LEGAL DISCOURSE AND THE ISSUE OF FEMALE FOETICIDE IN CONTEMPORARY INDIA

Dr. HARNEET KAUR*

*Guest Faculty in Subject of History, Institute of Educational Technology and Vocational Education, Panjab University, Chandigarh India

ABSTRACT

This paper focuses on the laws that were passed by the State to suppress the practice of the female foeticide in contemporary India. The objective of this paper is to discuss the suppressive measures or legal discourse of the State. After independence Indian government took many steps to enshrine the basic concept of equality and justice of the Indian constitution. The State intervention to save the right to life of the girl child is a very recent development. It was only in 1994 that the government passed ‘The Pre-Natal Diagnostic Techniques Act’ to save the right to life of the girl child.

KEYWORDS: Female Foeticide, Ultrasound, PNDT Act, MTP Act.

INTRODUCTION

The British administrators in their reports gave due space to the practice of female infanticide. In the colonial period the first reference to female infanticide came in the late 18th century by Jonathan Duncan, resident at Benaras; who drew attention towards its prevalence and fully authenticated it by the evidence and confession of the Rajkumars¹ and than by Alexander Walker in Gujarat in 1805-06. After Gujarat, the North-Western Province was the other area were the British found the prevalence of the practice of female infanticide. In 1839, the situation regarding the practice of female infanticide was similar in Rajputana as described by Sutherland.² In 1851, Major E. Lake, the Deputy Commissioner of Gurdaspur, was the first who drew the attention of the Board of Administration to the ‘enormity’ of the practice of female infanticide in the Punjab.³

After the 1850s the British hearing complaints and difficulties from all quarters the British decided to frame an Act to curb the practice of female infanticide. John Strachey was invited to frame a draft of the bill.⁴ The British passed the Female Infanticide Act of 1870 to prevent the further killing of the girl child which would be implemented first in North-Western Provinces, Punjab and Awadh and later in the whole of India. According to this Act they declared the killing of the girl child equivalent to murder and prepared the list of so called ‘infanticidal races’ in each district which needs strict supervision and actions. There was a proper procedure to declare the ‘infanticidal races’ or caste and control the proper percentage
of girls in the total population. According to the provision of the Act wherever the ratio of the girls to boys was found to be less than 40% of the village or clan population they were to be declared ‘infanticidal caste’ and Act were to be put into force. Secondly, again to lower down the marriage expenses the government fixed the expenditure on each and every thing including the expenses over the rituals and customs. All the pregnancies were to be reported by the head of family, the midwife and the Chowkidars to the police station. With regard to extra police, it was only to be appointed in places where the crime was very prevalent. From now onwards it was the duty of the father or head of the family celebrating the marriage to produce immediately before the Deputy Commissioner or an officer deputed by him on demand by the same an account showing the actual expenses incurred and to prove the correctness of the said account at the time of the marriage. Those villages which showed an improvement in the percentage of girls and exceeded 40% would not be asked to bear the expenses, and ordinarily though not necessarily, would be removed from the list. To identify the crime of female infanticide in various castes the British also followed the system of special police, espionage and rewarding of the informers. Registration of births, deaths and marriages were made compulsory in the areas where this Act was applied. In the event of the breach of these rules the person was liable to be imprisoned or fined both.

The Act was repealed by the colonial government in 1906 without giving any strong justifications. The sex ratio patterns at an all-India level still showed as skewed a sex ratio as earlier. The British claimed that everything was under control and there is not further need of this Act in India. At this point of time it seems that the British understood that the problem of female infanticide was not as widespread as had been assumed. Their interference in the social sphere of the people actually helped to the practice to those groups who had not previously practiced it. The sex ratio figures too did not show any real improvement in the India from the Census of 1871 to 1941. Though the sex ratio rose from 954 in 1881 to 963 in 1901 and afterwards there was continuous decline in the next four censuses as in the census of 1911 there were 954 females in 1921, 945 and in 1931 left with 940 females and in 1941 census, 935. Overall the number of females declined by -19 points from 1871 (954) to 1941(935).

It may be assumed that the British did not want to interfere further in the social life of the people or they did not want to bear the burden of social reforms on their shoulders. On other hand, they might have realized that the exaggeration of the extent of the practice of female infanticide was not borne in the reports of their own administrators. The highlighting
of the practice by the British actually may have resulted in the extension of the practice to areas and people which had not followed the practice at the time.\textsuperscript{10}

In the post 1947 period the principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements.

