

Population Policies and Religious Freedom in India: Balancing State Interests and Fundamental Rights

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Abstract

Population policy in India occupies a contested space between public welfare, reproductive autonomy and religious freedom. While the State has legitimate interests in maternal health, sustainable development and access to family planning, measures that penalise family size may burden constitutional rights and deepen existing inequalities. This paper examines the constitutional limits of population regulation through a doctrinal analysis of Articles 14, 15, 21 and 25, the National Population Policy 2000, demographic evidence and leading Supreme Court decisions. It considers the two-child disqualification upheld in *Javed v State of Haryana* alongside subsequent jurisprudence on privacy, reproductive choice, indirect discrimination and maternity protection. The analysis distinguishes religious conscience from claims of unrestricted community control over individual reproductive decisions. It argues that demographic differences cannot, without further evidence, justify religious targeting or establish the necessity of coercive regulation. The paper proposes a structured framework requiring lawful authority, a demonstrable public purpose, an evidence-based connection between means and ends, consideration of less restrictive alternatives, and safeguards against unequal effects. It concludes that constitutionally defensible population governance should prioritise voluntary, informed and accessible reproductive healthcare, protect children from penalties arising from parental choices, and subject restrictive measures to periodic review. Such an approach reconciles legitimate state interests with religious pluralism, gender justice and individual dignity.

Keywords: Population policy; religious freedom; reproductive autonomy; constitutional proportionality; secularism; gender justice.

1. Introduction

Population policy concerns the conditions under which people form families and exercise control over reproduction. In India, it also raises questions about the relationship between a secular constitutional State and a society in which religion may inform understandings of marriage, contraception and parenthood. A government may legitimately seek to improve maternal health, expand access to contraception and plan public services. Yet the legitimacy of these objectives does not determine the validity of every instrument adopted to pursue them. A policy that supplies confidential counselling has

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a different constitutional character from one that makes employment, public office or essential welfare depend upon the number of children in a family.³

The principal argument of this paper is that population governance should be evaluated through the rights of individuals rather than the numerical strength attributed to religious communities. Religious identity can be relevant to understanding barriers to services or experiences of discrimination. It cannot substitute for evidence about those barriers or establish that members of a community share an identical reproductive preference. The constitutional question is therefore more precise than whether population control is desirable. It asks which restrictions a State may impose, on whom, under what authority, with what evidence and subject to which safeguards.

The legal difficulty is especially apparent in two-child norms. Such measures can be described as incentives for responsible parenthood, but their operation may attach a disadvantage to an otherwise lawful and deeply personal choice. In *Javed v State of Haryana*, the Supreme Court upheld a family-size disqualification for specified panchayat offices. Later decisions recognised reproductive choice, privacy and protection against coercive sterilisation. These authorities must be read carefully: later recognition of autonomy does not itself announce that *Javed* has been overruled. Nevertheless, it supplies important grounds for examining the scope and justification of restrictions beyond the particular statutory setting considered there.⁴

Religion introduces a second dimension. A person may regard contraception or the formation of a family as a matter of conscience. Another person belonging to the same faith may make a different choice. Constitutional protection cannot depend upon the assumption that community leadership speaks conclusively for every member. At the same time, a claim of religious conviction does not automatically exempt a person from generally applicable laws. Both governmental power and religious claims must be examined in relation to equality, liberty, health and the rights of others. This paper therefore rejects a framework that requires choosing between state authority and community authority while overlooking the person whose body and future are affected.

Three questions organise the discussion. First, how should demographic evidence and the institutional purpose of family planning inform constitutional justification? Second, what do equality, privacy and religious freedom require when the State restricts family-related choices? Third, what legal and administrative arrangements can reconcile public welfare with meaningful consent? The paper argues for an approach that distinguishes service provision from behavioural compulsion, applies scrutiny proportionate to the burden imposed, and incorporates review of actual effects. Its proposed reforms are normative recommendations, not assertions that the courts have already established a comprehensive population-policy code.

2. Research Method and Analytical Scope

The study uses doctrinal legal research. It examines constitutional provisions, published judgments, the National Population Policy 2000 and relevant international instruments. Official survey releases provide context for evaluating the continuing justification of policy instruments. The inquiry is interpretive and evaluative: it identifies the governing legal principles, considers tensions between authorities, and

³ Constitution of India 1950, arts 14, 15, 21 and 25; Government of India, Ministry of Health and Family Welfare, National Population Policy 2000, introductory para 6 and Objectives.

⁴ *Javed v State of Haryana* (2003) 8 SCC 369; *Suchita Srivastava v Chandigarh Administration* (2009) 9 SCC 1; *Devika Biswas v Union of India* (2016) 10 SCC 726; *Justice K S Puttaswamy (Retd) v Union of India* (2017) 10 SCC 1.

develops a framework for assessing restrictions. It does not report interviews, fieldwork or an original statistical analysis. The demographic evidence is accordingly used to question broad policy assumptions rather than to establish the independent causal effect of religion on fertility.

