

**THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES
(PROHIBITION OF SEX SELECTION) ACT, 1994**



**Answers to
Frequently
Asked
Questions**

**A Handbook for
IMPLEMENTING BODIES**



THE PRE-CONCEPTION AND PRE-NATAL DIAGNOSTIC TECHNIQUES (PROHIBITION OF SEX SELECTION) ACT, 1994

Answers to
Frequently Asked Questions

A Handbook for IMPLEMENTING BODIES



Ministry of Health & Family Welfare
Government of India
New Delhi



Center for Enquiry Into
Health and Allied Themes



United Nations Population Fund - India

Acknowledgements

The FAQs have been developed by Center for Enquiry Into Health and Allied Themes (CEHAT) for Ministry of Health and Family Welfare with technical and financial assistance from United Nations Population Fund (UNFPA).



Naresh Dayal

Health & FW Secretary

Tel.: 23061863 Fax : 23061252

e-mail : secyfw@nb.nic.in

ndayal@nic.in



भारत सरकार
स्वास्थ्य एवं परिवार कल्याण मंत्रालय
निर्माण भवन, नई दिल्ली - 110011
Government of India
Ministry of Health & Family Welfare
Nirman Bhavan, New Delhi - 110011

2nd March 2007

FOREWORD

Declining number of girls in the population is a matter of great concern to us. The Population Census data indicate that the child sex ratio is adverse for girls and this could lead to serious socio-cultural problems and population imbalances in the country.

One of the reasons attributed to the lesser number of girls in the age group (0-6) is the practice of female foeticide. In order to check this evil practice, the Pre-Conception and Pre-Natal Diagnostic Techniques (PC & PNDT) Act, 1994 is being implemented in the country. The Act prohibits sex-selection before or after conception and regulates the use of pre-conception & pre-natal diagnostic techniques so that these are not misused for sex selection.

In the implementation of the PC & PNDT Act, we have different stakeholders including the Appropriate Authorities who implement the Act, medical practitioners who operate the diagnostic centres and the general public who seek the services who have different types of questions in their mind about the provisions and applications of the PC & PNDT Act. Accordingly, three sets of Frequently Asked Questions have been developed separately for each of these groups. I hope these booklets will help all concerned in understanding the issues in their right perspective and also help them in the effective implementation of the PC & PNDT Act.

(NARESH DAYAL)

Secretary to the Govt. of India



सम्पर्क से पहले सोचो, एच आईवी/एडस से बचो **HIV/AIDS: Prevention is better than cure**

Contents

Introduction	3
Declining Sex Ratios across States	6
Sex Selection: Myth and Reality	14
Demystifying the PC&PNDT Act	18
Answers to Frequently Asked Questions (FAQs)	21
Annexures	
I : Form A	43
II : Form B	48
III : Form C	50
IV : Form D	51
V : Form E	54
VI : Form F	56
VII : Form G	59
VIII : Suggested Format of Show Cause Notice to be issued by the District Appropriate Authority	61
IX : Suggested Format of a complaint to be filed by Appropriate Authority in the Court of Law	63
X : CEDAW Articles	65

NOTE : The information contained in the FAQs has been simplified and appropriate reference has been made to the PC & PNDT Act and Rules. For fuller details regarding various sections of the Act, kindly refer to the enclosed CD containing the Handbook on PC & PNDT Act and Rules with Amendments (Revised edition) of the Ministry of Health and Family Welfare, Government of India.

**THE PRE-CONCEPTION AND PRE-NATAL
DIAGNOSTIC TECHNIQUES
(PROHIBITION OF SEX SELECTION) ACT, 1994**



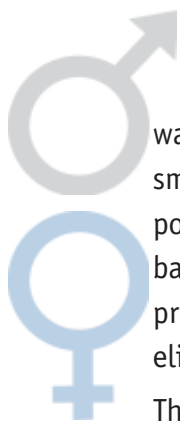
Introduction

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994, as amended in 2003 to The Pre-Conception And Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (PC & PNDT Act), is a legislation to curb the abhorrent practice of sex determination and sex selection.

India has a long history of strong patriarchal influence in all spheres of life. This has translated into an obsessive preference for sons and discrimination against the girl child and women. It has spawned practices like female infanticide, bride-burning and sati; and led to the neglect of the girl child in terms of nutrition, education, health care and her overall development.

Thus the “elimination” of girls and women has been a part of our social tradition, leading to a sex ratio increasingly adverse to women. The situation could probably have been worse, but for the valiant efforts of some social reformers. But they have been more successful in some parts of the country than others, as can be seen from the sharp variations in the sex ratio across regions, with the north and west of India showing larger deficits in female population.

In recent years the misuse of medical technologies that have the potential to detect sex in the pre-natal period or even select the sex at the pre-conception stage, have added a new dimension to this issue. Pre-natal diagnostic techniques such as amniocentesis and ultrasonography, have been used all over the world for detection of genetic abnormalities. However, in India, they are being misused for almost past three decades for detection of the sex of unborn children and subsequently for sex-selection. The disturbing sex ratios in the 1991 census and consistent campaigning on this issue by civil society groups led Parliament to enact the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act – PC & PNDT Act – in 1994. However, this



was not followed up by effective implementation. Moreover, the pressures to have small families signalled both by changing social values as well as some population policies – led to even more intensified misuse of such technologies, cutting across barriers of caste, class, religion and geography. With the advent of new sophisticated pre-conception sex selection technologies like sperm separation, the girl child's elimination started becoming more subtle, refined and even socially acceptable.

The 2001 census, not surprisingly, revealed a drastic fall in the sex ratio for the 0-6 age group, signaling the precipitation of a demographic catastrophe on a nation-wide scale. Alarmed by these happenings, and in response to the directives of the Supreme Court (SC) in a PIL filed on this issue, the PC & PNDT Act was amended in 2003. The Pre-Conception and Pre- Natal Diagnostic Techniques (Prohibition of Sex Selection) Rules 1996, amended in 2003, came into force with effect from February 14, 2003. The change in nomenclature denotes a shift in emphasis from “regulation” of techniques to “prohibition” of sex selection. It also represents a widening of the scope of law to include pre-conception sex selection techniques.

The new Act represents a statement of consensus of Indian society on the issue of sex selection, as it was drafted after intense deliberations among all stakeholders—the State, the medical profession and civil society groups. It is the first major attempt to regulate medical technology in India. While the law alone cannot solve the problem of large-scale sex selective practices and problems arising from it, it can, if implemented diligently, substantially curb such practices, send a signal to the violators, and assure society at large and women in particular, that gender-based discrimination shall not be tolerated.

The machinery appointed for implementation of this Act has a historical task ahead of it. There are media reports and a large body of anthropological research to prove that practices like polyandry, forced marriages, and sale and purchase of brides have already taken roots in certain areas where deficit of women is more acute. Violence against women is on the rise. Effective implementation of the Act can go a long way in reversing these horrific trends. It is a difficult, but not an impossible task, due to the following factors:

- There is a groundswell of support in favour of the law all over the country. The level of awareness on this issue is high, thanks to the tireless efforts of the activists of women's and health organisations and NGOs, the census authorities, Government officials and the media.

- Unlike other social legislations, there is an added dimension to this issue – the medical community, which is largely law-abiding, needs to be self regulated. Negative publicity and legal entanglements harm the reputation and practice of medical professionals. Hence, if they are convinced that the State machinery is keen to implement the law, a large majority of them would prefer to follow it.
- Professional organisations of doctors, such as the Indian Medical Association (IMA), the Federation of Obstetricians and Gynecologists of India (FOGSI), the Indian Radiological and Imaging Association (IRIA) and the Family Planning Association of India (FPAI) have declared their unequivocal support to the law.
- The law provides for a significant and vigorous role for activists and voluntary organisations in its implementation. Examples of Best Practices, indicate that with the active involvement of such groups and individuals, the law can be effectively implemented.

1

Declining Sex Ratios across States



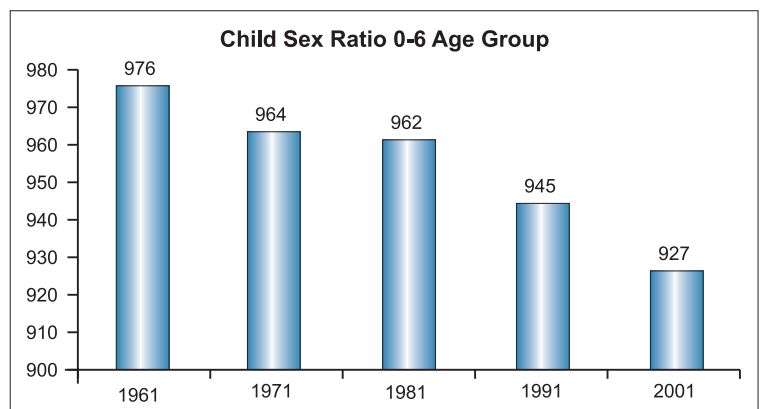
"MOM, DAD SINCE I COULD NOT GET A GIRL IN OUR NEIGHBOURHOOD I DECIDED TO MARRY A GIRL FROM THE NEIGHBOURING COUNTRY"

Child Sex Ratio statistics in the 0-6 age group for the last four decades show a continuous decline, which has been the sharpest from 1981 onwards. The chart below illustrates how many girls there are in the country for every 1000 boys in the given period.

The fall to 927 in the 2001 census has been alarming, especially since the country seems to be

registering an upward growth in other areas. This clearly indicates that economic prosperity and education have no bearing on the sex ratio – or in other words, in changing the traditional preference for sons over daughters.

Today, the north-western states, where the sex-determination clinics first made their presence felt, have the lowest child sex ratios. Census 2001 reveals that rich states like Punjab and Haryana have



Source: India Census Reports of respective years

deplorable child sex ratios – 798 and 820 respectively. Gujarat, Delhi, Himachal Pradesh too have shown a drastic decline in the child sex ratio. In southern India, Salem is one of the worst districts in the country in terms of juvenile sex ratio. It is the fifth most prosperous district in Tamil Nadu. In Maharashtra, the child sex ratio has declined from 946:1000 in 1991 to 917:1000 in 2001. In eight districts in Maharashtra the child sex ratio is below 900 girls per 1000 boys. Even Mumbai has shown a decline from 942 in 1991 to 898 in 2001. It is worth noting that in most states it is the better-off districts which have the most adverse child sex ratios, thus confirming the assertion that the economically better off are the leaders in this new form of discrimination against the girl child.