There are two legislations that directly affect the life of a child. The first, the Medical Termination of Pregnancy Act, 1971 (MTP), as amended in 2002 permits abortion under certain qualified situations. The Act protects the rights of women giving them the right over their own bodies and the right to decide when to have their children. It looks after the mother’s right not the child. It is thus, the first Act or legal provision to safeguard the life of the female child.

Until 1970 the provisions contained in the Indian Penal Code (IPC) governed the law on abortion. The Indian Penal Code 1860 permitted ‘legal abortions ‘done without criminal intent and in good faith for the express purpose of saving the life of the mother. This liberalization of abortion laws might be one of the measures of population control. With time the Medical Termination of Pregnancy Act was passed in July 1971, which came into force in April 1972. This law was conceived as a tool to let the pregnant women decide on the number and frequency of children. It further gave them the right to decide on having or not having the child and containing the size of the family. However, sometime the desire for a small family may have outweighed the desire for a child of a specific gender, leading to abortions where the sex of the fetus was different from that desired by the family. The MTP Act stipulated that an abortion may lawfully be done in qualified circumstances. The unscrupulous however, connived to misuse the law to have abortions conducted for the purpose of sex selection. Later, innovative technologies made sex selection easier, and without the regulations to control the use of such technologies, these technologies began to be misused for sex-selective abortions.\textsuperscript{11} These actions necessitated the enactment of second Act, the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT) in 1994.

Under the Indian Penal Code, causing an abortion, even if caused by the pregnant woman herself, is a criminal offense, unless it is done to save the life of the woman. The offense is punishable by imprisonment for a period of three years, by fine, or by both.\textsuperscript{12} In 1975, the MTP Rules and Regulations defined when abortion could be carried out 12-20
weeks of pregnancy, by whom (registered allopathic doctors) and where unwanted pregnancies could be legally terminated. The Act was amended in 2002 and 2003, to improve women’s access to safe abortion. The Medical Termination of Pregnancy (MTP) Act provides for an abortion to be performed by a registered medical practitioner in a government hospital provided, in his opinions that abortion is necessary to save the life of the mother.

A pregnancy caused by rape is presumed to constitute a grave injury to the mental health of the pregnant woman. The Act also allows an abortion to be performed when the pregnancy occurs due to the failure of any device or method used by any married woman or her husband for the purpose of limiting the number of children.

The sex ratio has continuously showed a decline from the census of 1951 till 2011, the Government of India felt the need of strong law against sex selection as people started using technology to select the sex of unborn foetus. If they did not find the desired sex they fearlessly aborted an unborn child. In a patriarchal society such as ours this technology totally went against the birth of the girl child only. Sex selection first started in India in 1974 as a part of a sample survey conducted at the All India Institute of Medical Sciences (AIIMS), New Delhi, to detect foetal abnormalities called amniocentesis. These tests were later stopped by the Indian Council of Medical Research (ICMR), but their ‘value’ had leaked out by then and 1979 saw the first sex determination clinic opening in Amritsar, Punjab. Various women organizations across the country started an agitation against sex selection but to no avail as legally the Medical Termination of Pregnancy Act of 1971 permitted the amniocentesis test which could be used for detection of foetal abnormalities. This led to the mushrooming of private clinics all over the country. In 1986, the Forum against Sex Determination and Sex Pre-Selection, a social action group in Mumbai, initiated a campaign. The relentless efforts of activists led Maharashtra to enact a law to prevent sex determination tests – the Maharashtra Regulation of Pre-Natal Diagnostic Techniques Act, 1988. This was followed by a similar Act being introduced in Punjab in May 1994.

On September 20, 1994, after intensive public debate all over India, Parliament enacted the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act. The Act, which came into operation from January 1, 1996 provided for the prohibition of sex selection, before or after conception, and for regulation of prenatal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination leading to female foeticide; and, for matters
connected therewith or incidental thereto. The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994 was enacted by Parliament in the Forty-Fifth Year of the Republic of India. Such abuse of techniques was discriminatory against the female sex and affected the dignity and status of women. So a strong legislation was needed to regulate the use of such techniques and to provide deterrent punishment to culprits.

