

# The Pre-Natal Diagnostic Techniques as a Roadblock to Gender Equality: A Critical Study

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*“Prenatal testing is a complicated decision for many women, forcing us to confront concerns about a disabled child and risks of miscarriage”*

– Emily Oster

**Abstract:** *The right to life is considered to be one of the very basic fundamental rights of a person living in this nation. At certain times, the said right is being curtailed or abridged by the government or any private entity as per the situation demands for the same. As per the exact provisions of law, such rights should not be curtailed since they are considered to be inalienable rights where the one who enjoys those set of rights even cannot waive them by their own free will and wish. If we are thinking in a much more philosophical way by giving very wider and liberal interpretation to the concept of right to life, the said right is not only available to the persons who are living in the nation but it can be extended to anyone including the unborn children who is there in the womb of the mother. The ultra-modern sophisticated technologies help to determine the medical as well as the health conditions of these unborn children with the aid of the pre-natal diagnostic techniques and allied modern mechanisms. The major objective of such techniques is to identify whether the unborn child is having any sort of physical abnormalities or difficulties and it also helps to rectify the same to an extent through various advanced medical approaches. Another problem lies with these pre-natal diagnostic techniques is that it is being misused by many people in order to identify the gender of the child and to kill the female fetus which is actually very brutish in nature. In India, this is at an alarming stage and the government is actually duty bound to implement certain rules and regulations in order to delimit and prevent the misuse of medical techniques.*

**Keywords:** Prenatal diagnosis, Abortion, Gender discrimination, Prenatal techniques, Gender Equality, Disability of unborn children

## 1. Introduction

The population of India is considered to be the largest in the whole world as per the recent statistics issued by the Government of India. In the said demographic structure, age-group of youth and children is considered to be in a much higher rate than the other categories of people. This clearly shows that the birth rate of children in India is comparatively very high rather than many of the other nations in the whole world. But we cannot deny the fact that even though there is high birth rate, there is also high infant mortality rate in the nation and at certain times this rate is comparatively in a dangerous situation if we compare the statistics of infant mortality rate with some other developed or even developing nations. [1] Even though the healthcare system in India is much more advanced than the nearby nations in the Asian continent, still the infant mortality rate is somewhat much higher and through the said statement we can draw out a conclusion that the infant mortality is not only due to unforeseen medical and health conditions of the infant or an unborn child, but it also depends upon some external human influences.

The pre-natal diagnosis can simply be defined as the process through which we can identify the details of the fetus prenatally, that means before the birth of the child in order to understand the characteristics and the present stage of fetus which eventually helps to identify whether any sort of problem is there with the fetus or not. At most of the times, the pre-natal diagnostic tests are being used in order to identify whether any sort of abnormalities are there with the fetus or that unborn child. The abnormalities include various sorts of genetic as well as inherent disabilities, some sort of spontaneous as well as hereditary disorders that the child

may face after his or her birth, and the measurements of the baby's size in order to identify whether every sort of things is there in the proper and aligned manner.

The pre-natal diagnostic techniques were actually being adapted and implemented in the nation with a view to identify any sort of abnormalities which an unborn child has from the fetus itself and in order to ensure proper medical treatment in order to rectify the same, if it is possible with the modern medical technologies. But at certain times, with the help of these pre-natal diagnostic techniques, many sort of social evil practices is being taken place like that of killing of that unborn child in the womb of the mother itself, if they found that some sort of genetic or hereditary abnormalities are being there with that child and many other times with the help of this pre-natal techniques, people used to identify the gender of the child and if they found that it is a girl child, the will kill the child in the womb of the mother itself and no one in the outside world will be able to know that it was not an accidental miscarriage but a planned murder. Thus, we can say that even though such pre-natal diagnostic techniques are helping to identify the medical condition of the infant unborn babies as fetus in the womb of the mother itself, there are certain other problems which is associated with them including the rising gender inequality issues.

## Pre-natal diagnostic techniques and gender equality

The basic aspect of fundamental rights is to protect the people from any sort of grave violation of their basic rights which can be claimed by them at anytime and anywhere. These set of fundamental rights are inalienable basic rights which cannot be curtailed or abridged by anyone including the government unless and until such grave situations arises.

