



LawPublicus
The Legal Portal

Volume 1 : Issue 5
2021

May, 2021

Email ID: Lawpublicusportal@gmail.com
Website: www.Lawpublicus.com
Address: A18 Dayanand Colony Lajpat Nagar - 4
New Delhi

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Female Foeticide **in** **India:** **A Social Evil**

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Female foeticide in India: A Social Evil

By: Mansi Rana

ABSTRACT

In India, the birth of a son is preferred over the birth of a daughter. It is important for a developing country that both male and female citizens grow equally. Without one the growth of another would be hindered as both need to go side-by-side. Even today, many people do not appreciate the birth of a girl child and implement the practice of Female Infanticide and sex-selective abortions preferably Female Foeticide. Sex-Selective abortions i.e., Female Foeticide became a crucial issue in many parts of the country. This is a social cause that creates gender inequality. It is very despicable for a country like India where females are worshipped in the forms of goddesses that girls are being put to death even before their birth. There are various causes, the leading cause is the patriarchal society that holds on the preference of male over female. The killing of female foeticide has various devastating effects giving rise to a numerous problem which hinder the development of the nation and causes an increase in the other existing social issues. Though various laws and other provisions have been implemented, they alone cannot curb this evil. The main focus of this research is to understand what Female Foeticide or Sex-Selective abortions are, analysing its root causes and effects and measures to curb Female Foeticide in India.

KEY WORDS: FEMALE FOETICIDE, SOCIAL ISSUE, INDIA.

INTRODUCTION

“Yatra naryastu pujoyante ramante tatra Devata, yatra itaastu na pujoyante sarvaastatr afala kriyaah” - A famous sloka of Manu smriti which means where *Women are honoured, divinity blossoms there, and where women are dishonoured, all action no matter how noble remain unfruitful*. India is a land where women are considered to be of prime importance, people worship them as goddesses, consider them to be a blessing but in reality, they contradict the above-mentioned sloka. India functioned as a patriarchal society for too long and treated women as inferiors and considered them as bane. As a result, many evil practices are carried out against women out of which one is the concern of this research - Female foeticide.

Female foeticide is the practice of killing the female child in the womb of the mother. This practice is based on sex determination. Sex determination is the process of determining the foetus' sex or child's sex when it is in the womb. There are various techniques to determine the sex of the child. One such method is by testing the amniotic fluid while the woman is pregnant. When it is found that the foetus is female then people opt for abortion which is dangerous for the mother as well. Though such practices are banned in India, they are still carried out secretly and unethically by many medical professionals.

OBJECTIVE

The main objective of this paper is to study how the evil of Female Foeticide is still prevalent in India and affects Indian society. Though this practice is banned in India still people in many parts of the country practice it illegally. It is shameful to see how even in the 21st century also, many people think of girls to be a burden and how society ill-treats and puts down girls. This research, therefore, focuses on the origin, causes, and effects of Female Foeticide in India. Various measures to end this evil have also been mentioned in this paper.

ORIGIN

In India, people use to produce babies until they have a male child. This led to a tremendous increase in the population. So, to control the population various abortion techniques were introduced. These included techniques from which the sex of the foetus can also be determined. People started misusing these techniques. They used these to determine the sex of foetus and if found that the foetus was female then they opted for abortion. This was the beginning of female foeticide in India in the early 1990's.

CAUSES

The various reasons for this lie in the ancient, cultural, economic and religious roots of India. Some of the leading causes are as follows:

- **Patriarchal society and thinking** – India has been a patriarchal society for a very long time and this has developed patriarchal thinking of people, which supports males in the society as superior. Due to this, women were always subjected to ill-treatment and were looked upon as inferiors. Moreover, people thought it is important to have a male child. Being trapped in such an orthodox mindset, girls are put to death bed even before they breathe into this world.
- **Male child is considered important** – People often consider a male child a blessing, thinking that only a male will bring wealth, prosperity, and well-being to the family whereas women were considered to be a burden on the family. There is another belief in Indian society which increases the importance of male child, i.e., male child opens the path for heaven. This thought is prevalent in the Indian society that one will achieve moksha only when a male child performs one's death rituals. Also, in Indian society, it is thought that only a male child could carry the generation forward and he'll be the financial support for his parents. All these reasons led to a rise in the importance of a male child in the society and hence, females are subjected to cruelty.
- **Females are considered a liability** – Girls are often considered as a liability in the sense that they need to be secured, taken more care of and also a lot of money needs to be spent on them as well as at their marriage. Hence, women are considered a liability.

