

GENDER VIOLENCE AND LEGAL FRAMEWORKS IN INDIA: THE STORY OF SEX SELECTION

Bijayalaxmi Nanda

Introduction

"It is not my intention to distress your dear heart or to cause a rift in our love by raking old memoriesIn our society for centuries there has been no legal restraint between husband and wife, and if it exists, it works against women! Such being the case, I had no recourse but to allow you to hit me with chairs and bear it with equanimity. A Hindu wife has no right to utter a word or to advise her husband. On the contrary, she has a right to allow her husband to do what he wishes, and to keep quiet. Every Hindu can, with advantage learn patience from his wife".¹

These lines from a letter written by one of India's first woman doctors and feminist foremother Anandibai Joshee to her husband Gopalrao Joshee, reveal the tenuous relationship between the patriarchal order of society, laws and women. Writing as far back as 1884 Anandibai raises two very significant points about gender violence. The first point that she raises is the normalizing of the everyday violence that women face and suffer in silence and the second is the question of the lack of laws to address this form of violence against women. The interrogation of the State and society regarding the position and status of women in India continues to be framed around Anandibai's questions about gender violence and the general lack of protective and progressive legal frameworks.

The ubiquity of gender violence and the lack and necessity of progressive laws to address it has been the primary focus of the women's movement in India, especially since the 1970s. While it would be wrong to view the women's movement in India as a monolithic whole, the engagement with framing laws and holding the State accountable for addressing violence against women in society has been a common feature of the multiple variants of feminist activism and women's movements in India. The dowry murder of Tarvinder Kaur in 1979, the custodial rape of Mathura a few years earlier, the gang-rape of a *sathin* (rural social worker) Bhanwari Devi a few years later, the immolation of Roop Kanwar in 1987, the rise of sex selective abortion from the 1970s onwards and the increase in the trafficking of young girls for coerced polyandry or for sexual exploitation from the 1980s onwards, became rallying points for the women's movement in India to pressurise the State for progressive and protective legal frameworks.

The resulting legislations may not have led to significant changes in the ground realities but to a certain extent it has led to a limited recognition of the prevalence of gender violence in India. The social and cultural acceptance of gender violence as

normal and everyday has come to be at least 'mildly questioned' and a persistent women's movement continues to push the envelope further. Pointing out to the importance of laws in addressing gender violence, Ratna Kapur says, "Feminist engagement with law can be seen as an effort to transform the meaning of equality, gender and gender difference. It is part of an effort to challenge dominant meanings, and the construction of women therein and supplant these meanings with alternative visions about women's roles and identities in the world. Law's role should be reconceptualised as including one of process. It may be the process of engaging with law - of litigation, of law reform, of legal literacy - that will offer the most to feminist struggles, and that may be able to most empower women Law remains an important site of struggle. Law has been and can continue to be a site of discursive struggle with a subversive potential.... It is a terrain of contested meanings, where the women's movement has won important victories, particularly in condemning violence against women. Campaigns for law reform have provided opportunities for women to raise public awareness about issues that were previously unrecognised and/or simply accepted as a natural, unspoken part of life."²

In this essay one specific form of gender violence will be discussed with an attempt to understand the complexity, the contradictions and the challenges in addressing gender violence through laws. The methodology to understand the issue of gender violence by feminists has been the life-cycle approach. Popularly termed as violence from the womb to the tomb, the various forms of gender violence are chronologically arranged in terms of the stages of life of a woman beginning with sex selection/sex selective abortion to female infanticide, child marriage, child abuse, trafficking, domestic violence, dowry harassment and murder, rape, sexual harassment, and ending with old age abuse. This essay will be mainly examining the idea of sex selection as gender violence and the law - the PCPNDT Act which addresses it. The definition and nature of gender violence, the revisiting of the public-private divide and the critical examination of the close interactions and transactions between the women's movement and the State on this will endeavour to explore the possibilities and potentialities of countering gender violence through laws.

DEFINITION, NATURE AND EXTENT OF GENDER VIOLENCE

Put simply, violence refers to acts of aggression or intimidation, the use of force or the threat of the use of force which has both physical and mental consequences for the victim. Sangari situates this in the context of gender violence. "Violence is a foundational and systemic feature of all contemporary patriarchies. Women's consent to patriarchies is often an effect of the anticipation of violence, or the guarantee of violence in the last instance - to ensure obedience, inculcate submission, punish transgression."³ The wide definition of violence finds resonance in a hierarchical society based on exploitative gender relations. It often becomes a tool to socialise family members according to prescribed norms of behaviour within an overall perspective of male dominance and control. The family and its operational unit, the

household, are the sites where oppression and deprivation of individual psyches and physical selves are a part of the structures of acquiescence; often enough, those being moulded into an acceptance of submission and denial are in-marrying women and children. Physical violence, as well as less explicit forms of aggression are used as methods to ensure obedience.⁴

Gender violence has been the subject of numerous studies and writings. Sexual harassment, rape, female infanticide, dowry harassment have been extensively discussed (Flavia Agnes 1988, Veena Talwar Oldenberg 2005, Menon 2004, Sunder Rajan 1993, 2006, Coomarswamy and Perera –Rajasingham 2008). Communal violence, the Partition and the ensuing violence on women have been innovatively examined through narratives and archival research (Sarkar and Butalia 1995, Bhasin and Menon 1993, Datta 2009). The nature and extent of gender violence needs to take account of the class, caste and gender interconnections. Feminist engagement with gender violence and laws thus strive to examine the ways in which women in their different contexts and communities face violence in different and multiple ways. A woman may experience violence on the basis of her gender and caste, class and gender or religion or gender or age at the same time. The form and extent of violence gets exacerbated in such situations. Sexual violence in the form of harassment, molestation and rape is both lateral, that is, directed at girl children and women of apparently the same class, and vertical, that is, directed at women 'below.' Both forms of violence are often committed by proximate familiar persons, and can involve more than one aggressor and varying degrees of premeditation. Vertical violence as Sangari points out is based on blatant class and caste inequality and involves material issues of property and labour. This often takes the form of gang rapes by higher class/caste men. Poor lower caste women have been punished in their own right for being too assertive, for demanding higher wages, for claiming their right to land. They have also been treated as metonyms for their caste group. Lower caste women have been publicly shamed, stripped and paraded, or raped by upper or intermediary caste landowners to punish dalit men as a group.⁵ Women from minority communities may also face this form of multiple violence from the male members from the majority communities. The violence is also laterally present in their lives from men of their own communities. Instances of community justice in certain regions and castes also provide examples of such lateral violence when women are 'punished' with murder by their caste panchayats for transgressing boundaries by marrying men of other castes (Choudhry 2008). Popularly referred to as honour killings, the orchestrated brutal murders of women by the order of their 'caste' or Khap panchayats reveals the entrenched and pervasive nature of gender violence in India.

