Chapter-III

Abortion: Some Social Issues
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ABORTION: SOME SOCIAL ISSUES

The humanists approach is that, that there is a need to do everything possible to reduce the rate of abortions. Some of the abortions sadly relate to poor advice or lack of education in family planning. By improving age at marriage, improving contraceptions – making it more widely available, improving the socio-economic conditions of girls, women's education, emancipation etc; we should be able to reduce the number of unwanted pregnancies and clearly all, or a lot, of the efforts should be put into that. This is a much easier problem to prevent than ultimately to manage. If that was grappled with more aggressively than we could reduce the number of women who could look to terminate a pregnancy.

Humanists do not regard abortion lightly as another form of fertility control. Infact they are firm advocates of education for life from an early age, improving the social status of women, with ready availability of all forms of family planning, emergency contraception etc, in order to reduce the number of induced abortions.

A. Minimum Marriage Age

The legal status of women within the family is of importance to the family as an institution as well as to efforts to achieve other
right for women, such as the rights affecting their political, social and economic activities.

History has witnessed that in ancient India there was no system of child marriage. The practice of child marriage started during the middle ages and for quite a long time this system of child marriage persisted and infact the country became known for it. There are several reasons that are responsible for child marriage in India. In the course of time the child marriage became an integral part of Indian social system. Accordingly in early period the age of marriage, particularly among the females was very low. It is particularly so even today among the Hindus who constitute the vast majority of India’s population. The practice has been closely followed by other communities in the country. It was commonly believed that it was religiously desirable that the girl should be married before attaining puberty and certainly immediately after menstruation.\(^1\) In other words child marriage was given a religious tinge and violation of this social system involved the annoyance of God. Not only this but even otherwise marriage in India was never considered a social system but bond which had God’s approval and therefore religious and not a social system alone. However, it is necessary to emphasize that marriage, especially among the Hindus, often means no more than irrevocable betrothal. However, in the case of child marriages, the parties do not begin to cohabit immediately after the marriage.

\(^1\) Census of India, 1901, Vol. I, at p-440
ceremony. Conjugal relations are generally preceded by a second ceremony called Gauna or Bida. Between the time of her marriage and Gauna ceremony [which is roughly the period between puberty and institutionalized recognition of her potential motherhood] the bride lives with her parents. However, if the marriages are held late when both the parties are grown up, as is the case with educated families, the gauna ceremony is performed also at the time of the main marriage ceremony.²

Age at marriage also influences fertility. Traditionally the innocence and ignorance of young girl facilitate her transfer from her natal home to her marital home and ensured conception at an early age. Early marriage has been, and continues to be, a major reason for India’s “excess” fertility, because the length of a woman’s effective reproductive span is maximized. When the boys and girls marry at considerably advance age then immediately they can expect a child. But since they have already married at an advance age, therefore span of productive married age is considerably reduced. It is believed that in case age of marriage goes up, the fertility will come down.³ Till recently there was no attempt to raise the age of marriage for reducing the births. But now it is thought that if the age of marriage could be raised the population growth could be sizeably reduced and it is also thought that the age of marriage could be effectively raised by law.

Law relating to age of Marriage

Marriage leading to reproduction is possible only after the spouses have attained puberty. It appears that there was tendency in almost all countries to contract marriage even earlier, because we find everywhere the minimum age fixed for marriage by law. But nowhere the child marriage appears to have been a fashion as it was in India. Step had to be taken to curb that tendency.

The 1921 – 31 decade showed a marked fall in the mean age at marriage of both sexes, presumably due to the passing of the Child Marriage Restraint Act. This piece of legislation, commonly known as the Sarda Act, after the name of its sponsor, Mr. Harbilas Sarda, was introduced in the Legislative Assembly of India in 1927. At first it was applied to Hindu community and was intended to restrict marriages of girls below age 12 and of boys below age 15. The bill was debated in the Legislative Assembly on Sept. 15, 1927, and was referred to a select committee of the Legislature where it was modified and made applicable to all communities. The prescribed minimum age was raised to 14 years for girls and 18 years for boys. This bill was finally passed on Sept. 28, 1929, and was to take effect on April 1, 1930. The period between the passing of the Sarda Act and its actual enforcement was utilized by the public to perform child marriages on a large scale. The Act was amended in 1949 to raise the minimum age for females to 15 years.

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A male contracting marriage in violation of these provisions is punishable with maximum imprisonment of fifteen days and fine if he is below 21, and with maximum imprisonment of three months and fine if he is above 21. The guardian of the minor and whoever performs, conducts or directs a child marriage are also punishable. The Child Marriage Restraint (Amendment) Act, 1978 now raises the minimum age of marriage to eighteen for girls, and twenty-one for boys. However, the marriage performed in violation of this condition is valid.\(^5\)

A provision under Hindu Marriage Laws (Amendment) Act, 1976 was embodied, which allowed a woman to pray for decree of divorce if her marriage (whether consummated or not) was solemnized before she attained the age of fifteen years and if she has repudiated the marriage after attaining that age, but before attaining the age of 18 years.

As per Muslim Law as applicable in India one may enter into a contract of marriage if he has attained puberty, which is presumed, in the absence of evidence on completion of the age of fifteen years. This was first modified by the Child Marriage Restraint Act, 1929. The Dissolution of Muslim Marriage Act, 1939 entitles a girl contracted in marriage by her guardian to ask for dissolution of her marriage provided that:

(i) the marriage has not been consummated;

(ii) the marriage took place before the age of 15 years;

\(^5\) Gajara Bhura v. Kanir Kanver Bai Parbat, AIR 1997, All 429
(iii) she had repudiated the marriage before attaining the age of 18 years.

b. Correlation between Age of Marriage and Fertility

Demographers, social scientist and policy makers of less developed countries have exhibited interest in recent times in raising the age at marriage of females, because of its crucial interrelationship with the growth of population, fertility, mortality, health of the mothers and children and use of contraception. Since women who marry early tend to have more children than those who marry later, adolescent marriage hastens population growth. Its reasons are as follows:

i) if adolescent (<19) women marry, they are likely to have sexual intercourse frequently throughout their most fecund years,

ii) they begin child bearing at an early age and thus live through a longer period of exposure to conception, and

iii) they shorten the interval before the generation is born and begin child bearing.\(^6\)

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Table-1

Table showing number of children according to wife’s age:

<table>
<thead>
<tr>
<th>Wife’s age at effective marriage</th>
<th>No. of children born to a couple</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 12</td>
<td>3.6</td>
</tr>
<tr>
<td>12 - 14</td>
<td>3.7</td>
</tr>
<tr>
<td>14 - 16</td>
<td>3.8</td>
</tr>
<tr>
<td>16 - 18</td>
<td>3.3</td>
</tr>
<tr>
<td>18 - 20</td>
<td>3.1</td>
</tr>
<tr>
<td>20 - 22</td>
<td>3.4</td>
</tr>
<tr>
<td>22 - 24</td>
<td>2.5</td>
</tr>
<tr>
<td>24 - 26</td>
<td>3.2</td>
</tr>
<tr>
<td>26 - 28</td>
<td>1.7</td>
</tr>
<tr>
<td>28 - 30</td>
<td>2.0</td>
</tr>
<tr>
<td>30+</td>
<td>1.0</td>
</tr>
</tbody>
</table>

This table indicates that when a girl married in minor age, the number of children born to the couple is more but when the girl’s marriage takes place after she attains the age of majority i.e. 18 years and above then the number of children born to the couple is less.

