive, curative, legislative, social and other measures necessary for venereal-disease control, particular attention being paid to the following:

(v) *compulsory* treatment of persons suffering from communicable venereal diseases and *compulsory* hospitalization of those who refuse to submit to treatment.¹⁴

The explicit linking of a "right" to a compulsory "duty" to exercise that right may extend also the right of voting, as provided in the Austrian Constitution.¹⁵

Coercion may also be implied in any specification of a minimum age requirement for marriage or child labour. Each of these forbids a designated activity prior to reaching a certain age as part of furthering the "right to marriage" and the "rights of the child". Viewed thus, the 1962 United Nations Con-

vention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages,¹⁶ as well as the 1965 United Nations Recommendation on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages,¹⁷ have already resorted to compulsion by calling upon states to "take legislative action to specify a minimum age for marriage".

Indeed, may we not go one step further by saying that any governmental regulation carries with it an implied sanction (coercion) against its violator?

But can compulsory sterilization be regarded as a punishment amounting "to torture or to cruel, inhuman or degrading treatment", thus prohibited by the Universal Declaration of Human Rights¹⁸ and the International Covenant on Civil and Political Rights?¹⁹ Would such sterilization constitute an unjustifiable invasion of the body?

One may recall that, as recently as 1962, Lord Devlin wrote:

Sterilization, if done without consent upon the normal person, will be a criminal assault of the most wicked kind; if done with consent, it is another matter...²⁰

While voluntary sterilization for family planning purposes has met with increasing acceptance,²¹ compulsory sterilization has hitherto been restricted to therapeutic, punitive and eugenic purposes. Its use as a means of population control had not been attempted until the recent Indian moves. Consequently, we are on an uncharted course requiring careful navigation.

It may be noted that there is no hard and fast rule as to what constitutes "cruel and unusual punishment". Its definition inevitably varies according to the mores of the society at a given time. Cases in point are changing concepts of a death penalty or an indeterminate prison sentence as a "cruel and unusual punishment". Thus, Lord Devlin no doubt regarded compulsory sterilization as such a punishment.²²

In striking down an Oklahoma statute requiring sterilization of a person convicted three times of a felony "involving moral turpitude", Justice Douglas, speaking for the United States Supreme Court in *Skinner v. Oklahoma* similarly held:

Marriage and procreation are fundamental to the very existence and survival of the race. The power to sterilize, if exercised, may have subtle, far-reaching and devastating effects. In evil or reckless hands it

can cause races or types which are inimical to the dominant groups to wither and disappear. There is no redemption for the individual whom the law touches. Any experiment which the state conducts is to his irreparable injury. He is forever deprived of a basic liberty.²³

However, in the face of population explosion, and absent the types of abuse feared by Justice Douglas, can it not be argued that "in allowing children that are born to live a higher quality of life" compulsory sterilization may be considered as "reaffirming an individual's fundamental right to procreate"?²⁴

The American cases of *Jacobson v. Massachusetts*²⁵ and *Buck v. Bell*²⁶ are instructive. In the former case, a compulsory vaccination ordinance of the City of Cambridge adopted pursuant to an enabling legislation of Massachusetts was involved. The ordinance required all individuals over the age of 21 either to be vaccinated or to pay a fine of \$5. The defendant refused vaccination on grounds that the statute interfered with the "control of one's body". Justice Holmes, speaking for the Court, upheld the conviction of the defendant and the ordinance on the ground that the State statute was a reasonable exercise of the police power in an attempt to protect public health. Paraphrasing John Stuart Mill's *On Liberty*²⁷ the Court said:

...the liberty secured by the Constitution of the United States to every person within its jurisdiction does not import an absolute right in each person to be, at all times and in all circumstances, wholly freed from restraint. There are manifold restraints to which every person is necessarily subject for the common good. On any other basis organized society could not exist with safety to its members. Society based on the rule that each one is a law unto himself would soon be confronted with disorder and anarchy. Real liberty for all could not exist under the operation of a principle which recognizes the right of each individual person to use his own, whether in respect of his person or his property, regardless of the injury that may be done to others.²⁸

The Court continued:

Even liberty itself, the greatest of all rights, is not an unrestricted license to act according to one's own will. It is only freedom from restraint under conditions essential to the equal enjoyment of the

same rights by others. It is, then, liberty regulated by law.²⁹

Presaging the "compelling state interest" doctrine of later years, the Court declared:

There is, of course, a sphere within which the individual may assert the supremacy of his own will and rightfully dispute the authority of any human government existing under a written constitution, to interfere with the exercise of that will. But it is equally true that in every well-ordered society charged with the duty of conserving the safety of its members the rights of the individual in respect of his liberty may at times, under the pressure of great dangers, be subject to such restraint, to be enforced by reasonable regulations, as the safety of the general public may demand.³⁰

