

## **BABY GIRL BLUES: PATRIARCHY, GENDER, DEMOCRACY AND VIOLENCE**

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In 2007, a young Bombay couple approached the Bombay High Court for permission to determine the sex of their third child. Enforcement of the Pre-Natal Diagnostic Techniques (PNDT) Act & Rules had made it impossible for them to learn the sex of their unborn child and make the decision to abort or keep. They framed their petition in terms of the right to choose; they had the right to choose the sex of their third child since the first two were already girls. The case attracted some attention but not as much as one would have expected, given that it placed the spotlight on some very challenging questions. Sex-selective abortion is a looking glass which reveals uncomfortable home-truths and forces us to face unsettling questions about who we are, as a society and a polity.

The first of these juxtaposes the unborn baby girl's right to life and the parents' right to choose. The context of sex-selective abortions in India stands the American abortion debate on its head; the rights to life and choice have different referents in each setting, and different political values perhaps. A second set of questions relates to the democratization of access to medical technologies. The proliferation of diagnostic technologies and medical centres has made sex-selection an option for people far removed from metropolitan locations. Access without regulation or oversight is therefore not an unqualified good; the classic challenge for any democratic state then is, how much to oversee and regulate? Third, where comparative politics has usually equated modernization with democracy, but we can also see that the modern, urban and more developed parts of the country are facing sex ratio deficits, sex-selective abortion forces us to ask what democracy means in the absence of gender-justice. Fourth, the silence that surrounds violence committed against female fetuses partly foreshadows the violence embedded in social and political relationships and partly reflects a society that is desensitized to, even comfortable with, violence. There is then, no avoiding the question of what that means for our collective democratic aspirations. Amartya Sen's dramatic statistic that 33 million girls are missing as a result of sex-selective practices has not moved us to cry "genocide" in the way that smaller death-tolls in other population groups does.

This paper uses the growing problem of pre-natal sex-selection to reflect on these questions and explore some very old political questions about rights; access and equity; freedom and regulation; gender justice and violence, albeit in a very contemporary context. What emerges is a picture of a world whose norms endorse equity and justice, but where the process of change is thwarted by one dominant structural feature: patriarchy. The paper concludes that as long as patriarchal values are not rejected and patriarchal structures remain in place, every instrument of change—a human rights framework; better health care for better quality of life; the amenities of modern life and democracy—will be appropriated and subverted in the interest of patriarchal relationships.

### **About sex-selective abortions**

"Sex-selective abortion" refers to female foeticide—the killing of female foetuses as a consequence of the preference for male offspring. The term describes the process that begins with seeking to use modern diagnostic tools to identify the sex of the unborn foetus and then choosing to abort the foetus if it is not of the desired sex—usually female. "Sex-selective abortion" really works as "female-selective abortion."<sup>1</sup>

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<sup>1</sup> Barbara Miller, *Female-Selective Abortion in Asia: Patterns, Policies and Debates*, *American Anthropologist*, New Series, Vol. 103, No. 4 (December 2001), pp. 1092 (endnote no. 2). Accessed at <http://www.jstor.org/stable/684130> on August 29, 2011.

It is generally agreed that sex-selective abortion has gained ground in the last three decades, but we have no reliable numbers to show how many such abortions are actually performed, leave alone demanded (and not performed). Reliable data collection is a problem across different kinds of gender violence, and female foeticide is no exception. Data collection at various points could help create a more accurate picture than we have—sale of ultrasound machines; licences to users; clinical records—but some records don't exist and reports are not honest. Therefore, in spite of the existence of a law, we have absolutely no idea exactly how many sex-selective scans are requested/performed and how many abortions follow, nor what percentage of all abortions they form.

Table: Changes in India's Sex Ratio and Child Sex Ratio, 1901-2011.

Year	Sex Ratio	Sex Ratio (0-6 years)
1901	972	-
1951	946	983
1961	941	976
1971	930	964
1981	934	962
1991	927	945
2001	933	927
2011	940	914

Sources: Table 1, in Sheela Rani Chunkath and V.B. Athreya, *Female Infanticide in Tamil Nadu: Some Evidence. Economic and Political Weekly*. April 1997. 32(17), page 3, accessed at

[http://www.cwds.ac.in/Library/collectio n/elib/sex\\_selection/ss\\_female\\_infantic ide.pdf](http://www.cwds.ac.in/Library/collectio n/elib/sex_selection/ss_female_infantic ide.pdf) on January 20, 2010;

For 2001 and 2011 census figures:

Census of India website,

[http://www.censusindia.net/data/ppt\\_t 10.PDF](http://www.censusindia.net/data/ppt_t 10.PDF) Accessed Feb. 12, 2004.

<http://censusindia.gov.in/2011census/c ensusinfodashboard/index.html>,

Accessed September 4, 2011.

Needing numbers to substantiate the fact that there is a problem, scholars and activists refer to declining child sex ratios, and not just in India. The term 'missing girls', used first by Amartya Sen, is now used by others to make this point. The difference between what would be a normal ratio and the existing sex ratio is one way in which people have tried to arrive at this number. But even inaccurate and speculative statistics point to a large problem: there are fewer and fewer girls surviving to adulthood. The numbers themselves tell no story but those who seek to explain them attribute the decline to easy access to mobile ultrasound clinics and abortion facilities that make it easy to prevent the birth of girl children.

But ultrasound and amniocentesis are diagnostic tools that were intended for early identification of genetic and other physical disorders. How do people come to assign being female the same value as a genetic or physical disorder? Mathur and Rajagopal attribute it gender bias to "a cultural milieu mediated by... a feudal history, stringent patriarchy, rigid gender norms and deep-rooted disadvantages that pervade all spheres of domestic and social life."<sup>2</sup>

Vishwanath points out that the decline in sex ratio occurs in the same places that colonial era accounts and census data had identified as a northern Indian female infanticide

belt, including the present-day states of Punjab, Uttar Pradesh, Rajasthan and Gujarat.<sup>3</sup> Since Independence, female infanticide has been reported also in parts of Bihar, Madhya Pradesh and Tamil Nadu.<sup>4</sup> He explains female infanticide as a means used by rural elites to maintain their status "by avoiding high dowries and land sales which hypergamous marriages involved." Foeticide, he suggests, is used for the same purposes, and points to changes in areas that have experienced the Green Revolution.

<sup>2</sup> Kanchan Mathur and Shobhita Rajagopal, No Right to Be Born in Rajasthan, *Economic and Political Weekly*, June 28, 2011, Volume XLVI, Number 25, page 24.

<sup>3</sup> L.N. Vishwanath, Female Foeticide and Infanticide, *Economic and Political Weekly*, September 1, 2001, page 3411.

<sup>4</sup> M. Jeeva, Gandhimathi and Phavalam, Female Infanticide: Philosophy, Perspective and concern of SIRD, *Search Bulletin*, July-Sept. 1998. 13(3). P.9-17.

Discussing the conversion of bride-price paying communities to the practice of dowry, Rajaraman makes the point that as long as everyone has an even number of sons and daughters, this is just a way to make capital circulate.<sup>5</sup> The way dowry works places families with more daughters than sons or only daughters at a huge disadvantage. Rajaraman does not make an explicit link to foeticide or declining sex ratio, but when we consider that female foeticide is practised now well beyond the traditional female infanticide 'belts' and communities, the correlation is easy to make. A study of changes in the Kallar community in Madurai district showed that socio-economic circumstances created conditions in which female infanticide began to be seen as desirable.<sup>6</sup> Where petty crime and sustenance agriculture had been traditional occupations, irrigation and rising agricultural incomes changed not only the economic status of Kallars, but also introduced new practices like dowry (in place of bride-price). The pressure to give dowry and perform ostentatious weddings underscored the sidelining of Kallar women within their community. From productive assets, they became liabilities. The researchers found all forms of violence against women were on the rise in this community, including infanticide.

