

Women and the Right to Live – Inhuman Aspects of India's Patriarchal Society

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Abstract

Indian society is largely based on patriarchal beliefs. Women have been considered second to men in all aspects of the society – and have been denied the 'right to live' although she herself is the creator of life. The birth of a girl child is not a welcome sight in many families, and in some cases parents choose not to give birth to daughters. The advancement of technology in forms of pre-natal diagnostic tests and amniocentesis has pushed up the rate of female foeticide and female infanticide, and also created an imbalance between male female sex ratio. Women are subject to various forms of violence, and among them gender selective violence is insidious. This paper seeks to focus around the theories that support and oppose the ideas of sex selective abortion. It also theoretically analyses the magnitude of the incidence of these heinous crimes against humanity and the efforts of the government to curb them. An attempt is also made to sensitise people towards gender equality and ensure that the Right to Equality is enshrined in the true sense of the term.

Keywords: Patriarchal beliefs, Diagnostic tests, Female foeticide, Female infanticide, Gender equality, Right to equality.

Introduction :

Gender selective violence is an extreme form of discrimination particularly applicable to women. For centuries, women have been treated unequally, and have been the target of attack even before they are born. Sons are considered to be the harbingers of the family lineage, and daughters are considered to be a burden and liability in terms of dowry and poverty. Woman infanticide is a deliberate and intentional act of killing a girl child within one year of its birth, either directly by using toxic organic and inorganic chemicals or laterally by deliberate neglect to feed the child, either by the parents, neighbours or midwife. Kolloor (1990) defines woman infanticide as, "Killing of an entirely dependent child under one year of age who is killed by mother, father or others in whose care the child is entrusted."

Female foeticide is another social evil which has been haunting the country since centuries. It is an abortion process in which a female foetus is removed from the mother's womb before birth, following coitus recognition tests, pre-natal individual tests, trans vaginal examinations, sex selection abortion. With the advancement of medical technology and sophisticated ways, unwanted girl children could now easily be got rid of. The misuse of technology in this respect clearly reinforces the secondary status given to girl children within the family in such a way that they are culled out even before they enter the world. According to recent estimates, this evil practice is increasingly disseminating from the country's pastoral, poor and uneducated to the civic, rich and educated classes in the municipalities and metropolises. It in fact seems to be showing a moving trend and has escalated with the enhancement in living norms of the average Indian population, growth in per capita income and rise in rational thinking.

Objectives:

The primary objective of this paper is to highlight the miseries and dilemmas of Indian women and their predicament in saving the lives of the girl child. An effort has been made to ascertain the reasons for male preference over girls and determine the ways in which the advancement of technology has worked towards the disadvantage of women. The secondary status of women within the family has pushed them to the point where they are engaged in a struggle for survival – and are at the mercy of the husband, in-laws, and occasionally, their own parents. The efforts of the government and the legislative measures to protect the Rights of Women have also been outlined with a view to empower women and reaffirm their rights as equal partners there by establishing them on a firmer social and economic standing in the Indian terrain.

Discussion and analysis :

In the 20th century, the decline in sex ratio has been the subject of important discussion in recent times. The provisional census of 2011 and the recent news reports indicate a grim demographic image of declining feminine to male quantitative relation. Sex ratio at birth is defined as the rate of female live births per a thousand male live births. Primarily, the sex ratio at birth that lies between 934 and 952 females per a thousand male births is considered to be within the normal range, supported by observation over many decades for various centuries. However, in India, the sex ratio has shown an imbalance. According to the census of 2011, number of girls was 914 to per a thousand boys as compared to 927 girls per 1000 boys in 2001.

This declining trend may however, not be attributed to female foeticide and infanticide alone. Many different suppositions are recommended and examined to clarify the explanations for this imbalance within the male-female sex ratio. These embody cerebral stress in the mother; exposure to occupational and generative hazards by men; economic collapse and widespread financial conditions. But whatever may be the cause, the counter accusations of this skewed quantitative relation might alter the complete Indian family structure. The reduced number of girls would mean that women's role within the family – as mother, daughter in law or sister would become more and more in demand. These traditional family roles might overpower women's other life courses, like choices concerning continence or choosing a career. Early marriages can also be detrimental to women's education, training and employment and cause their complete or partial withdrawal from the workforce, and reduce their earning members outside the four walls of the home.

