



## Female Foeticide and Female Infanticide in India: A Serious Challenge for the Society

Sudeshna<sup>a\*</sup>, Gopi Chand<sup>b</sup>

<sup>a</sup>Institute of Legal Studies, Chaudhary Charan Singh University, Meerut, U.P., India

<sup>b</sup>Faculty of Law, Meerut College, Meerut, U.P., India

E-mail: gchand.1161@gmail.com<sup>b</sup>

### Abstract

Status of woman in different human societies of the world is different. It is developed under the developed society, when the woman is occupy a unique position. It is discriminatory and prejudicial. India is one of the countries where the sex ratio is unfavorable to female. Discrimination against woman in matters like access to education, healthcare and nutrition has been cited as the major reason for the greater sickness and mortality rate among Indian female as compared to their male counterparts. It has never been possible for men and women to live in practical equality. The Constitution of India has discarded all sex discrimination, sex equality and liberty. It has been made a fundamental right and the states are directed to remove all sex inequalities and impediments to their personal liberty. And give equal status and opportunity of every person male and female both. Other legal provision such as pre- Conception and Pre- Natal diagnostic techniques (Prohibition of sex selection) Act 1996 and Medical Termination of Pregnancy Act 1971 are given some provision regarding to female foeticide and female infanticide. The main object of the PC PNDT Act is to ban the use sex selection technique after conception. The main object of MTP Act is to legalizes abortion processes and promotes access to safe abortion services to the woman. In this paper the researcher include the definition of female foeticide and infanticide, causation, legal provision, and measures of female foeticide and infanticide.

**Key Words:** Human Societies, Discrimination, Inequality, Impediments, PNDT, MTP, Legalizes Abortion.

### PAPER/ARTICLE INFO

RECEIVED ON: 02/12/2022

ACCEPTED ON: 31/12/2022

Reference to this paper should be made as follows:

Sudeshna & Chand, Gopi (2022), "Female Foeticide and Female Infanticide in India: A Serious Challenge for the Society", *International Journal of Trade and Commerce-IIARTC*, Vol. 11, No. 2, pp: 500-514.

\*Corresponding Author

DOI: 10.46333/ijtc/11/2/16

## **1. INTRODUCTION**

Discrimination is the main issue of against girl progress in the world. It has become a social evil, It is like a right of violation, we all must be stopped, why doth girl not get love and respect like boys? The status of women in different human society of world is different. Hindu considered man and women represent the two aspect of one person. Hindus used to worship goddesses in the past, but there is currently no real gender equality at the national or international level in our culture. The Universal Declaration of Human Rights, adopted by the United Nations, outlines these fundamental human rights. Some of the fundamental freedoms recognised by the UN and UNHR include the right to equality and nondiscrimination, nationality, personal property, education, employment, and freedom of movement.<sup>1</sup>

But inspite of these rights the girl has no status. All human rights are related to every boys and girl. They give equal protection of boys and girls. They developed of childhood and child growth, they have given equal status of boys and girl because the children have need a special care, protection and healthy. The recognized standard is the UN convention on the right of the child (CRC), which was drawn in 1989, CRC include the four principal for the child rights like-

- A. Rights of equality
- B. Right to survival and healthy development
- C. Right to Right to participation
- D. Right to best interest of the child

## **2. HISTORICAL ASPECT OF FEMALE FOETICIDE AND FEMALE INFANTICIDE**

An Ancient time the gender studies is different in India, The evil of female foeticide is not a new problems, it is a very old problems It has been a practiced from the decades. The main cause of the trouble started with patriarchal society and it is religious factor that men are support to look after their parents in the old age and son is one who performed all the religious rituals at the time of funeral of parents. It has been said, that man who have not any son he cannot attain moksha, son guarantees that parents are blessed with direct passage to heaven and giving birth to a girl child is seen by many as watering to the neighboring lawn and birth to a male child is being seen with great reputation and pleasure. When the birth of female child has never been welcomed and she is like a burden, and considered as paraya dhan and even blessing given to the Hindu woman in India on her wedding day by the loved ones and relative of family as "Doodho-Nahao-Pooto-Phalo" so our mental status is very low for a woman than of a son. In some area there is one tradition of "Kua Pooja" which is a ceremony only when a baby boy born in a family. All these traditions show the discrimination attitude towards female child. It explained that before technology, it is use to be that the birth of child were hidden because of female infanticide. Abortion is a significant social issue in our society because it results in the continued killing of unborn children among people who can either afford or do not have access to technology or medical facilities. Practice of sex selection is strong in India from the ancient time and continue till date, and this leads to girls shortage in our society, It is use in village or metro cities by the illiterate person, because it is only a myth that this practice is continue used by the poor and

---

<sup>1</sup> Jyotsna Tiwari, Child Abuse and Human Rights, Isha Books, 2<sup>nd</sup> volumes, Edition v 2004, P .2.

illiterate person, who are leading the way. Sex selection means the practice of determining is the sex of the unborn foetus development in the mother`s womb and eliminating. In addition to the technological mouse, low status of women and girls is a factor in sex selection.

