

Female Foeticide in India: A Social Evil

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INTRODUCTION

Female foeticide is perhaps one of the worst forms of violence against women in India, where a woman is denied her most basic and fundamental right i.e. "the right to life". The phenomenon of female foeticide in India is not new, where female embryos are selectively eliminated after pre-natal sex determination even before they are born. This practice, which is so unfortunately prevalent in our country, is truly the most horrific form of gender discrimination. Indeed, gender discrimination in our society is so entrenched, that it begins even before a girl is born. While in the womb, she faces the danger that she might never be allowed to be born; if born, her irrelevance is asserted when her birth is not registered; immediately after, she faces the continuing danger that she might not be allowed to live till the next day. So, in this context the present paper will briefly discuss about the problem of female foeticide in India and the increasing use of sex-selection technologies for female foeticide as well as the possible causes behind it.

OBJECTIVES

- To understand the legal framework for eradication of female foeticide and its challenges in India
- To find out the factors responsible for female foeticide in India

SOURCES OF DATA AND METHODOLOGY

Secondary sources of data are gathered for the study. Secondary sources included documents, books, reports of surveys and studies, literature pertaining to female foeticide and internet also. Apart from this, the required information are obtained from books, journals and other archival records both official and non-official. The method of descriptive analysis is employed to find out the answer of the objectives proposed.

SEX DETERMINATION: ABUSE OF ADVANCED TECHNOLOGIES

Various techniques of sex determination have been developed during the last fifteen years such as sonography, ceroscopy; needling, chorion biopsy and so on. In fact, the techniques which have been developed to ensure the health of a baby is misused by parents and doctors. Now a day's all these technologies were used for determining the sex of the foetus so that it can be aborted, if it happens to be a female. Clinics offering ultrasound scanning facility have mushroomed throughout the country, and despite making pre-natal sex determination a penal offence and appropriate signs being hung at these clinics, doctors and parents alike rampantly violate this law. A survey in Maharashtra showed that an alarming 95percent of the amniocentesis scans were being carried out for sex determination. According to the Indian medical association (IMA) there are 25,770 officially registered pre-natal units in India, but it is estimates there are as many as 70,000 ultrasound machines operating in the country.¹ As the Indian government increased criminal penalties for female foeticide, the availability of sex-determining technologies such as ultrasound scanning has led to a rise in sex-selective abortion. The Indian Medical Association (IMA) estimates that five million female fetuses are aborted each year and estimated in 1999 that India had approximately 20,000 ultrasound clinics, most unregistered and staffed by unqualified doctors.²

LEGAL FRAMEWORK

While talking about law, especially the constitution guarantee of equality of the right to life, and its faith in the dignity of every human being. Apart from this, to prevent female foeticide and to restrict this misuse, the

¹ **Internet source:** www.equityasia.net, *Female Foeticide, Equity Foundation, A Forum for Women and Child*, 123-A Pataliputra Colony Patna, Bihar

² **Internet source:** *Preventive Measures For Elimination Of Female Foeticide*, B R Siwal, Deputy Director, NIPCCD, New Delhi

Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act was passed on 20th September 1994. The Act forbids the communication of the sex of the foetus. Again, Medical Termination of Pregnancy Act (MTPA) 1971 allows abortion if the doctor opine that the continuance of the pregnancy would endanger the life of the pregnant woman or involve grave injury to her physical or mental health or there is substantial risk that the child would suffer from disabling physical or mental abnormalities. The anguish caused by pregnancy as a result of rape or as a result of failure of any device or method used by a married couple for the purpose of limiting the number of children, may be presumed to constitute a grave injury to the woman's mental health. If the pregnancy is twelve weeks old, the opinion of one registered medical practitioner is sufficient and for pregnancy of between twelve to twenty four weeks, the opinion of two registered medical practitioner is required.¹ The matter is thus purely between her and the medical practitioner and even the husbands' consent becomes unnecessary. In reality, however, a woman's right to abortion is very restricted and mostly it turns out to be a family decision. Various court judgments have held that aborting a foetus without the husbands' consent would amount to cruelty under the Hindu Marriage Act and hence a ground for divorce.² Again in the year 2003, the *Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PCPNDT Act) 2003* was passed by the government of India. The act prohibits and punishes deliberate sex selection, before or after conception. Its purpose is to prevent the misuse of ultrasound technologies that enable determination of the sex of a child before it is born. It is therefore illegal to test the sex of the foetus for the purpose of eliminating a female child. The law provides for imprisonment, which may extend to three years and a fine of up to Rs. 10,000 for the first conviction. However, all these laws seem so futile, when the parents themselves do not want to protect their child and educated doctors do not have any qualms in flagrantly violating the law.

