

**National Colloquium on  
Population  
Policy,**

**Development and Human Rights**

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# Summary



Nations are judged by the well-being of their people: the overall status of their health, nutrition and education, the civil and political liberties they enjoy, the protection guaranteed to women and children, and the provisions made for the vulnerable and the disadvantaged. It is not surprising then that most nations today are opting for the concept of sustainable human development since it places people at the core of development.

It was the individual, who was at the core of the deliberations and debates at the two-day Colloquium on "Population Policy – Development and Human Rights," organised jointly by the National Human Rights Commission (NHRC); the Department of Family

Welfare, Ministry of Health and Family Welfare (MOHFW), Government of India; and the United Nations Population Fund (UNFPA) on 9th and 10th January 2003 at New Delhi. The objective of the Colloquium was to initiate a dialogue from the perspective of development and human rights in the implementation of effective population policies at the Centre and State levels as well as to deliberate on mechanisms to achieve the same. The participants who attended the Colloquium were administrators, legislators, policy makers and representatives of important NGOs working in the field.

The Colloquium consisted of four Technical Sessions and a Panel Discussion. The resource persons for these sessions were eminent people from the field who focused on issues such as development and population policy; population policy and law; population policy and the two-child norm and concerns in framing population policies. These apart, senior representatives of those States, which have framed their population policies, made presentations.

The discussions that later followed the technical sessions as well as the panel discussions saw the expression of a range of views, especially on the introduction of incentives and disincentives in population policies formulated by various State Governments. However, there was unanimity among the participants in recognizing human rights as integral to the empowerment of the disadvantaged and marginalized sections, particularly, women. The speakers emphasized that human well-being is the core concern of development and population. The

discussions also highlighted the integral link between population stabilization and development goals. In sum, the participants agreed that a rights-based approach was essential and coercive or discriminatory measures were "neither necessary, nor just, nor efficient".

In the concluding session, chaired by Justice (Mrs.) Sujata V. Manohar, the participants of the Colloquium unanimously adopted a declaration on development and human rights in the context of population issues.



**Declaration Adopted at the National Colloquium  
on  
Population Policy –  
Development and Human Rights**

The Department of Family Welfare, Ministry of Health and Family Welfare, Government of India; the National Human Rights Commission and the United Nations Population Fund (UNFPA) jointly organized a two-day Colloquium on Population Policy – Development and Human Rights, on 9 and 10 January 2003 at the India Habitat Centre, New Delhi. The participants of the Colloquium appreciated the efforts made by the State Governments / Union Territories and the Union Government to frame and implement population policies. After having deliberated on these population policies and the related human rights issues, they agreed to:

- ❖ Recognize the importance of having a population policy framed by the Central and State Governments to achieve population stabilization goals of the country.
- ❖ Further recognize that the population policies ought to be a part of the overall sustainable development goals, which promote an enabling environment for attainment of human rights of all concerned. Therefore, a rights-based approach is imperative in the framing of the population policies. Further, it is important that framing of such a policy and its implementation require a constant and effective dialogue among diverse stakeholders and forging of partnerships involving all levels of Government and civil society.
- ❖ Appreciate the efforts of the Government of India in framing the National Population Policy, 2000 of India which affirms the commitment of the Government to its overriding objective of economic and social development, improving the quality of lives of people through education and economic empowerment, particularly of women, providing quality health care services, thus enhancing their well being, and providing them with opportunities and choices to become productive assets in society, as a necessary concomitant to population stabilization and reduction in fertility rates.
- ❖ Note with concern that population policies framed by some State Governments reflect in certain respects a coercive approach through use of incentives and disincentives, which in some cases are violative of human rights. This is not consistent with the spirit of the National Population Policy. The violation of human rights affects, in particular the marginalized and vulnerable sections of society, including women.
- ❖ Note further that the propagation of a two-child norm and coercion or manipulation of individual fertility decisions through the use of incentives and disincentives violate the principle of voluntary informed choice and the human rights of the people, particularly the rights of the child. Similarly, the use of contraceptive targets results in undue pressure being put by service providers on clients.
- ❖ Call upon the Governments of States / UTs to exclude discriminatory / coercive measures from the population policies that have been framed, or are proposed. States in which such measures do not form part of the policy, but are nonetheless implemented, also need to exclude these discriminatory measures.

- ❖ Emphasize that in a situation where the status of women is low and son preference is prevalent, coercive measures further undermine the status of women and result in harmful practices such as female foeticide and infanticide.
- ❖ Affirm that reproductive rights cannot be seen in isolation, as they are intrinsic to women's empowerment and empowerment of marginalized sections of society. Therefore, giving priority to health, education and livelihood of women is essential for exercising these rights, as also for reduction in fertility rates and stabilization of population.
- ❖ Acknowledge that reproductive rights set on the foundation of dignity and integrity of an individual encompass several aspects such as:
  - ❖ the right to informed decision-making, free from fear of discrimination;
  - ❖ the right to regular accessible, affordable, good quality and reliable health care;
  - ❖ the right to medical assistance and counselling for the choice of birth control methods appropriate for the individual couple;
  - ❖ the right to sexual and reproductive security, free from gender-based violence.
- ❖ Emphasize that capacity-building initiatives at all levels should mainstream rights-based perspective into various programmes.
- ❖ Further emphasize that for a successful implementation of any programme for population stabilization, a rights-based approach is far more effective than a coercive approach based on disincentives.
- ❖ Recognize that monitoring the human rights impact of policies and their implementation by governments is critical for ensuring that the policy processes conform to the rights framework as enshrined in the Constitution of India national laws and in international human rights instruments.
- ❖ Call upon the Central and State Governments to ensure that domestic laws on the subject promote proper exercise of reproductive rights, prevent harmful practices that derogate from a proper exercise of such rights, and protect every individual's right to a life with dignity while aiming at population stabilization and ensure allocation of adequate financial resources for the implementation of a population policy founded in human rights and development.



# Inaugural Session



The Minister for Health and Family Welfare, Mr. Shatrughan Sinha, inaugurated the Colloquium. In his speech he emphasized the need for any policy or legislation to be rooted in a rights-based approach. Justice J.S. Verma, Chairperson, NHRC, who delivered the presidential address appreciated the rights-oriented spirit of the National Population Policy and welcomed the formulation of population stabilization policies that are consistent with the rights approach. He reiterated that the means of achieving population stabilization are as important as the ends.

**T**he colloquium was inaugurated by Hon'ble Minister of Health and Family Welfare, Mr. Shatrughan Sinha. Justice J.S. Verma, Chairperson, NHRC, who delivered the presidential address appreciated the rights-oriented spirit of the National Population Policy and welcomed the formulation of population stabilization policies that are consistent with the rights approach. He reiterated that the means of achieving population stabilization are as important as the ends. The NHRC Secretary General Mr. P.C. Sen, gave the welcome address.

## **Inaugural address: Mr. Shatrughan Sinha**

In his inaugural address the Minister affirmed that any policy or legislation should be rooted in the human rights it seeks to protect and promote. The validity and sanction of the policy is determined by its human rights

orientation. Reiterating that India's Family Welfare Programme is voluntary and promotive in nature, he said it is guided by the National Population Policy 2000 (NPP), the main objective of which is to provide a range of services, without any form of compulsion.

The Minister informed the participants that the NPP had not provided for individual incentives or disincentives for adoption of family planning because such an approach tends to hit the poor the hardest. Similarly, the people who suffer the most from coercive measures are the poorest and least privileged in the society, the Minister said, reiterating the need to avoid authoritarian interventions in matters related to reproductive behaviour. He stated that his Ministry had impressed upon State Governments the need to enhance investments in people by providing quality services and by devising focused programmes for improving the quality of life and achieving population stabilisation.

Expressing concern about the population policies of some States not reflecting the spirit of the NPP and also, about the misuse of technology for sex selection, he pointed out that any inconsistency with the NPP would be a violation of the constitutional mandate.

Highlighting the significant achievements made in terms of socio-demographic indices, the Minister said that the family welfare programme has been able to achieve replacement level fertility in nine States and Union Territories. He emphasized that it was necessary to address the unmet needs of all segments of society. Towards this objective, the NPP has set some major goals for the year 2010, including substantial reductions in infant and maternal

mortality, universal immunization of children against all vaccine-preventable diseases, 100% registration of births and deaths, and making family welfare a people-centered programme.

The Minister concluded by emphasizing that the challenges could be overcome through cooperation and the participation of people themselves. The health and education centers spread throughout the country and catalyzing organizations such as the NHRC and the UNFPA, he said, have an important role to play in achieving the objectives of population stabilization and human rights.

The Hon'ble Minister released a poster and brochure on reproductive rights following his address to the gathering. The poster and brochure highlighted the three basic reproductive rights – 'to be born, to be safe and to live with dignity'.

### **Presidential address: Hon'ble Justice J.S. Verma, Chairperson, NHRC**

Delivering his presidential address, Justice J.S. Verma, Chairperson, called for a rights-based dialogue on the implementation of the National Population Policy. He said that linkage between human development and human rights had been well established. The population policy must be consistent with this, and must promote both human development and human rights.

Quoting Article 39(f) of the Indian Constitution, he observed that children should be "given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity...". In this context, he asked, why should a third child be punished and deprived of rights, especially in a country where women had no say in the matter of child bearing.

Speaking of coercive population control methods, the Chairperson said that such methods were not part of the NPP. However, some States, in their policies,

appeared to have deviated from that policy and to have adopted disincentives and imposed penalties. These disincentives were violative of the constitutional guarantees of the rights of women and children. He lauded the assurances given by the Minister of Health and Family Welfare that the National Population Policy would be implemented in a non-coercive way.

The Chairperson called for a rights-based approach to population policies and urged the State Governments, especially those of Uttar Pradesh, Madhya Pradesh, Rajasthan, Maharashtra and Haryana, to review their policies. Uniform standards, consistent with the NPP, were necessary to achieve the objective of population stabilization. The 'means', he emphasized, should be as important as the 'end'.

He once again emphasized the importance of human freedom and fundamental rights, which should guide empowerment of women to decide when and how many children to have, and the right to be treated in a dignified way.

Reiterating that the population policy cannot be delinked from human rights, he declared that human dignity is the essence of rights and development cannot be governed by statistics.

### **Conclusion of Inaugural Session**

The inaugural session concluded with a vote of thanks by Mrs. K. Sujatha Rao, Joint Secretary, MOHFW, who reaffirmed the Government of India's abiding commitment to the principles of the International Conference on Population and Development (ICPD). Emphasizing on woman's fundamental right to obtain health care with dignity, she stressed that it was the Government's duty to ensure that no woman dies due to unsafe abortion and that every woman has access to safe reproductive health services. She thanked the MOHFW, NHRC and UNFPA for their efforts in upholding these fundamental rights.



# Technical Session I

## Development and Population Policy

**Chair** – Mr. Francios M. Farah, UNFPA Representative

**Speaker** – Dr. Gita Sen, Indian Institute of Management, Bangalore

Introducing the session, Mr. Francios M. Farah recapitulated the changing approach to population issues over a period of time. He said that thinking on population policy had started with a post-World War mindset, when increasing population was the focus of concern. But in the nineties, there was a major change in thinking with an understanding of the linkages between population and development. An important landmark, he noted, was the South Asian Population Conference held in Bangkok in December 2002, which had voted in favour of a population policy that based itself on a rights approach, ensuring reproductive rights for all.

The ultimate purpose behind any policy, Mr. Farah said, is a guarantee (?) of a certain quality of life and dignity of the people. Making a plea for a redefining of population policies from a social development perspective, rejecting bias and discrimination, he said it is important to link population policy to a rights approach and think about the person behind the reproductive function, whose rights need to be upheld.