### **3. DEFINITION OF FEMALE FOETICIDE AND FEMALE INFANTICIDE**

Female Foeticide means when the parents are killing the baby girl in mother`s womb, it is called female foeticide, In other word some family misused of the advancement technology in medical science. This medical science is badly used in sex selection and if the embryo is female, the person killing the girl in mother`s womb, it is called female foeticide<sup>2</sup>.

Female foeticide band on sex determination testing is a relating new practice, sex selection in any act of identifying the sex of the feotus and elimination of feotus if it is a female child, it is called female foeticide.

#### **i. Sex Selection**

According sec 2(o) Sex selection is a process in which a sex of a embryo is detected by a text, this proceeding is called sex selection. After selection the parents founds that if the unborn child is a female they destroyed of the feotus in mother`s womb. This act permits the sex selection in certain condition and permit use of such techniques like chromosomal, abnormalities, genetic metabolic diseases, haemoglobinopathies, congenital anomalies etc.<sup>3</sup>

#### **ii. Female Foeticide**

The killing of a female foetus at any stage of pregnancy after determining its gender is known as female foeticide.

#### **iii. Female Infanticide**

Female infanicide means intentionally killing of a baby girl after her birth.

### **4. CAUSATION OF FEMALE FOETICIDE AND FEMALE INFANTICIDE**

Female foeticide and infanticide is a social evil. This is affected of our society. Female foeticide is not only about misuse of technology, but also it shows the low status of woman and girl. Some social causes of female foeticide are as follows-

#### **i. Dowery Death**

Dowery death is the main cause of female foeticide in our society. Due of dowry anxiety among lower class families, several girls are killed while still in their mothers' wombs. They worry that they won't be able to afford to pay the dowry for their girls' marriages when they are destitute.

#### **ii. Desire of a Son**

Some family desire only male child, they think that son is the main sources of income, and the girls are the symbol of spend money. Son earn the money and the girls spend the money, There are many custom in Hindu marital life, which tend to suggest a lower status of woman such as

---

<sup>2</sup> S.C. Dr Tripathi and Vibha Arora, Law Related to Woman and Children, Central Law Pub, 4<sup>th</sup> Edition 2010, P.271

<sup>3</sup> PNDT Act 1994, Universal law Pub, P.9.

parading the girl before the boy and his family for facing their marriage donation (kanyadaan) at the time of marriage dowry given by the girls side to the boys side compulsion.

**iii. Law Status of Woman in the Society**

Indian woman have been brought to become a servant to serve the man, house hold decision making power and freedom of movement of woman are very limited, she has no right than man, on the other hand they worship this mother, and on the other they disregard their sister daughter, mother and wives, the man and women are equal, it is not true. In modern time Indian society is getting spend a new style life. In our constitution provided equal opportunities to men and woman, but in really the woman has facing many problem.

Jawaharlal Nehru said "you can tell the condition of a nation by looking at the status of its woman". The world celebrated International woman`s day on 8<sup>th</sup> march, A question arises here, that how far the status of woman changed, no it is not,<sup>4</sup>

**iv. Education**

Illiteracy is the main cause of the female foeticide, an uneducated person has different views they thought that girls are burden.

**v. Small Family**

Every person wants small family because they do not have sufficient means for earning. They believe in nuclear not a joint family.

**vi. Gender Discrimination**

Gender Discrimination is also root cause of female foeticide, Gender discrimination means to discriminate the between the boys and girls. It is a very important issue in the society for parent and grant parent to have a boy baby in the female beside having a son. Son and daughter are born from the same mother`s womb, it is not in the hand of the mother that she can only wish the boy on his birthday. Because the chromosome from which a boy is born is not found in the woman, yet the whole society considers the women responsible for it. And only mother is the culprit.