That compulsory sterilization for eugenic purposes may be analogized to compulsory vaccination was enunciated by Justice Holmes in *Buck v. Bell* 22 years later:

The principle that sustains...compulsory vaccination is broad enough to cover cutting the Fallopian tubes. Three generations of imbeciles are enough.³¹

It would appear that compulsory sterilization for purposes of population control may now also be analogized to compulsory vaccination on the ground that a lack of restraint on individual fertility choice would result in a proliferation of children in a society with limited resources, which in turn would infringe upon the collective rights of other couples to ensure that their children enjoy a fair share of the society's resources. As noted in the *Harvard Law Review*, "Population expansion contributes to environmental degradation, which in turn endangers values of individual integrity and freedom from outside intrusion".³²

Based on the foregoing discussion, the following observations may be made with respect to the use of coercive measures to further human rights:

- a. The use of coercive measures to further human rights is not necessarily incompatible with human rights principles.
- b. Resort to coercive measures to further human rights must take into account the viable alternatives as well as the costs and benefits involved.
- c. Coercive measures must not result in discrimination on grounds of race, sex, language, religion, property or income.

Birth Quotas

Can a society limit the number of children

each family can have without violating human rights? The magnitude of this problem assumes increasing proportions as our finite world is rapidly filled with people. Any long-term planning must face this problem squarely if the world is to avoid the devastating consequences envisaged by Malthus.

Since the laws of practically all countries restrict the number of spouses one can have at any one time, may laws also restrict the number of children a couple can have? What human rights considerations justifying the restriction of the number of spouses are inapplicable to the restriction of the number of children?

There are, to be sure, religious injunctions as to the number of spouses one can have at any given time, e.g., monogamy for the Christians, polygamy up to four wives for the Moslems polyandry for some Tibetans and Nepalese, and celibacy for certain religious orders. With such injunctions, however, we are not concerned in view of the human right to freedom of religion.³³

As for nonreligious grounds, one searches in vain for any sociological, ethical, economic or other reasons for legal restrictions on the number of spouses which cannot apply equally to legal restrictions on the number of children. The conclusion is inescapable that either both types of restrictions are incompatible with human rights or both are compatible with human rights.

Of course, on grounds of public policy, a state may, if it so chooses, impose one type of legal restriction without the other. In so doing, it bases its policy on considerations other than those of human rights. But if a state can justify restrictions on the number of spouses on human rights grounds, it can similarly justify restrictions on the number of children each couple can have.

To be sure, there are arguments against restrictions on the number of children based on the difficulty of enforcement.

But these enforcement problems exist also with regard to laws against bigamy.³⁴ The wisdom of jailing a bigamist who thus cannot support his wives and children has also been called into question. And yet the crime of bigamy has remained on the books. Undoubtedly, there will be many problems during the transitional period from a system of unlimited to that of limited births, not dissimilar from those faced by Tunisia, Turkey or the Mormons in Utah when polygamy gave way to monogamy. But in all these instances, it appears obvious that the educative and deterrent

functions of the law are deemed far weightier than its punitive rôle.

Arguments against Compulsory Sterilization

Government intervention in procreation-related behaviour does have historical precedent in pro-natalist population policy, regulation of marriage and regulation of sexual behaviour. Where individual and collective welfare have been at stake, governments have felt the right to intervene in family decision processes. However, a heavy burden of proof rests with advocates of such extraordinary intervention as compulsory sterilization.

International consensus

In the area of family planning, national and international instruments have given primacy

Coercion has been used in health and education with much restraint and then only where other means were not available.

to individual freedom over government intervention. For example, the 1968 Teheran Proclamation on Human Rights states: "...parents have a basic human right to determine freely and responsibly the number and spacing of their children".³⁵ This principle was restated and reinforced by both the World Population Plan of Action and the Plan of Action produced by the International Women's Year Conference.

The use of coercion in the specific case of sterilization is not justifiable simply because there is precedent for and acceptance of the use of compulsion in certain education, health and marriage laws. A decision to implement a coercive policy in response to the threat posed by population growth requires a balancing process rather discussion of the means alone. For example, it is possible to envision coercive family planning policies that would be preferred over other measures which allowed individual freedom of choice. Voluntary infanticide and perhaps even voluntary abortion would be viewed by

many human rights advocates as less desirable than some compulsory family planning measures. Failure to assess the values to be protected (ends) and the full range of protective measures consistent with those values (means) produces muddled thinking and irresponsible decisions.

