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October, 2002

Social Defence

*A quarterly journal to
review the policies and practices
in the field of Social Defence*



**NATIONAL INSTITUTE OF SOCIAL DEFENCE
MINISTRY OF SOCIAL JUSTICE & EMPOWERMENT
GOVERNMENT OF INDIA
NEW DELHI-110 066**

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Editor : S.K. Dev. Verma

Associate Editors:

**G. S. Bedi, D.C. Jaya Raju, M. Sunil Kumar, R. Rahman,
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- The editor welcomes contributions on articles/books review from professionals, policy planners, organizations and persons involved in the work on social defence for their intellectual inputs to advance the disadvantaged and vulnerable groups included in the area of social defence towards human resource development. Views expressed in the articles published do not necessarily reflect the views of the Editor, NISD or the Government of India. Articles based on research, training and evaluation and books review of recent publications on social defence in India and abroad should be taken into account to publish and should be sent to:

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Editorial

Tradition plays an influential role especially in a developing country like India. While it is a deterrent for a number of evil practices in the society, it also plays a negative role in attributing certain kind of social stigma not on the crime but the victim itself. Child sexual abuse is one such practice. Most cases of child sexual abuse remain unreported or under-reported in such traditional societies like ours.

Apart from social stigma, most of the developing societies are yet to develop modern democratic institution to intervene in preventing such heinous crimes from taking place. The opening article by **Dr. Sibnath Deb** throws valuable light on the issue of child sexual abuse. It presents a bird's eye view of the prevalence of this phenomenon in various countries, factors responsible for it and consequences for the victim. Drawing a blueprint of a comprehensive preventive support system involving NGOs, Civil Society, Police and media alongwith educating the child and strengthening systems of interventions have also been advocated in this article. The author also enumerates various legal provisions in this regard and makes a convincing case to highlight the issue of child sexual abuse.

The bedrock of Indian Judicial system is essentially reformatory rather than penal. It believes that no one is born a criminal and it is the socio-economic cultural conditioning that forces one to commit crime. Juvenile Justice system is an attempt to reinforce the same and provide a framework for safeguards for children. The article '*Juvenile Justice at Cross-roads*' by **Dr. Girija Shankar Sharma** traces the evolution of Juvenile Justice system in India. The author also elaborates upon the procedure and salient features of Juvenile court procedure. The later section of the article dissects the Juvenile Justice scenario in Orissa as a case study and points out certain glaring lacunas on the ground. The larger relevance of this case study is that it serves as a foreshadow for other states as well and draws attention to strengthening the institutions at various levels to ensure proper implementation of the Law.

Female infanticide is one of the inhuman practices that humanity has witnessed from ancient times till today. The alarming decline of the ratio of girl child in some states in India has drawn world wide attention to develop a framework to stop this self-destructive practice, which is especially prevalent among Hindus. The modern medical techniques have only helped turn it into a high-tech crime revealing the most ugly face of a patriarchal society. The article '*Female infanticide: A threat to posterity*' by **Preety Misra** draws

attention to this gruesome practice and highlights value systems, socio-economic factors and the demographic geography of this crime.

No amount of socio-economic necessity can justify child labour. The International Convention on the Rights of the Child, popularly known as CRC, unequivocally recognizes the right of the child to protection from exploitation. But despite a comprehensive legal framework the evil of child labour remains a major challenge for Indian society. '*Child labour and law*' authored by **Srinivas Gupta** presents an overview of this problem in the context of judicial perspective.

It is not unusual to see a clash of interest between the media and the legal system both of whom claim to uphold public interest. The representation of crime in media has often attracted criticism for inducing children towards criminal behaviour and making them prone to violence. The article by **A. Jagdish Kumar** on '*Crime and Media*' brings out the dynamic interplay between these powerful institutions of democracy and its impact specially on children. It elaborates upon the various research conducted in this field and analysis the various theories in the context of Indian reality.

Thus, the present issue of NISD Quarterly brings another collection of incisive and insightful analysis of the myriad issues pertaining to social defence. In an area which clearly lacks a focused attention of the majority of academic world and a concerted interaction between the grass roots practitioners and academic community, it is our attempt to create a vibrant platform to share views and opinion, analysis and explorations on many interesting areas of Social Defence. Your critical appreciation, we genuinely believe, would make our task more meaningful.

J. S. KOCHAR

CRIME AND MEDIA: CONTEMPORARY INTERFACE ISSUES

A. JAGDISH KUMAR*

Abstract

The relationship between the criminal justice system and the media machinery has been subject of research, speculation, and commentary throughout the century. This relationship may be understood in terms of dependency relations operative between these massive systems. Most simply put, neither the media nor the criminal justice system can operate effectively without the other.

It is not always easy to define the ideal relationship between the media and the criminal justice system; but we can always measure the impact caused by Media which is the carrier of crime messages on to the society. This article reflects the dominance of media over crime, rather troughs a light on the larger than life impact of crime through media on the society and criminal justice.

“The press, the movies and television bear a large share of the responsibility for the climate of fearThis has enveloped our country and which has become such a threat to our freedom”.

Evjue. T. William (2001)

Introduction

In the recent past media has been faster than the police and the law in identifying crime and its related avenues and throwing them on to the society. Crime being the hot topic and the major ingredient for the success of various Media. The media is the most powerful influence on a person's cognitive stimulus and as every action has a reaction, every stimulus has an even (positive or negative) response. Therefore it becomes necessary to analyze the various issues of media interface.

As the legendary media thinker Marshall Macluhan, has very rightly said **“Medium is the message”** Media as the very meaning implies, is nothing but a medium or a channel for carrying the intended message to an intended audience. Crime grabs the headline of the day to day news on any media.

Media in India

In the Indian perspective the foremost function of the media is to gather useful data about the society and its various macro and micro environments. All possible data regarding interests, attitudes, socio-economic status, age

groups, male-female composition, professions, religious beliefs, language, cultural background is collected. This data is injected in the minds of the audience through a mixture of dramatic representation both written, oral, visual and audio-visual forms of communication by variety of media.

The terms 'reach' and 'frequency' are the key terms in understanding the extent of impact and influence of the media. Both terms are used widely in advertising and marketing and measure potential media effects on the target audience. "Reach" refers to the total number of people exposed to the media or media vehicle at least once during a specific period.

"Frequency" relates to the number of times a specific/target audience or readership is exposed to the media vehicle during a given period.

Therefore, it is the reach and frequency of the media through which crime gets its recognition in the public receiving media inputs. Each segment imbibes the representations of Crime in media in its own way; and responses also differ accordingly. For example, a young kid seeing a Jackie Chan or Amrish Puri movie may either get reinforced positively or negatively according to the psyche of the child and other environmental factors.

Crime in India

Crime is no longer hidden from the media. The hands of the media have become longer than law, as stated in many Hindi movies. In contemporary Indian set up all walks of the society are in the grip of crime, from a beggar to a politician no body is saved from the clutches of crime and media. Crime represents a broad cross section of human behavior. It is difficult to categorize crime into meaningful general types. Different kinds of offences share similar characteristics nevertheless, there are five types of crime based on references among criminologists in the professional literature and the media.

Offences may be grouped into five categories :

- Street crime & Traditional crimes
- Victimless crime
- Organized crime
- Occupational and career oriented crime
- Politically oriented crime

While Criminology and Media on the face of it looks like two different spheres of activity, practically there has always been a close interface between the two. After all crime prevention gains importance through the perception of crime by people in the neighborhood/Region-All of which happens through the

media only. Hence it is relevant to look into the development that has happened in these two areas.

