

International Multidisciplinary Research Journal

Golden Research Thoughts

Chief Editor
Dr.Tukaram Narayan Shinde

Publisher
Mrs.Laxmi Ashok Yakkaldevi

Associate Editor
Dr.Rajani Dalvi

Honorary
Mr.Ashok Yakkaldevi

Golden Research Thoughts Journal is a multidisciplinary research journal, published monthly in English, Hindi & Marathi Language. All research papers submitted to the journal will be double - blind peer reviewed referred by members of the editorial board. Readers will include investigator in universities, research institutes government and industry with research interest in the general subjects.

Regional Editor

Dr. T. Manichander

International Advisory Board

Kamani Perera
Regional Center For Strategic Studies, Sri Lanka

Mohammad Hailat
Dept. of Mathematical Sciences,
University of South Carolina Aiken

Hasan Baktir
English Language and Literature
Department, Kayseri

Janaki Sinnasamy
Librarian, University of Malaya

Abdullah Sabbagh
Engineering Studies, Sydney

Ghayoor Abbas Chotana
Dept of Chemistry, Lahore University of
Management Sciences[PK]

Romona Mihaila
Spiru Haret University, Romania

Ecaterina Patrascu
Spiru Haret University, Bucharest

Anna Maria Constantinovici
AL. I. Cuza University, Romania

Delia Serbescu
Spiru Haret University, Bucharest,
Romania

Loredana Bosca
Spiru Haret University, Romania

Ilie Pinteau,
Spiru Haret University, Romania

Anurag Misra
DBS College, Kanpur

Fabricio Moraes de Almeida
Federal University of Rondonia, Brazil

Xiaohua Yang
PhD, USA

Titus PopPhD, Partium Christian
University, Oradea, Romania

George - Calin SERITAN
Faculty of Philosophy and Socio-Political
Sciences Al. I. Cuza University, Iasi

.....More

Editorial Board

Pratap Vyamktrao Naikwade
ASP College Devrukh, Ratnagiri, MS India Ex - VC. Solapur University, Solapur

Iresh Swami

Rajendra Shendge
Director, B.C.U.D. Solapur University,
Solapur

R. R. Patil
Head Geology Department Solapur
University, Solapur

N.S. Dhaygude
Ex. Prin. Dayanand College, Solapur

R. R. Yaliker
Director Management Institute, Solapur

Rama Bhosale
Prin. and Jt. Director Higher Education,
Panvel

Narendra Kadu
Jt. Director Higher Education, Pune

Umesh Rajderkar
Head Humanities & Social Science
YCMOU, Nashik

Salve R. N.
Department of Sociology, Shivaji
University, Kolhapur

K. M. Bhandarkar
Praful Patel College of Education, Gondia

S. R. Pandya
Head Education Dept. Mumbai University,
Mumbai

Govind P. Shinde
Bharati Vidyapeeth School of Distance
Education Center, Navi Mumbai

G. P. Patankar
S. D. M. Degree College, Honavar, Karnataka

Alka Darshan Shrivastava
Shaskiya Snatkottar Mahavidyalaya, Dhar

Chakane Sanjay Dnyaneshwar
Arts, Science & Commerce College,
Indapur, Pune

Maj. S. Bakhtiar Choudhary
Director, Hyderabad AP India.

Rahul Shriram Sudke
Devi Ahilya Vishwavidyalaya, Indore

Awadhesh Kumar Shirotriya
Secretary, Play India Play, Meerut (U.P.)

S. Parvathi Devi
Ph.D.-University of Allahabad

S.KANNAN
Annamalai University, TN

Sonal Singh,
Vikram University, Ujjain

Satish Kumar Kalhotra
Maulana Azad National Urdu University



FEMALE FOETICIDE-A SOCIAL EVIL WITH SPECIAL REFERENCE TO SOCIO-LEGAL ASPECT IN INDIA

Dr. V. G. Shinde

Assit. Prof. InS.S.V.S.S.Law College, Osmanabad



ABSTRACT

In ancient period Indian Scriptures mentioned that, 'where women are worshiped god resides at that place'. Women who constitute half of the population have been discriminated, harassed and exploited irrespective of the country to which they belong unmindful of the religion which they profess. Everywherewomen are confronted with many challenges. Female foeticide is one of the worst forms of violence against women where women are denied her fundamental right¹.

