

FEMALE FOETICIDE IN INDIA – SOCIAL LEGAL STIGMA

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ABSTRACT

“Every new born baby is God’s opinion that the WORLD should go on” – Carl Sandburg Women are facing atrocities all over the world. But one of the most brutal of them all is female foeticide where the foetus is killed in the mother’s womb only for being a female, even before they have the opportunity to be born. Female foeticide is the selective abortion of female fetuses in a patriarchal form of society, Females not only face inequality in all the male dominant cultures but now they are even denied the right to be born. “Earlier it was difficult to determine the sex of the foetus in the womb so after the birth of the child when found it to be a girl child then she was drowned in the milk mixed with opium but with the innovation Prenatal sex detection technologies have made it easier to determine the sex in the womb of the mother itself and now this technique has been completely misused, allowing the selective abortions of female and letting offspring to flourish through male children. Legally, however, female foeticide is a penal offence. Although female infanticide has long been committed in India, foeticide is a relatively new practice, emerging concurrently with the advent of technological advancements in prenatal sex determination on a large scale in the 1990s”.

Keyword: *female, foeticide, abortion, gender, atrocities, awareness*

1. INTRODUCTION

Female foeticide is the selective abortion/elimination of the female child, done deliberately by the mother, after the detection of the child’s gender through medical tests. This is usually done under familial pressure from the husband or the in-laws or even the woman’s parents.

The main reasons for female foeticide

1. Cultural preference for boys: In today’s era, we have seen a cultural biasness for men, India being a patriarchal society. Girls are seen as a liability and more like an asset in a failed enterprise. Their physical security and wide practice of dowry results in female foeticide.
2. Availability of latest technology: The advanced technology has made the process simpler. Non-implementation of the rules against the same has given courage to people to determine the sex of the child.
3. Socio-economic conditions: It is seen that a girl child is more expensive. Therefore, in poor family, lack of resources and absence of family planning tools results in female foeticide.
4. Absence of women in decision making: When it comes to a foeticide, there is lack of women representation or at a base level, the women are not heard are their opinions valued, hence they are not actively involved in decision making. Moreover, the police and most of the decision makers do not pay heed to the issue of female infanticide. Hence, no proper implementation takes place.
5. Gender inequality: Economic opportunities which are available to women are minimal as compared to men and the same was reflected in UNDP’s GII (Gender Inequality Index) 2012 in which India was ranked at 132 out of 148 countries. This created an environment of disabilities for women and effects their overall empowerment. Further these results led to the discrimination and events of female foeticide and infanticide.
6. Instances of sexual harassment and associated law & order problems: Women are considered as weaker sex and their security has always been a concern for family. During historic times Rajput and Maratha families started the practice of female infanticide and Jauhar to protect the dignity of women. Increased cases of rapes and sexual harassment leads to the economic disempowerment of women and which further results into them being dis-favoured by parents
7. Decline in moral and ethical standards: There has been a decline in the moral and ethical standards as individuals and families have failed to consider the rights of the girl child and the overall benefits that females bring to society, whereas individual or family interests have been promoted. It is also the violation

of Hippocratic Oath by physicians when they do sex selective abortion.

8. A Girl cannot proceed the family lineage People think girls cannot precede the father family because girls will marry and to go another family. The relation between them ends after her marriage and no one will be there for the care of her parents. But girls love their parents more than boys. They are always with the parents in joy and sorrow.

The pre-natal diagnostic technique instead of being used for the medical purposes, the technique is being used for other extraneous by medical practitioners in detecting the sex of the child in the womb and in most cases once determined the foetus is female, it was miscarried deliberately, so as to prevent the birth of female child²⁶. The patriarchal mindset of the society has forced to parents and other members of the family have led to the misuse of this technique and causing the abnormal and unacceptable death of the female foetus.

2. EFFECTS OF FEMALE FOETICIDE

Female feticide has very long-term effects in the human diversity such as declination in the sex ratio. The child sex ratio is calculated as the number of girls per 1000 boys in the 0-6 year's age group and has consistently declined from 976 girls per 1000 boys in 1961 to 945 in 1991 and 914 in the 2011 census.

"Even in India, the child sex ratio is not uniform across states. States like Haryana, Punjab, Delhi, Himachal Pradesh and Gujarat and union territory of Chandigarh, the ratio has declined to less than 900 girls per 1000 boys. Haryana child sex ratio 830 and Punjab child sex ratio 846 are worst hit by the child sex ratio. In India's capital Delhi, the sex ratio has declined from 915 in 1991 to 866 in 2011".

If this ratio is used to decline at this rate, then those days are not far when there is no bride. People will move from here to there into the parts of the country looking for the girls, then there will be market for the girls that pay and take the girl, and this leads to the more social deprivation of the girls.

The brutal act of foeticide creates an adverse effect on the individual, family, Society & the nation. It is an awkward performance, which brings misery, sorrow & regret in return. In order to relieve themselves from the birth of a girl child who is considered an unnecessary burden, the people indulge into this sort of dreadful assassination &

find themselves free but at the same time, a sort of grief & regret pinches in the depth core of their hearts.

Impact on Individual – The main victim is also the worst sufferer in case of female foeticide. It is the women. She is the one who suffers Physically, Mentally, Morally & Psychologically.

Impact on Family & Society – The act of foeticide also creates an adverse effect on the family structure & the society in the following manners –

1. The family structure is shattered.
2. There is a Downfall in the sex ratio.
3. A typical type of crime in the society.
4. There is a violation of rule and regulation as well as the violation of religious ethics.

