



Medico-legal aspects of infanticide by mother in postpartum depression -a review

Giri Minal*¹, Urade Rajendra²

1. PG Scholar,
2. Professor and HOD, Ph no- 9890884993

Department of Agad Tantra Avum Vidhivaidyak,
BMAM, Nandanwan , Nagpur, Maharashtra.

*Corresponding author: E-Mail- drmingalgi@gmail.com; , Ph no- 9960410511;

ABSTRACT -

Infanticide is the killing of an infant below the age of one year. The research article on infanticide by *Arneet et al* states that infanticide is the killing of an infant by the mother herself. But in generalization, the most accepted definition is the killing of an infant by any person. This article will focus on the *etiology* of Postpartum Depression (PPD) and the medico-legal aspects of infanticide by a mother who is in PPD which exists in a significant number of women all over the world, whatever may be the social class, age, literacy etc. In India, the prevalence of PPD is high, because it often get unnoticed and undiagnosed which can be attributed to the lack of social

awareness, and psychiatric assessment facilities. In the medical fraternity also awareness of PPD is expected and needed.

KEYWORDS

Infanticide, Postpartum Depression ,PPD, Hormonal fluctuations, Medico-legal aspects of infanticide

INTRODUCTION:

Infanticide is the killing of a child below the age of one year. This atrocious crime is done for the self-benefit only. The reason behind it may be socioeconomic. In India, the patriarchy system has taken the lives of many babies, especially females. In ancient texts, any reference to killing the child for specific beneficence is not found. This practice had taken place many centuries

later to have a gender-specific child or to hide the depravity. Mothers themselves are also seen as involved in this act. Many studies were done on this aspect of the involvement of the mother herself. As infanticide is a crime and it is punishable by law.

AIM-To review medico-legal aspects of infanticide by a mother in postpartum depression.

OBJECTIVES

- 1)To study infanticide in detail.
- 2)To understand the *etiology* of the postpartum altered psyche.
- 3)To study medico-legal aspects of infanticide by mothers with postpartum altered psyche or depression.

MATERIAL AND METHOD –

The textbooks were reviewed thoroughly. Research articles and online data were critically reviewed.

Review of literature

Infanticide

The term infanticide itself indicates the cruelty that is made by humans for their benefit. While defining the term infanticide some different aspects or views are there. Bourget D *et al* defined the term infanticide, as the killing of the baby by the mother herself who has not recovered fully from the effect of pregnancy,

delivery, lactation, and overall mental disturbance. ^[1,2,3] But the most accepted definition of infanticide is the killing of an infant. The prominent reason for infanticide by a mother in the postpartum period is an altered psyche or mental disturbance. The reasons behind the killing of the baby may be due to social status, i.e. as a result of rape, illegal child, or poverty which makes parents unable to raise the child. In India, one of the reasons for infanticide is the greed for secret treasures, which are done under the influence of superstitious people.

Postpartum altered psyche

Postpartum period- The period after delivery is said to be the postpartum period. This period is considered to be and generally accepted as 6 weeks after delivery. In some considerations, it is 6 months. This longer period is divided into 3 phases i.e. acute, subacute, and delayed phase. Acute-6-12 hrs, subacute- 2-6 weeks, and delayed phase up to 6 months after delivery.^[4] This division makes us understand the pathophysiology or the changes that are continuously taking place after the delivery. PPD affects 10-15% of all women who give birth.^[4]

Postpartum period and altered psyche

The fact of an altered psyche after delivery is now well accepted. Though most people or women are not aware of it. Even most of the medical fraternity is not also aware of it. Mood disorders after delivery can be categorized into three types^[3].

1. Postpartum blues-Generally it is called baby blues. It is a postpartum mild psychological disorder. The transient phenomenon is characterized by a sad mood or labile mood. Experiencing tearfulness, and sobbing. It is observed from a few hours to a few days.

2. Postpartum depression –The stage between postpartum blues and psychosis is depression. The American Psychiatric Association describes episodes of depression after delivery up to two weeks. This PPD describes the depressed mood, and loss of interest in almost all the activities. Also the changes in appetite, weight, sleep, energy, making the decisions. On severe note, it leads to thoughts of death, thoughts of planning the suicide and attempts of suicide. According to Dr Dalton, a female British obstetrician, studied 500 women in postpartum, concluding that 7% of women developed PPD and required

psychiatric treatment. As per Dr Dalton, there are three varieties of infanticide by mother^[5]

- a. In the acute stage of postpartum i.e. the mother is acutely psychotic.
- b. After returning of menstrual cycle
- c. During domestic feuds-i.e. the domestic disputes which lead to depression.

3. Postpartum psychosis-Its presentation is like bipolar disorder.^[6] This is because of hormonal shifts after delivery. The symptoms are not just like depression but are unusual, delirium like and the disorganised behaviour, including hallucinations, and sometimes violent. ^[7,8,9]It is biologically driven state presenting itself as toxic organic psychosis.

The etiology of ppd

The exact etiology of PPD is not defined yet. But many studies suggest the hormonal fluctuation, biological susceptibility and psychological stressors are responsible. Harris *et al* states that maternity blues are experienced by 30% of women. Severe blues can lead to an episode of depression.^[10] They also found the association between the scores of maternity blues and changes in

progesterone concentrations in saliva. The maternity blues was associated with high antenatal progesterone concentrations, and a steep fall in concentration after the delivery. The postpartum depression is found in the lives of women in problematic state affected by many negative factors. It may be low socioeconomic status, illiteracy, or too young age.^[11,12] Depression may also be related to lack of social or family support from all aspects, domestic abuse, and marital conflicts.^[13,14] Also the unwanted or untimely pregnancy, nervousness about the motherhood, complications during and after pregnancy, child born with disabilities or congenital diseases. History of psychological disorders or drug addictions are also responsible for depression after the delivery. Prenatal depression is identified as the strongest predictor of PPD. If a mother experiences any type of depression during her pregnancy, no matter which trimester, she is more prone to PPD. Also the mother who is experiencing the postpartum blues within some days of delivery is also more likely to experience the depression after delivery.

