

MISSING DAUGHTERS



J&K'S BIGGEST CHALLENGE AFTER INSURGENCY?



ASIAN CENTRE FOR HUMAN RIGHTS



**MISSING DAUGHTERS:
J&K's BIGGEST CHALLENGE AFTER
INSURGENCY?**



ASIAN CENTRE FOR HUMAN RIGHTS



Missing Daughters: J&K's biggest challenge after insurgency?

Published by:

Asian Centre for Human Rights (ACHR)

C-3/441-Second Floor, Janakpuri, New Delhi 110058, INDIA

Tel/Fax: +91 11 25620583, 25503624

Website: www.achrweb.org

Email: secretariat@achrweb.org

First Published: February 2017

©Asian Centre for Human Rights

No part of this publication can be reproduced or transmitted in any form or by any means without prior permission of the publisher.

ISBN: 978-81-88987-70-2

Suggested contribution: Rs. 495 /-

Acknowledgement: This report is being published as a part of the ACHR's "National Campaign for elimination of female foeticide in India", a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.



CONTENTS

1. Executive Summary	1
Dowry vs Mahr: More sex selection in Muslims majority districts	1
Jammu & Kashmir: No measures to combat sex selection	4
2. The state of missing girls and female foeticide in J&K	8
2.1 Child sex ratio in J&K	8
i. J&K: Highest fall in the CSR from 1981 to 2011	8
ii. Scale of the missing girls in J&K	10
2.2. More sex selection in Muslim majority districts	13
3. Status of measures for combating sex selection.....	20
3.1 Status of implementation of the J&K PC&PNDT Act	20
i. Background on delay in implementation of the positive laws by J&K	20
a. Experience of the laws on administration of juvenile justice.....	20
b. Experience under the PC&PNDT Act.....	22
ii. Status of implementation of the J&K PC&PNDT Act	23
iii. District Advisory Committee.....	29
iv. Appropriate Authority	29
c. Implementation of the J&K PC&PNDT Act.....	30
i. Registration, inspection etc	30
ii. Prosecution under the PC&PNDT Act.....	34

d. No follow up of post 2002 amendments made to the central PC&PNDT Act in J&K.....	35
3.2. Ladli Beti Scheme for retention of girl child.....	39
i. Description of the Ladli Beti Scheme.....	39
ii. Assessment of effectiveness of Ladli Beti scheme.....	42
4. Conclusion and recommendations	47
Annexure I: J&K Pre-Conception & Pre-Natal Diagnostic Techniques Act (PCPNDT), 2002	51
Annexure II: J&K Pre-Conception & Pre-Natal Diagnostic Techniques Rules, 2006	74
Annexure III: J&K Ladli Beti scheme	97

1. EXECUTIVE SUMMARY

As per census from 1981 to 2011, India's only Muslim majority State Jammu and Kashmir (J&K) had recorded the highest decline in the Child Sex Ratio¹ (CSR) by 102 points followed by tiny Dadra & Nagar Haveli (69 points), Haryana (68 points), Rajasthan (66 points), Himachal Pradesh (62 points) and Punjab (62 points), among others. There was no census in 1991 in J&K because of the insurgency. Census records nonetheless show that the CSR of J&K fell by 23 points from 964 in 1981 to 941 in 2001 and by 79 points from 941 in 2001 to 862 in 2011.²

The technology enabling pre-conception and pre-natal sex determination and sex selective abortion can be described as the root cause for such drastic fall in the CSR in J&K. It is evident from the fact that the J&K had healthy CSR (959) in 1971 and further improved to 964 in 1981. The CSR sharply declined from 1981 but most drastically during 2001-2011 when access to technology for pre-conception and pre-natal sex determination became easily available.

Dowry vs Mahr: More sex selection in Muslims majority districts

Under *dowry*³ system practiced mainly by the Hindus, a bride/woman has to pay an amount of property or money mandatorily to her husband and family on her marriage. This makes daughter a burden on the family as women are tortured and murdered for not bringing enough *dowry*. The Government of India officially recognized⁴ *dowry* as one of the primary causes of son preference and sex selection leading to female foeticide and skewed CSR.

-
1. Child sex ratio is defined as number of girls per thousand boys in the age group 0-6 years.
 2. For census figures and fall in CSR, please refer to "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994", Special Service and Features, 20-April, 2011 18:00 IST, Press Information Bureau Government of India available at <http://pib.nic.in/newsite/erecontent.aspx?reid=71711>
 3. Dowry is an amount of property or money to be mandatorily paid by a bride to her husband and family on her marriage.
 4. Ministry of Health and Family Welfare, Government of India's Annual Report 2014-15, P. 393

However, among the Muslim religious faith, *mahr* (dowry) has to be paid by the groom/man at the time of marriage which legally becomes bride's property. Therefore, there have been claims of less female foeticide among the Muslims. Indeed, the national census data seems to suggest that: at national level as per 2011 census, Muslims had second highest CSR (943) after the Christians (958). The CSR of other religious groups as per 2011 census is 933 of the Buddhists), 913 of the Hindus, 889 of the Jains and 828 of the Sikhs.⁵

However, this study shows that in the case of J&K, the Muslim dominated districts had witnessed unprecedented decline in the CSR with some districts witnessing decline up to 210 points (Pulwama) during 2001 to 2011. With the only exception of the Muslim-dominated Kargil district with the CSR decline of 2 points, all other districts under Kashmir division inhabited predominantly by the Muslims had registered the highest decline in the CSR during 2011 census. Out of 22 districts of the State, all the top 16 districts that witnessed sharpest decline in the CSR are predominantly inhabited by the Muslims (See Table 4).

Six districts i.e. Pulwama, Budgam, Kupwara, Ganderbal, Shopian and Kulgam having 94.5 to 98.5% Muslim populations were the worst affected. The CSR of Pulwama district with 95.4% Muslims declined by 210 points from 1046 in 2001 to 836 in 2011; the CSR of Budgam district with 97.6% Muslim population declined by 172 points from 1004 in 2001 to 832 in 2011; the CSR of Kupwara district with 94.5% Muslim population declined by 167 points from 1021 in 2001 to 854 in 2011; the CSR of Ganderbal district with 97.7% Muslim population declined by 151 points from 1014 in 2001 to 863 in 2011; the CSR of Shopian district with 98.5% Muslim population declined by 128 points from 1011 in 2001 to 883 in 2011; and the CSR of Kulgam district with 98.5% Muslim population of 98.5% declined by 121 points from 1003 in 2001 to 882 in 2011.⁶

5. Biggest decline of 12 points in child sex ratio in Hindus, GovernanceNow, 31 December 2015, <http://www.governancenow.com/news/regular-story/biggest-decline-12-points-child-sex-ratio-hindus>

6. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

What is more alarming is the fact that as per 2001 census, these six districts had more females than males in the age group of 0-6 years with Pulwama (1046 females against 1000 males); Kupwara (1021 females against 1000 males); Ganderbal (1014 females against 1000 males); Shopian (1011 females against 1000 males); Budgam (1004 females against 1000 males); and Kulgam (1003 females against 1000 males).⁷

The districts dominated by the non Muslims (Hindus, Sikhs and Buddhists) in J&K registered relatively “modest” decline in the CSR in comparison to the Muslim-dominated districts. Yet, it is pertinent to mention that the fall in the CSR among the non-Muslims in J&K is very high in comparison to fall of the CSR at national level which fell by 8 points from 927 during 2001 census to 919 during 2011 census⁸. In comparison, the CSR of Udhampur district with 88.15 Hindu population declined by 25 points from 912 in 2001 to 887 in 2011 while the CSR of Jammu district with 84.2% Hindu population declined by 24 points from 819 in 2001 to 795 in 2011; the CSR of Kathua district with 87.6% Hindu population declined by 11 points from 847 in 2001 to 836 in 2011; the CSR of Samba district with 86.3% Hindu population declined by 11 points from 798 in 2001 to 787 in 2011; and the CSR of Leh district with 66.4% Buddhist population declined by 11 points from 955 in 2001 to 944 in 2011.⁹

A comparison in the fall of the CSR between the Muslims in one hand and the non-Muslims on the other in J&K (See Table 5) show that in 2001, 14 Muslim dominated districts had average CSR of 917 in 2001 and this plummeted to 815 in 2011 i.e. fall by 98 points. On the other hand, the CSR in four non-Muslim majority districts had an average CSR of 844 in 2001 and it fell to 826 in 2011 i.e. fall by 28 points. In 2001, the CSR (917) of

7. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

8. Decline In Child Sex Ratio, Press Information Bureau, Government of India, Ministry of Health and Family Welfare, dated 11 February 2014 13:34 IST available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>.

9. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

the Muslim dominated districts was 73 points higher than the CSR (844) in non-Muslim dominated districts. However, by 2011, the CSR (815) of the Muslim dominated districts fell 11 points below the CSR (826) of non-Muslim dominated districts. This clearly shows that the Muslims of J&K had committed sex selection mainly during 2001 to 2011.

The unprecedented decline in the CSR as per 2011 census is unnatural and the only plausible reason is sex selection and female foeticide. This decline also shows that the practice of *mahr* (reverse *dowry*) amongst the Muslims of J&K had little impact to counter son preference and abuse of technology for sex selection.

Jammu & Kashmir: No measures to combat sex selection

The lack of any effective measure by the State Government of J&K to combat the use of technology for sex selection is the root cause of the drastic fall in the CSR from 2001 onwards.

No law of India can be extended to J&K by virtue of Article 370 of the Constitution of India unless the J&K Government extends it by an Act adopted by the State Legislature. The Government of J&K irrespective of whichever political party is in power has been reluctant to enact progressive laws.

Though the Pre-Natal Diagnostic Techniques Act, 1994 (PNDT Act)¹⁰ was promulgated in India in 1994, it was only on 23 April 2002 that the Government of J&K notified the J&K Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Act, 2002.¹¹ It took another four years to notify the Jammu and Kashmir Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Rules, 2006 on 7 December 2006.¹² Effectively despite the rampant use of technology for sex selection since its invention in the 1980s till the enactment of the

10. See <http://www.cehat.org/pndt.html>

11. Available at <http://www.pcpndtjk.in/act.php>

12. Available at http://www.pcpndtjk.in/pc_pndtnotification.php

J&K PC&PNDT Rules in December 2006, there was no law to prohibit sex selection in the State. The result was the highest fall in the CSR in J&K among the States and Union Territories (UTs) during 2001 to 2011.

The implementation of the J&K PC&PNDT Act since the Rules were framed has been equally dismal. During 1 March 2011 to June 2012, the J&K Government sealed 147 clinics for conducting pre-natal sex determination tests.¹³ But as on date, only one conviction was secured in J&K.¹⁴ The scheme launched by J&K Government in June 2011 to give cash reward of Rs 25,000 which has since been increased to Rs 50,000 to anyone providing information with evidence on female foeticide¹⁵ has been a non-starter in the absence of any guidelines for implementation of the scheme.

Not a single disbursement has been made as on date under the *Ladli Beti* scheme launched by the J&K Government on pilot basis in six districts with low child sex ratio namely Jammu, Kathua, Samba, Anantnag, Budgam and Pulwama in September 2015¹⁶ and Srinagar and Kishtwar districts in July 2016.¹⁷ Shri Bali Bhagat, Minister of Social Welfare Department of J&K stated before the J&K Legislative Council on 6 June 2016 that a total of 2,244 beneficiaries were identified under the *Ladli Beti* scheme but not a single disbursement was made to any beneficiary.¹⁸ Since July 2016, Kashmir division faced

-
13. Please see 78 clinics sealed in J-K for sex determination tests, The Indian Express, 16 June 2011, <http://indianexpress.com/article/regional/78-clinics-sealed-in-jk-for-sex-determination-tests/> and J&K govt shuts down 69 ultrasound clinics to fight female foeticide, Tehelka, 23 June 2012, http://archive.tehelka.com/story_main53.asp?filename=Ws230612Jammu.asp
 14. Effective Implementation of PNDT Act, Press Information Bureau, Government of India (Ministry of Health and Family Welfare), 3 March 2015, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>
 15. J&K govt announces cash reward for those reporting female foeticide, India Today, 18 June 2011, <http://indiatoday.intoday.in/story/jammu-and-kashmir-Government-tries-to-stem-declining-sex-ratio/1/141938.html>
 16. Ladli Beti scheme launched in JK, Greater Kashmir, 28 October 2015, <http://www.greaterkashmir.com/news/jammu/ladli-beti-scheme-launched-in-jk/200171.html>
 17. J&K Cabinet approves inclusion of Srinagar, Kishtwar in Ladli Beti Scheme, UNI, 28 July 2016, <http://www.uniindia.com/j-k-cabinet-approves-inclusion-of-srinagar-kishtwar-in-ladli-beti-scheme/states/news/571303.html>
 18. Statement of the Social Welfare Minister of Jammu and Kashmir in response to a question by Shri Ali Muhammad Dar, Member of Legislative Council in the J&K Legislative Council during Budget Session on 6 June 2016 (Starred CQ No. 71 in the Legislative Council), available at http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/st_rep_6-6/s71.pdf. Also reported by the "Greater Kashmir" newspaper on 7 June 2016 (A year on, Ladli Beti scheme only on papers available at <http://m.greaterkashmir.com/news/219720-story.html>)

intermittent shut downs in protest against the killing of insurgent Burhan Wani of the Hizbul Mujahideen in an encounter on 8 July 2016.¹⁹ Obviously, implementation of the scheme has been the least priority and possibility since July 2016.²⁰ In effect, the *Ladli Beti* scheme is yet to take off.

These six districts²¹ have also been implementing the *Beti Bacho Beti Padao* (BBBP), a Centrally sponsored Scheme focused on raising awareness on girl child. Out of the Rs 262.245 lakhs allocated under the BBBP, only Rs 182.237 lakhs were utilised while remaining Rs 80 lakhs remained unutilised as on June 2016.²² As the BBBP involves only awareness raising programmes, its impact is suspect.

In order to improve implementation of the Central PC&PNDT Act and address technological advancement on sex determination since 2002, the Government of India notified the PC&PNDT Amendment Rules of 2011 regarding seal and seizure of machine in unregistered centers; the PC&PNDT Amendment Rules of 2012 regarding regulation of portable machines etc; the PC&PNDT Amendment Rules of 2012 regarding restrictions on radiologists and sonologists from visiting more than two clinics within a district; the PC&PNDT Amendment Rules of 2014 regarding Form F on maintenance of records; the PC&PNDT Amendment Rules of 2014 regarding six months training for competency; and the PC&PNDT Amendment Rules of 2014 outlining Code of Conduct to be observed by Appropriate Authorities and Supervisory Bodies. However, no measure has been taken to incorporate these amendments to the PC&PNDT Rules under the laws of J&K.

19. Burhan Wani, Hizbul poster boy, killed in encounter, The Hindu, 8 July 2016 available at <http://www.thehindu.com/news/national/other-states/Burhan-Wani-Hizbul-poster-boy-killed-in-encounter/article14479731.ece>

20. Statement of the Social Welfare Minister of Jammu and Kashmir in response to a question by Shri Ali Muhammad Dar, Member of Legislative Council in the J&K Legislative Council during Budget Session on 6 June 2016 (Starred CQ No. 71 in the Legislative Council), available at http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/st_rep_6-6/s71.pdf

21. Six districts are Jammu, Kathua, Samba, Anantnag, Budgam and Pulwama.

22. Statement of the Social Welfare Minister of Jammu and Kashmir in response to a question by Shri Ali Muhammad Dar, Member of Legislative Council in the J&K Legislative Council during Budget Session on 6 June 2016 (Starred CQ No. 71 in the Legislative Council), available at http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/st_rep_6-6/s71.pdf

As sex selection continues unabated and unchecked, J&K is all set to record once again the highest fall in the CSR during 2021 census and the CSR is expected to fall below 800 during the next census. It is pertinent to mention that during 2001 census only three districts had CSR below 900 but during 2011 census, 16 out of 22 districts had CSR below 900.

The lessons of Haryana, which had the lowest CSR (834) as per 2011 census among all the States and Union Territories (UTs), are instructive for J&K. Around 13.5% of Haryana's young men between the age group of 25 and 29 were reportedly unmarried in 2010 primarily due to unavailability of brides.²³ Unmarried men in Jind district with 871 females per 1,000 males as per 2011 census had even formed *Jind Kunwara Union* i.e. Jind Bachelors Union and demanded "brides" in lieu of their votes ahead of the Parliamentary elections of 2014.²⁴ The absence of brides has been causing trafficking of girls/women from other States of India to be brides for men in Haryana.²⁵

The overall sex ratio at district level in J&K is far more serious than Haryana. The female sex ratio to male in Rajouri (860/1,000), Udhampur (870/1,000), Leh (690/1,000), Kupwara (835/1,000) and Kargil (810/1,000) districts of J&K is far worse than Jind district of Haryana (871/1,000) as per 2011 census (see **Table 15**). With polygamy being permitted in Islam, J&K is likely to face more challenges than Haryana arising out of female foeticide. However, given the imbroglio in J&K, political issues remain predominant and critical social issues such as missing girls which impact the entire future generation are ignored.

23. Give bride, Get vote, say Jind Villagers, The Sunday Guardian, 5 April 2014, <http://www.sunday-guardian.com/news/give-bride-get-vote-say-jind-villagers>

24. Bachelors demand brides for votes in Haryana election - paper, Reuters, 25 September 2014, <http://in.reuters.com/article/foundation-india-women-brides-idINKNOHK1RG20140925>

25. 'Brides' from Assam sold for Rs 50,000 in Hisar, The Times of India, 9 May 2013, <http://timesofindia.indiatimes.com/city/guwahati/Brides-from-Assam-sold-for-Rs-50000-in-Hisar/articleshow/19962962.cms>

2. THE STATE OF MISSING GIRLS AND FEMALE FOETICIDE IN J&K

2.1 Child sex ratio in J&K

i. J&K: Highest fall in the CSR from 1981 to 2011

From 1981 to 2011, Jammu & Kashmir recorded the highest decline in the CSR among all States and UTs of India with unprecedented decline of the CSR by 102 points followed by Dadra & Nagar Haveli (69 points), Haryana (68 points), Rajasthan (66 points), Himachal Pradesh and Punjab (62 points each), among others, as given in Table 1 below.

