

REVIEW OF THE NEW GENETIC TECHNIQUES, AS A NEW MOTIVATION OF SEX SELECTION, A BYPASS OF FEMALE FOETICIDE AND EXISTING LEGISLATIVE MEASURES IN INDIA

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Abstract

India is a country well-known for his patriarchal nature, where Gender bias is the unique feature of Indian society where women are always subject to gender based discrimination and violence and inferior position in each and every sphere of life. The most torment proof of this gender discrimination and violence is the sex –selective abortion called as female foeticide by using modern genetic technology in the medical field

Female have denial their basic universal fundamental right to take birth in the form of female foeticide. Modern advanced genetic scientific technology which is invented as lifesaving mechanism for foetus has been highly misused for sex-selective abortion known as the concept of Female foeticide and pre-conceptional selection of gender .Increasing cases of female foeticide has created imbalance in sex ratio which causes variety of drastic crimes against women in Indian society.

More advance form of this technology that is “Alternative Reproductive techniques (ART)” which are actually invented to cope up with the infertility issue in human beings are the new method and mode used for pre-conceptional sex selection of foetus.

These technologies are very easy and safe way to avoid female foeticide, or one of the alternatives to sex selective abortion, which is a crime in India. Which is one of the vital reasons behind imbalance in sex – ratio in present scenario in our India, which introduced a plethora of legal, ethical and social issues with variety of evil consequences which creates menace in the society and life of individual .Hence there is urgent need to find the solution to cope up with this problem .it is very essential to analysis and investigate this issue for finding out the solution for eradication of this evil practice from society

In the present study, researcher examined the increasing scope of ART as bypass of female foeticide. On-going studies Enlighten the growing trends of ART for pre -sex selective pregnancy.

Keywords : women, female foeticide ,alternative reproductive technology

Introduction

Gender bias is the unique feature of Indian society where women are always subject to gender based discrimination and violence.

The views and opinion of Indian patriarchal society towards women has not ever changed and it always see her with less dignity and self- worth then male members of society.

The role and status of women in the patriarchal Indian society show the reality that in spite of the progressing and developing country which is moving towards becoming a global power and the development of humanitarian perception, Constitutional securities, legislative depictions and judicial activism, the position of women in India remains unequal and women are still victims of discrimination, cruelty and violence and the most barbaric proof of this gender discrimination and violence is the sex –selective abortion called as female foeticide by using modern genetic technology in the medical field.

Female feticide means the selective abortion of female foetuses after detecting sex of the foetus. It is the process in which the sex of the foetus is determined with the help of ultrasound, scans, and amniocentesis or more recently by blood test or with other advanced scientific technology and the foetus is killed through abortion if it detects as girl child.

Female foeticide is done only with the help of advanced medical technology. It is also called sex selective abortion.

Thus the lifesaving technologies ,which has been invented to save the life of unborn foetus such as ; Ultrasound sonography , Amniocentesis test , ‘Chorionic villi biopsy’ (CVB) or blood test ,etc., are completely misused and allowing the selective abortions of female and letting offspring to flourish through male children¹.

New advanced technology is almost inseparable from human life. Novel inventions in scientific genetic technology especially in medical field known as “Assisted Reproductive Technology, ‘which are actually invented to cope up with the infertility issue in human beings are the new method and mode used for pre-conceptual sex selection of foetus.

The concept and scope of ART in India.

New genetic scientific technology, in the form of assisted reproductive technology (ART) has been developed with jumps and bounds over the past few years. India has significant growth in ART facilities and the number of ART cycles completed annually.

¹ Female Foeticide A Socio-Legal Enigma - International Journal of Law Management & Humanities (ijlmh.com)

Assisted reproductive technology (ART), which includes in-vitro fertilization (IVF). India has become one of the largest centres of fertility in the world, and the visit to fertility clinics has become a milestone. Indian clinics provide almost all ART services — gamete donation, intrauterine insemination (IUI), IVF, ICSI, PGD and gestation surrogacy.²

(IVF) is a widely used and well-known form of assisted reproductive technology (ART).

