# Beyond the PCPNDT Act: A Socio-Legal Evaluation of Female Foeticide, Constitutional Rights, and Gender Justice in India: A Study with Special Reference to Western Uttar Pradesh

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***Abstract***

*Female foeticide continues to represent one of the most severe manifestations of gender discrimination in India despite a robust constitutional framework and comprehensive statutory regulation. The misuse of prenatal diagnostic technologies for sex-selective abortions reflects the persistence of patriarchal social norms, son preference, dowry practices, and unequal socio-economic structures. This study critically examines the effectiveness of India's legal response through constitutional guarantees, the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act), the Medical Termination of Pregnancy Act, and the Bharatiya Nyaya Sanhita, 2023. Using a socio-legal methodology, the paper integrates doctrinal legal analysis with empirical findings from Western Uttar Pradesh to evaluate whether legal reforms have translated into meaningful social change. The study argues that while the legal framework is comprehensive, weak implementation, institutional deficiencies, and deeply embedded patriarchal attitudes continue to undermine its effectiveness. It concludes that sustainable eradication of female foeticide requires a holistic approach combining legal accountability, women's empowerment, educational reforms, technological regulation, and sustained public awareness to realise the constitutional promise of gender justice.*

***Keywords***

*Female Foeticide, PCPNDT Act, Gender Justice, Constitutional Law, Reproductive Rights, Socio-Legal Research, Western Uttar Pradesh.*

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**Introduction**

The progress of a constitutional democracy is measured not only by economic development but also by its ability to secure equality, dignity, and justice for its most vulnerable citizens. Female foeticide remains one of the gravest violations of these constitutional values, reflecting systemic discrimination against girls even before birth. Although India has enacted comprehensive legislation prohibiting sex-selective abortions, the continued decline in child sex ratios in several regions demonstrates that legal prohibition alone has not eliminated this deeply rooted social problem.

The Constitution of India guarantees equality before the law, prohibits discrimination on the basis of sex, and recognises the right to life and dignity as fundamental rights. Complementing these constitutional guarantees are statutory measures such as the PCPNDT Act, the Medical Termination of Pregnancy Act, and the Bharatiya Nyaya Sanhita, 2023. Together, these enactments seek to regulate reproductive technologies while preventing their misuse for sex selection. Nevertheless, technological advancements have simultaneously expanded opportunities for illegal prenatal sex determination, thereby exposing significant gaps between legislative intent and practical enforcement.

Female foeticide is not merely a criminal offence; it is a manifestation of broader socio-cultural inequalities rooted in patriarchal family structures, son preference, inheritance practices, dowry obligations, and gender stereotypes. Consequently, the issue extends beyond criminal law into constitutional governance, public health, human rights, and social justice. It raises complex questions regarding the balance between women's reproductive autonomy and the State's obligation to prevent discrimination against unborn female children.

Western Uttar Pradesh provides a particularly significant context for examining these issues. Despite improvements in literacy, urbanisation, and healthcare infrastructure, several districts continue to record adverse child sex ratios and persistent patriarchal attitudes. The region therefore serves as an appropriate socio-legal case study for evaluating whether legal mechanisms have achieved substantive behavioural change or merely formal compliance.

This article proceeds on the premise that the persistence of female foeticide cannot be attributed solely to deficiencies in legislation. Rather, it reflects the limitations of a purely legal response to a structural social problem. Meaningful reform requires effective institutional enforcement alongside broader transformation in social attitudes, educational practices, and women's socio-economic status.

**Research Gap, Objectives and Methodology**

Although female foeticide has been extensively examined by legal scholars, sociologists, and public health researchers, much of the existing literature focuses either on statutory interpretation or demographic trends without integrating constitutional principles, judicial developments, empirical evidence, and regional realities into a unified socio-legal framework. Furthermore, significant constitutional developments, including the recognition of privacy as a fundamental right and reforms under the Medical Termination of Pregnancy (Amendment) Act, 2021, have altered the legal landscape, necessitating fresh academic evaluation.

The present study therefore seeks to critically examine the constitutional and statutory framework governing female foeticide, evaluate the effectiveness of the PCPNDT Act, analyse judicial interpretation concerning reproductive rights and gender equality, and assess implementation challenges through empirical findings from Western Uttar Pradesh. It further proposes legal and policy reforms aimed at strengthening gender justice.

The research adopts a mixed socio-legal methodology combining doctrinal legal analysis with empirical investigation. Primary sources include constitutional provisions, statutes, judicial decisions, and international human rights instruments, while secondary sources comprise scholarly literature, government reports, census data, and policy documents. The empirical component is based on structured questionnaires and field interactions conducted across selected districts of Western Uttar Pradesh to examine public awareness, implementation challenges, perceptions regarding son preference, and attitudes towards women's constitutional rights.

