

DECOYS & MUKHBIRS



**THE UNUTILISED
INSTRUMENTS
FOR ENFORCEMENT
OF THE
PC&PNDT ACT**



ASIAN CENTRE FOR HUMAN RIGHTS



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Decoys & Mukhbirs: The unutilised instruments for enforcement of the PC&PNDT Act

Published by:

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First Published: January 2017

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ISBN: 978-81-88987-69-6

Suggested contribution: Rs. 495/-

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



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1. EXECUTIVE SUMMARY & RECOMMENDATIONS

India is fighting a losing battle against sex selection because of son preference, *dowry*¹, neglect of girl child, higher mortality at younger age, female infanticide, female foeticide etc. According to the estimates of Asian Centre for Human Rights (ACHR), during 1991 to 2011 a total of 250 million girls or 12.5 million girls per year went missing as a result of sex selection.²

India enacted the Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994 (PC&PNDT Act) to address the menace of sex selection leading to female foeticide. However, the enforcement of the PC&PNDT Act remains dismal. That India registered more cases (2,266) of infanticide under Sections 315 and 316 of the Indian Penal Code³ than cases (2,021) under the PC&PNDT Act⁴ during 1994-2014 exposes poor implementation of the PC&PNDT Act. After all, violations of the PC&PNDT Act for sex selection (12.5 million missing girls per year) are far more widespread than female infanticide (113 cases per year).

The Appropriate Authorities (AAs) established under Section 17 of the PC&PNDT Act are the authorised bodies to enforce the Act, among others, to nab those conducting sex determination leading to female foeticide. The question is how are the offenders of the PC&PNDT Act to be nabbed?

During inspection under the PC&PNDT Act, the AAs can find out violations such as non registration of genetic counselling centres, genetic laboratories and genetic clinics, non-display of the registration certificate at a prominent place, non-maintenance of the records, non-filling up of the forms etc.

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1. Dowry is an amount of property or money to be mandatorily paid by a bride to her husband and family on their marriage.
 2. The State of the PC&PNDT Act: India's losing battle against female foeticide, Asian Centre for Human Rights, November 2016
 3. Crime in India report series 1994 to 2014, National Crime Records Bureau, Ministry of Home Affairs, Government of India, available at: <http://ncrb.gov.in/>
 4. Reply of the Union Health Minister J P Nadda to UNSTARRED QUESTION NO. 799 ANSWERED on 7.02.2015 before Lok Sabha

However, it is impossible for the AAs to detect and nab those conducting sex selections during the act without the concerned pregnant woman willing to disclose the crime. Sex selection is conducted with mutual consent of pregnant woman and her family⁵ in one hand and medical practitioners/ultrasonologists on the other hand. Therefore, despite millions of sex selection being conducted every year, very few complaints are lodged. Those conducting sex selections can be nabbed only if a pregnant woman is willing to expose the crime by acting as a decoy customer. Therefore, the role of the decoy customers and *Mukhbirs* i.e. informers to nab the violators of the PC&PNDT Act remains indispensable.

In May 2005, the Ministry of Health and Family Welfare announced its plan to launch sting operations by appointing decoys to nab doctors, medical practitioners and diagnostic centres engaged in female foeticide in the absence of a single conviction till then.⁶ The use of decoys for sting operations was recommended by the National Inspection and Monitoring Committee under the PC&PNDT Act in its 2006 Annual Report.⁷ The erstwhile Planning Commission too recommended the use of decoys for sting operations in its 12th Five Year Plan (2012-2017).⁸ The *Beti Bachao Beti Padao* (BBBP) scheme launched in 2015 in its guidelines also directed to “*institute Rewards for the informers to help in identify the unregistered/ illegal ultrasound machines and the clinics indulging in illegal practice of sex selection*” and the reporting template under the BBBP provides for reporting on the number of rewards given to informers.⁹ In April 2016, the Ministry of Health & Family Welfare of the Government of India issued “*Standard Operating Guidelines for District Appropriate Authorities*” which *inter alia* includes Guidelines for Conducting a

5. The pregnant woman is often pressured by family members to abort the girl child.

6. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>

7. Annual Report, 2006 Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, Ministry of Health and Family Welfare Government of India available at <http://pnrdt.gov.in/writereaddata/mainlinkfile/File99.pdf>

8. Twelfth Five Year Plan (2012-2017) Social Sectors, Planning Commission of India, http://planningcommission.gov.in/plans/planrel/12thplan/pdf/12fyp_vol3.pdf

9. Implementation Guidelines of Beti Bachao, Beti Padhao Scheme, Ministry of Women and Child Development, 21 April 2015 available at <http://www.wcd.nic.in/BBBPScheme/ImplementationguidelinesofBBBPScheme.pdf>

Decoy Operation along with Sample Format for Undertaking from Pregnant Woman Acting as Decoy and Sample Format of Panchnama Concerning a Decoy Operation.¹⁰

Yet, neither the role of the decoys and *Mukhbirs* has formally been recognised under the PC&PDNT Act and the PC&PNDT Rules nor has any national scheme for protecting and rewarding the decoys and *Mukhbirs* been launched by the Government of India. A few State Governments have launched dedicated telephone help lines, websites and cash rewards for reporting illegal sex determination and female foeticide. With the exception of the *Mukhbir Yojana* of Rajasthan, the initiatives of other State Governments remain adhoc, unorganised, unstructured and without any or adequate financial and human resources.

The shortcomings of the schemes on telephone help lines, websites and cash rewards for reporting illegal sex determination and female foeticide being implemented by various State Governments are highlighted below:

First, there are no dedicated staffs to ensure proper implementation of the schemes. Rajasthan is the only State which has established PC&PNDT Bureau of Investigation and the Commissioner of Health of Gujarat informed the Comptroller and Auditor General of India in November 2014 that successful sting operations could not be carried out among others because of “*non-availability of dedicated staff to undertake sting operation.*”¹¹

Second, publicity and awareness campaigns about the dedicated telephone help lines, websites and cash rewards for reporting cases of illegal sex determination and female foeticide have been extremely

10. Standard Operating Guidelines for District Appropriate Authorities, Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Ministry of Health and Family Welfare, Government of India, April 2006 and available at http://india.unfpa.org/sites/asiapacific/files/pub-pdf/FINALfinalUNFPA_SOGsReport_Inside_LowRes%20%281%29.pdf

11. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013 available at http://www.cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_6_2015.pdf

limited, leading to failure of the schemes. Indeed, Secretary to the Health Department, Government of Madhya Pradesh¹² in its letter dated 15.11.2016 to all District Magistrates of the State acknowledged the lack of awareness about its complaint scheme.

Third, the number of sting operations conducted using decoy customers and *Mukhbirs* have been very few vis-a-vis magnitude of sex selection i.e. about 12.5 million girls missing every year. Though sting operations are not indicative of successful detection of the violations of the PC&PNDT Act, as per information collated in this report, in Rajasthan, 31 *Mukhbirs* were awarded for providing accurate information on sex selection while 52 decoy operations were conducted as on 20.12.2016; in Maharashtra, 67 sting operations by involving decoy clients were conducted as on 31.12.2013; in Haryana eight decoys were awarded as of 2012; in Tamil Nadu, one decoy operation was reported in 2016; in Gujarat, 14 successful decoy operations were conducted as of October 2014; in Punjab, two decoy operations were conducted in 2016; in Odisha only one decoy operation was conducted in September 2012; in Madhya Pradesh only two informers were rewarded as on 19.01.2016; in Uttar Pradesh 52 decoy operations were undertaken in 52 USG by 31.03.2015; in Jammu and Kashmir, only one decoy operation was conducted in 2011; and in Andhra Pradesh about 173 decoy operations were conducted by March 2013.

Fourth, the schemes for dedicated telephone help lines, websites and cash rewards for reporting cases of illegal sex determination and female foeticide do not address circumstances which turn the witnesses hostile including intimidation or reprisal faced by the decoy customers or *Mukhbirs* for approaching the AAs including counter-cases filed against the decoy customers or *Mukhbirs*.

12. Please see the letter at <http://www.health.mp.gov.in/pcpndt/bittiya/letters.pdf>

Fifth, monetary reward of as low as Rs. 5,000¹³ offered by Government of Odisha is not attractive enough considering the risks involved in conducting sting operations to nab those conducting sex determination or female foeticide. It is stated that Rs. 5,000 may not be adequate to cover the travel costs to appear in the proceedings before the courts which are plagued by judicial delay. Though the Government of Odisha admitted that *“the money offered is negligible and this turns away most volunteers,”*¹⁴ instead of increasing the reward money, the Government of Odisha altogether abandoned the programme on sting operations involving the decoys!

Sixth, most State Governments do not have specific budgetary allocations for the decoys and *Mukhbirs*. Some State Governments made very meagre allocations. The Government of Odisha allocated Rs 40,000 for the Financial Year 2012-13 i.e. total eight sting operations at the rate of Rs 5,000 per sting operation.

Seventh, with the exception of Rajasthan, none of the State governments has made any scheme for ensuring retention of yet-to-born baby of the pregnant woman participating in a decoy operation. In 2015, Rajasthan reportedly revised its Mukhbir Scheme to provide that *“provisions should be made to give an insurance policy to the yet-to-born baby of the pregnant woman participating in a decoy operation”*¹⁵

Eighth, the sting operations using decoys have failed as the Appropriate Authorities in certain States like Andhra Pradesh¹⁶ and Tamil Nadu¹⁷

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13. Orissa announced Rs 5,000 as reward for giving information on Sex determination and/or sex selection.
 14. ‘Operation Decoy’ given a quiet burial in Odisha after just one sting, 28 July 2015 available at <http://odishasuntimes.com/2015/07/28/operation-decoy-given-a-quiet-burial-in-odisha-after-just-one-sting/>
 15. New guidelines define role of pregnant woman in decoy operation, The Times of India, 7 September 2015 available at <http://timesofindia.indiatimes.com/city/jaipur/New-guidelines-define-role-of-pregnant-woman-in-decoy-operation/articleshow/48851311.cms>
 16. ‘Sting operation’ on hospitals, scanning centres planned, The Hindu, 31 May 2013 available at <http://www.thehindu.com/today-paper/tp-national/tp-andhrapradesh/sting-operation-on-hospitals-scanning-centres-planned/article4768281.ece>
 17. Health officials for sting operation in scan centres, The Hindu, 6 January 2013 available at <http://www.thehindu.com/news/cities/Madurai/health-officials-for-sting-operation-in-scan-centres/article4276902.ece>
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announced in advance in which districts sting operations would be conducted and consequently no sex determination and/or sex selection could be detected during subsequent sting operations as potential violators of the PC&PNDT Act were alerted in advance.

