



THE UTTAR PRADESH POPULATION (CONTROL, STABILIZATION AND WELFARE) BILL, 2021: A MENACE TO CHILD RIGHTS

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ABSTRACT

India being one of the most populous countries, population control has always been a concern for the Union and state governments of the country. The government of India has taken many measures to control the population and somehow it got successful in lowering down the fertility rate but still the target has not been achieved yet. Recently, the Uttar Pradesh (Control, stabilization and welfare) Bill, 2021 has been tabled by the state government as a measure to control the fertility and to curb the population in the state by its two-child policy. The fertility rate of UP is 2.7 as per the National Family Health Survey (2015-16) and it has already declined almost to half as it was 4.06 in 1992-1993 as per NFHS (1992-1993).¹ It shows that the fertility rate has already declined in the last few decades without any harsh legislation. And the decline in fertility rate between 1998-2016 was faster among the districts where there was an increase in schooling of married women.²

This bill is not encouraging people to adopt safe methods for family planning but it is only luring people by way of incentives which can lead to the increase in unsafe methods of contraception. It will make vulnerable sections of the society more vulnerable and exacerbate the condition of the poor people and force them to take harsh decisions like giving their child for adoption, indulge the child into child labour or sale off the child in order to get the benefits of government schemes and it will harshly abrupt the literacy rate of the state. This paper will majorly describe the ill-effects of this bill on development of children and how it will violate the child rights provided under the constitution.

INTRODUCTION

The total population of India in 2020 was 1.38 billion.³ India has a fertility rate of 2.2⁴ and will probably become the most populous country in the world by 2024. Population has been a major concern for the government of India and to control it, government of India has taken many steps like National family planning program launched in the year 1951, 42nd Amendment Act, 1976 which has added the provision of population control under concurrent list and empowered center and state to make a law on the same. The two-child policy has been implemented by various states like Madhya Pradesh, Chhattisgarh, Andhra Pradesh etc.; to control the population.

¹ Fertility rate, Uttar Pradesh, National Family Health Survey, (1992-1993) & (2015-2016) <http://rchiips.org/nfhs/nfhs-4Reports/India.pdf> Accessed 28 Aug 2021.

² Fertility rate, Uttar Pradesh, National Family Health Survey, (1992-1993) & (2015-2016) <http://rchiips.org/nfhs/nfhs-4Reports/India.pdf> Accessed 28 Aug 2021.

³ Population, Total- India, The world Bank https://data.worldbank.org/indicator/SP.POP.TOTL?locations=IN&name_desc=fals Accessed 16 Aug 2021.

⁴ Fertility rate, India, The World Bank <https://data.worldbank.org/indicator/SP.DYN.TFRT.IN?locations=IN> Accessed 28-07-2021



And recently Uttar Pradesh has tabled the Population (Control, Stabilization and Welfare) Bill, 2021 in the State Legislature and also in public domain for the suggestions. The bill provides benefits and privileges for those who have a single child or maximum 2 Children and also contains provisions for those who have more than 2 children that they will not get to participate in local body elections and shall be debarred from government schemes and government jobs.

EFFECTS OF THE BILL ON LITERACY RATE OF UTTAR PRADESH

Uttar Pradesh being the most populous state of India has a very slow growth rate and poverty rate of UP in 2020 was 29.43%⁵ and literacy rate in 2020 was 73% less than the national average of 77.7%.⁶

As per the survey, it was found out that the districts with high levels of fertility rate were those where proportion of illiterate women was relatively higher, low level of urbanization and greater level of poverty was prevalent.⁷

As per section 8⁸ of the bill, if a couple procreates more than 2 children then it shall be in contravention of bill and shall not be eligible to avail government welfare

schemes, which can worsen the poverty rate and literacy rate in rural areas as people living below poverty line needs government welfare schemes and support to fulfill basic needs of their children like Nutrition, education etc.

This bill will exacerbate the economic condition of people who are not aware of family planning methods and do not have access to modern methods of contraception. People will not be able to provide education to their children due to lack of resources & government support which can increase the number of school dropouts at a higher pace.