This integrated methodology enables the study to evaluate not only the normative content of the law but also its effectiveness in addressing the social realities that sustain female foeticide.

**International and Constitutional Framework**

The prohibition of female foeticide is supported by both international human rights law and the constitutional framework of India. International instruments such as the Universal Declaration of Human Rights (1948), the International Covenant on Civil and Political Rights (1966), the International Covenant on Economic, Social and Cultural Rights (1966), the Convention on the Elimination of All Forms of Discrimination against Women (1979), and the Convention on the Rights of the Child (1989) collectively affirm the principles of equality, dignity, non-discrimination, and the right to life. These instruments require States not merely to prohibit discrimination formally but to adopt affirmative measures aimed at

eliminating structural inequalities affecting women and girls.

Within India, the Constitution provides a comprehensive legal foundation for combating female foeticide. Article 14 guarantees equality before the law and equal protection of laws, while Article 15 prohibits discrimination on the ground of sex and permits special protective measures for women and children. Article 21, through expansive judicial interpretation, has evolved to encompass dignity, bodily integrity, privacy, healthcare, and reproductive autonomy. These constitutional guarantees collectively require the State to prevent discriminatory practices while simultaneously respecting women's reproductive rights.

The constitutional challenge lies in balancing reproductive autonomy with the State's legitimate interest in preventing sex-selective abortion. The judiciary has consistently recognised that reproductive choice forms an integral aspect of personal liberty; however, this autonomy cannot be exercised in a manner that perpetuates discrimination against female children. Accordingly, restrictions imposed under the PCPNDT Act regulate the misuse of reproductive technologies rather than infringing legitimate reproductive freedom.

**Statutory Framework Governing Female Foeticide in India**

India has developed one of the world's most comprehensive legal frameworks to combat female foeticide through constitutional guarantees, criminal sanctions, and regulatory legislation. The legal regime primarily comprises the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PCPNDT Act), the Medical Termination of Pregnancy Act, 1971 (as amended in 2021), and the Bharatiya Nyaya Sanhita, 2023 (BNS). Together, these enactments seek to regulate reproductive healthcare while preventing discrimination against female foetuses.

**The PCPNDT Act, 1994**

The PCPNDT Act was enacted to prevent the misuse of prenatal diagnostic technologies for sex determination and sex-selective abortion. Initially confined to regulating prenatal diagnostic procedures, the Act was substantially amended in 2002 to prohibit sex selection both before and after conception, reflecting advancements in reproductive technologies and the growing misuse of ultrasound facilities.

The Act pursues three principal objectives: first, to prohibit sex selection and disclosure of the sex of the foetus; secondly, to regulate genetic counselling centres, laboratories, ultrasound clinics, and imaging centres through compulsory registration and record maintenance; and thirdly, to establish an effective regulatory

and enforcement mechanism. It further prohibits advertisements relating to sex determination and prescribes imprisonment, monetary penalties, and suspension or cancellation of medical licences for violators.

Unlike ordinary penal legislation, the PCPNDT Act is preventive in character. It seeks not only to punish offenders but also to eliminate opportunities for illegal sex determination through strict regulation of diagnostic facilities. Mandatory maintenance of records, periodic inspections, and licensing requirements are designed to ensure transparency and accountability within the medical profession.

Despite its comprehensive design, the effectiveness of the Act has been constrained by administrative deficiencies, inadequate staffing of Appropriate Authorities, delayed prosecutions, poor conviction rates, and the emergence of portable diagnostic technologies that are difficult to monitor. More significantly, the continuing demand for male children generated by patriarchal social norms has limited the deterrent effect of legal sanctions.

**The Medical Termination of Pregnancy Act, 1971**

The Medical Termination of Pregnancy (MTP) Act occupies a distinct position within India's reproductive rights framework. Unlike the PCPNDT Act, which prohibits sex-selective practices, the MTP Act regulates lawful termination of pregnancy under specified medical, humanitarian, and social circumstances.

The Medical Termination of Pregnancy (Amendment) Act, 2021 significantly strengthened women's reproductive rights by extending the permissible gestational limit for specified categories of women and recognising broader reproductive autonomy. These reforms reflect a rights-based approach that prioritises women's dignity, health, and bodily integrity.

Importantly, Indian law draws a clear distinction between lawful abortion undertaken to safeguard the life or health of the pregnant woman and abortion motivated solely by the sex of the foetus. While the former is constitutionally protected as part of reproductive autonomy, the latter constitutes gender discrimination and undermines the constitutional guarantee of equality. Thus, the MTP Act and the PCPNDT Act operate harmoniously by protecting reproductive choice while prohibiting discriminatory misuse of reproductive technologies.