Gender inequality and marginalisation of women :

The birth of a woman is often associated with economic costs within the family. Girls are seemed to be notably vulnerable and raising a girl entails an extra price associated with their protection and maintaining their honour and dignity. In addition, wedding and related expenditure costs as well as expenses borne by the bride's family, customary gifts to the bridegroom's family, and particularly dowry or post marriage demands like support at the time of pregnancy or expenditure incurred for the bridegroom's education or support for putting in place a business enterprise. Dowry encompasses money, gold and other jewellery, and additional consumer durables, and it constitutes the major bulk of marriage expenses, often exceeding several times of annual or monthly income. This is often not solely financially crippling for the bride's family but is also considered to be one of the biggest causes of the rise in cases of women foeticide and infanticide. In several situations, demands for further dowry payments continues even after marriage. When these demands are not met, the husband and in-laws apply internal and physical pressure on the young bride to encourage her family to pay up. In extreme cases these take the shape of 'dowry deaths' or 'bride burning.' The most common means of murder is setting the wife aflame after soaking her in kerosene. According to the National Bureau of Crime (2011), the rate of reported dowry deaths in the period 2007 – 2011 is 8,300 annually. These embody solely the cases that were reported, and

these also constitute only a fraction of the real figure. Other estimates range from 15,000 to 25,000 annually. One might anticipate that the decrease in the number of brides would lead to dissolution of the dowry system. On the negative, the price of dowry goes on increasing, particularly among the rich and the educated, in complete violation of the Dowry Prohibition Law in 1961.

While the debate on the nature of dowry continues to be unresolved, it is safe to mention that it is more likely to relate to a factual “bachelor purchase” – through which the bride’s family get the foremost “suitable” boy –than to a pre-mortem birth-right speculated to compensate for the daughters’ exclusion from the rights of inheritance. In addition, though the ‘investment’ in daughters is essentially the same as sons before marriage, this plutocrat is laterally thought- about considered wasted because of the patrilocal nature of marriage, which means that meaning that married couples in India usually live close to the husband’s family, instead of the wife’s. Often, a woman is treated as ‘Parayan dhan’ which means someone else’s property- and raising a girl is considered like ‘watering your neighbour’s garden’– inferring that money spent on a daughter only privileged the others because it was believed that a female offspring would ultimately after marriage belong to the family of her future husband, and not the family of her father.

Indian society is patrilineal, patriarchal and patrilocal. Among the Hindus, the reproduction and heredity beliefs are governed by the laws of Manu. Following this law, Hindus believe that a person cannot attain redemption unless he has a son to light his funeral pyre. Also, sons are considered vital in continuing family lineage or gotra as girls in an exogamous system (in which boys marry same caste girls, but form different lineages and localities) become part of the gotra of their husband at marriage, thereby ceasing to belong to their original lineage. Therefore, sons are considered as the sole legitimate descendants in this patriarchal system and are thereby the due inheritors in their father’s property, as their married sisters belong to a different lineage altogether.

There appears to exist an inverse proportion between education and gender. According to Gita Aravamudan’s exploration, if a girl is educated, she is probably going to settle on a boy, assuming that she decides to have only one child. Only, the educated and liberally inclined women are likely to keep daughters. Educated men, particularly within the business category too value to have sons with an intention to continue their family business.

In the rural areas, women contribute greatly to farm production by operating within the farms in conjunction with their husbands as helpers or assistants. But in most cases, their contribution is unmarked as they don’t seem to be paid independently for their labour, and are in most cases, marginalised within the profitable sphere. Women additionally represent an oversized section of landless labourers who are frequently discerned in terms of stipend, equal rights, and are the targets of rape and domestic violence, either by the employee or the husband or the father. Modernisation of agriculture has to a large extent alleviated the burden of tasks distributed to the males, and made their work comparatively easier and quicker. But there has been no respite for the women workers. In some regions, the bias has led to a shift from subsistence food (women’s crops) to cash crops (men’s crops), which has only further led to a rise in violence against women.