Coercion has been used in health and education with much restraint and then only where other means were not available. For example, compulsory primary education may be viewed as a coercive measure directed against parents rather than minors. Its purpose is to compensate for parental neglect which is harmful to children not yet in a position to have freedom of choice. But where adults are themselves illiterate, they are allowed freedom of choice in that coercion is not invoked to compel adult education or literacy. Apparently, the balancing process between the desire for universal literacy and freedom of choice has resulted in a compromise compelling education of children but not of adults.

In the case of compulsory treatment of communicable disease, compulsory health care has been acceptable where there is no other way to prevent or control the spread of that disease. To resort to coercion in the case of family planning, it would have to be argued that all other measures had been found wanting. This is not cogent in light of the success of voluntary family planning in some countries.

Invasion of the person

Compulsion need not necessarily be in a form that can be described as cruel and unusual punishment before it can be rejected as a violation of human rights. Sterilization can after all be performed with a minimum of physical discomfort for the patient and the psychological trauma that may result from sterilization, even compulsory sterilization, might abate as long as there were no other adverse side effects such as impotence or physical discomfort. Any comparison of sterilization with physical torture and degrading treatment entirely misses the point that the sterilization operation literally invades a person's self. If this invasion is permitted when alternative means of achieving the same goal are available, then governmental intervention will have become a greater threat than the possible consequences of population growth.

Administration

Even if compulsory sterilization were acceptable on a theoretical basis, administration of

such a policy would present several serious problems. First, it is difficult to envision a birth quota policy that could be developed without the introduction of some discriminatory rule against underprivileged groups. For example, regulations allowing couples to produce only as many children as they could reasonably support would discriminate against lower income groups. Second, it is not at all clear that a policy of compulsory sterilization would actually result in decreased fertility. In order to conclude that a decrease in birth rate would result, it is necessary to assume that the Government administering this policy has the administrative capacity, political base and police power necessary to carry out a programme of this sensitivity and magnitude. An effective compulsory sterilization programme, for example, would require "complicated record keeping, readily available health facilities, and a highly committed police force or army,"³⁶ most of which are lacking in the less developed countries. Third, a compulsory sterilization policy which imposes a universal two-or three-child family limit confuses individual limits on family size with the national averages and thereby compels unnecessary uniformity. Such a policy fails to respect the statistical axiom that any average is compatible with a wide standard of error. For example, a national goal of two-child families is consistent with some childless families and others consisting of eleven children.

Balancing in the area of population policy could involve more effective sex education and increased availability of contraceptives as long as the consequences of population growth were not of disastrous proportions. In the event of a crisis, measures ranging along a continuum from absolute freedom of choice to absence of all choice would have to be considered in order to maintain the balance between the right to live and the right to choose to give life. Unless the threat were very real, however, compulsory sterilization would only be an abridgement of the right to choose, especially since sterilization is still *de facto* irreversible.³⁷ What of the parent who remarries or whose children die?

Arguing against "involuntary fertility control" even if human security-survival is at stake, Daniel Callahan advances the following reasons:

The case would not be easy to make (i) because survival is not the only human value at stake; (ii) because the social con-

sequences of such a law could be highly destructive (for example, the inevitably massive fear and anxiety about third pregnancies that would result from such a law); and (iii) because it would be almost impossible to show that this is the *only* method that would or could work to achieve the desired reduction in birth-rates.³⁸

Conclusion

In his concurring opinion given in *Griswold v. Connecticut*, Justice Goldberg said:

Surely the Government, absent a showing of a compelling subordinating state interest, could not decree that all husbands and wives must be sterilized after two children have been born to them.³⁹

The inference might be drawn where a Government *can* show "a compelling subordinating state interest", it can resort to compulsory sterilization for population control purposes. It remains to be seen whether this view will be accepted. So far as human rights are concerned, such a view would require careful weighing of "state" as opposed to individual interest. A clear definition of the "compelling state interest" doctrine would be a first necessity.

It is appropriate to close with the observation that the most effective compulsory sterilization programme would be one which will eventually eliminate the need for such sterilization. This presupposes that the "knowledge" and "means" necessary to enable couples to practise family planning,⁴⁰ including access to abortion in case of contraceptive failures, are freely available to all who need them, and that the social will exists to use them.

FOOTNOTES

1. *National Population Policy: Statement by Dr. Karan Singh, Minister of Health and Family Planning* (New Delhi, 16 April 1976), paragraph 15. See POPULI Vol. 3, No. 2 (1976).
2. L. A. Bill No. XXV of 1976, the Maharashtra Compulsory Sterilization Bill, 1976. Report of the Joint Committee (Bombay: Maharashtra Legislature Secretariat), Section 4(1).
3. *New York Times*, 2 January 1976, p. 2, col. 3; *New Straits Times*, 26 March 1976.
4. *New York Times*, 26 February 1976, p. 1, col. 3.
5. *New York Times*, 26 February 1976, p. 7, col. 1.
6. *Id.*, 19 March 1976, p. 3, col. 6.
7. See Recommendation (c) of Resolution XVI, Population Policies, adopted by the World Population Conference in UN, *Report of the United Nations World Population Conference*, 1974, Bucharest 19-30 August 1974 (U.N. Doc. E/Conf. 60/19), p. 44.
8. Article 51.
9. U.N., *Report of the Symposium on Population and Human Rights*, Amsterdam, 21-29 January 1974 (U.N.

