



AMNIOCENTESIS AND GENDER DISCRIMINATION IN INDIA

by

Kusum Kumar
Associate Research Professor
Indian Law Institute
New Delhi, INDIA

The Twentieth International Conference on the Unity of the Sciences
Seoul, Korea August 21-26, 1995

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INTRODUCTION

Recent developments in medical science and technology have come both as a boon and a bane. Whilst on the one hand it has brought relief and happiness in the life of people, it's irresponsible handling and misuse, on the other hand, has led to disastrous consequences. One such technology is the use of amniocentesis and other pre-natal diagnostic procedures, like ultra sound, only for sex detection, leading to sex selection.

In many societies, a male child is much more preferred than a female child. According to some reports, China is believed to be the first country in the world to use pre-natal diagnostic techniques for sex detection. Because of the adoption of single child norm, women want to get rid of a female baby, so that they could try again for a male child. This practice is leading to a serious imbalance in the sex ratio¹. A recent study² conducted in 1993 in some provinces in China revealed that the sex ratio was more than 120 boys for every 100 girls. The practice is reported to exist in Korea also. Many Korean women reportedly, secretly abort female foetuses after finding out their sex. This has created an imbalance in the sex ratio which can also be witnessed in the primary schools. "In the past, a primary school class in Korea comprised 80 pupils—40 boys and 40 girls and a boy and a girl shared a desk. But during the past few years, a typical class has about 10 to 15 boys with no female partners to share the desk."³

According to the same report, many stone Budhas in Korea have been damaged because there is a belief that the Budha's nose has mystical powers to bless women with male offspring. "Women are so obsessed with the desire to have a son that they attack these holy statues and cut off their nose, grind it into fine powder, mix it with water and drink while praying. Noseless statues of Budha can be found in many places."

There is also a mention of "an easier and more non violent manner of prayer for a son at Chikjisa Temple, some 30 Kms. south east of Seoul. The temple, built more than 1,500 years ago is famous for its Pirojon Hall which houses a thousand Budhas made of jade. Each of these statues has a distinctive look and personality, but only one is said to have divine power to bless a woman with a son. She must pin point this special Budha at first glance. This Budha stands out from the other 999. He stands naked, showing off his male 'symbol'."⁴

THE BIAS AGAINST FEMALE BABIES

However, in no other country is the medical technology so blatantly misused through a net work of clinics and centres, to discriminate against the female babies, as in India.

A son enjoys a preferential status in most of the Indian societies. Having more than one daughter is a curse whereas, any number of sons is welcome. The proverbial blessing to a newly wed bride, "May you be the mother of hundred sons" is indicative of this attitude. A mother with daughters is an object of pity; one having sons is glorified. Even in the family, a daughter-in-law who has sons is pampered and respected, whereas one who has daughters only is treated with indifference. Such pro-male and anti-female attitude can be attributed to the socio-economic and cultural conditions of our society and also to certain religious beliefs, customs and traditions. However, before going into the details of other conditions, it would be pertinent to point out that emphasis on small families is a very strong factor that has given rise to the practice of sex selection. The demographic needs of the country coupled with economic conditions has led to small families with one, two or maximum three children. When families were large, two or three girls in a family of six to eight children did not matter, but now when parents have to restrict the family, they prefer to make a choice. If their target is one or two children, they would not like to take the risk of producing daughters, because, daughters are considered to be ornamental whereas sons are a necessity.

A son is a necessity because descent is traced through a male child. In the absence of a male child, the family name becomes extinct. Besides, the last rites and obsequies are also to be performed by the sons only. It is believed that a sonless father cannot attain salvation. Infact the indispensability of a son in the Hindu families led to the custom of adoption—and adoption only of male children. It was only in 1956 that a law was enacted permitting adoption of female children as well.⁵

Besides, male children are needed to help the father in his business and also to take over after the father. Although these days girls are also taking to business but they are not involved in the family business because after marriage they have to move to another family which would mean the business passing out of the family.