## Development and Population Policy – Tracing Linkages

Dr. Gita Sen began by stressing the need for a change in old views and mindsets, in keeping with the new concepts and the urgent need to ensure human rights. Upholding the rights of women, she said, called for implementation of the plan of action of ICPD.

In India, she said, the realization of the ICPD Plan of Action has depended on the way in which the Center and the States have converted the Plan's concepts and values into programmes and policies. The NPP, she acknowledged, was a positive start, but numerous constraints still exist both at the community level as well as at the level of the programme implementers and policy makers. As a result, a number of contradictory situations emerge and policy objectives remain from being translated into reality. For example, the recent

case, which brought to light of the use of bicycle pumps for laparoscopic surgery, clearly shows the contradiction between what is promised as quality health care service to the communities and the actual services delivered. Dr. Sen referred to similar contradictions in the area of right to information vis-à-vis HIV/AIDS. Though HIV/AIDS prevention is important, sex education is still considered a taboo. Stating that these inconsistencies continue because of the simultaneous existence of various opposing views and beliefs, Dr. Sen linked the limitations and problems to the mindset, values and thinking of various stakeholders, which have not changed sufficiently to correspond to the present requirements and policy changes.

Dr. Sen elucidated that global development and population policy over the years has evolved in three stages. In the first stage, the focus of development was on increasing the rate of growth and capital formation. She described this as a brick-and-mortar approach to development, which basically viewed development as assembling of resources. People were viewed as human resources for building assets. This outlook was reflected in the population policies of that era.

The next was a transitional phase, where the focus shifted to human development – providing health services, education, and implementing poverty-reduction programmes. This marked the initiation of discussions on the favourable impact of education on fertility reduction and population stabilisation. It was in this phase that the role and importance of women, including their ability and freedom to make decisions, was acknowledged. Women's education and health was seen as a means to meet population goals.

The third and a more recent phase has seen a further shift in thinking, viewing development as a process of building human potential. There has been a significant change in perception of people not as numbers but as human agents entitled to rights. It is only with this shift in the understanding of development and population that human rights have become a vital element of population policies.



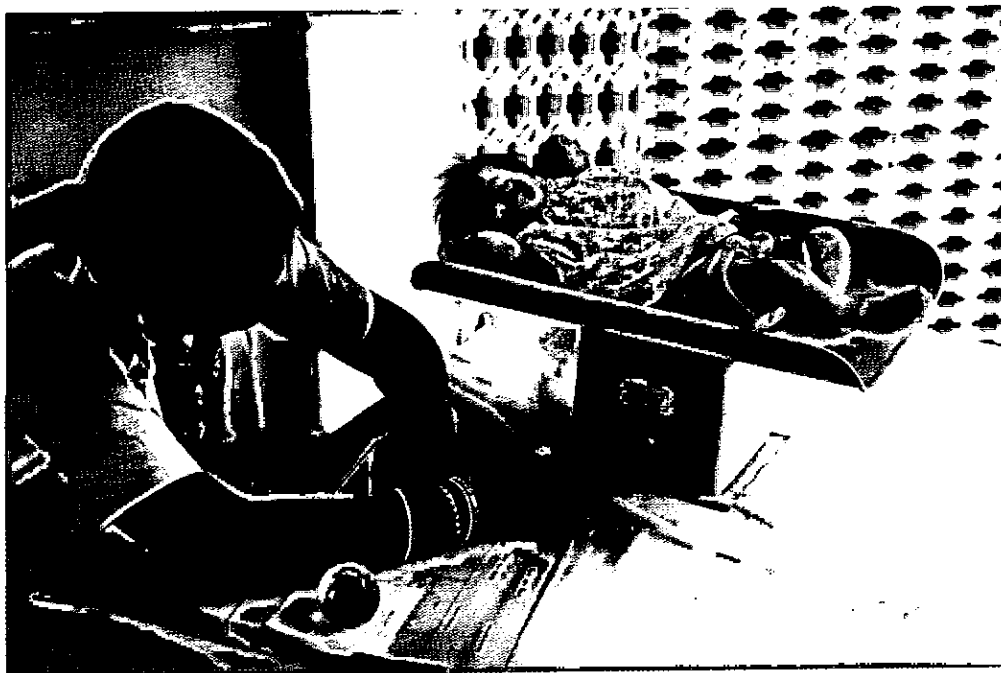
Dr. Sen highlighted the fact that all rights involve responsibilities and there is need to maintain a balance between the two. The enjoyment of rights is not infinite and indiscriminate. For example, sex selection cannot be recognized as a reproductive right and population goals cannot justify denial of the rights and entitlements of the marginalized.

Moving on to the ICPD Plan of Action and the Beijing Platform for Action, Dr. Sen stated that they both acknowledge the influence of gender hierarchies on the process of human reproduction. They recognise that while the onus of reproduction is on women, they have been in the process victimized, suppressed and penalized for it and further the existing gender-power relations have restricted the ability of women and girls to exercise and enjoy their human rights. To correct this situation, the ICPD Plan of Action and the Beijing Platform for Action stressed the importance of women's empowerment and the responsibility of the State, men, families and society at large, to secure and promote reproductive rights of women and men.

Dr. Sen concluded by lauding the National Population Policy 2000, as a positive step towards implementation of the ICPD Plan of Action, as it recognized the importance of bringing down infant and maternal mortality rates, meeting family planning needs more effectively, providing services and information to adults and adolescents particularly in the context of HIV/AIDS, and improving facilities for safe abortion. The Government, she pointed out, has also focused on the issue of violence against women and affirmed the importance of girls' education not just for its impact on reduction in fertility rate but as a right in itself.

## **Observations**

Emphasizing that the ICPD advocated that women be addressed not merely as reproductive beings, but as individuals in their own right, Mr. Farah opened the discussion of the first technical session to the house.



When a participant from Gujarat observed that women who give preference to a male child are only exercising their reproductive rights, Dr Gita Sen disagreed. This, she pointed out, is not an assertion of rights, but an indication of gender hierarchies in society and the fact that women are powerless in the gender power hierarchy. Women prefer having a son so that they may acquire a place of power in the hierarchy between men and women.

Dr. A.R. Nanda, former Secretary, Department of Family Welfare, said that the country's policy makers saw the growing population as a big threat to development. They believe that western countries can follow the rights-based approach as they have completed the demographic transition, thus "entitling them" to reproductive and sexual rights. India's population crossing the one billion mark has created a scare in the minds of the country's policy makers, politicians and service providers. This fear is reflected in programmes and strategies that focus solely on decreasing population, and thus impinge on reproductive rights.

Dr. Sen agreed that such fears existed and had led to the promotion of coercive methods such as the one-child and two-child norm by various States. But she stressed that such steps were not required because the fertility transition is taking place in even the most populous States. The policies, in fact, need to focus on providing quality health care and protecting the rights of the people.

Regretting that numbers are still a significant issue in any population policy, Dr. Ravi Duggal from CEHAT, Mumbai, recommended elimination of the numbers psychosis while considering human rights and access to care as entitlements from the State. According to him, while the ICPD Plan of Action and the Beijing Platform for Action have contributed to an evolution in perspective, this has so far been reflected only in speeches and not in programme implementation. It is also important to note, he pointed out, that reproductive health is not equivalent to reproductive rights.

Dr Nina Puri felt that it was necessary to demystify the concept of rights so that lay people understand it. This, she said, would help overcome the difficulties in translating new programme strategies into reality at the grassroots level.

Agreeing that recognition of the ICPD Plan of Action has been slow and little attention has been paid to including rights into programme strategies, Dr. Gita Sen stressed that quality of care and entitlement to services are rights issues and should be incorporated into policies and programmes.

A final observation brought out the linkage between population and development through the example of Kerala, which has concentrated on development, education, and health care, rather than on targets.



## Technical Session II Presentation of State Population Policies

**Chair** – Mr. J.V.R. Prasada Rao, Secretary, Department of Family Welfare, MOHFW

**Speakers** – State representatives of Andhra Pradesh, Maharashtra, Punjab, Karnataka, Arunachal Pradesh, Manipur, West Bengal and Uttar Pradesh.

**M**r. Prasada Rao commenced the session by describing NPP 2000 as a meticulously researched document. Referring to the “promotional and motivational measures” spelt out in paragraph 46 of the NPP<sup>1</sup>, he said they were incorporated to achieve the socio-demographic goals of the policy. It was noted that Some States have already adopted these measures. He urged that the promotional measures should not be viewed negatively and suggested an objective evaluation to examine whether they entail a violation of human rights.

Mr. Rao then invited the representatives of the States that had already formulated their population policies to describe them briefly and detail their efforts at stabilizing the population. He requested States that were still in the process of formulating their policies to explain what

<sup>1</sup> Refer to annexure 4

they planned to do to stabilize the population in their regions. He said the Colloquium would be especially useful for these states as they could benefit from the ongoing discussions.

**Andhra Pradesh** – Mr. Laxmi Narayan, Joint Commissioner, Department of Family Welfare, Government of Andhra Pradesh

Mr. Narayan began by stating that the Andhra Pradesh Population Policy adopted in 1997 is pro-women, pro-children, and offers client driven and quality services. It has led to a remarkable decline in decadal population growth rate from 24.02% in 1991 to 13.86% in 2001.

However, Andhra Pradesh has a high level of school dropouts (78%), a high rate of child labour (14-19%), low female literacy (33.7%) and a high percentage of women marrying below the age of 18. The policy was aimed at improving the status of women and providing economic empowerment to them through the micro-credit movement (DWCRA), which has been active in the State since the 1970s. It has led to women taking independent decisions about their health, nutrition, education and the size of their families. Mr. Narayan said that the policy has made family planning services widely available all over the State by recruiting more medical staff, constructing public health centers, and ensuring regular supply of drugs and consumables. The State implements its programmes at the grassroots level through the Auxiliary Nurse Midwife (ANM) who provides health services to children and pregnant women, and counsels eligible couples. The State policy introduced a pioneering health insurance scheme called Arogya Raksha, which provides insurance to the family planning acceptor and his/her two children for a period of five years, commencing from the time of operation.

An intensive campaign was organised in the entire State to promote issues like delaying the marriage age, spacing children, institutional deliveries and immunisation. Activists and experts conducted training programmes for women and adolescent girls. The State has improved services of referral hospitals and primary health centers in rural, interior and backward areas and also introduced round-the-clock women health centers. This has led to an increase in institutional deliveries from 33% in 1997-98 to 67% in 2001. To further motivate women to have institutional deliveries, under a new scheme called 'sukhi bhava' women below the poverty line residing in rural areas are paid Rs. 300 as transportation charge to reach the nearest health center.

Describing other measures, Mr. Narayan said the State has strengthened the immunization programme for children; it is supporting committees, called 'Janani', formed by the Sarpanch and self-help groups to create a demand for health services at the local level; implementing a contraceptive marketing programme through self-help groups; and it has established urban health centers in collaboration with the local NGOs to provide health services to the urban poor.

Mr. Narayan concluded by assuring the participants that Andhra Pradesh would continue working towards improving the overall health and well being of families and protecting the rights of the marginalised.



## Observations

The focus of the discussions on the Andhra Pradesh presentation were its adoption of the promotional measures present in the NPP, which have been strongly criticized as they are seen as concealed incentives and disincentives, which could be violative of human rights. In this context, Mr. Farah explained that promotional programmes should be introduced only in an equal opportunity environment, so that they do not further disadvantage the already marginalized sections of society nor impinge on their rights. Some participants felt that these promotional measures should not be used as a criterion to judge a State's performance since they were either overtly or covertly, impacting rights.

Several participants observed that the State's population policy was target-oriented and the results achieved were due to the use of incentives and disincentives. The goals of the Andhra Pradesh Population Policy were described as self-contradictory, while on the one hand it is based on the premise that providing services is what will reduce fertility, on the other, the two-child norm is made applicable to elected representatives.