The Fertility rate of districts are higher in Terai region (NFHS)⁹ and the areas near Nepal border which are considered to be the least developed areas of State in terms of literacy, access to health infrastructure, awareness about family planning methods, access to quality education, other facilities and facilities they get from government, in the form of welfare schemes, helps them in surviving in such miserable conditions.

Literacy rate of districts which are undeveloped will be adversely affected, as they will be deprived of basic rights like food, quality education to child etc., if they would contravene the bill and couldn't adopt two

⁵SDG India Index, India, 2020, NITI AAYOG, <https://sdgindiaindex.niti.gov.in/#/ranking> Accessed 16 Aug 2021

⁶ Household Social Consumption on Education in India, NSS Report No. 585, India, Ministry of Statistics and Program Implementation, National Statistical Office, http://mospi.nic.in/sites/default/files/publication_reports/Report_585_75th_round_Education_final_1507_0.pdf Accessed 16 Aug 2021

⁷ Fertility and family planning in Uttar Pradesh, India: major progress and persistent gaps, Halli, S.S.,

Ashwini, D., Dehury, B. *et al*, *Reprod Health* **16**, 129 (2019). Accessed 18 Aug 2021.

⁸ THE UTTAR PRADESH POPULATION (CONTROL, STABILIZATION AND WELFARE) BILL, 2021, The State Law Commission, U.P. https://www.livelaw.in/pdf_upload/up-population-control-bill-draft-396420.pdf Accessed 10 Aug 2021

⁹ NATIONAL FAMILY HEALTH SURVEY (NFHS-4) 2015-16, India, Ministry of Health and Family Planning, <http://rchiips.org/NFHS/NFHS-4Reports/India.pdf> Accessed 17 Aug 2021



child policies due to lack of awareness amongst them.

The provisions which provide disincentives, will bar children, of those who contravene with the provisions of bill, from availing any scheme or scholarships implemented in state to uplift the educational status of those who couldn't get education due to poverty.

Government plays a very important role in the education of children, as they can provide all the facilities and necessary things for hassle free education.

The provision to debar people from availing any government scheme will affect students the most and lower down literacy rate in the state as more than 40% citizens of the state are living under poverty who avail benefits of schemes and provide education to their children.

And as Eimi Watanabe, UNICEF representative in India, has said that no country/state has been able to remove mass poverty without removing mass illiteracy and this bill will seriously affect literacy rate of the state. Poverty is already one of the main root causes of increasing population in Uttar Pradesh and the provisions of the bill will snatch all the governmental support from those poverty-stricken families, as they have no awareness and access to family planning methods, and push them into poverty and illiteracy even more.

It will create a vicious cycle of illiteracy in the state by its two-child norm and poverty

will keep prevailing in undeveloped areas of the state.

In a survey it was found that Lower fertility districts were more urbanized with better literacy rate.¹⁰

VIOLATION OF CHILD RIGHTS

a) Increase in Child Labour in Uttar Pradesh

The Indian Constitution provides fundamental rights to all citizens of the country but there are few rights which are specifically mentioned for children. The UP-Population Control bill, 2021 violates the rights of children by depriving them of government welfare schemes because his/her parents couldn't adopt a two-child policy.

A child will be forced to indulge into employment at a young age, for fulfilment of basic needs, due to lack of government support and it will violate the fundamental right of a child to be protected from hazardous employment till age of 14 years¹¹ and right to be protected from being abused and forced by economic necessity to enter occupations unsuited to their age and strength.¹²

The bill provides incentives to a single child in the form of free education till graduation level, preference to a child in premier Educational institutions of country like IIT, IIM, AIIMS etc., which will violate the fundamental right, of equal opportunities in education, of those children whose parents could not follow the two- child policy of state and again a child has to get into

¹⁰ India Health Action Trust (IHAT). District level family planning survey, 2016, 25 high priority districts, Uttar Pradesh. In: Lucknow; 2017.

¹¹Article 24, The Constitution of India.

