

FEMALE INFANTICIDE AND LAW: EVOLUTION OF GENDER CRIME

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ABSTRACT

The data are abundance, the facts are known about the sex ratio in the modern Indian society. But there arrives a strong need to study and understand the implications that this negative trend is likely to bring forth in society. The question is what does one do to mitigate adverse sex ratio among the children as well as the population. How does one bring about social change that would alter the attitudes and mindsets of the countrymen before it's too late for the things to mend?

Recent publicity of crime against women in India has already created greater awareness of the possible effects of skewed sex ratio. This momentum could be used to put pressure on the authorities at the national and international level to enforce the existing laws. There stands dire need of analyzing and awaking the population about the consequences that this threat beholds in future. The possible measures to combat the same must be widely reflected upon so that the future generations find a normal balanced world to live in the warm and caring company of sisters, mothers and daughters.

Keywords: Law, Medical, Ethics, Gender, Crime and Human Rights

INTRODUCTION

It is commonly understood that males and females in the population balance each other in number. Little do they know sexes are imbalanced in different population across the worlds according to United Nation estimates, the world had 986 females against 1000 males in 2000. Except Indonesia and Japan, all other Asian countries have low sex ratios. However, most of the developed European countries, particularly China (944), and India (933) with Low sex ratio contribute to the preponderance of males over femaleless in world.

As per the provisional data of census 2011, while the overall sex ratio had gone up seven points to touch 940, against 933 in census 2001, the child sex ratio plummeted to 914 from 927. The alarming decline in girl child population has left us to imagine a situation of women-less India. Hence arises the dire need to fight this alarming position as soon as possible which require an extensive study of understanding the reasons, consequences and the measures that are needed to be taken care of. This research study tries to examine the relationship between factors that are responsible for the increasing imbalance in sex ratio. How do they differ in rural area from urban? And what repercussions does it follow if not checked in near future.

This paper will examine the prominence of sex-selective abortion in India. The second section will discuss what sex-selective abortion is, why it is such a problem. The third section will examine the current situation with regard to female sex selection in India and specifically Haryana. The fourth and fifth sections will discuss the current international and domestic Indian legislation which seeks to combat sex-selective abortions and gender discrimination such as CEDAW and the domestic PCPNDT act.

THE CONCEPTUAL ASPECTS OF SEXUAL IMBALANCE IN INDIA

“Every year, 12 million girls are born- three millions of women do not survive to see their 15th birthday. About one-third of these deaths occur in the first year of life and it is estimated that every sixth female death is directly due to gender discrimination”. India Alliance for Child Rights, CRC Review Note #1: India’s Girl Child: Crisis of Early Disposal (Declining Juvenile Sex Ratio-0 to 6 years).

A continuing preference for boys in society, the child sex in India has dropped to 914 females against 1,000 male-the lowest since independence-in the provisional 2011 census report.

Despite a slew of laws to prevent female foeticide and schemes to encourage families to have girl child, the ratio has declined from 927 females against 1,000 males in 2001 to 914, which was described as a “matter of grave concern “by Census Commissioner of India, C. Chandramauli.ⁱ

P.Padamanabha (2011), (Unwanted daughters: Gender Discrimination in Modern India). Discrimination of women has been a feature of our society since ages. Many reasons, or social settings, have over the decades institutionalized this discrimination, son preference, the dowry system, daughters leave for other households and the like are repeatedly recognized as possible causes. Son preference, in particular is recognized as strongly influencing the sex-ratio among children.

Save Girl Child Organization published an article discussing how when it comes to Indian scenario the term ‘epidemic’ has a new meaning recently. In a country where a selective ‘human breeding’ is rampant one of the most adverse child sex ratio (CSR) figures amongst the South-east Asian countries, reflecting a highly undesirable reversal of the norms of nature.

Female foetuses are liable to victimization on the basis of the sex alone even before they are born. Only far-reaching social change that aim at necessary female autonomy, female economic power and the value of the girl child are likely to make a significant impact on the demand for sex-selection abortion. An indirect estimate using the data from rounds of Arnold Kishore and Roy, 2002 National Family Health Survey India indicates more than 1,00,000 sex- selection abortions in India every year.ⁱⁱ

The consequences of millions of men not being able to find are given below. It has been predicted that a shortage of women can lead to increase in violent crime against women. There is evidence of increase in such crimes in India; violent crimes against women have been linked to regions with adverse sex ratio. The rates of reported rapes, kidnapping, and abductions have increased drastically in India between 2006 and 2011 these crimes have gone up more sharply than other crimes.ⁱⁱⁱ

The impact of sex-ratio imbalance on marriage gave three major consequences. First, having less women of marriageable age will mean that a significant proportion of men will have to delay their marriage. Second, however, the ultimate effect of delayed marriages will also affect younger generations of men; when they reach their 20s, they will also face a backlog of older,

unmarried men, who will still be in the “marriage market”. Third, a proportion of men will subsequently have to forego marriage altogether.^{iv}

Subsequent studies that are supported with evidence provide that it is excessive female mortality before birth, at birth, in infancy and in childhood, which mainly account for the imbalance in sex ratio and the absence of a large number of female children in Asia. Given this, it is perhaps more apt a problem of missing females. Thus, the most serious contemporary concern is the elevated female death rates due to gender discrimination, which offsets the natural lower mortality of females. Coale has argued that the high masculinity ratio in many Asian countries is traceable to this single cause. Moreover, the high female death rates occur mainly in the first five years of life.^v

Ansley Coale (1991) also drew attention to unusually high sex ratio at birth and high mortality rates relative to males, especially in the early years of life and for daughters with elder sisters. To give a rough approximation of the numerical impact of excessive female mortality, he also estimated the ratio of males to females in selected populations that would exist in the absence of discriminatory treatment of females, and thus the total number of ‘missing’ females. For the population of China, India, Pakistan, Bangladesh, Nepal, West Asia, and Egypt, he calculated the total number of missing females to be about 60 million, a figure lower than Sen’s 1000 missing women. Nevertheless, Coale concluded that they confirm the enormity of the social problem brought to wider public attention by Sen.

In order to understand the idea behind the concept of female foeticide as a gender crime, it is important to look into its history.

CONCEPT OF MISSING GIRL CHILD

For every 1000 males, India has approximately 940 females. This gender imbalance situation was termed by Amartya Sen as “India’s missing women”. This may seem very less for a thousand, but when we compute the mismatch for the entire population of India which is 1.2 billion, we have 100 million missing women. This is equivalent to the entire population of France.

Missing women when was written in 1980s and early 1990s Sen’s conclusions were based on the prevailing picture and only upon the data available up to the 1980s. The gender imbalance

that prevailed then was mainly due to the unequal treatment and uneven discrimination against the girls and women, mainly in health care. Hence the then missing women could be identified as the result of the differences in mortality rates between men and women.

A distinct bias of 'boy preference' can be found in countries extending from North Africa and West Asia to South Asia, including India, and East Asia, including China. That such discrimination has a place in a large part of the modern world is distressing; the number of 'missing women' can be quite large.

However, since the 1980s, the wide use of new techniques such as ultrasound scans for determine the sex of foetuses has led to huge and growing numbers of selective abortions of female foetus, offsetting the gains in declining difference in mortality rates. Selective abortion of female foetus- what can be called "natality discrimination"- is a kind of high-tech manifestation of preference for boys.