Ninth, there is no specific time frame for the AAs to take actions on the complaints/information received by the AAs against sex selection. There are also no complaint mechanisms against the AAs who can act as law unto themselves with respect to complaints or information submitted as no court shall take cognizance of an offence under the PC&PNDT Act except on a complaint made by the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or State Government, as the case may be as per Section 28(1)(a). The courts can take cognizance only if the AAs fail to take action in not less than fifteen days. There have been numerous cases of unscrupulous AAs alerting the doctors, sonologists, diagnostic centres etc before the inspection. This not only aborted the sting operations but left the decoys and *Mukhbirs* at risks including for counter-prosecution from the doctors, sonologists, diagnostic centres etc. The PC&PNDT Amendment Rules dated 24.02.2014¹⁸ which outlined the code of conduct for the authorities under the PC&PNDT Act do not have any mechanism to establish accountability of the AAs.

Tenth, the decoy and *Mukhbir* schemes do not address judicial delay and problems faced by them during the trials including no assistance to attend each hearing. It is pertinent to mention that 137 convictions during 2013 and 111 convictions during 2015 took place only after the directions of the Supreme Court on 4 March 2013 in *Voluntary Health Association of Punjab vs. Union of India & Ors*¹⁹ to take steps

18. The PC&PNDT Amendment Rules dated 24.02.2014 is available at <http://www.health.mp.gov.in/pcpndt/gazette/Gazette-No.86.pdf>

19. (2013) 4SCC 1, *Voluntary Health Association of Punjab vs. Union of India & Ors*

to dispose of all pending cases under the PC&PNDT Act within a period of six months. Otherwise, the trials of the cases were caught in judicial delay.

A number of State Governments have suggested extreme measures to combat the scourge of sex selection. The Government of Madhya Pradesh had suggested invoking the National Security Act against those indulging in sex determination and foeticide²⁰ while the Government of Maharashtra sought opinion from the Union of India whether to invoke provisions of the Indian Penal Code relating homicide and death penalty.²¹ Yet, most State Governments have not focused on the most basic issue: the need for streamlining and strengthening the role of the decoys and *Mukhbirs* without whom the PC&PNDT Act cannot be effectively enforced.

The experiences on the enforcement of the PC&PNDT Act are indeed instructive on the need for streamlining and strengthening the role of the decoys and *Mukhbirs*. In the first 11 years i.e. till 2005, not a single conviction under the Act could be secured.²² Between 2005 and 2009, only 26 convictions were secured²³ while another 265 convictions were secured between 2009 and 2015 i.e. 291 convictions as on 31.12.2015 as given in Table 2. Out of the total 291 convictions, 248 convictions or 85% of the convictions took place during 2013 (137) and 2015 (111) after the Supreme Court directed on 4 March 2013 in *Voluntary Health Association of Punjab vs. Union of India & Ors*,²⁴ among others, to various courts in the country through the Registrars of various High Courts to “take steps to dispose of all pending cases under the Act,

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20. ‘Mamaji’ Shivraj Singh Chouhan invokes NSA in sex determination cases, Pradesh 18, 29 July 2014 available at <http://english.pradesh18.com/news/bihar/mamaji-shivraj-singh-chouhan-invokes-nsa-in-sex-determination-cases-558771.html>
 21. Maharashtra govt wants death penalty for foeticide, Zee News dated 10 July 2012 available at http://zeenews.india.com/news/maharashtra/maharashtra-govt-wants-death-penalty-for-foeticide_786595.html
 22. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>
 23. As per the press release issued by Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>, a total of 26 convictions were secured before 2009.
 24. (2013) 4SCC 1, Voluntary Health Association of Punjab vs. Union of India & Ors
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within a period of six months". Furthermore, a total of 224 convictions i.e. 77% of the total convictions took place in Rajasthan (85), followed by Maharashtra (76) and Haryana (63). It is not a mere co-incidence: Rajasthan, Maharashtra and Haryana are the only States which have been using decoy customers and *Mukhbirs* and rewarding them substantively.

On the basis of the analysis of the existing schemes of various State Governments for the decoys and *Mukhbirs*, Asian Centre for Human Rights recommends the following to the Government of India and various State Governments:

1. Launch a “*National Decoy & Mukhbir Yojana*” for implementation of the PC&PNDT Act, which shall, *inter alia*,
 - (i) fix uniform amount of rewards of at least Rs 200,000 to decoys and *Mukhbirs* as being provided in Rajasthan, to be implemented in all the States and the Union Territories (UTs);
 - (ii) provide specific incentive in the form of bond/scheme for the unborn baby of the decoy customer²⁵ apart from undertaking of not aborting the foetus under any circumstances;
 - (iii) provide specific allowance to attend each hearing during the trials;
 - (iv) ensure anonymity of the complainants, informers etc to the extent possible;²⁶ and
 - (v) sanction adequate financial resources for implementation of the scheme in all the States and UTs;

25. The revised Mukhbir scheme in Rajasthan provides that “*provisions should be made to give an insurance policy to the yet-to-born baby of the pregnant woman participating in a decoy operation*”. For details, please see ‘New guidelines define role of pregnant woman in decoy operation’, The Times of India, 7 September 2015 available at <http://timesofindia.indiatimes.com/city/jaipur/New-guidelines-define-role-of-pregnant-woman-in-decoy-operation/articleshow/48851311.cms>

26. Under *Mukhbir Yojana* of Rajasthan, anonymity of an informer is ensured. Further, under the decoy scheme of Madhya Pradesh when the informer conducts the sting operation alone without assistance of decoy, the informer gets the entire Rs 50,000 at the stage of certifying the operation to be true by the AA and Rs 50,000 after framing of charges before the Court. Therefore, the anonymity of the informers can be ensured.

2. Amend the PC&PNDT Rules, among others, to provide that
 - (i) Each State or UT shall have centralised and/or district specific dedicated telephone help lines, email and online format for filing of complaints to the Appropriate Authorities;
 - (ii) Information/complaints received by the Appropriate Authorities shall be communicated to the Central Supervisory Board, National Inspection and Monitoring Committee, State Supervisory Board and State Inspection and Monitoring Committee within 24 hours and that the failure to inform within 24 hours by the Appropriate Authorities shall lead to a presumption “*that there was an attempt to suppress the incident*”²⁷ and warrant departmental inquiries and necessary actions against the concerned AAs;
 - (iii) Investigation into the complaints/information received shall be completed within 15 days by the Appropriate Authorities;
 - (iv) Findings of the investigation by the AAs and action taken reports shall be communicated to the Central Supervisory Board, National Inspection and Monitoring Committee, State Supervisory Board within 21 days i.e. within one week after the completion of investigation;
 - (v) All information shall be submitted in each quarterly report under the PC&PNDT Act and the same shall be put up on the website of the PC&PNDT Department of each State and UT and the Ministry of Health and Family Welfare, Government of India;
 - (vi) Hospitals/nursing homes/ centres etc having equipment capable of sex selection shall display prominently on its premises with texts in English, Hindi and the local language saying, “*Sting operations*”

27. The National Human Rights Commission while directing the District Magistrates and Superintendents of Police of every district to report to the Secretary General of the Commission about custodial deaths within 24 hours of occurrence or of these officers having come to know about such incidents stated that “Failure to report promptly would give rise to presumption that there was an attempt to suppress the incident”. The Guidelines of the NHRC on Custodial Deaths are available at <http://www.nhrc.nic.in/Documents/sec-1.pdf>

to expose those disclosing sex of the foetus is rewarded with Rs (amount) and for the reward, the evidence/information can be communicated to designated phone number, email or website”; and

- (vii) No suit, prosecution or other legal proceedings shall lie against any decoy customer and her associates and the *Mukhbirs* for providing information/complaint about the violations of the PC&PNDT Act in good faith.

2. INDIA'S LOSING BATTLE AGAINST MISSING DAUGHTERS

India is fighting a losing battle against sex selection. Entire India is engulfed by the scourge of sex selection leading to skewed child sex ratio. About 14 States/Union Territories (UTs) have Child Sex Ratio²⁸ lower than national average of 919 as per 2011 census. These States are Haryana (834); Punjab (846); Jammu & Kashmir (862); NCT of Delhi (871); Chandigarh (880); Rajasthan (888); Uttarakhand (890); Gujarat (890); Maharashtra (894); Uttar Pradesh (902); Daman & Diu (904); Himachal Pradesh (909); Lakshadweep (911) and Madhya Pradesh (918).²⁹

The Ministry of Statistics and Programme Implementation of the Government of India in its report, "*CHILDREN IN INDIA 2012 - A Statistical Appraisal*" of September 2012 stated that faster decline of sex ratio "led to missing of nearly 3 million girl children compared to 2 million missing boy children in 2011, compared to 2001."³⁰ This is based on the fact that children population of 0-6 years was 78.83 million in 2001 and it declined to 75.84 million in 2011.³¹

This assertion of the Ministry of Statistics and Programme Implementation is patently false. It does not take into account that decadal growth of population from 1.028 billion in 2001 to 1.21 billion in 2011³² which would have also resulted birth of more girls from 2001 to 2011 in actual terms. Therefore, 3 million missing girl children arrived through mere deduction of the girls children in 2001 from the girl children in 2011 is inaccurate. Further, census is

28. Child sex ratio is defined as number of girls per thousand boys in the age group 0-6 years.

29. Census 2011, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

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

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

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

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

As per the 2011 census report, total child population in the age group of 0-6 years was 7,58,37,152 females against 8,29,52,135 males during 2001 to 2011.³³ Based on the World Health Organisation's (WHO) estimate of natural sex ratio of 105 males for every 100 females³⁴, for 8,29,52,135 males, there would have been around 7,90,02,033 females in the age group of 0-6 years instead of 7,58,37,152 girls. This means the total number of missing girls were 3,16,4,881 (7,90,02,033-7,58,37,152) in the age group of 0-6 years or 5,27,480 girls per age group. As the census is conducted every 10 years, it is indispensable to take into account those in the age group of 7-10 years to find out the exact number of missing girls in a decade. If a total of 3,16,4,881 girls in the age group of 0-6 years or 5,27,480 girls per age group went missing, another 21,09,920 girls in the age group of 7-10 years (5,27,480 girls per age group x 4 years) also went missing. This implies that a total of 52,74,801 girls altogether went missing during 2001 and 2011 from 0-10 years. Therefore, the assertion of the Ministry of Statistics and Programme Implementation that nearly 3 million girl children went missing is false.

Similarly, as per 2001 census, there were a total of 78,820,411 females in 0-6 years age group against 84,999,203 males.³⁵ Based on the WHO's estimate of natural sex ratio of 105 males for every 100 females³⁶, there would have been 8,09,51,622 girls in 2001 census instead of 78,820,411 girls. This means the total number of missing girls were 1,21,31,211 (8,09,51,622 -7,88,20,411) in the age group of 0-6 or average of 20,21,869 girls missing per age group during 1991 to 2001. Taking into account those in the age group of 7-10

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

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

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

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

years, another 80,87,476 were also missing in this age group during 1991 to 2001. This implies that a total of 2,02,18,687 girls were missing altogether during 1991 and 2001 in the age group of 0-10 years who were born in the intervening period.

