



Female Foeticide and the Role of Society: An Indian Perspective

Hiranmaya Nanda

Assistant Professor, Faculty of Legal Studies, Siksha 'O' Anusandhan University, Bhubaneswar-751003, Odisha

Chinmaya Kumar Mohapatra

Assistant Professor, Faculty of Legal Studies, Siksha 'O' Anusandhan University, Bhubaneswar-751003, Odisha

ABSTRACT

Foeticide" implies murder of foetus or more elaborately terminating the life span of an embryo. Presently India is the main nation on the planet where the proportion of female to male has been waning throughout the years. The purpose for this proportion is clearly the abuse of indicative methods and tests which has added one more wrongdoing to the considerable rundown of violations against females. Adding to it, destitution, mind of the general public, constrain by relatives, settlement custom, male child to be favored over female etc. are some different reasons for female foeticide in India.

KEYWORDS : foeticide, girl child, discrimination, pregnancy

Introduction:

A son in Hindu societies is to a great extent considered to be the better contributors, because a blind belief suggests that for getting salvation a son has to perform the execution of burial service ceremonies or funeral rites. A few eminent writers contend that Hindu culture has long had a patriarchal predisposition against women. Tragically, that the parents additionally see her as an obligation. This state of mind is established in a perplexing arrangement of social, cultural, and monetary elements. Respect for sacredness of the embryo from its conception is ordered by the Hindu Scriptures and Puranas. Accordingly, the demolition of an embryo is denounced as an appalling offense which is equivalent of doing Brahmahatya. In this light, there cannot be any difference seems to have been made between various phases of gestation process. The ancient literature Garbhophonishad, which gives a fastidious record of the growth of the baby from the moment of conception of the mother, it expresses that from the second day after the insertion of the male semen into the female uterus, the semen gets thickened and from the eighth day it takes the state of a ball which is changed into a lump following fifteen days, prompting the making of the head and the legs following two months. It takes after that it would be an offense if the foetus is pulverized even at the early stage.

Review of Literature:

The reasons for female foeticide are implanted somewhere down in the structure of society. It is important to change the attitude of individuals and empower them to divert from the burden of undesirable and barbaric customs. Here, they are required to free themselves from heartless and hindering conventional bonds and create altruistic qualities in the genuine sense. People are under consistent social pressure that induces them to confer this kind of act like female foeticide.

The women, in perspective of the experiences which they envision facing later on, surrender to social powers and agree to prematurely end the female baby and deny themselves of being a mother. They ought to be sufficiently intense to confront the troubles, whatever they might be, in raising little girls, giving them a conscious position in the public eye and helping them to live in this world with dignity and honour. They should understand that parenthood is a most charitable, honorable and august status. Its pride and trustworthiness must be kept up at any cost and it ought not be obscured by whatever other contemplations.

The Infanticide was referred to in old India and in addition it is specified in the religious sacred text composed by Aapastambha whose day and age was most likely 500 BC. The religious endorse

behind the standard conviction, in inclination for male child to a female child, has stayed instrumental for female child murders since time immemorial and its speculation makes it if not genocide than obviously a sacramental or customary genocide.

The customary killing of girls proceeded all through pre-frontier period unabated by any state intercession. It proceeded, however furtively, (killing of girls following couple of years of her introduction to the world set up of instantly at the season of birth) even after the enactment of Anti-Infanticide Act of 1870 gone amid British imperialism.

The 2011 census and the other reports information demonstrate a dismal statistic picture of declining female to male proportions. Shockingly the most influenced states are dynamic states like Punjab, Haryana, Delhi and Gujarat. As per United Nation standards, male-female proportion on the planet is normally 1050 females for 1000 males. In Human Development Survey Report likewise, India is set in 124th position among 173 nations. Our nation is much behind contrasted with different nations in regard of education, wellbeing and gender biased discrimination.

Foetus and the Right to life:

The constitution of India mandates for the right to equality and right to life under Article 14 and Article 21 respectively. The determination of sex violates above norms of the constitution. The right to life is a standard basic human rights guaranteed under other national and international instruments. The question is, whether a foetus enjoys the right to life, even though having no worldly existence. Through the various judicial pronouncements and interpretation by the judiciary it has been concluded that, the foetus is having a life inside and a human being. Hence should be protected under Article 21 of the Indian Constitution. Killing of a foetus is equivalently considered as killing of a person as forbidden by the law and punishable under the Indian Penal Code 1860.

In any case, this is not really accessible to the undesirable girl child. Subsequently the privilege of the girl child might be interpreted in more extensive terms and ought to be construed as right to be conceived and not to be prematurely ended simply because she is a girl child. Right to stay alive after birth and not to be ended at any moment after she takes birth. Right of the girl child to her mind her body, appropriate to youth and ideal to a sound family condition.

