The Uttar Pradesh Population (Control, Stabilization and Welfare) Bill, 2021

A Case of Missing the Forest for the Trees

CommonHealth, India

On July 10th, the Uttar Pradesh government placed a draft of the proposed Uttar Pradesh Population (Control, Stabilisation and Welfare) Bill, 2021 in the public domain, inviting suggestions till July 19th.The bill is ostensibly meant to control, stabilize and ***provide welfare*** to the population of the State by implementation and promotion of the two-child norm. The bill lists incentives and disincentives for citizens of the state, especially for those in government service or aspiring for government service[1].

CommonHealth, a rights-based, multi-state coalition of organizations and individuals that advocates for increased access to reproductive health services for women and marginalized communities, has strong concerns about the bill and its approach to control and stabilise population.

India is signatory to international agreements which recognise reproductive rights and the government has a constitutional obligation to respect the stipulations specified in these agreements. As early as 1994, Government of India signed the declaration of International Conference for Population Development, which in its Programme of Action explicitly endorses reproductive rights of couples and advocates for freedom to couples to decide the number and spacing of children[2]. Policies in the country such as the National Population Policy of 2000 have respected this commitment to voluntary and informed choice, individual consent and target free non-coercive contraceptive services[3]. Courts in India have upheld this right-based approach through their various judgments. In 2017, a nine-judge bench of the Supreme Court of India has specifically recognised the constitutional right of women to make reproductive choices, as a part of personal liberty under Article 21 of the Indian Constitution (*Justice K S Puttaswamy v Union of India 2012a*)[4].In response to a Public Interest Litigation filed in 2020 in the Supreme court, the Government of India itself had re-iterated its commitment to individual reproductive rights and had said, "the family welfare program in India is voluntary in nature, which enables couples to decide the size of their family and adopt the family planning method best suited to them according to their choice without any compulsion"[5]. While articulating its unequivocal opposition to forcing contraception on its people, it further clarified that coercion to have a certain number of children is counter-productive and leads to demographic distortions.

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[1] https://www.livelaw.in/pdf_upload/up-population-control-bill-draft-396420.pdf
[2] https://www.unfpa.org/sites/default/files/pub-pdf/programme_of_action_Web%20ENGLISH.pdf
[3] http://nhm.gov.in/images/pdf/guidelines/nrhm-guidelines/national_population_policy_2000.pdf
[4] https://www.epw.in/engage/article/womb-ones-own-privacy-and-reproductive-rights
[5] https://theprint.in/health/india-unequivocally-against-forcing-family-planning-centre-tells-supreme-court/565499/

The Uttar Pradesh Population Bill stands out in contradiction to these very assertions of the Government of India. The bill, through the stipulations in various sections and incentives and disincentives, is an infringement of reproductive rights, undermines agency of the individual and gives power to state to take decisions on their behalf. Quick fix solutions as proposed in the bill that turn a blind eye to the range of factors responsible for population size and are likely to pay limited dividends in the long run.

The National Family Health Survey 4 (2015-16) pointed towards a trend of decline in Total Fertility Rate (TFR) from 2.7 to 2.2 children per woman and in unmet need for contraception from 13.9 to 12.9%, despite a marginal decline in use of modern contraceptives[6]. Of the 22 States for which National Family Health Survey 5 (2019-20) data has been released, 19 have fertility rates below replacement fertility rate of 2.1 children per woman[7]. The Ministry of Health and Family Welfare projects that the TFR at national level will be 1.93 by 2021[8]. State fertility rates have been seen to be related to female literacy rate and per capita income and have declined without coercive measures. The states with good public health infrastructure, increase in female literacy, and increase in earning power of women are the ones that have shown decrease in TFR.

While Uttar Pradesh has also shown a notable decline in the same period in Total Fertility Rate from 3.8 to 2.7 children per woman, and in unmet need for contraception from 23.1 to 18.1%, National Family Health Survey 5 data for the State is not available to confirm continuity of the trend. Health statistics data shows that one- third of the State’s rural population lacks primary healthcare infrastructure with 33% shortage of sub centres and Primary Health Centres and 40% shortage of Community Health Centres than as recommended under the Indian Public Health Standards norms[9]. The state’s accountability for failure to provide adequate health infrastructure and services remains unquestioned and unaddressed.

Moreover, while the trends are desirable, numbers tend to conceal the ground realities. Coercive policies and programmes tend to affect marginalized populations disproportionately based on their literacy, caste, religion andsocio-economic background. Data from a study conducted in under-privileged and under-served populations of urban slums of Lucknow in 2020 reported an unmet need of 55.3% among young married women and cited poor knowledge and attitudes of the women towards contraception, family opposition, embarrassment, non-availability of services and fear of side effects as reasons for non-use[10].

[6] International Institute for Population Sciences – IIPS/India and ICF. 2017. National Family Health Survey NFHS-4, 2015-16: India. Mumbai: IIPS
[7] https://timesofindia.indiatimes.com/india/national-family-health-survey-indias-population-stabilising-as-total-fertility-rate-declines-across-states/articleshow/79738803.cms
[8] https://main.mohfw.gov.in/sites/default/files/HealthandFamilyWelfarestatisticsinIndia201920.pdf
[9] https://hhbc.in/healthcare-scenario-of-uttar-pradesh/
[10]Yadav et al. BMC Women's Health (2020) 20:187 https://doi.org/10.1186/s12905-020-01010-9

National as well international evidence points towards the harm done by coercive policies. China’s one child policy was strictly enforced since 1980s before it was abolished in 2015 to counter the massive demographic impact in the form of social and age imbalance and the speculation that the continued decline in population growth would have disastrous repercussions for the country. Japan and Western European countries, where fertility rate has gone below the replacement rate, are currently coping with aging populations, with fewer young people to engage in economic and productive labour force. Within India, coercive vasectomies during emergency have had an enduring impact and have succeeded in stigmatizing a safe and effective method.

It is said that development is the best contraceptive. But for that, an enabling environment that fosters such development without coercing people to forego their rights has to exist. People have to be aware of the implications of a large family size; methods to limit family size, how to access these methods, and social and cultural taboos and stigmas have to be addressed head on. Formulating a people centred programme that focuses on changing social norms, takes into account the needs of country’s large population of young people, is rooted in gender-inclusive socioeconomic policies, and invests in information and communication, strengthening of primary care facilities for service provision and meeting unmet need, has greater potential to impact not only on women’s and children’s health but also address the issue of population stabilization.