Table 1: Decline of CSR in States/UTs of India from 1981²⁶ to 2011²⁷

Sl No.	State/UTs	1981 Census	2011 Census	Decline in the CSR in 2011 census w.r.t. 1981 census (points)
	India	962	919	43
1	Jammu and Kashmir	964	862	102
2	Dadra & Nagar Haveli	995	926	69
3	Haryana	902	834	68
4	Rajasthan	954	888	66
5	Himachal Pradesh	971	909	62
6	Punjab	908	846	62

26. "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994", Press Information Bureau (PIB), Government of India, 20 April 2011, <http://pib.nic.in/newsite/ereelcontent.aspx?relid=71711>

27. "Decline In Child Sex Ratio", Press Information Bureau (PIB), Government of India, 11 February 2014, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

7	Maharashtra	956	894	62
8	Gujarat	950	890	60
9	Madhya Pradesh	977	918	59
10	Delhi	926	871	55
11	Odisha	995	941	54
12	Andhra Pradesh	992	939	53
13	Lakshadweep	964	911	53
14	Manipur	986	936	50
15	Bihar	981	935	46
16	Nagaland	988	943	45
17	Uttar Pradesh	935	902	33
18	Chandigarh	907	880	27
19	Karnataka	974	948	26
20	Arunachal Pradesh	997	972	25
21	West Bengal	981	956	25
22	Tamil Nadu	967	943	24
23	Goa	965	942	23
24	Sikkim	978	957	21
25	Meghalaya	991	970	21
26	Mizoram	986	970	16
27	Tripura	972	957	15
28	Andaman & Nicobar Islands	978	968	10
29	Pondicherry	975	967	8
30	Kerala	970	964	6
31	Uttarakhand	NA	890	NA
32	Assam	NA	962	NA
33	Jharkhand	NA	948	NA
34	Chhattisgarh	NA	969	NA
35	Daman & Diu	NA	904	NA

In 1991, there was no census in J&K because of the insurgency. Census records show that the CSR of J&K fell by 23 points from 964 in 1981 to 941 in 2001 and by another 79 points from 941 in 2001 to 862 in 2011.²⁸

ii. Scale of the missing girls in J&K

Jammu and Kashmir had a population of 1,01,43,700 as per 2001 census which increased to 1,25,41,302 as per 2011 census.²⁹

As per the 2011 census report, total child population in the age group of 0-6 years in J&K was 9,34,550 females against 10,84,355 males.³⁰ Based on the World Health Organisation's (WHO) estimate of natural sex ratio of 105 males for every 100 females³¹, for 10,84,355 males, there would have been around 10,32,719 females in the age group of 0-6 years instead of 9,34,550 females. This means the total number of missing girls were 98,169 i.e. 10,32,719 females ideally to be born in the age group of 0-6 years minus 9,34,550 actually born in the age group of 0-6 years. This implies that about 16,361 females per age group also went missing. As the census is conducted every 10 years, it is indispensable to take into account those in the age group of 7-10 years and this estimates means that another 65,444 girls in the age group of 7-10 years (16,361 girls per age group x 4 years) also went missing. It is therefore clear that about 1,63,613 females altogether went missing during 2001 and 2011 from 0-10 years i.e. about 16,361 female missing every year.

Overall, among the 35 States and UTs, J&K had the 3rd worst record of CSR³² but the highest decline in the CSR in the country as per 2011 census. J&K registered overall decline of 79 points but the decline in rural areas was

28. For census figures and fall in CSR, please refer to "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994", Special Service and Features, 20-April, 2011 18:00 IST, Press Information Bureau Government of India available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711>

29. <http://www.census2011.co.in/census/state/jammu+and+kashmir.html>

30. Ibid

31. Health situation and trend assessment: Sex Ratio, WHO available at http://www.searo.who.int/entity/health_situation_trends/data/chi/sex-ratio/en/

32. Statement of Shri Ghulam Nabi Azad, Union Minister for Health and Family Welfare in Rajya Sabha on 11 February 2014, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

steeper than in urban areas by drastic 92 points, reaching 865 in 2011.³³ No other Indian State has fared so badly over the past decade than J&K.³⁴

**Table 2: Sex Ratio 0-6 Years in Jammu Division³⁵
and Kashmir Division³⁶**

District	2001	2011	Variance
Jammu and Kashmir	941	862	-79
Jammu Division			
Rajouri	905	837	-63
Poonch	959	895	-64
Kishtwar	977	922	-55
Ramban	968	931	-37
Reasi	952	921	-31
Doda	959	932	-27
Udhampur	912	887	-25
Jammu	819	795	-24
Kathua	847	836	-11
Samba	798	787	-11
Kashmir Division			
Pulwama	1046	836	-210
Budgam	1004	832	-172
Kupwara	1021	854	-167
Ganderbal	1014	863	-151
Anantnag	977	832	-145

33. Office of the Registrar General and Census Commissioner of India & United Nations Population Fund-India, "Missing... Mapping the Adverse Child Sex Ratio in India- Census 2011", <http://www.censusindia.gov.in/2011census/missing.pdf>

34. The 'killing fields' of Kashmir, BBC, 23 May 2011, <http://www.bbc.com/news/world-south-asia-13385727>

35. <http://www.pcpndtjk.in/Statistics.php?link=jammu>

36. <http://www.pcpndtjk.in/Statistics.php?link=kashmir>

Shopian	1011	883	-128
Kulgam	1003	882	-121
Baramula	961	866	-95
Bandipora	967	893	-74
Srinagar	928	869	-59
Leh	955	944	-11
Kargil	980	978	-2

As per 2011 census, the worst districts in terms of skewed CSR were Samba (787) followed by Jammu (795), Anantnag and Budgam (832 each), Pulwama and Kathua (836 each), Rajouri (837), Kupwara (854), Ganderbal (863), Baramula (866), Srinagar (869), Kulgam (882), Shopian (883), Udhampur (887), Bandipora (893), Poonch (895), Reasi (921), Kishtwar (922), Ramban (931), Doda (932), Leh (944) and Kargil (978). Of the total 22 districts of J&K, 16 districts (i.e. 72.7%) have CSR below 900 in 2011 as against only three districts in 2001.

Table 3: J&K's 10 worst districts as per 2011 census³⁷

Rank	State/Division/District	2001	2011
1	Samba	798	787
2	Jammu	819	795
3	Anantnag	977	832
3	Budgam	1004	832
4	Pulwama	1046	836
4	Kathua	847	836
5	Rajouri	905	837

37. Please see <http://www.pcpndtjk.in/Statistics.php?link=jammu> & <http://www.pcpndtjk.in/Statistics.php?link=kashmir>

6	Kupwara	1021	854
7	Ganderbal	1014	863
8	Baramula	961	866
9	Srinagar	928	869
10	Kulgam	1003	882

2.2. More sex selection in Muslim majority districts

Under *dowry* system practiced by the Hindus, a bride/woman has to pay an amount of property or money mandatorily to her husband and family on her marriage. This makes daughter a burden on the family and women after marriage are subjected torture and murder for not bringing enough *dowry*. To counter the menace of *dowry*, the Government of India enacted the Dowry Prohibition Act in 1961 and launched many schemes providing assistance to girls/women for marriages. The number of *dowry* deaths are huge and the National Crime Records Bureau of the Ministry of Home Affairs, Government of India recorded 79,404 *dowry* deaths during 2004-2005 to 2013-2014³⁸ i.e. 7,941 *dowry* deaths per year or 22 *dowry* deaths per day. Not surprisingly, dowry has been officially recognized as one of the primary causes of son preference and sex selection leading to female foeticide and skewed CSR.

However, among the Muslim religious faith, *mahr* (dowry) has to be paid by the groom/man at the time of marriage which legally becomes bride's property. Therefore, it has been claimed that there has been less cases of female foeticide among the Muslims. Indeed, the national census data seems to confirm it: at the national level, the CSR is the second highest amongst the Muslims (943) after the Christians (958). The CSR of other religious groups are as follows: Buddhists (933), Hindus (913), Jains (889) and Sikhs (828) as per 2011 census.³⁹

38. The State of the Right to Life in India, Asian Centre for Human Rights, August 2015 available at <http://www.achrweb.org/reports/india/The-State-of-the-Right-to-Life-in-India.pdf>

39. Biggest decline of 12 points in child sex ratio in Hindus, GovernanceNow, 31 December 2015, <http://www.governancenow.com/news/regular-story/biggest-decline-12-points-child-sex-ratio-hindus>

However, son preference and sex selection resulted in the highest fall in the CSR in J&K, the only Muslim majority State of India and the scourge is more acute in the Muslim majority districts. J&K is the only Muslim dominated State of India with the Muslims constituting 68.31% of the total population followed by the Hindus with 28.43%, the Sikhs with 1.87%, the Buddhists with 0.89% and the Christians with 0.28% as per 2011 census.

The scourge of son preference in J&K had been brought to the notice. In 2007, Ms Gul Afroz Jan of the Law Faculty at the University of Kashmir found the practice of female foeticide in the Muslim-majority Kashmir Valley being rampant.⁴⁰ Ms Jan's survey found that 13 percent of the diagnostic centres in the Valley carried out sex determination tests. About 10 percent of the respondents had taken sex determination tests of which 30 percent had already aborted a girl child previously and had taken the test for second time. The reasons for aborting the girl child, according to the survey, were pressure from the husband (30 percent), pressure from in-laws (40 percent), joint decision of the couple (20 percent) and the wife's choice (10 percent).⁴¹ While 40 percent of the abortions had been carried out outside the State of J&K, 30 percent were done in local nursing homes and 20 percent in Government hospitals. According to Ms Jan, *"This practice is done quite secretly and silently in private hospitals and in Government hospitals it is given the name of abortion for medical reasons by paying more money to medical and paramedical staff"*.⁴² But her claims were not taken seriously at that time.⁴³

The 2011 census confirmed Ms Jan's findings. As per 2011 census, with the exception of Kargil, the remaining 21 districts witnessed sharp decline in the CSR and the fall in the CSR ranged from 2 points (Kargil district) to 210 points (Pulwama district). More importantly, Muslim majority districts in Kashmir division registered the highest decline in the CSR from 2001 to

40. The 'killing fields' of Kashmir, BBC, 23 May 2011, <http://www.bbc.com/news/world-south-asia-13385727>

41. Kashmir too ditches its daughters, Tehelka Magazine, Vol 8, Issue 24, Dated 18 June 2011, http://archive.tehelka.com/story_main49.asp?filename=Ne180611Kashmir.asp

42. Killed before birth, Kashmir Life, 25 April 2011, <http://www.kashmirlife.net/killed-before-birth-1400/>

43. The 'killing fields' of Kashmir, BBC, 23 May 2011, <http://www.bbc.com/news/world-south-asia-13385727>

2011. Out of 22 districts, all the top 16 districts in terms of sharpest decline in the CSR are Muslim majority districts.

Table 4: Highest decline in the CSR in Muslim dominated districts⁴⁴

Sl. No.	District	2001 Census	2011 Census	Variance	Majority community (% of total population of district)
1	Pulwama	1046	836	-210	Muslims (95.4%)
2	Budgam	1004	832	-172	Muslims (97.6%)
3	Kupwara	1021	854	-167	Muslims (94.5%)
4	Ganderbal	1014	863	-151	Muslims (97.7%)
5	Anantnag	977	832	-145	Muslims (97.9%)
6	Shopian	1011	883	-128	Muslims (98.5%)
7	Kulgam	1003	882	-121	Muslims (98.5%)
8	Baramula	961	866	-95	Muslims (95.1%)
9	Bandipora	967	893	-74	Muslims (97.4%)
10	Poonch	959	895	-64	Muslims (90.4%)
11	Rajouri	905	837	-63	Muslims (64.76%)
12	Srinagar	928	869	-59	Muslims (95.2%)
13	Kishtwar	977	922	-55	Muslims (57.74%)
14	Ramban	968	931	-37	Muslims (70.6%)
15	Reasi	952	921	-31	Muslims: 49.66%, Hindus: 48.9%
16	Doda	959	932	-27	Muslims (53.8%)
17	Udhampur	912	887	-25	Hindus (88.1%)
18	Jammu	819	795	-24	Hindus (84.2%)

44. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

19	Kathua	847	836	-11	Hindus (87.6%)
20	Samba	798	787	-11	Hindus (86.3%)
21	Leh	955	944	-11	Buddhists (66.4%)
22	Kargil	980	978	-2	Muslims (76.8%)

What is more pertinent is the fact that as per 2001 census, six Muslims dominated districts with 94.5% to 98.5% Muslim population had more number of females than males in the age group of 0-6 years. These districts are Pulwama (1046 females against 1000 males), Kupwara (1021 females against 1000 males), Ganderbal (1014 females against 1000 males), Shopian (1011 females against 1000 males), Budgam (1004 females against 1000 males) and Kulgam (1003 females against 1000 males).⁴⁵

In these six districts, there was drastic fall in the CSR during 2011. While the CSR of Pulwama district (Muslim population: 95.4%) declined from 1046 in 2001 to 836 in 2011 (an alarming decrease of 210 points), the CSR of Budgam district (Muslim population: 97.6%) declined from 1004 in 2001 to 832 in 2011 (an alarming decrease of 172 points), the CSR of Kupwara district (Muslim population: 94.5%) declined from 1021 in 2001 to 854 in 2011 (an alarming decrease of 167 points), the CSR of Ganderbal district (Muslim population: 97.7%) declined from 1014 in 2001 to 863 in 2011 (an alarming decrease of 151 points), the CSR of Shopian district (Muslim population: 98.5%) declined from 1011 in 2001 to 883 in 2011 (an alarming decrease of 128 points) and the CSR of Kulgam district (Muslim population: 98.5%) declined from 1003 in 2001 to 882 in 2011 (an alarming decrease of 121 points).⁴⁶ Kargil district with 76.8% Muslims was the only exception which recorded the lowest decline in the CSR (2 points decrease) among the Muslim majority districts, possibly because of the lack of access to technology for sex selection.

45. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

46. *Ibid*

The districts with Hindu and Sikh majority population registered relatively “modest” decline in the CSR in comparison to the Muslim-dominated districts of J&K but these districts are still among the worst districts with low CSR in India.

At the national level, the CSR fell by 8 points from 927 in 2001 to 919 in 2011.⁴⁷ However, the CSR of Udhampur district (Hindu population: 88.1%) declined from 912 in 2001 to 887 in 2011 (decrease of 25 points) while the CSR of Jammu district (Hindu population: 84.2%) declined from 819 in 2001 to 795 in 2011 (decrease of 24 points), the CSR of Kathua district (Hindu population: 87.6%) declined from 847 in 2001 to 836 in 2011 (decrease of 11 points), the CSR of Samba district (Hindu population: 86.3%) declined from 798 in 2001 to 787 in 2011 (decrease of 11 points), and the CSR of Leh district (Buddhist population: 66.4%) declined from 955 in 2001 to 944 in 2011 (decrease of 11 points).⁴⁸

A comparison in the fall of the CSR between the Muslims in one hand and Hindus and Sikhs in J&K on the other hand (see **Table 5 below**) show that 14 Muslim dominated districts had average CSR of 917 in 2001 and this plummeted to 815 in 2011 i.e. fall by 98 points. On the other hand, the CSR in four Hindu and Sikh majority districts had an average CSR of 844 in 2001 and it fell to 826 in 2011 i.e. fall by 28 points. In 2001, the CSR (917) of the Muslim dominated districts was 73 points higher than the CSR (844) in the Hindu and Sikh dominated districts. However, by 2011, the CSR (815) of the Muslim dominated districts fell 11 points below the CSR (826) of the Hindu and Sikh dominated districts. This clearly shows that the Muslims of J&K had committed sex selection mainly during 2001 to 2011 and more than the Hindus and the Sikhs. The unprecedented decline in the CSR is unnatural and the only plausible explanation can be sex selection and female foeticide.

47. Decline In Child Sex Ratio, Press Information Bureau, Government of India, Ministry of Health and Family Welfare, dated 11 February 2014 13:34 IST available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>.

48. For details, please see <http://www.pcpndtjk.in/Statistics.php?link=2001> and <http://www.pcpndtjk.in/Statistics.php?link=2011>

Table 5: Comparative CSR among Muslims and Hindus and other non-Muslims⁴⁹

Sl No.	District (Muslim majority)	2001 Census	2011 Census	District (Hindu and other majority)	2001 census	2011 census
1	Pulwama Muslims (95.4%)	1046	836	Udhampur Hindus (88.1%)	912	887
2	Budgam Muslims (97.6%)	1004	832	Jammu (84.2%)	819	795
3	Kupwara (94.5%)	1021	854	Kathua (87.6%)	847	836
4	Ganderbal (97.7%)	1014	863	Samba (86.3%)	798	787
5	Anantnag (97.9%)	977	832			
6	Shopian (98.5%)	1011	883			
7	Kulgam (98.5%)	1003	882			
8	Baramula (95.1%)	961	866			

49. Ibid

9	Bandipora (97.4%)	967	893			
10	Poonch (90.4%)	959	895			
12	Srinagar (95.2%)	928	869			
13	Ramban (70.6%)	968	931			
14	Kargil (76.8%)	980	978			
	Average	917	815	Average	844	826

Note: Four districts namely (1) Reasi with Muslim population of 49.66% and Hindu population of 48.99%; (2) Doda with Muslim population of 53.2% and Hindu population of 45.77; (3) Rajouri with Muslim population of 62.71% and Hindu population of 34.54% and (4) Kishtwar with Muslim population of 57.75% and Hindu of population 40.72%) were excluded from the above comparative table as the number of both communities were close. Leh (64.4% non-Muslims) too were excluded as the Buddhists do not practice either *dowry* or *mahr*.

3. STATUS OF MEASURES FOR COMBATING SEX SELECTION

3.1 Status of implementation of the J&K PC&PNDT Act

i. Background on delay in implementation of the positive laws by J&K

No law of India can be extended to J&K by virtue of Article 370 of the Constitution of India unless the State Government of J&K extends it by an Act adopted by the State Legislature. However, irrespective of whichever party – Congress, National Conference (NC) and Peoples Democratic Party (PDP) – has been in power in J&K, they have always been prompt to adopt regressive laws of the Union like the National Security Act as the Public Safety Act and the Jammu and Kashmir Armed Forces Special Powers Act. However, all these political parties have avoided adopting laws that incorporate universal human rights standards that enhance the rights of citizens and vulnerable groups while in power.⁵⁰

a. Experience of the laws on administration of juvenile justice

Though the Juvenile Justice Act was enacted in India in 1986, it took more than a decade for the J&K legislature to enact the Jammu and Kashmir Juvenile Justice Act in 1997. It took another decade until 2007 to adopt the Rules accompanying the J&K Juvenile Justice Act of 1997, meaning that the Act remained unimplemented. Even though the Rules were framed in 2007, the State Government took no action to set up juvenile homes, observation homes and Juvenile Justice Boards as required by the Act.⁵¹ For 21 years, J&K had no law on administration of juvenile justice.