KEY WORDS- Female Foeticide, Social Evil, Socio-Legal Aspect, ancient period Indian Scriptures.

INTRODUCTION

Female foeticide is emerged as serious issue in modern India. It is threat for gender ratio in most of the states in India. The most affected areas are mainly the state of Punjab, Haryana and Gujarat, Delhi and Maharashtra states. Girls are treated as burden on family and other social discrimination lead to female foeticide in India. This has religious sanctions some time but it is creating gender imbalance in the society. Once women was considered as divine and worshiped as the embodiment of all virtues. But with the passing of time patriarchal society she has been discriminated against and victimized by the norms created by the male dominated society, for long time, social reformers fought for her due and legitimate place and status in society. There are various social evils in the society like Honour killing, Sati practice, Dowry, female foeticide etc, a girl is considered to be consumer rather than and this narrow viewpoint of Indian society has led to horrid practice like female foeticide and female infanticide. Due to this evil practice the health of the society is in danger. If we think on this matter we figure out that there has been discrimination with women from ages. The judiciary is that to render the justice those who suffered injustice from the state or private person. Judiciary is the tool in the hands of the state to punish the offenders and render the justice, in punishing the offenders and deciding the cases. Indian judiciary has brought confidence in the minds of the people of our country that there shall be no denial of any political, social or economic justice.

MEANING AND PROBLEM OF FEMALE FOETICIDE

The women are one of the most important sections of the society, which is neglected from the womb to tomb. The position of women is always inferior in the socio-economic religious set up. The problem of female foeticide is directly linked with the subordinate status of women in India. The act of aborting and terminating a foetus while it is still in the mother womb, because it is female, is known as female foeticide. The practice of female child being killed during infancy was a product of adverse historical and economic conditions. Female foeticide is a

practice , which involves the detection of sex of unborn child in the womb of mother and a decision of abort if the sex child is female detection of sex of a baby is done through amniocentesis, chronic villus sampling of ultrasonography method. Indian society is known for gender discrimination and gender imbalance. Sex selection abortion is a fairly recent phenomenon, but its root can be traced to the age old practice of female infanticide. This inhuman practice continues even today. Unfortunately gross misuse of technological advancement has aggravated this problem of female foeticide.

SOCIAL IMBALANCE

It is observed that, People began using the scanning technique for ascertaining the gender of their soon-to-be-baby it was a way of guaranteeing a son as an offspring, excepting mothers terminated pregnancies until the ultrasound report relived a male child, skewing the child sex ratio towards male. It is no surprise child sex ratio deteriorated from 104 males per 100 females in 1981 to 109.4 in 2011². The evil practice of female foeticide has generated number of other social problems. The biggest problem is difference of sex ratio between man and woman. In the 90s it went down to 837 female per 1000 male in Haryana., because of this difference male now a days has finding difficult to get married at the proper age. It is also seen that, unfortunately in some part of the country, even the parents of the girl have started to take the dowry from the boy family. It is in the initial stage and still we are not admitting the fact that parents of the girls can also demand the dowry. So indirectly the parents have started to sale the girl. Another problem is generated by this evil, such as marriages are not last for long time and results in divorce of the couple. In divorce not only two people but two families affected. There are other number of social imbalance occurs due to such evil customary practices in the society, so that ultimately bad effect will be took place in the society.