Participants felt that Andhra Pradesh could achieve population stabilisation goals without incentives and disincentives, as the State's positive achievements were not exclusively because of its population policy, but due to various other developmental factors, such as the presence of a strong women's movement.

It was recommended that the States focus on reproductive rights and improve formal education and access to health services. The policy makers were urged to take a fresh look at the population policy and view it from a human rights perspective.

**Maharashtra** – Mr. Manmohan Singh, Secretary, Department of Health & Family Welfare, Government of Maharashtra

Mr. Manmohan Singh explained that Maharashtra's population policy is implemented through a State-level Coordination Committee under the Chairpersonship of the Chief Secretary, with guidance from a Council under the Chairpersonship of the Chief Minister. Similar coordination committees have been set up at the block and village levels as well. The programmes emerging from the policy are implemented through various panchayati raj institutions.

Mr. Singh informed the Colloquium delegates that a range of training programmes to improve the quality of health services have been organised for health care providers such as dais or Traditional Birth Attendants (TBAs).

He said that Maharashtra's population policy aims at reducing the total fertility rate, birth rate and neo-natal mortality rate by 2004. The State policy has announced an incentive of Rupees 10,000 for couples who opt for sterilisation after having one or two girl children.

Explaining that the State policy has defined a small family as a family with two children, Mr. Singh stressed that the existing disincentives in the policy do not target

the mother and the third child. The two-child norm is applicable only for those contesting elections to local bodies.

Maharashtra has already recorded an increase in institutional deliveries and a good level of immunization for children.

## Observations

Dr. Ravi Duggal from CEHAT informed participants that NGOs in Maharashtra have opposed the two-child norm and the subsequent disqualification of members from panchayats. In any case, he pointed out, such disqualification is discriminatory against those who have no access at all to health care and therefore cannot make or act on informed reproductive health choices. People are thus denied their political rights due

to the inaccessibility of government health services. He said that local groups were hoping that the State would adopt a rights-based approach and remove disincentives. Based on suggestions given by NGOs and local groups, he appreciated the changes the State Government had made in the initially proposed policy, and lauded it for involving self-help groups, women's groups and social organisations in the implementation of the policy.

When a participant suggested that the two-child norm be made applicable to all, including politicians and bureaucrats, on the premise that human rights can be ensured only after achieving a certain stage of development, Dr. Gita Sen responded by recalling the Emergency period when the rights of the people were curtailed. She disagreed with the idea of first achieving a certain stage of development and then thinking about human rights. In place of last two sentences: She pointed out that in a democracy, curtailing human rights cannot be the price of development.

Mr. Nanda, one of the participants, observed that the four most populous northern States, considered to be backward, have shown a reduction in total fertility rate. According to him, the States, which have successfully achieved reduction in total fertility rate, have not accomplished their development goals because of the

incentives and disincentives promoted as part of their family welfare programme, but because of enhanced access to primary health care and reproductive health services. In fact, incentives and disincentives have alienated the very people who need to be empowered politically and economically.

**Punjab** – Mr. Joginder Singh, Director, Department of Health & Family Welfare, Government of Punjab

Mr. Joginder Singh informed participants that though the State does not as yet have a population policy, a draft policy has been debated and discussed at the highest levels of the Government and is due to be approved and announced soon. However, Mr. Singh



began and concluded his remarks by assuring the delegates that though Punjab has several incentives and disincentives outlined in its proposed population policy, he would recommend a rethinking, especially on the disincentives, after having heard the comments at the Colloquium on how they affected human rights. But Mr. Singh was of the view that totally discarding or discrediting the system of incentives and disincentives could be done only after further consideration.

He began his presentation with a slide show that graphically and yet simply demonstrated the mathematics of population growth: One slide depicted a family following the two-child norm for generations – a couple with two children, who would each marry and have two children each; who would eventually marry and have two children – so that over three generations, the population in that family would increase by less than 20. On the other scale is a couple that has seven children; those seven marry and have seven children each.... At this rate their contribution to the population growth in the same period as the other family, is almost 350.

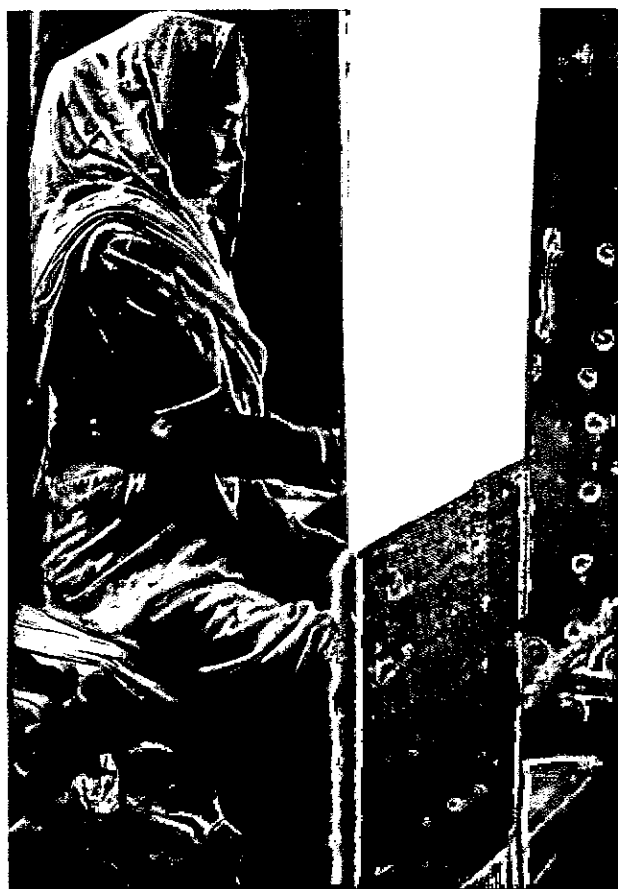
“Our grandfathers and great grandfathers produced many children and created what we have today: food shortage and water scarcity and most important a begging bowl to ask other countries for aid for roads, railways, airports, hospitals etc. They produced more children due to ignorance and the need of those times.”

On the issue of female foeticide and sex selection, Dr. Singh agreed that Punjab indeed needed to be deeply concerned of its record in these malpractices but he assured delegates that the State was taking urgent action and that in another decade the picture would be very different. The proposed policy includes steps to prevent female foeticide and sex selection – including incentives and disincentives.

Dr. Singh agreed that normally, there should be no need for incentives and disincentives. “Logically speaking, they do affect human rights. But have not those people who have produced more children in the past usurped the rights of the people who have been within their limits? By occupying their space, vehicles, schools...everywhere. We suffer the pollution created by others who have done so much harm to us.”

Dr. Singh continued, “Though not normally recommended, incentives and disincentives are necessary because at this stage harsh steps are needed to control the menace of overpopulation and to correct the imbalances in sex ratio, which are already creating havoc and if we allow them to continue, we will be going back in development.”

Initially hesitant to outline the proposed incentives and disincentives – since the Colloquium’s deliberations would have an impact that would result in some changes – at the prompting of the Chair, Dr. Singh agreed to share them with the delegates.



Punjab already has the following incentives in place: one special increment in government service; ½ percent concession in house building allowance; and the maternal benefits which almost all other states have.

The incentives included in the proposed policy are: subsidized education for a single child family to a limit of Rs 2500 a year; subsidized education upto the same limit for vocational education for each girl in a one or two-girl child family; social security for parents of one or two child families; family pension for mothers at the age of 60 and fathers at the age of 65.

Before discussing the disincentives, Dr. Singh repeated his assurance that the State would reconsider them in the light of the Colloquium's strong consensus against them. Under the proposed policy, no person exceeding the two-child norm would be allowed to contest elections in Punjab (except elections for MPs and MLAs as rules pertaining to them would fall under the purview of the Central Government); quotas or reservations will not be allowed to a third or later child; ration under the public distribution scheme would only be available for the first two children. Government employees exceeding the two-child norm would be denied increments, allotment of plots or government agencies.

Mr. Singh stressed that in applying any disincentives; the Government would not plan to withdraw existing facilities. All disincentives would be applicable only in respect of children born in the future and would come into effect one year after the ratification of the population policy.

Punjab's proposed policy, he said, is a measure to control population growth in the future and the proposed incentives and disincentives must be seen as a tool towards meeting that goal and as a part of the overall socio political policy of the Government to provide awareness and education about the problem. Dr. Singh concluded by reassuring the house that the outcome of the Colloquium would influence the State in exploring the possibility of reducing incentives and disincentives in the proposed policy to prevent any violation of human rights. The ultimate decision, however, he added, was with the political authorities of Punjab.

**Karnataka** – Mr. Prakasham G., State Demographer, Department of Health & Family Welfare, Government of Karnataka

Mr. Prakasham informed delegates that Karnataka did not as yet have an official population policy or State Population Commission. The draft of a health policy integrating population issues has been at a draft and discussion stage for more than three years now. Prepared by a task force, it was discussed and modified at a workshop of legislators, NGOs and health administrators in October 2001. "That has now come to the health administrators... we have been given the responsibility to draft the policy."

After giving this background, Mr. Prakasham made a categorical announcement, which immediately drew a round of applause: "Karnataka does not propose to have

any incentives or disincentives of any kind.” However, after receiving information on the Haryana Government’s scheme of giving financial incentives to couples opting for sterilization after the birth of the first or second girl child, Karnataka too was considering a similar scheme to protect the girl child. He said that the deliberations at the Colloquium would be taken into account before taking any decision on the matter.

He pointed out that reason for Karnataka not opting for incentives and disincentives could be that the demographic status of Karnataka is far better than that of any other State, with some pockets competing favorably with Kerala on some indicators such as female literacy, birth rate, and sex ratio.

Highlighting another “important development” of Karnataka, he said: “We have completely given up ‘the target approach’. We are not setting targets overtly or covertly. In the implementation of the Reproductive and Child Health programme, we are following the community needs assessment approach very vigorously.” According to him a World Bank team recently appreciated the State’s efforts in this direction.

However, Mr. Prakasham expressed his “worry as a person at the implementation level: the lack of seriousness about giving services.” Referring to some deliberations at the Colloquium, he said: “We are talking of quality of care. But who is there to give it? We are not able to get doctors even to our taluka level. There is a severe shortage of medicos and paramedics. Even district hospitals have a shortage of medical professionals.”

He felt that the root cause of this problem was the education and, specifically, the medical educational policy. “On the one hand we say there should be compulsory



education for girls, but education, at least in our State, is very costly and beyond the reach of common people. No one wants to go to Government schools. And moving on to the doctors, because of the high cost of medical education, doctors are not willing to go to backward places and to taluka level to provide services.” Mr. Prakasham said there should be a “consistency between the education, health and population policies”.

Mr. Prakasham also raised some critical issues, which he said needed to be discussed at this forum, and clarified since they were creating a lot of confusion. He said there had been a lot of talk about not setting targets, objections to the two-child norm....but at the same time there were elements in the population policy that confused him in this context.

One example: “The population policy itself says that we want to achieve a replacement level of fertility by 2010...and it says we should vigorously pursue a small family norm so as to achieve this replacement level. As a demographer I understand that only when you have two children per family on an average will you reach that replacement level. So the inference is that indirectly or covertly the two-child norm is part of the population policy.”

Another issue Mr. Prakasham raised was the amendment to the People’s Representation Act, which has frozen the number of Lok Sabha seats at 1971 census level (instead of revising them depending on the population of a state). According to Mr. Prakasham, this was a “kind of infringement of rights” of some States that have performed poorly on the population front, which in other words means they should have got more seats / more representation in the Lok Sabha.

He said there were several such issues which should be clarified at this gathering.

The Chair commented that Mr. Prakasham had indeed raised some important issues, which would be discussed during the course of the Colloquium.