The enforcement of the small family norm has also been cited as a reason why families resort to foeticide.<sup>7</sup> If families can only have one child, or choose to only have one child, they are likely to prefer to have a son. But neither the small family norm nor the male child preference are reasons in themselves; underlying them are factors like female children being excluded from funeral rites and wanting to restrict the number of heirs who will marry and take property "out" of the family. In other words, patriarchy creates male privilege and male child preference, and violence becomes a means to negotiate the best possible position within that structure.

Researchers also speculate about the appeal of foeticide over infanticide or the kind of neglect that leads to the death of a girl. Jeffery and Jeffery suggest for those who believe that a young foetus is not alive yet or does not have a "determined" gender yet, there is less stigma attached to foeticide than infanticide. Patel writes about doctors who consider foeticide an acceptable way to control population, by replacing one mother with one daughter, one father with one son.

The proliferation of foeticide has a direct impact on sex ratios, which contrary to some speculation actually worsens the situation of women and sexual minorities in any society. Not only does a shortage of women commodify them further, it also leaves them open to greater violence within and outside the home. Violence against women becomes just one strand of a pervasive culture of violence; Hudson and Den Boer draw on historical examples to illustrate the impact of a deficit of girls in India, China and Portugal. But the most important reason to be concerned about female foeticide is that it grossly violates the baby girl's right to be born. Nevertheless, since the right to life is a human right and should obtain regardless of political values, this paper will draw out four other issues that should concern votaries of democracy and democratic politics.

### **Whose rights?**

In 2007, Vijay and Kirti Sharma sought permission from the Bombay High Court to determine the sex of their third child. Families should have the right to determine their composition, and the restrictions on the use of diagnostic techniques and abortion should not extend to those who already had children. The right to choose was invoked in a completely different way, extending to

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<sup>5</sup> Indira Rajaraman, *Economies of Bride-Price and Dowry*, *Economic and Political Weekly*, Vol. 18, No. 8, February 19, 1983, pages 275-279.

<sup>6</sup> M. Jeeva, Gandhimathi and Phavalam, *Female Infanticide: Philosophy, Perspective and concern of SIRD*, *Search Bulletin*, July-Sept. 1998. 13(3). P.9-17.

<sup>7</sup> Vibhuti Patel, *Adverse Juvenile Sex Ration in Kerala*, *Economic and Political Weekly*, June 1, 2002, pages 2124-25; Roger Jeffery and Patricia Jeffery, *Female Infanticide and Amniocentesis*, *Economic and Political Weekly*,

families and not to women's reproductive rights. In all my years in the US, I always wondered why there was virtually no debate over abortion in India. The Sharmas reminded me of this question once more.

Berer identifies six cumulative categories into which various national legal provisions allowing abortion fall; each of these adds additional grounds on which abortion is permissible.<sup>8</sup> The grounds are: to save the woman's life only; to preserve the woman's health (physical and mental); in cases of rape and/or incest; in cases of fetal impairment; for economic or social reasons; and on request. The more grounds permitted, the more liberal abortion law in a given state is.

The American abortion debate, Jesani and Iyer write, was driven initially by doctors.<sup>9</sup> In 1859, the American Medical Association, in keeping with the Hippocratic Oath, demanded the outlawing of abortion. This was ten years before the Roman Catholic church declared abortion a transgression of faith and grounds for excommunication. Together, doctors and priests succeeded in getting abortion banned for almost a century until the US Supreme Court initiated change with its judgment in the *Roe vs. Wade* case in 1973. The judgment nullified all laws banning first trimester abortions and made the pregnant woman's health the only permissible restraint on second trimester abortions.<sup>10</sup> Since the late 1960s, as western societies have liberalized their stand on abortion, they have tried to define when it is safe and acceptable to perform abortions. Jesani and Iyer write that whether abortion is legal or criminal, the medical profession has benefited: "...while the criminalization of abortion helped it to eliminate competition from indigenous (female) practitioners in the 19<sup>th</sup> century, liberalization only empowered it with greater legal and normative authority."<sup>11</sup> In the US, since *Roe vs. Wade*, the issue of abortion has divided Americans into two camps, that they define as "pro-life" (anti-abortion) and "pro-choice" (in favour of legal abortions as a reproductive right).

In India, by contrast, abortion was legalized in response to the concerns of demographers and doctors.<sup>12</sup> Demographers were concerned about India's 'population explosion' and saw abortion as a family planning measure. Doctors were concerned about the consequences of unsafe abortions performed by unskilled practitioners. Women's rights had nothing to do with the passage of the Medical Termination of Pregnancy (MTP) Act in 1972; nor did it follow a feminist campaign. This is reflected in the fact that the Act legalizes and regulates abortion, but does not reinforce women's right to choose to have a child. Doctors are left as the final decision-makers; in the first twelve weeks, one doctor is needed to authorize abortion and between weeks 12 and 20, two doctors are needed. Risk to the mother's health; rape (outside marriage); failure of contraception (within marriage), and seriously disabling physical or mental abnormalities in the child, are considered reasonable factors. But the woman seeking abortion needs to explain herself to doctors who get to decide whether she is justified, and then there are restrictions on who can perform abortions and

<sup>8</sup> Marge Berer, National Laws and Unsafe Abortion: The Parameters of Change, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 1-8, accessed at <http://www.jstor.org/stable/3776110> on August 29, 2011. (This is on pages 2-4).

<sup>9</sup> Amar Jesani and Aditi Iyer, Women and Abortion, *Economic and Political Weekly*, November 27, 1993, pages 2591-4. (this is page 2591) This is the source of much of the history of the abortion debate that follows, except where otherwise noted.

<sup>10</sup> Jone Johnson Lewis, *Roe v. Wade Supreme Court Decision*, About.com Women's History, accessed at [http://womenshistory.about.com/od/abortionuslegal/p/roe\\_v\\_wade.htm](http://womenshistory.about.com/od/abortionuslegal/p/roe_v_wade.htm) on September 11, 2011.

<sup>11</sup> Amar Jesani and Aditi Iyer, Women and Abortion, *Economic and Political Weekly*, November 27, 1993, pages 2591.

<sup>12</sup> Amar Jesani and Aditi Iyer, Women and Abortion, *Economic and Political Weekly*, November 27, 1993, pages 2591-4; see also, Siddhivinayak S. Hirve, Abortion Law, Policy and Services in India: A Critical Review, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 114-121, accessed at <http://www.jstor.org/stable/3776122> on August 29, 2011.

where. In short, far from creating a right, the MTP Act does not even create facilitating conditions for a woman to seek such help should she need it. If Jesani and Iyer write that “The MTP Act fails to regard the right to access as a justiciable right,” Duggal and Ramachandran write of two more factors limiting women’s access to safe and legal abortions.<sup>13</sup> First, women have often to be accompanied by a spouse or relative for their request to be taken seriously, and given that they rarely have autonomy within the family in the Indian context, that makes it harder for them to approach legal abortion service providers. Second, barely 15 percent of those seeking abortion do so for the reasons permitted in the MTP Act; this also opens the door to large-scale flouting of the Act’s provisions even by recognized practitioners. A far cry from Berer’s words: “Every woman who seeks an abortion does so because for her it is necessary. Whatever her reasons, it is her body and her life, and her decision must be respected.”<sup>14</sup> Hirve writes that while initially, after legalization, there was a small increase in the use of approved abortion facilities, it has declined since, and he surmises that people are choosing private facilities over public.<sup>15</sup> Numbers are either not collected or not reported. Given the statistics on female foeticide in the same decades, starting from the 1980s, it is easy to speculate that the quest for a quick abortion that will go undocumented is related to the quest for sex selection.