Variation of 0-6 Child Sex Ratios across Districts

Sex Ratio	No. of Districts
Below 800	16
800-849	33
850-899	73
900-930	101
931-949	109
950-970	163
971 & above	96
NA	2
Total	593

Source: Census 2001

Other Trends

According to a recent study in Mehsana district in Gujarat and Kurukshetra district in Haryana, undertaken with the support of Health Watch Trust, the last births had a stronger preponderance of boys than all other births. More than twice as many boys as girls were reported among the last births by most groups of women. There were more than 240 males for every 100 girls in the last births among those women who belonged to upper castes, whose families were landed and who were literate (*L Visaria 2003, 'Sex selective abortions in the state of Gujarat and Haryana; some empirical evidence, Health Watch Trust, New Delhi*). This distortion was very likely due to the use of sex-selective techniques which helped parents get rid of unwanted daughters, or due to avoiding having children once the minimum desired numbers of sons were born. In either case, the preference for sons was evident. The Gujarat and Haryana study also noted that as the birth order increased, the preponderance of male children increased. Although the sex ratio of the first birth was greater than the normal acceptable range of 104-107 boys per 100 girls, by the time women had their third or higher parity child, the chance of that being a male birth was greater by 30 to 50 per cent. The preponderance of boys among the second and the third child was much greater for women who were educated beyond primary level, who were not engaged in any economic



Did you know? Impact of female foeticide



Courtesy- Anuradha Dutt

In Dang district, Gujarat- Rajasthan border, 8 brothers of the same family are married to Sarup, in the centre. Getting a wife is extremely difficult in this region - Sept. 2001, *India Today*

The 200-odd Rathore families in a Rajput-dominated village in Western Rajasthan's Barmer district have 2 to 4 male children each on average. There are only 2 girls in the entire clan. At a conservative estimate, the ratio is 400 male children to 2 female children. Anuradha Dutt, *The Pioneer*, October 28, 2001



Courtesy- India Today, September 3, 2001 issue



Courtesy- Anuradha Dutt

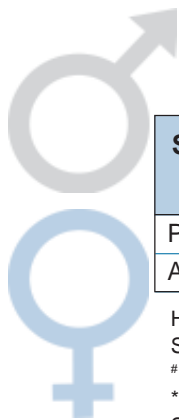
Devra village of Jaisalmer district has the distinction of receiving a baraat (bridegroom's part) after 110 years in 1997, when Jaswant Kanwar got married. Woman in the centre is mother of Jaswant Kanwar. Anuradha Dutt, *The Pioneer*, October 28, 2001

activity or who reported themselves as housewives, who belonged to upper castes and those whose families were landed.

TABLE 1
Sex Ratios across States – Number of Females per 1000 Males

State/Union Territory	Total Population			0-6 Years Age Group		
	2001	1991	1981*	2001	1991	1981#
India	933	927	934	927	945	979
Jammu & Kashmir	900	NA	892	937	NA	
Himachal Pradesh	970	976	973	896	951	970
Punjab	874	882	879	798	875	925
Chandigarh	773	790	769	845	899	914
Uttaranchal	964	936		908	948	
Haryana	861	865	870	819	879	921
Delhi	821	827	808	868	915	943
Rajasthan	922	910	919	909	916	979
Uttar Pradesh	898	876	885	916	927	965
Bihar	921	907	946	942	953	1004
Sikkim	875	878	835	963	965	978
Arunachal Pradesh	901	859	862	964	982	984
Nagaland	909	886	863	964	993	991
Manipur	978	958	971	957	974	991
Mizoram	938	921	919	964	969	994
Tripura	950	945	946	966	967	983
Meghalaya	975	955	954	973	986	995
Assam	932	923	910	965	975	
West Bengal	934	917	911	960	967	991
Jharkhand	941	922		965	979	
Orissa	972	971	879	953	967	1003
Chhatisgarh	990	985		975	984	
Madhya Pradesh	920	912	941	932	941	989
Gujarat	921	934	942	883	928	962
Daman & Diu	709	969	1062	926	958	
Dadra & Nagar Haveli	811	952	974	979	1013	1000
Maharashtra	922	934	937	913	946	961
Andhra Pradesh	978	972	975	961	975	1000
Karnataka	964	960	963	946	960	981
Goa	960	967	975	938	964	965
Lakshadweep	947	943	975	959	941	972
Kerala	1058	1036	1032	960	958	
Tamil Nadu	986	974	977	942	948	974

Contd...



State/Union Territory	Total Population			0-6 Years Age Group		
	2001	1991	1981*	2001	1991	1981#
Pondicherry	1001	979	989	967	963	986
Andaman & Nicobar	846	818	760	965	957	985

Highlighted figures and states are cause for concern

Source : Census of India 2001 – Population Totals

Census of India 1981 - Working Children in India (this data is for 0-4 year's population)

*Census of India 1991 - State Profile of India

Source: Census of India – Maharashtra, respective years

Misusing Technology

Medical technologies have played a crucial role in reinforcing negative patriarchal systems that demand male heirs. In fact, developments in the technology of sex selection techniques have a direct relation to the declining juvenile sex ratio in our country. About 78,000 female foetuses were aborted after sex determination tests between 1984-1985, according to a Times of India editorial in June 1986. (Achin Vanaiak, TOI June 1986). Amniocentesis was first introduced in India in 1975 by the All-India Institute of Medical Sciences (AIIMS), New Delhi, for detecting congenital deformities in a foetus. By the mid-1980s, it was being largely misused to determine the sex of the unborn child and to carry out sex-selective abortions – with the girl child as the obvious target — in Maharashtra, Punjab and Haryana. The practice soon spread to the rest of the country.

Newer techniques like pre-implantation genetic diagnostics (PGD), X-Y separation methods, and assisted reproductive technologies like IVF (In-vitro fertilization), IUI (Intra Uterine Insemination), and many others are available in the market. (*PNMT Implementation: A Medical Perspective, Dr. Bal Inamdar*) and are largely being used for sex selection. Technology is being used in our existing socio cultural, economic context and also in the patriarchal structures, which is and for strategically eliminating the girl child. There are actually some doctors who claim that they conduct sex determination and “selection” procedures to help control the population or as a favor to families who already have girl children. Such doctors – an embarrassment to our profession – need to be stopped. And it is our responsibility to do so. They need counselling as much as the parents who follow this route to parenthood.

What does a low child sex ratio mean?

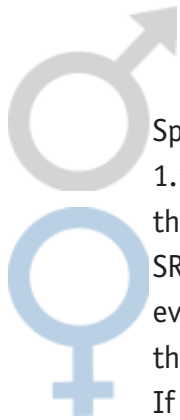
Demographically, the child sex ratio of 927 does not augur well for the future of the country. The high number of “missing girls” is indicative of the poor status of the girl child – and of women. The overpowering desire to have a male child stems from economic and social factors: a son does not have to be married off with a dowry, he will grow up to be the breadwinner and support his parents (the fact that this is not always true is another matter!), he will carry the family name forward. A daughter is seen as a burden from day one.

While the pregnant woman herself is sometimes a willing participant in this exercise, most often she is forced to opt for pre-natal sex determination and decides to get rid of the female foetus under tremendous social and family pressure to deliver a male child. She does so at considerable risk to her own life, as such abortions are usually performed in the fourth or fifth month of pregnancy. The woman’s own status and survival within the household is dependent on whether or not she gives the family its heir. Consequences of not doing so are often desertion, abandonment and unending mental and sometimes physical trauma.

Such elimination of the girl child points to a rot in the social and cultural fabric of societies it is imperative that all sectors join in to change the mind set and attitude that allows and encourages this crime and discrimination. And both doctors and the general public are equally responsible to help bring in this change.

Who is doing it?

A study, conducted by the Christian Medical Association of India (CMAI), shows that contrary to popular perception, more educated parents too have a bias against having a girl child. In fact, the best Sex Ratio at Birth (SRB) of 933 was in cases where both parents had education only up to middle school or less. In contrast, where both parents had studied up to high school, the SRB was a mere 690. Graduate parents had a low SRB of 813, while it was even lower at 769 where both parents were post-graduates. The study does suggest, however, that an employed mother has a positive impact on SRB. While the SRB for housewives was 783, it was higher at 839 for mothers in high-end professional jobs and 809 for those employed in other jobs. The results of



Special Fertility and Mortality survey of 1.1 million households commissioned by the Census office in 1998 reveals that the SRB for the first child is 871 girls born for every 1000 boys. But SRB falls to 759 for the second child if the first child is a girl. If the first two children are girls this ratio dips even lower to 718 for the third child. The report further concludes that “regardless of the education of the mother or religious affiliation of the household, the households are less likely to have a second girl”.

The capital of India Delhi itself has one of the most severe demographic imbalances. The child sex ratio, which was 865 in 2001, dropped by more than 50 since 1991 in six out of Delhi’s nine districts. The increase in the number of villages in Delhi with a CSR of less than 750 from 13 in 1991 to 46 in 2001, shows that the misuse of modern technology is rampant in rural areas as well as affluent areas like the South West of Delhi, where the CSR is 845 (*Source: Times of India, July 15, 2005.*)

Similarly data from Municipal records in Mumbai show that SRB is on the lower side, especially so in affluent wards and the island city. However, in the recent years one is seeing a positive trend overall of improvement in SRBs, especially in the suburbs.

New Delhi Sex Ratio at Birth (January to June 2004)

South Delhi	762
West Delhi	784
Najafgarh Zone	792
Narela Zone	808
Central Zone	805
Sadar Paharganj	811
Karol Bagh	850
Shahdara North Zone	762
Shahdara South Zone	833
Expected as per Biological Norm	947 to 952

Mumbai Sex Ratio at Birth (SRB) 2002-2003

Wards	2000	2001	2002	2003	
A	913	860	861	860	Colaba
B	914	869	869	869	Sandhurst Road
C	921	906	907	906	Marine lines
D	944	987	987	987	Grant Road
E	931	891	891	891	Byculla
F/S	921	827	826	826	Parel
F/N	920	834	854	855	Matunga
G/S	924	915	915	915	Elphinstone Road
G/N	931	868	868	868	Dadar
Island City	926	881	881	880	
H/E	904	949	949	949	Khar-Santacruz
H/W	971	898	898	898	Bandra
K/E	898	943	943	943	Andheri E
K/W	887	927	927	927	Andheri W
P/S	887	983	983	983	Goregaon
P/N	910	910	910	910	Malad
R/S	803	836	836	924	Kandivali
R/C	728	960	960	897	Borivali
R/N	930	859	859	859	Dahisar
Western Suburbs	877	923	923	924	
L	906	878	978	978	Kurla
M/E	895	965	965	965	Chembur E
M/W	924	898	897	898	Chembur W
N	936	973	973	973	Ghatkopar
S	909	959	959	959	Bhandup
T	891	894	894	894	Mulund
Eastern Suburbs	910	929	953	953	
TOTAL (Mumbai)	900	913	920	920	

Source: Municipal Corporation of Greater Mumbai, Public Health Department, and Information Education & Communication Cell

2

Sex Selection: Myth and Reality

Breaking myths and clarifying misconceptions about sex selection and sex determination:

- **Less girls, more demand, their status will improve**

Contrary to what many believe, lesser number of girls in a society will not enhance their status. Instead, in places where sex selection is rampant, there can be an increase in violence against women, rape, abduction, trafficking and onset of practices such as polyandry.