Blake has pointed out that “.... postponement of marriage to ages beyond 20 tends biologically to reduce births, sociologically it gives women time to get better education, acquire interest unrelated to the family and develop a cautious attitude towards...
pregnancy." According to Agarwala "higher age of marriage reduces the birth rate in two ways: first, through a shortening of the reproductive span by about five years and, secondly, through the shift in the fertility pattern towards fewer children in a woman's latter years, partly attributable to factors like education and modernization".8

It is often claimed that raising of age of marriage will bring a consequential decline of birth rate. This pretentious claim needs further examination. The exact effect would depend upon the effectiveness with which the law is applied and also upon the impact of the family planning programme.9

It is also believed that there would be a reduction in the birth rate on account of the shorter span of married life. But there is no reliable statistical information in support of this belief. Several studies made on this point tend to demonstrate that women married at a later date, have a higher fertility in their higher age than those married prematurely, that fertility is more conditioned by the period lapsed from the date of marriage than by age, that the average number of children per family do not vary with the age of the women at marriage.

However, raising the age of marriage coupled with the strict application of the law for the age group below 15 will have an incidence in the growth of population in the long run from the fact that the span between two generation would be longer. Now it may be estimated at 20 years for the female population [average age of mothers of children born]. If it is raised upto 25, there will be in a century only four generations instead of five, which would mean a reduction of 20 per-cent in the natality rate for a century.  

Thus it has been seen that by raising the age of marriage of girls inspite of controlling the birth explosion it also plays an important role on the well being and quality of population. Early marriages of women make them suffer serious illness related to complication of pregnancy and child birth, first and / or third trimester building, severe anemia, labour complications and toxemia of pregnancy. Also, the percentage of children born with low birth weight and with the risk of premature birth will be higher. This may happen because of lack of opportunity to get knowledge on various aspects of healthy child, inadequate physical growth of the mothers and also lack of knowledge about child rearing practices. Early marriages, coupled with these serious ill-health problems and age of the mother and birth order (first and second) will result in higher maternal mortality and other deaths related to child birth and pregnancies, like foetal mortality, still births, prenatal mortality, neonatal mortality, infant 

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\[\text{ld. p-12}\]
mortality, mortality of toddlers (2\textsuperscript{nd} year of life) and of children aged two-four years.\textsuperscript{11} So the raising of age would have the salutary effect of reducing mortality and morbidity among those concerned. Therefore, raising the age of marriage of girls would be a step in the right direction from the demographic point of view, as one of the measures of population control. The Family Planning Council, about three decades ago, suggested that minimum age of girls (The council did not say anything about boys) should be raised to 21 years. The reiteration of faith in the suggestion of raising the minimum age of marriage as an effective mode of population control has been made from time to time and from various and variated forums.

As the child marriage was the norm for several centuries in India and consequently due to early age at marriage more children were born by the couple. The Legislature from time to time took serious step to raise the age of marriage, so that the population of country may be checked. By amendment in Child Marriage Restraint Act, the age of marriage of girls was raised from 14 to 15 in 1949, and to 16 years in 1956 [and in 1976, it was raised to 18 years, and for boys it was raised from 18 to 21 years] without going into controversy whether the raising of minimum age at marriage has been socially and psychologically desirable method. The main question is, has the amended law been effective in the direction of achieving the national objectives?

Statistically looked at, resultant gains of the raising of the minimum age of marriage appear to be very optimistic. The child bearing age in India is considered to be between 16-44 years. On the average during this age, a woman can have six to seven children. If the minimum age at marriage of woman is raised to 21 years [suggestion of Family Planning Council] it would mean that each Indian woman would have two children less with a population about 1027 million the compulsory reduction of two children per woman would go a long way in containing our population explosion. To this should be added the legitimate belief that a mature girl will be more easily amenable to birth control. But this figure will be true only if the law that has raised the minimum age at marriage is really an effective measure. It is our common knowledge that in our country marriages at any age are still performed. Even marriages in cradle are not unknown. In some countries the effective way of preventing violation of the requirements of the minimum age is to render child marriage as void. This mean that the parties to such a marriage will not have the status of husband and wife and the children of such marriage will be illegitimate. In India such a provision is enacted only in one statute, Special Marriage Act 1954, under which any person irrespective of his religion can marry. The Special Marriage Act, 1954, lays down the minimum age at marriage for girls at 18 and for boys at 21 years; violation of this condition renders the

\[ S. 4 (c ) \text{ Special Marriage Act, 1954} \]
marriage null and void. It is submitted that invalidity of marriage is a great deterrence to the performance of child marriage. But unfortunately personal laws applicable to other communities do not render a marriage null and void on the ground of non-age.

The Sarda Act, 1929 was enacted with a very modest purpose in view. It does not attempt to prohibit child marriage, it merely restrain them. The term child is defined as a person, who if male is under the age of 18 years and if female is under the age of 15 years.

The Child Marriage Restraint Act also does not purport to render child marriage as void. Instead it prescribes some penalties for those persons who are responsible for child marriage. If a male below the age of 21 years and above the age of 18 years perform a child marriage, he may be punished for a term of simple imprisonment that may extend to 15 days or a fine that may extend to Rs.1000/- or with both. A male above the age of 21 marrying a girl below 15 is punishable with simple imprisonment of upto three months and is also liable to fine. Persons responsible for performing, conducting or directing the child marriage are also liable to punishment with a term of simple imprisonment which may extend to three months and a fine may also be imposed on them. However, any of those persons can escape the punishment if they are able to prove that they had

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13 S. 24 (i) Special Marriage Act, 1954
14 S. 2 (a) Child Marriage Restraint Act, 1929-As Amended upto date.
15 S. 2(c ) Child Marriage Restraint Act, 1929-As Amended upto date.
16 S-3 Child Marriage Restraint Act, 1929-As Amended upto date
17 S. 4 Child Marriage Restraint Act, 1929, As Amended upto date
reason to believe that the marriage was not a child marriage.\footnote{18} A like punishment can also be imposed on the person or persons, under whose care the child happens to be at the time of solemnization of the marriage.\footnote{19} A female party to the marriage is not liable to punishment.\footnote{20} A woman of 18 years who marries a boy of 17 years cannot be punished under the Act. Similarly a female guardian cannot be punished.