**West Bengal** – Dr. B.P. Syam Roy, Joint Secretary, Department of Health & Family Welfare, Government of West Bengal

Dr. B.P. Syam Roy began by giving demographic statistics of areas where the West Bengal average was better than the national average – decadal growth rate, IMR rate, and sex ratio. He said that the State Population Commission, with the Chief Minister as chairman, was discussing whether it is necessary to have a separate State population policy and a State-specific strategy and programme of action.

He said the Chief Minister had raised an important issue at the last meeting: that while the Health and Family Welfare Department would be the nodal department, there should be close coordination and convergence of programmes with other line departments and partners of social and economic development such as panchayat, education, social welfare, rural and urban development, information and culture.

“This,” he said, “would ensure that common effort gets registered in terms of better social indicators and in terms of ensuring that development programmes have an impact on population growth and on population stabilisation programmes.” The Commission has also decided that the panchayat and municipality will be active partners, in line with the national population policy that decentralization should be a core issue. Mr. Roy stressed that West Bengal has no incentives or disincentives.

Turning to the “coercion aspect,” Mr. Roy pointed out that there are enough inbuilt checks within the population policy. He said: “The provision of decentralization, of the involvement of NGOs, and public-private partnerships will ensure that coercion is not possible.” West Bengal, he said, is stressing the important role of NGOs, trade unions, self help groups and women’s organizations in the programme. He also referred to the need to focus on media coverage on population-related issues and the setting up of a media committee so that “the right kind of environment is developed through close participation of the media.” It should not be confined to elite readership but should reach the poorest of the poor and remote areas.

West Bengal, he said, is in the process of developing demographically backward regions based on the decadal growth rate. There is a problem identifying such areas since decentralized IMR rates are not available. However, the state is using the district-level child mortality rates developed by UNICEF.

Finally, Mr Roy made an important suggestion: “The UNDP Human Development Report contains economic and social indicators to measure development. Since human rights issues have come up, it will be useful and educative if some human rights related indicators are designed so that we can monitor them in terms of their contribution to overall development.”

**Arunachal Pradesh** – Mr. Manish Gupta, Secretary, Department of Health, Government of Arunachal Pradesh

Mr. Manish Gupta informed participants that the State is presently in the process of formulating a population policy. He did not go into details of the proposed policy since he said the deliberations at the Colloquium would definitely influence the drafting of the policy.

Arunachal Pradesh, he said, offered a sharp contrast to most other States that had been talked about at the Colloquium: With a population of just 11 lakhs, it is a sparsely populated tribal State. It has a good literacy rate, a reasonable – though not favourable – sex ratio and virtually no cases of female foeticide. Women hold a respected position. The State has a matriarchal society and does not face the problem of early marriages. Despite so many favourable indicators, Arunachal Pradesh is now facing a moderately high decadal growth, with a high infant and maternal mortality rate, and a rise in the total fertility rate. But because of the low density, “population, as such, is not a problem”.

Mr. Gupta pointed out that there was little political will to control or stabilize population. One major reason was that all schemes of the Central Government – not just health schemes are based on the population criteria. Therefore, funds flow on what he described as a population pattern, with States with more numbers getting more aid. The major criterion for sharing of Central taxes – which is a major source of revenue for most governments, especially in the Northeast – is again population. Arunachal Pradesh's own funds are low so there has been very little investment in the health sector.

The State has very poor accessibility to health facilities and RCH services, due to lack of funds and problems posed by the difficult terrain. This is the main reason for the high MMR. The State has different plans for rural and urban areas (though the urban areas are in reality just small townships). According to Mr. Gupta: "Increasing family planning or contraceptive reach is important but as of now we should concentrate on providing reproductive and child health services in rural areas. In towns we will increase family planning services– this can be done in areas where you have hospitals, we are thinking of the concept of having places where one can pick up condoms. We will increase IUD and OCP services at district hospitals. The number of gynecologists is very low so we plan to organize sterilization camps and RCH services at districts. In rural areas we would also like to provide training to birth attendants."

He assured participants that "as of now, there was no proposal to introduce incentives or disincentives in the policy". But he refrained from making commitments since it depended on the political leadership. Mr. Gupta concluded with a request to the Centre: "The pattern for Central assistance –not just from the Health Ministry – should not be decided by BIMARU considerations. Because of the current policy, the political commitment or incentive to contain population is very low in States like ours. A former health minister even went on record to state: 'Why should we contain our population? Let's increase it'."

**Manipur** – Mr. P. Bharat Singh, Commissioner, Department of Health, Government of Manipur

Mr. P. Bharat Singh made a brief statement highlighting the fact that the State Population Commission, with the CM as Chairman, had only recently been notified and it has still to begin work on formulating a population policy. Describing Manipur as a small State with a population of just 23 lakhs, he said the last decade had seen a population increase. The State government, in an effort to control the population, has adopted the two-child norm, giving the incentive of two increments to government employees. But now the Commission will decide whether the norm and the incentives should be included in the population policy.

**Uttar Pradesh** – Dr. Subodh Gupta, Additional Director, Department of Family Welfare, Government of Uttar Pradesh



Dr. Subodh Gupta, representing the most populous State in the country, revealed that Uttar Pradesh's population policy, adopted on 11 July 2000 (World Population Day) does not offer any incentives but it does include one disincentive: individuals marrying below the legal age of marriage would not be eligible for Government service. He added that the policy emphasizes the convergence of different Government developmental departments and decentralization for effective implementation of programmes. Dr. Gupta said that the State had proposed that "all societies undertaking programme implementation at the district level should be merged into one so that a comprehensive picture of the State's health and family welfare scenario can be understood." Uttar Pradesh's population stabilization goal is to achieve replacement level by 2016. However, Mr. Gupta said that the vastness of the State, its cultural diversity and the huge population and a technical resource crunch made it impossible for them to adhere to the national level replacement targets.

## **General Observations**

The one common thread running through the discussions was the need to provide high quality health care services as the key to population stabilization. Whether the issue was high death rates – IMR and MMR; unsafe practices such as backstreet abortions; poor health of women and children; or even the woman's desire to have small families...the answer lay in providing health care services.

Speaker after speaker emphasized that maternal and child health services are the most elementary components of a population policy and they should be made available and easily accessible. Pointing out that areas with good health care have seen reductions in birth rates, Mr. Farah gave the example of Iran, which has brought down mortality rates in a short time span by investing in health care services. When Iran's population growth was skyrocketing, the government decided to invest heavily in health care services at all levels, but especially at the local levels. The result was astounding....the MMR fell "like a landslide" and soon fertility declined.

A delegate bluntly said "there is no point asking people to just have fewer children.... The key is to provide medical services." She pointed out that studies have revealed that most women, in fact, prefer small families but they do not get the support – health services – necessary to put this desire into practice. According to her, 20-25% percent women become pregnant because they do not have access to health services. Many of them end up going for backstreet abortions– and thus risk death. She concluded: "It is more than a human rights issue. ...it is a question of providing services."

A delegate made the comment that in Ireland, Japan and some more countries, the population had stabilized because many women decided to remain single!

Several speakers highlighted the fact that though State policies do aim to provide health and medical services, they also support incentives and disincentives. There is a need to enter into a dialogue with them – especially those States that are in the process of drafting their policies – to ensure that their policies and programmes are based on a human rights approach.

Mr. Prasada Rao concluded the session by describing the deliberations as highly productive and useful. He said that most States had still to formulate their policies so the Colloquium was very timely. As for those States that had already formulated their policies, it was necessary to urge them to review their policies from the human rights perspective and focus on safeguarding rights, removing coercive measures and increasing availability of services – but this should be done with a positive spirit. He said that incentives and disincentives are just one part of the State's population policies and should not stigmatize the whole policy. "We should identify the disincentives that are violative of human rights and bring these to their notice through a dialogue. The States are in the driver's seat, they are the implementers and foot soldiers of the population policy. We have to sensitize the State governments to the rights approach and have a dialogue with them. But the approach should be positive."



## Technical Session III

# Population Policy and Law

**Chair** – Dr. R.V.V. Ayyar, Secretary, Department of Women and Child Development, Ministry of Human Resource Development, Government of India.

**Speakers** – Dr. V. S. Elizabeth, National Law School of India University, Bangalore and Ms. Manisha Gupte, Founder Trustee and Chairperson of Masum, Pune.

**I**n his brief opening remarks, Dr. Ayyar acknowledged the importance of a rights framework in population policies, introduced the two speakers for the session and invited Dr. V.S. Elizabeth to talk on Population Policy and Legal Instruments.

### **Population Policy and Legal Instruments**

Dr. Elizabeth stated that she would focus on the legislative framework and the legal instruments in the context of the National Population Policy 2000. The NPP, she pointed out, affirms the urgent need to meet reproductive and child health needs even as it declares that the main objective is to attain a stable population by 2045 at a level consistent with the requirements of sustainable economic growth, social development and environmental protection.

The NPP, she stressed, is in accord with the ICPD Programme of Action: It considers population planning “a people’s affair” and shows a clear commitment towards the right to information, education, communication, and participation.

In her presentation, Dr. Elizabeth focused on the relevant laws that affect an individual’s reproductive rights and the constraints inherent in them or in their implementation. She also suggested what could be done to make them more effective.

Reproductive rights are guaranteed by the fundamental rights enshrined in the Constitution: the right to life, equality, equal opportunity and the right to non-discrimination. The Directive Principles under Articles 39 (e), 42 and 47 of the Constitution obligate the State to ensure the health and well being of workers – men and

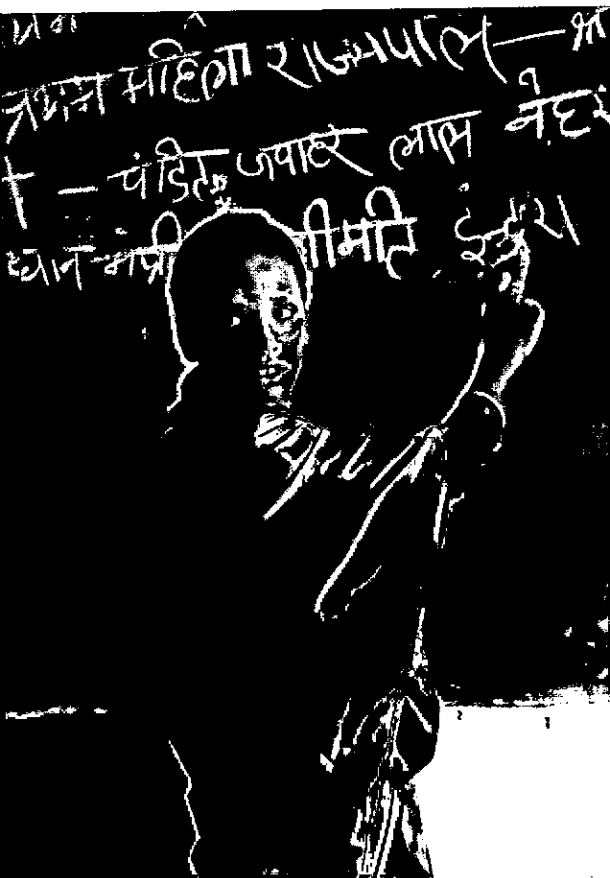
women - to provide for maternity relief, improve levels of nutrition, and of the standard of living and public health. But, apart from these provisions, the Constitution also requires the State to implement the international treaties and conventions that it is signatory to, Dr. Elizabeth pointed out. These human rights instruments make a commitment to guarantee the full development and growth of women.

Dr. Elizabeth especially focused on the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) to which, India is a signatory. CEDAW aims to “ensure the full development and advancement of women for the purpose of guaranteeing them the exercise and enjoyment of human rights on the basis of equality with men.”

