CHAPTER IX
SUMMARY AND CONCLUSION

Having stepped into the new millennium, instead of new vision of tomorrow we are still succumbed to the age-old rhetoric of women liberation, women empowerment, welfare, rights and status of women due to the paradoxical attitudes and stereotyped psyche engrained in ourselves over the years.

The society seems to be oblivious of the fact that the sustenance of universe depends upon the existence of men and women together who are the two halves of humanity. Though created alike, women have been bestowed with unique quality of progeny by virtue of which the undesirable fact remains that man is born out of woman.

Primarily sexuality and different capacities of men and women in reproductive process render “natural” reasons for gender division in society. Gender based discrimination has taken different forms having global dimensions. In its subtlety gender discrimination is all pervasive institutionalised deprivation. Gender inequalities stagnate individual growth and national growth to the sheer disadvantage of both men and women. The “gendered” masculine and feminine identities are constructed through the process of socialization conferring on them the respective social roles they are expected to play. The widespread victimization, discrimination, inequality and injustice is but a travesty of all canons of social justice and equity of women. Some of the basic cultural orientations towards men and women in contemporary Indian society have been shaped by the authority of classical texts, teachings of religion, factors of historical development and the persistence of regional and local traditions. Cultural practices exalted men and demeaned women. The birth of a son has been very significant from worldly, religious and spiritual point of view. Desirability of the male is accentuated by ritual considerations. The social, religious, cultural and economic institutions together provide the mechanism for perpetuating the male dominance over all aspects of woman’s life including her sexuality and mobility.
The patriarchs embark upon only such Hindu religious edicts that form the premise of repression for Hindu women emerging from a social, political and economic patriarchal system and favour birth and worth of son, thus reinforcing the factor for son preference. Women in India are the victims of the patriarchal ideology that oppresses them.

Since Vedic period women have traversed a long way from a respectable position to gradual degeneration. During 18th and 19th century position of women was pathetic, as they had fallen prey to multifarious manifestations of gendered violence being the attribute of the ‘deemed ideologies’ of patriarchy. Inhuman and barbaric practices like female infanticide, child marriage, sati, dowry, bride burning etc. pervaded the entire society during eighteenth and nineteenth centuries. The nineteenth century came to be a turning point in women’s history. Both political and social movements during British time as well as openness of the western culture had positive impact on the lives of Indian women. Endeavours of philanthropic and progressive thinking social reforms like Raja Ram Mohan Roy, Keshav Chandra Sen, Ishwar Chandra Vidyasagar etc. have done a great deal for the betterment of life of women. Efforts of Lord William Bentick in legally abolishing sati is commendable.

Discrimination of women and violence against women is not only confined to India rather it is a worldwide phenomenon. At the International level there have been incessant endeavours in the form of international conferences and conventions addressing women’s status, rights, needs, promotion, development and various forms of traditionally and culturally discriminatory practices harmful for the women. In the quest of better status of women there are several milestones in the international development which have been embodied in various United Nations Declarations. Besides the general recognition of equality of men and women by the United Nations, the Universal Declaration of Human Rights, 1948, the four World Conferences of Women1 of 1975, 1980, 1985, 1995 and a very important Convention on the Elimination of All Forms of Discrimination Against Women, 1979 have brought about significant improvement in the status

1 See supra Chapter III for details.
of women. Manifestation of violence against women in the form of genital mutilation, female infanticide, pre-natal and pre-conception sex-selection leading to female foeticide have been recognized as violation of human rights of the female sex. The consensus against female infanticide and foeticide has become so crystallized that it has been embodied in various United Nations Declarations. The International achievements have been concretised at the national level by incorporating international commitments having direct bearing on the status of women in the legislative enactments like the Protection of Human Rights Act, 1993, the Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and the Protection of Women from Domestic Violence Act, 2005 etc. Changes in the Immoral Traffic Prevention Act, 1956 are in contemplation and law on sexual harassment of women at the workplace is in the pipeline.