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

Against missing girls of over 1.2 million girls every year as a result of sex selective abortion, the NCRB recorded only 1,959 cases of foeticide from 1994 to 2014. These included 107 in 2014, 221 in 2013, 210 in 2012, 132 in 2011, 111 in 2010, 73 in 2009, 73 in 2008, 96 in 2007, 125 in 2006, 86 in 2005, 86 in 2004, 57 in 2003, 84 in 2002, 55 in 2001, 91 in 2000, 61 in 1999, 62 in 1998, 57 in 1997, 39 in 1996, 38 in 1995 and 45 in 1994.³⁷

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

3. DECOYS AND MUKHBIRS: THE UNUSED INSTRUMENTS OF THE PC&PNDT ACT

India had enacted the Pre-Natal Diagnostic Techniques Act of 1994 (PNDT Act) and it came into force from 1 January 1996. The PNDT Act was amended in 2002 to make it more comprehensive and address the emerging technologies for selection of sex before and after conception and problems faced in the working of implementation of the Act and certain directions of Supreme Court in *CEHAT vs. Union of India*.³⁸ The amended Act was renamed as “Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994” (PC&PNDT Act) and came into force with effect from 14 February 2003.³⁹

3.1. The PC&PNDT Act and the status of its non-implementation

i. The PC&PNDT Act

The PC&PNDT Act, as amended in 2002⁴⁰, provides for regulation and punishment for sex determination and/or sex selection.

Section 3 of the PC&PNDT Act provides for regulation of genetic counselling centres, genetic laboratories and genetic clinics through the requirement of registration under the Act, prohibition of sex selection and sale of ultrasound machines to persons, laboratories, clinics, etc. not registered under the Act.

Section 4 provides that no such place shall be used for conducting pre-natal diagnostic techniques except for the purposes specified and requires a person conducting such techniques such as ultrasound sonography on pregnant women to keep a complete record in the manner prescribed in the Rules.

38. Writ Petition (civil) 301 of 2000, *CEHAT and Others v. Union of India*

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

40. Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 <http://pndt.gov.in/writereaddata/mainlinkFile/File50.pdf>

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

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

Sections 7 to 16 deal with Constitution of the Central Supervisory Board.

Section 17 deals with the Appropriate Authority and Advisory Committee.

Sections 18 to 21 deal with registration of genetic counselling centres, genetic laboratories or genetic clinics etc.

Section 22 provides prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

Section 23 provides for offences and penalties with imprisonment up to three years and fine up to Rs. 10,000. For any subsequent offences, there is imprisonment of up to five years and fine up to Rs. 50,000/Rs. 1,00,000. The name of the Registered Medical Practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of. On conviction, the name of Registered Medical Practitioner is removed for a period of 5 years for the first offence and permanently for the subsequent offence.

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

Section 25 provides for penalty for 'contravention of any provision of the Act or rules for which no specific punishment is provided' with imprisonment for a term which may extend to three months or with fine, which may extend to

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

Section 26 provides for offences by companies.

ii. Status of non-implementation

The enforcement of the PC&PNDT Act remained perennially dismal.

In the first 11 years, there was not a single conviction. In May 2005, then Union Health Minister Anbamani Ramdoss while announcing its plan to launch sting operations by appointing decoy customers to nab doctors and medical practitioners and diagnostic centres engaged in female foeticide, especially in northern States, including Punjab, Haryana and Delhi stated that “*Not a single person had been punished under the Act*” though there were rampant incidents of female foeticide.⁴¹

About 10 years later, incumbent Union Health Minister J P Nadda informed the Lok Sabha on 27.02.2015 about the status of the implementation of the PC&PNDT Act since it came into force in 1994 to September 2014: 50,743 genetic counseling centre/genetic clinic/genetic laboratory etc were registered; 2,021 cases were filed with the police and courts; 206 convictions were secured; 98 medical licenses were suspended/ cancelled and 1,716 machines were seized/sealed.⁴²

If about 25,49,3,480 girls approximately went missing as a consequence of sex selective abortions from 1991 to 2011 and 2,021 court cases were filed from 1994 to 2014 under the PC&PNDT Act, it implies that on an average only 1 (one) court case was filed approximately for 12,614 cases of sex selection. As

41. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>

42. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

conviction was secured only in 206 cases during 1994-2014, it also implies that only 1 (one) conviction was secured per 123,755 cases of sex selection.

The statistics on the implementation of the PC&PNDT Act as placed before the parliament on 27.02.2015 were hardly encouraging specially considering numerous directions of the Supreme Court in *CEHAT and Others vs. Union of India*,⁴³ *Voluntary Health Association of Punjab vs. Union of India & Ors*⁴⁴ and numerous judgments of the High Courts for effective implementation of the Act. That India registered more cases (2,266) of infanticide under Sections 315 and 316 of the Indian Penal Code⁴⁵ than cases (2,021) under the PC&PNDT Act⁴⁶ during 1994-2014 exposes poor implementation of the PC&PNDT Act. Sex selection in violation of the PC&PNDT Act (12 million missing girls per year) are far more widespread than female infanticide (113 cases per year) and in an ideal situation should lead to registration of more cases under the PC&PNDT Act. Further, female foeticide which was widespread in India has virtually replaced female infanticide.

As per the Ministry of Health and Family Welfare, as of 31 December 2015, a total of 291 convictions had been secured under the PC&PNDT Act from its inception to December 2015.⁴⁷

3.2. Indispensability of decoys and *Mukhbirs*: recognition sans actions and allocations

The PC&PNDT Act was enacted “*to provide for the prohibition of sex selection, before or after conception, and for regulation of prenatal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for*

43. Writ Petition (civil) 301 of 2000, CEHAT and Others v. Union of India

44. *Voluntary Health Association of Punjab vs. Union of India & Ors (2013) 4 SCC 1*

45. Crime in India report series 1994 to 2014, National Crime Records Bureau, available at: <http://ncrb.gov.in/>

46. Reply of the Union Health Minister J P Nadda to UNSTARRED QUESTION NO. 799 ANSWERED on 7.02.2015 before Lok Sabha

47. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>

*the prevention of their misuse for sex determination leading to female foeticide; and, for matters connected therewith or incidental thereto”.*⁴⁸

The critical question is how to nab those conducting sex determination and abortion of the foetus during the act?

Under the PC&PNDT Act, the State Appropriate Authority (SAA), District Appropriate Authority (DAA) and Sub-District Appropriate Authority are responsible for enforcing the Act. As per Section 17(4) of the Act, the main functions of the AAs are to (a) grant, suspend or cancel registration of a genetic counselling centre, genetic laboratory or genetic clinic; (b) enforce standards prescribed for the genetic counselling centre, genetic laboratory and genetic clinic; (c) investigate complaints of breach of the provisions of this Act or the rules made thereunder and take immediate action; (d) seek and consider the advice of the Advisory Committee, constituted under sub-section (5), on application for registration and on complaints for suspension or cancellation of registration; (e) take appropriate legal action against the use of any sex selection technique by any person at any place, *suo motu* or brought to its notice and also to initiate independent investigations in such matter; (f) create public awareness against the practice of sex selection or pre-natal determination of sex; (g) supervise the implementation of the provisions of the Act and rules; (h) to recommend to the CSB and State Boards modifications required in the rules in accordance with changes in technology or social conditions; and (i) take action on the recommendations of the Advisory Committee made after investigation of complaint for suspension or cancellation of registration.⁴⁹

During inspection, the AAs can find out violations such as non registration of genetic counselling centres, genetic laboratories and genetic clinics; whether registration certificate is displayed at a prominent place or not; whether all

48. PC&PNDT Act of 1994 available at <http://www.pndt.gov.in/writereaddata/mainlinkFile/File50.pdf>

49. Pre-Conception & Pre-Natal Diagnostic Techniques Act, 1994 as available at <http://pndt.gov.in/writereaddata/mainlinkFile/File50.pdf>

forms including Forms D, E and F are properly maintained as per the Rules or not etc.

However, as the crime of sex determination and/or sex selection is conducted with mutual consent of family and the ultra-sonologist, there are no complainant/ evidence despite millions of sex selection being conducted each year. It is in this context, sting operations and the role of the decoys and *Mukhbirs* have become indispensable even though there is no direct reference to decoy operations or use of *Mukhbirs* in the PC&PNDT Act and Rules.⁵⁰

The indispensability of the decoys and *Mukhbirs* has been repeatedly stressed by all relevant authorities and bodies of the Government of India.

In May 2005, the Ministry of Health and Family Welfare announced two plans: (i) launch sting operations by appointing decoy customers to nab doctors and medical practitioners and diagnostic centres engaged in female foeticide, especially in northern States, including Punjab, Haryana and Delhi; and (ii) establish a national surveillance cell in the Ministry of Health and Family Welfare to monitor diagnostic centres across the “problem” states where not a single conviction was secured under the PC&PNDT Act by that time.⁵¹

The national surveillance the Ministry of Health and Family Welfare was established as the ‘National Inspection and Monitoring Committee’ (NIMC). This was also in compliance of an assurance given to the Supreme Court for ascertaining proper implementation of the PC&PNDT Act.

50. Section 17(4)(e) which authorises the AAs “to take appropriate legal action against the use of any sex selection technique by any person at any place, suo motu or brought to its notice and also to initiate independent investigations in such matter” has been invoked to legally sanctify sting operations and decoy patients, *Mukhbirs* etc.

51. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>

In its Annual Report 2006, the National Inspection and Monitoring Committee under the PC&PNDT Act recommended that “*The Decoy patients need to be sent to the clinics suspected of undertaking sex selection*”.⁵²

The erstwhile Planning Commission of India in the 12th Five Year Plan (2012-2017) recommended that “*decoy and sting operations must be an integral part of the strategy to catch the doctors/clinics indulging in the illegal practice of sex-determination and abortion of the female foetus*”.⁵³

The *Beti Bachao Beti Pado* (BBBP) scheme launched in 2015 in its guidelines also directed to “*institute Rewards for the informers to help in identify the unregistered/ illegal ultrasound machines and the clinics indulging in illegal practice of sex selection*” and the reporting template under the BBBP provides for reporting on the number of rewards given.⁵⁴

In April 2016, the Ministry of Health & Family Welfare of the Government of India issued “*Standard Operating Guidelines for District Appropriate Authorities*” which *inter alia* includes Guidelines for Conducting a Decoy Operation along with Sample Format for Undertaking from Pregnant Woman Acting as Decoy and Sample Format of Panchnama Concerning a Decoy Operation.⁵⁵

The indispensability of the decoys and *Mukhbirs* for enforcement of the PC&PNDT Act has always been known.