The source position is assessed as at 12 October 2026. The analysis uses the government's 2026 release of NFHS-6 for the contemporary national fertility figure and identifies NFHS-5 as a separate, earlier survey when discussing religion-specific estimates. Legislative provisions considered in decided cases are described in their litigation context. This paper does not treat a historical statute, a proposed bill, an interim judicial order or an oral observation as proof of a currently operative national requirement. These distinctions matter because constitutional analysis becomes unreliable when policy announcements are presented as enacted law or demographic figures from different periods are treated as interchangeable.⁵ Population policy is defined broadly enough to include reproductive healthcare, family-planning services and legal incentives or disadvantages linked to family size. Migration and citizenship, though connected to population change, fall outside the principal inquiry. Personal-law questions are examined only where they affect conscience, individual autonomy or the justification for secular regulation. International materials are used as interpretive and policy resources, with attention to their differing legal status. A treaty obligation, an expert recommendation and a conference programme cannot be assigned the same domestic force merely because all employ the language of reproductive rights.

3. Demographic Evidence and the Use of Religious Categories

Contemporary population policy should begin with dated and appropriately defined evidence. In its release of 29 May 2026, the Ministry of Health and Family Welfare reported that India's total fertility rate remained at 2.0 in NFHS-6, conducted during 2023–24. A subsequent parliamentary reply in July 2026 repeated the figure and reported a reduction in total unmet need for family planning from 9.4 per cent in NFHS-5 to 8.5 per cent in NFHS-6. These figures describe national survey estimates; they are not a prescription that every individual should have two children.⁶

The distinction between an average fertility rate and a legal family-size ceiling is fundamental. Total fertility rate is a period measure derived from age-specific fertility rates. It does not establish that every woman has, or wishes to have, the same number of children. Nor does a national rate below the commonly used replacement benchmark mean that total population must immediately decline. Population momentum, mortality and the age structure affect future population size. The United Nations' World Population Prospects 2024 identifies India among countries expected to continue growing through 2054. A long-term planning challenge therefore remains compatible with declining fertility.⁷

For religious comparisons, the NFHS-5 India report provides historical estimates for its 2019–21 survey period. Table 4.2 reports a total fertility rate of 1.94 for Hindu women and 2.36 for Muslim women. These are descriptive group estimates from that survey; they should not be represented as NFHS-6 religion-specific figures or as current birth rates. The table also disaggregates fertility by other

⁵ Ministry of Health and Family Welfare, 'Union Health Ministry Releases National Family Health Survey – 6', PIB, 29 May 2026; IIPS and ICF, National Family Health Survey (NFHS-5), 2019–21: India (2021), table 4.2. Full source links appear in References.

⁶ Ministry of Health and Family Welfare, 'Union Health Ministry Releases National Family Health Survey – 6', PIB, 29 May 2026, release ID 2266600; 'Update on NFHS-6', PIB, 24 July 2026, release ID 2288850.

⁷ United Nations, Department of Economic and Social Affairs, Population Division, World Population Prospects 2024: Summary of Results (2024), section on countries projected to grow through 2054. A replacement benchmark is a population-level demographic measure, not an individual legal obligation.

background characteristics. Its organisation itself reminds the legal analyst that religion is one dimension within a broader demographic setting.⁸

A difference between group averages does not establish that religious belief caused the difference. The relevant questions include access to education, household resources, residence, marriage patterns and availability of healthcare. Without a suitable empirical design, the relative contribution of these factors cannot be inferred from a simple comparison. This limitation is particularly significant when a demographic claim is used to justify a legal disability. A legislature should not convert an association into a causal conclusion and then rely on that conclusion as evidence that a religiously targeted measure is necessary.

The danger is also normative. Describing a community as a demographic problem encourages the State to understand its members through an attributed collective intention. It may transform ordinary family choices into supposed evidence of disloyalty or competition. Constitutional citizenship does not depend upon maintaining a preferred numerical balance between religions. In this paper's view, the defensible public concern is whether people can make informed decisions and whether public institutions can meet social needs. The State may study unequal outcomes to correct exclusion, but demographic differences do not confer a general licence to stigmatise the people represented by those data.

Evidence nevertheless remains indispensable. Avoiding religious stereotypes does not require ignoring the experiences of religious minorities. Surveys, complaint records and carefully designed qualitative research can identify discriminatory treatment, communication difficulties or distrust arising from particular encounters with public institutions. The proper policy response should address the identified barrier. For example, a finding that women cannot obtain confidential advice would support improved confidential access; it would not by itself support a penalty on a religious community's family size. The evidence must connect the problem identified to the instrument proposed.

4. National Policy and Federal Responsibility

The National Population Policy 2000 contains a significant commitment to voluntary and informed choice and consent, together with a target-free approach to administering family-planning services. Its immediate concerns include unmet needs for contraception and reproductive healthcare infrastructure; its longer-term objectives relate population stabilisation to sustainable development. The document also recognises education, basic amenities and women's empowerment as relevant to demographic change. These features support reading population policy as a programme of social provision rather than as a numerical command addressed to individual families.⁹

The policy is not free from internal tension. Its section on promotional measures includes rewards connected with acceptance of the small-family norm and certain sterilisation choices. This raises a question that cannot be resolved simply by contrasting coercion with voluntariness. A formally optional financial offer may still exert strong pressure where recipients lack secure income or meaningful access to alternative methods. The constitutional concern depends upon the conditions of choice, the size and

⁸ IIPS and ICF, National Family Health Survey (NFHS-5), 2019–21: India (IIPS, Mumbai, 2021), table 4.2, 'Fertility by background characteristics'. The estimates relate to the three years preceding interviews.

