

# Female Foeticide in India: A Crime against Nature

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**Abstract:** Female foeticide is a result of a gender bias social construction. It's discrimination against women and believes them to be less valuable than men. Sons are preferred over daughters for many different reasons in this patriarchal society. Whether it be economically or socially, women are seen as weak and are less prized than men. Female foeticide is the process of finding out the sex of the foetus and undergoing abortion if it is a girl. Although female foeticide is illegal but still many people continue to practice it. Besides this, there are some communities which practice female infanticide which means the practice of killing the girl child once she is born. One of the most heinous ways of the discrimination against women in a society is through female foeticide due to which she is even denied the right to be born.

**Keywords:** Abortion, Bias, Foeticide, Foetus, Gender Discriminate, Illegal, Infanticide, Patriarchal.

## 1. Introduction

India is a country of incredible ironies. It is a land where people worship myriad forms of female shakti quest of wealth, wisdom and power. Manusmirti says "Where women are rejoiced, God dwells there". At the same time myriads of female are killed in the womb of their mother. Female foeticide is outcome of ultra sound machines and technological advancement which was for the purpose of detecting abnormalities in the foetus if any so that unhealthy or abnormal foetus could well in time be medically terminated. The practice of female foeticide is a ruthless expression of crime against women where a girl is abandoned of even the right to be born. The killing of female foetuses in mother's womb has resulted in sharp decline in the sex ratio. It is paradox in Indian society that on one side there is practice of 'Kanya Poojan' (Worship of girl child) whereas on the other hand they are brutally killed in mother's womb and if born killed immediately after birth. As a result 40-50 million girls are missing from India's population. There are socio cultural and religious factors responsible for devaluing women. Religious and social milieu in the country put high premium on male child resulting in systematic discrimination against the girl child. Due to deep rooted patriarchy, women have been discriminated against at all stages of their life.

This heinous offence is committed in the rich and educated families as well as the poor and illiterate families. Initially the girl child was put to death brutally being (a) throttled, (b) poisoned, (c) drowned in a bucket of water right after her birth, (d) leave in the cold weather without cloths, (e) threw in dustbin and (f) many more ways. These had been the common practices followed particularly in the rural areas. The rapid advancement of science and technology proved a boon for these people as this had made the diabolic slaughter of the female child much easier and more sophisticated than before. The technology has been

misused by mankind and today by dint of the pre - natal sex determination test; the female foetuses are selectively aborted.

Female foeticide is a fairly new practice, but its roots lie in the centuries old practice of female infanticide in India. Female infanticide is a deliberate and intentional act of killing a female child within one year of its birth either directly by using poisonous organic and inorganic chemicals or indirectly by deliberate neglect to feed the infant by either the parents or other family members. Infanticide was initially documented by British officials in 1789 among a clan of Rajputs in eastern parts of Uttar Pradesh. At the time of first Census survey of India in 1871, sex ratio was 940 females per 1000 males. This led to the passing of Infanticide Act 1870 making it illegal. But it was difficult to enforce this act in the country where most birth took place at home and where vital registration was not commonly done. Desai reported that in the last century female infanticide was so wide spread in a particular clan among Rajputs in Saurashtra and Kutch region that only five families were found those had not killed their new born daughters. Looking into the reasons of female infanticide, it lies in socio-cultural and religious milieu of India which is pre-dominantly patriarchal contributing extensively to the secondary status to women. Another important pillar of the patriarchal structure is marriage wherein women are given a subordinate status, having no say in the family. Exorbitant dowry demand is one of the main reasons for female infanticide. Some of the other reasons are the belief that it is only the son who can perform the last rites, that lineage and inheritance runs through the male line, sons will look after parents in old age, men are the bread winners etc. Son-preference is so ingrained in the Indian family system that many women don't feel they have done their wifely duty until they produce a son.

## 2. Meaning of Female Foeticide

As a medical term - foeticide is destruction of a foetus. The term female foeticide" is defined as the elimination of a female foetus at any stage of pregnancy, after determining its sex. It is also defined as killing of female foetus through induced. In other words, it implies the barbarous act of killing the girl child in the womb itself, unseen and unheard, only for the fact that she is female.