In the meantime, the rest of India realised the inadequacies of the Juvenile Justice Act of 1986. In 2000, India enacted a new Juvenile Justice (Care and

50. Juveniles of Jammu and Kashmir: Unequal before the Law & Denied justice in Custody, Asian Centre for Human Rights, 16 November 2011 available at <http://www.achrweb.org/reports/india/JJ-J&K-2011.pdf>

51. Ibid

Protection of Children) Act to meet its international legal obligations. The Ministry of Women and Child Development of the Government of India could not implement 'Integrated Child Protection Scheme' (ICPS) launched in 2009 with the aim of ensuring compliance with the United Nations Convention on the Rights of the Child in J&K as the J&K Juvenile Justice Act of 1997 did not comply with the Central Juvenile Justice (Care and Protection of Children) Act, 2000. In February 2010, the Ministry of Women and Child Development recommended the State of Jammu and Kashmir *"to take necessary action for a carrying out amendments to the Jammu & Kashmir Juvenile Justice Act, 1997 and Rules, 2007, to bring them at par with the Central Act before they commence implementation of ICPS"*.⁵² It was only on 22 March 2013 that the J&K Juvenile Justice (Care and Protection of Children Act, 2013 was enacted incorporating the Central Act of 2002.⁵³ However, once again, the Rules to the Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Act, 2013 were not enacted. The J&K Juvenile Justice (Care and Protection of Children) Rules, 2014 were notified on 24 March 2014⁵⁴ following issuance of notice by the J&K High Court on 20 February 2014 in response to a public interest litigation seeking notification of the Rules.⁵⁵

In the meantime, the Government of India enacted the Juvenile Justice (Care and Protection of Children) Act, 2015 and notified the same on 1 January 2016.⁵⁶ J&K is yet to initiate the process to include the amendments made in the Juvenile Justice (Care and Protection of Children) Act, 2015 in its State law. Consequently, children of J&K are being denied protection available to children in the rest of India under the Juvenile Justice (Care and Protection of Children) Act, 2015.

52. Ibid

53. The Jammu and Kashmir Juvenile Justice (Care and Protection of Children Act, 2013 is available at <http://jklegislativecouncil.nic.in/Governor/BILLS%20TRANSMITTED/Bill%20No.8.pdf>

54. The Jammu and Kashmir Juvenile Justice (Care and Protection of Children) Rules, 2014 are available at <http://jksocialwelfare.nic.in/act.aspx>

55. HC issues notice to CS, others on Juvenile Justice Act Posted on 21/02/2014 by Daily Excelsior, available at <http://www.dailyexcelsior.com/hc-issues-notice-to-cs-others-on-juvenile-justice-act/>

56. The Act is available at http://wcd.nic.in/sites/default/files/JJ%20Act%2C%202015%20_0.pdf

b. Experience under the PC&PNDT Act

The Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 had met the same fate as the laws on administration of juvenile justice.

Amniocentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in fetuses.⁵⁷ By mid 1980s, it started spreading and NGOs especially women rights groups, health activists and social activists launched a campaign for prohibition of sex selective abortion. The campaign resulted in the State Government of Maharashtra appointing a committee to examine the issue, followed up with formulation of an Act at the State level in 1988. Given the concern of the then Health Secretary of Maharashtra and other organisations this issue was taken up with the Government of India. Acting on the concerns and in order to control the deteriorating situation of sex selective abortion, the Government of India enacted the Pre-Natal Diagnostic Techniques Act, 1994 (PNDT Act).⁵⁸

The PNDT Act was found to be inadequate. The Act has since been amended to make it more comprehensive and address the emerging technologies for selection of sex before and after conception, problems faced in the working of implementation of the Act and certain directions issued by the Supreme Court in *CEHAT Vs Union of India*. The PNDT Act after amendments in 2002 was renamed as “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PCPNDT Act).⁵⁹

J&K State Government took no measures for eight years to prohibit sex selection. It was only on 23 April 2002 that the State Government of J&K

57. Amniocentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in fetuses. Please see <http://wcd.nic.in/Schemes/research/savegirlchild/3.pdf>

58. See <http://www.cehat.org/pndt.html>

59. See Chapter 19 ‘Gender Issues’, Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

notified the Jammu and Kashmir Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Act, 2002.⁶⁰ It took another four and half years to notify the J&K Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Rules, 2006 on 7 December 2006⁶¹ incorporating the provisions of the Central “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act).⁶² Effectively, from 1994 to 2006, there was no law in J&K prohibiting sex selective abortion.

Since 2002, the Government of India has further made a number of amendments to improve implementation of the PC&PNDT Act, plug the loopholes and challenges posed by advancement of technology for sex selection. However, J&K State Government has not taken any measures to incorporate these amendments under the State Rules.

ii. Status of implementation of the J&K PC&PNDT Act

A. Provisions of the J&K PC&PNDT Act

The Jammu and Kashmir Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Act, 2002 provides for regulation and punishment.

Section 3 of the J&K PC&PNDT Act provides for regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic clinics through the requirement of registration under the Act and prohibition of sex selection.

Section 4 provides that no such place shall be used for conducting pre-natal diagnostic techniques except for the purposes specified.

Section 5 requires written consent of pregnant woman for conducting the pre-natal diagnostic procedures and prohibits communicating the sex of foetus

60. Available at <http://www.pcpndtjk.in/act.php>

61. Available at http://www.pcpndtjk.in/pc_pndtnotification.php

62. See Chapter 19 ‘Gender Issues’, Annual Report 2014-15, Ministry of Health and Family Welfare, Government of India, <http://www.mohfw.nic.in/WriteReadData/l892s/56321456698774563.pdf>

and requires keeping complete record of ultrasound scan/test/ procedure on any pregnant woman.

Section 6 provides that no pre-natal diagnostic techniques including sonography can be conducted for the purpose of determining the sex of a foetus and that no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultra sonography for the purpose of determining the sex of a foetus.

Section 22 provides prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees; and any person who fails to keep complete record of ultrasound san/test/ procedure on any pregnant woman as per Sub-Section (3) of Section 5 shall be punishable with fine which may extend to fifty thousand rupees and may also face cancellation of his registration by the concerned Medical Council.

Under Sub-Section (1) of Section 23, any registered medical practitioner or any person who owns any facility shall be punishable with imprisonment up to three years and fine up to Rs. 10,000 for contravention of any of the provisions of this Act or rules. The punishment shall be increased to five years and fine up to Rs. 50,000 for any subsequent conviction. Under Sub-Section (2) of Section 23, the name of the Registered Medical Practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of. On conviction, the name of Registered Medical Practitioner is removed for a period of 5 years for the first offence and permanently for the subsequent offence.

Section 24 provides for punishment for abetment of offence as prescribed under sub-section (3) of section 23.

Section 25 provides for penalty for 'contravention of any provision of the Act or rules for which no specific punishment is provided' with imprisonment for

a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

Section 26 provides for offences by companies.

B. Constitution of Committees

i. State Supervisory Board

The J&K Government constituted the State Supervisory Board vide Government order No. 625-HME of 2002 dated 04-05-2002. The State Supervisory Board was reconstituted vide Government order No. 504-HME of 2011 dated 20.09.2011 consisting of the following members:⁶³

Table 6: State Supervisory Board

1	Minister for Health, J&K	Ex- Officio, Chairman
2	Minister of State, H &ME	Ex- Officio, Co-Chairman
3	Administrative Secretary Health, FW & ME	Ex- Officio, Vice-Chairman
4	Administrative Secretary Social Welfare Deptt	Member
5	Administrative Secretary Law Deptt	Member
6	Divisional Commissioner Kashmir	Member
7	Divisional Commissioner Jammu	Member
8	Director Health Services Jammu	Member
9	Director Health Services Kashmir	Member

63. For details, please see <http://www.pcpndtjk.in/service1.php>

10	Principal Investigator, Genetic Centre, University of Jammu	Member
11	Head of Department Genetics, SKIMS Soura, Srinagar	Member
12	Head of Department Gynae & Obst, GMC Srinagar	Member
13	Head of Department, Gynae & Obst, GMC Jammu	Member
14	Head of Department Pediatrics GMC Srinagar	Member
15	Head of Department Pediatrics GMC, Jammu	Member
16	Head of Department Sociology Department Kashmir University	Member
17	Head of Department Sociology Department Jammu University	Member
18	Smt. Bimla Luthra, MLA	Member
19	Smt Khemlata Wakhloo, MLC	Member
20	Smt Fozia Geelani, Better World Rawalpura Srinagar	Member
21	Smt. Seema Shekhar, Additional Advocate General, J&K.	Member
22	Mission Director NRHM	Member Secretary

The main functions of the State Supervisory Board are to:

- advise the Government on policy matters relating the use of prenatal diagnostic techniques, preconception sex selection techniques and their misuse;

- review and monitor implementation of the Act and the rules made there under and recommend changes in the said Act and rules to the Government;
- create public awareness against the practice of preconception sex selection and prenatal determination of sex leading to female foeticide; and
- lay down Code of Conduct, to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories, Ultrasound/Imaging Authorities and Genetics Clinics.

ii. Divisional Advisory Committee

The Divisional Advisory Committee on the PC&PNDT Act was constituted vide Government order no. 271-HME of 2008 dated 26-03-2008 for the better implementation of the Act by monitoring the functioning of various diagnostic centres and ultra sound clinics to curb illegal sex determination of the foetus. It was reconstituted vide Order No. 503-HME of 2011 dated 20.09.2011 consisting of the following members:⁶⁴

Table 7: Divisional Advisory Board

Jammu Division		
1	Divisional Commissioner, Jammu	Chairman
2	Director Health Services, Jammu	Member Secretary
3	All Deputy Commissioners of Jammu Div	Members
4	Senior Superintendant of Police Jammu	Member
5	Head of the Department (HOD) Pediatrics, GMC Jammu	Member
6	HOD Gynae & Obst. GMC Jammu	Member

64. For details, please see <http://www.pcpndtjk.in/service2.php>

7	HOD Genetics, Jammu University	Member
8	Joint Director Information Deptt Jammu	Member
9	Sh. Rtd. Col. S.K. Sambyal, NGO, J&K Ex-Services League	Member
10	Smt. Shaista Hakim, Dy. Advocate General	Member
11	Dr. Ashwani Jojra, NGO Sahyog	Member
Kashmir Division		
1	Divisional Commissioner Kashmir	Chairman
2	Director Health Services Kashmir	Member Secretary
3	All Deputy Commissioners of Kashmir Div	Member
4	Senior Superintendant of Police Srinagar	Member
5	HOD Pediatrics GMC Srinagar	Member
6	HOD Gynae & Obsta. GMC Srinagar	Member
7	HOD Genetics, SKIMS Srinagar	Member
8	Joint Director Information Department Kashmir	Member
9	Sh. Zarif Ahmad Zarif, Social activist	Member
10	Sh. Riyaz Khawar, Advocate	Member
11	Smt. Gul Afroz, Law Department, Kashmir University	Member

The main functions of the Divisional State Advisory Board are to:

- pay surprise visits or periodic visits to centres, laboratories and clinics with a view to check compliance of the provision of Act and Rules;

- recommend to the appropriate authority cancellation or otherwise of registration of or prosecution against a centre laboratory or clinic;
- check and prevent contravention of provision of the Act or Rules in the area of its purview;
- advise appropriate authority about implementation of the Act and creation of public awareness on the issue of the sex selection; and
- seize machine as may be found appropriate.

iii. District Advisory Committee

The District Advisory Committee was constituted vide Government order No.335- HME of 2004 dated 05-08-2005. It was reconstituted vide Govt. Order No. 502-HME of 2011 dated 20.09.2011 consisting of the following members⁶⁵:

Table 8: District Advisory Board

1	Deputy Commissioner concerned	Chairman
2	Chief Medical Officer	Member Secretary
3	Medical Superintendants, District Hospital	Member
4	District Information Officer	Member
5	District Social Welfare Officer	Member
6	Senior Most Gynecologist of District Hospital	Member
7	Senior Most Paediatrician of District Hospital	Member
8	Leading Advocate of the District to be nominated by the Deputy Commissioner	Member
9	NGO to be nominated by the Dy. Commissioner	Member

65. For details please visit <http://www.pcpndtjk.in/service3.php>

iv. Appropriate Authority

Vide Government order No. 609-HME of 2011 dated 22 November 2011, Chief Medical Officer of each district was appointed as the Appropriate Authority under the J&K PC&PNDT Act.⁶⁶

C. Implementation of the J&K PC&PNDT Act

The implementation of the J&K PC&PNDT Act of 2002 has been dismal and the State Government has no clarity on basic information about the status of implementation of the Act.

i. Registration, inspection etc

As per latest but undated information available in the website of Jammu and Kashmir's Department of the PC&PNDT, there are a total of 87 registered Ultrasound Clinics/Private Nursing Homes in J&K including 58 in Jammu division⁶⁷ and 29 in Kashmir division.⁶⁸ There are total 374 registered ultrasound machines including 144 in Jammu division (94 in Private clinics and 50 in Government hospitals)⁶⁹ and 230 in Kashmir division (139 in Private clinics and 91 in Government hospitals).⁷⁰

66. For details please see <http://www.pcpndtjk.in/downloads/order.jpg>

67. <http://www.pcpndtjk.in/Statistics.php?link=ultrasound> accessed on 12.11.2016

68. <http://www.pcpndtjk.in/Statistics.php?link=clinics> accessed on 12.11.2016

69. <http://www.pcpndtjk.in/Statistics.php?link=ultrasound> accessed on 12.11.2016

70. <http://www.pcpndtjk.in/Statistics.php?link=clinics> accessed on 12.11.2016

Table 9: District wise number of Ultrasound Clinics/Machines in Jammu Division⁷¹

District	Ultrasound Clinics (Pvt) registered	No. of Machines		
		Private Clinics	Govt. Hospitals	Total
Doda		01	4	5
Jammu	39	60	12	72
Kathua	4	06	8	14
Kishtwar	2	2	3	5
Poonch	1	2	4	6
Rajouri	-	07	7	14
Ramban	-	-	3	3
Reasi	1	1	2	3
Samba	11	11	3	14
Udhampur	-	4	4	8
Total	58	94	50	144

Table 10: District wise number of Ultrasound Clinics/Machines in Kashmir Division⁷²

District	Ultrasound Clinics (Pvt) registered	No. of Machines		
		Private Clinics	Govt. Hospitals	Total
Srinagar	19	73	06	79
Ganderbal	-	02	08	10
Budgam	2	10	10	20
Pulwama	1	08	04	12
Shopian	-	01	04	05
Anantnag	-	12	14	26
Kulgam	-	04	09	13

71. <http://www.pcpndtjk.in/Statistics.php?link=ultrasound> accessed on 12.11.2016

72. <http://www.pcpndtjk.in/Statistics.php?link=clinics> accessed on 12.11.2016

Baramulla	6	18	14	32
Bandipora	-	-	02	02
Kupwara	-	09	12	21
Leh	-	-	03	03
Kargil	1	02	05	07
Total	29	139	91	230

In 2010, the Supreme Court had directed the State Health authorities to close down the unregistered private nursing homes within six months.⁷³

During March 2011 to June 2012, the J&K Government reportedly sealed 147 clinics respectively 78 clinics during March to June 2011⁷⁴ and 69 clinics during June 2011 to June 2012⁷⁵ for allegedly conducting sex determination tests. However, it was reported on 22 July 2013, there were over 161 private nursing homes and clinics operating illegally in the State and sex determination activities were thriving in these illegal nursing homes and clinics.⁷⁶ Shri Bali Bhagat, Minister of Health & Medical Education while replying to supplementary question before the J&K Legislative Council on 8 June 2016 reportedly admitted that *“There are number of unauthorized diagnostic centres operating illegally in the state. But the Government will close down all these unauthorized centres in future”*.⁷⁷

Shri Bali Bhagat also claimed before the J&K Legislative Council on 8 June 2016 that as per the Supreme Court judgment of 2010, five Nursing Homes were closed in 2010 and two more were closed in 2014 *“for not having requisite*

73. 161 nursing homes, pvt clinics operating illegally in J&K, Daily Excelsior, 23 July 2013, <http://www.dailyexcelsior.com/161-nursing-homes-pvt-clinics-operating-illegally-in-jk/>

74. 78 clinics sealed in J-K for sex determination tests, The Indian Express, 16 June 2011, <http://indianexpress.com/article/regional/78-clinics-sealed-in-jk-for-sex-determination-tests/>

75. J&K govt shuts down 69 ultrasound clinics to fight female foeticide, Tehelka, 23 June 2012, http://archive.tehelka.com/story_main53.asp?filename=Ws230612Jammu.asp

76. 161 nursing homes, pvt clinics operating illegally in J&K, Daily Excelsior, 23 July 2013, <http://www.dailyexcelsior.com/161-nursing-homes-pvt-clinics-operating-illegally-in-jk/>

77. Unauthorized diagnostic centres functional in Jammu Kashmir: Govt, Greater Kashmir, 8 June 2016, <http://www.greaterkashmir.com/news/kashmir/unauthorized-diagnostic-centres-functional-in-jammu-kashmir-govt/219839.html>

facilities & infrastructures⁷⁸. On other hand, J&K's Department of the PC&PNDDT in its website claims that a total of 88 clinics were closed down under the J& PC&PNDDT Act in Jammu and Kashmir divisions.

This speaks volume about the non-implementation of the J&K PC&PNDDT Act.

The clinics closed down under the J& PC&PNDDT Act in J&K divisions as per latest but undated information available in the website of Jammu and Kashmir's Department of the PC&PNDDT is given below:

Table 11: District wise number of clinics sealed in Jammu Division⁷⁹

S. No.	Name of District	Number of Ultrasound clinics sealed
1	Doda	-
2	Jammu	06
3	Kathua	03
4	Kishtwar	-
5	Poonch	01
6	Rajouri	06
7	Ramban	-
8	Reasi	-
9	Samba	04
10	Udhampur	04
	Total	24

78. Reply of the Minister of Health and Medical Education, J&K in Legislative Council on 8 June 2016 to the Starred C.Q NO. 127 of Shri Naresh Kumar Gupta, http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/rep_s-8-6/s127.pdf

79. Tally of the District wise number of clinics sealed in Jammu Division accessed on 20.11.2016 <http://www.pcpndtjk.in/Statistics.php?link=sealed>

Table 12: District wise number of clinics sealed in Kashmir Division⁸⁰

S. No.	Name of District	Number of Ultrasound clinics sealed
1	Srinagar	11
2	Ganderbal	04
3	Budgam	16
4	Pulwama	08
5	Shopian	-
6	Anantnag	-
7	Kulgam	04
8	Baramulla	14
9	Bandipora	-
10	Kupwara	07
11	Leh	-
12	Kargil	-
	Total	64

ii. Prosecution under the PC&PNDT Act

The rate of conviction in J&K remains dismal. The Health Minister of India Mr J P Nadda informed in the Rajya Sabha (Upper House of Parliament) on 3 March 2015 that only one conviction was secured in J&K in 2013 as on date.⁸¹ The National Crime Records Bureau (NCRB) of the Government of India recorded only two cases of foeticide during 2005 to 2014 i.e. one case each in 2010 and 2011.⁸²

80. Tally of the District wise number of clinics sealed in Jammu Division accessed on 20.11.2016 <http://www.pcpndtjk.in/Statistics.php?link=division>

81. Effective Implementation of PNDT Act, Press Information Bureau, Government of India (Ministry of Health and Family Welfare), 3 March 2015, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>

82. Annual Reports "Crime In India" 2005-2014 of National Crime Records Bureau, Government of India

On 29 July 2012, two illegal clinics were sealed and two persons including a doctor were held in Shopian district. A team from the Directorate of Health Services led by Chief Medical Officer, Shopian district Dr Peerzada Fayaz raided two clinics namely Mohammedia Polyclinic and Doctor's USG Clinic situated in the main market at Shopian on a tip off and arrested a doctor and an operator of one of the clinics. These clinics were running without permission and were allegedly conducting various surgical procedures and USG screenings for sex-determination. Two cases were registered (Case Nos. 243/2012 and 244/2012) under Section 3/8 Jammu and Kashmir Nursing Home and Clinic Establishment (Registering and Licensing) Act 1963 and Sections 6/23 of J&K Pre-conception and Pre-natal Diagnostic Techniques) Act, 2002.⁸³

D. No follow up of post 2002 amendments made to the central PC&PNDT Act in J&K

The Government of India has made a number of amendments to the PC&PNDT Act and PC&PNDT Rules to improve implementation of the PC&PNDT Act, plug the loopholes and challenges posed by advancement of technology for sex selection. The Government of India enacted the PC&PNDT Amendment Rules of 2011 regarding sealing and seizure of machine in unregistered centers; the PC&PNDT Amendment Rules of 2012 regarding regulation of portable machines etc; the PC&PNDT Amendment Rules of 2012 regarding restrictions on radiologists and sonologists from visiting more than two clinics within a district; the PC&PNDT Amendment Rules of 2014 regarding Form F on maintenance of records; the PC&PNDT Amendment Rules of 2014 regarding six months training for competency; and the PC&PNDT Amendment Rules of 2014 outlining Code of Conduct to be observed by authorities established under the Act.