With respect to clinics sealed under the PC&PNDT Act, an application under the Right to Information Act, 2005 by Dr. Mitu Khurana in 2008 brought to

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52. Annual Report, 2006 Implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, Ministry of Health and Family Welfare, Government of India available at <http://pnndt.gov.in/writereaddata/mainlinkfile/File99.pdf>
 53. Twelfth Five Year Plan (2012-2017) Social Sectors, Planning Commission of India, http://planningcommission.gov.in/plans/planrel/12thplan/pdf/12fyp_vol3.pdf
 54. Implementation Guidelines of Beti Bachao, Beti Pado Scheme, Ministry of Women and Child Development, 21 April 2015 available at <http://www.wcd.nic.in/BBBPScheme/ImplementationguidelinesofBBBPScheme.pdf>
 55. Standard Operating Guidelines for District Appropriate Authorities, Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Ministry of Health and Family Welfare, Government of India, April 2006 and available at http://india.unfpa.org/sites/asiapacific/files/pub-pdf/FINALfinalUNFPA_SOGsReport_Inside_LowRes%20%281%29.pdf
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light that only those clinics caught violating the Act through the use of decoys and sting operations had court cases against them. In contrast, clinics sealed for incomplete filing of Form F and failure to maintain records properly were let off after submitting affidavits stating that these lapses would not be repeated in the future or that closure of the clinics is not in public interest as it denies medical treatment to society.⁵⁶

Indeed, the affidavit dated 10 February 2013 filed by the Additional Chief Secretary, Public Health Department of Maharashtra before the Supreme Court pointed out that out of 38 decoy cases, 32 were successful and 16 cases filed⁵⁷ as given below:

Table 1: Types of cases filed by Maharashtra under the PC&PNDT Act

Type of violation	Total	Pending	Finalised
Non registration	58	28	30
Decoy cases	32	16	16
Non-maintenance of records	300	252	58
Advertisement	9	5	4
Other reason	1	1	0

However, the role of the decoys and Mukhbirs has not been recognised in the PC&PNDT Act and PC&PNDT Rules and no national scheme has yet been launched to fully utilise them for enforcement of the Act.

56. IMPLEMENTATION OF THE PCPNDT ACT IN INDIA: Perspectives and Challenges, April 2010 , By Centre For Youth Development and Activities (CYDA), Prayatn, Vimochana- Forum for Women’s Rights and Public Health Foundation of India; available at <http://www.wbhealth.gov.in/download/IMPLEMENTATION%20OF%20THE%20PCPNDT%20ACT%20IN%20INDIA.pdf>

57. WRIT PETITION (CIVIL) NO. 349 OF 2006 Voluntary Health Association of Punjab (VHAP) ... Petitioner Versus Union of India and others ... Respondents available at <http://www.hrln.org/hrln/images/stories/pdf/arguemnts-supreme-court-orders-on-proper-implementation-of-pcndt-act.pdf>

3.3. Analysis of the decoy, Mukhbir and other complaint schemes of the States

Some of the State Governments have established telephone help lines, dedicated websites and cash reward for the decoys and their associates and *Mukhbirs* to file complaint against those conducting illegal sex determination and/or sex selection.

An analysis of the schemes for the decoys, *Mukhbirs* and other complaint mechanisms launched by a few State Governments for enforcement of the PC&PNDT Act shows that these schemes at best remain adhoc and more importantly, the schemes lack directions, purpose, and necessary budgetary and institutional support.

3.3.1. Rajasthan

i. Status of the CSR in Rajasthan

Rajasthan's CSR during 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection was 932 and it improved to healthy 954 in 1981. However, as technology for sex determination and/or sex selection became easily available, the CSR in the State has been consistently falling: the CSR in Rajasthan declined by 38 points i.e. from 954 in 1981 to 916 as per 1991 census. It further declined from 916 in 1991 to 909 in 2001 and to 888 in 2011.⁵⁸ From 1981 to 2011, the CSR fell by 66 points in Rajasthan.

As per 2011 census, Rajasthan ranked No. 6 in low CSR among 35 States and UTs of India.⁵⁹

58. For CSR from 1971 to 2001, please refer to Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994" of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

59. Census 2011, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, the status of implementation of the PC&PNDT Act in Rajasthan was as follows: 2,292 registered genetic counseling centre/genetic clinic/genetic laboratory etc, 595 pending court cases, 37 convictions, 21 suspension / cancellation of medical licenses, and 402 machines seized/sealed.⁶⁰

In the Quarterly Report submitted to the Ministry of Health and Family Welfare, Government of India, the Government of Rajasthan claimed that a total of 2,446 facilities were registered in Rajasthan as on 30 September 2015. Further, a total of 570 suspensions or cancellation of registration were recorded under Section 20 of the PC&PNDT Act. A total of 426 ultrasound machines/images scanners were seized and sealed. The report also claimed that a total of 621 complaints were filed in courts including 15 cases for non-registration, 548 for non-maintenance of records, and 58 for communication of sex of foetus. Out of the total 621 cases, 23 complaints were against persons/suppliers etc for sale of ultra sound machines. The report further claimed that a total of 110 court cases resulted in conviction and a total of 21 registrations of doctors were suspended by the Rajasthan Medical Council.⁶¹

However, as per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, Rajasthan secured 85 convictions, the highest in the country, under the PC&PNDT Act during 2009-2015.⁶²

60. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

61. Quarterly report of September, 2015 related to Implementation of PC&PNDT Act, 1994 submitted to Ministry of Health & Family Welfare, Govt. of India by Director (RCH), Medical & Health Services, Rajasthan, vide letter No. State PC&PNDT Cell/Quarterly/2015/1319 dated 29.10.2015 <http://www.rajswasthya.nic.in/1319%20Dt.%2029.10.2015%20Website.pdf>

62. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

Though there are discrepancies as to the number of convictions as per the report of the Government of Rajasthan (110 convictions as of 30.09.2015) and statements of the Ministry of Health and Family Welfare before the parliament (85 convictions), there is no doubt that Rajasthan has secured the highest number of convictions under the PC&PNDT Act among 35 States and UTs of India.

iii. Status of decoy, Mukhbir and other complaint schemes

The Government of Rajasthan launched the *Mukhbir Yojana* in 2011 to obtain information about cases of sex selection in the State and the *Mukhbirs* help the Directorate of Medical Health and Family Welfare in conducting decoy operations at sonography centres suspected of violating the PC&PNDT Act. Under the *Mukhbir Yojana* any one can call toll free number 104 to inform about illegal sex selection or foeticide in the State and get rewarded.

As per the guidelines of the *Mukhbir Yojana*, Rs 50,000 would be given to an informer only after finding that the information is true, followed by a successful decoy operation. Another Rs 25,000 would be given to the informer after the charges against the person involved in the violation of the PC&PNDT Act is framed in the court of law. A further amount of Rs 25,000 would be given to the *Mukhbir* when the accused is declared by the courts.⁶³

In March 2015, the Rajasthan Health and Family Welfare Department increased the reward amount to the *Mukhbir* to Rs. 200,000 per authentic case. Under the amended scheme, 40% of the award amount is given to informant, other 40% to the pregnant lady and the remaining 20% to the attendant of the pregnant woman.⁶⁴

63. <http://www.sihfwrajasthan.com/ppts/full/Schemes%20of%20Government%20of%20Rajasthan%20in%20Health.pdf>

64. RE-CREATING EXCELLENCE” published by the Department of Public Grievances and Administrative Reforms, Ministry of Personnel, Public Grievances and Pensions, Government of India; Available at: http://www.darpg.gov.in/sites/default/files/Recreating%20Excellence%20Book_1.pdf

As per the guidelines, a pregnant woman taking part in a decoy operation at a sonography centre is required to give an undertaking that if she comes to know the sex of the baby in her womb during the operation, she will not remove the foetus. The revised guidelines further provide that “*provisions should be made to give an insurance policy to the yet-to-born baby of the pregnant woman participating in a decoy operation*”⁶⁵ which is a positive incentive.

As on 20.12.2016, 31 *Mukhbirs* were awarded for providing accurate information on sex selection and 52 decoy operations were conducted the *Mukhbir Yojana*.⁶⁶

3.3.2. Maharashtra

i. Status of the CSR in Maharashtra

As per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection, the CSR of Maharashtra was 972. However, as technology for sex determination and/or sex selection became easily available, Maharashtra’s CSR has been consistently falling: from 965 as per 1981 census to 946 as per 1991 census to 913 as per 2001 census and to 894 as per 2011 census.⁶⁷ The CSR fell by 71 points from 1981 to 2011. As per 2011 census, Maharashtra ranked No. 9 in low CSR among 35 States and UTs of India.

ii. Status of enforcement of the PC&PNDT Act

With respect to the implementation of the PC&PNDT Act in Maharashtra, as of September 2014, 9,052 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 496 court cases were pending, conviction was

65. New guidelines define role of pregnant woman in decoy operation, The Times of India, 7 September 2015 available at <http://timesofindia.indiatimes.com/city/jaipur/New-guidelines-define-role-of-pregnant-woman-in-decoy-operation/articleshow/48851311.cms>

66. RTI reply from Department of Medical, Health & Family Welfare, Government of Rajasthan dated 20.12.2016

67. For CSR from 1971 to 2001, please refer to Special Service and Features, “Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994” of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/ereelcontent.aspx?reliid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?reliid=103437>

secured in 61 cases, 59 medical licenses were suspended/cancelled and 709 machines were seized/sealed.⁶⁸

By September 2015, a total of 147 cases were submitted to different medical councils by the State Appropriate Authority against doctors facing conviction and charges under the PC&PNDT Act. The Maharashtra Medical Council had suspended the registration of 48 doctors and removed the name of one doctor from the medical register.⁶⁹

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, Maharashtra secured 76 convictions, the second highest in the country, under the PC&PNDT Act during 2009-2015.⁷⁰

The Government of Maharashtra further claimed that it had filed a total of 556 cases against doctors under the PC&PNDT Act as on 14 June 2016. Of the 556 cases, 79 doctors were convicted by lower courts, 167 were acquitted and 306 cases were pending in various courts.⁷¹

iii. Status of decoy, Mukhbir and other complaint schemes

On 12 July 2011, the Government of Maharashtra launched a helpline (toll free number 18002334475) to curb illegal sex-determination tests and sex selective abortion being carried out by doctors in Maharashtra.⁷² The moment a complaint is lodged on the website, the AA of the concerned district gets an

68. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

69. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

70. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

71. PC-PNDT Act: Few takers for state's informer incentive scheme, fewer complaints, The Indian Express, 14 June 2016, <http://indianexpress.com/article/india/india-news-india/pc-pndt-act-few-takers-for-states-informer-incentive-scheme-fewer-complaints-2851185/>

72. Helpline gets 42 complaints about sex-determination tests, The Times of India, 7 September 2011, <http://timesofindia.indiatimes.com/city/pune/Helpline-gets-42-complaints-about-sex-determination-tests/articleshow/9891686.cms>

auto generated email intimation to initiate action on the complaint. The AA conducts a detailed investigation based on the nature of the complaint.