The first clinic was set up in the Punjab in 1975. The sex determination technique was used for the purpose of finding genetic abnormality. If the foetus is not fit mentally and physically then foetus can be eliminated at the primary stage. If the life of mother is in peril on account of foetus can be eliminated but this technique is being misused now. The misuse of medical science has facilitated the rapid growth of this heinous crime in the society today. A number of medical procedures are carried out to determine the sex of the unborn child such as -

- Amniocentesis
- Ultra - sonography
- Foetoscopy
- Chorionic villus biopsy
- Placental tissue sampling etc.

**3. Reasons behind high rate of female foeticide in India** - The typical orthodox Indian attitude accompanied with several social, economical and cultural factors pervading in the society has always upheld the need of male child in the family. Some of the reasons for female foeticide are - (a) son preference, (b) low status of women, (c) social and financial security associated with sons, (d) socio-cultural practices including dowry & violence against women, (e) small family norm and (f) consequent misuse of diagnostic techniques with the intention of female foeticide. The most prominent factors encouraging female foeticide in India are listed below -

- **Religious factors** - According to Manu, a man cannot attain „Moksha“ unless he has a son to light his funeral pyre. In a Hindu patriarchal society it is the son who continues the family lineage or vamsha“. It also says a woman who gives birth to only daughters may be left in 11<sup>th</sup> year of such gender biased customs and practices in the traditional Hindu society has over-emphasized the birth of sons and discouraged the birth of a girl child in the family, thus paving the way for female foeticide.
- **Evil of dowry** - In order to escape from dowry people desperately go for sex selection tests and eliminate the female foetus. Conversely, the boy is viewed on asset to fetch, fabulous dowry for the parents. Hence boys are naturally preferred to girls.
- **Financial dependence of females on husband or in laws** - Certain communities want to get rid of female child compelled by the circumstances of dehumanizing poverty, unemployment, superstition and illiteracy.

**Secondary status of women in Society** - It is generally expected that sons would carry the family lineage forward provide security and care to parents especially in old age, enhance family wealth and property and perform the last rites and rituals whereas daughters would go to another's house draining out all the family wealth. Moreover they always need to be protected, defended and taken care of thus imposing an extra burden over the family.

#### **4. Poor implementation of law**

There are laws for every crime in India. Similarly, there are two laws in the country that deal with pre natal sex determination and abortion and they are Medical Termination of Pregnancy Act, 1971 and Pre Natal Diagnostic Act, 1994 which was amended as Pre Conception and Pre Natal Diagnostic Technique (PCPNDT), Act in 2002. These acts seek to regulate and prevent the misuse of prenatal diagnostic techniques and malpractices relating to the female foetus which lead to the female foeticide. But implementation of these laws is a weak link. There are various lacunas in implementing these laws and lack of political will. Testimony to improper implementation is that very less people have been punished under PCPNDT Act though incidence of female foeticide is increasing day by day which is visible through continuously skewing sex ratio. Enactment of the Act has not been able to reverse the situation of declining sex ratio because there is no political will to effectively implement the PCPNDT Act. As a result, illegal abortions are being carried out very secretly and at very high cost.

## Consequences

Female foeticide has various far reaching and tragic socio-cultural consequences. Imbalance in sex ratio has resulted into increase in crime against women. Some of the consequences have been illustrated below:

### Decline in Child Sex Ratio

The child sex ratio in India is 919 females per thousand males in 2011 census. It was 927 females per 1000 males in 1991. Haryana, one of the richest states in the country has the lowest child sex ratio. Other prominent states with skewed sex ratio are Punjab, Delhi, Chandigarh, Himachal Pradesh, Rajasthan, Maharashtra and Gujarat. It is horrifying to state that illegal foetal sex determination and sex selective abortion have developed into a Rs. 1000 crore industry in India. Female foeticide is being done without keeping its far reaching consequences in mind. Killing a girl child before or after she is born has an adverse effect on the sex ratio, has other negative consequences and leads to further social evils.

