



CORPORATE SOCIAL IRRESPONSIBILITY: COMPANIES & PC&PNDT ACT



ASIAN CENTRE FOR HUMAN RIGHTS



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1. EXECUTIVE SUMMARY

Female foeticide because of preference for boys over girls for a host of reasons is gigantic in India. According to the estimates of Asian Centre for Human Rights, during 1991 to 2011, a total of 25,49,3,480 girls went missing primarily as a result of sex selection.¹ The child sex ratio (CSR) in India has been consistently falling: from 933 in 1991 census to 927 as per 2001 census to 919 as per 2011 census.

The collusion of technology for sex selection is possibly the single most important contributor to the falling sex ratio.

Legal framework

The government of India had enacted the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act of 1994 (PC&PNDT Act) and defined the offences by the companies under Section 26 of the PC&PNDT Act.

Further, Section 3A of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 2003 spelt out the responsibility of the manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus with respect to sell, distribution, renting etc to any diagnostic facility. The companies are required to register first under specified format and send the list of those to whom the equipment/ machine has been provided once in three months to the concerned State/ UT Appropriate Authority and to the Central Government.

1. The claim of the Ministry of Statistics and Programme Implementation Government of India in its report, "*Children In India 2012 - A Statistical Appraisal*" of September 2012 that declining ratio of girl share of girls in 0-6 years faster than that of boys of 0-6 years "has led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001" is highly flawed. It does not take into account increase of population from 2001 to 2011 in absolute term which had impact on population growth rate. Further, this is not the correct figures of the missing girls in India as census is conducted every 10 years and covering 0-6 years age group excludes those in 07-10 years age group. The report is available at http://mospi.nic.in/Mospi_New/upload/Children_in_India_2012.pdf

Since 2014, Section 3(B) provided that the portable machines can be used only in two circumstances i.e. within the premises it is registered, for services to the indoor patients and as a part of a mobile medical unit, offering a bouquet of other health services.

Further, as per Rule 18-A(7) and (8) of PC&PNDT Amendment Rules, 2014 the Appropriate Authorities are empowered to regulate the use of ultrasound equipment; monitor the sales and import of USG machines; ensue regular quarterly reports from ultrasound manufacturers and dealers; conduct periodical survey and audit of all USG machines sold and operating in the State; and file complaint against any unregistered owner or seller of the USG machine. Further, Sub-rule(2) of Rule 11(2) of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 authorises the Appropriate Authorities to seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus.

Yet these provisions have not been fully implemented having serious negative impact on the falling CSR.

The reality of corporate criminality

The Comptroller and Auditor General (CAG) of India found during the audit for the period 2010-11 to 2014-15 in Uttar Pradesh that the State Level Appropriate Authorities (SAAs)/District Level Appropriate Authorities (DAAs) did not take any action for mapping of sale of ultrasonography (USG) equipment and also did not call for any information regarding sale, installation and possession of Ultrasonography (USG) equipment from the manufacturers, suppliers, dealers, etc. Consequently, the number of USG equipments installed and the location of their placement were not known to the authorities to regulate the use of all the ultrasound machines.² In Odisha, the CAG found that 806 machines were sold to 748 Registered Ultrasound

2 .Report of the Comptroller and Auditor General of India For the Year Ended 31 March 2015 'Performance Audit on Empowerment of Women' Government of Uttar Pradesh, Report No. 3 of 2016 http://www.cag.gov.in/sites/default/files/audit_report_files/Chapter_3_Missing_Daughters_Report_3_2016_Uttar_Pradesh.pdf

Units as on 30 September 2014 but manufacturers had reported sale of only 278 (34%) machines with 66% sales were not reported by manufacturers and dealers.³ In Gujarat too, the CAG found during the for the period ending on 31st March 2014 that State Government of Gujarat found that out of 33 manufacturers/suppliers/dealers who applied for registration in the State, only two manufacturers had submitted the list for the quarter ending March 2014. The CAG also observed that some 14 clinics were booked by the DAAs for using sonography machines without registration but the authorities had not initiated any action against the manufacturer or even the supplier who had provided the equipment to these 14 clinics.⁴ Rajasthan became the first State to file a complaint in the court of chief judicial magistrate, Jaipur against 23 suppliers/manufacturers of ultrasound machines across the State who failed to register the sale of a single machine in the three quarters from April to December 2009. The companies named in the complaint include some of the major global companies in diagnostics - Wipro GE Health Care, Erbis Engineering Co Ltd, Pioneer Medical System, Philips Electronics India Ltd, Maestros Mediline Systems Ltd and Trivitron health care.⁵ But the State failed to follow up. On 27 July 2015, the Rajasthan High Court observed “.....we are distressed to find that the compliance report does not even mention the name of the manufacturers and the dealers, nor any material has been annexed to show that the directions issued on 15th April, 2015 have been communicated to the manufacturers of the ultra-sound machines and the dealers”.⁶

Government failure to comply with the Supreme Court directions

The non-compliance by the companies became one of the critical issues for

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3. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013, Government of Odisha Report No.5 of the year 2014 http://cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf
 4. Report of the Comptroller and Auditor General of India on General and Social Sector for the year ended March 2014 Government of Gujarat Report No. 6 of 2014 http://cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_6_2015.pdf
 5. Rajasthan govt goes after firms making ultrasound scanners, The Times of India, 25 September 2010 <http://timesofindia.indiatimes.com/india/Rajasthan-govt-goes-after-firms-making-ultrasound-scanners/articleshow/6623479.cms>
 6. D.B. Civil Writ Petition (PIL) No.3270/2012, Rajasthan High Court, 27.7.2015 <http://ecourts.gov.in/sites/default/files/sk%20gupta%20vs%20union%20of%20indian.pdf>

the Supreme Court of India while disposing of the Writ Petition (Civil) No. 349/2006 in *Voluntary Health Association of Punjab Vs Union of India & Others*. Further, the Supreme Court specifically noted the use of portable ultrasound machines. In its order dated 04.03.2013, the Supreme Court stated “*the Central Government vide GSR 80(E) dated 7.2.2002 issued a notification amending the Act and regulating usage of mobile machines capable of detecting the sex of the foetus, including portable ultrasonic machines, except in cases to provide birth services to patients when used within its registered premises as part of the Mobile Medical Unit offering a bouquet or other medical and health services. The Central Government also vide GSR 418(E) dated 4.6.2012 has notified an amendment by inserting a new Rule 3.3(3) with an object to regulate illegal registrations of medical practitioners in genetic clinics, and also amended Rule 5(1) by increasing the application fee for registration of every genetic clinic, genetic counselling centre, genetic laboratory, ultrasound clinic or imaging centre and amended Rule 13 by providing that an advance notice by any centre for intimation of every change in place, intimation of employees and address. Many of the clinics are totally unaware of those amendments and are carrying on the same practises.*”

The Supreme Court in its order dated 04.03.2013 in *Voluntary Health Association of Punjab Vs Union of India & Others* directed the following with respect to the manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus:

“5. States and District Advisory Boards should ensure that all manufacturers and sellers of ultra-sonography machines do not sell any machine to any unregistered centre, as provided under Rule 3-A and disclose, on a quarterly basis, to the concerned State/Union Territory and Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A(2) of the Act.

.....

7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultra-sonography clinics, in three months time.”

Despite blatant violations of the Section 26 PC&PNDT Act and Rule 3 of the PC&PNDT Act as found out by the CAG, no effective measures have been taken to implement the Supreme Court directions dated 04.03.2014. The Minister of State in the Ministry of Health And Family Welfare Smt. Anupriya Patel while replying to the Lok Sabha Unstarred Question No. 1665 on 10 March 2017 stated the following with respect to implementation of these directions: *“As per directions given by Hon’ble Supreme Court in Writ Petition (Civil) No. 349/2006 – Voluntary Health Association of Punjab Vs Union of India & Others vide Order dated 04.03.2013, all States/UTs were directed to take steps for mapping of all registered and unregistered ultrasonography machines. The Ministry of Health and Family Welfare has developed the Terms of Reference (TORs) and communicated the same to States/UTs. The Government is also rendering financial support under the National Health Mission (NHM) to the States and UTs for mapping of Ultrasound machines.”*

The Government of India has admitted that the task *“for mapping of all registered and unregistered ultra-sonography clinics, in three months time”* as directed by the Supreme Court could not be completed in three years time.

The current challenges

The current situation with respect to non-compliance by manufacturers/retailers/importers/refurbishers of diagnostic equipment capable of detecting the sex of the foetus can be summarised in the following way:

- Across India, the compliance of the PC&PNDT Act by manufacturers/retailers/importers/refurbishers of diagnostic equipment capable of detecting the sex of the foetus has been left to their mercy.
- The Government of India does not have any statistics of the number of unregistered ultra-sonography machines. As per the quarterly progress report (QPR) received from States/UTs, as on 31st December 2016, a total of 56,079 bodies registered under the PC&PNDT Act but the government of India has no information about the number

of unregistered ultrasound machines.⁷ In 2016, India's market for ultrasound systems was estimated at Rs.1212 crore.⁸

- As per Rule 3B(1) of the PC&PNDT Rules of 1996, the use of portable ultrasound machine of any other portable machine or device which has the potential for selection of sex before conception\or detection of sex during pregnancy is regulated. Portable ultrasound machines is permitted only under two conditions: (a) within the premises it is registered for providing services to the indoor patients and (b)as a part of a mobile medical unit offering a bouquet of other' health and medical services. However, portable ultrasound machines which are available online for prices ranging from Rs 8,700 to Rs 4.6 lakh per unit for a digital ultrasound system.⁹ There are no records of portable ultrasound machines being sold online.
- Once ultrasound machines are registered, there are no guidelines for disposal of ultra-sound machines.
- There are no guidelines on the import of ultrasound machines which are cheaply available abroad.
- There are no guidelines on re-sale or in any other manner transfer any ultrasound machine or imaging machine or scanner, or any other equipment capable of detecting sex of the foetus.¹⁰
- The registration of ultrasound machines by the veterinary professionals and Animal Husbandry Department are yet to be completed.

7. Reply to Unstarred Question No. 1665 before the Lok Sabha on 10 March 2017 by the Ministry of Health & Family Welfare

8. Evolution of a Powerful Diagnostic Technology, January 2017, <http://www.medicalbuyer.co.in/index.php/medical-technology/ultrasound-equipment/6519-evolution-of-a-powerful-diagnostic-technology>

9. Nod for ban on portable ultrasound machines, The Hindu, 24 October 2016, <http://www.thehindu.com/todays-paper/Nod-for-ban-on-portable-ultrasound-machines/article13367154.ece>

10. Female foeticide: Centre cracks down on sale or transfer of ultrasound machines, Mailtoday, 13 March 2016, <http://indiatoday.intoday.in/story/female-foeticide-centre-cracks-down-on-sale-or-transfer-of-ultrasound-machines/1/618797.html>

Conclusion and recommendations

India's market for the Indian ultrasound systems is one of the largest in the world. In 2016, India's market for ultrasound systems was estimated at Rs.1212 crore.¹¹ The market analysts expect it grow at a steady pace mainly because the Government of India is implementing schemes like the Janani Suraksha Yojna to reduce mortality rate.¹²

It appears that the actions under the PC&PNDT Act are directed towards the users of the ultrasound machines (doctors, clinics and other person which includes association of persons, body of individuals and a company). However, sufficient steps are not being taken against manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus for their criminal failure to comply with the PC&PNDT Act. If the illegal use of the machines by the unscrupulous professionals is to effectively addressed, the problems have to be nipped in the bud i.e. appropriate actions ought to be taken against manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus. Otherwise, establishing accountability remains an uphill task as has been the case.

Recommendations

Asian Centre for Human Rights recommends the following to the Ministry of Health and Family Welfare and in particular, Central Supervisory Authority under the PC&PNDT Act:

- Implement the Supreme Court judgement and direct all the manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus to submit all the detailed information about the machines sold to the State Appropriate Authorities within three months;

11. Evolution of a Powerful Diagnostic Technology, January 2017, <http://www.medicalbuyer.co.in/index.php/medical-technology/ultrasound-equipment/6519-evolution-of-a-powerful-diagnostic-technology>

12. Ultrasound The Game Changer, Published on: February 08, 2013, <http://ehealth.eletsonline.com/2013/02/ultrasound-the-game-changer/>

- Instruct to register cases for violations of the PC&PNDT Act by the manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus and ensure the prosecution of those responsible within six months;
- Amend the PC&PNDT Rules for prohibition on sale or otherwise transfer of ultrasound machines to persons, laboratories, clinics, not registered under the PC and PNDT Act;
- Amend the PC&PNDT Rules to prohibit sell or in any other manner transfer any ultrasound machine or imaging machine or scanner, or any other equipment capable of detecting sex of the foetus to any genetic counselling centre, laboratory, clinic or any person not registered under the Act;
- Amend the PC&PNDT Rules to prohibit sale of portable ultrasound sonography machines online and further only to the hospitals and institutions where they would be used for diagnostic purposes on critically ill patients and allowed to be carried as part of mobile health care units;
- Direct the Veterinary Council of India to complete registration of ultrasound machines being used veterinary hospitals within three months;
- Amend the Hazardous Waste (Management, Handling and Transboundary Movement) Rules of 2008 for proper disposal of the ultra-sound machines including through a central registry systems by making it digital; and
- Amend Section 3 of the Drugs and Cosmetics Act, 1940 and the Rules to include the ultrasound machines and its accessories so that manufacturers/ importers/ refurbishers of ultrasound machines are included in a monitoring system.

2. THE STATE OF FEMALE FOETICIDE IN INDIA

2.1 Female foeticide

Female infanticide¹³ was practiced by many patrilineal societies of every continent. The son preference over daughter had been rooted in various social norms of most patrilineal societies such as inheritance passing on to male offspring, male offspring providing economic support and security in old age and performing death rites. The policy of restricting the number of children a couple can have for population control in China only provided impetus for son preference while dowry¹⁴ system in South Asia made daughters an unaffordable economic burden always contributed to son preference. The increased pressure on smaller families to fulfil their wish for a son has also been contributing to female foeticide.¹⁵

The invention of technology i.e. ultrasonography for pre-natal sex determination in 1980s replaced intentional killing of infant girls with sex selective abortion of female foetuses.¹⁶ Since 1990s various studies recognised female infanticide as a serious problem with reduction of women in comparison to men.

The collusion of technology and traditions created monumental problem for the humanity with millions of missing girls through female infanticide. The United Nations in 2007 estimated that between 113 million and 200 million women are demographically “missing” across the globe¹⁷ and the number has

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13. Female infanticide legally speaking is the deliberate killing of newborn female children. UN agencies use the term “female infanticide” also to cover sex-selective abortion i.e. female foeticide and the same is applied in this report.
 14. Dowry is an amount of property or money to be mandatorily paid by a bride to her husband and family on their marriage.
 15. UNFPA Viet Nam, “When girls do not count as much as boys”, 21 June 2010, <https://vietnam.unfpa.org/public/pid/6392>
 16. United Nations Population Fund (UNFPA) Asia and Pacific Regional Office, Sex Imbalances at Birth: Current trends, consequences, and policy implications, 2012. <https://www.unfpa.org/sites/default/files/pub-pdf/Sex%20Imbalances%20at%20Birth.%20PDF%20UNFPA%20APRO%20publication%202012.pdf>
 17. “International Women’s Day 2007-Take action to end impunity for violence against women and girls”, 8 March 2007. <http://www.un.org/events/women/iwd/2007/factsfigures.shtml>

increased with more than 117 million women “missing” in Asia alone due to sex selective abortions as per latest report of the UNFPA.¹⁸ The Population Reference Bureau estimates that every year 1.5 million girls “are missing at birth”.¹⁹

The biologically normal sex ratio at birth (SRB) varies from 102 to 106 males per 100 females.²⁰ But the SRB has increased sharply in favour of boys due to sex selective abortions of female foetus due to son preference in the family.

