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Female Foeticide in India: A Serious Challange for the Society

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Historyof mankind highlights the paradox of an unchanging and unequal position of woman in society. Marriage and family are products of relationship between man and woman. The oriental jurisprudence highlights the pitiable condition of women in Indian subcontinent. The historical developments have considered women nothing more than child producing machines. They had no means of subsistence. The keeping of wives actually depend on the physical strength and economic status of the husbands. Of course, there were also cases of women who enjoyed substantial liberty and respectable status in society but such cases were very few and exceptional. For a long time state machinery and state policy used to be controlled by the priestly class who constantly exalted the men and denigrated the women. Gradually came in the separation between state and religion. Steadily and systematically the state started taking increased social responsibilities. Today the concept of welfare state regulates every aspect of life of its citizens. The state felt it necessary to remove the servile condition of women and to provide for them certain protections against masculine tirade.

Since the world's inception, the male-female combination has proved to be the foremost necessity for propagating and developing global views. One of the best ways to understand the spirit of a Civilization and to appreciate its excellence and realize its limitation is to study the position and status of women. Civilization without women is impossible. A Women is an important organ of the family which is the basic unit of society. The family includes members belonging to different age groups, sex and generations. One determining factor of status in the Indian family is sex. Women members often are subordinate due to various factors. The authority of a woman depends upon the husbands status.

In the late eighteenth century, infanticide was initially documented by British officials who recorded it in their dairies during their travels. The scope of the problem of infanticide became clear in 1871, in the setting of India's first census survey. At that time it was noted that there was a significantly abnormal sex ratio of 940 women to 1000 men. This prompted the British to pass The Infanticide Act in 1870, making it illegal. But the Infanticide Act was difficult to enforce in a country where most birth took place in the home and where vital registration was not commonly done. Even in twenty first century, where globalization and information technology are being supported as the creeds of the millennium, liberalization is happening fast, there are villages and towns where girls are killed even before their cries leave their throats. Some are even killed in their mother's womb, unseen and unheard.

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By going through history in the context of women's position, it may be mentioned that particularly after establishment of class society and the trend to accumulate private property in the post vedic period, women's position in society hit patriarchal values. A woman during this period not only occupied an inferior position but was made to feel that her position was subordinate to men in society. Middle class educated women, particularly in large urban areas who are working and moving freely now, give an impression that Indian women's status has substantially improved. She is now politically powerful but in small towns, rural areas or city slums, she still suffers social and economic oppression. The Constitution of India has provided equal rights to her, but still she has to face injustice in her life. Violence against women in the form of rape, prostitution, dowry deaths, sexual harassment, female infanticide and female foeticide is widely prevalent in society. There is a growing feeling that women suffer from discrimination and disabilities in more subtle and covert ways. Thus the dual existence of women in high positions and yet undergoing various types of sufferings continues.

Gender Discrimination

Gender inequities throughout the world are among the most all-pervasive forms of inequality. Gender equality concerns each and every member of the society and forms the very basis of a just society and hence, the issue of 'gender justice' is of enormous magnitude and of mammoth ramification engulfing an all- embracing and illimitable canvas.

"Sex is creation of God and sexual differences are essential for procreation, but gender is not God's creation. It is creation of patriarchy and serves the male flair for domination."

In India, "the dice is heavily loaded against women. Female oppression continues from womb to tomb" In particular, discrimination occurs within the family, where norms regarding women's secondary status are reinforced in children from birth. Son preference is one of the key aspects underlining social values that view girls as burdens. Choice for son preference enhances the practice of foeticide. Girls are taken as burden since birth. They are kept under serious restrictions as regards their mobility. This is specially so in the rural areas. They also lack health and nutrition care in comparison to men. Besides, certain regional and cultural factors also contribute a lot to their pathetic condition.According to Manu, a man has to be reborn as a man to attain moksha(redemption). A man cannot attain moksha unless he has a son to light his funeral pyre. Also, it says a woman who gives birth to only daughters may be left in the eleventh year of marriage. Obviously, it shows the gender bias in our male- dominated society. The age old preference for sons is motivated by economic, religious, social and emotional desires and norms that favor males and make females less desirable. Parents expect sons- but not daughters- to provide financial and emotional care, especially in their old age; sons add to family wealth and property while daughters drain it through dowries; sons continue the family lineage while daughters are married away to another household; sons perform important religious roles; and sons defend or exercise the family's power while daughters have to be defended and protected, creating a perceived burden on the household. This stero- type notion of women as "burden" is one of the main reason behind female foeticide and infanticide.

