

Sex Preference Of Offspring, Induced Abortion / Menstrual Regulation (MR) And Legal Issue In Bangladesh

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Abstract

Sex preference of offspring is very strong in Bangladesh associated with socio-economic and cultural reasons and as a result, parents desperately want to get first-born boy. Many couples are distressed, if they are unable to produce the first male offspring. Under the circumstances, if they detect the first child is girl at the embryonic stage, in many cases, the parents are interested to terminate the pregnancy through induced abortion in the shade of menstrual regulation (MR). The focus of this paper is to examine to what extent the pregnant women terminate their fetus through induced abortion under the shade of Menstrual Regulation (MR) in avoiding the girl child.

تلخیص

بنگلہ دیش میں اولاد کی جنسی ترجیح کا بہت زیادہ رجحان ہے کیونکہ والدین پہلی اولاد دیکھنا ہونے کی شدید خواہش رکھتے ہیں۔ بہت سے جوڑے پریشانی کا شکار ہو جاتے ہیں اگر ان کی پہلی اولاد دیکھا نہ ہو، ان حالات میں اگر زچگی کے دوران پتہ چل جائے کہ ہونے والی اولاد لڑکی / بیٹی ہے تو اکثر اوقات والدین اس بات میں دلچسپی رکھتے ہیں کہ ماہواری تریب کے تناظر میں جبری اسقاطِ حمل کے ذریعے زچگی ختم کروادیں۔ یہ مقالہ اس بات کی جانچ کرنا ہے کہ کس حد تک حاملہ خواتین اپنے جنین کو ماہواری تریب کے تناظر میں جبری اسقاطِ حمل کے ذریعے زچگی کو ختم کرواتی ہیں تاکہ بیٹی کی پیدائش سے بچ سکیں۔ یہ مقالہ اس بات کا احاطہ کرنا ہے کہ جبری اسقاطِ حمل کا طریقہ کار کیا بنگلہ دیش میں قانونی حیثیت رکھتا ہے۔

Key Words: Sex. Offspring. Induced Abortion. Legal. Issue

Introduction

Sex Preference of offspring is a common phenomenon across the world and usually strong in South Asia. In many societies, sex discrimination started before birth. Parents are interested to get male offspring and if they failed, then they terminate the unwanted pregnancy through induced abortion. In many cultures, folk prediction made about sex of the coming offspring. However, couples everywhere are distressed, if they are unable to produce first male offspring (Sarker, 1997). The first-born boy considered as a sign of an individual worth and as a result, it enhanced the prestige and position of the parents in patriarchal society where patrilineal social system exists. In many societies, women are

less likely to compare men to prefer son, although sometimes, women want son just to please their husbands as well parent in-laws. It has been found in different research works that in Latin America and the Philippines, there was a tendency of women to prefer girls (Williamson, 1982). In many cultures, women blamed routinely and abandoned for not producing male offspring. In Bangladesh, male child always considered as an asset in socio-economic, political and cultural perspective. On the other hand, in many families, female child considered as a burden specially in providing dowry at the time of marriage, social protection, and education and so on. Sex-selective abortion is the practice of terminating a pregnancy based upon the predicted sex of the baby. The selective abortion of female fetuses is most common in areas where culture in terms of norms and value of male children over female children is strong. Sex selective abortion affects the sex ratio especially in South Asian countries including China, (Gammage, 2011, Ebestein et.al. 2013). Human sex ratio at birth can vary for natural reasons as well as impact of ultrasound screening. Ultrasound sex-screening technologies became widely available in Asian countries (Junhong, 2001). In many nations abortion is legal but sex-selective abortion is illegal worldwide (Guilmoto, 2011).

About 210 million women become pregnant in Bangladesh each year and that around 80 million of these pregnancies found unplanned. It estimated that about 25 percent of pregnancy terminated by induced abortion (BBS, 2010). Induced abortion in the name of menstruation regulation (MR) is significantly high in Bangladesh compared to other South Asian countries (Singh, 2012). About 33 percent births are unplanned and 45 percent of all unplanned pregnancies end in Menstrual Regulation (MR) procedures and 'back-yard' abortions (Singh et al, 1997). In Bangladesh, induced abortion is not allowed legally, but it is allowed only for the saving the life of mothers. It has been found from different studies that the Menstruation Regulation (MR) practiced by parents for the termination of unwanted female fetus if it is detected at the initial stage of pregnancy. The main focus of this paper is to examine to what extent the pregnant women terminate their fetus through induced abortion under the shade of Menstrual Regulation (MR) in avoiding the girl children and to what context this disguised induced abortion is legally acceptable in Bangladesh.

