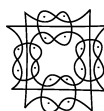


Beyond NUMBERS

implications of the two-child norm



Sama

Resource Group for Women and Health

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Introduction

The adoption of the 73rd and 74th constitutional amendments in 1993 has been widely acknowledged as a landmark in the evolution of local governance in India. To ensure democratic participation of people in local governance, the Act - commonly referred to as the Panchayati Raj Act, made it mandatory to reserve seats in Panchayats for oppressed sections of the society. One-third of all seats were reserved for women, and seats in proportion to their populations, were reserved for scheduled castes and scheduled tribes.

However, after almost a decade, various state governments have introduced certain amendments to the Panchayati Raj Act that have ignored the basic vision and purpose of Panchayati Raj Institutions (PRIs). These amendments, fired by an increasing anxiety about population growth, give unbridled powers to the local administration to disqualify those PRI representatives who have more than two children after a stipulated date. Such disqualification of democratically elected people's representatives on the basis of a charge that has little to do with local governance, defies the very ethos of democracy and participation.

Such amendments only demonstrate how, in the name of protecting 'national interest', the state has pervaded the most private sphere of the individual, chaining one's personal choices through norms and rules. In the case of *Javed & Others vs State of Haryana & Others*, the Supreme Court ruled, "in our view, disqualification on the right to contest an election by having more than two living children does not contravene any fundamental right nor does it cross the limits of reasonability..." This can be counted as a glaring example of state autocracy.

For most policy-makers in India, the challenge remains to bring the Total Fertility Rate (TFR) down from its current level of 3-4 to a level near 2. However, none of them pauses to think about contextualising the reasons of the high fertility rate, nor do they realise the impact of their policies. This limitation is increasingly reflected in the way problems are perceived and solutions formulated. Notwithstanding the lengthy debates and discussions between social scientists, activists, media and policy-makers, a significant portion of the society and primarily the state continues to believe that India is 'exploding' with population.

Faced with this perceived threat of overpopulation and hence depletion of resources, the State continues to favour coercive population policies. A direct outcome of such thinking is the formulation of the two-child norm policy by several states. Madhya Pradesh is one of the states that has formulated its own State Population Policy (SPP). In addition to this, it has incorporated an amendment in the Panchayati Raj Act adding 'two-child norm' as a conditionality to contest elections and hold elected offices.

Sama's commitment towards human rights issues, especially of women and marginalised sections of the society, and concerns over coercive population policies has provided the motivation to undertake this study on the implications of such a norm.

This study has tried to capture how the amendment impinges on the rights and dignity of the individual. A conscious effort has been made to highlight the predicament of the individuals, their sense of outrage, anxiety, trauma and helplessness in the face of state control. The subsequent chapters of the report will provide a genealogy of population policies, the state's role in controlling population, impact of the policy among the dalits, adivasis and women representatives in the Panchayat (Panches, Sarpanches, Upsarpanches, etc.) and concluding remarks on the present status of the two-child norm.

Chapter 1 traces the evolution of population policies in India, the influence of different international conventions that have shaped the National Population Policy and specifically looks at the Madhya Pradesh State Population Policy.

Chapter 2 establishes the context, study design and methodology of the field study that was undertaken in 12 districts of Madhya Pradesh.

Chapter 3 presents the findings of the study and the analysis thereof for a critical understanding of the impact of two-child norm.

Chapter 4 talks about the role of media in keeping the debate alive. This chapter also highlights the position of the judiciary vis-à-vis the two-child norm.

Chapter 5 is the concluding chapter, which makes significant observations on the larger consequences of the implementation of the norm. It also reflects on the strategies and responses by different civil society organisations, political parties, NGOs, etc. in protest of the norm and the current status of the movement against revoking the two-child norm in Madhya Pradesh.

We hope that this report will provide a comprehensive understanding of the repercussions of discriminatory laws and policies on the Panchayati Raj officials; and the far-reaching implications on the already deprived lives of the socially disadvantaged sections of the community, who are, in most cases, also economically poor.

Chapter 1

Population policies: A brief overview

India developed the first official family planning programme as early as in 1952 – just five years after independence. At that time, India's population was about 370 million and the Total Fertility Rate (TFR) was around 6. This marked a definite shift from the earlier conceptualisation of population control “as an integral part of planned development,” mentioned by the Bengal Famine Inquiry Commission in 1945. The National Family Planning Programme (FPP) was launched with the objective of “reducing the birth rate to the extent necessary to stabilise the population at a level consistent with the requirement of the national economy.”¹ This approach continued till the 1980s and was modified in the '90s to promote a Target Free and Community Need Assessment approach towards Reproductive Health. Despite this, the states continued to believe in ‘controlling the numbers’, and went on formulating coercive population policies. This is because at the heart of India's population policy is the “old, vexatious divide between people and numbers, between individual lives and targeted lives, between delivering health and selling family planning, now more euphemistically termed as family welfare.”²

Section I

The Global Discourse

India, is a signatory to various international conventions such as the Programme of Action (POA) in Vienna (1993), International Conference on Population and Development (ICPD) in Cairo (1994), Fourth World Conference on Women (FWCW) in Beijing (1995) and the UN Millennium Declaration (2000). The National Population Policy (NPP) 2000 is informed by the underlying principles of these conventions, mainly the doctrines of the Cairo Declaration (ICPD).

The ICPD marked an important milestone in the global population discourse as it made an effort to move away from the ‘numbers game’ by asserting the centrality of human development, gender equality and equity. Although the ICPD Programme of Action (POA) legitimises population stabilisation, it recommends policy approaches based on the promotion of reproductive health, informed free choice, and gender equity. It categorically rejects the use of coercion in family planning programmes and

¹ Murthy, Laxmi (2005) ‘The Population “Problem” Exploding Myths’ IndiaNest.com

² Philipose, Pamela (2001) ‘Health has now become family planning’ Indian Express

discourages the use of social and economic incentives and disincentives to reduce fertility. Principle 8, ICPD, 1994, declares, "States should take all appropriate measures to ensure, on a basis of equality of men and women, universal access to health care services, including those related to reproductive health care, which includes family planning and sexual health... and provide the widest range of reproductive health care services without any form of coercion. All couples and individuals have the basic right to decide freely and responsibly the number and spacing of their children and to have the information, education and means to do so." This realisation that an emphasis on education and welfare is a better way to lower the family size rather than punitive disincentives, led to a paradigm shift from Population Control to Reproductive Health.

Family Planning Programme and National Population Policy

The Working Group for a National Population Policy was formed in 1976 reflecting the growing consensus among policy-makers that family planning would enjoy only limited success unless it was part of an integrated programme aimed at improving the general welfare of the population. Family welfare planning was targeted at reducing birth rate with the strategy to "increasingly integrate family planning services with those of health, MCH and nutrition."³ The policy also tried to introduce 'population values' in the educational system, and "special measures were proposed to raise female education levels and organise child nutrition in an attempt to stimulate demand for family planning."⁴

Despite these developments in promoting family planning, the 1991 census results showed that India continued to have one of the most rapidly growing populations in the world. In 1991, the National Development Council set up a committee under the Chairmanship of Shri Karunakaran. This committee proposed a long-term National Population Policy, which was to take a holistic view of development, population growth and environment. The policy however could not be passed due to lack of discussion in the Parliament. The committee proposed thereafter that a National Population Policy be drafted under the Chairmanship of Dr. M. S. Swaminathan and after mobilising the Members of Parliament, requested agencies at the centre and state levels to give their comments so that the draft policy ratified by the National Development Council and the Parliament could get a wide political consensus. First, a Target Free Approach (TFA) was adopted in April 1996, which officially removed targets related to contraceptive acceptance. However, even after going through different processes in the year 1997, the draft policy could not be placed before either house of the Parliament.

³ Rao, Mohan (2004) *From Population control to reproductive health, Malthusian arithmetic* Sage, New Delhi pp 45

⁴ Ibid

In the meantime, the National RCH Programme was launched in October 1997. It emphasised on a comprehensive approach that included a 'package' of services for the prevention and management of unwanted pregnancies; promotion of safe motherhood and child survival; nutritional services for vulnerable groups; services for the prevention and management of RTIs; and reproductive health services for adolescents. The concept of RCH, according to the government, "was to provide to the beneficiaries need based, client-centric, demand driven, high quality and integrated reproductive health services."

It is evident therefore, that from the mid '90s onwards, the government decided to bring about a change in its approach by promoting advocacy, quality care and individual choice. In fact, the government itself admitted (on its official website) the failure of the target-oriented approach of population control. "The target-based system followed up to 31st March, 1996, suffered from negligence of the quality of services provided to the people under family welfare programme. The needs of the individual client were not properly met. Thus the numerical method-specific targets provided such type of demographic planning which is against the democratic ethos of the country."⁵

Hence the Cabinet set up a committee under the Chairmanship of the Deputy Director, Planning Commission. This committee conducted different rounds of meetings and invited educationists, census experts, sociologists, public health professionals and women's groups to give their suggestions and inputs. In 1999, a new draft of National Population Policy incorporating the suggestions was presented for review.⁶ Based on this, in February 2000 the government announced a new National Population Policy (NPP 2000) that upheld the principles of voluntarism and informed consent in reproductive health care provision. It asserted the government's stand of encouraging informed and cautious decision on the part of the citizens towards family planning and a target free approach.

The NPP 2000 clearly articulates that the overriding objective of economic and social development can be achieved only by improving the quality of lives people lead, by enhancing their well-being, and by providing them with opportunities and choices. The policy further affirms that the growth rate will continue to be high because of the high proportion of young people in the reproductive age group in the country, the high unmet need for contraception, as well as the fact that girls are married off too early and have to bear the burden of frequent pregnancies. With this background, the NPP proposed a plan of action to reduce population by 2010. The policy is based on a comprehensive package giving due consideration to life expectancy at birth, mother's health and the unmet need of contraception. Though the NPP mentions a

⁵ Murthy, Laxmi (2003) 'No kidding: Apex court enforces two-child norm' InfoChange News & Features

⁶ National Population Policy 2000

series of promotional and motivational measures for popularising the small family norm it is clear about the protection of the civil and political liberties enjoyed by the citizens of the country.⁷ However, it is unfortunate that the NPP's "small family norm" is often translated into the "two-child norm".

However, many of the new strategies embraced in NPP never had a chance to get off the ground. Health Watch, a watchdog coalition formed to monitor the government's commitments made in Cairo, conducted surveys in nine states and found the new approach poorly implemented.⁸ In those areas where the Target Free Approach (TFA) was tried, many officials doubted its merits and too quickly interpreted the subsequent fall in sterilisation rates as system failure.⁹

The population of India crossed the 1 billion mark on the 11th of May 2000. This occasion provided a further impetus to the public discussion on the need for a developmental paradigm in order to stabilise the population growth. However, it raised alarm within certain sectors who felt the need to reduce population at any cost. M. K. Raut, a government official from Chattisgarh state, for example, expressed this common sentiment, "We can't wait forever. The empowerment route advocated by the Cairo Declaration is a long process and we would have added another billion by then...Yes, it is coercion. But with a billion-plus people, family size is no longer a personal matter."¹⁰ This was reflected quite blatantly in the eight Private Member's Bills¹¹ pertaining to Family Welfare that have been placed before Parliament during 1999-2000. The major concern for these bills was to "control" population with no concentrated efforts towards eradicating poverty.

Following this, an anonymous 'Strategy Paper' not owned by National Population Commission or the Ministry of Health and Family Welfare surfaced in 2002 for reviewing the Family Welfare Programme (FWP). The 'unofficial official' document calls for a "realistic" examination of the current demographic situation and identifies Bihar, Madhya Pradesh, Rajasthan and Uttar Pradesh as problem states. The Paper urges "effective intervention" to bring down fertility levels in the shortest period of time. "The uncontrolled growth of population" is cited as an excuse for poor quality of health and family welfare services. In fact, it repudiates the approach adopted by

⁷ National Commission on Population, Government of India

⁸ Sharma, Kalpana, (2000) 'Forget Targets, Remember People' The Hindu

⁹ Bhatia, Rajani (2005) 'Ten Years After Cairo: The Resurgence of Coercive Population Control in India, Different Takes

¹⁰ Lakshmi, Rama (2004) 'A Choice Between Politics, Progeny in India' The Washington Post.

¹¹ Leaving no stone unturned, Bachelors' Allowance Bill 2000 introduced by Chandrakant Khaire; the Population Control Bill, 2000 introduced by U.V. Krishnan Raju; the Population Policy Bill 2000 proposed by Uttamrao Dhikale; and all others proposed to enforce multiple mechanisms to control population growth through a wide array of incentives and disincentives.

India after the ICPD. The Paper states, "The principles of advocacy, quality of care and right of individual choice may be relevant for developed countries where the population problem is absent and the health care infrastructure is well established."¹²

State Population Policies

In contradiction to the NPP, the state population policies have come up with disturbing new incentives and disincentives, which tread on the rights and health of the people, especially those having a marginal existence in the society – poor, dalits, tribals, and women. Ten states, namely Rajasthan, Haryana, Uttar Pradesh, Madhya Pradesh, Himachal Pradesh,¹³ Orissa, Chattisgarh, Gujarat, Maharashtra and Andhra Pradesh have designed their own population policies, which deter parents of two children from having a third.

