*Bioethics* ISSN 0269-9702
*Volume 13 Number 3/4 1999*

# THE QUESTION OF VIRGINITY TESTING IN TURKEY

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*ABSTRACT*

*Pre-marital sex for a woman is regarded as wrong in my country. As a result, it is socially forbidden for a woman to engage in this act. In order to present a woman as a virgin on her marriage day, she is subjected to pressure, and put under control both by her family and societal norms. However, a man is free and never made to suffer any of the above. A woman found to be a virgin on her first night of marriage is seen as a normal person while one suspected to have lost her virginity is made to undergo a series of medical examinations to bring clarity to her situation.*

In this presentation, I'd like to talk about hymen examination, or rather 'perineum examination' as it is known in forensic medicine, which is a very important socio-cultural subject that gives rise to tragic ethical problems in Turkey.

The examination made by a physician in order to find out if a woman is having sexual intercourse with a man for the very first time, is known as 'hymen examination'. This practice can be seen as exercising a certain control over a woman's sexuality.

In the process of this examination, a woman is forced to show a private part of her body to another person, something she is not at all willing to do. This coercion can be seen by the woman concerned as dishonourable. This results in a situation where she is regarded by others as lacking chastity and honour.[1]

In our country people are judged according to their individual behavior and gender. The pride and honour of a woman is based on her sexual behaviour. Any woman found to have gone contrary to the above norm is considered dishonorable and

[1] Þahinoðlu-Pelin S. (1993): Kýzlýk Zarý Ýncelemesinin Etik Yönleri ve Adolesan Çað (The Ethical aspects of hymen examination and adolescence), *Sendrom 3*: 61–63 (in Turkish, English summary).

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without pride. Regretably enough, men are not subjected to this kind of judgement, indicating the double standard nature of our society. Sexual relationship is more or less seen as a taboo for unmarried women. A woman involved in some kind of extra-marital relationship is regarded as an outcast. Even though this control of a female's physical body may not be an accepted rule, it is an everyday occurence in our country.

## WHO WANTS VIRGINITY TESTING?

Unfortunately, in obedience to societal norms, parents insist on virginity testing in order to prove the innocence of a woman (in terms of sexual intercourse) before marriage.[2]

For a woman to be seen as sexually 'clean', her fiancé or husband also wants this testing to be done. Others, also interested enough in the said virginity test to say that they want it, include the following:

- headteachers
- hostel directors
- employers of labour
- authority responsible for women prisoners
- justice department
- law enforcement agents

People want virginity testing in order to display the 'cleanliness' of their daughters, and to show to the society that anyone brought up by them can be assured of this so-called 'cleanliness'. Looking at the above, it is safe to say that almost every member of the society shows some kind of interest in the virginity test. Among the reasons given for this test is that it helps to 'protect women'. From the view point of a civilized individual, this given reason is a sign of how tragic the situation is.

## THE ROLE OF THE PHYSICIAN IN THIS EXAMINATION AND MEDICAL ETHICS

Whatever the reason for a particular hymen examination, the physician is charged with the responsibility of examining the woman in question and reporting his findings. However, the first

[2] The official marriage age in our country is 18. Unmarried children, female or male, regardless of age live with their parents. Children can only live away from home for the sake of education or work in a different city or town. However, this almost traditional life-style has witnessed some gradual changes among intellectuals in the last ten years.

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question that ought to be asked here is: 'Is it the duty of a physician to do this?'

The duty of a physician is to protect the healthy and provide treatment in time of ailments. The loss of virginity is not a disease, and the participation of a physician in the act of finding out if a woman is a virgin or not, thereby harming the woman psychologically, contradicts the duties of a physician.

The woman brought to see a physician is not a patient, in a normal sense. Hymen is neither a known disease nor the pathology of such. It is only an anatomical structure formed from striated squamous epithelium. Here, the physician, to whom a woman has been brought for the virginity test, assumes the role of an expert or specialist in this field. During the said test, she/he plays the role of someone whose scientific and technical knowledge is being exploited. In the process, the physician becomes responsible for the cause of physical and mental harm to the very person she/he was supposed to be protecting against ill-health.[3]

An important basic factor in physician-patient relationship is the necessity of protecting a patient against harm. With this in mind, it means that a particular female is not supposed to be subjected to the mental torture and other social problems resulting from the virginity test.

A female taken to a physician against her will for hymen examination is not a patient, by the normal definition of this term. If it becomes necessary that she receive a physician's attention, the following conditions should be observed by the physician:

- respect for the individual
- recognition of the individual as a complete person (mental and physical)
- avoid harming the individual mentally, physically and socially ('primum nil nocere')
- seek the consent of the patient at every stage in their relationship
- keep secret any information relating to the patient (the principle of confidentiality)

Undoubtedly this test, even if done with the consent of the woman concerned and assuming that this permission was freely

[3] Örs Y., Þahinoðlu Pelin S (1998) Bir etikodrama konusu olarak kýzlýk zarý incelemesi ('Hymen Investigation' as a topic for Ethico-Drama), S. Þahinoðlu Pelin, B. Arda, G. Özçelikay, A. Özgür, F. Çay Þenler (eds.) 3. Týbbi Etik Sempozyumu Bildileri. Biyoetik Derneði Yay., 409–418 (in Turkish).