**vii. Advancement in Technology**

Our science has become very advanced in present time. This service ability have made this veritably easy task for parents. Compared to before, it is now considerably simpler to determine the foetus' gender. This further demonstrates how the makers of the high-tech equipment and tools used to conduct these tests profit off the suffering of prospective parents and their unborn child. It is well known that many hospitals establish long-term contracts with the companies that produce this kind of medical equipment. The lower economic echelons of society can easily access and afford the ultrasound technology used in amniocenters. It is also conveniently accessible in a nearby hospital with medicase credentials; regrettably, the ultrasound's accuracy is not always 100% until the foetus is 20 weeks along, at which point the kid is usually aborted by the parents.

---

<sup>4</sup> Dr. Jayesh kumar N. Barot, Status of women in India, Sarth Pub,1<sup>st</sup> Edition 2012, P.137.

■ **Conceptus**

According to sec 2b(a)- Concept us is any product of conception at any stage of development from fertilization until birth including extra embryoganic membranes as well as the embryo or foetus.

■ **Embryo**

According to sec 2b (b) embryo means a development oriented human organism up to the end of 8 weeks or 56 days after conception.

■ **Foetus**

According to sec 2b(c) feotus means a human organism during the period of its development beginning on the 57 day following fertilization or creation and ending at the birth.

■ **Genetic Counseling Center**

Means any place, hospital, institute, nursing home, where the genetics advice has been given to the patients.

■ **Genetic Clinic**

Any facility utilised to perform prenatal diagnostic operations, whether a clinic, hospital, institute, or nursing home, is referred to as a genetic clinic.

■ **Pre-Natal Diagnostic Procedures**

Section 2(i) defines pre-natal procedures as all gynaecological, obstetrical, or medical procedures such as ultrasound, fetoscopy, taking or removing samples of amniotic fluid, chorionic villi, embryo blood, or any other tissue or fluid of a man or of a woman before or after conception for being sent to a genetic lab or genetic clinic for conducting any type of analysis or pri-natal diagnostic test for selection of sex before.

## 5. SEX RATIO IN INDIA FROM 1901 TO 2021

Female foeticide and infanticide is not a new concept, where female embryos or foetus are destroyed before the born. Between 35 and 40 million girls and women are missing from the Indian population as a result of selective abortion. The gender ratio of girls to boys has fallen to fewer than 800:1000 in several states. Certain traditions, such as the desire for sons and the decision to either pay a sizable dowry for their daughters or stop having daughters, have gradually reduce sex ratio day by day. Female infanticide was the customary method of getting rid of unwanted girl babies. It is wrong and immoral to kill a girl baby while she is still an infant. It goes against God's law. Why infanticide and female foeticide are on the rise. Since the start of the 20th century, the sex ratio has constantly shifted in favour of males. This sex ratio is decreasing day by day in some states. It was in these states that private clinics for foetal sex determination were founded, and selective abortion started to gain popularity in the late 1970s. According to the 2011 population census, there are 940 females for every 1000 males in the population. In 2011 in India Compared to the census 2001 statistics, the sex ratio for 2011 indicates an increased trend. According to the 2001 Census, there were 933 girls than 1000 males. India's sex ratio has been declining for decades as of 2011. In India, the state of Haryana has the lowest sex ratio. And there are 877 females than males out of every 1000.

## 6. LEGISLATIVE PROVISION REGARDING TO FEMALE FOETICIDE AND INFANTICIDE IN INDIA

### I. Constitutional Provision

The Constitution is a basic fundamental of our nation. It contains unique legal provisions that outline the main responsibilities of the state's governing bodies and specify the rules by which they must function. The main purpose of the constitution to provided the basic rights and equality of the every person.<sup>5</sup>

The Constitution's provisions for equality before the law and equal protection under the law for all people, rather than gender equality as an ideal, have been found. The judges did not agree that men and women were equal, and equality is always intended to be between equals. They did not believe that gender equality was an illegal inequality.<sup>6</sup>

#### *Protection of Life and Personal*

Article 21 of the Constitution states that only in cases when legal procedures have been followed can someone be deprived of their life or personal freedom. In this article the two things has been define, one is right to life, and second is personal liberty.

Right to life means Right to life with dignity. This right has been provided every person, means male or female both.

In **Maneka Gandhi vs Union of India**<sup>7</sup> In this case the Supreme Court held that the expression personal liberty has the widest amplitude and it covers a variety of rights which go to constitute the personal liberty of men.

**Life:** It is very difficult to define the right to life. The right to life which is the most fundamental of all human being. It must have a wider application. In the 5<sup>th</sup> and 14<sup>th</sup> Amendments of the US Constitution, which says that no person shall be deprived of his "life liberty or property without due process of law".