The disincentives include denying ration cards and education in government schools for the third child; withdrawal of a range of welfare programmes for parents with more than two children, and debarring them from government jobs as well as from contesting elections for local-self government. The incentives give preferential access to anti-poverty and employment schemes to individuals who accept sterilisation after two children.¹⁴

States have also employed a range of new incentives to individuals accepting sterilisation, for example, preferential access to subsidised housing, food and government jobs. In addition, some states have implemented group or community incentive schemes that give people preferential access to development grants for housing, sanitation, school buildings, etc. based on collective family planning performance for PRIs, government servants and health providers. In the state of Andhra Pradesh, for example, Health Watch documented the use of gold chains as an incentive for 'attracting' women to get sterilised after having two children.¹⁵ Most shocking is a guns-for-sterilisation scheme introduced in three districts of Uttar Pradesh. This scheme promises incentives for family planning "motivators," and is directed at harnessing the exploitive power of rich, land-owning farmers. It has "encouraged" a farmer of Lakhimpur Kheri district "to abduct five labourers, drug them and get them sterilised for a revolver license in exchange". Though this scheme is quite threatening, the District Magistrate of Bareilly (a neighbouring district) is also

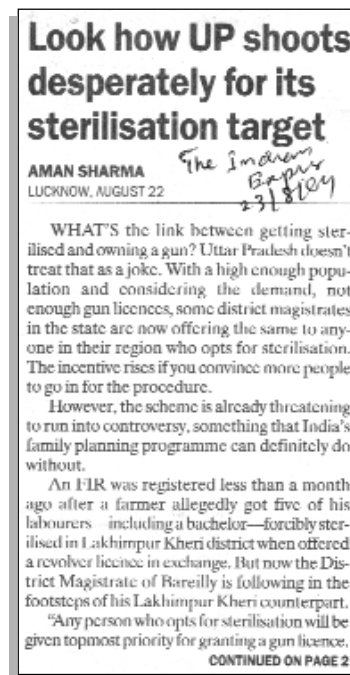
¹² Memorandum Submitted to NHRC by Women's groups in 2002.

¹³ The bill on the removal of the two-child norm has been presented and passed in the Himachal Pradesh Budget Session on 5th April, 2005 with the Chief Minister signing his consent on 13th May, 2005.

¹⁴ Health Watch (2002) 'State Population Policies' Seminar, 511, March

¹⁵ Sharma, Kalpana (2000) The Hindu

keen to "lay down the rule – If you want license for a single-barrel gun, you must get yourself sterilised, plus get one more person. For a double-barrel gun, the applicant must bring two persons. For a rifle, the applicant should get three persons and for a revolver, there should be four other than the license seeker."¹⁶ Furthermore, even though the programme is said to be target free, Uttar Pradesh had reintroduced method-specific contraceptive targets of achieving 10 lakh sterilisation and 30 lakh spacing method users per year by 2005.¹⁷ Some states also made an attempt to address social issues such as age at marriage, son preference and lack of male responsibility in contraception through population policies. However, these concerns get subsumed under the coercive language of incentives and disincentives. Uttar Pradesh, Rajasthan and Madhya Pradesh, for example, deny individuals married before the legal age of 18 access to government jobs. Similarly, the Andhra Pradesh Population Policy rewards three couples, who have been selected through a lottery system, if they adopt a permanent method of family planning after having one child or two girl children. In addition to this, many states at variance with the NPP, have come forward with legislations disallowing persons having more than two children to contest Panchayat elections and disqualified elected members of PRIs who had a third child after a stipulated date. Some states extended this norm beyond Panchayati Raj elections to cover urban local bodies, agricultural produce market committees and cooperatives, and also to exclude persons from various state-sponsored programme benefits such as loans, subsidies, poverty alleviation programmes and eligibility for government jobs. The proposal to enact the 79th Amendment to the Constitution, to disqualify those with more than two children from contesting elections clearly displays the government's faith in disincentives.



Population control through coercive measures is also reflected in various other bills. The Maharashtra State Legislative Council, the Upper House of the state legislature, approved on April 7, 2005 the Maharashtra Water Resources Regulatory Bill, which imposes a two-child family norm on farmers in the state who wish to avail themselves of irrigation benefits. The Bill, as passed by the Upper House, said that after the Bill becomes a law, farmers with more than two children will be denied access to irrigation water, and the existing irrigation benefits that they enjoy will also be cut off.

¹⁶ Sharma, Aman (2004) Indian Express

¹⁷ Para 2.4.4 from the Uttar Pradesh Population Policy

Failure to comply with the rule could result in imprisonment and a fine. However, when the Lower House took up the Bill on April 13, it caused an uproar and the government was forced to modify the clause. Instead of denying water, the government will now be charging farmers with larger families up to one and a half times more than the prevailing water rates.¹⁸

The spectre of the two-child norm comes back to haunt the country again and again. The newest strand that has been added to this coercive population discourse is the myth of the inherent threat of population explosion among the Muslim population superseding Hindus of the land, propagated by the Hindu right wing. While announcing the new state population policy in Uttar Pradesh in 2000, the Hindu Nationalist Chief Minister, R. P. Gupta, spoke unsubtly, "There are groups and communities which feel that if they go on increasing their number, they will capture power one day. Such a way of thinking has to be disincentivised."¹⁹ Gujarat's decision to impose a two-child norm also appears to be the result of similar political thinking which suddenly announced after the 2001 census that no couple in the state, whatever their caste or religion, should have more than two children.²⁰

Women groups and health groups have raised their voices against the resurgence of coercive population control measures. On March 6, 2003, a group of women representatives submitted a petition to the National Human Rights Commission (NHRC). Quoting the National Family Health Survey, 1998-99, which shows that the TFR is 3.15 for Scheduled Castes (SC), 3.06 for Scheduled Tribes (ST) and 3.47 among illiterate women as a whole, the petition says: "Imposition of the two-child norm, and the disincentives proposed, would thus mean that significant sections among those already deprived populations would bear the brunt of the state's withdrawal of ameliorative measures, as pitifully inadequate as they are." In response, the NHRC had issued a notice to the Member Secretary, National Population Commission, to "authenticate the so-called Strategy Paper and explain how anti-human rights measures, not in keeping with the National Population Policy, could be contemplated".

Women's groups have denounced the two-child norm policy as both anti-women and anti-poor²¹ and released a statement condemning the decision and demanding that the Parliament take action to force states to adhere to Cairo and NPP principles. They have also emphasised the fact that policies of 'population control' are targeted at those women, who have larger numbers of children due to complex socioeconomic

¹⁸ Bavdam (2005) Frontline

¹⁹ Tripathi, Purnima S (2000) 'New U.P. Population Policy targets minorities' The Asian Age, Vol.3, No.5, March 6, p.1

²⁰ Khanna, Renu (2001) 'Women's perspective on Population policies: Population Policy Statement for Gujarat' Medico Friend Circle Bulletin, 288-89 (July-October)

²¹ Mukul, Akshaya (2003) 'Two child norm cripples women' The Times of India, March 7,

reasons that range from immediate survival and necessity, to high infant mortality, lack of access to health services and patriarchal control over reproduction.²² In the absence of state-supported social welfare, children are the only security in illness and old age, and are viewed as additional working hands and family support, rather than extra consumers who will drain the family's resources. They also denounced the norm on the ground that it takes a step backward from the 73rd and 74th amendment of the Panchayati Raj Act that empowered women and other marginalised section of the population.

Panchayati Raj Institutions (PRIs)

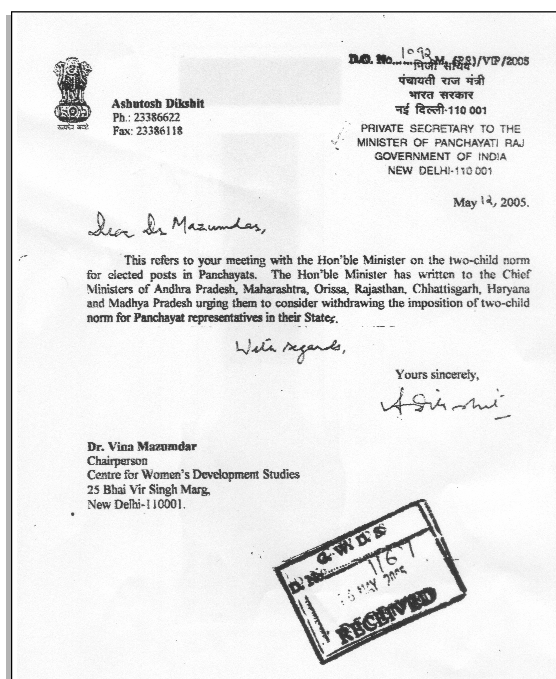
The 73rd and 74th amendments in 1993 provided rural and urban local governments with a constitutional status that they had previously lacked and reinforced this status by mandating regular elections to locally elected bodies. Further, the amendments mandated reservations of positions in these local bodies for women and for individuals from two traditionally disadvantaged (and constitutionally recognised) groups: dalits (Scheduled Castes) and adivasis (the indigenous populations of the Indian subcontinent i.e. Scheduled Tribes).

Some of the key provisions are:

- n The establishment in every state (except those with populations below 2 million) of rural local bodies (Panchayats) at the village, intermediate and district levels (Article 243B)
- n Mandatory reservation of seats in all Panchayats at all levels for dalits and adivasis in proportion to their share of the Panchayat population (Article 243D)
- n Mandatory reservation of one-third of all seats in all Panchayats at all levels for women, with the reservation for women applying to the seats reserved for dalits and adivasis as well (Article 243D)
- n Mandatory reservation of the position of Panchayat chairperson at all levels for dalits and adivasis in proportion to their share in the state population (Article 243D)
- n Mandatory reservation of one-third of the positions of Panchayat chairperson at all three levels for women (Article 243D)

²² The Hindu, August 2, (2003) 'SC ruling on two-child norm criticised'

The Central Government, on May 23, 2005, in response to these criticisms requested the Chief Ministers of Andhra Pradesh, Maharashtra, Orissa, Rajasthan, Chhattisgarh, Haryana and Madhya Pradesh to consider withdrawing the imposition of two-child norm for Panchayat members in their states. The Union Panchayati Raj Minister Mani Shankar Aiyar wrote in his letter to the respective Chief Ministers, "Adherence to this norm as a pre-qualification for election is inconsistent with the NPP 2000 and adversely affects women's empowerment, young people, dalits and weaker sections without serving the expressed intent of population stabilisation."



"We in the Ministry of Panchayati Raj feel that women in particular, whether as elected representatives or their wives are adversely affected due to the persisting lack of autonomy in women taking their own decisions." He added that given the strong son-preference in the society, any enforcement of the two-child norm on Panchayat representatives would encourage sex-selective abortion, increase discrimination against the girl child, and worsen the already declining sex-ratio. He pointed out that Himachal Pradesh, had withdrawn this "regressive clause" in its Panchayati Raj Act, and in that light requested the state governments to consider doing the same.²³

Section II

Madhya Pradesh: Profile & Population Policy

The state of Madhya Pradesh (MP) has a considerable degree of regional diversity with a large concentration of tribal population in some districts. MP has a geographical area of 308256 sq kilometres, i.e. 9.7 per cent of the total land area of the country and 45 districts with a share of 5.88 per cent of the total population. The state

²³ Letter from Ministry of Panchayati Raj to groups that had submitted a joint petition to the Ministry to withdraw imposition of two-child norm from Panchayat Members. (source:http://www.indiadaily.com/breaking_news/36531.asp)

is characterised by abject poverty, low literacy, especially among women, poor health status and other low development indicators²⁴. Total literacy rate in MP is 64.1 per cent, male literacy rate is 76.8 per cent and the female literacy rate is only 50.3 per cent, as against the national averages of 65.38 per cent, 75.85 per cent and 54.16 per cent, respectively.

In the rural areas, the employment growth rate has decreased from 3.71 per cent per annum to 0.69 per cent between 1994 to 2000. There has not been much improvement in workforce engagement. As the NSS data shows there has only been a marginal increase in casual labourers from 31.7 per cent male and 37.6 per cent female in 1993-94 to 37.1 per cent male, and 44.1 per cent female in 1999-2000.

The picture is also quite dismal in terms of women's participation in economic activities - 26.19 per cent are main workers; 37.29 per cent are cultivators and 52.77 per cent are agricultural laborers; about 50.36 per cent are engaged in household industries and 16.29 per cent are other workers (each category shows women's share in each sector) which clearly reflects the poor status of women in the state.

The state's performance in the health sector is also quite disappointing. Infant Mortality Rate (IMR) at 88 per 1000 is much higher than the national average of 68. The child mortality rate at 56.4 per 1000 is almost double the national average as per NFHS. Death rate in Madhya Pradesh is 20 per cent higher than the national average. Data reveals that it has the lowest per capita expenditure on food amongst all the Indian states.

The overall sex-ratio is 920 women for every 1000 men. In Morena district of Chambal, it is 822 women per 1000 men, 829 in Bhind, 847 in Gwalior and 858 women per 1000 men in Shivpuri. The decline in average sex-ratio is a cause for worry. In comparison to the 1991 figures in eastern Nimar, Chhindwara, Narsimhapur and Damoh districts, female ratio has been steadily decreasing in 2001. The sex-ratio of 0-6 in 2001 is 929, while in the 1991 census it was 941. The 0-6 sex-ratio in 2001 in Bhind is 829, Morena 829, Gwalior 849 and Shivpuri 909.