¹²Article 39(e), The Constitution of India.



employment at a tender age because a child of a poor family, who couldn't afford quality education, is most likely to face denial from admission and for survival he/she has to work as a child labour.

In *TMA Pai Foundation v. Union of India*¹³, "The court provided that it is the fundamental duty of a parent or guardian to provide opportunities for education to his child who is under the age of 14 years but still the rate of school dropouts due to poverty has been prevalent in most of the states in India.

India's biggest hub of child labour is Uttar Pradesh and it accounts for almost 20% of India's child labourers.¹⁴

In UP there are 19,27,997 child labours who are already working due to high poverty rate and, due to this bill more children will be forced into child labour by their own parents/guardians.

The provision in the UP-Population Control bill to debar those families, who has more than 2 children, from all government sponsored schemes will increase child labour as it will deprive marginalized section of the society from government benefits.

The India Human Development Survey's study found the chances of a child getting involved in child labour low in poor households that are a part of Mahatma Gandhi National Rural Employment

Guarantee Scheme (MGNREGA) which means government sponsored schemes helps poor family to cope up with poverty and if these schemes will not be provided to them then they have to make their child to leave schools and education for work.

And, if this bill becomes a law, then any child who has more than 2 siblings will be deprived of all the government schemes/scholarships and they will be forced to drop out from schools.

In research conducted in districts of Uttar Pradesh it was found that due to economic reasons most of the dropout children from schools help their parents by doing some job at dhabas, tea stalls, domestic servants, on retail shops or in manufacturing units etc. and become child labour.¹⁵

And it has also been found that drop out cases were higher in rural areas as compared to urban areas and those children after leaving studies from elementary level of education were working in Tea stalls, Dhabas/ Restaurants or even in factories or hazardous

¹³ T.M.A.Pai Foundation & Ors vs State of Karnataka & Ors on 31 October, 2002

¹⁴ STATISTICS OF CHILD LABOUR IN INDIA STATE WISE, Save the Children, <https://www.savethechildren.in/child-protection/statistics-of-child-labour-in-india-state-wise/> Accessed 18 Aug 2021

¹⁵ Influencing Factors of Dropout Students in Elementary Education: A Study of two Districts in India, Tarannum Siddiqui, IOSR Journal of Humanities and Social Science (IOSR-JHSS) Volume 22, Issue 8, Ver. VI (August. 2017) PP 22-30 <https://www.iosrjournals.org/iosrjhss/papers/Vol.%2022%20Issue%208/Version-6/D2208062230.pdf> Accessed 18 Aug 2021.



employment which is a violation of right to education¹⁶ and child labour act¹⁷.

This bill will lead to economic crisis in undeveloped districts of the state due to lack of family planning resources and increase child labour in the state.

b) Increase in Child trafficking due to ill-researched provisions of the UP Population Control Bill, 2021

In a study of five states (Rajasthan, Madhya Pradesh, Maharashtra, Gujarat, Odisha) which already have two child norm in some or the other form, it was found a rise in child labour and child trafficking of children with the intent of contesting local body.¹⁸

The bill has provision under section 9¹⁹ that those who are in contravention of the two-child policy shall be ineligible for contesting local body elections, which will force people to give up on their child or give them up for adoption to make themselves eligible for elections.

And this provision will not affect children in rural areas only but it will affect children in both rural and urban areas.

In a study, it was found that people who were the representatives in the panchayat, where two child norm was implemented, also gave up on their children and wives to keep a hold on their position in the institution. People from educated and wealthy families also gave up their child for adoption with an intention to contest the elections.²⁰

As per section 7 of the bill²¹, if a couple living under poverty have a single child will get an additional amount of 80 thousand (boy child) and 1 lakh (girl child) and this provision will encourage people to sell their child to avail benefits provided by the government and traffickers can lure parents by giving them more money.

In Uttar Pradesh, areas which are of greatest concern have some similar characteristics like poverty stricken and undeveloped & least urbanized. Child traffickers will target people from these areas by giving them a handsome amount of money and a fake promise to give their child a job.