Discrimination between men and women is pronounced in the Census of India 2001, which shows that there is evident deficit of females in Indian Population. The trend is worrisome as there is increase in overall sex ratio on the one hand but a perceptible decrease in the child sex ratio on the other. In the age group 0-6 years there are only 927 females for 1000 males where as the overall sex ratio is 933 females for 1000 males. The two states Punjab and Haryana have the distinction of dominating the scene as they account for majority of districts in the bottom ten districts in India in respect of child sex ratio. Such low child sex ratio is attributable to the discriminatory practices like female infanticide and female foeticide. Historically female infanticide was a localised phenomenon. However, advances in bio-medical sciences has made it all pervasive cutting across all sections of society but in its new façade i.e. female foeticide. Female foeticide means eliminating a foetus by abortion. The objective behind enacting Medical Termination of Pregnancy Act, 1971 was to legalise abortion as a health measure to reduce incidence of unsafe abortions leading to high maternal mortality. But this piece of progressive legislation has been widely misused for sex-selective abortions, i.e. for eliminating female foetuses. With the spurt in Bio-medical sciences various techniques made it possible to pre-select and pre-
determine the sex of foetus. All these developments in a way legitimised the patriarchal aspirations. It necessitated legislation to prohibit pre-conception and pre-natal sex-selection diagnostic techniques that could deal stringently with the situation. The Supreme Court has played a very significant and very constructive role in dealing with the problem of sex selective abortions. Non-implementation of the Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994 (PNDT Act), even after five years of its coming into force led to a public interest litigation in the Hon'ble Supreme Court in the case of Centre for Enquiry Into Health and Allied Themes v. Union of India. Various significant directives issued by the Court led to bring about changes in the original PNDT Act, which regulated only sex-determination of the foetus and not the pre-conception sex-selection. The amendment of the Act was necessitated so as to include pre-conception sex-selection as well. Thus the nomenclature of the Act was changed to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. It was only recently that PC & PNDT Act saw its first conviction of imprisonment in 2006 in a case of Palwal, Faridabad (Haryana) in State v. Anil Sabhani, wherein the accused were ordered to undergo simple imprisonment for a period of two years and pay a fine of Rs. 5000/- each. Undeniably, this problem of sex-selective abortions cannot flourish without involvement of the medical community.

The Constitutional mandate ensures equality and non-discrimination on the basis of sex. Article 15(3) goes a step ahead and provides for 'positive discrimination' which enables the State to take appropriate measures including legislation to modify or abolish gender-based discrimination in the existing laws, customs and practices which constitute discrimination against women. These provisions have been spelt out in various landmark decisions of the Supreme

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3 Case No. RBT-298/2 of 2001, date of decision, 25.3.2006.
4 Articles 13, 14, 15, 16.
Article 21 of the Constitution in its widest amplitude is inclusive of all that gives meaning to a person's life including culture, heritage and tradition with dignity of person. Uniform Civil Code is the cherished goal of Article 44 of the Constitution. The discriminatory personal laws regulating matters related to marriage, succession and the like have been repeatedly struck down by the Supreme Court being violative of Articles 13,14,15 and 21 in a number of cases.

Despite the Constitutional provisions and a number of progressive legislations, equal status seems to have been held at bay because of the engrained patriarchal attitude. The Constitution Seventy-third (Amendment) Act, 1992 and Seventy-fourth (Amendment) Act, 1992 have made significant changes in order to empower women politically at the grass-root level. A recent UNICEF report released in December 2006 has stated that reservation for women has helped in bringing all round development to the villages, particularly children. The report pitches for more women legislators by giving examples from across the world.

In the Criminal Law various provisions have been restructured and many new provisions have been introduced to bring them in consonance with the Fundamental Principles of democracy, equity, freedom and equality embodied in our Constitution and to keep pace with the emerging trends and problems of women in the society. Rape Law has been substantially changed; provisions dealing with dowry death have been added in the Indian Penal Code. Consequential changes in the Indian Evidence Act and the Code of Criminal Procedure were also necessitated owing to the wide gender disparity in terms of

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8 Chetan Chauhan, "Study: Women make better netas," Hindustan Times at 1 (December 13,2006).

9 Various changes have been brought about in the Criminal Law i.e. in the Indian Penal Code, 1860, Code of Criminal Procedure and Law of Evidence. For details see Chapter V.
discrimination, exploitation, sex-related crimes so a to provide extra protection to the women in our society.