### Practice of Bride Buying

Female foeticide at large scale has resulted in shortage of girls for marriage. This has resulted into practice of bride buying. In a recent report by the Red Cross Society, there are large numbers of bachelors who have crossed the marriageable age in Punjab and Haryana because of shortage of girls. Eligible bachelors from these states are seeking brides from far away states of northeast and down south to change their single status to married. They are ready to pay a large amount of money to get married to a girl from other states like Jharkhand, Bihar, West Bengal, or Madhya Pradesh.

### Increase in Crime against Women

Female foeticide has led to the shortage of girls. Actually it is vicious cycle. Female foeticide leads to low status of women which in turn results into increase in crime against women. It is vice versa also as low status of women results in to female foeticide. As a result crime against women such as acid attacks, incest, rape, molestation, abduction and trafficking has increased over the last few years. Girls are kidnapped or stolen. They are sold and resold at varied prices. Eventually, they end up being prostitutes. According to National Crime Records Bureau, crime against women has increased many folds in last few decades.

### Health Hazards for women

Killing of foetus in the womb through abortion weakens the health of a woman. In some cases, the women have to undergo many abortions till they conceive a male child. The outcome is that there is an increasing number of maternal deaths. Women undergoing abortions are also more prone to infections and sickness. Sometimes they are married off even when they are below 18 years of age and are not able to negotiate with their spouses and fall prey to various reproductive health issues including HIV/AIDS.

## Increase in Polyandry

Shortage of females would lead to non availability of girls for marriage. It might lead to centuries' old practice of polyandry in which one female marries with many men and men may or may not be brothers. Recent years have seen the rise in fraternal polyandry in the agrarian societies in Malwa region of Punjab to avoid division of farming land (Times of India, 2005). Till date it has not happened in Punjab due to skewed sex ratio. But if rate of killing the girls remain same, time will come soon that polyandry would again be popular form of marriage due to shortage of girls.

### 5. Laws and cases

Many laws have been enacted in order to curb the female foeticide but only laws are not capable of curbing this evil, the social attitude must change.

**Pre - natal Determination Technique Act, 1994** - PNDT was enacted in 1994 under this law, it is mentioned that every clinic where the ultra - sound scans and a notice board should be affixed on which this information should be written "No test pertaining to the sex determination is done here". It is an offence under the provision of law. Ultrasound scan cannot be done without the written consent of women. An amendment was made in law in 2003, that those doctors who are involved in this criminal act would be punished.

(a) If this offence is committed at the first time - the fine of Rs 50, 000/- or imprisonment of 3 years will have to be undergone or both punishments will have to be undergone.

(b) If this offence is committed again - the fine of Rs 1, 00, 000/- or imprisonment of 5 years will have to be undergone or both the punishment will have to be undergone.

**The Medical Termination of Pregnancy Act, 1971** - Another important law is the MTP Act, 1971 in which it is mentioned that a female can get the fetus aborted only in some conditions. These conditions are

- If there is a responsible apprehension of danger to the life of mother.
- If the fetus is suffered with perilous physical or mental disease.
- If the fetus is conceived due to rape.
- If the female is not capable of looking after the child socially or economically.
- If the fetus is conceived due to the contraceptive failure.

**Indian Penal Code, 1860** - Under the I. P. C. adequate provisions have been made for the protection of mother and unborn child. Under section 312, section 313, section 314, the I. P. C. provides to save the woman from miscarriage. Any act intended not in good faith to cause miscarriage is punishable under I. P. C. Under section 312 a woman who causes her miscarriage or gives consent to miscarry is also liable for punishment. Section 313 provides punishment which causes the miscarriages of a woman without her consent.

**Constitution of India** - Article 14, Article 15 (3) and Article 21 of Constitution of India are welfare provisions for all. According to Article 14 “The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India. ”

Article 15 of the Constitution of India forbids discrimination on grounds only of religion, race, caste, sex, or place of birth. Article 15 (3) in terms provides that nothing shall prevent the state from making any special provision for women and children.

According to Article 21 “No person shall be deprived of his life or personal liberty except according to procedure established by law”.

**Tulsi Devi v. State of UP** - The accused women kicked a pregnant woman in her abdomen resulting in miscarriage. She was held to be convicted under section 313 of Indian Penal Code, 1860.