83. 2 'sex determination' clinics sealed in Shopian, Greater Kashmir, 30 July 2012, <http://m.greaterkashmir.com/news/kashmir/2-sex-determination-clinics-sealed-in-shopian/126116.html>

The amendments are explained in brief below.

i. PC&PNDT Amendment Rules, 2011 regarding sealing and seizure of machine by unregistered centers

The amendments to the Rules notified on 2 June 2011 authorised the Appropriate Authorities to seize, seal any ultrasound machine, scanner or any other equipment capable of detecting sex of the foetus by any organization not registered under the PC&PNDT Act.⁸⁴

ii. PC&PNDT Amendment Rules, 2012 regarding regulation of portable machines etc

On 7th February 2012, the Government of India notified Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012⁸⁵ to amend Rule 2 of 1996. Through this amendment, the mobile medical unit and mobile genetic units were defined and regulation of portable machines which have the potential for sex selection before conception or detection of sex during pregnancy were brought within the ambit of the PC&PNDT Act.

iii. PC&PNDT Amendment Rules, 2012 regarding restrictions on radiologists and sonologists from visiting more than two clinics within a district

In a bid to curb sex determination test and female foeticide, the Government of India on 4 June 2012 amended Rule 3 of the Pre-conception and Pre Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 through a Gazette Notification restricting radiologists and sonologists from visiting more than two clinics within a district to perform ultrasound and made it mandatory to specify their consulting hours at each clinic.⁸⁶ On a public interest litigation filed by the Indian Radiological and Imaging Association (IRIA), the Delhi High Court stayed the order of restriction.⁸⁷

84. For details see, <http://www.delhi.gov.in/wps/wcm/connect/fc775a0044967ff2827d9b5633238441/amends.pdf?MOD=AJPERES&lmod=-19578347&CACHEID=fc775a0044967ff2827d9b5633238441>

85. For details, see <http://www.delhi.gov.in/wps/wcm/connect/63ddf8804496811e82909b5633238441/amendm.pdf?MOD=AJPERES&lmod=-19566830&CACHEID=63ddf8804496811e82909b5633238441>

86. Notification is available at http://www.wbhealth.gov.in/download/Gazette%20Notification_medical%20Practitioner_USG%20Clinic.pdf

87. Radiologists can visit more than two clinics, Deccan Herald, 25 July 2012 <http://www.deccanherald.com/content/267094/radiologists-can-visit-more-two.html>

iv. PC&PNDT Amendment Rules, 2014 regarding Form F on maintenance of records

Section 4 and Section 29 of the PC&PNDT Act and Rule 9(4)⁸⁸ deals with records with respect to patients subjected to diagnostic procedure must be maintained by USG centres in Form F. Contravention of the same is punishable under Section 23(1) of the PC&PNDT Act for imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees. If the Form F is found incomplete the ultrasonography machines are also seized.⁸⁹

The Government of India simplified the Form F to address the concerns of the doctors. On 31 January 2014, the Government of India notified the revised Form F which captures detailed information like the name, address, previous children with their sex, previous obstetric history related to the pregnant woman undergoing ultrasound scan.⁹⁰ The revised Form F is divided into four sections and simpler to understand. The previous form contained columns of all types, invasive (for example amniocentesis) as well as non-invasive (for example sonography) diagnostic tests and procedures and gave rise to ambiguity at various points. While the modified version has separate sections for invasive and non-invasive test and the doctor has to fill only the applicable sections. Only section A and section D have to be compulsorily filled by doctors. Section A records information like name and complete address of genetic clinic/ultrasound clinic/imaging centre, registration number under the PC&PNDT Act, patient's name, age, total number of living children, postal address, referral doctor's name. Section D contains declaration of the person undergoing prenatal diagnostic test/procedure not to know the sex of the foetus and declaration of the doctor/

88. Rule 9(4) provides that ' The record to be maintained by every Genetic Clinic, in respect of each woman subjected to any pre-natal diagnostic procedure, shall be as specified in Form F'

89. See <http://www.health.mp.gov.in/pcpndt/gazette/PC%20%20PNDT%20Rules%202014%20Form%20F.pdf>

90. See the notification at <http://www.rajswasthya.nic.in/205%20Dt.%2011.03.2014%20PNDT%20Website.pdf>

person conducting the test/procedure not to detect or disclose the sex of the foetus.⁹¹

v. PC&PNDT Amendment Rules, 2014 regarding Six Months Training

On 9 January 2014, the Government of India notified the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) (Six Months Training) Rules, 2014 by amending the PC&PNDT Rules, 1996. The amended Rule 3(3)(1)(b) prescribes the qualifications for setting up of or for employment in a genetic clinic /ultrasound clinic/imaging centre. The amended Rule requires a person possessing one of the medical qualifications recognised by the Medical Council of India Act to undergo six months mandatory training as prescribed in the Six Months Training Rules or if having experience of one year in ultrasonography, to take the competency test, for operating and using the ultrasound machine.⁹²

The PC&PNDT Act of 1994 allows any MBBS-degree-holder to become sonologist without the basic qualification of MD in radio diagnosis and gynecology or additional training. The Six Months Training Rules 2014 prescribed six-month compulsory training. The sonologists who did not have basic qualification were asked to clear the competency test before 31 December 2016 to be able to run their centres from 2017. In case they fail, they will have to undergo six-month training after being selected through postgraduate (PG) entrance test.⁹³

vi. PC&PNDT Amendment Rules, 2014 regarding Code of Conduct to be observed by Appropriate Authorities

The Government of India also enacted the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules,

91. Form 'F' for ultrasound scans becomes simpler, The Times of India, 20 August 2013, <http://timesofindia.indiatimes.com/city/pune/Form-F-for-ultrasound-scans-becomes-simpler/articleshow/21928044.cms>

92. See http://164.100.130.11:8091/administrative/PC&PNDT_sixMonths_trainingRules.pdf

93. Sonologists don't want competency test, to move high court, Hindustan Times, 16 June 2016, <http://www.hindustantimes.com/punjab/sonologists-don-t-want-competency-test-to-move-high-court/story-OcCtof0YAYjKkHiuGBvcXN.html>

2014 relating to conduct for Advisory Committees. These Rules provide for general code of conduct, to be observed by Appropriate Authorities, the code of conduct for processing of complaint and investigation by all the Appropriate Authorities including the State, District and Sub-district notified under the Act, Code of conduct for Advisory Committees, code of conduct for registration and renewal of applications under the Act, Code of conduct for Legal Action, progress report under Form H, regulation of ultrasound equipments, code of conduct for inspection and monitoring and code of conduct for establishing accountability.⁹⁴

It is pertinent to mention that none of the amendments to the PC&PNDT Rules which are applicable in the rest of India have been followed up in J&K. In the absence of these measures necessary to improve implementation of the PC&PNDT Act, plug the loopholes and challenges posed by advancement of technology for sex selection, sex selection continues unabated in the State.

3.2. Ladli Beti Scheme for retention of girl child

i. Description of the Ladli Beti Scheme

On 7 September 2015, the J&K State Government approved a state-sponsored social assistance scheme for girl child named “*Ladli Beti*”⁹⁵ which was formally launched on 28 October 2015.⁹⁶ The features of the scheme are as follows:⁹⁷

- Recurring deposit account under this scheme shall be opened by the natural or legal guardian of the girl child.

94. It is available at <http://www.delhi.gov.in/wps/wcm/connect/7c42cb80445328b0851bdf1f5798cc31/code.pdf?MOD=AJPERES&lmod=-2004040044&CACHEID=7c42cb80445328b0851bdf1f5798cc31>

95. Jammu & Kashmir govt launches state-sponsored scheme ‘Ladli Beti’ for girl child, DNA, 7 September 2015, <http://www.dnaindia.com/india/report-jammu-kashmir-govt-launches-state-sponsored-scheme-ladli-beti-for-girl-child-2122854>

96. Ladli Beti scheme launched in JK, Greater Kashmir, 28 October 2015, <http://www.greaterkashmir.com/news/jammu/ladli-beti-scheme-launched-in-jk/200171.html>

97. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

- A contribution of Rs. 1000/- per month will be made by J&K Government from the birth of the girl child/ account opening date for the next 14 years.
- No credits other than monthly contribution of Rs. 1000/- by J&K Government is to be allowed in Phase I (RD Account)
- After the maturity of Phase I (recurring deposit account) the account will graduate to Phase II (Cumulative Term Deposit account).
- No partial withdrawal or foreclosure will be allowed under any circumstances during any phase.
- Maturity benefits under the scheme will be paid to the beneficiary on completion of 21 years of age or 21 years after the first instalment or 85 months after the last instalment whichever is later by crediting the saving bank account of the girl child. However, the girl child is at liberty to reinvest the amount in any deposit plan of the bank.
- Nomination facility will not be applicable in scheme. In an unfortunate event of the death of the girl child, the account will be closed immediately and the balance amount along with interest accrued will revert to the State of J&K.
- In the event of death of the beneficiary before she attains 21 years of age, the amount in the Recurring Deposit account / Term Deposit account shall be closed before maturity without pre-payment charges and paid by the branch concerned to the CDPO of the District, who shall deposit the same into an appropriate Government account.
- The account opened at a particular branch may not be transferred to any other branch even if the girl child shifts to a place other than the city or locality where the account was opened.
- The beneficiary/ parent or guardian of beneficiary shall produce 'life certificate of the beneficiary (girl child)' certified by a gazetted officer

or by the principal of school/ college where she is enrolled before the concerned bank branch after every three years and at the time of maturity.

- As the scheme is aimed at households having annual income less than 75000/- the TDS shall not be deducted as long as the guardian / beneficiary furnishes Form Nos 15G/15H under Income Tax Act, 1961 every year and has a valid PAN.

A. Objectives of the Ladli Beti scheme

The objectives of the scheme are⁹⁸:

- arrest the declining child sex ratio;
- reduce the financial burden of the girl's parents; and
- ensure that the girl child does not become a burden for the parent or guardian at the time of her marriage.

B. Targeted beneficiaries

Only those girl children, born to parents with annual income from all sources less than Rs 75,000 per annum shall be eligible for the benefits under the scheme.⁹⁹

C. Benefits under the scheme

Under the scheme, the State Government will contribute Rs 1,000 per month towards the birth of every girl child with effect from 1 April 2015 for the next 14 years. Upon reaching the age of 21 years, the girl child would receive a sum of Rs 6.5 lakh.¹⁰⁰

98. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

99. Jammu & Kashmir govt launches state-sponsored scheme 'Ladli Beti' for girl child, DNA, 7 September 2015, <http://www.dnaindia.com/india/report-jammu-kashmir-govt-launches-state-sponsored-scheme-ladli-beti-for-girl-child-2122854>

100. Ibid.

D. Eligibility condition

The eligibility conditions are as follows¹⁰¹:

- Girl child born on or after 1st April 2015 whose applications are complete in all respect accompanied with sanction letter from Child Development Project Officer (CDPO) of the selected domiciliary district (Anantnag, Budgam, Jammu, Kathua, Pulwama, Samba); and
- Girl child born to parents whose annual income from all sources is less than Rs 75,000/- (Seventy Five Thousands).

The documents needed to be submitted at the time of application:

- Valid Permanent Resident Certificate of the selected districts (the family living temporarily outside the home district will also be eligible);
- No person/family of the other districts, temporarily residing in the selected districts will be covered under the scheme; and
- Birth certificate of the child. If Birth Certificate is not available at the time of registration for the scheme, other documentary proofs like discharge certificate of the mother from the medical facility/prenatal check up card can be produced or a certificate from ASHA and in exceptional circumstances a report from the Chowkidar of the village. However, it will be obligatory on the parents to submit the birth certificate within 3 months.¹⁰²

E. Modalities of disbursement of benefits

The scheme is a hybrid deposit plan having two phases¹⁰³:

Phase I: A recurring deposit for 14 years with date of completion as one month after the last installment received in the account.

101. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

102. Avail benefits of 'Ladli Beti' scheme: Lal Singh to people, Daily Excelsior, 25 September 2015, <http://www.dailyexcelsior.com/avail-benefits-of-ladli-beti-scheme-lal-singh-to-people/>

103. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

Phase II: A Cumulative Term Deposit (CCR) for 07 years.

The monthly contribution in Phase I is made by the J&K Government.

ii. Assessment of effectiveness of *Ladli Beti* scheme

A. Restricted geographical area

As per 2011 census, there are 16 districts whose CSR is below 900 and these include Samba (787), Jammu (795), Anantnag and Budgam (832 each), Pulwana and Kathua (836 each), Rajouri (837), Kupwara (854), Ganderbal (863), Baramula (866), Srinagar (869), Kulgam (882), Shopian (883), Udhampur (887), Bandipora (893), Poonch (895), Reasi (921), Kishtwar (922), Ramban (931), Doda (932), Leh (944) and Kargil (978). Therefore, launching of the *Ladli Beti* scheme only in eight districts are excluding the critical areas.

B. Implementation is yet to begin

The scheme was initially introduced on pilot basis in six districts with low child sex ratio namely Jammu, Kathua, Samba, Anantnag, Budgam and Pulwama.¹⁰⁴ On 28 July 2016, two more districts namely Srinagar and Kishtwar were included under the *Ladli Beti* scheme.¹⁰⁵

As per the response of the Minister of Social Welfare Department of J&K in the J&K Legislative Council on 6 June 2016, six districts namely Anantnag, Pulwama, Budgam, Kathua, Jammu, and Samba received a total of Rs 250 lakhs. Out of this sanctioned amount, Rs 89.73 lakhs was allotted to Pulwama district, Rs 86.49 lakhs to Kathua district, Rs 26.15 lakhs to Jammu district, Rs 19.13 lakhs to Budgam district, Rs 14.51 lakhs to Samba district and Rs 13.99 lakhs to Anantnag. However, no disbursement was made to any beneficiary

104. *Ladli Beti* scheme launched in JK, Greater Kashmir, 28 October 2015, <http://www.greaterkashmir.com/news/jammu/ladli-beti-scheme-launched-in-jk/200171.html>

105. J&K Cabinet approves inclusion of Srinagar, Kishtwar in *Ladli Beti* Scheme, UNI, 28 July 2016, <http://www.uniindia.com/j-k-cabinet-approves-inclusion-of-srinagar-kishtwar-in-ladli-beti-scheme/states/news/571303.html>

by 6 June 2016.¹⁰⁶ Since July 2016, Kashmir division faced intermittent shut down in protest following the killing of insurgent Burhan Wani of the *Hizbul Mujahideen* on 8 July 2016.¹⁰⁷ Obviously, implementation of the scheme has been the least priority and possibility since July 2016.¹⁰⁸ In effect, the *Ladli Beti* scheme is yet to take off.

Table 13: District-wise number of beneficiaries under *Ladli Beti* scheme¹⁰⁹

Sl No.	Name of district	Cases approved
1	Pulwama	700
2	Budgam	199
3	Anantnag	374
4	Jammu	291
5	Kathua	555
6	Samba	125
	Total	2244

The Minister of Social Welfare Department of J&K also stated that these six districts were allotted a total of Rs 262.245 lakhs under the *Beti Bacho Beti Padao* (BBBP) but utilized only Rs 182.237 lakhs which means that Rs 80 lakhs was not utilised.¹¹⁰ As the BPPP involves only organising awareness raising programme rather than disbursing funds to beneficiaries which requires proper identification, the BPPP's implementation is suspect.

106. Statement of the Social Welfare Minister of Jammu and Kashmir in response to a question by Shri Ali Muhammad Dar, Member of Legislative Council in the J&K Legislative Council during Budget Session on 6 June 2016 (Starred CQ No. 71 in the Legislative Council), available at http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/st_rep_6-6/s71.pdf

107. Burhan Wani, Hizbul poster boy, killed in encounter, The Hindu, 8 July 2016 available at <http://www.thehindu.com/news/national/other-states/Burhan-Wani-Hizbul-poster-boy-killed-in-encounter/article14479731.ece>

108. Statement of the Social Welfare Minister of Jammu and Kashmir in response to a question by Shri Ali Muhammad Dar, Member of Legislative Council in the J&K Legislative Council during Budget Session on 6 June 2016 (Starred CQ No. 71 in the Legislative Council), available at http://www.jklegislativecouncil.nic.in/Session114/ql/QL_rep/st_rep_6-6/s71.pdf

109. Ibid

110. Ibid

Table 14: District-wise funds allotted and utilized under adli Beti and Beti Bachoa Beti Padao¹¹¹

Name of District	Ladli Beti Scheme			Beti Bachao Beti Padao Scheme		
	Funds allotted (in Lakhs)	Funds utilized (in Lakhs)	Funds unutilized (in Lakhs)	Funds allotted (in Lakhs)	Funds utilized (in Lakhs)	Funds unutilized (in Lakhs)
Anantnag	13.99	0.00	13.99	45.905	30.099	15.806
Pulwama	89.73	0.00	89.73	56.715	31.573	25.142
Budgam	19.13	0.00	19.13	56.715	56.434	0.281
Kathua	86.49	0.00	86.49	45.905	36.493	9.412
Jammu	26.15	0.00	26.15	45.905	27.638	18.267
Samba	14.51	0.00	14.51	11.10	0.00	11.10
Baramulla	NA	NA		11.10	0.00	11.10
Ganderbal	NA	NA		11.10	1.51	9.59
Rajouri	NA	NA		11.10	0.00	11.10
Shopian	NA	NA		11.10	11.10	0.00
Kupwara	NA	NA		11.10	0.00	11.10
Kulgam	NA	NA		11.10	0.00	11.10
Udhampur	NA	NA		11.10	11.10	0.00
Bandipora	NA	NA		11.10	0.00	11.10
Srinagar	NA	NA		11.10	0.00	11.10
Total	250	0.00	250	362.145	205.947	156.198

111. Ibid

C. Large section of population excluded from the scheme

One of the eligibility conditions of the *Ladli Beti* scheme is that the girl child should be born to parents whose annual income from all sources is less than Rs 75,000/- (Seventy Five Thousands).¹¹² This has excluded a large section of the population whose family income is Rs 75,000 and above.

