

[Will India's Ban on Prenatal Sex Determination Slow Abortion of Girls?](#)

Category : [April 1996](#)

Published by Anonymous on Apr. 02, 1996

Will India's Ban on Prenatal Sex Determination Slow Abortion of Girls?

Dowry Drives the Deaths as Ultrasound-Equipped Trucks Ply Villages Pitching the Spiel, "Spend 500 Rupees Now, Save Five Lakhs Later"

V.G. Julie Rajan, Pennsylvania

United Nations statistics estimate that in 1995 the Indian sexual ratio was 106.9 males per 100 women--having slowly increased from 102.9 in 1901. Approximately fifty million women are "missing" in the Indian population. Generally three principle causes are given: female infanticide, better food and health care for boys and maternal death at childbirth. The situation is similar in China and other Asian and Middle Eastern countries. Prenatal sex determination and the abortion of female fetuses threatens to skew the sex ratio to new highs--with unknown consequences. One source states that worldwide fully 42% of all unborn girls are aborted, compared to 25% of boys. Recognizing and seeking to control this perilous trend, the government of India outlawed prenatal sex determination on January 1st, 1996. The new law makes it illegal to advertise or perform the tests (with a few exceptions), and punishes the doctor, relatives who encourage the test and the woman herself with fines from ten to fifty thousand rupees and jail terms from three to five years.

The problem has arisen in just the past two decades. Prenatal techniques for sex determination were introduced into India only in the early seventies. Although touted officially as an aid in reducing genetic defects, much of the Indian public has turned to these tests to find out if "It's a boy" or not. It is an incidental irony that women are "blamed" for delivering baby girls, when it is now established medical fact that the man's semen always determines the child's sex.

At first, mostly affluent women had access to prenatal tests. When the non-invasive and cheaper technique of ultrasound was introduced twenty years ago, Indian families quietly turned to it to fulfill the desire for sons. Before the law came into effect, an alarming number of pregnancies underwent these simple tests as more and more couples customized the make-up of their families by terminating unwanted fetuses. It's a gut-wrenching fact that in a patriarchal country like India, where sons are prized and daughters devalued in society for a variety of reasons, it is likely that couples will choose to abort only females. In fact, on January 6, 1994, an episode of "ABC News PrimeTime Live," a weekly television news journal shown in the United States, it was estimated--guessed, really, since accurate figures are unavailable--that over three thousand female fetuses are aborted every day in India--one million per year.

For and Against

The proliferation, and increasingly reported abuse, of prenatal testing has forced an impassioned debate throughout India. Those fighting against the tests cite studies which suggest that

further skewing of the sex ratio may only make worse the status of women, with an obvious negative impact on the whole nation.

Dr. Vibhudi Patel, a former professor of SNDT Women's University in Bombay who has studied the movements of the working class women, notes that this petitioning against sex selective abortions began only in the 1980s, about fifteen years after the techniques of sex determination were widely introduced into the country. "When the women's group took initiative...first it was basically through petitioning, then later through health departments," she relates. "When commercial news of the tests became widespread, many women activists and health activists noticed them." Dr. Patel explains that anti-selective abortion efforts grew to significance when it was discovered that even working class women and middle class women were using such tests. However, Selective abortion is too recent a development to have yet significantly affected the overall male/female ratio.

On the other hand, there is a great deal of public support in India from pro-sex selective abortion advocates who feel that these tools are helping families to cope with intransigent problems, especially dowry. Health clinics, buoyed by record profits, are aggressively selling their wares. One clever economic pitch blares from tens of thousands of billboards through the country--"Pay five hundred rupees [US\$14.00] now rather than five lakhs [Rs500,000 or \$14,000] later." Poor families, fearing expensive dowries that can cripple a family, willing undergo the tests.

Even though such advertisements were banned in several states before, Dr. Patel notes that sex determination tests and abortions are still advertised, though less blatantly.

"Everybody knows about it. Most of the advertisements are written in regional languages. They use very sketchy sentences and words and slogans," describes Dr. Patel. "Even among working class people and tribal populations, most of the health circles have patriarchal biases for medical, social purposes and for psychiatric purposes in the hospitals while counseling pregnant women. I use to go for training for health care workers, and they [pro-selective abortion health care workers] would openly and aggressively boast about it. They would say that we feminists are unrealistic; that we don't understand the life of common women."

Not surprisingly, pro-selective abortion activists feel that selective abortion has several merits important for the good of the general Indian public. For example, advocates argue that selective abortion is the answer to population control. Perhaps they feel that in a country where families are willing to have child after child until they have their desired number of sons and daughters, sex selective abortions would allow women to choose the makeup of their family while keeping the family size small. Another argument in terms of population control is that families should be balanced; selective abortions will allow families to balance their desire for a daughter with one for a son.