According to the demand-supply logic, women would be not easily replaceable and scarce commodities. But how do we forget the socio cultural milieu in which women live! The society that is responsible for the subordination of women will not treat them in a more humane way simply because they are in scarce supply. On the contrary, the incidences of violence and forced polyandry are likely to go which are currently only seen in some villages of Punjab and Haryana.

- **Sex selection is justified if you have two or more daughters**

The notion that only couples with two or more daughters are going in for sex selection and therefore does not affect the overall child sex ratio is misleading. In fact, data indicates that even for the first-born, there is a preference for a male child. This trend is even more noticeable where the first-born is a girl.

- **If dowry exists, sex selection cannot be stopped**

Sex selection is not a solution to dowry – the system of dowry will continue as long as people look upon daughters as a liability. What is important is to address the root cause for the subordinate status of women in the society.

- **Better to eliminate daughters than to let them suffer an unjust existence**

The thought that it is more humane to eliminate a female foetus than subjugate her to a life of discrimination does not hold water. By the same logic, it would be justifiable to eliminate poor people than let them suffer a life of poverty and deprivation. The girl child is not the problem, the practice of sex selection is.

- **A mother has the right to choose the sex of her child**

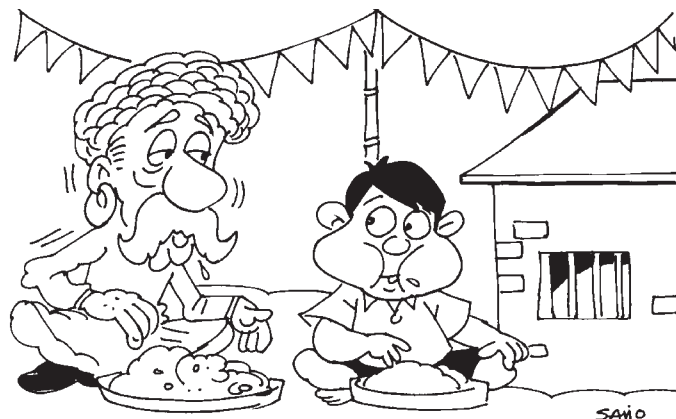
Another misleading notion is that banning sex selection amounts to denying a mother her unalienable right to choose the sex of her child. Choice in the absence of autonomy is no choice. Fears of violence and rejection/desertion and also the desire to establish one's value in the family often pressurize women into opting for sex selection.

- **Sex selection helps to control population**

The argument that sex selection is an effective tool for controlling population is misplaced. We want population stabilization for improving quality of life. This is the ultimate goal. If along the way we resort to things that damage our quality of life, is that desirable?

- **A question of economics, not discrimination**

Traditionally, women are not expected to work outside home. Economic dependence renders them vulnerable on the one hand, while on the other being considered as a liability further adds to their subordination. They are considered as 'paraya dhan' requiring dowry to be married and sent away. However, none of these factors and conditions are a given. The factors that lead to women being perceived as economic liability can be changed with investment in their



"HAVE IT GRANDSON, YOU NEVER KNOW WHEN THE NEXT WEDDING WILL BE. I HAVE WAITED FOR YEARS FOR THIS FOOD"



education and skills, women and girls can very much be as independent as men and boys given the opportunity and support their families in a number of ways.

- **Not to allow sex selection for family balancing is unethical**

There is no right to a “balanced family”. It is not a natural right nor has it been bestowed on citizens by the political set up. Using diagnostic techniques for sex-selection is discriminatory and violates the fundamental right to equality apart from violating the PC & PNDT Act. (This has been upheld by the Mumbai High Court in the context of the case of Mr. & Mrs. Soni vs. Union of India & CEHAT, 2005. The judgment states that ‘ the right to life or personal liberty cannot be expanded to mean that the right to personal liberty includes the personal liberty to determine the sex of the child which may come into existence. Right to bring into existence a life in future with a choice to determine the sex of that life cannot in itself be a right.’)

REMEMBER-

Misuse of medical technology for sex selection before birth as well as before conception should be opposed because :

- It is against the fundamental right to equality and freedom from gender-based discrimination, guaranteed by the Indian Constitution.
- It is against the principles of medical ethics.
- It violates Articles 1, 2, 3 and 5(a) (**Annexure X**) of the international Convention on Elimination of Discrimination against Women (CEDAW) to which India is a signatory.
- Coupled with the discrimination against surviving daughters, it has resulted in a deficit of several million women from the population. Such an imbalance in the sex ratio would result in increased violence against women in the form of forced polyandry (several men marrying/cohabiting with one woman), rapes, abductions, sale and purchase of brides. There would thus be pronounced insecurity for all women and an increasingly violent society.

Key Features of the Act:

- Prohibition of sex selection, before and after conception.¹
- Regulation of pre-natal diagnostic techniques (e.g. amniocentesis, ultrasonography, etc.) for detection of genetic abnormalities, by restricting their use to registered institutions. The Act allows the use of these techniques only at a registered place for a specified purpose and by a qualified person, registered for this purpose.²
- Prevention of misuse of such techniques for sex selection before or after conception.³
- Prohibition of advertisement of any technique for sex selection as well as sex determination.⁴
- Prohibition on sale of ultrasound machines to persons not registered under this Act.⁵
- Punishment for violation of provisions of the Act.⁶

Diagnostic Techniques such as ultrasonography are capable of determining the sex of the foetus i.e. whether it is male or female. This process is called sex determination. When the family selects a child of the sex it will like to have and eliminates that which is unwanted, this process is called sex selection. In most cases, sons are wanted while daughters are eliminated.

An offence under this law is

Cognizable – A police officer may arrest the offender without warrant.

Non-bailable – Getting bail is not the right of the accused. The courts have discretion to grant bail.

Non-compoundable – Parties to the case cannot settle the case out of court and decide not to prosecute.(Sec 27)

¹ Sec 3A

² Sec 4

³ Sec 6

⁴ Sec 22

⁵ Rule 3A, inserted vide GSR, 109 (e) dt 14-2-2003

⁶ Sec 23

3

Demystifying the PC & PNDT Act

Introduction

In 1988, the state of Maharashtra became the first in the country to ban pre-natal sex determination through the enactment of the *Maharashtra Regulation of Pre-natal Diagnostics Techniques Act*. At the national level the *Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act* (PNDT Act) was enacted on September 20, 1994.

The 1994 Act provided for the “regulation of the use of prenatal diagnostic techniques for the purpose of detecting genetic or metabolic disorders, chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of misuse of such techniques for the purpose of prenatal sex determination leading to female foeticide and for matters connected therewith or incidental thereto.” Except under certain specific conditions, no individual or genetic counseling center or genetic laboratory or genetic clinic shall conduct or allow the conduct in its facility of, pre-natal diagnostic techniques including ultra-sonography for the purpose of determining the sex of the fetus; and “no person conducting prenatal diagnostic procedures shall communicate to the pregnant women concerned or her relatives the sex of the foetus by words, signs or in any other manner.” The Act provides for the constitution of a *Central Supervisory Board* (CSB) whose function is mainly advisory and for the appointment of an *Appropriate Authorities* (AAs) in States and Union Territories to enforce the law and penalize defaulters and *Advisory Committee/s* (ACs) to aid and advise the AAs.

The law was amended in 2003 following a Public interest Litigation (PIL) filed in 2000 to improve regulation of technology capable of sex selection and to arrest the startling decline in the child sex ratio as revealed by the Census 2001. The amended Act now

called “The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act” not only prohibits determination and disclosure of the sex of the foetus but also bans advertisements related to preconception and pre-natal determination of sex. All the technologies of sex determination, including the new chromosome separation technique have come under the ambit of the Act. The Act has also made

The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1994 has since been amended with effect from 14.2.2003. Amendments to the Act mainly cover to:

1. Bring the technique of pre-conception sex selection within the ambit of this Act so as to pre-empt the use of such technologies which significantly contribute to the declining sex ratio.
2. Bring the use of ultrasound machines within the purview of this Act more explicitly so as to curb their misuse for detection and disclosure of sex of the foetus lest it should lead to female foeticide.
3. Further empower the Central Supervisory Board for monitoring the implementation of the Act.
4. Introduce State level Supervisory Board for monitoring and reviewing the implementation of the Act in States/UTs
5. Constitute a multi member State Appropriate Authority for better implementation and monitoring of the Act in the States
6. make punishments prescribed under the Act more stringent so as to serve as a deterrent for minimizing violations of the Act
7. Empower the Appropriate Authorities with the powers of Civil Court for search, seizure and sealing the machines, equipments and records of the violators of law including sealing of premises and commissioning of witnesses
8. Making mandatory the maintenance of proper records in respect of the use of ultrasound machines and other equipments capable of detection of sex of foetus and also in respect of tests and procedures leading to pre-conception selection of sex
9. Regulate the sale of ultrasound machines only to the bodies registered under the Act

Based on the amendments made to the Act, the Rules framed there under have also been amended under the amended Rules

1. A provision for appeal has been made: Any person having grievance against the sub-district level Appropriate Authority can make an appeal to the district level Appropriate Authority and similarly for grievance against the district level Appropriate Authority an appeal can be made to the state/UT level Appropriate Authority.
2. 23 indications, prescribed by ICMR, have been included in the PNDT Rules for which ultrasound scanning can be conducted during pregnancy for the well being of the pregnant woman and her foetus.
3. Forms have been simplified.
4. Consent is required only in case of invasive techniques.



mandatory in all ultrasonography units, the prominent display of a signboard that clearly indicates that detection/revelation of the sex of the foetus is illegal. Further, all ultrasound scanning machines have to be registered and the manufacturers are required to furnish information about the clinics and practitioners to whom the ultrasound machinery has been sold.

Prior to the disposal of the PIL, among other things, the Supreme Court in its order dated December 11, 2001 directed 9 companies to supply the information of the machines sold to various clinics in the last 5 years. Details of about 11 200 machines from all these companies was fed into a common database. Addresses received from the manufacturers were also sent to concerned States and UTs to launch prosecution against those bodies using ultrasound machines who had failed to get themselves registered under the Act. The Court in its order dated January 9, 2002 directed that ultrasound machines/scanners be sealed and seized if they were being used without registration. Three associations viz. the *Indian Medical Association (IMA)*, *Indian Radiologists Association (IRA)* and the *Federation of Obstetricians and Gynaecologists Societies of India (FOGSI)* were asked to furnish details of members using these machines. Since the Supreme Court directive of 2001 to March 2006, 28,422 facilities offering ultrasound tests have been registered across the country as per information received. 384 cases are currently filed for various violations under the Act, including the communication of the sex of the foetus, non-maintenance of records and non-registration.