The helpline performed well and in the first two months (as of 7 September 2011), it received 42 complaints and tip offs from 16 districts about illegal sex-determination tests and sex selective abortion being carried out by doctors.⁷³ By 12 June 2012, the helpline received 212 complaints. Based on the complaints filed through the website and the helpline number, the authorities sealed 22 sonography machines as of 12 June 2012.⁷⁴ By 31 December 2013, 562 complaints were received based on which 31 machines were sealed and 24 court cases were filed.⁷⁵

On 3 August 2011, the State Family Welfare Bureau in Pune launched a website - www.amchimgulgi.in – urging people to come forward to report about sex determination and foeticide practices. In the first 10 months, the online portal received 232 complaints (as of 12 June 2012).⁷⁶ From 3 August 2011 to 31 December 2013, about 601 complaints were received on the basis of which, 15 machines were sealed, 13 court cases were filed and five decoy operations were conducted.⁷⁷

However, the responses to the helpline and the website have been dwindling. There were just eight informers in 2014 and none in 2015.⁷⁸

73. Helpline gets 42 complaints about sex-determination tests, The Times of India, 7 September 2011, <http://timesofindia.indiatimes.com/city/pune/Helpline-gets-42-complaints-about-sex-determination-tests/articleshow/9891686.cms>

74. 22 sonography centres sealed in Maharashtra after complaints to helpline, online portal, The Times of India, 12 June 2012, <http://timesofindia.indiatimes.com/city/pune/22-sonography-centres-sealed-in-Maharashtra-after-complaints-to-helpline-online-portal/articleshow/14036990.cms>

75. <https://arogya.maharashtra.gov.in/pdf/doc1.pdf>

76. Log on to file online complaint against sex determination, The Indian Express, 4 August 2011, <http://archive.indianexpress.com/news/log-on-to-file-online-complaint-against-sex-determination/826900/>

77. <https://arogya.maharashtra.gov.in/pdf/doc1.pdf>

78. PC-PNDT Act: Few takers for state's informer incentive scheme, fewer complaints, The Indian Express, 14 June 2016, <http://indianexpress.com/article/india/india-news-india/pc-pndt-act-few-takers-for-states-informer-incentive-scheme-fewer-complaints-2851185/>

The Government of Maharashtra has been providing cash reward of Rs 25,000 to those giving information on sex determination and female foeticide.⁷⁹ Out of this cash reward, Rs 5,000 is given to decoy woman and Rs 20,000 to the informer.⁸⁰ There is no doubt that the cash reward is highly inadequate.

The affidavit dated 10.02.13 filed by the Additional Chief Secretary, Public Health Department, Maharashtra before the Supreme Court of India pointed out that out of 38 decoy cases, 32 were successful and 16 cases filed.⁸¹ In another report, the Government of Maharashtra claimed that as on 31 December 2013, 67 sting operations were conducted in the State involving decoy clients.⁸²

3.3.3. Haryana

i. Status of the CSR in Haryana

The CSR in Haryana in 1971 i.e. prior to the invention of technology for sex determination and/or sex selection was 899 and it remained virtually static at 902 as per 1981 census. However, as technology for sex determination and/or sex selection became easily available, the CSR declined to 879 in 1991 i.e. fall by 23 points. The CSR in Haryana consequently witnessed the highest fall in the country from 879 in 1991 to 819 in 2001.⁸³ Haryana's CSR improved to 834 as per 2011 census but among all the States and UTs, Haryana's CSR was the lowest in the country.⁸⁴ The CSR fell by 68 points from 1981 to 2011 in Haryana.

79. Crack down on Maharashtra's Devil Doctors, India Today, 13 June 2012 available at <http://indiatoday.intoday.in/story/crack-down-on-maharashtra-devil-doctors/1/200447.html>

80. Wanted: Pregnant decoys for sting operations to save the girl child, 23 July 2015 available at <http://scroll.in/pulse/738732/wanted-pregnant-decoys-for-sting-operations-to-save-the-girl-child>

81 .WRIT PETITION (CIVIL) NO. 349 OF 2006 Voluntary Health Association of Punjab (VHAP) ... Petitioner Versus Union of India and others ... Respondents available at <http://www.hrln.org/hrln/images/stories/pdf/arguemnts-supreme-court-orders-on-proper-implementation-of-pcpndt-act.pdf>

82. <https://arogya.maharashtra.gov.in/pdf/doc1.pdf>

83. For CSR from 1971 to 2001, please refer to Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994" of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

84. Census 2011, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

ii. Status of enforcement of the PC&PNDT Act

The status of implementation of the PC&PNDT Act in Haryana as of September 2014 was as follows: 1,624 bodies registered, 108 pending court cases, 54 convictions secured, nine (9) suspension / cancellation of medical licenses, and 241 machines seized/sealed.⁸⁵

The Health Department of Haryana stated that as of September 2015, a total of 63 doctors were convicted out of 135 court cases filed under the PC&PNDT Act in the State since inception. The actions taken included removal of 10 doctors from the Register of State Medical Council of Haryana for five years, suspension of two doctors after conviction by the courts and suspension of four doctors from the Register of State Medical Council following framing of charges by the Courts. The Health Department of Haryana also claimed that it had conducted 22,336 inspections of registered centres/clinics leading to suspension/cancellation of 517 registrations and sealing of 330 centres/clinics.⁸⁶ The number of convictions remained the same i.e. 63 at the end of 2015 as per information placed before the parliament by the Ministry of Health and Family Welfare.⁸⁷

iii. Status of decoy, Mukhbir and other complaint schemes

The Government of Haryana launched telephone helpline numbers one after another, only to replace the previous helpline numbers which indicated the failure of the helpline projects to fight female foeticide.

On 13 June 2011, the Government of Haryana launched a toll free number 1800-180-2056 at Panchkula as helpline to combat atrocities on women, children and destitute children, killing of newly born infants and female

85. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

86. Health Department of Haryana, PNDT Note upto Sept, 2015, <http://haryanahealth.nic.in/menudesc.aspx?page=320>

87. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

foeticide. The helpline was supposed to provide round-the-clock support at the District Child Welfare Council, Sector 14, Panchkula. The Government also announced reward of Rs 51,000 to any person giving information regarding sex determination and female foeticide.⁸⁸

On 17 January 2014, the Government of Haryana launched SMS service on mobile number 08288033370 and helpline at 08288014141 to provide information about illegal sex determination tests and female foeticide being conducted anywhere in the State.⁸⁹

On 13 May 2016, the Government of Haryana launched another helpline in Panchkula urging people to report cases of female foeticide on the toll free number 85580-14141 as part of the *Beti Bachao Beti Padhao* campaign. The Government of Haryana also put up drop boxes in primary health centres, dispensaries and several other public offices wherein people can drop in information about clinics/nursing homes etc where sex-determination and sex selection being conducted and the informants would be rewarded with Rs 1 lakh.⁹⁰

The district authorities of Jind also started similar helpline numbers 70278-12024 and 082880-14141 where information about female foeticide could be shared and the informants would be rewarded with Rs 1 Lakh.⁹¹

In 2012, the Government of Haryana had distributed Rs 1.60 lakh to eight informers while in 2013, only three persons from Jhajjar, Gurgaon and Fatehabad came forward to inform about the menace.⁹²

88. Haryana launches toll free number to prevent atrocities, WebIndia123, 13 June 2011, <http://news.webindia123.com/news/articles/India/20110614/1771040.html>

89. Helpline to report illegal abortions, The Tribune, 18 January 2014, <http://www.tribuneindia.com/2014/20140118/haryana.htm#8>

90. Panchkula: Helpline opened to report cases of sex determination, The Indian Express, 14 May 2016, <http://indianexpress.com/article/cities/chandigarh/panchkula-helpline-opened-to-report-cases-of-sex-determination-2799824/>

91. An initiative against low gender ratio, The Tribune, 21 March 2016, <http://www.tribuneindia.com/news/haryana/community/yamunanagar-man-chosen-mp-in-germany/211507.html>

92. Female foeticide Fear prevails over incentives for informers, Times of India, 17 August 2014 available at <http://timesofindia.indiatimes.com/city/Chandigarh/Female-foeticide-Fear-prevails-over-incentives-for->

3.3.4. Tamil Nadu

i. Status of the CSR in Tamil Nadu

The CSR of Tamil Nadu during 1971 census i.e. before invention of technology for sex determination and/or sex selection was very healthy at 990 points. Though it further improved to 992 as per 1981 census, it has been consistently declining to 975 during 1991 census to 961 during 2001 census to 943 during 2011 census.⁹³ Obviously, technology for sex determination and female foeticide has been one of the reasons for the consistent fall in the CSR. The CSR fell by 49 points from 1981 to 2011 in Tamil Nadu.

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Tamil Nadu, 5,494 genetic counseling centre/ genetic clinic/ genetic laboratory etc were registered, 77 court cases were pending while 72 machines were seized/sealed under the PC&PNDT Act. No medical license was suspended/ cancelled and no conviction had taken place.

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, 18 convictions were secured under the PC&PNDT Act in Tamil Nadu during 2009-2015.⁹⁴ All the convictions took place in 2015 possibly as a consequence of the Supreme Court directions in the *Voluntary Health Association of Punjab* on 4 March 2013 to complete the trial under the Act in six months.⁹⁵

informers/articleshow/40354558.cms

93. Government of Andhra Pradesh shuts down 42 sex determination centres, NDTV, 04 March 2013 available at <http://www.ndtv.com/south/andhra-pradesh-Government-shuts-down-42-sex-determination-centres-515127> and Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994", 20-April, 2011 18:00 IST, available at <http://pib.nic.in/newsite/erelcontent.aspx?relid=71711>
94. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016
95. (2013) 4SCC 1, Voluntary Health Association of Punjab vs. Union of India & Ors

iii. Status of decoy, Mukhbir and other complaint schemes

In January 2013, the officials of the Madurai district of Tamil Nadu decided to launch sting operations in a drive to crack down on private scan centres suspected of conducting sex determination and/or sex selection and sharing the results with customers on request. The Government of Tamil Nadu approved a plan to send a pregnant woman as a “spy or agent or decoy” as part of a sting operation to nab offenders.⁹⁶ As the authorities announced in advance that sting operations would be conducted, no detection of sex determination and/or sex selection could be made during subsequent sting operations.

Tamil Nadu lacked consistent policy to conduct surprise check of the scan centres. Nonetheless, on 21 November 2016, the AAs filed cases against Dr K Kannagi from Kumaran Polyclinic, Dr Kala Devi from Sri Scan Centre and Dr Meghala from Ganga Hospital on account of sex determination. A sting operation was performed by the authorities with the help of three pregnant women deployed as decoys by the Directorate of Medical and Rural Health Services.⁹⁷ It is not clear whether Tamil Nadu provides any incentives to the decoys.

3.3.5. Gujarat

i. Status of the CSR in Gujarat

Gujarat’s CSR as per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection was 946 and it improved to 950 during 1981 census. However, as technology for sex determination and/or sex selection became easily available, the CSR in Gujarat declined from 950 as per 1981 census to 928 as per 1991 census and to 883 as per 2001 census. Though the CSR in Gujarat improved to 890 during 2011 census, it still

96. Health officials for sting operation in scan centres, The Hindu, 6 January 2013 available at <http://www.thehindu.com/news/cities/Madurai/health-officials-for-sting-operation-in-scan-centres/article4276902.ece>

97. TN: 3 scan centres sealed for performing sex determination, Medical Dialogues, 23 November 2016 available at <http://medicaldialogues.in/tn-3-scan-centres-sealed-for-performing-sex-determination/>

remains far below the national level CSR of 919.⁹⁸ The CSR fell by 60 points from 1981 to 2011 in the State.