The Indian Legislature has, from time to time enacted various laws and amended existing laws according to the needs of the society and also to combat contemporary problems in response to the egalitarian urges of the Constitution. Social evils like child marriage, dowry system and sati have been prohibited by enacting respective laws which have been amended from time to time, since their coming into existence. In order to comply with the International commitment to prevent domestic violence against women, specific law has been enacted. Domestic violence under the newly enacted legislation has been defined liberally so as to include social, economic as well as psychological violence. The Act provides a civil remedy for matters of domestic violence. Bill for the protection of women at the workplace has already been under consideration. Another glaring problem relating to the violation of human rights of women is prostitution which has been regulated by Immoral Traffic Prevention Act, 1956 as amended and is sought to be further amended in view of the new dimensions attained by this phenomenon.

Conceptualising and concretising the mandate of the Constitution of India by policy formulation for women through the instrumentality of planning has been the most pragmatic approach towards the betterment in the status of women.

The experience shows that there are quite a number of policies, which have relevance to women, but by and large they are not oriented to focusing on women’s issues. The report of CSWI did catalytic act in galvanizing government in several areas – policy formulation, planning process, targeted programming and budgeting, legislative enactments, institution building, co-ordination with NGOs etc. The Planning Commission has been consistently working to deal with the betterment of women and their status. However, the hiatus between policy and its implementation impedes the attainment of goals.

The Planning commission of India defined three major areas in which special attention was paid to women’s development: education, social welfare and health. The process of planned development inaugurated in 1951, launched
a series of five-year plans which are the blueprint of the country’s development. The Sixth Five Year Plan (1870-85) represents a major watershed in development planning so far as women are concerned. For the first time there was a shift from welfare approach, taken up in the earlier plans to development made in the sixth plan. The Ninth Five-Year Plan (1997-2002) is another milestone in women’s development. There was paradigmatic shift in planning process from development to empowerment, which is one of the nine objectives of the plan. The plan emphasized that for empowering women as the agents of social change and development, a National Policy for Empowerment of Women would be formulated. The plan also proposed the need for reservation of seats for women in Parliament and the State legislative assemblies for the first time.

The ongoing Tenth Five Year Plan (2002-07) represents another stride in the evolution of development planning in India. Adopting human development as the ultimate goal in development planning, the Tenth Plan identifies specific and monitorable targets. It was felt imperative that the development process must include gender equality. The Plan pointed out the reasons for declining sex ratio as put forth by the Census of India, 2001 to be neglect of the girl child resulting in high Infant and Child Mortality and Maternal Mortality Rates, sex selective abortions and female infanticide. It also recognized misuse of modern technology for sex-determination as an added dimension to this problem. The plan intends to take long term measures for sensitising the society to change their mindsets, which is negatively disposed toward the girl-child as unwanted, neglected and discriminated both within and outside her home. Towards gender justice the Tenth Plan commits to eliminate all forms of discrimination enabling women to enjoy not only de jure but also de facto rights and fundamental freedoms on par with men in all spheres viz. political, economic, social, civil, cultural etc. However, the Mid-term Appraisal of the Tenth Plan has noted that little appears to have been done about empowering women as well as child development. Various women related and women specific policies to ensure the benefits from general developmental sectors, have been implemented from time to time, such as the National Population Policy, 2000, the Draft National Health Policy 2001, the
National Policy for empowerment of women, 2001 etc. A large number of programmes and schemes for the welfare and development of women, girls and children have been implemented by the Government of India and the State Governments in order to improve their overall quality of life leading to holistic development. There are schemes giving monetary benefits, job security, entrepreneurship initiatives, incentives in education, health care etc. which have given impetus to the development of women and children. Besides this policy framework, role of National Commission for Women is commendable which has been set up on the recommendations of Committee on the State of Women in India (CSWI) in 1971. The National Commission for Women has proposed various amendments in a number of existing legislations and has also proposed some new laws. For that purpose certain bills have been framed. The Protection of Women from Domestic Violence Act, 2005 has already been implemented and Protection Against Sexual Harassment of Women Bill, 2005 is in the pipeline. The National Commission for Women has adopted a multi-pronged strategy to tackle the problem of violence against women, including female foeticide and infanticide by generation of legal awareness among women, assisting women in redressal of their grievances, facilitating speedy delivery of justice to women by organizing Parivarik Mahila Lok Adalats in different parts of the country etc.

The magnitude and complexity of multifaceted issues relating to women defy any single agency’s efforts in bringing about change rather all sections of society must join hands with government at all levels to improve the status of women.