⁹ National Population Policy 2000, introductory paras 5–6 and Objectives; Ministry of Health and Family Welfare, 'National Population Policy', PIB, 4 February 2020.

design of the benefit, the information provided, and whether declining the intervention produces an unrelated disadvantage.¹⁰

As a matter of institutional analysis, an executive policy document is different from a statute imposing legal disqualifications. A policy commitment to voluntariness does not automatically invalidate every separate legislative measure. Conversely, an administrative scheme cannot acquire authority to burden a fundamental right merely by citing the national importance of population stabilisation. The relevant legal instrument, its source of power and the individual consequence must be identified. This separation allows principled evaluation without assuming either that all incentives are lawful or that the National Population Policy operates as a self-executing constitutional prohibition.

Family planning also involves shared governmental responsibility. Entry 20A of the Concurrent List concerns population control and family planning, while public health and sanitation are addressed by Entry 6 of the State List. These distributions of legislative competence explain the involvement of both the Union and States. They do not authorise either level of government to disregard fundamental rights. Questions of competence and questions of rights must therefore be considered separately: an enactment may relate to a permissible legislative subject and still impose an unconstitutional burden.¹¹

Federal variation can accommodate different service needs, but it should not make consent or clinical safety depend upon geography. A minimum national framework should specify safeguards, while State implementation responds to local circumstances. Clear responsibility is also essential where services are delivered through contracted organisations. Patients should not have to determine whether a failure resulted from national guidelines, State supervision or a private provider before they can obtain an effective remedy. In *Devika Biswas*, the Supreme Court stressed cooperative responsibility for the implementation of national family-planning schemes. The practical implication is that coordination must include accountability, rather than merely the circulation of policy instructions.¹²

5. Constitutional Rights and Religious Freedom

5.1 Equality and unequal consequences

Articles 14 and 15 provide the starting point for evaluating discriminatory population measures. Article 14 protects equality before the law and equal protection of the laws; Article 15 prohibits specified forms of discrimination, including on grounds of religion and sex. Where public employment is affected, Article 16 is also relevant. These guarantees make a policy's legal classification important, but they also require attention to how an apparently common rule operates. A restriction can apply to all families on its face while imposing particularly serious disadvantages on people who lack the resources or control needed to comply.¹³

Consider a hypothetical rule excluding every parent of a third child from a welfare scheme. Its text need not identify any religion or sex. Yet its practical burden may fall more heavily on a woman who could not negotiate contraceptive use, or a household that had no dependable access to services. These examples describe possible mechanisms, not empirical findings established by this paper. Their significance is that a legislature should investigate the circumstances of non-compliance before

¹⁰ National Population Policy 2000, Promotional and Motivational Measures for Adoption of the Small Family Norm; see also *Devika Biswas* (n 2), para 87, on informal targets and incentives.

¹¹ Constitution of India, Seventh Schedule, List III entry 20A and List II entry 6; see *Devika Biswas* (n 2), paras 67–72.

¹² *Devika Biswas* (n 2), paras 71–72 and 88, especially direction 11 concerning Union responsibility and implementation.

¹³ Constitution of India, arts 14, 15 and 16.

presenting identical treatment as sufficient proof of equality. A rule that ignores unequal starting conditions can intensify the disadvantage it purports to address.

Lt Col Nitisha v Union of India recognised the importance of indirect discrimination and substantive equality in examining facially neutral criteria. The case concerned women officers in the armed forces, not population regulation. Its relevance here is therefore analytical: it supports examining effects rather than treating the absence of express discriminatory language as conclusive. Applying that insight to a family-size rule would require evidence of the particular disadvantage, its relationship to a protected characteristic, and the adequacy of the government's justification. It does not mean that every demographic difference establishes a constitutional violation.¹⁴

5.2 Privacy and reproductive autonomy

Article 21 protects life and personal liberty. *Suchita Srivastava v Chandigarh Administration* recognised reproductive choice as a dimension of personal liberty, including choices concerning procreation and abstention. The nine-judge privacy decision in *Justice K S Puttaswamy v Union of India* subsequently located intimate choices concerning family and procreation within constitutionally protected privacy. These holdings strengthen the claim that a family-size restriction must be assessed as a burden on a protected sphere of decision-making. They do not establish an unrestricted right to obtain every reproductive intervention regardless of applicable law or clinical conditions.¹⁵

The relevant interference need not involve physical force. Loss of livelihood, disqualification from office or withdrawal of an essential benefit can influence a decision substantially even when the State does not compel a medical procedure. The question should be whether the consequence materially constrains a protected choice and whether the particular constraint is justified. This approach preserves a distinction between ordinary public communication and serious legal pressure. It also explains why merely describing a restriction as an incentive or eligibility condition cannot settle its constitutional character.

Meaningful autonomy includes both the decision to avoid pregnancy and the decision to continue a pregnancy within the applicable legal framework. A policy cannot claim to protect choice while pressuring a person toward sterilisation or termination. Equally, religious or family opposition should not automatically prevent a competent adult from accessing lawful care. *X v Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi* emphasised reproductive autonomy and the relevance of social conditions in which decisions are made. This paper draws from that reasoning to argue that population policy should protect the decision-making person from institutional pressure operating in either direction.¹⁶

5.3 Conscience, religious practice and secular regulation

Article 25 protects freedom of conscience and the profession, practice and propagation of religion, subject to its stated qualifications. Those qualifications include public order, morality, health and other provisions of Part III. Article 25(2) also addresses secular activity associated with religious practice and social welfare and reform. The provision therefore supplies neither a blanket religious veto over

¹⁴ *Lt Col Nitisha v Union of India*, 2021 SCC OnLine SC 261, paras 48–53 and 67–70. Its application to population measures in this paper is an analytical extension, not the subject of the holding.