**Bharatiya Nyaya Sanhita, 2023**

The Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code, reinforces the legal framework by criminalising unlawful acts affecting unborn children, including causing miscarriage without lawful justification and acts intended to prevent a child from being born alive. Although the BNS does not specifically

use the expression "female foeticide," its provisions supplement the PCPNDT Act by imposing criminal liability for unlawful interference with pregnancy.

Read together, the PCPNDT Act, the MTP Act, and the Bharatiya Nyaya Sanhita establish a comprehensive legal framework that balances women's reproductive rights with the constitutional commitment to preventing gender-based discrimination.

**Judicial Interpretation and Constitutional Balancing**

The Indian judiciary has played a transformative role in developing constitutional principles relating to dignity, equality, privacy, and reproductive autonomy. In matters concerning female foeticide, the courts have consistently attempted to reconcile two competing constitutional values: the protection of women's reproductive freedom and the prevention of discrimination against unborn female children.

A landmark decision in Centre for Enquiry into Health and Allied Themes (CEHAT) v. Union of India strengthened the implementation of the PCPNDT Act by directing both the Central and State Governments to ensure registration of diagnostic centres, regular inspections, maintenance of statutory records, public awareness campaigns, and effective prosecution of offenders. The Supreme Court emphasised that legislation cannot achieve its objectives without rigorous implementation and continuous administrative supervision.

The recognition of reproductive autonomy under Article 21 reached a significant milestone in Suchita Srivastava v. Chandigarh Administration, where the Supreme Court held that reproductive choice forms an essential component of personal liberty. The Court recognised a woman's right to make informed reproductive decisions concerning pregnancy and childbirth. At the same time, it clarified that constitutional protection of reproductive autonomy cannot be interpreted to legitimise sex-selective abortion, which perpetuates structural discrimination against women.

In Justice K.S. Puttaswamy v. Union of India, the Supreme Court recognised privacy as a fundamental right encompassing decisional autonomy and reproductive choices. However, the Court also held that privacy is not absolute and may be subject to reasonable restrictions that pursue a legitimate constitutional objective. Consequently, the regulatory measures contained in the PCPNDT Act satisfy the test of proportionality because they seek to prevent discrimination rather than interfere with legitimate reproductive decisions.

More recently, X v. Principal Secretary, Health and Family Welfare Department (2022) expanded reproductive rights by recognising that access to safe

abortion extends equally to unmarried women. The judgment reaffirmed that dignity, bodily integrity, and reproductive autonomy are integral components of Article 21. At the same time, the Court maintained the distinction between lawful abortion and sex-selective termination of pregnancy.

Collectively, these judicial decisions demonstrate that Indian constitutional jurisprudence protects reproductive autonomy while firmly rejecting discriminatory practices based on the sex of the foetus. The courts have consistently interpreted constitutional rights in a manner that harmonises individual liberty with the broader constitutional commitment to gender equality and social justice.

**Critical Assessment of the Legal Framework**

India's legal response to female foeticide is both comprehensive and progressive. The Constitution guarantees equality and dignity, the PCPNDT Act regulates diagnostic technologies, the MTP Act safeguards reproductive autonomy, and the Bharatiya Nyaya Sanhita reinforces criminal accountability. Judicial decisions have further strengthened this framework by expanding the scope of privacy, dignity, and reproductive rights while affirming the legitimacy of State intervention against sex-selective practices.

Nevertheless, the persistence of female foeticide demonstrates that legislation alone cannot eradicate deeply entrenched patriarchal attitudes. Weak institutional capacity, uneven enforcement, corruption, technological misuse, and enduring social preferences for male children continue to undermine the effectiveness of the legal framework.

The challenge, therefore, is no longer the absence of legal regulation but the effective implementation of existing laws. Achieving meaningful gender justice requires a coordinated strategy that combines legal enforcement with education, women's economic empowerment, ethical medical practice, technological monitoring, and sustained public awareness.

**Empirical Findings and Socio-Legal Analysis**

The empirical study conducted in selected districts of Western Uttar Pradesh reveals that female foeticide continues to persist despite the existence of an elaborate constitutional and statutory framework. The findings indicate a significant disparity between legal norms and social practices, demonstrating that legislation alone cannot eliminate deeply rooted gender discrimination.

One of the most notable observations is that public awareness regarding the illegality of prenatal sex determination has increased considerably over the years. However, awareness of the broader constitutional principles underlying these laws—

including gender equality, dignity, and reproductive justice—remains limited, particularly in rural areas. Many respondents recognised that sex determination is prohibited but were unfamiliar with the objectives and enforcement mechanisms of the PCPNDT Act.