Sons are also seen as a source of emotional and financial security in old age. While a daughter after marriage moves away into another family, the son brings home a bride and stays with parents. Though the joint family structure is now fast giving way to nuclear families still the feeling that it is the sons who will look after the parents is very strong. In the absence of old age financial, housing and other security provisions, there is a heavy dependence of parents on sons.

A female child, on the other hand, is seen as a burden or a liability. Dowry is one strong inhibiting factor. Parents have to spend huge amounts by way of cash, gifts and jewellery to the girls and also to the bridegroom and his parents. Quite often, if the husband or his parents are not satisfied with the dowry, the girl is harassed. Sometimes she is victimised to such an extent that she commits suicide so that the parents are not burdened with her dowry. Recently there was a shocking report of three teenaged sisters committing suicide by hanging because their father was poor and could not afford dowry for them. Such cases are not unusual.

A girl is also a victim of abuse and exploitation both inside the family and outside it. There is a heavy social responsibility of guarding her chastity. A girl who is sexually exploited is looked down upon. It becomes difficult to get a good marriage partner for her. She is accused of bringing disgrace to the family. Because of the social stigma attached to it, the girl sometimes commits suicide.

Thus, a female child is seen as a source of financial burden and mental tension. Because of all this, people prefer to have boys than girls.

It is significant to note that unwanted female babies were being eliminated even before the advent of pre-natal diagnostic technology. The difference is that earlier they were killed soon after birth whereas now it has become possible to eliminate them even before birth. In fact, it is argued by supporters of female foeticide that this is a kind way of getting rid of female babies. Though in 1870 the practice of female infanticide was banned by law but there are reports⁶ of the existence of such practice in certain parts of the country. A study conducted in the South in 1991 revealed that it is a common thing to put female babies to sleep. One woman, aged 30, confessed that, "for the sake of my family, I will continue to kill all female babies that I deliver till I get a boy . . . [after killing her second female baby a few years back] I felt sad, but I had to think of her future which would have been bleak since we could not afford another dowry."

For those who do not wish to have daughters but have compunction in killing a born child, the pre-natal diagnostic technology has come as a relief.

BEGINNING OF THE SEX DETECTION TESTS

The beginning of sex detection tests was made in India in the mid-seventies. In fact, it was a fall-out of medical research in reproductive biology, to detect fetal abnormalities with the aid of amniocentesis. When the Indian Council for Medical Research came to know about this aspect of the research it put a ban on these tests. Some medical entrepreneurs, however, were smart and prompt to encash upon the anti-female and pro-male sentiments of our society and allure people. Clinics performing these tests mushroomed and doctors made good business. The first clinic to perform these tests was inaugurated in Bombay in 1977. A circular referred to this test as "a humane and beneficial test". Around the same time another clinic in the city of Amritsar (Punjab) made a big start by putting hoardings around the city. People were attracted with the advise, "Invest Rs. 500 now, save Rs. 50,000 later." The message was clear. Rupees 500 referred to the test fee and rupees 50,000 referred to the marriage expenses of a daughter. And not this alone. Some clinics did not hesitate to adopt unscrupulous tactics to attract people. In one clinic, twin female foetuses were kept preserved in a jar for pregnant women to see and imagine that they too could be carrying twin females. The doctors also brought the woman on whom the test was performed so that she could tell

other pregnant women how happy she was to be relieved of female twins. The clinic was, reportedly, thronged with long queues of pregnant women, often accompanied by their mothers-in-law.⁷ The business ran smooth until in 1982 a wrong diagnosis led to the abortion of a male foetus. The incident created an uproar which snowballed into a national debate. The result of such debate was that a technology which was hitherto known only to some people in certain areas, now became public. People in large numbers started availing the facility of the boy-girl test. The State of Maharashtra had the notoriety of having the highest number of female foeticides.