2.2 India’s acute problem of female foeticide

The actual number of female foeticide in India is not known because of either incompetence or fudging of statistics. The Ministry of Statistics and Programme Implementation in its report, “*Children in India 2012 - A Statistical Appraisal*” of September 2012 stated that faster decline of sex ratio “led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001.”²¹ This is based on the fact that children population of 0-6 years was 78.83 million in 2001 and it declined to 75.84 million in 2011.²²

This assertion of the Ministry of Statistics and Programme Implementation, Government of India is patently false. The report of the Ministry of Statistics and Programme Implementation does not take into account that decadal growth of population from 1.028 billion in 2001 to 1.21 billion in 2011²³ which would have also resulted birth of more girls from 2001 to 2011 in actual

18. UNFPA, “Gender-biased sex selection.” <http://www.unfpa.org/gender-biased-sex-selection> accessed on 1 June 2016.

19. When Technology and Tradition Collide: From Gender Bias to Sex Selection, Kate Gilles and Charlotte Feldman-Jacobs, October 2012, Population Reference Bureau, available at <http://www.prb.org/Publications/Reports/2012/sex-selection.aspx>

20. Preventing gender-biased sex selection: an interagency statement OHCHR, UNFPA, UNICEF, UN Women and WHO. http://www.unfpa.org/sites/default/files/resource-pdf/Preventing_gender-biased_sex_selection.pdf

21. CHILDREN IN INDIA 2012 - A Statistical Appraisal, Ministry of statistics and Programme Implementation Government of India available at http://mospi.nic.in/mospi_new/upload/children_in_india_2012.pdf

22. Ibid

23. Census data of 2001 & 2011 available at: <http://censusindia.gov.in/>

terms. Further, census is conducted every 10 years and the CSR covering 0-6 years age group excludes those in 07-10 years age group and indeed does not reflect the actual number of missing girls during the decade.

According to the estimates of Asian Centre for Human Rights, during 1991 to 2011 a total of 25,49,3,480 girls went missing as a result of sex selective abortion as explained below.²⁴

As per the 2011 census report, total child population in the age group of 0-6 years was 7,58,37,152 females against 8,29,52,135 males during 2001 to 2011.²⁵ Based on the World Health Organisation's (WHO) estimate of natural sex ratio of 105 males for every 100 females²⁶, for 8,29,52,135 males, there would have been around 7,90,02033 females in the age group of 0-6 years instead of 7,58,37,152 girls. This means the total number of missing girls were 3,16,4,881 i.e. 7,90,02033 females ideally to be born in the age group of 0-6 years minus 7,58,37,152 actually born in the age group of 0-6 years which is about 5,27,480 girls per age group. As the census is conducted every 10 years, it is indispensable to take into account those in the age group of 7-10 years to find out the exact number of missing girls in a decade. If a total of 3,16,4,881 girls in the age group of 0-6 years or 5,27,480 girls per age group went missing, another 21,09,920 girls in the age group of 7-10 years (5,27,480 girls per age group x 4 years) also went missing. This implies that a total of 52,74,801 girls altogether went missing during 2001 and 2011 from 0-10 years.

24. The claim of the Ministry of Statistics and Programme Implementation Government of India in its report, "CHILDREN IN INDIA 2012 - A Statistical Appraisal" of September 2012 that declining ratio of girl share of girls in 0-6 years faster than that of boys of 0-6 years "has led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001" is highly flawed. It does not take into account increase of population from 2001 to 2011 in absolute term which had impact on population growth rate. Further, this is not the correct figures of the missing girls in India as census is conducted every 10 years and covering 0-6 years age group excludes those in 07-10 years age group. The report is available at http://mospi.nic.in/Mospi_New/upload/Children_in_India_2012.pdf

25. Census 2011, <http://censusindia.gov.in/>

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

Similarly, as per 2001 census, there were a total of 78,820,411 females in 0-6 years age group against 84,999,203 males.²⁷ Based on the WHO's estimate of natural sex ratio of 105 males for every 100 females²⁸, there would have been 8,09,51,622 girls in 2001 census instead of 78,820,411 girls. This means the total number of missing girls were 1,21,31,211 (8,09,51,622 - 7,88,20,411) in the age group of 0-6 or average of 20,21,869 girls missing per age group during 1991 to 2001. Taking into account those in the age group of 7-10 years, another 80,87,476 (20,21,869 x 4) also went missing during 1991 to 2001. This implies that a total of 2,02,18,687 girls were missing altogether during 1991 and 2001 in the age group of 0-10 years.

Therefore, total number of girls missing as a result of sex selection during 1991 to 2011 was 25,49,3,480 or 1,27,4674 girls every year.

Against missing girls of over 1.2 million girls every year as a result of sex selective abortion, the NCRB recorded only 1,959 cases of foeticide from 1994 to 2014. These included 107 in 2014, 221 in 2013, 210 in 2012, 132 in 2011, 111 in 2010, 73 in 2009, 73 in 2008, 96 in 2007, 125 in 2006, 86 in 2005, 86 in 2004, 57 in 2003, 84 in 2002, 55 in 2001, 91 in 2000, 61 in 1999, 62 in 1998, 57 in 1997, 39 in 1996, 38 in 1995 and 45 in 1994.²⁹

According to NCRB, 1,663 cases of foeticide were reported across India in the last 15 years from 2001 to 2015. These included 55 cases in 2001, 84 cases in 2002, 57 cases in 2003, 86 cases in 2004, 86 cases in 2005, 125 cases in 2006, 96 cases in 2007, 73 cases in 2008, 123 cases in 2009, 111 cases in 2010, 132 cases in 2011, 210 cases in 2012, 221 cases in 2013, 107 cases in 2014, and 97 cases in 2015. Among the States, Madhya Pradesh topped with 360 cases followed by Rajasthan (255), Punjab (239), Maharashtra (155), Chhattisgarh (135), Haryana (131), Uttar Pradesh (93), Delhi (69), Karnataka (60), Gujarat

27. http://censusindia.gov.in/Census_Data_2001/India_at_glance/broad.aspx

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

29. NCRB, Crime in India reports from 2004 to 2013, available at: <http://ncrb.gov.in/>

(52), Andhra Pradesh (30), Himachal Pradesh (25), Bihar and Jharkhand (10 each), Odisha (6), Kerala, West Bengal and Andaman and Nicobar Islands (5 each), Jammu and Kashmir and Sikkim (4 each), Assam (2), and Tamil Nadu, Uttarakhand, Chandigarh and Dadra and Nagar Haveli (1 each).³⁰

Although, the NCRB has been collecting data on foeticide over the years, it started collecting data on female foeticide only from 2014. It recorded 39 cases of female foeticide in 2015 and 50 cases in 2014. The State/UT-wise data relating to female foeticide is given in the table below:³¹

In two years from 2014 to 2015, the NCRB recorded 59 cases of female foeticide across India. Madhya Pradesh topped in female foeticide with 23 cases, followed by Rajasthan (12), Maharashtra (10), Punjab and Uttar Pradesh (9 each), Telengana (8), Haryana (6), Chhattisgarh (5), Himachal Pradesh (3), Karnataka, Tamil Nadu, Uttarakhand and Delhi (1 each). As per Census 2011, three states with most adverse child sex ratios namely Punjab, Haryana and Jammu & Kashmir had reported 9, 6 and 0 cases respectively.

The 2011 census reflected a grim picture of the missing girls in India and the entire country is affected by declining low child sex ratio as the analysis of the CSR of age group of 0-6 years establishes.

First, as many as in 24 States/UTs, the CSR remains much below the normal or desirable range of 950 or more girls per 1000 boys. These States/UTs include Jammu & Kashmir (862), Himachal Pradesh (909), Punjab (846), Chandigarh (880), Uttarakhand (890), Haryana (834), NCT of Delhi (871), Rajasthan (888), Uttar Pradesh (902), Bihar (935), Nagaland (943), Manipur (936), Jharkhand (948), Odisha (941), Madhya Pradesh (918), Gujarat (890), Daman & Diu (904), Dadra & Nagar Haveli (926), Maharashtra (894), Andhra Pradesh (939), Karnataka (948), Goa (942), Lakshadweep, and Tamil Nadu (943).

30. See NCRB's Crime in India report series from 2001 to 2015

31. Statement of J P Nadda, Minister of Health and Family Welfare, Government of India in the Lok Sabha on 11.12. 2015, <http://164.100.47.192/Loksabha/Questions/QResult15.aspx?qref=26479&lno=16>

Second, 21 States namely Jammu & Kashmir, Uttarakhand, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Nagaland, Manipur, Tripura, Meghalaya, Assam, West Bengal, Jharkhand, Odisha, Chhattisgarh, Madhya Pradesh, Daman & Diu, Dadra and Nagar Haveli, Maharashtra, Andhra Pradesh and Lakshadweep recorded declining trend of CSR in 2011 census.

Third, the CSR of 9 States/UTs have shown an increase but still far short of the desirable CSR of 950 or above in 2011 census. These include Himachal Pradesh (909), Punjab (846), Chandigarh (880), Haryana (834), NCT of Delhi (871), Gujarat (890), Karnataka (948), Goa (942) and Tamil Nadu (943). What is disturbing is the fact that CSR of some of the States/UTs are below 900.

Fourth, States/UTs with CSR more than desirable 950 are Arunachal Pradesh (972), Sikkim (957), Mizoram (970), Tripura (957), Meghalaya (970), Assam (962), West Bengal (956), Chhattisgarh (969), Kerala (964), Puducherry (967) and Andaman and Nicobar Islands (968) but five states from the Northeast namely Nagaland, Manipur, Tripura, Meghalaya and Assam had shown a decreasing trend.

Table 1: Child Sex Ratio in India (2001-2011)

S. No.	State/UTs	Child Sex Ratio (0-6)	
		2001	2011
	INDIA	927	919
1	JAMMU & KASHMIR	941	862
2	HIMACHAL PRADESH	896	909
3	PUNJAB	798	846
4	CHANDIGARH	845	880
5	UTTARAKHAND	908	890
6	HARYANA	819	834
7	NCT OF DELHI	868	871

8	RAJASTHAN	909	888
9	UTTAR PRADESH	916	902
10	BIHAR	942	935
11	SIKKIM	963	957
12	ARUNACHAL PRADESH	964	972
13	NAGALAND	964	943
14	MANIPUR	957	936
15	MIZORAM	964	970
16	TRIPURA	966	957
17	MEGHALAYA	973	970
18	ASSAM	965	962
19	WEST BENGAL	960	956
20	JHARKHAND	965	948
21	ODISHA	953	941
22	CHHATTISGARH	975	969
23	MADHYA PRADESH	932	918
24	GUJARAT	883	890
25	DAMAN & DIU	926	904
26	DADRA & NAGAR HAVELI	979	926
27	MAHARASHTRA	913	894
28	ANDHRA PRADESH	961	939
29	KARNATAKA	946	948
30	GOA	938	942
31	LAKSHADWEEP	959	911
32	KERALA	960	964
33	TAMIL NADU	942	943
34	PUDUCHERRY	967	967
35	A & N ISLANDS	957	968

Changes in CSR at the district level were more pronounced. Out of the total 640 districts in the country, 429 districts had witnessed decline in CSR. Of these, 26 districts recorded drastic decline (of 50 points or more), and 52 districts reported sharp decline (of 30-49 points). An overwhelming number of districts also experienced moderate (of 10-29 points) or marginal (less than 10 points) decline in CSR. As per Census 2011, the decline in CSR had spread from largely urban and prosperous areas to rural, remote and tribal pockets of the country.³²

The 2011 census data further revealed that CSR fell far more sharply in villages than in urban areas during 2001-2011. Though the urban CSR was far worse than that in rural areas, the fall in CSR in rural areas was around four times more than that in urban areas. Between 2001 and 2011, rural India's CSR fell by 15 points as opposed to urban India's four-point decline.³³

Table 2: Fact sheet on female foeticide and female infanticide in India

Number of missing girls due to sex selection during 1991-2011	25,49,3,480 i.e. 25.49 million
Number of missing girls due to sex selection per year	12,74,674 i.e. 12.74 million
Number of cases registered under the Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (PC&PNDT Act) from 1994-2014	2,021
Number of cases registered under the PC&PNDT Act per year	101

32. "Missing...Mapping the Adverse Child Sex Ratio in India Census 2011" Office of the Registrar General and Census Commissioner, India <http://www.censusindia.gov.in/2011census/missing.pdf>

33. Sex test hits rural India, UNFPA, July 2011 available at <http://www.unfpa.org/resources/sex-tests-hit-rural-india>

Number of conviction secured under the PC&PNDT Act from 1994-2014	206
Ratio of cases registered against missing girls	1 (one) case approximately per 12,614 missing girls due to sex selection
Number of conviction under the PC&PNDT Act	1 conviction per 123,755 missing girls due to sex selection or sex determination
Number of States/Union territories which had not registered a single case under the PC&PNDT Act since 1994	14 ¹
Number of States/Union territories which had not secured as single conviction under the PC&PNDT Act since 1994	23 ²
Top 10 States with cases of infanticide (As per NCRB's Crime in India reports from 2001 to 2015)	i) Uttar Pradesh, ii) Madhya Pradesh, iii) Tamil Nadu, iv) Maharashtra, v) Chhattisgarh, vi) Karnataka, vii) Punjab, viii) Andhra Pradesh, ix) Haryana and x) Gujarat
Top 10 States with cases of foeticide (As per NCRB's Crime in India reports from 2001 to 2015)	i) Madhya Pradesh, ii) Rajasthan, iii) Punjab, iv) Maharashtra, v) Chhattisgarh, vi) Haryana, vii) Uttar Pradesh, viii) Delhi, ix) Karnataka and x) Gujarat

<p>Top 10 states with skewed CSR as per 2011 census</p>	<p>i) Haryana, ii) Punjab, iii) Jammu & Kashmir, iv) NCT of Delhi, v) Chandigarh, vi) Rajasthan, vii) Gujarat, viii) Maharashtra, ix) Uttarakhand and x) Uttar Pradesh</p>
<p>Top 10 states with skewed SRB (Sample Registration System Statistical Report-2013)</p>	<p>Haryana, Punjab, Uttar Pradesh, Delhi, Rajasthan, Jammu & Kashmir, Maharashtra, Gujarat, Bihar and Jharkhand</p>

3. CORPORATE CRIMINALITY DEFINED

Amnicentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in fetuses.³⁴

By mid 1980s, it started spreading and NGOs especially women rights groups and health activists and social activists launched a campaign for prohibition of sex selection. The campaign resulted in the State Government of Maharashtra appointing a committee, 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, the Government of India enacted the Pre-Natal Diagnostic Techniques Act, 1994 (PNDT Act).

3.1 Section 26 of the PC&PNDT Act

One of the critical elements of the PC&PNDT Act that came into force from 1 January 1996 was to fix the liability on the companies including manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus.

Section 26 of the PC&PNDT Act provided the following:

“Offences by companies.- 1. Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to the company for the conduct of the business of the company, 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:

34. Amnicentesis was first introduced in India in 1975 by the All- India Institute of Medical Sciences (AIIMS), Delhi for detecting congenital deformities in foetuses. Please see <http://wcd.nic.in/Schemes/research/savegirlchild/3.pdf> 51. See

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. . 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 firm or other association of individuals, and
- (b) ”director”, in relation to a firm, means a partner in the firm.”

3.2 Section 3(a) of the PC&PNDT Rules relating to ultrasound machines

Rule 3A of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 2003 spelled out the responsibility of the manufacturers on sale of ultrasound machines/machines. It provides as under:³⁵

“3A. Sale of ultrasound machines/imaging machines.—

(1) No organization including a commercial organization or a person, including manufacturer, importer, dealer or supplier of ultrasound machines/imaging machines or any other equipment, capable of detecting sex of foetus, shall sell, distribute, supply, rent, allow or

35. PC&PNDT Rules 2003 available at: http://www.medlineindia.com/acts/PNDT_Amendment_Rules_2003.htm

authorize the use of any such machine or equipment in any manner, whether on payment or otherwise, to any Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other body or person unless such Centre, Laboratory, Clinic, body or person is registered under the Act.