The family income of Rs 75,000/- (Seventy Five Thousands) per annum means Rs 6,250 per month from all sources. As of 2001 Census, there are 12,23,178 Above Poverty Line (APL) families in J&K.¹¹³

Further by making Valid Permanent Resident Certificate of the district a requirement, many have been excluded.

D. Closure of the scheme in case of death of the beneficiary

The *Ladli Beti* scheme provides that maturity benefits under the scheme will be paid to the beneficiary on completion of 21 years of age or 21 years after the first instalment or 85 months after the last instalment whichever is later by crediting to the saving bank account of the girl child. Nomination facility is not allowed and in an unfortunate event of death of the girl child, the account will be closed immediately and the accumulated amount along with interest accrued will revert back to the State Government of J&K. In the event of death of the beneficiary before she attains 21 years of age, the amount in the Recurring Deposit account / Term Deposit account shall be closed before maturity without pre-payment charges and paid by the branch concerned to the CDPO of the District, who shall deposit the same into an appropriate Government account.¹¹⁴ This provision in the scheme is too harsh on the parents of the beneficiary girl child and contrary to the objective of the scheme including reducing financial burden on the parents of the girl.

112. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

113. <http://jkcapd.nic.in/profile.htm>

114. <http://www.jkbank.net/deposits/personal/ladliBeti.php>

4. CONCLUSION AND RECOMMENDATIONS

Jammu and Kashmir has been in the midst of armed conflicts for the last three decades. The implementation of social welfare schemes including on girl child has been extremely poor. Effectively, there is little implementation of the J&K PC&PNDT Act and the *Ladli Beti* scheme while sex selection remains one of the flourishing businesses in the State. Five years have already elapsed since 2011 census and non-implementation of the J&K PC&PNDT Act and the *Ladli Beti* scheme is all set to cause the highest fall in the CSR during 2021 census among all the States and UTs in India, far below 800 females per 1,000 males.

The situation of the CSR at district level in J&K is far more serious than Haryana. The female sex ratio to male in Rajouri (860/1,000), Udhampur (870/1,000), Leh (690/1,000), Kupwara(835/1,000) and Kargil (810/1,000) districts of J&K is far worse than Jind district of Haryana (871/1,000) as per 2011 census. With polygamy being permitted in Islam, J&K is likely to face more challenges than Haryana.

Table 15: District-wise sex ratio of J&K as per 2011 census¹¹⁵

Sl No.	State/Division/District	Sex ratio in 2011 Census
	Jammu division	
1	Poonch	893
2	Kathua	890
3	Rajouri	860
4	Samba	886
5	Jammu	880
6	Doda	919

115. Available at http://www.censusindia.gov.in/2011census/dchb/Jamu_&kasmir.html

7	Reasi	890
8	Ramban	902
10	Kishtwar	920
11	Udhampur	870
	Kashmir division	
12	Leh	690
22	Kupwara	835
23	Kargil	810
24	Budgam	894
25	Ganderbal	874
26	Baramula	885
27	Pulwama	912
28	Shopian	951
29	Kulgam	951
30	Bandipora	889
31	Anantnag	927
32	Srinagar	900

In order to address the challenges, Asian Centre for Human Rights recommends the following to the State Government of Jammu and Kashmir:

J&K PC&PNDT Act:

- Undertake effective measures to monitor and ensure proper implementation of the Jammu and Kashmir Preconception and Prenatal Sex Selection/ Determination (Prohibition & Regulation) Act, 2002, *inter alia*, by (i) increasing the staff and filling up the vacancies for implementation of the J&K PC&PNDT Act, (ii) conducting inspection of each sonography centre at least once in a year, (iii) proper implementation of the scheme providing financial rewards for

providing information on sex selection, (iv) introducing Integrated Monitoring system for J&K PC&PNDT Act and installing tracking devices in all sonography machines; (iv) holding time bound trial of the cases under the J&K PC&PNDT Act and (v) making necessary budgetary allocations for implementation of these measures; and

- The State Government of Jammu and Kashmir must take necessary measures to amend the J&K PC&PNDT Rules to give effects to the amendments made to the Central PC&PNDT Act i.e. (i) the PC&PNDT Amendment Rules of 2011 regarding seal and seizure of machine in unregistered centers, the PC&PNDT Amendment Rules of 2012 regarding regulation of portable machines etc; (ii) the PC&PNDT Amendment Rules of 2012 regarding restrictions on radiologists and sonologists from visiting more than two clinics within a district; (iii) the PC&PNDT Amendment Rules of 2014 regarding Form F on maintenance of records, (iv) the PC&PNDT Amendment Rules of 2014 regarding six months training for competency and (v) the PC&PNDT Amendment Rules of 2014 outlining Code of Conduct, at the State level.

***Ladli Beti* scheme:**

- Revise *Ladli Beti* scheme to also provide educational scholarship of Rs. 50,000¹¹⁶ and further additional financial assistance of Rs. 1 lakh to be paid to surviving girls for assistance during marriage¹¹⁷;
- Expand the coverage of the *Ladli Beti* scheme to include all girl children of Jammu and Kashmir irrespective of income of their parents or place of birth and benefits be provided to all the girl children in the family;
- Expand the coverage of the *Ladli Beti* scheme to all the 22 districts of the State;

116. As provided under Nanda Devi Kanya Yajona in Uttarakhand and Beti Hai Anmol Yajona in Himachal Pradesh.

117. As provided under the Ladli Laxmi Scheme in Goa

- Remove the condition provided under the *Ladli Beti* scheme that upon the demise of the beneficiary girl child the accumulated benefits under the scheme shall be forfeited by the girls' parents and transferred back to the Government;
- Link the *Ladli Beti* scheme with all Anganwadi Centres and Schools to monitor the progress of the beneficiaries;
- Undertake necessary measures to connect the *Ladli Beti* scheme with all hospitals/nursing homes/primary health centres; and
- Upload all details of physical and financial achievements of the *Ladli Beti* scheme on a dedicated website and update the website regularly to provide all relevant information such as list of beneficiaries, funds sanctioned and utilization certificates.

ANNEXURE I: J&K PRE-CONCEPTION & PRE-NATAL DIAGNOSTIC TECHNIQUES ACT (PCPNDT), 2002



THE

JAMMU & KASHMIR GOVERNMENT GAZETTE

Vol. 115] Jammu, Tue., the 23rd April, 2002/3rd Vai., 1924. [No. 3-28

Separate paging is given to this part in order that it may be filed as a separate compilation.

PART III

Laws, Regulations and Rules passed thereunder.

**GOVERNMENT OF JAMMU AND KASHMIR
CIVIL SECRETARIAT—LAW DEPARTMENT**

Jammu, the 23rd April, 2002.

The following Act as passed by the Jammu and Kashmir State Legislature received the assent of the Governor on 21st April, 2002 and is hereby published for general information :—

**THE JAMMU AND KASHMIR PRECONCEPTION AND
PRENATAL SEX SELECTION/DETERMINATION
(PROHIBITION AND REGULATION) ACT, 2002.**

Act No. XXXI of 2002.

[21st April, 2002.]

An Act to provide for prohibition of sex selection or determination, before or after conception and for regulation of prenatal diagnostic

The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28]

technique for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of their misuse for sex determination and for matters connected therewith or incidental thereto.

Be it enacted by the Jammu and Kashmir State Legislature in the Fifty-third Year of the Republic of India as follows :—

CHAPTER I

Preliminary.

1. *Short title, extent and commencement.*—(1) This Act may be called the Jammu and Kashmir Preconception and Prenatal Sex Selection or Determination (Prohibition and Regulation) Act, 2002.

(2) It shall extend to the whole of the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Government may, by notification in the Government Gazette, appoint.

2. *Definitions.*—In this Act, unless the context otherwise requires—

- (a) "Appropriate Authority" means the Appropriate Authority appointed under section 17 ;
- (b) "Board" means the State Supervisory Board constituted under section 7 ;
- (c) "Genetic Counselling Centre" means an Institute, Hospital, Nursing Home or any place, by whatever name called, which provides for genetic counselling to patients ;
- (d) "Genetic Clinic" means a Clinic, Institute, Hospital, Nursing Home or any place by whatever name called which is used for conducting prenatal diagnostic procedures.

Explanation :—Any place including a mobile vehicle, where Ultrasound Machine (capable of determining sex of foetus) or any other equipment for selection of sex before conception is used shall fall within the definition of Genetic Clinic for purposes of this clause.

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. 3

- (e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Clinic for prenatal diagnostic test ;
- (f) "Gynaecologist" means a person who possesses a post-graduate qualification in Gynaecology and Obstetrics ;
- (g) "Medical Geneticist" includes a person who possesses a Degree or Diploma or Certificate in Genetic Science in the field of preconception techniques, prenatal diagnostic techniques or has experience of not less than two years in any of these fields after obtaining—
- (i) any one of the medical qualification recognized under the Indian Medical Council Act, 1956, or
- (ii) a Post-graduate Degree in Biological Sciences.
- (h) "Paediatrician" means a person who possesses qualification in paediatrics ;
- (i) "Prenatal Diagnostic Procedures" means all Gynaecological Obstetrical or medical procedures such as Ultrasonography, Foetoscopy, taking or removing samples of Amniotic Fluid, Chronic Villi, Blood or any Tissue or Fluid of a pregnant woman or conceptus for being sent to a Genetic Laboratory or Genetic Clinic for conducting prenatal diagnostic test ;
- (j) "Prenatal diagnostic techniques" includes all prenatal diagnostic procedures and prenatal diagnostic tests ;
- (k) "Prenatal diagnostic test" means Ultrasonography or any test or analysis of amniotic fluid, chronic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases ;
- (l) "Prescribed" means prescribed by rules made under this Act ;
- (m) "Registered Medical Practitioner" means a medical practitioner who possesses any recognized medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act,

4 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28

1956, and whose name has been entered in a State Medical Register ;

- (n) "Regulations" means regulations framed by the Board under this Act ;
- (o) "Sonologist/Imaging Specialist" means a person who possesses any one of the medical qualifications recognized under the Indian Medical Council Act, 1956, and/or a post-graduate qualification in Ultrasonography/Imaging Technique/Radiology and who is certified for performing Sonography ; and
- (p) "Preconception Sex Selection Technique" includes all medical or other scientific techniques such as sperm separation which are used or claimed to be used for selecting the sex of the offspring before conception.

CHAPTER II

Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

3. *Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.*—On and from the commencement of this Act,—

- (a) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including Clinic or Laboratory or Centre having Ultrasound Machine/Imaging Machine unless registered under the Act shall conduct or associate with, or help in, conducting activities relating to diagnostic techniques ;
- (b) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall employ or cause to be employed any person who does not possess the prescribed qualifications ;
- (c) no Medical Geneticist, Gynaecologist, Paediatrician Registered Medical Practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any prenatal diagnostic techniques at a place other than a place registered under this Act ; and

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002 3rd Vol., 1924. 5

- (d) no person including a specialist in the field of infertility shall conduct or cause to be conducted or aid in conducting by himself or through any other person, a pre-conception sex selection technique on a woman or a man or on both or on any tissue, conceptus, fluid or gametes derived from either or both of them.

CHAPTER III

Regulation of Prenatal Diagnostic Techniques.

4. *Regulation of Prenatal diagnostic techniques.*—On and from the commencement of this Act,—

- (a) no place including a registered Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting prenatal diagnostic techniques except for the purposes specified in clause (b) and after satisfying any of the conditions specified in clause (c) ;
- (b) no prenatal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely—
- (i) Chromosomal abnormalities ;
 - (ii) Genetic metabolic diseases ;
 - (iii) Haemoglobinopathies ;
 - (iv) Sex-linked genetic diseases ;
 - (v) Congenital anomalies ; or
 - (vi) any other abnormalities or diseases as may be specified by the State Supervisory Board.
- (c) no prenatal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied for reasons to be recorded in writing that any of the following conditions are fulfilled, namely—
- (i) age of the pregnant woman is above thirty-five years ;
 - (ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss ;

6 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28]

- (iii) the pregnant woman had been exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals ;
- (iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease ;
- (v) any other condition as may be specified by the Central Supervisory Board ;
- (d) no person, including a relative or the husband of the pregnant woman shall seek or encourage the conduct of any prenatal diagnostic techniques on her except for the purpose specified in clause (b) ; and
- (e) no person, including a relative or the husband of a woman or wife shall seek or encourage the conduct of any preconception sex selection technique on her or him or both.

5. *Written consent of pregnant woman and prohibition of communicating the sex of foetus.*—(1) No person referred to in clause (2) of section 3 shall conduct the prenatal diagnostic procedures unless,—

- (a) he has explained all known side and after effects of such procedures to the pregnant woman concerned ;
- (b) he has obtained in the prescribed form her written consent to undergo such procedures in the language which she understands ; and
- (c) a copy of her written consent obtained under clause (b) is given to the pregnant woman.

(2) No person conducting prenatal diagnostic procedures shall communicate to the pregnant woman concerned or her relatives or any other person the sex of the foetus by words, signs or in any other manner.

(3) Any person conducting Ultrasound Scan/Test/Procedure on any pregnant woman shall keep complete record of such scan/test/procedure indicating her complete name, address, husband's name as well as name and address of the referring medical practitioner/doctor, the reasons requiring such scan/test/procedure etc.

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. 7

6. *Determination of sex prohibited.*—On and from the commencement of this Act,—

- (a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centre, Laboratory or Clinic, prenatal diagnostic techniques including Ultrasonography, for the purpose of determining the sex of a foetus ;
- (b) no person shall conduct or cause to be conducted any prenatal diagnostic techniques including Ultrasonography for the purpose of determining the sex of a foetus ; and
- (c) no person shall, by whatever means, cause or allow to be caused selection of sex before conception.

CHAPTER IV

State Supervisory Board.

7. *Constitution of State Supervisory Board.*—(1) The Government shall constitute a Board to be known as the 'State Supervisory Board' to exercise the powers and perform the functions conferred on the Board under this Act.

- (2) The Board shall consist of—
 - (a) the Minister incharge of the Department of Family Welfare, who shall be the Chairman, ex-officio ;
 - (b) the Secretary to Government incharge of the Department of Family Welfare, who shall be the Vice-Chairman, ex-officio ;
 - (c) two members to be appointed by the Government to represent the Ministers incharge of Woman and Child Development and of Law ex-officio ;
 - (d) the Directors of Health Services of the State, ex-officio ;

8 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28]

- (e) ten members to be appointed by the Government, two each from amongst—
- (i) eminent Medical Geneticists ;
 - (ii) eminent Gynaecologists and Obstetricians ;
 - (iii) eminent Paediatricians ;
 - (iv) eminent Social Scientists ; and
 - (v) representatives of Women Welfare Organisations.
- (f) two Women Members from the two Houses of the State Legislature of whom one shall be an elected member of the Legislative Assembly ; and
- (g) an officer, not below the rank of an Additional Secretary or equivalent of the Government, incharge of Family Welfare, who shall be the Member-Secretary, ex-officio.

8. *Term of office of members.*—(1) The term of office of a member, other than an ex-officio member, shall be in case of appointment under clause (e) or clause (f) of sub-section (2) of section 7, be three years.

(2) If a casual vacancy occurs in the office of any other member, whether by reason of his death, ceasing to hold post/office, resignation or inability discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

(3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. *Meetings of the Board.*—(1) The Board shall meet at such time and place, and shall observe such rules of procedure in regard to the

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. 9

transaction of business at its meetings (including the quorum at such meetings) as may be provided by the regulations :

Provided that the Board shall meet at least once in two months.

(2) The Chairman, and in his absence the Vice-Chairman, shall preside at the meetings of the Board.

(3) If for any reason the Chairman and the Vice-Chairman are unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

(4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

(5) Members, other than ex-officio members, shall receive allowances, if any, from the Board as may be prescribed.

10. *Vacancies, etc. not to invalidate proceedings of the Board.*— No act or proceeding of the Board shall be invalid merely by reason of—

- (a) any vacancy in, or any defect in the constitution of, the Board ; or
- (b) any defect in the appointment of a person acting as a member of the Board ; or
- (c) any irregularity in the procedure of the Board not affecting the merits of the case.

11. *Temporary association of persons with the Board for particular purposes.*—(1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out of the provisions of this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose.

10 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28]

12. *Appointment of officers and other employees of the Board.—*

(1) For the purposes of enabling it efficiently to discharge its functions under this Act the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary :

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Government.

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

13. *Authentication of orders and other instruments of the Board.—*

All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in this behalf by the Board.

14. *Disqualification for appointment as member.—*A person shall be disqualified for being appointed as a member if, he—

- (a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Government, involves moral turpitude ; or
- (b) is an undischarged insolvent ; or
- (c) is of unsound mind and stands so declared by a competent court ; or
- (d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government ; or
- (e) has, in the opinion of the Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member ; or
- (f) has, in the opinion of the Government, been associated with the use or promotion of prenatal diagnostic technique for determination of sex or any preconception sex selection technique.

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vai., 1924. 11

15. *Eligibility of member for re-appointment.*—Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member.

16. *Functions of the Board.*—The Board shall have the following functions, namely—

- (i) to advise the Government on policy matters relating to use of prenatal diagnostic techniques; preconception sex selection techniques and their misuse ;
- (ii) to review and monitor implementation of the Act and the rules made thereunder and recommend changes in the said Act and rules to the Government ;
- (iii) to create public awareness against the practice of preconception sex selection and prenatal determination of sex leading to female foeticide ;
- (iv) to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories, Ultra-sound/Imaging Authorities and Genetic Clinics ; and
- (v) any other functions as may be specified under the Act.

CHAPTER V

Appropriate Authority and Advisory Committee.

17. *Appropriate Authority and Advisory Committee.*—(1) The Government shall appoint, by notification in the Government Gazette, one or more Appropriate Authorities for the whole or part of the State for the purposes of this Act having regard to the intensity of the problem of prenatal sex determination leading to female foeticide.

(2) The officers appointed as Appropriate Authorities under subsection (1) shall be—

- (a) when appointed for the whole of the State, of the rank of the Director of Health Services ; and

12 The J&K Govt. Gazette, 23rd April, 2002/3rd Vai., 1924. [No. 3-28

(b) when appointed for any part of the State, of such other rank as the Government may deem fit.

(3) The Appropriate Authority shall have the following functions, namely—

(a) to grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic ;

(b) to enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic ;

(c) to investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action ;

(d) to seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration ;

(e) to take appropriate legal action against the use of preconception sex selection techniques by any person at any place, brought to its attention or *suo motto* and also to initiate independent investigations in such matters ;

(f) to create public awareness against the practice of preconception sex selection or prenatal determination of sex ;

(g) to supervise the implementation of the provision of the Act and Rules ; and

(h) to recommend to the State Supervisory Board modifications required in the Act or Rules in accordance with changes in technology or social conditions.