It is against this backdrop that the state of Madhya Pradesh introduced its population policy in 2000 with the aim of replacing the hitherto top-down approaches with bottom-up approaches for a successful implementation of policies. As stated in the MP Population Policy document, the then Chief Minister, Mr. Digvijay Singh had a vision to "create a conducive environment, empower women, and improve programme management." The main objective is to reach a TFR of 2.1 by 2011 with a significant reduction in fertility, IMR and MMR for achieving a balance between population, resources, and environment. To achieve this objective the population

²⁴ District Statistical Handbooks and Census of India 2001

policy of the state sought to engage the different stakeholders like PRIs and Urban Local Bodies, the District Planning Committee, the private sector health institutions, the corporate sector, NGOs, Cooperatives and other agencies for the implementation process.

In the name of community participation and ownership of programme, the state introduced a series of schemes. Some of these listed below have had far reaching implications for the community.

- n From January 26, 2001, persons marrying before the legal age of marriage will not be eligible to seek government employment in Madhya Pradesh.
- n Persons having more than two children after January 26, 2001 would not be eligible for contesting elections for Panchayats, local bodies, mandis or cooperatives in the state. In case, they get elected and in the mean time they have the third child, they would be disqualified from holding their posts.
- n The girl child scheme like Rajlakshmi to ensure retention of girls in schools and to prevent child marriages will be launched in the state with the help of financial institutions.
- n Awards will be given in the field of community support for population stabilisation at all levels for the best performing health institutions, individuals and Panchayati Raj Institutions every year.
- n Rural development schemes, particularly those dealing with infrastructure, will be linked with family planning and reproductive health performance.

The two-child norm for the Panchayati Raj representatives was further concretised by an amendment to the Panchayati Raj Act under section 36, D (1) (5), which states that after January 26, 2001, a person having a third child will be removed from their respective posts in Panchayats and will not be eligible to contest the elections.²⁵

Deprivation from access to government jobs and offices, and to Panchayati Raj Institutions make the already rightless persons doubly disadvantaged. That such hapless persons may have Article 21 based rights to life and equality under Article 14 of the Indian Constitution is of little or no pertinence.²⁶ The conceptualisation of social issues within the framework of coercion and the existing development paradigm therefore needs to be critically looked into.

²⁵ Dwivedi, R (2003) *Madhya Pradesh Panchayat Raj and Gram Swaraj Adhiniyam* (in Hindi) Subhidha Law House, Bhopal

²⁶ Baxi, Upendra (2005) 'Sense and Sensibility'

Chapter 2

Context, study design and methodology

Sama's work on women and health has evolved in the context of the autonomous women's movement, which tries to look at health from a larger perspective that finds linkages of women's well being with issues not only of health, but integrated with livelihood, rights, violence (societal, familial, communal and medical), food, and all larger issues that affect people's lives, especially those of women.

One of Sama's primary concern from its very inception has been to raise its voice against the prevailing anxiety about population growth and the coercive measures advocated by the state that invariably target women, and that too, poor and underprivileged women. In this regard, Sama has been active in the campaign against introduction of hazardous contraceptives on its own, and also as part of other coalitions and networks.¹ Through participation in these campaigns, Sama has consistently critiqued coercive population policies and has denounced the introduction of new contraceptive technologies in the market and family planning programme that are known to have disastrous effects on women. After several years of campaign, the movement was confronted with a difficult roadblock. The pro-injectable lobby – state, pharmaceuticals, medical establishment and certain NGOs – began to dismiss the issues raised by the campaign as baseless proclamations “of a bunch of hysterical women”² as there was a genuine lack of updated information and concrete data on the real impact of injectable contraceptives on the users. Concerned with this situation, Sama conducted a study in 2003, on the long-term effects of injectable contraceptives, specifically Depo-Provera, on the health of its users. The findings of the study, presented in a report titled “Unveiled Realities” were not only alarming, but also reiterated what women's groups involved in the campaign have been repeatedly pointing out- that these injectables have such debilitating side-effects that far from promoting them as ‘choices’ for women, they are grossly unsafe and should under no circumstance be introduced in the market or in the family planning programme.

The Two Child Norm

While working against coercive population policies, Sama has been receiving information from different states that serious human rights violations were taking place at the grassroots in the name of population control, most of which either went

¹ Sama has networks with groups like Saheli, AIDWA, Jan Swasthya Abhiyan (JSA), Medico Friends Circle (MFC) etc

² Saheli Report (1999) Enough is Enough

unnoticed or received silent approval from a section of the society suffering from demographic paranoia. Incidentally, this is the section from which planners, doctors and scientists largely come from. Concerned with this, Sama initiated work on collection and analysis of population policy documents of the different states. The analyses revealed that some of the states had developed their own Population Policies that were often in conflict with the NPP and violated the Directive Principles of the Indian Constitution, as well as several international conventions that India is signatory to. While the National Policy, after being severely rebuked for its incentive approach, has, discontinued it at least on paper, these State Population Policies propose stringent disincentives such as denying ration cards, education in government schools, government jobs, withdrawal of a range of welfare programmes for the scheduled castes and scheduled tribes, etc. Further, they propose imposition of the two-child norm that bars large sections of dalits, adivasis and the poor in general from contesting elections for seats in local governance.

The immediate concern of Sama, and other women's groups, was that far from having any impact on the population figures, imposition of the two-child norm would only provide an impetus to sex-selective abortions and female infanticide, worsening the already deplorable sex-ratio in the country.

This was a self-defeating exercise on the part of the government. While on the one hand it was championing democracy and women's empowerment by reserving a minimum of one-third of the seats for women in all local government bodies, on the other, were nullifying these by introducing the two-child norm. Sama came across enough evidence of the misuse and adverse consequences of this norm on women, through newspaper articles and through its network of grassroots organisations. Field studies in a number of states³ revealed that this mandatory disqualification led to a number of malpractices and human tragedies. They also revealed that it was the poorest and most socially marginalised women (and men)- the dalits and adivasis, who were being disqualified and removed from their seats.

Background of the Study

At the time when Sama began to receive information from the field based groups that disqualification of Panchayat members due to the imposition of the two-child norm was gaining ground in MP, a meeting was organised in Bhopal with NGOs, groups working on Education, Panchayati Raj, Health and Women's empowerment. Discussions were held on the local situation and on the impact of two-child norm on marginalised sections and other related issues. It was during this interaction that a need was felt for systematic study and documentation of these experiences, to

³ Studies by SUTRA in Himachal Pradesh; Mahila Chetna Manch in the states of Andhra Pradesh, Haryana, Madhya Pradesh, Orissa, Rajasthan; and Hunger Project in Madhya Pradesh.

strengthen advocacy efforts on the issue. In spite of a large media coverage, both at the regional and national level, Sama realised that reactionary reporting only brought out certain individual cases and there was a need for substantial documentation in a systematic manner to highlight the implications of the two-child norm on the marginalised sections and particularly on women.

Study Design

Objectives

The study attempted to capture the experiences of those members (men and women) who were disqualified or had been subjected to the process of disqualification because of the imposition of the two-child norm on PRIs.

Specifically, the study aimed

- n To understand the impact of the policy on women's lives, both in the public and private sphere, and assess the extent to which the policy affected women's autonomy, their position in the family and their participation in the political process;
- n To examine the impact of the two-child norm on the political participation of the poor and the socially disadvantaged groups in society;

Rationale for selecting Madhya Pradesh as area of study

The study was carried out in selected areas of Madhya Pradesh (MP). One of the reasons for selecting MP was that other than enacting the Panchayati Raj Adhiniyam in 1993, it has been persistent in implementing the Panchayati Raj Amendment Act. It incorporated the two-child norm in January 2000 that became effective from January 2001. However, there was neither any awareness about this norm, nor any action taken until October 2001, after which the state government issued an initial list of 570 cases for the 45 districts. In Panna district, there were no cases in 2002, but 152 cases of disqualification in 2003.

As mentioned earlier, MP also has a low development index, high female illiteracy, high infant and maternal mortality and morbidity and other poor indicators of social development. Under the circumstances, a coercive population policy can only add new dimensions to the already existing problems.

Sama has a long-standing relationship with activist groups, NGOs and peoples' movements in Madhya Pradesh, who wanted to take up this issue for advocacy. However, Sama felt that before taking up the cause, a research on this issue was necessary, not only to gather information, but also to understand the depth and dynamics of the problem.

Rationale in selecting the districts and sampling size

The study was conducted in 12 districts of Madhya Pradesh - Betul, Harda, Hoshangabad, Jabalpur, Katni, Raisen, Ratlam, Shivpuri, Sehore, Sivni, Vidisha and Panna. Initially 20 districts were selected assuming that the data would be available from the official records. However, very little basic data on disqualified persons was available with the concerned authorities. Hence, these 12 districts were identified from the total of 45 districts in MP based on:

- n The official records and availability of cases;
- n Representation of Scheduled Castes, Scheduled Tribes, Other Backward Castes and General Castes;
- n Maximum number of disqualified representatives;

A list on disqualified members in 45 districts was obtained from the department of Panchayat and Social Justice in Bhopal. This list gave the number of representatives who were removed from each district. However, this list did not provide a sex-disaggregated data or a caste-disaggregated data. This created an initial hurdle in deciding on the sample size and composition of the study sample so that it would include all possible combinations of gender and caste.

District specific details were obtained from the District Collectors' offices. However, out of the 12 districts, details of nine districts only were available from the official sources. The details of the other three districts were collected from local newspapers as the disqualification list was advertised in the papers. From the available nine official lists, only two lists had a caste and sex segregated list of people removed from their posts.

The size of the sample varied from district to district based on this list and the availability and willingness of the affected to participate in the study. On an average, 10 people were selected from each district, which included men and women from different social groups.

Methodology

The study used both primary and secondary sources of data. A participatory⁴ method was followed for primary data collection through in-depth interview method based on an interview schedule, and Focus Group Discussions (FGD). Relevant information was obtained from the Department of Panchayat and Social Justice, District Collector's Office, and from the CEO of the Janpad Panchayat. Information was also sought through discussion with villagers, NGO representatives and journalists. Other sources of secondary data were newspaper clippings, policy documents, articles, research studies and legislative debates. Madhya Pradesh Bharat Gyan Vigyan Samithi (MPBGVS), an organisation working for Literacy, Education and Science for Peace, Unity and Self- Reliance, has cooperated with Sama to initiate the study and also took the responsibility of conducting the interviews in 3 districts of MP. Two other groups, the MP Vigyan Sabha and MP Jan Swasthya Abhiyan supported the initiative.

Tools of data collection

Information, was collected using both semi-structured interview schedules, as well as FGDs. The FGDs helped to collect information on the socio economic profile of the participants and issues related to the process of disqualification. Along with building a rapport with the community, FGDs also explored attitudes and perceptions related to the two-child norm, as well as political, caste and gender dynamics.

Process of gathering data

Two rounds of visits were made to inform the participants and enquire from them whether they would like to be a part of this study, and about their preferred timings for being interviewed. In many villages, three visits were made, as the affected member was not available during the initial visit.

Interviews were usually conducted late in the evening or at times when participants were not busy with work. Most of the interviews were taken in their homes. However, a few were conducted at the farms and other locations that were convenient to the participants.

⁴ Participatory study is a qualitative methodology where the participants of the study directs the flow of discussion; a more interactive tool of gathering information in comparison to questionnaire or survey method. This is based on the rationale that it is important to listen to the voices of the hitherto marginalised sections of the society since they are in the best position to explain their everyday reality.

Selection and Training of Field Staff

The field team comprised of 2 women and 2 men. The principal investigator had a long association with PRIs, education groups and social movements. She was also engaged with women's issues in the state. Field team was selected from the local area to ensure better communication and unobtrusive interviews. For this purpose, MPBGVS assigned 2 members of their local team who were engaged with issues related to education and food security. Moreover, the local investigators had the experience of working with community-based organisations.

An initial training was provided to the local investigators by Sama's research team and the principal investigator. The training covered the following aspects:

- n Understanding of the scope of the study
- n The study design
- n An explanation of the interview schedules
- n Interviewing skills

During the training, special emphasis was given to develop a perspective on gender and women's status. The investigators were updated with basic knowledge of programmes and policies, including Panchayati Raj and the politics of population policies. Mock interviews were organised to improve investigation skills. They were also trained in other qualitative techniques of data collection.

Timeline

The study was conducted between May 2003 and October 2004.

The initial month and a half of the study was spent on exploring the issue and visiting the local groups. The next one month was spent on developing the concept note and objectives of the study. The following month was spent on identifying and selecting local investigators and the primary investigator. Two more months were spent on developing the schedules and checklist, field testing and finalising these. The subsequent two months were devoted to the training of local investigators, firstly to explain the basic objectives and their role in the study, and further, to re-acquaint them with skills of interviewing and data collection. The successive four months were spent on the actual data collection from the field and on secondary data collection from different sources. Translations, filling gaps, field follow-ups and analysis of the data and report writing took another six months.

A dissemination workshop and a press conference with the affected PRI representatives, media, legal experts and local groups was organised after the study in Bhopal with the help of MPBGVS and MP-JSA.

Ethical considerations

Informed consent was obtained through an informal process of discussion, and, in some cases, through a letter explaining the objectives of the study. Care was taken to respect and protect the autonomy and privacy of the participants throughout the study. All information and records provided by them were kept confidential. During the interviews, participants were free to decline answering any question and exercise their right to discontinue being part of the study at any point of time. Some of the specific violations were presented to different tribunals for action and redressal with the approval of the participants.

Constraints and limitations of the data

There were discrepancies in the data on disqualifications from the information collected at the state level, district level and block level. Even where same information was available at the district level and state levels, there were inconsistencies between them. In several instances, actual numbers, at the district and block levels, surpassed those recorded at the state level. For example, according to the state level list Sehore had only one disqualified person whereas the block level list showed 49 disqualified candidates. There were also some disparities between people identified as Sarpanch, Panch in the lists and those who were actually executing the post at the village level. Moreover, there was an uneasiness and reluctance on the part of the officials in some districts to reveal information.