Why have people opposed legalizing abortion and making it accessible to all women? First, there is the medical argument that a doctor’s duty is to save lives. Second, religious concerns about the origin of life shadow the decision to abort a pregnancy. Different views on whether life begins at conception, at a later point in the pregnancy or at the moment of birth determine the degree (or lack) of stigma attached to abortion. Third, legal abortions are linked to changing moral standards, and there is anxiety about the social consequences of behavioural change. This is sometimes expressed as a concern for protecting women from being “used”, “vacuumed out” and then “used again.”<sup>16</sup> In fact, Cannold lists this as part of new ‘women-centred’ anti-choice strategies which cast the argument against abortion in terms of women’s inability to make important decisions, giving the weakness and hormonal changes of the first trimester.<sup>17</sup>

On the other hand, “pro-choice” campaigners frame their advocacy of safe and legal abortions in the language of rights. “Safe abortion is an essential health service for women, as essential for sexual and reproductive health as safe contraception, safe pregnancy and delivery care, freedom from coercion and violence in sexual relationships and access to the means to practice safe sex.”<sup>18</sup> Reproductive rights are at the heart of their argument; women have the right to choose whether or not to bear and raise children. They have the right to change their minds about pregnancy.

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<sup>13</sup> Ravi Duggal and Vimala Ramachandran, Urgent Concerns on Abortion Services, *Economic and Political Weekly*, March 6, 2004, pages 1025-6. (This is from 1025)

<sup>14</sup> Marge Berer, National Laws and Unsafe Abortion: The Parameters of Change, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 1-8, accessed at <http://www.jstor.org/stable/3776110> on August 29, 2011. (This is on page 6).

<sup>15</sup> Siddhivinayak S. Hirve, Abortion Law, Policy and Services in India: A Critical Review, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 115, accessed at <http://www.jstor.org/stable/3776122> on August 29, 2011.

<sup>16</sup> Leslie Cannold, Understanding and responding to Anti-Choice Women-Centred Strategies, *Reproductive Health Matters*, Volume 10, Number 19, Abortion: Women Decide, May 2002, pages 171-179 (this is on page 173), accessed at <http://www.jstor.org/stable/3775787> on August 29, 2011.

<sup>17</sup> Leslie Cannold, Understanding and responding to Anti-Choice Women-Centred Strategies, *Reproductive Health Matters*, Volume 10, Number 19, Abortion: Women Decide, May 2002, pages 171-179, accessed at <http://www.jstor.org/stable/3775787> on August 29, 2011.

<sup>18</sup> Marge Berer, National Laws and Unsafe Abortion: The Parameters of Change, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 1-8, accessed at <http://www.jstor.org/stable/3776110> on August 29, 2011. (This is on page 6).

The fact of foeticide muddies the debate on abortion. The most fundamental arguments against foeticide are that the girl child has a right to be born—the right to life—and that discrimination on the basis of gender is wrong, even in the pre-natal stage. An anti-abortion campaigner could easily turn these around to ask: Why does the foetus have the right to life only if it faces gender discrimination? Why is gender discrimination alone unacceptable while we seek to add more circumstances where abortion is acceptable? “Their argument seems to be that it is acceptable to discriminate against children with birth defects (negative deselection), but it is not acceptable to select for certain desirable traits (positive selection),” Malpani observes.<sup>19</sup> Not easy questions to answer.

On the other hand, as the MTP Act and the Pre-Natal Diagnostic Techniques (PNDT) Act and Rules seek to regulate the misuse of amniocentesis, ultrasound and abortion facilities for sex-selection, the argument that women have the right to make reproductive decisions may be invoked in support of sex selection. Malpani asks, for instance, why should pregnant women and their families be denied the right to choose that obtains to those adopting children.<sup>20</sup>

Legal abortion is not the cause of female foeticide; and the solution to the epidemic of sex-selection is not to ban abortion.

“Women’s reasons for abortion are intimately bound up with their lives, even if others do not find their reasons totally acceptable. For example, sex selective abortion of female fetuses is a consequence of the low status of women in society, exacerbated by population policies which limit family size. It cannot be legislated away through restrictions on abortion, let alone on the use of amniocentesis, ultrasound or other technology that permits identification of fetal sex. Sex selection as a form of discrimination against girls will only disappear when girl children and women are as highly valued and welcomed in families and in society as boy children and men.”<sup>21</sup>

The problem of sex-selective abortion and the abortion debate thus raise tricky questions for those who would campaign for reproductive rights that include the right to safe and legal abortions and also against the abuse of this right to eliminate a foetus on the basis of its sex—that is, most of us in this project.

### **Universal access to what?**

Access—to power, to rights, to opportunity and to resources—is a feature we associate with democracy. Civil and political rights, including free speech, voting and the right to participate in the political process, give expression to the idea that citizens should have equal and free access to political power in a democratic state. But the true realization of access to political power happens when the socio-economic playing field is level—when, all other things remaining the same, everyone has equal access to opportunity and to resources. In the absence of equal access to life chances and

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<sup>19</sup> Aniruddha Malpani, Why shouldn’t couples be free to choose the sex of their baby?, *Reproductive Health Matters*, Volume 10, Number 19, Abortion: Women Decide, May 2002, pages 192-3 (this is on page 193), accessed at <http://www.jstor.org/stable/3775792> on August 29, 2011.

<sup>20</sup> Aniruddha Malpani, Why shouldn’t couples be free to choose the sex of their baby?, *Reproductive Health Matters*, Volume 10, Number 19, Abortion: Women Decide, May 2002, pages 192-3 (this is on page 193), accessed at <http://www.jstor.org/stable/3775792> on August 29, 2011.

<sup>21</sup> Marge Berer, National Laws and Unsafe Abortion: The Parameters of Change, *Reproductive Health Matters*, Volume 12, Number 24, Supplement: Abortion Law, Policy and Practice in Transition, November 2004, pp. 1-8, accessed at <http://www.jstor.org/stable/3776110> on August 29, 2011. (This is on 6).

choices, access to power and political participation can be hollow, ritual shadows of reality. Access to health care is one of those conditions that create a level playing field for citizens.

Article 25 of the Universal Declaration of Human Rights recognized that everyone has the “right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”<sup>22</sup> It further stated that maternity and child care deserve special attention, with all children having the right to the same “social protection.” Twenty years later, Article 12 of the International Covenant on Economic, Social and Cultural Rights recognized “the right of everyone to the enjoyment of the highest attainable standard of physical and mental health.”<sup>23</sup> In order to achieve this, it enjoined states to act towards the following ends: “(a) The provision for the reduction of the stillbirth-rate and of infant mortality and for the healthy development of the child; (b) The improvement of all aspects of environmental and industrial hygiene; (c) The prevention, treatment and control of epidemic, endemic, occupational and other diseases; (d) The creation of conditions which would assure to all medical service and medical attention in the event of sickness.”<sup>24</sup> The rights recognized by this Covenant, which was created in 1966 and came into force in 1976, are more like objectives towards which states commit their efforts.

Calling health a “human right” is a speech act, designed to create a sense of urgency and priority around health care, much as designating something a security concern is. The World Health Organization points to three ways in which health and human rights are connected.<sup>25</sup> First, human rights violations like harmful traditional practices (female genital mutilation is an example), slavery or torture can have health consequences. Second, how health policies and programmes are designed can have human rights consequences. For instance, they may or may not discriminate, or they may or many not observe privacy rules. Finally, respecting human rights can lead to policies and structures that promote better health all around, for instance when everyone has equal access to a good standard of living. Notwithstanding these linkages, there is still scepticism about viewing health as a human right.

Sen discusses three objections raised by sceptics.<sup>26</sup> First, health cannot be a right if there is no law that enforces that right. To this, his response is to recall the idea of “natural” rights, which guide law rather than follow it. The right to health is a “call to action.” Mchangama agrees, calling it a political aspiration that has now been co-opted by activists and given a revisionist interpretation.<sup>27</sup> Second, if a state has no way of ensuring everyone can enjoy good health, it cannot be a right. Sen points out

<sup>22</sup> Universal Declaration of Human Rights, accessed at <http://www.udhr.org/UDHR/default.htm> on September 17, 2011.