¹⁵ *Suchita Srivastava* (n 2); *Puttaswamy* (n 2); see also *X v Principal Secretary, Health and Family Welfare Department, Government of NCT of Delhi*, 2022 SCC OnLine SC 1321, paras 98–106.

¹⁶ *X* (n 13), paras 98–106; Medical Termination of Pregnancy Act 1971, s 3, as amended. The judgment concerns interpretation of the statutory abortion framework, not an unrestricted entitlement outside it.

population measures nor a blanket governmental power to regulate reproduction. The character of the claimed interference and the applicable constitutional ground must be examined in each case.¹⁷

Shirur Mutt remains an important authority on religion and its relationship with secular regulation. *Bijoe Emmanuel v State of Kerala* illustrates constitutional respect for conscientiously held religious beliefs and the need for legally justified interference. Together, these authorities caution against assuming that unfamiliar convictions are irrational or that majority preferences determine the scope of conscience. In population governance, this means that respectful engagement with a person's beliefs should precede any attempt to treat those beliefs as an obstacle to be removed. Clinical information can be communicated clearly without requiring a person to abandon religious identity.¹⁸

A claim concerning conscience must also be distinguished from a claim that a religious community owns the reproductive choices of its members. Article 25 protects all persons. An individual's wish to use contraception cannot be disregarded merely because an official assumes that her religion prohibits it. Nor should a person's wish to refuse a particular method be rejected merely because a community representative has endorsed a programme. The relevant constitutional subject remains the individual. Community consultation can improve service design, but it must not create a gatekeeper whose approval is required before an adult can exercise a lawful choice.

The secular character of the State reinforces this distinction. *S R Bommai v Union of India* recognises secularism as a basic feature of the constitutional order. For the present inquiry, its significance is that public policy should be justified through reasons compatible with equal citizenship. Correcting an access barrier experienced by a minority can serve equality; attempting to reduce that minority's numerical presence is a different objective. A religious classification requires its own constitutional justification and cannot be made acceptable merely by placing it under the general heading of population management.¹⁹

6. Judicial Decisions and the Limits of Precedent

6.1 Javed and the defence of family-size disqualifications

In *Javed*, a three-judge Bench upheld provisions of the Haryana Panchayati Raj Act 1994 disqualifying persons with more than two living children from specified panchayat offices, subject to the statutory transitional arrangement. The Court rejected challenges under Articles 14, 21 and 25. It treated the right to contest the relevant elections as statutory, accepted the family-planning objective, and rejected the proposition that religious permission for polygamy required unrestricted procreation. The decision concerns the disqualification before it; it is not a judicial authorisation for forced sterilisation or an enactment of a national two-child ceiling.²⁰

The strongest defence of the decision is that elected local representatives can be expected to demonstrate commitment to a legitimate public programme. A legislature may prescribe qualifications for public office, and not every inconvenience attached to an eligibility rule constitutes physical compulsion. Moreover, the State need not establish that a candidate personally created a measurable population problem before adopting an administrable classification. These considerations explain why a court might

¹⁷ Constitution of India, art 25(1) and (2).

¹⁸ *Commissioner, Hindu Religious Endowments, Madras v Sri Lakshmindra Thirtha Swamiar of Sri Shirur Mutt* [1954] SCR 1005; *Bijoe Emmanuel v State of Kerala* (1986) 3 SCC 615.

¹⁹ *S R Bommai v Union of India* (1994) 3 SCC 1; Constitution of India, Preamble and arts 14, 15 and 25.

²⁰ *Javed* (n 2); Haryana Panchayati Raj Act 1994, ss 175(1)(q) and 177(1), as reproduced and considered in the judgment.

accept a limited disqualification without requiring individualised proof of public harm. A serious critique should acknowledge their force rather than assume that all family-related conditions are identical.

The difficulty lies in the relationship between the qualification and the office. The number of children does not directly measure administrative competence, integrity or capacity to represent constituents. To justify a representational penalty as a demographic instrument, the State should explain the mechanism through which it changes behaviour and why that mechanism remains necessary. An assumed exemplary effect may be too general to establish this connection. The problem becomes more serious where the family decision predates candidacy or the person subject to disqualification had limited control over the circumstances producing it. These are questions for evidence and justification, not grounds for denying that *Javed* is an authoritative precedent.

Two propositions should consequently be separated. The first is that the Court upheld the impugned norm in its particular legal and factual setting. The second is the broader claim that every disadvantage associated with a third child is constitutionally unobjectionable. The latter does not follow automatically from the former. Different instruments affect different interests: exclusion from public office, denial of employment, withholding of food assistance and compulsory medical treatment cannot be treated as constitutionally equivalent. Even where precedent controls an issue, a reform argument may examine the justification for legislative retention and the possibility of reconsideration by an appropriately constituted Bench.