Gender justice is taking the shape of violence against women. A concept of violence of human rights against women may suggest an act of illegal, criminal use of force but it also includes exploitation, discrimination, upholding of an unequal economic and social structure, creation of an atmosphere of terror, a situation of threat, reprisal and other forms of political violence. Women activists regard specificity of violence against oppressed classes. The forms of control and coercion exercised in the case of Women are gender specific and arise out of a hierarchical gender relationship. Where men are dominant and women are subordinate. Women are instruments through which the social system reproduces itself and through which systematic

inequality is maintained. This inequality is further strengthened and maintained overtime by the socialization process. She believes it to be true. She accepts whatever is given to her as her fate. She is not aware of her constitutional and human rights.

Violence against women is also a manifestation of class oppression. Domestic violence, battering, dowry, rape, suicide are the manifestations of gender inequalities within the family system. Women do not own the land, the house. Her wages are not equal if she is working. Her earnings are not considered important for family sustenance. Since women are not given rights to the family property and assets, dowry is legitimized as her share in property. Women's exclusion from the ownership of land is largely the basis of their subordination and dependence on men.

Female Infanticide and Female Foeticide

Female Infanticide means killing of a girl child after her birth by an act of omission or commission.

Female Foeticide: It is elimination of a female foetus at any stage of pregnancy, after determining its sex. It is also defined as killing of female foetus through induced abortion.

The practice of killing the female child after her birth has been prevailing in our society for many years. But foeticide is the legacy and contribution of the progress made by the medical science. Amniocentesis was introduced in 1975 to detect foetal abnormalities but it soon began to be used for determining the sex of the baby. Ultrasound scanning, being a non-invasive technique, quickly gained popularity and is now available in some of the most remote rural areas. Both techniques are now being used for sex determination with the intention of abortion if the foetus turns out to be female.

With the advent of privatization and commercialization, the use of pre-natal diagnostic technologies is growing into a thriving business in India. This is primarily for the purpose of sex-determination selective abortion of the female foetus. The misuse of technology simply reinforces the secondary status given to girl children in such a way that they are culled out even before they are born. Compared to infanticide, foeticide is probably a more acceptable means of disposing off the unwanted girl children. Infanticide can be an overtly barbaric and inhuman practice while foeticide that is carried out by skilled professionals is a medical practice that uses scientific techniques and skills and reduces the guilt factor associated with the entire exercise.

The census 2001 and the recent news reports data indicate a grim demographic picture of declining female to male ratios. Surprisingly the most affected states are progressive states like Punjab, Haryana, Delhi and Gujarat. According to UN norms, male-female ratio in the world is usually 1050 females for 1000 males. But in India, this ratio is dropping down to nearly 850 per thousand. In Human Development survey Report also, India is placed in 124th position among 173 countries. It is a fact that our country is much behind compared to other countries in respect of education, health and gender discrimination.

Table 1 : Indicators of Sex Preference in India

Sl. No.	Indicator	Number / Percentage
1	*Mean ideal number of :*	
	Sons	1.4
	Daughters	1.0
2	Percentage who want more sons than daughters	33.2
3	Percentage who want more daughters than sons	2.2
4	Percentage who want at least one son	85.1
5	Percentage who want at least one daughter	80.1

Source : National Family Household Survey (NFHS) 1998-1999.

Table 2 : The Trend of sex ratios in the age group of 0-6 years all over India

Years	Sex Ratio
1961	976
1971	964
1981	962
1991	945
2001	933

Source Census, 2001

Firstly, National Crime Records Bureau (NCRB) in its " Crime in India" (2000), has published data on both the incidence (total number of FIRs registered) and percentage (percent of crime reported in the state in relation to All-india figure) of foeticide and Infanticide for all the states and Union Territories. No separate breakup for FIF has been provided. But if we assume (which is quite realistic) that for all states, the present of foeticide/ infanticide cases to All-India total is the same for both boys and girls, we can immediatedly rank top five states in terms of percentage of female foeticide as shown below in table 3:

Table 3 : States Showing High Foeticide Percentage

State	Female Foeticide (percent to All India)
Maharashtra	45.1
Madhya Pradesh	15.4
Haryana	14.3
Rajasthan	9.9
Andhra Pradesh	8.8

The top five states in terms of percentages of female infanticide are shown in table 4 :

Table 4 : States Showing High Infanticide Percentage

States	Female Infanticide (percent to All India)
Madhya Pradesh	29.8
Maharashtra	19.2
Andhra Pradesh	7.7
Punjab	5.8
Rajasthan	4.8

It can be noticed from the above table 3 & 4 that Maharastra, Punjab and Haryana, three richest states in india, suffer from highest rates of FIF. In fact, another statistics provided by NCRB, i.e. crime related to exposure and abandonment of children shows that Maharashtra, being one of the richest states in India, shows the highest incidence(40.2%) among all states.