Article 16 of CEDAW describes reproductive autonomy as the right of men and women to decide freely and responsibly the number and spacing of their children and to have access to information and advice on family planning, education, and the means to enable them to exercise their reproductive rights. Among the other specific rights CEDAW lists are: workplace safety, safeguarding the reproductive function, adequate provision of health care, maternity leave, special protection of women from harmful conditions of work during pregnancy, child care and related assistance to working parents, elimination of gender-based discrimination, adequate nutrition and free services where necessary.

Pointing out that the implementation and compliance of treaty commitments by the State are entirely dependent on the country’s legislatures and courts, Dr. Elizabeth stressed the need to examine the available legislation from the perspective of the international treaties such as CEDAW and identify the needed changes.

Next focussing on the country’s laws, Dr. Elizabeth highlighted their lacunae and inherent contradictions in the laws, which are directly, and indirectly, related to



reproductive rights and population issues and which affect the reproductive choices of individuals. The Child Marriage (Restraint) Act, 1929, for example, fixes the legal age of marriage at 18 for girls and 21 for boys, but does not make void the marriage of individuals below this age even though it provides for punishment of those who facilitate such a marriage. Early marriages have resulted in reproductive periods being longer, and have affected the health of the mother and child. An enabling and encouraging environment needs to be created so that girls stay in schools longer. Registration of marriages also needs to be made compulsory.

Pointing out the lack of consistency in laws in the context of defining the age of childhood, she said that while one law sets it at 18, another law – related to education – seems to set it at 14.

The Medical Termination of Pregnancy (MTP) Act of 1971 provides for abortion in case of contraceptive failure but there is still a high incidence of illegal abortions, which jeopardize women's health and reproductive abilities. The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, which makes selective abortion of the female foetus illegal, has been observed more in violation than compliance, according to Dr. Elizabeth. In response to a writ petition, the Supreme Court has ordered State Governments to report on the status of compliance with the Act and the action taken against non-compliance. The reports confirmed that no cases had been registered against the erring institutions.

The preference for a male child is still so strongly embedded in the minds of all individuals, said Dr. Elizabeth, that neither married couples nor even several doctors and other medical personnel are inclined to comply with the requirements of the law.



Thus laws by themselves, she pointed out, cannot guarantee protection of rights or a transformation in the social status of women. It is necessary to sensitize and train service providers, including medical personnel, on rights, entitlements and accountability. Essential actions include compulsory registration of births, deaths, and marriages; establishment of implementation mechanisms to check compliance of law; action against violators; and increased accountability of law enforcement agencies.

She added that it was also necessary to encourage research and marketing of safe contraceptive methods like diaphragm, rhythm method and vasectomy to enable women and men to limit their families. She observed that invasive techniques and an unsafe environment make people hesitant to adopt family planning measures. There is an absence of stringent laws to penalize service providers who cause harm to health and life due to faulty methods and services.

Dr. Elizabeth concluded by invoking constitutional guarantees for better living conditions, good health and educational services. She stressed the need to enforce international conventions and the need to use legislative processes to guarantee rights. But laws, she once again stressed, can only do what people who make them want done. She urged lawmakers and implementers to look at citizens as human beings who have to be dealt with humanely; to move from the obsession with the fear of numbers to providing an enabling environment for human development so that people can live with dignity.

### **Population Policy: The Socio-Legal Perspective**

Ms. Manisha Gupte began her talk by declaring that laws and policies in India are biased and violative of people's reproductive and sexual rights. She cited as examples personal laws that perpetuate discrimination against women, promotion of incentives and disincentives in family planning programmes, suspension of the right to marry for HIV-positive persons, penalization of people with homosexual preferences, and the adoption laws. Most of these laws – such as those relating to the two-child norm, for example – deny political power to those very people who require empowerment. She referred also to a Supreme Court judgment that suspended an HIV-positive man's right to marry. Although this was fortunately not implemented, Dr. Gupte highlighted the case as an example of a lack of sensitivity to such issues.

Laws should, instead, ensure elimination of child labour, prevent child marriages, and enable enforcement of girls' education. These, she asserted, would automatically lead to population stabilization.

Many of the existing laws, she agreed, had the potential to benefit people if they were separated from the ideology of population control. Especially, laws and policies enacted to protect the interests of the women should be made more gender-sensitive and accountable. For example, under the bigamy law, the first wife can take legal action against her husband only within the first year of knowing about the second marriage. On the other hand, the second wife has no legal protection. These laws need to be made pro-women, as women have no access to courts and resources to

fight cases. On the contrary, the police and courts often penalize and victimize women under the guise of these laws. There is an urgent need for gender-sensitization of the judiciary, law enforcement agencies and policy makers. Attention was drawn to the unfortunate state of women in conflict situations such as during war and riots. It was emphasized that women's bodies often get used to settle scores, which is manifested in increased incidences of harassment, molestation and rape crimes during conflict situations.

Making a plea for better implementation of existing laws and policies, Ms. Gupte pointed out the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1994 is unable to prevent sex selection of foetus. Compulsory registration of marriages and births is not enforced. At the same time, she pointed out that a coercive population policy would make it further difficult to enforce birth registration. She gave the example of China – due to the coercive one-child norm, people who wanted sons, would not register the birth of their daughters. One province had 10,000 such unregistered girls, whose existence came to light only when they came to school.

Accessibility of government health services and strict regulation of medical and health care in the private sector is critical, she emphasized, especially since the rising cost of medical care takes treatment beyond the reach of the poor and marginalised.

Ms. Gupte noted the need for a change in the mindsets of policy makers, implementers and all lawmakers, who are influenced by customs and traditions based on class, caste, gender and religion. There has to be an attitudinal change from population to “people” and from incentives / disincentives to “rights”. She felt that addressing issues of right to food, access to health care, right to work, equal wages for women, education, right to property, equal opportunity, protection from violence,



reproductive and sexual rights including right to contraception and abortion especially for marginalised sections of society will inevitably and automatically take care of population stabilisation goals. The driving force, she stressed, has to be rights agenda rather than reducing population. Urging for a paradigm shift, she said the focus has to be on people, not on population.

She concluded by recommending the adoption of international treaties and conventions related to women and children in national laws and policies to ensure non-discrimination and equality for all. Answering those who saw international norms as an attack on our culture, she said, in the name of culture, the rights of women and marginalized people were being adversely affected.

### **Observations**

The speakers emphasized that while implementing laws it is essential to know how communities, policy makers and implementers view practices and traditions that the law is trying to change. It is a common belief that for laws to be implemented a change in thinking has to occur at the community level. However, implementers and policy makers also come from the same cultural background and have similar mindsets. Thus there is need for change not just at the level of community but also at the level of those responsible for implementation and enforcement. While the MOHFW has removed targets to realise the ICPD Plan of Action, insufficient efforts have been made to sensitise policy makers and implementers about the change in approach, often leading to a failure to implement the stated policy.

Justice (Mrs.) Sujata Manohar informed participants about the amendments proposed to the Child Marriage (Restraint) Act by the NHRC to make it more stringent. She also added that NHRC has initiated orientation and training for the judiciary, policy makers and government officials for their sensitization on relevant social issues. It was felt that similar training should be conducted by MOHFW, and additional funds should be allocated for capacity building, awareness generation and training of the judiciary, policy makers and government officials on HIV/AIDS and other related issues.

In his concluding remarks, Dr. Ayyar once again emphasized the importance of changing attitudes and mindsets, along with implementing effective laws and policies to protect the interests of women and marginalized sections of society.





## Technical Session IV Population Policy and the Two-Child Norm

**Chair** – Dr. Devaki Jain, Singamma Sreenivasan Foundation, Bangalore

**Speaker** – Ms. Nirmala Buch, President, Mahila Chetna Manch, Bhopal

**A**s special chair, Dr. Devaki Jain began by stating that the Colloquium was a reflection of India's democratic culture, which she said, was essential for any policy that has been set out to ensure justice. She said that under governmental aegis the Colloquium offered a space to debate and discuss conflicting viewpoints of a critical issue in true democratic spirit.

Dr. Jain provided a background to this session by speaking on the evolution of India's National Population Policy 2000, and her experiences as a member of the Swaminathan Committee formed in 1993 to develop a policy framework for population. The present NPP evolved from the findings of this Committee. Noting that various State policies focusing on targets violate the rights of the people guaranteed by the Constitution, Dr. Jain pointed out that Dr. Swaminathan wanted to design a policy on the basis of grassroots experiences rather than external principles. The Swaminathan Committee based its recommendations on a humane approach, viewing people as citizens, and not as means to an end.

Dr. Jain enumerated some core perspectives of the Committee:

- ❖ Women do not want many children, but due to lack of power and freedom they are unable to access quality services for family planning.
- ❖ The presence of targets and incentives in family planning programmes had resulted in violation of the rights of the poor and marginalized.
- ❖ The corruption level within the government is high, leading to red tapism.
- ❖ The assurances of incentives given by the government to those having small families have not been fulfilled and this has left people feeling cheated. Dr. Jain explained that IEC initiatives of that era promised people houses, free gas, free healthcare if they had small families – but these were not fulfilled. The Swaminathan Committee urged for the scrapping of IEC as it existed then.



The Swaminathan Committee had recommended improved access to good health care services, which is also the focus of the NPP. The Committee had stressed the need for a social development policy instead of a population policy, with investment in the overall development of people. It had recommended delegation of powers and funds to bodies of local self-governance. It had suggested merging the health and family welfare departments of the Government, as a continued focus on reducing numbers would lead to a denial of adequate health services. This recommendation of the Committee was, however, not approved.

Explaining the Committee's stand on this, Dr. Jain highlighted the need for developmental connectivity by pointing out that poverty was so extreme in parts of the country that even giving food could lead to infant mortality because of the high prevalence of gastrointestinal diseases and the infant's inability to digest food. It was factors such as these that led the Committee to suggest that the population policy be replaced by a social development policy backed by macro economic policies, with a major investment in a social security base. The Committee felt that having a family welfare department defeated this aim – international agencies interested in population issues and demographic change would fund only related initiatives and not an overall development programme. Even though the Committee's suggestion was not accepted, the now well-established link of population and development points towards the relevance of the Committee's suggestion.

The Constitution guarantees the right to life, livelihood, work, information, food, and to equal opportunity. Dr. Jain suggested linking economics with law in order to claim these rights. The use of law, she believes, is essential in order to enable the deprived to demand their basic rights for strong social security, health and education. She gave the example of Karnataka, which opted for a social development policy in place of a population policy. This enabled the State to make public health an entitlement. She recommended that the

Centre and the States opt for a social policy to connect rights to public good, thus enabling the least powerful to use their political voice. An enabling environment that provides space to people to voice their needs can help the poor and the disadvantaged sections claim their rights.

Stressing the need for a responsible social development programme, and not just policies, Dr Jain referred to Ms. Aruna Roy (winner of the Ramon Magsaysay Award for Community Leadership and International Understanding) who fought for the right to information at the local level to improve the quality of services for the poor.

Dr. Jain concluded by reminding participants of the importance of ensuring equality and equal opportunity to all in every walk of life. She urged for a review of policies, programmes and strategies from a rights perspective, using the Constitution as a benchmark in promoting rights. Highlighting the importance of the Colloquium's endorsement by the National Human Rights Commission, she stressed the need to draw connections between all human rights. Instead of a population policy, she urged the States and the Centre to have a social policy. She said that the three involved parties – the NHRC (which upholds the Indian Constitution and is an inspiration for public policy), UNFPA (which brings in the international conventions) and MOHFW - should see the language of rights as a means of enabling the least powerful to articulate their political voice and reclaim the promise of the Indian Constitution.

### **Impact of Two-Child Norm**

Ms. Nirmala Buch's presentation was based on an exploratory study conducted in Andhra Pradesh, Haryana, Madhya Pradesh, Orissa and Rajasthan on the implications and consequences of the two-child norm on Panchayati Raj institutions (PRIs).

