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Sex-Selective Abortions: The Prevalence in India and its Ramifications on Sex Trafficking

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Introduction

Sex-selective abortion is a practice involving the prenatal preference of males over females. Prior to the availability of ultrasound technology, this preference led to the abandonment or murder of female infants. However, with the increase in availability of ultrasound technology and the corresponding advance knowledge of the fetus' sex, the ability to perform selective abortions was introduced. The concept of sex-selective abortion can be viewed through the lens of sex ratio at birth. The natural sex ratio is about 102-106 males to 100 females.¹ However, the Indian cultural preference for males over females translates into a disproportionate sex ratio, in favor of males. This paper will examine the scale to which sex-selective abortions occur in India, the Indian government's attempts to stop the practice, and its relationship to sex trafficking within the country.

Sex-Selective Abortion in India

Despite other progress that has been made towards equality, a preference still exists for males over females within Indian society, due to parts of the population clinging to older cultural and discriminatory views. In the eyes of the law, men and women have equal rights as mandated by the Constitution of India. This idea of equality has been underscored by India being a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women.² Nonetheless, certain cultural traditions prevail, particularly those which involve the responsibility of the male child(ren) to support elderly parents, as well as other sex-exclusive religious practices.³ This is in addition

to systematic oppression of women that can be found within government institutions. Traditionally, Indian marriage culture dictates that the daughter's family giving a financial dowry to the groom's family.⁴ Therefore, with the birth of a daughter, there is an implied future financial obligation that also places another cultural disadvantage on the female sex. Through this, the overall preference for males over females in India continues, and the financial and cultural catalysts for sex-selective abortions remain.

The rise of sex-selective abortion was propelled by the accessibility of prenatal ultrasound technology in the 1980s.⁵ As a result of this technological advancement, a family could determine if the child was male or female and, based on this information, make the decision to either keep the child or terminate the pregnancy. There has also been an observed trend in the decision to use sex-selective abortion in the future that is influenced by the birth order of children and the sex of the previous child. This decision-making pattern is best represented through the measurement of sex ratio at birth (SRB). If the first child was a girl, the parents would use sex-selective abortion methods for a subsequent pregnancy, causing the SRB in India to grow to 132 males to 100 females. If the first two children were girls, the SRB would increase to 139 males to 100 females for the third birth, whereas the SRB would be normal if the preceding child or children were male.⁶ In essence, the presence of a female child would increase the practice of sex-selective abortions in successive pregnancies and cause parents to force the birth of a male child artificially. However, if males were

1 UNFPA, "Gender-Biased Sex Selection," <https://www.unfpa.org/gender-biased-sex-selection> (accessed November 22, 2018).

2 D. Amutha, "The Roots of Gender Inequality in India," Tuticorin, India: St. Mary's College (2017): 6, <https://dx.doi.org/10.2139/ssrn.2906950> (accessed November 22, 2018).

3 Ibid., 5-6.

4 Therese Hesketh, and Zhu Wei Xing, "The Consequences of Son Preference and Sex-Selective Abortion in China and other Asian Countries," *Canadian Medical Association Journal* (2011), <https://doi.org/10.1503/cmaj.101368> (accessed November 22, 2018).

5 Therese Hesketh, and Zhu Wei Xing, "Abnormal Sex Ratios in Human Populations: Causes and Consequences," *PNAS* (2006): 13272, <https://doi.org/10.1073/pnas.0602203103> (accessed November 22, 2018).

6 Hesketh, and Xing, "The Consequences of Son Preference and Sex-Selective Abortion in China and other Asian Countries."

born, Indian parents would be less motivated to rely on sex-selective abortions in the future.⁷ This observed trend provides critical insight into the corresponding impact of sex-selective abortions throughout India.

