

# POPULATION CONTROL OR BIOPOLITICS?

Ever since Prime Minister Narendra Modi used the phrase "population explosion" during his Independence Day speech in 2019, the issue has been discussed in national politics. Recently, two Bharatiya Janata Party-ruled states—Assam and Uttar Pradesh—proposed population control laws. While the Uttar Pradesh Population (Control, Stabilisation and Welfare) Bill, 2021, was open for public suggestions till July 19, the Assam Cabinet has announced the implementation of a two-child policy. Under both, people with more than two children will be denied subsidies or benefits under public schemes, including government jobs. In a country where the population policy is not to keep a tab on the number of people, and where awareness programmes and incentives have worked to attain near replacement-level fertility rate, are such coercive steps needed? Is this the beginning of biopolitics in India?

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## Wrong assumptions

**T**he proposed Uttar Pradesh Bill on two-child norms is based on two assumptions: there is population explosion in the state; and the dated Malthusian theory of "too many people, too few resources". The Uttar Pradesh Law Commission that drafted the Bill without being asked either by the state government or by the constitutional courts, seems to be ignorant of current developments in demographic studies. In place of permanent sterilisation, spacing and

informed consent have emerged as far more effective methods of population control. In any case, as per 2016-17 data, we should be ashamed to have 1:52 male-female ratio in sterilisation.

The proposed law would lead to more abortions, leading to adverse sex ratio at birth. It would lead to more divorces or abandonment of women and even children so that parents remain eligible to contest elections. Moreover, non-inclusion of assembly and parliamentary elections makes the classification suspect and not based on intelligible differentia with a rational object to achieve, and thus is incompatible with Article 14 of the Constitution.

Today the experts are convinced that carrot-and-stick policies do not help in controlling population explosion as incentives/disincentives do not have much relevance for the lower strata of population. Due to our regressive and patriarchal ideology, we do not recognise our women as citizens in their own right with their distinctive individuality but treat them as just passive reproductive agents. The Bill

will have the effect of denying women their right to personal liberty under Article 21 of the Constitution. Uttar Pradesh has already undermined their agency by denying them the right to choose their spouses through love jihad laws and this Bill now tries to control even their reproductive choices.

The reference in Section 8 of the Bill to "whoever procreates" clearly applies only on women. Are we not going to create obstacles in the way of our women in getting elected to the local bodies, as there is reservation for them in such bodies? They would no more be able to compete for public employments as well. Accordingly the Bill is in the teeth of the National Population Policy, 2000 that was approved by the National Democratic Alliance government led by the late Atal Bihari Vajpai and that instead of coercive methods focused on much more relevant socio-cultural factors such as age at marriage, age at birth, girl education, maternal and child health and above all the voluntary and informed consent. Being signatory to international covenants like the International Covenant on Civil and Political Rights (ICCPR), India has to abide by the international norms on population control. The UN's Human Rights Committee has categorically mandated that state parties to ICCPR cannot adopt policies that are compulsory, coercive or discriminatory. Even the Modi government in an affidavit filed in Supreme Court as late as December 2020 had admitted that "the international experience shows that any coercion to have certain number of children is counter-productive and leads to demographic distortions". Clearly the Yogi government's move has some electoral dividends in mind rather than the population control. In any case, Uttar Pradesh, too, has shown signs of decline in the fertility rates and the 2021-22 Census may show it reaching desired replacement rate.



### Coercion doesn't work

**T**he draft Bill proposed by the Uttar Pradesh Law Commission on July 7, 2021, compels couples to limit their families through a series of incentives and disincentives. However, there is no evidence currently available that shows that coercive policies have been effective in reducing fertility. Two-child policies are known to disproportionately impact the most vulnerable, particularly women and girls. The proposed Bill may have disastrous consequences and lead to an increase in gender inequality, sex-selective elimination, unsafe abortions and malnutrition. A five-state study by Nirmala Buch, a former senior Indian Administrative Service officer, shows that coercive policies have not been effective in fertility reduction. The study instead reveals that in states that adopted a two-child policy, there was a rise in sex-selective and unsafe abortions; men divorced their wives to run for local body elections; and, families gave up children for adoption to avoid disqualification.