Because of this counteracting influence, the proportion of missing women in the total population has not declined in many countries, including China and India. Women's education, which has been a powerful force in reducing mortality discrimination against women and also in achieving other important social objectives such as the reduction of fertility rates, has not been able to eliminate, at least not yet, natality discrimination.

FEMALE INFANTICIDE: A COLONIAL CONTEXT

What is new about the circumstance today may get to be clearer on the off chance that we quick investigate what is thought about its history, one that has been to some degree fitfully investigated, fuelled thus by contemporary concerns. Starting with the colonial period, the British were stunned by open affirmations of practices that permitted a little girl to kick the bucked, with portrayals in the colonial document of several villages without even a solitary female child.

The initially recorded cases of female infanticide are to be as far as back as 1789 the Rajkumar Rajputs of Jaunpur. As per L.S. Viswanathan, the British records at first showed a blend of Orientalism (attributing the practice to historical sacred writings), while giving narrative records of the practice among specific landed positions, in some cases with numerical confirmation of profoundly dissimilar number of boys and girls.^{vi}Vishwanath examines the

blended history of the scattered frontier records of female feticide and their cases about the quantity of infant young girls killed. The most much of the time referred to reasons have been pithily outlined by Barbara Miller as “satisfaction and purse”^{vii} to be specific the act of hypergamy and the need of giving huge dowry. Everybody appeared to concur that among such standings, nothing was more regrettable than the disgrace and peril of an unmarried girl, subsequently the need to get rid of them during child birth if need be.

Observers have noticed the equivocal and protracted British reaction to female child murder from unmistakable feelings of trepidation of meddling in the local matters of a ‘marital rape’ like the Rajputs to the death of the Female Infanticide Act in 1870, and the resulting following of sex ratios in the census. According to Miller, the very first census report of 1872 left female infanticide and neglect out of their purview altogether, and the discrepant numbers with alternatives such as ‘hot climate’, and inaccuracies in enumeration due to undercounting and age misreporting.

As per Miller, the main census report of 1872 remaining female child murder and disregard out of their domain through and through, and clarified the discrepant numbers with options, for example, ‘hot climate’, and errors in identification because of undercounting and age misreporting. According to others, however, the very creation of the census for the counting of the Indian population by the colonial state was fuelled not just by Malthusian discourses of population or the need to fix caste and community boundaries, but by the wish to demonstrate its civilizing mission to combat ‘violence against women’ through addressing female infanticide via the counting of men and women, boys and girls.^{viii} Certainly we see that, in 1911 and 1921, the census divided north Indian castes into two groups based on the numbers of males and females according to the figures put out, overall sex ratio figures were below 800 girls /women for 1000 men / boys among several Rajputs castes, Jats, Ahirs and Gujjars in north and north-west. Castes could thus be categorised according to how they treated their women, and marked as deviant accordingly^{ix}. Here is a question from the census commissioner in 1911, decades after the passing of the Female Infanticide Act:

“Hypergamy, or the rule that a girl must be given in marriage to a man of higher rank, makes it very difficult and very expensive to obtain a suitable husband, while the admission of inferiority which is implied in giving a girl in marriage is a below man’s pride. Apart from this,

a Rajput husband often tyrannizes his father-in law. Female infanticide was resorted to in order to avoid these troubles which the marriage of a daughter involved (Raju and Premi 1983:3)

CENSUS 2011: AN OVERVIEW WITH RESPECT TO SEX RATIO

State /UT Code	India / State UT	Sex ratio (Female per 1,000 male)	
		Child population in the age group 0-6	
		2001	2011
1	2	3	4
	India	927	914
01	Jammu & Kashmir	941	859
02	Himachal Pradesh	896	906
03	Punjab	798	846
04	Chandigarh	845	867
05	Uttarakhand	908	886
06	Haryana	819	830
07	NCT of Delhi	868	866
08	Rajasthan	909	883
09	Utter Pradesh	916	899
10	Bihar	942	933
11	Sikkim	963	944
12	Arunachal Pradesh	964	960
13	Nagaland	964	944
14	Manipur	957	934
15	Mizoram	964	971
16	Tripura	966	953
17	Meghalaya	973	970
18	Assam	965	957
19	West Bengal	960	950
20	Jharkhand	965	943

21	Orissa	953	934
22	Chhattisgarh	975	964
23	Madhya Pradesh	932	912
24	Gujarat	883	886
25	Daman & Diu	926	909
26	Dadra & Nagar Haveli	979	924
27	Maharashtra	913	883
28	Andhra Pradesh	961	943
29	Karnataka	946	943
30	Goa	938	920
31	Lakshadweep	959	908
32	Kerala	960	959
33	Tamil Nadu	942	946
34	Puducherry	967	965
35	Andaman & Nicobar Island	957	966

Source: Census, 2011

The child sex ratio in Haryana and Punjab is the lowest among the states. Mizoram and Meghalaya were among the states with highest child sex ratio with 971 and 970 girls per thousand males respectively.

Unfortunately, the rest of the states are also on the similar lines of decline including Kerala and Puducherry, which had earlier improved their ratios in 2001. Jammu and Kashmir also have seen the most precipitous drop, 82 points, in its child sex ratio, with Maharashtra registering the next biggest fall among the major states. Bihar and Gujarat also witnessed the miserable fall in child sex ratio, National Capital Delhi also depicted poor pattern of ratio dip. As per census 2011 data, Delhi sex ratio of children up to six years of age has dropped to 866 girls per 1,000 boys from 868 girls in 2001. The child sex ratio of Delhi is much below the national average of 914.

State-level variation in the child sex ratio at birth is wide. In general, the ratios are most adverse in the north-western states and 'normal' in south states.^x Indeed, the two states recording the

lowest child sex ratios in 2011 (under 850 females per 1,000 males) are Haryana (834) and Punjab (846). A number of other major states have also recorded adverse child sex ratios below 900 per 1,000 males and they include, apart from Punjab and Haryana, Jammu and Kashmir (862), Delhi (National Capital Territory) (871), Rajasthan (888), Gujarat (890) and Maharashtra (894). There are, in contrast, some states that show no signs of distortion in their child sex ratios. For example, the child sex ratio in 2011 was above 950 in four states West Bengal (956), Assam (962), Kerala (964) and Chhattisgarh (969)- and between 940 and 950 in four states-Odisha (941), Tamil Nadu (943), Jharkhand (948) and Karnataka (948).

The state wise picture with regard to the sex ratio at birth is similar (table 1.2). Haryana and Punjab record extremely adverse sex ratios at birth, namely, 857 and 863 females per 1,000 males, respectively. Other states with substantially adverse sex ratios at birth (less than 900) include Utter Pradesh (874), Delhi (NCT) (884), Rajasthan (893), Jammu and Kashmir (895) and Maharashtra (896). In eleven other states, sex ratios at birth range from 901 to 950 (Andhra Pradesh, Assam, Bihar, Gujarat, Himachal Pradesh, Odisha, Tamil Nadu, Karnataka and West Bengal). In contrast, in such states as Kerala (966) and Chhattisgarh (979), sex ratios at birth have exceeded 952.

TABLE 1.2

Trends in Overall and Child Sex Ratio: 1961-2011

Serial No	Census Year	Child Sex Ratio	Overall Sex Ratio
1	1961	976	941
2	1971	964	930
3	1981	962	934
4	1991	945	927
5	2001	927	933
6	2011	914	943

Over all sex ratio though has seen a growth in the latest census of 2011 yet the sex ratio imbalance depicts a threatening situation of India without girls. If the ongoing trend of gender discrimination continues that would definitely lead to unhealthy consequence.

