

# Female Infanticide

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## Abstract

“It’s A Girl” this has been treated as the three deadliest words in the world. In all these years we have seen lots of changes in the world, from developments to introduction of new technologies we have come across so many positive changes in world wide. Most of the people are now getting proper education to understand what’s wrong and right. But even after getting all these facilities still some people are seeing girl child as a curse and unlucky for them. Due to people’s blind belief on religion, their poor financial condition etc. are forcing them to kill their girl child. Because for them a girl child is nothing but a burden. In order to get rid of the burden called girl child they started the practice called Female Infanticide. In Indian people started doing this practice years back and still in some parts of the country they still exercise such practices. This article focuses both past and present scenario of female infanticide practices in the country. It also explains the reason why people exercise such practices and the stand of judiciary regarding such matters.

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## **Introduction**

In India discrimination against girls begins before birth and spans the entire life. India is one of the few countries in the world where women and men have nearly the same life expectancy at birth. The fact that the typical female advantage in life expectancy is not seen in India suggests that there are systematic problems with women's health. Indian women have high mortality rates, particularly during childhood and in their productive years. The health of Indian women is intrinsically linked to their status in society. The women in India belong to various social-economic backgrounds and are sometimes marginalized or neglected when it comes to basic health-care. Women however, are the very backbone of any society and if one needs a healthy society, the women need to be well taken care off. Research on women's status has found that the contributions Indian women make to families often are overlooked and instead they are viewed as economic burden. One of the most gruesome social evils prevalent in India is female foeticide. The causes for eliminating the girl child are rooted in rituals and perceptions that go back centuries: the fear of having to pay for a girl's dowry, the belief that for true salvation a son should perform the last rites, the conviction that lineage and inheritance run through the male line and that a son will look after his parents in their old age, whereas the daughters will belong to another family. It is this lifelong discrimination in nurturing and care that is the real killer of girls, less visible and less dramatic, but as unequivocally lethal as female foeticide and infanticide (UNICEF, 1998).

## **What is Infanticide?**

The term Infanticide means "the crime of a mother killing her child within a year of birth". Infanticide or Infant Homicide is the intentional killing of infants.

According to Anthropologist Laila Williamson notes that "Infanticide has been practiced on every level of cultural complexity, from hunter gatherers to high civilizations, including our own ancestors. Rather than being an exception, then, it has been the rule".

There were several methods used to do infanticide. A frequent method of infanticide in ancient Europe and Asia was simply to abandon the infant, leaving it to die by exposure that is; hypothermia, hunger, thirst, or animal attack.

## **Female Infanticide**

Female infanticide is the deliberate killing of girl babies. It is also described as gender-selective killing or "gendercide". It is one of the major causes of problem in many nations like India, China and Pakistan.

## **Indian Scenario**

In India killing of the female children was not common in all cases. It was however a moral feature of the kshatriyas and it was practiced secretly. The British Resident at Benaras, Jonatham reported this practice among the Rajkumars of Benaras, Later on this practice was discovered among the Jadejas of Kathiawar and Kutch, KutchwahRajputs, ChauhanRajputs, the PrthakAhivs of Manipuri and among the wealthier and upper sections of the Punjab. The Bedis of Jalandhar were so accustomed to it that everybody among them who kept a daughter was excommunicated.

Infanticide of the female children in India is usually done due to the following things most of the time:-

1. Family vanity among the groups of warrior class.
2. Inflated dowry demand.
3. Heavy expenses required to be incurred by the bride's party during marriages.
4. Craze for a male child drives a family to sacrifice a daughter's life on account of superstitions at times under the influence of the miracle-man of the community.

### **How Children are Killed?**

At many places the child was destroyed immediately after birth by filling the mouth with cow dung or by administering a small pill of opium or by not feeding the female child. There were also so many incidents in which child have been brutally murdered by the family itself.

### **Where are the Women?**

They were murdered as babies or killed in the womb itself. Most of the cases the law punishes the mother and lets off the father and other family members, ignoring the fact that women are often forced to opt for abortion or neglect the girl baby to death.

The Center for Child and Law of the National Law School, Bangalore, has recommended that female infanticide be recognized as a separate crime. Whenever the girl child dies, it should be case of female infanticide and the burden to disprove it should rest on the father and other relatives. The mother should be presumed innocent till proved guilty.

In the Population Census of 2011 it was revealed that the population ratio of India 2011 is 940 females per 1000 of males. The sex ratio 2011 shows an upward trend from the census 2001 data. Census 2001 revealed that there were 933 females to that of 1000 males. Most states the female ratio is lower due to infanticide and foeticide.

