An irrational draft population control Bill that must go

The Uttar Pradesh government should understand that evidence backs the principle of informed free choice

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Many of us working in the field of public health and social development have been taken aback, if not downright shocked, by the recently announced draft Uttar Pradesh Population (Control, Stabilization and Welfare) Bill, 2021 (https://bit.ly/3eoMRh3) that focuses exclusively on making a two-child norm a law, specifying various incentives and penalties for contravention. The burgeoning negative reaction to this proposal derives from a variety of inherent dangers, but also because most experts would agree that the conceptual clarity on 'development being the best contraception' and the irrationality of incentives-disincentives had been, ostensibly, long settled.

As early as 1994, the Programme of Action of the International Conference on Population and Development (UN 1994); to which India is a signatory, strongly avers that coercion, incentives and disincentives have little role to play in population stabilisation and need to be replaced by the principle of informed free choice.

This principle is also echoed in the National Population Policy 2000, which unequivocally supports a target-free approach and explicitly focuses on education, maternal and child health and survival, and the availability of health-care services, including contraceptive services, as key strategies for population stabilisation. The logic and rationale for this global and national articulation against incentives and disincentives, and in favour of the developmental measures mentioned above applies as much to Uttar Pradesh and other States today as they did when these policies were formulated.

Signs of stabilisation

Consider the rationale below with the facts as they stand:

The population of India, and Uttar Pradesh is on the road to stabilisation regardless of coercive policies such as the two-child norm. The fertility rate for Uttar Pradesh (National Family Health Survey, or NFHS-4) is 2.7, compared to 3.8 10 years ago (NFHS-3). This trend is correlated with improvements in health indicators for the State, such as infant mortality rate (IMR), maternal mortality ratio (MMR) and malnutrition, in the same period.

There are many States that have attained the replacement-level fertility rate of 2.1 by NFHS-4 such as Andhra Pradesh, Gujarat, Himachal Pradesh, Karnataka, Kerala, Maharashtra, Odisha, Telangana, Tamil Nadu, Uttarakhand, West Bengal (excluding Union Territories and some northeastern States); all of which have much better development indicators. For instance, by NFHS-4, child mortality rate in Uttar Pradesh is 78 compared to seven in Kerala

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and 27 in Tamil Nadu. Women with 10 or more years of schooling stand at 33% in Uttar Pradesh compared to 72% in Kerala and 50% in Tamil Nadu. Thus, there is much scope for acceleration of population stabilisation through better delivery of health and education services.

Issue of child sex ratios

Second, one of the greatest concerns with coercive policies such as the two-child norm is their potential impact upon child sex ratios in a society that has such a high preference for male children. That this concern is only too real is well demonstrated by the example of China that had to detract from its stringent one-child norm, first in favour of a two-child norm and then to remove targets altogether, after experiencing a disastrous reduction in its child sex ratio. Considering that Uttar Pradesh is amongst the worst across Indian States, with the lowest child sex ratio of 903 compared with 1,047 in Kerala and 954 in Tamil Nadu, and that; unlike other development indicators, this has deteriorated in NFHS-4 compared to NFHS-3, why it would want to take such a foolhardy misstep is hard to understand.

The correlation between poor socioeconomic status and family size also impacts the potentially discriminatory effect of the proposed measures upon communities that house the poorest of the poor, such as the religious minorities and Dalits, as already pointed out by many. Leaving these communities out of political and administrative spaces as well as curtailing their access to welfare is hardly likely to advance any kind of social justice or equity.

In our experience with poor communities that are often blamed for not exerting population control, a vast majority are keen to receive and actively seek contraceptive services. With an unmet need of 18% in Uttar Pradesh (as compared to, for example, 10% in Tamil Nadu), it is the State that is failing to provide a service at all to almost a fifth of its people that actively seek it, and services with quality to a far higher percentage. If the law has to be used to correct the situation, why do we not see a move to enact 'the Right to Healthcare' as being demanded by health groups for decades? And why do we not find penalties upon the State for failing to provide services on demand within a reasonable period of time within this law itself?

We still have memory of hundreds of lives needlessly lost and human rights violations in almost criminal sterilisation 'camps' that the Supreme Court of India had to step in to regulate (*Devika Biswas vs Union of India & Others*, Petition No. 95 of 2012). Most recently, a disabled man from a village in Uttar Pradesh was lured into going for a COVID-19 vaccination and was forcibly sterilised instead to fulfil targets.

A wrong path to follow

Clearly, as is evident in so many antiquated 'control' measures the state has been displaying in recent times, the Government has no trust in the ability of its citizens to take well-reasoned steps for their own welfare. Rather than do its job as a supporter of these decisions, and a duty bearer towards their rights, the state visualises itself as a paternal figure that must 'control' a recalcitrant immature populace at best, and a policeman wielding the law as an instrument of imperiousness at worst. This irrational and ill-considered proposed Act should be retracted forthwith if the Uttar Pradesh government has any appreciation for the collective understanding based on decades of scientific evidence of what does and does not work for population stabilisation. Instead, we are seeing other State governments displaying signs of following its lead. Clearly, it is easier for our governments to blame the victims of maldevelopment and apply penalties upon them than be held accountable for their own failures in delivering basic services of health and education.

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