

RIGHT TO ABORTION AND FEMALE FOETICIDE

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INTRODUCTION

MEDICINE AND LAW – Noblest professions

Doctor – Vaidyo Narayan Hari

Guru –Teacher and

Lawyer is a crusader of Justice

- **Right to Abortion**
- **Medical Termination of Pregnancy Act,1971**
- **Female Foeticide.**
- **Pre Conception and Pre Natal Diagnostics Technologies ACT,1994**

Abortion

- **Abortion means Expulsion of an embryo or fetus from the uterus resulting in caused by, its death.**
- **Spontaneous Abortion – Complications during pregnancy and occur unintentionally (Miscarriage)**
- **Induced Abortion –**
 - Therapeutic – induced to preserve the health of the women**
 - Elective – induced for any other reason**

Provisions under IPC

- **Sec. 312 - 316 of IPC – Un lawful termination of pregnancy**
- **Sec. 312 - causing miscarriage**
- **Sec. 313 – causing miscarriage without consent of women**
- **Sec. 314 – death of a women by act done with intent to cause miscarriage**
- **Sec. 315 – Act done with intent to prevent child being born alive or to cause it to die after birth**
- **Sec. 316 - 316.causing death of quick unborn child by act amounting to culpable homicide**

ABORTION UNDER MTP ACT

Abortions are termed legal only when all the following conditions are met:

- Termination done by a medical practitioner approved by the Act
- Termination done at a place approved under the Act
- Termination done for conditions and within the gestation prescribed by the Act
- Other requirements of the rules & regulations are complied with

When can pregnancies be terminated?


- Up to 20 weeks gestation
- With the consent of the women. If the woman is below 18 years or is mentally ill, then with consent of a guardian
- With the opinion of a registered medical practitioner, formed in good faith, under certain circumstances
- Opinion of two RMPs required for termination of pregnancy between 12 and 20 weeks

MTP Act amendment 2002

- Decentralizes site registration to a 3-5 member district level committee chaired by the CMO/DHO
- Approval of sites that can perform MTPs under the act can now be done at the district level
- Stricter penalties for MTPs being done in a un-approved site or by a persons not permitted by the act

Penalties

- Penalty of two to seven years in prison if termination performed by a non-registered medical practitioner.
- Same penalty applies to those who perform abortions outside of hospitals or other approved locations

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- India has lost over 10 million girls because of female foeticide in last 20 Years
 - 2 million females are killed before or at birth simply because of their sex.
 - 35 % Districts in India have lower Child sex ratio than National Average.
 - In certain parts of the country , there are less than 8 girls for every 10 boys.
 - The extent of “missing girls” is 5 – 7 Lakhs a year and about 2000 girls a day.



India has always possessed the hateful legacy of killing girl child.

Earlier the Scientific Techniques were not advanced, so it was not possible to determine the sex of the foetus.

Due to Scientific advancement, the blind killing of female foetus has led to a precarious situation , where the male female ratio of the population is being affected.

Objectives of PCPNDT Act

- Prohibition of the misuse of the prenatal diagnostic techniques for the determination of the sex of the foetus.
- Prohibition of advertisement of the techniques for the determination of sex.
- Regulation of the use of techniques only for the specific purposes like detecting genetic abnormalities.
- Permission to use such techniques only under certain conditions and in registered institutions.
- To provide deterrent punishment to stop inhuman acts of the female foeticide.

Regulation of Genetic counselling centers /Laboratories/Clinics

- ✓ Registration of Genetic counselling centers
/Laboratories/Clinics.
- ✓ qualified persons
- ✓ registered place

conduct of pre-natal diagnostic techniques is allowed only for the detection of:

- chromosomal abnormalities
- genetic metabolic diseases
- haemoglobinopathies
- sex-linked genetic diseases
- inborn anomalies
- other defects or diseases specified by the Central Supervisory Board

Registration of Genetic Counselling centres, Genetic Laboratories and Genetic Clinic(Chapter VI)

- Duly Registered
- Application for registration (in prescribed manner and with prescribed fees) to be made to Appropriate Authorities.
- Registration fees:
- For Genetic Laboratory is Rs. 3000
- For Ultra-sonography centre operators in Nursing Home is Rs. 6000
- For registration ,satisfaction of Appropriate authority is necessary.

penalties

- **For contravention of provisions of the Act
Imprisonment for 3 years fine up to 10,000 rupees**
- **on subsequent conviction, imprisonment which may extend to 5 years and fine upto Rs 50,000**
- **Registered Medical Practitioner who has been convicted by the court**
- **Appropriate authority to report to State Medical Council for taking necessary action.**
- **Person who seeks the aid of any Genetic Counselling centre, Genetic Laboratory, Genetic Clinic for conducting PNDT on any pregnant women**

- **Imprisonment for a term which may extend to 3 years and fine which may extend to Rs . 50,000. on subsequent conviction, imprisonment which may extend to 5 years Fine which may extend to one lakh rupees.**
- **Pregnant women when compelled by her husband or any relative to go for PNDT Shall be liable for abetment. (instigates or Intentionally aiding**

Conclusion:

- The abortion law in India, as it stands, is therefore the worst of all worlds: it deprives the woman of choice and control over her body, while at the same time failing to prevent female foeticide.
- This legal framework has never received serious judicial scrutiny, and by not going into the questions raised in “Ms X’s” petition, the Supreme Court has shirked from an important duty. The questions of choice, autonomy over one’s body and how to balance these against the issue of female foeticide have to be debated now in the public if we need to come out of this utterly depressing status quo



Thank you