The large-scale abuse of technology has further added to the difficulties of women. Tests like amniocentesis (pre-natal diagnosis) and ultrasonography were originally designed for detection of natural abnormalities of the foetus. It was believed that pre-natal sex choice would solve variety of issues - it would fulfil the need of families for a son, would lead to happier marriages, and make the life of women easier; it would stop female infanticide and would stop women from perpetually reproducing until they had a son. This was seen as an important part of India’s population control programme. But with the introduction of amniocentesis in the 1970s, and laterally villus sampling and the introduction of the cheap and non-invasive ultrasound machines from the 1980s, female foeticide has spread through the socio-economic layers, from the cities and towns to the agricultural areas, moreover as geographically throughout India, from the North-west to the East and to the South.

Although selective female foeticide comprises only 2 to 4 % of pregnancies carrying a girl, the figures are veritably large in absolute terms. Estimates of the number of women missing as a result of female foeticide ranges from a quarter to half a million per year. Compared to infanticide, foeticide is presumptively a more respectable means of disposing off the unwanted girl children. Infanticide can be an overtly barbaric and inhuman practice, while foeticide that is administered by trained professionals is a medical practice that uses scientific ways, and reduces the guilt factor associated with the entire exercise.

One of the earliest studies on the result of prenatal diagnosis was carried out over a twelve month period in 1976 – 1977 in an urban hospital. There 96 of the girls (430/450) were abandoned, whereas all 250 boys, even with the threat of an inheritable defect were born. Results from an abortion centre in Mumbai showed that nearly a hundred of the abortions carried out following sex determination during 1984 – 1985 were of females. Another study of six megacity hospitals in 1988 in Mumbai reported 7,999 out of the 8,000 aborted fetuses were girls. Two additional preconception methods became available in the 1980s and 1990s. Various X and Y sperm separation styles, particularly the microsort system, which increases the chance of a male child have been used by couples who prefer pre-selection of sperm to sex selective abortion. The microsort offers 90 % purity of X or Y sperm. When preimplantation genetic diagnosis facilities, which are largely invasive and costly became available, it was proclaimed and offered as a more ethical system than sex selective abortion till mid 2003 when it was interdicted by the Indian Supreme Court.

In accordance with the Maternal Mortality Rate (MMR) estimates from the National Family Health Surveys (NFHS) for 1998–99, 12th Indian Institute of Health and Family Welfare survey, and the model-based World Health Organisation/ United Nations MMR estimates from 2000 to 2018, nearly two-thirds of maternal deaths (6057) occurred within the Empowered Action Group (EAG) states, which are the eight socio economically backward states of Bihar, Chhattisgarh, Jharkhand, Madhya Pradesh, Odisha, Rajasthan, Uttaranchal, and Uttar Pradesh. Amongst them, Uttar Pradesh and Uttarakhand top the list about 22% (2059), followed by Bihar and Jharkhand with 12% (1113). About 37% (3519) of all maternal deaths were rumoured from West Bengal and Karnataka. The concentration of maternal deaths in the EAGA states in this period was well above the proportion of total live births in these states (44%).

According to Chunkath and Athreya (1997), there's a large 'female infanticide belt' that starts from Madurai, extends across the districts of Dindigul, Karur, Erode, Salem, Dharmapuri to North Arcot districts of Tamil Nadu. Based on inquiries conducted in twelve villages of K.V. Kuppam block, North Arcot Ambedkar district in Tamil Nadu in 1992, it is reported that among the 56 deaths, 23 were of males and 33 of females. Out of the thirty-three cardinal feminine deaths, nineteen cases were of infanticide, and seventeen of these occurred within seven days of birth. Such violent and illegal acts have attacked the dignity of women as human beings and have left them more vulnerable and fearful. A study carried out by Premi and Raju (1996) in Bhind district of Madhya Pradesh and Barmer and Jaisalmer districts in Rajasthan found out that feminine infanticide was confined to only some communities. Villages in which a large number of Gujars, Yadavs (Ahir) and the Rajputs particularly resided had the lowest sex quantitative relation.

