



Short Article

Population Control: Issue of Yesterday, Problem of Today and Challenge of Tomorrow

Aditya Singh¹

¹Amity Law School, Noida

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Abstract: *The Indian population has been growing at fast rates. The total landmass of the nation is limited, the availability of community resources is finite, and the current prevalence of rising pollution everywhere in the country is a threat. Rapid population growth is a grave concern for the existing humans but also for the environment. The consequences of such actions are triggering climate change, global warming and over-exploitation of resources. Many animals and plants have become extinct, and we are losing green cover at an alarming rate. The primary reason for deforestation is to accommodate human settlement. The marine biological resources have depleted due to overfishing, mercantile transportation and mining. Today, India faces land, water, and air pollution, which causes life-threatening diseases such as cancer, tumor, and organ failure. Many polluted cities of the world are in India. Keeping these factors in mind, the Indian state of Uttar Pradesh, the most populated globally, has decided to propose a law to control the population. The thought is very noble, but the provisions may not be doing justice to this complex issue. This article aims to examine the population control regime of the country.*

Keywords: *Population, Control, Pollution.*

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1. Introduction

In 1976 the Constitution was amended to add “population control and family planning”¹ as a new subject in the concurrent list. Over the years, various governments had tried to take steps to control the rising population effectively. A breakthrough came with implementing the National Population Policy of 2000 (NPP), which aims to tackle the increasing population by 2045. Although this policy focused on qualitative methods to control the population through health, education, and access to contraceptives, it has not been a complete success but didn’t fail either.

An increase in education level, development, and growth demand new policies and laws to tackle this issue efficiently. Moreover, in recent years the population increase has created new problems for us in the forms of pollution, overexploitation of resources, and endangered lives of animals. In the last twenty years, Delhi has turned from the greenest capital to the most polluted city globally.

The population of India has grown over 3.35 times since its independence.² Today 28 percent or 364 million people are estimated to be living in poverty³. This number exceeds the Indian population of 1951, which stood 340 million at that time⁴. The rampant increase in the population requires more and more people to be provided with food, clothing, and shelter. Consequently, the Constitution binds the government to work for the welfare of the people. The Indian Constitution Article 21 has evolved over the years to facilitate the same. Today right to food, right to livelihood, right to health, and right to education have been made different facets of it by the Indian supreme court.

Pollution growth has been predominant in the last ten years. The rising pollution in the urban and rural areas poses a serious threat to the health of people. Today 84 percent of the people live in areas affected by air pollution, and the studies show continuously residing in such regions reduces life expectancy rates by five years⁵. Landfills are overflowing, and improper waste management has turned these landfills into mountains

¹ Constitution (Forty-second) amendment Act 1976, Entry 20-A

² Dr. Anubha Rastogi, ‘Demography’ (*National Health Portal*, 1 August 2019) <https://www.nhp.gov.in/demography_pg#:~:text=At%20the%20turn%20of%20the,3.35%20times%20since%20independence> accessed on 13 July 2021

³ Richard Mahapatra, ‘Mass Poverty is back in India’ (*Down to Earth*, 7 April 2021) <<https://www.downtoearth.org.in/blog/governance/mass-poverty-is-back-in-india-76348>> accessed on 13 July 2021

⁴ Susmita Pakrasi, ‘75th Independence Day: History, Significance and Rare Facts’ (*Hindustan Times*, 15 August 2021) <<https://www.hindustantimes.com/india-news/75th-independence-day-history-significance-and-rare-facts-101628825261627.html>> accessed on 19 July 2021

⁵ Neetu Chandra Sharma, ‘Air pollution shortens average Indian life expectancy by Five Years’ (*Live Mint*, 29 July 2020) <<https://www.livemint.com/news/india/air-pollution-reduces-average-life-expectancy-in-india-by-five-years-11595990281817.html>> accessed on 14 July 2021

of garbage⁶; we are generating 62 million tonnes of waste per year. By 2030, Urban India will generate 165 million tonnes of waste⁷. The management of land pollution is inadequate, and considerable measures are required to tackle it now. In future, if no action is taken, then the situation is expected to worsen. 80% of India's water is severely polluted because we dump raw sewage, silt and garbage into the country's rivers and lakes. As a result, in many places, water is declared unfit for human consumption and as a result population having to rely on illegal and expensive sources.⁸