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Gujarat about 4,504 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 126 court cases were pending, conviction secured in 6 cases and only 3 machines were seized/sealed under the PC&PNDT Act. Only, one medical license was suspended/cancelled in the State.⁹⁹

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, only nine convictions were secured under the PC&PNDT Act in Gujarat during 2009-2015.¹⁰⁰

iii. Status of decoy, Mukhbir and other complaint schemes

On 22 January 2013, the State Inspection and Monitoring Committee (SIMC) instructed all district AAs to conduct a sting operation in each month.¹⁰¹ However, this was not complied with.

The Comptroller and Auditor General of India (CAG) in its General and Social Sector audit for Gujarat for the year ended on March 2014 observed that till October 2014 only 14 successful sting operations (seven districts)

98. For CSR from 1971 to 2001, please refer to Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994" of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

99. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

100. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

101. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013 available at http://www.cag.gov.in/sites/default/files/audit_report_files/Gujarat_Report_6_2015.pdf

were conducted in the State. The detail of number of unsuccessful sting operations conducted was not available at State level or at test-checked districts for verification by the CAG. The CAG stated that *“This indicated lack of monitoring on the part of the district AAs which led to poor implementation of the PC&PNDT Act in the State.”*¹⁰²

The CAG in its report further stated, *“The Commissioner of Health stated (November 2014) that successful sting operation was far less than the number of stings attempted due to various constraints faced during sting operations such as non-handling of audio-video evidence properly by witness, doubtful behaviour of witness, non-availability of dedicated staff to undertake sting operation, witness turning hostile in the court, etc.”*¹⁰³

In the CAG report, there was no reference to incentives being paid to the decoys. Without proper incentive for sting operations, it is bound to fail.

3.2.6. Punjab

i. Status of the CSR in Punjab

Punjab had low CSR of 899 as per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection and it improved to 908 in 1981. However, as technology for sex determination and/or sex selection became easily available, the CSR in the State has been consistently falling: the CSR in Punjab declined by 33 points i.e. from 908 in 1981 to 875 as per 1991 census. It further declined by 77 points from 1991 (875) to 2001 (798). Though Punjab witnessed an increase of 48 points from 798 (2001) to 846 (2011), it still remained at No.2 in low CSR in India.¹⁰⁴

102. Ibid

103. Ibid

104. For CSR from 1971 to 2001, please refer to Special Service and Features, “Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994” of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erelcontent.aspx?reliid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?reliid=103437>

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Punjab had 1,396 genetic counseling centre/genetic clinic/genetic laboratory etc registered, 127 pending court cases, 28 convictions secured and 4 cases of suspension/cancellation of medical licenses under the PC&PNDT Act. However, no machine was seized/sealed.¹⁰⁵

The Health Department of Punjab further claimed that as on 16 September 2015, a total of 811 suspensions and 102 cancellations of registration of ultrasound centres were recorded and 143 cases/complaints were filed in the courts/police stations for violations of the PC&PNDT Act. Out of the cases filed, 90 cases disposed off, 31 cases resulted in conviction and 22 cases were pending in the courts.¹⁰⁶

However, as per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, only four convictions under the PC&PNDT Act took place in Punjab during 2009-2015.¹⁰⁷

Obviously there is a mismatch between the claims (31 convictions) made by the Government of Punjab and information placed by the Ministry of Health and Family Welfare before the parliament (2 convictions) on the number of convictions under the PC&PNDT Act. Nonetheless, even if 31 convictions were secured as claimed by the Government of Punjab on 16 September 2015, Punjab is still way behind Rajasthan, Maharashtra and Haryana with respect to number of convictions.

105. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

106. PUNJAB - Update on the implementation of PC & PNDT Act, <http://pbhealth.gov.in/Note%20on%20enforcement%20of%20PC-PNDT%20Act%20in%20english.pdf>

107. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

iii. Status of decoy, Mukhbir and other complaint schemes

On 8 October 2009, the Government of Punjab launched the country's first public health helpline to check female foeticide as a pilot project under the National Rural Health Mission.¹⁰⁸ The helpline was meant to give hapless women who are forced to abort their unborn daughters a chance to voice their grievances and seek the intervention of the authorities to stop female foeticide.¹⁰⁹ The helpline was in Punjabi to make it more effective and to reach out to the common people of Punjab. The service was available from 9 am to 6 pm.

The caller had to dial 4005252 and follow the instructions (in Punjabi). In the instructions, the first 3 of the 4 instructions were related to female foeticide. The instructions were as follows:¹¹⁰

- One: callers can provide information about any woman going in for the foeticide procedure;
- Two: if a woman's in-laws were pressurizing her to abort the child;
- Three: if the woman already underwent an abortion; and
- Four: other problems related to health services.

The implementation of the pilot project was reportedly monitored on daily basis by Deputy Chief Minister Sukhbir Badal.¹¹¹

The project made a promising start. The first breakthrough was achieved after 20 days when a caller informed the hotline service on 28 October 2009 that a young woman resident of Moosa village in Mansa district of Punjab had

108. Hotline to curb female foeticide, The Tribune, 10 October 2009, <http://www.tribuneindia.com/2009/20091010/main5.htm>

109. Welcome initiative -Helpline a step against female foeticide, The Tribune, 12 October 2009, <http://www.tribuneindia.com/2009/20091012/edit.htm#2>

110. Female foeticide helpline 'fails' to initiate response, The Times of India, 21 November 2009, <http://timesofindia.indiatimes.com/city/ludhiana/Female-foeticide-helpline-fails-to-initiate-response/articleshow/5255761.cms>

111. Hotline to curb female foeticide, The Tribune, 10 October 2009, <http://www.tribuneindia.com/2009/20091010/main5.htm>

aborted her female foetus. Based on the information, the authorities traced the accused and the ultrasound centre in Sirsa (Haryana) where the alleged crime was committed.¹¹²

But due to lack of promotion by the Department of Health and Family Welfare, Punjab, the helpline eventually turned out to be a damp squib¹¹³ and stopped receiving any complaint one year after it was started.

In February 2011, the Government of Punjab mooted the idea of replacing the foeticide helpline by a “Health Helpline” where the callers could register any kind of complaint regarding health services including female foeticide.¹¹⁴

Finally, in June 2014, the Government of Punjab replaced the foeticide helpline with a round-the-clock “Medical Helpline 104” after entering into an agreement with M/S Ziqitza Healthcare Limited Mumbai to provide 24x7 free of cost medical care to all the citizens in the State by dialing 104 from any Landline or Mobile phone.¹¹⁵

The Health Department of Punjab claims that “*Government of Punjab has started a round-the-clock helpline number ‘104’ to help people, particularly in rural and underserved areas. All the anonymous complaints and public grievances regarding PC&PNDT Act violations and suggestions for effective implementation of the Act can be assessed on this helpline.*”¹¹⁶

But the official documents relating to “Medical Helpline: 104” as available in the website of the Health Department of Punjab¹¹⁷ does not mention that the helpline was meant for complaints regarding violations of the PC&PNDT Act

112. Foeticide helpline achieves breakthrough, The Tribune, 30 October 2009, <http://www.tribuneindia.com/2009/20091030/punjab.htm#3>

113. Female foeticide helpline ‘fails’ to initiate response, The Times of India, 21 November 2009, <http://timesofindia.indiatimes.com/city/ludhiana/Female-foeticide-helpline-fails-to-initiate-response/articleshow/5255761.cms>

114. Health Helpline to replace foeticide alert system, The Indian Express, 9 February 2011, <http://archive.indianexpress.com/news/health-helpline-to-replace-foeticide-alert-system/747632/0>

115. http://1905.punjab.gov.in/104_Note.pdf

116. http://pbhealth.gov.in/Note%20on%20enforcement%20of%20PC-PNDT%20Act%20in%20english%20_1_.pdf

117. <http://pbhealth.gov.in/Note%20104.pdf>

or to report illegal sex determination and foeticide. The aims of the “Medical Helpline: 104” are to provide first aid information or advice as well as any other health related services to general public about queries in the following areas¹¹⁸:

1. Information Directory for tracking health services providers, institutions, diagnostic services, hospitals etc
2. Complaint Registration about person/institution relating to deficiency of services, negligence corruption etc in Government healthcare institutions
3. Advice on long term ill conditions like diabetes, heart issues etc
4. Response to health scares and other localized epidemics
5. Counselling and advice (stress, depression, anxiety, post-trauma recovery, HIV, AIDS, RTI, STI etc)
6. Health and symptoms checker (initial assessment, flue advice, pregnancy related information etc)
7. First aid information and advice
8. Any other health related services/issues

Therefore, the claim of the Government of Punjab that “Medical Helpline: 104” was established to combat female foeticide are preposterous.

On 15 September 2016, the Government of Punjab announced a cash prize of Rs 1 lakh for any information on illegal sex determination centres and female foeticide in the State.¹¹⁹ Earlier, the Government of Punjab was providing Rs. 20,000/- each to whosoever helps the health department in nabbing accused indulging into sex-determination/ selection.¹²⁰ It is clear that the reward of

118. <http://pbhealth.gov.in/Note%20104.pdf>

119. Punjab govt announces Rs 1 lakh reward for info on illegal sex determination centres, North Gazette, 16.09.2015 available at <http://northgazette.com/news/2015/09/16/punjab-govt-announces-rs-1-lakh-reward-for-info-on-illegal-sex-determination-centres/>

120. <http://www.pbhealth.gov.in/pndt.pdf>

Rs 20,000 was not attractive enough and the Government of Punjab was constrained to increase the reward by five fold.

In October 2015, the Government of Punjab decided to engage services of private detective agencies to check illegal sex determination tests and foeticide by private ultrasound centres following a meeting of the State Supervisory Board.¹²¹

Since then, at least two successful sting operations with the help of the empanelled private detectives were conducted.