The discourse of domestic violence which was earlier normalised as personal and private has been brought to the forefront of discussions of gender violence by the women's movement. A sustained campaign and a rigorous exercise of lobbying for a law with detailed preparations of drafts addressing each and every aspect of the intersectionality of the issue led to the Protection of Women against Domestic Violence Act 2005. The Act which is quite comprehensive and a marked improvement from its

earlier drafts defines domestic violence in terms of not only abuse but also the threat of abuse. It covers all those women who are in or have shared a relationship with the abuser, and where both parties have lived together in a shared household and are related by consanguinity, marriage or adoption. The Act seeks to cover single women or women living with the abuser. It goes beyond the patriarchal norms of defining relationships only under natal and marital considerations. Violence against elderly women and children, which were hardly perceived as instances of domestic violence, come to be covered under the Act. A creative gender sensitive interpretation of the Act has the potentiality to address a range of gender violence present in India.

While the intersectionality of class, caste, region, community and gender in understanding violence is significant, it is essential to note that while forms of violence may differ, all women experience violence in their lives irrespective of their distinctions. Women from 'upwardly mobile classes' may be targeted by men from their own class and community for their so called 'westernised dressing, life-styles and value systems. Recent male mob violence against women visiting pubs in Mangalore and Bangalore is a striking example of public violence against 'upwardly mobile' women. The feminist understanding had until now perceived gender violence as having a public face for women from marginalised classes and communities while viewing the violence against women of upper and middle class as having a more subtle and private face. This shifting and changing nature of gender violence reveals the need for a sustained engagement with the issue.

The National Crime Record Bureau in its 2007 report has stated that the proportion of IPC crimes committed against women towards total IPC crimes has increased during last 5 years from 7.6% in 2003 to 8.8% during 2007. The crime incidence rate has increased from 1,64,765 in 2006 to 1,85,312 in 2007. The life cycle approach to gender violence brings to the forefront a range and gamut of violence in the life cycle of women starting from their birth to their death in the form of sex selection, female infanticide, sexual violence, abuse in childhood and old age and the like. Here the discussion is around the issue of sex selection and an examination of the legislation to counter and prevent it. This is by no means an exhaustive study of all laws concerned with gender violence in India. The idea here is to look at how the issues have been contextualised through this specific example and to understand the historical and contextual manner of framing laws. This may prove crucial to develop a central insight to the larger question of gender violence and legal frameworks.

SEX SELECTION AS GENDER VIOLENCE

With the advent of reproductive technologies that made it possible to detect the sex of a foetus, a new method of violence and discrimination against girls and women came to exist in India. Availability of these technologies and their promotion as tools for sex selection led to a declining sex ratio favouring the male. A predominantly patriarchal society which thrived on son preference and had selectively eliminated

female infants through a practice of female infanticide (in certain communities in India) took very easily to sex selection. Daughter dispreference or daughter aversion in India was clearly noted in the practice of sex selection. Studies and writings on the issue (Miller 1988, Bardhan 1974 & 1982, Sen 1990, Agnihotri 2000, Patel 2006, Visaria 2004) have brought to the forefront the misuse of reproductive technologies to eliminate female foetuses. The declining child sex ratio (0 – 6 years) from 1981 onwards stands testimony to the fact – 971 in 1981, 945 in 1991 and 927 in 2001. This decline which has been noted in the two decennial censuses is indicative of the misuse of reproductive technologies leading to sex selection.

The women's movement in India here has taken great pains to develop a critique of modernity along with a critique of traditional values, so that both modernity and the feudal aspects of Indian society are held responsible for subjugating women⁶. There are two overlapping arguments that emerged from the women's movement concerning the issue of sex selection: (1) The manifestation of sex selection is an extreme form of discrimination against women and girls where girls are not even being allowed to be born; and (2) sex selection is a form of gender violence where through the misuse of reproductive technologies female foetuses are selectively eliminated with grave and devastating consequences for the pregnant woman's mental and physical health.

These arguments also needed to be qualified by the women's movement by emphasising on the distinction between the right to abortion and the issue of sex selection. Abortion rights have been central to feminist campaigns all over the world. In the West the right to abortion is seen as a right to choice of individuals which is non-negotiable under all circumstances. In India the right to abortion for women is a limited right under the Medical Termination of Pregnancy Act 1971. According to a rich and insightful study done by Menon, the Act was passed in 1971 quite independently of the women's movement. The declared objectives of the Bill when it was introduced in Parliament were, (a) humanitarian (to help the 'unfortunate women' who are the 'victims of forcible sexual acts; (b) health (we should be sympathetic to those who become pregnant because of failure of contraception); and (c) eugenic (to reduce the risk of 'crippled' children). She adds that the real objective was clearly family planning.⁷ India's population policy has always been antithetical to women's and people's rights by using coercive methods like targeted sterilization in order to control numbers (Rao 2001, Visaria 2006, Buch 2006, Nanda 2002). The ready and unanimous acceptance of abortion as a limited right has been in this context. Irrespective of a National Population Policy (NPP) in 2000 emphasising on unmet needs of contraception, reproductive rights of women and a stabilization of population by democratic and rights based methods, a blinkered approach to controlling numbers by imposition of a two child norm continues.⁸

Abortion also continues to be widely used for purposes of family planning and sex selection while the access to safe abortion services remain limited for a large number of women especially from the marginalised groups (Visaria and Ramachandran 2007). The women's movement remains on a slippery terrain here. The practice of

sex selection makes it imperative for the movement to emphasise on the prevention and regulation of sex determination and sex selective abortion while upholding the need and right to safe abortion under conditions which are legal and ethical. This legal sanction for abortion in India may not be steeped in feminist principles but has been appropriated by the women's movement for purposes of expanding women's rights under the existing circumstances.

It was in 1975 with the report of the Committee on the Status of Women in India: Towards Equality, that the issue of the declining sex ratio as an indicator of the status of women was brought into public discourse. Mazumdar points out "for the Committee on the Status of Women in India, the declining sex ratio was both a discovery and the most convincing measure to provide body and substance to its grim findings".⁹ It was around the same time that amniocentesis was introduced in All India Institute of Medical Sciences in Delhi. The test which was mainly to detect congenital abnormalities came to be misused for the purpose of sex determination leading to sex selective abortion. A sample survey of amniocentesis in AIIMS to find out about foetal genetic conditions managed to enrol 11000 pregnant women as volunteers for its research (Mazumdar 1994). The main interest of these volunteers was to know the sex of these fetuses. Once the results were out, those volunteers who were told they were carrying female fetuses expressed the desire for an abortion (Chhachhi and Satyamala 1983). This was followed by a protest launched by women's groups. This experience prompted the health minister at the centre to ban sex determination tests in government run hospitals in 1978. Since then the private sector started expanding its tentacles in this field so rapidly that by the early eighties amniocentesis and other sex selection tests became bread and butter for many gynaecologists.¹⁰

THE MAKING OF THE PCPNDT ACT

The active involvement of the women's groups, women's movement, civil society groups emerged at this stage of the development of the issue. Women's groups in Delhi, Mumbai and other places issued a statement about such tests. A loose coalition of such groups was formed with the Centre for Women's Development Studies, Research Unit on Women's Studies, SNDT Mumbai and the voluntary Health Association of India. The main purpose of this coalition during this phase was to create a pressure group which would highlight the issue mainly in the media. In 1985, a group of activists from women's groups and people's science groups in Mumbai agreed on the need for more consistent action in banning the sex determination tests, seeing the extent to which they had spread. A joint action group called the Forum Against Sex Determination and Sex Pre-selection was formed at this stage.

