

**A STUDY ON THE LEGISLATION ENACTED TO CURB FEMALE
FOETICIDE IN INDIA**

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ABSTRACT

Female feticide is one of the social hazard in Indian society. Due to the technological development and in the era of ultrasound technology and capitalist modernity the practice of female feticide is rapidly increasing. This paper tries to focus on the consequence of the practice of female feticide Indian society and the legislations and measures taken by the government to combat the practice of female feticide for a balanced society.

Key words: feticide, abortion, infanticide, sex ratio.

RESEARCH PROBLEM

consequences of female feticide in India ?

AIM

To study the prevalence of female feticide in India various legislations enacted to curb female feticide..

OBJECTIVES

- 1.To analyze the factors that lead to female feticide.
- 2.To study the roots of female feticide.
- 3.To examine the reasons for prevalence of female feticide.
- 4.To examine the measures taken by the government to curb female feticide.

HYPOTHESIS**NEGATIVE HYPOTHESIS**

Legislation exists and its sufficient to curb female feticide

ALTERNATIVE HYPOTHESIS

Legislation which exists is not sufficient to curb female feticide

INTRODUCTION

Feticide is killing of fetus in mothers womb. If the specific situation is inevitable the law allows abortion of fetus but sex selective abortion is not supportable. In southern parts of our country this practise continues where they cannot afford illegal ultrasound. There is a pressure on female to produce sons. India has one of the highest female feticide incidents in the world. Apart from Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act) to address the issue of sex-selective abortion, India also enacted the Medical Termination of Pregnancy (MTP) Act in 1971 to regulate access to safe abortions. The MTP Act of 1971, amended in 2002, allows abortion up to 20 weeks of pregnancy in cases where “the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health.

In a bid to encourage families to have girl children, prevent female foeticide and educate the girl child, the government launched Beti Bachao, Beti Padhao campaign in January 2015. It also launched several conditional cash transfer schemes such as Balika Samridhhi Yojana and Dhanalakshmi Scheme.

FACTORS LEADING TO FEMALE FOETICIDE**A) Economic Factors:**

The economic condition of rural India is very marginal and there is always correlation between having a male child and income level. Men are always treated as an asset in our society and girl children are treated as an asset. For the same work done less remuneration is paid to the women

compared to men. In a patriarchal society women enter into a unorganized sectors where their work is not recognized and they are not paid.¹

B) Dowry system

In many cases the parents of the bride and the bride are being tortured by the groom's family demanding dowry and sometimes the bride commits suicide. and most of them end up lowering their standard of living and spend their rest of their lives repaying it.

C) Socio-ritual factors:

Women are vulnerable to physical, sexual and mental assaults by men in our patriarchal society. Every parent considers daughter as a risk and not safe to be brought up in such an environment. According to Manu the funeral pyre has to be done by the son and they believe that son will take care of them at their old age. The socio ritual factors like following customs, illiteracy and orthodox social norms lead to the pressure of having male over female.

D) Technological factors:

The latest technologies with the advent of scientific techniques have led to the sex based abortion and only a small percentage of female child is born compared to male.

d) Population Policy: Family planning policies in India promote a family with two-child so the families prefer having son compared to daughter and this leads to the abortion of female foetus. In the feudal policies the property gets transferred to son and son-in-law. This is also a reason to have preference of male child over female child.²

¹ .Indu Grewal, J. Kishore, 'Female Foeticide in India' (*International Humanist and Ethical Union*, 1st May, 2004)

² Lakshmi Lingam, 'Sex Detection Tests and Female Foeticide: Discrimination Before Birth'

LEGAL PROVISIONS

In India the problem of female foeticide is prevalent since 1970 and measures have been taken by the government to combat the issue to improve the sex ratio but focus have been given except making laws but now it has been realized that the situation has to be handled as soon as possible as the whole country would suffer drastic changes in the society. The Indian Penal code have provisions that governs legal abortion. When the abortion is done with good intent and to save the life of the mother. Abortion law is advocated as one of the mode of population control. Medical Termination Of Pregnancy Act was enacted in the year 1971 which act as a tool allowing the pregnant women to decide the number of child and frequency of the child. It also give right to the women to have a child or not to have a child. The Act prohibited sex based abortion and determining the sex of the child before the birth of the child. In order to remove the setbacks in previous legislations the Pre-natal Diagnostic techniques (Regulation and Prevention of Misuse) Act was passed in the year 1994. This act prohibited the determination of the sex of the fetus before the child's birth and punished for the violation of the provision. The hospitals, clinics and medical centers have to be compulsorily registered as per this Act. These laws have been enacted to protect the interest of the women bearing child. In practice they are misused against women's interest. Unlike abortion female foeticide is done beyond the legal period and it is only done because of the reason that the fetus is a girl. Female foeticide is a punishable offence in our country and the offender is both imprisoned and punished with the fine.

