

## Dilemma of justice: When victim is the perpetrator – Female Foeticide in India

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### 1. Abstract

*This paper emphasizes on two prime issues: Firstly, the entire paradox of position of law in India regarding female foeticide vis-à-vis embedded custom deep-rooted in society preventing laws to work in their sphere. Lastly, when the victim itself is determined on committing a crime, then whom to protect. In answering the last part, this paper, rather than focusing on the blame game and actually holding the victim responsible, attempts to discuss circumstances as to how Indian society reached the stage where a woman feels it compulsory to remove her own foetus.*

**Keywords:**Female foeticide; Indian Parliament; Medical fraternity; female child; perpetrator;

### 2. Introduction

In the population of 1.3 billion,<sup>1</sup> with rich culture and history of more than 5000 years as the backbone of India, it might be considered ‘fashionable’ to discuss ‘Universal Human Rights’,<sup>2</sup> ‘Right to development’<sup>3</sup> and ‘Right to Cultural Heritage’<sup>4</sup>, but if the reality of female

in India is revealed, these all fancy terms might sound like a mockery of human life. In India, where female Goddesses are worshipped<sup>5</sup>, and at the same time, female foetuses are killed in the womb as a result of the crime of ‘being female’. And this fact is embedded in Indian society and culture so deeply that this type of criminal act is rather considered part of life instead of a heinous crime of murder. The astonishing fact is, the main perpetrator in this game of ‘victimization’

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<sup>1</sup>Indian Population, *World-o-metre* (live) (2016) <<http://www.worldometers.info/world-population/india-population/>>

<sup>2</sup>*The Universal Declaration of Human Rights*, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 General Assembly resolution 217(III) A <<http://www.un.org/en/universal-declaration-human-rights/>>

<sup>3</sup>*Declaration on the Right to Development*, GA Res 41/128, UN GAOR, 41<sup>st</sup> sess, 97<sup>th</sup> plen mtg, UN Doc A/RES/41/128 Annex (4 December 1986) <<http://www.un.org/documents/ga/res/41/a41r128.htm>>

<sup>4</sup> Farida Shaheed, 'Access to cultural heritage as a human right' *United Nations Human Rights Office of*

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*the High Commissioner* (Consultation organized by the Independent Expert in the field of cultural rights at Palais des Nations, Room XXI on 10 February 2011 at Geneva, Switzerland) <<http://www.ohchr.org/EN/Issues/CulturalRights/Pages/Consultation10Feb2011.aspx>>

<sup>5</sup>Christopher John Fuller, *The Camphor Flame: Popular Hinduism and Society in India* (Princeton University Press, 2004) 41.

is mostly women (either mother of foetus or mother-in-law).<sup>6</sup> But if 'ethnomethodological

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<sup>6</sup> TracyThomas, 'Misappropriating Women's History in the Law and Politics of Abortion' (2010) 36(1) *Seattle University Law Review* 1.

insight<sup>7</sup> is taken and the root behind female foeticide is explored more deeply, it can be easily seen that it is powerful patriarchy that has slowly and systematically distorted the attitudes of women to devalue their own gender to the extent that women themselves became 'female foetus' enemy. In the entire debate between law and culture, law alone cannot defeat culture as it is the basis of any human being and destruction of it will be considered an invasion of the human being itself, which is totally unacceptable by society. Therefore, the law must work to direct the social variables towards empowering victims who even now participate in their own victimization because of the oppression of culture.

### 3. Background

In the early 1980s, ultrasound technology was first introduced.<sup>8</sup> The inventor of ultrasound might not have imagined in his wildest dream that his innovation would be used in the promotion of female foeticide instead of for the detection of congenital abnormalities of the foetus. Then the use of this technique expanded in the 1990s in urban areas, and by 2000 it became widespread.<sup>9</sup> Whereas in 2001, according to the Census of India, the ratio was 927 females to 1000 males, in 2016, the ratio of males and females dropped to 914 females to 1000 males.<sup>10</sup>

## 4. Discussion & Analysis

### 4.1. Position of Law in India

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<sup>7</sup> Livingston Armytage, *Reforming Justice – the Journey to Fairness in Asia* (Cambridge University press, 2012) 121.