Another indicator of FIF may be the number of female babies who do not survive the first year of birth. The top five states in terms of this number per thousand of population are, according to 1999 Sample Registration System (SRS) data, as follows:

Table 5 : States Showing Low Survival Rates of Females

States	No. of Female Babies who do not Survive the First year (per 1000 of Births)
Orissa	96
Madhya Pradesh	89.5
Rajasthan	83.9
Uttar Pradesh	83.5
Haryana	78.4

In the table 5 above, it is seen that even in an economically highly prosperous state like Haryana, the figure for female survival rate is one of the lowest.

However, comparison on the basis of female survival rates may only reflect differences in postnatal health care delivery systems across the states, rather than any gender discrimination. Therefore, another and perhaps a more reliable indicator can be the "gender gap" in infant mortality rates. If babies die due to poor health care, natural calamities or for general poverty of the families, then boys and girls should die at the same rate or boys at a faster rate than girls should, as girls are expected to be biologically stronger at birth. But if society practices gender discrimination and there is widespread female infanticide, then female mortality rates (between 0 and 6 yr.) will be much higher than that of boys. This difference, called the "gender gap", can be used as an estimate of female infanticide. According to SRS (Sample Registration System) data provided by the Census authorities for the year 1999, we can rank the top five states, in terms of high " gender gap", as follows:

Table 6 : States Showing High Gender Gap in Female Mortality

States	Gender Gap in Female Mortality
Haryana	19.3
Punjab	5.9
Rajasthan	5
Tamil Nadu	4.2
Gujarat	3.1

From the above table 6, it is again seen that states belonging to the richest category in terms of per head income and wealth and low BPL (Below Poverty Line) population are guilty of practicing high gender discrimination and FIF.

Legal Framework

Many voluntary organizations, academicians, professionals and volunteers dedicated to the cause of protecting the rights of the girl child and women have initiated a campaign to curb female foeticide and create mass awareness on the issue. Public meetings and demonstrations against female foeticide by voluntary organizations and institutes have led to an increased mass awareness on the issue.

To arrest this evil, the Forum against Sex Determination and Sex Pre selection (FASDSP), a broad forum of feminist and human rights groups, was formed in 1984, and it has been lobbying for legislation to ban the practice. In 1988, the state of Maharashtra passed an Act banning pre natal diagnostic practices. In September 20,1994 the Parliament had enacted the Pre-Natal

Diagnostic Techniques (Regulation & Prevention of Misuse) Act, which came into force from January 1996. later, the Act was amended with effect from February 14 2003 and was renamed the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act,1994 (PCPNDT Act).The law chiefly provides for the following :

- Prohibition of sex selection, before and after conception.
- Regulation of prenatal diagnostic techniques (e.g. aminocentesis and ultrasonography)
- for detection of genetic abnormalities, by restricting their use to registered institutions.
- The Act allows the use of these techniques only at a registered institutions .The Act allows the use of these techniques only at a registered place for a specified purpose and by a qualified person, registered for this purpose.
- Prevention of misuse of such techniques for sex selection before or after conception.
- Prohibition of advertisement of any technique for sex selection as well as sex determination.
- Prohibition on sale of ultrasound machines to persons not registered under this Act.
- Punishment for violations of the Act.

The Supreme Court in the case of *"Centre for Enquiry into Health and Allied Themes (CHEAT) and others v. Union of India"* which was filed under section 32 of the Constitution of India under PIL issued directions to Central Supervisory Board, all State Governments and Union Territories for proper and effective implementation of the PCPNDT Act – which mandates that sex selection by any person, by any means, before or after conception, is prohibited.

The question is how far is it ethical and legal to undergo the test only for determining the sex of a child. Does this amount to culpable homicide? It has been medically established that an unborn child has a life and body of its own. Section 312 of the Indian penal code prescribes punishment for such an act. Another relevant section is 316 which states that whoever does any act causing death of a person, he would be guilty of culpable homicide. Those guilty of such acts, including death of an unborn child, are liable to be punished with 10 years imprisonment.