- **Dowry system** – The evil of dowry is yet another and one of the most leading factors behind female foeticide. This system had led to a belief that daughters have to be protected and sufficient financial resources have to be accumulated to support the marriage of the girl. Hence, many poor families who could not afford large marriages and dowry kill their daughters.
- **Girls – Praaya Dhan** – Girls in the Indian society are often seen as paraaya dhan, they are told that they are paraaya dhan and need to move to their in-law's home after marriage. It is a general conception of people that spending on a girl's education will be a waste of money as ultimately she needs to go to her in-law's house
- **Increased crime rate** – The increasing crime rate against women is another reason behind why people are afraid of having daughters. People think not having a daughter is far much better than letting her face the cruelty of the world.
- **Illiteracy** – It adds to the aforementioned reasons as in the present scenario also, people blindly follow the practices of the past due to lack of knowledge.
- **Corruption** – Corruption adds to these reasons in the sense that though such practices are banned in India, still many medical professionals carry out these practices illegally and unethically in order to earn a little more money.
- **One Child Policy** – In 1975 implementation of the one-child policy by the government also added to the aforementioned reasons as people wanted a male child and if they found it to be a female then killed her.

Indeed, saying this won't be wrong that not only girls need to struggle hard to be born but also, they need to struggle their whole life due to the harsh cruelty with which the world treats them.

EFFECTS

The various effects caused by Female foeticide show that it is a matter of great concern and it needs to be looked upon at the earliest.

- **Sex ratio** – Sex ratio refers to the ratio of the number of females to the number of males. Female foeticide had caused an imbalance in the sex ratio. The sex ratio in India has decreased from 929/1000 in 1991 to 919/1000 in 2011 and is still decreasing. The declining sex ratio leads to an imbalance in the society. Also, the child sex ratio is not the same all over India. It is different in different states and in states like Haryana,

Delhi, Himachal Pradesh, and some others, the child sex ratio has become low to 900 girls per 1000 males.

- **Declining Population** – Since girls are killed before their birth or within one year of their birth, it led to a decrease in population. Not only this, as women are considered to be creators of the world as they have the power to give birth, lower the number of females, lower the number of births in the society.
- **Human trafficking** – Less number of the female population has caused an increase in the trafficking of females for the purpose of marriage and other acts. In states like Haryana, since there is a low sex ratio, women are being trafficked from states like Bengal and Assam for marriage and other activities. In a report in 2011, it was found that around 15,000 girls were sold for marriage in states of low sex ratio.
- **Increased crime rates against women** – Another effect caused by it is the increasing crime rates against women such as rapes, exploitation of women, violence against women, women trafficking, etc. Another effect of this is the exploitation to which women are subjected in their homes for taking tests to determine the sex of the child and if found it is a girl then opting for abortion. Some women also need to face violence and harassment as they are forced to undertake such practices.

MEANS TO CURB FEMALE FOETICIDE

Various methods could be opted for ending this evil. The government has put its steps forward and initiated various laws and schemes.

LAWS

Article 21 of the Indian constitution talks about the Right to Life which gives certain rights to the preborn child as well. Section 312 of the Indian penal code read with the Medical Termination of Pregnancy Act, 1971 which imposes certain restrictions, including the time limit of 20 weeks, other than the ones to ensure good medical conditions, infringe the right to abortion and right to health.

Section 312-316 of the Indian Penal Code deals with the miscarriage and death of unborn children and depending on the severity of the crime committed, the punishment ranges from seven years of imprisonment and fine to life imprisonment.

- **Section 312¹** – Causing miscarriage

Whoever causes a pregnant woman to miscarry shall be punished with imprisonment of either for a term of three years or with fine or both. If the woman is quick with the child, the punishment shall be seven years of imprisonment with fine.

- **Section 313²** – It talks about causing miscarriage without woman's consent

Anybody who commits the offense defined in section 312 without the consent of the woman, whether the woman is quick or not, shall be punished with imprisonment for life or with imprisonment for a term of around 10 years.

- **Section 314³** – This section deals with death caused by an act done with the intent to cause miscarriage

Whoever with the intention to hold miscarriage of a woman does any act which leads to the death of the woman also shall be punished with imprisonment of ten years and if the act is done without the consent of the woman, then life imprisonment shall be given and the person shall also be liable to fines. In this, it is not necessary that the person committing the crime knows that the act can lead to the death of the woman also.

- **Section 315⁴** – This section states the limitations and consequences of the act done with the intent to prevent a child from being born alive or to cause it to die after birth.

Anybody who performs an act with the intent to prevent the child being born alive or causing it to die after birth shall be imprisoned for a term of ten years.

- **Section 316⁵** – This section talks about causing the death of a quick unborn child by act amounting to culpable homicide.

If anyone does any act that causes the death of a quick unborn child, he would be guilty of culpable homicide and shall be punished with ten years of imprisonment.

¹ The Indian Penal Code, 1860, s. 312.

² The Indian Penal Code, 1860, s. 313.

³ The Indian Penal Code, 1860, s. 314.