<sup>8</sup>Jeong Woo Kim, 'International Law in Asia: A Bibliographic Survey 2012' (2012) 18 *Asian Yearbook of international Law* 294.

<sup>9</sup> V Mazza, C Falcinelli, S Paganelli S, et al. 'Sonographic early foetal gender assignment: a longitudinal study in pregnancies after in vitro fertilization' (2006) 17(6) *Ultrasound Obstetric Gynaecology* 513.

<sup>10</sup> Census India, *Sex Ratio of Total population and child population in the age group 0-6 and 7+ years: 2001 and 2011* <[http://censusindia.gov.in/2011-prov-results/data\\_files/india/s13\\_sex\\_ratio.pdf](http://censusindia.gov.in/2011-prov-results/data_files/india/s13_sex_ratio.pdf)>

The Indian Parliament enacted Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994,<sup>11</sup> to prevent female foeticides and save the declining sex ratio in India. The act banned prenatal sex determination and made registration of every ultrasound machine necessary to prevent the use of technology by untrained medical professionals. But this legislation is considered a 'big failure'<sup>12</sup> by many researchers and academicians because it contains many loopholes which enable many medical professionals to perform sex determination without any consequences. There is an overhaul needed to amend this act and imposing of criminal liability on those doctors (trained or untrained) who make sex determination their main profession and are solely focused on minting money.<sup>13</sup>

Some of the defences used by the Medical fraternity is that rather than punishing doctors, the government should focus more on punishing those patients who come with sex determination check requests. But is this defence reasonable enough to allow any medical professional to charge an enormous amount for this illegal act of female foeticide? They are solely responsible and partially accountable for this heinous act,

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<sup>11</sup> This Act is popularly known as PNDT Act.

<sup>12</sup> Jaya Shroff Bhalla, 'PNDT Act: A failure, Legalise ultrasound tests', *The Pioneer* (online), 5 April 2015 <<http://www.dailypioneer.com/sunday-edition/sunday-pioneer/landmark/pndt-act-a-failure-legalise-ultrasound-tests-maneka.html>>

<sup>13</sup>Kristi Lemoine and John Tanagho, 'Gender Discrimination Fuels Sex Selective Abortion: The Impact of the Indian Supreme Court on the Implementation and Enforcement of the PNDT Act' (2007) 15(2) *University of Miami International Law and Comparative Law Review* 203, 225.

which is equivalent to murder.<sup>14</sup> In the debate of working of law and cultural truism, this act has remained a non-functional Act that could not serve its purpose.

The main reason for the inability of this legislation to efficiently work is because there is no reporting of an instance of either female foeticide or sex-selective abortions or even ultrasound checks for sex determination.<sup>15</sup> In this conundrum, neither the victim (whom to consider victim, the foetus or the mother) nor the offender wants justice. They do not hold it as a crime, but necessity for avoidance of futuristic hassles.

#### **4.2. Main reasons behind female foeticide: True debate of culture**

##### **4.2.1. Status of women in society**

The status of women in any society is not judged based on an era or a period, but it is a reflection of years of practice, beliefs and culture. When there is a perpetual debate about whether to hold a woman (mother) as a perpetrator or villain, it is essential to decide the factors that are responsible for the undervaluation of women. Powerful patriarchy has played a major role in distorting the attitudes of women themselves. The Mahabharata and the Ramayana, which are considered the base of Indian culture and society, are promoters of distortion of the concept of equality of women in society as 'equal human being' by promoting *sati pratha* (tradition of burning a woman alive after their homes dies), polygamy, throwing women out of her house because of her inability to reproduce sons, battering women as chattel/property in card games and the list goes on.<sup>16</sup>

<sup>14</sup>Snehlata Tandon and Renu Sharma, 'Female Foeticide and Infanticide in India: An Analysis of Crimes against Girl Children' (2006) 1(1) *International Journal of Criminal Justice Sciences* 1.

<sup>15</sup> Above note 14, 251.

