

## Gist of EPW August Week 4, 2021

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#### 1. Two-child Norm: Curtailing Welfare, Weaponising Demography

##### Context

The article discusses the UP Population Bill 2021 highlighting the stands of the Centre, the Judiciary and the States with reference to the Population Policies in India.

##### Introduction

- Given the age structure of the population in India, its growth will continue, despite a fall in the birth rate, which is the effect of a young age structure caused by high population growth rates in the recent past.
- In the Indian case, with a large proportion of the population below the age of 30 years, further growth of the population is inevitable.
- Recently, Uttar Pradesh announced a population policy, UP Population Bill, 2021 that is perhaps the first time that population control is being procedurally administered as a mode of dispensing employment, housing, and education.

##### The Indian Case

- Health governance in India has perennially had neo-Malthusian influences.
- States have doubled down on women of historically marginalized communities and their reproductive capacities in the fear that countries will somehow run out of food and space to live in if the birth rate does not go down.
- The neo-Malthusian fear of overpopulation has been shown to be anti-women and has been shown to lead to a further skewing of sex ratios.
- Assam and UP are the latest to join Haryana, AP, Telangana, MP, Rajasthan, Chhattisgarh, and Odisha, states that are advocating a mind-boggling host of incentives and disincentives.
- These incentives and disincentives include
  - Restricting schooling in government schools to two children
  - Restricting employment in public services to those with two children
  - Linking financial assistance to Panchayati raj institutions (PRIs) for development activities and anti-poverty programs with performance in family planning
  - Linking assessment of public health staff to performance in family planning, and so forth.
- A study carried out in five states (**AP, Haryana, Odisha, Rajasthan, and MP**) indicated that the fallout of the imposition of the two-child norm on PRIs had been exactly as anticipated.

- The largest number of cases of disqualification from contesting elections was with reference to this law. Women formed 41% of those disqualified; the Dalits, Adivasis, and the Other Backward Classes formed an overwhelming 80% of those disqualified.
- Muslim TFR (**Total Fertility Rate**) is marginally higher, it has reached replacement levels in large parts of the country, with the rate of decline being faster among Muslims than among Hindus.
  - Total Fertility Rate is the number of children who would be born per woman (or per 1,000 women) if she/they were to pass through the childbearing years bearing children according to a current schedule of age-specific fertility rates.
- The heteronormative Hindu state has reconfigured itself within modern two-child families. The blame of underdevelopment falls on subaltern large families.
- That Assam and UP have joined the long list of states that advocate a stringent two-child norm in population policy is only reflective of how state administrations want to limit their welfare agenda.
- These efforts at prescribing a two-child norm seem to be found also in unlikely quarters: the Tamil Nadu agricultural labourers' insurance bill, for instance, stipulates that those labourers losing their limbs can receive insurance compensation only if they have no more than two children.
- The Maharashtra government—the most punitive state in population policy for a long time—passed a law for differential irrigation fees; farmers with more than two children would be required to pay more for irrigation facilities.

### The World Bank Influence

- In 1993, an influential policy recommendation from the World Bank stated – targets in population policy were not problematic as per the commitments that were made in the International Conference on Population and Development.
- It encouraged states to have an innovative package of incentives and disincentives to be linked to various benefits being made available under different plans of the government.
- The reach and influence of the [World Bank](#) in India's policies encouraged state governments to draft their state population policies that carried these policy prescriptions.

### The Role of Centre

- Health is a state subject, and family planning is a central subject.
- At the central level, population control has silently accrued legitimacy with each passing parliamentary session.
- The Ministry of Health and Family Welfare under the Congress government tabled family planning advocacy as an addendum for gram sabha members in the Constitution 79th Amendment Bill, 1992.
- The gram panchayat was to conduct **programs of adult education and family welfare within the village**.
- Annual reports of bills pending in the [Rajya Sabha](#) show that versions of population control legislation were introduced subsequently as the Family Welfare and Control of Population Bill in 2001, 2002, and 2003, the Two-Child Norm Bill in 2005, 2007 and Population Regulation Bill in 2019 (Government of India 2005, 2006, 2008, 2019). Each attempt to legislate family planning gradually tried to link it to overall governance.

## The Role of Judiciary

- The judiciary has mixed signals as to how it feels about the two-child norm.
- In 2003, a three-judge bench of the Supreme Court upheld a Haryana government law prohibiting a person from contesting or holding the post of a sarpanch or panch in the PRIs of the state if they had more than two children.

## UP Population Bill 2021

- States that have successfully achieved demographic transition have done so by investing in social welfare programmes, not by manipulating fertility.
- Pragmatically, they are demographically unnecessary, and indeed counterproductive. They are morally compromised since they violate the principle of natural justice, creating two sets of citizenship rights on the basis of fertility.
- Such policies represent going back to the days before universal suffrage when property rights decided citizenship claims.
- The COVID-19 pandemic has increased the stark inequality of access to reproductive health services, including abortion services, which are already inadequate.