c. Child Marriage Restraint Act, 1929; As amended up to date

Legal Provisions

The following measures are generally suggested for the better implementation of the law relating to the minimum age at marriage. Strict enforcement of registration of births, compulsory registration of marriages for all communities. Government of India made an amendment in 1978, to the Child Marriage Restraint Act, 1929 making child marriage cognizable offence.\footnote{21} These are indeed steps in the right direction, but they are not adequate if immediate and substantial result is desired. The accurate knowledge of the date of birth is a condition precedent for the implementation of law. Even if 100 per cent registration of births is achieved now, it would be useful only after several years, when the children to be born reach the age of marriage. It is therefore necessary to check

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\begin{itemize}
  \item \footnote{18} S. 5 Child Marriage Restraint Act, 1929, As Amended upto date
  \item \footnote{19} S. 6 Child Marriage Restraint Act, 1929, As Amended upto date
  \item \footnote{20} Proviso to S-6, Child Marriage Restraint Act, 1929- As Amended upto date
  \item \footnote{21} S.7 Child Marriage Restraint Act, 1929 as Amended upto date
\end{itemize}
up whether all persons below 20 are now registered, and register all those who are not in determining the age as accurately as possible.

A further step can be taken at the time of marriage i.e. to obtain a no-objection certificate by a marriage officer, so the age could be verified before the marriage is performed and marriage should be made possible when the age and other conditions prescribed are fulfilled. The astrologers who advised the conclusion of the marriage in contravention of the Act and other abettors who now are free from worry should also be made liable to prosecution. Regarding the guilty spouses, before sentencing them to imprisonment, it would be better to order compulsory birth control of separation till the statutory age and in case of violation to order imprisonment for the remaining period.22

**Socio-economic Measures**

Penal measures are by themselves inadequate for a provision of law to be enforced. The law should have if not the public support at least common acceptance, the socio-economic conditions should be congenial for its implementation. As there are several reasons [like illiteracy, participation in agricultural activities and lower income of the girls as well as their parents] which influence lower age at marriage in India. Unless a thorough change is brought about in those conditions, it would be highly

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22 David, Annuswami: Supra note (87) p-18
difficult to enforce law with all its sincere efforts and sanctions. Suppose if any act is approved and accepted by the society and that very act is treated as an offence by law then unless by proper information the society is made to accept fully this new point of view, the severity of offence itself would be diluted and would not be accepted by the society and the law would serve no purpose. It would be difficult to enforce such law. So what is more important to implement the law and for acceptance of society is to change the socio-economic condition of the society, otherwise the social organism might develop side effect. In order to avoid such side effects it is essential that the law must contain provisions for relaxation in deserving cases by superior officer.

A study of causes of failure of present law, and the determination of classes of population where the failure is greater would suggest the much needed remedial measures. One of the most responsible factors of early marriage of girls has been found to be the taboo surrounding remarriage of widows. Gainful employment is a good safeguard against early marriage. All measures, which would tend to better employment facilities for girls deserve encouragement.

Another factor, which is found to have a direct, determining effect on the age of marriage, is literacy. It may be possible to provide school education to all girls upto 18 years, not many of them may be able to take full advantage thereof. So, after some

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23 Id. p.20
years of school education there may be a kind of part-time professional education either a few hours in the day, or few days in the week or few months in the year, during which period they could be educated in family planning and nutrition methods. Stipends are necessary to ensure regular attendance, which is an effective way of checking whether the law is being observed.

Similarly training in a new art of life should also be provided for boys. They should be made to understand that one should think of marriage only after securing independent means of subsistence for the essential needs of his future family. If the law totally prohibits marrying before getting independent means of subsistence then there would be pre-marital contacts. In such position the family planning education would prevent them from resulting to pregnancy. The present education of our girls is defence against that tendency, but that defence will crumble if the education of boys is not also oriented in the same direction.24

Raising the age of marriage implies practically raising the standard of society. In fact it can be seen that in the developed countries the age of marriage is higher than in under developed or developing countries. Thus the rise of age at marriage is outcome of over all progress. To achieve this target of raising the age of marriage is not impossible provided that there is will and determination and this can be possible by the cooperation and thinking in the right direction of all the citizen. For achieving all

24 Id. at p-21
these it is also important that the government must take active part for the betterment of society by changing the socio-economic conditions of people.

Thus the age at marriage must be increased by an appropriate legislation. In this regard it is submitted that the age at marriage for the woman should be fixed at 25 years and for the male it should be 27 years. Keeping in view of the present scenario of Indian conditions a person completes his study only upto that age or we can say that a person becomes almost established in that age. This measure will be a boon to control the population and in turn also ruled out the possibility of induced abortions.

**B. Fertility Control**

The interconnectivity between women, population and development, is emerging as powerful concern with very wide implications for the family planning programme in India. Hitherto, family planning was focused on and driven by demographic goals. In interrelating population stabilization policies to women and development, the issue has gained a new perspective and a larger dimension, which is euphemistically called ‘Beyond Family Planning’. Coined in the early 1980s. ‘Beyond Family Planning’ essentially recognizes several tangible and intangible variables that influence fertility behaviour: poverty, literacy level, age of marriage, status of women, discrimination against the girl child, son preference etc. It is only logical then that the focus be shifted
from the narrow pursuit of bringing down crude birth rates to realizing quality of life goals: by raising the overall standard of living and empowering women to redress the prevailing social and reproductive inequities they suffer.

A period of thirty-five years, between ages 15 and 50 is the time during which the women normally have their children. Although it is biologically possible for a women married at age 15 and having an uninterrupted married life for the next 35 years to have 14-15 children, yet in the modern times total fertility rarely exceeds 10 children.25

The growing concern over the rapid growth of population in India is genuine and justified in as much as the birth rate is still maintaining a level as high as 26.1 per thousand while the death rate has already declined to a level as low as 8.7 per thousand yielding an explosive situation which may affect every sector of life of the people.26 Should the current efforts to achieve reduction in fertility fail, the population problem is likely to be aggravated further in the coming years in the face of the possibility of further fall in the level of mortality. The gains achieved through economic development are generally insufficient to meet the requirements of increasing numbers. The solution of problem lies in immediate control of population, which can be achieved only through quick reduction in fertility as well as increase in production in various sectors.