In **case Munn vs Illinois**<sup>8</sup> In this case Justice Field has been spoken about the right to life. The word "life" refers to something greater than just animal existence. The prohibition against its loss applies to all the limbs and faculties that are used to enjoy life. The clause also forbids the mutilation of the body through the removal of an eye, an arm, a leg, or any other organ that serves as a conduit for the soul's communication with the outside world.

This statement has been repeatedly quoted with approval by our Supreme Court (Kharak singh vs State of U.P.AIR 1963 SC 1295.1301 1305) and also it has been further expanded in Francis Coralie Mullin vs UT of Delhi <sup>9</sup> In this case, the court determined that any act that impairs a person's ability to use any limb or capacity, either permanently or temporarily, would fall under art. 21's prohibition,

---

<sup>5</sup> Mamta Rao, Law relating to women and children, Eastern book company, 2<sup>nd</sup> Edition 2008, P.53.

<sup>6</sup> S.P. Sathe, Gender constitution and the courts, Essays in honour of lotika Sarkar, Eastern book co, Lucknow, 1999.

<sup>7</sup> AIR1978 SC597

<sup>8</sup> 24 L Ed 77 94 US113 (1877)

<sup>9</sup> 1981, SCC 608 AIR 1981 SC 746.



In *Bandhua Mukti Morcha vs Union of India*<sup>10</sup> In this instance, the court ruled that everyone in this nation has a fundamental right to a life that is free from all forms of exploitation.<sup>11</sup>

## II. Indian Penal Code, 1860

### (a) *Causing Miscarriage: According to section 312*

If a person intentionally causes a woman to miscarry while she is carrying a child, they may be punished with three years in prison, a fine, both, or both if they did not do so in good faith to save the woman's life. If the woman is also quick to become pregnant, they may be punished with seven years in prison, a fine, and both if they did so.<sup>12</sup>

Explanation: A woman who intentionally miscarries within the meaning of this clause.

**Miscarriage:** Miscarriage is the synonymously of abortion. When an ovum is removed during the first month of pregnancy, before the placenta has developed, this is called an abortion. Section 312, which deals with pregnancies that have been terminated illegally. Perhaps this was done to save the conservative and traditionally bound Indian society's feelings.

In 1974 the Austrian Constitution courts refused to recognise right to life to unborn life<sup>13</sup>. The European Convention for the Protection of Human Rights and Fundamental Freedom, which stated that everyone's right to life shall be respected by law, presented the court with the dilemma of determining whether or not unborn life is covered by article 2 of the European Convention or not. Because certain states did not recognise a right to life for beings who were not yet born, the court rejected the Austrian Government's request to include unborn life in its definition of the phrase "everyone" and held that the term is only meant to refer to human beings who are born.<sup>14</sup>

### (b) *Causing Miscarriage without Woman's Consent*

According to sec 313, Every individual who engages in abortion without the agreement of a pregnant woman, regardless of whether the woman is imminently pregnant or not, shall be punished with life imprisonment, or with imprisonment of either description for a term that may extend to ten years, with a fine, or with both.

### (c) *Death Caused by Act Done with Intent to Cause Miscarriage*

According sec 314 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 which may extend to ten years, and shall also be liable to fine.

**If act done without Women`s Consent:** If the act is done without the consent of the woman, shall be punished either with imprisonment for life, or with the punishment above mentioned.

---

<sup>10</sup> 1984 AIR SC.

<sup>11</sup> V.N. Shukla`s, Constitution of India, EBC, 12<sup>th</sup> Edition 2013, P.208.

<sup>12</sup> Pillai`s PSA, Criminal Law, Lexis Nexis, 14<sup>th</sup> Edition 2019, P. 752.

<sup>13</sup> Bonda the impact of Constitution law on the protection of unborn human life, Some comparative remarks, 6 human right 233 (234, 235) 1977.

<sup>14</sup> K. D. Gaur, Criminal Law Criminology and Administration of criminal justice, Universal law pub, 3<sup>rd</sup> Edition 2015, P. 772

**(d) Act done with Intent to Prevent Child being Born Alive or to Cause it to Die after Birth**

According to sec 315 If any person does any act before the birth of a child with intention to preventing the child from being born alive or will cause his death after birth, he shall be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both. If such act is not done in good faith with the intention of saving the life of the mother.