The trend shows that sex ratio is continuously declining since from 1901 from 970 females per 1000 males to 940 females per 1000 males in the year 2011. The situation was alarming in the year 1991 and since then government had started focussing on increasing awareness about this problem.

Now the table is on increasing node because of strict laws against female feticide as well as increasing literacy and awareness about pros and cons of sex selection.

TABLE 1.2

Year	Sex-Ratio (No of females per thousand males)		
	Rural	Urban	Total
1901	979	910	972
1911	975	872	964
1921	970	846	955
1931	966	838	950
1941	965	831	945
1951	965	860	946
1961	963	845	941
1971	949	858	930
1981	951	879	934
1991	938	894	926
2001	946	900	933
2011	947	926	940

Source: Office of the Registrar General, India

Notes: a. The 1981 census could not be held in Assam. For working out sex-ratio for India and Assam the population figures for 1981 for Assam worked out by interpretation have been taken,

b. The 1991 census was not held in Jammu & Kashmir. For working out sex-ratio for India the population figures for Jammu & Kashmir interpolated on the basis of final population of 2001 census.

c. India figures include estimated figures for those of three sub-divisions viz Mao Maran Paomata and Purul of Senapati district of Manipur as population census 2001 in these three sub

divisions were cancelled due to technical and administrative reasons although a population census was carried out in this sub-division as per schedule.

The data clearly suggests that the condition of overall sex ratio in urban society is poor.

TABLE 1.2

Rural- Urban Differentials in Child Sex ratio

Serial No	Census year	Rural India	Urban India
1	1981	-	-
2	1991	948	935
3	2001	933	906
4	2011	919	902

TABLE 1.2

Child Sex Ratio in Selected States of India (2011)

Serial No	States	Child Sex-Ratio
1	Punjab	846
2	Haryana	830
3	Tamil Nadu	946
4	Andhra Pradesh	943
5	Madhya Pradesh	912
6	West Bengal	950

The figure clearly shows that son preference is much higher as compared to daughter preference. Highest daughter preference is seen in the states of Mizoram and Nagaland both in males as well as in females, the main reason behind is again socio-cultural factors in eastern states of India, where women situation is equivalent to that of males. There is no dowry system, so there is no mental pressure on parents of girl child.

PARENTAL DETERMINATION AND LEGISLATIVE ACTION

A cultural preference for sons and the increasing availability of parental screening due to technology innovation to determine a baby's sex have helped contribute to worsening in the sex ratio in India, which has been deteriorating rapidly even as the ratio for the population as a whole has improved. Sex selection is now invading parts of the country that used not to practice it. Indeed, as the average family size drops in India, the preference for sons only intensifies. It is sons who inherit land, pass on the family name, financially provide for parents in old age and perform rituals for deceased parents.

Easy accessibility to technology usage now days plays a role of icing on the cake to again deprive the situation of females as it is easily predetermined that the baby to be born is male or female and can be easily aborted. The imbalance in the number of males and females begins in the beginning. It is now a well-established law of nature that the males exceed females at the time of birth. It is believed that generally 943-952 female births take place for every 1000 male births, which in effect would mean that there is a deficiency of about 50 females per 1000 males in every birth cohort.

PREVENTION AND CONTROL OF DECLINING SEX RATIO

Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 is a federal legislation enacted by the parliament of India to stop female foeticides and arrest the declining sex ratio in India. The act banned prenatal sex determination.

An act to provide for the prohibition of sex selection, before or after conception, and for regulation of prenatal of prenatal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorder or chromosomal abnormalities or certain congenital malformation leading to female foeticide, and, for matters connected therewith or incidental there to.

THE SALIENT FEATURES OF THE ACT

Offences under this act include conducting or helping in the conduct of prenatal diagnostic technique in the unregistered units, sex selection on a man or woman conducting PND test for

any purpose other than the one mentioned in the act, sale, distribution, supply, renting etc. of any ultra sound machine or any other equipment capable of detecting sex of the foetus. Main provisions in the act are;

The act provides for the provisions of sex selection before or after conception. It regulates the use of pre-natal diagnostic technique, like ultrasound and amniocentesis by them their use only to detect.

- Genetic abnormalities
- metabolic disorders chromosomal abnormalities
- Certain congenital malformation
- haemoglobinopathies
- Sex linked disorder

No laboratory or clinic will conduct any test including ultrasonography for the purpose of determining the sex of the foetus.

No person, including the one who is conducting the procedure as per the law, will communicate the sex of the foetus to the pregnant woman or her relatives by words, signs or any other method. Any person who puts an advertisement for pre-natal and pre-conception sex determination facilities in the form of a notice, circular, label wrapper or any document, or advertises through interior or other media in electronic or print form or engages in any visible representation made by means of hoarding, wall painting, signal, light, smoke or gas, can be imprisoned for up to three years and fined Rs 10,000.

IMPLEMENTATION OF PNDDT ACT

India has undertaken wide-ranging initiatives that attempt to ensure that the PCPNDT Act is enforced:

- The 2003 amendments, for example, have extended the responsibility from the woman to her husband and his family, allowed the individual to file complaints, made the offence non-bail able, created hotlines for anonymous reporting of sex-selection practices, and imposed severe sanctions by way of fines and imprisonment.

- At the same time, the Government of India has established ‘Appropriate Authorities’ at both state and district levels, (SSAs and DAAs, respectively), to monitor the implementation of the PCPND Act and audit records, and has also undertaken capacity building of the appropriate authorities to better understand the implications of the Act and the specific powers it invests in them for achieving its intended purpose in their respective areas of jurisdiction.
- It has also taken measures, for example, brings the use of ultra sound machines within the purview of the PCPNDT Act so as to curb their misuse for gender biased sex selection. At the same time, it has strengthened the monitoring role of central and state supervisory boards, and empowered appropriate authorities to search and seal the machines and equipment of those violating the Act. Penalties have also been imposed, ranging from Rs 10,000 to 1000,000 and suspension of the registration of the violator. The Ministry of Health and Family Welfare is also engaged in strengthening the capacity of the state appropriate authorities.^{xi}
- There have also been direct efforts to identify those violating the PCPNDT Act through sting operations (surprise inspection of a facility) or decoy operations (using a mystery client, a pregnant woman requesting a sex-selection test) conducted in facilities or among providers suspected to have violated the Act.^{xii} Indeed, “conducting decoy operations” has been considered an essential step towards effective implementation of the PCPNDT Act by members of appropriate authorities, but the process is laden with challenges.^{xiii}

There have been successes in tracking down unscrupulous providers. For example, a collector of Hyderabad district, who noted that Hyderabad had the most unfavourable child sex ratio in Andhra Pradesh, tracked down all 389 diagnostic clinics in the city and issued notices to 361 ultrasound scan centres for non-compliance with the PCPNDT Act, cancelled the licences of 91 centres seized 83 machines (released 71 of these following an undertaking and a fine), and prosecuted three suppliers for supplying machines to clinics with no registration licenses^{xiv}. Also used in some settings, for example, Kolhapur District, Maharashtra, since 2009, is a controversial device known as the Active tracker which is installed in registered sonography machines to enable remote monitoring of each machine. Findings about the success of this tracking system are unclear: according to one assessment, in the period following its installation in Kolhapur, there has been a modest improvement in the district’s sex ratio at birth, and under-reporting of ultrasound cases has reduced (Magnum Opus, n.d). According to an assessment commissioned by the state government with support from UNFPA, however, no

significant changes were observed in the sex ratios at birth a year after the device was introduced. This report also noted that the method was neither tamper proof nor had the district administration taken action based on evidence generated by the device^{xv}. Sting operations have also been conducted by individuals, for example, a Satara (Maharashtra) based lawyer and social activist (a legal advisor to the district Appropriate Authority). These sting operations and subsequent legal action have demonstrated to practitioners that the PCPNDT Act can indeed be enforced against those who violate it and, at the same time, have raised awareness among legal functionaries at the district level about the legal processes and likely loopholes in its implementation.