In states like Bihar, Gujarat, Uttar Pradesh, Madhya Pradesh, Maharashtra, Haryana, Rajasthan and Tamil Nadu, the practice has become popular since they bring relief to the parents from the problems of paying dowry and spending a lot at the time of marriage of their

girls. It is lower in Kerala when compared with other states. And the sex ratio of Kerala is 1084 females per 1000 males.

### **Summary of Various Female Infanticide Incidents in India**

1. Three month old Baby Neha Afreen died of a cardiac arrest at a government hospital in Bengaluru. Brutalised by her father, who wanted a boy, she had been admitted with a severe head injuries, dislocated neck and bite and burn marks on her body.
2. In Kavaraipet near Chennai three month old Jyothilakshmi was flung against the wall of her house by her father. Damodaran, a daily wage worker had wanted his wife to hand over the baby to an orphanage as she was the third daughter. Enraged that his wife refused to give up the baby, Damodaran grabbed her by the head and flung her against the wall. Baby died within minutes.
3. In Madurai a 26 years old woman of Chokkathuram, who had vowed to carry "Agni Chatti" (firepot) to a nearby temple during the "Panguni Uthiram" festival, but could not fulfill her vow as her husband declined to give her money for that and in frustration, she doused her three daughters with kerosene and set them on fire. Thereafter she herself attempted to commit suicide. On hearing, the neighbors rushed and retrieved the children and hospitalized them. Only one could survive. It is pertinent to mention that she had a male child as well who was spared.
4. In October 1986, the Central Government ordered an inquiry into the alleged killing of a baby girl in the family of an MLA. A C.I.D enquiry was conducted by two officers, an Additional Superintendent of police and an Assistant Superintendent of Police. The common thing in both the enquires was that there is truth in the matter but since the Gujjar family in Rajasthan are well-off and carry on money-lending business and therefore no one was coming forward to give evidence. In the meantime, a Public Interest Litigation case was filed before the Rajasthan High Court by Ms Summita Satyarthi, a Human Rights Activist, who pleaded for a direction to be issued for a direction to be issued for holding a C.B.I enquiry. Great interest having been shown by the people, a case of murder was registered against the Legislator.

### **The Kallars of Tamil Nadu**

In terms of caste history one finds a similarity between the Kallars of Tamilnadu and the Rajputs of northern India. However today the Kallars are found in such diverse occupations as landless agricultural laborers, watchmen, small business etc.

It has been noted that the role of women in their economic pursuits is insignificant. The women's role is confined solely to bearing and rearing of children and looking after the household activities. As such the level of education among the kallars is very low.

It is common for members of this community to openly admit to infanticide as if they are narrating their cultural habits.

In one instance the father stepped on the throat of his infant daughter a few hours after the female baby was born while the mother was still unconscious; a second method was to feed the female infant with the poisonous milk of a wild plant (*calotropis gigantea*) or the oleander berries known for their lethal poison, with little sugar the result being instant death.. It is also observed that every Kallar household has this plant grown in the courtyard for use at an appropriate time such as the birth of an unwanted female baby. There is also a widespread belief among the Kallars that if you kill a daughter, your next child will be a son.

### **Female Infanticide Prevention Act,1870**

The Female Infanticide Prevention Act, 1870, also Act VIII of 1870 was a legislative act passed in British India, to prevent murder of female infants. The Section 7 of this Act declared that it was initially applicable only to the territories of Oudh, North-Western Provinces and Punjab, but the Act authorized the Governor General to extend the law to any other district or province of the British Raj at his discretion.

The British colonial authorities passed the Female Infanticide Prevention Act 1870, under pressure of Christian missionaries and social reformers seeking an end to the incidences of female infanticides in South Asia. The law's preamble stated that the murder of female infants is believed to be commonly committed in certain parts of British India, and these were Oudh, North-Western Provinces and Punjab. The Act initially applied to these regions.

The law authorized the creation of a police force to maintain birth, marriage and death registers, to conduct census of the district at its discretion, enforce a special tax on the district to pay for the expenses and entertainment of said police officers. The Act also stipulated a prison sentence of six months or a fine of thirty thousand rupees, or both, on anyone who disobeyed or obstructed the police officers enforcing the Act. Section 6 of the Act allowed the police officer to seize a child from any person he suspects may neglect or endanger any female child, as well as force collect a monthly fee from that person.

### **Current status**

The Act was in force till 1981 in Pakistan, when it was superseded by an ordinance.