The consequences of ultrasound technology are also observable in terms of the sex ratio and the disparity between the number of expected and actual girls in the population. In the zero to six-year old demographic, there are only about 940 girls for every 1,000 boys throughout India. This ratio stands in contrast to the zero to six age demographic of the world, which stands at 986 girls per 1,000 boys.⁸ Given India's position as the second-most populous country in the world (and projected to become the most populous in 2027), the accumulating nature of a skewed sex ratio has an immense impact.⁹ The 2011 census conducted in India indicated that among girls zero to six years of age, there were about seven million fewer girls than expected, given the natural outcomes of birth.¹⁰ Furthermore, when applying those same effects onto every age demographic in India, the impact on the population as a whole becomes even larger. The 2018 Economic Survey, which was presented to the Indian Parliament while discussing the budget, observed that the skewed sex ratio had contributed to 63 million missing women in the country.¹¹ The massive absence of women in the population emphasizes the magnitude of the overall issue that society creates through the favoring of males over females and sex-selective abortion.

Combatting Sex-Selective Abortions: The Indian Government

Due to the continued population impact from sex-selective abortions, the Indian government has taken steps to combat its occurrence. The first legal measure implemented by the Indian government was

the Medical Termination of Pregnancy (MTP) Act in 1971. This act outlaws abortion, making it a criminal offense punishable by fines, imprisonment, or both. The only exceptions to this law are in cases where the life or health of the mother is at risk, the unborn child faces the potential for harm and serious disabilities, or if the pregnancy is caused by the failure of a contraceptive method. The law also places restrictions on legal abortions by mandating that they take place in a government hospital and by creating increased restrictions as a pregnancy progresses.¹² The Indian government also enacted the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, known as the PNDT Act of 1994. This legal measure outlaws most uses of prenatal diagnostic techniques, such as ultrasound technology that can detect abnormalities and disorders in the fetus, "for the prevention of their misuse of sex determination leading to female feticide."¹³ Through its regulations, the PNDT Act has created a legal barrier towards knowing the sex of a child before birth to prevent sex-selective abortions. If the legal measures were sufficient, it would be expected that after the passage of the 1971 MTP Act and the 1994 PNDT Act, the demographic trends in India would shift towards the natural sex-ratio at birth.

Nevertheless, it has become evident that the legal repercussions have not completely deterred people, as sex-selective abortions are still occurring. Despite the government's attempts in banning prenatal diagnoses and strictly regulating the permissibility of abortions, there are clear indications that these laws are not being strongly enforced, given the continued disparity in sex ratio at birth throughout the country.

It is difficult to ascertain the exact number of sex-selective abortions in India, given the illegality of

7 UNFPA, "Trends in Selective Abortions of Girls in India," United Nations Population Fund (2011), <https://www.unfpa.org/resources/trends-selective-abortions-girls-india> (accessed November 22, 2018).

8 Corey Flintoff, "Selective Abortions Blamed for Girl Shortage in India," NPR, April 14, 2011, <https://www.npr.org/2011/04/14/135417647/india-number-of-female-children-drops> (accessed November 22, 2018).

9 Hannah Ritchie, "India will soon overtake China to become the most populous country in the world." Our World in Data, April 16, 2019, <https://ourworldindata.org/india-will-soon-overtake-china-to-become-the-most-populous-country-in-the-world#licence> (accessed May 24, 2020).

10 Lisa R. Roberts, and Susanne B. Montgomery, "India's Distorted Sex Ratio: Dire Consequences for Girls," *Journal of Christian Medicine* (2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5341607/> (accessed November 22, 2018).

11 Shweta Sengar, "Decline in Sex Ratio at Birth Indicates Rampant Gender-Selective Abortions in India," *India Times*, February 19, 2018, <https://www.indiatimes.com/news/india/decline-in-sex-ratio-at-birth-indicates-rampant-gender-selective-abortions-in-india-not-enough-beti-bachao-339969.html> (accessed November 22, 2018).

12 Krishnan S. Nehra, "Sex Selection & Abortion: India," Library of Congress, June, 2009, <https://www.loc.gov/law/help/sex-selection/india.php> (accessed November 22, 2018).

