

## **Critical Analysis of UP Population Bill, 2021**

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### **I. Introduction**

In a world where every country is introduced by its defining features, India is infamously known for its ever-growing population- a fact that is undeniable after the spontaneous growth our country has experienced in the last few decades. Due to this very reason, India also stands as the ‘youngest’ country in the world – with over 62% of its population lying in between the working-age group, according to the data collected by the United Nations Population Fund, India.<sup>1</sup> However, this also causes the risk of overpopulation that India is already facing, according to many reports and intellectual people.

Overpopulation is a phenomenon caused due to the burst of the population in a region that not only puts a strain on the environment of the region, but also results in a higher risk of mortality and competition among the said population. This, in turn, results in many people being left in below-average living conditions while the top of the food chain is ruled by the privileged ones who exploit nature to its limit. This is something one can already relate to the conditions in India, with how poverty runs rampant throughout the nation and population keeps on increasing, putting a strain on India’s ecosystem as the nation tries its best to accommodate the growing needs but unfortunately fails to do so for everyone.

The strain on nature caused by such exploitation and growing needs, permanently damages our environment – one that would make our planet inhabitable for future generations, if we don’t address and do something about it as soon as possible. This is why the State Government of Uttar Pradesh had decided to introduce a Bill in the Parliament to address and solve this issue: The ‘Uttar Pradesh Population (Control, Stabilization and Welfare) Bill, 2021’, that aims to lead the state to the path of more sustainable development due to limited ecological as well as economical sources at hand.

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<sup>1</sup> *Data Overview of Population in India*, United Nations Population Fund, Aug. 12, 2021,, <https://www.unfpa.org/data/IN>

## II. Measures to control overpopulation

As the name of the Bill suggests, the legal provisions in the said Bill are enacted in such a way that it promotes the ideology of the ‘two-child norm.’ The entirety of its provisions has attempted to create a system that rewards the ones who follow its provisions while punishing the ones who don’t – a system of benefits and incentives to promote the ideology of a small but well-planned family.

In Chapter 2 of the Bill, provisions in relation to such benefits and punishments are mentioned – starting with Section 4 that covers the benefits received by any public servant who follows the two-child norm and goes through willing sterilization of themselves or their spouse. The aforementioned section mentions the incentives that include but are not limited to:<sup>2</sup>

- Two additional increments during the entire service of the said public servant;
- Subsidy towards the purchase of any land or house site from Housing Board or Development Authority;
- Soft loan for construction or purchase of a house on low rates of interest;
- Rebate on charges for basic utilities like water, electricity, house tax, etc;
- Fully paid maternity/paternity leave extended up to 12 months;
- 3% increase in the employer’s contribution Fund under national pension scheme;
- And lastly, free health care facility and insurance coverage to the spouse of the public servant.

Meanwhile, in Section 5, the Bill covers the benefits procured by the public servants sterilizing themselves or their spouses after one child only; their incentives including all the ones mentioned above but also the additional ones that include:<sup>3</sup>

- Two more increments in addition to what is mentioned in Section 4;
- Free healthcare facility and insurance coverage by the government to the single child of the public servant till they attain the age of 20 years;
- Notable preference will be given to single child in admission in all governmental education institutions;
- Guaranteed free education up to graduation level as well as a scholarship for higher studies in case of the single child being a girl;

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<sup>2</sup> Uttar Pradesh Population (Control, Stabilization and Welfare) Bill, 2021, section 4, Bills of Uttar Pradesh State Legislature, 2021 (India).

<sup>3</sup> *Id.*, at section 5.

- And last but not the least, notable preference given to single child in case of government jobs.

While Section 4 and 5 deal with the public servants, Section 6 and 7 deal with the general public. Section 6 mentions that any person following the two-child norm prescribed by the Bill other than a public servant shall be given the benefits of procuring a soft loan with low interests for the construction or purchase of a house, rebate on the charges for basic utilities as mentioned above and given a fully paid year of maternity/paternity leave from their job.<sup>4</sup>

The part second of section 6 also mentions the benefits given to the non-public servants who have followed the one-child policy, which includes the above-mentioned benefits in the first part of the said section and also the additional ones that are free health care coverage and insurance to the single child till the age of twenty, preference given to the single child in admission to all governmental education institutes as well as jobs and lastly, free education up to graduation level of the single child – which includes a scholarship if the single child is a girl. Along with this, any other provisions or policies later introduced by the government shall also be applied to both the public servant and non-governmental workers.<sup>5</sup>

Meanwhile, section 7 of the Bill addresses specifically to the couple that is living under the poverty line but decides to follow with the one-child norm, stating that they shall be eligible to get 80,000 rupees in the case the single child born was a boy and 1 lakh rupees in the case of a girl child.<sup>6</sup>

The Bill intentionally gives such attractive benefits to the ones following its provisions – creating a reward system so that people might be more inclined to follow such strict laws. However, to decrease the number of people who may not follow these provisions, the Bill also allots punishments or ‘disincentives’ in its sections 8 to 12.