(2) The provider of such machine/equipment to any person/body registered under the Act shall send to the concerned State/UT Appropriate Authority and to the Central 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, dealer 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 the Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic, Imaging Centre or any other 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) No manufacturer will activate the ultrasound machine until and unless the organization/hospital buying the ultrasound machine have valid PNDT certificate (FORM-B)

About the sale of equipment [Rule 3 A]

[State governments may issue circular/s supplementing the Act providing instructions to manufacturers]

1. Sale or use of Ultrasound machines at a place/centre not registered under this Act is prohibited by the law. Distributing, supplying, lending, renting, authorizing, handing over of any such machine to an unregistered centre/place under the Act is also prohibited [Section 3B and Rule 3A(1)]

2. Any person* that sells/provides machines is bound by law to send to the Appropriate Authority of the Centre/State every three months the list of buyers/recipients of ultrasound machines/equipments as well as the details of the machines sold/provided [Section 3A (2)]

3. Any person*buying such a machines is bound by the law to submit an affidavit undertaking that the said machine will not be used for sex determination or sex selection before or after conception[Section 3A (3)]

4. Manufacturer/dealer will submit its quarterly report of sales to the Appropriate Authority (even if it is a nil report)

5. Manufacturer/dealer to report to the SAA about old machines/equipment purchased or bought back from buyers/purchasers.

* Person includes association of persons, body of individuals and a company

Source: Standard Operating Procedures on Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Ministry of Health and Family Welfare, Government of India In Collaboration with United Nations Population Fund

3.3 Section 3(b) of the PC&PNDT Rules relating to portable ultrasound machines

The use of portable ultrasound machines or any other portable machine or device which has the potential for selection of sex before

conception or detection of sex during pregnancy is permitted only in the following conditions as per Rule 3B as per the PC&PNDT Amendment Rules, 2012:

- a) the portable machine being used, within the premises it is registered, for services to the indoor patients
- b) as a part of a mobile medical unit, offering a bouquet of other health services. Other health and medical services has been defined as the host of services provided by the mobile medical unit which may include curative/reproductive and child health services/family planning services/diagnostic/specialised facilities and services/emergency services as per the Rule.

The Ministry of Health and Family Welfare further clarified on 9 October 2014 that “other health and medical services” means a host of services provided by the mobile medical unit which include curative, reproductive and child health services, family planning services, diagnostic investigation, specialized facilities & services and emergency services as specified under Explanation from (i) to (vi) under Rule 3B (1).

The Ministry of Health and Family Welfare further clarified that with regard to regulation of services to be offered by mobile Genetic under Rule 3B (2), the following have been prescribed-

- (a) A Mobile Genetic Clinic shall operate -and offer pre-natal diagnostic techniques, only as part of a Mobile Medical Unit offering a bouquet of other health and medical services in urban slums, or rural or remote or hilly or hard to reach areas for improved access to health care services by under-served populations.
- (b) The machine under no circumstances shall be used for sex determination of the foetus.
- (c) The stand alone mobile ultrasound clinics offering only pre-natal diagnostic facilities are prohibited;

(d) The mobile unit offering diagnostic services shall have adequate space for providing the facilities to patients..

3. A close reading of the provisions of Rule 3B (1) and 3B (2) of the PC&PNDT Rules, 1996, clearly reveals that there is no ambiguity in the rules needing further clarification.

4. It is therefore reiterated that portable machines/portability of ultrasound machines are banned except under the circumstances specified above.

The format for certificate of registration for mobile medical unit is provided in the following way:

Name and Type of the centre, area of operation (not to exceed the district wherein it is registered, the number of portable machines installed and being used in the vehicle, detailed information regarding the machines (model No. make and full description of all machines and Probes), registration number of vehicle for the mobile medical unit [Rule 6 (2A) (b)].

The portable equipment used for conducting prenatal diagnostic test shall be an integral part of mobile medical unit and such equipment shall not be used outside such unit under any circumstances.

* One copy of the registration certificate shall be displayed by the registered mobile medical unit inside the vehicle at a conspicuous place

* In case of break down of vehicle or for any other reason due to which the registered unit cannot be used as a Genetic Clinic, the Appropriate Authority has to be informed with in a period of seven days. [Rule 6 (2A) (2B) (2C)]

* The provisions pertaining to renewal and fresh registration mentioned above for centres/facilities shall also apply in the case the mobile medical unit too.

However, ultrasound machines can be bought online and this makes the entire rule ineffective.

4. POWERS OF THE APPROPRIATE AUTHORITIES

As per Rule 18-A (7) and (8) of PC&PNDT Amendment Rules, 2014 empower the Appropriate Authorities to regulate the use of ultrasound equipment; monitor the sales and import of USG machines; ensue regular quarterly reports from ultrasound manufacturers and dealers; conduct periodical survey and audit of all USG machines sold and operating in the State; and file complaint against any unregistered owner or seller of the USG machine. Further, Sub-rule(2) of Rule 11(2) of Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 authorises the Appropriate Authorities to seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus.

4.1 Powers of the Appropriate Authorities

As per Rule 18-A (7) of PC&PNDT Amendment Rules, 2014, all the Appropriate Authorities were required to regulate the use of ultrasound equipment; monitor the sales and import of USG machines; ensue regular quarterly reports from ultrasound manufacturers and dealers; conduct periodical survey and audit of all USG machines sold and operating in the State; and file complaint against any unregistered owner or seller of the USG machine.³⁶

Rule 18-A (7) of PC&PNDT Amendment Rules, 2014 provides:

(7) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following regulation of ultrasound equipments, namely:—

- (i) monitor the sales and import of ultrasound machines including portable or buyback, assembled, gift, scrap or demo;

36. See http://cg.nic.in/health/pcpndt/Documents/GuidLine_02_21072016.pdf

- (ii) ensue regular quarterly reports from ultrasound manufacturers, dealers, wholesalers and retailers and any person dealing with the sales of ultrasound machines at the State level;
- (iii) conduct periodical survey and audit of all the ultrasound machines sold and operating in the State or district to identify the unregistered machines;
- (iv) file complaint against any owner of the unregistered ultrasound machine and against the seller of the unregistered ultrasound machine.

Rule 18-A (8) of PC&PNDT Amendment Rules, 2014 also provides:

(8) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for inspection and monitoring, namely:—

- (i) conduct regular inspection of all the registered facilities once in every ninety days and shall preserve the inspection report as documentary evidence and a copy of the same be handed over to the owner of facility inspected and obtain acknowledgement in respect of the inspection;
- (ii) place all the inspection reports once in three months before the Advisory Committee for follow up action;
- (iii) maintain bimonthly progress report containing number of cases filed and persons convicted, registration made, suspended or cancelled, medical licenses cancelled, suspended, inspections conducted, Advisory Committee meetings held at the district level and quarterly progress report at the State level;
- (iv) (a) procure the copy of the charges framed within seven days and in the case of doctors, the details of the charges framed shall be submitted within seven days of the receipt of copy of charges framed to the State Medical Council; (b) procure the certified copy of the order of conviction as soon as possible and in the case of conviction of the doctors, the certified copy of the order of conviction shall be submitted within seven days of the receipt of copy of the order of conviction.

Yet these measures have not been fully implemented despite the fact that the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, under Rule 11, for sub-rule (2) provides that *“The Appropriate Authority or the officer authorised by it may seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus, used by any organization if the organization has not got itself registered under the Act. These machines of such organizations shall be confiscated and further action shall be taken as per the provisions of the Section 23 of the Act.”*

The non-compliance by the companies became one of the critical issues for the Supreme Court of India while disposing of the Writ Petition (Civil) No. 349/2006 in *Voluntary Health Association of Punjab Vs Union of India & Others*. Further, the Supreme Court specifically noted the use of portable ultrasound machines. In its order dated 04.03.2013, the Supreme Court stated *“the Central Government vide GSR 80(E) dated 7.2.2002 issued a notification amending the Act and regulating usage of mobile machines capable of detecting the sex of the foetus, including portable ultrasonic machines, except in cases to provide birth services to patients when used within its registered premises as part of the Mobile Medical Unit offering a bouquet or other medical and health services. The Central Government also vide GSR 418(E) dated 4.6.2012 has notified an amendment by inserting a new Rule 3.3(3) with an object to regulate illegal registrations of medical practitioners in genetic clinics, and also amended Rule 5(1) by increasing the application fee for registration of every genetic clinic, genetic counselling centre, genetic laboratory, ultrasound clinic or imaging centre and amended Rule 13 by providing that an advance notice by any centre for intimation of every change in place, intimation of employees and address. Many of the clinics are totally unaware of those amendments and are carrying on the same practises.”*

The Supreme Court in its order dated 04.03.2013 in *Voluntary Health Association of Punjab Vs Union of India & Others* directed the following with respect to the manufacturers/ retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus:

“5. States and District Advisory Boards should ensure that all manufacturers and sellers of ultra-sonography machines do not sell any machine to any unregistered centre, as provided under Rule 3-A and disclose, on a quarterly basis, to the concerned State/Union Territory and Central Government, a list of persons to whom the machines have been sold, in accordance with Rule 3-A(2) of the Act.

.....

7. Steps should also be taken by the State Government and the authorities under the Act for mapping of all registered and unregistered ultra-sonography clinics, in three months time.”

Despite blatant violations of the Section 26 PC&PNDT Act and Rule 3 of the PC&PNDT Act as found out by the CAG, no effective measures have been taken to implement the Supreme Court directions dated 04.03.2014. The Minister of State in the Ministry of Health And Family Welfare Smt. Anupriya Patel while replying to the Lok Sabha Unstarred Question No. 1665 on 10 March 2017 stated the following with respect to implementation of these directions: *“As per directions given by Hon’ble Supreme Court in Writ Petition (Civil) No. 349/2006 – Voluntary Health Association of Punjab Vs Union of India & Others vide Order dated 04.03.2013, all States/UTs were directed to take steps for mapping of all registered and unregistered ultrasonography machines. The Ministry of Health and Family Welfare has developed the Terms of Reference (TORs) and communicated the same to States/UTs. The Government is also rendering financial support under the National Health Mission (NHM) to the States and UTs for mapping of Ultrasound machines.”*

The Government of India has admitted that the task *“for mapping of all registered and unregistered ultra-sonography clinics, in three months time”* as directed by the Supreme Court could not completed in three years time.

5. NON COMPLIANCE BY THE COMPANIES

As per Section 3A of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules of 2003, the manufacturers/retailers/ importers/ refurbishers of diagnostic equipment capable of detecting the sex of the foetus are required to register first under specified format and send the list of those to whom the equipment/ machine has been sold, distributed, rentedg etc to any diagnostic facility once in three months to the concerned State/ UT Appropriate Authority and to the Central Government.

However, there has been blatant violations of this provision.

5.1 Non compliance by the companies and the government: The CAG reports

The findings during the audit by the CAG indicate that effectively no action is being initiated against the companies for their criminal failure to comply with the PC&PNDT Act.

Uttar Pradesh

In Uttar Pradesh, there manufacturers/dealers of USG machines did not submit regular reports as required under PC&PNDT Rules. Most importantly, the authorities failed to call any such information regarding sale, installation and possession of USG equipment from the manufacturers, suppliers, dealers etc.

The Comptroller an Auditor General (CAG) of India found in Uttar Pradesh that from 2010-11 to 2014-15 found that the SAAs/DAAAs did not take any action for mapping of sale of Ultrasonography (USG) equipment and also did not call for any information regarding sale, installation and possession of USG equipment from the manufacturers, suppliers, dealers, etc. Consequently, the number of USG equipment installed and the location of their placement

were not known to the authorities to regulate the use of all the ultrasound machines.³⁷

Odisha

As per Rule 3A (2) of the PC&PNDT Rule, the provider/seller of ultrasound machine/ equipment to any person/ body registered under the Act has to send to the concerned State Appropriate Authority, once in three months a list of those to whom such machine/equipment were sold/provided. However, the manufacturers/dealers did not submit sales list and affidavit by the purchasers.

The CAG during audit noticed that during 2010-13, the manufacturers/suppliers/dealers who supplied USG machines in Odisha did not submit the quarterly sales list to the SAA. In January 2013, the State PNDT Cell asked them to submit the list. Thereafter, only five out of 11 manufacturers furnished sales list to the SAA, but did not furnish affidavits received from the purchasers. Surprisingly, the SAA did not insist for the same.

The CAG audit further noticed that the sales list furnished by the suppliers did not contain the registration numbers in case of machines supplied to four clinics/ persons/organisations. The CAG observed that in the absence of detailed information on the ownership of the ultrasound machines with the SAA, there was scope for misutilisation of machines by unregistered clinics and their use for determination of sex could not be ruled out. In response, the Director, Family Welfare-cum-SAA while acknowledging the fact assured in April 2014 to take care of this aspect in future.³⁸

However, the manufacturers/suppliers/dealers failed to submit report timely. On 19 December 2014, the Director, Family Welfare, Odisha cum – State Appropriate Authority (SAA), PC&PNDT Act stated during a review meeting

37. Report of the Comptroller and Auditor General of India For the Year Ended 31 March 2015 'Performance Audit on Empowerment of Women' Government of Uttar Pradesh, Report No. 3 of 2016 http://www.cag.gov.in/sites/default/files/audit_report_files/Chapter_3_Missing_Daughters_Report_3_2016_Uttar_Pradesh.pdf

38. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013, Government of Odisha Report No.5 of the year 2014 http://cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf

of USG/ Suppliers/ Dealers that only a few manufacturers and dealers were submitting timely report to the State Appropriate Authority.³⁹

Further, the Director, Family Welfare, Odisha cum SAA informed as under:⁴⁰

- 806 machines were sold to 748 Registered Ultrasound Units as on 30 September 2014.
- Of the total ultrasound machine sales, manufacturers had reported sale of only 278 (34%) machines, indicating under reporting. 66% sales was not reported by manufacturers and dealers. While one Rabindra Surgical had not made a single reporting during the period.
- 598 functional machines were available. Service Status to 208 non-functional machines remained unknown. Further, Ultrasound Machines at District Headquarter Hospital were defunct in 16 districts.

Gujarat

The CAG in its Audit Report on General and Social Sector upto the year ended March 2014 of State Government of Gujarat found that out of 33 manufacturers/suppliers/dealers who applied for registration in the State, only two manufacturers had submitted the list for the quarter ending March 2014. The CAG Audit observed that these existing manufacturers/suppliers/dealers were not furnishing the list regularly every quarter and no efforts were made by the State Appropriate Authority either to obtain the list on regular basis or to issue show cause notice for contravention of the Rule provision. The CAG also observed in its report that some 14 clinics were booked by DAAs for using sonography machines without registration but the authorities had not initiated any action against the manufacturer or even the supplier who had provided the equipment to these 14 clinics.⁴¹

39. Annual Report 2014-2015 State PC&PNDT Cell, Directorate of Family Welfare, Government of Odisha

40. Annual Report 2014-2015 State PC&PNDT Cell, Directorate of Family Welfare, Government of Odisha

41. Report of the Comptroller and Auditor General of India on General and Social Sector for the year ended March 2014 Government of Gujarat Report No. 6 of 2014 http://cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_6_2015.pdf

In November 2014, the Joint Secretary of the Health and Family Welfare Department stated that all registered manufacturers/suppliers/dealers would be instructed to submit quarterly report of the transactions carried out in the State and statutory actions would be initiated against any unlawful sale/transactions.⁴²

Rajasthan

In September 2010, the PC&PNDT Cell of Rajasthan filed a complaint in the court of chief judicial magistrate, Jaipur against 23 suppliers/manufacturers of ultrasound machines across the State who failed to register the sale of a single machine in the three quarters from April to December 2009. The action was taken against the companies after they failed to reply to the notices and after collecting the bill of sales from various districts as evidence of the machines sold in order to fix responsibility. The companies named in the complaint include some of the major global companies in diagnostics - Wipro GE Health Care, Erbis Engineering Co Ltd, Pioneer Medical System, Philips Electronics India Ltd, Maestros Mediline Systems Ltd and Trivitron health care.⁴³

This was the first time that any state government had decided to take steps against the companies selling ultrasound machines. However, the initiative had died down with time.