The increasing population has put pressure on the natural resources in the country. Over these years, forest cover has decreased significantly, which has endangered many animals living in it. Moreover, the reduced forest cover has profound climatic implications. In addition to it, if we keep on encroaching forest land like this, we have to face health implications. Practically human lives depend on trees; if we keep on cutting them indiscriminately, in a sense, we are slowly killing ourselves too. The ecological effects of deforestation are known to all, and the schools' curriculum has chapters dedicated to it. Geologists have created an unofficial unit called the "Anthropocene epoch" to describe human intervention into the environment causing global temperature increase. This unofficial unit documents plight of the earth started after 1950, and this period is sometimes known as the Great Acceleration, carbon dioxide emissions, global warming, ocean acidification, habitat destruction, extinction, and widescale natural resource extraction are all signs that we have significantly modified our planet⁹.

In totality, all of these environmental problems are interrelated. The rising human population triggers this chain of events. If we have to tackle ecological issues efficiently, we need laws that can effectively limit population growth. In few years, we will see India becoming the most populated country, much ahead of the prediction of 2045 in the NPP.

The landmass and resources are limited. Therefore, in future, it will not be enough to sustain the rising population. The implications of the same are visible and known to us. Hence, if people cannot stop this population explosion, the government's intervention to decide the family composition in numbers becomes

⁶ Helen Regan & Omar Khan, 'India's trash mountains are a fetid symbol of the Country's Plastic Problem' (*CNN*, 8 June 2019) <<https://edition.cnn.com/2019/06/07/asia/india-plastic-waste-intl-hnk/index.html>> accessed on 14 July 2021

⁷ Rohit Aggarwal, 'Waste management crisis in India' (*Recycling Magazine*, 6 May 2020) <<https://www.recycling-magazine.com/2020/05/06/waste-management-crisis-in-india/>> accessed on 14 July 2021

⁸ Anna Sharudenko, 'How Water Pollution in India Kills Millions' (*Borgen Magazine*, 14 July 2020) <<https://www.borgenmagazine.com/water-pollution-in-india/>> accessed on 14 July 2021

⁹ Katie Pavid, 'What is the Anthropocene?' (*Natural History Museum*) <<https://www.nhm.ac.uk/discover/what-is-the-anthropocene.html>> accessed on 27th August 2021

necessary. Such legislation will ensure the future of our upcoming generations and improve the lives of the current generation fifty years ahead in time. However, in a secular and diverse country like India, it becomes difficult to frame such class of legislation. Different personal laws, family beliefs and lack of education can be roadblocks to enforce an effective law. Thus, the uniform applicability of such a law becomes highly challenging. If such a law disregards personal beliefs, it may violate fundamental rights, and the Apex Court may declare it unconstitutional.

2. Challenges to Population Control Measures

The population increase in India can be tied to the prevailing patriarchal structure and so-called religious norms. To control the population, we have to break the patriarchal chain. For example, people still believe that role of women is to give birth and do household chores. One of the significant challenges to tackle population control has been child marriage. Though governmental efforts have significantly reduced child marriages, the same could not break the population explosion. Even today, India accounts for the majority of child marriages in the world¹⁰.

There are many pseudo-religious norms that religious preachers pass off as holy text without any base and reasoning. *For example*, spiritual guru's demand people to give birth to four children to maintain "demographic religious stability". We need to understand the health and economic implications of having such a large family from all angles. Firstly, the family's standard of living will be low, access to basic necessities of life will be a luxurious task, access to education will be challenging, and there will be no income savings. Lastly, the government's duty to reduce poverty, increase education, provide jobs, and facilitate housing will become unachievable.