The PNDT Act limits the use of prenatal tests for diagnosing possible genetic conditions in fetuses and bans employing these tests for sex determination. The Act requires that all genetic Counselling centers register with the government and that no center be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the specified purposes. The Act specifies that no pre-natal diagnostic techniques shall be conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled: that a woman who is to be tested for genetic disorders be over the age of thirty-five, has had two or more miscarriages, has been exposed to radiation or drugs, or has a family history of “mental retardation” or “physical deformities.” This clause also allows the Central Supervisory Board to add conditions under which tests for genetic disorders may be conducted.

In addition to regulating genetic counselling centers, the PNDT Act also prohibits advertisements promoting sex determination. The PNDT Act creates a Central Supervisory Board to oversee and report on the implementation and progress of the Act. The Central Advisory Board consists of ministers of various government departments, including health and women’s welfare, and ten members appointed by the Central government, including medical doctors, social scientists, and representatives from women’s organizations. The Act thoroughly details the qualifications, tenure, and administrative procedures for Board members. The expectation is that the Board will consist of mostly high-ranking government officials and some nongovernmental members elected by the central government. The amended law bans sex selection before and after conception, and further regulates the use of pre-natal diagnostic techniques for strictly medical purposes. In particular, the law restricts the use of diagnostic techniques to registered institutions and operators, which have to maintain detailed records. It also expressly prohibits persons conducting pre-natal diagnostic procedures from communicating the sex of the foetus by “words, signs, or in any other manner”, while also banning the advertisement of such techniques. “District Appropriate Authorities” provide registration for such units, and are in charge of inspection and
investigation, as well as the penalizing of defaulters, with quasi judicial power. In addition, the National Inspection and Monitoring Committee assess the ground realities through field visits, and provide its reports to the concerned state authorities and the Health Ministry at the Centre.

Any person who seeks the aid of any Genetic counselling Centre, Genetic Laboratory, Genetic Clinic or ultrasound clinic or imaging clinic or of a medical geneticist, gynaecologist, sinologist or imaging specialist or registered medical practitioner or any other person for sex selection or for conducting pre-natal diagnostic techniques on any pregnant woman for the purposes other than those specified in sub-section (2) of section 4, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees for the first offence and for any subsequent offence with imprisonment which may extend to five years and with fine which may extend to one lakh rupees.\textsuperscript{25}

Many providers have been obliged to stop providing information on a foetus’s sex to new customers, while illegal abortions are increasingly conducted by untrained and unregistered practitioners, with serious potential health consequences for women. The gender identifiers had evolved their own codes like \textit{ladoo} stood for son and \textit{barfi} for daughter. Some doctors gave a V sign. Some doctors just gave a discreet thumbs-up sign to indicate it was a boy.

Pre-implantation genetic diagnosis for instance takes place even before a pregnancy begins. Doctors called it a ‘cutting edge’ screening test, which helped ensure that gender-related genetic problems were not passed on to the offspring of parents who carried a faulty gene. This could be misused not just for producing children of the desired sex, but also for creating ‘designer’ babies. This was not an end some clinics offered the very latest technology for sex selection sperm sorting that separates the X from the Y chromosome and injects back only Y chromos into the womb. Most of the clinics used a process perfected by Dr Ericsson in the 1980s. The sex of the baby is determined by the sperm which fertilizes the egg. The egg only has X chromosomes. The sperm can carry either an X or a Y chromosome. The baby would be a boy only if the egg was fertilized by a sperm carrying a Y chromosome. The Ericsson technique is based on the fact that sperm carrying the Y chromosomes move faster than the ones carrying the X chromosome.\textsuperscript{26}

Ultrasound scanning being a non-invasive technique, quickly gained popularity and is now available in some of the most remote rural area. Both techniques are now being used for sex determination with the intention of abortion if the foetus turns out to be female. These
methods do not involve manipulation of genetic material to select the sex of a baby. Recent preconception gender selection however, includes flow cytometry, pre-implantation gender determination of the embryo and in vitro fertilization to ensure the birth of a baby of the desired sex without undergoing abortion.\textsuperscript{27} Earlier doctors employed the controversial amniocentesis test done between 14-18 weeks to determine the sex of the foetus. The ultrasound technique has been improved. The sex of a foetus can be determined by more sophisticated machines within 13-14 weeks of pregnancy by trans-vaginal sonography and by 14-16 weeks through abdominal ultrasound.\textsuperscript{28} There were 3D colour scans and Doppler scans which helped doctors to visualize the foetus better. In lay terms we can say that sometimes parents were able to recognize the sex of the foetus unintentionally.