- The Save the Girl Child campaign or Beti Bahao Andolan is an important campaign launched in 2006 under the national health Mission of the Ministry of health and Family Welfare with the key objective of promoting the successful implementation of the PCPNDT Act.^{xvi}
- Implementation activities include, for example, identifying violations of the PCPNDT Act through detailed audits of Form 'F' filled for pregnant women undergoing an ultrasound, regular monitoring of the implementation of the act, maintaining records at the state level of all ultrasound machines sold in each state, and preparation of annual state and district plans to monitor the implementation of the Act, and so on.
- Also available is a toll-free number that individuals may use to report violations of the Act, and to obtain support in registering clinics as well as information about or assistance in interpreting the PCPNDT Act (Toll Free Number: 1800-110-500).
- Besides inspection visits are conducted at the district level for monitoring the implementation of the Act and the appropriate maintenance of records of village, Panchayat and district-level pregnancies, medical termination of pregnancies (MTPs) and birth registration by Anganwadi Workers and Accredited Social Health Activities (ASHAs) tasked with tracking these events, reports of the visits are submitted to the central authorities for monitoring (Ministry of Health and Family Welfare, n.d. Instances of state-specific innovations under the Save the Girl Child Campaign have also been documented.^{xvii}

STATUTE AND THE SETBACKS

A compilation and analysis of case law on the PCPNDT Act notes that there have been few prosecutions that the majority of cases booked under the PCPNDT Act are pending for trial and are more likely to focus on licensing and registration of ultrasonography centres than on the problem of sex selection per se^{xviii}.

Key judgements fall into four categories.

- First, decisions have been passed that related to issue directives for the implementation of the PCPNDT Act; in these cases, the judiciary took on the task of giving effect to the Act and passing orders for creating public awareness and implementing the Act.
- A second area relates to petitions challenging the constitutional validity of the PCPNDT Act and arguing for a couple's right to terminate pregnancies carrying a female foetus, petitions overturned by the courts.
- A third area relates to appeals against acquittal or conviction and highlights the difficulties faced in establishing PCPNDT Act violations.
- Finally, and by far the most common cases have dealt with procedural issues, such as, for example, the qualifications of the person conducting the ultrasonography test, improper maintenance of records, appeals against the suspension of registration of a medical practitioner by the State Medical Council, the sealing of ultrasonography machines or suspension of the registration of clinics, advertisements for sex selection, and challenges to procedures for search and seizure and equipment.^{xix}

Notwithstanding the PCPNDT Act and the provisions made for its enforcement, its implementation has been less than satisfactory.^{xx}Effective implementation of regulations has faced a number of challenges.^{xxi}Lapses in enforcement have included poor regulation of the misuse of these technologies, difficulties in establishing and proving that a crime has committed and the general indifference of the Appropriate Authorities in implementing the Act, all of which have resulted in limiting the effect of legislation 22(See, for example, United Nations population Fund, 2013).^{xxii}

Second, as the analysis of case law discussed earlier has pointed out, the records of the Ministry suggest that the registration of violations of the PCPNDT Act have focused on technicalities rather than specifically on disclosure of the sex of the foetus. For example, nationally, some 1,

272 cases were ongoing up to June 2012, most of which related to non-maintenance of records and non-registration of the clinic; just 114 cases related to disclosure of the sex of the foetus, and 41 to advertising pre-natal diagnostic facilities. In addition, just 111 convictions were secured, of which 99 were from just three states (Haryana, Maharashtra and Punjab); 33 medical licences were suspended (half from Maharashtra) and 980 machines were sealed (535 from Maharashtra).^{xxiii}

In addition, the price of sting operations and surprise inspection visits has raised several concerns. Key is the unintended effect of such practices on limiting women's legal right to safe abortion as safeguard under the MTP Act^{xxiv} providers- including genuine abortion care providers and sonographers have reported harassment by authorities and sting operators that has affected their ability to provide genuine services to women. Many have reportedly declined to provide abortion services rather than face surprise inspection visits, minute scrutiny of their records and what is perceived as undue harassment about issues unrelated to the PCPNDT Act. Several activities of the Save the Girl Child Campaign suggest, moreover, a potential for violating women's rights, for example, using Anganwadi Workers and ASHAs to track pregnancies, MTPs and birth registration, and maintain records of these services at the district level (Ministry of health and Family Welfare, n.d).

Key challenges have included difficulties in monitoring a large number of private healthcare centres, the corruption of service providers and their collusion with their patients^{xxv} Such corruption of service providers and their collusion with their patients clearly poses a huge challenge in identifying violations of the Act. For example, women's own narratives (Singh, 2013) describe the use of code words and gestures by providers to convey the sex of the foetus, as follows: if the doctor tells us to come and get the report on Monday, we know it's a boy. Friday means a girl.

(The doctor's) Signature in red ink indicates a girl and blue indicates a boy. No words are exchanged. It's an unspoken thing; one doesn't even have to ask.

Give these challenges, it is not surprising that a review of case documentation and conviction concludes that implementation structures function poorly and these are few incidents of punitive action against those violating the provisions of the Act (public Health Foundation of India, 2010). There is, however, one study that suggests that the PCPNDT Act had succeeded in reducing the slide of the child sex ratio; notably, this analysis of child sex ratios in the decade

1991-2001 using village and town-level data from Maharashtra and its neighbouring states (namely, Andhra Pradesh, Chhattisgarh, Gujarat, Karnataka and Madhya Pradesh) suggested that in the absence of the PCPNDT Act, the child sex ratio would have declined by an additional 13-20 points^{xxvi}.

While not under the PCPNDT Act, the NCRB records as “foeticide”, under section 315 and section 316 of the Indian Penal Code, the number of cases of gender-biased sex selection that are registered and convicted data for the period 2001-2012 for the country as a whole, suggest some increase in the number of reported cases of gender-biased sex selection; nevertheless, the number is astoundingly small, even as recently as 2012^{xxvii}. For example in 2012, the NCRB reported just 210 cases of gender-biased sex selection followed by abortion (Foeticide), while this indicates a 59.1 percent increase over 2011, the small numbers reflect the failure of the system to identify and report the practice. Also disturbing are states disparities in reporting NCRB data come from just a few states. In 2012, for example, the largest number of crimes reported under this crime-head came from Madhya Pradesh, with just six other states reporting any cases (Andhra Pradesh, Chhattisgarh Maharashtra, Punjab, Rajasthan and Uttar Pradesh) (National Crime Record Bureau, 2013).