Sex selective abortion an increases the number of female feticide cases in Indian society. It is evil practice of selective elimination of the female fetus after prenatal sex determination or sex pre-selection, thus avoiding the birth of a girl child. Discrimination does not end with the sex- selective abortion of female fetus. It is observed that, in most of the cases it continues beyond birth. Female infanticide is a deliberate and intentional act of killing a female child within one year of its birth either directly by using poisonous substances or indirectly by neglect to feed the infant by the parents or other family members. As per Kolloor definition 'infanticide means killing of an entirely dependent child under the one year of age, who is killed by mother or others in whose care the child is entrusted'.

The sex ratio is a composite indicator of women's status. It reveals the number of females per thousand males. The natural sex ratio is favorable to the female yet in the developing countries it is adversely represented. In all but few countries of the world there are typically one hundred five women for every hundred men. Even though at birth boys out number girls by about the same proportion, studies has shown that were men and women have shown that, where men and women have access to equal care and health. In the industrialized countries on an average 106 women for every 100 men, In Sub-Saharan Africa there are 102 women for every 100 men and South East Asia 101 women for 100 men. In India, on the contrary, there are less than 93 women for every 100 men. Only where societies specifically and systematically discrimination against, fewer of them are found to survive³. In India the gender ratio is most imbalanced in the world especially among the people representing higher economic order.

ROOT CAUSE FOR FEMALE FOETICIDE IN INDIA

Female foeticide has its roots in the social arrangements of our country and its magnitude though changing with time has always shown increasing status. In Indian society are likely to have severe repercussions because of the inherent traditions bias against women followed by the society. The most fundamental factors which are responsible leading to such position female infanticide may be broadly observed in society as-

The Patriarchal Form of the society

In India the roots of gender bias are deeply has been embodied in our patriarchal form of the society. The Indian society is peritoneal, patriarchal and partilocal form of the society. In this system sons carry the family name. They also entrusted with the task of supporting their parents in the old age. Daughters on the other hand,

become part of their husband's family after marriage and do not make any further contribution to their parent's household. The son preference in the Indian society is basically due to the strong misconception that they can achieve Moksha only through their sons. As the importance of having sons continued beyond moral life in Indian tradition it becomes the root causes for the son preference and girl being unwanted entity, keeping in view the family members gives less attention towards her.

SOCIO-CULTURAL ISSUES

In Indian society patriarchal structure the socio-cultural had been developed un such form the human psyche has been beset with the notions of superiority accruing from worldwide practice of domination and control on the part of man and the propagation of a particular ideology which attempts to regulate and demean the strength of womanhood. The birth of girl child often puts immense pressure on the parents with regard to Honour killing, sati and dowry⁴ like social evil. In *CEHAT and others v. Union of India and others*⁵ Supreme Court held that one of the reasons of the female foeticide is marriage problems faced by the parents coupled with dowry demand with so-called rich and persons who are well placed in society. The practice of female foeticide is a product of belief in the inferiority of women.

ECONOMIC IMBALANCE

The Indian civilization has developed through various stages of development. One of the most publicized reasons for this disparity is the dowry system. In many parts of India particularly in the North the parents of the bride must give money and gifts to the groom's family as party of the marriage arrangement. This custom has over the past decades, spread throughout the social structure in India. Another economic disadvantage of daughters in India is their relatively low earning potential. As a result of which it is felt that for a family's economic stability to limit the number of girls in family and allow the boys to grow.

Another cause for female foeticide is an easy availability of modern techniques at door step; sex detection clinic has mushroomed all over the country in urban and rural areas. Another cause of female foeticide is wide program of population control and family planning.

Legislative Frame Work

There are several legal provisions relating to the prevention of female foeticides some of areas-

Indian Penal Code, 1860

For the protection of mother and unborn child under section 312 to 314, of the Codes⁶ provides to save the women from miscarriage. Miscarriage means the explosion of the child or fetus from the mother's womb at any period of pregnancy before the term of gestation is completed. Though the term Miscarriage is not defined in the code, in its popular sense it is equivalent with abortion and consists in the explosion of the embryo or fetus, that is immature product of conception, any act intended not in good faith to cause miscarriage is punishable under Indian Penal Code.