<sup>23</sup> Office of the United Nations High Commissioner for Human Rights, International Covenant on Economic, Social and Cultural Rights, 1966, accessed at <http://www2.ohchr.org/english/law/cescr.htm>, on September 17, 2011.

<sup>24</sup> Office of the United Nations High Commissioner for Human Rights, International Covenant on Economic, Social and Cultural Rights, 1966, accessed at <http://www2.ohchr.org/english/law/cescr.htm>, on September 17, 2011.

<sup>25</sup> World Health Organization, Linkages between Health and Human Rights, accessed at <http://www.who.int/hhr/HHR%20linkages.pdf>, on September 14, 2011.

<sup>26</sup> Amartya Sen, Why and how is health a human right? *The Lancet*, Volume 372, Issue 9655, December 10, 2008, page 2010. Accessed at <http://www.thelancetglobalhealthnetwork.com/wp-content/uploads/Right-to-Health-CMT-4.pdf> on August 25, 2011.

<sup>27</sup> Jacob Mchangama, Health as a Human Right: The Wrong Prescription, International Policy Network/Center for Politiske Studier, December 2009. Accessed at <http://www.policynetwork.net/sites/default/files/righttohealth.pdf> on August 25, 2011.

that there is no way of literally guaranteeing life and liberty, but still they are recognized as human rights. Third, some would argue that the right to health care makes more sense than the right to health. Moreover, health care can be the subject of policy-making. Sen's response is that health care is not the only pre-condition of good health. And he states, "It also depends on nutrition, lifestyle, education, women's empowerment, and the extent of inequality and unfreedom in a society." Mchangama raises another objection. Making health a human right will expand state intervention and the role of the public sector in health care services, and it will also limit the choices that patients have. Moreover, he points to the British and Canadian systems to say that they are not able to cope with the demand for their services. Mchangama also cautions against making the right to health (or health care) an enforceable right; given that states cannot possibly meet everyone's needs, this opens the door to a flood of lawsuits against the state.<sup>28</sup>

Muraleedharan identifies three elements of a right to health care.<sup>29</sup> First, adequate resource should be allocated by a society to health-related needs of its members. Second, these resources should be justly allocated between different types of health needs. Third, every person is entitled to a fair share of these services. He lists three basic health care needs that are common to any context: "(1) Prevention of illness, through health education; (2) Caring for the patients; (3) Regulations to protect the interests of the patients as well as the providers."<sup>30</sup> Access to advancements in medical technology is, from this viewpoint, a good thing.

Reproductive biology was a research focus area for the Government of India in the 1960s, Mazumdar writes, so that the All-India Institute of Medical Sciences got access to sex-selection technology in the early 1970s.<sup>31</sup> A 1974 AIIMS sample survey used amniocentesis to detect foetal abnormalities but as early as 1975, AIIMS doctors knew amniocentesis tests were being followed by sex-selective abortions and female fetuses were being eliminated. The abortions were mostly performed on the grounds of 'failure of contraception' as allowed by the 1971 Medical Termination of Pregnancy Act. Even though AIIMS was stopped from carrying out such tests, medical entrepreneurs were quick to notice, adopt and market the new techniques. India's Ministry of Health and Family Welfare stated in its 2010-11 Annual Report that 39854 ultrasound and scanning centres had been registered under the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.<sup>32</sup> Many of these are registered to one location but used as mobile facilities. This is in addition to the portable ultrasound facilities which are part of mobile "genetic clinics" and unregistered portable ultrasound machines ("some so small that they can fit

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<sup>28</sup> Jacob Mchangama, *Health as a Human Right: The Wrong Prescription*, International Policy Network/Center for Politiske Studier, December 2009. Accessed at <http://www.policynetwork.net/sites/default/files/righttohealth.pdf> on August 25, 2011.

<sup>29</sup> V.R. Muraleedharan, *When is Access to Health Care Equal? Some Public Policy Issues*, *Economic and Political Weekly*, June 19, 1993, pages 1291-6. (this is from page 1291)

<sup>30</sup> V.R. Muraleedharan, *When is Access to Health Care Equal? Some Public Policy Issues*, *Economic and Political Weekly*, June 19, 1993, pages 1291-6. (this is from page 1294)

<sup>31</sup> Vina Mazumdar, *Amniocentesis and Sex Selection*, Occasional Paper, Centre for Women's Development Studies, 1994, page 2, accessed at <http://www.cwds.ac.in/OCPaper/AmniocentesisVM.pdf> on September 5, 2011. She goes on to write: "An article in *Indian Pediatrics* (5th May 1975) commented that such abortion of female foetuses may not be acceptable to persons in the West but in our patients this plan was followed in 7 out of 8 persons, who had the test carried out primarily for determining the sex of the foetus. The parents elected for abortion without any undue anxiety."

<sup>32</sup> Ministry of Health and Family Welfare, *Annual Report 2010-11 English -Part 1*, page 42, accessed at <http://mohfw.nic.in/showfile.php?lid=767> on September 17, 2011. According to the report, 462 ultrasound machines had been sealed and seized for violating the law. 706 cases remained in the courts—223 for non-registration; 216 for non-maintenance of records; 155 for communicating the sex of the foetus; 36 for advertising pre-natal/conception diagnostic facilities and 76 for other violations.



into your pocket”<sup>33</sup>). In addition, unaccredited sonography training centres are being opened, offering short courses to train ultrasound machine operators.<sup>34</sup> Survey after survey—no matter the region or methodology—points to the fact that these techniques are used mainly for sex determination.

Arora discusses the various kinds of arguments presented in favour of the proliferating use of pre-natal diagnostic tools for sex-selection, pointing out that they are espoused by commercial and professional interests as well as more widely by others in society.<sup>35</sup> All of the arguments are predicated on the reality of male child preference—a feature of patriarchy, and they work in different ways to underscore and reinforce patriarchy.

The first argument is that pre-natal diagnostic tools offer a benefit to families. After all, they want a small family but want to ensure a son; sex determination and sex-selective abortion offer a “rational” alternative to large families, repeated pregnancies and infanticide. The second argument contorts male child preference. Sons are better for families, it contends, and daughters an economic burden; moreover, fewer daughters also means that the demand for them will be greater and their status will improve. But Arora points out rightly that a deficit of women actually makes them more vulnerable to violence and abuse. Where fewer daughters are born, practices like polyandry, forced marriage, exchange marriages and abduction have increased. The third argument Arora discusses justifies the use of pre-natal diagnostics to limit family size—families can choose the sex of their child and also adhere to the small family norm—as a population control measure. She points out that advocates of this view ignore the growing control it gives men over the reproductive rights of women and the adverse impact that repeated abortions can have on the health of the woman who is termed a ‘beneficiary.’ The fourth argument is that pre-natal diagnostics allow for “quality control” in the children one has. Intended as a way to monitor foetal development during pregnancy and to identify birth defects and disorders early, this use lends itself easily to an eugenics-inspired agenda. Related to this is the final argument that Arora reports: that pre-natal diagnostic tools allow intervention in the case of disability. But she says, since the tools and abortion do not treat disability but eliminate the foetus of the disabled child, they perpetuate stigma and also leave individual parents responsible rather than society sharing responsibility for seeing that a disabled person has a good life. Some believe that the decision to scan and abort female foetuses is seen as a consumer choice contract between doctors and patients.<sup>36</sup>

Who is to blame for the growing misuse of pre-diagnostic tools and abortions to eliminate female foetuses—a practice described by one doctor-crusader as “illegal contract killings on a massive scale”?<sup>37</sup> The law holds the mother undergoing abortion responsible, but also tries to regulate and enforce compliance by those who manufacture and sell this technology, those who buy it, doctors and medical technicians. But as Arora shows, the root of this misuse is patriarchal attitudes that offer a bouquet of reasons why sons are better than daughters—ritual, economic and social. What these advances in medical technology and growing (and therefore affordable) access to them have done is to reinforce and rationalise everyone of these patriarchal ideas, effectively sanitising them.