Conceptual Framework

Sex preference of baby, induced abortion and legal issue are inter-locked and it has a long history across the East and the West. Sex preference of baby is defined the preference of the sex of baby either male or female by the parents at the embryonic stage. Sex preference is confined here preference to the male baby by the parents in socio-economic, political and cultural perspective of the society in which they are born, brought up and survive. Preference of the male child is very strong in South Asia in general and particular to Bangladesh. In many studies indicate that the sex preference highly correlated with induced abortion (Akhter, 1988). Abortion is termination of unwanted pregnancy by the

removal or expulsion from the uterus of a fetus. The term abortion most commonly refers to the induced abortion of a human pregnancy. Different methods and techniques applied for induced abortion, which include herbal medicine, use of sharpened tools, physical trauma, and other traditional methods. Induced abortion means deliberately termination of fetus using the different methods and techniques. It may be happened different reasons, but in this research, the main mission of induced abortion is deliberate termination of pregnancy in avoiding the female offspring.

Induced abortion in developed countries is safest way to terminate the unwanted baby because of using modern technology and medicine along with the better surgical procedure compared to the developing countries. The legality of induced abortion is always depend upon the nature of the society, needs of the eligible couples for induced abortion and existing religious norms and values of the respective society. Its legality depends upon the specific conditions such as incest, rape, fetal defects and high risk of disability, socio-economic factors, and the mother's health being at risk. Legal issue means the laws enacted by the state for the termination of pregnancy with the help of the qualified physicians. The legal issue confined here how the induced abortion in the shade of Menstrual Regulation (MR) is legally acceptable. Sex preference abortion referred to as son preference or female rejection. The sex preference baby is practiced where male children are valued as compared to female children. Sex preference of abortion refers to the targeted abortion of female fetuses where the fetus' sex is identified by ultrasound or any other devices.

Research Methodology

This is a non-empirical study based on secondary information. The author carefully reviewed the relevant research works of the scholars who have already conducted research on sex preference of baby, induced abortion and legal issues related to abortion in Bangladesh. Moreover, primary data was collected from the key informants who directly or indirectly were involved in these three variables i.e. sex preference of baby, induced abortion and legal issue. The key informants were the mothers, paramedics, midwives, folk physicians and lawyers who were directly involved in induced abortion by MR or any method applied by induced abortion to terminate the unwanted baby. Qualitative technique is used to analyze the data. The researcher has taken utmost care to get the reliable and authentic data on this personal issue to write up this paper.

Causes of Sex Preference

Sex preference of baby is associated with the culture in terms of customs, beliefs and value system along with the economic structure of the society and the needs of the people. More specifically, it is the product of social, economic, psychological and cultural values,

which reflected a male dominating worldview which influenced why the women are interested for induced abortion? Why they prefer son instead of daughter? When and who takes decision to seek abortion? Why abortion seekers want to keep it secret? etc. The main causes of sex preference of baby is given below in connection of continuation of lineage, religion and ritualistic reasons, economic security in old age, social security, to get political strength, social status, inheritance of property right and to get rid of the problem of dowry at the time of wedding of the daughters.

Old Age Security

The lifetime of human being may be divided into four spans; childhood, adolescence, adulthood, and old age. During the first two spans, the person remains under the care and protection of the parents along with the other members of the family. In the third span he or she is self-dependent under the existing socio-economic system and state laws and provides shelter for the dependents (Zakaria et.al. 1984:12). The fourth span is old age, which characterized by a loss in vitality and a return to the state of dependency upon children, especially son. In western countries, there exist old age security measures, which fostered by the state and voluntary agencies. However, in Bangladesh, the responsibility of old age vested upon the children especially on the sons under the given social system, values and norms of the society. It has been observed that in peasant society of Bangladesh, elderly parents depend largely on their offspring especially sons.

Economic Assistance

In patrilineal society, sons considered not only as insurance for old age security of the parents but also they contribute in family income and share parental responsibility in maintaining family and upbringing siblings. In rural Bangladesh, children of both sexes perform such task as gathering fuel, fetching water, carrying messages and caring for younger children, which also observed by Cain (1980:232) in her research. The boys start assuming responsibility for the care of cattle around the age of eight to nine. Furthermore, male children work long enough hours at higher rate of wage as compared to the female children. Consequently, the female children do not compensate their consumption by the time they leave their parents' household and as a result sons are considered as asset, and the couples feel, more sons mean diversification of family income especially in lower stratum of society.