6.2 Later authority supporting restrictions

Ramji Lal Jat v State of Rajasthan shows that judicial acceptance of family-size conditions is not confined to the 2003 decision. In its order of 20 February 2024, a three-judge Bench upheld the rejection of a police-constable applicant under the relevant Rajasthan service rules, relying on *Javed*. This authority limits any argument that later privacy jurisprudence has already displaced family-size eligibility rules. The paper's position is more measured: autonomy and equality provide grounds for examining necessity, proportionality and reform, but those grounds must be presented alongside later decisions applying the earlier precedent.²¹

Litigation must also be distinguished from its eventual disposition. In *Mangala Bhimrao Ingle v Additional Commissioner, Amravati Division*, the Supreme Court's interim order of 4 November 2025 stayed the impugned High Court judgment concerning a panchayat disqualification. An interim stay is not a merits ruling invalidating the statutory norm or overruling *Javed*. This distinction is methodologically important because public discussion can assign precedential significance to observations or provisional orders that do not determine the constitutional question. The argument advanced here does not depend upon attributing such an effect to that order.²²

6.3 Consent and maternity protection

Suchita Srivastava and *Devika Biswas* reveal a different judicial concern: the protection of the person receiving reproductive healthcare. *Devika Biswas* addressed failures in sterilisation services, emphasised informed consent and freedom from coercion, and directed safeguards concerning quality and

²¹ *Ramji Lal Jat v State of Rajasthan*, Civil Appeal 2744 of 2024, order dated 20 February 2024, paras 2–7. The Court relied on *Javed* in upholding the challenged police-recruitment condition.

²² *Mangala Bhimrao Ingle v Additional Commissioner, Amravati Division*, SLP (C) 30772 of 2025, interim order dated 4 November 2025. The order stayed operation of the impugned High Court judgment; it did not decide the constitutional validity of the norm.

implementation. Read alongside the eligibility cases, it demonstrates that judicial support for a family-planning objective does not remove the obligation to respect bodily integrity. Administrative convenience and programme achievement must remain subject to the rights of patients. The State's interest in expanding uptake cannot determine whether a particular patient should undergo a permanent procedure.²³

K Umadevi v Government of Tamil Nadu, decided in 2025, adds a context-sensitive approach to maternity protection. The Court granted maternity leave to a woman whose two children from an earlier marriage were in their father's custody and whose later child was born after remarriage and entry into service. It treated population-policy and maternity-protection objectives as capable of being harmonised. The holding should not be enlarged into a universal invalidation of all child-number conditions. It nevertheless illustrates the importance of examining the purpose of a benefit and the circumstances of the person claiming it, rather than mechanically attaching consequences to a numerical count.²⁴

The cases therefore support a differentiated account. Election and service disqualifications have received judicial approval, while clinical coercion and mechanical denial of maternity protection have encountered constitutional objections. A convincing legal framework must explain these differences without erasing them. This paper proposes that the intensity of scrutiny should reflect the nature of the interest affected, the seriousness of the pressure exerted, and the quality of the evidence supporting the restriction. That proposal develops an evaluative approach from the authorities; it should not be mistaken for a single test expressly announced in all of them.

7. A Structured Framework for Constitutional Evaluation

7.1 Lawful authority and a defined public purpose

The first requirement is identification of the legal authority for the measure. A restriction should state who is affected, which consequence follows, how family size is determined and what review is available. A departmental circular cannot be assumed to supply sufficient authority merely because it refers to a national programme. Privacy jurisprudence requires legal justification for interference, while religious-freedom analysis also examines the authority and purpose of the impugned action. Clear legal rules are particularly necessary where eligibility turns on intimate facts whose disclosure can expose individuals to stigma.²⁵

The second requirement is a defined and constitutionally legitimate purpose. Maternal health, reliable access to family planning and sustainable provision of public services can support governmental action. A reference to population control in the abstract is less informative. The State should explain which problem the measure addresses: unmet contraceptive need, unintended pregnancies, pressure on a particular service or another demonstrable concern. Preserving a preferred religious composition cannot be treated as interchangeable with these objectives. This paper's proposed framework requires public

²³ Suchita Srivastava (n 2); Devika Biswas (n 2), paras 81–88. The reform analysis draws on these decisions without treating clinical-consent rules as a judicial invalidation of every eligibility condition.

²⁴ *K Umadevi v Government of Tamil Nadu*, 2025 INSC 781, paras 34–37; Tamil Nadu Fundamental Rules, r 101(a), as considered in that judgment.

²⁵ Puttaswamy (n 2); Bijoe Emmanuel (n 16); Constitution of India, arts 21 and 25. The procedural framework proposed here is the paper's synthesis.

reasons that can be addressed to citizens as equals, without making their religious identity a marker of demographic suspicion.²⁶

7.2 Connection between the measure and its objective

The next inquiry concerns the connection between the means and the stated purpose. *Modern Dental College and Research Centre v State of Madhya Pradesh* articulates proportionality through proper purpose, rational connection, necessity and balancing. Although that decision concerned regulation of professional education, its structured reasoning supplies an appropriate analytical model for assessing serious interference with protected choices. This paper applies that model to population governance; it does not suggest that the Court there decided the validity of family-size restrictions.²⁷

For a disqualification, the government should explain why excluding the affected person is likely to advance the identified objective. A claim that local representatives influence public behaviour is a possible explanation, but it needs support concerning the mechanism and its limits. The analysis should ask whether changes in services, knowledge or economic conditions better explain any observed fertility decline. It should also consider whether the rule encourages avoidance of registration or concealment instead of informed family planning. Such consequences should be investigated; they should not be declared proven merely because they are plausible.

