

A crisis of credibility

On May 4, 2001, the Supreme Court, in a judgement on a Public Interest Litigation filed by Dr. Sabu George and two organisations (CEHAT, Mumbai and MASUM, Pune), took the government and other bodies to task for their non-implementation of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act (PNDT), 1994. The court's directives to various authorities have been reported widely in the media. The judges made scathing remarks on doctors' behaviour: "Unfortunately, developed medical science is misused to get rid of a girl child before birth. Knowing full well that it is immoral and unethical as well as it may amount to an offence, the foetus of a girl child is aborted by qualified and unqualified doctors or compounders. This has affected the overall sex ratio in various states where female infanticide is prevailing without any hindrance." (1)

Since sex selection procedures require the full complicity of doctors, the Supreme Court did **not** put all the blame on civil and medical bureaucracies entrusted with the implementation of the law. Sensing the court's mood, even as the case was being heard professional bodies and the health minister (who happens to be a doctor) used the media to trumpet their commitment to professional self-regulation and to penalising unethical doctors (2). The Medical Council of India reportedly not only warned doctors but also asked the health ministry to revise the code of medical ethics to enable the de-registration of doctors who continued the practice (3).

Crocodile tears

Does such public posturing by the legal regulatory body (MCI), the dominant professional association (Indian Medical Association) and the medical politician-health minister have any credibility? These entities had over 15 years to put their house in order, in spite of which the Supreme Court found it necessary to give them a rap on their knuckles. They must be aware that misuse of medical techniques for foetal sex determination was banned in the public health sector way back in the mid-1970s. Moreover, the 1994 Act was preceded by a decade-long agitation by women's groups, health activists and others. Many states have enacted legislation banning sex selection procedures. In Maharashtra, where the movement was the strongest, and which took the lead in enacting legislation in 1988, women's groups had also demanded action from the Maharashtra Medical Council. Representatives of the medical profession were also party to state and national committees recommending a law against sex selection procedures. In short, the medical profession and its representatives have long been aware of the issues being discussed today.

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Despite this, rampant medical malpractice was ignored and guilty doctors went undetected and unpunished by otherwise highly qualified, resourceful and powerful medical bodies.

Buying time?

These bodies' credibility is further dented when the MCI claims that our code of medical ethics is not adequate, as it does not specifically state that sex selection is unethical. In a move that would awe the best bureaucrat, the MCI submitted a proposal to the health ministry for revision of the code. The profession's leadership is still waiting for the government's green signal to implement something that the Supreme Court has declared immoral and unethical. Is it not irresponsible to argue that one needs government sanction to institute ethical practice? It is obvious that sex selection procedures blatantly discriminate against the female sex, creating a socially dangerous imbalance in the sex ratio.

Mercifully these bodies have not challenged the wisdom of preventing the misuse of medical technology — at least in their public postures. In that case one could have shown them why medical ethics prohibit discrimination, and why consent given under social coercion by woman seeking abortion is neither voluntary nor adequately informed.

Surrendering professional autonomy

The medical profession fights hard to protect its professional autonomy, which is why medical ethics intrinsically has a strong self-regulatory component. The profession must recognise that had it kept its house in order and acted to prevent a socially condemned misuse of medical technology, the country's law makers would not have been persuaded to impose such externally binding laws as the PNDT Act. There is still time to show the world that the Indian medical profession is not merely doing business, but that it means business by disciplining its errant members. Or are we to believe that it is bent on choosing inhuman business practices at the expense of ethics and autonomy?

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References:

1. Supreme Court Judgment dated May 4, 2001 in the PNDT Act, 1994. Reproduced in *Issues in Medical Ethics* 2001; 9: 97-98.
2. UNI: Health Minister warns against female foeticide, *UNI*, April 6, 2001.
3. Jain Kalpana: Medical bodies to curb female foeticide, *Times of India*, August 11, 1999 (it reports IMA's claim that it will make efforts to get licenses of doctors doing sex selection are taken away).
4. Jain Kalpana: MCI warns against female foeticide, *Times of India*, November 15, 2000.