Major contributions of various researchers in the field of crime and media

Cultivation theory : Doom and Quake (1996)

This theory hypothesizes that television's depiction of the world leads heavy viewers of television to believe that the real world resembles the television world in key respects. Carison (1985) studied the content of crime shows in the late 1970's and the attitudes towards the criminal justice system held by viewers of these shows. He found that the crime shows on television in the late 1970's presented a very unrealistic view of the criminal justice system, specifically the effectiveness of police, the rights of the suspects and defendants, and the general level of criminal activity in the world. People who watch these shows report more support for authority such as police, less support for civil liberties, and more political cynicism. Carison notes that the consistent of messages of crime shows may result in "an increase in demand for police protection", since police are portrayed as extra ordinarily effective and crime as rampant. It should be noted, however, that the sort of crime shows Carison examined was qualitatively different from the shows that emerged in the 1980's, beginning with *Hill Street blues*.

These later shows, many produced by Stephen Bochco have featured flawed police who often fail to catch their suspects, and open criminals as recurring characters who appear immune the effects of such programs would, by Carison's logic results in mistrust of police and perhaps even more generalized cynicism.

Shrum and Mares (1995) have attempted to explain the psychological process by which cultivation occurs. Shrum points to the accessibility of heuristics, where by it is easier for heavy viewers of television to rely on the impression TV makes on them when they answer questions about the real world. Mares argues that respondents are not always aware as to where the information comes from, and thus "source confusion" accounts for peoples tendency to describe the real world in television terms.

Potter, Warren (1996) and others points out that even if viewers limit their exposure to non-fiction programs such as news and new magazines, they are likely to end up with distorted impressions of the real world. The authors compare non-fiction TV depictions of anti-social behavior to real world statistics. "If we rely on non-fiction programming to tell us about the parameters and

nature of our society, that programming is constructing narrative that are not particularly useful for that purpose. On fictional presents a very high rate of anti-social activity and the most serious forms of that activity (physical violence and crime) are presented at rates for above the rates the real world”.

Media have two major **objectives** : Audience objectives and message distribution objectives. *Audience objectives* define the specific type of publics the media wants to reach. With the recent developments in the mode of communication and information technology the whole globe has become accessible in nanoseconds time. And the reach of the media and press persons, have shown a remarkable performance in bringing about the day to day happenings in the world to the attention of the public. Crime is one of the more prominent ones covered by the media.

Media interface

For effective law enforcement on organized crime, the interface with the media cannot be restricted to the traditional realm of press release. The interface has to be proactive at the same time unwanted publicity, can cause untold loss and damage. Recently a newspaper, published the photograph of a terrorist which became a serious handicap during the trial process when the test identification was challenged as in-fructuous. Proper liaison with the media is also essential to see that there is no unwanted criticism of law enforcement agencies.

Another important aspect of media interface relates to undue and unwanted publicity against court and court procedures. For example in the trial of the Purulia arms drop case. This was a serious problem. The unusual criticism in certain sections of media, even abroad did damage the reputation of the courts. Such criticism also sends wrong signals that there are flagrant violations of human right. Proper media interface should be an important job specifications for the Superintendent of Police/Deputy Commissioner of police, he being the most important functionary in the law enforcement hierarchy and has adequate public contact.

a) Police public relations is also needed to be kept in mind as an important factor in law enforcement, public should be made aware about their rights and duties. Cooperation of the public would be forth coming only when they are also assured of quid pro quo in the form of safety, security and public peace. A hand book of good practices needs to be provided to the policeman who should be adequately sensitized to the provisions. All good practices and beneficial acts need to be publicized so that public is made aware of what the law enforcement machinery is doing.C.B.I. had to face negative coverage

from the press during the I.S.R.O. espionage case in Kerala.

The publicity against the C.B.I., was so much in several section of the media that public still believe that there may be some truth in the allegation of espionage against the top notch scientists and others despite, the fact that the trial court had accepted the report filed by the C.B.I. and held the case to be false. Even the Supreme Court of India put its stamp and seal on the falsity of the allegations by appreciating the role of the C.B.I. in bringing out unvarnished truth. In the light of such incidents media interface need to refined and systemized. It is better that media relations are entrusted to a specified official. Perhaps there is an urgent requirement of public relations officers for all law enforcement agencies similar to the one available with the C.B.I.

b) Crime, media and its impact on youth

Contemporary Indian movies and Television programs and serials stimulate the appetite of young people for excitement and violence, as also for indulging in undue risk and adventure. Moreover, these movies/programs tend to glorify deviant activities, impart knowledge of criminal techniques, and exaggerate the extent and spread of criminality in society. Thus, television programs and motion pictures have now come to be blamed for many of the crimes. Quite a few movies depict scenes of adventure, kidnappings, rape, assault, murder which offer new examples of behavior to the youth who tend to emulate them in real life. Songs and movies shown on various satellite channels carry pictures, scenes and visuals that are in awfully poor taste and tend to emotionally disturb and unhinge the young minds. They often depict techniques of committing a crime. Sex and violence seems to have become two of the major television themes. Motion pictures too have their own share of violence and some of them are too much preoccupied with sex. This fact is borne by the lurid advertisements for these motion pictures in well-known magazines. Some thinkers are of the opinion that the aggression built up by frustrations which youths encounter may be drained off by these movies and TV serials. The youths project themselves into the stories and release their aggressions in the field of fantasy rather than in overt aggressive behavior. However, there is no gain saying the fact that these movies and TV programs do really cause, or at least facilitate deviant behavior among the youth.

The testimony of young as regards the source of their criminality is unreliable. They share the human desire to place blame elsewhere. It is plausible to conjecture that the criminal youth interpret the mass media in anti-social ways.

To the non-criminal youth, a movie full of violence and sex may offer the lesson that “crime does not pay”, to the criminal youth, it may act as a teacher in crime techniques. In our research, though we do not come across any case where the mischief could be attributed to motion pictures or TV programs, nevertheless, we believe that the mass media seem to be a factor, at least a secondary factor for aggravating, if not causing, already existing dispositions to criminality.

c) Crime, media and its impact on children

There are fears regarding the children’s exposure to violent media which are mostly centered on the likelihood that children may imitate or learn the criminal behavior they see. Of course, not all aggressive behavior is criminal. The studies that lead to the conclusion that exposure to televised violence causes more aggressive behavior in real life are frequently criticized for not being sufficiently realistic.

Three particular subjects receive the bulk of research attention where media related effects are concerned with children.

- The effects of any violent media on children.
- The “cultivation” of beliefs about crime and the criminal justice system that results from the viewing television.
- The effects of viewing pornography on adults.

It is frequently noted that by the time an Indian child reaches adolescence, he or she is likely to have seen thousands of murders depicted on television (e.g., Huston et al’s, calculation that by the time a child leaves elementary school he or she will have seen eight thousand murders) (cited in Bogart, p. 351). From the 1990’s the increasing popularity of computer games that simulate wholesale slaughter of human beings (e.g., Doom and quake) has led to speculation that the wave of school shootings of the late 1990’s has roots in part in the skills (such as arming, evaluating killed or wounded status, and strategizing) cultivated by playing such games and in the indifference toward suffering that leads to success in the games.

The possibility that exposure to mass media entertainment from comic books to the Internet can inspire criminal behavior was the subject of research and speculation and debate throughout the century. Some contents are considered more suspect than others, particularly depictions of violence. Since 1950, violent Television fare has been the subject of a great deal of research, and meta analysis of this body of research tend to conclude that there is a consistent, moderate causal relationship between exposure to televised violence

and aggressive behavior in the real world.

The goals and resources of Crime and Media

The goals and resources of the media do not mesh perfectly with those of prosecutors, defendants, judges and police. The goals and resources people possess as audience and readers are different from the roles of citizens, jurors, suspects and consumers. The ongoing negotiation between the media, the justice system, and people in their various relevant roles produces the media effects observed in the research field reviewed here. Many of these effects may be unintended or undesirable, but mitigating such effects as prejudicial pretrial publicity is often not possible without threatening goals that others consider paramount, such as press freedom or the desire of a prosecutor to try a case locally (that is avoiding a change of venue). Therefore when goals are in conflict, and resources are scarce or fought over, the relative power of the parties to the conflict becomes the central issue. There is no doubt that the ability of media to influence the course of criminal justice is entirely legitimate or desirable. But the media are powerful enough to resist intrusive public policy and defend their resources such as access to sources, control over their broadcast schedules, and use of information-gathering tactics such as hidden cameras.