The Constitutional commitments of equality and wide range of progressive legislations, schemes, policies and programmes of the government have contributed towards realization of equal status to women with men to some extent. But the technicalities and the societal set up prevent the enforcement of gender sensitive legislative and institutional machinery and the provisions towards ‘gender justice’ in real terms. Despite shortcomings in the legal system and legislative framework in India, law still remains a vital measure for improvement in the status of women. It is evident from the increasing instances
of violence against women in different forms. Violence against women both before and after birth is the stark depiction of low value attached to the female sex pushing the status of women to its lowest ebb.

Having regard to the 'masculanisation' of the Indian population as depicted by the Census of 2001, which gives the inference of the unwantedness of the female sex, the present study was carried out to explicate all possible aspects of female foeticide; to evaluate the effectiveness of legal control mechanism and also to evaluate the status of women in the society. The study reaffirmed son obsession as the main factor leading to pre-birth discrimination. The present study also highlighted that the law criminalizing abortion is being misused. Another fact brought into light is that Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex-Selection Techniques) Act, 1994, despite its inefficient implementation has some deterrent effect and has to some extent succeeded in checking female foeticide.

Option to select the desired sex of the child with resultant "masculinisation" of sex ratio has been cataclysmic, as it has permeated all sections of society cutting across various societal parameters. Moral costs being much higher in killing an infant than killing of foetus, female foeticide has attained epidemic proportions giving impetus to the practice. Technology as an ally of patriarchal traditions has played havoc with nature. Perverse use of technology has dehumanised the mankind.

The sex ratio in India has recorded persistent decline and it is not a good trend for future social health. Our society is turning a blind eye to serious repercussion of this malpractice that will have on our society in the not so distant future. The nonchalance of the society shows tacit connivance.

Sex-selective abortion and pre-conception sex selection is not a simple social problem; rather it involves complex socio-cultural, medico-legal, ethical and moral perspectives.
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Socio-Cultural Perspective

Primarily being a social problem female foeticide/infanticide and pre-conception selection of sex has affected the society at large. The pace with which the sex ratio has been dwindling with respective decades signifies that the society is not wary of the repercussions of these processes, which have been crassly internalised by the society. Technology as a tool in the hands of son-obsessed society carved out in the patriarchal set up has added hay to the fire. It would be wrong to condemn solely the technology for present state of affairs. Had technology been the only factor for sex-selective abortions/conceptions, the western countries inventing these techniques would be worst affected. Rather they have targeted the patriarchal societies where the sophisticated techniques have aggravated the problem. The male prejudiced social practices and violence against women in different stages of life have accorded secondary status to the female sex. The civilized and systematic decimation of the female sex is heading the society towards an irreparable social damage. Each single event of abortion adds to the silent mass massacre, annihilating the biological and social structure of the society. The imbalance in the number of males and females begins in the beginning itself and gender gap mortality is a good index of discrimination against the girl children.

There is much evidence of the pervasiveness of the practices of female infanticide, female foeticide and pre-conception sex-selection not only as remnant of dogmatic yore but also as a consequence of collusion of modernity and scientific development in the back drop of strong son preference coupled with an increasing acceptability of the 'small family norm'. The sophisticated techniques of sex-selection/determination have emerged as yet another form of denying the right to be born, though extenuating the sin of killing a baby girl after birth. Incidence of female infanticide historically is not comparable with its modern façade – female foeticide/pre-sex selection, where as the former was a localized phenomenon confined to specific region/caste but the latter has intruded even those families, which would otherwise not approve of killing a girl infant. This has resulted in a multitude of sex-selective induced abortions that
has caused gender imbalance and in the long run may lead to undesirable social, economic, demographic, ethical consequences.

**Moral Perspective**

These practices have impinged upon the morality of the society. Sex-selective abortions and pre-conception sex selection is not only a social concern apprehending imminent danger but is also an ethical and moral wrong. Abortion has been equated with a holocaust as abortion implies destruction of life of the foetus or embryo in the womb. When does life begin, is a question of considerable significance. An old saying that we are already nine months old when born seems to be convincing even medically because conception/reproduction process begins from the moment egg is fertilized.