Ms. Buch began by pointing out that India is a signatory to the International Conference on Population and Development- 1994, which focused on the connection between



population, development and gender. This has resulted in the NPP adopting a humane approach and focusing on improving the overall quality of life by advocating better awareness and access to health care, with a focus on women.

In sharp contradiction to this approach, Ms. Buch noted, many States have enacted legislations that forbids people with more than two children from contesting Panchayat elections. The law disqualifies those elected members of PRIs, who have a third child after a stipulated date.

Introduced with the avowed intention of controlling family size and stabilizing population growth, the two-child norm has become a cause of anxiety for human rights activists and women's organizations. The measure is seen as being implemented in an environment, where women and the marginalized do not have adequate access to health services to determine the family size desired by them. These enactments lead to infringement of reproductive rights, as they tend to penalize women who anyway have little control over reproductive decision-making.

Ms. Buch revealed that the six-State study on the two-child norm found that its implementation is discriminatory to women and disadvantaged sections of the society.

The study found that information on the law has not been disseminated properly. Most people charged with violating the law found out about its existence only when they filed their nominations or were sent notices. They also made it clear that if they had known about the law, it would not have made them think of having fewer children – rather, they said that if they had known of the norm, they would not have contested. The study also clearly revealed that the economically and socially vulnerable sections are most affected by this legislation, which is often misused to settle political scores or prevent the underprivileged from getting into positions of power. While the law had had little impact on reproductive choices or in motivating people to have small families, it has become a tool in the hands of opposing factions to deny power to a rival – and as in all power struggles, it is the marginalized and the poor who have suffered. It has thus become a source of harassment for the already disadvantaged.

Ms. Buch stressed repeatedly that there is no evidence that the law has persuaded Panchayat members to adopt a small family – or others to follow their example. People do not decide to have fewer children because the sarpanch has a small family. This law has, in fact, lead to the tampering of birth records, acquiring of false certificates, and a rise in corruption. A large number of the candidates who are disqualified or involved in legal processes are women since this law has come just at the time when a Constitutional amendment has mandated that one-third of the seats in bodies of local governance have to be filled by women. The law has thus negatively impacted the political processes of empowering women.

The implementation of this law has also led to an increase in illegal abortions, pre-natal sex selection, desertion, divorce, extra-marital associations, the sending away of a legal wife to her parents to hide a third pregnancy or child, and the giving away of children for adoption. The study also found that a male foetus is retained even at the cost of risking disqualification, because some people prefer having a son to being a Panchayat member.

People may be keen to have access to political power but not at the cost of changing their family size or the sex composition of the family. Contrary to the expectation that the norm would encourage panchayat members to have smaller families, it has in fact had a negative impact on both reproductive rights and gender equality.

Ms. Buch made a clear distinction between promoting the idea of a small family and implementing the two-child norm - the choice of a small family versus the norm of a small family. People make a choice, she pointed out, based on available knowledge, information, health services, needs; a norm is imposed from outside.

The norm was discriminatory against youth since older people with even a dozen children could get the opportunities – membership of the Panchayat - while young couples who obviously were in the reproductive age group with a high likelihood of the third child being born after the stipulated date – were denied that chance.

The findings of the study make it clear that far from helping stabilize population, the two-child norm has led to a series of serious negative consequences due to the way it has been conceptualized and implemented. The law infringes on the rights of the disadvantaged sections and discourages women from participating in grassroots governance.

Ms. Buch said that the study team was often met with a belligerent attitude from some of the concerned officials, with one official calling them “anti-national”. This, coupled with lack of information about the norm and any follow-up records on its implementation, made their work extremely difficult.

Decrying the continuing belief in some quarters that coercive measures are necessary, Ms. Buch said this understanding stemmed from a mindset and a class bias that saw “others”



as being responsible for an increase in the population. Thus seeing the norm as a means to control and curb population, not stabilize it. She emphasized on the need to bring about a change in this attitude.

Declaring that the law is not in accordance with the spirit of the NPP or ICPD's rights-based approach, Ms. Buch called for a serious public debate and re-appraisal of the two-child norm for PRIs. She concluded by observing that legislations such as the two-child norm have defeated the objective of the 73rd amendment to the Constitution that had attempted to facilitate and encourage the entry of women and disadvantaged sections, across class and caste lines, into Panchayats.

### **Observations**

Many of the deliberations following the presentations dwelt on the contradiction highlighted by Ms. Buch – between the right to choose a small family and imposition of a law to force people to have a small family. A participant pointed out the acceptance of a small family norm requires the pre-existence of conditions facilitating informed choices. Imposing restrictions without providing services is counter-productive. Instead of citizens being given assurances – followed by action – about child survival, such laws deny citizens basic entitlements like food security, education, medical care, and political participation in the name of population stabilization. Speakers stressed that the State has an important role to play in promoting informed and responsible family planning choices to people in meeting their desired family size. This role is often abandoned when the State resorts to giving incentives and disincentives.

# Panel Discussion: Concerns in Framing Population Policies

**Chair** – Mr. Virendra Dayal, Member, NHRC

**Speakers** – Dr. Shireen Jejeebhoy, Population Council, New Delhi  
Dr. A K Shiva Kumar, UNICEF, New Delhi

**M**r. Virendra Dayal set the tone of this session by pointing out that incentives and disincentives in policies contradicted both constitutional rights and the country's treaty obligations. He said that this had, in fact, been the essence of all discussions and presentations at the Colloquium from the beginning, starting with the speech of the Minister and the NHRC Chairman and continuing with the state reports.

## **Adolescent Health and Rights**

Dr. Shireen Jejeebhoy spoke about adolescent sexual and reproductive health and the choices and rights available to adolescents in India. Young people's lack of knowledge about sexual and reproductive health issues is compounded by low literacy among them and the existence of considerable gender disparities. Dr. Jejeebhoy said that though, Government policies and programmes had now begun to address the issue of sexual and reproductive health needs of young people, they were hardly sufficient given the harsh realities of the situation.

She said that it was important to accept the fact that a large number of adolescents – married or unmarried - are sexually active. Their lack of knowledge and the lack of access to services leads to high-risk sexual activity and consequent health problems.

Apart from the fact that many of India's young people are married below the age of 18 years, several of them are also sexually active before marriage – despite living closely supervised lives. Within marriage too, sexual relations are not always safe or wanted. Adolescents face a variety of risks in sexual relationships: multiple partners, casual sex, and sex with sex workers. Most married and unmarried adolescents do not use condoms or contraceptives, leading to pregnancy and child bearing at an early age, before they are physically mature. These pregnancies can result in complications, unplanned abortions, reproductive tract infections, sexually transmitted infection, and HIV/AIDS. She added that while many young people seem to have heard of HIV/AIDS, the misconceptions that persist about it suggest that they do not have the right kind of information to be able to take steps to protect themselves.

Even though they should be the target of sexual education and programmes, adolescents have minimal awareness about reproductive and sexual issues and are not completely informed about protective methods. Expanding on the adverse service environment, Dr. Jejeebhoy said that young people do not have autonomy on the home front and in the socio-cultural environment. Outside the house prevalent norms and their upbringing make them feel shy or embarrassed to use whatever services may be available. In any case, the few available services are unaffordable or otherwise inaccessible. In dealing with adolescents, there is often lack of privacy, confidentiality or sensitivity on the part of the health system. Providers, she said, lack counselling skills, tend to be judgemental and disrespectful and reluctant to provide contraception and other services to the unmarried. Due to this unfriendly environment, adolescents are often not comfortable in seeking services and suffer unfavorable health consequences.



Moving on to the issue of sexual and reproductive rights of young people, Dr. Jejeebhoy began by referring to the relevant rights in the ICPD Plan of Action, which advocated the need to protect and promote the rights of adolescent to enjoy the highest attainable standard of health; to provide appropriate, user-friendly and accessible health services; and to address the needs of adolescents for reproductive health education, information, counselling and health promotion strategies.

The NPP, Dr. Jejeebhoy said, echoes the same concerns: Ensuring access to information, counseling and services that are affordable and accessible; strengthening primary health care centers and sub centers to provide counseling to both adolescent and newly weds; enforcing the Child Marriage (Restraint) Act by providing integrated interventions in pockets where unmet need is the greatest.

But apart from these broad provisions, Dr. Jejeebhoy felt it was important to focus on certain basic needs of adolescents to ensure that their concerns in the area of sexual and reproductive health are fully met keeping the ground realities in mind. The right to correct information; additional, better quality and youth-sensitive sexual education; information about how and where to access care; information about laws relevant to them – marriage age, abortion; right to reproductive decision making; right to a supportive environment that will allow them to put the information they have into practice without discomfort or censure; and the right to be free from violence and coercion.

Dr. Jejeebhoy made a significant statement, which answered some oft-expressed doubts about the impact of sex education. There is no evidence that in-depth awareness on sexuality encourages risk-taking. On the contrary, there is growing evidence that awareness through systematic sex education encourages increases the age at sexual debut and safe sexual behaviour.



She pointed out that parents and service providers too have to be enabled to fully play their roles...it is they and other adults who have to provide the right environment and information. The adolescents in search of service want a non-threatening place where they can get attended to quickly, without awkward questions being asked, where staff will treat them with respect and not judge them. Parents have to be sensitized to the need to treat boys and girls equally and the negative impact of an early marriage, especially on girls.

In this context, Dr. Jejeebhoy quoted from the UNFPA South Asia Conference on Adolescents. The words, expressing an adolescent's viewpoint, should serve as a guiding force to all those responsible for defining and implementing rights for adolescents:

- ❖ "What do young people want? We need more attention, care and support from all. We feel we do not have the right to make our own choices. We lack proper and correct information and guidance, especially related to our bodies' physiological and psychological changes. To our parents we say: we need you to listen to us, give us the privacy and the space to grow, guide us, don't drive us. To our governments we say that our biggest dilemma is why girls are discriminated against...do something, review the education system, provide non-formal education programmes for adolescents who can't go to schools...include lessons on life skills and sex education, provide adolescents with professional and confidential counselling services on sexual and reproductive health issues. Don't just make laws, enforce them."

## Observations

At the conclusion of Dr. Jejeebhoy's presentation, Mr. Virendra Dayal thanked her for "bringing us into this fold of knowledge." He pointed out that a lot of people were not aware of the tremendous amount of thinking that has gone into the special problems of adolescents and their rights.



Dr. Jeejeebhoy pointed out that recent restrictions on condom advertising on Doordarshan reflected the contradictory attitudes of society and policy-makers. Adolescents' right to information, which is guaranteed by NPP, is curtailed to safeguard tradition at the cost of the health and safety of adolescents.

### **Social Costs of Non-Rights Based Policy**

Dr. A.K. Shiva Kumar began by stating that since he found the title of his presentation too negative, he had flipped it around to make it more positive: Social benefits of rights-based policies.

His presentation focused first on his firm belief that economic prosperity of a country cannot be associated with the size of the population. Stressing that it was inappropriate to blame the size of the population for the country's economic plight, he said that the high rate of poverty is not a cause for high birth rates, and reduction in fertility rates will not reduce poverty. He gave the example of Bangladesh, which has successfully reduced fertility in the last two decades, but is still faced with poverty. Andhra Pradesh and Madhya Pradesh have similar population levels but Andhra Pradesh's per capita income is 30 percent higher than Madhya Pradesh's. Orissa and Gujarat report similar levels of birth rates even though Orissa's poverty level is twice that of Gujarat.

He agreed that population does have a strong link with poverty – because it is among the poor, the marginalized and disadvantaged that you see high birth rates and big family sizes. But the poverty itself is a result of ineffective policies, which are not guided by norms and procedures aligned to human rights. Poverty is perpetuated by irresponsible public action or inaction, as there is no respect for the dignity of individuals. He emphasized that elimination of poverty is essential as its existence violates human rights and leads to denial of freedom and basic entitlements.