<sup>16</sup> Shivani Nalkar, *what right did Yudhishtira have to bet his brothers and Draupadi in the game of dice?* (2012) <<https://www.quora.com/What-right-did-Yudhishtira-have-to-bet-his-brothers-and-Draupadi-in-the-game-of-dice>

Centuries of suppression have made women feel inferior, someone unable to make decisions for themselves and someone who is born to be evaluated by a set of criteriasuch as her obedience, meekness, docility and someone who is born to cater for the whims of her husband, in-laws, other females or powerful male of the family (sometimes the father as well).<sup>17</sup>

Another major factor to be considered here would be the guiding force behind female foeticide is the mother in law or another female of the household. It is a bitter fact that their insidious thought process and upbringing of women in this patriarchal society stop them from questioning what they are doing – think of daughters as a bad investment and debt.<sup>18</sup>

This ultimately led to inferiority becoming second nature to women, and it became the foundation of mothers-to-be agreeing to female foeticide out of an inherited cultural bias and a sense of duty to the family.<sup>19</sup>

##### **4.2.2. Lack of Power**

In the age of empowerment of women, culture is used many times in societies like India, where disempowerment is occurring simultaneously. Not educating female child, not giving them equal or any

<sup>17</sup> A. Mangai, 'Cultural Intervention through Theatre: Case Study of a Play on Female Infanticide/Foeticide' (1998) 33(44) *Economic and Political Weekly* 70.

<sup>18</sup> T.V. Sekher and Neelambar Hatti, 'Disappearing Daughters and Intensification of Gender Bias: Evidence from Two Village Studies in South India' (2010) 59 (1) *Sociological Bulletin* 111.

<sup>19</sup>'Missing Girls in India', Hearing before the Subcommittee on Africa, global health, global human rights, and international organizations of thecommittee on foreign affairs House of representatives, one hundred thirteenth congress on September 10, 2013, Serial No. 113-99 <http://www.gpo.gov/fdsys/>

importance in the household, not making them part of decision making are the insidious deeds that kill a woman's confidence in herself and destroy her self-esteem.

Also, females being economically dependent on a male is a major factor in her belief of being able to decide for herself. In India, still, the majority of women do not work after marriage and remain a housewife. Even though as a housewife, she nurtures her marital home, raises her children and take care of her husband and in-laws, she is branded as someone 'who does nothing'.<sup>20</sup> According to a survey, 87% of women, who are housewives in India, themselves admits with a meek tone of doing nothing when asked about their occupation.<sup>21</sup> This 'lack of power' is the reason that when asked to remove the foetus for it being female, women do not hesitate as they are mostly not given a choice, and they themselves consider unworthy of choice.

#### 4.2.3. Cultural Truism

The act of killing a foetus in the womb is not justified by any means. But still, there are many cultural explanations and validations which support the deed, which are simultaneously supported by culture:

##### 4.2.3.1. Dowry

Basically, the practice of dowry in ancient India started, so the parents could give away gifts to their daughter without hesitation as the daughter did not get any part of parental or ancestral property in ancient India. But society, along with time, did this voluntary practice into an evil. In India, around 0.59 million women are burnt by their husband or in-laws<sup>22</sup> because either she

does not bring sufficient dowry or their parents are unable to comply with the constant demand of either money or other materialistic needs.<sup>23</sup> Even though India outlawed dowry in 1961,<sup>24</sup> it has not stopped brutal beating, abuse and burning of brides.

The helplessness of parents in protecting their daughters, along with the inability of feeding the greed of husbands or in-laws, is one of the main reasons why parents in India feel that rather than causing grief to their daughter at later age, they rather opt for killing her in the womb. Also, some calculative part of society sees girls as someone who will end up being a constant economic burden at a later age and feels safer in removing her before even giving birth to her.

#### 5. Daughter- always dangling threat to the family reputation

A female child is considered as an invitation of disgrace to the family. 'Nirbhaya' case is a classic example of how many parents feel threatened by a girl child as someone who 'might' disgrace the family, their respect and their name. The horrendous act done by five young boys who raped a female in Delhi depicted the mindset of some elements of Indian society with its shocking empathy towards the victim.<sup>25</sup> In India, girls (unmarried or married) are considered a symbol of the virtue of that family, and if

<sup>20</sup> Rangita de Silva de Alwis, 'Domestic Violence Lawmaking in Asia: Some Innovative Trends in Feminist Lawmaking' (2012) 29 *Pacific Basin Law Journal* 176.