The justice system has powerful resources of its own. It is the public, whose goals are least likely to receive support and benefit from rich resources when they are threatened by the goals of the media and the justice system. As Potter and Warren point out in their discussion of policies regarding the regulation of sex and violence on television, the political influence of the broadcasting industry allows the media to tie up regulators over definitional issues (what is sex? What is violence?), rendering public policy to limit such content ineffective.

Suggestion

- 1) A situational analysis of reality reveals that, importance must be given to Police-Media Interface. It has become necessary that a Police personnel must be oriented and trained for the purpose of dealing effectively with media.
- 2) Parents to work on what childrens are watching in the media and make them to choose informative programs useful for their lives.
- 3) Parents to develop the habit of what they must watch and what they must allow the children to watch,
- 4) Agencies like Prasar Bharthi must work on broadcasting programs to creat awareness on crime and other related issues.
- 5) Ultimately the media must project the facts not the fallacies behind crimes.

Conclusion

The relationship between the media and crime is a dynamic one that reflects changes in the larger social and political environment where conceptions of justice and community are formed. For the criminal justice system to have legitimacy for its administration of the criminal law and for the media system to have legitimacy for its contributions to civil society, each must be regarded as playing vital roles in furtherance of a democratic order. It is essential that the justice must remain part of the crime story, whether told by criminal justice or media.

References :

- 1) Antony, M. J. (1990) *Consumer Rights, Hind publications*
- 2) Carlson, James. M; (1985) *Prime Time Law Enforcement. Crime show viewing attitudes toward the Criminal Justice System, Network : Praege,*
- 3) Evjue. T. William (2001) *Advertising is to sell yourself, D. S. Publications*
- 4) Hagan Frank. E: *Research Methods in Criminal Justice & Criminology.*
- 5) Henry. W. Mannle and J. David Hirschel (2000) *Fundamentals of Criminology, second edition*
- 6) Jacob John Kattakayam & James Vacckumchery (2002) *Crime and Society*
- 7) Joshua Dressler (2002) *Encyclopedia of Crime & Justice second edition, Macmillan Reference USA*
- 8) Mark Neuzil and Willam Kovarik (1996). *Mass Media & Environmental Conflict SAGE Publication, Inc.*
- 9) Mares, Marie-Louise, "The Role of Source Confusion in Televisions Cultivations of Social Reality Judgments", *Human Communication Research* 23, no. 2:278–297.
- 10) Mathur. U.C. (2002) *Mass Media & Advertising : New Age International (P) Ltd.*
- 11) Oscar Wilde (2001) *Advertising is to sell yourself D. S Publications Potter. W. James & Warren, Ron (1996). "Considering Policies to Protect Children from Television Violence". Journal of Communication, no. 4/; 116–138*
- 12) Rajeev Batra & John G. Myers (2002) *Advertising Management Pearson Education, Inc.*
- 13) Ram Ahuja (1996), *Youth and Crime Rawat Publications*
- 14) Shrum, L. J. (1995) "Assessing the social influence of television : A Social Cognition Perspective on Cultivation Effects". *Communication Research* 22, no. 4:402–429

CHILD (LABOUR) AND LAW

***SHRINIWAS GUPTA**

The UN Convention on the Rights of the Child (CRC) envisages an important role for the legal system in realising children rights. One can easily feel a movement from a welfare approach to a rights approach in the form of this Convention. An honest realisation of even core values of human interests that the Convention distinctly pronounces for is bound to have effective impact on the quality of life of all people including children. The CRC lays down that State Parties recognise the right of the child to protection from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education or to be harmful to the child's health or physical, mental, spiritual, moral and social development. It also stipulates that the countries shall take legislative, administrative, social and educational measures to ensure the implementation of this provision. It specifies to a minimum age or minimum ages for admission to employment, appropriate regulation of the hours and conditions for employment and appropriate penalties or other sanctions to ensure the effective enforcement of this provisions.

Subsequently it has also been reaffirmed at Jomtin in March 1990, The World Summit on Children in the autumn of 1990 and the SAARC Conference on Children in 1991 and ILO which clearly speak that Children below 14 years age must not be put to work. However, the harsh reality is that in India ratification of International labour standards have been effective more as 'status symbol' and for up holding the country's image abroad rather than their sincere implementations and compliance in practice. The Constitution of India provides that States shall endeavour to foster respect for International law and treaty obligations. So also the Supreme Court has observed that International Convention, if ratified by the government of India, would be binding on it.

The Constitution of India does provide that no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment and that the health and strength of workers men and women and the tender age of children are not abused and that citizens are not forced to economic necessity to enter avocations unsuited to their age and strength. It has also been proclaimed that childhood and youth are protected against exploitation and moral and material abandonment. Besides, there exist several laws in the name of protecting interests of the labouring children. However, it is also true that no serious and willful efforts have been so for

made for eradication of child labour. The Parliament has enacted the Child Labour (Prohibition and Regulation) Act, 1986 which does not speak for abolition but just for prohibition and regulation of the child labour. In the Statement of Objects and Reasons of this Act the continuance of child labour has been justified on the ground of economic necessity. The Constitutional position in this regard is contained in the provisions under Art 39(e) which as has been referred to above mandates the State to direct its policies towards children in such a way as not to be abusive of their tender age and prohibits that the citizens would not be forced by economic necessity to enter any vocation which are harmful and abusive of their age or strength. Thus we see that *employing of children as workers even under excessive pressure of economic necessity has been prohibited.*

Now coming to the point of constitutional status of this provision, it is to be noted that it falls under the Ch. IV of Directive Principles of State Policy. Earlier these principles were considered non justifiable in the courts of law but just guidelines which may or may not be followed by the State. However, the Judiciary has altogether altered the position when it held that Parliament is competent to amend the Constitution to override or abrogate any of the fundamental rights in order to enable the State to implement the Directives so long as the basic structures of the constitution are not affected. This court could not like non-implementation of the Directives which is evident from the fact that it has been directing to the governments and the administrative authorities to take positive action to remove grievances which are existing only because of non-implementation of the Directive. The point of relationship between the Directive Principles and Fundamental Rights was further elaborated by Chandrachud C J in *Minerva Mills* case that Part III and Part IV are like two wheels of a chariot and observed that to give absolute primacy to one over the other is to disturb the harmony of the Constitution. Thereafter the Hon'ble Court raised the status of Directives at par with the Fundamental Rights when it observed that the Directive Principles are to be read into Fundamental Rights, (*Randhir Singh vs Union of India*). Then the court in *Bandhua Mukti Morcha* case held that the courts should make every attempt to reconcile the Fundamental Rights with the Directive Principles. It may be taken as well settled that the provisions under Part III and Part IV of the Constitution are supplementary and complementary to each other and that Fundamental Rights are a means to achieve the goal indicated in Part IV. If the Central or State Governments justify the existence and continuance of the child labour even today on the ground of economic necessity, that can not be

accepted. It is ridiculous. It amounts to constitutional mockery. *It reflects total lack of will and advertent slackness on the part of the State. The State is judicially accountable for not giving priority to implement such a humane and significant mandate.*

Who Is a Child Labourer ?