The Medical Termination of Pregnancy Act, 1971 was the another law which provides for limited and restricted right to terminate the pregnancy, when the life of the mother is at stake or there is a substantial risk to the life of the child.

Thus, there seems to be no unanimity in the extent of protection to the life of the foetus internationally. Constitutions have either failed to protect the life of foetus expressly or the judiciary has from time to time come up with ingenious ways to provide protection.

Ground Reality

The ban on the Government hospitals and clinics at the centre and in the states, making use of pre-natal sex determination for the purpose of abortion- a penal offence- led to the commercialization of the technology; private clinics providing sex determination tests through amniocentesis multiplied rapidly and widely. These tests are made available in areas that do not even have potable water, with marginal farmers willing to take loans at 25 percent interest to have the test. People are encouraged to abort their female fetuses through advertisements in order to save the future cost of dowry. The portable ultrasound machine has facilitated doctors to go from house to house in towns and villages.Despite the law being there, due to lack of proper

implementation, very few cases are registered. Under the two main laws Medical Termination of Pregnancy (MTP) Act 1971 and the Pre- Natal Diagnostic Techniques (PNDT) Act 1994, the Indian Government has conceded that abortion may be carried out if there is—

(a) danger to the life of the mother in child birth,
(b) if the child is at risk of being born handicapped, or
(c) if the women has conceived the child as a result of rape.

Women are also allowed the right to abortion if they wish to do so in the interest of keeping the family small. PNDT Act only focuses on regulation and control is techniques of pre-natal sex determination, not the access to abortion in any form. That is, the Act does not itself with selective abortion of female fetuses as such, but rather, with medical procedures to detect the sex of the foetus, which can lead to feticide. However, it is often seen that the decision of abortion is taken after the detection that the unborn child is female, especially if it is the second or third female child. It must be mentioned here that abortion has entered the lexicon of feminist struggle through a very different trajectory from that followed in the West. Here, the 'right' to abortion has never been at the centre of much debate since it is seen as a measure to control population growth. Since poverty is seen as a by- product of rising population, for developing countries like India, population control measures has been a central focus of Government programmes for economic development. The Medical Termination Act was passed in 1971 amidst Parliamentary rhetoric of choice and women's rights, but it was clearly intended as a population measure, as several MPs pointed out during the debate on the bill. Here, it is worth mentioning that a vocal and influential school of thought still justifies the selective abortion of female fetuses as a form of population control. Their argument is that to permit abortion of female fetuses would stop couples from continuing to have children until the desired son was produced. Abortion became an issue for Indian feminists for quite a different dynamic as from the 1980s amniocentesis has been used to determine the sex of fetuses in order to abort female fetuses and from then on women's movement in India has taken female foeticide as a very serious issue.

Measures to Prevent Female Foeticide

Female Foeticide is one extreme manifestation of violence against women. People both in rural as well as in urban areas have to be made aware about the need of a female child in the social milieu as that of a son. A Progressive legislation alone can not solve social problems. The people must be aware of the progressive legislation which has certain deterrent facts. Many women are compelled to undergo tests and seek abortion on acceptable as well as unacceptable grounds under compulsion. A new spirit has to be imbibed propagating that a female child is not a curse. It is not a liability. It is not an instrument through which dowry has to be given. A feeling has to be nurtured that she is the daughter, she is the mother and she is the life partner.

Given this situation and a growing evidence of the practice of Femicide (this includes sex selection of embryos, sex selective abortions and female infanticide and all other methods of averting the natural formation of a female foetus) especially reflected in the fast declining sex ratios has made it necessary to bring back this issue on the national agenda. Centre and state governments should take steps for vigorous implementation of the Act and should not merely treat it with their usual complacency. Registration of ultrasound clinics, nursing homes and laboratories should be made mandatory, facility of amniocentesis and CVS should be restricted to government hospitals only, where it can be easily regulated whereas ultrasonography, which is used for a host of other purposes can be allowed in private hospitals and nursing homes because by ultrasonography sex of the foetus can be determined only between 28th and 36th week and abortion is not allowed by law after 20th week.

After this has been done, the government ought to establish a more effective and democratic system of vigilance. Structure should be created for the implementation of the Act at the district level. Volunteers have to be actively mobilized to monitor registration and functioning of sex determination clinics in different districts. The Act should also be amended to automatically cover latest technologies that could be misused for sex determination as and when they get into the market, specially those techniques which use preconception or during conception sex selection. Besides, all ultrasound clinics should display boards mentioning that they do not conduct sex determination tests on foetus.