Keeping in mind that one of the primary weaknesses of the earlier attempts at building up coordinated action was lack of a broader perspective, it was decided that this campaign would consider the issue at multiple levels. The question of sex determination and pre-selection was then primarily seen as (i) an integral part of

women's oppression and discrimination; (ii) a misuse of science and technology against people in general and women in particular; and (iii) a human rights issue. The focus of the campaign was to highlight the issue of discrimination between boys and girls and also an attempt to show that sex determination was yet another form of violence against women, part of the chain made up of female infanticide, wife-burning, sati etc. It was then that an immediate regulation of pre-natal diagnostic techniques was sought, leading to seeking of the support of the State and the legal machinery. The problem that the forum countered here was how not to overlap over the Medical Termination of Pregnancy Act as they did not want to curtail women's right to abort. The alternative was a new law which was formulated with the regulation and prevention of misuse of prenatal diagnostic techniques in mind. Signature campaigns, a massive media campaign highlighting the issue, pilot studies on the prevalence of sex determinations were part of the process of putting pressure on the government to pass the Act. In June 1988, the Act came into being in the State of Maharashtra.¹¹ Although the Forum realised soon that the Act was limited in many ways and effective only in marginally reducing the number of clinics, it also recognised that the Act had resulted in a nationwide interest in the issue. Soon three other state governments announced their intention to introduce similar legislation. This included Goa, Gujarat and Orissa. This was followed by the Central Act known as the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act which was unanimously passed in July 1994.

The main purpose of the Act was to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide. The Act specifies the methods of regulation of the genetic counselling centres, genetic laboratories and genetic clinics. It emphasises on the written consent of the pregnant woman and the prohibition of the communication of the sex of the foetus. It also provides for the constitution of a Central Supervisory Board to monitor the implementation of the Act and the creation of Appropriate Authorities and Advisory Committees to implement the Act. The offences and penalties for contravention include imprisonment which may extend to three years and fine which may extend to ten thousand rupees. It prohibits any advertisement in any manner regarding facilities of pre-natal determination of sex available at any Centre, Laboratory, Genetic Clinic or any other place. The offence under this Act is cognizable, non-bailable and non-compoundable. Cognizable offence means that the police may arrest without a warrant the offender or a person who is suspected of committing the offence on account of reasonable belief. The offence is non-bailable meaning thereby that getting the bail is not the right of the accused. It may only be granted or refused based on the discretionary power of the Court. It is also a non-compoundable offence meaning that no settlement between the parties is possible to drop the criminal proceedings.

The Act, as can be seen by the provisions, was a comprehensive piece of legislation which included all aspects of the issue. However, a reading of the Act reveals a distancing

from the issue of sex selection as discrimination or violence against women. The basic guidelines of the Act are focussed around the issue of sex determination and not sex selective abortion. The emphasis to keep the Act separate from the MTP Act may have been one of the primary reasons for doing so. In the process issues of women's rights over their bodies, the complexity of the decision of sex selective abortion and the consequences on women's health were left unaddressed. Women's groups and other forums working on the issue raised objections to the clinical separation of the issues affecting women's health and rights and the idea of sex determination. They emphasised that sex determination and sex selection do not happen in a vacuum and the multiple forms of discrimination and their intersectionality do not find any reflection in the Act. Largely dissatisfied with the framing of the Act, the women's movement pressurised for amendments to the Act. Though the Act entered into force in January 1996, no evidence of its implementation was seen. This lack of concern and political will to implement the legislations by the Centre and States led to a Public Interest Litigation (PIL) in the Supreme Court. The PIL was filed by three petitioners - Dr Sabu George - a social activist, Mahila Sarvangeen Utkarsh Mandal (MASUM), Pune, and Centre for the Enquiry of Health and Allied Themes (CEHAT) Mumbai in February 2000. In May 2001, the Supreme Court directed the Central Government to implement the Act and called upon all state governments to implement the Act.¹²

The emergence of new reproductive technologies or preconception technologies to select sex hindered the significance and reach of the Act. The preconception techniques which includes the Ericsson method (X and Y chromosome sperm separation) and other methods like pre-implantational genetic diagnosis was not covered under the Act. While campaigning against sex selective abortion, the women's movement raised the question of the availability of such reproductive technologies which made it possible to select the sex of the foetus even before conception. The ethical and rights based issues concerning abortion were no longer valid with the emergence of such technologies. However, the women's movement situated the emergence of pre-conception technologies in the sphere of discrimination and violence against women. Irrespective of whether abortion of female foetuses took place, the very basis of the use of the preconception technology was to discriminate and eliminate any chance of the birth of a female infant. It was daughter aversion in a new garb, the dimensions of gender discrimination and gender violence remaining the same.

The Supreme Court directive and the pressures by the women's movement built up momentum finally leading to the amendment of the Act with the amendments coming into effect from January 2003. The title of the Act has been suitably amended to reflect this and the title of the Act now reads "The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act". Certain amendments have also been brought about in the Rules of 1996 to ensure effective implementation of the Act which came into effect from 14th February 2003. Apart from what was included in the earlier Act, the amended Act provides for the prohibition of sex selection, before or after conception. Sex selection includes the range of six things like

procedure, technique, test, administration, prescription and provision of anything for the purpose of ensuring or increasing the probability that an embryo will be of a particular sex. The penalties for the offence have been increased where the punishment will be for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and with fine which may extend to one lakh rupees. One of the other demands of the women's movement was to critically situate the law in favour of women as far as penalties under the Act are concerned. The amended Act clearly supports this when it says in Section 24 that "presumption in the case of conduct of pre-natal diagnostic techniques, notwithstanding anything contained in the Indian Evidence Act 1872, the court shall presume unless the contrary is proved that the pregnant woman was compelled by her husband or any other relative, as the case may be, to undergo pre-natal diagnostic technique for the purposes other than those specified in the Act."¹³

The women's movement's main concern here has been to bring about the recognition of the oppressive conditions and constraints of a patriarchal society which bear upon the decision-making of women when it comes to sex determination and sex selection. Menon presents a nuanced argument against this. According to her "It is true that women may be implicated by families and end up being punished when they rarely are in a position to make choices. Nevertheless, what are the implications of denying agency altogether to women on the grounds that they are never responsible for their decisions and therefore should not be considered culpable at all? Within the realm of legal discourse, it is dangerous for feminists to construct women as incapable of taking autonomous decisions - the consequences for women's struggles against legally sanctioned discrimination in other spheres could be fatal."¹⁴ While Menon's concern about how the emphasis on women as passive victims in this discourse can affect the expansion of women's rights in other spheres may be well placed, the popular discourses around sex selection present a contrary image of women. In fact in popular discourses either in the media, in literature or in civil society forums, the appeal to prevent sex selection is usually made to the 'woman as mother'. This recognition of the active agency of the woman in seeking sex determination or selection is also aided by the fact that sex selection is more commonly seen in the educated, urban and prosperous populace. (This trend has changed considerably today with sex selection seen across class, region and other divides). The woman thus is seen as complicit and as exercising a choice here. Irrespective of the emphasis in the laws to be sensitive to the patriarchal pressures on women, the general verdict in this case is to regard the woman guilty unless proved otherwise.

