



## Female Foeticide: Legal Perspective and Its Challenges

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### Abstract

Advances in Science and Technology are responsible for the statistic of women's oppression. Prenatal sex determination followed by selective female foetus abortion is perfect example for the same. There are technologies that prevent the birth of girl child and promote the birth of boy child. Scan centres disclose the sex of the foetus, which is against the law. Sons are preferred over daughters for various social, economic and religious reasons, which include old age security, dowry, family lineage, prestige and power, property inheritance, financial support, birth and death rituals and beliefs about religious duties and salvation. In our "civilized" society we talk about equality in all spheres, then why is there no right to take birth? There is a need to realize the right of a girl child and to what extent they are being implemented. There is a requirement of strong ethical code of conduct among the medical professionals. There is an urgent need to address the fundamental problem of changing the patriarchal mindset only then will the regulation of technologies work. This article aims at making it clear that gender selective abortions has to be viewed as a social issue rather than a women issue. Unless the pathology of mind changes, the pathological use of medical technologies will continue.

**Keywords:** Foeticide, statistic, abortion, gender.

### Introduction

The custom of Gender Selective Abortion has been the key cause of low gender ratios in India. It is assumed that to be born a girl is the worst curse and crime. It is regarded as a punishment for the whole life for parents and the girl herself. The parental preference for son is nothing new. No doubt preference for a male child over a female child is universal but in Indian society, a girl has always been blamed for all the misery and misfortune. Religions, traditions and customs too play their respective part. Value attached to sons is well explained in the blessings and good wishes contained in a number of verses used in marriage rituals<sup>1</sup>. Tough social and religious prejudices and a strong inclination for sons have molded social mindsets in favour of the son. In India women who bear male children are treated with respect in the community and a son is always considered a security for old age. In India violation against women is happening in the public domain as well as in the household and therefore raising a daughter comes with a fear of her safety.

The girl child is always considered a financial liability. She is to be given extensive dowry in marriage. Mostly investment in her upbringing or education is considered wasteful. There is an inherent discrimination against women in the Indian Social Structure. A woman has always been considered as subordinate to a man. The prejudice is widespread and common amongst the educated and the enlightened people. Women have been subjected to many forms of discrimination and various social forces act and compel parents to commit such an act. It is usually thought that options of males and females may differ

leading the thought in the direction that females may be more sensitive and opposing to the cruelty towards the unborn female child<sup>2</sup>.

### New technologies introduced in india

The technological assistance from the mid 1980's onwards created such a powerful opportunity for people who wanted to abort their girl child that it has led to functioning of an industry that has started to show the negative impact in different parts of the country. Son preference is not new in India, but the last few decades have experienced the unfolding of a disturbing and now an alarming trend to give son preference and sex selective abortion an easy access through the Misuse of Pre-Natal Diagnostic Technologies. These technologies have created an influential opportunities for people who don't want a baby girl which has created a negative impact on the sex ratio in India. Our Government first approved the Pre-natal Diagnostic Techniques and referred it as a vital pillar of women sexual and reproductive health and rights, but the use of these technologies needs a constant watch because sex selection was becoming common amongst various groups of people<sup>3</sup>.

### Sex Ratio Affected

The practice of female foeticide causes an imbalance between the number of males and females in the society. Gender differences seem to be at the root of all the ways daughter elimination can be looked at. Women are considered as a liability ad as a threat to the survival chances of the early societies. According to the mindset of many Indians it is better to invest in a son than in a daughter. The socio cultural

perspective focuses on gender differences in household level and the demographic perspective talks about gender differences in the desired family composition<sup>4</sup>. Sex ratio indicated the proportion of the number of men and women in a certain society. In India, the sex ratio is calculated as the number of females per 1000 males. The sex ratio in India indicates a high level of deficit of women in the population. Around 36 million women are missing and with a decline in the sex ratio this number is likely to increase in future. Therefore, the Indian sex ratio can thus be characterized as an adverse and a declining one, which is favorable to males when looking at the whole country.

There is an immediate requirement for stringent regulations to keep a continuous check on such tradition, which is carried on in many parts of India. The first legal response came from the government of India in form of Pre-Natal Diagnostic Technique Act, 1994 (PNDT) which was further amended into Pre-Conception and Pre-Natal Diagnostic Technique (Regulation And Prevention Of Misuse) Act, 2004 (PCPNDT). There are various provisions under the Act that play an important role in preventing the practice of female foeticide. This was a powerful legal instrument to foster positive change in this modern sociological trend. The implementation though has remained weak and not effective. The number of cases that has led to conviction is so low that it makes an investigation of the implementation of the Act essential<sup>5</sup>.

## Conclusion

It is evident that there are many actionable measures that can foster positive change in the way the law is currently

implemented. There are various complex social behaviors and attitudes that deeply influence the falling gender ratios in India and legislation cannot provide all the support<sup>6</sup>. Alterations and amendments in the present legal framework can contribute significantly to protect girl child against female foeticide. This paper has made an attempt to examine the implementation of the Act from a legal and administrative perspective. Analysing the law and studying the loopholes and gaps is the main objective to write this paper.

## References

1. Anand and Sarita, A comparative study of attitude of people from Haryana, Delhi, Rajasthan and Punjab towards Female Foeticide and Infanticide, Department of Home Science, Delhi University, 285 (1998)
2. CEHAT Centre for Enquiry into Health and Allied Themes, Date: 10<sup>th</sup> July 2003, Express Health Management Bureau, Mumbai (2003)
3. Indian Ministry of Health and Family Welfare, Missing Girls: A Study of Declining Sex Ratio in the Age Group 0-6 years A Case Study of Delhi, 160 (2002)
4. Khanna R., Date-5th August-2003, Punjab, Haryana Continue to Love Sons Not Daughters, The Tribune, Chandigarh, Available at [www.tribuneindia.com](http://www.tribuneindia.com). (2003)
5. Book on Female Foeticide – Myth and Reality- by Anurag Agarwal, Published in the (2003)
6. Kaur Manmeet, Female Foeticide–A Sociological Perspective, *The Journal of Family Welfare*, 39(1), 40-43 (1993)