Given the sensitivities involved with the two-child norm and its implications, difficulties were encountered in eliciting responses from Panchayat members, especially women. The thin line of separation between the private and public sphere of life in the villages posed a constant challenge to the notions of privacy and confidentiality during the interviews. Though the study team devised different strategies, it was not always easy. At times there was not enough space and privacy for one-to-one interaction. Many a time, other members of the family remained during the interview and tried to intervene during the interaction. There were instances where the husband of a woman Sarpanch was identified as the Sarpanch and the entire village perceived him as the Sarpanch. In such situations, it became difficult to talk to the woman as the husband insisted that he should be interviewed. On many occasions it became difficult to speak to a woman Panch or Sarpanch as the husband refused to let her talk to the field team. In some instances, the upper castes (Patel) were found to have taken advantage of the reservation provisions by

supporting dalit women as proxy candidates. In such situations, the Patels insisted the interview to be conducted in their premises and in their presence.

There was a palpable anger among the disqualified as they were unable to see the law or the process in totality. Whether they were pro or against the norm they usually took their disqualification personally, reacting as to “why me, why not them?” Some of the disqualified candidates showed a reactionary tendency because of the humiliation they had faced due to false allegations, domestic violence, indebtedness, etc. As a result they tended to lose focus on the primary issue. It was difficult to bring them back to respond to the key issues under discussion.

However, inspite of these limitations our research team had tried to bring out as much information as possible and analyse them within the larger debates of caste, class and gender issues, and gauge the effect and implications of the two-child norm on the various socio-economic groups of the village community.

Chapter 3

Findings

The present chapter attempts to analyse the field data and reflect on the findings. An in-depth analysis revealed numerous dimensions of the so-called population 'explosion'. It reflected on how the two-child norm acted as a discriminatory method to disempower the marginalised group of dalits, women and adivasis, apart from disengaging the youth from the political process. Since it is the population in the reproductive age group, that has been affected by the two-child norm, the disqualifications has wiped out a significant number of young women and men from the elected offices. Similarly for dalits, disqualification on this basis has proved to be a weapon in the battle of caste politics, with the high caste, literate men effectively using it to lodge, in many cases false complaints, against the low caste non-literate Panches and Sarpanches. As the primary data shows, nearly 50 per cent of the disqualified candidates constitute SC, ST and OBC categories. Women too have been rendered more vulnerable and doubly disadvantaged. While on the one hand they rarely have any decision-making power regarding the number of children, they face the consequences of having an additional child since their husbands holding the office refuses to acknowledge the newborn. When the woman herself is the actual office holder, having a third child is used as a tool to usurp her authority, and in such cases the mother-in-law, or other men often replace her. The study depicts a very clear picture of the plight of women and other socially disadvantaged groups in the society.

The study has unraveled some interesting observations on the role of religion and the number of children an individual can have or may want to have. It must be mentioned here that the study team came across the issue in the course of FGDs and in-depth discussions on the two-child norm. Though the study did not foresee any religious dimension of the two-child norm, the responses by the participants initiated discussions around this issue.

Section I

Profile of the disqualified representatives

The primary participants involved in the study were representatives in PRIs who were disqualified through the implementation of the two-child norm. 128 participants were interviewed from different villages among the 12 districts.

These participants were mostly Sarpanch, Panch, or Upsarpanch, with few in posts of Councillor, Panchayat Secretary, etc. At the time of implementation of the

disqualification process, 43 were Sarpanches (28 men and 15 women); 69 were Panches (46 men and 23 women); 11 were Upsarpanches (9 men and 2 women) and the remaining 5 (4 men and 1 woman) were in posts of Councillor, Panchayat Secretary etc.

The study revealed that 56 per cent of the Sarpanches, 46 per cent of the Panches, 54.5 per cent of all Upsarpanches and 20 per cent from other posts were either dalits or adivasis (SC/ST). Nearly 50 per cent (49.22 per cent) of the total participants were dalits or adivasis (SCs and STs). In this sample, there were 3 disqualified representatives from the Muslim community but none from any other minority religious groups.

60 per cent of the landless and 65 per cent of those who owned up to two acres of land, were dalits and adivasis. In landed households, the ownership and control of land was usually in the hand of a male member of the family. Almost 69 per cent of those who earned more than Rs 1500 per month belonged to the OBC and general categories. 50 per cent of all dalits and adivasis in the study had an average monthly household income of less than Rs 750 per month, with another 35 per cent in the income category of Rs 750-1000. 87 per cent of the total non-literate participants were dalits and adivasis. 90 per cent of all the women who were non-literate belonged to dalit and adivasi communities.

The profile of the 128 persons (87 men and 41 women) interviewed clearly indicated that the norm impacted larger numbers of dalits, adivasis and women.

Section II

Key Findings

Gendered consequences of the two-child norm

"I want a future in politics. For that reason I gave away one of my daughters, who was born after January 26th, for adoption. I took this step because of my political ambition." – Male Panch, 37 years

a. Adoption

Among the 128 participants, we came across 6 instances where the third child was given away for adoption. In many cases, the women were not very keen to give away the child. But, as they did not have any decision making power in the family they were forced to comply to their husband's wish. In 5 out of these 6 cases, the child that was given for adoption was a female child.

The law has been indecisive in this regard. When some of the disqualified representatives went to court after receiving the disqualification notice, they got a stay order on the ground that they had given away the third child for adoption. However, the Apex court in 2003, during the Javed and Others vs State of Haryana and Others, held that "disqualification is attracted no sooner than a third child is born and is living after two living children and merely because the couple has parted with one child by giving it away in adoption, the disqualification does not come to an end". Following this verdict, the district courts cancelled the earlier stay order and these candidates faced final disqualification. Although this was stated by the Apex court, in reality, giving up a child for adoption was perceived as the easiest way to retain one's post in the Panchayat. For example, in the case of the above Panch - he had four sons and one daughter - the daughter, who was the last-born, was given away for adoption.

"I have three children, the youngest was born after the stipulated date. People in my area persuaded me to give one of my children for adoption." - Male Sarpanch

Although this Sarpanch's youngest child was a son born after the stipulated period, he gave up one of his daughters for adoption.

A woman Sarpanch, whose husband was a Panch, had two daughters. The third child was born in November 2001. The Upsarpanch and some Panches submitted a signed letter to the Collector for her removal. According to the woman Sarpanch, "I was pregnant prior to 26 January 2001, but did not want to abort to save my post. I gave birth to the baby. I have given my second daughter for adoption. Therefore the norm does not apply to me."

In situations where a child is given away for adoption, it is more likely to be a girl, because of the value that is accorded to sons in our society. The prevailing preference for sons to carry one's ancestral line influences the composition and family size. The fate of a girl child therefore, will continue to be compromised in one way or the other without some significant social transformation and change in gender relations.

b. Forced Abortions

During the interviews, it emerged very clearly that there were instances where husbands forced their wives to undergo abortion. Although most women could not admit this openly, a woman Sarpanch shared her experience.

"When I was pregnant with the third child, my husband decided that I should go for an abortion so that I could continue as a Panch. He took me to a doctor in a nearby town. But the doctor advised against an abortion as the baby was due soon. A baby girl was born" - MJ, woman Upsarpanch.

A recently published news report states, "One Sarpanch in Betul to save his chair has forced his wife to undergo abortion of a seven month pregnancy. This happened in October last year and at the time the police refused to file an FIR when the woman tried to lodge a complaint. But very recently, she went to the police commissioner and complained that her husband pressurised her to undergo an abortion and when she refused, she was forcefully taken to a doctor who aborted the baby. The SP has filed a case under Section 313 against both the husband and the doctor". [Translated from Deshbandhu 29th July, 2005].



c. Son Preference – Sex-Selective Abortions, Female Infanticide

We also came across responses that either blatantly or indirectly point towards a strong preference for a male child.

"It is unfair that we are being debarred from acquiring a male offspring. What kind of law is this?"

"My first child was a girl. I thought I would only have girls. But God was kind to me and now I have three children – 1 daughter and 2 sons. What more do I need?" - GP

"The government should think about those who have only daughters. I have four daughters. I hope for a son. I will be happier with a son than being a Sarpanch." – Male Sarpanch (OBC)

Although it is extremely difficult to access information on a subject as sensitive as prenatal sex determination and sex-selective abortion, cases of prenatal sex-selection have been documented. In the study, some reported cases of induced abortions and attempted abortions seem to be linked with the birth of a girl child who incidentally is also the third child.

There has been a drop in sex-ratio in specific districts of Madhya Pradesh after the inception of two-child norm in 0-6 age group. Sex-selection can be one of the reasons behind this because of the restrictions placed upon the number of children by the state. Such a norm provides an impetus for an increase in sex-selective abortions, worsening an already terrible sex-ratio in the country that has seen a steep decline in the 0-6 years age group from 945 to 927 between 1991 and 2001.

Sex-ratio for the 12 districts				
S.No	District	Sex-ratio (average)	Sex-ratio (0-6)	Sex-ratio (Age 7+)
1	Shivpuri	858	909	846
2	Vidisha	876	943	861
3	Raisen	880	943	867
4	Hoshangabad	898	927	892
5	Panna	907	932	901
6	Sehore	908	935	902
7	Jabalpur	910	925	907
8	Harda	919	926	917
9	Katni	941	951	939
10	Ratlam	959	960	958
11	Betul	965	968	965
12	Sivni	982	980	983
Other districts with low sex-ratio				
S.No	District	Sex-ratio (average)	Sex-ratio (0-6)	Sex-ratio (Age 7+)
1	Bhind	829	829	829
2	Morena	821	829	820
3	Gwalior	847	849	847
Source: Census of India 2001, Madhya Pradesh, Series 24				

The two-child norm has definitely escalated the number of forced abortions. This provides further impetus to sex selective abortion that will only facilitate further deterioration of the sex-ratio. A study of the implications of the norm by Mahila Chetna Manch in Orissa and Rajasthan highlighted that implementation of the norm has led to an increase in pre-natal sex determination tests resulting in the abortion of

female fetuses. A study by SUTRA shows that the districts with the highest juvenile sex-ratio have the highest disqualifications, while those with the lowest sex-ratio show no or very few disqualifications. This clearly shows that a two-child norm actually increases the risk of sex-selective abortions.¹ In a society with an overwhelming son preference, people can go to extreme lengths to ensure that they have sons even within the framework of such norms.

In our society where custom demands that at least one son is crucial to maintain the bloodline of the family, circumventing the coercive norm (by giving up only the girl-child for adoption) or mercilessly silencing the unborn girl-child in order to retain both social obligation and political power can result in a potentially dangerous situation with a dismally low proportion of women in the society. Under the circumstances, there can hardly be any justification of the two-child norm that is not only discriminatory for the poor but also exceptionally discriminatory towards women.

d. Desertion and abandonment of women

Sarpanch K received a notice of disqualification because of the birth of a third child in November 2001. He refuted it claiming that his wife had been living separately from him at her natal home in Uttar Pradesh since November 1999. He also declared that they had not had sexual relations since their separation and that he had divorced her on the grounds of adultery. (Navbharat Times, April 16,2002)

The present Chief Minister, Babulal Gaur, also stated that some of the Panchayat officials, to save their chair, claimed the wives to be immoral and abandoned them (Dainik Bhaskar 26th July, 2005), thereby shedding their own responsibility for the third child.

What becomes clearly visible is that women have to suffer both directly and indirectly as a result of such a norm. On the one hand, they are removed from their posts directly, and on the other, they suffer as wives of Panches and Sarpanches, who try to put the entire burden of the third child on their wives to escape the law.



¹ Das, Abhijit (2005) 'Two Child Norm: How necessary and how just?' www.sahyogindia.com

Disqualified despite failure of sterilisation

NS from Katni district informed us that a Sarpanch in a neighbouring district had a third child even after being sterilised. She was removed from her post even though she was not at fault. Though we have not come across such cases in our limited sample, in the group discussions and in the local press reports there were several instances where representatives were disqualified in spite of the fact that their last child was born because of failure of sterilisation. This is an important issue and unfortunately a reality that will haunt people as long as such a law is enforced and enacted upon.

A similar case in Haryana provides an interesting insight into this problem. MB, a Sarpanch from Haryana, had undergone sterilisation. The procedure failed and eventually she conceived her third child. As a result of the two-child norm, she was removed from the post of Sarpanch. She filed a case in the High Court, and argued that since the lapse was on the part of the government hospital where she underwent the procedure, she must not be removed from her post. The verdict that the High Court pronounced included compensation for the child, but no action was taken against the concerned authorities. The law had not acknowledged the error nor has demanded an apology or reparation from the state, even while disqualifying MB and other such representatives.

Discourages participation of younger men and women

"We were not aware, but now my mother has been made the Panch by the Sarpanch" - a woman Sarpanch.

The study also revealed that majority of those disqualified were below the age group of 30. The norm restricts the participation of younger men and women in political processes although it had lowered the age for contesting the elections from 26 to 21 years precisely to achieve this objective. As a result of the norm, it is the younger men and women in the reproductive age group who are being particularly affected. A significant portion of the young decision-makers of the nation has been removed from the power structure through this particular process of disqualification. Ironically, while younger women are being kept out of the political process, mothers of potential male candidates are being nominated for the posts vacated by younger women to fulfil the 33 per cent reservation.