A group of activists organised themselves to fight this reprehensible practice and in 1986 launched a determined campaign through a forum known as the Forum Against Sex Determination and Sex Pre-Selection (FASDSP). According to a survey conducted in Bombay, 85% of the gynaecologists performed amniocentesis only for sex detection. A private clinic in a Bombay suburb is reported to have performed 15,914 abortions in 1984-85 and 99% of them were preceded by the test. According to an appalling report prepared by a women's centre in Bombay, of the 8,000 abortions preceded by amniocentesis conducted in 6 hospitals in 1986, 7,999 were of female fetuses. There were similar distressing reports from other parts of the country as well.

The public outrage following such exposures pressurised the State Government of Maharashtra to enact a legislation to curb the practice. There was a lot of opposition not only from the general public but also from professionals, bureaucrats and even politicians. The state government, however, went ahead and passed the law, known as the Maharashtra Regulation of Pre-natal Diagnostic Techniques Act, 1988. The enactment of a legislation with limited application was, however, of no consequence. It only led to an influx of such cases to bordering states which had no law of their own and to which the Maharashtra State law could not extend. Also, for the convenience of those who wanted these tests, courier services and mobile vehicles fitted with necessary equipments, were introduced. In fact, after the Maharashtra legislation, the number of foeticides in the neighbouring Gujarat state increased enormously. The numbers continued soaring in other states too. There were protests all over the country to put a legal ban on the misuse of medical technology to selectively eliminate female fetuses. November 24, 1988 was observed as a national protest day against the practice. Other activities were also organised like signature campaigns, public meetings, rallies and skits, to create public awareness. As a result of this, the central government set up an expert committee to look into the matter and prepare a report. After detailed interviews, surveys and deliberations, the Committee submitted its report in 1989. Based on these recommendations, a Bill was introduced in 1991 on which public opinion was invited. As was to be expected, there was a mixed response with the balance tilting against such law. Notwithstanding all criticism and objections, the legislators went ahead and passed the Pre-natal Diagnostic Techniques (Regulation and Prevention of

Misuse) Act, 1994. Before going into the provisions of the Act, it would be pertinent to discuss the arguments of those who oppose and those who support the law banning the practice of sex selection.

ARGUMENTS AGAINST THE LAW

Against women's interest

(a) Those who oppose such law argue that putting a ban would be detrimental to the interests of women. If unwanted girls go on increasing, they will be ill treated and exploited. On the other hand, if their number is small they will be more in demand. Their value will go up and there will be lesser crimes against them.

(b) Disallowing a woman a choice in the matter would mean multiple pregnancies. She will go on producing children until she gets a child of her choice. This will have a very bad effect on her health. It will also mean enormous economic burden on the family. Other children in the family would also suffer neglect in terms of maternal care and affection, and access to other needs like food, clothing, education, living space, etc. Thus there would be an overall deterioration in the health and quality of life of the family.

(c) A legal ban would also give impetus to underhand practice. As a result the cost for the test would go up because there will be risk involved for doctors performing it. Whilst those who can afford will get the test and abortion done at safe and hygienically equipped places, others who cannot afford will approach quacks and ill equipped clinics. Thus it will be a great risk to the health and life of women.

Infringement of freedom

Prohibiting a woman to make a choice in the matter of composition of her family would be an infringement of her freedom. These matters are too personal to be invaded. Besides, if the law gives her the right to space or chose the number of children she wants to have by allowing her to terminate her pregnancy in case of failure of contraceptive device⁸, there is no reason why she should not be allowed to decide on whether or not she wants to have a baby of a particular gender. Moreover, if abortion is legal, it should include abortion of both male and female fetuses.

Against national interest

An argument that is often advanced in favour of sex selection tests is that it is an effective family planning measure. Putting a ban on sex detection tests for those who want a child of a particular gender would mean unnecessary additions in the family. Thus a couple who wants a son would go on producing daughters till they have a son.