MAGNITUDE OF THE PROBLEM

Despite the several laws in India, around 10,000 cases of female infanticide were reported annually.³ According to the report of UNICEF, State of the World's Children in the year 2007, sex selective abortion is responsible for the death of almost 7,000 unborn baby girls in India every day⁴. Media reports estimate that the illegal sex selective abortion industry makes about \$250 million a year. Despite 27 lakh illegal sex determination tests every year, the conviction rate is abysmally low, with only one conviction in 15 years.⁵ Using the statistics below, it has been calculated that more than a hundred million women are missing. A hundred million women who should have been part of this society have been denied a life because their parents wanted a son.

Table No.2.2: Sex selective abortions in India

Year	1972	1975	1980	1985	1990	1995	2000
No. Of abortions	24300	214197	388405	583704	581215	570914	723142

Due to the absence of a proper monitoring mechanism, it is very difficult to find out the exact figure of sex selective abortion in India. Therefore, "sex ratio at birth" or the number of females born for every thousand males is the only real statistical indicator that gives us a sense of how prevalent this practice in India.

¹ Internet source: [http://dspace.cigilibrary.org/jspui/bitstream/123456789/21081/1/ViolenceAgainstWomen in India: A Literature Review](http://dspace.cigilibrary.org/jspui/bitstream/123456789/21081/1/ViolenceAgainstWomen%20in%20India%20A%20Literature%20Review.pdf), Sheela Saravanan Institute of Social Studies Trust (ISST), March 2000

² *ibid*

³ Internet source: Amartya Sen, "More Than a 100 Million Women Are Missing" The New York Review of Books Volume 37, Number 20, December 20, 1990, <http://www.ucatlascsc.edu/gender/Sen100M.html>

⁴ Internet Source: *Progress for Children: A Report Card on Child Protection*, UNICEF, September 2009. <[http://www.unicef.org/protection/files/Progress_for_Children- No.8_EN_081309\(1\).pdf](http://www.unicef.org/protection/files/Progress_for_Children- No.8_EN_081309(1).pdf)>

⁵ Internet source: www.equityasia.net, *Female Foeticide, Equity Foundation, A Forum for Women and Child*, 123-A Patliputra Colony Patna, Bihar

Table No.2.3: Sex ratio of birth in India

Year	1901	1931	1961	1971	1981	1991	2001	2011
Sex ratio at birth in India	972	950	976	964	962	945	933	927

Source: Census of India, 2011

The chart of child sex ratio tells the same story. The child sex ratio has shown a steady decrease since 1961 and shows no signs of improving. From the 976 in 1961, we moved to 964 in 1971. In 1981, we evidenced a further decline to 962 and even further to 945 in 1991. Today the child sex ratio is 927, a full 18 points drop. The 2001 census reveals that the overall sex ratio is 933 females for every 1000 males, showing a marginal increase of 12 points from the 1991 census of 945. It is to be noted that today we are doing much worse than over a hundred years ago when the sex ratio was 972 in 1901, 976 in 1961. This deterioration in women's position results largely from their unequal sharing in the advantages of medical and social progress.¹ This can only mean one thing. More and more baby girls have either been aborted or killed as infants since 1961 and that this trend continues even today. Indeed, an improvement in the child sex ratio has only been marked in one state namely Kerala and two Union Territories respectively Lakshadweep and Pondicherry. Everywhere else, there is a decrease in the number of girls. The greatest offenders in this area are the northern and the western states, with Punjab and Haryana leading the pack. In Punjab, the child sex ratio has decreased by 77 points to a new and horrifying low of 798 females to a 1000 males, and Haryana has seen a decrease of 60 points, meaning there are now only 819 females to a 1000 males. Other offenders high on this list are Himachal Pradesh, Delhi, Chandigarh and Gujarat. What is also disturbing is that this trend is also noticeable in other states, which evidenced a relatively healthy child sex ratio in 1991 and has now radically decreased.² According to Crime in India (2000), the foeticide cases increase by 49.2 per cent and infanticide cases increased by 19.5 per cent over the previous year.³ However, state-wise analysis reveals wide variation from state to state. There has been not a single case of foeticide or infanticide reported from Arunachal Pradesh, Goa, Himachal Pradesh, Manipur, Mizoram, Nagaland, Tripura and surprisingly even Uttar Pradesh. The states like Assam, Gujarat, Jammu and Kashmir, Kerala, Meghalaya, Punjab, Sikkim, Tamil Nadu and West Bengal have reported only infanticide cases and no foeticide cases have been reported. It is to be noted that the foeticide cases have been reported only from Orissa and Chandigarh.⁴ Taking cognizance of the link between pre-natal sex determination tests and the declining sex ratio among children, the Supreme Court, in a recent judgment, came down heavily on the central and state governments for having failed to implement the prenatal Diagnostic techniques (Regulation for the prevention of misuse Act 1994).