In India, the policy environment is supportive of the reproductive choices of women and men. The medical termination of pregnancy is legal under certain conditions. The *Medical Termination of Pregnancy Act (1971)* allows for induced abortion in instances where pregnancy carries the risk of grave injury to a woman's physical and/or mental health, endangers her life or when it is a result of contraceptive failure or rape.

However, as mentioned earlier, the PC & PNDT Act is aimed at curbing sex selection through the misuse of technology and therefore should not be confused with the MTP Act that allows legal abortion as per conditions under the Act.

4

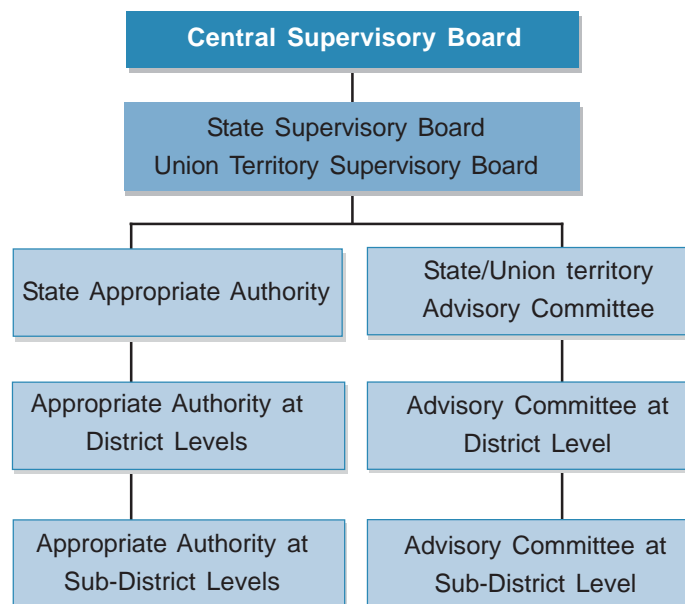
Answers to Frequently Asked Questions

1. Who is responsible for implementation of the PC & PNDT Act? What is the structure of the implementing machinery?

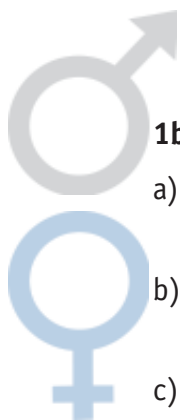
The implementing machinery for this Act comprises:

1. Central Supervisory Board (CSB)
2. State Supervisory Board (SSB) and Union Territory Supervisory Board (UTSB)
3. Appropriate Authority (AA) for the whole or a part of the State/Union Territory
4. State Advisory Committee (SAC) and Union Territory Advisory Committee (UAC)
5. Advisory Committees (AC) for designated areas (part of the State) attached to each AA⁷

Structure of the Implementing Machinery



⁷ Chapter IV Sec 7-17A



1b. Who can file a prosecution complaint under the Act?

- a) Appropriate Authority (AA) or any officer authorized on his/her behalf by the Central Government or the State Government or any officer authorized by the AA
- b) A person who has given the AA notice of not less than 15 days of the alleged offence and of his/her intention to make a complaint to the court
- c) Person also means any social organisation⁸

2. What is the composition of the Supervisory Boards at the Central/State/Union Territory levels? What are their functions?

Section 7 of the Act describes the composition of the CSB and Section 16 A (2) describes the composition of SSBs and UTSBs. The CSBs is appointed by the Central Government; the SSB by the State Government. Their composition and functions are quite similar. Each Board consists of the Minister of Family Welfare as the ex-officio Chairperson, the Secretary of the concerned department/ministry as Vice-Chairperson, and a senior officer as the Member-Secretary. It has representatives from related Government departments (e.g. Women and Child Development, Department of Legal Affairs or Legislative Department in the Ministry of Law and Justice), the Indian System of Medicine and Homeopathy, ex-officio women members from voluntary organisations, and elected women legislators/parliamentarians. It also has representatives from the legal field and from different specializations within the medical profession. The CSB also provides representation to different States/UTs by rotation.

These Boards are the highest decision-making bodies at Central/State/UT levels. Their functions include review and monitoring of the implementation of the Act, creating awareness, overseeing functioning of the AAs, laying down a code of conduct for persons working in Genetic Counselling Centres, Genetic Laboratories, Genetic Clinics, Ultrasonography Centres and Imaging Centres.⁹ The SSBs and UTSBs are required to send periodic reports about implementation of the Act to the CSB. These boards may also suggest amendments in the Act/Rules for making them more effective. Details are given in Section 16 and 16 A (1) of the Act.

It is mandatory for the CSB to meet at least once in six months and the State/UT Supervisory Board has to meet at least once in four months.¹⁰

⁸ Section 28

⁹ Sec 16

¹⁰ Provisio to Sec 9 (1), Sec 16A (3)

3. Who is the AA under this Act?

Under Section 17, one or more Appropriate Authorities are appointed by the Central Government through a notification in an Official Gazette for each of the Union Territories.. For the whole or a part of the State, the State Government appoints one or more AAs in a similar manner. When appointed for the whole of the State or UT, the AA shall be a multi-member body, consisting of the following members:

- i) An officer of or above the rank of the Joint Director of Health and Family Welfare (Chairperson)
- ii) An eminent woman representing women's organizations
- iii) An officer of the Law Department of the concerned State or UT Government

When appointed for a part of the state or UT, AA consists of an officer of a suitable rank, as decided by the concerned Government. The designation of officer appointed as AA for part of the (Incomplete Sentence)

The **Central Supervisory Board** has to meet at least once in six months and functions include

- advising the Central Government on policy matters relating to the use of pre-natal diagnostic techniques;
- reviewing implementation of the Act and the Rules, as well as suggesting changes in the Act'
- creating public awareness against the practice of sex selection;
- laying down a code of conduct to be observed by persons working at Genetic Clinics, Counselling Centres or Laboratories and Ultrasound or Imaging Centres¹¹.

The functions of the **State Supervisory Boards/Union Territory Supervisory Boards** has to meet at least once in four months and its functions are

- reviewing activities of the AAs and recommending appropriate actions against them if they are found not functioning as per the Act, to the CSB;
- monitoring the implementation of the Act;

¹¹ Sec 16



- sending consolidated reports to the CSB regarding various activities undertaken in their State;
- creating public awareness against the practice of sex selection.

4. What are the functions of the AA?

The AA is the most important and powerful body responsible for the implementation of the Act in the area under its jurisdiction. Its functions, as outlined in Section 17 (4) (a) – (i), are:

- (a) To grant, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic
- (b) To enforce standards prescribed for the Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;
- (c) To investigate complaints of breach of the provisions of this Act or the Rules made thereunder and take immediate action
- (d) To take appropriate legal action against the use of any sex selection technique by any person suo moto
- (e) To create public awareness against the practice of sex selection or sex determination
- (f) To supervise the implementation of the provision of the Act and its Rules
- (g) To recommend to the CSB and SSBs modifications required in the Rules in accordance with changes in technology and social conditions
- (h) To seek and consider the advice of the Advisory Committee constituted under subsection (5), on applications for registration and on complaints for suspension or cancellation of a registration.

5. What are the powers of the AA?

Section 17 A of the PC & PNDT Act lays down the powers of AA as follows:

- Summoning a person having information about violation of the Act or its Rules;
- Providing the documents or material relating to the violation;
- Issuing search warrants and conducting searches at places suspected of violating the law. This includes the power to enter premises, seize materials, and seal equipment or to seal the entire premises;
- Any other matter that may be prescribed.

Section 30 (1) – (2) gives a more detailed description of the powers of the AA (or any other officer authorized by it) in matters related to search and seizure. Thus, the AA may enter and search at all reasonable times and with any assistance that it requires, any place where it believes that an offence under the Act has been or is being committed. It may examine any register, record, document, book, pamphlet, advertisement or any other material in those premises, seize and seal the same, if required. Provisions of the Code of Criminal Procedure (CrPC) are applicable to search and seizure operations conducted by the AA. Under this Act, Rule 12 (4) states that it has power to seize, identify and make arrangements for preservation of perishable material, of sealing refrigerators or other equipment where such a material is stored. Rule 12(5) authorizes the AA to seal premises or place a guard to prevent tampering with the evidence at a place where the search and seizure has taken place, but has not been completed. (Refer Q 27 on procedure to be followed for search and seizure)

6. What is the composition of the Advisory Committees (ACs) and what is their role in implementation of the Act?

An AC is appointed by the Central/State Government to aid and advise each AA in its functioning. Thus, ACs exist from State to sub-district levels, depending upon the jurisdiction of the AA to which they are attached.¹² An AC comprises of eight members – three each from amongst medical professionals and prominent social workers (including women’s organisations), a legal expert, and an official of the Department of Information and Publicity.¹³

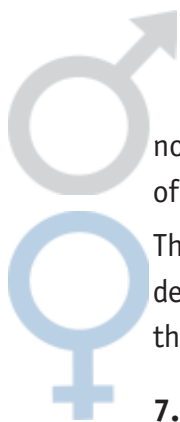
While granting, renewing, suspending or canceling the registration of an institution, the AA must seek the advice of the AC.¹⁴ The AC should also advise the AA about the effective implementation of the Act and about creating awareness on this issue. The AC should meet once in two months, even in the absence of an agenda related to registration. Because the AC is a forum to discuss difficulties in implementation of the Act, and to plan and implement programmes for awareness generation, it can also help to provide feedback from society and the medical community about implementation of the Act.¹⁵ The AAs are required to attend meetings of the ACs and provide all secretarial and other assistance to them for discharge of their functions. However, the AA does

¹² Sec 17 (5)

¹⁴ Section 17 (4) (d) and Rule 8 (2)

¹³ Sec 17 (6)

¹⁵ Rule 4 under the PNDT Advisory committee Rule 1996



not have the right to vote in case of any difference of opinion amongst the members of the AC.¹⁶

The recommendations of the AC are not binding on the AA. The AA has to take decisions independently, keeping in view the documents/records/reports before it and the recommendations of the AC and others.

7. How can a single body (in most cases, an overburdened official of the Ministry of Family Welfare) perform so many tasks, that too under tremendous pressure from conflicting interests?

The Act is based on the understanding that the AA has to work in close cooperation with civil society groups and other stakeholders in this field. Hence, it provides for adequate representation to eminent social workers (including women's organizations) and for experts in the fields of medicine and law in the AC. The AA must seek and consider the advice of the Advisory Committee. The burden on single-member AAs could be shared to a large extent through constitution of a multi-member AA at the State or UT level, with powers, functions and responsibilities being shared by representatives of women's organizations and a legal expert.

