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DR SAMUEL PAUL MEMORIAL LECTURE- 2018



Prof. Shantha Sinha

**Child Poverty, Child in Poverty and
Justice for Children**

Saturday, July 21, 2018

I'm really honoured to be asked to deliver the first Dr Samuel Paul Memorial Lecture. In fact, I must say that this is a very special occasion for me as I come before you to speak on the issue of child and poverty, justice for children. I'm so happy that Public Affairs Index (PAI) 2018 has focused on child rights. I have read through it very carefully and it has truly impressed me. It's not easy to compile data which is scattered all over the place, which is not comparable with different time zones, state zones, and that you have achieved as remarkable as this which I thought is important. I should congratulate the team for attempting this and for presenting the performance of the states. It was on issues very close to my heart such as early childhood development, RTE, child violence, early pregnancy, child protection etc. It's not easy. I'll give you an example of the data war that is going on the country today. I'll talk to you from an experience at a very micro level. I'll not mention the district but this happened in the state of Telangana. The district claimed that only 2000 children were "out-of-school" children.

The district collector requested us to access the actual no of children who were out of school. So, what we did was to look at the attendance register of each school and did a physical verification of the no of children who attended school on that particular day and continued the exercise for 3 months on a weekly basis. And we found that, though these children's names were on the register, at least 60% of these children were not in school. These children were working as migrant labourers, some of them dropped out, there were names of some students who weren't even alive and girl children who were married and perhaps left the school, their names were there on the register and somewhere we found that while the names were present on the attendance register, it did not capture what was actually happening to children and that is when there was a huge pressure on us to stop this exercise of noting the list of students who were out of schools. PAI talks about a static data and a dynamic data. This is so important even in the case of children because the static data shows that the children are registered in schools but if you look at the dynamic data, they keep moving in and out of schools and PAI recognises this problem and addresses it by recommending to photograph and videograph evidences and capture the essence which also shows the movement of the poor people on the ground.

While I do agree that community mobilisation is important, which we do all the time and I represent MV Foundation. We have withdrawn over 1 million children from work and out them in schools and ensure that they finish at least class 10 from them. What this actually meant was making 1 million plans. The data for us was a census reality because it means counting every child and plan for each child and doing it in a manner where the conflict is resolved. Getting a child to school or giving a child nutrition, giving them health is a process of resolving conflict. When you talk about community mobilisation, you are talking about a process of resolving conflicts. And it is in the process of resolving conflicts that you are generating public debate, discussions, you will be taking sides by asking whether you are on the side of children or you are not. If we are side of children we need to start engaging with the system, and in the process of that you realising the gaps in the problem and therefore engage with the communities to collect the gaps in the system.

you and me, and if this cannot shame anybody else, then what else will? I am glad that you said it and I am glad you were not diplomatic, I am glad that you showed the naked truth in the PAI report and I congratulate you for this.

You also said something very remarkable that states with a high gross domestic product namely Maharashtra, Gujarat, Karnataka, Haryana and Punjab show high percentage of increase in wasted children, so does this mean if there is a high economic growth it automatically means that the needs of children will be taken care off, as it seems there is no correlation between the two. Sometimes I feel whether the growth has happened at the cost of child growth, I know you did not make a point like that nor economists would make a point like that, But I thought if you are celebrating your growth and children are being wasted then is there a mismatch, something is wrong somewhere, are we exploiting children and then getting the desired growth? Here I must congratulate Kerala and Himachal Pradesh, Kerala has been a very favourite state of mine for more than one reason and if things can change in Kerala I don't see why it can't happen in the country as a whole.

Himachal Pradesh has done very well in education and it doesn't speak about the caste system like the rest of the country does. They have done very well even in the case of girl child development.

These two states have set an example for child development and the rest of the country must learn a lot from them. This has got a lot to do with the governance system. I know about Kerala's principle of subsidiarity, in fact I learnt the word subsidiarity when I visited the state.

We took about 40 sarpanches from Andhra Pradesh to Kerala and we came back imagining the country so differently after our visit, I urge everyone to visit Kerala, but in Kerala people are thinking nothing is happening. It is quite an interesting thing, they are so cynical, they will tell you all the things that are not happening in the state, and it is the same in Himachal Pradesh. But the rest of the country is very positive, thinking that things are happening when they are not! I will indict the state today, on the whole after reading the PAI report, one is left with the feeling of how unfair and unjust our state has been towards our children especially of the marginalised. Is it not the obligation of every state and the constitutional right of every child to have access to rights and entitlements for every single day of their lives without any discrimination.