Impact & Outcome on National Level – "The national law has played a vital role against prenatal diagnostics. The enactment of the law enabled the Nation Human Rights commission. To direct the medical council of India to take action against doctors found guilty and the FASDSP i.e. Forum against sex determination & sex preselection however with its ups & downs proved that a lot can be accomplished by sustained efforts & eradicating complacency in the state Governments".

In Voluntary Health Association of Punjab vs. Union of India [15]. a voluntary Health association of Punjab [VHAP], an NGO, filed a writ petition in the Supreme Court of India in 2006 against Union of India and others for the effective implementation of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. However, the practice of female infanticide still prevails. The writ petition at its core challenged the non-implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques Act' 1994, focusing on the issue of rising female foeticide and the resultant imbalanced sex ratio. In Nikhil D. Dattar v. Union of India, Section 3 and 5 of the MTP Act was challenged on the ground of non-inclusion of eventualities vires of the Act. In this case the foetus was diagnosed for complete heart block thus the Petitioner, in her twenty sixth week of pregnancy, had sought termination of pregnancy. The petitioner contended that section 5(1) of the MTP Act should be read down to include the eventualities in section 3 and consequently, a direction should be issued to the respondents to allow the petitioner to terminate the pregnancy. The court held that "the courts are not empowered to legislate upon a statute. Sections 3 and 5 provide for right to terminate pregnancy only under the

specified circumstances and the remedy under section 5 can only be available when the non-termination of pregnancy would be dangerous to the life of pregnant woman”.

CEHAT Vs Union of India is a landmark case with regard to female foeticide where the supreme court held “the central government is directed to create public awareness against the practice of prenatal determination of sex and female foeticide through appropriate releases/programs in the electronic media. This shall also be done by Central Supervisory Board (CSB for short) as provided under Section 16(iii) of the PNDT Act. The central government is directed to implement with all vigour and zeal the PNDT Act and the rules framed in 1996”.

The author has conducted a survey to understand the approach of the people pertaining to the issue of female foeticide in India. The questionnaire was sent to hundred people through snowballing technique and out of that, 66 persons responded. Below mentioned are the responses of different questions presented in pie chart.

The above-mentioned data revealed that 66.3% accepted that the vital reason of declining sex ratio is the male child preference, although 30.3% felt that female foeticide is the reason of declining sex ratio in India. 47% respondents observed that expectant mother play's role in decision making of the commission of female foeticide, but 36.4% has chosen the option of can't say. The response on People prefer a male child over female child revealed the divergence of opinion, 29.2% are of the view that daughter is burden both socially and economically, 27.7% have observed that son is required to preserve the tradition and value of family, although 20% are in favour that son will provide the old age support and 16.9% opted that bringing up of male child is easier and economical. 86.2% respondents are against that female child requires constant supervision and is burden on the family. As far as the legal mechanism is concerned 69.2% are of the opinion that the Medical Termination of Pregnancy Act, 1971 is not sufficient to meet the problem, although 18.5% have chosen the option of can't say and 12.3% are satisfied. 89.2% respondents have disagreed that in today's time when people are choosing for one child only, they should be allowed to choose the gender of the child. 66.7% have given their opinion that abortion law should be more strict in India but 29.2% disagree on it. 90.8% respondents have given their opinion that preventive measures against female foeticide should be more strict in India and only 7.7% disagree. The last question of this survey which revealed that 87.7% disagree that a boy

child gives a better return of investment for the parent than a girl child.

If we want to stop the female foeticide or neglect of women, we have to stop looking for quick fixes and instead face the problem squarely. There is no way to ensure the healthy survival of baby girls unless families find them worth nurturing. That is indeed a complex task, which allows for no easy short-term solutions. The activist's intervention has not led to curbing sex determination tests. The real challenge before us is to figure out ways in which a realization of the value of daughters can be enhanced in the eyes of their own families. All those who have a stake in it apart from the government authorities, such as women's group, health groups, non-governmental organizations, the educationist, the media and most importantly the medical professionals have to play their fair role to see that the provisions are implemented, and the provisions are strengthened by amendments of the act. Unless social action is supplemented with prompt implementation of regulations under the law meant to stop female foeticide, such practices will continue to flourish. To ensure smiles on the faces of our youth, both boys and girls, let us intensify joint efforts to root out unhealthy social elements, 'Now' since future depends upon what we do in the present.

7. CONCLUSION

Right to life is the most valuable and sacrosanct of all fundamental rights still India being pre-dominantly patriarchal in nature contributing to the secondary status to woman. The ineffective implementation of the legislation is vital reason of skewed sex ratio in India. The available legislation in India for prevention of sex determination needs stern implementation, along with the launching of programs aimed at altering attitudes, including those prevalent in the medical profession. It may be said that the banning of sex-determination test, though a vital and urgently required step, is not the ultimate solution to the problem. Outlook of the people needs to be changed. In the long run, social discrimination against women have to be tumble-down by improving her status in society. Apart from constitutional and legal provisions, we need to do apply few more steps for banning female foeticide through various ways like disseminating information by wide campaigning, road shows, nukkad-natak, etc. There should be one compulsory chapter in the syllabus of social science in middle and high class, free Legal Awareness camp twice or thrice in a month in every blocks and panchayat to

spread awareness among the people. The government should make an offer of payment of extra PDS ration and even tax concessions for parents of girl children apart from giving incentives of free education.

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