

The Two Child Norm : An enduring political and development conundrum

In the last one year the debate on the two child norm has see-sawed vigorously. Before the last elections Mr L.K Advani had said that the two child norm had to be made mandatory, and a line was included in the BJP manifesto. After the elections the Common Minimum Programme of the UPA Government made ambiguous reference to a population control program without a clear mention of the two child norm. In October last year, Health Minister Dr Ramadoss mentioned that the two child norm would not be enforced but people would be urged to adopt family planning voluntarily. In November the Ministry stated that it would drop a pending bill in the Parliament which aimed at uniform application of the two child norm. In late February 2005 Dr Ramadoss's ministry filed an affidavit to the Delhi High Court stating " There is no insistence on two-child norm in the family planning programme and couples can have any number of children as they like.... They are free to decide the size of the family." However the Supreme Court is not convinced and is consistently giving orders for implementing the norm. In July 2003 a three judge bench observed that "disqualification for having more than two children does not contravene any fundamental right, it is a disqualification conceptually devised in the national interest". In October 2004 the Supreme Court reaffirmed this decision. On the 28th of February 2005 the Supreme Court, issued notices to the Centre and six states to implement the two child norm in order to curb the alarming population growth in the country.

When such informed persons in the government take such contradictory stands it becomes difficult for the lay-person to decide whether the two child norm is in the interest of the people or not. In order to take an informed decision about the two child norm it is necessary to understand its rationale and impact.

As the Supreme Court has mentioned in its order the two child norm is usually related to 'alarming population growth'. However evidences gathered from the census over the last few decades shows that the population growth rate at this point in time is the lowest in the last fifty years. Added to this the very young and reproducing population in the country adds an additional but temporary 'momentum effect' which will see the growth rates reduce further in a few years time. Thus the Supreme Court has not been well informed about the current population growth rates in the country.

The two child norm made its entry into Panchayat level elections in the six states around the same time as the 73rd and 74th Constitutional Amendments which gave Panchayat bodies constitutional validity but also provided for reservations for women and the marginalised groups. A review of the disqualifications made on the basis of the 2 child law in all the six states points to a systematic discrimination. Women, dalits and young persons form a disproportionately large section of the disqualified group. The reasons are not hard to find. In male dominated Indian society when women are faced with a choice between parenting and political leadership, parenting wins every time. Actually it is often not a matter of choice but of family pressures as well. The two child norm has also been used by the upper castes to stifle the aspirations of young aspiring dalit leaders by getting them disqualified and replacing them with compliant older dalit men with many more

children. Unfortunately the norm only applies after a cut of date. Thus the two child norm violates the principles of equality (a fundamental right) as well as that of equity which is part of the directive principles of state policy, as well as the spirit of 73rd and 74th Amendments.

However this is not all that the two child norm does. In states like Haryana and Himachal Pradesh where there is strong evidence of son preference and declining sex ratio among children, the two child norm becomes an added incentive for families to eliminate the daughter. A small study in HP has shown that the districts with the largest number of disqualification are those with the lowest sex ratio.

China is often cited as an example, but while there was one big difference in the implementation there the impacts appear similar. In China the one-child norm was universally applied. However there is a belated recognition that this norm has led to a skewed sex ratio and increasing violence against women. Trafficking of women from neighboring countries has increased to make up for the huge shortfall in the number of women. Early signs of a similar phenomenon are visible in Haryana and Punjab as well. A fact that is often ignored is that Kerala achieved similar decline in population growth rates without any coercion or state enforced norm.

Based on the evidence available the two child norm is wholly unnecessary and totally unjust and needs to be removed urgently. Unfortunately the judiciary is being misled on this count.

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