IVF stands for in vitro fertilization. It is one of the safest and most effective methods of pre-pregnancy sexual intercourse with cytometric separation of the sperm carrying X and Y can significantly increase the use of sexual preference by couples considering birth.

The requirement for a man to give birth to at least two children — a boy and a girl in order to fulfil the desire of the couple to have a boy or a girl with the medical options available IVF technology is used by parents who are sexually active.

Sexual orientation was selected as an affront to women and gender discrimination, therefore, in terms of discrimination; it was considered the default preference for male gender selection at all levels.

Approximately 2 -22.5 lac IVF cycles are performed annually in India. There is a 20% annual combined growth rate in the reproductive sector over the past five years in India.

There is a 3-6% chance of having a baby boy than a girl when using IVF pregnancy.

IVF increases a boy's chances of 51 to 100 times a natural pregnancy to 56 to 100 per cent of IVF.

Recent research sheds light on why IVF produces more boys than girls

Assisted Reproductive Technology (ART) has grown by leaps and bounds over the last few years. India has the highest growth rate in ART facilities and the number of ART cycles performed each year. India will soon become a world leader in ART in several cycles. With the advancement of technology and the availability of strategies even in the cities of phase II and phase III in our country, the results are still very different. There are no protocol suspensions and reporting is insufficient. In addition, there are only ART guidelines and no law yet in place. Our first and foremost challenge is to document the great work being done in India and on the basis of the analysis of this work, proper registration can be done and given guidance to all regarding the establishment and improvement. This is the 8th edition of the National ART Registry of India introduced and reviewed.

Antiretroviral drugs (ARVs) are also used in cases where abortions can occur at birth. Key factors in the success of treatment are the age of the mother, the quality of the foetus and the number of embryos transferred. As a woman gets older, her fertility rate decreases, which is more dangerous for mother and baby pregnancy and the foetuses are more likely to have

² Kanwaljeet Kaur Sahota ,The role of technology in female foeticide– International Journal of Science and Research (IJSR) , ISSN 2319-7064

abnormal chromosomes. That means these techniques also dangerous to the life of would be mother .it directly affects to her life .

The last two decades have seen evidence of a rapid increase in the number of assisted reproductive technologies, which increase the likelihood of miscarriage and stillbirth. The term “Assisted Reproductive Technologies” (ARTs) encompasses a wide range of processes, from easy intrauterine insemination (IUI) to various in-vitro fertilization and embryo transfer (IVF-ET), also known as IVF and known mostly called "test-tube baby technology". From the latter part of the 20th century,

This technology has developed at a rapid pace that allows for the choice of the gender of their child for couples who suffer from infertility and who do not have enough money. Greedy doctors and geneticists take advantage of the aging democratic attitude of the Indian Sons' organization and seize the opportunity, by exploiting advanced genetic technology or ART methods.

Gender selection is used to diagnose or prevent serious X-related disorders or for social reasons to ensure that new-borns are of the selected gender.

The number of IVF cycles per couple is estimated to increase from 1.5 in 2015 to 3.5 lac in 2022.³

All of the above technologies are readily available in Indian clinics

Indians were very quick to adopt such new technologies who very easily adopt the barbaric practice of female foeticide which detect the sex of the foetus and to abort if foetus is female; were very easily adopt the new methods of ART.

Such a development raises ethical, legal, and social issues about the impact of such practices on offspring, on sex ratio imbalances, and on sexism and the status of women⁴.

Same as female foeticide ART methods affects the human sex ratio—the relative number of males to females in a given age group, increasing availability of sex screening technologies in India through the 1980s in urban India is the main reason behind increasing crime of female foeticide, which is the gate way of various other serious crimes against women in India.

The current work also aims to study and investigate the negative impact of gender inequality on women's health in the form of various crimes for greater understanding.