In fact it is not unusual to see families with three or four daughters with a son as the last child. If the woman had the option to make a choice, the family would not have had the unwanted girls. Thus, a legal ban on sex detection tests only adds to the problems of over population, with all its deleterious effects on the children, the family and the country, as a whole.

Inefficacy of the law

Another argument against a legal ban on sex detection and selective abortions is that it would be of no effect. The practice arises out of age old social, economic and cultural conditions of our society which cannot be changed through any law. A woman or a couple who do not wish to have a particular child will in any case get the test done followed by an abortion if the results of the test are unsatisfactory. It requires much less skill to detect the gender of the foetus than any other abnormality. A simple ultra sound is enough. These machines are so common that it is impossible to monitor them. In any case, these need not be registered so, how is any enforcement agency to reach them? Also though medical ethics, and now, even law, enjoins upon doctors etc., not to disclose the gender of the foetus, there is no way it can be enforced. The information can be conveyed by a mere gesture, a nod or a code. Moreover, since abortion is legal, it can be had done anywhere. The nexus between the test and the abortion is impossible to prove. Hence it would only be making a mockery of a law which is unenforceable.

ARGUMENTS IN SUPPORT OF THE LAW

Those who support a legal ban have the following arguments:

Imbalanced sex ratio

If the number of females falls, it will create an imbalance in the male-female sex ratio. The census reports⁹ already reveal a decline in the number of females as compared to males. It is feared that if this trend continues it would be difficult to find brides for all eligible bachelors, thus encouraging polyandrous marriages. This in turn would increase the reproductive burden on women. Also, there would be more cases of rape, incest and kidnapping.

Maternal health hazard

Allowing these tests followed by abortion in case of 'unfavourable' report could mean a number of abortions for the woman. This repeated test-abortion-test cycle until a child of choice is detected is bound to effect the health of the mothers. Indian women are undernourished and anemic, and multiple abortions would only add to their health problems.¹⁰

Women's choice—an anachronism

It is strongly, and rightly, argued that the argument of freedom of choice to a woman in the matter is an utter farce in our context. A married woman is dependent on her husband and in-laws who take decisions. She enjoys no freedom even in the most intimate matters of her life. There are subtle pressures and forces both inside the family and outside it, under which she lives. Hence, there would be no infringement of a woman's right to chose if a law banning sex detection tests is enacted.

Legal ban: deterrent effect

The argument that a legal ban would be completely ineffective is not sound. Agreed, despite legal provisions, certain practices do continue and dowry is the most glaring example, but that is no justification to tolerate something which is improper. Many clinics and doctors who are, or who have been openly, doing the tests would think a couple of times if there is a specific law against it. The fear of bringing bad name or penal consequences will prevent many professionals from performing these tests. And once doctors cooperate and refuse to do the tests, the law is sure to succeed.

GENERAL LEGAL POSITION

Whatever the socio-economic or cultural conditions of our society be, the legal position is clearly against the practice of sex detection tests simply to get rid of a child of unwanted gender. The relevant laws in this context are the following:

The Constitution of India, 1950

India has a written constitution which was made in 1950. The Constitution is the root of all laws. There are certain fundamental principles laid down in it and all practices, behaviours, rules and laws have to be in conformity with those principles. The use of pre-natal diagnostic techniques for slaughtering female foetuses is a violation of several constitutional provisions. Article 14 guarantees equality before the law, to every person. Article 15 prohibits discrimination on, inter-alia, ground of gender and article 51(A) (e) enjoins upon every citizen, a duty to "renounce practices derogatory to the dignity of women." Selective elimination of the female foetus with the aid of a medical technology is a violation of all the above provisions—it violates the equality clause, it is discriminatory and it is an affront to the dignity of the female gender.