26 Tenth Five Year Plan 2002-07. Vol. II. Govt. of India, Planning Commission, New Delhi p-230
Both population control and economic development have an identical aim to raise the standard of living of the people. A population policy to control fertility is seen by some to be an essential pre-requisite for economic development. Those who support this strategy may have in mind the gains of economic development currently enjoyed by the people of the developed countries under controlled and regulated population. On the other hand, others believe that changes in social structure and economic order are essential before a deliberate reduction in fertility can be achieved. Persons advocating this strategy place their entire faith in the experience of the developed countries where socio-economic development has mainly responsible for the reduction of fertility.27

Population policy to control fertility in conjunction with socio-economic development programmes appears to be the best strategy, in the existing situation which is likely to help to accelerate the pace and process of population control. Family Planning Programmes should provide necessary support to sustain this pace and process. Infact for the developing countries, comprehensive policies on both population control and socio-economic development must go hand in hand because population policies are constituent elements of socio-economic development.

policies, never substitute for them.\textsuperscript{28} India has adopted this policy and launched a direct assault on explosive population growth by introducing certain measures through National Population Policy.\textsuperscript{29}

The problems of fertility reduction are complex and difficult. Studies have indicated that motives favouring high fertility are deep rooted in socio-economic backwardness of the community. The desire to attain parenthood on the part of the couples is no doubt, universal and natural, but to produce a large number of children motivated only by the idea of son preference, which emanates from social, religious and economic considerations, is very unfortunate in the existing situation. Social evils like the dowry system encourage a preference for boys over girls, which in turn influences high fertility behaviour. Apart from this, in view of the prevailing high infant and child mortality, many couples are apprehensive of loss or have had actual loss and therefore favour a large number of children. Many sections of the population produce large number of children because for them the children are assets as they start working and earning money as soon as they attain the age of ten or even earlier.\textsuperscript{30} High fertility behaviour, however, can be controlled by promoting selective activities having fertility impact.

\textsuperscript{29} Ibid at p-11
a. Effects of Status of Woman

The status of woman is measured in relation to the status of her counterpart, which he enjoys in a given society. Moreover, the status of a woman is inextricably related with the fertility of the woman. It has been observed that if the status of woman raises they tend to have fewer number of children. Thus they can make a meaningful contribution to the society.

It hardly needs any emphasis that procreation is more actively accomplished by females than the males. Bearing children is the unique privilege and function of females. In the process of maternity females have to undergo risks of life and physical complications resulting from the biological function. Apart from the child bearing, child rearing is also almost the entire responsibility of the females. On account of these hazards of child bearing and child rearing, females themselves are not generally very keen to have a large number of children. However, since they are by and large dependant on male under bonds of emotion, and for reasons of various kinds of security, they carry out their wishes in relation to sex. In majority of cases a large family may be the result of the aggressive sexual behaviour of males. It is therefore; necessary that the socio-economic status of women in society be raised without which the desired deliberate reduction in fertility cannot be expected to be achieved.31

Women's status has been defined as, the degree of women's access to [and control over] material resources [including food, income, land and other forms of wealth] and to social resources [including knowledge, power and prestige] within the family, in the community and in society at large.\(^2\)

Since the UN conference on women was held in 1975, a debate has commenced on women's issues to enhance their status. Such issues include...equality under the law, control over their own reproductive behaviour and access to the full range of opportunities to explore their individual and collective potential. These issues may be translated in terms of needs such as legal reforms, unrestricted access to family planning information and services, and equal opportunities for education, training and employment.\(^3\) By and large these desirable changes have not taken place in the realm of status of women. The status of women is universally inferior to that of men. Even in country like Japan, which has reached the pinnacle of prosperity, women have a lower status than men. Despite relatively high educational attainment, women in Japan still face considerable discrimination in employment and promotion opportunities, wage discrimination and retirement practices. When they enter the labour force after completing their education, most women are considered only


\(^3\) Mahadevan, K. and Sumangla,M. "A Multidimensional Approach to Population Control Policy", in Fertility Policies of Asian Countries, 1989, p-34. Countires
temporary workers; lifetime employment is not expected or encouraged.\textsuperscript{34}

The condition of women in India is more miserable than that of women in Japan. Most Japanese women are literate while almost sixty percent of Indian women are illiterate.\textsuperscript{35}

Therefore women’s emancipation is an essential and first step in achieving real progress. The improved social-legal status of women with better living conditions and greater awareness has a direct impact on the acceptance of small family norm by parents.

But the main obstacle in most traditional and rural societies, as in India is that the change in the attitude of the common man is exceptionally slow. Despite social legislations enacted during the last century the attitude in the country is such that even today, especially in rural areas, a girl is looked upon as a liability, whereas a boy is welcomed as an asset.\textsuperscript{36} Women are expected to prove their faminty by pregnancy as early as possible after the marriage, women without children and those who unduly delay the delivery of first child becomes the object of ridicule and pity. A woman’s prestige in the eyes of her husband, her relatives and the community at large depends largely on the number of children, especially the sons, she bears. Although improvement has taken place in the social status of women after independence, little change has taken place in her domestic status. Women’s


\textsuperscript{36} Tandon, Usha “Population Law” (An instrument for Population Stabilization), 2003 p-30
contribution in the production activity becomes a necessity. Women do not have the authority to control their own fertility through family planning measures for several reasons. The present status of women within and outside of family seems to be a major factor for their ignorance or lack of knowledge of family planning methods. It further impedes their access to such legal means to regulate their pregnancies and even curbs their desire to do so.\textsuperscript{37}

Many studies suggest that in practice, the greater are the resources that a woman brings into her marriage relative to those of her husband the more equal her voice is likely to be in the major decision of the family.\textsuperscript{38} The factors that enhance the status of women in family and make her role more effective in population control primarily are: Age at marriage of women, her position in joint family, polygamy, education and employment facilities available to females.