The assessment of the enforcement of Indian laws on female foeticide is necessary to understand its impact. Media and its enforcement is unclear. The Public Health Foundation of India, a premier research organization in its 2010 report, claimed a lack of awareness about the Act in parts of India, inactive role of the appropriate Authorities, ambiguity among some clinics that offer prenatal care services, and the role of a few medical practitioners in disregarding the law. The Ministry of Health and Family Welfare of India has targeted education and media advertisements to reach clinics and professionals to increase awareness.

Unlike abortions, female foeticide is usually done beyond the legal period i.e. when the fetus is much older and developed and is done only because the fetus is a girl. Female foeticide is

a punishable offence in our country. The offenders (both doctor and parents) may be imprisoned or fined or both. Month 3, 4 and 5 is when most female foeticide take place. It is gross violation of many rights. The first is the right to life of the unborn child. The second right violated is that of the woman's right over her body. Often the decision not to have the child is taken by the man (husband) or the family and the opinion of the mother who painfully bears the child is rarely considered. At the macro level, this has an impact on the sex ratio of the country. The main law for prosecuting persons who are engaging in sex selective abortion is the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.³ The PNDT Act now stands renamed as the Pre- Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex selection) Act from 2003. It prohibits misuse and advertisement of pre-natal diagnostic techniques for determination of sex of fetus, leading to female foeticide. It permits and regulates the use of pre-natal diagnostic techniques for detection of specific genetic abnormalities or disorders and use of such techniques only under certain conditions and only by the registered institutions. It provides for punishment for violation of the provisions given in the act. The complaint made by any person should be first given to the appropriate authority with the notice of not less than thirty days for proper action and with the intention to make a complaint to the court.

SON PREFERENCE AND SEX-SELECTIVE ABORTIONS

Numerous social, cultural and economic factors contribute to son preference, including patrilineal kinship and inheritance practices, a patrilocal marriage system, the expectation that sons will help with farming or a family business and provide security to their parents in old age, and religious traditions that require sons to perform last rites for their parents. On the other hand, daughters traditionally incur dowry and marriage costs and leave after marriage, rarely providing support to their aging parents.⁴

³ Section 2(o) of the Pre Conception and Pre Natal Diagnostic Techniques Act, 1994

⁴ Chetan Sharma, Divya Jain, 'Technology and its Impact on Female Foeticide in India

There are a number of reproductive strategies that Indian couples adopt as they attempt to ensure the birth and survival of at least one son. These include bearing children until the desired number of sons has been achieved and stopping once that number has been attained (through temporary or permanent contraception or abortion of later pregnancies) and the selective termination of female fetuses. In addition, gender disparities may arise in the allocation of health and nutrition resources, leading to excess morbidity and mortality of female infants and children.

In recent decades, the widespread availability of reproductive technologies, such as ultrasonography, has allowed couples to learn the gender of the fetus during pregnancy, and some to choose to selectively abort female fetuses. Because this technology can only reliably determine gender during the second trimester of pregnancy, sex-selective abortions can only occur among the 10–15% of abortions that are performed after the first trimester.⁵ And, since not all later-term abortions are done for this reason, only a small proportion of all abortions in India are likely performed for the purpose of sex selection. Despite this, much media attention over the last decade and many recent abortion studies have focused on this issue.

THE LONG-TERM CONSEQUENCES OF ABORTING FEMALE FETUSES

In India, the number of girls is declining with each passing decade. The steep decline in the number of girls makes them scarce for the teeming number of males eligible for marriage. As a result, illegal trafficking of women has become commonplace in many regions. Women, often young girls who've just crossed the threshold of puberty, are compelled to marry. Many young girls are kidnapped from their parents and sold to the highest bidder. Child marriages and pregnancies have a devastating consequence. When a region participates in the trade of its female population, the present and future psychological cost is alarming.