India is one of the biggest economies in the world but one of the poorest in *per capita* income. The large population has made income inequality widespread. Today affording good health and education is no less than a luxury for the citizens. The jobless are high in number. The rapid economic growth rate will become infructuous if we cannot control our population in the long run. The issue of population control can become political, the government needs to make every effort to avoid the same, but it will be a complicated task. Few

¹⁰ UNICEF, 'Ending Child Marriage and Adolescent Empowerment' (UNICEF) <<https://www.unicef.org/india/what-we-do/end-child-marriage>> accessed on 14 July 2021

people should not play with women's health and family welfare for just mere votes. Hence, the need of the hour is to mobilise all sections of society, especially women.

3. The Judicial Stance

The judicial deliberations surrounding population control matters is not transparent. The courts have not discussed this issue extensively, and the available judicial precedent is limited, unclear and incomplete. In 2019 a Public Interest Litigation was filed in Delhi High Court¹¹. The Court was prayed to give directions to implement a two-child policy, implement recommendations of 24th National Commission and direct Law Commission to make a comprehensive report on population explosion. The High Court dismissed the petition on the following grounds –

- a) Population Control is within the domain of the Governments.
- b) This law is nothing but the people's desire, and it should be considered at Parliament and State Legislatures.
- c) Both Parliament and the State Legislatures have developed individual mechanisms for the enactment of the law and the commission giving recommendations.
- d) It is for the Parliament or the State Legislatures to enact the law as per the Commissions' recommendations.

The High Court also termed it a 'peculiar circumstance' for it to consider making law for the same. The appeal to the order of the High Court is lying pending in the Supreme Court. The decision of the Apex Court may take some considerable time (considering the epidemic situation). The reasoning of the Delhi High Court is flawed because we have crossed limits of peculiarity and are standing in a grave danger area from which coming back may not be impossible, if not ignored.

The Apex Court in *Maneka Gandhi v. Union of India*¹² said that the "right to life should not be degraded to mere animal existence". The rising population is a threat to human existence in the long run. Many scientists believe overpopulation leads to overconsumption of resources. If the population is not brought under control, then human extinction is a possible reality¹³. Although the successful implementation of such a policy will take

¹¹ *Ashwini Kumar Upadhyay v Union of India* W.P.(C) 6259/2019

¹² *Maneka Gandhi v Union of India* AIR 1978 SC 597

¹³ Eve Savory, 'VHEMT: The case against Humans' (*CBC News*, 4 September 2008)

decades before the results are visible, the courts should understand addressing this issue in the future on an emergency basis will not be logically possible. Judicial activism to address such problems becomes a need of the hour. It will not be wrong to conclude that population control has not been taken very seriously by the Indian Judiciary; their current stance dictates a conservative approach towards this issue. Courts should be more open to futuristic problems timely, so these issues do not violate society of their fundamental rights. If the court had intervened in rising pollution matters twenty to thirty years ago, it would not have become such a grave issue.

4. Analysis Of Proposed UP Population Control Bill, 2021

In 2008 the Indian state of Kerala tried to make a two-child policy¹⁴ but did not proceed with it due to political reasons. However, after thirteen years, another Indian state of Uttar Pradesh, which has a population of more than two hundred million, has taken a commendable step in this direction. If UP Population Control Bill, 2021 (*hereinafter referred to as 'Bill'*) becomes the state's law, it will be a historic step in this direction. The scheme of the Bill is that in totality is that married couples should not have more than two children.

The Bill aims to give benefits to people who have two or less children after the commencement of this law. The government servants who undertake voluntary castration will get specific benefits. If they decide to have only one child, they get additional benefits. At the same time, people living in poverty who undertake voluntary castration will get monetary incentives. The Bill enlists certain exceptions to the rules of twin birth, death, disability, and adoption. The Bill also limits ration card beneficiaries to four units and provides certain disadvantages on them. The Bill respects the personal laws of the people and tries to balance polygamous and polyandrous marriages. In such relationships, either father or mother who has more than two children will face disqualification, not their other spouses or children. The Bill also emphasises on governments duty to promote contraceptives and include population control in the school curriculum. This part focuses on furthering the agendas of NPP.