New research had revealed some hitherto unknown information about foetal DNA. The discovery of foetal DNA in maternal plasma and the demonstration of the relative ease and reliability with which it could be detected and harvested, had opened up new possibilities for non-invasive prenatal diagnosis. The gender detectors examined the mother’s blood plasma for Y chromosome. The idea was simple. A girl’s DNA would be indistinguishable from that of her mother because like her mother she would be carrying only X chromosomes. So, if the Y chromosome DNA was present in the maternal blood sample, the unborn baby would be a boy. Its absence meant the baby was a girl.

By 2000, a number of new tests and scans as well as New Reproductive Technologies (NRTs), which are used for sex selection had emerged, which were not under the purview of the 1994 PNDT Act. The gender detectors of these new reproductive technologies were openly advertising their services in various newspapers, magazines, pamphlets or through various websites on internets. To stop this all pre-conception sex selection procedure, in February 2000, Dr Sabu George in his capacity as an individual activist along with two NGOs, CEHAT and MASUM, filed a Public Interest Litigation (PIL) in the Supreme Court. The PIL sought to activate the Central and State governments to rigorously implement the central legislation.\textsuperscript{29} It also wanted pre-conception or during-conception sex selection techniques and other new reproductive techniques to be brought under the purview of the PNDT Act. In 2001, a US company called Gen-Select ran a series of advertisements in the Times of India for a gender selection approach that was supposed to be safe and easy to use and up to 96 percent effective. Under it the mother-to-be would be put on a diet of carefully formulated gender-specific nutriceutical supplement’ they said. This included specific univalent and divalent cationic elements which combined with specific vitamins and herbal
extracts created ‘the strongest bias possible for successfully accomplishing conception of the requested gender. Once the diet was established then, the women’s monthly ovulation cycles were to be monitored by recording changes in the body temperature with a thermometer provided along with the kit. The couple was advised to have sex either immediately before or after ovulation depending again on the ‘requested’ gender.30

The drugs Mifepristone and Misoprostol are widely used as medical termination of pregnancy pills. Mifepristone blocks the hormone progesterone needed to maintain the pregnancy. Since this hormone is blocked, the uterine lining begins to shed the cervix begins to soften and bleeding may occur. With the later addition of the second medication, Misoprostol the uterus contracts and the pregnancy is usually expelled within 6 to 8 hours.31 These drugs are available with chemists over the counter. Drugs, which are so potent and which can be so easily utilized for killing the female foetus, must be only be available through a written prescription of a registered medical practitioner. In 2003, acting on the orders passed by the Supreme Court, the PNDT Act was amended. It was now known as the Pre-Conception and Pre-Natal Diagnostics Act. And it covered all kinds of pre-conception and prenatal diagnostic techniques. It brought under its purview some neglected areas like regulating the sale of equipment capable of detecting the sex of the foetus. Under the amendment Act it became mandatory to have signed in all ultrasound centers announcing that the detection and revealing of the sex of the foetus was illegal.

It was first time in February 2013, the health ministry seems to be flexing its muscles against the practice of sex determination and female foeticide by seeking action against 100 doctors across the country for violation of Pre-conception & Pre-natal Diagnostic Techniques Act, 1994 (PC & PNDT Act). The ministry has sent a list of 100 names detailing the punishment awarded to the doctors by various courts to the Medical Council of India (MCI).32 The ministry has sought action by MCI in the matter of suspension/cancellation of medical license of these doctors convicted under the PC & PNDT Act. Punishment ranged from six months to five years’ imprisonment to outright cancellation of medical licence and fines. Last year, the Central Supervisory Board set up under the PC & PNDT Act to tackle the issue of declining sex ratio, chaired by Health Minister Ghulam Nabi Azad, had considered the matter of suspension/cancellation of medical licences of doctors convicted under the PC & PNDT Act and had directed the MCI to take immediate steps against them. This was communicated to the MCI in August 2012 and on September 4, 2012, MCI wrote to the concerned state medical councils to ensure that the decision against these doctors was
implemented. Efforts against violation of PNDT Act seem most effective in Maharashtra which accounts for the largest number of doctors in the list, about 45 cases. Of this, seven cases pertain to 2011, while another 13 pertain to 2012. Doctors, caught violating the PNDT Act in Pune, have been let off with just a fine of Rs 1000. Many of the others from Sangli, Beed, Satara and Jalgaon have been awarded a year or more of rigorous imprisonment plus fines. Of the 100 names, 26 are from Haryana. Most of the doctors convicted in Haryana have been awarded one to three years of imprisonment and licence cancellation.