Instead, our focus must be on safeguarding women and girls' reproductive health. Smaller families can be achieved through ensuring gender equality, empowering women, improving education, economic development and access to family planning services. Sri Lanka brought down its fertility rate

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via greater investments in girl-child education and a robust family planning programme. Bangladesh did so by expanding the basket of contraceptive choices available to men and women. In India, Kerala and Tamil Nadu have experienced significant reduction in fertility rates without any coercive methods. Kerala was able to bring the total fertility rate (TFR, or average number of children per couple) down to 1.6 by investing in girl-child education, employment opportunities, women's empowerment and health system. Population explosion is not a problem facing India, or more specifically Uttar Pradesh. They are on their way to population stabilisation. Instead, we would do better by increasing access to voluntary family planning and reproductive health services and promoting comprehensive sexuality education for adolescents.

TFR in Assam is 1.9, which is less than the national average of 2.2. Instead of stringent population control measures, Assam should focus on delaying marriage age, improving spacing between children, and ensuring girls stay in schools. Approximately 32 per cent of women in Assam were married before the age of 18 years.

### A misguided approach?

**D**ebates on population control gained momentum in the state of Assam after the Himanta Biswa Sarma-led government assumed power in May 2021. From the beginning of his tenure, the chief minister has been asserting that his government stands for a stringent population policy and will gradually implement the two-child norm for availing government benefits in the state. Now it has been made clear that except for the tea tribes and Scheduled Tribes and Scheduled Casts, the two-child norms will be applicable for all benefits of the government, including loan waiver schemes. The chief minister,

however, has also acknowledged the fact that "education, health, ending child marriage and financial inclusion" are the core means to control population, particularly among Muslims. While the stringent population control approach itself has been abandoned as both inhumane and unrealistic, any sectarian approach in this regard may invite more challenges than sustainable solutions. Exponential population growth among the East Bengal-origin Muslims in Assam has been a real concern. It has given birth to anxiety among the indigenous communities regarding their political security. The emergence of the All India United Democratic Front in the East Bengal-origin Muslim dominated districts as a formidable political force has added fuel to this anxiety. However, the divisive political agenda on the part of the incumbent government constantly driving the exclusionary narrative of "we" versus "they" and also bringing in the narrative of the civilisational threat posed by the exponential population growth among the community has only helped the dominant political forces among the community plant prejudices and unscientific temperament, and tighten the patriarchal hold.



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#### **Will benefit in longer run**

**P**opulation is a hard reality. A state like Uttar Pradesh with 200 million population needs to respond to this reality. That is why the government led by Yogi Adityanath proposed the population control Bill recently. Governance in this drastically changing world remained not only limited to the material and social resources but also being extended to the governance of biological resources. The eminent thinkers Michel Foucault and Giorgio Agamben offer us perspective of governance-centered biopolitics which also provides us insights to understand the state-led projects of population control being exercised in various countries of the world. In this paradigm, governance is also extended to govern our bare life or biological body.

This proposed Bill is in one way an attempt to save society from population instability which may transform as population bomb. This situation of population instability may produce a food crisis and other crises related to socio-economic resources. The draft Bill is framed in a way to be implemented by various incentive and disincentive to follow or not follow the rules. TFR of Uttar Pradesh is 2.9, according to 2018 sample registration system data. It needs to come to 2.1, and then it will be

replacement level fertility. If a two-child policy is enforced properly, it may help us to achieve a TFR of 2.1 (on average two children per couple). Still it will take one generation (almost two to three decades) for the stabilisation of population.

#### **A persistent problem**

**O**verpopulation concerns in India have a very long history and continue to persist. Changes are noticed in bringing down the fertility level towards the end of last century and in the two decades of the 21st century. India reached a near replacement level fertility of 2.2 by 2018. What led to the faster decline in fertility in recent decades? There are three broad routes of fertility transition, and all are to some extent experimented in India. Fertility transition through social development and women's empowerment was the success story of Kerala and most of the western world. The other route is effective service delivery, particularly family planning services. Many states in India have achieved success under this category and Tamil Nadu is the forerunner. Yet another route is imposing very strong incentives and disincentives. A few states tried electoral disincentives but its success was not very evident. The most important route for success in bringing down fertility appears to be delivery of services. **DTE**

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