

Gist of EPW December Week 3, 2021

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1. Denying Choice, Defying Precedent

Why in the News?

The Surrogacy (Regulation) Bill, 2021, intended to regulate the practice of surrogacy, has been passed by the Rajya Sabha and is sent back to the [Lok Sabha](#) for ratification of the amendments made by the Rajya Sabha.

Background

After failing to pass the **Surrogacy (Regulation) Bill, 2016**, the Lok Sabha, cleared the Surrogacy (Regulation) Bill, 2021 in the last monsoon session and has now been passed by Rajya Sabha with changes to it.

The Bill defines surrogacy as a practice where a woman gives birth to a child for an intending couple with the intention to hand over the child after birth to the intending couple.

To read about the Surrogacy Regulation Bill, check [CNA dated Aug 7, 2019](#).

Also, read the Surrogacy [Regulation Bill](#).

Eligibility Criteria mentioned in the Bill:

- According to the bill, only a married woman who is a close relative of the intending couple, aged between 25 and 35 and who already has a child of her own is permitted to be a “surrogate mother.”
- Only an “intending woman” i.e. a divorced/widowed woman aged between 35 and 45 years or an “intending couple” are eligible to have a child through surrogacy.
- “Intending couple” is defined as a legally married man and woman, who have been medically certified as infertile.
- Further, the “intending couples” should be aged between 26 and 55 for the men, and between 23 and 50 for the women and should be married for at least 5 years.
- Surrogacy can only be availed only on altruistic grounds.

Critical Analysis

The definition **excludes a wide class of people** including the likes of never married, the widowed, the divorced, and the LGBT communities.

With respect to the issues relating to the exclusion of various groups of people from availing surrogacy, three recent judgments have an important bearing on the issues with the law.

- **Justice K S Puttaswamy Judgement (2017)**
 - Court held that the “right to privacy is a fundamental right, and it has three aspects, the most relevant for the present discussion being decisional autonomy.”
 - “Decisional autonomy means the freedom to make intimate personal choices relating to having children, marriage, dress, food, faith, etc”.
 - **Read more:** [Puttaswamy judgement \(2017\)](#)
- **Navtej Singh Johar case (2018)**
 - While de-criminalising the homosexual acts, Court also held that “the laws, which deprive those in same-sex relationships equal status would also be discriminatory and violative of Article 14.”
- **Indian Hotels and Restaurants Association and Others v/s The State of Maharashtra (2019)**
 - The SC held that, “any ban on a woman’s right to livelihood cannot be imposed purely on the basis of moral disapproval of the same, if there is no objective material to show how the activity causes harm to women.”

Also read: [Important SC Judgements for UPSC](#)

Conclusion

While it is the need of the hour for the government to regulate the process of surrogacy and ensure that there is no exploitation of vulnerable women, the approach adopted by the government seems to violate Articles 14, 19, and 21 of the Constitution.

An outright ban based on a moral idea of what is permissible stands on shaky constitutional grounds as seen in the Indian Hotels and Restaurants Association case. The bill also infringes the “decisional autonomy” clause in the Puttaswamy judgement. The constitutional validity of limiting surrogacy only to heterosexual couples is also being questioned based on the Navtej Sing Jowar case judgement.

Laws have to be framed considering the desires of people to seek better lives for themselves.

2. States’ Debt Burden Surges to a 15-year High

Context:

The State finances weakened by the pandemic, need to be strengthened to boost welfare and growth.

Details:

State finances have been impacted hard by the pandemic. There has been a huge gap created between inflow of revenues and expenditures, this has forced the states to borrow huge funds to meet instant needs.

Reasons for widening gap between revenues and expenditures

- The large-scale spread of the COVID virus and the following lockdowns, badly impacted the states’ revenues coming from consumption taxes.
- The states’ tax revenues, constituting 50% of the state revenues, remained stagnant in 2020–21, as against the 1/4th growth estimated in the state budgets.

- The taxes transferred from the union government, constituting 25% of the state revenues, fell by around 10%.
- The states' non-tax revenues fell by almost 20%.
- Further, the states, to beef up the fight against the pandemic, were forced to increase their expenditure on areas such as health and social welfare.
- The State increased the spending by 15% to meet the unanticipated relief efforts, which was three times faster than the growth in the revenue receipts (4.5%) in the year.