(4) The Government shall constitute an Advisory Committee for each Appropriate Authority to aid and advise the Appropriate Authority in the discharge of its functions, and shall appoint one of the members of the Advisory Committee to be its Chairman.

(5) The Advisory Committee shall consist of—

(a) three medical experts from amongst Gynaecologists, Obstetricians, Paediatricians and Medical Geneticists ;

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. 13

(b) one legal expert ;

(c) one officer to represent the Department dealing with information and publicity of the Government ; and

(d) three eminent social workers of whom not less than one shall be from amongst representatives of women's organisations.

(6) The Advisory Committee shall have the following functions, namely—

(a) to pay surprise visits or periodic visits to Centres, Laboratories and Clinics with a view to check compliance of the provision of Act and Rules ;

(b) to recommend to the appropriate authority cancellation or otherwise of registration of or prosecution against a centre, laboratory or clinic ;

(c) to check and prevent contravention of provision of the Act or Rules in the area of its purview ;

(d) to advise appropriate authority about implementation of the Act and creation of public awareness on the issue of the sex selection ; and

(e) to seize machines as may be found appropriate.

(7) No person, who in the opinion of the Government has been associated with the use or promotion of pre-natal diagnostic techniques for determination of sex or preconception sex selection shall be appointed as a member of the Advisory Committee.

(8) The Advisory Committee may meet as and when it thinks fit or on the request of the Appropriate Authority for consideration of any application for registration or any complaint for suspension or cancellation of registration and to give advice thereon :

Provided that the period intervening between any two meetings shall not exceed the prescribed period.

(9) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed

14 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28

by such Committee in the discharge of its functions shall be such as may be prescribed.

(10) In processing a complaint under this Act, the Appropriate Authority shall have the same powers as are vested in a civil court under the Code of Civil Procedure, Samvat 1977 while trying a suit in respect of the following matters, namely:—

- (a) the summoning and enforcing attendance of any person and examining him on oath or on solemn affirmation ;
- (b) the discovery and production of any documentary material object producible as evidence ;
- (c) the reception of evidence on affidavits ;
- (d) issuing of any commission for the examination of any witness ; and
- (e) any other matter which may be prescribed.

CHAPTER VI

Registration of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

18. *Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.*—(1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including Clinic, Laboratory or Centre having Ultrasound/Imaging machine/Clinic capable of undertaking determination of sex of foetus, after the commencement of this Act, unless such, Centre, Laboratory or Clinic is duly registered separately or jointly under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged, either partly or exclusively, counselling of conducting prenatal diagnostic techniques for any of the purposes mentioned in

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vai., 1924. 15

section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in counselling or conducting prenatal diagnostic techniques shall cease to conduct any such counselling or technique on the expiry of six months from the date of commencement of this Act unless such Centre, Laboratory or Clinic has applied for registration and is so registered separately or jointly or till such application is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the appropriate authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescribed.

19. *Certificate of registration.*—(1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder and having regard to the advice of the Advisory Committee in this behalf, grant a certificate of registration in the prescribed form jointly or separately to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act or the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

20. *Cancellation or suspension of registration.*—(1) The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the

16 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28]

Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and having regard to the advice of the Advisory Committee, the appropriate authority is satisfied that there has been a breach of the provisions of this Act or the rules, it may, without prejudice to any criminal action that it may take against such Centre, Laboratory or Clinic, suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. *Appeal.*—(1) The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to the Government.

(2) The Government may, after affording reasonable opportunity of being heard to the Appropriate Authority and the Appellant, pass such orders as it may deem fit.

CHAPTER VII

Offences and Penalties.

22. *Prohibition of advertisement relating to prenatal determination of sex and punishment for contravention.*—(1) No person, organisation, Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, including Clinic, Laboratory or Centre having Ultrasound Machine capable of undertaking determination of sex of foetus shall issue or cause to be issued any advertisement in any manner regarding facilities

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vai., 1924. 17

of prenatal determination of sex and preconception sex selection available at such Centre, Laboratory, Clinic or any other place.

(2) No person or organisation shall publish or distribute or cause to be published or distribute any advertisement in any manner regarding facilities of prenatal determination of sex and preconception sex selection available at any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or any other place.

(3) Any person who contravenes the provisions of sub-section (1) or sub-section (2) shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

(4) Any person who contravenes the provisions of sub-section (3) of section 5 shall be punishable with fine which may extend to fifty thousand rupees and may also be liable to cancellation of his registration as a medical practitioner by the concerned Medical Council or any other registering authority.

Explanation :—For the purposes of this section, "advertisement" includes any notice, circular, label wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

23. *Offences and penalties.*—(1) Any Medical Geneticist, Gynaecologist, Registered Medical Practitioner or any person who owns a Genetic Counselling Centre, a Genetic Laboratory or a Genetic Clinic or is employed in such a Centre, Laboratory or Clinic, and renders his professional or technical services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction, with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

(2) The name of the registered Medical Practitioner who has been convicted by the Court under sub-section (1) shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including suspension of the registration for two years if the charges are framed, removal of his name from the

18 The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. [No. 3-28

register of the Council for a period of five years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic or Ultrasound/Imaging Clinic or of a Medical Geneticist, Gynaecologist, Sonologist/Imaging Specialist or Registered Medical Practitioner for preconception sex selection or for conducting prenatal diagnostic techniques on any pregnant women (excluding such woman) for purposes other than those specified in clause (b) of section 4 shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to fifty thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to one lakh rupees.

24. *Presumption in the case of conduct of prenatal diagnostic techniques.*—Notwithstanding anything in the Evidence Act, Samvat 1977, the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo prenatal diagnostic technique and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.

25. *Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.*—Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention.

26. *Offences by companies.*—(1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time of the commission of the offence was in charge of, and was responsible to, the company for the conduct of its business as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly :

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002/3rd Vol., 1924. 19

was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any Director, Manager, Secretary or other officer of the Company, such Director, Manager, Secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(a) "Company" means any body corporate and includes a trust, society, firm or other association of individuals ; and

(b) "Director", in relation to a firm, means a partner in the firm.

27. *Offence to be cognizable, non-bailable and non-compoundable.*—Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

28. *Cognizance of offences.*—(1) No court shall take cognizance of an offence under this Act except on a complaint made by,—

(a) the Appropriate Authority concerned, or any officer authorised in this behalf by the State Government, or the Appropriate Authority ; or

(b) a person who has given notice of not less than thirty days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

Explanation.—For the purpose of this clause, "person" includes a social organisation.

(2) No court other than that of a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of sub-section (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

20 The J&K Govt. Gazette, 23rd April, 2002/3rd Vai., 1924. [No. 3-28]

CHAPTER VIII

Miscellaneous

29. *Maintenance of records.*—(1) All records, charts, forms, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed :

Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. *Power to search and seize records etc.*—(1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, or any other place such authority or any officer authorised thereof in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times, with such assistance, if any, as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or other place and examine any record, Register, Document, Book, Pamphlet, Advertisement or any other material or object found therein and seize the same if such authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

(2) The provisions of the Code of Criminal Procedure, Samvat 1989, relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

31. *Protection of action taken in good faith.*—No suit, prosecution or other legal proceeding shall lie against the Government or the Appropriate Authority or any officer authorised by the Government or by the authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

No. 3-28] The J&K Govt. Gazette. 23rd April, 2002/3rd Vol. 1924. 21

32. *Power to make rules.*—(1) The Government may make rules for carrying out the provisions of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for,—

- (i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (a) of section 3.
- (ii) the form in which consent of a pregnant woman has to be obtained under section 5 ;
- (iii) the procedure to be followed by the members of the State Supervisory Board in the discharge of their functions under sub-section (4) of section 8.
- (iv) allowances for members other than ex officio members admissible under sub-section (5) of section 9 ;
- (v) the period intervening between any two meetings of the Advisory Committee under the proviso to sub-section (8) of section 17 ;
- (vi) the terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such committee under sub-section (9) of section 17 ;
- (vii) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18 ;
- (viii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (5) of section 18 ;
- (ix) the form in which a certificate of registration shall be issued under sub-section (1) of section 19 ;
- (x) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19 ;

22 The J&K Govt. Gazette. 23rd April. 2002/3rd Vol., 1924. [No. 3-28

- (xi) the manner in which an appeal may be preferred under section 21 ;
- (xii) the period up to which records, charts etc. shall be reserved under sub-section (1) of section 29 ;
- (xiii) the manner in which the seizure of document, records, objects, etc. shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30 ;
- (xiv) any other matter that is required to be, or may be, prescribed.

33. *Power to make regulations.*—The Board may with the previous sanction of the Government, by notification in the Government Gazette, make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for,—

- (a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9 ;
- (b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11 ;
- (c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12 ; and
- (d) generally for the efficient conduct of the affairs of the Board.

34. *Rules and regulations to be laid before State legislature.*—Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of the State Legislature, while it is in session, for a total period of fifteen days which may be comprised in one session or two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or regulation

No. 3-28] The J&K Govt. Gazette, 23rd April, 2002 3rd Vol., 1924. 23

or both Houses agree that the rule or regulation should not be made, the rule or regulation shall thereafter have effect only in such modified form or be of no effect, as the case may be, however, any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule or regulation.

(Sd.) G. H. TANTRAY,

Special Secretary to Government,
Law Department.

ANNEXURE II: J&K PRE-CONCEPTION & PRE-NATAL DIAGNOSTIC TECHNIQUES RULES, 2006

Government of Jammu & Kashmir
Health & Medical Education Deptt.

The Project Director
RCH
Jammu

No: HD/Plan/59- Imp/11

Dated: 4-02-2007 ✓

Subject: SRO 373 issued vide Notification dated 7-12-2006 regarding Preconception and Prenatal Sex Selection/ determination (Prohibition and Regulation) Act, 2002- (PNDT).

Reference: This Department letter of even No. dated 7-12-2006 & 12-01-2007. P.D.RCH.
No:- 630-12 dt:- 9.2.07.

Sir,

Kindly refer to above cited subject and reference. In this connection, I am directed to enclose the corrected copy of the above cited Notification alongwith Forms A to H appended with the notification for information and implementation of the PNDT Act.

Yours faithfully,

A. J. Mir
Assistant Director (P&S)

Health & Medical Education Deptt.

Encls: 22 leaves.

Handwritten notes: 4/2/07, 10/2/07, H.M.E.D., keep in record, PNDT- file



Government of Jammu and Kashmir
Civil Secretariat Health & Medical Education Department

Notification
Jammu, the 7th December 2006

SRO 373:- In exercise of the powers conferred by section 32 of the Jammu and Kashmir Preconception and Prenatal Sex Selection/Determination (Prohibition and Regulation) Act, 2002, the Government hereby makes the following rules namely:-

SHORT TITLE AND COMMENCEMENT:- (1) These rules may be called the Jammu and Kashmir Preconception and Prenatal Sex Selection/Determination (Prohibition and Regulation) Rules, 2006.

(2) They shall come into force on the date of their publication in the Government Gazette.

DEFINITIONS:- In these rules, unless the context otherwise requires:-

- a) "Act" means 'The Jammu and Kashmir Preconception and Prenatal Sex Selection/Determination (Prohibition and Regulation) Act, 2002.'
- b) "Employee" means a person working in or employed by a Genetic counselling Centre, a Genetic Laboratory or a Genetic Clinic or an Ultra Sound Clinic or an Imaging Centre and includes those working on part time, contractual, consultancy, honorary or on any other basis:
- c) "Form" means a Form appended to these rules:
- d) "Section" means a section of the Act.
- e) Words and expressions used in these rules but not defined herein shall have the meanings, as assigned to them in the Act.

The qualification of the employee, the requirement of equipment etc. for a GENETIC COUNSELLING CENTRE, GENETIC LABORATORY, GENETIC CLINIC ULTRASOUND CLINIC AND IMAGING CENTRE SHALL BE AS UNDER:(1). Any person being or employing:-

- i. A gynaecologist or a paediatrician having six months experience or four weeks training in Genetic Counselling; or
 - ii. A medical geneticist; having adequate space and educational charts/models/equipments for carrying out genetic counselling may set up a Genetic Counselling Centre after getting it registered.
- (2) Any person having adequate space of not less than 500 sft. and being or employing
- i. A Medical Geneticist and
 - ii. A Laboratory Technician, having a B.Sc. degree in Biological Sciences or Diploma in Medical Laboratory course with at least one year experience in conducting appropriate pre-natal diagnostic techniques, tests or procedures; may set up a genetic laboratory, which shall have the following equipments for carrying out chromosomal studies, bio-chemical studies and molecular studies:
- (a) **Chromosomal studies**
- 1) Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood;
 - 2) Photo microscope with fluorescent source of light.
 - 3) Inverted microscope
 - 4) Incubator and oven
 - 5) Carbon dioxide incubator or closed system with 5% CO₂ atmosphere.

6. Autoclave
7. Refrigerator
8. Water bath
9. Centrifuge
10. Vortex mixer
11. Magnetic stirrer
12. Positive Hydrogen - ion (PH) meter
13. A sensitive balance (preferably electronic) with sensitivity of 0.1 milligram
14. Double distillation apparatus (glass) any
15. Any such other equipments as may be necessary

(b) **Biochemical studies (requirements according to tests to be carried out);**

1. Laminar flow hood with ultraviolet and fluorescent light or other suitable culture hood.
2. Inverted microscope
3. Incubator and oven
4. Carbon dioxide incubator closed system with 5% CO₂ atmosphere.
5. Autoclave
6. Refrigerator
7. Water bath
8. Centrifuge
9. Electrophoresis apparatus and power supply
10. Chromatography chamber
11. Spectro - photometer and Elisa reader or Radioimmunoassay system (with gamma beta counter) or fluorometer for various biochemical tests.
12. Vortex mixer
13. Magnetic stirrer
14. Positive Hydrogen - ion (PH) meter
15. A sensitive balance (preferably electronic) with sensitivity of 0.1 milligram
16. Double distillation apparatus (glass)
17. Liquid nitrogen tank
18. Any such other equipments as may be necessary

(c) **Molecular studies**

- (1) Inverted microscope
- (2) Incubator
- (3) Oven
- (4) Autoclave
- (5) Refrigerator (4 degree and minus 20 degree centigrade)
- (6) Water bath
- (7) Micro centrifuge
- (8) Electrophoresis apparatus and power supply
- (9) Vortex mixer
- (10) Magnetic stirrer
- (11) Positive Hydrogen-ion (PH) meter
- (12) A sensitive balance (preferably electronic) with sensitivity of 0.1 milligram
- (13) Double distillation apparatus (glass)
- (14) Polymerase Chain Reaction (P.C.R.) machine
- (15) Refrigerator centrifuge
- (16) Ultra Violet (UV) Illuminator with photographic attachment or other documentation system.
- (17) Precision micro pipettes
- (18) Any such other equipments as may be necessary

3. Any person having adequate space of, not less than 500 sqft. for each Clinic/Centre and being or employing:

- (i) Gynaecologist having experience of performing at least 20 procedures in chronic vilia aspirations per vagina or per abdomen, chronic villi biopsy, amniocentesis, ordocentesis, foetoscopy, foetal skin or organ biopsy blood sampling etc. under supervision of an experienced gynaecologist in these fields.
- (ii) A Sonologist, Imaging Specialist, Radiologist or Registered Medical Practitioner having post graduate degree or diploma or six months training or one year experience in sonography or imaging scanning or
- (iii) A medical geneticist may set up a Genetic Clinic/Ultrasound Clinic/Imaging Centre which shall have:-
 - a) Equipment and accessories necessary for carrying out clinical examination by an obstetrician or gynaecologist.
 - b) An ultrasonography machine including mobile ultrasound machine, imaging machine or any other equipment capable of conducting foetal ultrasonography.
 - c) Appropriate catheters and equipments for carrying out chronic Villi aspirations vagina or per abdomen.
 - d) Appropriate sterile needles for amniocentesis or cordocentesis.
 - e) A suitable foetoscope with appropriate accessories for foetoscope, foetal skin or organ biopsy or foetal blood sampling shall be options.
 - f) Equipment for dry and wet sterilization.
 - g) Equipment for carrying out emergency procedures such as evacuation of uterus or resuscitation in case of need.
 - h) Genetic Works Station

(3) (A) Sale of Ultrasound machines, imaging machines.

- (1) No organization including a commercial organization or a person including manufacturer, importer, dealer or supplier of ultrasound machine/imaging machine or any other equipments capable of detecting sex of foetus shall sell, distribute, supply or authorize the use of any such machine or equipment in any manner, whether on payment or otherwise to any Genetic Counselling Centre, Genetic Laboratory, Clinic, body or person is registered under the Act.
- (2) The provider of such machine/equipment to any person registered under the Act shall sent to the J&K Government once in three months a list of those to whom the machine/ equipment has been provided.
- (3) Any organization or person including manufacturer, importer or supplier of ultrasound machines/imaging machines or any other equipment capable of detecting sex of foetus, selling, distributing, supplying or authorizing in any manner the use of any such machine or equipment to any Genetic Counselling Centre. Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person registered under the Act shall take an affidavit from such body or person purchasing or getting authorization for using such machine/equipment that the machine/equipment shall not be used for detection of sex of foetus or selection of sex before or after conception.

4. **REGISTRATION OF GENETIC COUNSELLING CENTRE, GENETIC LAB. AND GENETIC CLINIC ULTRA SOUND CLINIC AND IMAGING CENTRE;**

(I) An application for registration shall be made to the appropriate authority, in duplicate in Form 'A' duly accompanied by an affidavit containing:-

- (i) an undertaking to the effect that the Genetic Centre/Laboratory, Clinic, Ultrasound Clinic, Imaging Centre/combination thereof as the case may be shall not conduct any test

- or procedure by whatever name called for selection of sex before or after conception or for detection of sex of foetus except for diseases specified in selection 4 (2) nor shall the sex of foetus be disclosed to any body and:
- (ii) an undertaking to the effect that the Genetic Centre/Laboratory/Clinic/combination thereof, as the case may be shall display prominently a notice that they do not conduct any technique, test or procedure etc. by whatever name called , for detection of sex of foetus or for selection of sex before or after conception.

(2) The appropriate authority or any person in his office authorized in this behalf, shall acknowledge receipt of the application for registration, in the acknowledgement slip provided at the bottom of 'Form A'

Immediately if delivered at the office of the appropriate authority, nor/not later than the next working day if received by post.