The disincentives suggested by the provisions for anyone who fails to follow this Bill after its commencement are given as below:<sup>7</sup>

- Section 8 states that such persons shall not be eligible for any of the benefits mentioned in Section 4 to 7. Furthermore, adding that these people would also be debarred from

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<sup>4</sup> *Id.*, at section 6, cl. 1.

<sup>5</sup> *Id.*, at section 6, cl. 2.

<sup>6</sup> *Id.*, at section 7.

<sup>7</sup> *Id.*, at sections 8, 9, 10, 11 & 12.

any kind of government welfare schemes along with having a limit of ration card up to only four members;

- Section 9 addresses the debarring of people with more than two children from contesting in the election;
- Section 10 states that any such person would face restrictions on government jobs, and they would not be eligible to be considered for one;
- Section 11 of the Bill further adds that any such person working in the public sector may also be debarred from any sort of promotions in their work;
- Section 12 adds the provision regarding debarring from any subsidies provided by the government.

The rest of the Bill focuses on the exceptions of multiple births (in case of twins, triplets, etc at the second pregnancy), death of a child, adoption, disability as well as for those who got pregnant just before the commencement of the Bill as an Act. The Bill also addresses polygamous marriages as well as how the children would be accounted for in such cases.

### **III. Criticism**

As the Bill was introduced in the State Parliament a few months back, the response from most of the people was initially positive, many firmly believe that overpopulation is a very serious issue, and this Bill might help to curb the said issue in the upcoming years. The state of Uttar Pradesh had been reported to be the most populated state by the 2011 Census,<sup>8</sup> with a staggering population of almost 20 crores back then. Currently, according to the latest report given by the Aadhar India Unique Identification, the population of the said state has already surpassed 23 crores and is still increasing exponentially year after year.<sup>9</sup>

With this in mind, the current state government of Uttar Pradesh had followed through with the introduction of the Uttar Pradesh Population Bill in the state parliament, while allowing the public to mention their suggestions in an online portal for the gap of one week.

However, while all this may sound balanced and well-placed, the Bill soon garnered a lot of criticism from both the people and many experts, highlighting how it crosses the line of

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<sup>8</sup> Census 2011.co.in, *Uttar Pradesh Population data 2011-2021*, Aug. 14, 2021, <https://www.census2011.co.in/census/state/uttar+pradesh.html>.

<sup>9</sup> 2021, *State/UT wise Aadhaar Saturation*, [pdf] Aadhar India Unique Identification, p.1, (August 14, 2021), <https://uidai.gov.in/images/state-wise-aadhaar-saturation.pdf>.

constitutionality by restricting people's reproductive rights which is a fundamental right enshrined by the Indian Constitution under the Right to Life and Personal Liberty.<sup>10</sup>

People also highlighted how the Bill might promote discrimination against disabled or transgender children as they do not conform or are included in the said Bill. By including transgender, disabled and deceased children in the same criteria and exempted from the two-child policy, the draft Bill invalidates trans people and treats it as a disability; leaving the window open for emotional abuse and neglect to both disabled and trans children as their parents focus on trying for another child to replace them.

Moreover, many also point out that Bill's leaning towards only married couples causes the children out of wedlock or pregnancy in case of rape victims to be overlooked; giving a window to people to exploit the said loophole. In addition to that, this has also caused many to address the glaring fact that this Bill might cause many social evils to be brought back to Indian society, which includes sex-selective abortions, abandonment or human trafficking of the girl child, as well as the homicide of young children to maintain the 'two-child policy' prescribed by the Bill.

What many may also miss is that this Bill essentially causes the body autonomy of a female to be lost – making them vulnerable to the hands of their spouses and in-laws who may force them to abort a child or go through sterilization against their will. This, in the end, would cause a great deal of emotional and physical trauma to the woman, which would be ignored under the burden of societal pressure and expectations from her.

In addition to this, the Bill ironically only focuses on sterilization as the only contraceptive, which is not only irreversible but also more of a complete 'full-stop' to the reproductive life of a person. This would result in a lot of issues in case the only child of a married couple dies. And while they may still have the option of adoption, with how the Indian society prefers their 'own blood' as their heirs, this would result in the abandonment of the wife or an extra-marital affair.

Furthermore, while the Bill promotes the idea of safe abortion, it also leaves a huge opportunity for unsafe abortion or unsafe delivery of a child for the purpose of trafficking or to hide the number of children one legally has. This may not only be dangerous for the mother but also the unborn child.

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<sup>10</sup> INDIAN CONST., art. 21.

#### **IV. Conclusion**

While the overall principle and ideology behind the Bill sound practical and quite noble, the issues that would arrive in the path of implementation of such a Bill makes it seem more idealistic than one may initially imagine.

The best way to improve the implementation of the Bill may be to introduce more ways of contraceptives like condoms, pills, and hormones and normalize the idea of using them among the Youth. Furthermore, the focus of the Bill should be changed from the two-child policy to safe contraception and actual family planning – including introducing proper sex education among the schools to normalize the biological aspect of a human. This would not only help in spreading awareness regarding safe sex but would also help in teaching the Indian population the usage and importance of contraceptives as well as sexual diseases and other such aspects of reproduction.

In the end, an aware and educated public is more inclined to understand the issue of overpopulation and step towards the path of sustainable development than an unaware or uneducated one.