<sup>21</sup> Prabha Kotiswaran, 'The laws of social reproduction: a lesson in appropriation' (2013) 64(3) *Northern Ireland Legal Quarterly* 318.

<sup>22</sup> Human Rights Watch, *Attacks on Health: Global Report*, 6 (May 2015) <[https://www.hrw.org/sites/default/files/related-](https://www.hrw.org/sites/default/files/related-material/HHR%20Attacks%20on%20Hospitals%20brochure%200515%20LOWRES.pdf)

[material/HHR%20Attacks%20on%20Hospitals%20brochure%200515%20LOWRES.pdf](https://www.hrw.org/sites/default/files/related-material/HHR%20Attacks%20on%20Hospitals%20brochure%200515%20LOWRES.pdf)>

<sup>23</sup> *India's Unwanted Girls*, BBC, 22 May 2011 <<http://www.bbc.co.uk/news/world-south-asia-13264301>>

<sup>24</sup> The Dowry Prohibition Act, 1961

<sup>25</sup> Jug Suraiya, 'why India's daughter should have been titled India's Female Foeticide' *The Economic Blog* (online), 13 March 2015 <<http://blogs.economictimes.indiatimes.com/jugglebandhi/why-indias-daughter-should-have-been-titled-indias-female-foeticide/>>

something happens to her like eve-teasing, assault, an attempt of rape or rape, then she is blamed for bringing it on herself and stigma to family. This factor is very much responsible in Indian families so they can keep their illusionary family name and line safe and blemishless.

### 6. The inability of the continuing legacy

From immemorialtime, the Indian society has upheld sons over daughters because of their capability to carry family name and lineage further, whereas daughters are considered 'property' and 'carrier' of another family's name. This is the reason why sons are so cherished by Indian society, whereas daughters are more or less considered dead investments.<sup>26</sup>

Another element of this faith is, It is believed that a son can be banked upon in terms of catering to the emotional and financial needs of parents in their declining years, however daughters belongs to another family after marriage and in a way, they become useless in that aspect.<sup>27</sup>

### 7. New group of beneficiaries - Profane Medical Practices and dearth of ethics:

This is rather a question of 'who will save someone who does not want to be saved'. Even after PNDT Act and the establishment of the illegality of sex-checking, every area in India has herds of unethical medical professionals who utilize corrupted law practices of India<sup>28</sup> and tell the patients about the sex of the foetus. They charge an outrageous amount of money for doing that. Also, this cycle continues, as the next step is aborting the child if it's a girl and another shameful amount is charged. The greed of these

<sup>26</sup>Christopher Fuller, *The Camphor Flame: Popular Hinduism and Society in India* (Princeton University Press, 2004) 45.

<sup>27</sup> Ibid, 78.

<sup>28</sup> Samrat Sinha and Upasana Mahanta, 'Disjuncture in Law, Policy and Practice: The Situation of Child Welfare in India's Conflict Affected Regions' (2015) 17(1) *Asian-Pacific Law & Policy Journal* 2.

medical professions has acted as fertilizer for female infanticide.<sup>29</sup> The way it has been interpreted- 'investing little money in this entire process (even though the act is illegal and immoral) would save the dead investment for parents for a girl' – it's a pity how we value the girl in Indian society. And psychologically, it has been explained in *Disappearing daughters "killing a baby after it was born might generate a sense of guilt and invite punishment, but aborting a child in the womb was unseen and comparatively safe."*<sup>30</sup>

### 8. Cultural Imperativeness: consequences to count

This cultural assertiveness and result of female foeticide is not without far-reaching consequences. This constant preference for boys and the insidious degrading and practice of undermining/ denying the birth of a female is taking its toll on society and culture itself.<sup>31</sup> It has led to a general disrespect for women in everyday life.<sup>32</sup>

<sup>29</sup> UNICEF, *Facts on Children: Child Protection from Violence, Exploitation and Abuse* (2007) <[http://www.unicef.org/media/media\\_35903.html](http://www.unicef.org/media/media_35903.html)>

<sup>30</sup> Gita Aravamudan, *Disappearing Daughters: The Tragedy of Female Foeticide* (Penguin Books, 2007) 152.