- Doc. E/CN. 9/IIIIS/CRP.4, 27 February 1974), paragraph 132.
10. U.N. Fund for Population Activities, "Law and World Population," in U.N., *Population Debates: Dimensions and Perspectives* (Department of Economic and Social Affairs, Population Studies, No. 57, 1975), vol. II, pp. 615-624, paragraph 18. See also statement of the Philippine Secretary of Justice Vicente Abad Santos, cited in *id.*, paragraph 49. Luke T. Lee, "Law, Human Rights and Population: A Strategy for Action," *Virginia Journal of International Law*, vol. 12, No. 3 (1972), p. 311 (originally a background paper for the U.N. Second Asian Population Conference, 1-13 November 1972, Tokyo, U.N. Doc. POP/APC.2/BP/32).
11. Emphasis supplied.
12. Principle 7.
13. Art. 13(2) (a).
14. WHO, *Handbook of Resolutions and Decisions of the World Health Assembly and the Executive Board* (Geneva, 8th ed., covering the period of June 1948—May 1970, 1971), WHA1.22 adopted July 1948, p. 36.
15. Article 26(1).
16. Opened for signature and ratification by General Assembly Resolution 1763 A (XVII) of 7 November 1962, Art. 2.
17. General Assembly Resolution 2018 (XX) of 1 November 1965, Principle II (the minimum age for marriage "shall not be less than fifteen years of age").
18. Article 5.
19. Article 7.
20. Sir Patrick Arthur Devlin, *Samples of Lawmaking* (London: Oxford University Press, 1962), p. 94.
21. Jan Stepan and Edmund H. Kellogg, *The World's Laws on Voluntary Sterilization for Family Planning Purposes* (Law and Population Monograph Series No. 8 (1973), published by Law and Population Programme, Fletcher School of Law and Diplomacy, Medford, Massachusetts; revised edition published in *California Western International Law Journal*, vol. 5, No. 1 (Winter 1974), pp. 72-120).
22. See *supra* note 19.
23. 316 U.S. 535, 541 (1942).
24. Jan Charles Gray, "Compulsory Sterilization in a Free Society: Choices and Dilemmas," *University of Cincinnati Law Review*, vol. 41, No. 3 (1972), pp. 529, 544.
25. 197 U.S. 1! (1905).
26. 274 U.S. 200 (1927).
27. Mill, *On Liberty* (Modern Library ed., 1961), p. 275.
28. 197 U.S. at 26.
29. 197 U.S. at 26-27, citing *Crowley v. Christensen*, 137 U.S. 86 (1890).
30. 197 U.S. at 29.
31. 274 U.S. at 208.
32. "Legal Analysis and Population Control: The Problem of Coercion," *Harvard Law Review*, vol. 84 (1971), p. 1910.
33. See Article 18 of the Universal Declaration of Human Rights.
34. Bigamy was not an offense at common law, being punished in the ecclesiastical courts, but was made a felony by an English statute in 1628. Similar statutes now exist in many countries.
35. Paragraph 16.
36. Michael Henry, "Compulsory Sterilization in India: Is Coercion the Only Alternative to Chaos?" *Hastings Center Report*, June 1976, p. 15.
37. Several recent reports indicate that the chances of successful reversible sterilization procedures are improving rapidly. One doctor in the United States claims success in reversal of vasectomy by microsurgery in 85 per cent of his patients. A post-partum or interval technique of tubal ligation developed by another doctor in Sri Lanka claims a reversibility factor of 60 per cent. In the words of Dr. Nefis Sadik, Chief of the Projects Division of the UNFPA: "Certainly a perfected inexpensive reversible technique would much improve the acceptability of the operation, especially among the younger age-groups." See Sadik, M.D., "Barriers to Sterilization May Be Smaller Than They Look," POPULI vol. 3, no. 1 (1976), p. 32.
38. Daniel Callahan, "Ethics and Population Limitation," in Priscilla Reining and Irene Tinker (ed.), *Population: Dynamics, Ethics and Policy* (American Association for the Advancement of Science, 1975), p. 7.
39. 381 U.S. 479, 496-97 (1965).
40. See Teheran Proclamation on Human Rights, 1968, resolution XVIII; U.N. Declaration on Social Progress and Development, 1969, Article 22 (b); World Population Plan of Action, 1974, paragraph 14 (f).

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