13 Nehra, "Sex Selection & Abortion: India."

the practice and the lack of reporting on sex-selective abortions.¹⁴ However, in a 2019 report created by the Population Research Institute, three models were used to estimate the number of sex-selective abortions through a comparison of the observed and expected sex-ratios at birth. Through this study, it is estimated that as many as 20.2 million women have been lost between 1990 and 2018 due to this practice.¹⁵ The statistics imply that despite the legal consequences, techniques are still being used to determine the sex of the fetus and decisions are being made accordingly to terminate pregnancies. It can be inferred that this is especially true in situations where a family has enough wealth, influence, and power for access to illegal ultrasounds. Ultimately, in spite of regulations that aim to end illegal abortions, India has failed to correct its demographic disparities, and its sex ratio continues to be adversely impacted.¹⁶

Sex Trafficking: The Accompanying Effect of Sex-Selective Abortions

The presence of sex-selective abortions in India ultimately creates a population in which there is a disproportionately fewer number of women than men throughout the country. The uneven gender demographics greatly affect the number of potential pairings for traditional heterosexual marriages. For marriages to occur, there must be a viable supply of partners in the marriage market. The marriage market, in this context, refers to the available population of marriageable individuals. In a culture that heavily encourages marriage during one's lifetime, the occurrence of sex-selective abortions leads to fewer women in the Indian marriage market.¹⁷ As such, an environment exists where the supply of women is low and the demand for them remains high.

Due to the insufficient number of women, there is high potential for the presence of sex trafficking in India. The most prevalent permutation of sex trafficking is bride trafficking, a solution which fills the void in the marriage market. With a shortage of women in certain regions of India, traffickers turn to the deceptive recruitment and kidnapping of poor women to sell as brides.¹⁸ Throughout the country, traffickers will use coercion and false promises of employment to lure young women from their families, before forcing them to engage in sham marriages both domestically and internationally (i.e. Arab states of the Persian Gulf).¹⁹ This system of bride trafficking uses Indian regions with a more balanced sex ratio to supply victims for the regions with a more disproportionate sex ratio.²⁰ In 2012, the National Crime Records Bureau in India estimated that, just in the state of Assam, ten women are kidnapped each day.²¹ The trafficked brides become victims of sexual abuse and are forced to conceive children for the individuals who have purchased them.²² Furthermore, there are other factors that facilitate sex trafficking, including the size of the country and the large population, which allow for the internal transfer of women to various parts of the country. One particular factor that exacerbates the problem of sex trafficking is the prevalence of corruption across government offices and law enforcement agencies. Due to bribery, there is a financial incentive for officials to ignore the exploitation of women and protect traffickers from prosecution.²³ Such criminal activities allow for traffickers and other involved actors to more easily reap the economic benefits of the lack of women in society.

The connection between the reduced numbers of women and trafficking is not only limited to bride trafficking, for it also extends to the commercial sex

14 Jonathan Abbamonte, "Sex-Selective Abortions in India: Estimates on the Occurrence of Sex-Selective Abortions in India and Some Possible Solutions to Eliminate the Practice," *Population Research Institute* (2019): 5.

15 *Ibid.*, 13.

16 Rahul Tripathi, "Survey shows sex ratio falling further to 896 in 3 years to 2017," *The Economic Times*, July 15, 2019, <https://economictimes.indiatimes.com/news/politics-and-nation/survey-shows-sex-ratio-falling-further-to-896-in-3-years-to-2017/articleshow/70221462.cms> (accessed June 27, 2020).

17 Ravinder Kaur, "Mapping the Adverse Consequences of Sex Selection and Gender Imbalance in India and China," *Economic and Political Weekly* 48, no. 35 (2013): 38.

18 Carl Gierstorfer, "While India's girls are aborted, brides are wanted," *CNN*, September 3, 2014, <http://www.cnn.com/2014/09/03/world/asia/india-freedom-project/index.html> (accessed November 22, 2018).

19 "2019 Trafficking in Persons Report: India," U.S. Department of State, 2019, <https://www.state.gov/reports/2019-trafficking-in-persons-report-2/india/> (accessed June 5, 2020).

20 Gierstorfer, "While India's girls are aborted, brides are wanted."

21 *Ibid.*

22 Heather Barr, "You Should Be Worrying about the Woman Shortage," *Human Rights Watch*, December 4, 2018, <https://www.hrw.org/news/2018/12/04/you-should-be-worrying-about-woman-shortage> (accessed June 6, 2020).