The Child labour has been defined as that 'segment of the child population which participates in work either paid or unpaid'. Child labour generally concentrates on two concepts i.e. child in terms of chronological age and labour in terms of its nature, quantum and income generation capacity. Child labour may also be explained as employment of children in gainful occupations or a material contributions to the income of the family. Again the child labour means the employment of children under the specified legal age. The term child labour has also been defined by US Department of Labour as 'the employment of boys and girls when they are too young to work for hire, or when they are employed for jobs unsuitable or unsafe for children of their age and under conditions injurious to their welfare. The Immediate Abolition of Worst Forms of Child Labour Convention, 1999 defines a child in this relation as *all persons under the age of 18 years.*

The child labour is the most outrageous *form of child abuse which has become a State-aided abuse after its legitimation through the Child Labour (Prohibition and Regulation) Act, 1986. It is a product of human policy and is liable to reversal by well defined policy and where necessary by police action. The problem of child labour is not a natural phenomenon which cannot be overcome by any analysis or action. It cannot be equated to the natural disasters like famine earthquake and cyclone of which occurrence is beyond any human anticipation or control.* In our country this problem is because of production and reproduction of unconstitutional and anticonstitutional policies. The State policy makers argue that the State ought not to intervene in the point of child labour 'since poor parents depend upon income of their children.' It is thus a matter of social justice that the children of the poor be allowed to work. This contention of the State does not hold good. They are absolutely wrong as the concept of child labour is perverse not only to the paternalism but also to the idea of social justice since the *children of the non-poor do not need to work and only the children of the poor need to work.*

In our country the child labour is a product of socio-economic conditions. Anti constitutional policies, inadequate legislative measures and lack of political will may also be taken as important factors responsible for the persistence of

this unlawful social evil. Social neglect of and indifferent attitude towards them also contributes much for the large child labour force in our country. In most of the cases *sinister attitude of the parents and their improper appreciation of the child's education, capabilities and intelligence have been found to be the root cause behind the child labour*. Further, in many cases the poor parents in bad habits and with criminal tendencies take the child in confidence and tell him affectionately that education could not improve their economic conditions and that in long run he would be earning significantly if he starts just now. Besides, poverty also plays dominant role in the continuance of child labour so much so that a child cannot avail the benefits of State policy for free education to children.

The reason for such violations of children rights is directly and indirectly related to social discrimination, prevailing attitudes and customs and the inefficiency or inappropriateness of educational system. Inadequacy also plays an important role. Bondages to repay a creditor for cash advances at rates of interest which are forever beyond the means of poor families is also one of the important factors responsible for child labour. The children are mortgaged to the landlord or money lenders for small sum of money borrowed for the purpose like treatment of sickness and social ceremonies etc. It seems amazing that at the time the cycle is inter-generational child labourers working through adulthood and old age, then replacing their labour with that of their own children.

The child labourers are mostly from the Scheduled Castes, Scheduled Tribes and Other Backward Classes and Religious Minorities. It is to be noted that the girls constitute a major portion of the working children. Besides, to the employer, child labour is profitable as the wages of children are small, their complaints are few and they accomplish in some industries and occupations as much as our adults. The employers, therefore, do not hesitate in exploiting the children in their own interest without any consideration to their needs for their healthy growth and development. *The child labour is a great socio-economic evil. It is, indeed, a national waste as it involves several far-reaching socio-economic implications*. The children have to work hard for long and this is harmful for their health and normal development. Certain economic problems are also created because of this unconstitutional practice. The use of labour as its lowest productivity results in an insufficient utilization of labour force. *Then a sort of unfair competition with labour force is caused due to the practice of employing child labour and this results in an extensive unemployment of the adults or the working conditions may be less satisfactory than they would otherwise have been there.*

Judicial Perspective

CJ SM Sikri in *Keshavanand Bharti* case observed that the supremacy of the Constitution and its basic structure is built on the basic foundation i.e. dignity and freedom of the individual. Similarly CJ Chandrachud in *Minerva Mills* case observed that the dignity of the individual could be preserved through the right to liberty and equality. Then VR, Krishna Iyer CJ in *Inder Singh vs State* held that the spritual basis of our constitutional order is human dignity and social justice and not the sadistic cruelty and hard confinement. In *Francis Mullin* case the Supreme Court observed that right to life includes the right to live with human dignity and all that goes alongwith it. The Child labourers are firstly children and then labourers so they should also not be treated cruelly and inhumanely.

In *Bandhua Mukti Morcha* case Justice PN Bhagwati observed, it is the fundamental right of every one in this country, assured under the interpretation given to Art 21, to live with human dignity, free from exploitation. This right to live with human dignity enshrined in Art 21 derives its life breath from the Directive Principles of State Policy and particularly clauses (e) and (f) of Art. 39. 41 and 42 and therefore, it must include protection of the health and strength of workers, men and women and of the tender age of children against abuse, opportunities and facilities for children to develop in a healthy manner and in conditions of freedom and dignity, educational facilities, just and human conditions of work and maternity relief. These are the minimum requirements which must exist in order to enable a person to live with human dignity and no State-neither the Central Government nor the State Government, has the right to take any action which will deprive a person of the enjoyment of these basic essentials which go to make up a life of human dignity.

In the light of Supreme Court Judgments in the cases of *Maneka Gandhi* and *Sunil Batra* any kind of brutality, constant fear of violence, psychological restraint, encroachment of person, destruction of any organ of the body through which the soul communicates with the outer world, physical assault, allotment of degrading labour, lack of adequate medical care, poor food service, inadequate or non-existent rehabilitative and educational facilities and payment of nominal subsistence allowance have been forbidden under Art 21 of the Constitution of India. However, it remains a bitter truth that in most of the cases the little workers are not provided adequate medical care, rehabilitation and educational facilities, good food service, payment of normal subsistence allowance and so on. The Supreme Court in *Salal Hydro Project* case was of view that construction work was hazardous employment and hence no child below the age of 14 years could be allowed to be employed in construction work. In the case of *M C Mehta* case this court has said that the

children must be provided basic diet during working period. However, the Supreme Court in this case allowed children to be employed in match factories of Sivakashi in Madras, where admittedly hazardous manufacturing process of match and fireworks is carried on.

The people must know about the rights of the child and that they must be materialised and be exerciseable by the children. It is good that now we have international standards for the rights of the child but still it is more important to see that the process required for their realisation is accelerated and strengthened. Every child who works takes away the job of an adult and every child who works for lower wages reduces the possibility of fair wages for adults. The Children in the workforce should be replaced by adults and the children up to 14 years should be provided free and compulsory schooling. An adequate legislation providing for the total abolition of the labour by children is urgently required. Some kind of financial incentive may also be considered for the parents who are prepared to send their children to schools instead of work place. It is a matter of anxiety as to why such a provision has not been incorporated in the Constitution 93rd Amendment Act, 2001.

We must not forget that we the adults are real 'culprits' in letting the child labour to persist. The children are innocent. They are our liability and we are under sacred duty to let them have every chance and opportunity to grow and develop in all faculties. They are really flames and foundations of life and we must not extinguish and take appropriate measures to stop them by converting into labourers.

(SHRINIWAS GUPTA)

Editor 'Law Review'

Resi. : 55-A, Krishna Nagar,
(Near New Public Inter College)
Lucknow-226023 (UP)
Phone : 0522-472653

FEMALE INFANTICIDE : A THREAT TO POSTERITY

*Preeti Misra**

“No progeny can be born without a woman”

(Matsya Purana)

Of all demographic groups, the girl child is perhaps the most socially disadvantaged. At every stage of her life cycle from conception to adulthood, she is vulnerable to human rights abuses. It is necessary to protect the rights of the girl child - particularly her right to remain alive, her right to protection from neglect and abuse, her right to a secure family environment.

‘The Indian Constitution promises all those who dwell in India the right to life’: “No person shall be deprived of his life or personal liberty except according to procedure established by law”¹.

How far is this right available to the Indian girl child is a vexed question. This right literally means the right to be born and remain alive. In India her birth is treated as a calamity². Article 21 encompasses not only the right to her mere survival but also right to childhood and right to a family and a home. The right, in fact includes a right to grow up normally, naturally and freely.

The girl’s first right is the right to remain alive after birth and not to be killed quickly in her first few hours, or killed slowly by neglect or indifference. Female infanticide still continues, which

* Lecturer, Sri Jai Narain P G Law College, Lucknow.

¹ Article 21. Indian Constitution

² Vasudha. Dhagamwar, “Human Rights and the Girl Child”. The Child and the Law. UNICEF (1997). p.62



is evident from the falling ratio of girls to boys. Though people do not show much concern about the problem of female infanticide yet in the year 2000, 104 cases of female infanticide were reported which shows an increase of 19.5 per cent over 1999 in which 87 cases of female infanticide were reported. Madhya Pradesh reported 29.8 per cent cases at national level³ in 2000 followed by Maharashtra (19.2%).