On 20 April 2016, a successful sting operation was carried out with the help of the empanelled private detective agency. It led to the arrest of Dr Shupla Sharma of Bharat Hospital under the PC&PNDT Act at Chhertra (District Amritsar).¹²²

On 23 April 2016, acting on the tip off given by the empanelled detective agency, the Department of Health and Family Welfare, Punjab conducted a successful sting operation and registered a case under the PC&PNDT Act and Rules against five doctors of Suri Scan Centre, Balachaur, District SBS Nagar i.e. Dr Ujagar Singh Suri (owner), Dr Bhushan, Dr Sunita, Dr Sandeep and Dr Gurinder Bagga. The case was registered after doctors of Suri Scan Centre took a sum of Rs. 20,000/- from a decoy patient for illegal sex-determination. A woman decoy deployed by the Health Department was able to strike a deal with the Suri Scan Centre for sex-determination of her foetus. At the time of scanning, the Health authorities conducted raid and also recovered Rs 20,000/- from Dr Bhushan of Suri Scan Centre. Notably during scan, the decoy-woman was informed by Dr Sunita of the Suri Scan Centre to get ready to celebrate with *ladoo* (a reference that indicates the foetus to be a male child). The team found that as per record Dr Sandeep and Dr Gurinder Bagga, both

121. To curb sex determination, Punjab to engage detectives, Business Standard, 7 October 2015 available at http://www.business-standard.com/article/news-ians/to-curb-sex-determination-punjab-to-engage-detectives-115100701502_1.html

122. http://punjab.gov.in/key-initiative?view=show&pp_id=660 or <http://www.siasat.com/news/woman-doctor-nabbed-violating-pc-pndt-act-949302/>

sonologists were the only ones authorized for scanning at the centre. The team sealed the Scan Centre on the spot and pasted a notice that owners of the centre must get all the records of the scan centre inspected by the Sub-divisional appropriate authority (PC&PNDT Act) within 48 hours.¹²³

3.3.7. Odisha

i. Status of the CSR in Odisha

In Odisha, the CSR has been consistently falling: 1035 in 1961, 1020 in 1971, 995 in 1981, 967 in 1991 census, 953 in 2001 and 941 in 2011.¹²⁴ In terms of point, the CSR fell by 25 points from 1971 to 1981, 28 points from 1981 to 1991, 14 points from 1991 to 2001 and 12 points from 2001 to 2011. From 1971 to 2011, the CSR actually fell by 79 points. The technology for sex selection had a critical role to play for low CSR in the State. Indeed, during 2001-11, the CSR declined in 26 out of 30 districts of the State¹²⁵ as technology became easily available in rural areas. In more than 10 of the State's 30 districts, the sex ratio was less than 900, with Nayagarh having the most skewed CSR of 851.¹²⁶

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, the status of implementation of the PC&PNDT Act as of September 2014 in Odisha was as follows: 685 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 24 court cases were pending, conviction was secured in three cases while only 6 machines were seized/sealed under. However, no medical license was suspended /cancelled.¹²⁷

123. http://punjab.gov.in/key-initiative?view=show&pp_id=660

124. "ANNUAL REPORT 2014-2015" of State PC&PNDT Cell, Directorate of Family Welfare, Government of Odisha, <http://www.pndtorissa.gov.in/ANNUAL%20REPORT%202014-15%20f.pdf>

125. <http://www.pndtorissa.gov.in/child-sex-ratio.htm>

126. Pregnant women to sting sex-test labs, The Hindustan Times, 28 September 2012 available at <http://www.hindustantimes.com/india/pregnant-women-to-sting-sex-test-labs/story-CYbbUDx1Hyiy04Cr0A0hZL.html>

127. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

Information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report confirmed that three convictions were secured under the PC&PNDT Act in Odisha during 2009-2015.¹²⁸

iii. Status of decoy, Mukhbir and other complaint schemes

The Odisha State Advisory Committee in its various meetings recommended (December 2011, August 2012, January 2013), *inter-alia*, setting up of PNDT Cell at each district and to conduct at least one decoy operation in each district from March 2013.¹²⁹ The decoys who would pose as women seeking sex determination tests were to be paid Rs.5,000.¹³⁰

In September 2012, the Government of Odisha decided to use sting and decoy operations to nail doctors engaged in sex determination tests and foeticide for expectant mothers. The guidelines in this regard were handed over to district collectors on 26 September 2012 at a colloquium on the PC&PNDT Act.¹³¹

The CAG in its audit report for the year ending on 31st March 2013 stated that budget provision of Rs 40,000 (at Rs 10,000 per quarter or two sting operations) was made in the year 2012-13 for the purpose of sting operation in Project Implementation Plan of National Rural Health Mission. However, only one such decoy customer operation was conducted (September 2012) in Angul district.¹³²

128. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

129. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013 for Orissa, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf

130. Pregnant women to sting sex-test labs, The Hindustan Times, 28 September 2012 available at <http://www.hindustantimes.com/india/pregnant-women-to-sting-sex-test-labs/story-CYbbUDx1Hyiy04Cr0A0hZL.html>

131. <http://timesofindia.indiatimes.com/home/Odisha-Government-has-decided-to-use-sting-operation-and-decoy-to-nail-doctors-who-are-engaged-in-sex-determination-tests-for-expectant-mothers-The-guidelines-in-this-regard-were-handed-over-to-district-collectors-on-Wednesday-at-a-colloquium-on-pre-conception-and-pre-natal-diagnostic-techniques-prohibition-of-sex-selection-act-1994-PCPNDT-Act-/articleshow/16559225.cms>

132. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013 for Orissa, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf

By April 2014 the Government of Odisha already approved purchase of spy camera etc.¹³³ However, in July 2015, the Government of Odisha announced cancellation of the decoy operations. *“Though the first and only operation carried out in Talcher town of Angul district was a success, the scheme had to be shelved due to lack of decoys. We are not able to find pregnant volunteers willing to take the risk of playing the decoy for our operation. Also, the money we offer for their work is negligible and this turns away most volunteers,”* said a senior officer of the Health Department.¹³⁴

With only Rs 5,000 as incentives, the scheme was destined to fail.

3.3.8. Madhya Pradesh

i. Status of the CSR in Madhya Pradesh

The CSR in Madhya Pradesh during 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection was 976 and it virtually remained the same at 977 during 1981 census. However, as technology for sex determination and/or sex selection became easily available, the CSR in the State has been consistently falling: it fell from 977 in 1981 to 941 in 1991 which further fell to 932 in 2001 and to 918 in 2011.¹³⁵ The CSR fell by 59 points from 1981 to 2011.

Madhya Pradesh ranked No.14 in low CSR as per 2011 census among all the States and UTs of India.

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, 1,459 bodies were registered, 15 court cases were

133. Report of the Comptroller and Auditor General of India General and Social Sector Volume 2 for the year ended March 2013 for Orissa, available at http://www.cag.gov.in/sites/default/files/audit_report_files/Odisha_Report_5_2014.pdf

134. ‘Operation Decoy’ given a quiet burial in Odisha after just one sting, 28 July 2015 available at <http://odishasuntimes.com/2015/07/28/operation-decoy-given-a-quiet-burial-in-odisha-after-just-one-sting/>

135. For CSR from 1971 to 2001, please refer to Special Service and Features, “Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994” of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

pending, two convictions were secured, two medical licenses were suspended/cancelled and 13 machines were sealed/seized under the PC&PNDT Act in Madhya Pradesh.¹³⁶

On 15 September 2015, the Directorate of Public Health Services, Madhya Pradesh informed during the Regional Workshop organised by the State Institute of Health and Family Welfare in Rajasthan that a total of 43 court cases were filed in different districts of Madhya Pradesh since the inception of the PC&PNDT Act. Of these cases, 41 were pending, one resulted in conviction and one case was dismissed.¹³⁷

However, as per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, two convictions were secured under the PC&PNDT Act in Madhya Pradesh during 2009-2015.¹³⁸

iii. Status of decoy, Mukhbir and other complaint schemes

On 13.08.2013, the Government of Madhya Pradesh launched “www.hamaribitiya.in” with the help of the United Nations Population Fund (UNFPA) wherein complaints under the PC&PNDT Act can be filed. The Government of Madhya Pradesh also announced cash award of Rs 100,000 for authentic information on sex determination and/or sex selection.¹³⁹

As per the scheme, when sting operation is conducted by an informer and pregnant woman and her associates, in the first instalment out of Rs 50,000, the informer is to be given Rs 30,000, pregnant woman Rs 10,000 and associate of the pregnant woman Rs 10,000 subject to the AAs certifying the information/complaint given to be true. The second instalment is given after

136. Ibid

137. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

138. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

139. Please see the minutes at <http://www.health.mp.gov.in/pcpndt/MoM-13-8-2013.pdf>

framing of charges by the court in the similar manner as given in the first instalment.

However, when the informer conducts the sting operation alone without assistance of a decoy, the informer gets the entire Rs 50,000 at the stage of certifying the operation to be true by the AA and Rs 50,000 after framing of charges before the Court.

When the informer does not conduct the sting operation but shares the information with the appropriate authorities, the informer is given Rs 50,000 if information is found to be true and another Rs 50,000 at the stage of framing of charges.¹⁴⁰

In its latest letter dated 15.11.2016 to the District Collectors, the Health Secretary to the Government of Madhya Pradesh stated that the website (www.hamaribitiya.in) received less complaints on illegal sex determination and/or sex selection, among others, because of the lack of awareness about the scheme. The Secretary, Department of Health directed the District Collectors to carry out awareness raising programmes.¹⁴¹

The District administration of Indore in Madhya Pradesh launched a paid BSNL helpline in November 2014 to receive complaints against sex determination and foeticide. The anonymity of the callers was promised but in the first three months, the helpline did not get any caller. The district administration officials then launched a toll free number 1800233130 for lodging complaints of sex selection in February 2015. Earlier, in 2013 also, a similar initiative was taken but it failed miserably.¹⁴²

140. Please see minutes of the State Supervisory Board dated 29.12.2015 available at <http://www.health.mp.gov.in/pcpndt/minutes/state-superv-board-14.pdf>

141. Please see the letter at <http://www.health.mp.gov.in/pcpndt/bittiya/letters.pdf>

142. 3 months on, sex determination helpline still waits for first call. The Times of India, 25 February 2015, <http://timesofindia.indiatimes.com/city/indore/3-months-on-sex-determination-helpline-still-waits-for-first-call/articleshow/46365274.cms>

As per the minutes of the State Supervisory Board of Madhya Pradesh, only two informers were rewarded in Madhya Pradesh. These include informer Mahesh Kumar of district Chindwara¹⁴³ and Dr K K Dixit, a social worker based in Gwalior.¹⁴⁴ The application for reward by one Shiv Bhan Singh Rathor was rejected by the State Advisory Committee vide order dated 19.01.2016.¹⁴⁵

On 25.05.2016, the State Advisory Board agreed to amend the rules for giving award to exclude those accused/convicted of any crime especially against women.¹⁴⁶

3.3.9. Uttar Pradesh

i. Status of the CSR in Uttar Pradesh

As per 2011 census, Uttar Pradesh recorded the 10th lowest CSR of 902 girls per 1000 boys among 35 States and UTs against all India CSR of 919 girls per 1000 boys. Uttar Pradesh registered 17 points lower than the national CSR.¹⁴⁷

As per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection, the CSR of Uttar Pradesh was 923 and it improved to 935 during 1981 census. However, as technology for sex determination and/or sex selection became easily available, the CSR of Uttar Pradesh has been consistently declining from 935 girls per 1000 boys in 1981 to 927 boys per 1000 boys in 1991, to 916 girls per 1000 boys in 2001 and to 902 girls per 1000 boys in 2011..¹⁴⁸

143. Please see minutes of the State Supervisory Board dated 29.12.2015 available at <http://www.health.mp.gov.in/pcpndt/minutes/state-superv-board-14.pdf>