According to Crime in India (2000), foeticide cases reported a rise by 49.2 % over the previous year and infanticide cases increased by 19.5% over the previous year. A detailed state-wise analysis reveals wide variation from state to state. Variety of cases of female foeticide are reported from the states of Assam, Gujarat, Jammu and Kashmir, Kerala, Meghalaya, Punjab, Sikkim, Tamil Nadu, and West Bengal. However, there are no cases of female foeticide that have been reported from these states. But some cases of foeticide have been reported from Odisha and Chandigarh. It is important to point then that these variations could be on account of non-reporting of cases or as a result of cultural and endemic variations, specific to these states. But whatever may be the cause,

the fact remains that the survival of women is a struggle against a hard-core paternal system bound by years of cultural and social affinities, and reaffirms the need to ensure protection and ensure the 'Right to Live' for the women for all forthcoming generations.

Laws in India for the unborn:

The government has accepted a range of policy decisions and made some legislations to ameliorate the condition of women in India.

Section 312 of the Indian Penal Code 1860 deals with the medical termination of Pregnancy Act, 1971 wherever all the restrictions assessed in this, together with the time limit of twenty weeks, other than the ones to ensure good medical conditions, infringes the right to abortion and therefore the right to health, which radiates from the Right to Life as guaranteed under article 21 of the Indian Constitution. Right to abortion could be a species of right to sequestration, which has been declared in continuation of the Right to Life under article 21 of the constitution.

Section 312-316 of the Indian Penal Code (IPC) deals with miscarriage and death of an unborn child. Depending on the range of the intention and rigidity with which the crime is committed, the penalties vary from seven years of imprisonment and fine to life imprisonment. In 1971, the Medical Termination of Pregnancy Act was planned as a legislation to let the pregnant women choose the amount and frequency of children. It also gave them the right to decide on whether they wanted to have children or not. Still, this sensible step was typically used to force women to abort the female child. In order to do away with the loopholes inherent within the previous legislation, a replacement act was introduced to check the unrestricted use of sex selection in India. In this regard, the Indian Parliament in 1983 prohibited the practice of sex choice in India in all public institutions. In 1988, on account of the pressure from the local activists, a significant law was passed in Maharashtra to check the unrestricted means to determine the sex of an unborn child. However, the prime legislation at the all-India level was the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, the PNDT Act, passed in 1994 and implemented on January 1, 1996.

The PNDT Act has three aspects viz. protective, non-supervisory and preventive. In order to look into various policy and implementation matters, the Act provided for the setting up of various bodies in conjunction with their composition, powers and functions. The Act allowed pre-natal diagnostic techniques to be conducted just for the needs of discovery of the abnormalities namely-Chromosomal abnormalities, hereditary metabolic conditions, hemoglobinopathies, sex linked genetic conditions and natural anomalies, or any other abnormalities or conditions specified by the Central Supervisory Board. It also strictly prohibited doctors and clinics from taking recourse to pre-natal diagnostic techniques such as scans to determine the sex of a foetus.

For breach of any of the provisions of the Act/ Rules by any of the service suppliers (unit possessors, medical professional, employees of units who rendered professional/ specialized services), the prescribed penalty was imprisonment for up to three years and a forfeiture of ten thousand rupees, whereas repeat offenders risked a five- year imprisonment and fifty thousand rupees fine. The act also banned any advertising for promoting sex selective abortions. Till 2003, however the law was for the most part was not given much attention by the personal suppliers and families. In fact, the country's Sex Rate at Birth (SRB) recorded a considerable increase during this era, because of the massive variety of sex selective abortions. The situation however changed with the publication of the 2001 census results, which brought starkly to light the country's deteriorating sex quantitative relation levels. Therefore, the act was amended in 2003, and the changes introduced therein were made operational through a new law - the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, the PC & PNDT Act. The amended law thus banned sex selection before and after conception, and further regulated the employment of pre- natal techniques for strictly medical purposes only. Above all, the law confined the employment of diagnostic

techniques to registered establishments and operators only, which had to maintain elaborated records of the tests conducted. It also expressly banned illegal persons from conducting pre-natal individual procedures from communicating the sex of the foetus by 'words, signs, or in any other manner,' whereas additionally prohibiting the announcement or advertising of such techniques. The implementation of this act rests with the state and union territories. As a part of the perpetration of the Act, appropriate authorities have been constituted and each is supported by an eight member advisory committee. The committee consists of doctors, lawyers, social workers, and officers managing the media. Administrative Boards have also been constituted under the chairpersonship of the Minister of Health and Family Welfare to supervise the real working of the Act.