### **Case laws**

**Appaji v. StatebyNuggehalli Police<sup>2</sup>**

This is one of the unusual cases of infanticide alleged to have been committed by none else than the father of twin infant daughters hardly aged 1 year. According to the prosecution, accused and his wife Jayalakshamma had four daughters. Out of whom, the two deceased Suma and Sumalatha aged about one year were twins and the youngest. As per the prosecution case, as the accused had only daughters and no son, he wanted to marry the daughter of P.Ws. 8 and 9 and as they alleged to have informed him that if there are so many daughters, they will not give their daughter in marriage to accused, it is alleged that in the night of 25-1-1995, he killed both the infants while they were sleeping in the cradles by smothering. The investigation started on the first information given by the accused himself as per Ex. P. 23 on 26-1-1995 at about 7 a.m. As per Ex. P. 23, he has reported to the police that on the night when the accused and wife along with the deceased children were sleeping, at about 10.30 in the night, wife felt the movement of snake on her legs, got up scared and also woke up the accused. After putting the light, he noticed that both the children were dead and according to him, as he noticed two injuries on the lips of both the deceased, he suspected they have died due to snakebite. On the basis of this information, ASI of Nuggehalli Police Station, registered a case in UDR No. 1 of 1995 under Section 174 of the Cr. P.C. and took up the investigation. During the investigation, inquests as per Exs. P. 22 and P. 25 were conducted and the bodies were sent for autopsy. Dr. Ravishankar conducted autopsy on both the dead bodies and according to the Doctor, the cause of death of both the children was due to asphyxia as a result of smothering. As the post-mortem reports indicated death by smothering and as such, homicidal, P.W. 18-the CPI who took further investigation suspected that it was the act of homicide by accused and his wife P.W. 1-Jayalakshamma. Accordingly he registered a suomotu complaint and a case in Crime No. 20 of 1995 for the offence under Section 302 of the IPC against them and further investigation was carried on. During the investigation, the spot mahazar was conducted, the twin cradles, beds, etc., wherein, the deceased children were sleeping at the time of death, were seized. Statements of witnesses including the relatives of the accused were recorded and investigation was being completed. It is to be noted at this stage that as Investigating Officer did not find any incriminatory circumstance or evidence so far as P.W. 1 is concerned, he filed the charge-sheet against the appellant-accused alone. On the basis of the material, the accused was charged for the offence under Section 302 of the IPC. Appreciating the evidence before

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<sup>2</sup>2000 (ILR 2000 KAR 2769, 2000(5) KarLJ50.

the Court, the Trial Court found the accused guilty of the offences under Section 302 of the IPC and as such, sentenced him to undergo imprisonment for life. On appeal the High Court held that “On careful consideration of the entire material evidence, we have no hesitation to hold that the findings arrived at by the Trial Court that it was the accused and accused alone who committed the infanticide of Sums and Sumalatha by smothering is just and proper and there are no materials to hold that these findings are either perverse or illegal.” In the result, the appeal fails. Same is rejected upholding the conviction of the accused/appellant.

**K.E. Thankamani v. State of Kerala<sup>3</sup>**

**Judgment**

1. Special leave granted:
2. The appellant has been convicted for the offence under Section 302, I.P.C. for having committed the murder of her two children by throwing them in well. The case of the prosecution is that the appellant herself jumped in the well and subsequently she survived. The learned counsel for the appellant has invited our attention to Rule 131 of the Criminal Rules of Practice, Kerala, 1982 which reads as follows : "Reference to Government in case of infanticide : In all cases where women are convicted for the murder of their infant children, a reference shall be made through the High Court to the Government with an expression by the Sessions Judge of his opinion as to the propriety or otherwise of reducing the sentence, every such reference shall be accompanied by copies of the material papers of the record."
3. It appears that the said Rule was not notice by the Sessions Judge or by the High Court. Having regard to the provision contained in the aforesaid Rule we dispose of the appeal with the recommendation to the Government to consider the matter of remission of sentence of the appellant keeping in view the facts and circumstances of the case.

**Offences Against Unborn and Infants**

Section 312 to 318 of the Indian Penal Code deal with offences against unborn and infants.

Section 312 applies to cases of causing miscarriage with the consent of the women while

Section 313 covers cases (of causing miscarriage) without such consent.

Section 314 deals with cases where death occurs in causing miscarriage.

Section 315 punishes an act done with intent to prevent child being born alive or to cause it to die after birth.

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<sup>3</sup>1998(1999CriLJ 487).

Section 316 penalises an act of causing death of quick unborn child as an act amounting to culpable homicide not amounting to murder.

Section 317 seeks to prevent abandonment or desertion of child below 12 years by parent in custody. This provision is intended to protect infants of tender age who are unable to take care of themselves.

Section 318 punishes an act of secret burial or disposal of the dead body of a child. The section thereby prevents intentional concealment of birth of a child.

The section applies to "Child", and not to a foetus. Such cases are covered by Section 312.