This will have far reaching implications for younger women and their children and will lead to a process of disempowerment. Younger women and men, in the absence of availability and access to contraception and other health services, are likely to opt out of the process of local governance altogether. Those who wish to stay in the process will be forced to resort to different methods to escape this law.

Section III

Implementation of the disqualification process

The participants informed that the process of disqualification began on the basis of reports from the Panchayat Secretary and other members of the Panchayat. As per rules, on the basis of such a report, information is to be confirmed from birth certificate, birth registration and other related departments and an intensive enquiry to be conducted by the Collector's court to ascertain the credibility of the report. If the information is found to be correct, the representative is to be suspended from the post. The affected person can make an appeal in the High Court against the judgement.

Though not disqualified on the date of election, if any person holding any of the said offices incurs a disqualification by giving birth to a child one year after the commencement of the Act, (s) he becomes subject to disqualification and is disabled from continuing to hold the office. The disability is incurred by the birth of a child which results in increasing the number of living children, including the additional child born one year after the commencement of the Act, to a figure more than two. If the factor is disputed, the director is entrusted with the duty of holding an enquiry and declaring the office vacant. The decision of the director is subject to appeal to the government. The director has to afford a reasonable opportunity of being heard to the holder of office sought to be disqualified. These safeguards satisfy the requirements of natural justice.

Ref, Supreme Court Judgement, Javed vs Haryana, 2004

a. Lack of awareness/information about the law

"We were not aware of any such law on the two-child norm. Only when the Sarpanch told me that I was removed because I had three children, I came to know that such a law existed." – Panch SB

SB was not alone. An overwhelming number of participants said that they had no prior information about the norm; neither did they receive any communication from the authorities that such a law was going to be enforced. Most of them heard about it for the first time only when they received notices of disqualification. Because of low levels of literacy and lack of access to information, most of the participants were not in a position to enquire into the details of the law or seek clarifications. As a result, they felt helpless with the sudden imposition of the law.

b. System of notification

The study revealed that most of the representatives received notices that were issued from the Collector's office. 109 participants got written notification. Of those who had received the written notices, 12 received them by post, others received it from the office of the CEO or through the Panchayat Secretary. 12 participants had not received any notice at all and were informed verbally by other members of the Panchayat or the community, that they had been removed.

"I did not receive any kind of written order, but only a verbal communication that some investigation is to be carried out. I did not have any information about the norm." – GB, dalit Sarpanch, Hoshangabad.

"I did not get any notice. I was not aware of the two-child norm prior to being removed. I came to know about my disqualification through the newspaper." – BB, Sarpanch (General), Vidisha.

Two members had seen their names in the local newspapers on a public notice issued by the Collector's office. During the study in Betul district, we observed that in one day 42 members (Panch, Sarpanch and Upsarpanch) were issued notices by the District Collector. Those who received the notices were surprised with this sudden action from the District Collector's office. No prior intimation or information was provided to them.



c. Stipulated date of birth of the third child and disqualification

It was observed that the period of one year from the date of the commencement of the Act (January 26, 2000) was not followed in the implementation of the norm. In the study sample, several women, representatives in PRIs or wives of Panchayat representatives who were pregnant at the time of the Act's commencement, were removed unceremoniously. Fourteen such cases were found in the study.

The process of disqualification hinges upon the birth of the third child after a stipulated date. The enforcement of disqualification is postponed for a period of one year from the date of the commencement of the Act. A person having more than one child up to the expiry of one year takes care of any conception on or around the commencement of the Act is not disqualified. The postponement for one year takes care of any conception on or around the commencement of the Act, the normal period of gestation being 9 months. If a woman has conceived at the commencement of the Act, then any one of such couples would not be disqualified.

There were instances where even though the child was born before the stipulated date, the concerned representatives were removed. Nine such cases were reported in the study. One woman member had her child five days before the stipulated date and yet she was removed. LB said, "I had my third child on the 21st of January 2001 whereas the norm came into implementation from 26th January 2001. I was removed from the post. I produced the immunisation card as the proof. Since the child was born at home, the birth was not registered. They asked me to produce the birth certificate, but I could not get it." She further added, "it is an irony that to save my post I have to prove the birth of my child. I did not go to court because I could not afford it."

The study indicated that there were many instances where the age of the child or date of birth of the last-born child was disputed, records and evidence were tampered with and false certificates were provided. Four such cases came up during the study. Three such cases were found where there was a dispute over the date of birth of the last-born child. This being a rural situation, most of the children were born at home and their births were not registered. As a result, in many cases, it became a difficult exercise to prove the date of birth of the last-born child. High prevalence of home deliveries and non-registration of births also increased the scope for manipulation and misrepresentation of births.

Flawed definition on the birth of third child - Twins

"We had twins and I was removed from the post. We did not know that we would have twins. I got a stay order from the High Court. I challenged the norm on the issue of twins." – Dalit Male Sarpanch from Hoshangabad district

The applicability of the norm on the issue of twins was not addressed in the MP Population policy. Only Rajasthan Population Policy has addressed this issue. Inadequate guidance in the norm regarding such ambiguous status like that of twin creates further dilemma for the parents. In the face of disqualification this will in turn increase the incidences of scanning the birth of a child, thereby multiplying the danger for the unborn girl-child.

A study by Hunger Project in MP has observed a similar experience where a woman Sarpanch had one child when she became a Sarpanch. Later, when she had twins, she was removed from the post. This is another example to illustrate how little does the state actually think of realities before framing policies other than targeting the self-decided goals.

Abuse of power

The norm also has become an easy tool for some who wanted to settle personal or political scores. It is particularly the upper caste, upper class men who have been using the law to dislodge their rivals from their posts.

A dalit Panch shared his experience, "... I was even abused physically, but when all else failed, my rivals used this law against me. Both my wife and I have received notices. People are talking about us and taunting us. My rivals are also laughing at us."

Once the process was initiated, even if it was based on false premises, the onus was on the representative, against whom the complaint was lodged, to challenge and revoke the complaint through set processes, including legal action.

Those who were able to circumvent the norm or those who claimed that the norm could not be implemented in their case were usually those who had access to information, resources and power.

"I did not take any action because I know that no one can remove me. I have good political connections." – Male Panch (BC), Panna

Other concerns related to the implementation

Many representatives were unhappy about this measure of the government. They argued that the two-child norm should either be abolished or legislators, Members of Parliament and ministers should also be brought under its fold. "Paani ooper se neeche aata hain, neeche se ooper nahin," ("water flows downwards from the top, not the other way around") - they said.

"Why us, who are lowest in the policy making with very little say in politics, should face the brunt? Why not the MPs and MLAs who have 8-7 children?"

"Most of our leaders have more than 3 children, why can't they remove them, Laloo ko dekho ... Unko to nikaalne ka himmat nahin hai." ("look at Laloo, ... they don't have the guts to remove him")

"Let's ask them to impose two-child norm on the voters who come to vote in the elections. The one who stands for the elections should have only 2 children, and the one who votes should also not have more than 2 children, only then we will see the results" - comments such as these clearly reflect the outrage and indignity felt by the victims.

Some of the disqualified representatives felt, "if men and women with children irrespective of the number of children are not allowed to contest elections, only Hijras will stand for elections and rule the country." This reflects the increasing anger, followed by subsequent trauma and helplessness of the powerless.

Lack of awareness of fertility control methods

"There is a close connection between women's well being and women's agency in bringing about a change in the fertility pattern. Women in India have to face the lack of freedom to do other things that goes with a high frequency of births, not to mention the dangers of repeated pregnancy and high maternal mortality. It is thus understandable that in birth rates have often been associated with enhancement of women's status and voice."

Ref: Dreze, Jean & Sen, Amartya (2002) India: Development and Participation

The comments from the field on the issue of contraceptive use reflect an interest in adopting family planning measures. But at the same time, they also speak of the inadequacy of the existing programmes in terms of dissemination of information, proper counselling about the different options available, and the communication gap between the provider and the users.

"... different programmes should have been carried out under family planning. Now to say that you are being removed because of three children is totally unjustified." - DK, Male Panch

"We do not have any information related to contraceptive methods. The main reason for the pace in which the population is growing is the lack of availability of contraceptives to people." - IB, Panna district

Comparison of NFHS-2 results for current contraceptive use with NFHS-1 results reveals an 18 per cent increase in contraceptive prevalence since NFHS-1, when prevalence was 41 per cent. The share of female sterilization in contraceptive prevalence increased slightly from 67 to 71 per cent over the period. The share of female and male sterilization together remained almost the same in NFHS-1 and NFHS-2 at about 75 per cent. In rural areas it remained about 80 per cent, and in urban areas it remained at about 6 per cent.

However, NFHS II, Census 2001 data and the UNFPA briefing kit on population stabilization reveals that the population growth rate has declined from 2.14 per cent per year during 1981-91 to 1.93 per cent per year during 1991-2001.

Population growth rates in the last 50 years	
1951-1961	1.96% per year
1961-1971	2.22% per year
1971-1981	2.20% per year
1981-1991	2.14% per year
1991-2001	1.93% per year

Source: Health Watch UP-Bihar

The average number of children for all married women during 2001 was 2.85. India has a high proportion of young persons in the reproductive age group and even when they have only one or two children per couple, the quantum increase is high because the number of reproducing couples will be high.

The following table shows the unmet need for contraceptive services and the actual fertility in a few states:

State	Total fertility rate	Wanted fertility	Unmet need for family planning
India	2.85	2.13	15.8
U.P.	3.99	2.83	25.1
Rajasthan	3.78	2.57	17.6
M.P.	3.31	2.40	16.2
Bihar	3.49	2.58	24.5
Orissa	2.46	1.90	15.5

Source: NHFS II

Under the excuses of this unmet need, some of the state population policies moved to induct harmful long-acting hormonal contraceptives into the family planning programme in order to meet the targets. What makes it paradoxical is that it has become the government's main pre-occupation to set targets for population control. But having done so, it is neither concerned about providing the basic minimum contraceptive or health services for couples. It continues to target women for contraception, knowing fully well that women have little choices within the 'given' patriarchal set up, let alone decide on her reproductive options.

Section IV

Varied responses to the process of disqualification

The process of disqualification involves a notice sent by the District Collector to the respective representative. This notice is delivered to the representative by registered post, through the Panchayat or any other authorised official like the SDM (Sub-divisional Magistrate). In most instances, a written notice was sent. However, there were a few instances when the Panchayat conveyed the decision orally to the representatives.

On receiving the notice, the representatives chose their future course of action. The action or response that was resorted to was dependent on what post the disqualified representative occupied, his or her perception of the importance of the post that he/she occupied, capacity to mobilise resources to file a case, and follow it through, individual interest in continuing to be part of the PRI and decision-making power within the family (especially in the case of women). In situations where the elected representatives were 'in name only' with the actual decision-making done by others (usually upper caste, class), their response depended on the latter.

a. Responses of the participants on receiving the notice

Of the total 43 Sarpanches, 23 (53.48 per cent) appealed in the high court; 9 (20.93 per cent) in the district court, 5 Sarpanches went to the Collector, 2 to the SDM, 4 Sarpanches (2 men and 2 women) did not initiate any action. Of the 4, 3 were adivasis, of which 2 were women. 24 (55.81 per cent) of the 43 Sarpanches were dalits and adivasis and 1 belonged to the Muslim community.

Larger numbers of persons in the Sarpanch post decided to appeal in the High Court as well as the District Court. The Sarpanch is perceived as an important post and is elected by the community. It is also the most powerful and coveted post in the Panchayat. Many of the Sarpanch posts were reserved for dalits and adivasis and women.

69 (46 men and 23 women) of the participants were Panches. Of the total, 51, i.e. 73.91 per cent, did not initiate any action. Two disqualified Panches went to High Court, 7 to District Court, 7 to the Collector and 2 to the SDM.

As compared to the Sarpanches, the number of disqualified Panches that did not take any action was quite large. More than 78 per cent of the women Panches and over 71 per cent of the male Panches did not take any action. Although reasons for not acting upon the notice were common for all categories, many of the Panches, especially women, felt that they had no role to play in the Panchayat. Many of the disqualified Panches felt that it was not worth appealing for a reinstatement.

“ I did not lodge a complaint because I did not gain anything from being a Panch. I did not want to take on unnecessary stress and spend my money for fighting any case. My husband too did not want me to go to the Collector or the court to take this up.” – Dalit Woman Panch

“ The Panch does not get money, but wants to be a Panch because it is prestigious. The Panches do some good work too.” - Dalit Male Panch

“ There is no benefit in being a Panch. So I am not interested in filing a case. I won't stand for elections anymore because we Harijan Panches are only humiliated by the upper caste people in the village.” – Dalit Male Panch

The above statements not only qualify the reasons behind not taking legal action, but also speaks of a sense of disillusionment with the governance and frustration with caste politics, both of which seem to have joined hands in some sense to render the already marginalised groups more and more powerless.

11 of the disqualified were Upsarpanches, of whom 6 did not take any action. None of them appealed in the High Court, one person went to the District Court, three went to the collector and one to the SDM. Generally the Upsarpanch post was not perceived as an important post as the Upsarpanch can only function in the absence of the Sarpanch and does not have too much power except in the absence of the Sarpanch. Among the 5 participants who were holding posts other than these, 2 of them appealed in High Court, 2 did not take any action and 1 woman went to the SDM.

b. Reasons for not taking any action

63 persons did not take any action. Nearly 49 per cent of those who have cited reasons for not taking action did so because of lack of money, time and being non-literate. 24.48 per cent felt that there was no use being in the 'post' of Panch, as it did not have as much power as the post of Sarpanch. The rest did not take any action because of

lack of community support, lack of knowledge, information or because their relatives were given the post instead. 53 per cent of those who did not take any action were dalits and adivasis. Nearly 32 per cent of the total number of women did not take any action. (This should be more because some of those who did not take any action and gave no reason for it are not included.)