Therefore, it has been emphatically stressed that unless individuals and government recognize the role of women in population increase and take action to integrate women in all facets of development, population growth may continue as women define themselves solely in terms of their child bearing and child rearing capacities.\textsuperscript{39}

Hence, government activities have to be directed towards selective promotion of the education and employment of women. Apart from this, the population policy must be so evolved that it

\textsuperscript{37} Id, at p-31
\textsuperscript{38} G. Khanna and A. Verghese, Indian Women Today, (1978)
serves the dual purposes of reduction of fertility on the one hand and reduction of maternal and infant mortality on the other. The policy on incentives and disincentives should also be selected so as to have fertility impact.40

**b. Effect of Education on Fertility**

Education is the first instrument for people who wish to tackle a social problem usually reach for. People tend to equate knowledge with virtue. If you know what is good you do what is good. There is a positive correlation between the education of couples and acceptance of a small family. It is found that knowledge of contraceptive method is positively related to higher education. It is seen that the knowledge of family planning method increases when the husband had higher education level, which in turn increases further when the wife’s educational level is higher. Thus education is a major social factor associated with women’s status that depicts a universally strong depressing influence on fertility. Most of the studies conducted in India and abroad conclusively confirm the universal importance of education in controlling fertility. Education not only reduces fertility but improves the general quality of life of people. Education of women is particularly important for population control since their involvement is greater than that of men in family formation. Unfortunately sufficient priority is not given to improve the

40 Lad, D. N. & Prasad Rudranand; Supra note (104) p-136
education of women in order to liberate them from their traditional low status to one of awareness. In this context it may be noted that the decline in fertility noted in Kerala can largely be attributed to the very high proportion of educated women.\textsuperscript{41}

In the study of fertility and family planning in Delhi Metropolis, it was found that the use of contraceptives improved with increased educational level, of husbands and wives. There was an increase in adoption of IUD's and conventional contraceptives with increased educational levels of wives, while sterilization was more popular among illiterates or couples with low education.\textsuperscript{42}

The Third All India Family Planning Survey showed that average number of children born to couples with illiterate wives was 3.41 as compared to 2.01 children to couples with wives who had studied upto metric.\textsuperscript{43}

The educational levels of respondents are also found to be significantly related to the adoption of contraceptives. A study conducted in Kerala to study the anomaly of fertility decline revealed that the average number of children ever born was lower for better educated than for illiterates. It was found to be 2.1 for women with 10 or more years of schooling and 4.5 women

\textsuperscript{42} Jolly, K. G. "A Study on Fertility and Family Planning in Delhi Metropolis". Population Research Centre, Institute of Economic Growth, (1987)
\textsuperscript{43} ORG, 3\textsuperscript{rd} All India Family Planning Survey, (1990)
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Thus a high level of formal education is ordinarily associated with low fertility. Education is universally recognized as one of the important determinants of fertility. It influences fertility behaviour to a considerable extent. Male education too is very important, but female education is still more so far fertility reduction. The spread of education amongst females may not only help to clear the mist of ignorance but will also develop employment opportunities for them which may lead to a shift from indoor household activities to outdoor engagements. This would increase the earning of family and apart from this, it may help to develop the attitude of prudence and foresight enhancing the awareness that uncontrolled and unregulated fertility impedes not only good living but a source of danger to health as well.45

Therefore, we should concentrate much more than we have been doing on female literacy. Because there is a very close co relationship between fertility and female literacy, when literacy goes up, the fertility goes down. This fact is well established now that it is well known throughout the world. Education influences fertility rates of women significantly. The total fertility rate (TFR) reduces with level of education. The National Family Health Survey-2 has registered range of total fertility rate between 1.99 and 3.47 between those who have completed education upto high

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school or above and illiterates. The mean number of children ever born to ever married women in the age group 40 – 49 years also reduces with education from 4.98 to 2.66. The total fertility rate, and the mean number of children ever born are all higher for rural women compared to urban women as the former attain comparatively lower levels of education than the later.

Table 2
Fertility by Background Characteristics (Total fertility rate for the three years preceding the survey and mean number of children ever born to ever married women age 40 – 49, India, 1998-99)

<table>
<thead>
<tr>
<th>Background characteristic</th>
<th>Total fertility rate</th>
<th>Mean number of children ever born to ever married women age 40 – 49 years</th>
</tr>
</thead>
<tbody>
<tr>
<td>Residence</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Urban</td>
<td>2.27</td>
<td>3.78</td>
</tr>
<tr>
<td>Rural</td>
<td>3.07</td>
<td>4.73</td>
</tr>
<tr>
<td>Education</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Illiterate</td>
<td>3.47</td>
<td>4.98</td>
</tr>
<tr>
<td>Literate, &lt; middle school complete</td>
<td>2.64</td>
<td>4.06</td>
</tr>
<tr>
<td>Middle school complete</td>
<td>2.26</td>
<td>3.41</td>
</tr>
<tr>
<td>High school complete</td>
<td>1.99</td>
<td>2.66</td>
</tr>
</tbody>
</table>

Source: International Institute for Population Sciences, National Family Health Survey (NFHS-2), 198-99, INDIA.
Abortion: Some Social Issues

Therefore, women must be associated at all levels in any family planning or population control programme. As long as they are simply looked upon as appendages, invariably high birth rates are bound to be there. Once society accepts the women as co-partners, and they are given equal status and equal opportunity, this problem to large extent can be taken care of.\footnote{Singh, Karan: "Population, The Forgotten Factor". The Indian Journal of Public Administration, Vol. XXXVIII. July – Sep. 1992. No. 3, p-01}

Thus the education and fertility shows a close relationship because of the following reasons:

a) Educated women are quite conscious of having a limited family size;

b) At an age when there is very bright chances of having good fertility, the girls are in the colleges and university and thus do not get children which during this period uneducated girls get;

c) In many cases educated women get employed and with employment they can not afford to have more children;

d) Span of child producing time in the case of educated women is much less, as compared with illiterate women.

Thus there are a very distinct co-relation between the education and employment of women on one hand, and the very small family pattern on the other.

It has been very clear that the education of women is of primary importance in relation to family size and that even a
primary school level of education has a significant impact in the developing countries. It is also clear that education and employment together, and to a certain extent even just employment outside the home as such have a strong influence on the family size.

In poor families one of the arguments against the small family size is the question of social security; parents need their children in order to have supports in old age. Since the mortality rate in poorer families remains high, they are of the opinion that there must be many children, especially sons, in order to be sure that some of them will survive.

If women have their own income, it also means social security for which children are not needed anymore. On the other hand, it will be more difficult to combine work at home and outside of it; if women appreciate their own independent income, they may not want to create large families.

Economic independence gives, however, a better possibility for equality in decision-making within the family. This independence and a smaller family also make the participations in the whole life of the society easier for women and give them opportunities for decision making in the community as well. In order to promote the equality between men and women inspite of the biological difference and in order to give them a better opportunity to exercise their human right in deciding the number

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and spacing of their children, certain legal measures are necessary. But the legal provisions for equality would be having a little effect, unless the same are implemented in practice and equal opportunities are offered for the exercise of these rights.