Moreover, past experience indicates that the law against sex selection can be implemented effectively only if the official apparatus works in close cooperation with activists and NGOs in the field of women's empowerment and health. Wherever such groups have not been involved, the law has had limited success. Feedback about violations of the Act and Rules – both in registered and unregistered places – and consistent creation of awareness are the key components for success of this law. This is best achieved by close collaboration with activist groups, civil society organizations and NGOs.

To ensure the implementation of Act, the AA may delegate its powers, constitute core groups of dedicated officers, make task forces at State and district levels and involve NGOs/IMA and others in its efforts.

Registration

8. What is the process involved in registration of an institution?

- The AA will issue acknowledgement (slip at the bottom of the Application Form A – **Annexure I**) to the applying party.

¹⁶ Rule 9 under the PNDT (Advisory Committee) Rules 1996

- The AA will visit the place to verify the authenticity of facts stated in the application, especially with respect to the infrastructure available and the legality of the place.¹⁷
- The AA will place the application with accompanying documents of his/her visit before the Advisory Committee and seek its advice, provided the AA is satisfied that the provisions of the Act and the Rules are complied with.¹⁸
- The AA will issue a certificate of registration, in duplicate, to the institution, after entering all details of personnel, place and equipment in the certificate and in its own records.¹⁹
- The decision about acceptance or rejection of application must be communicated to the applicant in the prescribed format (Form B – **Annexure II** for acceptance and Form C – **Annexure III** for rejection) within 90 days of receipt of the application.²⁰

9. Which institutions need to be registered under this Act?

All places using pre-conception and sex selection techniques/ procedures and any place having equipment capable of detecting the sex of the foetus and those related to genetic counseling need to be registered. Hence all Genetic Counseling Centres, Genetic Laboratories and Genetic Clinics, including sonography centres, mobile sonography vans and those having imaging machines and advanced versions of ultrasound machines require registration. Infertility/sterility clinics and IVF centres also have to be registered.²¹

10. What needs to be registered – the equipment, place or person?

The Unit as a whole, which includes the place, equipment and persons using the machine, should be registered. To qualify for registration, the applicant organisation must fulfill the requirements of space, equipment, qualified employees and standards to be maintained as specified in Rule 3 of the Act. Registration is granted to institutions fulfilling all these conditions and as per the procedure laid down in the Act and Rules. The list of equipment and details of qualified persons are included in the registration. Hence there is no need to separately register the person or equipment. However, any change of employee, place, equipment or address should be intimated to the AA within 30 days of such change (Rule 13).

¹⁷ Rule 6(4)

²⁰ Rule 6 (5)

¹⁸ Rule 6 (2)

²¹ Sec 18

¹⁹ Rule 6 (2)



11. Is it necessary to register all machines/equipment from the same institution separately? Should a new machine added after granting of registration be registered separately?

The AA must put on record details of all machines capable of detecting the sex of the foetus. Such details include its make, manufacturing number, and date of purchase. When a new machine is added, instead of applying for a separate registration, the purchaser should report it to the AA. The AA should enter the relevant details of each machine separately in its record, as well as in the copy of the registration given to the institution. Change of ownership or management of the clinic/laboratory/center requires fresh registration.²²

In case of mobile genetic clinic, the jurisdiction of the operation of the vehicle registered as a genetic clinic will be confined to the area of jurisdiction of the appropriate authority with which the vehicle is registered. However, the machine should not be taken to anyone's house out of the genetic clinic (vehicle). The vehicle itself is considered as the clinic.²³ The registration is granted to a firm/company/center only.

12. What process has to be followed while purchasing a new ultrasonography/imaging machine?

- After the registration for the clinic is obtained, a copy of registration should be sent to the manufacturer. The purchaser shall give an affidavit to the manufacturer that the equipment shall not be used for sex selection before birth or before conception.²⁴
- After receipt of the machine, the purchaser shall inform the AA, who shall inspect the machine and enter its make and number in the certificate of registration.
- Once in three months, the provider/manufacturer of such a machine will send to the AA and to the Central Government a list of those to whom the machine has been provided.²⁵

²² Rule 6(7)

²³ As per clarification given in MOHFW's letter no. N.24026/8/2003-PNDT dated 14 May 2003

²⁴ Rule 3A(3)

²⁶ Rule 13

13. Is such registration binding even on government/semi-government institutions?

Yes. All institutions, whether privately or publicly owned, possessing sonography or other machines capable of detecting the sex of a foetus, need to register them under the Act. There is no exemption for an institution on the grounds of it being under Central/State/local government/ control or on the basis of it being a charitable or co-operative organization – or on any other grounds.

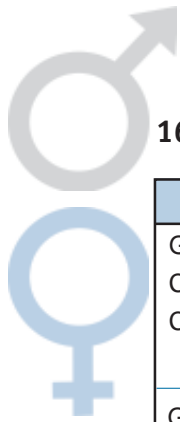
14. Is it necessary to register a non-functioning sonography machine? What should be done in the event of any changes in a registered unit?

Yes, even a non-functioning sonography machine must be registered and its condition should be documented and reported to the AA. Further, if this machine or any obsolete machine is to be exchanged for a new one or the old one is to be disposed off as scrap, the AA should be informed accordingly. The overall objective is to be able to trace and track the condition of every sonography machine from its manufacture to disposal. Hence, it is necessary for both the sonologist as well as the AA to maintain proper documentation to prevent legal complications. The AA must also ensure that any unwarranted delay from its side should not cause inconvenience, loss of business or dilution in the standard of medical care provided by the medical professional.²⁶

15. Should all places visited by the qualified person where a sonography machine is used for examination, be registered?

Yes, all places visited by such a person where a sonography machine is used need to be registered.

²⁶ Rule 13



16. What are the infrastructural registration requirements of various units?

Units	Space	Personnel	Equipment
Genetic Counselling Centre (GCC)	Adequate space in any Institute, Hospital Nursing Home or any other place ²⁷	Medical Geneticist or Gynaecologist or Paediatrician	Educational charts and models/equipment for carrying out genetic counselling
Genetic Clinic (GC) and Sonography Centres	Adequate space in any Institute, Hospital Nursing Home or any other place; Vehicles capable of carrying portable equipments for pre-natal diagnostic tests ²⁸	Gynaecologist or Radiologist or Registered Medical Practitioner (RMP) Sonologist or Medical Geneticist	Ultrasound machine or any such equipment necessary to carry out chromosomal/biochemist and molecular studies
Genetic Laboratories (GL)	Adequate space in a Laboratory or any place where facilities are provided for analysis or tests of samples received from GC for pre-natal diagnostic tests or ultrasound ²⁹	Medical Geneticist and Laboratory Technician	Equipment for carrying out examinations Equipment for operations mentioned under the Act (including ultrasound machines) Equipment for wet and dry sampling Equipment for carrying out emergency procedures Genetic work station

Source: "Pre-Conception & Pre-Natal Diagnostic Techniques Act- A Users Guide to the Law," compiled by Lawyers Collective; Page 17; Universal Law Publishing Co Pvt Ltd, Delhi 2004 edition

²⁷ Rule 2(1)

²⁸ Rule 2(2)

²⁹ Rule 2(2)

17. Who is allowed to conduct pre-natal diagnostic tests for reasons other than sex selection and what are such a person's minimum and additional qualifications?

Genetic Counselling Centre – Employee Requirements

Category	Additional training/experience under the Rules
Gynecologist } Or Pediatrician } Or Medical Geneticist	6 months experience in genetic counseling Or 4 weeks training in genetic counseling Nil

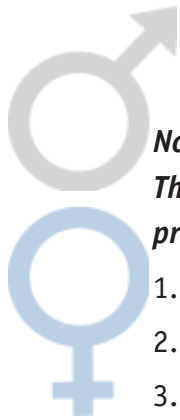
Genetic Laboratory Employee Requirements

Category	Additional training/experience under the Rules
Medical Geneticist and Laboratory Technician	Nil Nil

Genetic Clinic Employee Requirements

Category	Additional training/experience under the Rules
Gynaecologist Or RMP }	with experience of at least 20 procedures under the supervision of experienced gynaecologist. post graduate degree/ diploma Or 6 months training or one year experience in sonography or image scanning
Or Medical Geneticist/ Sonologist/ Imaging Specialist/ Radiologist }	Nil

Source: "Pre-Conception & Pre-Natal Diagnostic Techniques Act- A Users Guide to the Law", compiled by Lawyers Collective; Page22-23, Universal Law Publishing Co Pvt Ltd, Delhi 2004 edition



Note : During pregnancy Ultrasonography should only be performed when indicated. The following is the representative list of indications for use of ultrasound during pregnancy.

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

21. Observation of intra-partum events.
22. Medical/surgical conditions complicating pregnancy.
23. Research/scientific studies in recognized institutions.

18. What procedure should be followed in case of change of address, personnel, and/or equipment?

Information of each such change should be conveyed to the AA in writing within 30 days of the change.³⁰

19. What happens if the ownership/management of the registered institution is transferred to a new entity?

The certificate for registration is non-transferable. Hence, in such a case, the original certificate of registration stands null and void. Copies of registration available with the institution in duplicate shall be surrendered to the AA. The new owner and the manager have to apply afresh to the AA for grant of registration on Form A with the required fees.³¹

20. What is the indicative checklist for receiving applications for registration under the Act?

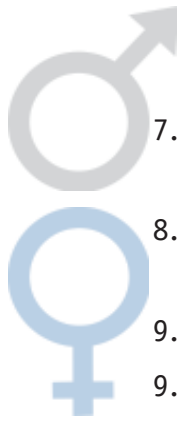
1. Application - Form A (two copies)
2. An Undertaking from owners that they shall not conduct any test or procedure for selection of sex before or after conception and they shall prominently display a notice saying they do not conduct such tests³²
3. Particulars about fee paid – Rs. 3000 for any one type of service, Rs. 4000 for a combination thereof (by demand draft in favour of AA)³³
4. Site plan of place
5. If a society/trust – registration certificate from Competent Authority and a copy of Rules and Regulations
6. Quotation/proforma invoice for sonography machine from authorized dealer/manufacturer (if relevant)

³⁰ Rule 13

³² Rule 4

³¹ Rule 16(6) AND 6 (7)

³³ Rule 5



7. Certified photostat copy/copies of educational qualifications of the person operating the machine (wherever applicable)
8. Certified photostat copy/copies of training/experience certificate of the person operating the machine (wherever applicable)
9. In case of a nursing home, registration under the Nursing Home Act
9. Any other additional documents/papers as considered necessary by Appropriate Authorities³⁴

21. Can a Genetic Centre/Clinic/Laboratory/ USG/Imaging Centre which has defaulted in obtaining registration apply for registration later? What is the procedure and penalty for the same?