Disposal of cases under Section 315 and Section 316 of Indian Penal Code is also dismal. For example, in 2012, a total of 192 cases were investigated by the police (including pending cases from 2011), and in only 131 of these cases, a final report was submitted and 48 charge sheets issued. As far as a court cases are concerned, of a total of 149 cases that were up for trial during 2012, the trial was completed in just 20 cases and in only five of these cases was the accused convicted (National Crime Record Bureau, 2013).

It is no surprise, therefore, that despite the widespread practice of gender-biased sex selection, relatively few cases of violation of the PCPNDT Act have been prosecuted.

Incidence of sex-selective abortions registered under the PCPNDT ACT, India, 2001-2013.

MEDICAL TERMINATION OF PREGNANCY ACT (MTP) 1971 AND AMENDMENT OF 2002

Given the close link between gender-biased sex selection and sex-selective abortion, a brief description of the Medical Termination of Pregnancy (MTP) Act of 1971 (Government of

India, 1971) and the 2002 Amendment to the Act (Government of India, 2003) is necessary. The MTP Act has ensured women's right to terminate an unwanted pregnancy safely and confidentially. Pregnancies of up to 20 weeks may be terminated legally. However, the concurrence of at least two physicians is required for pregnancies of more than 12 weeks' gestation. In all cases, legally, abortion services can be provided only in registered facilities and by certified providers. The Act allows women to seek pregnancy termination in a wide range of circumstances, in case of rape, if the pregnancy is likely to result in the birth of a child with physical or mental abortion abnormalities, and if the pregnancy is the result of contraceptive failure. Notably, the Act does not allow women to seek pregnancy termination for sex-selection purposes.

CODE OF MEDICAL ETHICS

Supporting the PCPNDT Act is the Code of Medical Ethics constituted by the Indian parliament, in the Medical Council Act, 1956 and (Amendment Acts, 1964, 1993 and 2001)(Medical Council of India, 2002).

The code of Medical ethics underscores that “on no account shall sex-determination tests be undertaken with the intent to terminate the life of a female foetus developing in her mother's womb, unless there are other absolute indications for termination of pregnancy as specified in the Medical termination of Pregnancy Act, 1971”.

It goes on to indicate that any such practice will be considered as “professional misconduct on the part of the physician leading to penal erasure besides rendering him liable to criminal proceedings as per the provisions of this Act” (Clause 7.6) and that “the penalty for unindicted sex determination and female foeticide is striking off the name from the register apart from criminal action” (Medical Council of India, 2002). Towards gender equality: key policies while the PCPNDT Act specifically targets the practice of gender-biased sex selection, India has a range of policies and laws that are intended to create a supportive environment for girls and women, and promote the narrowing of disparities between males and females, and thereby indirectly, reduce the practice of gender-biased sex selection.

Key policies that have an indirect bearing on reducing disparities between girls and boys, and women and men include the national Youth Policy, 2003^{xxviii}, the recently passed National

Youth Policy, 2014^{xxix} and the National Policy for the Empowerment of Women, 2001^{xxx}. For example, the National youth policy, 2003, and the national youth Policy, 2014, contain a number of recommendations for promoting gender justice and equality engaging youth clubs and youth volunteers to undertake educational programmes on such issues as female foeticide, domestic violence, girls' education, and early child bearing, for example. They also articulate the importance of life skills building programmes for youth as well as a commitment to enable youth to attain high levels of education, access employment, access employment opportunities, and address gender disparity in schooling and economic opportunities. Policy recommendations include creating educational opportunities for disadvantaged youth groups, including girls; paying special attention towards making higher education vocation-oriented, and setting up networks of training institutions, providing technical and /or entrepreneurship training, financial institutions, voluntary organisations and the corporate sector to promote entrepreneurship among young women and men^{xxxi}. The National Policy for the Empowerment of Women, 2001, acknowledges the widespread prevalence of gender disparity and discrimination against girls and women.^{xxxii} Its goals are wide –ranging and include crating social and economic opportunities that enable women to realise their full potential spheres; enabling women to enjoy human rights and fundamental freedom ensuring equal access to healthcare, quality education, career guidance, employment and so on; strengthening legal system to eliminate discrimination against women; changing social attitudes, and eliminating violence against women and girls. Specific policy prescriptions include efforts to enact or change existing laws, including in the area of ownership of property and inheritance and, more directly, to empower women economically and socially by strengthening microcredit opportunities, promoting affirmative action to ensure women's participation in decision making, and ensuring equal access to education. The elimination of all forms of violence against women is a key policy prescription, encompassing such concerns as the need to eliminate sexual harassment. It argues strongly for the protection of the rights of girls, including the elimination of pre-natal sex selection, female foeticide and infanticide, child marriage, child abuse and child prostitution. It also identifies adolescent girl as a vulnerable group and highlights the need to pay attention to their education and nutrition.

The XIth and XIIth five year plans set specific targets for improvements in the child sex ratio. The XIth plan aimed to increase the child (0-6) sex ratio from 927 in 2001 to 935 by 2011-12;

as seen earlier, the child sex ratio actually worsened in the decade 2001 to 2011 (Planning Commission, 2008).

The XIIth Five Year Plan (2012-2017) noted that the decline in the child sex ratio is “an exceptionally worrying factor”. It aims to raise the child sex ratio to 950; it has identified improvement in the child sex ratio as an issue in need of priority attention, and called for special attention to strengthening the implementation of the PCPNDT Act (Planning Commission, 2013).

The XIIth plan recognises that programmes must ensure women’s basic entitlements, priorities the education of girls and the economic empowerment of women, ensure that child marriages are eliminated, that women are free from all forms of violence and are adequately represented in political and policy-making spheres. It also calls for the establishment of High Level Inter-Ministerial Committee for the care and protection of the girl child, and a Girl Child Specific District Plan of Action that will focus on enhancing the status of the girls^{xxxiii}. Towards gender equality: key laws there are also a number of laws in India that have relevance, directly or indirectly, for narrowing gender role disparities and addressing women’s empowerment. There are several laws for example, that aim to promote gender equality in terms of girl’s rights within the family and reduce perceptions of daughters as a liability, and thereby indirectly affect son preference.

The Dowry Prohibition Act, 1961, is one such Act that forbids the giving or taking of dowry or even abetting the giving or taking of dowry. It imposes such penalties for violation as imprisonment for five years and a fine equivalent to the value of the dowry; unfortunately, loopholes in the law have resulted in its indifferent implementation^{xxxiv}. The Hindu Succession (Amendment) Act, passed in 2005, legalises the right of daughters to inherit it property in the same way as son, it expands the rights of a married or unmarried daughter, and makes them equal to those of a son. As such, a daughter has the same rights and liabilities in the family property as a son she is equally liable for debts of the joint family, and is equally entitled to dispose of her share of the property^{xxxv}. Additionally, the Maintenance and Welfare of Parents and senior Citizens Act, passed in 2007,, places the responsibility of caring for elderly parents, including in terms of food, shelter health care and so on, on both sons and daughters, reducing perhaps parental perceptions about the inability of daughters to provide old age support^{xxxvi}.

Other Acts are also intended to promote women’s rights.

For example:

- a) The Child Marriage Restraint Act of 1929 (Ministry of Women and Child Development.
- b) And the Child Marriage Restraint Act of 1978 (Ministry of Women and Child Development)
- c) That prohibits the marriage of a girl before she reaches age 18 and of a boy before he reaches age 21.

