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## MEDICOLEGAL ASPECT OF INFANTICIDE: A REVIEW

Shegaonkar M.,<sup>1</sup> Lambat R.<sup>2</sup>

1.P.G. Scholar Govt. Ayurved College, Nagpur.

2. Associate Professor and H.O.D., Dept. of Agadtantra, Govt Ayurved College, Nagpur.

### Abstract:

Ayurveda is a complete science of life. Agadtantra Evum Vidhi Vaidyaka is a branch of Ashtang Ayurveda which deals with toxicity as well as medical ethics and medicolegal aspect of every cases. Infanticide is killing of a child < 12 month of age. Infanticide is practiced in many countries. Most of the time infanticide was carried out by the family members of child. To identify whether the death of an infant is natural or criminally forensic science play a vital role. So this paper will involve a complete discussion of infanticide, the cause of death of an infant, identification of the age, whether it is born alive or not, if born alive then to analyse the survival time and medicolegal aspect of infanticide.

**Keywords:** Agadtantra, infant, infanticide, medico legal aspect.

### Corresponding Author:

**Dr. Mrunali Shegaonkar**

P.G. Scholar Govt. Ayurved College , Nagpur.

Phone no: 9420058660

Email id: [mrunalishegaonkar6@gmail.com](mailto:mrunalishegaonkar6@gmail.com)

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## Introduction

*Ayurveda* is a complete science of life. *Agadtantra Evum Vidhi Vaidyaka* is a branch of *Ashtang Ayurveda* which deals about toxicity as well as medical ethics and medicolegal aspect of every cases.

Infanticide is also a medicolegal case.

Infanticide is killing of a child <12 month of age . the crime of a mother killing her child within a year of birth or a person who kills an infant especially their child <sup>[1]</sup> . The crime of killing a child<sup>[2]</sup>.

Infanticide is practiced in many countries . Most of the time infanticide was carried out by the family members of child.

To identify whether the death of an infant is natural or criminally forensic science play a vital role. So this paper will involve a complete discussion of infanticide, the cause of death of an infant, identification of the age , whether it is born alive or not ,if born alive then to analyse the survival time and medicolegal aspect of infanticide.

## Aims & Objectives:

1. To explain infanticide, its definition , cause and post-mortem findings .
2. To explain medicolegal aspect of infanticides.

## Observation:

### INFANTICIDE :

1. The word infanticide is derived from the latin word “*infanticide*” in 1650.”*Infant*” means a child during the earliest period of their life especially before he or she can walk , a baby is the second element of latin origin , and “*cide*” means killer or an act of killing<sup>[3]</sup> .
2. Infanticide is defined as unlawful destruction of a newly born child , lawful destruction of a child refers to therapeutic destruction of child, when

it is not capable of independent existence<sup>[4]</sup>.

3. Infanticide is practiced in many countries. To identify whether the death of an infant is natural or criminally forensic science play a vital role. There are three ways to identify the cause of death of an infant .

Identification of age , whether it is born alive or not , if born alive then to analyze the survival time, cause and time of death are the major tests.

### Age -

In infanticide , the death of child is a major question, because within 12 months if the baby dead means it , is infanticide. If it is dead in the womb or prior to born it is foeticide<sup>[5,6,7]</sup>. And if child dead within 24 hours of the baby's born or first 24 hours it is neonaticide<sup>[8,9,10]</sup> .thus age can be recognised in three ways.

1. Firstly measurement , the body of the infant will be measured from crown to heel during first 5 months is the square of the number of months of pregnancy i.e the square root of the length in cm. gives the age of foetus in months . after 5 months of gestation , the length in cm. is five times the month of gestation, i.e., length divided by five is the age in months. This is called HAASE'S RULE<sup>[11]</sup>.
2. The second method is ossification; it is done in two ways by x-ray and dissection to calculate the born value and to recognize the age<sup>[12]</sup>.
3. The third method is odontology, development of teeth at 6 months in intrauterine is 60 mg , newborn that is 0.5 gm, 6 months or after birth it is 1.8 gm<sup>[13]</sup>.