There is perhaps nothing more shameful than the fact that some 40 to 50 million girls and women are “missing” from the Indian population. In all but a few countries of the world, there are typically 105 women for every 100 men. Even though at birth boys outnumber girls by about the same proportion, studies have shown that where men and women have access to equal care, nutrition, health and medical attention, women, due to their biologically determined stronger constitution, live longer than men, and therefore outnumber them. In the industrialized countries, for example, there are, on an average, 106 women for every 100 men; in Sub-Saharan Africa, there are 102 women for every 100 men and in South-East Asia, 101 women for every 100 men. In India, on the contrary, there are less than 93 women for every 100 men in the population. Only where societies specifically and systematically discriminate against women are fewer of them found to survive⁴. Sex ratios of children 0-6 years capture a portion of this discrimination against females. In this age group according to latest census report 2001, there are only 927 girls against 1000 boys.

The girl child is the first and foremost need of humanity because her survival is essential for the continuation of the species. To kill her means to kill coming generations. Denial of her right to live means denial of right to life to future generations. To honour her right to live amounts to honouring the right to life of future generations. But unfortunately, even this right is not provided to a

³ N.C.R.B. (M.H.A.) *Crime in India, 2000*. p. 211.

⁴ *Gender Equality : The Progress of Indian States*. UNICEF (1995). p.58



girl child. All the studies in this connection have revealed that every measure is taken to eliminate the girl child by selective abortions and by female infanticide.

The gender bias becomes manifest even when the child is in the mother's womb and attains the form of foeticide and infanticide if the girl child is born. The patriarchal community considers the female child as a liability to family and society.

Female infanticide, instead of being considered only a legal crime, should also be looked at from the social angle so that a viable solution can be found for solving this problem.

Historical Perspective

So far as historical perspective is concerned, female infanticide has not been unknown in human history. Many historical instances are available when human beings have either exposed or killed their own children. Heinrich Zimmer says that nowhere in the vedic songs do we find a wish for a daughter. Before the advent of Mohammed, the Arabs are reported to have buried female children alive. But it must be said in favour of the Vedic Hindus that there are no proofs that the exposure of female children were regularly practiced⁵.

However, A. A. Macdonell points out that "the Yajur Veda speaks of girls being exposed when born"⁶. Farquhar also reminds us that "since the father was supreme, and since every family wanted sons, there was a tendency to set less value on woman. In consequence, many girl babies were exposed or put to death in every race practicing ancestor-workship"⁷. Farquhar again draws the conclusion that "In the creative period of the Vedas, like most primitive people, they practiced the exposure of girl children ...". This custom existed down to 1830, because from that date onward,

⁵ With reference from Pinkham, M.W., WSSH. 1941, p.26.

⁶ Macdonell, A.A., HSL, 1929, p. 163.

⁷ Farquhar, J.N., PH. 1912, p. 18.



“a steady persistent crusade was carried on against female infanticide by the Government of India⁸ .

In British India this social evil is said to have been prevalent among Jadejas of Kutch and Kathiawar and also among certain communities of North–Western Provinces–Punjab, Oudh and Rajasthan owing to extreme pressures of caste status in the marriage of girls.

There were sanctions as to whom one could marry and pride prevented marriage to anyone except to an acknowledged equal, generally, of course, a superior. The difficulty was further compounded by extravagance of marriage ceremonies and the fiat to arrange all this before a girl attained puberty. Shastras viewed daughters as an object to be given away and that too as early as possible without much regard for affection to develop between parents and a daughter⁹ .

The evil was prevalent among Rajputs known for the fierce pride in their race and because of imitation of the same among Kunbis of Gujarat. However, it was chiefly confined to Western India – Kathiawar, Mahi, Kauta and Gujarat. Governor Duncan of Bombay “suspected” prevalence of female infanticide in Kutch and Kathiawar in 1775. It was confirmed in 1804 by Captain Sealon who visited the area on a political mission. It was found that in Punjab among 2000 Bedi families living in a certain division there was not a single girl in these families. These crimes were committed in privacy in woman’s apartments and there must have been many ways of putting a female infant to sleep. However, two were generally adopted.

1. Smearing of Opium on the breast before giving it to the child, and

⁸ **Ibid. p. 165.**

⁹ **Chatterjee. B. “A Century of Social Reform for Women’s Status”. Indian Journal of Social Work. Vol. XLI. No. 3, October, 1980.**



2. Drawing of the umbilical cord over child's mouth to prevent respiration.

The then government passed a Bill for Prevention of Female Infanticide which became a Law as Act VIII of 1870. The Act was enforced on 17th April, 1871. It provided a system of compulsory registration of births, deaths, betrothals marriages and remarriages by a Registrar appointed for the purpose by the government.

Humanitarian considerations invoked by some Britishers and some Indian reforms of advanced views was an attempt to try to abolish the cruel and obnoxious social customs and practices, such as female infanticide. A very shocking way of infanticide was widely prevalent among Jadeja Rajpoots, because of difficulties in marrying girls, in the form of killing infants by not being given proper nourishment or sometimes even by rubbing poison on the nipple of the mother's breasts. Shocked by such inhuman practices some enlightened men and some British officers tried to stop it but it was not an easy task¹⁰.

However, their efforts did not prove totally in vain, Due to them, with respect to these practices a gradual disliking which strengthened due to growth of education. To name a few, the efforts of Wilkinson, Jacob Rottinger and Melville are generally acknowledged by writers.

Regarding the prevalence of gender bias, S.A.A Rizvi observes :

“The birth of a son was deemed a blessing by both Hindus and Muslims; girls were unwelcome. Although the Rajpoots took many wives, they considered girl child a curse and female infanticide was wide spread”¹¹.

¹⁰ Cambridge. History of India. Vol. VI. p. 96.

¹¹ S. A. A. Rizvi—The Wonder that was India. Vol. II. p. 240.



Statistics Speaks for itself

Female infanticide, a most inhuman, uncivilised, barbaric tragic event is taking place silently in India especially in the states of Tamil Nadu, Bihar, Gujarat, M.P., Maharashtra and Rajasthan.

Demographic surveys, done at regular intervals, consistently drive home the prevalence of female foeticide in almost all states of the country 'Inhumane practices in which a girl's right to be born is taken away have increased multifold in the last 10 years'. Two facts are clear in the release of the first census data in late March: India joins China in the exclusive club of nations with populations exceeding 1 billion people, with a total at 1,027,015,247. And while the ratio of females to males overall has improved in the last 10 years, from 927 females per 1,000 males to 933, the ratio of girls age 6 and younger per 1,000 boys has declined from 945 in 1991 to 927 in 2001.

India's gender ratio has been deteriorating for a century. In 1901, the ratio was 972 females for every 1000 men, and by 1951 had dropped to 946, then to 927 in 1991. Elsewhere in the world, women outnumber men by 3 to 5 percent. For example, there are 95 to 97 males to 100 females in Europe, the United States and Japan. In Russia, the ratio is 88 males to 100 females, primarily due to war casualties. India and China, however, both have societies that place greater value on men than women with the result that men outnumber women by 6 to 8 percent.

But it is the decline in population among young girls that troubles some experts. Census Commissioner J.K. Banthia noted that the northern state of Haryana reported the lowest gender ratio among the largest states of 861 females for 1000 males, while some less-populated areas fared even worse : Daman and Diu, in the Union territories, recorded the lowest sex ratio, 709 females for 1000 males. The sharpest decline in sex ratios among the child population were recorded in the northern states of Himachal



Pradesh, Punjab, Haryana, Gujarat, Uttaranchal, Maharashtra and the Union territory of Chandigarh.

Experts contend that the female population has decreased in many of those states because of the high rate of aborting female foetuses and killing girl babies. Every year, 12 million girls are born in India, and 1.5 million die before their first birthday. Another 850,000 die before age 5, and by age 15 only 9 million will survive. It is estimated that up to the age of 35, more females die in India than males at every age level.