The Indian Penal Code, 1860 (IPC)

The IPC has a chapter on offences against human life. Five sections¹¹ of this chapter deal with miscarriage. Causing miscarriage is a punishable offence unless it is done to save

the life of the mother. Punishments vary depending on the gravity of the offence, e.g. the punishment is higher when miscarriage is performed at an advanced stage of pregnancy, or when performed without the woman's consent or when death is caused by an act intended to cause miscarriage. The only condition which permits miscarriage without attracting penal consequences is when it is done to save the life of the mother. However, this law could not prevent pregnant women from going to quacks for an abortion. Operations were performed by unqualified midwives or quacks under unhygienic conditions thereby risking the health and life of women. In order to remove these difficulties, the Parliament enacted a special law in 1971, known as the Medical Termination of Pregnancy Act.

The Medical Termination of Pregnancy Act, 1971

The Act permits a medical termination of a pregnancy on the following grounds.

- (i) where continuance of pregnancy involves risk to the life or to the physical and mental health of the mother,¹² or
- (ii) where there is substantial risk that if the child is allowed to be born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

The operation for termination of pregnancy can be performed only by a registered medical practitioner, and where the length of the pregnancy does not exceed twelve weeks. If it is over twelve weeks but within twenty weeks, then it has to be performed by two registered medical practitioners. The doctors who perform the operation must be satisfied that there are justifiable grounds for the same.

Simply because a foetus is female is no ground to terminate a pregnancy. Female-ness, per se, is not a disease to justify an abortion unless a sex-linked disorder is indicated. Besides, no pregnancy beyond twenty weeks can be legally terminated unless it is essential to do so to save the life of the woman. And amniocentesis, which is one of the methods used for sex detection is normally carried out in the sixteenth week of pregnancy. The time gap between the test and the final report could be another 3 to 4 weeks or may be even more if the test has to be repeated. Thus, by the time she decides to have an abortion, it is beyond the statutory period of 20 weeks.

However, there are several loopholes in the Act which facilitate the misuse of the law purely for selective elimination of the female foetus. The most glaring is the provision¹³ which allows abortion when pregnancy occurs as a result of failure of contraceptive device used for the purpose of limiting the number of children. This provision is used as a scapegoat. The woman gets the test done at one place, then goes to another place for abortion, and the plea invariably taken is the failure of contraceptive device. There is no way to verify the truth or falsity of this statement.

Then, there is another clause which permits abortion on the ground that continuance of the pregnancy would involve a "grave injury to her physical and mental health" which has a great potential for misuse. This is further elucidated by adding the following explanation:¹⁴

In determining whether the continuance of a pregnancy would involve such risk of injury to the health, account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

In our society the birth of a female baby is an occasion to console rather than congratulate, especially if she is not the first. The life of a woman who gives birth only to daughters is miserable because she faces harassment in the family and embarrassment in the society. Sometimes, excuses are found to divorce her so that the man could bring another wife who might give the family a male child. In this situation, can she take a plea that continuing with pregnancy without confirming the gender of the foetus would cause injury to her mental health? The fact is that many doctors who perform abortions after amniocentesis or ultra sound tests, feel fully justified. They argue that in the conditions in which many Indian women live, it is better for them that a female foetus be aborted. In fact sub-section 3 of section 3 of the Act provides a great protection to the supporters of sex detection tests and gives credence to their argument that an unwanted child should not be thrust on the parents.

Also, the Act gives wide discretion to the doctor by exempting him from any liability if he performs the abortion in "good faith". The term good faith is very subjective and even abortions which fall foul of the provisions of the Act cannot be punished. Section 8 gives a garb of protection to the doctors. It is an ouster clause which says that no suit or other legal proceeding shall lie against any doctor for any damage caused or likely to be caused by anything which is done or intended to be done in good faith under the Act.

The Rules under the Act provide that the doctors performing the abortion have to certify their opinion in a prescribed form as regards the necessity of such pregnancy termination. This, however, is just an eye wash. The grounds are specified in the form and numbered (i).....(ii).....(iii).....(iv).....(v) and the doctor has just to tick mark against it and state that he was of the opinion formed in good faith that termination of pregnancy was necessary. No further details are required, like, what type of injury to the mental or physical health of the mother would have been caused if the pregnancy were not terminated, or what type of risk of abnormality in the child was apprehended, or what was the device or method of family planning which was adopted and which failed, resulting in the unwanted pregnancy, and so on. The whole process is, in fact, as good or as bad as abortion on demand.

