



THE JUDICIAL STUDY OF FEMALE FOETICIDE

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ABSTRACT:

In the age of ultrasound technology and capitalist modernity, female foeticide has developed into a social hazard of significant global importance. Abortion is a complicated topic that is impacted by sexual politics, the socio-political environment, religion, and morality. The problem has been made worse by sex-specific abortion in India. Female foeticide cannot be outlawed in and of itself because abortions performed before to 20 weeks are permitted. Thus, it was thought that a new law was necessary to stop the MTP Act from being used improperly for sex-selection abortions. To address the latter circumstance, central government passed Prenatal Diagnostic Techniques Act 1994 (Regulation and Prevention of Misuse) (PNDT). On January 1st, 1996, it became effective. Prenatal diagnostic procedures are regulated by the PNDT Act of 1994 (as revised by the 2002 Amendment), which forbids sex selection before or after conception. In this paper, we attempt to examine the justification for foeticide and its effects on Indian society. Finally, this study will examine the steps taken to address this horrible occurrence in order to achieve a more balanced society.

Key words: - *Foeticide, Judicial, Abortion, Prenatal Diagnostic, Ultrasound Technology.*

INTRODUCTION :

To find a compatible partner, eligible North Indian lads travel 5,000 miles across the nation. Due to the lack of females, they are looking for brides as far away as Kerala with the intention of getting married. The girls did not just disappear. The main causes of this predicament are decades of sex discrimination testing and female foeticide. Since 1991, 80% of Indian districts have seen a decline in the sex ratio, with Punjab seeing the worst results.

pre-conceptional procedures, sex-selective abortions, and repeat pregnancies until a son is born. Most people in society still follow taboos, which severely restrict women's health mobility is undermine their self-respect, So completely restricting them. The epidemic of dower deaths keeps spreading throughout the nation. Female homicide is reportedly on the increase, and women's offset effect has become a widespread phenomenon in India that affects people from all castes, social classes, ethnicities, and educational backgrounds. Women's undervaluation has permeated both men's and

women's thinking to such a degree which has caused subconscious or "negation of the self" in women. Becoming a lady meant constantly adopting and spending like something lower besides "second sex" for the great majority of people in India. Due to their self-doubt and low self-esteem, women shamelessly turn to female foeticide in order to achieve perfect family compositions and structures.

Historically, women were not represented equally or symbolically in any field. History demonstrates that, due to the rarity of revolutions for the expansion of women's oppressive structures, society's perception of women has remained unchanged. A girl's fall into hell is made worse by the trauma and humiliation she must experience at home. What is more astonishing is the legislator's point of view, which hasn't helped a lady get through that obstacle—the place of insult and despair hasn't altered. A girl child is viewed as a waste and a liability that people would prefer to completely avoid at all costs.

DISCUSSION :

It is very evident from the narration above that the main focus is the game of dominance. The issue arose when the government implemented national family planning (NFP) to regulate the population. According to the two-child standard, people in India reportedly decreased their family size by 2–3 due to political pressure. After coming this far, it appears that parents wanted to have some control over the sex makeup of their offspring in their small families and turned to sex selection methods like ultrasound machines, but the likelihood of having sons decreased.

India and western nations view female infanticide from quite different angles. Westerners did not create modern devices like ultrasound equipment for female infanticide or sex selection. It was created to save humanity by lowering maternal and foetal mortality. Unfortunately, we used their marketing as a platform for female feticide and sex surveillance. Thus, our viewpoint was entirely different from theirs. because maintaining a patriarchal society was our ultimate goal.

Rapid urbanisation brought about the idea of the nuclear family. We quickly adopted the nuclear family culture. Normalcy for a husband and wife with two kids living apart from their parents However, our perspective—that of male dominance—has not changed. A couple had between 7 and 8 kids in the past. In the household, there were often one or two male children. The likelihood of having a male child reduces as the size of the family grows smaller. In a household, if the first child is a girl, the parents will do whatever it takes (abort) or use sex-selecting medications to have a boy. Therefore, the issue of female foeticide persists. The issue of sex determination and female foeticide cannot be resolved simply by enforcing

the laws and taking action. Every activity has a counteraction.