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<sup>33</sup> Sanchita Sharma, Unwanted and alone, but not for long, Hindustan Times, January 30, 2011, accessed at <http://www.hindustantimes.com/StoryPage/Print/656293.aspx> on August 25, 2011.

<sup>34</sup> R.Vasudevan, Ban on use of portable ultrasound machines, Asian Tribune, June 6, 2011, accessed at <http://www.asiantribune.com/news/2011/06/05/ban-use-portable-ultrasound-machines> on August 25, 2011.

<sup>35</sup> Dolly Arora, The Victimising Discourse: Sex-Determination Technologies and Policy, Economic and Political Weekly, February 17, 1996, pages 420-4 (this is on page 421).

<sup>36</sup> Christine Toomey, Gender genocide, The Sunday Times, August 26, 2007, accessed at <http://www.timesonline.co.uk/tol/news/world/asia/article2307893.ece> on August 25, 2011.

<sup>37</sup> Christine Toomey, Gender genocide, The Sunday Times, August 26, 2007, accessed at <http://www.timesonline.co.uk/tol/news/world/asia/article2307893.ece> on August 25, 2011.

Where poisoning or burying a female child alive may not seem “civilised” any more, visiting even a mobile clinic for a scan and an abortion transform what remains an “uncivilised” action into an encounter with modernity and technological progress.

### The meaning of modernization

	Sex Ratio	Child Sex Ratio
India	926	914
Chennai	981	962
Kolkata	928	946
Delhi	867	868
Greater Mumbai	861	900

Source: Population Provisional Totals, Census of India 2011<sup>38</sup>

Men vastly outnumber women in all of India's four largest cities which are also its most important modern urban centres. In Chennai, reflecting the national trend, the child sex ratio is 19 points lower than the sex ratio among adult women and men. These are not new cities. Delhi has been capital to several of India's most important, multi-regional or continental dynasties. Kolkata (Calcutta), Chennai (Madras) and Mumbai (Bombay)

burgeoned as Presidency towns during the colonial period, home to a cosmopolitan populace, housing the first colleges and hospitals and the hinterland's gateways to the world. The story is similar in most of India's urban centres. To those who suggest that education and economic well-being will improve the status of women, must reflect on what it means that those places most associated with better access to educational and economic opportunity have sex ratio deficits.

Octavio Paz described modernity as “a word in search of its meaning.”<sup>39</sup> Change and progress mark modernity's course and are valorised by this age, he said. “Modernity is the spearhead of historical movement, the incarnation of evolution or revolution, the two faces of progress. Finally, progress takes place thanks to the dual action of science and technology, applied to the realm of nature and to the use of her immense resources.” Far more prosaically, when history students use the term ‘modern’ to describe an age, they are referring to the period beginning any time as far back as the Renaissance or as recently as the Industrial Revolution, with all of the attendant economic, social, political and technological developments of these centuries. Modernity was associated with industrialization, urbanization, scientific research and technological innovation, and some related social changes included the relocation of industry from the household to the factory, the rise and spread of the nation-state and a focus on the individual (which of course, was a legacy of earlier periods of European history).<sup>40</sup> Chatterjee and Riley write, “Arising out of the Enlightenment values

<sup>38</sup> Population Provisional Totals, Census of India 2011, Urban Agglomerations/Cities having population 1 million and above, accessed at [http://censusindia.gov.in/2011-prov-results/paper2/data\\_files/india2/Million\\_Plus\\_UAs\\_Cities\\_2011.pdf](http://censusindia.gov.in/2011-prov-results/paper2/data_files/india2/Million_Plus_UAs_Cities_2011.pdf) on January 12, 2012. The India figures are from Paper No. 2: Data Highlights, Population Provisional Totals, Census of India 2011, Urban Agglomerations and Cities accessed at [http://censusindia.gov.in/2011-prov-results/paper2/data\\_files/India2/1.%20Data%20Highlight.pdf](http://censusindia.gov.in/2011-prov-results/paper2/data_files/India2/1.%20Data%20Highlight.pdf) on January 12, 2012, page 4. Elsewhere, the 2011 sex ratio is reported as 940. [http://www.censusindia.gov.in/2011-prov-results/data\\_files/india/Final%20PPT%202011\\_chapter5.pdf](http://www.censusindia.gov.in/2011-prov-results/data_files/india/Final%20PPT%202011_chapter5.pdf)

<sup>39</sup> Octavio Paz, In Search of the Present, Nobel Lecture, December 8, 1990, Stockholm, accessed at [http://www.nobelprize.org/nobel\\_prizes/literature/laureates/1990/paz-lecture.html](http://www.nobelprize.org/nobel_prizes/literature/laureates/1990/paz-lecture.html) on January 6, 2012.

<sup>40</sup> Susan A. Mann, Class notes for SOC 4080: Feminist Theory, 2011, Department of Sociology, University of New Orleans, New Orleans, accessed at <http://asp.uibk.ac.at/asp/2010/LVUL/Mann,%20What%20is%20meant%20by%20Modernity%20.%20.%20..pdf> on January 6, 2012. See also: Susan A. Mann, Doing Feminist Theory: From Modernity To Postmodernity, New York: Oxford University Press, (forthcoming) 2012.

of secularism, rationality, scientism, and optimism for the future, the term modernity has come to connote individuality, autonomy, freedom, truth, reason, order, progress, and the West.”<sup>41</sup>

Political scientists, like other academics in the 1960s, did not doubt that modernization and development would deliver a better life to humanity. In a 1971 article, Huntington reviewed the literature on the subject.<sup>42</sup> Recurrent in social scientists’ descriptions of modern society were the following features: universalistic norms; achievement replacing ascription as a determinant of relationships and roles; social mobility; egalitarian social relations based on occupational achievement; a civil society that reflects greater popular interest and engagement in the political system and that supplants the family; widespread literacy; accumulation of knowledge; mass communications; better health indicators including improved life expectancy; urbanization; work becomes diverse and complex, and requires more skill; the geographical scope of economic activity extends to the national level.

The characteristics of the modern polity follow from these: A political system, in which there is greater popular interest and engagement and people identify with the nation-state; where achievement and not ascription define role and responsibility; where an integrated government structure shows functional differentiation and specialization; where rational, secular decision-making procedures obtain, resulting in a large number of effective political and administrative decisions; secular laws form the basis of the judicial system.<sup>43</sup>

In the parcel of goodies delivered by modernization, there is also democracy. In 1959, Lipset suggested, “...the more well-to-do a nation, the greater the chances that it will sustain democracy,” where he operationalized economic development in terms of wealth (per capita income, person-physician and vehicle ratio and newspapers, radios and telephones per thousand persons ratio), industrialization, urbanization and education.<sup>44</sup> Lipset was the first political scientist to explicitly make this connection which has spawned a sub-field’s worth of literature since. Economic development complicates social structures which then create pressure for a democratic transition. “The specific causal chains consist of sequences of industrialization, urbanization, education, communication, mobilization, and political incorporation, among innumerable others; a progressive accumulation of social changes that ready a society to proceed to its culmination, democratization.”<sup>45</sup>

It is interesting that, writing in 1971, Huntington noted that much of the criticism of modernization theory comes from those who study India.<sup>46</sup> These criticisms are conceptual but also challenge the dichotomous relationship posited between tradition and modernity, he stated. Modernity and tradition are defined such that modernity is often identified with Western ways and values, and tradition and traditional become a residual category—essentially, that which is not modern or Western. The underlying assumptions here are that “Western” on the one hand and “traditional,

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<sup>41</sup> Nilanjana Chatterjee and Nancy E. Riley, “Planning an Indian Modernity: The Gendered Politics of Fertility Control,” *Signs: Journal of Women in Culture and Society*, Volume 26, No. 3, Spring 2001, page 815.

<sup>42</sup> Samuel P. Huntington, *The Change to Change: Modernization, Development and Politics*, *Comparative Politics*, Volume 3, Number 3, April 1971, pages 286-290.