<sup>31</sup> Ana Steele, 'The Value of the Girl Child in India' (2013) 6 *Regent Journal of Law & Public Policy* 67, 75.

<sup>32</sup> Dean Nelson, *India Most Dangerous Place in World to be Born a Girl!* The Telegraph (2012) <<http://www.telegraph.co.uk/news/worldnews/asia/india/9054429/India-most-dangerous-place-in-world-to-be-born-a-girl.html>>

The main consequence is the ‘missing girl crisis’ in the nation and its violence. This violence is not only done to the foetus but to pregnant women also by the husband or his family and relatives. The women in this delicate condition are subjugated to various kinds of tortures. The main aim is just to ‘get rid of the girl child for whatever purpose.’<sup>33</sup> The scars of this torture remain with those abused women and shred their confidence in themselves and their surroundings, ultimately destroying their self-esteem and self-confidence. They themselves start believing that as a woman, they are not important nor their female child they are carrying or might carry in the future. Their vulnerability forces them to be the destroyer.<sup>34</sup>

Another consequence is the occurrence of ‘bride purchase’ or ‘bride bargaining’, which is becoming popular in the various state of India,<sup>35</sup> especially in those states where ‘female foeticide’ is rampant. Like chattels, young girls are purchased and sold at a decided price by poor families who have more girls as children. And like property, their price is bargained, and conditions decided, and they are married off to men who are far older than them. Sometimes they are not married to one man but the entire family as sexual outcomes and maid for doing all household work. Another extended consequence of this act has increased abuse of women, physical and mental. When a human being is purchased with monetary value, her safety, health and sanity are in danger, and it

becomes an absolute mockery of human rights. The incidence of human trafficking (female trafficking) has increased considerably in last few years as another result of ‘female foeticide’.<sup>36</sup>

## 9. Solutions

There can be many solutions to this problem, and one of the limitations of this paper is not being able to discuss all of them. However, this paper has attempted to cover major opinions. An article in *Business Week*<sup>37</sup> sums up this as:

*“Until India embraces the social, cultural, economic and family benefits that flow from female equality, from valuing females and female empowerment, and until India works to change the appalling gender bias that hold India back, the country will remain in a state of arrested development.”*<sup>38</sup>

## 10. Main points

### 10.1. Women empowerment

The most important solution is the need for ‘addressing women empowerment in Indian society. Rather than treating women as someone who is ‘*abla*’ (helpless), it is high time that she should be treated at par with a male. This can be achieved by empowering them by giving them proper education and enabling them to become economically independent, not only for themselves but also for any daughters they might

<sup>33</sup>*Breaking the Silence: Child Sexual Abuse in India*, Human Rights Watch (2013) <<http://www.hrw.org/reports/2013/02/07/breaking-silence>>

<sup>34</sup>Kristi Lemoine and John Tanagho, ‘Gender Discrimination Fuels Sex Selective Abortion: The Impact of the Indian Supreme Court on the Implementation and Enforcement of the PNDT Act’ (2007) 15(2) *University of Miami International Law and Comparative Law Review* 203.

<sup>35</sup> Especially in states like Andhra Pradesh, Bihar, Punjab, Uttar Pradesh. Jeong Woo Kim, ‘International Law in Asia: A Bibliographic Survey 2012’ (2012) 18 *Asian Yearbook of international Law* 294.

<sup>36</sup> Annual Human Rights Report Submitted to Congress by US, ‘India’ (1995) 1310 <[http://dosfan.lib.uic.edu/ERC/democracy/hrp\\_index.html](http://dosfan.lib.uic.edu/ERC/democracy/hrp_index.html)>.