Family Strength

Family power structure is an important issue throughout the world and if any one keep it up they need to prefer son. Parents always desired son to get family strength as well as for maintaining *bangsa* (lineage). A greater number of sons considered as a source of strength

in the family. It is believed that the person, who has many sons, is more powerful than who has not any and consequently, most couples prefer sons. The greater number of male person in the family means strength of kinship, which helps in the factionalism, and alignments of village politics. There have been a number of anthropological studies of village politics and factionalism in Bangladesh (Bertocci, 1972; Khan, 1985; Chowdhury, 1980), and these authors already been observed that a larger residential kinship group (*gusthi*) tends to accumulate more power and economic resources.

Continuation of Lineage

It is believed that the sons keep alive the name and identify of the parents especially father in the patrilineal society. It also believed that the main objective of procreation of sons is keep or maintains the lineage after the death of the parents. For the Hindus the act of marriage is a sacred duty to perpetuate one's lineage and to save the ancestors from going to hell (Kapadia, 1966:30). Consequently, the birth of a boy calls for joy as a new member of the lineage who will carry the family name and perpetuate family traditions. Some of the parents reported that the son is the *bangser-bati* (light of the lineage). Consequently, son is considered praise worthy for the lineage among the Muslims and as a result just after immediate born of the son, they welcome the new born through the recitation of *ajan* (Muslims use the human voice to announce the times of prayer) (Maloney et.al. 1980).

Religious and Ritualistic Reasons

Leaving behind the other factors, the sons are desired by couple to perform the ancestral rites and ceremonies for the salvation of souls after death of their parents. Among the Hindus son is required to perform *mukhagni* (fire offering to deceased parents) and *sradhya* (rituals performed for the deceased) for the salvation of departed soul. The daughter is not allowed to perform the rites by religious custom to perform any vedic ritual. Similar importance of son is also found among the Muslims, after the death of parents, only the son can take part at *janaja* (prayer before burial) and funeral procession, and the son is allowed to go to the *gorosthan* (graveyard) to perform rituals for salvation of soul of the deceased.

Social Status

Social status means a position of an individual in his or her respective group or society (Bierstedt, 1970:247). The couples expressed almost everywhere that the son would enhance the prestige and position of the parents as well as the family by the performance of good work. Some of the couples reported that if their son becomes a leader of the *samaj* (society), and it will enhance the prestige of the father as well as of his *bangsa* (lineage).

However, every parent are optimistic about the good future performance of their children, and for a deviant son the parents only feel sorry and leave it to God's wish. They also do belief in fate. In Bangladesh, sonless parents feel an inferiority complex in comparison with the parents who have son. It seems to be associated with the feeling of a status gain and because of having a son in patriarchal society.

Inheritance of Property

Sex preference is also associated with the interest of legal right of the inheritance of property for the children. Son enjoys the lion share of right of property irrespective of religion and ethnicity in Bangladesh. Among the Muslim daughters, inherit half of the son's share of her father's property. On the other hand, according to traditional Hindu law only son can inherit his father's property smoothly but daughters have to maintain some terms and conditions for the inheritance of her parents' property.

Practice of Dowry

The problem of practice of dowry also related with the sex preference of baby. A large number of parents consider that the daughter is a *burden* of the family and as a result they are always worried about her marriage expenses along with other expenditures for their daughters. To keep the commitments of dowry, quite often, parents of the bride have to sell their landed property, even homestead and other valuables for arranging such gifts. Moreover, the commitments on dowry creates severe misunderstanding amongst the couple and it's after effect is that the brides have to face physical abuse and mental oppression, and in many cases failure to keep commitments leads to suicide of the daughter.

Incidence of Abortion / MR

Induced abortion is widely practiced around the world for the termination of fetus of unwanted offspring. Induce abortion is restricted by law in Bangladesh, which permits only to save the life of the pregnant women. Despite the restrictive nature of the law, Menstrual Regulation (MR) services have been available in the Government's family planning program as a public health measure. In 1974, the Bangladesh government encouraged in introducing of Menstrual Regulation (MR) services in a few isolated family planning clinics. At the early 1974, experts involved in the development of manual vacuum aspiration (MVA) with a plastic canola came to Bangladesh under the auspices of the US Agency for International Development (US-AID). The experts delivered lectures and practically demonstrated the use of MVA at the clinic. In 1978, a MR Training and Services Program (MRTSP) initiated in seven government medical colleges and two-government district hospitals.