A right has to be enjoyed every day, you can't say, once-in-a-while you can enjoy your rights, every second too. Somewhere you have forgotten, let me tell you that in terms of governance in some anganwadi centres money is not released sometimes for three months, so for three months children do not have their meals, and all of a sudden you have a bundle of grains coming to the anganwadi centre, can a small stomach make up for three months hunger and suddenly eat all the food that comes to the anganwadi centre. This is what governance is about. Governance for children. You can't make up for a backlog of what you eat, isn't it?

The child has to eat every day, enjoy the right to food every day, it can't be once in three months. This is what I meant when I said that a right has to be enjoyed every day.

Is it not the duty of the state to prevent abuse, exploitation, violence and neglect of children, keeping them safe from risk or perceived risk to their lives or childhood and respond with a sense of urgency to those who have been trapped in what the report calls it, it's a very good term - multiple vulnerabilities. I think that sums up the concept of multiple vulnerabilities.

Protecting a child's right is not a soft issue, it is not like distributing soaps and blankets and giving old clothes, that is not protection of children, it is not even like running an orphanage, it is not even something that can resolve the problem with token slogans like 'Beti Bachao, Beti Padhao'. Protecting child rights is a deeply contentious issue, they disturb existing power relations and hierarchy in society. We think children like charities, we think children like beneficiaries, they are citizens, they can claim their rights and when they do claim their rights, they have disturbed existing power relations in the family and in the society.

I'll give you an example, when a child who is withdrawn from work would face resistance from the vested interest who has employed the child. A child is employed because they are a source of cheap labour, they can be forced to work for long hours not because they are poor and there is resistance. We have faced resistance when we withdrew thousands of children from bondage. It disturbed the power relation in the area.

Even a simple thing like compulsory breastfeeding also disturbs power relations. The distance between the breast and the child is the same compared to the distance between patriarchy, gender discrimination, and giving the time and leisure for the mother to breastfeed the child. It doesn't happen automatically which means there is a lot of assertion that has to happen and there is a resolving of conflict there. Another issue that comes up is when we have these young girls; we just did a study on child marriage which is again a process of resolving conflict, let's say a girl gets pregnant and she is under-nourished and she goes to a private hospital as PHCs are not normally available, so when she goes to these hospitals, the doctor asks the girl how can you get pregnant when you are only 13 years old? Don't you have shame, as though she has control over her body and her bodily integrity and she can say no to rape (marital rape) and then the doctor says you must eat fish, you drink milk, you must have eggs, only then you will have a normal delivery. Who is going to resolve these issues for this girl? So, when you are talking about girls, when you are talking about children, you are actually disturbing power relations. It's not soft programme, it's a programme that invites wrath, it's a programme that invites resistance and it's a programme where one has to know how to resolve this without inviting more wrath and resistance but creating a social norm and that I think is possible because we are all moral human beings and we know that a social norm can be built and it can only be built by resolving conflicts,

it cannot be built in a vacuum. You can't say let there be peace and there is peace. You have to resolve conflict for peace to be built.

Protection of children's rights is also a source of contestation for resources, redistribution of resources, so it is a deeply political issue, whom are these children contesting with when they want more investments in schools, when they want more investments in anganwadi centres, The PAI report says the child welfare committee, the ICPU, the JJB, special courts for children of which none are pre-set on the ground, and if you have to invest in that then you are taking it away from somewhere else. So, it is a deeply political issue. Right now, I am coming from Telangana which has done very well according to PAI but then teachers have been transferred and there are many schools in the state bereft of teachers. They don't have teachers, the government says there are no resources, and you need politics to get those resources, at the same time I will not go into the details, but I must say that we have had a decade of laws based on children's rights. It has been a remarkable decade in terms of children's legislation we have the Commission for Protection of Child Rights Act for which I went as the Chairperson and it did not say child welfare, it said child rights and I think that is very important.

In this decade we have looked at children as Rights' bearers. In 2006 we had the prohibition of the Child Marriages Act which is totally flawed and I will not go into the details, but we did have an act. Then came the RTE in 2009, POCSO in 2012, Food Security Act, 2013, Amendment to the Juvenile Justice Act, 2015 and Amendment to the Child Labour laws in 2016. So, we have a plethora of legislations that have happened.

I want to talk about the limitations of the each of the Acts. Child Labour Act justifies exploitation of the child by allowing children to help at home before and after school hours. Why should there a clause in the law that states children should help before and after school hours? There was a debate about this and the government's press note says that this is tradition and culture and children have to help.

