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Looking at Female Foeticide through the Lens of Human Rights, Society and Law

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In India, attitudes toward the birth of a girl child have not changed significantly throughout the years. The birth of a son is viewed as a boon in this society with a male mentality, but the birth of a girl kid is viewed as a blessing. In India, there is considerable inequity between sons and daughters despite the country's more than seven decades of freedom. Examples of inequity include female feticide, illegal abortion, and prejudice against daughters by parents. The greatest human right of all is the freedom to "live life," but taking this away before it is born is the worst uproar on humanity and a serious violation of human rights. Prenatal sex detection technologies have made it simpler to identify the sex in the mother's womb, but they have now been thoroughly abused, enabling selective female abortions, and allowing offspring to flourish through male children. Legally speaking, though, female feticide is a crime. Even though India has a lengthy history of female infanticide. While it is lawful to have an abortion in India, it is illegal to have an abortion just because the fetus is a girl. For those who break the law, harsh consequences are in place. This essay will address the socio-legal dilemma that female feticide poses additionally, it is important to examine the associated issues and research the linked causes and consequences in this regard. Finally, there are some recommendations about how to achieve this end.

Keywords: *girl child, female foeticide, human right, socio-legal.*

INTRODUCTION

Female feticide is the purposeful, intentional abortion or elimination of the female offspring by the mother after the gender of the child has been determined by medical testing. The husband, the in-laws, or even the woman's parents may put pressure on her to do this. Despite the existence of specific laws aiming to criminalize and combat the crime, female feticide, or the gruesome practice of sex-selective abortion, continues to be practised with zeal across the nation, making the girl child a victim of the highest degree of gender-rooted prejudice and discrimination.¹ As it was previously difficult to tell a child's gender due to advancements in science, female children were either suffocated or had their milk spiked with opium to kill them.² Now, the misguided application of scientific technology has given this behaviour a sophisticated air. This procedure, known medically as amniocentesis, was done to diagnose the disease and determine the sex of the fetus, and as a result, the fetus was killed.³

Men and women work best together. Without one side, the other side is lacking. The family is made up of both men and women; it is not just made up of men. Families are created as a result of women and men having the predisposition to rely on one another, and families are the foundation of society. But the modern guy is determined to corrupt this social structure. Social systems must be kept gender-equitable to function well. The male-to-female ratio has significantly decreased over the past 100 years if you look at it.

PRIMARY CAUSE OF THE PROBLEM

In the patriarchal and male-dominated Indian society, where men are given preference in various professions, women are treated as second-class citizens. In whatever era, she was not accorded the right to equality. While boys' health is taken care of, many parents in India do not want to take their daughters to the doctor. Girls face discrimination in the areas of education, nutrition, attire, and personal care. The chronicle of crimes against women in a male-dominated

¹ Indu Grewal & J Kishore, 'Female Foeticide in India' (*International Humanist and Ethical Union*, 1 May 2004)

<<http://iheu.org/content/female-foeticide-india>> accessed 20 January 2023

² GB Reddy, *Women And The Law* (3rd edn, Gogia Law Agency 2000) 133

³ *Ibid*

society founded on gender discrimination begins within the womb itself, not at birth. Since the 1990s, the country's age range of 0–6 years has seen a steadily decreasing sex ratio⁴, which is evidence of the increasing prevalence of sex selection, whereby people ensure the probability that the kids will not be of the female sex.

Boys Are Conceptually Preferred: India's patriarchal society generally exhibits a bias against women. The Girls are typically viewed as a risk. And it was held that any investment in the education and empowerment of girls was equivalent to buying a failing business's assets. The family also has a responsibility to ensure their physical safety. The practice of dowry places an additional burden on the parents, and as a result, there is a general preference for infanticide and feticide against sons and girls.⁵

Dowry System: Giving additional dowries is an issue of social prestige in India since marriage is a pricy and expensive tradition. The cost of the parent's marriage is very expensive. The wealthy class elevates their status by investing money in unions, whereas the lower classes wed as soon as they can. The middle class of society views the birth of a girl as a curse for this reason. The financial burden of dowry is frequently held responsible for female infanticide. Women were effectively made into commodities by the dowry system, which led to their perception as being both expensive and weaker in the joint family system's economic transaction.

Socio-economic Conditions: One of the factors promoting the conduct of feticide is the socioeconomic environment. There are no family planning options available to economically disadvantaged households. There are more instances of female infanticide in these homes as a result of discrimination in child care and feeding.