7.3 Less restrictive alternatives and proportionality

Necessity requires considering alternatives that can achieve the public purpose while imposing a smaller burden. Possible alternatives include reliable contraceptive supplies, wider method choice, confidential advice, transport support and improved continuity of care. These are not interchangeable: a supply intervention will not necessarily address a confidentiality barrier. The comparison must therefore be tied to the particular problem and supported by evidence. A State defending an exclusionary rule should explain why adequately designed services would be insufficient, rather than pointing to deficiencies in a service system it has not properly strengthened.²⁸

Balancing then requires assessing the severity of the actual consequence against the expected benefit. Losing an essential subsistence benefit is not equivalent to receiving a public-information leaflet. Nor is reimbursement of travel expenses equivalent to a payment contingent on permanent sterilisation. The inquiry should consider duration, reversibility, the interests of dependent children and the person's practical capacity to decline. Where the public benefit is conjectural but the individual disadvantage is immediate and serious, the justification demands greater scrutiny. This is an evaluative proposition, not a claim that every existing restriction has already failed judicial review.

7.4 Equality, procedure and continuing review

An equality assessment should accompany the proportionality inquiry. Authorities should investigate whether the measure disproportionately disadvantages women or religious minorities, and whether the disadvantage reflects unequal access or control rather than informed non-compliance. A finding of difference requires careful explanation. Statistics may assist, but aggregate fertility rates alone cannot

²⁶ Constitution of India, arts 14, 15 and 25; S R Bommai (n 17). The stated public-purpose requirement is proposed here for population-policy evaluation.

²⁷ *Modern Dental College and Research Centre v State of Madhya Pradesh* (2016) 7 SCC 353, discussion of the four components of proportionality; Puttaswamy (n 2).

²⁸ National Population Policy 2000, Strategic Themes; WHO, *Ensuring Human Rights in the Provision of Contraceptive Information and Services: Guidance and Recommendations* (2014). The necessity comparison is the author's proposed application of proportionality.

establish the discriminatory effect of a specific disqualification. Complaint records, administrative practices and the conditions of service delivery may also be relevant. The analysis should remain focused on the measure being challenged, rather than using a general demographic profile as a substitute for evidence of its operation.²⁹

Fair procedure is especially important when a rule affects office, employment or welfare. A person should receive notice, the evidence relied upon, a reasonable opportunity to respond and a reasoned determination. Rules should identify how adoption, multiple births, custody and errors in registration are addressed, without encouraging invasive investigation beyond what is necessary. Access to review must be practical, timely and affordable. Procedural safeguards cannot cure an unjustifiable substantive rule, but their absence compounds the burden and increases the risk that administrative mistakes will alter a family's livelihood.³⁰

Finally, the justification should be revisited periodically. Demographic conditions and service availability change, while a restriction may continue long after the problem used to defend it has altered. Review should measure both effectiveness and rights-related effects, using a published methodology. Lower fertility does not remove every planning concern, but it can change the case for a particular instrument. Sunset clauses or scheduled legislative review would require governments to explain why restrictive measures remain useful instead of treating their continued existence as proof of continuing necessity.

8. Religious Pluralism and Social Transformation

Population governance affects social transformation through the distribution of authority within families and public institutions. If a programme treats women mainly as instruments for achieving numerical targets, it may reproduce dependency even when the target is presented as socially beneficial. A programme centred on information, safety and choice can instead increase the person's practical capacity to shape her future. The relevant transformation concerns agency and participation, as well as fertility. Success should therefore be assessed through access, informed decision-making and the removal of exclusion, rather than through a lower birth count alone.³¹

Engagement with religious organisations can support that transformation when it improves communication and trust. It becomes problematic when officials presume that a community is homogeneous or delegate control over service access to its leaders. A defensible arrangement would make participation voluntary, include women and dissenting perspectives, and preserve direct access to clinical advice. Public authorities should remain responsible for the accuracy of information and for equal treatment. Consultation is a means of understanding needs; it should not become an additional permission requirement imposed upon the person seeking care.

Religious accommodation must likewise be assessed concretely. If a person objects to one contraceptive method, an appropriate response may be to discuss lawful alternatives and allow refusal. This respects conscience without requiring the State to endorse the theological claim. An exemption permitting discriminatory denial of essential care to others presents a different problem. Accommodation should

²⁹ Lt Col Nitisha (n 12), paras 67–70. Statistical evidence is one possible form of proof; the judgment does not make its absence invariably fatal to an indirect-discrimination claim.

³⁰ Javed (n 2), discussion of notice, hearing and appeal under s 177 of the Haryana Panchayati Raj Act 1994. Broader procedural recommendations in the text are proposed safeguards.