Until now women have been deprived of various opportunities, as their main contribution to the development of the society has been seen in their mother's role. With the longer life span and fewer children, the importance of this role will continue to diminish as compared with the potentialities, which women have for contribution in other field as well.48

c. Effect of Education on Child Mortality

Educating female is one of the important factors to control population growth. The studies show that child mortality is far less in educated mother than an uneducated. The level of mother's education significantly influences infant and child mortality. The National Family Health Survey-2 (NFHS)-2 brings out that overall infant mortality rate declines sharply with increasing education of mother. It ranges between a high of 87 deaths per thousand live births for illiterate mothers to a low of 33 deaths per thousand live births for mothers who have at least completed high school. Mother's education also brings down post-neonatal and child mortality. It can be seen from the following statement that

48 Id. at p-57
"educational level of mother has a very strong influence in reducing the child mortality". 49

**Table 3**

Infant, child and under five mortality by Educational level of Mother: INDIA 1998-99.

<table>
<thead>
<tr>
<th>Mother's education</th>
<th>Infant Mortality</th>
<th>Child Mortality</th>
<th>Under Five Mortality</th>
</tr>
</thead>
<tbody>
<tr>
<td>Illiterate</td>
<td>86.5</td>
<td>39.7</td>
<td>122.8</td>
</tr>
<tr>
<td>Literate, below middle</td>
<td>58.5</td>
<td>18.4</td>
<td>75.8</td>
</tr>
<tr>
<td>Middle but below High school</td>
<td>48.1</td>
<td>10.5</td>
<td>58.1</td>
</tr>
<tr>
<td>High School and above</td>
<td>32.8</td>
<td>4.4</td>
<td>37.1</td>
</tr>
</tbody>
</table>

Source: International Institute for Population Sciences, National Family Health Survey (NFHS-2) 1998-99: India

The above figures show that the infant mortality, child mortality and under five mortality is about three, eight and three times respectively, higher among illiterate mothers as compared to high school and above mothers. There is a very large difference even between illiterate and literate but below middle mothers. Of course this does not mean that education alone is the sole factor for reducing child mortality. In our country only those women

whose families are economically better off can afford a better level of education. In such families, apart from higher standard of living the status of women is always better. In other words, the higher education level for women in Indian condition imply a mix of large number of factors which would individually also lower the child mortality levels.

d. Fertility by Age

Birth rate has a very close relationship with the duration of married life and also the age at which the couple marries. Usually when the span is greater, the birth rate should be high. There is sufficient evidence in India that those females, who marry late, especially after the age of 19, have a lower fertility than those who marry earlier. Since age at which females in India marry is low, they also begin bearing children at a low age. An average Indian women has her first child by the age of 19, her second and third child while her age is between 20 and 24 years, her fourth and fifth child while her age is between 25 and 29 years, and her sixth child while she is of age 30–34. This means that Indian women begins building their families while they are in age group of 15 – 19, and their family building speed, which is slow in this age group suddenly accelerates and remains uniformly high for the next 15 years.

Figures in Table 4 show the rate of fertility at different age group. It clearly establishes that the lower the age at marriage
fertility rate would be the higher. To control the population growth the government took the positive step by enacting laws to raise the age at marriage.

**Table 4**

No. of children according to wife’s Age$^{50}$

<table>
<thead>
<tr>
<th>Wife’s age at effective Marriage</th>
<th>No. of children Born to a couple</th>
</tr>
</thead>
<tbody>
<tr>
<td>Below 16</td>
<td>3.8</td>
</tr>
<tr>
<td>16 – 18</td>
<td>3.3</td>
</tr>
<tr>
<td>18 – 20</td>
<td>3.1</td>
</tr>
<tr>
<td>20 – 22</td>
<td>3.4</td>
</tr>
<tr>
<td>22 – 24</td>
<td>2.5</td>
</tr>
<tr>
<td>24 – 26</td>
<td>3.2</td>
</tr>
<tr>
<td>26 – 28</td>
<td>1.7</td>
</tr>
<tr>
<td>30+</td>
<td>1.0</td>
</tr>
</tbody>
</table>

The statement above show that usually those women who get married at an early age have high fertility rate than those get married at comparatively at an advance age. When the girls marry early, the chances of producing more children are quite obvious, consequently increases fertility.

$^{50}$ Hans Raj, Fundamentals of Demography Population Studies with Special Reference to India, 203, p-86
e. Infant Mortality and Fertility

Fertility and mortality are two important factors, which are responsible for the growth of Indian population.\(^{51}\) The infant mortality rate IMR, [probability of death in the first year of life] is considered to be a fairly sensitive condition of health of a country. It is affected by both biological and environmental conditions. Though it is difficult to control biological [endogenous] causes of infant deaths, the environmental [exogenous] causes, like nutritional and pre-natal care, sanitary conditions, control of diseases to which infants are highly prone, etc, can be controlled, and this reflects the health measures undertaken by community and other agencies.\(^{52}\)

At the heart of early version of the grant generalization known as the demographic transition is the suggestion that mortality decline precedes fertility decline. Notestien, for example has observed, ... before any of the underdeveloped countries can effectively spread the practice of family limitation, they must have reasonably well developed services in maternal and child health. Better health and improved chances of the individual lie at the root of the motivational change we are seeking, the failure of birth rates to fall in other parts of the world clearly turns less on lack of effective means than on the absence of strong motivation.\(^{53}\)

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51 India country Statement: International Conference on population and Development, Cairo, 1994, Department of Family Welfare, Government of India, p-51
This overarching generalisation has led many to the conclusion that a substantive decline in mortality and especially in infant mortality must be pre-conditions for changes in fertility behaviour. Since many children die at a very young age. For example one out of five children die before reaching the age of one in some part of Africa and one out of seven in much of Bangladesh, India and Pakistan – the incentive to have many babies to ensure that a few survive is very great.

**Table 5**

Infant Mortality Rate in India 1921 – 2000

<table>
<thead>
<tr>
<th>Year</th>
<th>Infant Mortality Rate$^54$</th>
</tr>
</thead>
<tbody>
<tr>
<td>1921</td>
<td>235</td>
</tr>
<tr>
<td>1930</td>
<td>174</td>
</tr>
<tr>
<td>1940</td>
<td>173</td>
</tr>
<tr>
<td>1950</td>
<td>161</td>
</tr>
<tr>
<td>1960</td>
<td>134</td>
</tr>
<tr>
<td>1970</td>
<td>129</td>
</tr>
<tr>
<td>1980</td>
<td>114</td>
</tr>
<tr>
<td>1990</td>
<td>80</td>
</tr>
<tr>
<td>2000 (NFHS-2)*</td>
<td>68</td>
</tr>
</tbody>
</table>


$^54$ Economic Survey 1992-93, Govt. of India, Ministry of Finance, Economic Development, p-199
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If this assumption is true, empirically and cross culturally, we may have to give higher priority to controlling mortality in order to minimize human wastage and to ultimately control fertility through the manipulation of mortality. Therefore three explanations have been advanced to explain their relationship.