Among other things, The Medical Termination of Pregnancy Act,1971 and other similar laws that have a direct bearing on the issue of sex ratio should also be reviewed in order to bring coherence among anti- foeticide laws. As we know that mere enactment of law cannot causate a whole scale change in the psyche of people obsessed with sons, for this we need a sustained social movement against this crime. We need to expose the collusion of unethical medical practitioners with the patriarchal society, to fight against the increasing epidemic of female foeticide. Non- government organizations, women's group, health groups, the academia, the media, all important medical professionals, individuals with different priorities and ideological beliefs should come forward to battle powerful patriarchal forces operating within institutions of the family, government and civil society. A transformation of our gendered society is necessary for the elimination of female foeticide.

A campaign may also be launched to create public awareness about the dangers being posed to the fabric of the society and to the physical and mental health of women, because of the continuing preference for male child. Social status of women should also be raised by educating and empowering them, through meaningful economic and political participation and by mass mobilization through media. Thus, our challenge today is to initiate a vibrant and effective campaign against female foeticide, in order to eradicate this evil from the face of the society forever.

Modern Indian Women-Present Status

One very hopeful development which has taken place during the past ten years is the emergence of a women's movement wherein women have started raising their voice against inequality, patriarchal values and unjust social structure. The need is to adopt more positive steps to raise the status of women so that more Indira Gandhi's, Vijayalakshmi Pundit's, Kiran Bedi's and Najma Heptullah's can take birth and govern the nation like our present President of India Her Excellence Mrs. PRATIBHA DEVI SINGH PATIL.

Today, every law favours women. The recent Amendment to Section 6 of the Hindu Succession Act,1956, which gives equal right in coparcenary property to daughters, is a clear-cut example. Moreover, Articles 14 and 15 of the constitution providing equal status to women and special laws for women, the Hindu Marriage Act,1955, allowing her to take divorce under section 13(1) (A) on any of the grounds available under this provision and Section 13(2) giving four special grounds to take divorce exclusively to the wife; the Hindu Minority and Guardianship Act,1956; the Hindu Adoption and Maintenance Act,1956; the Dowry Prohibition Act; and Section 498-A of the Indian Penal Code,1860, specifically relating to punishment for cruelty against wife by her husband and relatives, all favour women. There are a number of social organizations and commissions working against exploitation of women at home and workplaces.

Women are also aware of these laws and rights and are fighting for their rights. Unfortunately, she has lost her right to take birth in society, her right to life. The growing inhuman act of female foeticide is a glaring example of violation of her right to life. This is a picture of modern Indian women. Henry has rightly said: "woman was taken out of man, not out of his head

to rule over him, nor out of his side to be equal to him, but from under his arm to protect her and from near his heart to love her." But she is still waiting for this position.

Conclusion and Suggestions

India is growing dynamically in every fields. Today, the boom in economy, innovative technologies and improved infrastructure has become nation's pride. The country has witnessed advancements in all fields but bias against a girl child is still prevailing in the country.Days are not so far, when there may be emergence of the situation where brides will not be available for the marriage of the sons to maintain lineage and continue the human race of even those people who believe on long standing tradition of son preference, that " only sons can offer Pyre Pindadana, Mukhagni and not the daughters." Therefore it is felt that the mindsets of the people should be changed right from now towards the importance of the girl child in the family.

There is an urgent need to alter the demographic composition of India's population and to tackle this brutal form of violence against women. The enactment of any law is not sufficient , laws must be adhered to and applied rigorously, before any change in the status of women can take place. In spite of the Pre-natal Diagnostic Techniques (Prohibition of sex selection) Act umpteen incidences of female foeticide are taking place in India. There is still utmost controversy as to who will serve as the watchdog to control the misuse of the practices of female foeticide. Promoting gender balanced society involves targeting behavioural changes in society which in turn involves a long term community based intervention, awareness programmes, programmes to promote girl children's rights, addressing myths related to sons/ daughters and concerted efforts to change the mindset of people. Sensitization of medical practitioners, enforcing a system of ethics in the medical profession and monitoring of medical services available to people is an urgent need. It is indeed time to energize efforts to put genders equality at the top of development agenda and contribute in whatever way we can to give opportunities to girl children to bloom and shine. Apart from the above, a feeling has to be inculcated in the minds of the people that **"SAVE THE GIRL CHILD"**.

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