PPD is not defined as the separate entity in International Classification of Disease

10 or the Diagnostic and Statistical Manual of Mental Disorder IV , but it specifies that PPD starts within the four weeks of delivery (The World Health Organization 1992;APA 1994)^[15] However, PPD is often used as a separate diagnosis in clinical settings.^[16] Many studies do not refer to new onset of cases only, but look at the prevalence of depression in an inconsistently defined period from 4 weeks to 1 year after delivery.

The most common methods practised for infanticide by mother are by overlying i.e. taking the infant into bed and suffocating it with one's body, or by suffocating the baby by cloth, pillow etc. Or by drowning in a nearby well, tank, strangulation by cloth, and hand are also common.

Medico-legal aspect

Taking away the life of a child is of course a legal issue. In many countries the charges against infanticide by mother is same as that of murder, no matter whether it is due to postpartum depression or because of other social reasons. But the considerations are going on worldwide to take the humane step for the infanticide which is under the influence of PPD. The increasing awareness about PPD is the reason

behind this humane step. The altered psyche is the biological event which is followed in many women's after giving birth to the child. The extremes of this phenomenon leads to various depressive events, eventually that may lead to the crime of infanticide i.e. by mother herself.

Russia became the first country to take soft corner for infanticide under PPD in 1647, followed by all European states except England. They formed legal distinction between infanticide and murder, giving milder punishments in infanticide. They understood the fact that not only the lenient punishment will work in these cases but the psychiatric assessment treatment are equally important. In 1992, England passed the Infanticide Act by recognising as giving a child birth is biologically more vulnerable and made the infanticide in PPD as less severe crime along with the provision of psychiatric treatment. Today almost all the western societies have accepted it by adjusting the penalties.^[17]

In India however the PPD or PND (Post Natal Depression) is not considered or it is not recognised. IPC, i.e., Indian Penal Code 315 is applicable for infanticide which states

that, Act done with intent to prevent child being born alive or to cause it to die after birth be punished with imprisonment of either description for a term which may extend to ten years, or with fine, or with both.^[18]

A person if makes the criminal act in non compos mentis situation by illness then the person is exempted from criminal liability.^[19] Hence if a women is going through postpartum altered psyche, may be considered as she was not in situation to realise what she was doing at that time. And considered as not willed act and she may be exempted from criminal trial.

The defence for infanticide considers PPD, which shows the compos mentis, i.e. the altered psyche of the women after giving birth to the child, which is a biological phenomenon. and the act was done in non compos mentis. This defence can be produced in the courts to get the milder punishments. But the burden of proving the act under the influence of PPD is always there and itself it is challenging. But once it is proved, then the adjustments in punishments are expected.

While talking about the legal aspects, the other reasons and intentions of infant death are considered, to decide and prove the

exact manner of death. Homicide i.e. killing by other than parents, filicide i.e. killing by parents, accidental death. This task is done by the team of police, legal experts, forensic experts. The Inquest, on spot evidences, witness, post mortem report, forensic report are thoroughly examined to fix the crime. Once the crime is fixed the punishments are given as per the law. After deciding the infanticide is under the influence of PPD, the punishment is adjusted on milder note and the victim is referred to have psychiatric treatment.

This provision of considering the infanticide under the PPD in Indian law should be made with the due care so that it can not be used as defence in every infanticide case as a defence.

DISCUSSION –

PPD does exist in a significant number of women all over the world. Earlier this condition did not find its place in medical texts. But now many studies are done and also going on to elaborate on the PPD and its management. Now it is established fact that, it is biological event that is seen after the delivery.^[4] The altered behaviour, depression, and violence are seen in this period.^[7,8,9] This period may vary and may be extended up to 6 months. Theories

say that it is due to hormonal shifts. It is all about the rise and fall of progesterone. The steep fall and intense rise of progesterone manifest as in the behaviour of women. Either postpartum blue, depression and psychosis are seen in several women after delivery. The severity of these may lead to infanticide by herself not realizing what *accipitral* act she is doing. This is seen in women everywhere in the world, whatever may be the social class, age, literacy, etc. In India, the prevalence is high because of lack of knowledge, shortfall in ANC, PNC, psychiatric assessment facilities, social awareness, and less awareness in the medical fraternity too.

In India, legally infanticide is a crime. The trials and penalties are the same as the homicide. As such act is not passed yet it will recognize the PPD as a separate entity to dilute the intensity of the crime, therefore there is no room for the consideration of the deed under the PPD and hence no leniency in punishment.

But if it is proved that the act was done under the non-compos mentis by the woman then the penalties are diluted.^[19] But challenges are there to prove the altered psyche, and again to prove that the act was done under its influence. Once it

is proved, along with the lenient punishment the guilty will be referred for psychiatric care.

CONCLUSION

Arriving at the conclusion, and stressing on humanity, the infrastructure of antenatal and postnatal care should be expanded by inclusion of a psychiatric assessment of each woman. If the act of infanticide by the mother is done, the cause behind it should be accessed. If the cause is PPD, then treatment needed should be given. On a second note, the shelter of this legal provision should not be taken as a defence in this barbarous or brutal crime in every infanticide by a mother.

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Conflict of Interest: Non



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N J R A S

Source of funding: Ni

Cite this article:

Medico-legal aspects of infanticide by mother in postpartum depression -a review

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Ayurlog: National Journal of Research in Ayurved Science- 2023; (11) (05): 01- 08