On 15 April 2015, the Rajasthan High Court in *SK Gupta v. Union of India* noted the slow pace of implementation of the PC&PNDT Act. The High Court directed the State Government of Rajasthan, among others, to ensure that: *“Every sale of the ultrasound sonography machine whether static or portable under section 3(B) of the PCPNDT Act will be reported by the manufacturers to the State Appropriate Authority. The manufacturing companies and dealers will*

42. Report of the Comptroller and Auditor General of India on General and Social Sector for the year ended March 2014 Government of Gujarat Report No. 6 of 2014 http://cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_6_2015.pdf

43. Rajasthan govt goes after firms making ultrasound scanners, The Times of India, 25 September 2010 <http://timesofindia.indiatimes.com/india/Rajasthan-govt-goes-after-firms-making-ultrasound-scanners/articleshow/6623479.cms>

*obtain sufficient proof of the registration or application for registration before sale of the machine. The reporting will also include the sale of the second hand ultrasound sonography machine with the proof of sale to be registered as PCPNDT clinic. Every sale of machine in violation of these directions will be treated as unauthorized sale, on which the machine will be liable to be seized.*⁴⁴

However, the State Government failed to take any action which evoked strong reaction from the Rajasthan High Court on 27 July 2015. The High Court stated that the State Government not only lacked the will to implement the PC&PNDT Act but also appeared to be in wilful and deliberate defiance of the orders of the Court. The High Court observed “.....we are distressed to find that the compliance report does not even mention the name of the manufacturers and the dealers, nor any material has been annexed to show that the directions issued on 15th April, 2015 have been communicated to the manufacturers of the ultrasound machines and the dealers. In the absence of any such report, we are unable to accept the statement that every manufacturer has been required to instal a Global Positioning System (GPS) on the ultrasound machines and that the ultrasound machines sold after 15th April, 2015 have been installed with Global Positioning System.”⁴⁵

Delhi

According to the data base of registered manufacturers/dealers/retailers etc maintained by the Department of Health and Family Welfare, Government of Delhi, 51 companies were registered. As per the information, the latest registration was issued on 11 May 2016. Out of the 51 companies, registrations of at least 21 companies had expired. It is not known whether these companies had re-applied for registration or not. These companies were Medi Works, BNS Health Aids, Cardio Products, Concept Imaging, MIT World, Beam X Medical, Equinox Medical Equipments, Gippyz Medical, Asia Medical, Space

44. D.B.Civil Writ Petition (PIL) No.3270/2012, Rajasthan High Court, 27.7.2015 <http://ecourts.gov.in/sites/default/files/sk%20gupta%20vs%20union%20of%20indian.pdf>

45. D.B.Civil Writ Petition (PIL) No.3270/2012, Rajasthan High Court, 27.7.2015 <http://ecourts.gov.in/sites/default/files/sk%20gupta%20vs%20union%20of%20indian.pdf>

Healthcare, Sai Sai Agencies, Atharva Medicals, Myra Healthcare, Moon Electro Medicals, ERBIS Engineering Co. Ltd, BCF Technology, RMD Mediaids, Mindray Medical India, Trivitron Healthcare Pvt. Ltd., Collelateral Medical Private Limited, and HT Ultrasound Pvt. Ltd.⁴⁶

A. The case of maintaining no records: Assam

In most of the cases, the compliance is left to the mercy of the manufacturers/suppliers. ACHR has filed applications under the Right to Information (RTI) Act seeking information from Assam.

According to information received under the RTI Act, quarterly reports on the sale of USG machines by manufacturers/dealers were submitted to the State appropriate authority of Assam from 2010 to 2015 are as follows:

- i) Wipro GE Healthcare, Bangalore – sold to 11 customers namely Sanjivani Diagnostics & Hospital; Catholic Hospital Borgang, Sonitpur; Dr Tapan Deka, Narlabri Maternity Home, Nalbari; Dr. (Mrs) Minaxee Thakur, Jorhat; Goenka Nursing Home Pvt Ltd, Guwahati; Golaghat Nursing Home Pvt. Ltd, Golaghat; Mrs. Sonali Choudhury, Cachar; Principal-cum-Chief Superintendent Assam Medical College, Dibrugarh; Goenka Nursing Home Pvt Ltd, Guwahati; Silchar Heart Care and Research Centre Private Limited, Silchar; and Swagat Hospitals Pvt Ltd. during 1 April 2015 to 30 June 2015⁴⁷
- ii) Erbis Engineering Co. Ltd, Kolkata sold to Sono Scan Centre, Dhamaji during 1 July 2015 to 30 September 2015⁴⁸

46. See <http://delhi.gov.in/wps/wcm/connect/183bea804cf3c6d3b9e0fdddef674405/uploade24665.pdf?MOD=AJPERES&lmod=33569810&CACHEID=183bea804cf3c6d3b9e0fdddef674405>

47. Report on sale of ultrasound machines by Wipro GE Healthcare submitted to Director (Family Welfare), Government of Assam vide letter No. 20 July 2015 & 14 October 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSF/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

48. Report on sale of ultrasound machines by Erbis Engineering Co. Ltd (Toshiba) submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 12 November 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSF/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

- iii) Synchronic Medical Systems, Guwahati sold six ultrasound scanners make Mindray to Dr. S Bagchi's Clinic and Laboratory, Hozai; M/S Daisy Scan Lab, Bokajan, Karbi Anglong; Rajdhani X-Ray Clinic, Nagaon; Star Lab, Nagaon; Pratiksha Hospital, Guwahati; and Nilbagan Ultrasound Clinic, Nilbagar, Hojai during 1 January 2015 to 31 March 2015⁴⁹
- iv) Fujifilm SonoSite India Pvt. Ltd, Gurgaon, Haryana reported Nil sale/ installation of USG machines in Assam during July 2015 to September 2015⁵⁰
- v) Synchronic Medical Systems, Guwahati sold six ultrasound scanners make Mindray to KK Civil Hospital, Golaghat; Maternity & Child Welfare, Guwahati; Sibsagar Civil Hospital, Sibsagar; Ultrasound Clinic Government Ayurvedic College & Hospital, Guwahati; Ovale Diagnostic Centre, Kamrup; and Bharat Lab, Nagaon during 1 April 2015 to 30 June 2015⁵¹
- vi) Synchronic Medical Systems, Guwahati sold eight ultrasound scanners make Mindray to Pioneer Hospital and Research Centre, Nagaon; Railway Hospital, Dibrugarh; North Lakhimpur Civil Hospital, Saboti, North Lakhimpur; District Hospital, Sonapur; Dibrugarh State Dispensary, Digrugarh; AMCH (OB&GYN), Dibrugarh; Teok FRU, Jorhat; and North Lakhimpur Civil Hospital, North Lakhimpur during 1 July 2015 to 31 September 2015⁵²

49. Report on sale of ultrasound machines by Synchronic Medical Systems, Guwahati submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 18 February 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

50. Report on sale of ultrasound machines by FujiFilm SonoSite India Pvt. Ltd. Gurgaon, Haryana submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 15 October 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

51. Report on sale of ultrasound machines by Synchronic Medical Systems, Guwahati submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 27 June 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

52. Report on sale of ultrasound machines by Synchronic Medical Systems, Guwahati submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 21 September 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

- vii) Wipro GE Healthcare, Bangalore – sold/supplied USG machines to eight customers namely Sanjeevani Hospital, Guwahati; Dr. Animesh Baruah, Jorhat; Panacea Medical Research & Diagnostic Centre, Guwahati; Health Care Diagnostic Centre Pvt. Ltd, Bhangagarh; D.G. Diagnostic Centre, Jorhat; Dr. (Mrs) Lakhimi Pathak, Guwahati; The Director, Dr. B Borooah Cancer Institute, Guwahati; and United Hospital & Research Centre Pvt Ltd during 1 January 2015 to 31 March 2015.⁵³
- viii) Fujifilm SonoSite India Pvt. Ltd, Gurgaon, Haryana reported Nil sale/ installation of USG machines in Assam during 1 January 2015 to 31 March 2015⁵⁴
- ix) Erbis Engineering Co. Ltd, Kolkata sold USG machines to five customers namely Medilab Diagnostic, Nagaon; Biomed Diagnostic, Silchar; Medilab Diagnostic, Nagaon; GD Hospital & Research Centre, Nagaon; and Badarpur Hospital, Karimganj during 1 January 2015 to 31 March 2015⁵⁵
- x) Samsung India Electronic Pvt. Ltd, Gurgaon, Haryana sold USG machines to six customers namely M R Agarwal Memorial Diagnostic and Hospital, Tinsukia; Health Clinic & Diagnostic Centre, Chiraili; Matrix Apace Imaging & Diagnostic Centre Pvt Ltd, Guwahati; Nirmala Health Care Centre, Goalpara; Nemcare Hospital, Guwahati; and Puspanjali Hosptal & Diagnostic Centre during January to July 2015⁵⁶

53. Report on sale of ultrasound machines by Wipro GE Healthcare submitted to Director (Family Welfare), Government of Assam vide letter No. 20 April 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

54. Report on sale of ultrasound machines by FujiFilm SonoSite India Pvt. Ltd. Gurgaon, Haryana submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 6 May 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

55. Report on sale of ultrasound machines by Erbis Engineering Co. Ltd (Toshiba) submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 29 June 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

56. Report on sale of ultrasound machines by Samsung India Electronics Pvt. Ltd submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No.27 July 2015 and 30 January 2015 obtained by

- xi) Philips India Ltd sold USG machines to two customers namely Amar Diagnostic Centre, Dhubri; and OIL India Hospital, Duliajan during 1 January 2015 and 31 March 2015.⁵⁷
- vi) Synchronic Medical Systems, Guwahati sold six ultrasound scanners make Mindray to customers namely Barthakur Clinic Pvt Ltd, Guwahati; Haflong Civil Hospital, Haflong; Perfect Diagnostic Centre, Barpeta; Digboi CHC, Digboi; Dispur Hospital Pvt Ltd, Guwahati; and Downtown Hospital Ltd, Guwahati during 1 July 2015 to 31 September 2015⁵⁸
- ix) Erbis Engineering Co. Ltd, Kolkata sold USG machines to two customers namely Amber Health & Nutrition P Ltd, Nagaon; Aditya Diagnostic Hospital and Research Centre, Dibrugarh; and Pal Lab Laboratory, Silchar during 1 April 2015 to 30 June 2015⁵⁹
- vi) Synchronic Medical Systems, Guwahati sold three ultrasound scanners make Mindray to customers namely Phoenix Diagnostic Centre, Guwahati; Dutta Scan Centre, Golaghat; and Phoenix Diagnostic Centre, Guwahati during 1 July 2015 to 31 September 2015⁶⁰

ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

- 57. Report on sale of ultrasound machines by Philips India Ltd submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 22 April 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act
- 58. Report on sale of ultrasound machines by Synchronic Medical Systems, Guwahati submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 16 July 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act
- 59. Report on sale of ultrasound machines by Erbis Engineering Co. Ltd (Toshiba) submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 16 September 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act
- 60. Report on sale of ultrasound machines by Synchronic Medical Systems, Guwahati submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 9 November 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSFW/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

- vi) BPL Medical Technologies Pvt Ltd, Bangalore supplied one Colour Doppler to Pragati Nursing Home, Nalbari during 1 July 2015 to 30 September 2015⁶¹

The State government of Assam has no information whether any company has not provided information about the sale of ultrasound machines in the State.

5.2 The challenge of portable machines

Portable machines are available randomly online. Further, they can be easily imported and indeed, imported machines have flooded the market. There is no provision with respect to import of ultrasound machines.

The use of widespread portable ultrasound machines for sex selection is rampant. As *The Daily News and Analysis* reported:

“March 2017: The Pune rural police arrested government doctor Madhukar Shinde for conducting banned sex determination tests on pregnant women.

January 2016: The Solapur police nab seven people, including four doctors in a sex determination racket.

July 2015: The Kolhapur police arrest seven people for this offence.

While pointing to gender determination and female foeticide rackets operating under the radar in Maharashtra, these incidents have another common thread running through them - the use of portable, unregistered sonography machines.

These machines, which are imported from countries like China, are often used by unqualified medical practitioners like Ayurvedic and Homoeopathic doctors and even quacks to “diagnose” the sex of the foetus. Adding to the

61. Report on sale of USG machine by BPL Medical Technologies Private Ltd, Bangalore submitted to Director of Health Services (Family Welfare), Government of Assam vide letter No. 13 October 2015 obtained by ACHR from Director of Health Services (FW), Assam cum SAA under PC&PNDT Act, Assam vide letter No. HSF/W/PNDT/RTI/33/2012/16589 dated 3 June 2016 under the RTI Act

worry of the authorities, these machines, which can be purchased online or at trade fairs for less than a lakh, can be used for sex determination in locations like mobile vans, fields and even houses without the authorities getting a whiff.

*Doctors claimed that though these machines are not as accurate as cart-based sonography machines, they can still be used for sex determination.*⁶²

In the absence of any regulation, the entire PC&PNDT Act becomes ineffective with the portable USG machines.

5.3 Veterinary doctors

The veterinary professionals have been providing diagnostic techniques with ultrasound facilities or imaging machines or scanner or any technology capable of undertaking determination of sex of foetus and sex selection. However, they were not brought under the ambit of the PC&PNDT Act though the Act provides that all the facilities having ultra-sound or imaging machines or scanner or any technology capable of undertaking determination of sex of foetus and sex selection, or render services to any of them has to be registered under the Act.

It was only on 13 October 2014 that the Central Supervisory Board in its 22nd Meeting held on 13th October 2014 on the Implementation of PC &PNDT Act, 1994 had recommended that all veterinary clinics/facilities providing diagnostic techniques services are required to be registered under the PC & PNDT Act, 1994. About a year later the Central Supervisory Board on 24th June, 2015 deliberated upon the qualification for using diagnostic procedures/ techniques including Ultra-Sound Machine by Veterinary Doctor-Reference.

Having deliberated upon the matter, it was decided that the minimum qualification should be B.V.Sc & AH with short duration training in

62. Female foeticide: Blame it on portable, unregistered sonography machines, The Daily News and Analysis, 15 March 2017, <http://www.dnaindia.com/health/report-portable-machines-used-in-sex-determination-2352951>

Radiology for providing diagnostic techniques with ultra-sound facilities or imaging machines or scanner or any technology capable of undertaking determination of sex of foetus and sex selection under Pre- Conception & Pre - Natal Diagnostic Test (PC &PNDT) Act,1994. In addition, Committee further decided that a No Objection Certificate from District Head of Animal Husbandry Department may also be taken so that proper record in this regard may also be maintained.⁶³

On 20th November 2013, it was reported that not a single sonography machine meant for veterinary purpose was registered with the department of animal husbandry. The Satara sex determination racket in Maharashtra was busted earlier, it was revealed that the machine was actually meant for veterinary purpose.⁶⁴

Dr Yamini Adbe, one of the members who busted the illegal sonography racket said, “Despite the animal husbandry directives, none of the entries have been made. The current machines are not registered with animal husbandry and is issued by Mumbai based firm.”