This also applies to how people behave. The PNDT Act was passed by the government as a measure to stop female feticides. Prenatal sex selection was initiated as a response to this. Once more, the government amended the PNDT Act to become the PC-PNDT Act. People's response was static van sex selection. It was transformed into a mobile van because of raids. There was a revised plan of action developed to evade the PC-PNDT Act: a plan for female feticide and sex determination by a mobile team using portable ultrasound devices.

The following list includes the causes of female feticide.

1. Cultural influence
2. Social influence
3. The influence of the government;
4. Science and technology
5. An action-reaction culture

19TH CENTURY FEMALE INFANTICIDE :

Women have experienced oppression, discrimination, intimidation, and unfair treatment throughout history. The forms are the only thing that differ, and they evolve over time as well as from one community to another. Women are denied the ability to exist, condemned as second-class citizens, given subordinate roles, held as men's slaves, and subjected to a variety of hardships. The first father, then the spouse, and finally the son are seen as being individuals whose job it is to follow the instructions of men and to serve, appease, and take care of them. They are so convincingly portrayed that they are forced to be by their life partner's side and perish on their grave. It is not just in this particular area, but also in our country, where female infanticide continued to be a common practise in the 19th century.

In the nineteenth century, it was believed that India was the only place on earth where this

practise was known to occur. It started during the rule of the Rajput Princes and Hindoo Rajahs and was not regarded as a violation. Standard practise was to assassinate newborns by stuffing cow excrement into their mouths. However, other plans were just as evil. In a particular state, it was customary to put newborn females in a clay pot, cover the opening with a lid, and secure it with smashed wheat before burying the container underground. The majority of the time, however, they were forced to consume opium and die in agony. In the Khangurh district, they perished through exposure to cold or from consuming the Madar asclepiad gigantean's juice. After killing girls at birth in the Punjab, it was traditional for a tribe to chant certain phrases, chew gur (jaggery), and spin cotton while holding a roll of it in their hand. Instead of entering the world, send brothers. She actually becomes a guilty mother because of the potential for severe mistreatment at their native houses; she goes from being the mother of all such unwanted girls to also having a natural sense of being unable to have a man. In these areas, there are no signs of female infanticide, and the status of girls is unaffected.

ADDITIONAL LAWS RELATING TO FEMALE FOETICIDE :

Half of the world's population, women, endure a variety of difficulties. One of the most terrible forms of abuse against women is female foeticide, in which a woman's most fundamental right to live is violated. Female foeticide is not specifically defined in the Criminal Law, so in order to eliminate any ambiguity, I will provide my own definition: Female infant destruction is deliberate murder of foetus in order to end a pregnancy medically through MTP or abortion. Female foeticide is a criminal offence in India. Only when a doctor finds that extending the pregnancy would be harmful to the mother's or the unborn child's health is abortion permitted. In essence, this method was employed

before female foeticide, and the incidence of 4095 female homicides in rural areas, where the majority of individuals are denied access to sex-determining facilities, is horrifying. Infanticide is the destruction of a newborn after birth. Sex-selection tests violate both the Article 14 to a dignified life.

"MEDICAL TERMINATION OF PREGNANCY,"

Noone has access to one's parson. Your fundamental human rights are violated if an action is carried out on your body without your consent. This is a serious problem in India, where the husbands and in-laws control the woman's reproductive rights instead of the other way around. If you are married, you are the one going through labour, so the decision to have a kid is entirely up to you. Nobody can choose for you in this situation. Even though the Medical Termination of Pregnancy Act of 1971 (MTPA) permits a wife to end her pregnancy without her husband's consent, it is vital to highlight that Indian courts do not support this decision. So, regardless of a woman's desire to have children, her partner's judgement is taken into consideration. However, the legislation clearly states the opposite. The husband or partner of a woman is not required to give their permission for an abortion. The following situations are allowed under the Medical Termination of Pregnancy (MTP) Act:

If the pregnancy could cause physical or emotional harm to the mother. If the infant has a disability.