Now another ethical question that confronts is that whether abortion on any ground is unethical as it is against nature or it is justified on the legal grounds under the Medical Termination of Pregnancy Act, 1971. Decriminalisation and medicalisation of abortion in 1971 had been a big stride in order to check the incidence of illegal abortions leading to high maternal mortality and also to ensure more liberty to women to have right to privacy over her person. The former seems to be justifiable on humanitarian and medical grounds but the latter is repugnant to the basic right of the child to be born. More so a thoughtful sex-selective abortion is more inhumane and a blot on the mankind if the only ground for eliminating a life is being the female sex. Morality has acquired new meaning.

The time has come that we should take a stance, which resonates with probity, ethics, conscience and above all humanity.

Abortion in precarious situations seems to be reasonable but induced sex-selective abortion can in no way be justified in terms of ethics and morality. For the sake of survival of mankind humanity and probity need to be retrieved urgently.

**Medico-Legal Aspect**

Complexity of the problem of sex-selective abortions and sex selection is evident from the high stakes involved due to the repercussions on the mankind —
the mankind itself is at stake. Though the law decriminalises and medicalises abortion only on specified grounds but renders sex selective abortion/pre-conception sex-selection to be a crime. It is not an ordinary crime but is a hideous crime against humanity. It is a crime made possible only with professional inputs and expertise. In the contemporary consumerist culture some of the avarice doctors malign their conscience by indulging in such practice purely with material considerations satisfying the insatiable demands of son obsessed society at all costs being oblivious of the fact that they are supposed to serve and save the mankind.

Unethical sex-selection/determination by the doctors in violation of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 is a first step towards the consequential killing of the female foetus. This step is nowhere to be related to the latter while terminating the pregnancy making it easier to evade law. Further, the grounds that decriminalize medical termination of pregnancies under Medical Termination of Pregnancy Act, 1971, specially the 'contraceptive failure' is a handy tool for the doctors to misuse, to escape law and save their skin. Active participation of doctors in aiding the son-obsessed parents has subverted these benevolent legislative endeavours of the government.

Covert violence in terms of sex-selection and overt violence in terms of female foeticide preceded by the use of newly emerged techniques shatters the myth of the technology being value neutral. In such socio-cultural milieu where there is tacit acceptance of perverse use of technology doctors are required to visualize the broader aspect of these acts, the future implications, gender implications and also introspect and evaluate their conduct liable for broadening gender gap. New reproductive technology is serving the interest of patriarchy as well as others benefited in material terms. Ingenuity in revolutionary reproductive technology has emerged as an industry where renting a womb, in-vitro fertilization (IVF) primarily for begetting son, commercialisation of sperm or egg,

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genetic screening, pre-natal sex determination tests and pre-implantation diagnosis have became commonplace. Professional inputs cannot be directly blamed for sexist prejudices but the responsibility of the doctors cannot be denied in terms of unethical sex selective abortions. Easy access to unconditional abortion has reverberated patriarchal values where both parties are the gainers. If not the cause of sexist bias, medical expertise is certainly a significant factor in aggravating the gender bias.

Individual choices/preferences, perceptions of social norms and practices, economic necessities, religious requirements; easy access to services; legal environment; etc may govern the situation and decision for sex-selective abortion. In the course of research it has been found that son-preference is considered the main cause for sex-selective abortions and the reasons for the same are:

- practice of dowry
- continuation of family lineage
- male heir to manage private corporate family business
- for religious purposes
- violence against women for not bearing a male child.

Analysis of various studies highlights the urgency of the situation. Though the law was framed a long back in the year 1994 to check sex selective abortions but not much efforts were made to make its implementation effective until the forceful intervention of the Supreme Court. Judicial response has been quite encouraging in galvanizing the government. Successive hearings in Centre for Enquiry into Health and Allied Themes v. Union Of India11, served as an iron rod to keep the respective state governments on toes not adhering to the directions of the Apex Court. However, PC & PNDT Act has seen first imprisonment on 28.03.2006 under its provisions in the passage of twelve years. The picture is grim yet it provides a ray of hope as the first step in saving the girl child. It is therefore felt that the lacunae in the Act is its implementation rather than the Act

itself. Speedy and effective administration of justice would serve as a deterrent to the erring service providers. This would also boost the morale of the team involved in detecting violation of law.