Once women become an endangered species, the instances of rape, assault, and violence become widespread. When there are fewer available females, the surviving ones will be faced with the reality of handling a society driven by a testosterone high. The legal system may offer

⁵ Census of India 2011: Child Sex Ratio Drops to Lowest Since Independence' (*The Economic Times*, 31st March, 2011)

protection and, as is the situation today, many crimes may not ever surface for fear of isolation, humiliation, and punishment on the girl's part.⁶

With no mothers to bear children (male or female), there will be fewer births, leading to a decline in population. Though population control is currently the goal of many nations like China and India, a total wipeout of one sex is not the way to achieve this target.

CONCLUSION

Every individual has right to life and the practice of female foeticide is a disgrace to mankind. Therefore people who induce female foeticide must be treated as a murderer. The gender imbalance shows the ineffective implementation of legislation against the female foeticide. There are many social economic and cultural factors which lead to the female foeticide in India. Many programmes seminars and lectures have to be conducted especially in rural India to reduce female foeticide in India Effective legal enforcement against the commission of the offence and improving the status of women in India will bring down the commission of the heinous offence against the womanhood.

RECOMMENDATIONS

- Government must take appropriate steps in enforcing the legislations and stringent action must be taken against the person commits female foeticide
- Awareness programmes must be conducted by government organisation about the consequences of female foeticide and the effect of it in sex ratio

REFERENCES

1. Justice Y.K. Sabharwal, 'Education of Female Foeticide' <http://supremecourtfindia.nic.in/speeches/speeches_2006/eff.pdf> accessed 25th November, 2013

⁶ Dr. KC Jena, ;Female Foeticide in India: A Serious Challenge for the Society'

2. .Indu Grewal, J. Kishore, 'Female Foeticide in India' (*International Humanist and Ethical Union*, 1stMay,2004)
3. Lakshmi Lingam, 'Sex Detection Tests and Female Foeticide: Discrimination Before Birth'
4. Chetan Sharma, Divya Jain, 'Technology and its Impact on Female Foeticide in India'
5. Section 2(o) of the Pre Conception and Pre Natal Diagnostic Techniques Act, 1994
6. Female Foeticide: Causes, Effects and Solutions' (30th March, 2012)
<<http://silverstararrow.hubpages.com/hub/Female-Feticide-Causes-Effects-and-Solutions>>
accessed 24thNovember, 2013
7. Ganer Mohammad, 'Female Foeticide-The Bitter Truth' (16th July, 2012) Ashish Bose, 'Fighting Female Foeticide', (36) *Economic and Political Weekly*, (29 May, 2018)
8. Dr. KC Jena, ;Female Foeticide in India: A Serious Challenge for the Society'
9. Ayana Gray, 'Sex-Selective Abortion, Female Infanticide, And their Lasting Effects in India'
10. Census of India 2011: Child Sex Ratio Drops to Lowest Since Independence' (*The Economic Times*, 31st March, 2011)
11. Ashish Bose, 'Curbing Female Foeticide', (37) *Economic and Political Weekly* 8, 23rd February 2002
12. Dr.Lakshmi T and Rajeshkumar S "In Vitro Evaluation of Anticariogenic Activity of Acacia Catechu against Selected Microbes", *International Research Journal of Multidisciplinary Science & Technology*, Volume No. 3 , Issue No. 3, P.No 20-25, March 2018.
13. Trishala A , Lakshmi T and Rajeshkumar S," Physicochemical profile of Acacia catechu bark extract –An In vitro study", *International Research Journal of Multidisciplinary Science & Technology*, Volume No. 3 , Issue No. 4, P.No 26-30, April 2018.
14. Implement Dowry Prohibition Act' (*The Hindu*, 4th May 2005)
<<http://www.hindu.com/2005/05/04/stories/2005050404321500.htm>>
15. <https://www.lawctopus.com/academike/female-foeticide/>

16. <https://www.lawctopus.com/academike/female-foeticide/>
17. Rita Patel, 'The Practise of Sex Selective Abortion in India: May you Be the Mother of a Hundred Sons'
18. A Girl's Right to Live', Conference of NGO's with Consultative Status with the United Nations
19. http://www.womenstudies.in/elib/foeticide/fo_sex_detection.pdf>
20. <http://www.crin.org/docs/Girl's%20infanticide%20CSW%202007.txt>>
21. < <http://www.govtech.com/e-government/Technology-and-its-Impact-on-Female.html>
22. Implement Dowry Prohibition Act' (*The Hindu*, 4th May 2005)
<<http://www.hindu.com/2005/05/04/stories/2005050404321500.htm>>