Due to the social preference of sons, the survival of many families is hinged on the birth of a son. Proponents feel that selective abortion helps women overcome some of their insecurities and burdens, noting that women who produce sons

have marriages that are happier and less toilsome, and husbands who are more likely to stay with them.

Pushing the Tests Underground

In the midst of such strong public support of these tests, criminalization has not noticeably reduced their use. Even with the passage of the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act of 1988 in Maharashtra, and similar acts in Haryana, Punjab and Gujarat, sex determination practices could not be stemmed.

Oddly, legal interference has had a negative affect on the situation, leading an otherwise lawful practice in hygienic clinics to slip underground. When determination techniques were banned, health care workers--who now could face prosecution--raised the price for these sex determination tests dramatically. Procedures are now offered without written evidence so as to escape legal action.

"It is very difficult because we are not dealing with some liquor bootlegger. These doctors are very clever and cautious," explains Dr. Patel. "Everything is by word of mouth. They don't keep documentary evidence. They have heightened charges ten times. Earlier those who were charging, say, RS700, now are charging RS7,000."

Shanti Conly, Director of Policy Research at Population Action International in Washington, D.C., agrees that sex selective

abortions are on the rise. "It is still something that urban women practice more than rural women. The Indian entrepreneurial spirit is phenomenal. For years I've known people who have been making a lot of money by running trucks with generators out to villages with projectors and showing movies. Now they're putting ultrasound machines [easily obtained] on those trucks and offering prenatal testing."

This underground movement, coupled with the realities of the size and distribution of India's population, make it difficult to estimate just how many procedures are taking place. "It cannot be estimated because even in some of the villages and some of the states births and deaths are not being registered," notes Dr. Pagadala Rajaram, OB/GYN and Dean of the International Society for Medical Education, College for Medical Sciences in Nepal. "It is just not possible for anybody to access what is the number of abortions. Many of them go unrecorded."

Regardless of the actual numbers, one thing is clear. The practice of selective abortion is more widespread in India than female infanticide (which is committed mainly among the very poor), and it is on the rise.

Enforcement of the Ban

What will be the impact of the ban upon India? Some argue that bans in India are practically useless, especially when they are too idealistic, neglecting the reality faced by most of the

population. Others are heartened, saying that the ban announces the Indian government's acknowledgment that sex-selective abortions are having a negative affect on the male/female ratio in the country.

To date, no one has been convicted under the current law [see sidebar, page 10], and Dr. Pagadala Rajaram feels that nothing will ever come of the ban unless legal action and enforcement follow. With such a large pro-selective abortion campaign in the country--consisting of women, health care workers, and government officials--effective legal action would seem difficult.

Although Dr. Vibhudi Patel concedes that the ten-year-old ban in Maharashtra has been ineffective, she does see some positive affects in the new ban. "It has taken away respectability from the test," she notes. "Doctors used to think that they were godmen, and that they were doing society a favor by offering these tests. Now they have to portray themselves as criminals if they offer these tests. To that extent it is good."

Madhu Kishwar, founder and editor of India's distinguished women's magazine Manushi, told Hinduism Today that the ban will only drive selective abortion underground. "It has important social consequences, and one of them is a very imbalanced sex ratio. But you cannot impose a selective ban," she states. "The main issue is the public demand for something--people want abortion. Certain things cannot be decided by courts of law; this, I think, is one of them. Even if you could have the best of legal systems, if people are convinced that the law is not for their welfare, they are going

to find ways of disobeying it."

Shanti Conly agrees. "It's very easy for governments to pass laws about this; it's important they do so. But to actually enforce these laws is very difficult. I think the key is changing attitudes and the value of women. It's not really a law and order problem where you can go around arresting women for murder. I think reporting and punishing selective abortions will just drive these practices underground."

The Tenacious Dowry Factor

Among the complex social and cultural reasons in India and other Asian nations for son preference, no doubt the most compelling is the economically crippling system of dowry. Dowry stems from the early concept of stri danain which gifts --usually jewelry, including often a quarter pound of gold--was given to the bride by her family, in order to secure some personal wealth for her when she married. This jewelry remained her personal property throughout the marriage, providing some security in case of her husband's death or other calamity.

However, in approximately the 19th century, the loving practice of stri danawas joined by the very much different concept of dowry. Dowry became first an expected, then a demanded, offering given by the bride's family to the groom's family at the time of marriage.

Whereas *stri danais* considered the property only of the woman, passed matrilineally, dowry is not. Notes Madhu Kishwar. "Dowry payments are, as currently made, rarely considered female-owned or inherited property. Instead, they take more and more the form of offerings over which the daughter retains uncertain rights," Kishwar describes the transformation. "They are made to the groom's family as a token of gratitude for accepting the girl into their family, and for allowing her natal family to get rid of her. There is usually the tacit understanding that a bride can retain some rights in disposition of some of the jewelry."