<sup>43</sup> Huntington draws on Rustow and Ward here. *The Change to Change: Modernization, Development and Politics*, *Comparative Politics*, Volume 3, Number 3, April 1971, page 287

<sup>44</sup> Seymour Martin Lipset, “Some social requisites of democracy: Economic Development and Political Legitimacy,” *American Political Science Review*, Volume 53, March 1959, page 75.

<sup>45</sup> Adam Przeworski and Fernando Limongi, *Modernization: Theories and Facts*, *World Politics*, Volume 49, Number 2, January 1997, page 158.

<sup>46</sup> Huntington, *The Change to Change: Modernization, Development and Politics*, *Comparative Politics*, Volume 3, Number 3, April 1971, page 293

ergo non-Western” on the other, are both homogenous categories. Further, Huntington stated, “Modern society is not simple modern; it is modern and traditional.” The India scholars whose work informs Huntington’s article offer examples of the traditional and modern in symbiotic co-existence: promoting traditional art forms through modern media; the joint family as entrepreneur in the modern business sector, and caste coalitions in electoral democracy. To this list, we might add the use of pre-natal diagnostics for sex-selection which reinforces (even upgrades?) traditional girl-child preferences. But we leave that for the moment, to note that Huntington quotes Bendix as saying: “Many attributes of modernization like widespread literacy or modern medicine have appeared, or have been adopted, in isolation from the other attributes of a modern society. Hence, modernization in some sphere of life may occur without resulting in “modernity.”<sup>47</sup>

Huntington wrote, “The essential difference between modern and traditional society, most theorists of modernization contend, lies in the greater control which modern man has over his natural and social environment. This control, in turn, is based on the expansion of scientific and technological knowledge.”<sup>48</sup> Vandana Shiva described modern science as a patriarchal project. She wrote, “Modern science was a consciously gendered, patriarchal activity. As nature came to be seem more like a woman to be raped, gender too was recreated. Science as a male venture, based on the subjugation of female nature and female sex provided support for the polarisation of gender... Science and masculinity were associated in domination over nature and femininity, and the ideologies of science and gender reinforced each other.”<sup>49</sup> Controlling the birth chances of female children would surely conform to the vision of this project.

Typically, few social scientists writing on modernity or modernization paid much attention to gender roles, except very rarely stating in passing that in a modern society, there would be more women in the workplace or more women would participate in social and political activity. But in India, reformers in the 19<sup>th</sup> century had clear views on what was acceptable in a modern society when it came to the status of women. Coming from across the social and religious spectrum, the emerging attitudes of elite, often western-educated, Indian men seemed to mirror British disapproval of Indian practices like polygamy, child marriage and sati. Indian texts and practices were re-interpreted to suit modern values, and women benefited especially once facilitating women’s education and widow remarriage entered the agenda. But the benefit did not accrue from a dismantling of patriarchy. Rather, it accrued accidentally from an attempt to make patriarchy look more modern, in the European mode.<sup>50</sup> Thus, “women’s suffrage was supported because it challenged the colonial regime, but reform of laws such as those governing marriage, divorce, and inheritance aroused major controversy because they challenged male dominance in the domestic arena.”<sup>51</sup>

According to Srinivasan, modernization has affected fertility in India in three ways. First, the introduction of fertility control methods like contraceptives has altered the natural fertility rate. The second is the increased use of contraceptives. Third, women are getting married later, or choosing

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<sup>47</sup> Reinhard Bendix, *Tradition and Modernity Reconsidered*, *Comparative Studies in Society and History*, Vol. 9, No. 3 (Apr., 1967), pp. 329.

<sup>48</sup> Huntington, *The Change to Change: Modernization, Development and Politics*, *Comparative Politics*, Volume 3, Number 3, April 1971, page 286

<sup>49</sup> Vandana Shiva, “Science, Nature and Gender,” *Staying Alive*, Kali for Women, 1988, pages 17-18.

<sup>50</sup> Chatterjee and Riley describe this in “Planning an Indian Modernity: The Gendered Politics of Fertility Control,” *Signs: Journal of Women in Culture and Society*, Volume 26, No. 3, Spring 2001, pages 818-822.

<sup>51</sup> Chatterjee and Riley, “Planning an Indian Modernity: The Gendered Politics of Fertility Control,” *Signs: Journal of Women in Culture and Society*, Volume 26, No. 3, Spring 2001, page 819. Shirin Rai is of the same view. See: Shirin Rai, “Gender, nationalism and “nation-building””, *The Gender Politics of Development*, Zubaan, New Delhi, 2008, pages 10-38.

not to get married, and widows are marrying again, and these changed nuptiality patterns are affecting fertility.<sup>52</sup>

For the colonial government, population and demographics were both an instrument and a measurement of power. From the narrative reconstructed by Chatterjee and Riley, there was broad agreement that India's population was very large—with the colonizers inclined to blame population rather than colonization for India's problems—but little agreement on the best way to address what came to be seen as a problem.<sup>53</sup> "Fertility regulation" solutions ranged from sexual restraint to birth control. In the 1930s, the All-India Women's Conference supported the use of contraception by women, framing the argument in terms of birth spacing in the interest of the mother's health. The argument that birth control would give women autonomy over their bodies was underplayed, perhaps deliberately. Moreover, it was believed that birth control was most essential among the poor and working classes.

Population control has remained an important item on post-independence India's modernizing development agenda and women have remained at the centre of population control policy.<sup>54</sup> In the early years, the focus was on persuading women to adopt contraceptives. Then, incentives were offered for having a small family. Infamously, during the Emergency in 1975-77, in some states of India the government introduced compulsory sterilization for men. This backfired politically, and a more gentle approach was adopted, one premise of which was that as the status of and opportunities for women improved, they would be more likely to marry late, adopt birth control methods and have smaller families. Male child preference results in multiple pregnancies, smaller gaps between them, female infanticide and foeticide; and so, outreach campaigns now focus on showing that the girl child has value, and on showing her potential at work and to shoulder family responsibilities.

Modernity carried the appeal of a magic wand, transforming a bedraggled, shackled world of irrational inequalities into a technologically facilitated universe of free individuals who could realise their full potential. The declining sex ratio in India's main population centres gives lie to that dream, at least as far as little girls are concerned. Modernization seems to stop short of dismantling patriarchy, ensuring there is no secure place for women in the new world it fashions.

### **Can democracy co-exist with a tolerance of violence?**

Even those who work as researchers, public educators or social activists on the issue of female foeticide stop from time to time to digest anew the magnitude of the problem. Earlier in the paper, we quoted a doctor as describing the epidemic of female foeticide as "illegal contract killings on a massive scale".<sup>55</sup> The scale of the epidemic raises three questions that this section will elaborate rather than answer. First, when violence takes place on a scale that rivals genocides and natural disasters, why is it overlooked as if it were a normal or even, natural occurrence? Second, how is democracy related to structural violence, of which violence against women is an example? Finally,

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<sup>52</sup> K. Srinivasan, *Modernization, Contraception and Fertility Change in India*, *International Family Planning Perspectives*, Volume 14, No. 3, September 1988, page 96.

<sup>53</sup> Chatterjee and Riley's work informs the next two paragraphs. Nilanjana Chatterjee and Nancy E. Riley, "Planning an Indian Modernity: The Gendered Politics of Fertility Control," *Signs: Journal of Women in Culture and Society*, Volume 26, No. 3, Spring 2001, pages 811-845.

<sup>54</sup> See Naila Kabeer, "Implementing the Right to Choose: Women, Motherhood and Population Policy," *Reversed Realities: Gender Hierarchies in Development Thought*, Kali for Women, New Delhi, 1994, pages 187-222.

<sup>55</sup> Christine Toomey, *Gender genocide*, *The Sunday Times*, August 26, 2007, accessed at <http://www.timesonline.co.uk/tol/news/world/asia/article2307893.ece> on August 25, 2011.

when we are so desensitised to violence that we do not notice it, what does that portend for democracy?