Contradictions, Contestations, Confrontations and Challenges

The debates of the women's movement and other social action groups on the issue of sex selection as gender violence and the efficacy of the laws to address it centre around three significant issues: (1) the need to maintain the essential distinction between the

right to abortion and the notion of sex selection; (2) the question of the agency of women and their culpability in the decision regarding sex selection; and (3) the gap between the stringent clauses of the law and its 'gender insensitive' interpretation and ineffective implementation.)mp

The women's movement in India has consciously emphasised its position on sex selection as a notion of discrimination and violence against women and not a pro-life argument about the right to life of the foetus thereby steering clear of overlapping on the right to abortion for women. The idea of abortion has been played out as a human drama with a set of actors who can be categorised as the pro-life supporters and the pro-choice supporters. The issue is thus seen as a set of competing rights i.e. foetal rights vs. women's rights. Understanding that women have limited reproductive rights and very little bargaining and negotiation powers when it comes to contraception use, it is important that abortion is retained as a right for women to be able to have some form of control over their bodies, their choices and their lives. At the same time the women's movement and feminist activism and academia revealed through their studies and critical analysis that sex determination and sex selection are far removed from this discourse of choice and autonomy.

The determination of the sex of the foetus and its elimination when it is found to be female cannot be justified as an example of choice and autonomy for women. Whether such a decision is taken by coercion or by 'consent' there is no doubt that the decision is based on an acceptance of the inferiority of being female and a categorical denial of her birth. Sex determination and sex-selection thus came to be established by feminists as anti-women, as gender discrimination, as violence against women and as genocide. Kannabiran invokes the Genocide Convention to discuss how sex selection was a violence equivalent to genocide. For a crime to be defined as genocide any of the following acts should have been committed with intent to destroy a group in whole or in part: (a) killing members of the group; (b) causing serious bodily or mental harm to members of the group; (c) deliberately inflicting conditions of life on the group that are calculated to bring about its physical destruction; (d) imposing measures intended to prevent births within the group; and (e) forcibly transferring children of a particular group to another group. The first four conditions are fulfilled by the practice of sex selection.¹⁵ This argument provides a linking of national legislations with international law thereby strengthening the thrust and teeth of such laws. Its basic aim is to enhance the understanding of the nature and extent of gender violence involved in sex selection, ✓

Coming back to the competition between foetal rights and women's rights the women's movement has always strived to maintain this distinction between abortion and sex-selection. Menon puts it very appropriately when she says that sex determination and sex-selective abortion show us how the language of pro-choice in the context of abortion becomes anti-women (Menon 2004). While this distinction is clearly laid out in the various policies and documents, and the legal remedies and procedures in India, it remains clouded otherwise. The involving of religious groups to counter sex determination and sex-selective abortion has led to an overlap between

abortion and sex-selective abortion. The word *bhrunhatya* (foeticide) has come to invisibilise the word *kanya* in *kanya bhrunhatya* (female foeticide). Many seemingly proactive pamphlets, brochures, films and other communication materials are plagued by this problem, finding it easier to lapse into a pro-life, moral, ethical appeal to reach out without adequately analysing how it overlaps over women's right to control their bodies.

Finally it is important to highlight that in India second trimester abortion is amongst the highest in the world. This is often because of women undergoing sex selective abortion (Johnston 2002 cited in Mallik 2003). While there is a need to bring about safe and universal access to abortion for women, the dangers and threats to women's health and the elimination of females arising out of sex-selection needs to be emphasised. Lakshmi Murthy has summed it up very appropriately in the following words, "feminists are loath to confer the right to life on the foetus, and the women's movement the world over has fought for a woman's right to control her own body. Unconditional access to safe, legal abortion is a non-negotiable demand to ensure some measure of reproductive autonomy in a situation where women are not in a position to refuse sex, especially in the marital context where men do not shoulder the responsibility of contraception, where sexual abuse is rampant and safe contraceptives are neither freely available nor fool-proof. Yet feminists also fight against patriarchal notions, which lay down that a female has no place in the society, and the campaign against sex determination and sex-preselection is but one aspect of this battle. Pre-selection is even more complicated – a sanitised and less messy way of eliminating the female. There is no life to contend with, no murder, no blood and gore. Yet the violence is no way diminished. If anything, this is extreme form of misogyny unimagined until a couple of decades ago."¹⁶

The issue of the implementation of the law by active involvement of appropriate authorities has revealed these contradictions, contestations and challenges of dealing with sex selection. *In 2005 a massive campaign to counter declining sex ratio was launched in the district of Nawanshahr in Punjab. The campaign which was organised by the district authorities included holding meetings on the issue at the block, tehsil and ward level, monitoring of the pregnancies of expectant mothers, medical audits of the scanning centres and mobilising of the youth. The Nawanshahr experiment as it came to be known was lauded for increasing the sex ratio and for the proactive initiative of the deputy commissioner. Talking about the experiment an activist of the region said: The district authorities were involved with the issue with great enthusiasm rarely seen in bureaucrats today, but their methods were very unconventional and sometimes worked against the rights of women. For example, the monitoring of pregnancies of women led to pressures on them and also hampered their privacy. If they wanted to abort for reasons other than sex selection, they found it difficult to do so as they would then have to prove their case then. There was a macabre method that was adopted where a shok sabha (mourning meeting) was organised for the dead female foetus near areas (houses and nursing homes) where it was believed that sex selective abortion had taken place. The elements of coercion, fear and limiting the rights of women were built into the strategies without really meaning to. To be fair, the Nawanshahr experiment was perhaps the most pro-active campaign that happened in the State. Notwithstanding*

*this problem, it generated awareness on the issue as never before. Once the deputy commissioner got transferred the campaign died a quick death. So you can see there is no acceptance by the larger system of this kind of work. It is usually driven by persons and once those persons are transferred the whole campaign collapses. Sustainability is a major issue and so is the delicate balance between foetal rights and women's rights."*¹⁷

The question of the culpability of the woman and the gender insensitive interpretation of the law by appropriate authorities and its ineffective implementation go hand in hand. The complicities of the State and society are often a matter of shared ideologies and perceptions about a problem. The legal remedy to deal with sex determination and sex-selection, that is the PCPNDT Act, has been framed around broad issues - the ethical use of new reproductive technologies, the role of the medical community and the market and the families. Irrespective of some loopholes the PCPNDT Act can be considered a sound piece of legislation which makes the act of sex determination and sex-selective abortion a non-bailable, cognisable and non-compoundable offence. Ironically it is the most unused legislation for a number of reasons.

The practice of sex determination and sex-selection is possible due to a wide group of actors who can be neatly divided into two categories, the service users and the service providers. The subtle form of determining the sex of the foetus, communicating it and the nexus between the users and providers make it difficult to register cases. Secondly, the woman stands to be implicated in this even if it is widely believed that she is either coerced or socially conditioned to do so. Thirdly, the appropriate authorities are from the medical community and commonly have a fraternal bond with the doctors who commit the crime thereby leading to weak cases and very few convictions. Then there is the contextualisation of the issue around the idea of women's choice to have sons, the notion of her self esteem bound up with her giving birth to sons and the haloed idea of family honour associated with the birth of sons. Appropriate Authorities irrespective of their official position are steeped in a culture which perceives son preference as natural fallout of the secondariness of daughters and unsubstitutability of sons. The role of doctors in exacerbating or aiding sex-selective abortion is clearly stated in the law. In practice, though, the tendency is to view this role as a lesser evil since the doctor is seen as only providing what the family wants. It is seen as a pure econometrics of demand and supply. The issue as it is played out in the public fora tends to see it as a discrimination meted by women against her own kind. The 'pressures of mother-in-law on daughter-in-law' and /or the 'woman's own wish to have sons', all contribute to the criminalising of women and the absolving of all guilt on part of the husband/ men and the doctors.