63. Minutes of the 86h Meeting of the Executive Committee of the Veterinary Council of India held on 12th October, 2015 at 11.00 A.M in the Committee Room of the Veterinary Council of India, 2 nd Floor, August Kranti Shawan, Bhikaji Cama Place, New Delhi - 110066. <http://www.vci.nic.in/writereaddata/86th%20meeeting.pdf>

64. Seized veterinary sonography machine illegal, The Daily News and Analysis, 20 November 2013, <http://www.dnaindia.com/pune/report-seized-veterinary-sonography-machine-illegal-1921780>

ANNEXURE I: PRECONCEPTION AND PRE-NATAL
DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX
SELECTION) RULES DATED 7 FEBRUARY 2012 RELATING
TO PORTABLE ULTRASOUND MACHINES

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (I)

PART II—Section 3—Sub-section (I)

प्राधिकार से प्रकाशित

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स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 7 फरवरी, 2012

सा.का.नि. 80(अ).— गर्भधारण पूर्व और प्रसव-पूर्व निदान तकनीक (लिंग चयन का प्रतिषेध) अधिनियम, 1994 की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्र सरकार एतद्वारा गर्भधारण पूर्व और प्रसव पूर्व निदान तकनीक (लिंग चयन का प्रतिषेध) नियमावली, 1996 में निम्नलिखित और संशोधन करती है अर्थात:-

1. (1) इन नियमों को गर्भधारण पूर्व और प्रसव-पूर्व निदान तकनीक (लिंग-चयन का प्रतिषेध) संशोधन-नियमावली, 2012 कहा जाएगा।

(2) ये नियम सरकारी राजपत्र में उनके प्रकाशन की तारीख को प्रभावी होंगे।

2. प्रसव-पूर्व निदान तकनीक (लिंग चयन का प्रतिषेध) नियमावली, 1996 (इसके बाद उक्त नियमावली के रूप में संदर्भित) के नियम 2 में खंड (च) के पश्चात् निम्नलिखित खंडों को अंतःस्थापित किया जाएगा, अर्थात:-

'(छ) "मोबाइल मेडिकल यूनिट" से एक मोबाइल वाहन अभिप्रेत है बुनियादी विशेषज्ञ सेवाओं के जरूरतमंद रोगियों के लिए विशेषज्ञता सुविधाएं मुहैया करवाती है और समूचे देश में विशेषज्ञता अल्पसेवित क्षेत्रों में स्वास्थ्य परिचर्या सुविधा केन्द्रों में बेहतर पहुंच और घर पर स्वास्थ्य सेवाओं के समान वितरण की व्यवस्था करती है'।

'(ज) "मोबाइल जेनेटिक क्लीनिक" से एक मोबाइल मेडिकल यूनिट अभिप्रेत है जहां भ्रूण के लिंग का निर्धारण करने में सक्षम अल्ट्रा साउंड मशीन या इमेजिंग मशीन अथवा स्कैनर या अन्य सुवाह्य उपकरण का उपयोग किया जाता है या जिसमें गर्भावस्था के दौरान लिंग का पता लगाने अथवा गर्भधारण पूर्व लिंग का चयन करने की क्षमता है'।

2. उक्त नियमावली में, नियम 3 क के परचात् निम्नलिखित नियम अंतः स्थापित किया जाएगा, अर्थात्:-

3 ख (1) सुवाह्य मशीनों का नियमन:- सुवाह्य अल्ट्रासाउण्ड मशीन अथवा अन्य किसी सुवाह्य मशीन अथवा यंत्र जिसकी गर्भाधान पूर्व लिंग के चयन अथवा गर्भावस्था के दौरान लिंग की जांच करने की क्षमता हो, को केवल निम्नलिखित स्थितियों में उपयोग की अनुमति दी जाएगी, अर्थात्:-

(क) सुवाह्य मशीन का उस परिसर के भीतर जिसके लिए यह पंजीकृत हो, अंतरंग रोगियों को सेवाएं उपलब्ध कराने के लिए उपयोग;

(ख) अन्य स्वास्थ्य एवं चिकित्सा सेवाएं प्रदान करने वाले सचल चिकित्सा एकक के भाग के रूप में ;

स्पष्टीकरण:- इस उप-नियम के प्रयोजनार्थ, अभिव्यक्ति "स्वास्थ्य एवं चिकित्सा सेवाएं" से सचल चिकित्सा एकक द्वारा उपलब्ध कराई जाने वाली सेवाएं अभिप्रेत हैं जिनमें निम्नलिखित को शामिल किया जा सकता है, अर्थात्:-

(i) रोग निवारक

(क) जटिल मामलों को रैफर करना;

(ख) क्षयरोग, मलेरिया, कुष्ठ रोग, काला आजार एवं अन्य स्थानीय रूप से स्थानिकमारी वाले संचारी रोगों एवं अतिरक्तदाब, मधुमेह, मोतियाबिंद मामलों इत्यादि सरीखे गैर-संचारी रोगों का शुरू में पता लगाना;

(ग) छोटी-मोटी शल्य चिकित्सा प्रक्रियाएं और टांके लगाना;

(घ) ओ एंड जी विशेषज्ञ, बाल चिकित्सक एवं कार्यचिकित्सक सरीखी विशेषज्ञ सेवाएं;

(ii) प्रजनन एवं बाल स्वास्थ्य सेवाएं

(क) प्रसव पूर्व जांच एवं संबंधित सेवाएं;

(ख) जटिल प्रसवों को रैफर करना;

(ग) संस्थागत प्रसवों का संवर्धन;

(घ) प्रसवोपरान्त जांच;

(ङ) प्रतिरक्षण क्लीनिक;

(च) बचपन की आम बीमारियों का उपचार;

(छ) जननमार्गीय संक्रमण अथवा यौन संचारित संक्रमणों का उपचार;

(ज) जीवन शैली शिक्षा, परामर्शन, छोटी-मोटी बीमारियों के उपचार सरीखी किशोर परिचर्या;

(iii) परिवार नियोजन सेवाएं

(क) बच्चों में अंतर रखने और स्थायी विधि के लिए परामर्शन;

(ख) गर्भनिरोधकों का वितरण;

(iv) नैदानिक

- (क) हीमोग्लोबिन, पेशाब की जांच सरीखी जांच सुविधाएं;
 (ख) कुष्ठ रोग, क्षय रोग अथवा स्थानिकमारी वाले रोगों का नैदानिक रूप से पता लगाना;
 (ग) कैंसर आदि की जांच;

(v) विशेषीकृत सुविधाएं एवं सेवाएं

- (क) एक्स-रे;
 (ख) ई.सी.जी.;
 (ग) अल्ट्रासाउंड जांच;

(vi) आपदा या महामारी या जन स्वास्थ्य आपातकाल या दुर्घटनाओं आदि के समय में आपातकाल सेवाएं और परिचर्या।

(2) सचल जेनेटिक क्लिनिक द्वारा प्रदान की जाने वाली सेवाओं का विनियमन

(क) अल्पसंख्यक जनसंख्या द्वारा स्वास्थ्य परिचर्या सेवाओं तक बेहतर पहुंच के लिए शहरी मलिन बस्तियों या ग्रामीण या दूर दराज या पहाड़ी या दुर्गम क्षेत्रों में अन्य स्वास्थ्य एवं चिकित्सीय सेवाओं का एक पैकेज प्रदान करते हुए सचल चिकित्सीय एकक के एक भाग के रूप में एक सचल जेनेटिक एकक प्रसव पूर्व नैदानिक तकनीकों का संचालन करेगा एवं प्रदान करेगा।

(ख) किसी भी परिस्थिति में मशीन का प्रयोग भ्रूण के लिंग निर्धारण के लिए नहीं किया जाएगा।

(ग) केवल प्रसवपूर्व नैदानिक सुविधाएं प्रदान करने वाले स्टैंड एलोन सचल अल्ट्रासाउंड एकक प्रतिबंधित है।

(घ) नैदानिक सेवाएं प्रदान करने वाला सचल चिकित्सीय एकक के पास रोगियों को सुविधाएं प्रदान करने के लिए पर्याप्त स्थान होगा।

3. उक्त नियमों में नियम 4 में उप नियम (ii) के बाद निम्नलिखित उप-नियम अन्तःस्थापित किया जाएगा, अर्थात्

"(iii) एक जेनेटिक क्लिनिक के पंजीकरण में एक सचल चिकित्सीय एकक के एक भाग के रूप में प्रसवपूर्व नैदानिक सुविधाएं प्रदान करने वाला प्रत्येक सचल जेनेटिक क्लिनिक का पंजीकरण भी शामिल होगा और ऐसा वाहन ही मोबाईल जेनेटिक एकक के रूप में पंजीकृत होगा।

4. उक्त नियमों में नियम 6 में उप-नियम (2) के बाद निम्नलिखित उप-नियमों को अन्तःस्थापित किया जाएगा, अर्थात् :-

"(2) क (क) पंजीकरण के प्रमाणपत्र की एक प्रति को पंजीकृत सचल चिकित्सीय एकक द्वारा वाहन में एक सुस्पष्ट स्थान पर प्रदर्शित करना होगा।

(ख) ऐसे एकक के पंजीकरण प्रमाणपत्र में निम्नलिखित को स्पष्ट रूप से विनिर्दिष्ट किया जाएगा:-

- (i) इसके संचालन का क्षेत्र जो कि किसी भी स्थिति में इसके जिले के परे नहीं होगा जिसमें यह पंजीकृत हुआ है।
- (ii) संस्थापित की गई सुवाह्य मशीनों और वाहन में प्रयोग की जा रही मशीनों की संख्या।
- (iii) सुवाह्य मशीन का निर्माण वर्ष एवं मॉडल संख्या।
- (iv) वाहन की पंजीकरण संख्या।
- (v) सचल चिकित्सीय एकक के लिए सेवा प्रदानकर्ता का पूरा पता।

2(ख) प्रसव-पूर्व नैदानिक जांच करने के लिए उपयोग किया जाने वाला सुवाह्य उपकरण मोबाइल मेडिकल यूनिट का एक अभिन्न भाग होगा, ऐसे उपकरण का ऐसी इकाई से बाहर किसी भी परिस्थिति में उपयोग नहीं किया जाएगा।

2(ग) वाहन के खराब हो जाने की स्थिति अथवा किसी अन्य कारण जिसकी वजह से मोबाइल यूनिटों को जेनेटिक क्लीनिक की तरह उपयोग में नहीं लाया जा सकता है, तब उपयुक्त प्राधिकारी को सात दिनों की अवधि के भीतर सूचित करना होगा।

5. उक्त नियमों के नियम 9 के उप-नियम (1) में "जेनेटिक क्लीनिक" शब्दों को "जेनेटिक क्लीनिक सहित मोबाइल जेनेटिक क्लीनिक" शब्दों से प्रतिस्थापित किया जाएगा।

6. उक्त नियमों के नियम 9 के उप-नियम (4) में "जेनेटिक क्लीनिक" शब्दों के लिए "जेनेटिक क्लीनिक सहित मोबाइल जेनेटिक क्लीनिक" शब्दों से प्रतिस्थापित किया जाएगा।

[फा. सं. एन-24026/60/2008]

अनुराधा गुप्ता, संयुक्त सचिव

टिप्पण : मुख्य सूचना को भारत के राजपत्र में दिनांक 1 जनवरी, 1996 की सा.का.नि. 1(अ) के तहत प्रकाशित किया गया था तथा दिनांक 14 फरवरी, 2003 की अधिसूचना संख्या सा.का.नि. 109(अ) के तहत संशोधित किया गया था।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

NOTIFICATION

New Delhi, the 7th February, 2012

G.S.R. 80(E).— In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following further amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 namely :-

1. (1) These rules may be called the **Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2012.**

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

2. In the Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996 (herein after referred to as the said rules) in rule 2, after clause (f), the following clauses shall be inserted, namely: -

'(g) "Mobile Medical Unit" means a mobile vehicle which provides specialised facilities for the patients, requiring basic specialist services and provides improved access to healthcare facilities and equitable distribution of health services at the doorsteps, across the country, especially in the underserved areas'.

'(h) "Mobile Genetic Clinic" means a mobile medical unit where ultrasound machine or imaging machine or scanner or other equipment capable of determining sex of the foetus or a portable equipment which has the potential for detection of sex during pregnancy or selection of sex before conception is used'.

2. In the said rules, after rule 3A, the following rule shall be inserted, namely:-

"3B (1). Regulation of portable machines- The use of portable ultrasound machine or any other portable machine or device which has the potential for selection of sex before conception or detection of sex during pregnancy shall be permitted only in the following conditions, namely :-

- (a) the portable machine being used, within the premises it is registered, for providing services to the indoor patients ;
- (b) as part of a mobile medical unit, offering a bouquet of other health and medical services;

Explanation.- For the purpose of this sub-rule, the expression "other health and medical services" means the host of services provided by the mobile medical unit which may include the following, namely:-

(i) Curative

- (a) Referral of complicated cases;
- (b) Early detection of TB, Malaria, Leprosy, Kala-Azar and other locally endemic communicable diseases and non communicable diseases such as hypertension diabetes, cataract cases etc;
- (c) Minor surgical procedures and suturing;
- (d) Specialist services such as O and G Specialist, Paediatrician and Physician;

(ii) Reproductive and Child Health Services

- (a) Ante natal check up and related services;
- (b) Referral for complicated pregnancies;
- (c) Promotion of institutional deliveries;
- (d) Post-natal check up;
- (e) Immunization clinics;
- (f) Treatment of common childhood illness;
- (g) Treatment of Reproductive Tract Infection or Sexually Transmitted Infections;
- (h) Adolescents care such as lifestyle education, counselling, treatment of minor ailments.

(iii) Family Planning Services

- (a) Counselling for spacing and permanent method;
- (b) Distribution of contraceptives

(iv) Diagnostic

- (a) Investigation facilities like haemoglobin, urine examination;
- (b) Clinical detection of leprosy tuberculosis or endemic diseases;
- (c) Screening of cancer etc.

(v) Specialised facilities and services

- (a) X-ray;
- (b) ECG;
- (c) Ultrasound test

(vi) Emergency services and care in times of disaster or epidemic or public health emergency or accidents etc'.

(2).Regulation of services to be offered by Mobile Genetic Clinic-

(a) A Mobile Genetic Clinic shall operate and offer pre-natal diagnostic techniques, only as part of a Mobile Medical Unit offering a bouquet of other health and medical services, in urban slums or rural or remote or hilly or hard to reach areas for improved access to health care services by underserved populations.

(b) The machine under no circumstances shall be used for sex determination of the foetus

(c) The stand alone mobile ultrasound clinic offering only pre-natal diagnostic facilities are prohibited.

(d) The mobile medical unit offering diagnostic services shall have adequate space for providing the facilities to patients”.

3. In the said rules, in rule 4, after sub-rule (ii), the following sub-rule shall be inserted, namely:-

“(iii) - The registration of a genetic clinic shall also include the registration of each and every mobile genetic clinic offering pre-natal diagnostic facilities as part of a medical mobile unit and such a vehicle has to be registered as a mobile genetic unit”.

4. In the said rules, in rule 6, after sub-rule (2), the following sub-rules shall be inserted, namely:-

“(2) A(a) One copy of the certificate of registration shall be displayed by the registered mobile medical unit inside the vehicle at a conspicuous place.

(b) The certificate of registration for such unit, shall clearly specify the following :-

- (I) the area of its operation, which shall not exceed the district wherein it is registered;
- (II) the number of portable machines installed and being used in the vehicle;
- (III) the make and model number of the portable machine;
- (IV) the registration number of the vehicle;
- (V) full address of the service provider for the mobile medical unit”.

(2)B. The portable equipment used for conducting pre-natal diagnostic test shall be an integral part of the mobile medical unit and such equipment shall not be used outside such unit under any circumstances.

(2)C. In case of a breakdown of the vehicle or for any other reason due to which the registered unit cannot be used as a Genetic Clinic, the Appropriate Authority has to be informed within a period of seven days.

5. In the said rules, in rule 9, in sub-rule (1), for the words "Genetic Clinic" the words "Genetic Clinic including a Mobile Genetic Clinic" shall be substituted.