The Medical Termination of Pregnancy Act, 1971

This Act aims in preventing large number of unsafe abortions the Act clearly states that, an abortion can be termed legal only when-

Termination is done by a medical practitioner approved by the Act, Termination is done at a place approved under the Act, Termination is done for condition and within the gestation prescribed by the Act, other requirements of the rules and regulations are complied with continuation of pregnancy constitutes risk to the life or grave injury to the physical or mental health of woman or there is a substantial risk of physical mental abnormalities in the fetus as to render it seriously handicapped or if pregnancy caused by rape (presumed grave injury to mental health) or due to contraceptive failure in married couple. However termination of pregnancy is possible to 20 weeks of gestation period only with the consent of the woman. If the woman below 18 years or is mentally ill, then with consent of a guardian or with the opinion of a registered medical practitioners formed in good faith under certain circumstances with the opinion of two RMPs required for termination of pregnancy

between 12 and 20 weeks. Such abortion is to be conducted either at a hospital established or maintained by Government at a place approved for the purpose of this Act by a District –level committee constituted by the Government with the help of CMHO as chairperson. Thus this Act on one hand appositely aims to improve the mental health scenario by upholding the validity of legally induced abortions and negatively and on the other hand it seeks to reduce illegal abortion.

The Pre-Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994

This Act is the outcome of the realization of the parliament that a central piece of legislation had become mandatory for stopping the abuse of pre-natal diagnostics techniques. When it was quite evident from the rapidly growth of clinics all over there-natal diagnostic techniques were restricted for the purpose of detection of genetic disorders or chromosomal abnormalities or congenital abnormalities or sex-linked diseases only but was actually leading to female foeticide.

This Act provides that, -

- a. Prohibition of sex selection before and after conception,
- b. Regulation of pre-natal diagnostics techniques for detection of genetic abnormalities, by restricting their use to registered institution,
- c. Prevention of misuse of such technique for sex selection before or after conception,
- d. Prohibition of advertisement of any technique for sex selection as well as sex determination
- e. Prohibition on sale of ultrasound machines to persons not registered under these Act etc.

PNDT Act requires that, all diagnostic centers must be registered with the authorities. They are required to maintain detailed records of all pregnant women undergoing scans there. These records must include the referring doctors, medical and other details of the woman reason for doing the scan and signatures of the doctors. These records must be submitted to the authorities periodically. For implementing the Act appropriate authorities are appointed at the state level and work with the director of health services a member of a women's organization and an officer of the law.

JUDICIAL RESPONSE TO FEMALE FOETICIDE

The role of the judiciary is that to render the justice those who suffered injustice from the state or private person. Judiciary is the tool in the hands of the state to punish the offenders and render the justice, in punishing the offenders and deciding the cases. Indian judiciary has brought confidence in the minds of the people of our country that there shall be no denial of any political, social or economic justice. In the case *Center for Enquiry in to Health and allied themes Union of India*⁷, the Supreme Court issued beneficial directive to the Government undertaking the unique role of monitoring the implementation of the law by putting the issue of sex selection. In another case *Smt, satya v. Shri Ram*⁸ Supreme Court held that, Termination of pregnancy at the instance of wife but without the consent of her husband amounts to cruelty.

In the case of *Vijay Shrama v. Union of India*⁹ the Court held that, the sex selection would be as good as female foeticide. In another case *VinodSoni v. Union of India*¹⁰ The petitioners challenges Constitutional validity of preconception and Pre-Natal Diagnostic Techniques Act on the other ground that it violates Article 21 of the Constitution of India, but the Apex court has rightly held that right to bring into existence a life in future with a choice to determine the sex of that life can not in itself to be a right. In the land mark decision given by the US Supreme Court on the issue of abortion in case of *Roey v. Wade*¹¹ the U S Court has laid down that a mother may abort her pregnancy for any reason until the point at which the fetus become viable. The Medical Termination of Pregnancy Act permits abortion¹² within twenty weeks of pregnancy subject to the condition.