5. APPLICATION FEE: (1) Every application for registration under rule 4 shall be accompanied by an application fee of:

- a. Rs. 3,000/- for Genetic Counselling Centre, Genetic Lab., Genetic Clinic, Ultrasound Clinic or Imaging Centre.
- b. Rs. 6,000/- for an institute, hospital, nursing home or any place providing jointly the service of a Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic, Ultrasound Clinic or Imaging Centre or any combination thereof;

Provided that if an application for registration of any Genetic Clinic/Laboratory/Centre etc. has been rejected by the appropriate authority, no fee shall be required to be paid on resubmission of the application by the applicant for the same body within 90 days of rejection. Provided further that any subsequent application shall be accompanied with the prescribed fee. Application fee once paid will not be refunded:

2. The application fee shall be paid by a demand draft drawn in favour of the appropriate authority in the J&K Bank Ltd. Payable at the Headquarters of the appropriate authority concerned, The fees collected by the Appropriate Authorities for registration of Genetic Counselling Centres, Genetic Lab. Ultrasound Clinic and Imaging Clinic or any other body or person under sub rule (1) shall be deposited by the appropriate authority concerned in a bank account opened in the name of the official designation of the appropriate authority concerned and shall be utilized by the appropriate authority in connection with the activities connected with implementation of the provisions of the Act and these Rules.

6. CERTIFICATE OF REGISTRATION:- (1) The Appropriate Authority shall after making such enquiry and after satisfying itself that the applicant has complied with all the requirements, place the application before the Advisory Committee for its advice.

(2) Having regard to the advice of Advisory Committee, the appropriate authority shall grant a certificate of registration, in duplicate, in Form - B to the applicant. One copy of the certificate of registration shall be displayed by the registered Genetic Counselling Centre, Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre at a conspicuous place at its place of business;

Provided that the Appropriate Authority may grant a certificate of registration to a Genetic Laboratory or a Genetic Clinic, Ultrasound Clinic , Imaging Clinic to conduct one or more specified pre-natal diagnostic tests or procedures depending upon the availability of place, equipment and qualified employees and standards maintained by such Laboratories or Clinics.

(3) If after enquiry and after giving an opportunity of being heard to the applicant and having regard to the advice of the Advisory Committee, the appropriate authority is satisfied that the applicant has not complied with the requirements of the Act and these Rules, it shall, for the reasons to be recorded in writing, reject the application for registration and communicate such rejection to the applicant as specified in Form - C.

(4) An enquiry under sub- rule (1) of Rule 4 including inspection at the premises of the Genetic Counselling, Laboratory, Genetic Clinic, Ultrasound Clinic, shall be carried out only after due notice is given to the applicant by the appropriate authority;

(5) Grant of certificate of registration or rejection of application for registration shall be communicated to the applicant as specified in Form – B or Form – C, as the case may be, within a period of ninety days from the date of receipt of application for registration.

7. THE CERTIFICATE OF REGISTRATION SHALL BE NON- TRANSFERABLE:- In the event of change of ownership, change of management as or on ceasing to function as Genetic Counselling, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre, both copies of the certificates of registration shall be surrendered to the appropriate authority.

8. In the event of change of ownership or change of management of the Genetic Counselling, Genetic Laboratory, Genetic Clinic, Genetic Ultrasound, the new owner or manager of such Centre shall apply afresh for grant of certificate of registration.

Validity of registration : Every certificate of registration shall be valid for period of three years from the date of its issue.

9. RENEWAL OF REGISTRATION:- (1) An application for renewal of certificate of registration shall be made in duplicate in Form – A, to the appropriate authority within thirty days before the date of expiry of the certificate of registration. Acknowledgement of receipt of such application shall be issued by the appropriate authority in the manner specified in sub – rule (2) of rule 4.

(2) The appropriate authority shall after holding an enquiry and after itself satisfying that the applicant has complied with all the requirements of the Act and these Rules and having regard to the advice of the Advisory Committee in this behalf, renew the certificate of registration, as specified in Form – B for a further period of five years from the date of expiry of the certificate of registration earlier granted.

(3) If after enquiry and after giving an opportunity of being heard to the applicant and having regard to the Advisory Committee, the appropriate authority is satisfied that the applicant has not complied with the requirements of the Act and these rules, it shall for reasons to be recorded in writing, reject the application for renewal of certificate of registration and communicate such rejection to the applicant as specified in Form – C.

(4) The fees payable for renewal of certificate of registration shall be one half of the fees provided in sub rule (1) of rule 5.

(5) On receipt of the renewed certificate of registration in duplicate or on receipt of communication of rejection of application for renewal both copies of the earlier certificates of registration shall be surrendered immediately to the appropriate authority by the Genetic Counselling, Genetic Clinic, Ultrasound Clinic or a Genetic Centre.

(6) In the event of failure of the appropriate authority to renew the certificate of registration or to communicate rejection of application for renewal of registration within a period of ninety days from the date of receipt of application for renewal of registration, the certificate of registration shall be deemed to have been renewed.

10. MAINTENANCE AND PRESERVATION OF RECORDS:- (1) Genetic Counselling, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre shall maintain a register showing in serial order, the names and addresses of the men, or women given genetic Counselling, subjected to prenatal diagnostic procedures or pre-natal diagnostic tests, the names of their spouses or father and the date on which they first reported for such Counseling, procedure or test.

(2) The record to be maintained by every Genetic Counselling Centre in respect of each women counselled shall be as specified in Form – D.

(3) The record to be maintained by every Genetic Laboratory in respect of each man or woman subjected to any pre-natal diagnostic shall be specified in Form-E.

(4) The record to be maintained by every Genetic Clinic in respect of each man or woman subjected to any pre-natal diagnostic procedure shall be specified in Form - F.

(5) The appropriate authority shall maintain a permanent record of applications for grant of renewal of certificates of registration as specified in Form - H, letters of intimation of every change of employee, place, address and equipment installed shall also be preserved as permanent record.

(6) All case related records, forms of consent, laboratory results, microscope pictures, sonographic plates or slides, recommendations and letters shall be preserved by the Genetic Counselling, Genetic Laboratory, Genetic Clinic, Imaging Centre for a period of two years from the date of completion of counseling, pre-natal diagnostic procedure or pre-natal diagnostic tests as the case may be. In the event of any legal proceedings, the records shall be preserved till final disposal of legal proceedings or till the expiry of the said period of two years whichever is earlier.

(7) Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall send a complete report of all pre-conception or pregnancy related procedures/techniques; tests conducted by them in respect of each month 5th day of the following month to the concerned appropriate authority.

11. **CONDITIONS FOR CONDUCTING PRE-NATAL DIAGNOSTIC PROCEDURE:-** (1) Before conducting pre-implantation, genetic diagnostic or any pre-natal diagnostic technique/test/procedure such as amniocentesis, chronic villi biopsy, foetuscopy, foetal skin or organ biopsy or cordocentesis, a written consent, as specified in Form - G in a language the person undergoing such procedure understands shall be obtained from her/him;

Provided that where a Genetic Clinic has taken sample of any body tissue or body fluid and sent to a Genetic Laboratory for analysis or test, it shall not be necessary for the Genetic Laboratory to obtain a fresh consent in Form- G.

- (i-A) Any person conducting ultrasound/image scanning on a pregnant woman shall give a declaration on each report on ultrasound image scanning that he/she has neither detected nor disclosed the sex of foetus of the pregnant woman to any body. The pregnant woman shall before undergoing ultrasonography image scanning declare that she does not want to know sex of her foetus.

- (2) The State Government may issue translation of Form - G in languages used in the State and where no official translation in a language understood by the pregnant women is available, the Genetic Clinic may translate Form - G into a language she understands.

12. **FACILITIES FOR INSPECTION:-** (1) Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Clinic, Nursing Home, Hospital, Institute or any other place where any of the machines or equipments capable to performing any procedure, technique or test capable of pre-natal determination of sex or selection of sex before or after conception is used, shall afford all reasonable facilities for inspection of the place, equipment and records to the appropriate authority or to any other person authorized in this behalf for registration of such institution by whatever name called, under the Act or for detection of misuse of such facilities or advertisement therefore or for detection/disclosure of sex of foetus or for detection of cases of violation of provisions of the Act in any other manner.

- (2) The appropriate authority or the officer authorized by it may seal and seize any Ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus used by any other organization may be released if such organization has not got itself registered under the Act. These machines of the organization may be released if such organization pays penalty equal to five times of the registration fee to the appropriate authority concerned and gives an undertaking that it shall not undertake detection of sex of foetus or selection of sex before or after conception.



PROCEDURE FOR SEARCH AND SEIZURE:- (1) The appropriate authority or any other officer authorized in this behalf may enter and search at all reasonable times any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Imaging Clinic, Ultrasound Clinic, in the presence of two or more independent witnesses for the purpose of search and examination of any record, register, document, book, pamphlet, advertisement or any other material object found therein and seal and seize the same if there is reason to believe that it may furnish evidence of commission of an offence punishable under the Act.

Explanation:- In these rules:

(i) Genetic Laboratory / Genetic Clinic/ Genetic Counselling Centre shall include an Ultrasound Centre/Imaging Centre/ Nursing Home/ Hospital/ Institute or any other place by whatever name called, where any of the machines or equipments capable of selection of sex before or after conception or performing any procedure, techniques or test for pre-natal detection of sex of foetus is used;

(ii) Material Object shall include records, machines and equipments; and

(iii) Seize and seizure shall include 'seal' and 'sealing' respectively.

(2) A list of any document, record, register, book, pamphlet, advertisement or any other material object found in the Genetic counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre and seized shall be prepared in duplicate at the place of effecting the seizure. Both copies of such list shall be signed on every page by the appropriate authority or the officer authorized in this behalf and by the witnesses to the seizure;

(3) One copy of the list referred to in sub rule (2) shall be handed over, under acknowledgement to the person from whose custody the document, record, register, book, pamphlets, advertisement or any other material object have been seized;

Provided further that a copy of the list of such document, record, register, book, pamphlet, advertisement or other material object seized may be delivered under acknowledgement or sent by registered post to the owner or manager of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultra Sound Clinic or Imaging Clinic, if no person acknowledging custody of the document, record, register, book, pamphlet, advertisement or other material seized is available at the place of effecting the seizure.

(4) If a material object seized is perishable in nature, the appropriate authority or the officer authorized in this behalf shall make arrangements promptly for sealing, identification and preservation of the material object and also convey it to a facility for analysis or test, if analysis or test be required;

Provided that the refrigerator or other equipment used by the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre for preserving such perishable material object may be sealed until such time as arrangements can be made for safe removal of such perishable material object and in such eventuality, mention of keeping the material object on the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre shall be made in the list of seizure.

(5) In case of non-completion of search and seizure operation, the Appropriate Authority or the officer authorized in this behalf may make arrangement by way of mounting a guard or sealing of the premises of the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic or Imaging Centre for safe keeping, listing and removal of documents, records, books or any other material object to be seized and prevent any tampering with such documents, records, books or any other material object.

14. **INTIMATION OF CHANGES IN EMPLOYEES OR EQUIPMENT:** Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall intimate every change of employees, place, address and equipment installed to the appropriate authority within a period of thirty days of such change.
15. **CONDITION FOR ANALYSIS OR TEST: OF PRE-NATAL DIAGNOSTIC PROCEDURES.** (1) No Genetic Laboratory shall accept for analysis or test any sample, unless referred to it by a Genetic Clinic.
- (2) Every pre-natal diagnostic procedure shall invariably be immediately preceded by locating the foetus and placenta through ultrasonography and the pre-natal diagnostic procedure shall be done under direct ultrasonographic monitoring so as to prevent any damage to the foetus and placenta
16. **MEETING OF THE ADVISORY COMMITTEE:-** The intervening period, between any two meetings of Advisory Committee constituted under sub-rule (5) of section 17 to advise the appropriate authority shall not exceed sixty days.
17. **ALLOWANCES TO THE MEMBERS OF THE STATE SUPERVISORY BOARD.** The Ex-officio members and other Government officers appointed to the Board will be entitled to Travelling Allowance and Daily Allowance for attending the meetings of the Board as per the Travelling Allowance Rules applicable to them.
18. **PUBLIC INFORMATION** (1) Every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre shall prominently display on its premises a notice in English and in the local languages or languages for the information of the public to the effect that disclosure of sex of the foetus is prohibited under law.
- (2) At least one copy of the Act and these Rules shall be available on the premises of every Genetic Counselling Centre, Genetic Laboratory, Genetic Clinics, Ultrasound Clinic and Imaging Centre and shall be made available to the clientele on demand for perusal.
- (3) The appropriate authority or the State Government may publish periodically lists of registered Genetic Counselling Centres, Genetic Laboratory, Genetic Clinics, Ultrasound Clinics and Imaging Centres and findings from the reports and other information in their possession for the information of the public and for use by the experts in the field.
19. **Code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics etc.** All persons including the owner, employee or any other associated with Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasound Clinics, Imaging Centres registered under the Act. These rules shall:-
- (i) Not conduct or associate with or help in carrying out detection or disclosure of sex of foetus in any manner.
 - (ii) Not employ or cause to be employed any person not possessing qualification necessary for carrying out pre-natal diagnostic techniques/procedures and test including ultrasonography.
 - (iii) Not conduct or cause to be conducted or aid in conducting by himself or through any other person any technique or procedures for selection of sex before or after conception or for detection of sex of foetus except for the purposes specified in sub-section (2) of section 4 of the Act.
 - (iv) Not conduct or cause to be conducted or aid in conducting by himself or through any other person any technique or test or procedures under the Act at a place other than a place registered under the Act/the Rules.

- (v) Ensure that no provision of the Act and these Rules are violated in any manner.
- (vi) Ensure that the person conducting any techniques, test or procedure leading to detection of sex of foetus for purpose not covered under section 4 (2) of the Act or selection of sex before or after conception is informed that such procedures lead to violation of the Act and Rules which are punishable offences.
- (vii) Help the law enforcing agencies in bringing to book the violators of the provisions of the Act and the Rules.
- (viii) Display his/her name and designation prominently on the dress worn by him/her.
- (ix) Write his/ her name and designation in full under his/her signature;
- (x) On no account conduct or allow/cause to be conducted female foeticide;
- (xi) Not commit any other act of professional misconduct.

By order of the Government of Jammu and Kashmir.

Sd/
Secretary to Government
Health & Medical Education Department

No: - HD/Plan/59-Imp-II

Dated:- 7-12-2006

Copy to the:-

1. Director SKIMS Soura Srinagar.
2. Commissioner Secretary to Govt. GAD. This is with reference to his No. GDC-206/CM/2005 dated 01.03.2006 & GDC-206/CM/2005 dated 17.09.2006.
3. Commissioner Secretary to Govt. Law Deptt. This is with reference to his No. LD (SL) 2002/12 dated 08.06.2006.
4. Divisional Commissioner, Kashmir/Jammu
Deputy Commissioner (all) _____
5. Principal Government Medical Colleges Jammu/Kashmir
6. Director Health Services Jammu/Srinagar
7. Principal Govt. Dental College Jammu/Srinagar.
8. Principal JVC College Srinagar.
9. Director Indian System of Medicines, J&K, Jammu.
10. Director Family Welfare, J&K, Jammu.
11. Director Information, J&K Jammu.
12. General Manager, Government Press, Jammu. He is requested to publish the SRO in the next issue of the Govt. Gazette.
13. Director, ASCCOM, Jammu
14. Project Director, RCH, J&K, Jammu
15. Project Director, AIDS, J&K, Jammu
16. Controller Drug & Food Control Organization, J&K, Jammu
17. Principal SKIMS College JVC Srinagar.
18. Chief Medical officer/ADMO _____
19. Medical Supdt _____
20. Principal Pvt Secretary to Chief Secretary.
21. Pvt. Secretary to Hon'ble Minister for H&ME/Hon'ble MOS Health.
22. Pvt. Secy. to Secretary, H&ME.
23. PA to Addl Secy, Health / Medical Education
24. PA to JA (P), H & ME.
25. PA to Financial Advisor/CAO, H&ME
26. Section officer _____
- 27.

Assistant Director (P&S)
Health & Medical Education Deptt.

“FORM A”

[See rules 4(1) and 8 (1)]

(to be submitted in Duplicate with supporting documents as enclosures)

FORM OF APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRATION OF A GENETIC COUNSELING CENTRE/GENETIC LABORATORY/GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE

1. Name of the Applicant

(Indicate name of the organization sought to be registered)

2. Address of the Applicant

3. Type of facility to be registered

(Please specify whether the application is for registration of a Genetic Counseling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre or any combination of these)

4. Full name and address/addresses of Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic /Imaging Centre with Telephone/Fax number (s)/Telegraphic/ Telex/E-mail address(s)

5. Type of ownership of Organization (individual ownership/partnership/ company/cooperative/any other to be specified). In case type of Organization is other than individual ownership, furnish copy of articles of association and names and addresses of other persons responsible for management, as enclosure.

6. Type of Institution (Govt. Hospital/Municipal Hospital/ Public Hospital/ Private Hospital/ Private Nursing Home/ Private Clinic/ Private Laboratory/ any other to be stated)

7. Specific Pre-natal Diagnostic procedures/tests for which approval is sought

- | | | |
|-----|----------------|---|
| (a) | Invasive | (i) amniocentesis/chorionic villi aspiration/
chromosomal/biochemical/molecular
studies |
| (b) | Non – Invasive | Ultrasonography |

Leave blank if registration is sought for Genetic Counselling Centre only.

8. Equipment available with the make and model of each equipment (List to be attached on a separate sheet)

9. (a) Facilities available in the Counselling Centre

(b) Whether facilities are or would be available in the Laboratory/ Clinic for the following tests;

- i. Ultrasound
- ii. Amniocentesis
- iii. Chorionic Villi aspiratin
- iv. Foetoscopy
- v. Foetal biopsy

- vi. Cordocentesis
Whether facilities are available in the laboratory/
Clinic for the following:
 - i) Chromosomal Studies
 - ii) Biochemical studies
 - iii) Molecular studies
 - iv) Pre-implantation Genetic Diagnosis

- 10. Names, qualifications, experience and registration number of employees (may be furnished as an enclosure)

- 11. State whether the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre¹ qualifies for registration [in terms of requirements laid down in Rule 3]

- 12. For renewal applications only:
 - (a) Registration No.
 - (c) Date of issue and date of expiry of existing certificate of registration

- 13. List of enclosures;
(Please attach a list of enclosures/supporting documents attached to this application)
Date: (.....)
Place (Name, designation and signature of the person authorized to sign on behalf of the organization to be registered.)

DECLARATION

Sh./Smt/Kum/Dr.....son/daughter/wife of Aged years resident of working as (indicate designation) in (indicate name of the organization to be registered)..... Hereby declare that I have read and understood the J&K Preconception and Prenatal Sex Selection/Determination (Prohibition and Regulation) Act 2002 and Rules 2006.

I also undertake to explain the said Act and Rules to all employees of the Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/Ultrasound Clinic/Imaging Centre in respect of which registration is sought and to ensure that Act and Rules are fully complied with

Date (.....)
Place (Name, designation and signature of the person authorized to sign on behalf of the organization to be registered.)

_____ [SEAL OF THE ORGANISATION SOUGHT TO BE REGISTERED]

¹Strike out whichever is not applicable or necessary. All enclosures are to be authenticated by signature of the applicant.