Analysis:

- The “**State Finances: A Study of Budgets 2021–22 Report**” published by the [RBI](#), mentions that by March 2021, the state debt burden shot up to touch a fifteen-year high of 31.2% of the GDP.
- The debt levels have raised more than the targeted 20% **debt to GDP ratio** set for 2022–23 by the **Fiscal Responsibility and Budget Management (FRBM)** Review Committee.
- The [Fifteenth Finance Commission](#) expects the states' debt to GDP ratio to increase to 33.3% of GDP in 2022–23 and then gradually slow down to 32.5% by 2025–26.

However, there has been a variation in additional debt incurred by various states and it is attributed to:

- The intensity of the pandemic in the particular states.
- The magnitude of the efforts that were made by the states to empower medical facilities and provide immediate relief to the people.

The growth in debt burden was seen highest in states like Tamil Nadu, Punjab, Kerala, Jharkhand, Haryana, Chhattisgarh, and Meghalaya.

Conclusion

The additional burden of interest payments on the borrowings is on the rise. Higher interest costs will now further reduce the funds available for investing in the social sectors. This will have long-term implications on both the growth and welfare of society.

To tackle the situation, the union government should strengthen the state finances, especially on the revenue side by restoring the revenue-neutral goods and services tax (GST) rates and by changing policies that shifted resource mobilization of the union government from taxes to cesses and surcharges, that does not transfer to the states.

Increasing the state's share in the union government's taxes will also ensure that the states are strengthened to counter crisis situations.

3. The Geopolitics of the Democracy Summit

Context:

The two-day **Democracy Summit** led by the Joe Biden administration of the US was virtually attended by more than 100 world leaders.



Image Source: U.S. Department of State
Democracy Summit

The Summit brought together more than 275 participants, representing governments, journalists, human rights activists, businesses, labour leaders, and others essential to accountable, inclusive, and transparent governance and the rule of law.

The Themes of the Summit

- Strengthening democracy and defending against authoritarianism
- Fighting corruption
- Promoting respect for human rights

The Key Areas of Work

- Supporting a free and independent media
- Fighting corruption
- Bolstering democratic reformers
- Advancing technology for democracy
- Defending free and fair elections and political processes

Criticism

- Russia called it an attempt to polarise the world on an ideological basis.
- It is criticized as an attempt by the U.S. to garner more support against its rivals China and Russia.
- A white paper named “**China: Democracy That Works**” along with a report titled “**The State of Democracy in the United States**” has been published by China that tries to establish that the Chinese version of democracy is superior to that of the US.

- The summit was also regarded as the Biden administration's propaganda to counter the Chinese threat and to repair the reputation of the American democracy that was affected by Donald Trump's policies.
- Western media has also been critical of the idea of gathering countries that are either half-baked democracies or electoral autocracies.
- The use of democracy as a strategic tool was also not well received.

Impact on India

- The exclusion of India's long-time friends and neighbours such as Russia, China, Bhutan, and Sri Lanka will put India in a spot of dilemma.
- Further, the exclusion of Russia from the Summit will strain the ties between India and Russia that have been tested in recent times.
- India aims for a cordial relationship with the USA and Russia alike, however, the cold war era politics is still evident in geopolitical circles.
- The US has been vocally critical about the issues of democracy and violation of human rights in India. Hence, involvement with the USA is very crucial for India to ensure a seamless relationship.

Conclusion

Post the Cold War, the West endorsed the idea of "**democratic peace**" which mentions that two democracies will not go to war with each other. The summit which has been promoted as a "**concert of democracies**" could also be an attempt by the US to bring together countries with shared values and democratic ideals, to create an alternative to the **United Nations** system to nullify the growing influence of China in international bodies and bypass the existing structure of the UN Security Council which functions on consensus between the **five permanent members** that includes both Russia and China.

Democratic struggles are largely an internal matter, and imposing democratic obligations externally will prove to be counterproductive in the long run.