The acceptance of the active agency of women in perpetuating this practice goes against the stereotype of women as passive victims here in need to be rescued by state aided gender-friendly legislation. The discourse of gender violence remains untenable in this scenario. The low conviction rate on this issue bears testimony to this fact. There have been less than ten substantial convictions and only 603 cases since 1994.

Table 1. *Number of ongoing court / police cases under PC & PNDT Act 1994 (up to September 09)*

S. No.	State/UT	No. of ongoing Court / Police Cases
1	Andhra Pradesh	19
2	Arunachal Pradesh	—
3	Assam	—
4	Bihar	10
5	Chhattisgarh	5
6	Goa	0
7	Gujarat	95
8	Haryana	58
9	Himachal Pradesh	7
10	Jammu & Kashmir	—
11	Jharkhand	0
12	Karnataka	13
13	Kerala	—
14	Madhya Pradesh	11
15	Maharashtra	38
16	Manipur	—
17	Meghalaya	—
18	Mizoram	—
19	Nagaland	0
20	Orissa	—
21	Punjab	104
22	Rajasthan	54
23	Sikkim	—
24	Tamil Nadu	72
25	Tripura	0
26	Uttarakhand	3
27	Uttar Pradesh	49
28	West Bengal	7
29	A & N. Island	—
30	Chandigarh	—
31	D. & N. Haveli	0
32	Daman & Diu	—
33	Delhi	58
34	Lakshadweep	—
35	Puducherry	—
	Total	603

Source: PNDT Division, Ministry of Health & Family Welfare, GOI.

The patriarchal mindsets of the Appropriate Authorities appointed under the Act come out clearly in a recent case in Delhi. Dr. Sunita (name changed) is the first woman complainant under the PCPNDT Act in Delhi. In 2005 Sunita was coerced by her marital family to undergo

sex determination during her pregnancy. When she refused to do so, she was cheated into undergoing an ultrasound where the sex determination test was done. Her marital family then pressurised her for termination of her pregnancy. Sunita left her marital home and moved to her natal home. She gave birth to twin daughters. After three years when her in-laws and husband refused to accept her back with her children, Sunita decided to lodge a complaint under the PCPNDT Act. She was disappointed to find that the Act and the publicity on the issue had done very little to change the mindsets of the implementing authorities.

In her own words, "I decided to lodge a complaint under this Act and not under the domestic violence Act or any other as I wanted to reform my family and also penalise the doctor who conducted the tests. The statements of the Health Minister, the PM and the massive awareness drive on this issue encouraged me to do so. I wanted to set an example for the society so that when my daughters grow up they do not have to face what I have faced. I felt the Appropriate Authorities will give all support to me, but to my shock they treated me like a criminal. They discouraged me to file the complaint. They said I did not have a case since my daughters were alive. The fact that I fought a very tough battle to save my daughters was of no concern to them". Here are some of their telling statements: "When I met the Appropriate Authority in the district, he said, 'What were you doing for the last three years? Anyway your daughters are safe, only sex determination took place and not abortion...It is now too late to lodge a complaint'. When I told him that the Act does not specify a time limit for registering complaints, he retorted, 'Not as an authority but like a father, I am telling you...you are still young, you can give him a son even now'. When I wanted to press charges against the doctors involved, I was told, 'You know you will be responsible for closing down ultrasound facilities...They are technologies required to save lives.' At the end the Appropriate Authority's request was that if I decided to get back with my husband I should let him know so that they would not have to penalise the poor doctor involved."¹⁸

This kind of mindsets of Appropriate Authorities and other implementing authorities poses an obstacle in having the issue recognised as gender violence, irrespective of feminist theorising of it existing in the public domain in the form of documents, handbooks, posters and FAQs. The entrenched and pervasive patriarchal thinking on the issue come to be strengthened under the garb of modernity and development. The 'educated and empowered' middle class woman is considered as taking a step in the right direction when she avails of reproductive technologies to give birth to the 'male heir of her family'. The strengthening and the normalising of patriarchal violence here provides an insight to the formulation of 'multiple neo-patriarchies' today. The multiplicity of neo-patriarchies in the future can pose serious obstacles for women's emancipation since it comes clothed in the language of progress, development and scientific advance and therefore not amenable to being recognised as gender violence as is in the case of sex selection.

While it is the women's movement in India which raised the major questions regarding violence against women in the past, today the countering of gender violence involves a whole host of 'stakeholders' which includes UN bodies, International NGOs, national NGOs and Government bodies. The stakeholders are mostly driven by international funding and are tied to commitments under time-bound plans and projects. The professionalization of feminism, the Nine to Five feminists brigade,

State driven feminism and the so called 'co-option' of the feminist movement by the State is said to have diluted the radical and vibrant process of raising issues about gender violence. Actions against sex selection are seen to be mostly organised by UN agencies partnering with the government and the grassroots NGOs. Concerted efforts are made to maintain political correctness of language, a moderate rights based approach with a clear-cut agenda of exercising territoriality on the issue. The 'moderate' or 'middle-path' approach adopted by the majority of stakeholders on the issue of sex selection distances itself from the gender violence discourse focussing on mainly discrimination issues. The idea of sex selection as gender violence is 'secretly' critiqued as a radical feminist battle-cry. The focus today has been to emphasise on the value of the girl-child through cash incentives for birth of daughters. The strategies of intervention are built around the perception that the unwantedness of daughters is due to the fact that they are liabilities.

There are two major ways in which these benign and well-meaning strategies contradict and contest against the rights of women and the gender violence discourse here. The common strategy for intervention is to introduce an incentive for families with daughters to reduce the guilt of inaction. While these incentives which include monetary motivation are within the stereotypical context of poor families and their 'liabilities', the demographic dynamics show us that this is an issue which is crosscutting all classes and especially true for economically prosperous regions and in families which are high caste and high class. The paltry incentives, therefore, can do very little to motivate such families. Jean Dreze questioned the wisdom of bribing parents to keep their daughters, thereby reinforcing the notion that they are a liability (Dreze 1997 in Sunder Rajan 2003). George's (2001) findings show that this monetary incentive is sometimes used as dowry thereby increasing the potentiality for greater violence against women.