The survey further demonstrates that son preference remains the most significant socio-cultural factor contributing to female foeticide. Respondents frequently associated male children with continuation of the family lineage, inheritance of ancestral property, performance of religious ceremonies, financial support during old age, and higher social status. In contrast, daughters continued to be viewed as financial liabilities due to dowry practices and prevailing social customs. These findings confirm that female foeticide is sustained not merely by illegal medical practices but by long-standing patriarchal beliefs.

Education emerged as an important factor influencing attitudes toward gender equality. Respondents possessing higher educational qualifications generally displayed greater awareness of constitutional rights, stronger opposition to sex-selective abortion, and greater acceptance of daughters. Nevertheless, education alone proved insufficient to eliminate discriminatory attitudes, as social and familial pressures continued to influence reproductive decisions even among educated families.

The empirical investigation also identified several institutional shortcomings affecting implementation of the PCPNDT Act. Respondents highlighted irregular inspections of diagnostic centres, inadequate staffing of Appropriate Authorities, delays in investigation and prosecution, inconsistent maintenance of statutory records, and weak coordination between healthcare regulators and law enforcement agencies. These administrative deficiencies substantially reduce the deterrent effect of the legislation.

Another important finding concerns women's reproductive autonomy. Although judicial decisions increasingly recognise reproductive choice as an aspect of personal liberty under Article 21 of the Constitution, many women reported that decisions relating to pregnancy, prenatal testing, and continuation of pregnancy were heavily influenced by husbands, parents-in-law, or other family members. Consequently, constitutional recognition of reproductive rights has not always translated into meaningful autonomy in practice.

Overall, the empirical findings strongly support the central hypothesis of this study. Female foeticide persists not because India lacks an adequate legal framework but because legal regulation alone cannot transform entrenched social

attitudes. Sustainable reform therefore requires simultaneous legal enforcement, institutional accountability, educational advancement, and socio-economic empowerment of women.

**Policy Recommendations**

The findings of this study suggest that meaningful eradication of female foeticide requires a comprehensive socio-legal strategy extending beyond criminal sanctions.

The implementation of the PCPNDT Act should be strengthened through regular inspections of registered diagnostic centres, time-bound investigations, specialised enforcement units, and stricter prosecution of offenders. Appropriate Authorities must be provided with adequate financial resources, technical expertise, and administrative support to effectively monitor compliance.

Digital governance should be integrated into the regulatory framework through online registration of clinics, electronic maintenance of statutory records, biometric authentication of authorised practitioners, GPS-enabled inspections, and centralised digital audio systems. Such measures would improve transparency and reduce opportunities for manipulation of records.

Medical professionals should receive mandatory training on constitutional ethics, gender justice, reproductive rights, and statutory obligations under the PCPNDT Act. Professional regulatory bodies should adopt stringent disciplinary measures against practitioners involved in illegal sex determination.

Long-term reform also requires addressing the structural causes of son preference. Government initiatives should prioritise women's economic empowerment, equal inheritance rights, universal education for girls, employment opportunities, effective implementation of anti-dowry laws, and expansion of welfare schemes supporting girl children.

Public awareness campaigns should move beyond informing citizens about legal penalties and instead promote constitutional values of equality, dignity, and respect for the girl child. Educational institutions, community organisations, and local governance bodies should actively participate in sustained gender-sensitization programmes designed to challenge discriminatory social norms.

**Conclusion**

Female foeticide remains one of the most disturbing manifestations of gender discrimination in India. Despite a progressive constitutional framework and comprehensive statutory regulation, discriminatory reproductive practices continue to undermine the constitutional ideals of equality, dignity, and social justice.

This study demonstrates that India possesses an extensive legal framework through the Constitution, the PCPNDT Act, the Medical Termination of Pregnancy Act, and the Bharatiya Nyaya Sanhita, supported by progressive judicial interpretation safeguarding reproductive autonomy while prohibiting sex-selective abortion. However, the persistence of adverse child sex ratios, particularly in regions such as Western Uttar Pradesh, illustrates that legislative measures alone cannot eradicate deeply embedded patriarchal attitudes.

The empirical findings confirm that weak institutional implementation, inadequate public awareness, socio-economic inequality, and continuing son preference significantly reduce the effectiveness of existing legal measures. Consequently, the challenge before policymakers is not the enactment of additional legislation but the effective implementation of existing laws together with sustained social transformation.

The eradication of female foeticide ultimately depends upon a holistic strategy integrating legal enforcement, institutional accountability, educational reform, women's economic empowerment, ethical medical practice, and community participation. Only by combining these measures can India fully realise its constitutional commitment to substantive gender justice and ensure that every girl child enjoys the equal dignity, protection, and opportunity guaranteed under the Constitution.

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