The Bangladesh government's Population Control and Family Planning Division (PCFPD) circular states that MR is included in the official policy and that a necessary logistic support for MR services and training provided by the Division. It permits that MR can be performed by an MR-trained registered medical practitioner and by a Family Welfare Visitor (FWV) who has specific training in MR. It also specifies that an FWV should perform MR only up to eight weeks from the last menstrual period, that is, four weeks from the missed menstrual period under supervision of a physician. Any case with a longer duration needs to refer to a trained doctor. It has been reported that in many government-supported clinics, paramedics perform the MR. to terminate unwanted pregnancy.

The statistics of induced abortion in the name of MR is meager in Bangladesh. This may be primarily due to the tendency of induced abortion and MR performers to under-report the performance, as they also perform, in their private practice. The findings of different studies showed that about 5 percent of married women terminated their pregnancy deliberately in avoiding unwanted offspring due to various reasons (BBS, 2000). However, one of the main reasons for this termination is sex preference of male baby. Mothers are worried to establish themselves at the in-laws residence if they are not able to produce male offspring. It has been reported that 468,000 abortions took place in the government hospitals, health and welfare clinics along with other private hospitals (Sing et.al. 1997). On the other hand, the traditional providers carried out 262,000 abortions. The national rate of MRs and induced abortions combined with MR was 28 per 1,000 women aged 15-44 in 1995 (Sing et.al. 2012). In 2010, the induced abortion rate was 18.2 per 1000 women aged 15-44 and the MR rate was 18.3 per 100 women. Statistics indicates that approximately one woman has an induced abortion for every five who gave birth.

Decision about Abortion/ MR

There two types of decision-making process regarding the induced abortion and Menstrual Regulation (MR); one is uni-lineal decision and another is bio-lineal. In almost half of the cases of induced abortion i.e. 48 percent husband and wife jointly decided to terminate the unwanted pregnancy where authority structure of family is egalitarian. On the other hand, about 30 percent cases husbands take uni-lineal decision to terminate pregnancy of their wives individually where the authority structure of family is patriarchal in nature. Similarly, about 20 percent wives take uni-lineal decision individually to terminate her pregnancy where authority structure of family is matriarchal. It has been found in different studies that sometimes, intimate friends and relatives help to take decision for termination of unwanted fetus. In addition, the health or family planning workers contribute to the couple to take decision for termination of fetus (Sarker, 1981).

Induced abortion has long been the source of considerable debate across the East and the West. An individual's position concerning the complex ethical, moral, philosophical,

biological, and legal issues, which surround abortion, which is often related to his or her value system. Opinions of abortion may be described as being a combination of beliefs about abortion's morality the proper extent of governmental authority in public policy; and on the rights and responsibilities of the woman seeking to have abortion. Religious ethics also has an influence on both personal opinion and has the greater debate over abortion.

Abortion and Law

In 1803, The Abortion Law Reform Association (ALRA) was established; its aim was to campaign for the legalization of abortion. In 1837, The Ellenborough Act was amended to remove the distinction between abortion before and after quickening. In 1861, The Offences Against the Person Act: performing an abortion or trying to self-abort carried a sentence of life imprisonment. In 1929, Infant Life Preservation Act: this created a new crime of killing a viable fetus. Many scholars have noted the difficulty in reconciling the discriminatory nature of sex-selective abortion with the right of women to have control over their own bodies. This conflict manifests itself primarily when discussing laws about sex-selective abortion. Weiss (1995:205) rightly pointed out that most obvious challenge of sex-selective abortion represents for pro-choice feminists is the difficulty of reconciling a pro-choice position with moral objections one might have to sex selective abortion especially since it has been used primarily on female fetuses, much less the advocacy of a law banning sex-selective abortion. As a result, arguments both for and against sex-selective abortion are typically highly reflective of one's own personal beliefs about abortion in general. Warren (1985:104) argued that there is a difference between acting within one's rights and acting upon the most morally sound choice, implying that sex-selective abortion might be within rights but not morally sound.