The amount of money spent in the process of appealing either in court or to a pertinent authority was Rs 100 at the minimum to Rs 40,000 at the maximum. The amount of money spent increased progressively – least money was required for filing a complaint with the collector and the SDM; followed by District Court, and highest when filing in the High Court.

“ I am a dalit woman. I am not literate. We are very poor. My husband and I are daily wage earners. We do not have any land. The average monthly household income is less than Rs 750. I saw my name in the newspaper and I was removed immediately. I never received a notice. We have three children. However, the first child is from my husband’s first wife. I only have two children, but I was still removed. I went to the High Court to appeal and had to take a loan of Rs. 35000 to pay the advocate and for other incidental costs.”

Many of the participants, especially from poor households took loans to file the cases. Some of them had taken loans that were disproportionately large as compared to their average household incomes. Loans taken to challenge the order would be a huge burden in the future that the family would have to face. It would only drag them deeper into poverty.

Section V

Wider Implications of the Two Child Norm

A decade after the Panchayati Raj Act was passed with the women and dalits asserting their right to political participation, the implementation of a discriminatory policy like the two-child norm has severely hampered this process. Casteism in politics has acted as an impediment in the satisfactory participation of the dalits. It has often been observed that the actual power lay with the upper caste men. Though the common understanding of being a ‘puppet Panchayat’ (applicable to both, dalit and women Panchayat leaders) and Panchayat ‘pati’ (husband of women leaders), has prevailed in all these years, our study shows that the norm has actually strengthened the existing oppositions, between upper caste men and dalits, between men and women, and between the young and the old.

While the dalit leaders were gradually gaining power and struggling to acquire the mandate of the upper castes, this norm has actually 'obstructed' their progress. This has once again precipitated caste-based politics, where the upper caste men are using the law to overthrow the dalits.

Women too, have been struggling to gain acceptance within the community, and in many cases, while the electorate is willing to vote for her as their leader, disqualification on the basis of a third child demeans the mandate of the people and violate the democratic ethos. The norm has given an impetus to the opposing patriarchal forces and provided them concrete reason to 'outcaste' the women office holders in a 'lawful' manner.

a. Caste Politics

The two-child norm has violated the basic premise of the 73rd Amendment, which set out to encourage marginalised sections of the society to participate in local governance and decision-making. The notion of community in India continues to be predominantly defined by caste, religion and gender-based identities. Based on these factors, persons within communities are either vested or shorn of power. The 73rd Amendment in that sense sought to bring about significant and profound changes by reserving seats for women and backward communities, thereby enabling not just their political participation, but also, through that process, changing the status quo with regard to gender and caste-based power inequities within local communities. However, with a single stroke, by imposing a two-child norm, the government has pretty much negated all the positive effects of the broader legislation.

Referring to this anomaly, VH, an SC Sarpanch from Hoshangabad district said, " My caste background was the main reason for the problems I had to face while performing my duties as a Sarpanch. The upper caste people could not bear to see me at a higher position." He added that the two-child norm would give more power to the upper castes to humiliate the lower caste people. "The law will marginalise the already marginalised groups because the upper castes are powerful enough to tamper with records and file false complaints against us."

RS, a male OBC Sarpanch said, "On one hand you introduce reservation for dalits and other backward castes, while on the other, you force the same people to go back to their original position, disempowered by another law."

It is inevitable that in the face of far-reaching changes, as has been attempted through the constitutional amendment, there will be resistance from those communities who till date have been the ones with power and who have controlled local decision-making. The attempt of the government to uplift the marginalised groups through reservation and other policies of compensation has resulted in making these groups

the subject of hatred from the upper castes. Moreover, the two-child norm is being misused by these powerful lobbies, to prevent women and backward castes from occupying elected offices.

SB, a dalit Sarpanch, was a victim of such hatred. Her role was restricted to that of being a 'proxy Sarpanch', where the Secretary controlled all matters and made her sign wherever he wished, despite her unwillingness. The Sarpanch was no more than a titular head. According to SB, he was the one to have lodged a complaint against her when she began to show some resistance. She and her family, who have little say or control over their lives, are under tremendous pressure due to her post being misused by the upper castes.

BB, a dalit Sarpanch from Sehore district, said, "the upper caste people of the village lodged a false complaint against me. I used to take decisions without conforming to the dictates of the upper caste men. They don't want any developmental work to be done in our areas. They want everyone to follow their footsteps. This was not acceptable to me. They got this order against me even though my last child was almost 6 years old at that time. I went to court and won the case. They had nothing to prove against me". However, BB is tensed about her future.

Dalits, who have contested for political office in village councils and municipalities through seats that have been constitutionally "reserved" for them, have been threatened with abuse and death.² It is evident that upper castes, who have been controlling the affairs of the village community and the rural economy, do not tolerate the changes that are being brought about by the decentralized democratic institutions. Therefore, from the beginning of the implementation of the Panchayat system, tensions, violence and killings have taken place in order to resist the transformation. There has been a sharp increase in violent manifestations of casteism in local communities ever since the local government system got strengthened through the Constitutional amendments. As the Panchayati Raj Institutions are perceived by the upper castes as a tool for the lower castes to assert their right as individuals living in a democratic polity, the latter have become targets of caste based discrimination and violence. This rising unrest at the local level has become a common phenomenon.

Even after being duly elected, dalits do not have the power and status they deserve. They are made to sit outside the Panchayat offices, on the floor, while the traditional village headmen occupy the chairs. One dalit Sarpanch was not even allowed to enter inside the house of the Patel where the village meeting used to be held. She had to sit outside the threshold with her head covered.

² Human Rights Watch "Broken people", caste violence against India's "untouchable",

LB, a woman Panch from ST community in Sivni district said, "In the Gram Sabha meetings, I used to voice my opinion on various issues. The Sarpanch never took my suggestions seriously. I was not given any information about the schemes. When I raised these issues, the Sarpanch would get very angry. Since I am poor and work in the quarry for my living, he never recognized my role. This law on two-child norm of the government is very wrong. Someone used it against me and got me removed. The government should have thought about poor like us before implementing the law. I can't even go to the court as I can't afford it".

Women in elected positions of power are still largely unaccepted. Patriarchal forces, often in collusion with casteist elements, use all possible means to stall the effective functioning of the elected women representatives. The widespread view in the community was that women are neither capable nor interested in the functioning of the Panchayat. Women are not meant to be active and outspoken, particularly in the presence of upper caste men. Any attempt by a woman to go against male dominance results in usurpation of their power. In this context the two-child norm has only helped to strengthen male dominance.

According to MB, "I got a lot of recognition and respect from people. I used to sign on papers. The Gram Sabha used to take my advice on projects. Now, because of this law, everything is over". "As it is, women find it difficult to be part of the Panchayat. Then the government makes such a policy and removes them. Those who have two or three girls will have a lot of problems", TB expressed. TB had worked hard as a Sarpanch. She got roads and school buildings constructed. She also initiated the Indira Awas Yojana in the village and contributed to many development initiatives in the area. Not only was she recognised and respected by the people of her constituency, she even received the President's award as the best Sarpanch. "What is the point of such an award when all your hard work is struck out in one stroke and you are dismissed for having one child more?"

Given the existing gender-based inequities and resultant marginalisation and disadvantage that women continue to face in society it is inevitable that enforcement of the two-child norm will disproportionately affect women. Although a large percentage of women have been elected to office as a result of the 33 per cent reservation of seats for women, the subsequent inclusion of the two-child norm has also led to a large number of disqualifications of elected women representatives. This is indeed unfortunate as many of the women Sarpanches had visions of doing good work for their villages. Although many had no prior involvement in developmental work or discharging their duties, some women Sarpanches have undertaken activities such as construction and maintenance of roads, school buildings, improving drinking water facilities among other things. Women elected to office have in many instances developed an enhanced perception of the meaning of their roles as elected representatives and the responsibilities and duties as well as entitlements that come with it.

" I don't want to be in such politics, neither do I want to be a Panch or anything else. I am fine with my household and children. I don't want to be in a post due to which I will lose my prestige, status and face difficulties. This also gives rise to problems at home" – Woman Upsarpanch, 25 years

" While on one hand the government through reservation attempts at empowering women, on the other, by enacting such norms it places women at the same point from where they have struggled to free themselves" - DP, an Adivasi Sarpanch from Ratlam

" Initially we were given all the respect, but now we are facing all the humiliation. We have been made scapegoats" - Adivasi Male Panch

" I have not attended any meetings from the day I was removed from the post because I am not informed of anything and I feel very humiliated. I don't want to meet others in the village." - Woman Upsarpanch belonging to OBC community from Jabalpur.

In effect, the two-child norm has destroyed the spirit of women with independent minds, courage and ambition by debarring them from entering the political process. It has provided an easy tool to those who have power and money on their side to sideline their efforts, silence their voices and discourage those who, against all odds, have shown tremendous determination, independence, courage and resilience to bring about changes in their lives and in the lives of people in similar situations of oppression and poverty. The study shows sufficient evidence that complaints are filed by those who want to dislodge the leadership, and take over control by using devious means. The caste-based hierarchical structure lays down the norm of conduct for human relationship between its more privileged groups and the subdued and subordinate ones. With village politics getting so divisive, the two-child norm is accelerating caste divisions further.

b. Patriarchal socialisation and the role of women

The social status of women can be gauged from their identity in society. A woman's identity as an individual gets lost and she comes to be recognised only in relation to a male figure, be it father, brother or husband. Being addressed as 'beti, bahu, patni, bhabhi ...' often subsumes womens' own identities in the process of assuming these roles. While the constitutional amendment created political space and provided legitimate means for women to come into the public sphere and ensured that a critical mass of women now occupy elected office, the two-child norm makes it easier for patriarchal forces to disempower women. Though the names of the women were used on official records to take charge in the village administrative setup, their roles were often taken over by the "men" of the house. Although MB was the Sarpanch she was never referred by her name, as an individual in her own right but only in relation to the patriarch of the family. Calling a woman by her name can also be equated with

dishonouring the woman as in traditional culture women of 'honour' are not referred to by name. MB was always referred to as SP's daughter-in-law. When we asked her husband why no one knew her name, he quipped, "She is an illiterate woman, what use is her name to you?"

People often acknowledged the husband as the Sarpanch when it was his wife who had contested and won the post. Almost everyone in a village in Panna district, perceived the husband of HB as the Sarpanch and not HB who was the real Sarpanch. HB said, "I was made a Sarpanch, to fulfill and justify requirements on paper. Nobody in the village knows that I am the Sarpanch. I never had any power."

In Ratlam district, a woman Panch's response was, "I don't know anything, ask my husband." Unfortunately, this was a typical response that was echoed time and again. In most cases, the woman Sarpanch acted as a proxy or played a subservient role, while her husband held the reins of power. SB, Sivni, who was elected as Sarpanch in February 2000, said that her husband performed all the duties of a Sarpanch on her behalf. He never allowed her to take any decision, neither did he care to share any information.

The spaces for men and women have been relegated to public and private domains through years of socialization. Thus, when women cross over their traditionally assigned private spaces and take leadership roles in the public realm, hostile attitudes take various forms. SB from Vidisha district said that her family and husband always taunted her by saying "ya to bacha karon, nahin to Sarpanch banke sarpanchi karo (either be a mother or be a Sarpanch).

"Husbands are not very supportive of us unless it improves their own status. My husband was very rude when I was removed." – Adivasi Woman Sarpanch

KB from Shivpuri district said, "I studied up to the primary level. I was very happy to be a Panch. The villagers called me "member" and respected me. But my husband was very unhappy. When I was removed, I lost all the respect and prestige that I had earned by being a Panch. I was terribly disheartened. My husband never cooperated with me. But he became furious when I lost the post and the status I had earned. He said, "I had told you not to enter politics, but you never listened to me. You were dying for power. Now face the consequences."

PB, an OBC Upsarpanch never got any support from her husband. "If we had got some cooperation from the men, we could have shown what we women could have done by coming together," she said. Patriarchal socialisation has further jeopardized women's position in the context of the two-child norm. In a society where upholding the honour of the family and community is often the responsibility of the woman, her disqualification is likely to lead to violence against her at home. This is particularly

true in situations where the decision to be part of the PRI had been independently taken by the women, without the consent or support of the husband or other family members.

However, in a few instances, husbands had played a supportive role, which had enabled women representatives to be more effective. T and her husband, together took care of the Panchayat's work. T acknowledged that her husband did not make any decisions without her knowledge, while she too arrived at decisions after much deliberation. In case of KB, her father-in-law proved to be her pillar of support. Some women handled their work on their own and a few took the help of their husbands and others in the village.

Interestingly, five of the women also had male members of their family in the Panchayat as Upsarpanches. This not only provided them with an official sanction to manage the Sarpanch's affairs, but also strengthened their control over the Panchayat. In one of our group discussions, a number of people said that women representatives were usually sincere about their work, were more honest and less corrupt as compared to male representatives.

In the same way as the caste based status quo within communities has been shaken as a result of the constitutional amendment, so too, has the gender based status quo been upset. It is therefore expected that when women go beyond their traditionally assigned private spaces and assume leadership roles in the public realm, they will confront a hostile environment both within the family (where they have made the independent decision to contest elections) as well as in the community.

c. Role of religion

An interesting outcome of the study has been an understanding of the perception of the majority community about the Muslim population. It must be mentioned here that the interview schedule did not have any religious dimension to it, nor did the field team asked any question regarding this. However, some of the following observations were noted down when interacting with the respondents. It was surprising to hear the comment of the dalits and adivasis regarding the Muslim population.