The more recent Prohibition of Child Marriage Act, 2006, has considerably strengthened legislation, placed stronger penalties on violations and called for activities to sensitise communities about early marriage (Ministry of law and Justice, 2007a).

The Right of Children to Free and Compulsory Education Act, 2009, places responsibility on the state to ensure free and compulsory enrolment as well as regular attendance and completion of elementary school, and thereby has a significant role to play in ensuring that girls gain at least a primary education (Ministry of Human Resource Development, 2011)

The Act also places responsibility on parents for ensuring that their daughters and some are enrolled in an appropriate elementary school and remain in school until they have completed class VIII. The Women's Reservation Bill (The Constitution 108th Amendment Bill), 2008, Amendments to the constitutions have focussed more on ensuring greater participation of women in political processes. The 73rd and 74th Constitutional Amendments, passed in 1993, reserve one-third of all seats in panchayats and municipal bodies for women. More recently, in 2010, the Women's Reservation Bill was passed by way of the 108th amendment to the Indian constitution, by the Rajya Sabha, but is still to be passed in the Lok Sabha. This amendment reserves one-third of all seats in the parliament and in state legislative bodies for women. The Bill is to be effective for 15 years once passed, and aims to reduce gender disparities in representation at the state and national levels (Rajya Sabha, 2010).

A number of laws have focused on enabling women to gain greater exposure in the public domain. The protection Women against Sexual Harassment at Workforce Bill, 2010 seeks to ensure a safe environment for women at workplace both in public and private sectors, whether organised or unorganised^{xxxvii}. The bill proposes a definition of sexual harassment which is as laid down in the Vishaka judgement by the supreme court (any unwelcome sexually determined behaviour, including physical contacts and advances, a demand or request for sexual favours, sexually coloured remarks, showing pornography and any other unwelcome

physical, verbal or non-verbal conduct of sexual nature) Additionally, it recognises the promise or threat to a woman's employment prospects or creation of a hostile work environment as "sexual harassment" at work place The Bill provides protection not only to women who are employed but to any woman who enters the workplace as a client, customer, apprentice, daily wage workers, or in an ad-hoc capacity. Laws have also been strengthened that address violence against women and girl. A recent amendment to the criminal law, namely, the Criminal law (Amendment) Act 2013, expanded the definition of sexual violence against women from a focus only on rape and vaginal penetration to such other acts of violence, such as, for example, acid attacks, sexual harassment, voyeurism, stalking, and trafficking of persons for commercial sexual exploitation. The amendment has also stipulated a much greater quantity of punishment for offenders of sexual violence than did the original bill^{xxxviii}. Laws and policies on limiting family size finally, certain laws and policies that have focused on excluding individuals with more than two children from public office and or certain entitlements have been argued to have potential for enhancing gender discrimination and encouraging gender-based sex selection^{xxxix}. For example, laws were enacted by the state governments in the late 1990s and 2000s restricting political eligibility to candidates with two or less children. During this period, some 11 states passed laws disqualifying persons with more than two children from contesting Panchayat elections (although later some states repealed this law). While clearly a violation of rights, the link off this law to gender-biased sex selection is unclear.

HUMAN RIGHTS CONSIDERATIONS

Preventing discrimination many pervasive social, cultural, political and economic injustices against girls and women from fewer educational and employment opportunities to less autonomous decision-making power (eg in choosing a partner) and the inability to inherit property- constitute violations of the right of non-discrimination. This was clearly recognized at the International Conference on Population and development (ICPD) in 1994 and in the associated programme of action which enjoined governments to eliminate all forms of discrimination against the girl child and the root causes of son preference, which result in harmful and unethical practices regarding female infanticide and prenatal sex selection^{x1}. States also have an obligation under international human rights law to respect, protect and fulfil the human rights of women, as elaborated for example in the International Covenant on civil and

Political Rights (ICCPR), the International Economic, Social and Cultural Rights (ICESCR), the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), and the Convention on the Rights of Child (CRC). States therefore have an obligation to take active steps to counter discrimination and to uphold the rights of women. For example, CEDAW Article 5(a) requires states to modify social and cultural patterns of conduct: with a view to achieving the elimination of prejudices and customary practices which are based on the idea of inferiority or the superiority of either of the sexes or on stereotyped roles for men and women^{xli}.

Reproductive rights and prenatal sex selection in 1994, more than 180 States adopted the ICPD definition of reproductive rights, recognizing that: reproductive rights embrace certain human rights, recognized in national laws, international human rights documents and other consensus documents. These rights rest on the recognition of the basic right of all couples and individuals to decide freely and responsibly the number, spacing and timing of their children and to have the information and means to do so, the right to attain the highest standard of sexual and reproductive health. It also includes their right to make decisions concerning reproduction free of discrimination, coercion and violence, as expressed in human rights documents^{xlii}. The right to the highest available standard of health enshrined in the ICESCR has been further interpreted to include the provision of interventions and services aimed at the prevention and treatment of diseases affecting women, as well as policies to provide access to a full range of high quality and affordable health care, including sexual and reproductive services. CESCR (2000), general comments 14, paragraph 21 with specific regard to abortion, the ICPD Programme of Action five-year review recommended that all parties should deal with health impact of unsafe abortion as a major public health concern and reduce the resource to abortion through expanded and improved family planning services^{xliii}.

It was also agreed that in circumstances where abortion is not against the law, health systems should train and equip health services providers and should take other measures to ensure that such abortion is safe and accessible. UNFPA (1999); paragraph 63iii restricting access to certain reproductive technologies in order to prevent an imbalanced male- to- female ratio in a given society should not result in the curtailing of the human rights of women. In addition to the difficulty of enforcing the legal prohibition of sex detection and resulting sex-selective abortions, evidence shows that if women do not have access to safe abortion services they often turn to unsafe options(WHO 2007)-or if they cannot terminate a pregnancy, they are forced

into childbearing until a boy has been born. Various United Nations human rights treaty monitoring bodies have established that the rights of women and girls to life, health and development are violated when they undergo an unsafe abortion because safe services were denied to them, or are forced to carry an unwanted pregnancy to term. Ensuring access to services for safe abortion to the full extent of the law at all times is crucial, as is working with communities to address the social norms and practices that increase the vulnerability of women and girls to the health risks associated with unsafe abortion. Sex selection in favour of boys is a symptom of pervasive social, cultural, political and economic injustices against women, and a manifest violation of women's human rights. Such injustices must be addressed and resolved without exposing women and children to the risk of death or serious injury through denying them access to needed services and thus further violating their rights^{xliv}.

FINDINGS OF THE STUDY

The decline in the number of girl children can be inferred to be caused by high girl child mortality including female infanticide or due to female foeticide

1. Male child is the determining force for female foeticide and infanticide
 - Male child is old age insurance
 - Male child brings social status
2. Girl child is an increasing liability
 - perceived as the “other”, over which parents have no claims
 - Dowry exchange is crucial in preventing the birth of a girl child
3. Penetration of the market has appropriated male child preference to promote consumption patterns through large scale celebrations of birth, lohri, mundal, namkaran etc.
4. Celebrating rituals associated with the birth of a male child and his life stages are becoming status symbols.
5. Technology is differently utilised to practise male child preference.
6. Revivalism of the fundamentalist movement and identity assertions.
 - Women perceived as the group's honour
 - Imposing codes of conduct
 - Restricted mobility

- Norms of seclusion
- 7. Small family norm has displaced the girl child
 - Segmented initiatives to promote women's development have marginalised the girl child.
 - Property laws in peasant patrilocal society have resulted in increased dowry and resentment towards the girl child.