The other strategy for intervention to enhance the worth of women is to emphasize the utility of women especially when it comes to men and marriage. Posing questions to families by presenting present day examples of how men are finding it difficult to get brides due to the dwindling numbers of women, the interventions implores them to keep their daughters. This marketing of the issue fails to take into account how in many parts of India the decline of the number of women has led to a double burden on women. The practice of coerced polyandry has shown us how daughters are eliminated while brides are bought and sold. This kind of an utilitarian argument about women's use as 'providers of' sex and sons' is essentially anti-women and not rights-based. The fate of women who are trafficked from West Bengal, Madhya Pradesh, Jharkhand and married off to men from Haryana, Punjab and Rajasthan presents the devastating consequences of a declining sex ratio on women and the increased violence against them. The legal framework here needs to recognise the link between anti-trafficking laws and the PCPNDT Act. Addressing inequalities within marriage, the predominantly patriarchal structure of marriage, the potentiality and threat of violence within and viewing women beyond standard definitions of marriage and motherhood is not a part of the strategies for intervention thereby reinforcing the

stereotypes which have led to the declining value of women in the society. The defining of violence against women only as a social problem and not as crime against women in need of quick delivery of justice through effective implementation of laws remain one of the major obstacles here.

Whither the Movement?

The interface between laws and gender violence which had been facilitated by the women's movement has seen myriad challenges today leading many to question not only the effectiveness of the law but also the very effectiveness and presence of the movement. A complex relationship of contest and cooperation with the State has led to a reconfiguring of the movement. An innovative and vibrant movement which operated from personal homes, garages, sheds and the streets¹⁹ and whose main strategy was protest politics through mass mobilisation, has now cast itself in a more sedate, serious and organised mode. The critiquing of the movement as having being co-opted by the State or diluted by its lack of mass mobilising activities has been raised in many quarters. The 'funding of their activities and the professionalization of their offices' may have taken away their earlier spark but it would be too premature to write off the movement.

The movement continues to be discernible on the issue of sex selection in three very relevant ways: (1) in raising the notion of bodily control, bodily integrity and how violence in transgressing bodily boundaries continues to be revisited around the coercive population policies that still exist, the bodily harm from sex selection and the new dynamics of infertility and surrogacy; (2) in pointing out the violent consequences of sex selection in terms of trafficking for marriage, coerced polyandry and the like; and (3) in revealing the insidious violence of the global and local markets in rehearsing and reinforcing the practice of sex selection by appropriating the language of choice.

In fact the public debates on the issue continue to be framed in certain contexts around concerns raised by feminist activism and academia. Keeping a debate alive is a process which requires sustained activism and the movement has been successful in doing that to a large extent. This sustained activism has taken new modes due to the multiple neo-patriarchies that have emerged. With the rolling back of the frontiers of the State the reconfiguring of the movement became essential. As Sheila Rowbotham notes, "The attempt to democratise relations between the state and society which was a theme of the 1970s has been submerged by the attempt to hang on to what exists. If feminists in the early 1970s were inclined to complain of too much state intervention, by the mid 1990s they were likely to be protesting that there was too little"²⁰. Mary Katzenstein argues that women's activism has not disappeared but moved into institutional spaces.²¹ Thus, expediency shapes the strategies of the movement while their basic principles remain unchanged.

The expediency in this case has led to the women's movement engaging with the issue of sex selection at multiple levels. Emphasising on bodily integrity, bodily control and defining violence as transgressing bodily boundaries opened up the movement's

engagement with the issue of population control. The realization that education, development and the welfare of women and children were better ways to lower the family size vis-a-vis punitive disincentives led to a paradigm shift from population control to reproductive health and rights at the Cairo Conference in 1994. The National Population Policy (NPP) of 2000 talks about a target-free approach, an improvement in the quality of life and no targets, incentives, disincentives due to its anticipated adverse impact on women in general and marginalised women in specific.²² But the mindset of the policy-makers and the implementing authorities continues to be set in the pre-1994 mode. States impose two child norms for elections in Panchayati Raj and other local bodies. Research in Orissa, Rajasthan, Haryana and Madhya Pradesh indicates that the norm to disqualify candidates has led to the desertion of wives and families, demand for abortions, giving away children for adoption and initiation of new marriages by male elected members.²³ The activism of the movement includes policy advocacy and close monitoring and review of policy implementation. The movement has also sustained a campaign against the use of banned contraceptives in India especially through government intervention against marginalised women.

While the coercive population policies with targeted sterilization of women has been constantly critiqued by the movement, the present dynamics of infertility treatments and the issue of surrogacy has also been taken up by them. Surrogacy, one of the infertility "treatment" services of the Assisted Reproductive Clinics has also become a huge business in recent years, cutting across national boundaries. It is estimated that the surrogacy business alone is worth 445 million dollars in India (The Economic Times 2008). India has become a favoured destination for ART procedures due to low costs, easy access to the otherwise highly regulated technologies and easy availability of surrogate mothers and gamete donors. It has become evident through media reports that it is generally the socio-economically marginalised women who agree to act as surrogate mothers and undergo egg donation due to the financial benefit it entails. This not only puts these already-vulnerable women in situations where their bodies may be exploited, but it also jeopardises their physical and mental health, thus making them "objects of reproduction".²⁴ The movement has been critical of this and has demanded the regulation of these procedures, preceded by an examination of the context within which it is proliferating in India. The Indian Council of Medical Research and the central government (Ministry of Health and Family Welfare) have drafted the Assisted Reproductive Technologies (Regulation) Bill and Rules 2008. This draft has been questioned by the movement for giving precedence to commercial interests over human interests. Thus, in spite of serious health consequences that these technologies may cause, the risks associated with them are presented as minimal. Moreover, the techniques are advocated as established and successful treatment whereas in reality, they are of an experimental nature with very low success rate. These technologies raise concerns in what they assure, how they make the promises and what is expected from them. The State's unequivocal support to ART and the advances made in the field, is yet to address infertility as a public health issue and take preventive steps to mitigate it.²⁵

The movement has raised concern about the limitation of understanding shown by the concerned authorities on issues concerning women especially in the context of the exploitation of marginalised women and the fact that the ART technology has the potentiality to be misused for sex selection. They believe that the need of the hour is a legislation that simplifies the process, eliminates intermediaries, prohibits activities that may lead to exploitation, discrimination and violence, establishes practices that uphold the dignity and rights of women and strives to do away rather than reinforce social stereotypes.

The worsening sex ratio has led to the shortage of women for marriage in parts of Haryana, Rajasthan and Punjab. The sex ratios in the neighbourhood of 800 for Haryana and Punjab imply that there are only four women for every five men. Simply, this means that one of every five men will not have a local girl to marry. The need for women, for marriage, is being addressed through the buying of women from West Bengal, Assam, Bihar, Andhra Pradesh and Tamil Nadu. These unusual marriages are a consequence of a combination of factors: adverse sex ratio, acute poverty and the desire of parents to escape dowry.²⁶ Apart from the fact that trafficking for marriage reveals violence in its very practice itself, the violence that 'outside' women face may be greater than that faced by local women since they do not have access to parents to appeal to in case of difficulties. Their parents are too far and too poor to offer any kind of help. Nor do the girls wish to return home to become a burden on their poor families. The question of the 'agency' of the migrating bride is something that needs to be explored at every step.²⁷ Studies have established the practice of coerced polyandry in this regions also where the trafficked woman is married to more than one man from the same family. The violence increases manifold here under these conditions. The movement has been alive to the intersectionality of this form of violence. The implications of these consequences for the larger understanding of sex selection as gender violence has been incorporated by the movement at every stage of the discussion.