6. In the said rules, in rule 9, in sub-rule (4), for the words "Genetic Clinic" the words "Genetic Clinic including a Mobile Genetic Clinic" shall be substituted.

[F. No. N. 24026/60/2008]

ANURADHA GUPTA, Jt. Secy.

Note : The principal notification was published in the Gazette of India vide G.S.R. 1(E), dated the 1st January, 1996 and amended, vide notification No. G.S.R. 109(E), dated the 14th February, 2003.

ANNEXURE II: CLARIFICATION OF THE MINISTRY OF HEALTH AND FAMILY WELFARE REGARDING THE USE OF PORTABLE ULTRASOUND MACHINES/ PORTABILITY OF ULTRASOUND MACHINES DATED 9 OCTOBER 2014

No. F.12011/32/2014-PNDT
Government of India
Ministry of Health & Family Welfare
(PNDT Section)

Nirman Bhawan, New Delhi
Dated the 9th October, 2014.

To
The Chairperson
State Appropriate Authorities,
All States/UTs

Subject: Clarification regarding the use of portable ultrasound machines/
portability of ultrasound machines – reg.

Sir/ Madam,

Various representations have been received in this Ministry seeking clarification on the use of portable ultrasound machines. The issue was examined in the Ministry and the following is stated in this regard:-

(i) As per Rule 3B (1) of the PC & PNDT Rules, 1996, the use of portable ultrasound machine or any other portable machine or device which has the potential for selection of sex before conception or detection of sex during pregnancy shall be permitted only in the following conditions; namely-

(a) The portable machines being used, within the premises it is registered for providing services to the indoor patients and

(b) As a part of a mobile medical unit offering a bouquet of other health and medical services;

(ii) For the purpose of this sub-rule, it is explained in the Explanation that the expression, "other health and medical services" means a host of services provided by the mobile medical unit which include curative, reproductive and child health services, family planning services, diagnostic investigation, specialized facilities & services and emergency services as specified under Explanation from (i) to (vi) under Rule 3B (1).

2. With regard to regulation of services to be offered by mobile Genetic Clinic under Rule 3B (2), the following have been prescribed –

(a) A Mobile Genetic Clinic shall operate and offer pre-natal diagnostic techniques, **only as part of a Mobile Medical Unit offering a bouquet of**

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other health and medical services in urban slums or rural or remote or hilly or hard to reach areas for improved access to health care services by under-served populations.

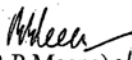
- (b) The machine under no circumstances shall be used for sex determination of the foetus.
- (c) The stand alone mobile ultrasound clinics offering only pre-natal diagnostic facilities are prohibited.
- (d) The mobile unit offering diagnostic services shall have adequate space for providing the facilities to patients.

3. A close reading of the provisions of Rule 3B (1) and 3B (2) of the PC & PNDT Rules, 1996, clearly reveals that there is no ambiguity in the rules needing further clarification.

4. It is therefore reiterated that portable machines/portability of ultrasound machines are banned except under the circumstances specified above.

5. This issues with the approval of the Competent Authority. The contents of this letter may be brought to the notice of all concerned for compliance.

Yours faithfully,


(Dr.R.P.Meena) 9/10/2014
Director (PNDT)
Tel: 011-23063628

Copy to:- Nodal Officers (PNDT) of all States/UTs.

DP/MS/119/100/3/119
In 3/10
15/10/14

F. No.12011/25/2014-PNDT
Government of India
Ministry of Health & Family Welfare
(PNDT Section)

Nirman Bhawan, New Delhi
Dated the 9th October, 2014

To,
The Chairperson
State Appropriate Authority
All States/UTs

Subject: Registration of IVF/ART Centres/Clinics under PC&PNDT Act, 1994 –
Issuance of guidelines reg.

Sir/Madam,

MS 11/3/ PNDT 100/3/119
06/10/14

I am directed to state that all ART/IVF procedures/tests & techniques are recognized as pre-natal diagnostic procedures/ pre-natal diagnostic techniques/ pre-natal diagnostic tests or under Sections 2(i), 2(j) and 2(k) of the PC&PNDT Act 1994, which are reproduced as under:

22(PNDT)

Section 2(i) "prenatal diagnostic procedures" mean all gynaecological or obstetrical or medical procedure such as ultrasonography, foetoscopy, taking, removing samples of amniotic fluid, chorionic villi, embryo, blood or any other tissue or fluid of a man, or of a woman before or after conception, or being sent to a Genetic Laboratory or Genetic Clinic for conducting any type of analysis or pre natal diagnostic tests for selection of sex before or after conception.

15 OCT 2014

Section 2(j) "prenatal diagnostic techniques" include all pre-natal diagnostic procedures and pre-natal diagnostic tests.

Section 2(k) "pre-natal diagnostic test" means ultrasonography or any test or analysis of amniotic fluid, chorionic villi, embryo, blood or any other tissue or fluid of a pregnant woman or conceptus conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases.

- 2. In view of the above provisions of the Act, all the ART clinics or centres/IVF clinics or centres/Surrogacy Clinics or centres or other such centres are mandatorily required to be registered under PC&PNDT Act 1994 either as Genetic Counselling Centres [Section 2(c)], Genetic clinics [Section 2(d)] or Genetic Laboratories [Section 2(e)], as defined under the PC&PNDT Act 1994 depending on the activities being performed by the centres/clinics.

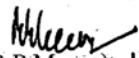
3. Further, the range of activities of these centres/clinics or laboratories is extensively defined under Sections 2(i), 2(j) and 2(k) of the PCPNDT Act 1994. All diagnostic procedures/techniques/tests conducted in such clinics/centres should be recorded either in the Form F (revised) or Form E (whichever is relevant) and reported to the Appropriate Authorities concerned. Sections A, B, C of the revised Form F capture all possible diagnostic procedures/tests, non-invasive diagnostic procedures/tests and invasive procedures/tests. Point 21(v) of Section (C) of revised Form F may capture any other invasive procedures/tests if it is not explicitly covered under the revised Form F.

4. As such, there is no need of a separate Form F for the IVF/ART centres and the IVF/ART centres are mandatorily required to be registered under the PCPNDT Act 1994. All the Appropriate Authorities concerned are advised to compile and update data related to such ART/IVF centres as a part of QPR and submit accordingly to this Ministry as clearly required under Rule 9(8) of the PC&PNDT Act 1996.

6. This issues with the approval of competent authority.

7. Kindly acknowledge the receipt of this letter

Yours faithfully,


(Dr.R.P.Meena)
Director (PNDT) 9/10/2019
Tel: 23063628

ANNEXURE III: PRE-CONCEPTION AND PRE-NATAL
DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX
SELECTION) AMENDMENT RULES, 2014 PERTAINING TO
REGULATION OF ULTRASOUND EQUIPMENTS

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्रधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

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स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 24 फरवरी, 2014

सा.का.नि.119(ब).—केन्द्रीय सरकार, गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 का और संशोधन करने के लिए निम्नलिखित नियम बनाती है, अर्थात्:—

1. (1) इन नियमों का संक्षिप्त नाम गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 2014 है।

(2) ये राजपत्र में उनके प्रकाशन की तारीख को प्रवृत्त होंगे।

2. गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 में नियम 18 के पश्चात् निम्नलिखित नियम अंतःस्थापित किया जाएगा, अर्थात्:—

18क. समूचित प्राधिकारियों द्वारा अनुपालन की जाने वाली आचार संहिता-(1) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समूचित प्राधिकारी, अन्य बातों के साथ-साथ, निम्नलिखित साधारण आचार संहिता का पालन करेंगे, अर्थात्:—

- (i) सभी समय गरिमा और सत्यनिष्ठा बनाए रखेंगे;
- (ii) अधिनियम और नियमों के उपबंधों का पालन और कार्यान्वयन कार्य के प्रक्रम को संतुलित और मानकीकृत रीति में करेंगे ;
- (iii) अपने कार्य को न्यायसंगत रीति में बिना किसी पक्षपात या दोष की बोधगम्य उपधारणा से करेंगे;

- (iv) ऐसी टिप्पणियां करने से बचेंगे जो लिंग, जाति, धर्म के आधार पर व्यक्तियों को अप्रतिष्ठित करती हैं;
- (v) अपनी अनुपस्थिति में प्रशासनिक आदेश द्वारा अपनी शक्तियों को किसी प्राधिकृत अधिकारी को प्रदत्त करेंगे और प्राधिकृत करने के आदेश को अनुवर्ती कार्रवाई के लिए दस्तावेजी सबूत के रूप में परिरक्षित करेंगे।

(2) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, सलाहकार समितियों के लिए निम्नलिखित संहिता का पालन करेंगे, अर्थात्:—

- (i) इस बात का सुनिश्चय करेंगे कि सलाहकार समिति के पुनर्गठन, कार्यों और अन्य सुसंगत विषय सलाहकार समिति नियम, 1996 के उपबंधों के अनुसार होंगे;
- (ii) यह सुनिश्चित करेंगे कि कोई व्यक्ति जो गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) अधिनियम, 1994 (1994 का 57) के अधीन मामलों के लिए अन्वेषण तंत्र का भाग है, को सलाहकार समिति के सदस्य के रूप में मनोनीत या नियुक्त नहीं किया जाएगा;
- (iii) यह सुनिश्चित करेंगे कि सलाहकार समिति में रिक्तियों को भरने की प्रक्रिया रिक्ति कारित होने की संभावित तारीख से कम से कम नब्बे दिन पूर्व आरंभ हो जाएगी;
- (iv) यह सुनिश्चित करेंगे कि सलाहकार समिति में कोई व्यक्ति सदस्य या विधिक विशेषज्ञ के रूप में भाग नहीं लेगा यदि उसका कोई हित का द्वन्द्व है;
- (v) रजिस्ट्रीकरण के नवीकरण, रद्दकरण और निलंबन के संबंध में विनिश्चयों का तेजी से निपटारा करने के लिए सलाहकार समिति की प्रायः बैठकें करेंगे।

(3) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, शिकायत और अन्वेषण करने के लिए निम्नलिखित साधारण आचरण का पालन करेंगे, अर्थात्:—

- (i) अधिनियम के अधीन प्रत्येक शिकायत या परिवाद के रजिस्ट्रीकरण के समर्थन में समुचित डायरियां रखेंगे;
- (ii) सभी शिकायतों को देखेंगे और शिकायतों की अनुवर्ती कार्रवाई में पारदर्शिता रखेंगे;
- (iii) शिकायत प्राप्त होने के 24 घंटे के भीतर सभी शिकायतों का अन्वेषण करेंगे और ऐसी शिकायत प्राप्त होने के 48 घंटे के भीतर अन्वेषण पूरा करेंगे;
- (iv) जहां तक व्यवहार्य हो, अधिनियम के अधीन मामलों के अन्वेषण के लिए पुलिस को शामिल नहीं करेंगे, क्योंकि अधिनियम के अधीन मामलों का विचारण, दंड प्रक्रिया संहिता, 1973 (1974 का 2) के अधीन शिकायत मामलों के रूप में किया जाता है।

(4) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, आवेदनों के रजिस्ट्रीकरण और नवीकरण के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—

- (i) नवीकरण और नए रजिस्ट्रीकरण के लिए आवेदन का आवेदन की प्राप्ति की तारीख से 70 दिन की अवधि के भीतर निपटान करेंगे;
- (ii) यह सुनिश्चित करेंगे कि रजिस्ट्रीकरण या नवीकरण के लिए किसी आवेदन को स्वीकार नहीं किया जाए यदि आवेदक के विरुद्ध किसी न्यायालय में कोई मामला लंबित है।

(5) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, विधिक कार्रवाई के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—

- (i) यह सुनिश्चित करेंगे कि साक्षियों के संरक्षण और व्यय संग्रहित रजिस्ट्रीकरण रकम में से चुकाए जाएंगे;
- (ii) यह सुनिश्चित करेंगे कि सरकार की सभी अधिसूचनाओं को न्यायालय में मूल रूप में प्रस्तुत किया जाए और उनकी एक प्रति को परिरक्षित किया जाएगा;

- (iii) यह सुनिश्चित करेंगे कि मामले फाइल करते समय मामले के सभी कागज पत्र, अभिलेख, विवरणियां, साक्ष्य पंचनामा और मामले की फाइल से उपाबद्ध अन्य तात्विक वस्तुएं मूल रूप में हों;
- (iv) प्रसुविधा के अभिग्रहण और सील करने में विधिक कार्रवाई के प्रक्रम में रजिस्ट्रीकरण के प्रमाण पत्र को निलंबित कर दिया जाए;
- (v) यह सुनिश्चित करेंगे कि गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 के उपबंधों को कार्यान्वित करते समय, गर्भ का चिकित्सीय समापन अधिनियम, 1971 (1971 का 34) और उसके अधीन बनाए गए नियमों के उपबंधों का कोई उल्लंघन न हो;
- (vi) दोषमुक्ति के किसी आदेश की दशा में दोषमुक्ति से तीस दिन के भीतर किंतु दोषमुक्ति के आदेश की प्राप्ति के पंद्रह दिन से पूर्व उच्चतर न्यायालयों में अपील फाइल करने के लिए, पुनरीक्षण या अन्य कार्यवाहियों के लिए तुरंत कार्रवाई करेंगे।
- (6) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, राज्य सरकार के माध्यम से भारत सरकार को त्रैमासिक प्रगति रिपोर्ट प्रस्तुत करेंगे और किए गए सभी रजिस्ट्रेशनों की सूचना को तुरंत रूप से उपलब्ध कराने के लिए प्ररूप ज में रखेंगे।
- (7) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ- साथ, अल्ट्रासाउंड उपस्करों के निम्नलिखित विनियम का पालन करेंगे, अर्थात्:—
- (i) अल्ट्रासाउंड मशीनों के विक्रय और आयात जिसके अंतर्गत पोर्टेबल या वापस-क्रय, असेम्बलड, उपहार की गई, स्क्रैप या डेमो भी शामिल हैं, की निगरानी करना;
- (ii) अल्ट्रासाउंड विनिर्माताओं, डीलरों, थोक विक्रेताओं और खुदरा विक्रेताओं तथा अल्ट्रासाउंड मशीनों के विक्रय से संबंधित किसी व्यक्ति से राज्य स्तर पर नियमित त्रैमासिक रिपोर्टों का सुनिश्चय;
- (iii) अरजिस्ट्रीकृत मशीनों की पहचान करने के लिए राज्य या जिले में विक्रय की गई और प्रचालन कर रही सभी अल्ट्रासाउंड मशीनों का आवधिक सर्वेक्षण और परीक्षण संचालित करना;
- (iv) अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के स्वामी और अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के विक्रेता के विरुद्ध शिकायत फाइल करना;
- (8) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, निरीक्षण और निगरानी के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:—
- (i) सभी रजिस्ट्रीकृत प्रसुविधाओं का प्रत्येक नव्वे दिन में एक बार नियमित निरीक्षण करेंगे और निरीक्षण रिपोर्ट की एक प्रति का दस्तावेजी साक्ष्य के रूप में परिरक्षण करेंगे और निरीक्षण की एक प्रति निरीक्षण की गई प्रसुविधा के स्वामी को सौंपेंगे तथा निरीक्षण के संबंध में अभिस्वीकृति अभिप्राप्त करेंगे;
- (ii) तीन मास में एक बार सभी निरीक्षण रिपोर्टों को अनुवर्ती कार्रवाई के लिए सलाहकार समिति के समक्ष रखेंगे;
- (iii) फाइल किए गए मामलों की संख्या और सिद्धदोष ठहराए गए व्यक्तियों, किए गए रजिस्ट्रीकरण, निलंबित या रद्द किए गए रजिस्ट्रीकरण, रद्द या निलंबित की गई चिकित्सा अनुज्ञप्तियां, किए गए निरीक्षण, जिला स्तर पर आयोजित की गई सलाहकार समिति की बैठकों की द्विमासिक प्रगति रिपोर्ट रखेंगे और राज्य स्तर पर त्रैमासिक प्रगति रिपोर्ट रखेंगे;
- (iv) (क) 7 दिन के अंदर विरचित आरोपों की प्रति प्राप्त करेंगे तथा चिकित्सकों की दशा में विरचित आरोपों के व्यौरों को विरचित आरोपों की प्रति की प्राप्ति के 7 दिन के भीतर राज्य चिकित्सा परिषद् को प्रस्तुत करेंगे;
- (ख) यथा संभव शीघ्र सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति प्राप्त करेंगे और चिकित्सकों को सिद्धदोष ठहराए जाने की दशा में सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति, सिद्धदोष ठहराए जाने के आदेश की प्रति की प्राप्ति के 7 दिन के भीतर प्रस्तुत की जाएगी।