Every existing Genetic Centre/Clinic/Laboratory should apply for registration with immediate effect. Others should apply after acquiring the necessary infrastructure, as laid down in the Act and Rules, but before commencing their business. Failure to do so would invite penalty as specified in the Act. The AA, after knowing the existence of such an unregistered place, should initiate legal action against it, as laid down under the Act (e.g. seize and seal the machine).

Rejection/Appeal/Renewal Of Registration

22. Can the AA refuse registration to a Genetic Centre, Laboratory or Clinic? If yes, how?

The AA has every right to refuse registration to a Genetic Centre, Laboratory or a Clinic, if it is convinced that the applicant does not fulfill the provisions for minimum requirements, as specified in Rule 2 & 3. However, it can only do so after holding an enquiry, inspecting the place, giving the concerned party an opportunity of putting forth its case and finally placing the proposal along with its comments before the Advisory Committee. Based on its own judgment and the remarks of the Advisory Committee, the AA may reject the application by stating in writing the reasons for such a decision. The rejection should be communicated to the applicant in Form C within 90 days of receiving the application.³⁵

³⁴ Requirements for FORM A and supporting documents see rules 4(1) and 8(1)

³⁵ Rule 8 (6), Rule 6, Sec. 19

23. What is the procedure for renewal of registration?

- A registration under this Act is valid for five years. All registered institutions should apply for renewal of registration 30 days before the date of the expiry of registration certificate.
- The institution should submit the application for renewal in duplicate, in Form A along with the renewal fees – Rs. 1500 for any one type of service, Rs. 2000 for a combination of services.
- The AA shall hold an inquiry to confirm that the applicant has followed the provisions of the Act and the Rules during the preceding five years.
- The AA shall place its report before the Advisory Committee.
- The AA shall communicate in the prescribed format the decision about renewal to the applicant within 90 days of receipt of the application. If this is not done, the applicant can presume that renewal has been granted.
- On receiving the renewed certificate in duplicate or on receiving communication on rejection of application for renewal, both copies of the earlier registration have to be surrendered to the AA immediately.
- The renewal is for a period of another five years.³⁶

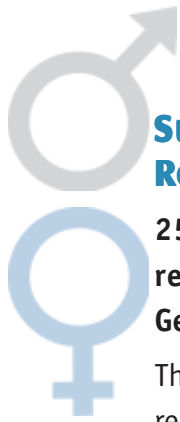
24. What are the rules regarding sale and purchase of ultrasound machines?

- Section 3B prohibits the sale of sonography machines to an unregistered body.
- While selling the machine to an institution registered under this Act, the seller should take an undertaking from the buyer that the machine shall not be used for detection of the sex of a foetus.³⁷
- The seller shall send in a report on the details of machines sold to the concerned State/UT AA and the Central Government once in 3 months³⁸.

³⁶ Rule 8

³⁷ Rule 3 A (3)

³⁸ Rule 3A (2)



Suspension/Cancellation of Registration

25. What should the AA do after receiving a complaint against any Genetic Laboratory/Clinic / Centre?

The AA must immediately acknowledge receipt of the complaint and ask for all possible evidence in support of the complaint. The anonymity of the complainant must be ensured. The action

includes search of the place and seizure of incriminating material; summoning the concerned people and getting their evidence; and seeking help from the Advisory Committee. Active and sensitive AAs have taken help from activists, decoys and journalists for this purpose. Hence, there is no bar on the methodology used, provided the action is taken in good faith and without prejudice.³⁹



26. On what grounds can a registration certificate issued to a Genetic Laboratory/Clinic /Imaging Centre/USG Centre be suspended or cancelled?

In response to a complaint: The AA must send a notice to the concerned party after receiving a complaint about a breach of law by it or if the AA is convinced through its independent investigation that the Centre/Laboratory/Clinic is violating the law. The response of the concerned party should be considered in the light of available evidence placed before the Advisory Committee and its advice should be sought before taking a decision.⁴⁰

Suo moto (taking action in absence of a complaint) in public interest: The AA has the right to suspend the registration of a Genetic Laboratory/Clinic/Centre for a specific period with or without sending a notice to the concerned party and giving it a reasonable opportunity of being heard.

However, the second option (of not sending a notice and without hearing the version of the concerned party) has to be exercised as an exception rather than a rule and only when it is essential in the public interest to quickly respond to the situation, without wasting any time.

³⁹ Sec 31

⁴⁰ Rule 6, Rule 8

27. What procedure should be followed for search and seizure and what is the role of the police and witnesses in it?

The AA has the power to enter and search any premises where it has a reason to believe that a breach of law has taken place or is taking place. Provisions of the Code of Criminal Procedure, 1973 shall apply in all such cases. It can take the help of any agency (e.g. police for protection) which it deems appropriate. At least two respectable members of society should be taken along as witnesses. After entering the premises, the AA must make its identity known and may summon people, search premises and examine and seize material (records, files, registers, books, pamphlets, advertisement etc.) which could serve as evidence. It may also seal equipment or other material if necessary. Before leaving, the AA must make a list (in duplicate) of all materials found and seized or sealed from the premises. Each page of both the copies must be signed by the AA (or by the officer authorized on his/her behalf) and by the independent witnesses (not subordinates or employees of the AA). A copy of each document should be handed over to the owner of the premises or the person from whose custody the material has been seized and acknowledgement for the same be obtained. Listing of material may be carried out outside the premises, if required; but the reasons for doing so must be recorded in writing. If no person acknowledges the custody of the premises, the list may be sent by registered post or under acknowledgement. The AA does not need a court summons for entry, search, seizure or summoning a person as it has the requisite powers under the Act.

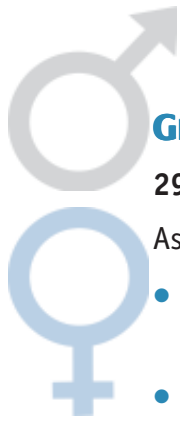
In case of perishable material, the AA must arrange for its prompt sealing, identification and preservation before it can be sent for testing or analysis at an appropriate place. In the meantime, the material may be kept in a refrigerator or other equipment and the same may be sealed till arrangements for its transportation are made. It should be included in the list of seizures. If the search is incomplete, the premises may be sealed or a guard may be appointed to prevent any tampering of evidence.⁴¹

28. Are the AAs protected under the law for their actions?

Yes, they are protected, if their actions are undertaken in good faith.⁴²

⁴¹ Rule 12 (5)

⁴² Sec 31



Grievances/Appeal

29. What is the procedure for appealing against a decision of the AA?

As per Rule 19-

- Anybody not satisfied with the decision of the AA at sub-district level may appeal to the AA at district level within 30 days of receiving the order.
- Anybody not satisfied with the decision of the AA at district level may appeal to SAA/UTAA within 30 days of receiving the order.
- The AAs at district/State/UT level have the power to condone the delay in filing of the appeal, if convinced by the plea of the appealing party.

The authority appealed to must give its decision within 60 days.

30. What are the offences under the Act?

Nature of Offences	Person Liable
<p>Conducting or associating or helping in conduct of PND techniques/ tests in an unregistered unit</p> <p>Sex selection on a woman or a man or both or on any tissue, embryo, conceptus fluid or gametes derived from either or both of them</p> <p>(The fact that these actions do not result in the birth of a child of a particular sex is no excuse as any attempt to ensure birth of a particular sex is an offence under the Act.)⁴³</p>	<p>Unit owner and or person responsible for conducting the PND test</p> <p>In case of sex selection the specialist or team of specialists</p>
<p>Taking the services of an unqualified person, whether on an honorary basis or on payment, for conducting PND tests</p>	<p>Unit owner*</p> <p>Person responsible*</p> <p>(see below for explanation)</p>
<p>Conducting PND tests for any purpose other than those mentioned as permissible in the Act⁴⁴</p>	<p>Unit owner*</p> <p>Person responsible*</p> <p>Any person conducting such procedures</p>

Contd...

⁴³ Sec 2 (0) & 3 A

⁴⁴ Sec 4 (1)

Nature of Offences	Person Liable
Sale, distribution, supply, renting, allowance or authorisation of use of any ultrasound machine or any other equipment capable of detecting sex of a foetus to non-registered units ⁴⁵	Any organisation including Commercial organization /Company, Manufacturer, Importer, Dealer, Supplier
Advertisement or communication in any form in print, by electronic media or internet by units, medical professionals or companies on the availability of sex determination and sex selection in the form of services, medicines, or any kind of techniques, methods, ayurvedic medicines ⁴⁶	Unit owner* Person responsible* Distributors Printers Publishers Website host Website developer Anyone connected with issuance of any such communication or advertisement

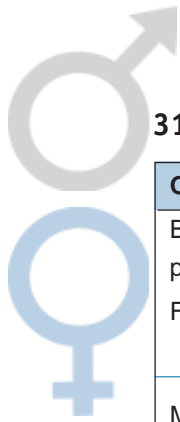
* **Unit owner** includes individual(s), a company/body corporate, a firm or an association of individuals, who own the unit.

* **Person responsible** includes person in charge of the unit or the person(s) responsible for the company, manager, secretary or any other officer in charge.

Source: "Pre-Conception & Pre-Natal Diagnostic Techniques Act- A Users Guide to the Law," compiled by Lawyers Collective; Page 33-36, Universal Law Publishing Co Pvt Ltd, Delhi 2004 edition

⁴⁵ Sec 3 (b) to be read with Rules 3 (a)

⁴⁶ Sec 22



31. What are the punishments under the Act?

Offence/ Offender	Punishment
Breach of any provision of the Act by any service providers	3 years imprisonment and/or fine of Rs.10,000
For subsequent offence	5 years imprisonment ⁴⁷ and/or fine of Rs. 50,000
Medical professionals	The AA will inform the State Medical Council and recommend suspension of the offender's registration if charges are framed by the court and till the case is disposed off Removal of name from register for 5 years on first conviction and permanently in cases of subsequent breaches ⁴⁸
Persons seeking to know the sex of the foetus (A woman will be presumed to have been compelled to undergo sex determination tests by her husband and relatives. If the presumption is not dispelled, then the person concerned will be punishable for abetment of the offence.)	Imprisonment extending upto 3 years and/or fine of Rs 50,000
For subsequent offence	Imprisonment upto 5 years and/ or fine of Rs. 1,00,000 ⁴⁹
Persons connected with advertisement of sex selection/ sex determination services	Imprisonment upto 3 years and/or a fine of Rs. 10,000 with additional fine of continuing contravention at the rate of Rs. 500 per day ⁵⁰

Contd...