SUGGESTIONS

1. Society must work together for getting birth of girl child
2. Proper implementation of Act should be done
3. Prohibition has imposed on all counseling on all centers; clinic and laboratories where sex determination is took place.

4. Girl students to play an important role in social reforms and try to stop evils such as female foeticide and dowry. They spread among girl would bring respect of women and generate awareness for social transformation
5. There is need of awareness programmers to promote girl children and concerned efforts to change the mindset of people about the girl
6. Non-Governmental organization should take part to create awareness in village, street plays, discussion etc.
7. Legal aid camp must be organized in village which eliminates female foeticide.
8. If solography is compulsory then even it is an offence to give information about the fetus.
9. It is necessary to maintain record etc. report prepared by all these clinics and record has been maintained where pregnant women is examined.
10. Appropriate authorities have been appointed to enforce this Act in the state.

CONCLUSION

Indian society female foeticide is an inhuman, social evil and barbaric practice. Declining sex ratio and imbalance in population are the effects of it. Law prohibits Foeticide as a result of sex selection. In order to protect mother from grave injury or on the ground of genetic or other disorder of fetus law allows abortion, but it is regulated. Number of females has increased since last decades but the results are not satisfactory. Even after so many years after passing of laws relating to female still offence of female foeticide is committed. It is necessary to change the attitude of society by strengthening the position of women so that there should be preference of males over females and both males and females will be accepted with equality. The mindset of the people it must be change in favors of female. This can be done by sheer education, awareness, taking affirmative action's and the women's empowerment in social economic and political fields.

-
1. Article 21 of the Indian Constitution
 2. JaswantKaur , 'Crime Against Women ; What are Their Legal Right' , General Book, Manorama Year Book 2017, P. 814
 3. Prof. Tulsi Patel, Sex Selective abortion in India (Gender Society and New Reproductive Technology, Saga Publication House, India- New Delhi, Department of Sociology, 2007).
 4. Section 498(A) of Indian Penal Code and Section 4 of the Dowry Prohibition Act
 5. AIR 2003 SC 3309
 6. Section 312 of Indian Penal Code state that, 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, section 313 state that, whoever commits the offence defined in the last preceding section without the consent of the woman, whether the woman is quick with child or not, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine and section 314 whoever with intend 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 which may extend to ten years, and shall also be liable to fine.
 7. Center for enquiry in to health and allied themes, 2003 SCC 406
 8. AIR 1983 Punjab and Haryana 252
 9. AIR 2008 Bombay 29
 10. VinodSoni and another v. Union of India 2005
 11. Roe v. Wade (1973) 410 U.S
 12. Section 3 of the Medical Termination or Pregnancy Act 1973



Dr. V. G. Shinde
Assit. Prof. In S.V.S.S. Law College, Osmanabad

Publish Research Article

International Level Multidisciplinary Research Journal For All Subjects

Dear Sir/Mam,

We invite unpublished Research Paper, Summary of Research Project, Theses, Books and Book Review for publication, you will be pleased to know that our journals are

Associated and Indexed, India

- ★ International Scientific Journal Consortium
- ★ OPEN J-GATE

Associated and Indexed, USA

- EBSCO
- Index Copernicus
- Publication Index
- Academic Journal Database
- Contemporary Research Index
- Academic Paper Database
- Digital Journals Database
- Current Index to Scholarly Journals
- Elite Scientific Journal Archive
- Directory Of Academic Resources
- Scholar Journal Index
- Recent Science Index
- Scientific Resources Database
- Directory Of Research Journal Indexing

Golden Research Thoughts
258/34 Raviwar Peth Solapur-413005, Maharashtra
Contact-9595359435
E-Mail-ayisrj@yahoo.in/ayisrj2011@gmail.com
Website : www.aygrt.isrj.org