Problem of Sex-Selective abortions is a multi-faceted and multi-dimensional problem and needs to be tackled simultaneously from various angles:

a) Social Intervention
b) Medical Intervention
c) Legal Intervention.

a) Social Intervention

• Most significant is the inner awakening and subtle attitudinal transformation of the society.
• inculcate respect for female sex.
• make women self reliant – by education, vocation, training etc.
• The community at the household level can aid eschewing the gender discrimination. Political commitment at the macro level can help to effectively operationalise women’s overall empowerment in improving the status of women.

Social intervention by way of Advocacy/Communication would be effective in dealing with the problem of sex-selective abortions.

1. With the help of Communication of effective messages for different stakeholders through
   a) Inter personal interaction aimed at couples, families, service providers.
   b) Raising awareness through media on the importance of girl child, illegality of sex selective procedures, legal provisions and impact on the society of falling sex ratio.
   c) Raising awareness about the health hazards of recurrent abortions.
   d) Raising awareness regarding women oriented schemes and policies.
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Communication should be aimed at disseminating significant messages regarding

- Gender discrimination and value of the girl child.
- Desire for a male heir specially in agricultural and business families.
- Desire for son for family lineage, religious rites & spiritual purposes
- Practice of dowry related harassment issues and anti dowry laws.
- Violence against women for not begetting a son.
- Awareness of socio-demographic consequences of declining ratio of female to male birth – including violence against women, commercialisation of sex, polyandry etc.
- Awareness of legal provisions related to issues linked with sex-selective induced abortion.
- Awareness regarding basic human right of survival for females and recognition of issue as health concern.

2. Develop and initiate networks for medical professionals/NGOs/Media/Advocates to initiate these issues at different levels.

Mobilisation:

- Active mobilisation of volunteers to monitor the registration and functioning of sex-determination clinics.
- Effective alliances with ethical doctors be made from local level.
- Community mobilization for transforming our gendered society.
- Lobbying with political parties to put this issue on agenda.

b) Medical Intervention

- Appeal to all the erring professionals not to become party to brutal crime.
- Stringent punishment to such doctors and professionals.
- Deregistration of Doctors for indulging in any act violating the law and code of ethics.
- Strict vigil and monitoring of the private nursing homes and clinics.
- Ensure complete records of all patients coming for antenatal check ups.
• Encourage institutionalised deliveries.
• Counselling of parents telling ill effects of abortion on health and on the society.
• Awareness about various spacing methods.
• Encourage development of self-regulatory mechanisms in private sector.

c) Legal Intervention

Legal intervention must keep pace with changes and developments in technology not to leave any possible loophole

• Competent authorities bestowed with the responsibility of the act are notified.
• Planting “Decoy customers” to book culprits under the law.
• Enforcement of mandatory reporting by private MTP Centres on number of MTPs as per trimester, performed.
• Make registration of all pregnancies compulsory for the birth certificate of the child/ration card.
• With follow up report of the antenatal period till 1 year after that.

Various Intervention mechanisms targeting different aspects of the problem of sex-selection issues need to be properly strategised and operationalized so as to address the problem of low status of women.

On the basis of research, it has been felt that Legal Intervention needs to be effective to check this menace. For the effectiveness of law it needs to be comprehensively formulated and effectively implemented. In this context there are practically inherent challenges in dealing with this problem:

• Proper infrastructure and enforcement machinery.
• Proper implementation of the provisions of law.
• Justice delivery by swift judicial action.
• Periodical review of the existing legislations to look for any grey areas for the culprits to find out any loopholes.
• Stringent implementation of MTP and PC & PNDT Acts.
• Spread awareness among police regarding these legislations besides provisions of Indian Penal Code.

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• Create law and machinery for monitoring each pregnancy.
• Create elaborate machinery required to correlate the two steps – sex-determination and abortion.
• Provide support and advice on female foeticide prosecutions throughout the country.

Practical Aspect

We have seen that both low status of women and preference for son are purely social issues but the issues incidental to the same as sex-selection/determination are moral issues and the consequential extermination of female foetus is a social, legal, moral, medico-legal crime. Indirectly it leads to law and order problems as with the scarcity of females, sex related violence is likely to rise. So the law enforcement machinery needs to associate with and

• Encourage doctors to be ethical in profession.
• Encourage doctor fraternity not to shield the defaulting fellow members and technicians for the sake of money.
• Remind the doctors of Indian Medical Association Code for Doctors – utmost respect for human life from the time of conception.