The Law Commission in its 42<sup>nd</sup> Report suggested a new provision for awarding punishment for failure to provide necessities of life.

### **After Effects of Female Infanticide**

As Newton's Third Law of Motion states, "For every action, there is an equal and opposite reaction." The after-effects of the genocide of female feticide are far-reaching. Blinded by their desire for male children, the majority of parents are ignorant of the disaster they unwittingly invite by indulging in female feticide.

### **Skewed Sex Ratio**

In India, the number of girls is declining with each passing decade. From 962 and 945 girls for every 1000 boys in the years 1981 and 1991 respectively, the ratio plummeted to a low of 914 girls born for 1000 boys in 2011. In China, the ratio is an alarming 100 girls for 118 boys (or 848 girls for 1000 boys). These are just two examples of nations trapped in vicious abortion cycles, but there are many other countries struggling with skewed sex ratios, as well. See below for more statistics from other countries.

### **Female/Women Trafficking**

The steep decline in the number of girls makes them scarce for the teaming number of males eligible for marriage. As a result, illegal trafficking of women has become commonplace in many regions. Women, often young girls who've just crossed the threshold of puberty, are compelled to marry. Many young girls are kidnapped from their parents and sold to the highest bidder. Child marriages and pregnancies have a devastating consequence. When a region participates in the trade of its female population, the present and future psychological cost is alarming.

### **Increase in Rape and Assault**

Once women become an endangered species, the instances of rape, assault, and violence become widespread. When there are fewer available females, the surviving ones will be faced

with the reality of handling a society driven by a testosterone high. The legal system may offer protection and, as is the situation today, many crimes may not ever surface for fear of isolation, humiliation, and punishment on the girl's part.

Population Decline: With no mothers to bear children (male or female), there will be fewer births, leading to a decline in population. Though population control is currently the goal of many nations like China and India, a total wipe-out of one sex is not the way to achieve this target.

### **The Prevention of Female Infanticide Bill, 2014**

This Act may be called the Prevention of Female Infanticide Act, 2014. It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. The bill speaks about the following things;

1. Whoever causes, or does any act with the intention of causing death of a girl child or allows a sick girl child to die by deliberately not giving timely and proper medical assistance or does any act or neglects the care of the girl child which may result in her death, commits the offence of female infanticide.
2. (1) Whenever a girl is born or a girl child dies, it shall be the duty of the parents or the guardian of the child to inform the nearest health centre run by the Government or such authority as may be prescribed for this purpose, about the birth or death of the girl child.
3. (2) In case of death of a girl child, the child shall not be cremated or buried unless the health centre or such other authority, as may be prescribed for this purpose, has caused an investigation into the cause of the death of the child.
4. The investigation under sub-section (2) shall be completed within twenty-four hours from the time the information about death is received.
5. If after a preliminary investigation into the cause of the death of a girl child, any person is found to have committed the offence of infanticide, he shall be taken into custody at once.
6. Any person who commits or abets the commission of the offence of female infanticide or withholds information about the death of the girl child, shall be punished with imprisonment for a period of ten years and also with fine of rupees one lakh:
7. Provided that any person who withholds information about the birth of a girl shall be punished with imprisonment for a period of six months.

8. Any inquiry or investigation into female infanticide and filing of reports or a suit in a court of law shall be completed within a period of three months from the date of the death of the girl child.
9. An offence under this Act shall be non-bailable.

With the menace of dowry system still continuing in the country, birth of a girl child in an ordinary family is considered as inauspicious and a curse. Birth of a girl child is considered as a burden by poor families. As a result, the number of cases of female infanticide has increased manifold in the country. Thousands of innocent girls are dying prematurely as a result of inadequate care and indifference on the part of their families. It is high time that this dastardly act is brought to an end. However, in the absence of a stringent legislation, it is quite difficult to put end to this evil practice.

It is, therefore, proposed to bring forward a legislation providing for severe punishment to those who commit female infanticide in order to eradicate this malady from the country.

### **Conclusion**

Female infanticide means nothing but killing of female infant, soon after its birth, especially with the consent of parents. This custom of killing new born female babies is prevalent in almost all parts of India. Ancient history speaks that the position of women in society was at the lowest ebb.

No wonder in the modern world, despite development in all sectors, the birth of female baby is considered as a burden to the family. Because the female child undergoes a number of unforeseen tests in society, that too the girl children born in poor families face lot of hardships. Even in the 20<sup>th</sup> century it is really shocking to know that people blindly trust certain religious customs which states that girl children are unlucky to the family.

When the nation is celebrating the success of different women's like ManushiChillar, SaniaMirza, SainaNehwal, P.V. Sindhuetc. in some part of the same nation treating girls like waste. Each and every person in this country has the right to live so as the girl child.