Satish Agnihotri, an expert on India's sex ratios, calls the northern states of Haryana, Punjab and Uttar Pradesh the "Bermuda Triangle", where girls go missing. According to census 2001, the ratio in Uttar Pradesh is 898 females for 1000 males, an improvement from 876 a decade ago. The ratio is worse, however in Haryana, now at 861, where 10 years ago it was 865 females to every 1000 males, and in Punjab, where it dropped from 882 to 874 this year. Sex ratios, however, favour females in the southern state of Kerala, where women are more literate, may own land and figure more prominently in the labour force. In Kerala, there are 1,036 females to 1,000 males.

Social attitude

"Chhore pe baje Thali, Chhori Pe Thekere Phoren is an old saying in Haryana, which means "Announce the birth of a son by beating of brass plates but at the birth of a daughter break earthen pots". The traditional blessing given to newly married couples is "Ashta Putra Sowbhagyavati Bhave"- "May you be blessed with eight sons". Upon conception, mantras from the Atharva Veda, one of four most sacred books of Hinduism, are chanted so that if the foetus is female it will be transformed into a male. If prayer and ritual do not produce the desired result, families that crave boys overwhelmingly abort the fetus if it is determined to be a girl¹².

¹² Christian Unite. com. Religion News. by Staff. April 27, 2001



There are alarming reports of baby girls being murdered in areas where the custom did not previously exist. In a study in the late 1970s, based on a study of historical records, Barbara Miller (1981)¹³ had noted that ‘female infanticide in 19th century India was practised primarily in the higher social groups of the north, though this point is debatable’. The author relates this practice to the control and distribution of property and variations in the tradition of dowry. Further, fieldwork and analysis of census data led her to conclude that there was a distinct son-preference in the north, related to inheritance patterns as well as to sex-related work roles.

The obvious answer readily proffered for female infanticide is the all-pervading menace of dowry and the concomitant negative attitudes towards girl children. What is particularly disquieting is the spread of dowry among communities, which practised bride price or bride wealth and where historically women had a high status, such as, for instance, among the Mozos and the Kallars of Tamil Nadu. The obsessive hold of Sanskritisation is evident among the prosperous sections of the Kallar community, which is seen to “claim comparability with upper caste culture”^{14&15}. Social sanction and legitimisation of infanticide are surely important in communities where the poor fear dowry and the rich, a fragmentation of property.

In a study of 12 villages of K.V. Kuppan Block, North Arcot, Ambedkar district of Tamil Nadu state, which began in September 1986 and continued for 4 years, it was found that of a population “of 13,000 there were a total 773 births recorded, involving 759 live births of which 378 were male and 381 female. Further, among the cohort of live born infants, 56 died in the period

¹³ Miller, Barbara : *The Endangered Sex*. 1981.

¹⁴ Vasanthi Devi : ‘Socio-Economic Context of Female Infanticide’. A study of Usilanpatti Taluk in Tamil Nadu, 1991.

¹⁵ Mazumdar, V. “Amniocentesis and Sex Selection”, paper presented at WIDER, Helsinki, 1992



of two and a half years and of these there were 23 males and 33 females... of these deaths, 19 were confirmed infanticides (which were all female infanticides). The research further indicated that the villages in which “female infanticide occurred are less ‘developed’ in terms of urban linkages, services and education than the non-infanticide villages”,¹⁶.

A recent study done by the Community Service Guild of Madras in collaboration with Adithi, a Patna based organization for the development of rural women with a branch in Madras shows that in Salem district of Tamil Nadu, female infanticide is rampant¹⁷.

Though the study covered Christians, Hindus and Muslims, the practice of female infanticide was found only among the Hindus. Of the 1250 families in the sample—most of whom were gounders and a few naickers, vanniars and chettiars covered by the study, 606 had only one girl child 111 admitted that they had done away with the unwanted girl child. Equally alarming was the fact that 476 respondents said that “they would have to commit female infanticide when more than one female child was born to them”. Most said that they had killed their babies under pressure from their husbands : “women said that sometimes the men would beat them up insisting on the murder of new born daughters”.

A detailed study of juvenile sex ratios and data primary health centres in Tamil Nadu Chunkath and Athreya (1997)¹⁸ established two additional facts; analysis of juvenile sex ratios may lead to surprising conclusions as well as provide the data for a longitudinal assessment of the prevalence of female infanticide. For instance, for the 1991 Census, the three districts of Dharmapur.

¹⁶ George, Sabu et. al. ‘Female Infanticide in Rural South India’. *Economic and political Weekly*, XXVII(22), 1992. p. 1154–56.

¹⁷ Venkatachalam. R. and Viji Srinivasan : *Female Infanticide*, 1993.

¹⁸ Chunkath. Sheela Rani and V. B. Athreya. ‘Female Infanticide in Tamil Nadu : Some Evidence’. *Economic and Political Weekly*. XXXII(17). 1997. WS 22-29.



Salem and Madurai accounted for 41 out of the 46 blocks in Tamil Nadu with a juvenile female sex ratio of less than 900 to a 1000. Further, as is evident from a study of earlier census reports, this sharp decline is of fairly recent origin. The authors concluded that this would be true of female infanticide as well'. Analysis of PHC data also corroborated this observation.

Study also revealed that poverty, alcoholism among men, ignorance of family planning and the cost of dowry are the possible causes of this practice and there is scattered evidence to suggest that it is more prevalent in other parts of India than is readily acknowledged. At the same time, while the instances of infanticide are indicative of negative attitudes towards girls, a certain caution needs to be exercised before extrapolating on the likely spread of this social malaise.

Chankath and Athreya further observed that birth also determines the fate of a girl child : analysis of household data where female infanticides had occurred in 1995 showed that "the first female infant is in a majority of cases not a victim of female infanticide", the second girl child would often escape and it was the third girl who was invariably the victim.

Several studies have shown that out of every 1000 foetuses aborted in India, 995 are female. The southern state of Tamil Nadu made news two years ago for killing infant girls by choking them with salt or sand, tearing their intestine with a meal of coarse grain, or by rubbing poison on the mother's breasts. According to statistics compiled by the Dharmapuri office of the Directorate of Health Services and reported by the U.S. State Department, 1,260 female infants were killed in the district in 1997. Police did not investigate, prompting the Tamil Nadu Human Rights Commission to suggest the creation of a separate mandatory police investigation into the death of every female infant¹⁹.

¹⁹ **Supra Note 34.**



Gita Aravamudan (2001)²⁰ writes that *penn sisu kolai* as female infanticide is known in local parlance, is a widespread and socially accepted phenomenon in Usilampatti Taluk (block) of Tamil Nadu's Madurai district.

In 1993, the then Chief Minister J. Jayalalitha started 'cradle baby scheme' and appealed to mothers to leave their babies in the cradles instead of killing them. The scheme, however, did not generate much response. In one year, only seven girl babies were left in the crib whereas over 700 'disappeared' shortly after birth. In 1993 of the 800 female births registered in the Usilampatti Hospital, 600 had disappeared.

The Geography of Foeticide

In Tamil Nadu, female infanticide belt stretches through the districts of Salem, Dharmapuri, North Arcot, Periyar, Dindigul and Madurai. Hardcore regions like North Salem, South Dharmapuri, South Dindigul and West Madurai account for practically 70 per cent of all female infanticide in the state.

The study further revealed that female infanticide know no caste, community or socio-economic barriers. The popular conception that female infanticide was confined to the Kallar and Thevar communities in Madurai and the Gounders in Salem was wrong. It was also prevalent among communities like the Vanniars, Pariyars and Pallars in other areas. In one village, the panchayat (council) head had just eliminated his third daughter. In another, the richest and most powerful landlord had killed off his fourth.