**(e) Causing Death of Quick Unborn Child by Act amounting to Culpable Homicide**

According to sec 316 If any person does such an act as to cause death. That persons shall be guilty of culpable homicide, if such act causes the death of any living unborn child he shall be punished with imprisonment for a term which may extend to ten years, and fine also.<sup>15</sup>

**III. Medical Termination of Pregnancy Act, 1971**

There are so many laws related to child protection for example, Indian Penal Code, constitution, family laws, PNDT Act, MTP Act, Juvenile justice etc. Law and contained some provision regarding the termination of pregnancy. Abortion was a crime which the mother parents as well as the Gynaecologist could be punished except where it has to be done to save the life of the mother. To save the pregnant women's health, medical termination of pregnancy act (MTP Act), is passed in 1994 by the Parliament. The Medical termination of pregnancy act provides for the termination of certain pregnancies and by the registered medical practitioners. This act is legalize abortion only when there is some risk of the female's life or a grave injury to her physical or mental health but not to legalize the illegal abortion with the intension to commit the act of female foeticide through pre-natal determination. This abortion can only be performed by a registered medical practitioner when pregnancy does not exceed 12 weeks. But if is over 12 weeks and within 20 weeks, then it is performed by two registered medical practitioners in a government hospital, nursing homes, centres approved by the Directorate of Health Services (DHS), or by Chief Medical Officer (CMO) of District<sup>16</sup>. It is duty of the doctor to be satisfied that there are justifiable grounds for the operation.

**IV. When a Woman can be Terminate the Pregnancies by the Registered Medical Practitioners**

There are some conditions are mentioned in the law when a pregnant woman can get herself aborted:-

- i. When the pregnancy is danger for the life of women or may cause grave injury to her physical or mental health.
- ii. When the economic condition is not well.
- iii. When the social environment is not suitable for the pregnancy.
- iv. In cases of rape a woman can also abort the child, if she doesn't want that baby.
- v. To prevent the birth of a child with serious deformity, mental, physical abnormalities e.g., congenital anomalies, genetic metabolic diseases, etc.

<sup>15</sup> Pillai's PSA, Criminal Law, LexisNexis, 14<sup>th</sup> Edition 2019, P. 752 - 756.

<sup>16</sup> Section 4 of Medical Termination of Pregnancy Act 1971



- vi. When pregnant woman is not mentally sound than the guardian can give written consent for abortion of such women.
- vii. When the risk to the health of the pregnant woman by reason ground.

When the act does not permit the termination of pregnancy after 20 weeks. Nonetheless, a licensed doctor may choose to end a pregnancy in the following circumstances:-

- a) where the pregnancy period is not longer than 12 weeks,
- b) Whenever a pregnancy is more than 12 weeks but not more than 20 weeks, if at least two licenced medical professionals have formed a sincere opinion that:-
  - i) if the pregnant woman's life is in danger or if pregnancy is likely to result in physical or mental harm.
  - ii) If there is sufficient reason to believe that the child, if born, will experience bodily or mental suffering and would also be severely disabled.

Even so, no pregnancy may be aborted without the woman's agreement, or in the event of a woman under the age of 18, or if the woman is insane, without the written consent of her guardian.<sup>17</sup>

The Government of India constituted many committee and policy in 1964, which is liberalisation of miscarriage contained in Section 312 of the IPC, which makes induced abortions illegal except to save the life of woman. The Shanti Lal Shah Committee submitted its report in 1970, which shows the various situations under which pregnancy could be lawfully terminated.

**The MTP Act 1971 and the MTP Act amendments 2021 is below<sup>18</sup>**

Part	MTP Act 1971	The MTP Amendment Act 2021
Indications (Contraceptive failure)	Only applies to married women	Unmarried women are also covered
Gestational Age Limit	20 weeks for all indications	24 weeks for rape survivors Beyond 24 weeks for substantial fetal abnormalities
Medical practitioner opinions required before termination	One RMP till 12 weeks Two RMPs till 20 weeks	One RMP till 20 weeks Two RMPs 20-24 weeks Medical Board approval after 24 weeks
Breach of the woman's confidentiality	Fine up to Rs 1000	Fine and/or Imprisonment of 1 year

***Place where Pregnancy may be Terminated***

According to section 4 of MTP Act that the pregnancy can be terminated either at a hospital which is established or maintained by the Government or at place which is approved by the Government or District level committee constituted by that government.

<sup>17</sup> Section 3(4) of Medical Termination of Pregnancy Act 1971, Universal Law, Edition 2017. P. 64.

<sup>18</sup> Medical Termination of Pregnancy (MTP) Amendment Act, 2021.



Provided that the District Level Committee shall consist of not less than 3 and not more than 5 members including the Chairperson as the Government may specify from time to time.