Then there is the Right to Education Act which does not cover children between the ages of 0 to 6. It does not cover children between the age group of 14 to 18 and something urgent happened in the amendment of the act in the recent session of the parliament which says that children may be detained in the same class. There are hierarchies even in state run schools which I believe is a kind of apartheid in the education system. World over, societies have been flattened by societies, education has brought about equality and it is only in India where education has reinforced inequalities.

The Juvenile Justice Act of 2015 criminalises the 16 to 18 age group. How little understanding the state has about this age group. None of the laws provide for accountability or even grievance redressal. They do not provide for the cost of the inaction of the state and its functionaries for violation of child rights, illiteracy, hunger, ill health, lack of safety and poverty and there is no law with any provision for victim compensation or systematic framework for rehabilitation. Compromises in the legislation are justified, giving arguments of poverty and some that even give reasons of a large population, lack of interest shown by parents or simply tradition and culture. The debates also talk about practicality.

The debate also says to take rights in an incremental fashion where some children must have to wait for a decade to receive their rights as we have to go stage by stage.

In this process, we are forgetting the practicality for the child. Is it practical for the child to be hungry? Is it practical for the child to be working? Is it practical for a child to have loss of dignity? Is it practical for a child to be molested and raped? So whose practicality are we talking about? This is where the contestation is about. They get away by saying you have to be practical when they are actually saying we can't invest in children because we need the money elsewhere. Sometimes I feel that it is the state's failure that perpetrates children in conflict with the law. Most of us blame children for becoming gangsters but that is only because of the state's failure. I feel that it is the state that is in conflict with the law, not the child and we have to do something about it.

Why are we like this? I think child poverty is the consequence of politics and absence of moral, ethical and normative considerations. It also the absence of elite consensus on justice for children. We are always blaming the poor but we are to blame as well, simply because we don't care. It is time that we build an enlightened elite class in India.

Child poverty is a systemic injustice within which further acts of injustice and humiliation happen. The humiliation caused by poverty is widespread and the common experience of all poor children, they are not rare incidents. They are often confronted with disrespect, isolation in both public and private places for example on the street, hospital, playground, police stations and hostels. Humiliation connected with child poverty is unjust and we must criticise it in such places, often there is admiration to look at the resilience of the children who want to survive, even if such children have the coping mechanisms, even if such children do not experience the emotion of humiliation, stigmatised, feeling lost or ashamed - poverty is unjust.

The injustice of poverty should be determined independently and subjectively by the experience of it. It is well known that children in poverty do not enjoy equal access to the entitlements guaranteed to them by the law. Their inequality is linked to their status in terms of caste, class, gender, disabilities and every other form of discrimination in society forcing them to grapple with inequality in every step of their lives. In a just society, each and every child is entitled to experience love and care, respect and social esteem, children are entitled to grow up and live in conditions in which they find all the sufficient opportunities to develop positive relations with themselves and with others especially because childhood is a very sensitive phase, it is only just that children have a right to be protected. It is a cruel fact that children in poverty feel responsible for their situation and blame themselves. Children growing up in poverty cannot be held responsible for their poverty. Children do not choose to be poor and they do not choose their family that they are born into. Children also have very little chances to alleviate their poverty and they are dependent for support from others. Children just do not deserve the hardships connected to poverty. It is only just that the state has an obligation to offer services to them as a matter of right.

It is equally important in looking at children today as much for their well-being as much as their “well becoming” tomorrow. While we looking at the best interest of the child, we must also look at the evolving capacities of the child just so they participate in the civil society as adults, responsible adults and enjoy being the citizens of this country. If adolescents are to exercise agency, they must be given time and place where they could find their bearings, learn and catch up in terms of all that they have missed in formal education, leisure, friendship, peer group and a body that is not tired and exhausted so that by the time the child is 17 years old, he is not like a 34-year-old.

Let us not talk about children as assets and as part of demographic dividends but let us talk about them as an end in themselves, and not as a means in creating nation building activities. Justice is rendered to connect the wrongs that children have been subjected to and ensuring that their daily survival activity becomes a part of history. Their unbelievable past has to be erased and that is what justice is about.

The profound and transformational changes that occur in society where children’s rights are guaranteed and justice is rendered cannot be understated. Every right obtained provides justice for children equipping them with full range of capabilities to reach comprehensive well-being. Every right has impact on society and in ways of doing things that touches many policy areas. The labour market, the education system, the public healthcare system, public infrastructure system and it has wide ramifications. Every right attained is a setting of new traditions, new cultures, new habits embedded in the values of respecting children. Every right attained results in deepening democracy.



G Gurucharn, Director- PAC presenting a memento to Prof. Sinha