Repeatedly stressing that population cannot be blamed for the country's problems, he agreed, however, that a large and growing population is a serious problem for India or any other country, since it imposes several strains on society, especially on the environment and the physical infrastructure. There is no need for panic, Dr. Shiva Kumar said, since there has been a slowing down of population growth rates and fertility rates and advancement in the empowerment and education of women. But it is still important to understand the nature of population-related issues and consider ways of population stabilization.

The coercive or authoritarian approach adopted in some of the state population policies to achieve population stabilization is not only inappropriate but totally unnecessary. Even the poor, he said, do not really want so many children so it is unfair to penalize them for it. In any case, most such policies, he said, are difficult to implement and end up as mere tokenism. That apart, they are biased against women. All such penalties and disincentives need to be condemned, as they are violative of human rights and against the interests of women and marginalized sections of society.

Dr. Shiva Kumar pointed out that there are better and proven alternatives. He gave the example of Kerala, which adopted an approach based on cooperation and voluntarism.

According to him, the greatest emphasis has to be on promoting women's empowerment and employment opportunities for women. We have to recognize the centrality of women's empowerment, he said, and remove social and economic handicaps in education and health. Provision of knowledge about reproductive health choices, family planning services, and children's health is also important. The rights-based approach, he declared, is the way ahead.

And poverty itself could be considered as a violation of human rights. So to address the issue of population, it is essential to address the question of eliminating poverty and the major concerns and needs of the poor and the marginalized.

Dr. Shiva Kumar noted that the human rights approach brings accountability and responsibility into policy formulation. It ensures safety for the poorest and the marginalized because it focuses as much on processes as outcomes. Every policy, every initiative should be prefaced with a few questions: is it inclusive? Is it participative? Is it violative of human rights? Is it protective of the poorest, the weakest, the most disadvantaged and marginalized? The two-child norm, he indicated would not pass the test.

Noting that there were a lot of successful experiments all over India in terms of health, education, women's empowerment and population stabilization, Dr. Shiva Kumar said that it still wasn't adding up to a grand momentum for social transformation because of the four deficits he dubbed as FLAW: finance deficit, leadership deficit, assessment deficit and a deficit in recognizing the important role that women can play in advancing social security development in India.

Recommending an increase in the allocation of financial resources for health and education, he suggested that there should be strong supervision and a periodic assessment of policies, programmes, and strategies to evaluate their effectiveness. He concluded by commending the consensus building and the dialogue and discussion being done at the Colloquium since all sectors had to work hand in hand to achieve the goal of population stabilization.

Recalling an old saying: "Stop counting people, begin to count on people," Dr. Shiva Kumar said investing in people, in enhancing their capabilities, their freedom was the answer. If you give greater opportunities to women and young people to grow and lead a full life, he told the audience, "You will automatically take care of the population concerns".

## **Observations**

Agreeing with Dr. Shiva Kumar's comment that the existence of poverty is a violation of human rights, participants noted that the rights perspective ensures that policies invest in people and provide them with services. They gave the example of Kerala, which has allocated 50 percent of its budget to health, education and social security.

A participant noted that actions like banning condom advertisements on Doordarshan would make it difficult to educate people on sexual and reproductive health issues.

Mr. Virender Dayal concluded this session by adding his emphasis on the need for a balanced, rights-based approach and for an increased financial allocation for the social sector. Noting that he had been with the NHRC since its inception, he said it always struck him that when there is violation of rights, it is always the same group of people - the poor, women, dalits and tribals - who face violation of their rights in every conceivable manner. Describing this as "a terrible coincidence," he said that whether the issue was illiteracy, lack of access to health facilities, custodial violence or human trafficking, the victims were the same people. They are denied access to health, education and information. They are the ones who face the maximum violence. Policies should address this group whose rights are constantly and consistently violated. As he put it: "Those who are at the receiving end of wrong doings are the ones who are to be brought to the front towards doing the right thing for them."

Respect for human rights, he said, is, in the final analysis, a good practical policy, and forgetting that would most likely lead to misgovernance and brutality.

# Valedictory Session

In the concluding session, Dr. Gita Sen presented the rapporteur's summary, and the recommendations which had emerged from the discussions. But before doing that she gave her perspective on the two days of deliberations. The Colloquium, she said, had set out to search for the basis for the human rights approach in the area of population; a basis that would be ethical, appropriate and relevant for India. At the end, there was a general agreement that it had to do with mindsets and values that acknowledged people as human beings. People were absolutely central to the issue.

However, Dr. Sen pointed out that in the heat of the debate on incentives and disincentives – which seemed to have taken up much of the Colloquium's time – participants should not lose sight of the fact that human rights in the context of population policies is not only about incentives, disincentives and targets. It has to do with a whole range of other issues. For example, how does one ensure the triple 'A' in reproductive health services – access, affordability and accountability? There is also the question of addressing the issue of violence – whether it is because of caste, power or gender. Dr. Sen felt that in all the talk about the two-child norm, these aspects got less attention than they needed and deserved at the Colloquium. She also felt that there should have been a discussion on an issue raised by one of the participants – is there a trade off between development and human rights?

On the issue of incentives and disincentives, Dr. Sen expressed concern at the fact that at the State level there is political pressure in this area. Political agents at the State level have fallen into the trap of believing that adopting incentives and disincentives provides them with visible proof of having "done something". In this rush to show results they have not paid adequate attention to the critical questions – are they necessary, efficient and just? Discussions at the Colloquium and evidence from experiences in the States have given a clear negative answer on all counts. In fact, fertility transitions and demographic changes were taking place in Andhra Pradesh – and certain other areas too – "despite, before and independent of these incentives and disincentives".

Dr. Sen echoed the words of other speakers in pointing out that there were more efficacious ways of population stabilization. She said the challenge now was to bring about mindset changes not only in the community but also at the level of politicians and policymakers.

Dr. Sen concluded her comments by saying that the bottom line is the welfare of the child." Look at everything – policies, programmes – from that perspective and you can't go wrong," she declared.

Dr. Sen then listed the recommendations emerging from the discussions held during the colloquium:

- ❖ State-specific population policies to be formulated keeping in view the conceptual framework of NPP.
- ❖ In the light of the constitutional mandate, a right-based dialogue should guide the population policy formulation processes.
- ❖ The policy should facilitate the creation of an equal opportunity environment.
- ❖ A revisioning of population policies is required with a fundamental shift in approach so that people in general, and women in particular, are viewed not as mere resources but as human beings with the freedom of choice and capability.
- ❖ The means adopted for population stabilization should ensure that equity is not violated.
- ❖ There is a need to demystify the concept of reproductive rights at the level of the community, programme managers, and policy-makers.
  - ❖ Population policies should be examined for ensuring protection and promotion of human rights.
  - ❖ There should be clarity and consistency in population policies and the legislative framework – for example, the legal age of marriage is 18 for girls and 21 for boys. However, the child marriage restraint Act does not make void the marriage of individuals below this age. Early marriages have resulted in reproductive periods being longer, and have affected the health of the mother and child.
- ❖ Registration of marriages and births should be made compulsory.
- ❖ An enabling environment, supportive development, and inter-sectoral coordination should be the tools used to achieve population stabilization.
- ❖ Behavioral and attitudinal changes are necessary not only among the communities but also among those responsible for policymaking, implementation and enforcement.
- ❖ Women's empowerment should not to be treated as a means for population stabilization but as an end in itself.
- ❖ Civil society and social groups should be involved in policy formulation, within a rights perspective.
- ❖ It is critical to translate human rights into programme realities, for example, access to quality health care, improved access to services and availability of information. A transparent legal framework will help in this process. An international example cited was Iran where investment in health services has helped to achieve a quantum leap in health and population stabilization goals.
- ❖ There is a need for a meaningful dialogue with state governments towards an objective assessment of incentives and disincentives in the context of human rights. Correctional steps need to be initiated for those coercive policies that are already in place.

- ❖ The two-child norm disempowers women directly and indirectly, and must be critically re-examined since it is a violation of human rights.
- ❖ Resource allocations must be radically improved for guaranteeing the rights of the under privileged and marginalized, for improving equity and providing equal opportunity.
- ❖ Policies need to recognise that young people are sexually
- ❖ Active and have reproductive health needs as well as rights.
- ❖ Policies need to be guided by a human rights perspective, which can bring accountability into decision-making processes.
- ❖ Constitutionally mandated institutions of local self-governance that have representatives of socially excluded groups such as women and weaker sections, must be included when designing and implementing health and family welfare programmes. Such institutions should also be provided funds to plan and manage these programmes.

## Concluding Remarks

**Chair** – Justice Sujata V. Manohar, Member NHRC

**Speaker** – Shri J.V.R.Prasada Rao

The last session of the Colloquium began with Justice Manohar tabling the draft declaration, which was unanimously accepted. She said the declaration “crystallized what we would like to have in the population policy”.

Justice Manohar expressed thanks on behalf of NHRC to the MOHFW and to UNFPA for their support to the Colloquium. While thanking officials of the Ministry, she pointed out that the fragmentation of various issues related to human rights into several ministries made the task of the NHRC more difficult.

In her concluding remarks, Justice Sujata V. Manohar summed up the central points raised during the two-day round of “erudite” presentations and discussions, which had stressed the importance of the human rights perspective.

Poverty, she stated, is ultimately the basic cause of denial of rights. The complaints that the NHRC receives about violation of rights, she said, are largely from the deprived and marginalized sections of society, people who have been discriminated against – this includes women, tribals, minorities.

The Colloquium, she felt, had highlighted the interconnectedness of different human rights and how their protection is essential for an effective population policy. She especially mentioned the importance of empowerment and education of women, right to good health care services, sanitation and drinking water. She gave the example of Kerala, which has the lowest fertility rate in the country – and where every village has a functioning health center and school.

An adequate financial allocation for women’s education would help in reducing fertility rate and correcting adverse sex ratios, she said. Justice Manohar also pointed to the need

for the empowerment of the under-privileged, women and the marginalised to enable them to make informed choices.

She concluded by stressing the importance of socio-economic and legal changes so that this segment of the population does not continue to suffer.

Justice Manohar referred to a recent report on changes in fertility ratios in India which vindicated the stand of those who saw human rights and empowerment and education of women as the means to population stabilization. The report stated that fertility rates were lowest in the Southern states of Andhra Pradesh, Karnataka, Tamil Nadu and Kerala, which had laid greater stress on these two factors. The report also pointed out that fall in fertility was linked to education, particularly of women, (in fact male education made an insignificant impact on fertility rates) and child mortality was linked to lack of access to health care. Social influences such as son preference elevated fertility rates and the effect of income and urbanization was again insignificant.

Justice Manohar said that studies such as these should give a further impetus to changing the direction of State population policies still mired in the old mindset. She said that NHRC looked forward to working with other partners in pushing for population policies, which promote the dignity of the individual and the human rights of the people.

Shri J. V. R. Prasada Rao, the speaker for the last session, said that Justice Manohar's able summarization left him with little to say. He thanked the NHRC for the excellent initiative "at a time when the NPP and the broader issue of reproductive rights of women are being subjected to challenges within the country and outside."

The rumblings in India, he said, center around targets and the two-child – or even the one-child – norm. He noted that incentives and disincentives, which are present in some State population policies, are not in keeping with the spirit of the National Population Policy and deny women their reproductive rights. He appealed to all the States to re-examine their policies from a rights perspective and to stand behind the NPP and the rights approach enshrined in it. He clarified that this was not an attempt to castigate the States, which he described as the country's strength, but to show them the right direction as exemplified in the Colloquium's Declaration. The Declaration, he said, now has to be taken forward to the remotest corners of the country.



**PROGRAMME AGENDA****Session Plan**

9th January, 2003 (Thursday)

GULMOHAR (IHC)

1.00 p.m.

**Registration**

2.00 p.m.

**Inaugural Session**

Lighting of the Lamp.

Welcome Address by the Secretary General, NHRC.