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given, gives rise to great concern, especially if one has to think of the reason for such a consent. Worst of all is the way a physician is used as a tool in this condition, and the announcement of the result of the test is contrary to the principle of confidentiality.

That virginity tests, done against the will of the females concerned, go against the above mentioned principles has been stated publicly in a report by the Turkish Medical Association Ethics Committee.[4] To confirm the above regarding virginity tests, the Ethics Committee has started working closely with the physicians concerned. It has been emphasized that apart from rape cases, physicians are not allowed to carry out virginity tests. If and only when required by law, are gynaecologists and forensic medicine specialists allowed to carry out virginity tests and provide reports. It is regarded as a crime to do otherwise.

## LOOKING AT THE PROBLEM FROM A FEMINIST VIEW POINT

The Women's movement has experienced positive developments in the last fifteen years in our country. This movement has played an active role in pushing forward the fact that a woman has the sole right over her life and physical body, and that she shares equality with men. The effectiveness of the movement can be observed in the change in attitude on the part of doctors toward women sent to them for hymen examination. Doctors in our country, can be divided into five groups according to their approach, in relation to this issue:

1 Doctors who accept the wishes of family, policemen and individuals who consult them. These doctors are of the belief that it is necessary to find out if a female is a virgin or not, without which men and society are regarded as having been cheated.
2 Doctors who accept applications made by the justice and police departments. It must not be forgotten here that not every application made by the police will necessarily be lawful.
3 Doctors who accept only applications made by the justice department.
4 Doctors who examine only women who want to be examined.

[4] Örs Y., Þahinoðlu Pelin S (1998): Kýzlýk zarý incelemesi (Hymen examination), Türk Tabipleri Birliði Etik Kurul görüþleri (Turkish Medical Association Ethics Council Opinion), Türk Tabipleri Birliði Yay., Ankara, 33–38 (in Turkish).

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5 Doctors who refuse such consultations on the basis that it is not their responsibility.

The last three of the above mentioned groups, on the whole, consist of doctors who respect women's rights, protect women's identity from being attacked, and regard this kind of examination or test as dehumanising.[5]

## VIRGINITY TESTING FROM THE VIEW POINT OF TURKISH LAW ON THIS SUBJECT

In Turkish law, there exists no article that says that virginity tests must be done or may be done. Articles related to human rights obviously show or tell us that this kind of test is unacceptable.

According to the law of my country, it is forbidden to interfere with an individual's freedom to his/her own body, and in the light of this, no one has the right to carry out such interference (like a virginity test) without the approval of the individual concerned. Without this approval, it is a crime to carry out such a test.[6]

In spite of this, we are constantly faced with numerous cases of unlawful virginity tests. Virginity tests permitted under law are those related to rape cases. In such situations, physicians have the responsibility of carrying out virginity tests in order to bring criminals to justice.

Nevertheless, as the loss of virginity is still a taboo, the existence of an intact hymen is is regarded as a moral value in some societies. Despite the illegality of the procedure, some people apply to the doctor for such an examination, and force women to undergo such examinations without their consent. To consider the doctor as the moral guardian of society is quite disturbing for many sensitive people, feminist groups, medical assocations, human rights groups, and primarily the doctors themselves. The publication of many articles and statements show this disapproval.

Hymen examination, privately being an attack against the sexual identity of women and fundamentally against human rights, is opposed both to traditional medical ethics and to the statements of World Medical Association.[7] Such an examination

[5] Güngör S. (1993): Bekaret muayenesi üzerine (Hymen examination), *Toplum ve Hekim Dergisi* 54: 33–36 (in Turkish).

[6] Turkish Penal Law.

[7] Þahinoðlu Pelin S. (1994): Hymen examination from the viewpoint of medical ethics, *IPBER Newsletter*, December 1994, p. 7.

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is not only against paragraphs 17,[8] 20,[9] and 42[10] of the Turkish Constitution, but also against the Convention on the Elimination of All Forms of Discrimination Against Women, to which Turkey is a signatory.

It is against medical ethics for doctors to be forced to perform hymen examination or virginity tests. In the light of this, doctors should re-examine their role as 'experts' in this aspect. This responsibility should not be shouldered by doctors alone, and any refusal on their part to carry out such tests would help to enlighten other members of the society and deter them from taking part in virginity testing.

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[8] The Turkish Constitution: Article 17 — Everyone has the right to life and the right to protect and develop his material and spiritual entity.

The physical integrity of the individual shall not be violated expect under medical necessity and in cases prescribed by law; he/she shall not be subject to scientific or medical experiments without his/her consent ...

[9] Article 20 — Everyone has the right to demand respect for his private and family life. Privacy of individual and family life cannot be violated. Exceptions are limited to those necessitated by judiciary investigation and prosecution.

Unless there exists a decision duly passed by a judge in cases explicitly defined by law, and unless there exists an order of an agency authorized by law in cases where delay is deemed prejudicial, neither the person nor the private papers, nor belongings of an individual shall be searched nor shall they be seized.

[10] Article 42 — No one shall be deprived of the right of learning and education.

Primary education is compulsory for all citizens of both sexes and is free of charge in state schools.

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