Sexual harassment Incidents and Law and Order Issues: Women are viewed as the weaker sex, and families have traditionally been concerned about their safety. To preserve the dignity of women, Rajput and Maratha families introduced the practices of female infanticide and Jauhar

⁴ Sonia Bhalotra, 'Where Have All the Young Girls Gone? The Rise in Female Foeticide in India' (*Ideas for India*, 7 November 2012) <http://www.ideasforindia.in/article.aspx?article_id=71> accessed 20 January 2023

⁵ Arati Nair, 'Female Feticide: Causes & Effects of Sex-Selective Abortion' (*Soapboxie*, 14 December 2022) <<https://soapboxie.com/social-issues/Female-Feticide-Causes-Effects-and-Solutions>> accessed 20 January 2023

during historical times. Increased instances of rape and sexual harassment make women economically less powerful, which makes parents less likely to prefer them.⁶

A Girl Cannot Carry on The Family Tradition: People believe that because daughters will marry and join another family, they cannot precede the father's family. After her marriage, their relationship ends, and her parents will be taken care of by no one. But compared to boys, girls love their parents more. In both joy and grief, they are never apart from their parents.

Financial Reasons: In our society, a daughter is usually seen as a liability to the family whereas a son is always seen as an advantage. The boy, according to the parents, will work hard all his life for them and be devoted to them, but the daughter will marry and go out. Aside from this, the people's illiteracy, insecurity, and poverty are some of the key causes for seeing the girl as a burden.

DEMAND FOR AN ACT

The abuse of methods for determining the sex of the foetus that results in female feticide is discriminatory against the female sex and also lowers women's standing and dignity, as the authorities had understood. The "Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994," which took effect on January 1st, 1996, was passed by the parliament with the necessary goals in mind.

Failure of Implementation of the Act- The PNDDT Act's goal was not achieved for a variety of reasons. The governing entities tasked with upholding the Act did not take seriously the apparatus needed to do so at the state and district levels. Even though Punjab was the first State to offer sex selection facilities as early as the 1970s and the sex ratio in the age bracket of 0-6 years has been on the increase, not a single pre-natal diagnostic clinic had been registered there until 2001.⁷ Due to the clinics' poor record-keeping, it was challenging to determine why an ultrasound test was performed. Further pushing couples to consider sex selection as a means of

⁶ Manish Kumar, 'Female Foeticide' (*India Study Channel*, 11 October 2009)

<<https://www.indiastudychannel.com/resources/90157-Female-Foeticide.aspx>> accessed 20 January 2023

⁷ Manjula Batra, *Women And Law* (2nd edn, Allahabad Law Agency 2003) 132

achieving their ideal family structure was the family planning programmes' reliance on the small family norm and India's predilection for sons.

In the case *Centre for Enquiry into Health and Allied Themes (CEHAT) v Union of India & Others*⁸ it was held that the Pre-natal Diagnostic Procedures (Regulation and Prevention of Misuse) Act, 1994 was created to prevent the improper use of these techniques for prenatal sex determination that results in female foeticide, as well as any issues related to or incidental to such use. Due to a lack of implementation, the Act was unsuccessful. The Act was later put into effect and adequately enforced at the state and district levels thanks to a Writ of Mandamus that was filed in the Supreme Court after the governing bodies failed to treat its enforcement seriously. This case is a historic decision because the Court assumed the unusual responsibility of actually monitoring the application of the legislation and issued several helpful recommendations during the period of the three years the case was being heard in court. The subject of sex selection and sex-selective abortion was brought to public attention by this petition, and as a result, both government and non-governmental organisations have increased their efforts in this area.

GLOBAL INITIATIVES FOR WOMEN'S EQUALITY

United Nations Convention, 1976: The conviction in the equality of men's and women's rights was acknowledged in this charter, which said that all people have the right to free and equal rights from the moment of their birth and that this right extends without regard to gender or any other form of discrimination. Any discrimination prohibited based on gender is defined in Article 1⁹ of this Convention. According to Article 3¹⁰ of this convention, women and men are basically on an equal footing in all aspects of life. States should take steps to guarantee that women can exercise their fundamental rights and freedoms.

