

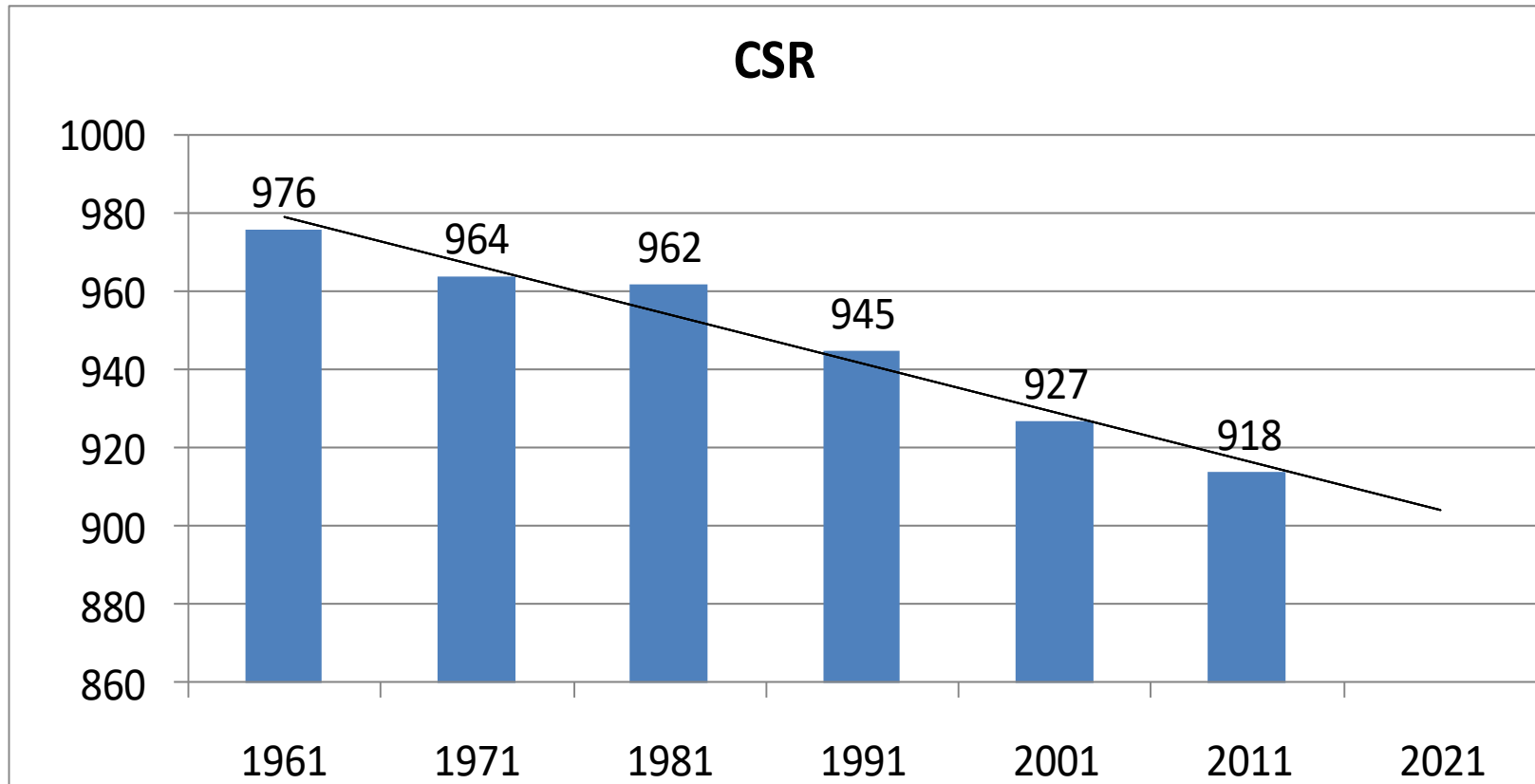
MTP and PCPNDT

Unpacking the Nuances

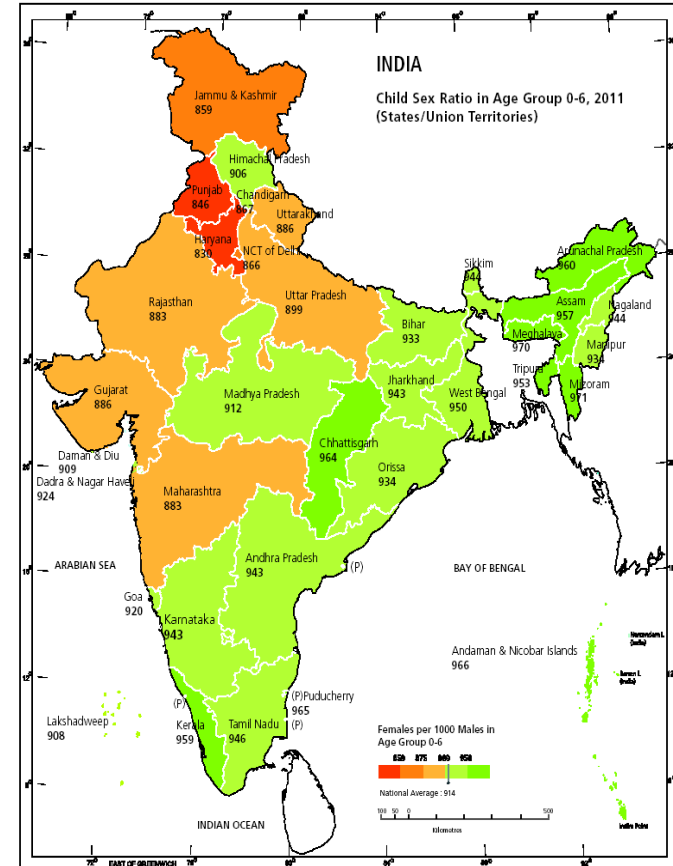
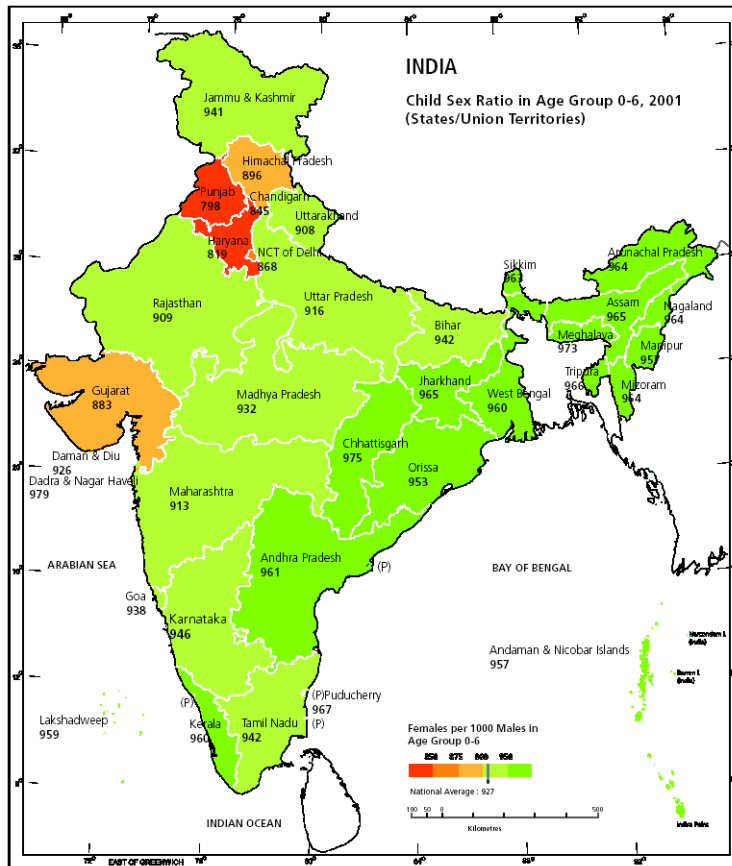


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Trends in Child Sex Ratio in India



Child Sex Ratio in India 2001-2011



24 of the 35 States and UTs showed a decline in CSR between 2001 and 2011..

Estimates of missing girls per year, India

4.56 Lakhs an year over twelve years. (SRS data)

3.6% of female births out of total female births did not occur due to GBSS.

Missing girls between 2001-2006 - 5.83 Lakhs per year and between 2007-2012 3.29 Lakhs per year

Conditional sex ratios

- There is no significant difference in SRB for first child.
- If first born is a girl, SRB declines dramatically for the second child to 836. If first two are girls it falls to 768 for third child.
- If first born is a boy, SRB for second child remains close to normal average.
- This phenomenon is more predominant in educated and rich people.

Sex selection and PCPNDT Act

- Sex selection is about discrimination- Discrimination is unlawful.
- Sex selection is a result of subordination of women.
- PCPNDT Act is to prevent misuse of pre natal diagnostic techniques used to determine sex of foetus.
 - Prohibit the sex selection before or after conception
 - Regulate the pre-natal diagnostic techniques to detect the abnormalities or metabolic disorder or sex linked disorders
 - Prevent the misuse of sex determination for sex selective abortions

Abortion and MTP Act

- Abortion is not discriminatory.
- Only a small percentage of abortions are sex selective
- Abortion is the consequence and not cause of sex selection.
- MTP Act: To prevent maternal morbidity and mortality associated with unsafe abortion
 - Abortion is a conditional right of the woman- (Risk to mother's life including physical and mental injury, pregnancy due to rape, contraceptive failure, physical and mental abnormality in child)
 - Abortion legal upto 20 weeks.
 - Pregnancy can be terminated at a Government or private registered facility
 - Pregnancy can be terminated by a medical practitioner registered with State medical register

