

CHAPTER 8

KARNATAKA

Karnataka, a State in South India had for a long time been clubbed with other South Indian states, barring Kerala in its treatment of the girl child. At the same time, problems that some districts of Tamil Nadu faced such as infanticide were not very common in Karnataka. Although for a long time, the sex ratio has not been favourable to women, it did not see drastic changes either. Even today, its statistics in the juvenile sex ratio and female sex ratio areas are better than many States of the northern part of the country.

Yet, over the last two Census, there is a perceptible change which is a cause for worry. Though cases have been filed, nothing positive has come out of such cases in such a drastic manner as to change the trend.

This Chapter seeks to analyse the history, changes in sex ratio, probable causes and also seeks to look at some of the cases which have been filed across Karnataka under the Preconception and Prenatal Diagnostic Techniques Act, 1994.

In doing so the Objective sought to be achieved is-

- 3. To study a sample of cases filed in Karnataka to find gaps in the implementation process.*

Until recently, sex selection was seen as a problem largely in North India due to the low status of girl children. Several factors in South India, including Karnataka were felt to sway the balance if not in favour of the girl child, at least in favour of neutrality. In Karnataka, endogamous marriages are quite common, unlike exogamous marriages which are the characteristic of the North. This meant that in

Karnataka, girls and women were married off to persons within the village itself or fairly close by. As a result, women received much support from their families in times of trouble. Visits between families and get togethers to celebrate various family festivals and traditions helped the woman maintain natal family bonds.

It is important to highlight here the importance of state-specific analyses of the problem. Many a nuance of the state level decline is not revealed in the national perspective⁴⁵¹. Caldwell, Caldwell, and Reddy (1982), charting demographic changes in Karnataka state, describe changes in marriage customs that may indicate why sex ratios have been declining in Karnataka. The major change was the coming of dowry. In the early 1950s, the first dowries, in Bangalore, were paid by some Brahmin families. Not until the beginning of the 1960s did the first Brahmin landlord family in the study area provide a dowry, and not until 1965 was this done by the first Vokkaliga (the major peasant caste) family. It is still not paid by Harijans, although in the largest village they ceased paying the Tera five years ago, and the payment is still small among some of the backward castes. Nevertheless, they all anticipate its arrival. In all cases, the bride's family now bears the major portion of the wedding costs, and it is they who seek loans and sell land. (Caldwell, Caldwell, and Reddy 1982)⁴⁵².

However, dowry or poverty due to huge dowries cannot be the only consideration. Just as poverty is not the reason for sex ratio imbalances globally⁴⁵³ or in India, in Karnataka, too, poverty does not play a role. Some of the wealthiest areas are where this discrimination is manifest the most. Mandya is one such example. Women's rights activist Donna Fernandes from Vimochana remarks— "Mandya grows

⁴⁵¹ Satish B Agnihotri, "Survival of the Girl Child: Tunnelling Out of the Chakravayuha", *Economic and Political Weekly*, October 11, 2003, 4352

⁴⁵² Radhika Balakrishnan, "The Social Context of Sex Selection and the Politics of Abortion in India," http://www.hsph.harvard.edu/rt21/medicalization/BALAKRISHNANSocial_Context.html as on 13 Jan 2005 at 4

⁴⁵³ Sudha and S Irudaya Rajan, "Female Demographic Disadvantage in India 1981-1991: Sex Selective Abortions and Female Infanticide," *Development and change*, Vol 30 (1999), 585-618 at 590

sugarcane and is a prosperous district. Yet, from this 'sweet' district come several cases of sex selection.”

Thus, with changing times, the position of the girl child has weakened. Dowry remains a huge consideration in many communities. The sex ratio is above 1000 females to 1000 males in three districts- Udupi with 1027, Dakshina Kannada with 1023 and Hassan with 1005. The sex ratio is lowest in Bangalore at 906. This may be partly because there may be a greater influx of men who travel to the city in search of work, but cannot be fully explained by migration.

While the sex ratio is a good indicator to see if sex selection is being carried out, it is not a perfect one. Since the sex ratio only discusses the ratio between existing males and females, other factors such as improved health systems, lower maternal mortality rates and longer female longevity influence the larger numbers of women. To determine whether sex selection is taking place, we need to look at the juvenile sex ratio i.e. the sex ratio of those from 0-6 years of age. The Juvenile Sex Ratio in Karnataka has fallen from 959 to 949 from 1991 to 2001. This means that there are ten less girls per thousand being born in Karnataka each year. While the Juvenile Sex Ratio is higher than the National Juvenile Sex Ratio which is 927, it is not good because we seem to be going down instead of progressing. While Tamil Nadu is lower at 939, other Southern States are doing better with Kerala and Andhra Pradesh at similar levels of 963 and 964. This is surprising as other indicators such as Female Literacy has gone up by more than 10%. Literacy thus does not seem to have positively affected the tradition of son preference.