## Overview

- If the **UP Population Bill 2021** is enacted, it will have profound gendered consequences.
- The incentives and disincentives adopted in such policies more often than not have impacted the welfare aspects of government.
- In order to come up with a suitable policy, it is essential to understand gender sensitivity, welfare targets more precisely.

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## 2. New IT Rules, 2021: Crucial Landmark in Digital Governance

### Context

The article highlights the implications of Information Technology (Guidelines For Intermediaries And Digital Media Ethics Code) Rules and its impact on the free flow of ideas in the digital space.

### Introduction

- The Central Government enacted the Information Technology (Guidelines For Intermediaries And Digital Media Ethics Code) Rules, 2021 in February 2021.
- The Rules largely cover OTT platforms and social media.

Read more on the [Information Technology Rules, 2021](#) in the link.

### Reshaping of the Digital Space

- The new IT Rules, 2021 announced in February by the Ministry of Electronics and Information Technology are significant as the new rules are a crucial landmark in digital governance.
- The new IT rules could subvert the right to privacy.
- The new IT rules put in place an elaborate regulatory mechanism that essentially allows the executive bureaucracy powers to control digital content.
- The design of the regulatory mechanism could reshape digital spaces, allowing for significant political interference in digital governance.
- Public complaints over content can lead to pulling down of content and there is now a regulatory mechanism to control what gets published and what cannot.

### The Other Nitty-gritty

- The Supreme Court judgment in the [KS Puttaswamy v Union of India \(2017\)](#) stated that individual privacy was an inalienable right.
- This judgment therefore establishes a principle which should ideally be the bedrock of governance.
- The government recently entered into very public confrontations with Twitter in order to take down content which expressed criticism of the Bharatiya Janata Party.
- The central government though has not acted with the same alacrity to address hate speech, propaganda and fake news originating in the right-wing digital ecosystem.

### Individual Privacy

- The responses of global tech giants like WhatsApp, Google and Facebook are important as they also point towards the digital dictatorship through the act.
- In essence, the government is saying that it wants digital platforms to identify the originator of a particular post or message.
- The end-to-end encryption technology is expected to face the biggest challenge.
  - End-to-end encryption encodes privacy into the system, regardless of who facilitates or controls digital data.
- WhatsApp has challenged the legality of this clause, this issue clearly impacts not just WhatsApp but every platform (including, for instance, Signal and Telegraph) that utilizes end-to-end encryption.

### Implications

- The state, at any point, can ask digital platforms for detailed information on content and origin of any communication and can prosecute platforms if this is not provided.
- The consequences of the design of the new IT rules on public discourses could be immense because of the lack of clarity on who constitutes “intermediaries” and “aggregators” and the complex algorithmic systems.
- There is little clarity on even simple issues, such as exactly which platforms will come under the ambit of the rules and which ones would be exempted, there is belief in some quarters that this vagueness is calculative and deliberate.

- The new rules state that the control over content should not infringe upon the legitimate right to free speech; fake news and content which disrupt law and order and national security should be pulled down.
- This ambit leaves the door open to subjective interpretations and subsequently to arbitrary censorship on content, thus rendering moot the question of freedom of expression.

**Also read:** [Information Technology Act, 2000](#)

### Three-Tier Regulatory System

- We now have a three-tier regulatory system in place, which will oversee all conversations in the digital space.
- The first tier exists at the level of the organization.
  - It consists of a chief compliance officer and a resident grievance officer, and is mandated to ensure compliance with the IT rules on a continuous basis.
- The next level provides for a self-regulatory mechanism where an independent body is to be headed by a person who should be either an eminent jurist or a retired Supreme Court or high court judge.
- These self-regulatory organizations are meant to be independent and free from the influence of vested powers.
- The third tier consists of an interdepartmental government committee, with significant oversight powers over digital spaces. This committee, essentially an extension of the executive bureaucracy, has the right to successfully appeal against and overturn the rulings of the SROs.
- The balance of power in the entire administrative set-up is clearly skewed in favour of the state, allowing the government the power to appoint complaint committees and influence the process of content moderation.

### Overview

- The new IT Rules, 2021 suggest a digital ecosystem far closer to the China model of state control though it is retaining the vestiges of a free and independent media.
- It is likely that major platforms, such as Google, Twitter and WhatsApp will not be banned in India but they will be controlled through a subtle system of regulation, surveillance, and even punishment.
- As of now, global tech giants, such as Google, Facebook and Twitter have agreed to conform to the law in India, while they also state that they will strive to defend democratic norms.