### Still Born or Dead Born :

Still Born<sup>[14]</sup> : still bor

uterus just before delivery.

b) delivery is after refers to a child –

a) which was living in r 28 weeks of pregnancy  
c) after being born , the child remains still i.e. shows no sign of life or respiration .

**Causes** – prematurity , congenital defects , birth trauma, placental abnormalities, toxemia of pregnancy, erythroblastosis foetalis

**Dead born**<sup>[15]</sup> : Dead born means the baby died in the uterus before the birth and after completely born it shows three sign , one is sign of decomposition ; in which rigor mortis seen , second is maceration which means the baby is dead in the uterus and surrounded with liquor amine with the exclusion of air . The third is mummification means the child dying because of deficiency in blood supply and liquor amine is scant with exclusion of air.

**Born Alive**<sup>[16]</sup>: As per English law , live born refers to a child , who is completely delivered outside the body of mother, irrespective of severance of the cord and if this child showed sign of life and is killed , it amount to infanticide.

As per Indian law, even if a part of body of the child is outside the body of the mother & if he was alive – killing him amounts to infanticide. In civil cases , the evidence is crying , muscular movement sneezing, yawning, pulsating umbilical cord , inspecting palpating or auscultating heart sounds , pain sensation on pinching.

In criminal cases, born alive is identified by medical examination in autopsy.

**Causes of infanticide**<sup>[17]</sup>: The death of the child may occur in three causes natural, accidental or criminal.

#### 1. Natural causes :-

- Immaturity: A prematurely born child generally dies after born. If it criminal induced then it is punishable under IPC, criminal induction of premature baby but not culpable homicide

- Debility: Lack of general development leads to the child may die after birth from debility.
- Congenital disease: Specific fever-like plague or smallpox attack mothers during pregnancy it will affect the child's internal organs lungs, heart, or brain. Syphilis is a life-threatening infection. It was caused by the bacteria treponema pallidum which passes from mother to child during fetal development
- Haemorrhage: Blood escapes from blood vessels from injured surrounding tissue. It will occur from the umbilical cord, stomach, and rectum.
- Malformations: The child born with congenital abnormalities of blood vessels, heart. There is a monster like acephalous and acephalous, the monstrosity will not die necessarily soon after birth.
- The disease of the placenta: Placenta provides oxygen, nutrients, and filters the fetal waste during pregnancy. The placenta is from the uterine wall and connected to the umbilical cord of the child. If infected the child will die.
- Spasm of the larynx: Mucus or meconium is aspirated in the larynx or enlargement of the thymus gland causes spasm of the larynx.
- Placenta previa or abnormal gestation: Placenta occurs in the neck of the uterus it will block partially or wholly. It causes severe bleeding during pregnancy and delivery. It puts both the baby and the mother's life in danger.
- Erythroblastosis fetalis : Erythrocytes means red blood cells. The woman is pregnant, mother's white blood cells

attack the child's red blood cells it can cause erythroblastosis details.

## 2. Accidental causes –

Birth itself a traumatic event for the child. It includes fracture, dislocation of limb bones, skull fracture, tears of the venous sinus; it resulted in subdural haemorrhage, rupture of the liver. A child will die because of an accident during birth or after birth.

- i. Prolonged labour : The death of the child will mostly occur in prolonged labour. When the first time mother gives birth the labour duration lasts for approximately 20 hours if it is the second time the labour lasts for 14 hours. Extravasation of blood into meninges, the compression of the head against the pelvis leads to fracture of skull bones , may put the child's life in danger.
- ii. Prolapse of the cord : The umbilical cord prolapsed through the cervix open in the vagina ahead of the baby. The cord then twists the baby's body during delivery. In asphyxia or post mortem examination meconium, liquor, may found in the bronchial tubes.
- iii. Injuries : A baby can be injured if during pregnancy the mother falls, receives a kick, or taking a beating by the blunt weapon in the abdomen region.
- iv. Death of the mother : If the mother dies in the delivery, the child will alive in utero and can be saved within 25 minutes if proper and timely medication

is given. The chance of the baby die is more when the mother dies.