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Thus, these set of rights are not at all delimited to the citizens or the people who are residing in the nation but the same is also extended to even the unborn babies who are still there in the womb of the mother. In the present contemporary scenario, with the advancement of the modern-day technologies, the characteristics and the specificities of the unborn child can be even identified even if it is a fetus through the pre-natal diagnostic techniques. The major aim of these sort of pre-natal diagnosis is to identify whether the fetus is having any genetic or hereditary inherent abnormalities or defects and through such analysis the doctors can take possible measures in order to rectify the same. [2]

The pre-natal diagnosis techniques are always subject to heavy criticism from time immemorial since through such diagnosis, the gender of the child can also be identified and people will take this as an opportunity to kill if it is found that, the child in the womb is a female one which again expanded the gender inequality and gender discrimination which exists in the Indian society. In order to prevent such a social evil that exists in the society, the government implemented a legislation in the year 1994 named as The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act which clearly specifies that the gender of the child should not be disclosed with anyone including the parents of that unborn child by the doctors or any other medical or non-medical staff of that particular hospital or medical clinic where the pre-natal diagnosis taken place. If such information is being disclosed, proper penal actions will be taken against the doctor, the concerned supervisor who conducted such pre-natal diagnosis as well as the parents who supported to get the disclosing of the gender of the concerned child. [3]

From time immemorial onwards, we can see that a very vast nation like India is subjected to various social evil practices such as untouchability and discrimination. If we are going in depth to the discrimination perspective, we will come to know that there is heavy set of gender discrimination as well with respect to the age-old social evils and social stigmas existing in the society which states that female child is not at all good for the family and it is considered to be a curse to the whole family especially to the father of the said child among the parents if no male child is there form them. According to the ancient Hindu philosophy as well, it is clearly stated that the son, the is, the male child is an essential and integral component to save the father from the hell and to attain salvation, that is, moksha as per the Hindu philosophy. Thus, son is called as "Putra" who saves his father from "put" which means "hell" and thereby helps the father to attain "Moksha" where salvation of father happens.

Thus, the age-old social stigma relating to the gender equality and gender discrimination should need to be curtailed and abridged and no infant child even if it is in the womb of the mother shall be discriminated and subject to cruelties like killing of the child only due to the fact that the child is a female one which clearly shows the discrimination towards gender even in a literate as socially developed state like that of India. The government should need to actually implement certain laws and regulations in order to properly regulate the pre-natal diagnostic practices and they are duty

bound to take adequate care and preventive measures in order to prevent the misuse of such techniques and proper penal penalties should need to be implemented upon the wrongdoers who actually acts as the medium of channel for having these gender discrimination and allied activities even from the womb of the mother. Thus, to an extent through proper implementation of guidelines and further amendment to the existing legislations, the government can prohibit the sex selection techniques and conveying the same to the parents of that unborn child which may sometimes leads to the killing of that unborn child in the womb of the mother itself which clearly shows the gender discrimination exists in the society.

### **GENDER OF an UNBORN CHILD: A necessary QUESTION?**

Even though after the 75<sup>th</sup> year of independence, India is not fully free from discrimination and gender inequality. The discrimination is a very wider are and if we are connecting discrimination in terms of gender, the ambit of gender discrimination or the gender inequality will arise. Indian society is actually very much gender-centered and the methods to identify the gender of the child from the very initial time when a women became pregnant can be witnessed through the constant questions that may arise in the family and nearby kindreds as to whether the child will be a male child or female child. This itself shows the social stigma and evil mentality which rests upon the society in terms of gender inequality which in turn results in the gender discrimination and other allied discriminatory practices. [4] The gender identification methods before the birth of the child can in no way be accepted since it is actually against the basic ethics of law and the concerned existing legislations in the nation clearly prohibits the sex-selection practices and gender-identification techniques before the birth of the child.

The pre-natal diagnostic techniques are actually being misused by many people including the hospital or the administrators of the medical clinics, doctors, medical and allied staffs as well as the parents and their relatives as well. Rather than to identify about the medical condition of the fetus as to whether there is any deformity with respect to genetic and hereditary characteristics, the pre-natal diagnostic techniques are now being used as a method in order to identify the gender of a child even though it is being prohibited by the law from time immemorial. Such sort of identification of the gender is not at all good for the society since the gender should not be considered as the sole criterion in order to measure the skills or accomplishments that the child will be able to achieve after its birth. One among the main reason for the infant mortality rate in India is not only the poor medical facilities given to the child and the pregnant mother or their extreme health conditions but it is also connected with these sorts of pre-natal diagnostic techniques since at certain times, the infant will be killed in the womb of the mother itself after the pre-natal diagnosis if they found that it is a female child. In order to prohibit the same actually the government issued the aforementioned legislation to regulate the pre-conception and pre-natal diagnosis regulations in the nation. Thus, the government should need to take proper measures in order to prevent the

misuse of such provisions of pre-natal diagnosis and it should need to be done with a good intention in order to protect the life of the child rather than killing the same because of the age-old myth of gender disparity and gender-inequality existing in the society.