One estimate of the numbers of lives lost during the 1947 Partition of the subcontinent is 500,000.<sup>56</sup> Over 1000 Indians died during the post-Babri riots<sup>57</sup> and around the same number died during the Gujarat riots.<sup>58</sup> The death toll of the Kutch earthquake was 17,030<sup>59</sup> and the Indian Ocean 2004 claimed more than 6400 Indian lives alone.<sup>60</sup> The high death-toll in all these instances is hard to forget and plays a part in keeping these experiences at the forefront of public memory. Now, juxtapose the numbers we read for India's "missing girls." Amartya Sen coined the expression to refer to the girls who should have been born had there been no male child preference and had practices like female infanticide or sex-selective abortion not been prevalent.<sup>61</sup> Writing first about this in 1992, Sen pegged the number of missing girls in India at 37 million. Twenty years later, the estimates are numerous, from updated estimates going up to 60 million missing females, to 700,000 girls going "missing" each year, to the statistic that ten million sex-selective abortions are said to have taken place between 1981 and 2005. The statistics are not reliable but they do seem plausible enough to be indicative of the scale of a problem that we know exists.

Moreover, these are massive numbers. Not only are they much larger than the death-tolls of the

Sri Lanka	20 million
Afghanistan	34 million
<i>Sen 1992 estimate of missing girls</i>	<i>37 million</i>
Argentina	40 million
Colombia	46 million
Italy	60 million
<i>Updated estimates</i>	<i>60 million</i>
Source for national population figures: Rounded up from The World Bank, Population, total, accessed at <a href="http://data.worldbank.org/indicator/SP.POP.TOTL">http://data.worldbank.org/indicator/SP.POP.TOTL</a> on January 20, 2012.	

conflicts and natural disasters in the previous paragraphs, they add up to whole nation-state populations. In other words, the sex ratio deficit really means that as many women as whole national populations have disappeared from India. If it were not gender violence, performed by individuals and affecting only infant and unborn girls, this scale would surely count as genocide. If democracy is shaken by the political violence during riots and if

governance systems crack in the aftermath of a natural disaster with a lot of fatalities, then the disappearance of whole countries must surely raise some questions for Indian democracy.

<sup>56</sup> Matthew White, "Indian Partition (1947)," *Secondary Wars and Atrocities of the Twentieth Century*, Necrometrics.com (Death Tolls across history), available at <http://necrometrics.com/20c300k.htm#India> (accessed January 23, 2012). There is no definitive death toll figure, but White arrives at 500,000 as the mean between all the figures quoted in a variety of scholarly resources.

<sup>57</sup> Babri Masjid bloody aftermath, *India Today*, December 5, 2011 accessed at <http://indiatoday.intoday.in/story/babri-masjid-bloody-aftermath-across-india/1/162906.html> on January 23, 2012.

<sup>58</sup> Gujarat riot death toll revealed, *BBC News*, May 11, 2005, accessed at [http://news.bbc.co.uk/2/hi/south\\_asia/4536199.stm](http://news.bbc.co.uk/2/hi/south_asia/4536199.stm) on January 23, 2012.

<sup>59</sup> Ashok K. Lahiri, Tapas K. Sen, R. Kavita Rao and Pratap Ranjan Jena, *Economic Consequences of the Gujarat Earthquake (Discussion Note 1)*, Working Paper 116, 2001 accessed at [http://www.nipfp.org.in/working\\_paper/dp01\\_nipfp\\_001.pdf](http://www.nipfp.org.in/working_paper/dp01_nipfp_001.pdf) on January 23, 2012.

<sup>60</sup> Tsunami death toll in India 6,400, *The Hindu*, December 28, 2004, accessed at <http://www.hindu.com/2004/12/28/stories/2004122809640100.htm> on January 23, 2012.

<sup>61</sup> Amartya Sen, *Missing women*, *British Medical Journal*, Volume 304, March 7, 1992, pages 587-8.

There is little written that connects gender violence—leave alone female foeticide—with democracy.<sup>62</sup> While activists will use the human rights framework for advocacy, scholars spend much less time speculating about the impact that pervasive gender violence has on democracy. Given that the sex ratio deficit implies femicide on a massive scale, if one chose to treat it as genocide, one finds that is also an area with very little scholarship. R.J. Rummel defines genocide as “intentional killing by government of people because of their race, religion, ethnicity, or other indelible group membership.” But then he believes that governments can also facilitate the elimination of citizens by means such as blockades, political assassinations, artificial famines, war crimes and “murdering by quota.” Foeticide is of course, not a government project. It occurs as a result of individual/family choices and with the help of medical professionals. Still, is the state not in some way culpable for its rampant spread in spite of legal prohibitions? The simplest answer is that to the extent the Pre-Natal Diagnostic Techniques (PNDT) Act and Rules has not been enforced, to that extent are the Indian state and its agents accountable for the death of these millions of female citizens.

The slightly more complex question is that of structural violence which Galtung defined as any limitation placed by political and economic structures on an individual fulfilling their potential; social injustice is structural violence.<sup>63</sup>

“There may not be any person who directly harms another person in the structure. The violence is built into the structure and shows up as unequal power and consequently as unequal life chances.”<sup>64</sup>

Galtung wrote of personal and structural violence as if they were related but separate. In the case of violence against women, we see that social structures built on unequal ideologies create an enabling environment for personal gender-based violence. Dyan Mazurana and Susan McKay draw on Birgit Brock-Utne’s work to say, “When structural violence happens to girls or women because of their gender, patriarchal structural violence takes place.”<sup>65</sup> In the case of female foeticide in India, the connection between structural and personal violence is clear. Patriarchy creates, endorses and reinforces male child preference. Marriage, kinship and residence; inheritance, property ownership and economic opportunity; culture and ritual—all work together to underscore the preference for a baby boy. Patriarchal values and circumstances seem to make male child preference inevitable, and the choice of female foeticide rational. The line between structural and personal violence is blurred in this case, as it is in the case of all gender-based violence.<sup>66</sup> Violence on this scale, whose rationale

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<sup>62</sup> See Swarna Rajagopalan, “Whose Security, Whose Development? Lessons from Campaigns against Female Infanticide in Tamil Nadu,” in *Ranabir Samaddar and Suhit K. Sen, eds., Political Transition and Development Imperatives in India*, Routledge India, 2011.

<sup>63</sup> Johan Galtung, *Violence, Peace, and Peace Research*, Journal of Peace Research, Vol. 6, No. 3 (1969), page 171.

<sup>64</sup> Johan Galtung, *Violence, Peace, and Peace Research*, Journal of Peace Research, Vol. 6, No. 3 (1969), page 171.

<sup>65</sup> Dyan Mazurana and Susan McKay, *Women, Girls and Structural Violence: A Global Analysis*, in D.J. Christie, R.V. Wagner, and D.A. Winter, eds., *Peace, Conflict and Violence: Peace Psychology for the 21<sup>st</sup> Century*, Englewood Cliffs, New Jersey: Prentice Hall, 2001, page 2, accessed at [http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book\\_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20\(Mazurana%20%26%20McKay\).pdf](http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20(Mazurana%20%26%20McKay).pdf) on January 26, 2012. They define patriarchy as, “Patriarchy can be defined as systems or structures of exploitation that normalize socially constructed gender differences in ways that reproduce and legitimize male domination.” (also page 2)

<sup>66</sup> Mazurana and McKay actually use son preference and female infanticide to illustrate patriarchal structural violence. Dyan Mazurana and Susan McKay, *Women, Girls and Structural Violence: A Global Analysis*, in D.J. Christie, R.V. Wagner, and D.A. Winter, eds., *Peace, Conflict and Violence: Peace Psychology for the 21<sup>st</sup> Century*, Englewood Cliffs, New Jersey: Prentice Hall, 2001, pages 2-4, accessed at

is so deeply embedded in the collective psyche, raises important questions for democracy. It challenges our democratic pretensions in many ways.