#### **V. The Pre-Conception and Pre-Natal Diagnostic Technique (Prohibition of Sex Selection) Act, 1994**

Our medical science has become more advance now a days. In the 21<sup>st</sup> century the blessing with a female baby hardly brings cordial happiness on the majority of Indian societies. But this medical technology is badly used in killing the girl in mother`s womb. In recently the Parliament has passed the PNDT Act (Pre-Natal Diagnostic techniques (Regulation and Prevention of misuse) Act 1994). The main object of this act is prohibition of sex selection, before and after conception. And regulation of prenatal diagnostic techniques (*e.g.*, amniocentesis and ultra-sonography) for the detection of genetic abnormalities, by restricting their use to only registered institutions. Pre-conception and pre-natal diagnosis (Prohibition of sex selection) Act, 2002 is the most recent revision to this law, which was amended in 2002 and went into effect in 2003. The main object of this act is prohibited of sex selection before or after conception, and this act is also used in detecting some genetic abnormalities.

##### **i. Object of PNDT Act**

This act regulates the use pre-natal sex determination technique. This act permits the use of pre-natal sex determination technique for the purpose of detecting genetic or chromosomal disorder or certain congenital anomalies or sex linked genetic diseases. This act has following objective:-

- a) To prevent female foeticide by stopping the misuse of pre-natal diagnostic procedures for foetus sex determination.
- b) To restrict the promotion of prenatal diagnostic methods for the identification or determination of sex.
- c) To permit the use of such techniques only under the certain conditions by the registered Institutions, hospital, nursing home.
- d) The purpose of this act is who violates the legislation provision they must be punished.

##### **ii. The Salient Features of this Act**

- a) To absolute prohibited of the sex selection and sex determination.
- b) The use of prenatal diagnostic techniques only by the rule and regulation.
- c) These can be used only for the specified conditions, like some abnormalities in the foetus.
- d) Only registered clinics, hospitals, nursing homes and laboratories can be conduct of these tests. The clinic shall display a copy of the registration certificate appropriately. Maintaining thorough patient records in accordance with prescribed forms is required.
- e) Only licenced medical professionals covered by this act, including MDs, gynaecologists, paediatricians, and medical geneticists, are permitted to perform certain diagnostic procedures, including ultra sonography.
- f) No person conducting this pre-natal diagnostic procedures with free consent of pregnant woman and her relatives.
- g) To prohibited the advertisement of sex determination tests.
- h) Only licenced doctors should be allowed to purchase ultrasound equipment.

- i) If any person who violate these provisions will be punished under this act.
- j) All offence under this act are cognizable, non-bailable and non-compoundable (sec 27).
- k) Only Appropriate Authority has power to search, seize and seal clinics under this act (sec 30).

**iii. Prohibition of Sex-Selection**

According to sec 3(a), No one, including a specialist or group of specialists in the field of infertility, should perform, or cause to be conducted, or assist in conducting by another person, sex selection of a woman or man or both, or on any tissue, embryo, concept, fluid, or gametes obtained from either or both of them.

**iv. Prohibition on Sale of Ultrasound Machines, etc., to Persons, Laboratories, Clinics, etc. not Registered under the Act**

According to sec 3(b), Any person who is not registered under this act. They will not sell any ultrasound equipment, imaging equipment, scanners, or other tools to genetic counselling centres, genetic laboratories, or genetic clinics that can identify the foetus' gender.<sup>19</sup>

**v. Determination of Sex Prohibition :**

After the enforcement of the PCPNDT Act, there are certain guidelines for the Sex Determination which is under:-

- a) Ultra sonography and other prenatal diagnostic procedures, including those used in genetic counselling centres, laboratories, or clinics, may not be used to determine the gender of a foetus.
- b) Ultra sonography is one of the prenatal diagnostic methods that cannot be used to determine a fetus's gender by anyone or by anyone else.
- c) No one may, under any circumstances, cause or let to be caused the selection of sex either before or after conception.

Hence, pre-natal might be defined as occurring before birth. According to the law, these tests can only be used to identify any physical or mental defects in a foetus. These methods involve the examination of blood, bodily fluid, such as amniotic fluid from amniocentesis, and tissue from a pregnant woman or the foetus. These tests are used by the pregnant women in following condition:-

- a) If the mother is worried about having children with physical and mental disabilities.
- b) If the mother suffers from a medical condition, such as a mental disease, mental retardation, or one of the inherited forms of anaemia,;
- c) The pregnancy is not stable.
- d) If the Pregnant woman takes some chemicals, drugs, radiation and the unborn child is defected.
- e) The age of pregnant women must be 35 years.