The language of choice today has a universal appeal. The market has appropriated this language of choice to reinforce a neo-patriarchal order which continues to subjugate women. The rituals of subjugation are normalised by engaging with the notion of autonomy and individuality. The growth and proliferation of a cosmetic industry around dictated ideas of 'feminine beauty' is a glaring example. Chambers argues that the mere fact of choice cannot be sufficient in and of itself for liberal justice. One example on which she focuses is the practice of breast implantation. Many western women undergo this form of cosmetic surgery to enhance their body image, to feel better about themselves or to improve their career prospects. Chambers believes that these choices are socially formed and rest on a sex norm that both causes physical harm and is unjust, as it perpetuates gender discrimination.²⁸ The growth in the field of genetics today offer the possibility of not only sex selection but also choosing the colour of skin, eyes, hair of the unborn foetus. Although the development of such technology is still at an experimental stage, such form of eugenics has become the latest trend in reproductive technologies. Sex selection is advertised on the internet

and studies and media reports mention about the home delivery of gender selection kits by orders placed through the internet. The women's movement has been alert to the developments in this field questioning and critiquing its invasion into the local market and also emphasising on the global and local responsibility to prevent, regulate and prohibit such technologies which are potentially discriminatory and exploitative.

CONCLUSION

The presence of the women's movement in establishing sex selection as gender violence, in providing for a legal framework to address it and in sustaining interest in challenging the neo-patriarchal trends in the field has been noteworthy. However, the lack of implementation of the law in the field require a critical assessment of the limitations of the engagement of the movement in this case. Tambiah comments, "the women's movement has frequently focussed on the law as the favoured site for confronting the gender biases of the state. However the capacity for transformation in that arena has been compromised as much by the endemic sexism of the legal system as by the limitations of impact resulting from inadequate related institutional change and public awareness raising".²⁹ The movement has not been able to make much progress in dealing with the gender insensitive approach of the appropriate authorities and the lack of awareness on the issue amongst legal bodies. The creation of the legislation has seen far more activism from the movement than the question of its implementation. As far as the implementation of the law goes, the movement has remained at the fringes with very little involvement with the practical processes of its implementation. There also has been very little involvement of the movement with women who are direct victims of this form of violence. The general distrust of the legal courts, police and other legal authorities forces women to compromise with their situation. The movement's lack of accessibility to such women for support, counselling or to enable and facilitate their reaching out to appropriate authorities is a cause for concern.³⁰ By being accessible and supportive to them, the movement would have been able to confront and negotiate with the state in a far more effective manner than it does now.

The recognition of the plurality of discrimination and violence that is present in the practice of sex selection has been possible due to the creative and sustained engagement of the women's movement of India on the issue. However, the dismal record of legal redressal in this case and the increase and spread of the practice of sex selection today reveals that much remains to be done. The chronic delays in the judicial system, the problems and constraints of working with the legal authorities with sexist mindsets may ultimately lead to a rejection of the very idea of redressing gender violence through laws. The movement will need to resist and contest such inefficiency and entrenched patriarchal thinking by actively participating in the process of delivery of justice. Law cannot be the only method to address gender violence but perhaps it remains one of the crucial strategies of addressing the oppression and subjugation of women. The analysis of the complex and contradictory

nature of engaging with laws makes us aware of the many pitfalls in the process. Kapur and Cossman argue that “feminists must radically rethink the nature of their strategic engagement on this terrain, again and again...feminists must return to the question of the limitations of law and build their strategies from a foundation which recognises these limitations.”³¹ The forging of alliances of a vigilant women’s movement with a wide network of social movements and groups which look into the intersectionality of the issue, the strengthening of ties with victims/survivors of gender violence, and the active participation of the movement with the process of redressal and implementation of the laws can be ways of not only improving the potentiality of laws to address gender violence but also of reimagining the women’s movement in India.

This essay is derived from the author’s ongoing research work. The author would like to thank her supervisor Vidhu Verma for her insightful comments and guidance on the work. The author would like to acknowledge the suggestions of C.P. Sujaya on an earlier version of the paper. Discussions with Usha Rai, Pamela Philipose, Satish Agnihotri Ashok Acharya and Anupama Roy have been enriching and have helped formulate some of the arguments of this paper. The omissions and commissions are entirely the author’s.

Notes

1. Cited in Kosambi, Meera (2007), *Crossing Thresholds: Feminist Essays in Social History*, Permanent Black, Delhi, p. 86.
2. Kapur, Ratna and B. Cossman (1996), *Subversive Sites: Feminist Engagements with the Law in India*, Sage, New Delhi, p. 285 & p. 290.
3. Sangari, Kumkum (2008), “Gendered Violence, National Boundaries and Culture”, in Radhika Coomaraswamy and Nimanthi Perera Rajasingham (eds), *Constellations of Violence: Feminist Interventions in South Asia*, Women Unlimited, New Delhi, p.3.
4. Karlekar, Malavika (2005), “Breaking the Silence” in Mala Khullar, *Writing the Women’s Movement: A Reader*, Zubaan, New Delhi, p.302.
5. Sangari, Kumkum, *ibid.*, p.4.
6. Luthra, Rashmi (2007), “The Women’s Movement and the Press in India: The Construction of Female Foeticide as a Social Issue” in Rehana Ghadially (ed), *Urban Women in Contemporary India: A Reader*, Sage Publications, New Delhi, p.162.
7. Menon, Nivedita (1996), “Female Foeticide and Feminist Discourse on Abortion” in Patricia Oberoi (ed), *Social Reform, Sexuality and the State*, Sage Publications, New Delhi, p.375.
8. The two child norm for elections to Panchayati Raj and urban local bodies were introduced in Orissa, Andhra Pradesh, Rajasthan, Madhya Pradesh, Haryana and Himachal Pradesh. It has now been withdrawn from Himachal Pradesh, Haryana and Madhya Pradesh.

9. Mazumdar, Vina (2001), "Ashok Mitra : A Tribute" in Vina Mazumdar and N.Krishnaji (ed), *Enduring Conundrum : India's Sex Ratio*, Rainbow Publishers Limited, Delhi, p.15.
10. Patel, Vibhuti (2007), "The Political Economy of Missing Girls in India" in Tulsi Patel (ed), *Sex-Selective Abortion in India: Gender, Society and New Reproductive Technologies*, Sage Publications, New Delhi, p.292.
11. FASDSP (1994), "Using Technology, Choosing Sex: The Campaign Against Sex Determination and the Question of Choice" in Vandana Siva (ed), *Close to Home: Women Reconnect Ecology, Health and Development Worldwide*, New Society Publishers, Philadelphia PA and Gabriola Island BC, p.82.
12. Nanda, Bijayalaxmi (2007), "Campaign Against Female Foeticide: Perspectives, Strategies and Experiences in Tulsi Patel (ed), *Sex-Selective Abortion in India: Gender, Society and New Reproductive Technologies*, Sage Publications, New Delhi, p.362.
13. Ministry of Health and Family Welfare (2006), *Handbook on Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 and Rules with Amendments*, Government of India, p.76.
14. Menon, Nivedita (2004), *Recovering Subversion : Feminist Politics Beyond Law*, Permanent Black, Delhi, pp.84-85.
15. Kannabiran, Kalpana (2003), "Gender Cleansing: Female Foeticide or Crime Against Humanity? State Liability", *Combat Law*, August-September, pp.24-25.
16. Murthy, Lakshmi (2003), "Sex Selection: Getting Down to Business" cited in V. Kumari , "Fertility Revolution and Changing Concept of Family and Identity", *Delhi Law Review*, Vol. XXV, p. 129.
17. As recounted by an activist of the region to the author.
18. As told to the author by the first woman complainant under the PCPNDT Act in Delhi. The case which was lodged in 2008 is in court. The author is following this case as part of her ongoing research.
19. The autonomous women's groups were collectives which were self-funded and worked from homes, or any other space that was available to them which was either free or inexpensive. Today some of them like Saheli in Delhi continue to work in the same mode while others have moved on to funded activities with established professional offices. For a detailed and rich analysis of the women's movement in India read *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India 1800-1990*, by Radha Kumar, Zubaan, New Delhi, 1993.
20. Rowbotham, Shiela, cited in Amrita Basu (2003), "Gender and Governance : Concepts and Contexts" in Martha Nussbaum (et al.), *Essays on Gender and Governance*, UNDP, New Delhi, P. 22.
21. Katzenstein mentioned in ibid. P. 24.
22. Gonslaves cited in Ashok .K. Jain (2006), *The Saga of Female Foeticide in India*, Socio-Legal off-shoots , Ascent Publications, Delhi. P. 51.