### Misuse of Pre-Natal diagnostic techniques

The nation is actually somewhat very much well-advanced in terms of medical facilities and the healthcare system. Even India is one among the nations in the whole world who is having collaboration with several foreign and western nations in terms of medical and healthcare facilities as well as the treatments which is given to the patients through such collaborative works. As the advancement of technologies affected the medical field as well, modern sophisticated measures are now there to identify the pre-natal which actually means the care and protection that should need to be given to both the mother and the child in womb before the birth of the unborn child, and through such pre-natal diagnostic techniques, the medical and health condition of the child can be seen and proper substantive healthcare treatments can be given to that child for its overall growth and to have a healthy condition. [5]

The pre-natal diagnostic techniques were actually being implemented with a good intention to keep the health of the mother and the child in a good and healthy condition by identifying any bodily infirmities or genetic as well as hereditary abnormalities associated with the child in womb and if the doctors found anything as such after the pre-natal diagnosis is over, they will work on to rectify those health conditions and will try to make them into a proper and stable one with the aid of medicines and other healthcare systems. The major problem lies with the medical and allied field themselves because they are nowadays much more profit-oriented than service-oriented and in order to gain more and more profits, the hospitals as well as the medical clinics will conduct the pre-natal diagnosis and they will also disclose the gender of the child by asking for money even though it is being prohibited by the law. Actually, there are even unregistered hospitals as well as other medical allied clinics which is not even having a government approved license for their proper working as well and they will also be engaged in the pre-natal diagnosis and gender identification activities for the mere money-making processes. [6] These all things should actually need to be put to an end and the government should need to play a very key role in the same in order to prevent the misuse of the pre-natal diagnostic techniques which may sometimes turn into a social evil with regard to gender-identification and sex-selection activities which will eventually increase the gender inequality in the society.

### Gender Equality: A Progressive approach

The strength of every nation lies in its population and through productive outcome from the citizens of the nation irrespective of their gender, the overall social as well as economic development of the nation can actually be achieved. Gender eventually plays a very crucial role with respect to the society since even in the modern contemporary society, some sort of employment are specifically being allotted to women and men separately and some are being considered to have only female oriented ones

while the other one will be specifically male oriented things. From the very initial days of one's childhood, actually the gender inequality and gender disparity start and probably this will start from one's own house itself.

There may be constant segregation between the male and female child and it is probably being evident from the works which they are being allocated with as well as to the restrictions and freedoms which is being enjoyed by both the groups will also get differed from time to time. Thereafter, in the very initial schooling days of a child, there again arises the disparity of gender between the boy child with that of a girl child and eventually such disparities will grow along with the children as well while they are being in different positions after so many years. Thus, we will come to know that the gender inequality and gender discrimination is a gradual process which actually takes place from the very initial days of one's life and it is not at all static in nature but is a dynamic one and the changing society is also having a very crucial role with regard to the prohibition and prevention of these gender based inequalities which is not at all good for a healthy nation who is actually following the principles of democracy with its own true spirit.

## 2. Conclusion

The strength of the nation lies upon its population but the actual strength may acquire only when there is a collective and collaborative as well as harmonious relationship among the whole population irrespective of the gender they actually belong to and thereby a harmonious relationship should need to be established with everyone irrespective of any sort of demarcation between the people. India should need to adopt much more progressive approach and philosophies in matters relating to the gender equality concept as well as the government of the nation should need to have more stringent and concrete laws in order to prevent any sort of discrimination based on the gender which exists from time immemorial. [7]

The pre-natal diagnosis is actually a good concept in order to protect the health of the child in womb as well as that of the pregnant mother who carries that unborn child in her womb. The said diagnostic techniques can be adopted in order to identify any such bodily deformities including genetic or hereditary disorders which is actually being there with the child in the womb and the said thing can be identified even at the stage of fetus and thereby the concerned medical practitioners can rectify the same to an extent by providing allied medical care facilities as well as healthcare systems in order to eliminate the defects of the child. Thus, no one shall make conduct gender-determination as well as sex-selection tests while conducting the pre-natal diagnosis since it is being prohibited by law and considered to be unlawful. Thus, the government should need to take adequate measures in order to prevent gender discrimination though pre-natal diagnosis.