---

<sup>19</sup> Sec 3(b) of Pre-Conception and Pre- Natal Diagnostic Techniques (Prohibition of Sex Selection ) Act 1996, Universal Law pub 2017, P. 9.

- f) The doctor can do this test if the woman gives her consent in writing, and the doctor will give a copy of that written consent to the woman and keep a copy with her.
- vi. *Punishment for that Person who Violation of the Act***
- a) For a doctor who misuses these techniques for the determination of sex selection :
- b) If they are found guilty for the first time, they face a three-year prison and a fine of up to Rs. 10,000. The Medical Council will suspend your registration for five years after your first offence.
- c) 5 years in prison and a fine of Rs. 50,000 are the penalties for a second offence. In the event of further violations, permanent removal.
- d) Persons seeking to know the sex of the foetus :-
- e) For a first offence, 3 years in prison and a fine of up to Rs. 50,000.
- f) A punishment of Rs. 1,000,000 and five years in prison for a subsequent offence. The pregnant woman herself is considered innocent under the Act, unless and until proved otherwise. It is presumed that she will have been compelled to undergo sex determination tests by her husband and relatives.
- g) Those who advertised services for sex determination or selection. 3 years in prison and a punishment of up to 10,000 rupees, plus a daily fee of 500 rupees for any subsequent violations.

The Supreme Court ordered the Center to fully execute the PC and PNDT Act after taking a firm stand against the sex-selective discriminatory practises of the medical community and the potential link to the use of prenatal sex determination. The Mahila Sarvangeen Utkarsh Mandal (MASUM), Dr. Sabu George, and the Center for the Inquiry of Health and Allied Topics (CEHAT) submitted a public interest petition, which resulted to the order. The act's effective execution in these cases was decided. Supreme court passed an order on 2001 which aims at ensuring the implementation of the act, plugging the various loopholes and launching a wide media campaign on the issue.

## **7. EFFECT OF FEMALE FOETICIDE AND INFANTICIDE**

There will have the biggest effect of female foeticide and infanticide, the number of girls in the society will be reduced to a great extent and the development of the whole society will stop, because the girls are main part of the society. And the sex ratio will gradually decrease, which will have a profound effect on the coming generations. The number of girls in the families will be decreasing day by day, and girls will not to be available for the marriage of boys, due to which the families will not be able to move forward.

## **8. SUGGESTIONS**

- There is a popular saying in the society, that a man and a woman are two wheels of the same vehicle, to prove this proverb correct.
- In ancient times, women were worshiped in the form of Goddess Lakshmi and Saraswati in the society, but in today's society, women are eliminated in the womb, it is a socially and criminally punishable offense for which more stringent laws should be made, is required.



- It should be the aim of us morally and legally that there should be no discrimination of any kind between men and women.

## 9. CONCLUSION

We are living in a new era, where the man and woman are equal. And they have equal status in our society. But it is not true. We had worship of a girl like a Goddess in ancient time, but now a days the situation has become change. Where the girls will not be available for the marriage of the sons, so it will be a big challenge for human being, because they do not thing from where will the daughter -in -low come for their sons. It would be opposite of nature, because it is rule of our nature, that male and female both are necessary for development. Individuals who adhere to the long-standing culture of son preference and think that only sons, not females, are eligible to receive Pyre Pindadana and Mukhagni. Yet, people's attitudes can change nowadays, especially in regards to how important it is for females to grow up in families. The right to life is a fundamental human right as well as one guaranteed by the Indian Constitution. No one, whether they are a doctor or the parents of a newborn, can exercise this authority without a legitimate justification that is specified by the law. The primary contributor to this issue is the development of technology. We invent a new technology for the betterment of the society but people start to do the misuse of technology and when the misuse of any technology has been started, it's become a curse for humanity and the result of this is we face the problem of girls shortage in present time in form of female foeticide and female infanticide. To eradicate the problem of female foeticide, women empowerment is necessary in an economic or political area and promotion of gender sensitive health education. The main reason behind this problem is the structure of the society because our society is male dominant society and women are subject to violence within the house or outside the house. The attitude of society towards girls needs to be change because they are also the big part of Indian population and we cannot deny the importance of the girls in our life. They are us as a mother, they love as a wife and always ready to protect as a sister.