Even with the establishment of the Dowry Prohibition Act--which outlaws dowry payments and, in the case of a divorce, rewards dowries back to brides--the practice of dowry has not subsided.

"We find that most people still demand dowry," notes S. Mohan, Justice of the Supreme Court of India from 1991-94. "This is a most unfortunate thing in our country. It is prevalent both in the urban as well as in rural areas. Most of the dowry debt, according to statistics, is in Uttar Pradesh, the fourth state is Karnataka, and Tamil Nadu comes in at number nine."

Kiran Bedi, the first woman on the Indian Police Force, feels that the Dowry Prohibition Act never really was an advantage for women. "The bride would have to seek enforcement of her rights and not every woman is in a physical or mental frame to do so. Economically, she is absolutely weak and not in a strong position to seek enforcement of her rights."

Although the dowry system only serves to increase preference for men, Ms. Conly suggests that most families still appreciate the worth of daughters. "Most families do want a daughter, a daughter to help the mother with child care and other household chores. Also, women often want an emotional bond with their daughter. The families are willing to scramble and survive for one daughter," she describes. "But if you are talking about more than one daughter, then it becomes a huge problem. Poor families feel the crunch particularly, but dowry is relative to income. Even wealthy families can feel that a second daughter is going to bring financial ruin or, at a minimum, significant financial stress. So, I think both female infanticide and sex-selective abortion are driven to some extent by the dowry system."

"The decision that is facing the family is...if they have a daughter, they must marry her because not to marry a daughter is equivalent to death in traditional society," adds Conly. "But to have that daughter, you have to mobilize a certain level of wealth."

Having a daughter all comes down to one point: if one has a daughter, she must be married; to be married, a daughter must have a dowry; with each daughter and each dowry, the family wealth declines and family members live less well. Therefore, if a family is not wealthy, as is the case in most of India, it is more likely that parents would prefer to have sons who, even if they never marry, will not detract from the family wealth.

While a daughter might drain the family finances, a son could

actually enhance it. And as time goes on, the dowry demands seem only to be increasing monetarily, making sons the smarter family investment. Dr. Patel explains that the rise in dowry price is a means of upward social mobility. "I think it is the way you keep up with consumerist culture," postulates Dr. Patel. "Daughter means a liability, and son means an asset. In my community sons are called 'blank checks.' This is the culture in which we live."

For families with sons, there is no way but to follow the practice of dowry. As Ms. Kishwar notes, even if families with sons demand minimum or no dowries at all, society does not reckon this as noble. Quite the opposite, society may feel that a low dowry reflects a family's judgment of their son's worthlessness.

Other Consequences

Women who undergo sex selective abortions may end up aborting fetus after fetus, continuing the cycle until they have a son. If they desire another son, the arduous routine may continue for years. These repetitive abortions on women can only damage their reproductive health, notes Dr. Manickavel. He is currently Professor in the Department of Microbiology at the International Society for Medical Education, College of Medical Sciences in Nepal and previously taught in Northern American Universities for over fifteen years. "Medically, it has been expressed by some physicians that it is dangerous to women's health. She becomes an habitual aborter, " he explains. "Even when she wants to have a baby after she has gone through some abortions as a means of selection, she

cannot hold conception for a long time." Thus, the process of selective abortions may be self-defeating in the end. The very woman who strives to have a son may ultimately not be able to conceive at all.

Dr. Vibhudi Patel recounts a true story in which sex selective abortion had a horrific impact on the daughters of a family. "Two sisters in Punjab committed suicide. Before that, they left a note for their parents," she explains the story, one of many similar cases occurring in India. "It is a telling story of how these young girls feel. They were very bright; they were very creative. They used to participate in all extra-curricular activities. They used to write poetry. When their mother went for a sex determination test at the time of her third pregnancy, they suddenly felt unimportant and unwanted and killed themselves."

The "White Cradle Program"

With social education and support, state governments are able to institute and implement programs to improve the lives of unwanted baby girls and also to increase daughter preference. In Tamil Nadu, under the guidance of Chief Minister Jayalalita, several programs have been instituted to aid the lives of baby girls. Dr. Manickavel sees merit in one of those programs entitled the White Cradle Program, a government sponsored alternative to female infanticide. "This was a response to female infanticide reported in some places near Madurai as well as near Salem," he explains. "What Chief Minister Jayalalita did was to introduce a program where cradles were set up in public places like hospitals so parents and women

can leave their babies anonymously, knowing the government will take care of them, try to find a home. When they give up the babies for adoption, the government sets up trust funds for the babies. Until they get to twenty-one years of age, the families who have adopted the baby girl will be given some money for their care." It's a working program that fits with India's cultural reality.