The Medical Termination of Pregnancy Act 1971, enacted by the parliament to provide for limited and restricted right to terminate the pregnancy, when the life of the mother is at stake or there is a substantial risk to the life of the child. This right is again is not vested

with the mother, to decide and termination of pregnancy is vested with the registered medical practitioner.

The Code of Criminal Procedure 1976 under Section 416 mandates that "the High Court shall order of execution of capital sentences on a pregnant woman be postponed or it may commute the sentence to imprisonment for life, thereby indirectly recognizing the right to life of foetus."

The Preconception and Prenatal Diagnostics Techniques (Prohibition of Sex Determination) Act 2003, is made to safeguard the girl child. The Courts have at all material times and in all possible manners delivered judgments indicating therefore that the PC-PNDT Act is actually a whip to penalize those indulging in sex determination and to serve as a deterrent to others.

Indian Penal Code and the Foeticide:

Section 312: Causing miscarriage

"Whoever voluntarily causes a woman with child to miscarry, shall, if such miscarriage be not caused in good faith for the purpose of saving the life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both; and, if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years, and shall also be liable to fine."

Section 314: Death caused by act done with intent to cause miscarriage.

"Whoever, with intent to cause the miscarriage of a woman with child, does any act which causes the death of such woman, shall be punished with imprisonment of either description for a term may extend to ten years, and shall also be liable to fine."

Section 315: Act done with intent to prevent child being born alive or to cause it to die after birth.

"Whoever before the birth of any child does any act with the intention of thereby preventing that child from being born alive or causing it to die after its birth, and does by such act prevent that child from being born alive, or causes it to die after its birth, shall, if such act be not caused in good faith for the purpose of saving the life of the mother, be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both."

Right to Abortion and The Right to Health:

Section 312 of the Indian Penal Code perused with the Medical Termination of Pregnancy Act, 1971 where every one of the confinements forced in that, including the time furthest reaches of 20 weeks, other than the ones to guarantee great medicinal conditions, encroach the privilege to premature birth and the privilege to wellbeing, which exude from right to life as ensured by Article 21 of the Constitution. Any law restricting a foetus removal under great restorative conditions is unethical and what's more illegal, for it damages her entitlement to control her property, her body as wells her life, freedom and bliss. Foetus removal manages one's private life and ought to have nothing to do with the legislature. In spite of the fact that there are a few limitations on premature birth, because of the states' rights, it is still at last the mother's decision.

International Instruments on Female Foeticide:

The Sex determination for a male child is an indication of unavoidable social, cultural, political and economic treacheries against women, and an infringement of women's human rights. Such shameful acts must be tended to and settled without uncovering women and children to the danger of death or genuine damage through denying them access to required administrations

and in this manner additionally abusing their privilege. Different United Nations human rights instruments and agencies have built up that the privileges of women and girls to life, wellbeing and improvement are damaged when they experience a perilous foetus removal since safe administrations were denied to them, or are compelled to convey an undesirable pregnancy to term. Guaranteeing access to administrations for safe termination to the full degree of the law at all circumstances is critical, as is working with groups to address the social standards and practices that expansion the vulnerable group especially women and girls to the wellbeing dangers related with risky foetus removal.

Conclusion:

The main reasons for it are quite often social, as opposed to straightforwardly religious. Social orders that practice female foeticide dependably hint at numerous different inclinations against women. The women are seen as subservient as a result of their part as Gruhini or homemakers, while men dominantly guarantee the family's social and financial soundness. The sole responsibilities lie with the society and there is an urgent need of some social initiative, which can combat with these kinds of problems. Schools and Universities ought to instruct children against this malevolence and make them mindful of the adverse results of this practice. Moral education ought to be given to both boy and girl with the goal that they may comprehend the distinction amongst good and bad, equity and wrong and value the qualities that are fundamental for human survival in this world.

Reference:

1. CRC(1989),Article 2.
2. ICCPR(1966),Article 2
3. ICESCR (1966),Article 2
4. Jena, K. C. (2008). Female Foeticide in India: A Serious Challenge for the Society. Orissa Review, December Issue, 8-17.5.Jessy Kurian .A Cry Unheard Female Foeticide& Female Infanticide?, Legal News & Views Vol. 17 No. 11. Nov, 2003.6.Reddy, G. B. Sex determination Tests and Female Foeticide. Women and the Law.
7. Sen, A.K. Gender and Co-operative Conflicts. In: Irene Tinker (ed.) Women and World Development, New York; Oxford University Press Pp. 123-149
8. Shrama, A. (1998). Sutttee: Historical and Phenomenological Essays (p. 78). Delhi: Motilal Banarsidas
9. Somerville, A. (2000). Crime and religious beliefs in India. Asian Educational Services.