(9) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समूचित प्राधिकारी, अन्य बातों के साथ साथ, जवाबदेही के लिए निम्नलिखित आचरण का पालन करेंगे, अर्थात्:-

- (i) अधिनियम के उपबंधों के कार्यान्वयन से संबंधित किसी संकल्प के लिए भारत सरकार की पूर्व अनुमति या अनुमोदन प्राप्त करेंगे;
 - (ii) अधिनियम की धारा 28 की उप-धारा (1) के खंड (ख) के अधीन सूचना की प्राप्ति पर यदि कोई अपेक्षित हो तो, तुरंत कार्रवाई करेंगे और यदि ऐसा करने में वह असमर्थ रहता है या रहती है तो वह उक्त अधिनियम की धारा 31 के अधीन संरक्षण का हकदार नहीं होगा और वह अपनी स्वयं की क्षमता एवं लागत पर मामले का वचाव करेगा।
- (10) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समूचित प्राधिकारी, अन्य बातों के साथ-साथ, निम्नलिखित वित्तीय मार्गदर्शक सिद्धांतों का पालन करेंगे, अर्थात्:—

- (i) सभी स्तरों पर संयुक्त रूप से दो अधिकारियों द्वारा परिचालित पृथक् और स्वतंत्र बैंक खाता रखेंगे;
- (ii) धन के संवितरण के लिए पारदर्शिता को सुनिश्चय करेंगे और मानक सरकारी वित्तीय संनियमों का पालन करेंगे।

[फा.सं. वी.11011/8/2013-पीएनडीटी]

डा. राकेश कुमार, संयुक्त सचिव

टिप्पण : मूल अधिसूचना भारत के राजपत्र, भाग II, खंड 3, उप-खंड (i) में सा.का.नि. 1(अ), तारीख 1 जनवरी, 1996 को प्रकाशित की गई थी और अधिसूचना सं. सा.का.नि. 109(अ) तारीख 14 फरवरी, 2013; सा.का.नि. 426(अ) तारीख 31 मई, 2011; सा.का.नि. 80(अ) तारीख 7 फरवरी, 2012, सा.का.नि. 418(अ) तारीख 4 जून, 2012, सा.का.नि. 13(अ) तारीख 9 जनवरी, 2014 और सा.का.नि. 77(अ) तारीख 31 जनवरी, 2014 द्वारा संशोधित की गई थी।

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

NOTIFICATION

New Delhi, the 24th February, 2014

G.S.R. 119(E).—In exercise of the powers conferred by section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following rules further to amend the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, namely :—

- (1) These rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014.
- (2) They shall come into force on the date of their publication in the Official Gazette.

1. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, after rule 18, the following rule shall be inserted, namely:—

18-A Code of Conduct to be observed by Appropriate Authorities.— (1) *All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following general code of conduct, namely:-*

- (i) maintain dignity, and integrity at all times;
- (ii) observe and implement the provisions of the Act and Rules in a balanced and standardised manner in the course of their work;
- (iii) conduct their work in a just manner without any bias or a perceived presumption of guilt;

- (iv) refrain from making any comments which demean individuals on the basis of gender, race, religion ;
- (v) delegate his or her powers by administrative order to any authorised officer in his or her absence and preserve the order of authorisation as documentary proof for further action.

(2) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following Conduct for Advisory Committees, namely:—

- (i) ensure that the re-constitution, functions and other relevant matters related to advisory committee shall be in accordance with the provisions of the **Advisory Committee Rules, 1996**;
- (ii) ensure that a person who is the part of investigating machinery in cases under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), shall not be nominated or appointed as a member of the Advisory Committee ;
- (iii) ensure that the process of filling up of vacancies in Advisory Committee shall start at least ninety days before the probable date of the occurrence of vacancy;
- (iv) ensure that no person shall participate as a member or a legal expert of the Advisory Committee if he or she has conflict of interest;
- (v) conduct frequent meetings of the Advisory Committee to expedite the decisions regarding renewal, cancellation and suspension of registration.

(3) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for processing of complaint and investigation, namely:—

- (i) maintain appropriate diaries in support of registration of each of the complaint or case under the Act ;
- (ii) attend to all complaints and maintain transparency in the follow-up action of the complaints;
- (iii) investigate all the complaints within twenty four hours of receipt of the complaint and complete the investigation within forty-eight hours of receipt of such complaint;
- (iv) as far as possible, not involve police for investigating cases under the Act as the cases under the Act are tried as complaint cases under the Code of Criminal Procedure, 1973 (2 of 1974).

(4) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for registration and renewal of applications under the Act, namely:—

- (i) dispose of the application for renewal and new registration within a period of seventy days from the date of receipt of application;
- (ii) ensure that no application for fresh registration or renewal is accepted if any case is pending in any court against the applicant.

(5) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for Legal Action, namely:—

- (i) ensure that protection and expenses of witness shall be met from the registration amount collected ;
- (ii) ensure that all the notifications of the Government be produced in original in the court and a copy of the same be preserved ;
- (iii) ensure that while filing the cases, all the papers, records, statements, evidence,panchnama and other material objects attached to the case file shall be in original;
- (iv) suspend the certificate of registration in the course of taking legal action of seizure and sealing of the facility;
- (v) ensure that there shall be no violation of the provisions of the Medical Termination Pregnancy Act, 1971 (34 of 1971) and the Rules made there-under while implementing the provisions of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996;
- (vi) take immediate action for filing appeal, revision or other proceeding in higher courts in case of order of acquittal within a period of thirty days but not later than fifteen days of receipt of the order of acquittal.

(6) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall submit quarterly progress report to the Government of India through State Government and maintain Form H for keeping the information of all the registrations made readily available.

(7) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following regulation of ultrasound equipments, namely:—

- (i) monitor the sales and import of ultrasound machines including portable or buyback, assembled, gift, scrap or demo;
- (ii) ensue regular quarterly reports from ultrasound manufacturers, dealers, wholesalers and retailers and any person dealing with the sales of ultrasound machines at the State level;

- (iii) conduct periodical survey and audit of all the ultrasound machines sold and operating in the State or district to identify the unregistered machines;
- (iv) file complaint against any owner of the unregistered ultrasound machine and against the seller of the unregistered ultrasound machine.

(8) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for inspection and monitoring, namely:—

- (i) conduct regular inspection of all the registered facilities once in every ninety days and shall preserve the inspection report as documentary evidence and a copy of the same be handed over to the owner of facility inspected and obtain acknowledgement in respect of the inspection;
- (ii) place all the inspection reports once in three months before the Advisory Committee for follow up action;
- (iii) maintain bimonthly progress report containing number of cases filed and persons convicted, registration made, suspended or cancelled, medical licenses cancelled, suspended, inspections conducted, Advisory Committee meetings held at the district level and quarterly progress report at the State level;
- (iv) (a) procure the copy of the charges framed within seven days and in the case of doctors, the details of the charges framed shall be submitted within seven days of the receipt of copy of charges framed to the State Medical Council;
- (b) procure the certified copy of the order of conviction as soon as possible and in the case of conviction of the doctors, the certified copy of the order of conviction shall be submitted within seven days of the receipt of copy of the order of conviction.

(9) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall observe the following conduct for accountability, namely:—

- (i) obtain prior sanction or approval of the Government of India for any resolution concerning the implementation of the provisions of the Act ;
- (ii) take action, if any, required under the Act and immediately on receipt of notice under clause (b) of sub-section (1) of section 28 of the Act and if he or she fails to do so, shall not be entitled for the protection under section 31 of the said Act and defend the case in his or her own capacity and at his or her own cost.

(10) All the Appropriate Authorities including the State, District and Sub-district notified under the Act, inter-alia, shall follow the following financial guidance, namely:—

- (i) maintain a separate and independent bank account operated by two officers jointly, at all levels ;
- (ii) ensure transparency and adherence to standard Government financial norms for disbursement of money.

[F. No. V. 11011/8/2013-PNDT]
Dr. RAKESH KUMAR, Jt. Secy.

Note : The principal rules were published in the Gazette of India, Part II, Section 3, Sub-section (i), vide G.S.R 1(E), dated the 1st January, 1996 and amended, by notification No. G.S.R. 109(E), dated the 14th February, 2003; G.S.R. 426(E), dated the 31st May, 2011; G.S.R. 80(E), dated the 7th February, 2012; G.S.R. 418(E), dated the 4th June, 2012; G.S.R. 13(E), dated the 9th January, 2014 and G.S.R. 77(E) dated 31st January, 2014.

ANNEXURE IV: PRE-CONCEPTION AND PRE-NATAL
DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX
SELECTION) AMENDMENT RULES, 2011 PERTAINING TO
POWER OF APPROPRIATE AUTHORITIES ON UNREGISTERED
ULTRASOUND MACHINES

रजिस्ट्री सं० डी० एल०-33004/99

REGD. NO. D. L.-33004/99



भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 2901

नई दिल्ली, बुधस्वतिवार, जून 2, 2011/ज्येष्ठ 12, 1933

No. 2901

NEW DELHI, THURSDAY, JUNE 2, 2011/JYAISTHA 12, 1933

स्वास्थ्य तथा परिवार कल्याण मंत्रालय
अधिसूचना

नई दिल्ली, 31 मई, 2011

सा.का.नि. 426(अ).—गर्भधारण-पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन निषेध) अधिनियम, 1994 (1994 का 57) की धारा 32 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार एतद्वारा गर्भधारण-पूर्व और प्रसवपूर्व निदान तकनीक (लिंग चयन निषेध) नियम, 1996 में निम्नलिखित संशोधन करती है, नामतः :—

1. (1) ये नियम गर्भधारण-पूर्व और प्रसव-पूर्व तकनीक अधिनियम (लिंग चयन निषेध) संशोधन नियम, 2011 कहें जाएंगे।

(2) ये नियम सरकारी राजपत्र में प्रकाशित होने की तारीख से लागू होंगे।

2. गर्भधारण-पूर्व और प्रसव-पूर्व निदान तकनीक (लिंग चयन निषेध) नियम, 1996 में, नियम 11 में, उप-नियम (2) के लिए, निम्नलिखित नियम प्रतिस्थापित किए जाएंगे, नामतः :—

“(2) सक्षम प्राधिकारी या प्राधिकृत अधिकारी किसी संगठन द्वारा उपयोग किए जाने वाले किसी अल्ट्रासाउंड मशीन, स्कैनर या अन्य उपकरण, यूपी के लिंग की पहचान करने वाली मशीन को सील और बंद कर सकता है यदि संगठन ने अधिनियम के तहत स्वयं पंजीकरण नहीं करवाया है। ऐसे संगठनों की ये मशीनें जब्त कर ली जाएंगी और अधिनियम की धारा 23 के प्रावधानों के अनुसार कार्रवाई की जाएगी।”

[फा. सं. 24026/60/2008-पीएनटीडी]

अनुराधा गुप्ता, संयुक्त सचिव

टिप्पण : मूल अधिसूचना दिनांक 1 जनवरी, 1996 के सा.का.नि.

1(अ), के तहत भारत के राजपत्र में प्रकाशित की गई थी

और दिनांक 14 फरवरी, 2003 और सा.का.नि. 109(अ)

के तहत संशोधित की गई।

MINISTRY OF HEALTH AND FAMILY WELFARE
NOTIFICATION

New Delhi, the 31st May, 2011

G.S.R. 426 (E).—In exercise of the powers conferred by Section 32 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 (57 of 1994), the Central Government hereby makes the following amendments to the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, namely :—

1. (1) These Rules may be called the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2011.

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

2. In the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Rules, 1996, in Rule 11, for sub-rule (2), the following rule shall be substituted, namely :—

“(2) The Appropriate Authority or the officer authorised by it may seal and seize any ultrasound machine, scanner or any other equipment, capable of detecting sex of foetus, used by any organization if the organization has not got itself registered under the Act. These machines of such organizations shall be confiscated and further action shall be taken as per the provisions of the Section 23 of the Act.”

[F. No. 24026/60/2008-PNDT]

ANURADHA GUPTA, Jt. Secy.

Note:—The Principal Notification was published in the Gazette of India vide G.S.R. 1(E), dated 1st January, 1996 and amended, vide Notification No. G.S.R. 109(E), dated 14th February, 2003.

ANNEXURE V: NOTIFICATION OF THE MINISTRY OF HEALTH AND FAMILY WELFARE DATED 30TH SEPTEMBER 2016 REGARDING QUALIFICATION FOR USING DIAGNOSTIC PROCEDURES/TECHNIQUES INCLUDING ULTRASOUND MACHINES FOR VETERINARY DOCTORS

F. No. V.11011/07/2015-PNDT (Pt.)
Government of India
Ministry of Health & Family Welfare
(PNDT Section)

Nirman Bhawan, New Delhi
Dated the 30th September, 2016

To
State Appropriate Authority (PNDT)
Deptt. of Health and Family Welfare
(All States/UTs)

Subject:- Qualification for using diagnostic procedures/techniques including
Ultrasound Machines for Veterinary Doctors – reg.

Sir/Madam,

I am directed to say that Ministry of Health and Family has received representations seeking clarification with regard to qualification of Veterinary Doctors using Ultrasound Machines and other technology which is capable of determination of sex of foetus. The matter was examined in the Ministry in consultation with the Veterinary Council of India.

2. The Veterinary Council of India has prescribed qualification for such veterinary doctors, working at the veterinary clinics/facilities having Ultrasound Machines and other equipment/technologies capable of undertaking determination of sex of foetus or sex selection, which are as follows -

- PNDT
- (i) Such veterinary doctors must hold recognized degree in Veterinary Sciences as included in First Schedule/Second Schedule of the Indian Veterinary Council Act, 1984 with short term training in Radiology.
 - (ii) No objection certificate from District Head of Animal Husbandry/Veterinary Services Department, by whatsoever name it is called in respective State, where these clinics/diagnostic centres located.
 - (iii) District Head of concerned state shall also keep complete records of such clinics along with name and other details of such veterinary doctors.
3. All such centres have to follow all the provisions of the PC & PNDT Act, 1994 and Rules framed thereunder, including ban on portability of machine. However, if any veterinary institution is required to use portable machine in

their Mobile Medical Unit (MMU), they should apprise the District Appropriate Authority of the same for considering grant of registration of machine/institute in totality as per Act/Rules. The centres have to send the report by 5th of every month, even if the report is Nil. The centres are required to maintain all records of ultrasounds done at their centres. All such centres have to be inspected by concerned State/District Appropriate Authorities, National Inspection and Monitoring Committee, State/District Inspection and Monitoring Committee.

4. You are requested to disseminate the clarification above to the concerned Districts Appropriate Authorities under the PC & PNDT Act, 1994.

5. Copy of the reference PC & PNDT Act and Rules is also being enclosed for dissemination along with the guidelines above.