⁴ The Indian Penal Code, 1860, s. 315

⁵ The Indian Penal Code, 1860, s. 316

THE MEDICAL TERMINATION OF PREGNANCY ACT, 1971⁶

This act was made as a tool to let pregnant women decide on the number of children they want to have. This act gave women the right to decide on having or not having children. This act made abortion legal in almost every state, subject to certain conditions which include the medical health of the women and rape.

The government has made certain amendments to this act which was notified by the Central Government on March 25, 2021. The amendment has led to an increase in the period under which abortion could be carried out. Prior to this amendment, this act required one doctors' opinion if the abortion was to be done within 12 weeks of conception and two doctors' opinions if it was to be done within 12-20 weeks. The amendment made now states that only one doctors' opinion is required if the abortion is done within 20 weeks of conception and two doctors' opinions between 20-24 weeks for specific categories of women which includes the victims of rape (excluding marital rapes). The amendment has also introduced a change in section 3 of the act which now includes unmarried women also and has also made an addition to this act by introducing section 5A that penalizes medical practitioners who fail to protect the privacy and confidentiality of women who wish to terminate their pregnancy.

PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT⁷

People started misusing The Medical Termination of Pregnancy Act and forced women to abort the female child. In 1980, sex diagnosis technologies were introduced which led to massive abuse and an increase in the number of female foeticide cases. In order to do away with this the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act⁷ was passed in 1994 and it came into force in 1996. An amendment to this law was made in 2004 and is now known as 'Pre-Conception and Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) (PCPNDT) Act.

⁶ The Medical Termination of Pregnancy Act, 1971 (Act 34 of 1971).

⁷ The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (Act 57 OF 1994)

The act prohibited determination of the sex of foetus and stipulated punishment for the violation of the rules. The act also provided for compulsory registration of genetic counselling centres, clinics, hospitals, nursing homes, etc.

WOMEN EMPOWERMENT

Empowering women is another way to fight against this evil. Women Empowerment refers to improving and increasing the social, economic, political, and legal strength of women and ensuring equal rights to women. There are various schemes initiated by the government for empowering women. Some of them are:

- Beti Bachao Beti Padhao Scheme
- Balika Samridhi Yojana
- One Stop Centre Scheme
- Women Helpline Scheme
- UJJAWALA Scheme
- Working Women Hostel
- SWADHAR Greh
- NARI SHAKTI PURASKAR
- Mahila Police Volunteers
- Mahila Shakti Kendras (MSK)

Besides these, there are certain social factors prevailing in the society such as dowry, poverty, women's economic dependence, etc. which are the cause of female foeticide. These have been addressed by enacting various legislations such as:

- Dowry Prohibition Act, 1961⁸
- Hindu Marriage Act, 1955⁹
- Hindu Adoption and Maintenance Act, 1956¹⁰

⁸ The Dowry Prohibition Act, 1961 (Act 28 of 1961)

⁹ The Hindu Marriage Act, 1955 (Act 25 of 1955)

¹⁰ The Hindu Adoption and Maintenance Act, 1956 (Act 78 of 1956)

- Immoral Traffic Prevention Act, 1986¹¹
- Equal Remuneration Act, 1976¹²

CONCLUSION

Female foeticide is a serious issue of society that needs to be looked upon at the earliest. As mentioned above, we can see all its causes and effects are directly linked with the society and its members. A wrong mindset of people developed because of the patriarchal society India was. Daughters are a blessing to have but hard to say when people will learn the importance of girls and their need in the society. It is very important to have both males and females and their equal growth for the overall development of the nation. The importance of women in one's life, one's family, and society can be termed very easily as – *she's a mother, a daughter, a sister, a wife, and the key to everyone's life*. Therefore, these evil practices need to be brought to an end.

It can be seen that various steps have been initiated by the government such as laws, schemes, etc. but laws alone cannot bring an end to this evil. The society also needs to put its step forward and adopt measures to curb this evil from the roots. Creating social awareness by means of campaigns, rallies, etc. related to matters of gender equality, the importance of girls, education, etc. could help in changing the orthodox mindset of people. Educating people especially girls and empowering women is yet another way to help fight against the evils of society. Also, legal awareness must be created amongst people as many people don't have much knowledge about the law system of our country and the legal rights it provides to them. Having awareness about one's legal rights women can stand up for themselves. There should be proper implementation of laws as well, we can see via reports that though many laws and acts have been passed relating to this matter but they have not proved to be effective. In this regard, developing more schemes and programs related to women empowerment and educating people could also help to bring an end to it.

¹¹ The Immoral Traffic Prevention Act, 1986 (Act 44 of 1986)

¹² Equal Remuneration Act, 1976 (Act 25 of 1976)

*How foolish is it that people kill those who bring them to life.
They are the present, they are the future,
They are today, they are tomorrow,
They are the path, they are the destination,
They are the beginning, they are the end.*

This case study is for information purpose only. Nothing contained herein shall be deemed or interpreted as providing legal or investment advice.

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