In both public and private debates and arguments were given in favor of or against abortion access focus on either the moral permissibility of an induced abortion, or justification of laws permitting or restricting abortion. Groups advocating one of these two positions often spearhead abortion debates, especially pertaining to abortion laws. Anti-abortion groups who favor greater legal restrictions on abortion, including complete prohibition, most often describe themselves as "pro-life" while abortion rights groups who are against such legal restrictions describe themselves as "pro-choice". Generally, the former position argues that a human fetus is a human being with a right to live, making abortion morally the same as murder. The latter position argues that a woman has certain reproductive rights, especially the choice whether or not to carry a pregnancy.

In 1994 over 180 states signed the Program of Action of the International Conference on Population and Development agreeing to "eliminate all forms of discrimination against the girl child (UNFPA, 2011). Current laws pertaining to abortion are diverse. Religious,

moral, and cultural sensibilities continue to influence abortion laws throughout the world. The right to life, the right to liberty, the right to security of person, and the right to reproductive health are major issues of human rights that sometimes used as justification for the existence or absence of laws controlling abortion. In jurisdictions where abortion is legal, certain requirements must be met before a woman may obtain a safe, legal abortion (an abortion performed without the woman's consent is considered feticide). These requirements usually depend the age of the fetus, often using a trimester-based system to regulate the window of legality. Some jurisdictions require a waiting period before the procedure, prescribe the distribution of information on fetal development, or require that parents be contacted if their minor daughter requests an abortion. Other jurisdictions may require that a woman obtain the consent of the fetus' father before aborting the fetus, that abortion providers inform patients of health risks of the procedure—sometimes including "risks" not supported by the medical literature and that multiple medical authorities certify that the abortion is either medically or socially necessary. Many restrictions waived in emergencies for sake of the life of the mothers.

Abortion law in Bangladesh is based on the Penal Code of 1860; in Bangladesh, abortion is permissible only for saving the life of the mother. The law was temporarily waived in 1972 for women who were raped by the Pakistani soldiers during the liberation war. In all other cases, abortion, self-induced or otherwise, is a criminal offence punishable by imprisonment or fines.

1. A person who performs an illegal abortion (an abortion not performed for the good faith keeping in view of saving the life of the women or using menstrual regulation) is subject to up to three years imprisonment or a fine or both penalties (Penal Code, 2003:312).
2. If the abortion is performed after quickening has occurred, the person is subject to up to seven years imprisonment along with fine (Penal Code, 2003:312).
3. A woman who performs an abortion on herself is subject to the above penalties (Penal Code, 2003:312).
4. If an abortion is performed without the woman's consent at any point during the pregnancy, the person shall be punished with imprisonment for life or with imprisonment of either description for a term which may extent to ten years and shall also be liable to a fine.
5. If the abortion is performed with the woman consent and results in her death, the penalty will be imprisonment for life.

Conclusions

The selective abortion of female fetuses is most common in areas where cultural norms and values of male children over female children for a variety of social and economic

reasons (Goodkind, 1999). A son is often preferred as an "asset" since he can earn and support the family; a daughter is a "liability" since she will be married off to another family, and so will not contribute financially to her parents. Sex preference of son is strong and it is associated with the social structure of the couple in terms of beliefs and value system of the patriarchal society. Consequently, the termination of fetus is highly correlated with sex preference of baby. The perception about abortion and menstrual regulation as 'illegal', 'sinful', 'guilt' and 'shame' contribute to keeping it secret and silent for the sake of prestige and position of the abortion seekers in the society (Islam, 1974). The abortion is considered as a great offence and punishable in Bangladesh if it done illegally. Despite the restrictive nature of law, menstrual regulation services are available in the family planning program of the Government of Bangladesh and at the same time private level. The Government does not feel that this service conflicts with the existing abortion laws as it provides menstrual regulation as a family planning method keeping in view the selection of number of baby by choice not by chance. On the other hand, criminal law requires that pregnancy be established for prosecuting the offence of abortion, the use of menstrual regulation makes it virtually impossible for the prosecutor to obtain the required proof. However, it is true that the large number of unwanted pregnancy is being terminating by induced abortion in the shade of menstrual regulation hiding the spirit of laws as well as prescribed punishment. If it is continue, then there is a possibility of gender imbalance of population of Bangladesh and it may affects the human reproduction as well as national economy for the overall progress of the nation. If the abortion is legalized then it will be improved the quality of life of the women for example, induced abortion related morbidity and mortality will be reduced.

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