<sup>37</sup> Allyn Gaestel & Allison Shelley, *The Everyday Violence Against Pregnant Women in India*, The Atlantic (2013) <<http://www.theatlantic.com/health/archive/2013/02/the-everyday-violence-againstpregnantwomen-in-india/273045/>>

<sup>38</sup>Ana Steele, ‘The Value of the Girl Child in India’ (2013) 6 *Regent Journal of Law & Public Policy* 67. 72.

give birth to. It requires a multi-faceted approach that can alter and transform the mindset of society from the one which methodically undervalues women in general and hold them incapable of having any say in the household or making any decision.<sup>39</sup>

## 10.2. Involving media

Media can play a very significant role in changing the mindset of society. One of the very popular (most) reality talk show called 'SatyamevJayte' (may truth always win) in India involving Bollywood superstar Amir Khan<sup>40</sup> has done wonders for the issue of female foeticide and has been proved to be able to reach the public much more efficiently compared to any other means of media.<sup>41</sup>

Conducting public debates, talk shows and involving religious scholars, famous celebrities are practical solutions for curbing female foeticide. Inviting famous and well-known authors, journalists, filmmakers, documentary creators would rather be a more feasible solution for reaching to the public.

## 10.3. Involvement of Judiciary and Government

The legislative, executive and judiciary must address these critical issues. By making Dowry Prohibition Act and PNDT Act more stringent, forceful and effective. The lower courts, the High Courts and the Supreme Court should address issues like the continued persistence and

non-enforcement/ lacunas of existing laws.<sup>42</sup> Judiciary and legislation together has to come up with the plan to send the unequivocal message that feticide is socially, morally, and legally reprehensible. Lawyers, judges, social and political activists, NGOs and law enforcement officials should join forces at every level in PNDT investigation, prosecution and process.<sup>43</sup>

Government can create more innovative and practical schemes for girls education, dowry eradication, women empowerment like 'Beti bachaoAndolan' (Save girl child scheme)<sup>44</sup> where they can promote betterment issues of females.<sup>45</sup>

## 11. Conclusion

This social evil's main strength lies in the inability of Indian society to recognize it as a crime. Amartya Sen's theory that human enhancement of human freedom is the main object and the primary means of

<sup>39</sup> Prakash Tyagi, 'Missing Daughters of India' (2013) 6 *Regent Journal of Law & Public Policy* 37, 45.

<sup>40</sup> stories of Change: female foeticide - daughters are precious (9 May 2013) <<http://www.satyamevjayate.in/female-foeticide/femalefoeticide.aspx>>

<sup>41</sup> Samrat Sinha and Upasana Mahanta, 'Disjuncture in Law, Policy and Practice: The Situation of Child Welfare in India's Conflict Affected Regions' (2015) 17(1) *Asian-Pacific Law & Policy Journal* 2.

<sup>42</sup> United Nations Population Fund, *Missing-Mapping the Adverse Child Sex Ratio in India*, June 2003, at 5.

<sup>43</sup> Prashant Iyengar, 'Re-Narrativising Abortion Narratives in India'

(Paper submitted to Prof. Patricia Williams and Marcia Sells for Feminist legal theory workshop at Berlin on May 02, 2010)

<sup>44</sup> Seema Mohapatra, 'Global Legal Responses to Prenatal Gender Identification and Sex Selection' (2013) 13 *Nevada Law Journal* 690.

<sup>45</sup> Samsunnessa Khatun and Aznarul Islam, 'Death Before Birth' - A Study On Female Foeticide In India' (2011)

<[https://www.researchgate.net/publication/215590009\\_%27Death\\_Before\\_Birth%27\\_A\\_Study\\_on\\_Female\\_Foeticide\\_in\\_India?enrichId=rgreq-75ddc3557bf2d92a2810ce0fb303a27eXXX&enrichSource=Y292ZXJQYWdlOzIxNTU5MDAwOTtBUzo5OTg5MzMzMzMDg0MTYxMkAxNDAwDI3ODM0ODgy&el=1\\_x\\_2](https://www.researchgate.net/publication/215590009_%27Death_Before_Birth%27_A_Study_on_Female_Foeticide_in_India?enrichId=rgreq-75ddc3557bf2d92a2810ce0fb303a27eXXX&enrichSource=Y292ZXJQYWdlOzIxNTU5MDAwOTtBUzo5OTg5MzMzMzMDg0MTYxMkAxNDAwDI3ODM0ODgy&el=1_x_2)>



development<sup>46</sup> becomes a mockery in female foeticide as human freedom, development, justice, and fairness becomes an issue when a person is allowed to be human. As Prof. Aravamudan has begged Indian society to reconsider the seriousness of it in her book:

*“Female foeticide is akin to serial killing. But female foeticide was more like a holocaust. A whole gender is getting exterminated. It is a silent and smoothly executed crime that leaves no waves in its wake. It is happening while we, as a nation, slumber.”*<sup>47</sup>

In approaching this evil, techniques and attitude might differ, and the need for rethinking and reconsidering might arise again and again, but one thing is very much certain: No society is ready for a change that forces them to change their cultural imperialism as the rule of law in itself is not enough. Every judicial and legal reform's main aim has to be the realization of Universal (human) Rights. Society has to realize the need and time to change its mindset. Ultimately, female disempowerment is the result of years and years of suppression by culture, and society is the context within which culture claims its force.<sup>48</sup> Enforcement of law with the help of education, economic opportunity and political emancipation and media support can reverse this influence. As Sen<sup>49</sup> has theorized in ‘realized justice’, where he talks about ‘nyaya’ (realized justice) and ‘niti’ (organizational

change), where later only comes with transition in mentality and willingness of any society to change.<sup>50</sup>

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### References:

- Bandewar, S. (2003). Abortion Services and Providers' Perceptions: Gender Dimensions. *Economic and Political Weekly*, Vol. XXXVIII No.21 May 24-30, 2003, pp. 2075-2081.
- Blij, H. J.de (1995) *Human Geography- culture, Society, and Space* pp.199-213, 5th edition, John Willy and Son, Inc.
- Brody, B. (1975) *Abortion and Sanctity of human life: A Philosophical View*, Oxford University Press.
- Cahn, S. M. and Markie, P. (1998) *Abortion and Infanticide*, Oxford University Press.
- Chunkath, S.R., and V.B. Athreya (1997). *Female Infanticide in Tamil Nadu: some Evidence*. *Economic and Political Weekly*, Vol. XXXII (17), WS pp. 22-29.
- Gangrade, K.D. (1988). *Sex Determination – A Critique*. *Journal of Social Change*, Vol. 18 No. 3, Pp.63-70

<sup>46</sup> Amartya Sen, ‘The idea of Justice’ (Penguin Press, 2009) 23.

<sup>47</sup> Gita Aravamudan, *Disappearing Daughters: The Tragedy of Female Foeticide* (Penguin Books, 2007)

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<https://books.google.co.in/books?id=n7XgqCyEB5QC&printsec=frontcover#v=onepage&q&f=false>

<sup>48</sup> Jennifer Bays Beinart, 'Beyond Trafficking and Sexual Exploitation: Protecting India's Children from Inter and Intra-Familial Sexual Abuse' (2011) 21(1) *Indian International Law and comparative Law Review* 48.

<sup>49</sup> Amartya Sen, ‘Global Justice’ in in Peter Maynard (eds), *Poverty, Justice and the Rule of Law* (Report of the Second Phase of the IBA Presidential Task Force on the Financial Crisis, 2013) 37.

<sup>50</sup> The last part regarding ‘Nyaya’ and ‘Niti’ has been taken from author's another work: Mitsu Parikh, ‘Case Study of Rotary's program in Gujarat's (India) Bhavnagar for Female Foeticide’ in the subject of Law, Justice and Development at University of Sydney, Sydney on 14 April 2016.

Glover, J.(1977) *Causing Death and Saving Lives*, Oxford University Press.

Khatun, Samsunnessa& Islam, Aznarul. (2011). 'Death Before Birth' - A Study on Female Foeticide in India. *MS ACADEMIC*. 1. 94-99.

Tandon, S. L. (1999). Penal Sanctions on Violence Against Women: An Appraisal, In: *Centre for Social Research, Violence Against Women in Delhi: Determinants and Remedies*, New Delhi; Centre for Social Research pp. 46-57.

Thakkar D, Viradiya H, Shaikh N, Bansal RK, Shah D, Shah S. Male child preference for the

first child decreasing among women in Surat city. *National Journal of Community Medicine* 2011;2:163-5.

Tooley, M. (1984) *abortion and infanticide*, Oxford University Press.

Walia A. Female Foeticide In Punjab: Exploring the socioeconomic and cultural dimensions. *A journal of social issues* 2005;10:1.

Warren, M. A. (1991) *Abortion included in A Companion to Ethics* edited by Singer, P. Blackwell Publishers Limited.