**THE PRE-NATAL DIAGNOSTIC TECHNIQUES
(REGULATION OF MISUSE) ACT, 1994**

The various escape routes in the existing legislation coupled with weak enforcement conspired with the prevailing conditions and facilitated mushrooming of sex detection centres and female foeticides. A stringent all India legislation in the matter was seen as the only viable solution to curb the practice. Hence, our Parliament passed the special law¹⁵. The following are some of its salient features:

This is an all India legislation unlike the Maharashtra or other State Acts which are applicable to that particular state alone. Under this Act, the pre-natal diagnostic techniques may be used only to detect "genetic or metabolic disorders or chromosomal abnormalities or certain genetic malformations or sex-linked disorders."

There is a provision for compulsory registration of every genetic clinic, laboratory or centre with minimum standards prescribed in terms of space, equipment, and qualifications of the staff.

Not all pregnant women are eligible for the test. Only those who fall in the risk category as specified by the Act, can have a pre-natal diagnostic test performed. The conditions are—the woman must be above 35 years; history of two or more abortions or foetal loss; exposure to potentially teratogenic agents, such as drugs, radiation, infection or chemicals; history of mental retardation or physical deformities such as spasticity or any other genetic disease; or any other conditions as may be specified by the Supervisory Board.

The whole purpose behind this legislation being to ban sex detection tests, there is a specific provision to that effect. Even advertisements in any form, of facilities for the test, are prohibited.

In order to look into the policy and implementational matters, there is a provision for setting up of various bodies. Their composition, powers and functions are also clearly defined in the Act.

Penalties have been provided for misuse of diagnostic procedures. Any medical geneticist, gynaecologist, medical practitioner or any person who owns a clinic or renders his professional or technical service at such clinic shall be liable, on conviction, to imprisonment upto three years and fine upto Rs. 10,000, if he contravenes any of the provisions of the Act. Likewise any person who seeks the aid of a centre or laboratory or clinic for carrying on a pre-natal sex detection on a pregnant woman for any purpose other than those specified under the Act, shall also be liable to similar punishment.

In the case of a registered medical practitioner, the Medical Council may even suspend his license for two years for the first offence and permanently, if the offence is repeated.

In the case of a woman, unless the contrary is proved, there is a presumption that she has been compelled by her husband or the relatives, to undergo the test and so he/

they will be held liable for abetment of the offence.

It would be relevant to note that the issue of the woman's liability in such cases was debated upon at length. An argument was given that the Indian woman is ignorant as well as helpless. She has no choice in the matter except to surrender to the desires of her husband or mother-in-law, or there might be other subtle but grave pressures¹⁶. In such situation, it would be very unfair to hold the woman responsible. The other side of the argument was that if a woman were to be totally exempted from any liability, she would be made a scape-goat by the husband or other relatives who in fact would be the culprits. Thus no one would be penalised for the illegal act in such cases. Hence, the legislatures found the via media.

CONCLUSIONS AND SUGGESTIONS

The law against sex detection tests and sex selection will become operational sooner or later but the real question is, will this alone be effective enough in banning the tests? The answer quite clearly is in the negative. Despite a ban by the Medical Council of India, these tests are being performed with impunity. One can see advertisements about facilities for these tests at many places. There is a recent report of how a reporter of a popular daily caught a doctor performing these tests.¹⁷ Posing as a pregnant woman she approached him for the test. She told him that her mother-in-law wished to have a male child and so she would like to go in for the test. The doctor took his fee for the amniocentesis test, gave a receipt and asked her to come for the test on the following day. When the lady enquired whether there were any side effects of the test, he reassured her that it was absolutely safe and stated further that he had already conducted a few of these tests during the day.