Many participants expressed that this law was unjustified as it was imposed only on Hindus. This feeling is rooted in the belief that it is only Hindus who are barred from the post on this ground and not the Muslims. The common feeling in everybody's mind seemed to be "this law should be applied to the Muslims as they are the ones who have many wives and children, and one day they will rule over the Hindus. Just because of them, we (Hindus) have become the victims of the law." One respondent went to the extent of saying, "Our government does not say anything to Muslims and

they create a brood (dher laga lete hain)". The impression of injustice being done to them and that Muslims are getting a reprieve was a genuine doubt in the minds of the respondents.

This mindset of the people against a particular community stems out of threat and fear of being overwhelmed by the 'other'. While the hunger for supremacy as a 'Hindu' nation seems to be the guiding force behind the growing feeling of divide, it continues to become stronger at the grassroots level, i.e., amongst the local leaders. While the inception of the two-child norm already creates problems amongst the people in general, Muslims further believe it to be a ploy to throw them out of the country. This belief is also being propagated by political parties that capitalises on people's insecurities and the myth of Muslim population outgrowing Hindus of the country.

The recent Census data on population and sex-ratio provided an opportunity to take a dispassionate view at the determining factors of demographic patterns. Unfortunately the opportunity has been hijacked by a sectarian political platform, which wants to manipulate religion-based data for its own communal purposes declaiming that Hindus in India are being deluged by a burgeoning Muslim population. What is of concern is that this attempt to interpret the population issue in communal/ religious terms will further add to the already biased, and largely misinformed, public opinion on minorities and reinforce stereotypes to attack the minorities.

The census data has provided very valuable information of cross-classification for religious categories. Thus, for example, it shows that literacy rate among Muslims at 59.1 per cent is way below the national average of 64.8 per cent and lower than that of all other communities listed. Worse still, work participation rate among Muslims is just 31.3 per cent, again far below the national average of 39.1 per cent. In other words, a Muslim in India is 25per cent less likely to be working than the average citizen in the country. The picture is even more grim if we look at the disaggregated figures for work participation. Just 20.7 per cent of Muslims are listed as cultivators, as compared to an overall average of 31.7 per cent. That is, a Muslim is 50 per cent less likely to own and cultivate his own land, as compared to an average citizen of India. In contrast, 8.1per cent of Muslims – almost twice the national average of 4.2per cent – work in household industries, that is, in poor, ill-paid, sweatshop conditions.

Ref: Amit Sen Gupta 'Lamentations on the Billionth Baby'

However, some of the disqualified representatives from the Muslim community had a different view related to the two-child norm. According to SK from Harda district, "In our Koran, limiting the number of children is against the teachings of the prophet. It will be a curse on us if we do such a thing." Similar sentiments were echoed by AK, "In our religion, we cannot limit the number of children. We must follow the tradition." However, AK had given away two of his children for adoption. Islam is

generally portrayed as one religion that disallows birth control or abortion. However, the position of Islam on birth control and abortion depends to a great extent on the interpretation of the different schools of Islamic jurisprudence.

Women, both Hindus and Muslims, gain respect and status when they marry and have children, thereby improving their bargaining position in the social structure. Since they derive status from motherhood, even when divorced or rejected for a second wife, children represent a form of social insurance against the threat of divorce. Hence, women are expected to continue their child-bearing activities throughout their reproductive years, whether they desire so or not. Moreover, where infant mortality rates are higher, families tend to produce more children. Thus, the socially disadvantaged, with the highest rates of infant mortality, have larger families irrespective of religion.

d. Masculinity and fertility

One of the upper caste Sarpanches said, "Sarkar kehta hai ki hum aur bachche na paida karein, aur woh hamein apne pad se hata rahein hain. Hum thodi na Baanjh hain ki bachche paida na kare. (The government is telling us not to have more children and it is removing us from our posts because of that. Are we barren that we won't produce children?)"

The perception that having children is a proof of sexual potency only reinforces the ideological underpinnings of the society at large. Manhood, virility, fertility often gets equated with the number of children one has. More the number of children one produces, the more potent and fertile one is, and proves his malehood and virility. Since infertility is perceived as a stigma, and results in the loss of status and prestige in the society, there is a strong belief that childlessness brings exclusion from the social net.

Hence, it is a blow to the male ego to be impotent or infertile. This also helps to further probe the differential perception of fertility held by men and women in society – whereas infertility in women is equated with motherhood, infertility in men is equated with loss of masculinity.

Other Observations

a. Political economy of large family

"Bache hamare takat hain. Woh hamare budape ka sahara hain " (Children are our strength, they will look after us in our old age).

BS from Raisen district said that " Mere santaan to mujhe umr bhar saath dega, Sarpanch pad thodi dega" (My child will be by my side all my life, will my post of Sarpanch do so?)

" Bache hi hamare sadhan hain. Chahe khet ka kaam me ho ya majdoori me. jitna haat ..utna phayada" (Children are our resources. Whether in our work in the fields or elsewhere, the more the hands, the more the help).

The rationale behind having a large family is based on the fact that each member can fend for himself or herself. In such families, survival often depends on having more children to bring in extra food or money for the family. A rural child at the age of 9 or 10 can earn food and benefit the family. Children herd animals, fetch water, collect firewood and dung, transplant rice, weed fields and cut stubble, and much more. For each such family, the number of children determines the number of workers it can fall back on to support itself. If the family has little or no land, its income might depend on the number of children that can be hired out as labourers. Agriculture in small-holdings being the prevalent practice amongst a significant section of rural populations does not fetch profits high enough to hire labour or to go in for mechanised operations.

As a result, having many hands at home reduces the amount of money that needs to be invested as labour. It also leads to division of labour both inside and outside the house. Where daily wages are responsible for making both ends meet, a larger family definitely means more hands to work and earn. This brings in the sense of security, at least as far as basic necessities such as food are concerned. In our findings, 55 per cent of the people amongst marginalized communities were wage labourers, of which about 64 per cent were dalits and almost 50 per cent were women. About 40 per cent were working in their own fields, of whom about 35 per cent owned less than two acres of land. Moreover, 46 per cent of the respondents have an average monthly household income of less than Rs. 750. It is only natural for such families to have a large number of children.

In the absence of social security, the poor believe children, particularly sons make the best survival strategy for poor families, providing current economic advantage and old-age security. Hence, without meeting the basic economic needs of the people, enforcing a law on birth control will only be self-defeating.

b. Child survival – high infant mortality rate–large families

According to L, " If out of two children, one dies, what will the government do for us?"

MB lost her third child four months after she was removed. The child was three months old. LB, another disqualified Sarpanch, lost her third child immediately after its birth. MP was disqualified because he had four children. However, three of them

died after he was removed. This was not unique to MP alone, a number of disqualified members lost their third child, or more, after they were removed from their posts.

MB, who lost her third child, said that she could not save her child as the health facilities were far away and she could not afford to take the child to a private clinic. Her daughter died with an acute respiratory infection. MG from Panna district said that the lack of basic health services is the main cause for mortality and morbidity. "The government should focus more on improving the health services than removing Sarpanches," she added. Evidence from across the country indicates that access to health care has declined sharply, especially for the poor and marginalized communities and women. Thus, health care costs have increased sharply. It is thus not surprising that medical expenditure is emerging as one of the leading causes of indebtedness.

Our study shows that out of the total sample, nearly 35 families have lost a child. Some families have lost almost 3 children. However, the infant mortality rate is highest in the adivasi families (80 per cent) followed by dalit (50 per cent) and OBC (40 per cent) families.

High infant and high child mortality rates are the most important reasons for high birth rates. In Madhya Pradesh, the neonatal mortality is 54.9 and the infant mortality rate is 86.1.³ As per NFHS, Infant Mortality Rate (IMR) at 88 per 1000 is much higher than the national average of 68. The child mortality rate at 56.4 per 1000 is almost double the national average.

The size and composition of the family is directly influenced by the socio-economic condition of the family. Men and women from poorer families are likely to have higher fertility rates due to higher rates of infant mortality and lower rates of child survival. This is evident from a number of studies where adivasi families reflected highest infant/ child mortality rates.

³ Madhya Pradesh Human Development Index

Infant Mortality Rate of the 12 districts

Name of district	Infant Mortality Rate
1. SHIVPURI	150
2. PANNA	185
3. RATLAM	143
4. VIDISHA	144
5. SEHORE	146
6. RAISEN	135
7. BETUL	158
8. HOSHANGABAD	163
9. JABALPUR	129
10. SIVNI	115
11. KATNI	Included in Jabalpur
12. HARDA	Included in Hoshangabad

Source: The Madhya Pradesh Human Development Index
(figures depict number of deaths per 1,000 live births)

The health indicators of SC/STs have the highest infant and child mortality rates in India and fare the worst in almost all reproductive and child health indicators. According to the NFHS data (1998-99) IMR among SCs, STs and OBCs are 83, 84 and 76 respectively for the year 1998-99 as compared to 62 among general category. The percentage of women from SC/ST who receive anti-natal check ups and immunization, institutional or assisted deliveries, post-natal check ups is the lowest among all communities and religions. Both severe and moderate forms of anemia are high (65 per cent among STs and 56 per cent among SCs vis-à-vis 47.6 per cent in the general category) among the women and children. Further, and not surprisingly, more SC/ST children remain deprived of immunization and are malnourished. Given these reinforcing factors of high infant mortality and of poor reproductive health care, total fertility rates among SC/ST are reasonably marginally higher. While this reflects the poor socio-economic conditions of the people, the State instead of addressing its failures ironically penalise them.

We must also bear in mind that the reproductive choices, especially women's choices, are decided by their families. They hardly ever decide on how many children to have or when to have them. This, coupled with lack of access to resources and poor public health services make women, especially from dalit and adivasi communities, more vulnerable to morbidities and other health consequences of repeated pregnancies and abortions. In a country, where families need to have more children in order to ensure the survival of at least a few, the two-child norm is bound to be inimical to the development process.

Chapter 4

The role of media and judiciary

The role of the media in continuing the debate around two-child norm is irreplaceable. Media houses and newspaper groups covered the issue leaving almost no stone unturned. While national dailies including The Hindu, Hindustan Times, The Times of India, The Indian Express, Deccan Herald, Central Chronicle, The Telegraph, and others covered the issue on the lines of the policy and its repercussions, government reactions and NGO point of views, the local dailies, particularly the Hindi ones, like Dainik Bhaskar, Navbharat Times, Deshbandhu, Jansatta, Dainik Jagran, Sahara Samay, and Rajdhani to name a few, covered the issue from the perspective of those most affected by the norm. Weeklies, journals (such as The Frontline and Grassroots) and editorials in various publications brought out the different facets and issues of the debate around the two-child norm. While some advocated the government's stand as 'a voice of insanity'; editorials such as 'Jansankhya vriddhi ke paksh mein'- In Support of Population Growth (Navbharat Times, June 21, 2004) spoke of population growth in a positive light.

While some writings brought to the fore the plight of the local rural population, 'Parivar niyojan ka saadhan bana panchayat'- Panchayat: means for Family Planning, 'Teesri Santaan Ki Chot'- Blow of the Third Child (Jansatta, June 20, 2004) several others revealed that a number of people were not even aware of the existence of such a norm when they conceived or gave birth to their third (or youngest) child.

On the other hand, headlines blaming children such as 'Santaan ne cheeni Mata-Pita ki Sarpanchi'- Child dispossess parents of Sarpanch's posts(Dainik Jagaran, April 04, 2004), 'Teesre bachche ne cheeni kursi'- Third child snatches 'chair' (Dainik Bhaskar, February 24, 2004), or others reflecting political games 'Pad ki khatir sarpanch ne racha prapanch'- Panchayat plans plot for 'post'(Nai Duniya, March 23) sensationalised the issue in a completely deplorable way. The fact remains that it is the birth of the third child and the imposition of the norm that have lead to the barring of people from the PRIs. Many of the Panches and Sarpanches have been quoted saying that it was neither their fault nor the child's and hence their suspension must stand null and void. Various newspaper reports highlighted the agony and resentment in the minds of these people.

The media had also brought to light some of the iniquitous incidents since the imposition of the norm. The rise in female foeticide, 'Janam se Pehle Bhedbhav ki

¹ Rao, Mohan (2002) 'A Voice of Sanity' Frontline, September 27 pp 46-47

Shikaar,'- Discriminated against, Even before birth (Nai Duniya, 2001), giving away children for adoption, desertion of their spouse or filing for divorce. 'Sarpanch ka pad bachane ke liye talaak ki taiyari,'- Preparing for divorce to save post of Sarpanch (Navbharat Times, April 6, 2002) in order to retain their place in the Panchayat are just a few instances.

Policy related articles such as 'Population Policy should be replaced by policy on development' (The Hindu, July 12, 2004), 'Population should have welfare oriented approach' (Central Chronicle, July 12, 2004) and 'Jansakhya Neeti Samaj hit mein nahin'- Population policy not in the interest of society (Deshbandhu, July 12, 2004) criticised the existing policy openly. Other aspects such as the non-participation of men in family planning have also been highlighted in 'Jansankhya Niyantaran mein Purushon ki bhumika mahatvapoorna,' - Men's role significant in population control (Deshbandhu, April 21, 2004).