⁴⁷ Sec 23 (1)

⁴⁹ Sec 23 (3)

⁴⁸ Sec 23 (2)

⁵⁰ Sec 22 (3)

Offence/ Offender	Punishment
Contravention of provisions of the Act or rules for which no specific punishment is provided in the Act/Rules. Such provisions can be presumed to be the non-maintenance of records, non-compliance with standards prescribed for the maintenance of units, etc.	Imprisonment upto 3 months and /or fine of Rs. 1,000 with additional fine of continuing contravention at the rate of Rs. 500 per day ⁵¹

Source: "Pre-Conception & Pre-Natal Diagnostic Techniques Act- A Users Guide to the Law," compiled by Lawyers Collective; Page 37-38, Universal Law Publishing Co Pvt Ltd, Delhi 2004 edition

32. What are the different ways in which AAs can check that the provisions of the Act and the Rules are not being violated?

Suggested checklist for possible action by AA

- Check that all places where pre-natal or pre-conception techniques are being used are registered under the PC & PNDT Act
- Evolve a mechanism, with the help of activist groups and the local media, to get feedback on illegal activities in its area of jurisdiction
- Decide the appropriate strategy, with inputs from activists and legal experts, to catch law-violators red-handed. This may include sending decoy customers and using hidden cameras.
- Plan, implement and financially support (from the amount collected as registration fees), activities for raising consciousness on the issue of gender equality in general, and sex determination, in particular
- Check that registered bodies send monthly report by the 5th of every month, as required
- Analyze reports and send information to higher authorities about the activities of registered bodies and any other relevant matter
- Check that the registration certificate is displayed prominently in every registered place
- Check that notice boards say 'Determination of the sex of foetus is banned and illegal' in English and a local language. Rule (17 (1))

⁵¹ Sec 25



- Check that the records kept in registered places
 - ◆ are authentic
 - ◆ are accompanied by required documentation justifying the use of pre-natal diagnosis including ultrasound (for example, every case of use of diagnostic procedure/test/technique should have documented evidence justifying the indication for pre-natal diagnosis, such as the age of any pregnant woman above 35 years, or a certificate from a gynecologist that there has been a history of two or more spontaneous abortions).
 - ◆ are preserved for two years (or till disposal of legal case, if applicable) in the proper format.
 - ◆ include, in case of an invasive technique, informed consent of the pregnant woman.
 - ◆ include an undertaking from the pregnant woman that the sex of her foetus was neither determined nor revealed during the procedure.

ANNEXURE - I

FORM A

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

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

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

1. Name of the applicant
(Indicate name of the organization sought to be registered)
2. Address of the applicant
3. Type of facility to be registered
(Please specify whether the application is for registration of a Genetic Counselling Centre/ Genetic Laboratory/Genetic Clinic/ Ultrasound Clinic/Imaging Centre or any combination of these)
4. Full name and address/addresses of Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic/ Ultrasound Clinic/ Imaging Centre with Telephone/ Fax number(s)/Telegraphic/Telex/ e-mail address(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. Type of Institution (Govt. Hospital/ Municipal Hospital/ Public Hospital/ Private Hospital/ Private Nursing Home/ Private Clinic/ Private Laboratory/ any other to be stated.)
7. Specific pre-natal diagnostic procedures/tests for which approval is sought
 - (a) **Invasive** (i) amniocentesis/chorionic villi aspiration/chromosomal/biochemical/molecular studies
 - (b) **Non-Invasive** Ultrasonography
Leave blank if registration is sought for Genetic Counselling Centre only.
8. Equipment available with the make and model of each equipment. (List to be attached on a separate sheet).
9. (a) Facilities available in the Counselling Centre.
 - (b) Whether facilities are or would be available in the Laboratory/Clinic for the following tests:
 - (i) Ultrasound
 - (ii) Amniocentesis
 - (iii) Chorionic villi aspiration
 - (iv) Foetoscopy
 - (v) Foetal biopsy
 - (vi) Cordocentesis

- (c) Whether facilities are available in the Laboratory, Clinic for the following:
- (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Preimplantation gender diagnosis
10. Names, qualifications, experience and registration number of employees (may be furnished as an enclosure)
11. State whether the Genetic Counselling Centre/ Genetic Laboratory/ Genetic Clinic/ ultrasound clinic/imaging centre qualifies for registration in terms of requirements laid down in Rule 3.
12. For renewal applications only:
- (a) Registration No.
 - (b) Date of issue and date of expiry of existing certificate of registration.
13. List of Enclosures:
(Please attach a list of enclosures/supporting documents attached to this application.)

Date: (.....)

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



DECLARATION

I, Sh./Smt./Kum./Dr..... son/daughter/wife of
..... aged years resident of
.....working as (indicate designation)
..... in (indicate name of the organization to be registered)
..... hereby declare that
I have read and understood the Pre-Natal Diagnostic Techniques (Regulation and
Prevention of Misuse) Act, 1994 (57 of 1994) and the Pre-Natal Diagnostic Techniques
(Regulation and Prevention of Misuse) Rules, 1996,

I also undertake to explain the said Act and Rules to all employees of the
Genetic Counselling Centre/Genetic Laboratory/Genetic Clinic/ultrasound clinic/imag-
ing centre in respect of which registration is sought and to ensure that Act and Rules
are fully complied with.

Date:

Place:

(.....)

Name, designation and signature of the
person authorized to sign on behalf of the
organization to be registered

[SEAL OF THE ORGANISATION SOUGHT TO BE REGISTERED]

ACKNOWLEDGEMENT

[See Rules 4(2) and 8(1)]

The application in Form A in duplicate for grant*/renewal* of registration of Genetic Counselling Centre*/ Genetic Laboratory*/ Genetic Clinic*/ Ultrasound Clinic*/ Imaging Centre* by (Name and address of applicant) has been received by the Appropriate Authority On (date).

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

OR

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

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

(.....)

Signature and Designation of Appropriate Authority,
or authorized person in the Office of
the Appropriate Authority.

Date:

SEAL

Place:



ORIGINAL/DUPLICATE FOR DISPLAY

FORM B

[See Rules 6(2), 6(5) and 8(2)]

CERTIFICATE OF REGISTRATION

(To be issued in duplicate)

1. In exercise of the powers conferred under Section 19 (1) of the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994), the Appropriate Authority hereby grants registration to the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/Ultrasound Clinic*/Imaging Centre* named below for purposes of carrying out Genetic Counselling/Pre-natal Diagnostic Procedures*/Pre-Natal Diagnostic Tests/ultrasonography under the aforesaid Act for a period of five years ending on
2. This registration is granted subject to the aforesaid Act and Rules thereunder and any contravention thereof shall result in suspension or cancellation of this Certificate of Registration before the expiry of the said period of five years apart from prosecution.
 - A. Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/ Ultrasound Clinic*/Imaging Centre*.
 - B. Pre-natal diagnostic procedures* approved for (Genetic Clinic).

Non-Invasive

 - (i) Ultrasound

Invasive

 - (ii) Amniocentesis

*Strike out whichever is not applicable or necessary.

- (iii) Chorionic villi biopsy
- (iv) Foetoscopy
- (v) Foetal skin or organ biopsy
- (vi) Cordocentesis
- (vii) Any other (specify)

C. Pre-natal diagnostic tests* approved (for Genetic Laboratory)

- (i) Chromosomal studies
- (ii) Biochemical studies
- (iii) Molecular studies

D. Any other purpose (please specify)

- 3. Model and make of equipment being used (any change is to be intimated to the Appropriate Authority under rule 13).
- 4. Registration No. allotted
- 5. Period of validity of earlier Certificate Of Registration. (For renewed Certificate of Registration only)

From.....To.....

Signature, name and designation of
The Appropriate Authority

Date:

SEAL

DISPLAY ONE COPY OF THIS CERTIFICATE AT A CONSPICUOUS PLACE AT THE PLACE OF BUSINESS



FORM C

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

FORM FOR REJECTION OF APPLICATION FOR GRANT/ RENEWAL OF REGISTRATION

In exercise of the powers conferred under Section 19(2) of the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the Appropriate Authority Hereby rejects the application for grant*/renewal* of registration of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic*/ Ultrasound Clinic*/Imaging Centre*.

- (1) Name and address of the Genetic Counselling Centre*/Genetic Laboratory*/Genetic Clinic* Ultrasound Clinic*/Imaging Centre*
- (2) Reasons for rejection of application for grant/renewal of registration:

Signature, name and designation of
The Appropriate Authority
with SEAL of office

Date:
Place:

*Strike out whichever is not applicable or necessary.

ANNEXURE - IV

FORM D

[See Rule 9(2)]

FORM FOR MAINTENANCE OF RECORDS BY THE GENETIC COUNSELLING CENTRE

1. Name, Address of Genetic Counselling Centre
2. Registration No.
3. Patient's name
4. Age
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by (Full name and address of Doctor(s) with registration No.(s))
(Referral note to be preserved carefully with case papers)
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g.radiological, ultrasonography)



10. Indication for pre-natal diagnosis

A. Previous child/children with:

- (i) Chromosomal disorders
- (ii) Metabolic disorders
- (iii) Congenital anomaly
- (iv) Mental retardation
- (v) Haemoglobinopathy
- (vi) Sex-linked disorders
- (vii) Single gene disorder
- (viii) Any other (specify)

B. Advanced maternal age (35 years)

C. Mother/father/sibling having genetic disease (specify)

D. Others (specify)

11. Procedure advised

- (i) Ultrasound
- (ii) Amniocentesis
- (iii) Chorionic villi biopsy
- (iv) Foetoscopy
- (v) Foetal skin or organ biopsy
- (vi) Cordocentesis
- (vii) Any other (specify)

12. Laboratory tests to be carried out

- (i) Chromosomal studies
- (ii) Biochemical studies
- (iii) Molecular studies

(iv) Preimplantation gender diagnosis

13. Result of pre-natal diagnosis Normal/Abnormal
If abnormal give details.
14. Was MTP advised?
15. Name and address of Genetic Clinic to which patient is referred.
16. Dates of commencement and completion of genetic counselling .

Name, Signature and Registration No. of the
Medical Geneticist/Gynaecologist/Paediatrician
administering Genetic Counselling.

Place:

Date:



FORM E

[See Rule 9(3)]

FORM FOR MAINTENANCE OF RECORDS BY GENETIC LABORATORY

1. Name and address of genetic laboratory
2. Registration No.
3. Patient's name
4. Age
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by/sample sent by (full name and address of Genetic Clinic) (Referral note to be preserved carefully with case papers)
8. Type of sample: Maternal blood/Chorionic villus sample/amniotic fluid/Foetal blood or other foetal tissue (specify)
9. Specify indication for pre-natal diagnosis
 - A. Previous child/children with
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Malformation(s)
 - (iv) Mental retardation
 - (v) Hereditary haemolytic anaemia

- (vi) Sex-linked disorder
- (vii) Single gene disorder
- (viii) Any other (specify)

B. Advanced maternal age (35 years or above)

C. Mother/father/sibling has genetic disease (specify)

D. Other (specify)

10. Laboratory tests carried out (give details)

- (i) Chromosomal studies
- (ii) Biochemical studies
- (iii) Molecular studies
- (iv) Preimplantation gender diagnosis

11. Result of diagnosis Normal/Abnormal

If abnormal give details.