23. Visaria, Leela, Aksh Acharya and Francis Raj (2006), "Two Child Norm: Victimising the Vulnerable", *Economic and Political Weekly*, Vol. XLI, No.1, pp.41-48 and Buch, Nirmala (2006), *The Law of Two Child Norm in Panchayats*, Concept Publishing Company, New Delhi.
24. Sama Team (2009), "Assisted Reproductive Technologies: For Whose benefit?", *Economic and Political Weekly*, May 2, Vol. XLIV. No.18, p. 25.
25. Ibid., p. 31.
26. Kaur, Ravinder (2004), "Across -region Marriages: Poverty, Female Migration and the Sex Ratio", *Economic and Political Weekly*, June 19, p. 2595.
27. Ibid., p. 2602.
28. Chambers, Clare (2008), *Sex, Culture and Justice: The Limits of Choice*, Penn State University Press.
29. Tambiah, Yasmin (2003), "The Impact of Gender Inequality on Governance" in Martha Nussbaum (et al.), *Essays on Gender and Governance*, UNDP, New Delhi, p. 84.
30. The experience of the campaigns against rape and dowry murders had made the movement change its tracks of campaigning only for legislation by taking up individual cases and involving itself with the whole process of litigation till justice was delivered. Offering legal aid and legal literacy was and is still a part of the movement's activism. However as far as sex selection goes the involvement of the movement with women who are seeking justice has not been as proactive as in other cases. The first woman complainant under the Act in Delhi shares that she did not find the movement responsive to her call for support (in a e-discussion on the PCPNDT Act organized by the gender community of the UN's solution exchange in March 2009.) The number of individual women coming forward to register cases under the PCPNDT Act is also very minimal revealing a limitation of the movement in building supportive networks in this case.
31. Kapur, Ratna and B. Cossman (1996), *Subversive Sites: Feminist Engagements with the Law in India*, Sage, New Delhi, p. 336.

References

- Agnihotri, Satish (2000), *Sex Ratio Patterns in the Indian Population: A Fresh Exploration*, Sage Publication, New Delhi
- Bardhan, Punjab (1974), 'On Life and Death Questions', *Economic and Political Weekly*, 9(32-34) (Special Number, August): 1293-1304.
- Bardhan, Pranab (1982), "Little Girls and Death in India", *Economic and Political Weekly*, 17(36), pp. 1448-50.
- Buch, Nirmala (2006), *The Law of Two Child Norm in Panchayats*, Concept Publishing Company, New Delhi.
- CEHAT (2003), *Sex Selection-Issues and Concerns: A compilation of Writings*, Cehat, Mumbai/ Pune.
- Chhachhi Amrita and C. Sathyamala (1983), 'Sex Determinations Test: A Technology Which Will Eliminate Women', *Delhi Medico Friend.Circle Bulletin*.

- Dreze, Jean (1997), 'Government Grants and the Girl Child', *Times of India*, 19th September.
- Flavia Agnes (1988), 'Violence in the Family: Wife Beating', in Rehana Ghadially (ed) *Women and Indian Society: A Reader*, New Delhi: Sage Publications.
- Flavia Agnes (1999), *Law and Gender Inequality: The Politics of Women's Rights in India*, OUP, Delhi.
- George, Sabu (2001), 'Little Girl Lost', Interview with Vidya Subramaniam, *Times of India*, 30th August.
- Government of India, (1975), *Towards Equality. Report of the Committee on the Status of Women in India*. New Delhi, Ministry of Education and Social Welfare, Department of Social Welfare.
- Government of India, *Census of India 2001*, Registrar General and Census Commissioner, Ministry of Home Affairs, New Delhi.
- Government of India, *Census of India 1991*, Registrar General and Census Commissioner, Ministry of Home Affairs, New Delhi.
- Government of India (2001), *National Population Policy-2000*, Ministry of Health and Family Welfare, Government of India.
- Government of India (2007), *Annual Report 2006-2007*, Ministry of Health and Family Welfare, New Delhi.
- Johnston, H. B (2002), 'Abortion Practice in India: A Review of Literature', Mumbai: CEHAT and Health Watch May.
- Kumar, Radha (1993), *The History of Doing: An Illustrated Account of Movements for Women's Rights and Feminism in India, 1800-1990*, Zubaan, New Delhi.
- Leela Visaria and Vimala Ramachandran (2007), *Abortion in India: Ground Realities*, Routledge, London, New Delhi.
- Mallick, Rupsa (2003), 'Negative Choice Sex Determination and Sex Selective in India' in *Urdhva Mula* Sophia Centre for Women's Studies and Development, Mumbai.
- Menon, Ritu and Kamla Bhasin (1993), 'Recovery, Rupture, Resistance: Indian State and Abduction of Women during Partition', *Economic and Political Weekly*, Vol. XXVIII, No. 17, April 24.
- Nanda, A.R (2002), 'Not Just a Numbers Game', *Seminar*, No.511, March.
- Nonica Datta (2009), *Violence, Martyrdom and Partition: A Daughter's Testimony*, OUP, Delhi.
- Oldenburg, Veena Talwar (2002), *Dowry Murder: The Imperial Origins of a Cultural Clinic*, OUP, New Delhi.
- Prem Chowdhry (2007), *Contentious Marriages, Eloping Couples: Gender, Caste And Patriarchy In Northern India*, OUP, New Delhi.
- Sarkar, Tanika and Urvashi Butalia, (eds), (1995), *Women and the Hindu Right: A Collection of Essays*, Delhi, Kali for Women.
- Sunder Rajan, Rajeswari (2006), *The Scandal of the State: Women, Law and Citizenship in Postcolonial India*, Permanent Black, Ranikhet.
- Sunder Rajan, Rajeshwari (1993), *Real and Imagined World: Gender, Culture and Postcolonialism*, London, Routledge.
- Vina Mazumdar (1994), 'Amniocentesis and Sex Selection' Delhi Centre for Women's Development Studies, Occasional Paper Serious, no. 21.