It has already been found in NFHS²² report that areas with higher fertility rate are those

¹⁶THE RIGHT OF CHILDREN TO FREE AND COMPULSORY EDUCATION ACT, 2009

¹⁷ THE CHILD LABOUR (PROHIBITION AND REGULATION, ACT, 1986

¹⁸ Law of Two-Child Norm in Panchayats: Implications, Consequences and Experiences, Nirmala Buch, Economic and Political Weekly, vol. 40, no. 24, 2005, pp. 2421–2429, JSTOR, www.jstor.org/stable/4416748. Accessed 1 Sept. 2021.

¹⁹ THE UTTAR PRADESH POPULATION (CONTROL, STABILIZATION AND WELFARE) BILL, 2021, The State Law Commission, U.P. https://www.livelaw.in/pdf_upload/up-population-control-bill-draft-396420.pdf Accessed 10 Aug 2021

²⁰ “Law of Two-Child Norm in Panchayats: Implications, Consequences and Experiences.” Nirmala Buch. Economic and Political Weekly, vol. 40, no. 24, 2005, pp. 2421–2429, JSTOR www.jstor.org/stable/4416748.

,<https://www.jstor.org/stable/4416748> Accessed 17 Aug 2021.

²¹ THE UTTAR PRADESH POPULATION (CONTROL, STABILIZATION AND WELFARE) BILL, 2021, The State Law Commission, U.P. https://www.livelaw.in/pdf_upload/up-population-control-bill-draft-396420.pdf Accessed 10 Aug 2021

²² NATIONAL FAMILY HEALTH SURVEY (NFHS-4) 2015-16, India, Ministry of Health and Family Planning, <http://rchiips.org/NFHS/NFHS-4Reports/India.pdf> Accessed 17 Aug 2021



where there is no access to health infrastructure, education & awareness about family planning.

And the provisions of this bill will force those people who are living under poverty to sell their child to trafficker and give them an opportunity to earn money from traffickers and avail government scheme benefits as well.

Many studies have proved that the vulnerability of a child increases with the increase in economic instability of a family. Children from disadvantaged communities and backward areas are more vulnerable to child trafficking and this bill will affect the people from poverty stricken and less urbanized areas which means the chances of child trafficking increases as traffickers always prey to these people because of their lack of awareness and this bill will help the traffickers to convince them to sell off their child for double benefits. Most of the people get lured or betrayed by the traffickers due to their economic conditions and sometimes parents themselves send the child to work to get out of their pitiful economic condition or in order to give a better life to their other children.

This coercive two-child policy will have serious ill-effects on children in the state and provision which provides special monetary benefit to a poor family, who has a single child, shall aggravate the condition as people who are already are in compliance of two child norm will further sell off or gave up on one of their children in order to get more monetary benefits from government and also from the traffickers.

As per the recent report after breakout of Coronavirus the cases of trafficking for child labour has been increased as the poverty has also been increased due to lockdown. The implementation of such legislation amidst the pandemic will make children more vulnerable to exploitation and harassment.

The provisions of this bill will encourage traffickers to lure the parents of a child and they would take a child with the consent of parent or guardian and nobody will be able to caught them or punish them as parents have the right to take decision for their ward and also, they would hide the existence of child to avail benefits of government schemes and monetary benefit as per the bill.

CONCLUSION

The implementation of legislation like the population control bill cannot make people aware about the need and methods of family planning and the higher fertility rate of UP is likely associated with reliance on traditional methods of contraception which has a higher risk of failure and unmet needs of modern contraceptive methods should be fulfilled by the government.

There is no need to implement such harsh laws, as this bill can negatively affect the development of children in the state and hamper the state's economic development, but the state government should take measures to lower down the fertility rate by increasing literacy and access to modern methods of contraception to married women/couples. Proper implementation of government sponsored schemes for backward communities to enable them to increase their living standard.



Lower down poverty rate and reduce inequalities between districts of the state in terms of literacy, poverty, health infrastructure, education and schooling of women about modern contraceptive methods and distribution of contraceptive instruments and services in areas where fertility rate is relatively higher.