ACKNOWLEDGEMENT

[see Rule 4 (2) and 8 (1)]

The application in form A in duplicate for grant ^{and}*/renewal * of registration of Genetic Counselling Centre * /Genetic Laboratory*/ Genetic Clinic* ~~and~~ Ultrasound Clinic */ Imaging Centre* by (Name and address of applicant) has been received by the Appropriate Authority on (date)

* The list of enclosures attached to the application in Form A has been verified with the enclosures submitted and found to be correct.

OR

* On verification it is found that the following documents mentioned in the list of enclosures are not actually enclosed.

This acknowledgement does not confer any rights on the applicant for grant or renewal of registration

Date:

(.....)

Place

(Signature and designation of Appropriate Authority, or authorized person in the office of the Appropriate Authority.

SEAL

* Strike out whichever is not applicable or necessary.

**ORIGINAL DULICATE FOR
DISPLAY**

FORM B
[See Rules 6 (2) and 8 (2)]
CERTIFICATE OF REGISTRATION
(to be issued in duplicate)

In exercise of the powers conferred under section 19 (1) of the J&K Preconception and Pre-natal Sex Selection/Determination (Prohibition and Regulation) Act, 2002 the Appropriate Authority Hereby grants registration to the Genetic Counselling Centre */Genetic Laboratory * / Genetic Clinic * / Ultrasound Clinic * / Imaging Centre * named below for purposes of carrying out Genetic Counselling / Pre-natal Diagnostic procedures */ Pre – natal Diagnostic Tests/ Ultrasound under the aforesaid Act for period of Five years ending on

This registration is granted subject to the aforesaid Act and Rules thereunder and any contravention thereof shall result in suspension or cancellation of this certificate of registration before the expiry of the said period of five years apart from prosecution.

- A) Name and address of the Genetic Counselling Centre* / Genetic Laboratory * / Genetic Clinic * / Ultrasound Clinic / Imaging Centre
- B) Pre – natal diagnostic procedures * approved
 - For (Genetic Clinic)
 - Non – invasive
 - i) Ultrasound
 - Invasive
 - ii) Amniocentesis
 - iii) Chorionic villi biopsy
 - iv) Foetoscopy
 - v) Foetal skin or organ biopsy
 - vi) Cordocentesis
 - vii) Any other (specify)
- C) Prenatal Diagnostic tests * approved (for Genetic Laboratory)
 - i) Chromosomal studies
 - ii) Biochemical studies
 - iii) Molecular studies

D) Any other purpose (please specify)

Model and make of equipments being used (any

change is to be intimated to the Appropriate

Authority under Rule 13)

Registration No. allotted.

Period of validity of earlier Certificate of Registration

(For renewed Certificate of Registration only)

From To

Signature, name and designation of
The Appropriate Authority
SEAL

Date:

- 1) Display one copy of this certificate at a conspicuous place at the place of business
- 2) * Strike out whichever is not applicable or necessary.

FORM C

[see Rules 6 (3), 6(5) and 8 (3)]

**FORM FOR REJECTION OF APPLICATION FOR GRANT/RENEWAL OF
REGISTRATION**

In exercise of the powers conferred under Section 19(2) of the J&K Preconception and Prenatal Sex Selection / Determination (Prohibition and Regulation) Act, 2002, the Appropriate Authority..... hereby rejects the application for grant * / renewal * of registration of the undermentioned Genetic Counselling Centres */Genetic Lab. * / Genetic Clinic * / Ultrasound Clinic */ Imaging Centre *

(1) Name and address of the Genetic Counseling Centre */

Genetic Laboratory * / Genetic Clinic * / Ultrasound Clinic * /

Imaging Centre *

(2) Reasons for rejection of application for grant /

renewal of registration:

Signature, name and designation of

The Appropriate Authority with

SEAL of office

Date:

Place:

* Strike out whichever is not applicable or necessary

FORM D
[see rule 9 (2)]

FORM FOR MAINTENANCE OF RECORDS BY THE GENETIC COUNSELLING CENTRE

1. Name and address of Genetic Counselling Centre
2. Registration No
3. Patient's Name
4. Age
5. Husband's/Father's Name
6. Full address with Tel. No. if any
7. Referred by (full name and address of Doctor (s)
with registration No.(s) (referral note to be preserved
carefully with case papers)
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family (specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio – Chemical
 - (c) Cytogenetic
 - (d) Other (e.g. Rakiological, Ultrasonography)
10. Indication for Pre – natal Diagnosis
 - A) Previous child/children with
 - i) Chromosomal disorders
 - ii) Metabolic disorders
 - iii) Congenital anomaly
 - iv) Mental retardation
 - v) Haemoglobinopathy
 - vi) Sex linked disorders
 - vii) Singly gene disorder
 - viii) Any other (specify)
 - B) Advanced maternal age (35 years or above)
 - C) Mother / father /sibling having genetic disease (specify)
 - D) Others (specify)
11. Procedure advised²
 - i) ~~Ultrasound~~
 - ii) Amniocentesis
 - iii) Chorionic villi biopsy
 - iv) Foetoscopy

² Strike out whichever is not applicable or necessary

- v) Foetal skin or organ biopsy
 - vi) Cordocentesis
 - vii) Any other (specify)
12. Laboratory tests to be carried out
- i) Chromosomal studies
 - ii) Biochemical studies
 - iii) Molecular studies
 - iv) Preimplantation Genetic Diagnosis
13. Result of diagnosis
If abnormal give details Normal / Abnormal
14. Was Medical Termination of Pregnancy (MTP) advised?
15. Name and address of Genetic Clinic *
to which patient is referred.
16. Dates of Commencement and Completion of Genetic Counselling

Name, Signature and registration No. of the
Medical Geneticist/Gynaecologist/
Pediatrician Administering Genetic
Counseling

Place:

Date:

FORM E

[See rule 9 (3)]

FORM FOR MAINTENANCE OF RECORDS BY THE GENETIC LABORATORY

1. Name and address of Genetic Laboratory
2. Registration No.
3. Patient's name
4. Age
5. Husband's/Father name
6. Full address with Tel. No. if any
7. Referred by/sample sent by (full name and address of Genetic clinic)
(Referral note to be preserved carefully with case papers)
8. type of sample: Maternal blood/chorionic villi sample/amniotic fluid/foetal blood or other foetal tissue (specify)
9. Specify indication for pre-natal diagnosis
 - A) Previous child/children with
 - i) Chromosomal disorders
 - ii) Metabolic disorders
 - iii) Malformation (s)
 - iv) Mental retardation
 - v) Hereditary Haemolytic Anemia
 - vi) Sex linked disorder
 - vii) Single gene disorder
 - viii) Any other (specify)
 - B) Advanced maternal age (35 years or above)
 - C) Mother / father /sibling having genetic disease (specify)
 - D) Other (specify)
10. Laboratory tests carried out (give details)
 - i) Chromosomal studies
 - ii) Biochemical studies
 - iii) Molecular studies
 - iv) Preimplantation Genetic Diagnosis
11. Result of diagnosis
If abnormal give details Normal / Abnormal
12. Date (s) on which tests carried out.

The results of the Pre – natal Diagnostic tests were conveyed toon.....

Name, signature and Registration No. of the
Medical Geneticist/Director of the Institute

FORM F

[See proviso to section (c) Rule 9 (4) and rule 10 (IA)]

Form for maintenance of record in respect of pregnant women by Genetic Clinic / Ultrasound Clinic/Imaging Centre

1. Name and address of the Genetic Clinic / Ultrasound Clinic/Imaging Centre
2. Registration No.
3. Patient's name and her age
4. Number of children with sex of each child
5. Husband's / father's name
6. Full address with Tel. No, if any
7. Referred by (full name and address of Doctor (s) / Genetic Counselling Centre) (Referral note to be preserved carefully with case papers) / self referral.
8. Last menstrual period/weeks of pregnancy
9. History of Genetic/Medical Disease in the family (specify) Basis of Diagnosis:
 - a) Clinical
 - b) Bio-chemical
 - c) Cytogenetic
 - d) Other (e.g. Radiological, Ultrasonography etc. specify)
10. Indication for Pre – natal Diagnosis
 - A) Previous Child / Children with:
 - i) Chromosomal disorders
 - ii) Metabolic disorders
 - iii) Congenital anomaly
 - iv) Mental retardation
 - v) Haemoglobinoapthy
 - vi) Sex linked disorders
 - vii) Single gene disorder
 - viii) Any other (specify)
 - B) Advanced maternal age (35 years)
 - C) Mother / father / sibling has genetic disease (specify)
 - D) Other (specify)

11. Procedures carried out (with name and registration No. of Gynaecologist /Radiologist / Registered Medical Practitioner) who performed it.

Non – Invasive

- i) Ultrasound (specify purpose for which ultrasound is to be done during pregnancy)
[List of indications for ultrasonography of pregnant Women are given in the note below]

Invasive

- ii) Amniocentesis
iii) Chorionic villi aspiration
iv) Cordocentesis
v) Any other (specify)

12. Any complication of procedure – please specify

13. Laboratory tests recommended³

- i) Chromosomal Studies
ii) Biochemical studies
iii) Molecular studies
iv) Preimplantation genetic diagnosis

14. Result of

- (a) Pre-natal diagnostic procedure
(Give details)

- (b) Ultrasonography
(Specify abnormality detected, if any)

Normal/Abnormal

15. Date (s) on which procedure carried out.

16. Date on which consent obtained. (incase of invasive)

17. The result of pre – natal diagnostic procedure were conveyed to on

18. Was Medical Termination of Pregnancy (MTP) advised / conducted?

19. Date on which Medical Termination of Pregnancy (MTP) carried out.

Name, Signature and registration number of the Gynaecologist / Radiologist / Director of the Clinic

DECLARATION OF PREGNANT WOMAN

_____ (name of the pregnant woman) declare that by undergoing _____ etc. I do not want to know the sex of my foetus.

Signature / Thump impression of Pregnant woman

or un-necessary

DECLARATION OF DOCTOR / PERSON CONDUCTING ULTRASONOGRAPHY/IMAGE SCANNING

I, _____ (name of the person conducting Ultrasonography/Image Scanning) declare that while conducting Ultrasonography / Image Scanning on Ms _____ (name of the pregnant woman), I have neither detected nor disclosed the sex of her foetus to any body in any manner.

Name and signature of the person conducting Ultrasonography/Image Scanning / Director or owner of Genetic Clinic / Ultrasound Clinic /Imaging Centre

Important Note:

- (i) Ultrasound is not indicated/advised/performed to determine the sex of foetus except for diagnosis of sex – linked disease such as Duchenne muscular dystrophy, Haemophilia A & B etc.
- (ii) During pregnancy Ultrasonography should only be performed when indicated. The following is the representative list of indications for ultrasound during pregnancy.

1. To diagnose intra – uterine and / or ectopic pregnancy and confirm viability ..
2. Estimation of gestational age (dating).
3. Detection of number of foetuses and their chorionicity.
4. Suspected pregnancy with Intra Uterine Contraceptive Device (IUCD) in - situ or suspected pregnancy following contraceptive failure/Medical Termination of Pregnancy (MTP) failure.
5. Vaginal bleeding / leaking.
6. Follow – up of cases of abortion
7. Assessment of cervical canal and diameter of internal os.
8. Discrepancy between uterine and period of amenorrhoea.
9. Any suspected adenexal or uterine pathology/abnormality.
10. Detection of chromosomal abnormalities, foetal structural defects and other abnormalities and their follow – up
11. To evaluate foetal presentation and position.
12. Assessment of liquor amnii.
13. Preterm labour/preterm premature rupture of membranes.
14. Evaluation of placental position, thickness, grading and abnormalities (placenta praevia, retroplacental haemorrhage, abnormal adherence etc.
15. Evaluation of umbilical cord – presentation, insertion, nuchal encirclement, number of vessels and presence of true knot.
16. Evaluation of previous caesarean section scars.
17. Evaluation of foetal growth parameters, foetal weight and foetal well being.
18. Colour flow mapping and duplex Doppler studies.
19. Ultrasound guided procedures such as medical termination of pregnancy external cephalic version etc. and their follow – up.
20. Adjunct to diagnostic and therapeutic in – vasive interventions such as chorionic vilus sampling (CVS) amniocenteses, foetal blood sampling, foetal skin biopsy, amnioinfusion, intrauterine infusion, placement of shunts etc.
21. Observation on intra – partum events.
22. Medical / surgical conditions complicating pregnancy.
23. Research/scientific studies in recognized institutions.

Person conducting ultrasonography on a pregnant women shall keep complete record thereof in the clinic/centre in form – F and any deficiency or inaccuracy found therein shall amount to contravention of provisions of section 5 or section 6 of the Act, unless contrary is proved by the persons conducting such ultrasonography.



FORM G
[See Rule 10]
(For invasive techniques)

I, _____ wife/daughter of _____ Age _____ years residing at _____ hereby state that I have been explained fully the probable side effects and after effects of the pre-natal diagnostic procedures.

I wish to undergo the Preimplantation/Pre-natal Diagnostic Technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the Pre-natal Procedure/Technique/test conducted show the absence of disease/deformity/disorder.

I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the J & K Preconception and Pre – natal Sex Selection / Determination (Prohibitin and Regulation) Act, 2002 and Rules framed there under.

Signature of the pregnant woman

Date:
Place:

I have explained the contents of the above to the patient and her companion (Name Address Relation ship) in a language she / they understand.

Name, Signature and Registration number of
Gynaecologist/Medical Genetic/Radiologist/Pediatrician
Director of the Clinic/Centre/Laboratory.

Name, Address & Regd. No. of
Genetic Clinic/Institute
SEAL

Date:

FORM H
[See Rule 9 (5)]

**FORM FOR MAINTENANCE OF PERMANENT RECORD OF APPLICATION FOR
GRANT/REJECTION OF REGISTRATION UNDER THE J & K PRECONCEPTION AND PRENATAL
SEX SELECTION / DETERMINATION (PROHIBITION AND REGULATION) ACT, 2002**

1. Sl. No.
2. File number of Appropriate Authority.
3. Date of receipt of application for grant of registration.
4. Name, Address, Phone/Fax etc. of Applicant:
5. Name and address (s) of Genetic Counselling Centre* / Genetic Laboratory*
/Genetic Clinic * / Ultrasound Clinic* / Imaging Centre*
6. Date of consideration by Advisory Committee and recommendation of Advisory
Committee, in summary.
7. Outcome of application (state granted/rejected and date
of issue of orders – record date of issue of order in **Form B** or **Form C**)
8. Registration number allotted and date of expiry of registration
9. Renewals (date of renewal and renewed upto)
10. File number in which renewals dealt.
11. Additional information, if any

Name, Designation and Signature
of Appropriate Authority.

Guidance for Appropriate Authority

- (a) Form H is a permanent record to be maintained as a register, in the custody of the Appropriate Authority.
- (b) * Means strike out which ever is not applicable
- (c) On renewal, the Registration Number of the Genetic Counselling Centre/Genetic Laboratory/Genetic
Clinic/Ultrasound Clinic/Imaging Centre will not change.
- (d) A fresh Registration Number will be allotted in the event of change of ownership or management.
- (e) Registration number shall not be allotted twice.
- (f) Each Genetic Counselling Centre/Genetic Clinic/Ultrassound Clinic/Imaging Centre may be allotted a
folio consisting of two pages of the register for recording **Form H**.
- (g) The space provided for 'additional information' may be used for recording suspension, cancellation,
rejection of application for renewal, change of ownership/management, outcome of any legal
proceedings, etc.
- (h) Every folio (i.e 2 pages) of the Register shall be authenticated by signature of the Appropriate Authority
with date, and every subsequent entry shall also be similarly authenticated.

ANNEXURE III: J&K LADLI BETI SCHEME

Ladli Beti

Government of Jammu & Kashmir has introduced a social assistance scheme titled “Ladli Beti” (LB) meant for new born girl child of the State born on or after 01st April 2015. The objective of the scheme is to arrest the declining female sex ratio and reduce the financial burden of the girl’s parents. The scheme further intends to ensure that the girl child does not become a burden for the parent or guardian at the time of her marriage. The scheme should not be, in any way construed or misunderstood as an encouragement to the practice of giving dowry.

Salient features:

To implement the Scheme in the State, the Bank has designed a deposit product christened as “J&K Bank Ladli Beti Deposit Scheme”. The scheme is a hybrid deposit plan having two phases:

Phase I: A recurring deposit for **14 years** having date of completion as one month after the last installment received in the account.

Phase II: A Cumulative Term Deposit (CCR) for **07 years**.

Tenure: 21 Years

Type of Deposit:

Phase I: A recurring deposit for 14 years having date of completion as one month after the last installment received in the account.

Phase II: A Cumulative Term Deposit (CCR) for 07 years.

Eligibility:

1. Girl Child born on or after 01/04/2015 whose applications are complete in all respect accompanied with sanction letter from Child Development Project Officer (CDPO) of the selected domiciliary district (Anantnag, Budgam, Jammu, Kathua, Pulwama, and Samba).
2. Girl child born to parents whose annual income from all sources is less than Rs 75000.

Operation of account:

Recurring deposit account under this scheme shall be opened by the natural or legal guardian of the girl child.

Funding the account:

No credits other than monthly contribution of Rs. 1000/- by J&K Government is to be allowed in Phase I (RD Account).

After the maturity of Phase I (recurring deposit account) the account will graduate to Phase II (Cumulative Term Deposit account).

Partial Payment / Foreclosure:

No partial draws or Foreclosure will be allowed under any circumstances during any phase.

Payment of Maturity Benefits:

Maturity benefits under the scheme will be paid to the beneficiary on completion of 21 years of age or 21 years after the first installment or 85 months after the last installment whichever is later by crediting the saving bank account of the girl child. However, the girl child is at liberty to reinvest the amount in any deposit plan of the bank at card rates.

This report is being published as a part of the ACHR's "National Campaign for elimination of female foeticide in India", a project funded by the European Commission under the European Instrument for Human Rights and Democracy – the European Union's programme that aims to promote and support human rights and democracy worldwide. The views expressed are of the Asian Centre for Human Rights, and not of the European Commission

The reports published are:

- Decoys & Mukhbirs: The unutilised instruments for enforcement of the PC&PNDT Act, January 2017
- The State of Female Foeticide in Bihar, November 2016
- The State of the PC&PNDT Act: India's losing battle against female foeticide, November 2016
- Madhya Pradesh: The land of female infanticide and foeticide in India, September 2016
- The State of Female Foeticide in Goa, September 2016
- The State of Female Foeticide in Uttarakhand, August 2016
- The State of Female Foeticide in Haryana, July 2016
- The State of Female Infanticide in Himachal Pradesh, July 2016
- Female Infanticide Worldwide: The case for action by the UN Human Rights Council, July 2016
- The MTP Amendment Bill, 2014: India's Beti Mar Do Campaign, May 2016
- All these reports and forthcoming reports are available at:
<http://www.stopfemaleinfanticide.org/>



ASIAN CENTRE FOR HUMAN RIGHTS

C-3/441-C, Janakpuri, New Delhi 110058 INDIA

Phone/Fax: +91 11 25620583, 45501889

Website: www.achrweb.org

Email: director@achrweb.org