³¹ Devika Biswas (n 2), paras 85–87; National Population Policy 2000, introductory para 5.

preserve the person's freedom where possible while protecting the rights and health of those affected. It cannot be designed solely around the convenience of institutions or the authority of dominant voices within a community.³²

Family autonomy is also connected to freedom in intimate relationships. *Shafin Jahan v Asokan K M* affirms the significance of an adult's choice of partner and resists substitution of parental or judicial preference for that choice. Its application here is by analogy: public institutions should not permit assumptions about religion or family honour to displace an adult's reproductive decision. The protection of pluralism includes the ability to disagree with an inherited expectation. A person does not relinquish constitutional agency by marrying, belonging to a minority or accepting advice from a religious institution.³³

Children require separate attention. A policy aimed at influencing parental behaviour can impose disadvantages on a child who had no role in that decision. Withholding nutrition, education or necessary healthcare because a child exceeds a prescribed family-size limit would shift the cost of enforcement onto that child. The child's interests should therefore be evaluated independently of the policy's assessment of the parents. Constitutional commitments concerning education and child welfare, together with the non-discrimination and best-interests principles of the Convention on the Rights of the Child, support treating child protection as a substantive limit on policy design.³⁴

9. International Standards and Their Legal Significance

International human-rights instruments provide a useful vocabulary for examining the interaction between family life and religious freedom. The International Covenant on Civil and Political Rights protects privacy, conscience and religion, and the right to marry and found a family. The International Covenant on Economic, Social and Cultural Rights addresses health. Their combined relevance lies in recognising that a decision can be formally private while its exercise depends upon access to services. Freedom from governmental intrusion and the availability of adequate care therefore require consideration together.³⁵

The Convention on the Elimination of All Forms of Discrimination against Women addresses equal access to healthcare and equal rights concerning the number and spacing of children. India's declarations concerning Articles 5(a) and 16(1), including its stated policy of non-interference in community personal affairs without initiative and consent, must be acknowledged rather than ignored. Those declarations complicate a direct reliance on an unqualified treaty commitment in personal-law questions. They do not decide whether a population measure complies with India's constitutional guarantees. The domestic analysis developed in this paper rests on those guarantees and the relevant judgments.³⁶

The 1994 International Conference on Population and Development Programme of Action emphasises free and responsible decisions concerning the number, spacing and timing of children, access to

³² Constitution of India, art 25; *Bijoe Emmanuel* (n 16). The suggested accommodation approach is normative and must remain consistent with applicable clinical and statutory duties.

³³ *Shafin Jahan v Asokan K M* (2018) 16 SCC 368. The relevance to reproductive decision-making is argued by analogy.

³⁴ Constitution of India, arts 21A and 39(f); Convention on the Rights of the Child 1989, arts 2, 3, 24 and 28. The recommendation to insulate essential child services from family-size penalties is developed in this paper.

³⁵ International Covenant on Civil and Political Rights 1966, arts 17, 18, 23 and 26; International Covenant on Economic, Social and Cultural Rights 1966, arts 2 and 12.

³⁶ Convention on the Elimination of All Forms of Discrimination against Women 1979, arts 12 and 16(1)(e); United Nations Treaty Collection, India's declarations concerning arts 5(a), 16(1) and 16(2), and reservation concerning art 29.

information and means, and freedom from discrimination, coercion and violence. It is a conference programme, not a domestic statute or treaty. WHO guidance on contraceptive information and services is likewise an expert policy resource rather than an independently enforceable Indian legal code. These materials can inform service standards and policy evaluation, but their value should be explained without inflating their legal status.³⁷

These distinctions sharpen the paper's position. International recognition of reproductive agency strengthens the policy case for voluntary provision, while constitutional authority remains necessary for domestic remedies. Government cannot answer a rights challenge solely by referring to an international demographic objective. Equally, a claimant should not assume that the existence of an international recommendation automatically invalidates a statute. Proper legal reasoning identifies the domestic rule, explains the relevance of the external standard and preserves the difference between interpretive assistance and binding adjudication.

10. Legal and Institutional Reform

10.1 A statutory safeguard for informed choice

A legislative framework should expressly protect informed and voluntary decisions in publicly supported family-planning services. It should require understandable information about available methods, risks, alternatives and follow-up, and preserve the patient's ability to decline or withdraw consent before the intervention. The relevant information should be available in a language and format the person understands. A signed form should record the decision, but it should not be treated as conclusive evidence that the surrounding process was free from pressure. Independent investigation must remain possible where the form and the patient's account differ.³⁸

The framework should also prevent the substitution of spousal or community approval for a competent adult's own consent. Appropriate assistance should be available to persons who need support in understanding information, while clinical and legal requirements concerning capacity, minors and emergencies must be respected. The objective is not to replace medical assessment with a universal assumption, but to ensure that disability, poverty or unfamiliar language does not become a reason for administrative convenience to prevail over individual dignity. Consent safeguards should apply to permanent and reversible methods, with attention to the consequences particular to each.³⁹

10.2 Review of family-size penalties and incentives

Existing child-number conditions should undergo legislative review using the framework proposed above. Review should identify the provision's purpose, contemporary evidence of effectiveness, the interests affected and the available alternatives. It should distinguish political and employment eligibility from health and subsistence entitlements. Where restrictive rules remain, the legislature should publish its justification and provide exceptions or modifications that are supported by the purpose of the rule.

³⁷ ICPD Programme of Action 1994, para 7.3; WHO, Ensuring Human Rights in the Provision of Contraceptive Information and Services (2014); WHO and UNFPA, Ensuring Human Rights within Contraceptive Service Delivery: Implementation Guide (2015).

³⁸ Devika Biswas (n 2), paras 86–88; WHO and UNFPA, Implementation Guide (n 35). The proposed legislation would give these safeguards an express statutory foundation.