Assisted Reproductive Technology is an easy way to bypass the provisions of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 2003 (PCPNDT Act)

³ <https://creatingafamily.org/blog/ivf-produces-more-baby-boys>

⁴ <https://www.tandfonline.com/doi/abs/10.1162/15265160130004814>

The PCPNDT Act ⁵which contains certain provisions regarding practice of any form of gender detection and abortion in India, the current Act enacted to regulate the use of prenatal diagnostics for the purpose of obtaining genetics. or metabolic or abnormal chromosomal abnormalities or birth defects or sexual disorders. The law also proposes to avoid the misuse of these practices for the purpose of determining of prenatal sex selection and mutilation .

With the rules made thereunder is an act to safeguard the girl child.

The main object behind the new PCPNDT Act 2004 was prevention of pre-natal sex determination and punishment of female foeticide. Various amendments have been made to this Act after the amendment of previous PNDT Act .New Act introduced ultrasound and amniocentesis tests performed with the help of new scientific technologies under its purpose. This action has brought ultrasound and amniocentesis under its control. In addition, it encouraged the strengthening of the Central Governance Board and the formation of a state-level governing body and implemented strict rules, regulations and sanctions. In terms of sections 23 and 23 (2) of the Prenatal Act and prenatal diagnostic procedures (prohibition of sexual orientation), a trial will be instituted against a gynaecologist's clinic in the event of any violation of the law. the action and registration of the doctor may be suspended permanently during the court hearing.

Therefore it can be say that the current Act provides provisions for regulations, laws and sanctions to eliminate the growing problem of female foeticide in the community and can therefore be difficult for doctors, female family members or anyone else involved. Practice doing it without the risk of arrest.

ART methods are a safe alternative to the provisions of the PCPNDT Act as these new genes are not under the Law. This method is use as a safe way for pre selection of sex of foetus or liberty of gender choice under the garb of infertility medical treatment.

As sex selection is one of the additional resources available on ART methods, so a wealthy couple with enough money can easily afford it.which causes imbalance in gender ratio and adverse gender ratio has variety of negative effects on society.

Lastly it causes gender inequality and has a very negative impact on society especially the in the lives Indian women.

The effects of adverse gender ratio in indian

As per the census of India Sex Ratio in India From 1901 to 2011 show the constant decline in the gander ratio

⁵ Ncbi.nim.nih.gov

The sex ratio female in 1901 was 972 female as compare to 1000 male which become 943 female in 2011 in the last census .census happened after every 10 years.

As because of Covid -19 restrictions in Indian government has unable to take the census .As per the recent government data the recent sex ration is 948 female and 1000 male⁶

Thus present sex ratio indicates in India in 2021 -948 females for every 1,000 males

Apart from that if we study and evaluate the Sex Ratio of India States & UTs vice as per Census Data⁷ we find that Thus present sex ratio indicates

Sex Ratio in India (Annually) from 2012 to 2020 in India), 940 (2012) 941 (2013) 942 (2014), 943 (2015), 944 (2016), 945 (2017)), 946 (2018), 946 (2018), 946 (2018), 2019), 947 (2020), women for 1000 men.

Additionally if we read and examine the Sex Ratio of India States & UTs vice as per Census Data we find that Thus the current sex ratio shows

Current Gender in India 2021 -948 women out of every 1,000 men.

Average sex in India (Annually) 947 (2020), 947 (2019), 946 (2018), 945 (2017), 944 (2016), 943 (2015), 942 (2014), 941 (2013), 920 (2013), 920 (2013), 920)

Haryana, Punjab, Rajasthan, Arunachal Pradesh, NCT of Delhi, Chandigarh ,Dadra and Nagar Haveli, Daman and Uttar Pradesh ,Bihar ,Gujarat have the very low percentage of female for male as the data available .Especially, the state of Haryana, Punjab, Uttar Pradesh, Chandigarh ,Rajasthan ,Punjab ,NCT Delhi have the lowest female sex ratio.