FACTORS RESPONSIBLE FOR FEMALE FOETICIDE

Cultural and social factors are interlinked with development and propagation of this kind of violent act. We have a long and unhappy tradition of discrimination against women and our society is replete with examples of appalling practices against women. The family socialises its members to accept hierarchical relations expressed in unequal division of labour between the sexes and power over the allocation of resources. The family and its operational unit is where the child is exposed to gender differences since birth, and in recent times even before birth, in the form of sex-determination tests leading to foeticide and female infanticide. The home, which is supposed to be the most secure place, is where women are most exposed to violence. According to such parents bearing a woman is an added financial burden, and they are required to spend money on her education, dowry, marriage and they believe that this expenditure is worthless as it benefits

¹ Internet source: Amartya Sen, "More Than a 100 Million Women Are Missing" The New York Review of Books Volume

37, Number 20, December 20, 1990, <http://www.ucatlas.ucsc.edu/gender/Sen100M.html>

² Internet source: *Eradication of Female Foeticide, Delivered at Patiala Court* on December 17, 2006 Justice Y.K. Sabharwal, Chief Justice of India

³ Internet Source: www.ncrb.nic.in/cii2000/home.htm

⁴ Internet source: *National Family Health Survey*, <<http://www.nfhsindia.org>>

another family once the daughter leaves upon her marriage. Additionally these parents favor a son as they believe that he will stay and take care of them in their old age. This forms the foundation of the practice of female feticide and infanticide. The practice of dowry is widely prevalent even in communities and castes in which it had never been known before. As a result, daughters are considered to be an economic liability. Over the past few decades, the problem of dowry has acquired alarming proportions giving rise to innumerable socio-economic problems of far reaching consequences such as bride burning, physical harassment, cruelty and torture. Dowry, given at the time of the daughter's marriage, has influenced the status of women. The daughter is considered to be a liability as her contribution to the family is temporary upto the time she is married and sent to another family. Dowry is not the only transaction as far as the daughter's marriage is concerned. It is about a series of ceremonies in South India, Tamil Nadu, associated with the girls in the family. Gifts in cash and kind to the husband's family during ceremonies connected with pregnancy, childbirth and ceremonies for piercing the ear of the girl child and so on. It is the inability to meet the dowry-related demands from the in-law's family, which is another major cause for female foeticide. Again, in a patriarchal society like India, "preservation" of the family name in the forthcoming generations is also the main cause of concern. Also Hinduism allows only a son or male relative to light the father's pyre. The son-obsession has truly cut a raw-deal for women.

STRATEGIES TO CURB FEMALE FOETICIDE

Unfortunately, various schemes to counter this situation brought out by many states as well as at the central level have been ineffective in reducing the extent of this problem. However, we cannot let our despair or the extent of the problem be the justification for inaction. At this stage, removal of this practice must involve steps like strengthening the existing laws; removal the practice of dowry, empowering women through education will be helpful in this regard. Though, most of laws are made in India with great fervor but their execution is the main issue. Violations of the PNDT Act carry a five year jail term and a fine. While 23 cases have been registered under the Act so far, no one has been convicted 15. The reason why the law has proved ineffective is because it is difficult to regulate all clinics that use ultrasound for sex determination as well as for a host of other purposes including detection of genetic abnormalities in the fetus. The Government has recently launched a "Save the Girl Child Campaign". One of its main objectives is to lessen the preference for a son by highlighting the achievements of young girls. To achieve the long-term vision, efforts are afloat to create an environment where sons and daughters are equally valued. Empowering women through educating women is a powerful tool for improving nutrition levels, rising the age at marriage, acceptance of family planning, improvement in self-image, and their empowerment. Publicity for the cause through the media and increasing awareness amongst the people through NGOs and other organizations will be helpful.

CONCLUSION

To deal with a problem that has roots in social behaviour and prejudice, mere legislation is not enough. A concerted effort involving all sections of the society is necessary to change the prevalent social thinking and remove the gender-based discrimination if the goal of a balanced sex ratio is to be achieved. To achieve the long-term vision, efforts are afloat to create an environment where sons and daughters are equally valued. Of course, we must recognize that foeticide is a crime of murder and punishment should be given to both parents. To conclude, it can be said that this is not so much a legal problem as it is a social disease. We need to truly rid ourselves of this son-obsession and understand that our lives would be just as fulfilling, if not more, if our children were to be girls. This is not to say that the law can play no role. We must all work together to ensure that each and every baby girl is given her due.

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