Mazurana and McKay point out that both democratic and non-democratic systems reinforce systemic inequalities and structural violence. In the case of democracies, this works three ways, they say.<sup>67</sup> First, although democracy is supposed to create a level playing field where all citizens are equal, historically, this has usually meant one section of the citizenry—white men in western democracies, upper caste, upper class men in India. Second, the inside-outside binary which places women and their lives in the private sphere, and grants men the right of way in the public sphere, also draws a boundary just outside the home where the writ of the state stops and the writ of men prevails. The result: women's experiences, especially of violence, are of secondary importance to the state. Governments typically acknowledge violence against women—or gender-based violence—only when forced to; for the most part they prefer to regard it as a private matter. This pressure may be presumed to be greater when there are more women participating in the political process. But the final way in which democracy can reinforce patriarchal structural violence is when the democratic process throws up obstacles to full participation that reinforce existing injustice. When elections are very violent and expensive and depend on a candidate's ability to raise money and muscle power (to use a phrase Mrinal Gore once used in a conversation with this author), or when a quota intended to promote women's representation is subverted by the selection of wives and daughters to replace male candidates—then democracy actually reinforces inequality rather than dismantles it.

Finally, when one juxtaposes the journey of sex-selective abortion and the growing levels of political violence in India, it is hard to escape the question: how can a society that is so violent sustain a political system that is often seen as replacing the violence of the bullet with the gentle imperative of the ballot? Amniocentesis was available in New Delhi in the early 1970s and was being used for sex determination. In the mid-1970s, India saw a shrinking of the political space and a state willing to expand its reach to enforce its policies. By the end of the 1970s, Indians witnessed violence in states like Punjab and Assam. In these four decades, violence has become more pervasive and it has also become more intense.

In the mid-1980s, after several years of news bulletins that daily reported militant killings and encounter deaths, many Indians stopped reacting. On state-owned television broadcasts, this had the routine quality of inaugurations and felicitations—a humdrum recitation that marked the passage of an evening. If you became aware of the process of desensitization that was at work, it was worrying. But it did not stop, and I suppose, it allows people to keep moving in the middle of great difficulty. The Ploughshares Project suggests that between Kashmir, Northeast India and the Maoist insurgency-affected areas, almost 100,000 people have been killed in the last few decades.<sup>68</sup> The fact is these numbers are as hard to collate as are the numbers about female foeticide in the

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[http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book\\_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20\(Mazurana%20%26%20McKay\).pdf](http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20(Mazurana%20%26%20McKay).pdf) on January 26, 2012

<sup>67</sup> Mazurana and McKay, Dyan Mazurana and Susan McKay, *Women, Girls and Structural Violence: A Global Analysis*, in D.J. Christie, R.V. Wagner, and D.A. Winter, eds., *Peace, Conflict and Violence: Peace Psychology for the 21<sup>st</sup> Century*, Englewood Cliffs, New Jersey: Prentice Hall, 2001, pages 10-12, accessed at [http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book\\_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20\(Mazurana%20%26%20McKay\).pdf](http://academic.marion.ohio-state.edu/dchristie/Peace%20Psychology%20Book_files/Chapter%2011%20-%20Women,%20Girls,%20%26%20Structural%20Violence%20(Mazurana%20%26%20McKay).pdf) on January 26, 2012.

<sup>68</sup> Ploughshares Project, *Conflict Descriptions*, 2010, accessed at <http://www.ploughshares.ca/content/conflict-descriptions-on-january-26>, 2012. The Ploughshares Project researchers draw largely on the estimates prepared by the South Asia Terrorism Portal, but aggregate SATP's annual totals usefully.



same decades. Both numbers barely register because they are unfathomably large and deceptively distant.

Desensitization to violence creates a climate of tolerance for violence, both the private individual kind that destroys female fetuses and the public expressions that range from looting to rioting to rampant political mobs to militancy, and the state's various coercive responses. The ability to tune out violence and coercion makes resort to them easier on all sides. A society that is outraged by cartoons it will never see, is unable to feel outrage at death-tolls that are obscenely large. And without that indignation, there will be no demands for enforcement of laws against violence or accountability for other illegitimate coercion.

### **Patriarchy, Gender, Democracy and Violence**

Through the looking-glass of sex selective abortion, we are faced with unpleasant images and uncomfortable questions to which this paper can only point, rather than attempt to answer. Many of these relate to ideas we take for granted and assumptions we treat as axiomatic.

At least in principle, it would be hard to find a person who did not support the idea that human rights, if not all rights, were universal. Abortion debates in the US juxtapose the rights of the pregnant woman to choose and the right of the unborn foetus to life. Sex selective abortion complicates the question. The right to choose becomes a form of eugenics; this gender or that, this trait or that. We take a strong position against sex selection but do not extend the outrage to embrace the right of foetuses with genetic disorders or disabilities. Everyone's right comes at the expense—to varying degrees—of another person's; and there is not a level playing field in this matter. The human rights framework is powerful and part of its power lies in the ability to use it in various contexts—from development to disaster relief to women's empowerment to politics—to the right to choose to abort a female foetus. Nothing is black and white any more.

The same kind of questions can be raised about universal access to health care and medical technologies, given that pre-natal diagnostic techniques now reach remote areas in India. Universal and equal access to everything that improves one's life-chances and quality of life is a value that would be hard for anyone to contest in public today. As mobile labs take pre-natal diagnostics and then sex-selective abortions into the Indian interior, what do we feel about universal access? The technology itself is not to blame for its abuse, and withdrawing or limiting access cannot be a solution. It must lie in regulation that will be enforced, or in a parallel campaign that targets the values that reinforce male child preference. Without the latter, technology is the handmaiden of any dominant ideology, such as patriarchy.

Modernization too ends up serving this purpose, insofar as patriarchy is possibly the one traditional ideology it does not challenge. Huntington described the process of modernization as revolutionary; complex; systemic; global; lengthy; phased; homogenizing; irreversible and progressive.<sup>69</sup> But it is none of those things where women's status in society is concerned. Instead, modern institutions, values and practices have served to reinforce an unequal power relationship and the disenfranchisement that is its corollary. The spread of dowry in bride-price communities, the devaluation of women's work and the replacement of finite female infanticide belts by an epidemic of sex-selective abortion—which apparently is more humane and civilised—underscore this.

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<sup>69</sup> Huntington, *The Change to Change: Modernization, Development and Politics*, Comparative Politics, Volume 3, Number 3, April 1971, pages 288-290.

Democracy, which is associated with modernization and human rights, assumes the existence of a concerned (ergo, caring) citizenry. But can a citizenry that blinks at the elimination of female children be the bedrock of democracy? The sympathy and outrage that fatalities of disaster or conflict evoke are far greater than the less dramatic but far larger scale of daughter elimination elicit. Manipulation of the rights discourse, access to technology and modernization are three factors that have facilitated an escalation of violence that remains invisible partly because it seems natural, given patriarchal values, and partly because of the reluctance of most political systems and their agents to intervene within the home. Violence against women brings together structural and personal violence, and toleration of both undermines democratic claims. But most disruptive to democratic aspirations may be a citizenry that is desensitized to escalating levels of violence within the home and in the public sphere. The idea that democracy mediates peaceful resolution of differences and change without conflict is meaningless if citizens do not even notice violence around them, until it affects them personally.

So, that brings us to patriarchy, that elephant in the room. The story that emerges from the discussions in this paper are that of change—political, technological and social—that has the potential to improve people’s lives in a real way, whose potential is thwarted when the elements that can bring change interact and are appropriated and/or subverted by patriarchy. Although I have shied away from writing about patriarchy so far, the story that has been told here makes it imperative to look it in the eye and ask: Is change for the better, is a better world possible where patriarchal social relations prevail? Is democracy? The female foeticide looking-glass answers, “No.”