Release of Poster and Brochure on Reproductive Rights.

Inaugural Address by Hon'ble Minister, MOHFW.

Presidential Address by Justice Shri J.S. Verma, Chairperson, NHRC.

Vote of Thanks by Ms. K. Sujatha Rao, Joint Secretary, Department of Family Welfare, MOHFW.

2.45 p.m. – 3.00 p.m.

**Tea Break****Technical Sessions**

3.00 p.m. – 3.20 p.m.

**Development and Population Policy**

Dr. Gita Sen, Indian Institute of Management, Bangalore.

In Chair: Dr. Francois M. Farah, UNFPA Representative

3.20 p.m. – 3.40 p.m.

**Discussion**

3.40 p.m. – 5.00 p.m.

**Presentations by States**

In Chair Shri J V R Prasada Rao, Secretary, Department of Family Welfare, Ministry of Health and Family Welfare

10th January, 2003 (Friday)

JACARANDA (IHC)

9.30 a.m. – 10.30 a.m.

**Presentations by States (contd.)**

In chair : Shri J.V.R. Prasada Rao, Secretary, Department of Family Welfare, Ministry of Health and Family Welfare.

10.30 am. – 10.45 a.m.

**Tea Break**

10.45 am. – 11.05 a.m.

**Population Policy and Legal Instruments**

Ms. Elizabeth, NLSIU, Bangalore

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## PROGRAMME AGENDA

	<b>Population Policy and Socio-Legal Perspective</b> Ms. Manisha Gupte, MASUM, Pune In Chair: Dr. R V V Ayyar, Secretary, Department of Women and Child Development, Ministry of Human Resource Development
11.05 a.m. – 11.30 a.m.	<b>Discussion</b>
11.30 a.m. – 11.50 a.m.	<b>Impact of Two Child Norm</b> Smt. Nirmala Buch, President, Mahila Chetna Manch, Bhopal In Chair: Smt. Devaki Jain, Singamma Sreenivasan Foundation, Bangalore
11.50 a.m. – 12.10 p.m.	<b>Evolution of National Population Policy</b>
12.10 p.m. – 1.10 p.m.	<b>Discussion</b> <b>Panel Discussion: Concerns in Framing Population Policies</b> In chair : Shri Virendra Dayal, Member, NHRC.
	<b>Adolescent Health and Rights</b> Dr. Shireen Jejeebhoy, Population Council, New Delhi.
	<b>Social Costs of Non Rights-Based Policy</b> Shri A.K. Shiva Kumar, UNICEF, New Delhi.
1.10 p.m. – 1.30 p.m.	<b>Discussion</b>
1.30 p.m. – 2.00 p.m.	<b>Lunch</b>
	<b>Valedictory Session</b>
2.00 p.m. – 2.30 p.m.	<b>Rapporteur's Report – Summary of Issues and Recommendations</b>
2.30 p.m. – 3.45 p.m.	<b>A Draft Declaration for Discussion and Adoption.</b> In chair : Justice (Smt.) Sujata V. Manohar, Member, NHRC. <b>Remarks by Shri J.V.R.Prasada Rao, Secretary, Department of Family Welfare, Ministry of Health and Family Welfare.</b>
	<b>Concluding Remarks by Justice (Smt.) Sujata V. Manohar, Member, NHRC.</b>
3.45 p.m. – 4.00 p.m.	<b>Tea</b>

**Speech of Hon'ble Minister of Health and Family Welfare Shri Shatrughan Sinha on the occasion of inauguration of colloquium on 'Population Policy – Development and Human Rights'**

Respected Justice Verma,

I consider it a privilege to be here today to attend the Colloquium on "Population Policy – Development and Human Rights" organized by the National Human Rights Commission.

All of us feel deeply about human rights and their various aspects. It is a great moment for all of us present here to be able to contribute in our small way towards this cause.

The validity and sanction of any policy or legislation has to be rooted in the gamut of human rights it seeks to protect or promote. The Family Welfare Programme in India is voluntary and promotive in nature. The National Population Policy (NPP) aims at providing the widest range of services without any form of coercion. Significant achievements have been made in terms of socio-demographic indices, and with the same programme and projects, replacement level of fertility has been achieved in nine states and Union Territories and at least 12 more states and Union Territories are performing well in this respect. However, we need to address the unmet needs of all segments of society for more equitable and sustainable development. Towards this objective, the NPP has set some major goals for the year 2010 such as substantial reductions in infant and maternal mortality, universal immunization of children against all vaccine preventable diseases, 100% registration of births and deaths and making family welfare a people centred programme.

The Ministry of Health and Family Welfare is impressing upon the State Governments to make enhanced investments in human beings for improving the quality of life. Also, an Empowered Action Group has been set up to assist those states, which have lagged behind, in socio-demographic achievements in devising focused programmes for improving the situation there. It is for all of us to see that the NPP affirms the commitment of Government of India towards voluntary and informed choice and consent of citizens while availing reproductive health care services and continuation of the target free approach in administering Family Welfare Services. The policy does not provide for any individual incentives or disincentives because these tend to hit the poor the hardest.

Against this backdrop, it has been observed that the population policies framed by some state governments do not reflect the objectives of the NPP in its true spirit. I have taken up this matter with the Chief Ministers of the States and urged them to keep in view the conceptual framework of NPP while formulating their state specific population policies.

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In its pure form, the cooperative approach contrasts sharply with the authoritarian one and the battle between the two schools of thought can be seen plentifully in the literature on this subject. There is a wide consensus on the need to avoid authoritarian intervention in the matters relating to reproductive behaviours and the people who suffer most from these coercive measures are often among the poorest and least privileged in the society. Of course, the urgency of achieving the goal of a stable population, consistent with our resources and needs, cannot be undermined and my Ministry is striving to achieve this cautiously. The National Population Stabilization Fund, under the chairmanship of the Prime Minister is being set up to mobilize additional resources for the NPP goals. The policy framework of Government of India incorporates a comprehensive approach while unequivocally addressing population containment.

Today people have more money and are living longer than what was the case fifty years ago. But they are also increasingly suffering from diseases, which are expensive to treat. Treatment has also become more sophisticated with the rapid advances in technology and medical science. Consequently people are spending more on health than ever before and many are also getting impoverished as a result.

While our Constitution clearly recognized the importance of human freedom and fundamental rights which were denied to them under colonial rule, what we have today in the health sector is the emergence of a whole new subset of rights – the right to privacy and confidentiality, the right of women to decide when and how many children she will bear, right to information and prior consent for the treatment proposed etc. Increasingly, we hear of patients beginning to demand as a matter of right to be treated in a dignified and responsible manner. Such a demand is not only among the educated, city dwellers. It is also among the not so vocal, the poor and illiterate in rural areas. This is evident from the various studies that show that one of the main reasons for not availing of services in public facilities is because of rude behaviour and a perceived lack of concern. These are important insights which those of us formulating public policies need to pay heed to as it is not any more enough and adequate to just provide drugs or post a doctor. As a first step towards generating such awareness among providers, I have initiated a programme for focusing on a very basic need “Operation Cleanliness” in all hospitals. Cleanliness is a basic and fundamental need for any health facility, which is lacking in the public and private facilities alike. Keeping a clean premises, and green surroundings is I believe the first evidence of “I care for you and Respect Your Right to an infection- free treatment and a clean healthy environment.” I hope that this will take us further on to a patient and human sensitive system of care, to which every individual has a right.

Another area that is of great concern to me is to imbibe in our providers a code of ethical practices. After all, in life we have to have a purpose that goes beyond just wanting to earn profits. By this I am referring to the practice of medical practitioners misusing technology for sex selection and becoming a part to creating social imbalances. It is unfortunate that this is clothed by a Rights argument – stating that women have a right to choose the sex of the child. Is it so simple? Would women, given a choice, want to abort a female foetus, willingly? I think there is some introspection required by the medical community. Female foeticide and Female infanticide must stop. The Parliament passed a set of amendments

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on the PNDT Act during the winter session, which is a record of sorts. It also indicates the serious concern that all political parties are giving to this issue, unreservedly.

Therefore, while the policies and strategies are right, implementing them within the democratic framework is a major challenge. However, we hope to overcome all hurdles with the cooperation and participation of all stakeholders, the people themselves and with the catalyzing effect of organizations like NHRC, UNFPA, health centers spread throughout the country, our centers of education and above all social consent.

I wish all success to the two day Colloquium in evolving mechanisms that can balance the objectives of a stable population and protection of human rights.

A very Happy New Year to you all.

**List of Acronyms**

CEDAW	Convention on Elimination of All forms of Discrimination Against Women
GNP	Gross National Product
ICPD	International Conference on Population Development, 1994
MOHFW	Ministry of Health and Family Welfare
NHRC	National Human Rights Commission
NLSIU	National Law School of India University
NPP	National Population Policy, 2000
MTP	Medical Termination of Pregnancy Act of 1971
PNDT	Pre Natal Diagnostics Techniques (Regulation and Prevention of Misuse) Act of 1994
PRIs	Panchayati Raj Institutions
RCH	Reproductive and Child Health
UNFPA	United Nations Population Fund

Excerpt from the National Population Policy, 2000

### **PROMOTIONAL AND MOTIVATIONAL MEASURES FOR ADOPTION OF THE SMALL FAMILY NORM**

The following promotional and motivational measures will be undertaken:

- ❖ Panchayats and Zila Parishads will be rewarded and honoured for exemplary performance in universalizing the small family norm, achieving reductions in infant mortality and birth rates, and promoting literacy with completion of primary schooling.
- ❖ The Balika Samridhi Yojana run by the Department of Women and Child Development, to promote survival and care of the girl child, will continue. A cash incentive of Rs. 500 is awarded at the birth of the girl child of birth order 1 or 2.
- ❖ Maternity Benefit Scheme run by the Department of Rural Development will continue. A cash incentive of Rs. 500 is awarded to mothers who have their first child after 19 years of age, for birth of the first or second child only. Disbursement of the cash award will in future be linked to compliance with ante-natal check up, institutional delivery by trained birth attendant, registration of birth and BCG immunization.
- ❖ A Family Welfare-lined Health Insurance plan will be established. Couples below the poverty line, who undergo sterilisation with not more than two living children, would become eligible (along with children) for health insurance (for hospitalization) not exceeding Rs. 5000, and a personal accident insurance cover for the spouse undergoing sterilisation.
- ❖ Couples below the poverty line, who marry after the legal age of marriage, register the marriage, have their first child after the mother reaches the age of 21, accept the small family norm, and adopt a terminal method after the birth of the second child, will be rewarded.
- ❖ A revolving fund will be set up for income-generating activities by village-level self help groups, who provide community-level health care services.
- ❖ Creches and child care centers will be opened in rural areas and urban slums. This will facilitate and promote participation of women in paid employment.
- ❖ A wider, affordable choice of contraceptives will be made accessible at diverse delivery points, with counseling services to enable acceptors to exercise voluntary and informed consent.
- ❖ Facilities for safe abortion will be strengthened and expanded.
- ❖ Products and services will be made affordable through innovative social marketing schemes.
- ❖ Local entrepreneurs at village levels will be provided soft loans and encouraged to run ambulance services to supplement the existing arrangements for referral transportation.

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- ❖ Increased vocational training schemes for girls, leading to self-employment will be encouraged.
- ❖ Strict enforcement of Child Marriage Restraint Act, 1976.
- ❖ Strict enforcement of the Pre-Natal Diagnostic Techniques Act, 1994.
- ❖ Soft loans to ensure mobility of the ANMs will be increased.
- ❖ The 42nd Constitutional Amendment has frozen the number of representatives in the Lok Sabha (on the basis of population) at 1971 Census levels. The freeze is currently valid until 2001, and has served as an incentive for State Governments to fearlessly pursue the agenda for population stabilization. This freeze needs to be extended until 2026.



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