- v. Suffocation : The child's mouth and nostrils are covered with membranes the child will die because of suffocation.
- vi. Precipitate labour : Precipitate labour means fast and rapid labour, the labour lasts for three hours only. It will be one in two hundredth women. Some women will not know the labour pain so the baby falls on the ground. The average distance from the women's genitals to the ground is 75 cm. it is sufficient to cause a fracture of the skull bone the baby will die. If the fall from 18 inches gap may fracture them as well. It is possible when in multipara with large roomy pelvis it is rare.

## 3. Criminal causes<sup>[18]</sup> - The criminal causes may be categories into two :

- An acts of commission .
- An act of omission.

### **Acts of commission :**

- A. Mechanical violence –
  - i. Suffocation – smothering ,crush asphyxia ,gagging
  - ii. Strangulation
  - iii. Drowning
  - iv. Head injury
  - v. Cervical injury
  - vi. Cut throat injuries
  - vii. Other injuries – penetrating, non penetrating
  - viii. Burying alive
  - ix. Burning

- B. Poisoning.
- A. Mechanical violence :-
- i. Suffocation -  
Causes -  
a) Smothering – closing mouth and nose with hands, closing nose and mouth with cloth/ pillow, holding the child tightly to breast while feeding ,overlaying the child  
b) Gagging – forcing a piece of cloth/ mud in oral cavity.forcing a finger into oral cavity.  
c) Crush asphyxia – pressure on the chest .
  - ii. Strangulation –  
Causes – neck may be compressed by hand ( throttling), cloth, string or umbilical cord.
  - iii. Drowning –  
Causes – submersion of body – may be in water or milk. At times drowning may be post –mortem.
  - iv. Head injury –  
Causes – A blow on the head .  
Falling the child from height.  
Hitting the head against a hard object.
  - v. Cervical injury –  
Causes – violence on neck
  - vi. Cut throat injury –  
Causes – neck is cut with sharp object.
  - vii. Others injuries –  
Penetrating : A thin object like needle, pin, knitting needle or scissors is thrust into fontanelle, inner canthus of eye, nose,ear,throat, rectum,vagina,neck or axilla- resulting in concealed puncture wounds, causing death of child .  
Non penetrating : Any major trauma resulting in injury to blood vessels, multiple bones or thoraco abdominal viscera may result in death.
  - viii. Burns –  
Causes – baby may be burnt
  - ix. Burying alive –  
Causes – child is buried alive .
  - x. Poisoning – poisons may be fed to the child or smeared into the nipple while breast feeding him. Common poisons used are opium, arsenic, dhatura, calotropis, tobacco & insecticides.
- Act of omission** – the mother to take certain precaution for the safe delivery and growth of child .failure / omitting to take these precaution can be charged with infanticides, if the child dies.
- a) A women who gets labour pain immediately should inform anyone, the one who sends medical aid. Unable to do this comes under act of omission.
  - b) Failure to ligature of the cord, because after cutting the cord may bleed it leads to death of the child . so, the umbilical cord should tightly be ligatured.
  - c) Omission of a medical practitioner. A women after its delivery carried the child for a long distance. Some women will be strong , but some are not able to move whether she is a primipara or a multipara.
  - d) Omission to protect the child from the heat & cold .
  - e) Omission to supply proper food to the child.
- Autopsy in infanticides** <sup>[19]</sup> : Examine the wrapping clothes, body measurement, sign of maceration/ decomposition, vernix , caput succedaneum, malformation, birth injuries , condition of umbilical cord & placenta , ossification centres, internal injuries and sign of live birth.
- MEDICOLEGAL ASPECT OF INFANTICIDES** <sup>[20]</sup>

