

ABSTRACT

LINKAGE BETWEEN HUMAN RIGHTS AND PRE CONCEPTION AND PRE NATAL DIAGNOSTIC TECHNIQUES ACT, 1994

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The use of technology for pre-natal determination of sex, in the context of India, is wholly discriminatory to the female sex and has an impact on the status and dignity of women. Large-scale misuse of these technologies in future would precipitate a severe imbalance in the male female ratio. Therefore, it has become necessary to implement the Act uniformly in all the states and Union Territories so that it should achieve the purpose for which the Pre conception and Pre natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 has been enacted. Scientific development and technological advancements are expected to be pursued by man for general human good, but unfortunately in present times, some specific technological knowledge is leading to greater abuse on humanity. One such case is the sex determination through scientific methods resulting in female foeticide.

This is commonly known as sex-selection. Such development in medical science have resulted in sex-determination and sex pre-selection techniques such as sonography, fetoscopy, chronic villi biopsy (CVB) and the most popular amniocentesis and ultrasound. A study of amniocentesis in a Bombay hospital found that 96% of female fetuses were aborted compared with only a small percentage of male fetuses. The preference of the male child leads to the female infanticide and sex selective abortion.

The right to life is a very broad concept and is the most fundamental of all. In India, right to life has been recognized under Article 21 of the Constitution which says that "No person shall be deprived of his life and personal liberty except according to procedure established by law". Person here includes both man and woman. Among various rights which are available to a woman, the right to abortion¹ i.e. right to productive choice is also believed to be one of the most essential and fundamental right.

¹Abortion is the termination of a pregnancy by the removal or expulsion from the uterus a fetus or embryo resulting in or causing in death. Abortion can be classified into two types which are the following:

1. Spontaneous Abortion- An abortion which results due to the complications during pregnancy and which occur unintentionally is called spontaneous abortion. It is also termed as miscarriages.

2. Induced abortion has also been divided into two types:

a. Therapeutic abortion- An abortion Which is induced to preserve the health of the mother when her life is in danger or when it is found that the Child if born will be a disabled one at time it is termed as therapeutic abortion.

Right to abortion has been recognized under right to privacy which is a part of right to personal liberty and which emanates from right to life². But the question always, arises whether the mother has a right to abortion or the child has a right to life.

KEY WORDS- Fetus, Sex determination, Female foeticide, Right to Life, Right to liberty- Abortion

b. Elective abortion- An abortion induced for any other reason is known as elective abortion.

Both embryo and fetus means unborn child.

²Roe v. Wade 410US 113 (1973)