I. The death of a child shortens the amenorrhoea associated with lactation and may thereby increase fecundity and shorten intervals between two consecutive births. For instance, the death of the infant of a lactating mother has the important effect of shortening the period of post-partum amenorrhea, thus increase the probability of a conception. However, according to Preston (1978), this effect is not based on empirical evidence.

II. A second explanation is that the parents are motivated to have additional babies to replace those lost. This is called the “replacement effect”.

III. The third and most extensively held view is that parents do not limit their children until they are reasonably sure that a sufficient number of children will survive the adulthood. This is called the ‘Insurance effect’.

According to a recent nationwide study conducted in

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55 Fecundity is a biological potential which is the physiological capacity to participate in reproduction. The absence of this potential is known as infecundity or sterility.

India, these factors are pro-natalistic in high mortality states.  

Since, infant and child mortality is relatively high in India therefore couples may desire to have more children than they really want in order to ensure that the desired number of children, especially sons survive. The incidence of infant and child mortality is believed to exert heavy influence on completed family size and is expected that community with high infant mortality have high fertility to ensure survival of at least some children born to them.

Thus in the face of high mortality, parents who want to assure that a tangible number of their children survive to adulthood will have to give birth to more children than they might otherwise want. In view of the overwhelming number of studies that do show the existence of a relationship between mortality and fertility, there is sufficient justification to formulate policies and programmes which will reassure parents of the survival chances of infants and children in order to control fertility.

The problem of infant and childhood mortality is a major menace not only in India but also in most developing countries. It is not so in socialist nations and other developed countries. Children form 40 to 45 percent of the total population in most of the developing countries, including India, and their proportion has


Tandon, Usha: Population Law, Op cit. p-32

remained at more or less the same. This is because of the high fertility on the one hand, and decline on the mortality on the other.

The major factors contributing to infant and child mortality warrant attention. These life affecting ‘imminent variables’ are only a few and include care during conception and pregnancy, prenatal period for mother and babies, child care during socialization, including ignorance abuse and non-utilisation of proper medical care, nutrition efficiency, improper breast feeding, infanticide etc. The absence or poor education of mothers lead to all these factors, which act as a deterrent to child survival and development.

The preceding theoretical confirmation of the influence of mortality on fertility warrants extensive and imaginative policies and programme to control these determinants of mortality and dispel the fear of parents about the likely loss of their children in future. This will do away with the need to have more children in order to compensate those lost. Thus by controlling the child or infant mortality we can achieve the very purpose of controlling the fertility to control population growth. Since child survival is a determinant of fertility. Unless child survival is assured, a part of the pronatalist influence now operating in the form of the mortality of children cannot be controlled to the advantage of a small family norm.

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60 Sectoral Programme of Development, Eighth Five Year Plan (1992-97), Govt. of India, Planning Commission, New Delhi, p-332.
C. Population Policy on Spacing

In the absence of any motivation for fertility control on the part of couples, a smaller interlive birth-interval is always favourable for high fertility and also gives rise to high maternal and infant mortality. On the other hand, under the same conditions, a larger interval implies low fertility and is favourable for low maternal and infant mortality. As such, a policy for larger spacing between consecutive births is likely to serve the dual purposes of fertility reduction on the one hand and reduction of maternal and infant mortality on the other. It appears, therefore, to be a reasonable proposition to convert the existing voluntary average spacing of two to three years between consecutive births into a compulsory interlive birth spacing of four to five years as "some personal rights have to be kept in abeyance for the human rights of the nation-the right to live the right to progress".61

This is likely to produce quick impact on fertility as well as maternal and infant mortality. Of course the programmes for maternal and child health care and fertility reduction already underway should continue undisturbed. Any policy in this context would not involve additional government machinery to implement the decision because eligible couple registers with the requisite information are already being maintained at the gross roots level under the family planning programme of the government.62

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62 Lal, D. N. and Prasad, Rudranand Supra note, (104) p-143.
D. Policy for Elderly People

In India, sons have traditionally performed certain roles for their families and particularly for their parents. Despite modernization and urbanization, the importance of these traditional functions has not undergone much change. They provide financial and emotional security to the aged parents particularly to perform funeral rites. Besides this there are several other cultural and economic services, which are performed by sons. These roles have together contributed to the existing value attached to sons in many societies. The value attached to son significantly increases fertility. Couples continue to have large families primarily to get the desired number of sons. Many dimension of value have been identified for the preference shown to sons as:

- they are economic support during old age,
- better economic value to the family,
- receiving dowry,
- salvation of parents,
- continuity of family lineage,
- other family obligations,
- to inherit family property,
- for status,
- company for other children and parents, and

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- physical force for power.64

No study has so far questioned the existence of these values in developing countries. However, certain studies have not demonstrated the strong association between the preference for sons as security in old age and the fertility behaviour of the parents. There are reasons for that a direct linkage between reproductive motivation and old age security is difficult to demonstrate because of the long interval between fertility decisions and security received from sons in old age. Since the value of sons based on old age security is a qualitative variable with several diverse dimensions it may not show any statistical correlation, though many studies have observed its relevance. Because of the qualitative nature of the concept of old age security, it is not easy to understand the well-known importance of old age security as a major policy for natality control.65

The importance of old age security as a major determinant for peasant and poor families is a well-established proposition, though in higher income groups and in developed countries it is not equally important. However, even in developed country like Japan most parents live with their children for whom providing security to their aged parents is a norm.66

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66 Mahadevan K. and Sumangala, M. :“A Multidimensional Approach to Population Control Policy, Supra note, 110, p-37.
The UN also gave much importance on elderly person in its *Maxico* conference of 1984. The 1982 World Conference on Aging directed attention to the initiation of policies and programmes for elderly couples. Other policies for the general well-being of the elderly are also equally important. For instance, if the state assures couples certain financial, health and other social security measures for their old age if they stop with two children regardless of whether or not they have sons, it will motivate couples to control fertility.\(^{67}\)

These finding confirm that certain policies and programmes have to be formulated as fertility control measures. Although the old people are outside the purview of current fertility, the provision of policies and programmes for them will help shift the present dependence on sons for old age security to other forms of security. Hence population policy will not be complete without initiating suitable policies for the elderly. In view of the above, certain aspects may be highlighted for considerations. A policy to provide old age pension to all the poor, landless and marginal farmers on the condition that they stop at two children should be contemplated. For labourers and upper middle classes in the organized sector, certain incentives—tax reduction, priority in allotment of houses, house loans, loans for developing properties and business were introduced to encourage people to accept family

\(^{67}\) *Id.* p-38
planning and limit their family size. This measures, may prove to be a boon for future population control.