MTP and PCPNDT Overview of legal compliances

Critical Issues	MTP Act	PCPNDT Act
Provider Eligibility	RMP as defined in MTP Act Section 2 (d) Rule 4	PG in Radiology or Gynaecology or RMP with 300 hour training- Rule 3
Site Approval/ Registration	Private site needs to be approved by DLC as specified in MTP Act. Section 4 Site approval certificate- Form B to be displayed. Rule 5(7)	All centers have to be registered . Section 18. Registration certificate to be displayed at a conspicuous place of business. Section 19 (4)
Consent	Woman counseled and consent received in Form C prior to procedure. Section 3(4)	Written consent obtained in Form G for invasive procedure Section 5 and declaration of pregnant woman as in Form F. Rule 10(1)

MTP and PCPNDT Overview of legal compliances...contd

Critical Issues	MTP Act	PCPNDT Act
Records	Form I- Regulation 3 Form III- Regulation 5 Form C – Rule 9	Form D/E/F Section 29, Rule 9
Reporting	Cases to be reported on a monthly basis to CS- Form II	Report for each month to be sent to AA by 5 th of next month- Rule 9(8)
Copy of Act	To be maintained at facility	To be kept at center for public information. – Rule 17(2)

Abortion and sex selection the overlap

PCPNDT Act– to prevent sex selection

MTP Act – to prevent unsafe abortion

- Abortion by itself is not discriminatory
- Only a percentage of abortions are sex selective
- Abortion is not the cause of the problem, discrimination is
- Discrimination is unlawful (PCPNDT), Abortion is lawful (MTP)
- Access to safe abortion important- 8% maternal mortality occurs due to unsafe abortion

Therefore

Practice of (sex) selection is the problem

Abortion is the consequence not the cause

Abortion and sex selection: the overlap

- Sex selection often confused with abortion. Creating a misconception that abortion is illegal.
- Laws to address the two issues are different.
- Communication on sex selection generally uses the fear and guilt angle referring to abortion to talk of heinous nature and consequence of the practice.
- Communication to address sex selection, should not compromise on women's access to safe and legal abortion.

Why safeguard women's right to abortion

- In India a large percentage of abortions are unsafe.
- Conducted by unregistered, untrained providers under unsafe conditions
- With the result, 8% maternal mortality occurs due to unsafe abortion *
- Abortion complications - third major cause of maternal mortality after hemorrhage and sepsis *

Even then, abortion is informally curbed to stop sex selection

- *2001-03 Special Survey of Death, Registrar General, India*

How incorrect communication is impacting women's access to safe abortion

Studies have shown that in order to curb sex selection access to abortion is being limited by:

- Restricting access to medical abortion
- Pregnancy tracking to ensure pregnant women don't undergo abortion.
- Suggestions that contraceptive failure should not be included as a condition for second trimester abortion.
- Some areas - blanket ban on abortions - Doctors insist on special permission of government or provide abortion services only if followed by sterilization.
- Doctors refusing second trimester abortions.

Maintaining balance in communication

Avoid language and imagery that takes away women's right to safe abortion

- **Language-** Use terminology that does not jeopardize abortion. Refrain from use of words such as foeticide, killing, murder, genocide.
- **Imagery-** Use imagery that does not imply murder, violence against foetus or personify an unborn foetus. Avoid imagery like foetus in a bottle, dagger piercing the womb, crushing the foetus.
- **Positioning-** Sex selection is not about right to life and right to be born.



Communicating on sex selection

Safeguarding women's right to abortion

- **Language** – Terminology does not jeopardize abortion.
- **Imagery** – Does not imply murder, illegality of abortion, personify a foetus.
- **Violence** – Not about violence against foetus but violence against a woman (because of consequences)
- **Rights** – Women's rights to live a life free of violence and discrimination, sexual rights

Sex selection not about Right to personal liberty

Constitutional validity of the Act was challenged on the ground that it violates Article 21 of Constitution - the right to personal liberty of a citizen of India, guaranteed under Art. 21 of the Constitution, includes the liberty of choosing the sex of the child.

Bombay High Court held that:

- Right to bring into existence a life in future with a choice to determine the sex of that life can not in itself be a right.
- Right to personal liberty cannot include liberty of choosing sex of the child
- Right to life under Article 21 cannot include right to selection of sex, whether pre-conception or post-conception.

Sex selection not about family balancing

In this writ petition Constitutional validity was challenged on the ground that it violates the principle of equality enshrined in Article 14 of the Constitution.

Petitioners argued that couples having children of one sex should be allowed to make use of pre natal or pre conception diagnostic techniques to have a child of the opposite sex for family balancing.

The High Court after elaborately dealing with the object, reasons and provisions of the Act held that:

- Sex selection is against the spirit of Law and Constitution.
- It affects the dignity of Women and undermines their importance.
- It insults and humiliates womanhood.
- It violates woman's right to life.