The media extensively covered the stories of individuals who bore the brunt of the two-child norm. It reported of large numbers of members of the PRI expelled each day 'Upsarpanch sahit gyarah panch hataye,'- Eleven Panches removed, including Upsarpanch (Navbharat Times, March 23, 2004) '64 Panch-Sarpanchon ko notice,' - Notice to 64 Panches and Sarpanches (Dainik Bhaskar, April 29, 2004). Though the issue came into the public realm, action by the government seemed to have been taken a back seat. While the Prime Minister, Dr. Manmohan Singh promises a 'No coercive Population Policy' (The Hindu, December 21, 2004) the opposition party leader Shri L.K. Advani seemed to be in full support for the norm, 'Advani for enforcement of two-child norm,' (The Hindu, March 19, 2004).

The media as the fourth estate has played its role, by bringing in forefront the various aspects associated with the norm. But the contribution of the media, will be justified to the fullest only if some concrete action is taken that prevents the imposition of the norm and makes a difference to the lives of the people.

The role of judiciary

Since the judiciary plays an important part in upholding the legislative decisions of the state, it is crucial to understand how the judgements regarding the 'two-child norm' reflect an erroneous understanding of a 'population problem' and a violation of human rights issues. The judiciary perceives 'overpopulation' as a social scandal and menace.

Before the Supreme Court ruling, the Rajasthan, Punjab and Haryana High Courts had dismissed the petitions from the PRI representatives. In Mukesh Kumar Ajmera vs. State of Rajasthan (AIR 1997 Rajasthan 250), 12 elected Panches challenged the orders of the CEO of their respective panchayats, disqualifying them on the basis of the birth

of a child beyond the second. The Rajasthan High Court struck down the order of disqualification, but only on the ground that the CEOs had not followed the procedure and had exceeded their brief. But, on the question of the constitutionality of the provision of disqualification itself, and of the imposition of population concerns on grassroots democracy, the court endorsed the state's position.

"These provisions have been enacted by the legislature to control the menace of population explosion," the judges said, adding: "The social policy is designed to secure social order for the promotion of the welfare of the people, adequate means of livelihood, raising the level of nutrition." With this, it was made clear that the main purpose of providing for disqualification on the basis of number of children was to bring to centre stage the government's 'family planning' programme into the law, and also that the object of Panchayati Raj, 'to confer status and dignity and to function as units of self-government,' had been relegated to the wings.²

Another example of judiciary pervading the private spheres of the individual is reflected in the ruling of the Supreme Court which found no fault with the rule which would terminate the services of Air Hostesses on the third pregnancy with two existing children, and held the "...when the entire world is faced with the problem of population explosion it will not only be desirable but absolutely essential... so as to meet the danger of over population which, if not controlled, may lead to serious social and economic problems..." (Air India v. Nergesh Meerza and Others 1981).

On July 2003, the Supreme Court of India gave a stamp of approval to the two-child norm policies in Haryana by upholding the constitutionality of the electoral disincentive law of Haryana state. In its ruling the Supreme Court stated, "In our view disqualification ...(is) conceptually devised in national interest". This is indeed a very peculiar sort of 'national interest' that device to keep a large section of people permanently in the periphery. The already marginalised communities, i.e. women, dalits, adivasis and the poor can henceforth be conveniently kept out of the process of political participation.

Emphasising India's "burgeoning population" as a national problem, the Supreme Court further observed, "Complacency in controlling population in the name of democracy is too heavy a price to pay, allowing the nation to drift towards disaster." This judgement is based on the erroneous assumption that coercive population policy and 'controlling the numbers' is the route to development and better quality of life.

In the context of women, the Supreme Court observed, "It was also submitted that the impugned disqualification would hit the women worst, in as much as in the Indian society they have no independence and they almost helplessly bear a third child if

² Sarkar, Lotika & Ramanathan, Usha 'Collateral Concerns'

their husbands want them to do so. This contention need not detain us any longer. A male who compels his wife to bear a third child would disqualify not only his wife but himself as well. We do think that with the awareness which is arising in Indian women folk, they are (not) so helpless as to be compelled to bear a third child even though they do not wish to do so. At the end, suffice it to say that if the legislature chooses to carve out an exception in favour of females it is free to do so but merely because women are not excepted from the operation of the disqualification it does not render it unconstitutional".

The judiciary has completely misjudged the situation in which women live. The disjuncture between judicial perception and social reality is striking. According to the judgement, because of the rising awareness of Indian women they are (not) so helpless to be compelled to bear a third child even though they do not wish to do so. In contrast, recognising the lack of women's independent agency, Parliament only a few months ago adopted amendments to the anti-sex determination legislation that holds the husband, not the wife, responsible for sex-determination tests, because in most cases she has little choice.³

On February 28, 2005, the Supreme Court issued notices to the Centre and six states, namely Haryana, Rajasthan, Madhya Pradesh, Orissa, Andhra Pradesh and Himachal Pradesh, that those having more than two children should be barred from contesting Parliamentary and Assembly elections. All these states had implemented the Panchayati Raj Act, through which the two-child norm had been put into practice. The notices were issued by a Bench comprising Chief Justice RC Lahoti and Justice DM Dharmadhikari on a plea by Anil Kumar Haritash through counsel Ramesh Kumar Haritash. Citing the Supreme Court ruling upholding the two-child norm in Panchayat elections, the petition said since the norm had been applicable to Panchayat elections, the same should be applicable to Lok Sabha, Rajya Sabha and Assembly elections.⁴

On July 7, 2005, the Delhi High Court issued notices to the Union Government, the Ministry for Health and Family Welfare, the National Population Commission and the Census Commissioner seeking a direction to the government to frame a two-child norm and debar people violating it from contesting elections to Parliament, Assemblies and Local Bodies.⁵ Imposition of this disqualification in a law, which was meant to serve the purpose of encouraging participative democracy at a decentralised level of governance, is indeed troubling. Linking of the population control programme with the democratisation of grassroots governance raises doubts about the state's seriousness in seeing women play an active role in local administration and politics.

³ Karat, Brinda (2005) 'Planning versus Population Control, People's Democracy', August

⁴ PTI Report

⁵ The Hindu, July 7, 2005

Most High Court and Supreme Court judgements till date have been discordant with the NPP 2000 which advocates a non-coercive target free approach. While the state governments have misinterpreted and blatantly undermined national guidelines in formulating state policies, the lack of perception of the judiciary about the social reality is reflected in the rulings and proceedings on the complaints lodged by the PRI representatives. Supreme Court judgements often fail to understand the societal values that hinge on son preference and the lack of choices that women have on reproductive issues.

On the other hand, these also provide a convenient pretext for the governments to revert to the Malthusian theory and coercive practice for 'population control'. Such rulings violate the notion of equal worth and dignity of all human beings and subject the poor and the marginalised to unregulated realms of discipline and punishment. The judiciary fails to understand the teleological problem in such policies that it is poverty and lack of social development which begets more children and not the other way round.

Conclusion

The legislation, executive and the judiciary in India fail to understand the economic, social and cultural constraints of the population. Rather than meeting the general and reproductive health need of the masses, they introduce policies that make them more underprivileged. A superficial recognition of the issue of 'population control' rather than tackling the root causes of the 'problem' appears to be a fallacy in itself.

The constitutional amendments sought to strengthen democratic governance by mandating quotas for women, dalits and adivasis, creating space for the socially and economically marginalised sections to participate in the political process. As a result of this legislation, over the last ten years, there had been an increasing participation of these hitherto under-represented sections of society in democratic institutions.¹ However, once the state's legislation on Panchayati Raj introduced punitive measures on the basis of the two-child norm, it automatically prevented women, younger people and those belonging to the weaker sections of society from contesting elections, thus hindering their involvement in the political process. With the disincentives proposed, weaker sections also bear the brunt of the state's withdrawal of welfare measures.

As our study revealed, the ratio of disqualified candidates is skewed towards dalits, adivasis and women. Not only that, it has been very difficult to catch the voices of these silent groups because they were afraid to ventilate their grievances. Most men (and women) were reluctant to speak because of the fear of retaliatory measures by their upper caste opponents; women were afraid of their husbands. Most were also mute against the legislative proceedings because of economic deprivation.

Such punitive measures are based on the popular myth of 'population explosion' and the poor being responsible for it, which is widely prevalent among the well-to-do sections of the civil society in such an all pervasive manner that even a section of doctors justify sex-selective abortion, forced sterilisation, forced abortion etc. as necessary steps for 'controlling the population' and hence serving the nation.

Such an outlook fails to recognise that population size has nothing to do with economic prosperity but depends a lot on how effectively the country invests on its people, giving them better facilities in spheres of general and reproductive health, education, political and economic opportunities etc. It forgets that human poverty has its roots in the denial of these opportunities and will persist in countries irrespective of population size and fertility rates. Moreover, in our country the desire for a male child surpasses the desire for political power, as a male Sarpanch voiced his concern saying, "the government should think about those who have only daughters. I have

¹ Das, Abhijit (2005) 'Two- Child Norm: How necessary and how just?'

four daughters. I hope for a son. I will be happier with a son than being a Sarpanch." - such measures like the 'two-child norm' clearly does not match with the assumption of the policy-makers that this will 'control' the 'population growth'. Moreover, the official discourse is devoid of concern for preserving the human rights to life and freedom of choice. It is ironic that the poor do tend to have larger families because of their economic deprivation and in the circumstances this disqualification strategy will bring about inequality and deprivation in the political sphere too.

Moreover, unrestrained force in terms of 'controlling population' can never be effective in stabilising 'population growth'. It is the social indicators of development that can effectively and automatically bring about decline in fertility rates. This norm adapted with a purpose of its perceived contribution towards 'population control' never paused to take into consideration its impact on women, weaker sections and the youth. It has adversely affected both the democratic rights and reproductive choices of individuals, especially women, who are at the receiving end. Even when the husbands are faced with the threat of disqualification, it is the women who bear the brunt of this discriminatory policy through desertion/abandonment, divorce, forced abortion etc. though they have no say in the matter of family size or in holding of political power.

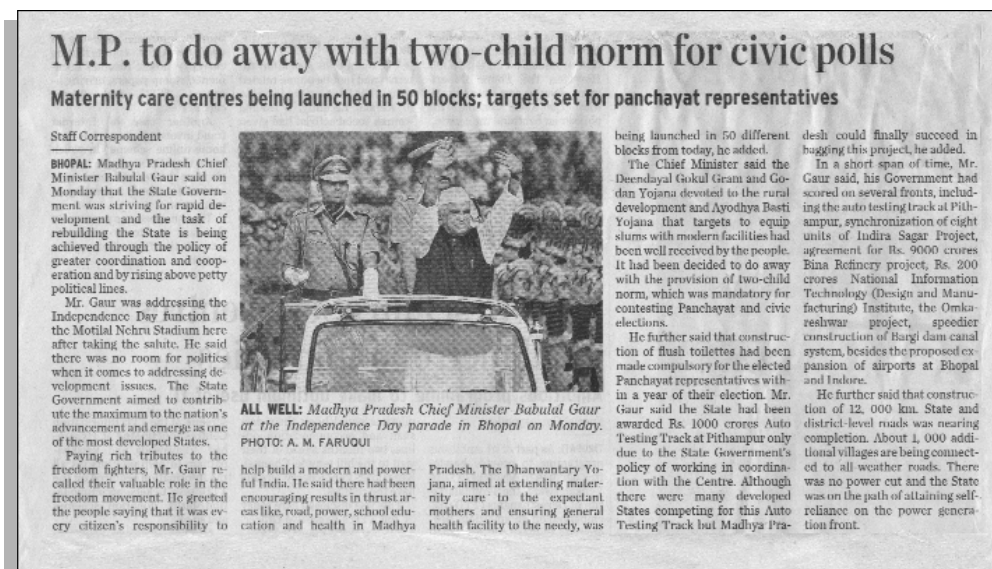
Moreover, such policy burdens the 'other' - weaker and marginalised section of the population- women, dalits, the young and the economically poor, who do not belong to the epistemic community of power and 'knowledge'. Under the circumstances, women remain objects and never become subjects of development. It is they who are the targets of sterilisation for the state as if they are the sole reproductive agent with the men refusing to share the responsibilities of 'family planning'. Women are held responsible for giving birth and hence the control is upon them; upon their body and mind; through sex-selective abortion, repeated pregnancy and forced abortion till a male child is born, or, face desertion and abandonment by the husband who wants to relieve himself of the responsibility for a third child. The onus is always on the women, in this case particularly young women of the reproductive age group who are more voiceless and doubly vulnerable. As they increasingly become a tool to achieve demographic goals they are left with no space to survive. The threat to their existence is compounded, and both the living and the yet-to-be born are equally endangered. This policy therefore reinforces the unequal power relations between men and women, and between the state and its people.

The road ahead...

Our study has attempted to reinforce the ongoing protests against the two-child norm by presenting an informed opinion about the status of the disqualified candidates. We will be pleased if our small effort has strengthened the initiatives of different groups and individuals in some ways, for revoking this norm. However, all these put together have had an impact in initiating a review of the state legislature on this critical issue.

A memorandum was presented to the Chief Minister of Madhya Pradesh on which he has promised to pass an ordinance in the current assembly session of the state. He has recently declared at a press conference that he will pursue in his efforts to revoke the two-child norm in MP stating that in case this fails then he will ask for the law to be applicable to all elected representatives across the country.

With the mounting pressure from women's groups as well as health groups, all calling for reconsideration of the policy, the next move is to appeal before the National Commission for Population, and have an enquiry committee to review the policy. Meanwhile, even as the state of MP is reviewing the norm, atrocities against women continue unabated.



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