

## **THE POPULATION PLANNING FOR FAMILY WELL-BEING AND CHILDREN'S DEVELOPMENT BILL**

A bill to adopt Family Planning and Birth control as social justice strategies for organizing a humanist system, blending the patriotic policy of demographic equity and the constitutional mandate of democratic fraternity, as integral to National Development, Gender Liberty to consent to obligations of maternity and family wellbeing and the economic ability to fulfill parental responsibilities towards every child born with right to dignity and health in life, thereby promoting a progressive people and nation in happiness and harmony,

BE it enacted in the Fifty-ninth Year of the Republic.

1. *Short title, extent and commencement.*—(1) This Act may be called the Kerala Population Planning for Family Well-being, Birth Control and Children's Development Bill —

(2) It extends to the whole of the State of Kerala.

(3) It shall come into force on such date as the Government may notify in the Official Gazette.

2. *Definitions.*—For the purpose of this Act, unless the context otherwise requires,—

(a) 'Government' means Government of Kerala.

(b) 'Family' means husband, wife or any one of them if the other is no more or is divorced, along with their children. Where more than one marriage is legally allowed, or, on valid divorce, another wife or husband is subsisting, such other person and children born under that wedlock will be included in the family. An adopted child will be a member of the family if the adoption is legal and consensual.

(c) 'Legal disqualification' means disentitlement, administrative or other, sustained by either spouse, as specified under Section 5 of this Act. Provided that a child shall not be disentitled to any of its rights or claims on the score of any act or omission, default or disqualification suffered by either spouse, under the provision of this Act.

3. *Adoption of Family Planning and Birth Control as Secular Policy of Population Regulation of the State.*—The Kerala State declares, as a means of social stability, family well-being and sound national economy, the need for State Level Family Planning and Birth Control as its basic policy with the object of checking the unhealthy, uneconomic and abnormal increase in population, and for sustaining harmony and happiness among all communities. This State Policy shall be geared to promoting the fraternal comity and secular structure of society so as to secure the health and welfare of women and children in every family and ultimately of the State and the nation.

4. *Family norm to be adopted by every person, who is a major, under the Act.*—Within the scope of a lawful wedlock, solemnized after the date of commencement of this Act,

each unit of husband and wife shall limit its children to two for entitlement to the advantages the State grants to the members of a family and for avoidance of the legal disqualifications provided under this Act. If, on the legal termination of a wedlock, one of the spouses lawfully marries again, the children born by that wedlock shall be members of a different family for the purpose of this Act.

5. *Violation of Family norm to be a legal disqualification.*—One year after this Act comes into force, any person who commits any act or omission, movement, campaign or project which induces or tends to induce the violation of the family norm of two children as prescribed under this Act, or in any other manner abets the violation of the provisions, under this Act, shall be regarded as a ‘legally disqualified person’ for the purpose of this Act. Abetment, in this Act shall have the same meaning as under Section 107 of the Indian Penal Code.

6. *Grant of additional facilities and advantages for those who conform to the family norm set out under this Act and are not legally disqualified under Section 5.*—The Government shall, through the Village, Panchayats, Municipalities and other local self-government units or prescribed agencies, provide a cash incentive not exceeding Rs. 50,000 to women who belongs to the Below Poverty Category of people and marry after the age of nineteen and have their first child after the 20<sup>th</sup> year of age, the eligible event being the birth of the first child; a similar sum shall be granted on the birth of the second child. This cash eligibility shall be available for the birth of the second child only if a spacing of three years after the date of birth of the first child is proved by a certificate from a Gazetted Officer of the Revenue or a Medical Officer of the Health Department or a Village Panchayat President or Legislative Assembly member. The sum so entitled shall be payable by the District Collector on an application, with the aforesaid certificate, if made within six months of the date or dates of birth.

7. *Prevention of Population Regulation Policy.*—(a) Any person, who, or any organization, which actively imparts publicity to the State’s Statutory Population Regulation Policy or other positive dimensions of family planning in general conformity with the principles indicated in this Act, shall be eligible for such special consideration as may be notified by the Government.

(b) Where a social or religious organization, academic or political institution engages in active publicity or resorts to any measures calculated to negative or discourage the plan, policy or principle of population regulation, family planning or birth control outlined in this Act generally, such entity shall be liable to censure by the Governor except where absence of any motive to discourage or defeat the policy of this Act is proved. The Governor shall exercise this Option of censure only on the recommendation of the Commission set under Section 8 of this Act.

(c) Where any person or institution by any act or omission encourages, facilitates or otherwise promotes the State population policy, family planning project or birth control scheme set out under this Act and creates public opinion favourable to the provision of this Act, such entity may be granted rewards in cash or awards conferring distinction by the Governor on the recommendation of the Commission set up under Section 8 of the Act.