In the event that the pregnancy was brought on by rape. In the event that birth control fails.

ABORTION VIOLATES RIGHT TO LIFE OF THE UNBORN.:

Abortions may be classified into one of two groups: Article 312 through 316 of the IPC makes both spontaneous and induced miscarriages unlawful (IPC). Annually, Around 35 million abortions are performed each year, and over a third of them are unlawful, carried

out in filthy settings by uneducated, inexperienced doctors. While Section 313 creates it unlawful to induce a miscarriage without the woman's consent, Section 312 makes it unlawful to do so with her permission.

The woman's life could not have been saved by performing an abortion (miscarriage).

When the lady is "for child" or "soon with child," it is forbidden to purposefully cause a miscarriage. The law requires a woman to be in the first instance when she begins to develop and in the second instance wherever her infant moves. The maximum punishment in the former case was three years in prison, a fine, or both, depending on the nature of the accused, whereas the chapter calls for a cumulative sentence of seven years in prison and a fine based on the extent and type of such an offence.

THE RIGHTS TO ABORTION AND TO A HEALTHY BODY :

The Medical Termination of Pregnancy Act, 1971 imposes numerous limitations, including the 20-week time limit, which violates both the right to an abortion and the right to health, both of which are protected by Article 21 of the Declaration of Human Rights.

Abortion should be a private matter, so the government shouldn't get involved. Although there are a number of limitations on abortion because of individual liberty, it remains the woman's choice. Some states do not require paying for abortions, so a woman should have the choice. Abortion is a women's rights issue, so she ought to have the power to make the decision. Although she has the freedom to consider other people's opinions, including father, her choice should still be covered by the law. currently it is best divisive topics in the world. We all have the right to express our own opinions. The female body is hers alone and no one else's. Even if it is against her will, no one has the authority to make her do anything she doesn't want to.

JUDICIAL OPINION ON FEMALE FOETICIDE :

The Indian government's PCPNDT Act prohibits prenatal and prenatal diagnostic tests from determining a child's legal status. Doctors who participate in this practise face penalties and prison terms. Despite this, it has been difficult to apply the Act because sex selection happens during doctor-patient interactions. Reviewing the case law is crucial because there haven't been many convictions under the Act.

INDIA UNION Vs. CENTRE FOR ENQUIRY INTO HEALTH AND ALLIED THEMES (CEHAT), writing petition no. 301/2000, is a critical decision in the implementation of the PNDT Act. The democratic activist Dr. Sabu M. George and the semi-governmental organisation MASUM filed a public interest case in pursuance of Article 32 of the Indian Constitution. The Central Supervisory Board, the state and federal governments, as well as the necessary authorities set up under the Act, have all received orders from the Supreme Court to date directing them to ensure that the Act is carried out zealously and effectively.

THE INDIAN UNION VERSUS HEMANT RAKH :

Despite the clear directives provided in 2001 by the Supreme Court in CEHAT v. Union of India, which is quoted, many states have failed to implement the law. PILs were filed after the high courts were informed of the situation. The public was shocked when large numbers embryo bones, skulls, and internal organs were discovered in the Indian state. When these were found in a location close to multiple nursing homes and clinics, a serious possibility that gender selection and foetal sex detection were still common was raised. Unknown social activists decided to file a lawsuit after learning about it in the print and internet media. Under Article 226 of the Constitution, he launched a public interest litigation (PIL).

SUMMARY :

The majority of the time, rather than being a religious issue, it is a cultural one. Infanticide is the illegal killing of very young children. It is currently practised in indigenous and modern cultures all throughout the world. Female infanticide is the deliberate killing of a female infant. Infanticide is most frequently used as a method of population control and poverty reduction. Infanticide has long been considered a successful strategy for reducing malnutrition and lowering living standards in areas where there is an excessive population. According to Confucianism, male offspring are preferred because they provide steadiness for the elderly society, provide jobs, and are required to carry out ancestor ceremonies.

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