Both husbands and wives should be the targets of the policies to stop this behaviour. In fact, while it has been determined that women are to blame for sex-selective neglect that results in mortality, men are also somewhat to blame. "It's almost like first step toward eradication of humanity itself because if there are no mothers, there will be no children, and there is going to be nobody ever born". Someone men's desire for sons, and their wives also desire for sons, so this is the main reason that used this technique, and if that babies is a girl, they abort to her.

There are so many cases are registered in the court, A few prosecution have been launched in West Bengal, Bihar, Chandigarh, Tamil Nadu and Haryana. In Punjab, some action had been initiated in the last few months. And gladly Haryana witnesses the country's first conviction for using sex determination technologies on a complaint filed in 1997. This grim warning was issued by a sub-divisional Magistrate in Faridabad on March 28, while sentencing two persons to two years rigorous imprisonment each for violating the PC and PNDT Act, 1994. This is the first conviction since the inception of the Act. In India, according to census of 2011 there are 940 females per 1000 males, This condition is so critical. Now this is high time for society to realize the voice of females alarming to take the initiative for saving the girl child's life through the proper

implementation of PCPNDT Act,1994.In the light of the above discussion the following may be suggested to eradicate the problem of female foeticide:-

- Before there can be any improvement in the status of women, the law needs to be applied correctly and with greater severity.
- Pre Conception and Pre Natal Diagnostic Technique Act, 1994 to be publicized among doctors and public at large.
- The doctor's licence should be suspended or revoked if they participate in satiating a client's demand through female foeticide.
- High fines are levied on businesses that specialise in selling medical devices used in unlicensed clinics and hospitals for unlawful sex determination and abortion.
- Provisions made for high fines for those doctors and parents who are involving in female foeticide.
- Strictly action should be taken against 'parents' who knowingly try to kill or attempt to kill of unborn child.
- We should aware through the campaigns, seminars and workshops of all sisters, mothers, and women about the sex selective abortion.
- Amend the existing laws that have a gender bias so that the myth of male superiority can be exploded.
- Government should make more law and polices for the safety and protection of unborn child and girls.

In addition to the aforementioned, it needs to be ingrained in people's thoughts that she is a woman's life partner as well as a daughter, sister, mother, and wife. Even then why is this discrimination with of a girl. When girls go missing in a society, then a child is denied the right to life even before birth only because of she is girl, Discrimination against girls begins even before the child is born and lasts the rest of her life, all the way to death. We should not discriminate against girls because if we have daughters then we have a family and if we have a family then it is family and if we have a family then it is a society, so we should pay attention to the safety of more and more girls. It becomes a matter of utmost concern and requires immediate action when a girl child is deprived of her fundamental right to survive, develop, participate, and be protected. So we protect the girl because she is our future and she also is the part of our family. Together we all have to end this evil so that we can create a civilized society.

#### **REFERENCES**

- [1] DR. S.C. Tripathi and Vibha Arora, Law Related to women and children, central law pub, 4th Edition 2010.
- [2] V.N. Shukla,Constitution of India ,EBC,12<sup>th</sup> edition 2013.
- [3] Dr Jayesh kumar, NBarot, Status of Women in India, Sarth Pub, 1<sup>st</sup> edition 2012.
- [4] Mamta Rao, Law Relating to Women and Children, Eastern book Co, 2<sup>nd</sup> edition 2008.
- [5] S.P. Sathe, Gender Constitution and the Courts, Essays in honour of lotika sarkar , Eastern Book Co, Lucknow, 1999
- [6] PSA Pillai's, Criminal law, Lexis-Nexis, 14 Edition 2019.



- [7] KD Gaur, Criminal law Criminology and Administration of criminal justice, Universal law Pub, 3<sup>rd</sup> Edition 2015.
- [8] Kumar , Ashok (2017), Millennium (Sustainable) Development Goals 4, 5 and 6: A Study of Maternal and Infant Mortality in BIMARU States of India on the Precise Course, International Journal of Trade and Commerce-IIARTC, 6(1), pp. 71-81.
- [9] Ratan Lal & Dhiraj Lal, The Indian Penal Code, Lexis Nexis, 34<sup>th</sup> Edition 2014.
- [10] Justice Palok Basu, Law Relating To Protection Of Human Rights, Modern Law Publications, Edition -2004.
- [11] Pre-Conception and Pre-Natal Diagnostic Techniques Act 1994.
- [12] Medical Termination of Pregnancy Act.1971.
- [13] Prasad, Dwarika (2016), Surrogacy in Contemporary India: Issues and Challenges, International Journal of Trade and Commerce-IIARTC, 5(2), pp. 319-328.