However, the implementation of the law has not been very effective and has failed to realise its full potential. The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act has oversimplified a complex problem by inserting the ethical and legal responsibility for registering the ultrasound machines, instead of on patients committing acts of female foeticide and also the families supporting them. The system has only led to onerous, time-consuming paperwork and created regulative barriers that discouraged medical professionals outside of radiology from using ultrasound. Other major hurdles in the perpetuation of the Act include lack of heedfulness among the stakeholders, concerned individuals and women in particular; challenges faced by authorities including lack of legal training; an informal perspective among several of the committed workers, and failure on the part of authorities and possessors of diagnostic centres to maintain records in accordance with the directions of the Act. Likewise, in many cases the indicted haven't been reserved under the applicable sections of the Act and there has been an increased abuse of reproductive technologies. The genocide of girl child, that continues intense within the country, has led to an imbalance in the sex ratio within the country. According to reports by the United Nations Children Fund (UNICEF), up to 50 million girls were found missing from India's population since 1991 due to organised gender discrimination. Of the 15 million, illicit abortions disbursed in the world in 1997, India accounted for four million, 90% of which were intended to exclude the girl child.

Policy framework :

National Plan of Action designed to protect the girl child (1991-2000) was developed in 1992 for the "Survival, Protection and Development of the Girl Children." The Plan honoured the rights of the girl child to civil rights, to be free from hunger, ignorance and exploitation. Towards ensuring survival of the girl child, the primary objectives are to forestall cases of female foeticide and infanticide and ban the practice of amniocentesis for sex determination; end gender variations in child mortality rate; exclude gender disparities in feeding practices, expand nutritive interventions to cut back severe undernourishment by half and provide supplementary nutrition to adolescent girls in need. It also seeks to cut back deaths caused by diarrhoea by 50% among girl children under five years and guarantee immunization against all varieties of serious ails. It also aims to ensure that all homes have sources of safe drinking water and easy access to fodder.

The launching of the Balika Samriddhi Yojana in 1997 is a major initiative of the Government of India to lift the standing of the girl child. It intends to vary family and community attitudes towards her and her mother. Under this scheme, about 25 lakh girl children born on or after 15th August, 1997 in families below the poverty line in rural and urban areas will be benefitted. The primary element of the scheme that has already been launched attempts to provide rupees five hundred as a post-delivery entitlement to the mother of the girl child as a symbolic gift from the Government. The other factors projected under the scheme are provision of annual scholarship to the beneficiaries when they go to school for taking upon income generating exercises after they attain the age of maturity. Besides having specific legislation and policy proclamations to deal with this problem, the prominent factors for example dowry, poverty, and woman's economic dependence etc., resulting in the

increased cases of foeticide and infanticide have been addressed by introducing numerous legislations including Dowry Prohibition Act, 1961 (Amended in 1986); Hindu Marriage Act, 1955; Hindu Adoption and Maintenance Act, 1956; Equal Remuneration Act, 1976 and Immoral Traffic Prevention Act, 1986.

Another major action initiated by the government to check the sex selective abortion or female foeticide is that of the Beti Bachao, Beti Padhao Scheme (Save the girls child, educate the girl child) launched in 2015 mainly targeting the clusters in Uttar Pradesh, Haryana, Uttarakhand, Punjab, Bihar and Delhi, where there is a declining Child Sex Ratio (CSR). Jointly run by the Ministry of Women and Child Development, Ministry of Health and Family Welfare and the Ministry of Education, the Beti Bachao Campaign is additionally supported by the Indian Medical Association. The crusade is directed towards guaranteeing gender equality and women empowerment, and inspiring education and participation of the girl child in all social, political and economic spheres. Though the scheme showed exceptional progress in the initial years of its introduction, it didn't meet its objectives. As per the information released by the Comptroller and Auditor General of India, the sex rate has deteriorated in various sections of Haryana and Punjab since 2015. Also, only rupees five crores out of an aggregate of rupees forty-three crores assigned for the scheme in the fiscal period 2016-17 has been properly utilised – and less than 25% of the finances were actually expended to the districts and states. In fact, more than 56% of the finances were spent on publicity and media support instead of creating advancements within the health and education sectors – and guaranteeing the protection and independence of women.