Not surprisingly, the two most highly urbanized areas viz. Bangalore Urban with an urbanization rate of 88% and Dharwad with a rate of almost 55% have Juvenile Sex Ratios below the State average. This has been attributed to the ease of accessing sex selection technology in these areas. This may however not be the only contributing factor. Other Districts which have a Juvenile Sex Ratio below the State average are-

Mandya (937), Koppal (938), Chitradurga (946), Bangalore Rural (941), Belgaum (924), Gulbarga (937), Uttar Kannada (946) and Bagalkot (939). Belgaum has the lowest and its proximity to both Dharwad where facilities are available and Maharashtra have been touted as reasons. There has been much media intervention in Belgaum primarily as a result of an expose done by a journalist. There were dharnas organized too by local organizations.

Districts which have a ratio higher than the State average are- Kodagu (977) which is incidentally the highest, Chamaraja Nagar (957), Hassan (964), Udupi (955), Chikmagalur (964), Tumkur (952), Haveri (961), Bijapur (971), Bidar (967), Kolar (976), RAichur (962), Shimoga (959), Gadag (951), Mysore (970) and Dakshina Kannada (952).

Two districts Davangere and Bellary are the same as the State average.

While doing a comparison with census figures from 1991, only in five districts has the Juvenile Sex Ratio gone up although infant mortality has come down with interventions by the State and the public. These districts are- Haveri (from 954 to 961), Bijapur (952 to 971), Bidar (962-967) and Kolar (971 to 976). In Bijapur, the increase has been substantial. Why it is so has not been completely explained. Factors such as a fall in infant mortality coupled with sex selection technology not being used in a big way have been suggested.

What is of concern is that in all the other districts it has come down. There are fewer girls being born. This trend seems to be continuing according to demographers at the Health and Family Welfare Department, though they caution that it is too early to determine it as data over a long period of time is more reliable than data over a short period which may highlight differences which would slowly vanish in the long term.

What has been the impact of the law? Karnataka, the perception was that a number of cases had been filed. This is true. Appropriate Authorities have filed a number of cases. The Appendix gives a list of cases which was available with the Director of the PNMT programme in Karnataka. He is also the Director of the Reproductive and Child Health Programme. Looking at cases filed, what was the mischief they sought to address and action taken could be a good indicator of how effective the law was. The real test would however be in Census 2011 which would show whether the law really worked. However, this was inconclusively proved through the field study because even in the selected districts where the sex ratio was low and there were cases filed, no convictions for sex selection have yet been made in Karnataka. However, the study was very useful to give an indication of how the law is being used- the provisions of law, kind of evidence used, action taken, responses of courts etc.

A Pilot study was undertaken in Mandya District. The focus of the study was to test the methodology of the field study. Mandya as the other districts which have been studied was chosen because its sex ratio is lower than the State average. Mandya is a fairly wealthy district when compared to others. Shortly before the Mandya Pilot Study, the Lokayukta as well as a leading women's NGO Vimochana had inspected four Nursing Homes and checked records. There was an NDTV Report that sex selective abortions were high in Mandya, but no cases were found out yet.

Subsequent studies were done by looking at three other districts. The districts were chosen on the basis of being below the State average in terms of the sex ratio and also having some cases registered. Bangalore Urban and Bangalore Rural between them had the maximum cases registered. Two other districts viz. Dharwad and Belgaum were identified. However, the field study could only be done at Dharwad because of an investigative report in Belgaum which had appeared in the Press. It subsequently became difficult to obtain permission to examine the data in Belgaum at the time the field study was being done. Dharwad like Mandya had a lone case on the Act, but the District Commissioner was proactively trying to encourage

registrations at the time of the visit. Mandya District like the other districts in Karnataka was trying to get registrations of ultrasound machines done. The lone case that was registered at the time the pilot study was done was on the non registration of the ultrasound centre.

The main sections used are for non registration of equipment or non registration of centres. However, many procedural provisions such as not having forms properly filled up by patients or doctors, not having a clear referral letter showing permissible grounds for the scan, no consent letter etc have been used. Though these are minor, they have often been used to support cases.