³⁹ Suchita Srivastava (n 2); Medical Termination of Pregnancy Act 1971, s 3. The reform proposed here must preserve applicable statutory distinctions regarding consent and capacity.

The paper recommends removing penalties that deprive children of essential services, while recognising that reform of other eligibility conditions must address the applicable judicial authorities.⁴⁰

Financial support should principally remove the costs of exercising choice. Reimbursement for travel, lost wages or treatment can make services accessible without rewarding a particular permanent outcome. By contrast, substantial payments tied to sterilisation require scrutiny of the economic pressure created and whether comparable support exists for alternative methods. These distinctions should be reflected in programme audits. The central question is whether public expenditure expands the set of practical options or makes one option disproportionately difficult to refuse. A formally voluntary label is insufficient evidence of the former.

10.3 Equitable and confidential services

Service provision should respond to identified needs rather than presumed religious preferences. District planning should assess supply gaps, access costs, confidentiality concerns and the availability of trained providers. Where communication requires cultural or linguistic adaptation, the adaptation should improve understanding without lowering standards of information or safety. Men should be included in counselling and responsibility for family planning, while women's direct access should be preserved. Engagement with religious groups should be accompanied by consultation with service users, particularly women whose experiences may be absent from institutional representations of a community.⁴¹

Confidentiality should be incorporated into records, reporting and complaints. Information about pregnancy, contraception and religious affiliation should be collected only for a defined lawful purpose, with access restricted and retention justified. Statistical reporting should use appropriate aggregation and protection against identification. The privacy protection in section 5A of the Medical Termination of Pregnancy Act offers a specific legislative example, although it cannot simply be assumed to govern every family-planning record. Broader safeguards should be designed through the relevant law and service rules, rather than through an unexplained promise that all information will remain private.⁴²

10.4 Accountability and evaluation

Quality-assurance bodies should have published responsibilities, a regular inspection programme and clear routes for patient complaints. Contracts with providers should include consent, safety and reporting requirements, supported by sanctions for breach. Where injury occurs, accessible investigation and appropriate remedies should be available; compensation should not replace the inquiry into responsibility. Clinical negligence, inadequate information and coercive administration are different failures and may require different responses. Accountability should therefore identify both the immediate event and the institutional practice that allowed it to occur.⁴³

Performance measures should include unmet need, continuity of supply, method availability, informed consent, clinical safety and patient experience. A declining fertility rate may be relevant to planning, but it should not excuse unsafe services or conceal inequality. Independent evaluation should test whether

⁴⁰ Javed (n 2); Ramji Lal Jat (n 19); K Umadevi (n 22); Convention on the Rights of the Child, arts 2 and 3. Legislative review and removal of child-service penalties are recommendations, not descriptions of a blanket judicial prohibition.

⁴¹ National Population Policy 2000, Strategic Themes; WHO, Guidance and Recommendations (n 26); WHO and UNFPA, Implementation Guide (n 35).

⁴² Puttaswamy (n 2); Medical Termination of Pregnancy Act 1971, s 5A. Section 5A specifically concerns disclosure of the name and particulars of a woman whose pregnancy has been terminated under the Act.

⁴³ Devika Biswas (n 2), para 88, directions concerning consent, quality assurance and implementation.

access has improved across socioeconomic and religious groups, using evidence suited to the question and safeguards for confidentiality. Results should be published in a form that allows legislative and public scrutiny. The State should be required to explain corrective action when a programme's reported achievements coexist with persistent complaints or exclusion.⁴⁴

These reforms would give practical content to the balance between public interests and fundamental rights. They require expenditure and administrative capacity, but a penalty-based system also has costs: investigation, litigation, loss of representation and pressure on families. Policy comparison should include these costs rather than assuming that sanctions are administratively effortless. Legal reform is most persuasive when paired with a credible implementation plan. Rights-based governance should therefore identify responsible institutions, funding, timelines and evaluation arrangements, so that voluntariness is supported by services rather than left as an abstract promise.

11. Conclusion

Population policies in India should be assessed by their purposes, instruments and consequences. Public welfare and sustainable planning provide legitimate reasons for governmental action. Religious freedom, equality and reproductive autonomy determine the constitutional conditions under which that action can occur. Religion-specific demographic estimates can assist a properly designed inquiry into inequality, but they cannot alone establish causation, justify targeting or show that restrictive measures are necessary. Contemporary national fertility evidence also requires a careful distinction between continuing population growth and the case for penalising individual family size.

The judicial position contains both support for certain eligibility rules and strong protection for informed reproductive decisions. *Javed* and *Ramji Lal Jat* must be acknowledged alongside *Suchita Srivastava*, *Puttaswamy*, *Devika Biswas* and *K Umadevi*. The authorities do not support collapsing every instrument into a single category. The argument for reform should therefore address the scope of precedent, the protected interest affected and the evidence supporting continued restriction. It should distinguish an advocated constitutional approach from a holding that the courts have already made.⁴⁵

This paper proposes lawful authority, a defined public purpose, evidence-based connection, consideration of less restrictive alternatives, substantive equality and effective review as the foundations of that approach. In practical terms, government should strengthen voluntary services, protect confidentiality, prevent clinical coercion, preserve the independent rights of children and review family-size penalties. Religious engagement should expand understanding without transferring control over individuals to community gatekeepers. A policy designed in this manner can pursue public welfare while recognising persons as constitutional agents whose dignity and freedom remain central to India's social transformation.

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