According to a very recent survey conducted by the Department of Anatomy at a medical college at Jaipur (in the state of Rajasthan) 3,500 female foetuses are killed every year after the test in that city alone. The report states that the use of widely available ultra sound facilities for the determination of the gender of the foetus eliminates ten female foetuses daily at three medical centres in the city where these tests are carried out.¹⁸

There are also reports of professionals conducting crash courses to train doctors in pre-natal testing. Such training is obviously to be used for conducting sex detection tests since resort to pre-natal diagnostic procedures for anything other than this is almost unknown.

The practice thrives because even the doctors find nothing wrong in it. As pointed out by one doctor¹⁹ -

Today, a woman with more than one daughter has a gun pointed out at herself and her progeny. How can you deny her the right to have a son instead of a

third or fourth daughter? You can't wish away centuries of thinking by saying that boys and girls are equals.

According to another well known Bombay based gynaecologist²⁰,

Until the whole Asian community changes where a male issue in the family is a must, we as scientists can help out the poor mother who year after year produces a baby until a boy is born..... It is a very peculiar situation. If you don't do it you are creating an unhappy situation for the mother and the child. If you do it, you are discriminating on the basis of sex.

The general feeling amongst the doctors and others who support the practice is that it is much more cruel to bring her into a world where she is unwanted, and make her suffer throughout life than eliminate her at a stage where there is hardly any format.

Whatever the alibi for tolerating the practice, it cannot be denied that it is deplorable. It has gained notoriety to such an extent so as to make people wonder whether at all India has a right "to take the newest technology from the west and use it for something as reprehensible as the slaughter of female babies."²¹

As pointed out above, law alone cannot solve the problem. What is needed is a change in the whole structure and thinking of the society where girls and boys will be viewed as equals. Customs like dowry make a girl a financial burden on the parents, so it is dowry which has to be fought and eradicated. Girls who do not satisfy the demands of greedy husbands and in-laws are tortured by them. What is therefore needed is a very stringent social and legal action to punish such people. There is a tremendous need to create awareness against these evil customs and practices. Education is one sure way to bring change in social attitudes. If girls are educated and aware, they will fight back and not suffer abuse, exploitation and torture, which is one of the reasons why parents hesitate to have girls.

Financial independence is another important measure to bring about change in the status of females. They can thus be as much an asset to the family and society as boys. It is common knowledge that girls who are illiterate and financially dependent on their husbands are more oppressed. They feel that they have nowhere else to go and so keep suffering. With financial independence, they can lead their own life and live in dignity.

Law can go a long way in conferring equal rights and status to girls. Infact, we have many special and general laws for the welfare of women. The succession laws give equal inheritance rights to sons and daughters. The matrimonial laws give equal rights to the husband and wife and under the employment laws, equal job opportunities are given to males and females.

Our government has also adopted many measures and schemes to fight out discrimination against girls. The television and radio are being extensively used for conveying a message that girls and boys are equal. Almost daily there are advertise-

ments and telefilms to educate the people. Girls are encouraged and given equal opportunities for education and employment. Some states have also introduced schemes for the welfare of female children—like state adopting unwanted female babies and financial assistance to parents to meet the education, medical and marriage expenses of girls. There are also schemes to provide free education to girls with additional incentives. However we still have a long way to go.

In the context of sex selection the medical profession has an important role to play. It must inform the public about the risks involved in the test. If informed about just a single risk of losing a male foetus in the process of the test, many women would refrain from the test. Also, if doctors refuse to perform the test, the practice will automatically cease. However, simply banning a test, and thrusting female children only to be neglected, abandoned and ill treated would be a remedy worse than the evil. Conditions conducive to the dignity of females have to be created. Awareness amongst the people that girls are as much an asset as boys, equal rights under the law and a stringent legislation to ban the practice, all combined, alone can help in bringing a change.