SUGGESTIONS

Key steps to ensure effective implementation of PC & PNDT ACT

Listed below are some specific suggestions and proposals for further strengthening the implementation of the

1. Implementation of the Law
 - Making mandatory proper filling and audit of form-F
 - Prosecuting clinics that do not maintain and submit records as per the PC & PNDT ACT
 - Hiring special public prosecutors at all levels to prosecute violations of the act`
 - Prosecution of companies and suppliers that violate provisions of the act
 - Setting up of Fast Track Courts to expedite prosecutions
 - Offering mandatory protection to witnesses in order to increase conviction rates
 - Requiring government to bear all expenses related to prosecution of the cases in the trial court and higher courts including travel expenses of lawyers and witnesses.
 - Preparation and circulation widely, to members of the competent authority and others who are entrusted with enforcing the PC & PNDT Act, a manual documenting the measures and procedures followed in cases where violators of the Act have been successfully prosecuted.
2. **Accountability**
 - Holding accountable State and District Appropriate Authorities for failure to implement the Act and Rules in preventing sex determination.
 - Regulating market of used ultrasound machines.
 - Constituting and make fully functional State Supervisory Board(SSB), State Advisory Committees.

- SACs, State Inspection and Monitoring Committees (SMICs) and District Advisory Committees (DACs).
- Ensuring hundred percent registration of centres providing pre-conception and pre-natal diagnostic services(ultrasound clinics, genetic clinic and ART clinics and the like) within a suggested frame of six months.
- Involving State Commission for Women in monitoring the implementation of PC & PNDT Act.
- Requirement of the Ministry of Health and Family Welfare to commission independent surveys to estimate the level of compliance by the state and district authorities This survey becomes particularly imperative in the context of banning mobile ultrasound machines as per Gazette Notification of February 2012.
- Processing Internet Companies and websites that carry advertisements on sex selection in violation of the PC & PNDT Act.
- Institutional data on births of boys and girls from private and government hospitals should be compiled and made publically available at the district level on a quarterly basis to enable concurrent monitoring of the sex ratio at birth.
- Conducting social audits in the same place for a continuous period of a week to 10 days to ensure effective implementation
- Monitoring implementation of the act without violating the privacy rights of pregnant women.
- To encourage NGOs to offer counselling and legal aid to women who are pressurised by families or the community to abort a female foetus.
- Mandate appropriate scientific testing before approving and introducing new technological innovations in diagnostics.

RECOMMENDATIONS

We focus here on the promising areas of primary research that will either highlight the experiences of a particular intervention in building the environment for a more balanced sex ratio at birth, the obstacles that an initiative may have experienced in achieving a balanced sex ratio at birth, or other potentially positive efforts in doing so.

Breaking down gender in egalitarian norms and son preference

Of the three sets of initiatives implemented, the most research has been conducted on the effectiveness and challenges associated with efforts to provide conditional cash and non-cash transfers for girls (for example Sekhar, 2012; International Center for Research on Women, 2013; Nanda, n.d). Available evaluations have explored the implementation issues associated with conditional cash transfers, and have focused on assessing the impact of one such programme (Apni Beti Apna Dhan) in Haryana. Given these insights, it is not clear that there is a rationale for additional research investment in exploring the effectiveness of other such programmes. However, some research may be of interest.

A number of studies commenting on the experience of Korea have suggested that it was the change in social norms fuelled largely by young people that provided the environment for a reversal of the sex ratio at birth. It may be useful to explore the extent to which such trends are apparent in India by focussing research on the attitudes and reproductive decisions of the young; for example, those recently married and those about to be married.

While many conditional cash transfer programmes have been evaluated, several recent programmes described in the previous chapter have not been evaluated (Sekhar, 2010). Indeed, Sekhar identifies some seven programmes, including the Dhanalakshmi Scheme and the Ladli Scheme, specifically implemented with an eye on influencing gender-based sex selection, as worthy of further and more in-depth research attention. Research is needed that documents the perceptions of implementers of these schemes in various capacities and states, assesses of those benefited by it, to better understand implementation issues as well as perspectives of reach and impact.

The extent to which laws and policies aimed at empowering women and girls and reducing gender disparities, for example, inheritance laws-have had intended effect, and others, intended to correct gender injustice, such as dowry, or address population stabilisation issues, such as policies preventing those with more than two children from contesting in local elections, have had an adverse effect on gender-biased sex selection.

Advocacy, communication and community mobilisation efforts

As discussed in the previous chapter, there have been several efforts aimed at raising awareness, changing attitudes among different constituencies about the acceptability of gender-based sex selection, and engaging the media. The experiences of these efforts have not been

well documented or their effectiveness assessed. Research addressing these issues is, therefore, called for. For example; physicians' associations have conducted training programmes for providers but their experience has not been documented for instance, has there been follow up and would more in-depth evidence from trainee providers provide insights into the usefulness of this approach?

Research is needed that assesses how messaging about gender-biased sex selection(through posters, banners, television, news papers, etc) has there been perceived at the community level among those in the process of family building; whether they are aware of these messages, whether exposures has affected family building plans etc.

Insufficient insights are available about the influence of media exposure-on the one hand, are soap operas, films, radio spot etc designed specifically to counter gender-biased sex selection and on the other, more subtle messages about women's status that may result in new ideas about marriage, spousal relations, aspirations and so on.

Is there potential at the local level (Panchayats, local religious leaders) to promote credible messages or are local leaders unlikely to perceive gender-biased sex selection as a concern?

Enforcement of the PCPNDT Act

A number of efforts have been made to enforce the act, some by appropriate authorities and others by NGOs and civil society groups. Several issues emerge for documentation and research. For examples; The Bedi Bachao Andolan programme operates a helpline. Research is needed to determine the experience of this programme, whether communities know about and use the help line, whether they are aware of other media activities and how they perceive these activities, and is the experience of those who deliver these programmes-do they find them useful and potentially effective?

- Reviews of state-level initiatives- for example, anonymous reporting opportunities, help lines and so on, to assess their use by civil society and the extent to which they have resulted in action.
- Case studies of selected appropriate authorities would be useful; questions that such case studies could address include: what has been the functioning of appropriate authorities at the district level? What are the challenges they face? What are the attitudes of members? What have been their experiences and what support do they need?

- Assessment of sting operations and their positive and negative effects through interviews with those who have conducted sting operations and providers targeted by these operations (if possible).
- Case studies assessing the role of the PCPNDT Act enforcing authorities, understanding their perspectives about the reasons for non-compliance with the PCPNDT Act, including, for example, lack of awareness, complicit police, and indifferent attitudes among the police and judiciary, etc.
- To what extent have measures intended to enforce the PCPNDT Act compromised women's right to access safe abortion?

Understanding the context of persistent gender-biased sex selection

Also of interest is research that sheds more light on the context of gender-biased sex selection. For example, not enough is known about such diverse issues as, for example, the decision making process with regard to the composition of children and resort to gender-biased sex selection, costs associated with gender-biased sex selection and termination of pregnancies carrying female foetuses; the extent to which the narrowing of gender disparities in schooling, and greater exposure to the media and new technologies on the one hand, and concerns about the safety of girls in public places on the other, have affected decisions about children and expectations from sons and daughters; and the extent to which daughters are indeed perceived as able to support their parents.