Suggestions:

There is a critical need to readdress the framework of gender justice and access to resources. Mere legislation is insufficient in confining the unabated death of girls, either before or after birth. A more strict and effective implementation system is essential to check the social immoralities of female infanticide and foeticide.

1. First, associated social malaises such as dowry, poverty, women's unemployment and exploitation, lack of proper education to girl child and their drop out, early marriage etc. are to be dealt with viciously by making proper laws and imposing them in true spirit.
2. Awareness programmes ought to be launched to make the women aware about their rights and about the Right to Equality and the Right to Freedom guaranteed by the Constitution of India. Women should be conscious of their rights concerning adoption, maintenance, marriage, property, employment, education etc.
3. In order to make the females independent, girls ought to be imparted skill and training through various vocational programmes. Free and mandatory education should be provided to female children so that they can support themselves during emergency. Also, it would remove the common conception among people that investment in girl's education is a wastage – and promote economic independence among them.
4. As dowry is considered to be a vital explanation for female foeticide, the Dowry Prohibition Act could become more strict by proper amendments. The frequency of this practice needs to be checked and strict laws ought to be put in place for those who offer and take dowry.
5. Media – both print and electronic media can play a prominent part in educating women about their rights and guarantees. The common folk may be created privy to the provisions and intricacies of PNDT Act through the assistance of media units like AIR, Doordarshan, Song and Drama Division, Directorate of Field Publicity, Press Information Bureau and Films Division. Workshops and forums may be organised through voluntary associations at state, regional, district and block levels to create awareness about the social evils of female infanticide and female foeticide. Cooperation needs to be sought from religious leaders, as well as the medical fraternity to check these inhuman practices.

6. A joint effort concerning all sections of the society is necessary to alter the current social thinking, attitude, prejudices, and remove the gender-based discrimination and promote a balanced sex ratio. The mindset of the general public also needs to be changed and a society needs to be created whereby boys and girls are treated in the same way, and considered equal to each other in all aspects.
7. The long-term strategies ought to embrace the education and empowerment of women. The empowerment of rural marginalized women and spreading education among them will not solely ameliorate their miseries but will also heighten their standing within the society. As the women organisations and confederations gain in significance and play a considerable role in the development of the area, it is hoped that their presence and therefore the politico-economic strength they garner will help them to confirm their standing and curb the evil practices.
8. The practice of using amniocentesis for sex determination shall be illegal through law and practitioners indulging in or abetting similar acts shall be penalized oppressively. Amniocentesis, where necessary, will be performed only in government or approved medical establishments to prevent the practice of using amniocentesis for purpose of sex determination. Public education on the illegality of foetal sex determination and sex selective abortion will be accompanied by positive messages on the worth of daughters. Advertising of sex determination methods shall be banned forthwith and strict measures should be taken against the malefactors.

Conclusion:

As we stand at the crossroads of development, Indians-both men and women need to take a very bold step towards women empowerment and ensure that every girl leads a safe, secure and healthy life. Women constitute a major section of the population, and their survival is imminent, for it's the mother who bears and nurtures a new life in her womb. Since centuries, women have been subordinated to various forms of discrimination and haven't been treated equally as compared to their male counterpart. Due to various social, cultural and economic reasons, women continue to occupy a secondary position in the family – and are frequently denied their rightful and legitimate rights. Some are subordinated to extreme forms of violence, either at home and even outside the home. Many have been silent victims and have accepted their deplorable status as their fate or the will of God. Some others have tried to break through the traditional identity associated with themselves and asserted their independence as strong, independent and working women. Right to education, health and empowerment are in fact the fundamental rights of every Indian woman. The efforts of the government and non-government organisations, the media and change in the outlook of the masses towards the position of Indian women are steps in the right direction. However, given the concentration of sex imbalance, it follows that a nuanced, multi-dimensional approach firmly rooted within the social and cultural environment is essential to achieve social equality for women. This is also in line with the goal of 'Gender Equality' as outlined in the 2030 Sustainable Development Goals – and an attempt to "Turn promises into Action" thereby ensuring a safe world for future women from all walks of life.

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