Yours faithfully,



(Ajay Kumar)

Under Secretary to the Government of India

Tel: 23061883

Copy to:-

1. The Director (VCI), Deptt. of Animal Husbandry, Dairying and Fisheries, Ministry of Agriculture and Farmers Welfare, Krishi Bhawan, New Delhi.
2. The President, Veterinary Council of India, A-Wing, 2nd Floor, August Kranti Bhawan, Bhikaji Cama Place, New Delhi - 66.

ANNEXURE VI: NOTIFICATION DATED 9 OCTOBER 2015 OF THE GOVERNMENT OF DELHI ON THE REGISTRATION OF VETERINARY CLINICS UNDER PC&PNDT ACT.

Directorate of Family Welfare, Govt. of NCT of Delhi,
Vikas Bhawan II, 7th Floor, 'B' Wing, Civil Lines,
New Delhi - 110054
Ph: 011- 23813477 Email: pndt.delhi@gov.in

F. 9/7/14/PNDT/DFW/2012/

855-872

Dated:

9/10/15

To,

The Deputy Commissioner (West), Govt. of NCT of Delhi, Old Middle School Building, Lawrence Road, Rampura, Delhi – 35	The Deputy Commissioner (North West), Govt. of NCT of Delhi, Kanjhawala, New Delhi – 68
The Deputy Commissioner (Central), Govt. of NCT of Delhi, Employment Exchange Building, Darya Ganj, Delhi	The Deputy Commissioner (North), 1, Kirpa Narain Marg, Delhi – 54
The Deputy Commissioner (North East), Govt. of NCT of Delhi, DC Office Complex, Nand Nagri, Delhi	The Deputy Commissioner (New Delhi), Govt. of NCT of Delhi, 12/1, Jam Nagar House, New Delhi – 11
The Deputy Commissioner (East), L.M.Bandh, Shastri Nagar, Geeta Colony, Govt. of NCT of Delhi, Delhi	The Deputy Commissioner (South), Govt. of NCT of Delhi, M.B. Road, Saket, New Delhi – 68
The Deputy Commissioner (South West), Govt. of NCT of Delhi, 37/Old Terminal Tax Building, Kapashera, M.B. Road, Saket, New Delhi – 68	District Appropriate Authority – Deputy Director Medical Services, Headquarter Delhi Area, Delhi Cantt. 110010, (DDMS)
Deputy Commissioner, Govt. of NCT of Delhi, L.M.Bandh, Shastri Nagar, Geeta Colony, Delhi. (Shahdara District)	Deputy Commissioner, Govt. of NCT of Delhi, M.B. Road, Saket, New Delhi-68. (South East)

Sub: Registration of Veterinary clinics under PC & PNDT Act.

Sir/ Madam,

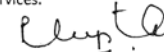
As per section 18 of PC & PNDT Act, every Genetic Counseling Centre, Genetic Laboratory or Genetic Clinic including clinic, laboratory or centre having ultrasound or imaging machine or scanner or any other technology capable of undertaking determination of sex of foetus and sex selection is to be registered under the Act.

All District Appropriate Authority are hereby requested to register all the facilities in their district providing services of Veterinary clinics having ultrasound machines under PC & PNDT Act.

All such centers have to follow all the provisions of the Act, including ban on portability of machine. The centers have to send the report by 5th of every month, even if the report is NIL. The centers are required to maintain all records of ultrasounds done at their centers.

The veterinarian having the qualification of Bachelors of Veterinary Sciences and Animal Husbandry are qualified to perform ultrasound on animals. The Veterinarian seeking registration under PC & PNDT Act needs to be registered under Delhi Veterinary Council. The veterinarian clinic registered under PC & PNDT Act will display the board as per the format attached herewith (Annexure A).

You are hereby requested to kindly do the registration of all the centers providing veterinary services.


(Dr. R.K. Gupta)
Director, Family Welfare

Dated:


9/10/15

F. 9/7/14/PNDT/DFW/2012/

855-872

Copy to:

1. PA to Hon'ble Health Minister, 7th Level, Delhi Secretariat, I.P. Estate, New Delhi.
2. Secretary (H & FW), 9th Level, Delhi Secretariat, I.P. Estate, New Delhi.
3. Addl. Secretary (Law), 8th Level, Delhi Secretariat, I.P. Estate, New Delhi.
4. CDMOs (All Districts)
5. Nodal Officers (All Districts)
6. Dr. Vinay Pawar, Office of Delhi Veterinary Council, Rajesh Pilot Veterinary Hospital Complex, Tuglakabad, New Delhi – 54 (with a request to ensure all centers get registered with DAA)


(Dr. R.K. Gupta)
Director, Family Welfare

VETERINARY CLINIC
Ultrasound of only Animals

Name of Centre:

Address:

Telephone No.-

यहाँ पर प्रसव पूर्व लिंग पैदा होने से पहले लड़का या लड़की की पहचान नहीं की जाती । यह दण्डनीय अपराध है ।

Here Pre-Natal Sex determination and disclosure of sex (Boy or Girl before birth) of foetus is not done. It is prohibited and punishable under law.

In case of any complaint / query under PC&PNDT Act contact:

District Appropriate Authority (_____ Distt.)

Add.

Tel. No.

ANNEXURE VII: FORM OF APPLICATION FOR REGISTRATION OF MANUFACTURER/ RETAILER/ DISTRIBUTOR/ IMPORTER/DEALER/ TECHNICIAN DEALING IN ULTRASOUND/ IMAGING MACHINES IN DELHI

Directorate of Family Welfare, Government of NCT of Delhi,
7th Level, B & C Wing, Vikas Bhawan-II, Civil Lines,
New Delhi-54

F.No.9(10)65/PNDT/DFW/14/ 4308

Dated: 27-5-15

Preamble:

The skewed child sex ratio is a matter of great concern for the State of Delhi. Rapid technological advancements in techniques for sex selection/determination have direct relation to the declining Child Sex Ratio. Ultrasonography machines/Imaging Machine or any other machine capable of detecting sex are usually instrumental in prenatal sex determination which paves way for female foeticide. The strict implementation of the PC & PNDT Act is the prime duty of the State Government.

In reference to Notification dated: 24.2.2014 from Ministry of Health & Family Welfare, wherein Rule 18(A)(7) :- All Appropriate Authorities including the State, District and Sub-District notified under the Act, inter-alia, shall observe the following regulation of ultrasound equipments namely:-

- (i) Monitor the sales and import of ultrasound machines including portable or buy back, assembled, gift, scrap or demo;
- (ii) Ensure regular quarterly reports from ultrasound manufacturers, dealers, wholesalers and retailers and any person dealing with the sales of ultrasound machine at the State level;
- (iii) Conduct periodical survey and audit of all the ultrasound machines sold and operating in the State or District to identify the unregistered machines;
- (iv) File complaint against any owner of the unregistered ultrasound machine and against the seller of the unregistered ultrasound machine.

The monitoring of the unauthorized sale/ circulation of USG/ Imaging machines and to curb their misuse, is hence is the duty of the State Government and therefore, the following instructions are circulated for strict compliance.

Circular:

1. All manufacturers, retailers, distributors, importers, dealers and technicians dealing in sale, buyback or repair of Ultrasonography/ Imaging machines in Delhi are to be registered with State Appropriate Authority, PC & PNDT, Government of NCT of Delhi. No person will be permitted to sale/ purchase/ buy back/repair or carry out any transaction of USG/ Imaging machine / probes or any instrument capable of detection of sex of foetus except from the dealers/ manufactures/ repairers registered with State Appropriate Authority in Government of NCT of Delhi. (As per attached application for registration)

2. Manufacturers/ dealers will sell / buy back / repair USG machines / Imaging machine / any other machine capable of detecting sex and probes only to those clients/ clinics which are registered with the District Appropriate Authority of the concerned district.
3. Manufacturers, retailers, distributors, importers, dealers and technicians they will report to the State Appropriate Authority, Govt. of NCT Delhi as well as the concerned District Appropriate Authority for every transaction or repair of USG/ Imaging machines prior to actual sale/ buyback or repair of the machines with all the details like make, model and serial no. of the machines and probes.
4. No clinic/ doctor will purchase/ sell/ give USG machines by way of buy back or repair of any USG/ Imaging machine from/ to any manufacturer, retailer; distributor, importer, dealer or technicians not registered with State Appropriate Authority, Govt. of NCT Delhi.
5. Manufacturers, retailers, distributors, importers, dealers and technicians, will keep complete record of their business at the place of their business, in serial order regarding the date, make-model & serial no. of the USG/ Imaging machines/ any other machine capable of detecting sex/ probes sold/ bought back/ repaired/ traded or destroyed & will submit their quarterly report of sale/ buyback to District and State Appropriate Authority within 15 days of end of every quarter. Even if the information is "Nil", it is to be reported mandatorily.
6. Every manufacturer, retailers, distributors, importers, dealers and technicians will provide reasonable facilities for inspection of their record of the business at the place of their business on demand by concerned Appropriate Authority during inspection visit at all reasonable times.
7. All the transactions regarding the USG/ Imaging machines/ any other machine capable of detecting sex/ probes will be notified to the District Appropriate Authority of the concerned district by the Clinic / Doctor as well as by concerned Manufacturers, Distributors, Retailers, Importers/ technician.
8. Manufacturer/ dealer will report to both the State Appropriate Authority and District Appropriate Authority for every transaction of USG machine /Imaging machine/ any other machine capable of detecting sex/ probes prior to the actual sale of the machine.
9. Manufacture/ dealer will submit the report online. Till this mechanism is developed, reporting should be made on email id dirdfw@nic.in and a hard copy submitted to the State Appropriate Authority, Directorate of Family Welfare, 7th level, Vikas Bhawan II, Civil Lines, Delhi – 110 054.
10. The manufacturer/Dealer / retailers / distributors / importers/ technician while doing transaction of any equipment which is capable of detection of sex of foetus will take an affidavit on stamp paper duly signed by notary public from the purchaser that no court case is pending against him / her in any state of India in relation to PC & PNDT Act.

11. Manufacturer/ dealer will report to State Appropriate Authority, Govt. of NCT Delhi about the buyback of old equipments and probes from the client.
12. Manufacturer/ dealer will report to State Appropriate Authority, Govt. of NCT of Delhi about the refurbishment or cannibalization of any old equipment purchased from the client.

All Manufacturers, Distributors, Retailers, Importers, technicians of Ultrasonography / Imaging machines/probes any other equipment capable of detecting sex of foetus are to follow the above mentioned instructions strictly, in a bid to stop illegal transactions of Ultrasonography / Imaging machines/probe or any other equipment capable of detecting sex. Any non-compliance of these instructions will be viewed as contravention of Sec. 3 (B) of The PC & PNDT Act, 1994 & Rule 3-A of the PC & PNDT Rules 1996 & will be liable to prosecution by the concerned Appropriate Authority.

By Order and in the name of the Government of Delhi.


Chairperson

State Appropriate Authority,
PC & PNDT Act, Directorate of Family Welfare
Govt. of NCT Delhi

**FORM OF APPLICATION FOR REGISTRATION OF
MANUFACTURER/ RETAILER/ DISTRIBUTOR/ IMPORTER/
DEALER/ TECHNICIAN DEALING IN ULTRASOUND/ IMAGING
MACHINES IN DELHI**

- 1 Name of the applicant :

- 2 Residential Address of the applicant:

- 3 Type of facility to be registered:
(Please specify whether the application is for registration of a manufacturer, retailer, distributor, importer, dealer or technician of Ultrasound / Imaging Machine or any combination of these)

- 4 Full name and address/addresses of office/ factory of manufacturer, retailer, distributor, importer, dealer or technician of Ultrasound / Imaging Machine with Telephone/ Fax number(s)/ Telegraphic/ Telex/ E-mail address(es). :-

- 5 Type of ownership of Organisation (individual ownership/ partnership/ company/ co-operative/ 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 Specification of the product/ Merchandise / Service & probes for which approval is sought:-

- 7 Equipments/ Services available with the make and model of each equipment or type of repair work under taken.

8 Names, qualifications, experience of employees (may be furnished as an enclosure)

9 List of Enclosures:
(Please attach a list of relevant enclosures/ supporting documents attached to this application viz.

(1) Electricity bill/ Telephone bill/ Tax bill for address proof of residence/ Office.)

(2) Photo Identify- PAN card/ Passport/ ADHAR/ Voter ID or Election Commission card/ Driving Licence

(3) Partnership Deed/ Registration of Company/ Firm Registration Documents.

(4) Authorized Dealership certificate/ Documents of Retailership or any other documents pertaining to their business. Attach the documents which are applicable.

Date:

(.....)

Place

**Name, designation and signature of the person
Authorized to sign on behalf of the organization
to be registered.**

DECLARATION

I, Sh./ Smt./ Kum./ Dr.....son/daughter/ wife of
.....,aged.....years, resident of.....

.....
working as (indicate designation) in
.....(indicate name of the organisation / Firm or repairing station to be registered) hereby declare that I have read and understood the Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, (57 of 1994) and the Pre-natal Diagnostic Techniques (prohibition of Sex Selection) Rules, 1996,

I also undertake to explain the said Act and Rules to all employees of the organisation / Firm or repairing station in respect of which registration is sought and to ensure that Act and Rules are fully complied with.

I affirm that all information given in this application are true & correct.

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]

Form of Application for registration of manufacturer/supplier of ultrasound units to be made to the Appropriate Authority under PC & PNDT Authority, Delhi.

1.	Name of Company And Address																	
	Pincode:																	
	Telephone No:																	
	Fax No:																	
	E- mail address																	
2.	Registered Office:																	
	Pincode:																	
	Telephone No:																	
	Fax No:																	
	E- mail address																	
3.	Type of Organization: Proprietary/Partnership/Pvt. Ltd./ Public LTD./ Others																	
4	Type of Business in Ultrasound Business																	
	Manufacturer:																	
	Importer:																	
	Distributor:																	
	Refurbisher:																	
5	Models Sold in India with specification (2D/3D/4D) any other	Name of Models of Ultrasound Unit:																
		<table border="1"> <thead> <tr> <th></th> <th>Current</th> <th></th> <th>Old Models</th> </tr> </thead> <tbody> <tr> <td>1</td> <td></td> <td>1</td> <td></td> </tr> <tr> <td>2</td> <td></td> <td>2</td> <td></td> </tr> <tr> <td>3</td> <td></td> <td>3</td> <td></td> </tr> </tbody> </table>		Current		Old Models	1		1		2		2		3		3	
			Current		Old Models													
		1		1														
		2		2														
3		3																

6	Probes Sold in India	Name of Probes supplied by the company for usage with Ultra Sound Unit:			
			Current		Old Models
		1		1	
		2		2	
		3		3	
7	Details of Authorized Signatory				
8	Signature Seal Place: Date:				

Information of Ultra Sonography/ Image Scanning Machines sold/ Repaired in the State of Delhi during the Quarter ending March/ June/ September/ December, 20.....

Name of the Manufacturer/ Dealer/ Importer/ Distributor/ Technician:-

Registration No.

Full Address

With STD CODE – landline No. :-

Email Id:-

Mobile No. of responsible person:-

Sr. No.	Name of District	Service provided Sale / Buyback/ Repair (please specify)	Name of Registered center with Address, Telephone No. & Email id	Name of owner with Address, Telephone No. & Email id	Name of equipment Ultrasound/ Machine- 2D/3D/4D /Imaging Machine / Other equipment (please specify)	Make/ model & serial no. of the equipment to be purchased/ repaired including portable machines with year of manufacture.	Date of expected sale/ Delivery/ repair of the USG/ Imaging machine	PC & PNDT Registration No., with date, date of expiry of validity & detail of issuing Authority.	Remarks, if any

To be submitted in hard as well as soft copy.

To

- (1) The Chair Person, State Appropriate Authority, PNDT,
7th Floor, B-Wing, Vikas Bhawan-II, Civil lines, New Delhi-54
- (2) District Appropriate Authority, PC & PNDT Act

Authorized Signatory
(Full name & Contact no.)

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The views expressed are of the Asian Centre for Human Rights, and not of the European Commission.

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