Under the present population control strategy, many courses are possible which have been discussed above. These conditions or policies are, a policy on compulsory spacing, a policy for raising the age at marriage, measures for the improvement of the lot of females through improved education facilities, policies of controlling infant mortality and social security for elderly people.68

E. Preference for Son

Sage Baudhyana declared, “through a son one conquers the world, through a grand son one obtains immortality and through great grand son one ascends to the highest heaven.”69

Preference for the male child has its main basis on a Hindu myth that declares that a person’s soul is liberated only when a son performs the last death rites. In the tradition bound Indian society with a dominant Hindu population, the birth of a male child in the present life is considered a pre-requisite for an entry into Heaven in the next life. Fascination of the majority of population with having male children to carry on the lineage is also coupled with the fact that males tend to bring in dowry at the time of marriage, improving the family finances.

68 Id. p-39
69 Baudhyana II: 16
Almost all pre-historic civilizations including that of Indus valley worshipped female Goddesses. Agriculture has been discovered by the females, remained for long their exclusive occupation. It resulted in a economic and social supremacy of the females in the primitive agrarian societies. This social supremacy gradually shifted to the males in those societies who adopted pastoral economy as it depended more on physical endowments. The influx of Indo-European Aryans into the Indian subcontinent began around 1500 BC. The Aryans had pastoral economy, followed patriarchal system, though their females had high social status. Around that time, the Indus valley civilization had more or less disintegrated and the local populations consisted primarily of primitive agrarian societies or tribals with usually female dominance or matriarchal system.

The Aryans, in order to prevent the socio cultural impact of the native system of female-supremacy on their male-supreme patriarchal system, initiated a series of social, cultural and religious measures to aculturalise the natives. These measures, spread over several centuries, ensured complete unchallenged supremacy of Aryans over the locals. Such measures that ensured strict social-hierarchy in the society led to steep reduction in the social status of females. These measures included introduction of the “Caste system” known as “Varna System”. These periods saw the initiation of several types of rituals and religious ceremonies;

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70 Chattopadhyaya, D. Lokayata: A Study in Ancient Indian Materialism. (1973) People’s Publishing House New Delhi-INDIA
emergence of several new Gods and dominance of the Brahminical cult. The working classes, which primarily consisted of the locals, were reduced to untouchables. The females and untouchables were considered equivalent for several religious and ritualistic ceremonies. This equivalency lead to the significant down gradation of the status of females. In many ritualistic ceremonies, especially in "Tantrik meditations", the status of the female was reduced to the level of sex object only. This was continuous process of cultural transformation, supported by strong religious sanctions, hammering in continuously over centuries—that females are inferior.\(^{71}\)

The first cultural revolt against the complexities and ritualistic culture of the Aryans was the emergence of two new religions around 600 BC. – Jainism and Budhism. Both these religion flourished at the cost of Vedic religion. It was during this period that the famous scripts like Manusamiriti and Bhagwadgita are believed to have been written. "Manusamiriti" accorded the required legal sanctity to strict caste hierarchy and female subordination. It placed numerous restrictions on the females and the sphere of their action was limited to four walls of the home only. The sole purpose of the female’s existence was legally limited to serving the males only.\(^{72}\)

\(^{71}\) Ibid
"Manusamriti" (200 BC–400 AD): The foundation of whole orthodox system of Hindu law says:

“When creating females, the creator allotted to women a love of bed, of their dishonesty, malice and bad conduct”

“Nothing must be done independently by a woman even in her own house”

“A wife may be superseded by another wife if she is bearing daughters only.”

During 300 – 600 A.D. the period of “Gupta dynasty” saw the revival of a highly ritualistic society. Again the female subordination was advocated; and female-down-gradation, was at its peak around 700 A.D., when “Sati” doctrine became the norm. In ‘Sati’ ceremony a widow is supposed to burn herself alive with her dead husband to achieve salvation. The process of rejuvenation of Aryan values or Brahminical cult continued upto 1000 – 1300 AD.

Another round of cultural revolt, with base amongst the working classes, was the emergence of “Nath” and “Sidh” philosophy during 1000 – 1300 AD and the Bhakti movement around 1200 – 1500 AD. All of them denounced the caste system and gave exalted position to the females. Another attempt of revival of Brahminical cult, where the females are downgraded, is obvious from the works of Tulsidas (around 1600 AD)

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73 Ibid

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who compared women with lowly born and animals.⁷⁴

Presently, the vulgar exposure of female nudity in the film songs and advertisements highlight the females, as only sex symbols. Naturally, the subtle massage that impregnates the young mind is – supremacy of the males and in build subordination of females.

India thus had a society in which the sole objective of the female’s life – which was religiously, socially and culturally accepted was to serve her husband, to give birth to his sons and to look after his sons. This system ensured that generation after generation and century after century the females would continue to serve the males with utmost sincerity and while doing so also fed privileged.

Apart from the Hindu myth about the superiority of males, the terrible dowry system is also taking its toll on the women of India. The low status of Indian women makes them inferior to the males in the marriage market. Parents fear the birth of a girl, as a dowry has to be arranged for at the time of marriage, and a suitable alliance can cripple the family, economically. Dowry crimes and sexual abuse are the commonest forms of violence against women in Indian society. The higher the social status of family the more is the dowry demanded.⁷⁵

In most families the first child is usually welcomed with joy

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if it is boy, with sad acceptance it is a girl. It is the second female child who has to face an early death. The son’s preference over the daughter is so much so that, it leads to female foeticide by selecting the sex (female) of an unborn child in the mother’s womb.

Gender selection is carried out at different stages. In post conception stage the gender selection can be carried out by Chorionic Villous biopsy, Ultrasonography and Amniocentesis. While these methods are usually used to assess the health of the foetus or the presence of any inherited diseases, they can also identify the sex of the unborn baby. In India where medical termination of pregnancy is legally available on patient’s request, an abortion can easily be carried out. A January 2001 report of the Indian Medical Associations “Family Medicine India “ Journal, says that an estimated five million female foeticides are carried out in the country every year.

These above mentioned factor contributed to the decrease in the female sex ratio from 972 in 1901 to 933 in 2001 As revealed in the Census Report, 2001, which has brought into focus the terrible practice of female foeticide in India today.76

Thus, the prenatal sex determination on commercial basis, followed by selective female foeticide under the Medical Termination of Pregnancy Act’s permissible limit can not be

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checked, unless concerted efforts are made:

i) To break the existing caste system;

ii) To abolish the dowry menace;

iii) To bring in the cultural consciousness highlighting the importance of female as equal partners; and

iv) Reservation of seats for women in local administration bodies can empower women;

v) Enforceable property rights;

vi) Alimony and widow pensions;

vii) Wages equal to men and no discrimination in employment, and

viii) To stop the medievalisation of the present generation, the desire for a male child would continue to perpetuate in India.