In Dharmapuri, one of the worst affected areas, an average of 105 baby girls were killed every month in 1997. Evidence supporting this was collected from the records of the primary health centres operating in these areas. Of these, 260 deaths occurred in Pennagaram, where female literacy was just 31.3 per cent, well

²⁰ Aravamudan, Gita. 'Born to Die' rediff.com.



below the state average of 41.8 per cent. Between 1994 and 1997, almost 3,000 baby girls died here as soon as they were born. Which meant three female infants were killed each day in that area alone²¹.

Female infanticide is prevalent in several parts of the country, though it is perhaps best documented in Tamil Nadu. In parts of Gujarat mothers have been known to drown newborn infant girls in milk.

As for female foeticide, it is so widespread that in some interior villages of Punjab and Haryana, they say the mobile scan is more easily available than water supply! In Andhra Pradesh, tribal women have been selling their baby girls to unscrupulous agents. The list is endless.

The killing of girl babies is frequently practiced in Thar desert area of Rajasthan, particularly among the Bhil Rajput family. The infant is subjected to asphyxial deaths through manual strangulation or through administration of Opium. The male-female ratio in this area is 750 females per one thousand males. The figure of Jaisalmer district is 800 female per thousand males and among the Bhatti Rajput family, it is very low, that is 550 females per one thousand males, as per 1991 census²².

In October 1986, the Central Government ordered an inquiry into the alleged killing of a baby girl into the family of a legislature²³. A CID enquiry was conducted by two officers, an Additional Superintendent of Police and an Assistant Superintendent of Police. The common thing in both the inquiries was that there is truth in the matter but since the Gujjar families in Rajasthan are well off and carry on money lending business, and

²¹ **Ibid.**

²² **Dhaundhial. S., “Ek Kanya Pujak Desh ke Kanya Drohi”, Saptahik Hindustan (Hindi). Vol. VII(1). No. 39, November 13–19, 1988, pp. 16–21.**

²³ **Qureshy. A. “Killing Baby Girls A Social Practice”. The Hindustan Times, New Delhi, October 30, 1988.**



therefore, no one was coming forward to give evidence²⁴. In the meantime, a Public Interest litigation was filed before the Rajasthan High Court by Ms. Summita Satyarthi, a Human Rights Activists, who prayed for a direction to be issued for holding a CBI inquiry. After a great interest shown by the people, a case of murder was registered against the legislature²⁵.

In Rajasthan, there are entire villages where no girls has been born for decades. Recently, a history was made when Devra a remote village received a barat after 110 years. For a century and 10 years, this remote village in Barmer district of Rajasthan did not receive a single barat. And simply because, it was ensured that no girl born in this village survived after birth.

A girl child does not live very long. In fact, she is killed immediately after birth—either drowned in a tub of milk or fed affeem (opium) or simply smothered with a pillow. But Inder Singh's daughter escaped and lived to bring home to the village both a barat and history. That she survived not because her father or family was any different from the other Rajputs of the village.

She was plain lucky. Just a few months into her pregnancy, her mother left for her maayke (parent's home) in another village, which though is not averse to girl infanticide, does not make a fetish of it like Devra does. Besides, what helped the girl was that her mother's family was considered to be uccha vichar (high thinking). So she survived and her parents let her stay on there.

She returned to Devra after 10 long years, said a representative of an NGO, Lok Shakti, which, together with CRY (Child Relief and You), is working in this region towards ending girl infanticide. According to this representative, the girl had another stroke of luck, that helped her. Her grandparent's family benefited

²⁴ H. T. Correspondent. 'CBI Probe in Female Infanticide cases urged'. The Hindustan Times (Delhi Ed.) October 29, 1988

²⁵ News item from Jaipur. "Case filed Against Brijendra Singh". The Hindustan Times (Delhi Ed.) November 4, 1988.



immensely in a business deal. “So they thought the girl was lucky for them”, the representative said, adding, “and that helped her survive”. She brought them Lakshmi (the Hindu Goddess of Wealth).

She could have died like thousands of other girls down the years, drowned in milk, which is locally described as bai to dudh pilaya (she was fed milk). Nobody protests. Not even the women who consider it a devi ka vardhan, if girls are not born to them.

In fact, the village does not treat its women well at all. Small Wonder, they don’t protest when their children are killed in front of them²⁶.

Bihar, today ranks at par with Madhya Pradesh, Rajasthan and Andhra Pradesh in female foeticide and infanticide. The latest census figures in Bihar shows an alarming imbalance in the sex ratio and a sharp decline of girls in the 0–6 years age group.

While Rajasthan and Madhya Pradesh have less than 800 girls per 1,000 male babies, in some north Bihar districts, it is as low as 600 per 1,000 male children. The lowest number of girls are in Kishangunge district followed by Samastipur and Muzaffarpur, according to a survey by the IMA, Patna. Infanticide was first detected in Bihar in the early nineties by a local NGO, Aditi, in Katihar district, where nurses allegedly admitted poisoning female children.

The UNICEF also detected anomalies in the sex ratio in the northern districts, especially in Kishangunge, Araria and Samastipur and referred the pilot studies to the state welfare department. The government then asked the census department to look into the gap in the sex ratio. The census reports having confirmed the abnormal sex ratio, the social welfare department is now expected to inquire on accounts of infanticide.

Female infanticide is related to the “tilak system” (a

²⁶ The Times of India, September 17, 2001 p. 1.



marriage ritual) prevalent in Bihar in which dowry is an integral part of the ceremony. While the bride's family in Andhra Pradesh has to pay the groom in crores, in Bihar the amount ranges between Rs. 5 lakh and Rs. 50 lakh. "So Bihar ranks just after Andhra Pradesh in foeticide and infanticide".

The methods of elimination are gruesome. If the foetus cannot be aborted, it is allowed to be born and then gagged to death. According to a medical researcher, girls till 5 years of age near Sitamarhi are choked to death by stuffing chappatis. Often infants as young as three months are killed in a similar way.

However, the practice is not endemic in Bihar as it is in Punjab and Haryana. "Women were never a problem in Bihar since historical times. A girl child was always welcome. But migration from the western and northern parts of the country over the past 30 years has brought about a radical change in the parents' mindset", the problem is a legacy of the north Indian culture which has swamped the state²⁷.

Even in Calcutta, a teenage mother's decision to throw her "unwanted" baby girl from a hospital window has appalled people. It has also served to highlight the disturbing rates of female infanticide and foeticide in India.

Sabita Ghosh slipped out from the maternity ward after midnight to hurl one of her 36-hour-old twin daughters from a 50 ft-high window. To Mrs. Ghosh, the 19-year-old wife of a farm labourer, the tiny, grilled lavatory window at the end of the Victorian corridor of Calcutta Medical College and Hospital seemed to be the easiest way to dispose of one too many unproductive female mouths.

When other mothers in the ward noticed that the child was missing, they raised the alarm. Searchers heard a faint noise "like scurrying rats" in the branches of a tree beneath the window, climbed up and rescued the baby, who had suffered only cuts and bruises.

²⁷ The Telegraph. June 18, 2001. p. 6.



The baby girl survived, but her sister left in the cot, became ill and died²⁸.

The SAARC countries announced the year 1990 as “SAARC Year of the Girl Child” and to observe “SAARC Decade of the Girl Child” from January 1991, so as to create the right environment to secure a rightful place for female children. But unfortunately there is no improvement worth mentioning during these years, and yet atrocities committed on girl children are on the increase.

Wherever facility of amniocentesis is not available people turn to misusing the scanning facility to identify the sex by sixth or seventh month of pregnancy and undertaking ‘abortion’ if it is a female. Those who cannot afford these tests await child’s birth to do away with it if the baby is a girl.

During a survey conducted by ADITHI and Community Services Guild the wife of a Priest of the temple in Tamil Nadu admitted that she killed her baby daughter saying:

“I kept it alive for a month; but everyone including my husband put pressure on me, even visitors kept on saying, you already have two daughters, why are you keeping this one too So, I gave her three tablets (for fever) I had kept ready. I may have to kill the next one also, if it is a daughter.

There is a strong negative feeling about having daughters. The strong preference for sons and negativism about daughters impinge on the strongly internalized small family norm, which many states like Bihar would love to have. This in itself is one of the sources of female infanticide.