Difficulties in cases seeing the light of day and getting a quick favourable result are many. District Health Officials are not familiar with legal procedures and are not trained in what kinds of evidence would be required. As a result, the prosecution has very little evidence to fall back upon. Again, there is little or no contact between the public prosecutor handling the case and the DHO. This leads to a lot of frustration on the part of the Appropriate Authorities as they do not know what is happening and are at the same time answerable to the public. In cases where equipment has been seized, it has been returned by the Court to the erring doctors leading to a feeling of impunity. Of course, a security is extracted, but the general feeling is that it is not enough.

Two views on how implementation is to be done seem at loggerheads with each other. Doctors and care givers feel that the procedure should be consultative, that there must not be coercion, that non registration should be treated with a warning at first for doctors to comply with the law. Others, especially activists feel that unless a few doctors are made stern examples of by giving them heavy punishments and publicizing it widely, doctors will continue to act with impunity holding the privileged status they are viewed with in society.

It is felt that a combination of the two must be used. Cooperation and consultation is best, but it must not be taken as a sign of a weak law. Doctors who have erred must be stringently punished- especially if sex selection is proved.

Witnesses to the raid have a habit of not appearing again. Concerned citizens, human rights groups etc may have a better commitment and the Appropriate Authority may utilize their assistance in raids. Trainings for Appropriate Authorities on how to take photographs, what files to seize, how to prevent tampering of evidence, how to persuade witness cooperation must be done.

On a positive note, such trainings are not a new idea now in Karnataka. The Karnataka State Government in a series of Affidavits in the *Cehat* petition showed its achievements in trying to battle this problem. Important aspects of these have been culled out and summarized below.

20 March 2001

The Act was published in the Karnataka Gazette also on 11th July 1996. After notification of the Rules in the Gazette of India, the Government of Karnataka appointed the Additional Director (Family Welfare and Mother and Child Health) as the Appropriate Authority under Section 17(2) of the Act for the whole State. The Additional Director is now redesignated as Project Director (Reproductive and Child Health). The State Level Advisory Committee is also constituted and functioning. The District Health and Family Welfare Officer is designated as appropriate authority for the district⁴⁵⁴. The government has sent circulars to all the districts requiring that all government and private hospitals, where such special procedures as regards Prenatal Diagnostic Techniques are available and put to use, are to be registered as required under the Act. A workshop was conducted in collaboration with UNICEF, IMA⁴⁵⁵, and FOGSI⁴⁵⁶ for funding publicity, etc.

⁴⁵⁴ Vide Govt Order No. HFW 119 FPR 1994 dated 2.12.97

⁴⁵⁵ Indian Medical Association

28 July 2001

State wide publicity was given in the form of an advertisement in all the leading newspapers both in English and Kannada directing genetic clinics, labs, and counseling centres to compulsorily register with the appropriate authorities by 30th June 2001. It was also warned that the defaulters are liable for prosecution. The Department of Women and Child Development also undertook to create awareness regarding the evil practice of female foeticide through anganwadi workers.

02 November 2001

About 254 centres have been registered and 229 fresh applications received. Urgent need to impart training to the district level Appropriate Authorities and other field level functionaries was noticed, and this would be done soon. The Health Department in consultation with the Law Department would be organizing a Training Programme for the officers at the district level to enable them to effectively exercise their powers and functions under the Act. This is in addition to general awareness campaigns which have been planned.

27 November 2001

So far no complaints have been received by the Appropriate Authorities under the Act. The State Chief Secretary has written to the Deputy Commissioners to closely supervise and monitor the implementation of the Act by the District Level Appropriate Authorities and to extend them all help and support through the Revenue and Police machineries of the State. Progress of the implementation of the Act is being reviewed at the State Level Meetings of the Appropriate Authorities.

18 January 2002

⁴⁵⁶ Fellow of Obstetrics and Gynecological Society of India

The list of Appropriate Authorities is duly published in all the leading newspapers, including local newspapers at the district level. One of the major points that emerged from the statement related to a controversial advertisement regarding gender selection at the time of conception in a leading daily newspaper⁴⁵⁷. At the time of the statement, the case was being investigated, and the newspaper had written to the State level Appropriate Authority that all future insertions of the advertisement had been withdrawn.

Three cases had been filed in the Court of the II Metropolitan Magistrate, Bangalore for non-registration of bodies⁴⁵⁸. Cases had also been filed in Belgaum District earlier. A survey of the number of organizations had been done, and the number of bodies using ultrasound machines was calculated at 1193. The total number of registered institutions as at the end of 2001 was 1090. The difference between the number of institutions according to the survey and those actually registered was explained as due to the fact that inspection of these bodies were still under way and some had not yet applied for registration⁴⁵⁹.