8. *Commission for the implementation of Population Regulation Policy.*—(a) The Government shall constitute a Commission of not more than ten members, consisting of social activists and public personalities or heads of institutions with commitment to the philosophy and policy spelt out in this Act. The objectives of the Commission shall be to function in every manner supportive of;

(b) The policies of population planning, family well-being, birth-control as well as the moral and economic advantages, gender justice and other progressive dimensions of the programme underlying this Act;

(c) To suggest creative changes and improvements and elimination of harmful features if any, in the objectives, provisions and working of the Act;

(d) To hold dialogues, discussions, invite papers and organize seminars to create public opinion favourable to the policy of the Act, clarify misunderstandings, if any, about the social and economic basics of the Act and eliminate any anti-religious or communal or political interpretations of this Act and explain the sociological and economic gains, public health benefits and child development advantages intended by the Act. This Commission shall be headed by a social activist of outstanding stature and secular commitment with concern for demographic and developmental considerations. The Members of the Commission shall not be political or religious office holders at the District or State level and shall be appointed by the Governor in consultation with the Chief Minister and such other dignitaries as he deems fit;

(e) All the members, including the President, shall be appointed by the Governor according to rules prescribed in this behalf.

(f) The Commission considers that there is general willful indifference to the provision of this Act or frequent violation thereof may recommend to the State Government to make provisions by way of Civil and Criminal liability in the shape of damages upto Rs. 10,000 or penal liability not exceeding three months simple imprisonment or fine of Rs.10,000. Provided that this provision shall be made only after a resolution is passed in the Legislative Assembly authorizing the imposition of such a penal liability. Such a provision shall cease to be in force if a repeal thereof is required by a fresh resolution with a 2/3<sup>rd</sup> majority of the total membership of the house whether present or not.

9. *Health Insurance Plan.*—There shall be established a Health Insurance Plan which covers all couples with their children below the poverty line, if one of the spouses had undergone sterilization. There shall also be a personal accident insurance

cover for the spouse undergoing sterilization if any injury is sustained accountable to the sterilization.

10. *Facilities to be provided to Couples.*—(a) Medically safe contraceptives and instructive literature shall be made accessible free at the time of marriage and at any time thereafter by the District Medical Officer. Counseling services shall be made available by every hospital free on request as a professional obligation under the Public Health Code.

(b) Facilities for safe abortion will be made available free and through hospitals, health care Centres, governmental and private as an obligation under the Public Health Code.

11. *Prohibition of inducements for generation of more children than provided in Section 4 of this Act.*—(1) No person or institution shall use religion, region, sect, caste, cult or other ulterior inducements for the bearing of more children than permitted by Section 4. (2) Such child born in contravention of sub-section (1) shall, all the same, be entitled to all the rights of the child and shall not be subjected to any penalty, discrimination or disadvantage. Notwithstanding this immunity, the parents may for the purposes of this Act be subject to the legal disqualification specified under this Act.

12. *Filing of complaint and the court having jurisdiction to try the offences.*—(1) Any person or a public organization or Institution associated with or carrying on the work of Family Planning and Birth Control may file a complaint alleging violation of the provisions in Section 5 or 7 or both before the Judicial Magistrate of the First Class within whose jurisdiction the offence is alleged to have been committed.

(2) On filing the complaint, the court shall entertain and dispose of it in accordance with the provisions in the Public Health Code and decision therein shall be subject to appeal and revision as provided in the Criminal Procedure Code.

13. *Operation of provisions in Sections 5 and 6.*—Provisions in Section 5 shall have operation only after the expiry of a period of one year from the date of commencement of this Act.

14. *Rendering assistance to the public in the matter of birth control.*— (1) The Government and the Commission appointed under Section 8 shall conduct awareness programmes especially in rural areas to encourage people to adopt birth control methods to enable them to comply with the requirements of the Act and to lead a healthy family life.

(2) The Government through its hospitals, health care institutions and other centers shall provide free of cost all facilities to undergo sterilization and vasectomy operations and to adopt other birth control methods medically approved to those who choose to have such assistance.

15. *Appointment of a Population Control Officer.*—There shall be a State Population Control Officer who will survey and supervise and audit the working of the Act and make Annual Report of the said working with suggestions for improvement, if any, of the

policy implementation of the Act. This Report shall be placed on the table of the House and shall be discussed in the House if so desired by any member.

16. *Power to make rules.*—The Government may frame necessary Rules for effectively implementing the provisions by issuing notifications in the Gazette.

### **Statement of Objects and Reasons**

*Birth control and family planning are essential measures in the best interests of a family and the State to be adopted and practiced by all sections of the vast population of this State. There have been many impediments in the way of implementing a policy based on birth control and family planning. Such inhibitions have contributed too many handicaps within the family and outside. The State has a duty to implement the National Population Policy by limiting the number of children born out of a lawful wedlock to two for entitlement to the advantages of the State grants to the members of a family. Family well-being is dependant on the economic ability of the family to meet the ever-increasing needs for providing a qualitative life to the members of the family. Population control has been advocated by researchers in the field both in the interests of the family as well as the State. Hence the Bill.*

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