## 3. Literature Review

1) Ravindra G Amonker and Gary D Brinker, *Determinants of Infant and Child Mortality in India*,

International Review of Modern Sociology, Autumn 1997, Vol. 27, No. 2, International Journals, pp. 1-22,

<https://www.jstor.org/stable/41421127>

The author in the said research paper tries to articulate the relationship between the various aspects of development that takes place in the nation including the social as well as the economic development with that of the infant child mortality rate and how the same can be well-connected with each other. As per the contentions of the said author in the research paper, he clearly mentions that the development of a nation is actually connected with the infant mortality rates of that particular nation since if there are more and more infant mortality rates it clearly shows that there are no adequate or proper medical and other allied facilities in order to look after the health of the pregnant mother as well as that of the unborn child who is in womb of the mother. Thus, he also makes out certain suggestions in order to overcome the problems associated with the child mortality rate and the measures to tackle the same by providing adequate healthcare facilities to those who are actually in need of the same.

2) S V Subramanian and S Selvaraj, *Social analysis of sex imbalance in India: before and after the implementation of the Pre-Natal Diagnostic Techniques (PNDT) Act*, Journal of Epidemiology and Community Health (1979-1981), March 2009, Vol. 63, No. 3, BMJ, pp. 245-252, <https://www.jstor.org/stable/20720929>

The author in this particular research paper discusses about the various modern methods of gender-identification and sex-selection activities which is actually connected with the pre-natal diagnostic techniques which is existed in the nation. The author also points out certain facts and figures which clearly states how these sort of gender-identification processes through the pre-natal diagnostic techniques affects the gender discrimination and gender inequalities which takes place in the nation. The Indian society is not all progressive in nature with respect to the gender-based things and even now also, the nation is not at all accepting that female child are also much competitive and efficient enough like that of a male child and through pre-natal diagnostic methods, the child in the womb is being killed at certain times if it is found that the said child is a female one. These all are considered to be the social evils which exists in the nation from time immemorial and the government should need to implement proper laws to prevent such practices.

3) Wolfram Henn, *Consumerism in Prenatal Diagnosis: A Challenge for Ethical Guidelines*, Journal of Medical Ethics, December, 2000, Vol. 26, No. 6, BMJ, pp. 444-446, <http://www.jstor.com/stable/27718597>

The author in the said research paper extensively discussed the facts which relates to how the pre-natal diagnosis is acting as a business in the market where it is being considered to be like a commodity or method which can be purchased from a hospital or allied medical clinics after giving sufficient amount of money to know the gender of the child who is in the womb of the mother. The author here also vehemently criticized that most of the medical practitioners as well as the hospitals are not at all following the guidelines enacted by the concerned government of the nation with that of the ethical guidelines enshrined by the World Health Organization with respect to the pre-natal

diagnostic techniques and the ethics that should need to be carried out while performing the same.

4) Paribhasha Sharma, *Gender-based Crime and Gender Inequality in India: A Subnational Analysis*, Economic and Political Weekly, November 07, 2015, Vol. 50, No. 45, <https://www.jstor.org/stable/44003994>

The author in the said research paper tries to articulate the existing gender-based inequalities and the gender-based crimes which eventually takes place in almost all the sectors of the nation and how it badly affects the principles of equality as well as the guidelines for welfarism from time to time. The gender should not be considered as a yardstick to measure any of the productive outcomes that a country can offer and the author also stated that the government should need to make strict laws in order to rectify the loopholes in the present-day legislations relating to the pre-natal diagnostic and sex-selection activities which takes place in the nation in order to prevent the misuse of such pre-natal diagnostic techniques which takes place in the society.

5) Group of Advisers on the Ethical Implications of Biotechnology, *Ethical Aspects of Prenatal Diagnosis*, Politics and the Life Sciences, September, 1996, Vol. 15, No. 2, Cambridge University Press, pp. 329-331, <https://www.jstor.org/stable/4236276>

The authors in this particular research paper points out the importance to have certain medical ethics and morale principles that should need to be followed while conducting pre-natal diagnostic techniques. The concerned medical practitioners and the hospital should not under any circumstance shall disclose the gender of the child to anyone and they should need to provide the required treatment facilities to both the unborn child and the pregnant mother after this pre-natal diagnosis to protect them from all forms of diseases and other unhealthy conditions.

## References

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