These two Acts were specifically meant to save the right to life of girl child even before or after birth of her. There is no doubt that these Acts were not fully effective or properly implemented, but legally detection of the sex before birth is declared illegal and punishable offense. Though these Acts put some stop on the extent of the killing of the girl foetus but not entirely. The easy availability of drugs used for terminating pregnancies is another loophole. This impacts the right to life of the child who is not allowed to be born. Legal measures thus, one not foolproof and incomplete and casual implementation negates their effectiveness.

The Central and State governments have also made numerous efforts to control the skewed sex ratio through from the very first five year plan, the Indian government gave due space to the issue of equality, justice, education, development and empowerment of women.

It was only from the Sixth five year plan (1980-1985) onwards, that women secured a special niche and space in the national plans and planning process primarily with thrusts on health, education and employment of women. Special nutrition programs were started in 1970-71 for providing nutritional supplements to the most vulnerable group of pregnant and nursing mothers and children of the age group 0-5. It was first time in 11th Five Year Plan that the issue of right to life of the girl child was mentioned. At the same time it wished to ensure the survival, protection, and all-round development of children of all ages, communities and economic groups. A small raise in the sex ratio for the age group 0–6 is seen from 927 in 2001 to 935 by 2011–12 and to 950 by 2016–17.

In 1971, in response to a request from the United Nations, the Government of India appointed a Committee on the Status of Women in India (CSWI) to examine the position, rights and status of women in the changing social and economic conditions. The Committee on the Status of Women in India submitted a comprehensive report named ‘Towards Equality’ which resulted in a major shift in the government's policies towards women.
Women were now treated as a separate group; with distinct identity they were not viewed as a part of any general welfare policy.

In the year 1985, the Department of Women and Child Development was set up as a part of the Ministry of Human Resource Development. This department also came up with plans and implemented certain innovative programs for women and children. The Department has also been implementing the Integrated Child Development Services (ICDS) providing a package of services comprising supplementary nutrition, immunization, health check up and referral services, pre-school non-formal education. The issue of right to life of the girl child was not taken up separately by the department; they did introduce many policies to ‘improve’ the status of the girl in the society. In 1992, the National Commission for Women was set up to investigate and review matters relating to safeguards for women and also as an agency, to redress the grievances of women. The National Commission for Protection of Child Rights (NCPCR) was set up in March 2007 as a statutory body under the Commissions for Protection of Child Rights Act, 2005 (4 of 2006), an Act of Parliament (December 2005). The mandate of the Commission was to ensure that all laws, policies, programs, and administrative mechanisms are in consonance with the child rights perspective as enshrined in the Constitution and also in the United Nation Convention on the Rights of the Child (year). It was first time that the issue of children rights was taken up. All focus was on the rights of children in all the spheres of the life.

The schemes like Mahila Jagriti Yojana, Swaamsidia, Jan Shree Bima Yojana, Indira Gandhi Matritav Sehyog Yojana, Janani Suraksha Yojana, Balika Samridhi Yojana, and Kishori Shakti Yojana all were meant to empower the women in general. The main objective of these schemes is to increase the social, economic and health status of the women. There was no scheme introduced, which was directly related with the issue of female foeticide and designed to help resolve this problem. In fact, the concern with the girl child’s right to life is largely missing.

Despite all these development measures and the Constitutional legal guarantees, the ratio of girls has lagged behind boys. There has been a continuous decline in the child sex ratio. It was 969 in 1961 Census, declined to 964 in 1971 with minus -5 points. In the Census of 1981, it declined further to 962, a decline of -2 points, and by the Census of 1991 the gap widened by 17points 945 too. In 2001 the downward trend continued with -18 points 927 and in 2011 come down to 914 (-13 points). The total decline from 1961 to 2011 was a decline of -55 points only in five decades from 1961. The study of trends in the child sex ratio reveals
the intensity of changes in it, over a period of time and the negative impact it will have on society. Mere law making is not an answer against the atrocities against the girl child and women. There should be proper implementation, justice, awareness and sensitivity for women through concerted and focused efforts.