Suggestions

1. Since there is no awareness among the people that whom should they contact on the knowledge of a case of sex-selection/determination/sex-selective abortion, it is important to make Appropriate Authority easily accessible. Help line can also be made available for general public.
2. Usually prosecution is poor because of lack of evidence. The raiding team should be well equipped with the spy cameras, tape recorders etc. Separate funds should be allotted for the same.
3. Statements of the erring doctor, other staff and the patient should be recorded by the magistrate at the time of the raid so that the witnesses can’t turn hostile due to the pressures or indifferent attitude on their part.
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4. Efforts should be made to sensitise and create awareness among the law enforcement machinery i.e. the police and the interpreters of law i.e. the judicial officers; who are not conversant with the details of the relevant laws. This can be done by conducting workshops in coordination with doctors, legal jurists, social workers, law professionals.

5. For speedy trial under PNDT Act, 1994 and MTP Act, 1971 special courts may be designated for dealing with such cases – for specialized and expert disposal of cases.\(^{12}\)

6. Provide and facilitate close co-ordination among the law enforcement agencies and the prosecution department for the investigations and prosecutions.

7. There is need to review the provisions of Section 24, PNDT Act that gives immunity to the pregnant woman. Section 4(4) & 4(5) are rendered redundant unless the female be brought out of the immunity under Section 24. Even if there is presumption of family pressure on her, she would not make any complaint against anyone. It is submitted that both the parents be booked for the offence.

Another submission is to dilute the provisions of Section 24, with general presumption, though of higher degree, of the pregnant woman being innocent, keeping in view the background and the circumstances she is in, more specifically – her education, class to which she belongs, type of family – nuclear/joint, working/non-working etc.

8. Under PC & PNDT Act prosecution is a bit difficult but under MTP Act there is a lot of scope.

- First of all there should be focus on regularizing medical termination of pregnancies, whether first or second trimester. For that identification of all centres where MTP is performed, which are unregistered, stringent action as per law be taken against them.

\(^{12}\) Girija Vyas, the present Chairperson of the National Commission For Women has proposed Fast Track Courts for the efficient and speedy disposal of cases relating to female foeticide.
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- The focus of PNDT Act is mostly on ultrasonology centres, where sex of the foetus is identified. The real killing is ignored. Each abortion case must be properly scrutinized.
- Survey all chemists, druggists, suppliers of medicines and make reporting sale of drugs like Prostadin, Mesoprostol, Mifepristone and Pitocin (required for termination of pregnancy) mandatory including the name of the person with address sold to and trace these buyers taking records of all patients from them.
  Another submission is that these medicines should not be sold without proper prescription on a specific slip bearing the name and stamp of the Doctor and the Centre authorized under law to perform such MTPs.
- Identify and monitor all trained Dais, nurses, ANMs, unqualified, semi-qualified doctors who routinely conduct deliveries because there is likelihood of carrying on second trimester abortions. These centres can be identified by tracing all birth registered as “home deliveries” at registrar births and deaths office. Proper follow up of these deliveries will lead to identify the names of the attending nurse/doctor.
- Totally Ban the sale of drugs which can be used to cause abortion whether injectable or oral except the authorized MTP Centre.¹³

9. Awareness about the scientific fact, that it is the male chromosomes that decide the sex of the foetus and is a natural process. Without knowledge of this simple scientific fact, the society tends to wrongfully blame the woman when son is not born.

10. Early marriage, early childbirth lead to ‘too early, too frequent, too many’ pattern in fertility. Counselling of the newly wedded couple regarding contraception and reproductive health as part of sensitising the public would be productive.

At this juncture it cannot be said that it is solely the medical community who should be made responsible for this malady. Son obsession and easy

access of technology at the doorstep besides other factors have played their respective roles.

No single factor can remain bereft of the others rather all factors are interrelated. It is a vicious circle originating from patriarchal values of society aided by medical professionals, compounded by the access of technology and aggravated by inefficacious implementation of laws.

To fight this pernicious practice we have to shun this 'blame game' and think for concrete solutions. The solution lies in the changes on a personal, social and legislative level, which is fundamental to make equality an established reality. To give real meaning to equality in practice requires not only basic changes in attitude and behaviour by both women and men but also a fundamental alteration to the societal structure, to make available the necessary legal rights and to provide education and employment opportunities for women.

To achieve a hundred miles journey you start from a small step.