NOTES

1. Shanghai Evening News reported in *Indian Express* (8.12.1988).
2. "Disappearing Girls", *Asiasweek* (3.3.1995) as quoted in *Competition Success Review* (April, 1995) at 115.
3. Roe Bong Mi, "The 'Sun' of the family", *Hindustan Times, Sunday Magazine* (22.2.1987).
4. *Ibid*
5. The Hindu Adoptions and Maintenance Act, 1956. (As its very name conveys, the Act is applicable only to Hindus).
6. "Born to Die", *India To-day* (June, 1986) which estimated that 6,000 female babies had been poisoned to death during the preceding decade in the district surrounding the town of Madurai in Tamil Nadu. See Elisabeth Bumiller, *May You Be the Mother of a Hundred Sons* (1991) at 104-112; See also Usha Rai, "Female Infanticide Thrives in South", *Indian Express* (8.8.1992); Pushpa Iyenger, "Girls in Salem are born to die", *Times of India* (30.8.1992).
7. *Facets*, vol. 1, No. 3 (August, 1982).
8. Explanation II of Section 3(2)(ii) of the MTPA.
9. Appendix I
10. In India, maternal mortality rate is said to be the second highest in the world with 400 to 500 per 100,00 live births—and 22% of these is reportedly due to abortion.
11. Sections 312 to 316 of the IPC.
12. Pregnancies which are the result of rape or failure of contraceptive device are treated as situations causing injury to mental health of the woman, vide Explanation I & II of Section 3(2). See Appendix II.
13. Explanation II of Section 3(2).
14. Section 3(3).
15. The Act has been passed and gazetted but the rules are still under formulation. Hence the central law has yet to take off. There are some states which have their own laws banning such tests but they are applicable to those states only. However, once the Central Act becomes operative, the state legislations will stand repealed.
16. For instance, her marriage might be threatened if she gives birth to a female child; or the child if born, might be neglected or abandoned.
17. Swati Chaturvedi, "Boy or Girl? They will tell you for a price", *Statesman* (22.5.1994).
18. "Sex-tests kill 3,500 fetuses in Jaipur", *Indian Express* (31.1.1994)
19. Dr. Datta Pai, former Director, Family Planning Hospital in Bombay
20. Dr. Soonawala
21. Elisabeth Bumiller, *May You Be the Mother of a Hundred Sons* (1991) at 118.

APPENDIX I

All India Sex Ratio 1901-1991

Census Year	Sex ratio per 1,000 males
1901	972
1911	964
1921	955
1931	950
1941	945
1951	946
1961	941
1971	930
1981	934
1991	929

APPENDIX II

Extracts from the Medical Termination of Pregnancy Act, 1971

3. When pregnancies may be terminated by registered medical practitioners—(1) Notwithstanding anything contained in the Indian Penal Code, a registered medical practitioner shall not be guilty of any offence under that Code or under any other law for the time being in force, if any pregnancy is terminated by him in accordance with the provisions of this Act.

(2) Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner-

(a) Where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or

(b) Where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners are, of opinion, formed in good faith, that-

(i) the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health; or

(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation I. Where any pregnancy is alleged by the pregnant woman to have been caused by rape, the anguish caused by such pregnancy shall be presumed to constitute a grave injury to the mental health of the pregnant woman.

Explanation II. Where any pregnancy occurs as a result of failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children, the anguish caused by such unwanted pregnancy may be presumed to constitute a grave injury to the mental health of the pregnant woman.

(3) In determining whether the continuance of a pregnancy would involve such risk of injury to the health as is mentioned in sub section (2) account may be taken of the pregnant woman's actual or reasonably foreseeable environment.

(4)(a) No pregnancy of woman, who has not attained the age of eighteen years, or, who, having attained the age of eighteen years, is a lunatic, shall be terminated except with the consent in writing of her guardian.

(b) Save as otherwise provided in clause (a) no pregnancy shall be terminated except with the consent of the pregnant woman.