24 July 2002

A survey was undertaken throughout the State, and almost all the Diagnostic Centres coming under the purview of the Prenatal Diagnostic Techniques Act have been granted certificate of registration, with the exception of two in Udupi and two in Gulbarga which were either pending registration or in court for having been denied registration⁴⁶⁰.

⁴⁵⁷ In the Times of India, Bangalore Edition 18.12.2001 *c.f.* Additional Statement filed by the Government of Karnataka on 18 January 2002 in Writ Petition (Civil) No. 301 of 2000 at para 4 pp 7-8

⁴⁵⁸ On 22.12.2001. The three cases were within the jurisdiction of the Bangalore District Appropriate Authority and were against the following nursing homes:- Yellamma Dasappa Nursing Home, Shanthinagar, Bangalore 27; Lalbaugh Nursing Home, Jayanagar 1st Block, Bangalore-11; and Agadi Nursing Home, Wilson Garden, Bangalore-27.

⁴⁵⁹ Additional Statement filed by the Govt of Karnataka on 18 January 2002 in Writ Petition (Civil) No. 301 of 2000 at para 5 page 8

⁴⁶⁰ Additional Statement filed by the Govt of Karnataka on 24 July 2002 in Writ Petition (Civil) No. 301 of 2000 at para 2- chart showing districtwise breakup of centres surveyed and granted recognition

Another additional statement was filed on 8 November 2002 consolidating, briefly, the contents of the earlier statements to place on record the action taken by the State.

08 November 2002

At the district level, the District Health and Family Officers are appointed as the District Appropriate Authority⁴⁶¹. Advisory Committees for the District Appropriate Authority are also notified⁴⁶². At the Sub-Divisional level, the Health and Family Welfare Department had no officers, and the State sought the Court's permission to appoint Revenue Officers instead⁴⁶³. Once such permission was obtained, the Advisory Committees at the Sub-Divisional level would be constituted. Lists of Appropriate Authorities are published.

As on 30 September 2002, a total of 1,343 institutions and ultrasound scanning centres⁴⁶⁴ had applied for registration, out of which 1,326 have been granted registrations.

As far as publicity was concerned, handouts in English and Kannada are printed and distributed. The print media, radio, and television also carried publicity messages⁴⁶⁵. A number of meetings and workshops were also conducted to spread awareness about the Prenatal Diagnostic Techniques Act as well as to

⁴⁶¹ Under the Government Order No. HFW 119 FPR 94 Bangalore dated 2-12-1997

⁴⁶² Under the Govt Order No. HFW 161 FPR2001 dated 28-7-2001

⁴⁶³ A Karnataka Administrative Services Officer, such as the Assistant Commissioner of the Revenue Sub-Division. It was suggested that Assistant Commissioners as Revenue Officers and Sub Divisional Magistrates would be well conversant with the procedure for search and seizure and thus better equipped to enforce the provisions of the Act.

⁴⁶⁴ Under the Pre Natal Diagnostic Techniques Act, genetic counseling centres, genetic laboratories, and genetic clinics including ultrasound scanning centres have to be registered under the Act before they can conduct or associate themselves with activities relating to prenatal diagnostic techniques.

⁴⁶⁵ These include a wide range, such as messages by the Minister for Health and Family Welfare, Radio Doctor Programme, panel discussions by experts, and awareness generation meetings among others.

focus on the importance of registrations of births and deaths. Details are listed out in the Chart below⁴⁶⁶—

Sl. No.	Activity	Achievement
1	District level workshops	23
2	District level journalists' workshop	23
3	Local paper publication	243
4	Taluk level workshops	156
5	Meetings at Village level	3704
6	Importance of registrations of births and deaths (village level)	1161
7	Meetings for Awareness Generation at Village Level	3786

January 2003

The Advisory Committee decided that the nursing homes and clinics, which had registered under the Prenatal Diagnostic Techniques Act, should display the following boards in the patients' Waiting Room—

1. Sex Determination is not done here
2. Determining the sex of the foetus is illegal; those who do it are liable for prosecution⁴⁶⁷.

Much has been done and there is much more expected from Karnataka where so many positive measures are being undertaken. Census 2011 will be the final reckoning to show whether the law has succeeded... or failed.

⁴⁶⁶ Additional Statement filed by the Govt of Karnataka on 8th November 2002 in Writ Petition (Civil) No. 301 of 2000 at para 8 page 8

⁴⁶⁷ Additional Statement filed by the Govt of Karnataka in January 2003 in Writ Petition (Civil) No. 301 of 2000 at 13