⁸ *Centre for Enquiry into Health and Allied Themes (CEHAT) v Union of India & Ors* 2003 (10) 8 SCC 412

⁹ United Nations Convention 1976, art 1

¹⁰ United Nations Convention 1976, art 3

Universal Human Rights Declaration, 1948: The right to gender equality was added to the Universal Declaration of Human Rights in 1948. According to Article 1¹¹ of the Universal Declaration of Human Rights "All human beings are born free and equal in dignity and rights". Article 2¹² of the Declaration states that everyone is entitled to their freedom and all other rights enumerated in this statement, free from any kind of discrimination. As a result, gender discrimination is expressly prohibited by the Universal Declaration of Human Rights. There is an emphasis on not discriminating based on race, gender, language, or religion in Article 55¹³ of the United Nations Charter. The following two institutions were established within the framework of the United Nations for the advancement of women and their sustainable development.

- The Commission on Women's Status
- The Committee to End Discrimination Against Women.

The Executive Commission of the Economic and Social Council is the commission established at the level of women.

Commission on Status of Women (CSW)¹⁴: It was created by the Economic and Social Council in 1946. The initial membership of this commission is 45 people. where 11 member Asian states, 9 member US states, and 8 member European states elect 13 member African states. The Commission Economic and Social Council and the General Assembly make decisions on behalf of women to further the objectives of women's equality and rights.¹⁵

SUGGESTIONS

In our nation, the distorted sex ratio is a disturbing trend. If the current state of affairs continues, it may get much scarier in the years to come. Men and women are not even represented equally in the population of the nation. The proportion of men and women in the nation's human society

¹¹ Universal Declaration of Human Rights Act 1948, art 1

¹² Universal Declaration of Human Rights Act 1948, art 2

¹³ United Nations Charter Chapter IX: International Economic and Social Cooperation 1945, art 55

¹⁴ Commission on Status of Women 1946

¹⁵ *Ibid*

is significantly changing as a result of female feticide. Both the national government of India and the state governments have made numerous attempts to address this issue locally. Freedom from it does not appear to be conceivable, however, unless we are all united in our opposition to this abhorrent evil, and for this reason, we must start a nationwide movement. Considering female feticide is frequently attributed to dowry's financial pressure, we can reduce it to some level if we resist it.

By raising public knowledge, we can lower the rate of female feticide. But to entirely eradicate it, we must first adopt a humane worldview. Regularly, we should speak out against female feticide. While there has been an increase in sex education among urban kids, it still needs to be broadly disseminated. The sex ratio of the killing also affects the additional precautions required to prevent the killing of the foetus. The societal harm that female feticide causes should be repeatedly brought to the attention of residents of small towns and rural areas.

The nation's judiciary should enact tough legislation to punish individuals who support female feticide. As it is covertly concealed with the aid of a doctor who performs a subpar job, labs, clinics, hospitals, and doctors should all be under close observation. Making laws is not sufficient though; it is important to emphasise how many of them are being followed. Because female feticide is a man-made issue rather than having a natural cause. As a result, we will also need to address this. To ensure that this movement reaches the local population, cooperation from NGOs, self-help organizations, and all of the major partners should also be sought. Without political will, no movement can succeed, so the presence of women in our political institutions (Lok Sabha, Vidhan Sabha) must be increased.

Social media and the Internet should serve as a platform for those who oppose female feticide. For this, we will need to plan numerous large-scale seminars, workshops, training sessions, nukkad natak, etc. Any nation cannot grow if the prospects for advancement for its women are insufficient. How can we see the growth of a nation with so few women? The most significant role in preventing and regulating female feticide may belong to women. However, only literate women are competent to defend their rights; for this reason, we should give women's education a special focus.

CONCLUSION

The need to mobilise political will and ensure the execution of the provisions of the Act as a step forward in containing the evil of feticide is brought to light by the constantly declining sex ratios of various states and the limited convictions and prosecutions under the PCPNDT Act. But because crime stems more from skewed social attitudes than from any idea of breaching the law, it is crucial to tackle the issue differently. But because crime stems more from skewed social attitudes than from any idea of breaching the law, it is crucial to tackle the issue differently. A society without women in the future is unthinkable to us. Without women, society will not be able to develop to its full potential, and this is a crucial realization.

The government's enactment of laws in this regard is insufficient, and merely passing laws will have no impact. Women's stereotypes need to be challenged. A woman will also need to speak out against female feticide because abortion and fetal testing cannot be performed without her consent. The idea of women's empowerment will be shown to be effective and women's human rights will be effectively maintained if a woman is free to make her own decisions in every aspect of life, including her natural right to bring a child into the world. Because of this, only when the woman, her family, and society as a whole speak out against female feticide can this sin be completely removed from human society.