23 "2019 Trafficking in Persons Report: India."

market. The relative deficit of women in the country (and the accompanying surplus of men) has raised concerns that there will be a greater likelihood of men engaging in unhealthy sexual behavior, including commercial sex.²⁴ As the supply of women remains unable to meet the needs of society, the demand for a market of commercial intimacy increases accordingly. As is the case with any product in the economic market, the shortage of women increases the financial value that is associated with access to them. The commercial value of female sex workers and the societal need for women incentivize men to become more involved in the sex industry as traffickers and pimps. As more men engage and the shortage of women in the country continues, there will be an increase in the number of women, likely from the lower end of the socioeconomic spectrum, being trafficked into the commercial sex industry to meet the demands of society. One could infer that this trend, in turn, would fuel the growth of the industry.

The commercial sex industry exacerbates the shortage of women in the marriage market, which results in a continued increase in demand for the sex trafficking industry. Indian society attaches a stigma to women who are associated with the commercial sex industry, despite their involuntary participation. Therefore, amid an existing shortage of women, parts of the female population are perceived as being inferior or having limited potential in the event that they are able to escape the commercial sex industry and sham marriages. This has the possibility of placing an even greater strain on the marriage market, thus perpetuating the cycle and encouraging the illicit demand for a demographic that is already depleted because of the practice of sex-selective abortions.

Summation of Research

The research conducted about India and sex-selective abortions has demonstrated that the shortage of females is still a prevalent national issue that adversely impacts the population. The problem arises from the societal and cultural preference for male children due to their greater perceived value. In an effort to stop the practice of sex-selective abortions,

the Indian government has passed legal measures banning the majority of abortions and the use of prenatal diagnostic technologies. However, as evidenced by the continued presence of sex-selective abortions, there are many opportunities to circumnavigate these legal barriers. The presence of sex-selective abortions in India has resulted in a sex-ratio at birth that has been skewed towards men. This disproportionate ratio causes a problem when it comes to other facets of society, such as the traditional marriage market. Consequently, the needs of a struggling marriage market create an environment conducive to the use of bride trafficking in various regions of the country. Over the past 20 years, India has also witnessed a growth in its commercial sex industry, a beneficiary of the country's sex trafficking networks. While it is difficult to isolate the disproportionate sex ratio as the determinative cause of the growth of the commercial sex industry, neighboring countries (e.g. China) have attributed increases in prostitution and trafficking to similar sex-ratio disparities.²⁵

There is an implied relationship in India between the existence of sex-selective abortions and the existence of the bride trafficking market. A more balanced sex-ratio throughout the country would diminish the large need for such a market, and it can be speculated that instances of trafficking would fall as well. The disproportional sex-ratio, as a result of still prevalent sex-selective abortions, has ramifications on the presence of commercial sex trafficking throughout India. It also impacts the culture's progress towards gender equality, creating a larger obstacle to India's growth as a society and taking its place as a global leader. This comes at the same time that the participation of women in society is considered to be more important than ever, especially in the face of ongoing global crises.²⁶ Like all other countries, India has an international legal obligation to take action and prevent trafficking.²⁷ As this paper outlined, this is an obligation that can only be met by addressing a key source of this illegal practice: sex-selective abortions.

24 Kaur, "Mapping the Adverse Consequences of Sex Selection and Gender Imbalance in India and China," 42.

25 Therese Hesketh, and Jiang Min Min, "The Effects of Artificial Gender Imbalance," *EMBO Reports* 13, no. 6 (2012), <http://embor.embopress.org/content/13/6/487> (accessed November 22, 2018).

26 UN News, "Women's participation in all aspects of society more vital than ever – UN officials," United Nations, March 8, 2012, <https://news.un.org/en/story/2012/03/405852-womens-participation-all-aspects-society-more-vital-ever-un-officials> (accessed June 9, 2020).

27 Joint UN Commentary on the EU Directive – A Human Rights-Based Approach, Human Rights, 2011, <https://www.unwomen.org/-/media/headquarters/media/publications/en/uncommentaryeutraffickingdirective2011.pdf?la=en&vs=947> (accessed June 9, 2020).

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