Poverty is another major cause of female infanticide, Maranayee says—

“I had ten babies, I killed seven daughters. I now have two sons and one daughter”.

Another woman narrates :

²⁸ Pro-Life Infonet. May 8, 2001.



“I killed three daughters with poison. I am an agricultural labourer. If we need bangles for a daughter it now costs Rs. 20. A sari costs Rs. 200! How can we afford more children? People taunt us if we don’t have a son. They don’t invite us for ceremonies. Why watch a daughter crying or being tortured? We must all die at some time! Why not when she is ‘unmoulded earth’? Best to do it before applying water or oil²⁹.

Patriarchal Cruelty

Fear of sexual abuse of the girl child is also a major cause for female infanticide. A very condemnable practice that exists especially in Tamil Nadu is the ‘Sex practice of father-in-law’ with daughter-in-law and the husband’s inability to do anything against the practice due to the fear that he would lose his share of the property from his father.

Also it has been found that due to the marriage taking place at an early age and with quite a few child deliveries, the husband loses interest in his wife and he finds it convenient to find a bride for his son to have his sexual “fulfillment” through her. These men do not want to go for another marriage because their existing property would be divided further with the addition of more children through the second marriage³⁰.

Even more girls are gradually dropping out after middle school education, it is due to the fear of sending girls alone to the school as they are afraid of their safety and chastity. Hence they want to be sure that the girls are ‘safe’ at home till they got married at the earliest opportunity, so that the ‘burden’ will be passed on to her in-laws. To remain chaste amidst temptation is like walking on fire. If any thing happens to a girl she has no other option except to commit suicide. Hence the parents are anxious to get their daughters married off as soon as they attain puberty³¹.

²⁹ Venkatachalam. R. and Srinivas, Vijay, *Female Infanticide*. 1993. p. 50

³⁰ *Ibid.*

³¹ *Ibid.*



Patriarchal society has developed into a tremendously greedy and materialistic society, which strongly supports the notion of male supremacy and consequently justifies, even encourages demand for dowry. It has become a ‘down nightmare’ for young women; there is a culture of criminality and immorality, which has got inbuilt into the society. There is almost no social ethics, which can withstand this craze.

The question is as to who would bear the dowry expenditure for the girl. Expenses do not stop even after her marriage but continues till her death. Having a son is an asset as he brings more revenue to the family through his marriage. Also he would perform the last rites of the parents.

It is an irony to see that even the Scheduled Tribe Community has started to consider the female as a liability because of dowry. Even a decade before in most of the tribal communities the bridegroom had to pay a bride price to get the hand of the girl and the expenditure for the girl’s parents was only the feast on the wedding day. It is disheartening to see that the present day mores have an impact even on the tribal culture. This unhealthy custom of dowry is slowly sliding gradually into their culture also. To avoid to pay huge amount of money in dowry people eliminate their female infants. They know it is against the law but it matters them the least³².

“Women’s rights groups point out that the burden of dowry is one factor that makes daughters less desirable”, the U.S. State Department noted in 1999 report on India. “Although abetting or taking dowry is theoretically illegal under the Dowry Prohibition Act of 1961, it still is practiced widely³³.”

³² Sherwani. Azim. *The Girl Child in Crisis*, 1998. p. 56.

³³ Christians Unite. Com. “Abortion. Infanticide in India—Slice number of Young Girls”, p. 2.



Some mothers kill their babies as an act of ‘mercy’ that they may be saved from future excesses by husbands in the form of domestic violence. The severity of the problem will be evident from the statement given by a woman in the following words;

‘I have one boy and two girls. I have had a tubectomy. My mother-in-law and husband asked me to kill the second daughter. I, refused, I did not have the heart. But daughters as they grow up do suffer. My husband drinks a lot, beats me up. Why should the new born also suffer like me, when she grows up’³⁴.

In places like Rajasthan, Haryana, Bihar and Tamil Nadu hapless new born girls are killed in most calculated, cruel and consciously taken decision by their own blood relations. The modus operandi includes mixing of rice husk in milk and feeding the same to the girl child who instantly dies of choked food pipe. Then wrapping the new born in layers of a heavy blanket and putting her away in a box to die of suffocation.

The tragic end at times revolting truth about female infanticide and foeticide has been comprehensively revealed in two documentaries commissioned by the National Foundation for India, filmed in Katihar, Patna and Salem. The films reveal how methods of killing girl infants had evolved over the years. Girls are either suffocated or are given salt which increases their blood pressure and subsequently leads to a painful but fast death.

Some baby girls are kept over a high ledge or paddy is forced down their throat with milk which coagulates the paddy and chokes the child. Some parents have adopted much effective methods of murdering the girl to make her death seem natural like general neglect of the infant. The girl baby is wrapped in a wet blanket and kept in the open where the infant contracts pneumonia and medicines prescribed are not administered leading to murder that seems natural.

³⁴ **Supra Note. 54.**



The films said that the most common reason that compelled parents to snuff out a part of their lives at birth was the stigma of high dowry attached to the marriage of girls³⁵. Ironically, it is so called enlightened higher castes who demanded more dowry for their sons. Hence, the practice of female infanticide is much more prevalent among the higher castes.

Extreme poverty and a restricted mindset that revolves around the concept that boys means working hands, hence more income, while daughters implies expenditure, also forces parents to kill their newly born daughters. There is a saying in Tamil Nadu that “*the value of a girl goes down every time the value of gold goes up*”.

Today, we hear more and more of girl babies dying of neglect, being deliberately starved or poisoned, left behind in a bus, or train or simply dumped in a trash can³⁶. Recently, an article in Indian Express³⁷. revealed horrible facts about the female infanticide. A group of 21 women from one village admitted to 39 cases of infanticide. A lambadi woman admitted to killing ten female children.

A mother of a baby admitted to administering three sleeping pills to the infant baby in her first attempt to kill her. When the child did not die, she said she gave her 10 sleeping pills. She still did not die. Then she gave the child, a poisonous herb. When the baby still survived, then she decided to keep the baby. Her husband is very unhappy about this and stopped talking to her.

What is obnoxious about this is many women admitted they were practicing a tradition they had inherited from their mothers. A woman said she had seen her mother kill three of her sisters. She had therefore no qualms of killing four of her baby girls.

³⁵ The Pioneer, January 25, 2000. p. 10.

³⁶ The Hindu, Saturday, June 23, 2001. p. 9.

³⁷ The Indian Express. September 30, 1990.



Many women give pesticides to the female children or some drugs or poisonous herbs in order to kill them. They prefer to keep a buffalo calf than a girl child because the former is worth Rs. 100³⁸.

Conclusion :

A significant number of girls are not alive, often because they have not been allowed to live, either through selective abortion following sex-determination in pregnancy, or due to neglect for just a day or only hours after birth. A traditionally strong preference for a son, combined with the mounting pressures in modern society to have a small family have contributed to the phenomenon of female foeticide and infanticide³⁹.

In India the girl child is treated as a liability, a curse. Because of our socio-economic conditions, she always suffers, sometimes even when she is in her mother's womb. Due to gender bias she is treated as an inferior being. Economic constraints always create a hurdle for the girl child as well as for her parents. They have to pay the "groom price" for her daughter. So in India majority of the people do not like to have a girl child. Alarming percentage of our society goes to abort the female foetus or sometimes to kill their baby girl within a short period of her birth. In the 56th year of Independence still the right to life of the girl child is not protected. How can we claim to be independent, civilized and honourig the right to life of a girl child guaranteed under Article-21 of the Indian Constitution!⁴⁰.

The girl child of today is the woman of tomorrow. Unless the entire society begins to fight their murders, female infanticide and foeticide will be part of our Indian culture⁴¹.

³⁸ 1993(2) SCJ. Jour. 65

³⁹ Sherwani. Azim. *The Girl Child in Crisis*. p. 58.

⁴⁰ *Ibid.* p. 59.

⁴¹ *The Poineer*, January 25, 2000. p. 10.