The widespread discovery of new genetic technologies is causing serious gender inequality, which has created because of the low percentage of women in society and laid to variety of brutal ,inhuman and horrific crimes against women in India specifically like rape, polyandry, forced marriage women trafficking etc.⁸

The percentage of child marriages is also increased because of unavailability of female in India. As per the statistics released by United Nations Children's Fund (UNICEF), India already has one of the highest rates of child marriages in the world⁹

As per data the state of Rajasthan reported the highest number of rape cases across the India in 2020-2021 ¹⁰,next of it is Uttar Pradesh this shown that the north part of India where

⁶ <https://censusofindia2021.com>

⁷ <https://censusofindia2021.com>

⁸ Sanjay Pandey, "Female foeticide, India's 'ticking bomb'". www.aljazeera.com

⁹ UNICEF UNICEF India Statistics, child protection 2012. <http://www.unicef.org>

¹⁰ www.statista.com

female ratio is low have the highest rate of sexual crime against women ¹¹. This makes it clear that violent sexual crimes against women have been linked with adverse sex ratio.

As stated by the National Commission on Women in their report that there has been an increase in 46 complaints of crimes against women in the first eight months of 2021 ¹².

According to the latest statistics on crimes against women in India Haryana, Rajasthan, Delhi, Uttar Pradesh have the highest number of crimes against India ¹³.

According to NCRB statistics, Rajasthan, North India, Haryana, Uttar Pradesh and Chhattisgarh have the highest rates of sexual crimes against women in India. and male members. ¹⁴

The current data presented by the government indicates that technological advances have brought about significant changes in modern society. Yet when we see its presence in the lives of women at this time we know that technological change brings unexpected problems that threaten women's health and enable those who break the law to explore new ways of committing their crimes. .

Indian Government Strategy to regulate the gender balance in India.

In India in order to uphold constitutional authority the state has implemented various legal measures to provide for equal rights, to deal with social discrimination, physical violence and to prevent abuse and cruelty from the lives of women.

In particular to combat with the curse of sexually selective abortions and to take effective measures to address the aforementioned uncertainty and instability, the PCPNDT Act has been passed by Indian government. with the object to hold the decline in gender equality in the country. The Act prohibits the use of sexual detection before or after pregnancy.

Instead of that Indian Penal Code also provide specific provisions for controlling female foeticide under sections 312 to 316.

Government has implemented various policies and schemes for the upliftment of girls and women in India.

Taking the cognizance of the increasing misused of ART and its drastic consequences to cope up with the issue government of India the **Assisted Reproductive Technology (Regulation) Bill, 2020** was introduced in Lok Sabha on September 14, 2020. The Bill seeks to provide for the regulation of Assisted Reproductive Technology services in the country ¹⁵.

¹¹ SL. Tandon, M Sharma R. Female foeticide and infanticide in India: an analysis of crimes against girl children. Int J Crim Justice Sci 2006 <http://www.sascv.org>

¹² www.ncw.nc.in

¹³ www.statista.com

¹⁴ www.ncrb.gov.in

¹⁵ <https://egazatte.nic.in>

Assisted Reproductive Technology (ART): The bill defines ART to include all methods of contraception by carrying sperm or oocyte (oocyte of an immature egg) outside the human body and transferring the gamete or embryo to the female reproductive system. Examples of ART services include gamete donation (sperm or oocyte), in-vitro-fertilization (egg fertilization), and pregnancy (a child by life is not related to the mother). ART services will be provided: (i) ART clinics, which provide ART-related treatment and procedures, and (ii) ART banks, store and provide gametes.

Regulation of ART and banking clinics: The Bill provides that all ART clinics and banks must be registered under the National Registry of Banks and Clinics of India. The National Register will be established under the Bill and will serve as a database for all ART clinics and banks in the country. Provincial governments will appoint registration authorities to oversee the registration process. Clinics and banks will only be registered if they comply with certain standards (specialized staff, building infrastructure, and diagnostic facilities). Registration will be valid for five years and may be renewed for another five years. Registration may be cancelled or suspended if the organization violates the provisions of the Bill.