This draft of the Bill suffers from few defects. The Bill does not consider the divorced couples, and its definition of the couple does not consider the live-in relationships in its purview. Furthermore, the bill does not penalise those who, despite taking advantage under this law, may misuse it in the future because castration

¹⁴ G Ananthakrishnan, 'In Kerala, having a 3rd kid may invite Penalty' (*Times of India*, 30 July 2008) <<https://timesofindia.indiatimes.com/city/thiruvananthapuram/in-kerala-having-a-3rd-kid-may-invite-penalty/articleshow/3303828.cms>> accessed on 15 July 2021

can be reversed. In such cases, if a third child is born, will the government take benefits back? If yes, then how? Since no legal base exists in the Bill.

The idea of this Bill assumes that all of the ‘couples’ are dependent upon the government for everything. If any legislation has is made, we must keep in mind that it should be uniformly applicable to everyone, irrespective of their economic statuses. Currently, this Bill is doing nothing to regulate the middle class, upper-middle-class, and high class since the level of education is high. Still, the government should not leave potential loopholes for future exploitation. The provisions of this Bill are only regulating people who are in government service and couples below the poverty line.

This Bill requires particular modifications to make it more effective. Firstly, the bill should consider children of individuals from previous marriages, live-in couples, and adulterous relationships. In addition, the Bill should focus on limiting the person’s rights so that all types of relationships come under the scrutiny of this law. Secondly, the Bill should introduce hefty fines for the person who has their third child. Thirdly, uniform enforceability of this law towards all sections of society. Finally, the Bill should have penalty provisions for those who have taken benefits under this law to reverse the same if they break it. In all other cases, the Bill should have penalty clauses that can empower the authority to collect hefty fines from the couple or the person as the case may have more than two children. Population control education should be able to promote rationality and reasonability in society. Furthermore, sex education needs to be enabled because population control education and sex education go hand in hand.

5. Conclusion

The rising human population is a grave threat to all of us today. We have wiped off many species of plants and animals from the planet in the name of development. The destructive path that we are taking has reached a point where pollution and environmental issues have now started to consume us. Although every part of our country and this world is battling different consequences of environmental degradation, this is still not stopping us from cutting forests and polluting water bodies. In addition, every year, we see more deadly droughts, floods, avalanches, and storms. The increasing human population forces us to overexploit natural resources and become a leading cause of all these problems.

The Central Government should consider bringing a National Population Control Bill that is implementable throughout the country. The initiative on the state level is a good start but, this approach will not reap many benefits in the long run. Nevertheless, this is a national issue, and the Central Government is duty-bound to

act for the future of our existence today. We have twenty-eight states and eight union territories. Bringing a consensus in each state, then making a law is a time-consuming process. Therefore, timely implementation of this law is its essence.

The population control laws that central and state governments may bring in the future should not become arbitrary to any community. While implementing these laws, the fundamental rights are being reasonably restricted, and such action is done to ensure the greater good of society. *For example*, every person has the right to make a family and have children, and these legislations do not take away a person's right to make a family in any way. The restriction on having children does provide a limit, but the same is being done to ensure the future generations can also have a family of their own in the future. The critics may say why to care and look after rights of those who will come into existence after 40-50 years, and they should understand that the trends that currently we are following are a path of our destruction. Future generations should not have to deal with the issues that our mistakes have fuelled. Insensitivity and selfishness should not become synonymous with our names in future.

The benefits of these types of legislation will start to show results after 20-30 years. It should not discourage parliament from making a full-fledged law because somewhere, it has to start. After all, this issue goes beyond elections. The increased participation of women, children and other sections of the society should be one of the main agendas for the policymakers, and this can limit the politicisation of the issue. These laws can potentially change the country's historical demography in the long run and be free of any discriminatory motive. The goal of such measures is to move towards population stability. It will be commendable if the union government can come up with a legislation much earlier.