Outside India, It's Worse

Selective abortions occur in other Asian countries as well. Dr. Chai Bin Park, Professor of Public Health at the University of Hawaii, School of Public Health, points out that sex selective abortions are even more prevalent in China and Korea than in India.

In China, an already existing preference for sons at least as strong as that in India has been increased in recent years. Because of the loss of social pension benefits for the elderly following the breakdown of collective farms, the elderly must now turn to their sons for economic support. "In China, they are committing infanticide and hiding female births so we do not know exactly how much sex selective abortions are going on," notes Dr. Park.

Ms. Conly finds that the shortage of woman in China has both positive and negative affects. "They are finding in China, and particularly among the urban couples, that [they] are satisfied when they have a child if it is a girl," she stresses. "But there are also some very negative trends that have come out of the

shortage of women, for example, the kidnaping of girls to be brides by rural farmers."

In Conclusion

Many experts feel that India's law against prenatal sex determination is no solution to the admitted predicament. In a society plagued by the materialistic system of dowry--a concept contrary to the precepts of Hinduism--and age-old prejudices against women, a ban so alien to the expectations of everyday life will never obtain the public's full support. Health care workers and the masses are effectively keeping the network of selective abortions thriving underground.

To make any substantial changes in parental attitudes towards daughters, it is necessary to change the social and economic roots of son preference. The key to such changes lies in improving the status of women. By improving the status of women, couples will not think of their daughters as burdens and consequently daughter preference will rise. And the only way to improve the status of women is to educate the nation.

Correspondent V.G. Julie Rajan is a freelance writer living in Pennsylvania. She hopes to improve the status of women and minorities through her work. Currently, she is writing a book on gender-based double standards in Indian society.

Sidebar: The Abortion Question

Abortion is no minor dispute--40 to 60 million abortions occur

each year worldwide. In India in 1992 there were 600,000 recorded abortions and an unknown number unrecorded. There are approximately 26 million live births per year in India. In the USA, one-third of pregnancies end by abortion--98% for elective, non-medical reasons. Rumania holds the world record for abortions: in 1965, there were 1,115,000 abortions out of a total population of 19 million, an astounding four abortions per live birth.

The abortion debate raging so intensely in most of the world today is essentially a theological dispute over the definition of life. Most conservative branches of the world's religions hold that life begins at conception, concluding therefore that killing of a fetus is a form of murder. Liberal members of many religions and those with no religion hold that until the fetus can exist independently outside the womb, it is incorrect to consider it a full human life.

Hinduism has always deemed abortion contrary to dharma. The Krishna Yajur Vedastates, "Therefore, a slayer of an embryo is like the slayer of a priest." Modern Hindu religious leaders continue to hold that abortion is immoral. Swami Bhasyananda, head of the Ramakrishna Mission Chicago center, stated, "Abortion has come now because people are not controlled. The child has come unwanted, so then destroy the child. This is absolutely illogical and most unethical."

While ethics may drive the abortion movement in the West, elsewhere compelling practical realities overshadow questions of rights and definitions of life. In Asia, Africa and the Middle East abortion is often seen as a means to assure human (or

family) survival in the face of population explosion, poverty and maternal mortality.

Selective abortion (as discussed in our correspondent's article) was foreseen by both sides of the abortion debate.

Pro-abortion feminists are, mostly, adamantly against allowing any kind of selective abortion. More determined pro-abortion advocates say if the woman has the right to an abortion, she has the right to be selective about it, too. Our sense in researching the issue is that neither side of the abortion issue foresaw the enormous number of abortions being done today, or anticipated this astounding estimate: that worldwide forty-two percent of all baby girls compared to 25 percent of all baby boys are aborted. This is surely a trend with profound consequences upon the human race.

Sidebar: Detailing the Law Against Sex-Determination Tests

The Pre-Natal Diagnostic Techniques (Regulation and Prevention Of Misuse) Act of 1994 was put into effect on January 1, 1996, to control the use of sex determination tests. Chapter 1, section 5.2 makes it clear that prenatal tests are illegal when involving the intent of sex determination.

Encouragement of prenatal tests by relatives of the pregnant woman, including her husband, as well as encouragement by clinics via advertisements is illegal. Even when it is absolutely necessary that a woman undergo a prenatal test, the sex of the baby is not to be revealed to her or her relatives in any manner. The law seeks to punish all of those involved in the case of sex determined tests and abortions from the health care workers to the relatives, who might encourage such tests, including the woman herself. Punishment for all those involved ranges from three years in jail with a possible fine of ten

thousand rupees to five years in jail and a possible fine of fifty thousand rupees. To ensure the legal conduct of the practitioner, violators will be reported to the State Medical Council. For the first offense, the practitioner's name will be removed from the register of the States Medical Council for two years and for subsequent offenses, his/her name will be removed permanently. Although passed by the Central government in August of 1994, the individual states ratified this ban only at the end of 1995.