Understanding the social consequences of adverse sex ratios

The effects of adverse sex ratios have already been felt in the north-western states of India in terms of the paucity of brides and the consequent importation of brides from poorer eastern and north-eastern states. Research is needed that describes the adjustments of social systems to sex imbalances among adolescents and adults, notably with regard to marriage, sexuality, gender based violence, and the agency and opportunities of women.

Understanding factors underlying improvements in child sex ratios

As previous chapters have shown, while India's sex ratio at birth and among children continues to be disturbing, there have been positive shifts in some states and districts, particularly in the north-western states, such as Delhi (NCT), Haryana, Himachal Pradesh and Punjab, and the western state of Gujarat. Indeed, in several districts in which the child sex ratio was particularly

adverse in 2001, improvements were observed in 2011, while no such trend was observed in similar and often contiguous districts. Our knowledge base about why these changes took place, however, remains sparse. Research that explores the situation in districts in which sex ratios improved impressively over the last decade or two, with neighbouring or similar districts in which such a decline did not take place may provide some answers to questions about what works to reverse adverse sex ratios; research would explore the extent to which selected districts differ in terms of implementation of initiatives intended to enforce the act; build gender equality and promote advocacy, communication and community mobilisation, and the extent to which the reversal was effected without denying women their right to safe abortion. Research would also show the extent to which gender role attitudes have indeed become more egalitarian and son preference declined, as compared with such other possible changes as concerns about the limited availability of potential brides, difficulties in locating providers willing to disclose the sex of the foetus, or fears of arrest and imprisonment. Finally, ongoing research evaluating the impact of such programmes as the Apni Bedi Apni Dhan (Haryana) and the Dhanalaxmi Schemes conducted, respectively, by the International Centre for Research on Women, and the International Institute for Population Sciences (IIPS) and UNFPA will provide insight into the extent to which such transfers have succeeded in changing parental perceptions about having daughters.

In short, imbalances in the sex ratio at birth and among children remain a huge challenge in India and call for urgent action that counters gender-biased sex selection while preserving women's right to access safe abortion. While a number of factors responsible for gender-biased sex selection have been identified and programmes implemented, evidence remains weak with regard to both the implementation of the PCPNDT Act proscribing gender-biased sex selection and the effectiveness of direct and indirect policies and interventions.

CONCLUSION

The findings of this review underscore the persistence of unbalanced sex at birth and among children even as recently as 2011. While there are wide disparities, with adverse sex ratios concentrated in a few states, among better off sub-populations and those in urban areas, there is a narrowing of these disparities and a suggestion that adverse sex ratios may encompass larger segments of the population as –selection technologies become more widely available.

At the same time, there are signs of a turnaround in a few states (Gujarat, Haryana, Punjab, and Uttar Pradesh), that, while incipient, are signals of hope.

Unbalanced child sex ratios have been evident in India for decades, with post-birth disparities in feeding and health care patterns elevating the mortality of daughters as compared to sons. Since the 1980s, post-birth discrimination has given way increasingly to prenatal gender-biased sex selection. Underlying these trends is India's patriarchal social system and the resulting gender inequality and strong preference for sons over daughters, along with a growing preference for small family size and the means, through inexpensive and widely available technology, to ensure the birth of sons even while ensuring small families.

The PCPNDT Act (and the PNDT Act that preceded it) has prohibited the disclosure of the sex of the foetus and the indiscriminate use of pre-natal diagnostic technologies for gender-biased sex-selection, and has applied strict penalties for those found to have violated the Act (Ministry of Health and Family Welfare, 2003). At the national, state and district levels, the PCPNDT Act empowers statutory bodies, by way of appropriate authorities, to enforce the act. Although the act has been enforced since 1994, sex ratios have remained adverse and have even worsened in the twenty years following its enactment. The failure of the Act to curb adverse sex ratios has been attributed to the persistence of gender inequalities and norms favouring sons at any cost, unscrupulous clients and providers willing to violate the act, and difficulties in or indifference about enforcing the act in many settings.

The weak implementation of the PCPNDT Act in and of itself is well recognised and three broad categories of initiatives have been undertaken to better translate policies and legislation into action. These have included initiatives to ensure that the Act is implemented; interventions focussed on communications, advocacy and community mobilisation that aim to build a better understanding of the PCPNDT Act and the implications of violating it, and change gendered norms and attitudes; and measures to build greater gender equality and reverse strong son preferences. Initiatives have been undertaken both by the government as well as by civil society organisations. While these are promising, efforts to identify the challenges and successes they have experienced have been limited, and is available suggests that gaps in understanding persist.

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- ^{xv} (State Health System Resource Centre, 2012, as quoted in UN Women, 2014
- ^{xvi} Ministry of health and family Welfare, n.d
- ^{xvii} For example, in Rajasthan under the Mukhvir Yojana, those who provide information about gender-biased sex selection and those who provide confirmed information about unregistered ultrasonography machines may report anonymously and are awarded Rs 50,000 and 25,000, respectively (Forum against Sex Selection, 2012). Since 2010, Rajasthan also has a provision for online registration of complains (Department of Medical, Health and family Welfare, Government of Rajasthan, n.d)
- ^{xviii}Phansalkar.Joshi,2013
- ^{xix} ibid
- ^{xx} (Luthra, 1994, Jha et al, 2006, Arnold, Kishor and Roy, 2002, Visaria, 2007)
- ^{xxi} For example, the functioning of Appropriate Authorities has been variable at best (see, for example, joseph and centre for Youth Development and Activities, 2007)
- ^{xxii} Similar concerns have also been raised in China (Wu, Vusainen and Hemminki, 2006, Junhong, 2001, although punitive measures were found to be hugely successful in Korea where effective enforcement of laws

has been identified as one factor contributing to the country's success in reversing sex ratio imbalances while preserving women's right to abortion (Kim, 2013)

xxiii (Ministry of Health and Family Welfare 2013)

xxiv 9ganatra, 2008, Ipas, 2013)

xxv (Kishwar,1993, Guilmoto,2007, United nations population Fund, 2012)

xxvi (Nandi and Deolikar,2013)

xxvii (National Crime Record Bureau, 2013)

xxviii (Ministry of Youth Affair and Sports, 2003)

xxix (Ministry of Youth Affair and Sports, 2014)

xxx (Ministry of Youth Affair and Sports, 2001)

xxxi (Ministry of Youth Affairs and Sports,2003,2014)

xxxii (Ministry of Youth Affairs and Sports,2003,2001)

xxxiii Planning Commission,2013

xxxiv Ministry of women and Child Development n,d, a, Singh, 2013

xxxv Lawyers Collective Women's Rights Initiative, n.d, Deininger, Goyal and Rangarajan, 2010, Agrawal 2005

xxxvi Ministry of law and Justice, 2007

xxxvii Press Information Bureau, 2010

xxxviii Buch, 2005 Anujriti and chakravarty, 2014

xxxix Buch, 2005 Anujriti and chakravarty, 2014

xl United Nations (1994), Paragraph 4,16

xli CEDAW (1979)

xlii United Nations (1994); paragraph 7.3

xliiii UNFPA (1999); paragraph 63i II Sec: ICCPR (1966), Article2; CEDAW (19790); and CRC (1989)

xliv Dickens et al, 2005