12. Date(s) on which tests carried out.

The results of the Pre-natal diagnostic tests were conveyed toon
.....

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

Place:

Date:



FORM F

[See Proviso to Section 4(3), Rule 9(4) and Rule 10(1A)]

**FORM FOR MAINTENANCE OF RECORDS IN CASE OF A PREGNANT WOMAN
BY GENETIC CLINIC/ULTRASOUND CLINIC/IMAGING CENTRE**

1. Name and address of Genetic Clinic/Ultrasound Clinic/
Imaging Centre
2. Registration No.
3. Patient's name and her age
4. Number of children with sex of each child
5. Husband's/Father's name
6. Full address with Tel. No., if any
7. Referred by (full name and address of Doctor(s)/
Genetic Counselling Centre (Referral note to be preserved
carefully with case papers)/self referral
8. Last menstrual period/weeks of pregnancy
9. History of genetic/medical disease in the family
(specify)
Basis of diagnosis:
 - (a) Clinical
 - (b) Bio-chemical
 - (c) Cytogenetic
 - (d) Other (e.g.radiological, ultrasonography etc.-specify)

10. Indication for pre-natal diagnosis

- A. Previous child/children with:
 - (i) Chromosomal disorders
 - (ii) Metabolic disorders
 - (iii) Congenital anomaly
 - (iv) Mental retardation
 - (v) Haemoglobinopathy
 - (vi) Sex-linked disorders
 - (vii) Single gene disorder
 - (viii) Any other (specify)
- B. Advanced maternal age (35 years)
- C. Mother/father/sibling has genetic disease (specify)
- D. Other (specify)

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

Non-Invasive

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

Invasive

- (ii) Amniocentesis
- (iii) Chorionic Villi aspiration
- (iv) Foetal biopsy
- (v) Cordocentesis
- (vi) Any other (specify)

12. Any complication of procedure – please specify



13. Laboratory tests recommended
 - (i) Chromosomal studies
 - (ii) Biochemical studies
 - (iii) Molecular studies
 - (iv) Pre-implantation gender diagnosis
14. Result of
 - (a) pre-natal diagnostic procedure
(give details)
 - (b) Ultrasonography Normal/Abnormal
(specify abnormality detected, if any).
15. Date(s) on which procedures carried out.
16. Date on which consent obtained. (In case of invasive)
17. The result of pre-natal diagnostic procedure were conveyed toon....
18. Was MTP advised/conducted?
19. Date on which MTP carried out.

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

Date:
Place

ANNEXURE - VII

FORM G

[See Rule 10]

FORM OF CONSENT

(For invasive techniques)

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

I wish to undergo the preimplantation/pre-natal diagnostic technique/test/procedures in my own interest to find out the possibility of any abnormality (i.e. disease/deformity/disorder) in the child I am carrying.

I undertake not to terminate the pregnancy if the pre-natal procedure/technique/ test conducted show the absence of disease/deformity/disorder.

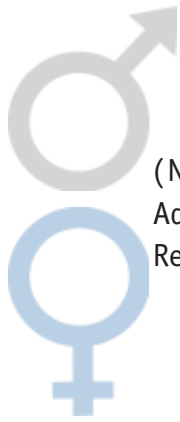
I understand that the sex of the foetus will not be disclosed to me.

I understand that breach of this undertaking will make me liable to penalty as prescribed in the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (57 of 1994) and rules framed thereunder.

Date

Place

Signature of the pregnant woman.



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

Name, Signature and/Registration number of
Gynaecologist/Medical Geneticist/Radiologist/paediatrician/
Director of the Clinic/Centre/Laboratory

Date

Name, Address and Registration number of
Genetic Clinic/ Institute

SEAL

ANNEXURE - VIII

SUGGESTED FORMAT OF SHOW CAUSE NOTICE TO BE ISSUED BY THE DISTRICT APPROPRIATE AUTHORITY*

Though the Appropriate Authority can file a complaint in the court on the basis of a complaint received by it or suo-moto in some cases, if found necessary, show cause notice may be issued. The format of the same may be as under :

To

.....

.....

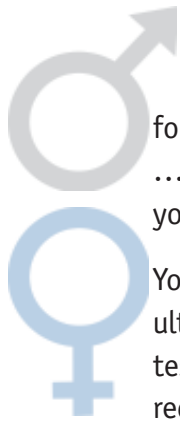
Sir/Madam

Subject : Show cause notice under Sections 3 and 18 of the PC & PNDT Act, 1994 read with the Rules, 1996.

Please refer to the subject cited above and the inspection dated by an inspection team of (Name of the members comprising the inspection team) and subsequent inspection dated (if any subsequent inspection has also been undertaken) by an inspection team of (Name of the members).

You were found present at the time of inspection along with a patient namely w/o, a pregnant woman who had come for ultrasonography by Dr. at the centre. You stated before the inspection team that you are a paid employee and assisting Dr. in ultrasonography including those of pregnant women or you have stated before the inspection team that you were providing space and other facilities to Dr.

* Source : Enabling Legal Activism on The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994. Compiled and Edited by Veena Kumari, Human Rights Law Network



for conducting ultrasonography on pregnant women and other patients. Dr. visits your laboratory with his portable ultrasound machine on receiving your telephonic message for performing ultrasonography.

You also disclosed that Dr.used to charge patients for conducting ultrasonography including on pregnant women and records with respect to the diagnostic tests were maintained by him and you also handed over certified copies of your records/documents namely, (or you did not maintain records of these diagnostic techniques and could not produce the same).

Since you were assisting in the conduct of pre-natal diagnostic techniques for the purpose of determination of the sex of the foetus, you are hereby issued a show cause notice under Section 3 read with Section 18, Section 5 read with Rule 20 and Section 29 read with Rule 9 of the PC & PNDT Act read with the PC & PNDT Rules: 1996 as to why legal action should not be taken against you.

Your reply must reach within 7 days of receipt of this notice.

Sd/-

Appropriate Authority

District



in existence since and after verification, I found that such centre is not registered with the Appropriate Authority, as contemplated under Chapter IV, Section 18, it was found that no registration certificate has been issued to this centre. Moreover no application has also been made by the centre for registration as contemplated under the Act.

3. That the complainant alongwith two persons namely and (two respectable and independent persons of the locality) visited the premises of the centre at (time of arrival at the place) bearing (address of the centre) to verify and confirm the compliance with the provisions of this Act. On verification, I found the following equipments installed and being used by the centre:
4. That the equipments were housed in: (give details of the place of installation).
5. That on enquiry it was learnt that the centre is being run by (name of the owner and the details of the staff employed therein). It is pertinent that the owner of the centre, namely accused No....., failed to produce the certificate of registration on demand. The copy of the certificate of registration was also not displayed as required in the Act. It is submitted that the owner admitted before the inspection team that the premises is not registered under Act.
6. That in view of the violation of the provisions of the Act, the below-mentioned articles and relevant documents in proof of the running of the centre were seized:.....
.....
7. These were seized under a panchnama (mahzar) prepared in the presence of panchas (details of mahzar). It was found that these equipments are used/capable of being used for the purposes of detection of the sex of the foetus.
8. That the material as seized above proves that an offence has been committed under the PC & PNDT Act, punishable under Section 23 read with Section 25

ANNEXURE - X

CEDAW Articles

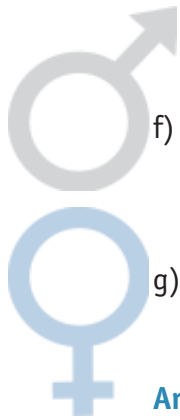
Article I

For the purposes of the present Convention, the term “discrimination against women” shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Article 2

State Parties condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and, to this end, undertake :

- a) To embody the principle of the equality of men and women in their national constitutions or other appropriate legislation if not yet incorporated therein and to ensure, through law and other appropriate means, the practical realization of this principle;
- b) To adopt appropriate legislative and other measures, including sanctions where appropriate, prohibiting all discrimination against women;
- c) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination;
- d) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation;
- e) To take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise;



- f) To take all appropriate measures, including legislation, to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women;
- g) To repeal all national penal provisions which constitute discrimination against women.

Article 3

States Parties shall take in all fields, in particular in the political, social, economic and cultural fields, all appropriate measures, including legislation, to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men.

Article 5

States Parties shall take all appropriate measures :

- a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women





Speaking Up for The Girl Child – Some Quotes

Message from Mr. Manmohan Singh, H'ble Prime Minister, in his address at a national conference on "Role of Women in Nation-building", The Times of India, 23 August, 2005

The unacceptable crime of female foeticide, being encouraged by the widespread misuse of modern technology and its mindless commercial exploitation must be stopped.

Shabana Azmi, Social Activist/Actor in a recent article in *Hindustan Times*

What then will the structure of society be with a paucity of women? What will the consequences be for the family and community, and what of the institution of marriage? Imagine the plight of women forced into polyandrous marriages. I shudder when I think of how much more vulnerable a woman would be to sexually transmitted diseases and HIV/AIDS. What of the increase in violence against women? One can only conjecture, but the possible scenarios are frightening.

Sunil Dutt, Late Minister/ MP/Actor/Producer/Director (in his message on World Population Day, July 11th 2004 to CEHAT)

I am a proud father of my daughter Priya, who has always been a pillar of support to me. From Kalpana Chawla to Kiran Bedi, women have contributed in every field and it's high time we stop discriminating against the girl child.

Joy Sen Gupta, Theatre and film personality, in "Fine Imbalance," a documentary on sex selection

When there is going to be no girl child on earth, who will nurture the earth? Since she is the producer, nurturer and preserver, without her how do you expect the earth to exist?

Mahesh Bhatt, *Film Producer/Director*

It is a shame that today in the 21st century we are still talking about discrimination against the girl child and making all efforts to eliminate her before birth in connivance with doctors and technology. India has made great progress in the virtual world but is far far behind in the REAL WORLD.

Pooja Bhatt, *Film Actor/Director*

Sex selection is just a more sophisticated form of female infanticide, which has been in our country from time immemorial. Today when girls have reached the stars people are worried about family name and the last rites to be performed by the son! What an irony...



सत्यमेव जयते

Ministry of Health & Family Welfare
Government of India
New Delhi



Cehat

Center for Enquiry Into
Health and Allied Themes



United Nations Population Fund - India