Conditions for gaming supply and supply: Gambling providers testing, collection and storage of sperm, and oocyte supplier supply can only be done by a registered ART bank. The bank can receive sperm from men between the ages of 21 and 55, and oocytes for women between the ages of 23 and 35. The oocyte donor must be a married woman with at least one surviving child (at least three years old). A woman can donate an oocyte only once in her life and more than seven oocytes can be downloaded from her. The bank cannot provide a single donor gamet for more than one authorized couple (services that require a couple).

ART Provisioning Terms: ART procedures can only be performed with the informed consent of both parties seeking ART services and the provider. The team seeking ART services will be required to provide insurance in favour of the oocyte donor (for any loss, injury, or death of the donor). The clinic is not allowed to provide the child with pre-determined sex. The bill also requires genetic screening prior to implantation.

Any clinic or bank advertising or provision of sex-friendly ART will be punishable by imprisonment for between five and ten years, or a fine of between Rs 10 lakh and Rs 25 lakh, or both.

No court may consider cases under the Bill, other than a complaint lodged by the National or National Board or any other official authorized by the Boards¹⁶. Although the government has passed the bill with the aim of preventing the misuse of genetic technology of or regulating clinics or ART facilities but the practice is still on-going and continues to co-operate between doctors, the wanted couple and the owners of genetic centres.

Outcome and discussion

It is proven fact that; state having less female ratio having high rate of sexual criminality against women and the state having high rate of female ratio have low rate of sexual crime

16 <https://prsindia.org>

against women .As an overall improvement in sex ratio, the states of South India has shown major signs of improvement and less crime rate against women in comparison to states of Haryana and Punjab (North India), where sex ratio is far lower than national average figure.

"Gender selection at beginning of pregnancy or before pregnancy both will reduce the amount of women, men and their families are trying to maximize their utility, which creates a supply and demand which is one of the major reason behind increasing criminality against women in India .Negative effects of female foeticide make life of Indian women more and more miserable and it's all happened because of high percentage of sex –selective abortion and sex –selective birth. which is the reason of decline of sex ratio of girls in India and female foeticide increased only and only because of easily availability of sex selection techniques which is happened only because of misused of advanced technology.

Thus we shall focus on the misuse of prenatal technology, which has contributed to the skewed sex ratio which is one of the major reasons behind growing crime against women in India, which has become a matter of grave concern and need urgent solution.

still date there is no strict law in place to monitor and control the proliferation of ART procedures and clinics in India.

Lack of record regarding sex termination is also one of the major reasons behind failure object of the legislation. There are various lacunas in present legislation and they were failed to control the speed of use of advanced genetic techniques.

As per the data available it is highly impossible to eliminate the cruel practice of female foeticide from Indian society and with the growing technology new genetic technology in the form of ART is now creating the same issue with other face for which are highly impossible to detect as they are practiced under the garb of infertility services. Which all make the gender selection as a enterprise.

This has long lasting effects on society which create a socio, legal-medical issue.

As technology is an ever growing phenomenon and will invented new methods and mode for more easy and sophisticated technologies to eliminate girls from the society which create more adverse in sex ratio and in consequences it would create more menace in women's life in Indian society.

As technology is an ever growing phenomenon and will invented new methods and mode for more easy and sophisticated technologies to eliminate girls from the society for the preference and liking of son which is the most conventional practice and ritual of indian society ,which create more adverse in sex ratio and in consequences it would create more menace in women's life in Indian society and its consequences can pose a serious threat to women's health in Indian society.

For that we have to take cooperative measures with intensive efforts by the Law ,social workers, students ,medical fraternity, political readers, students ,media and most important the common people itself .we have to eliminate the root cause of gender discrimination and

gender bias from our society.

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