The contemporary State is more focused on the legal actions and their implementation from top to down order in which they missed ground realities. The contemporary State also has new challenges of female foeticide and use of new reproductive technology for the sex selection which was not there in colonial period. After independence, a reverse trend is identified in the sex ratio patterns in comparison to the colonial period. As there was improvement in the overall sex ratio trends and decline in the child sex ratio patterns. This clearly indicates that something definitely went wrong or against the right to life of the girl child in recent times.

After Independence, Indian government focused on the overall development and enhancement of the girl child by promoting their education and protecting them from discrimination and deprivation. But the right to life of the girl child is ‘missing’. On other hand when we analysis the success rate of these efforts it is found that there is a major gap present in the set objectives of the policies and achieved goals both in the colonial times and in present India. All schemes, policies and legislation failed to get desired results and in giving social status and security to the women and girl child. Only one direct law has been passed which leaves much to desire where implementation is concerned. In fact, hardly any conviction has taken place in known incidence of sex selective abortions or female foeticide. In the various schemes and programmes too the concentration is more on health and education of young girls and less on any check on taking the life of unborn girls or even educating people about such ‘reforms’.

References

1 Jonathan Duncan, Letter (Extract) 2nd October, 1789; Edward Moor, Hindu Infanticide: An Account of the Measure Adopted for Suppressing the Practice of Systematic Murder by their Parents of Female Infants, J. Johnson & co., London, 1811, p- 8. 
2 Lalita Panigrahi, British Social Policy and Female Infanticide, Munshiram Manoharlal, New Delhi, 1972, p-71. 
6 Section 15. of the Female Infanticide Prohibition Act VIII of 1870.
Section 23 of the Female Infanticide Prohibition Act VIII of 1870.

Section 29-30 of the Female Infanticide Prohibition Act VIII of 1870.


Lata Mani in her work the issue is compenable to the British effort at controlling sati, another social evil, identified that when the British official started their debate on the issue of widow buring. It resulted in the increase of its incidences. Lata Mani, ‘Contentious Traditions The Debate on Sati in Colonial India’, Oxford University Press, New Delhi, 1998, 21.

Under section 5. clause 2 Notwithstanding anything contained in the Indian Penal Code, the termination of pregnancy by a person who is not a registered medical practitioner shall be an offence punishable under that Code, and that Code shall, to this extent, stand modified.


Section 3 Subject to the provisions of sub-section (4), a pregnancy may be terminated by a registered medical practitioner, -
(a) where the length of the pregnancy does not exceed twelve weeks, if such medical practitioner is, or
(b) where the length of the pregnancy exceeds twelve weeks but does not exceed twenty weeks, if not less than two registered medical practitioners.


Section 3 of the MTP
(i) the continuance of the pregnancy would involve a risk to the life of the pregnancy woman or of grave injury to her physical or mental health; or
(ii) there is a substantial risk that if the child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.


Madhusoodan Tripathi, Female Foeticide in India A Harsh Reality, Ancient Publishing House, Delhi, 2011, p-16.


Under Section 3A.of Pre-Conception And Pre-Natal Diagnostic Techniques Act, Prohibition of sex-selection- No person, including a specialist or a team of specialists in the field of infertility, shall conduct or cause to be conducted or aid in conducting by himself or by any other person, sex selection on a woman or a man or on both or on any tissue, embryo, conceptus, fluid or gametes derived from either or both of them.


Under section 3B. Prohibition on sale of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.- No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.


Under section 3 of chapter-III. no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely:-

(i) age of the pregnant woman is above thirty-five years;
(ii) the pregnant woman has undergone of two or more spontaneous abortions or foetal loss;
(iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals;
(iv) the pregnant woman or her spouse has a family history of mental retardation or physical deformities such as, spasticity or any other genetic disease;
(v) any other condition as may be specified by the Central Supervisory Board.


Section 22 of Chapter VII. Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.- No person, organization, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including clinic, laboratory or centre having ultrasound machine or imaging machine or scanner.
or any other technology capable of undertaking determination of sex of foetus or sex selection shall issue, publish, distribute, communicate or cause to be issued, published, distributed or communicated any advertisement, in any form, including internet, regarding facilities of pre-natal determination of sex or sex selection before conception available at such centre, laboratory, clinic or at any other place.


24 See Appendix-4


28 Ibid, 44.

29 Gita Aravamudan, *Disappearing Daughters*, p-93.

30 Gita Aravamudan, *Disappearing Daughters*, p-81.