1. Infanticide in India is considered equivalent to murder and is tried under section 302 I.P.C.
2. In England , France & Germany mother is not held guilty of infanticide, considering her disturbed mental condition due to delivery & lactation and she is tried for manslaughter, not murder. In India , there is no such differentiation.
3. Due to strict laws & lenient MTP act, the cases of infanticide, in India , are slowly decreasing , however it is sometimes done by unmarried and widows, usually immediately after birth. Earlier infanticide was common for female child and to please gods.
4. Abandoning of a child – whoever leaves a child , below 12 years, somewhere, with the intention of abandoning him , he is guilty under section 317 IPC , if the child does not die ( imprisonment upto 7 years or fine or both ) . however , if the child dies , he is guilty of murder under section 302 IPC.
5. Concealment of birth – whoever , secretly disposes off the dead body of a child , with the intention of concealing his birth , is guilty of section 318 IPC ( imprisonment upto 2 years or fine or both ) . however if the child is left at open or public place its no offence.
6. Sudden infant death syndrome / SIDS / COT death / CRIB death
  - SIDS is defined as the sudden natural death of an apparently healthy child , below 2 years , usually at 2- 4 months and the cause of death cannot be explained even after a careful P.M. examination . because death usually occurs during sleep , it is also known as cot / crib death. As per WHO , SIDS is a natural cause of death. Cot death may be confused with infanticide & vice – versa .
7. Non accidental injury of childhood / battered child syndrome / child abuse syndrome / mal treatment syndrome / caffey’s syndrome.
  - if refers to a child who is a victim of repeated beating / torture , usually by his parents, child being in 2 – 5 years age group. Is rare in india .
8. Manhausen’s syndrome by proxy – is the child abuse involving the mother. The mother inflicts violence and may bring the child repeatedly to hospital, for treatment, with false history.
9. Battered wives – refers to repeated assault of wives , by their husbands – usually under influence of alcohol. Such a lady may commit suicide or leave the home .
10. Battered husbands – since a few years, there are also cases of assault of husbands by their wives .

**Discussion** : This article provides an overview of infanticides , its definition , the cause of death of an infant , whether it is live

born or still born , medicolegal aspect of infanticide.

In earlier days in India, infanticide is more because of poverty, the dowry system and illegal pregnancy , lack of medical services, maternal illness ,lack of education . specially there is no support for girl children; they are treated as a loss to the family . so they get killed intentionally by feeding rice forcibly in the mouth of newly born and used different method to kill the girl child ,for such offences there is no stringent punishment under the law and also it is difficult to prove. But nowadays , in India as judiciary system and laws are strict ; infanticide is considered equivalent to murder, due to strict laws the illegal termination of child was termed to be an offense under MTP act; it is necessary to be terminated prior permission from the registered medical practitioner. Even after so many schemes and acts enacted by Government, infanticide couldn't be stopped fully, but there was decreasing in numbers so additional measure to be carried out for prevention of infanticides.

- a) The Government should make strong laws against infanticide or crimes relating to children .
- b) The existing laws need more teeth to curb the menace against a child .
- c) The enforcing authorities under the acts need to be stringent while investigating.
- d) Term of punishment should be enhanced for the offenders falling under acts .
- e) The trial of cases should be made practicable expedient to endower speedy justice .
- f) The evidence of the expert witness needs to be given more weightage while deciding the case of infanticide.

**Conclusion :** In conclusion, it can be suggested that currently , public health and

social service approaches are not meeting society's needs to prevent infanticide . so government should made strong laws against infanticide or crime relating to child. Prevention programmes should be designed to focus on the developmentally based vulnerabilities of newborn children. Parents must be thoroughly educated about the extreme stress of the infancy period . Continuing education through out the postnatal period is also important. This approach may be helpful in assessing the extent of the parent – child bond and may decrease the rate of infanticide.

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