**Environment and Consumer Protection Foundation v. Union of India** - Supreme Court allowed a woman to abort 25 week old fetus with unformed skull.

**Ms Z v. State of Bihar** - Supreme Court ordered Bihar Government to pay 10 lac rupee to a rape survivor who was denied the right to terminate her pregnancy due to the delay on the part of authorities.

**6. Female Foeticide And measures for control** - Though sex ratio in the country has improved from 927 in 1991 to 940 in 2011 as per Census 2011 (Prov.), Child Sex Ratio has dipped from 945 females per thousand males in 1991 to 914 females per 1000 males in 2011. Government has adopted a multi - pronged strategy to curb female foeticide in the country. The Government has enacted a comprehensive legislation the Pre - conception and Pre - natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, further amended in 2003 for prohibition of sex selection, before and after conception, and for regulation of prenatal diagnostic techniques. The measures include the following: -

- **Effective implementation of laws** - The Government have intensified effective implementation of the said Act and amended various rules covering provision for sealing, seizure and confiscation of unregistered ultrasound machines and punishment against unregistered clinics.
- **Registered premises for ultrasound** - Regulation of use of portable ultrasound machines within the registered premises only has been notified.
- **Limits and Restriction** - Restriction on medical practitioners to conduct ultra - sonography at maximum of two ultrasound facilities within a district has been placed.
- **Registration fees** have been enhanced.
- **Amendments of rules** - Rules have been amended to provide for advance intimation in change in employees, place, address or equipment.
- **Government instructions** - The Government has requested all the State/UT Governments to strengthen implementation of the Act and take timely steps to stop use of illegal sex determination.
- **Leadership order** - Hon“ble Prime Minister has urged the Chief Ministers of all the States to provide personal leadership to reverse the declining trend in child sex ratio and address the neglect of the girl child through focus on education and empowerment

- **Serious and effective implementation of Law** - Ministry of Health & Family Welfare has intensified efforts to exhort the States and UTs to pay utmost attention to serious implementation of the PC&PNDT Act.
- **Regular meetings** - The Central Supervisory Board (CSB) under the PNDT Act has been reconstituted and regular meetings are being held.
- **Advertisement on websites** - Matter has been taken up with the Ministry of Communication and Information Technology to block sex selection advertisement on websites.
- **The National Inspection and Monitoring Committee**
  - NIMC has been reconstituted and inspections of ultrasounds diagnostic facilities have been intensified. Inspection have been carried out in many states including Bihar, Chhattisgarh, Delhi, Haryana, Madhya Pradesh, Maharashtra, Odisha, Punjab, Uttarakhand, Rajasthan, Gujarat and Uttar Pradesh.
- **Financial support by government** - The Government is rendering financial support to the States and UTs for Information, Education and Communication campaigns and for strengthening structure for the implementation of the Act under the National Rural Health Mission.
- **Campaigns** - States have been advised to focus on District/Blocks/Villages with low Child Sex Ratio to ascertain the causes, plan appropriate Behaviour Change Communication campaigns and effectively implementation provisions of the PC&PNDT Act.

**Role of Print Media and Electronic Media** - States are undertaking various Information, Education and Communication (IEC) activities to create awareness about the Act including public messages through print & electronic media, capacity building workshops for programme managers and judicial officers, Grant in Aid to Non - Governmental Organizations for community mobilization and involvement of religious leaders for awareness generation etc.

## 7. Conclusion:

Keeping these tragic consequences in mind, it is required that this brutal practice of killing daughter in the womb of the mother is stopped. Female foeticide is taking place in a country where women are worshipped and equated with goddesses. Everyone must understand that right to life, education, health and empowerment are the fundamental rights of every Indian woman. There is need to shun the hypocrisy and to implement more stringent laws so that this inhuman practice could be stopped. Along with this, there is need to change the mindset of the society by generating awareness among masses, by putting equal if not extra premium on daughters, by raising voice against any crime committed against girls and women, by loving and respecting them and by not treating them as burden. It is high time that mothers take this responsibility that they would not allow anyone to kill their daughters.

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