144. Please see minutes of the State Supervisory Board dated 28.07.2014 available at <http://www.health.mp.gov.in/pcpndt/minutes/state-superv-board-14.pdf>

145 .Please see minutes of the State Advisory Board at <http://www.health.mp.gov.in/pcpndt/minutes/state-advisory-comm-14.pdf>

146. Ibid

147. Census 2011, <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

148. For CSR from 1971 to 2001, please refer to Special Service and Features, “Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994” of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Uttar Pradesh, 5,300 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 137 court cases were pending, conviction was secured only in one case and only 34 machines were seized/sealed under the PC&PNDT Act. However, no medical license was suspended/ cancelled.¹⁴⁹

The Government of Uttar Pradesh further stated that a total of 176 cases were filed in various courts in Uttar Pradesh from 2002 to 2015 (till 27 November). These included 17 cases in 2002, nil in 2003, 1 in 2004, 1 in 2005, 4 in 2006, 3 in 2007, 10 in 2008, 1 in 2009, 2 in 2010, 3 in 2011, 13 in 2012, 68 in 2013, 23 in 2014 and 30 in 2015 (till 27 November). Out of the total 176 cases, 32 cases were disposed off and conviction was secured only in 8 cases namely 1 in Bijnaur, 1 in Muzaffarnagar, 1 in Kaushambi, 2 in Maharajganj, 1 in Siddharth Nagar, 1 in Bahraich, and 1 in Moradabad.¹⁵⁰

However, as per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, Uttar Pradesh secured only two convictions under the PC&PNDT Act during 2009-2015.¹⁵¹

That despite filing of 176 court cases from 2002 to 2015, conviction could be secured only in two cases speaks about the lack of commitment of Uttar Pradesh to combat sex determination and/or sex selection resulting in skewed CSR.

149. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

150. <http://www.pyaribitiya.in/Dynamic/NewsList.aspx>

151. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

iii. Status of decoy, Mukhbir and other complaint schemes

Uttar Pradesh is a case of complete failure and negligence on sting operations and establishing toll free phone number to enable filing of complaints against sex selection and foeticide.

In June 2008, the State Supervisory Board (SSB) recommended to send decoy customers to USG centres and to conduct sting operations at large scale in order to identify USG centres involved in sex determination and foeticide for petty payments.

However, the Comptroller and Auditor General of India after its audit for the year ending on 31st March 2015 stated that only 52 decoy operations were undertaken in 52 USG centres (*one per cent*) of 4,622 registered centres during 2010-15 in the State while 19 decoy operations had been done in the test checked districts during 2013-15.¹⁵² The CAG opined that *“a negligible number of decoy operations were carried out to monitor that the centres were not engaged in illegal activities of sex determination. Thus, the department was failed in conducting the decoy operation on large scale so that centres engaged in illegal activities of sex determination may be detected. In absence of sting operations actions were not taken against defaulters conducting sex determination”*.¹⁵³

The SSB in its meeting of October 2012 had further directed the department to establish a website and provide a dedicated toll free phone number for registering complaints against sex determination and foeticide. The toll free phone number was to be displayed at prominent places and printed on pamphlets/forms for distribution under information, education and communication activities.¹⁵⁴

152. Report of the Comptroller and Auditor General of India For the year ended 31 March 2015, Performance Audit on Empowerment of Women, Government of Uttar Pradesh, Report No. 3 of 2016 available at <http://www.cag.gov.in/content/report-no-3-2016-performance-audit-empowerment-women-Government-uttar-pradesh>

153. Ibid

154. Ibid

The CAG in its audit report stated that as of October 2015 the PC&PNDT Department had neither established dedicated toll free phone line for registration of complaints nor department had any database of complaints received for their proper disposal. The Government of Uttar Pradesh told the CAG that as complaints were received on different subjects at different levels in different offices, it had not maintained any database of year wise complaints received in respect of PC&PNDT Act.¹⁵⁵

The CAG rejected this contention of the Government of Uttar Pradesh as “*the registration of complaints through website only may not be sufficient to provide easy access to common public to register their grievances. As internet access to common public especially in rural areas is limited and tele-density is relatively much higher, a toll free phone number for registration of complaints, as directed by SSB, in addition to website should have been provided.*”¹⁵⁶

In the absence of any incentives for the decoys, it is unlikely to have any impact.

3.3.10. Jammu and Kashmir

i. Status of the CSR in J&K

There was no census in 1991 in Jammu and Kashmir (J&K) because of the insurgency. Census records nonetheless show that the CSR of J&K was very healthy at 959 as per 1971 census and it further improved to 964 as per 1981 census. However, as technology for sex selection became easily available, the CSR fell drastically in J&K. The CSR fell by 23 points from 964 in 1981 to 941 in 2001 and by 79 points from 941 in 2001 to 862 in 2011.¹⁵⁷ From 1981 to 2011, J&K recorded the highest decline of 102 points in the CSR.

No law of India can be extended to J&K by virtue of Article 370 unless the Government of J&K extends it by an Act of the State Legislature. Though

155. Ibid

156. Ibid

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

the Pre-Natal Diagnostic Techniques Act of 1994 (PNDT Act)¹⁵⁸ was enacted in India in 1994, it was only on 23 April 2002 that the Government of J&K notified the J&K Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Act, 2002.¹⁵⁹ It took another four years to notify the Jammu and Kashmir Preconception and Pre-natal Sex Selection/ Determination (Prohibition & Regulation) Rules, 2006 on 7 December 2006.¹⁶⁰ Essentially despite the rampant use of technology for sex selection since its invention in the 1980s till the enactment of the J&K PC&PNDT Rules in 2006, there was no law to prohibit sex determination and/or sex selection.

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

During 1 March 2011 to 16 June 2011, the Government of J&K sealed 78 clinics for conducting pre-natal sex determination tests.¹⁶¹ Further, from June 2011 to June 2012, around 69 ultrasound clinics were sealed for allegedly conducting sex determination tests.¹⁶²

As of September 2014, as per the Government of J&K, 336 health institutions were registered, registration of 4 ultrasound clinics were cancelled, 73 USG machines were seized, 3 persons were arrested and one was convicted, and 4 unregistered machines were confiscated under the J&K PC&PNDT Act.¹⁶³

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, only one conviction was secured under the J&K PC&PNDT Act as on date.¹⁶⁴

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

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

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

161. 78 clinics sealed in J-K for sex determination tests, The Indian Express, 16 June 2011, <http://indianexpress.com/article/regional/78-clinics-sealed-in-jk-for-sex-determination-tests/>

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

163. See jknrm.com/PDF/lecture.pptx

164. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

iii. Status of decoy, Mukhbir and other complaint schemes

The Government of J&K launched a scheme in June 2011 to give cash reward of Rs 25,000 to informers of sex determination test and foeticide.¹⁶⁵ As per the latest information of the PC&PNDT Department of J&K, “*any person who gives information supported with strong evidence about occurrence of sex determination/female foeticide to the Appropriate Authority (AA) at any level shall be given a reward of Rs. 50,000 by the State*”.¹⁶⁶

The scheme has been a non-starter in the absence of the guidelines. The only person who had been awarded Rs 25,000 was Station House Officer of R S Pura, Paramjeet Singh for nabbing Dr Monika Bhagat red-handed while conducting the sex determination in a private clinic.¹⁶⁷

3.3.11. Himachal Pradesh**i. Status of the CSR in Himachal Pradesh**

Himachal Pradesh has the 10th lowest CSR among 35 States and UTs of India as per 2011 census.¹⁶⁸

The CSR in Himachal Pradesh as per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection was 981. However, it has been consistently falling: from 971 during 1981 census to 951 during 1991 census and 896 during 2001 census. It improved to 909 as per 2011 census.¹⁶⁹ However, the CSR in districts bordering Punjab and Haryana

165. J&K govt announces cash reward for those reporting female foeticide, India Today, 18 June 2011, <http://indiatoday.intoday.in/story/jammu-and-kashmir-Government-tries-to-stem-declining-sex-ratio/1/141938.html>

166. <http://www.pcpndtjk.in/mediagallery2.php?link=mediagallery/13.jpg>

167. Sex determination in J&K: State rewards whistle blower, Rediffmail.com, 11 November 2011, available at <http://www.rediff.com/news/report/sex-determination-in-j-k-state-rewards-whistle-blower/20111111.htm>

168. Decline in Child Sex Ratio, Press Information Bureau, Government of India (Ministry of Health and Family Welfare), 11 February 2014

169. For CSR from 1971 to 2001, please refer to Special Service and Features, “Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994” of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?reliid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?reliid=103437>

remains critically low. All the top five districts with lowest child sex ratio i.e. Una (870), Kangra (873), Hamirpur (881), Bilaspur (893) and Solan (899) are bordering or near to Punjab or Haryana which has the second lowest CSR (846) in India. In at least 24 panchayats of Una district, which borders Punjab, the CSR fell to below 500. Worst, in two gram panchayats of Una, the sex ratio was 111 and 167 respectively!¹⁷⁰

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, Himachal Pradesh had registered 261 diagnostic centres. It had secured conviction in one case but no medical license was suspended/cancelled. Further, no machine was seized or sealed under the PC&PNDT Act.¹⁷¹ Two cases were pending in Kullu and Shimla districts respectively.¹⁷²

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, only one conviction was secured under the PC&PNDT Act in Himachal Pradesh during 2009-2015.¹⁷³

iii. Status of decoy, Mukhbir and other complaint schemes

In June 2016, the Government of Himachal Pradesh announced Rs 1 lakh reward to any person providing information about sex determination test.¹⁷⁴

170. Fighting female foeticide: Punjab not helping us, says Himachal govt, The Hindustan Times, 6 August 2015, <http://www.hindustantimes.com/punjab/fighting-female-foeticide-punjab-not-helping-us-says-himachal-govt/story-6Sk4WCUPjasJRsf61gLA1L.html>

171. Ibid

172. Civil Society Report Card on PC&PNDT Act, Girls Count, December 2015

173. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

174. <http://www.amarujala.com/shimla/himachal-govt-announces-rs-1-lakh-reward-for-giving-info-about-sex-determination-test>

3.3.12. Andhra Pradesh

i. Status of the CSR in Andhra Pradesh

The CSR in Andhra Pradesh as per 1971 census i.e. prior to the invention of technology for sex determination and/or sex selection was very healthy at 990. Though it further improved to 992 as per 1981 census, it has been consistently declining to 975 during 1991 census to 961 during 2001 census to 943 in the 2011 census.¹⁷⁵

ii. Status of enforcement of the PC&PNDT Act

As per the Ministry of Health and Family Welfare of the Government of India, as of September 2014, in Andhra Pradesh, 5,003 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 52 court cases were pending and 132 machines were seized/sealed under the PC&PNDT Act. However, no medical license was suspended/ cancelled and no one has ever been convicted.¹⁷⁶

The information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report also confirmed that no conviction was secured under the PC&PNDT Act in Andhra Pradesh during 2009-2015.¹⁷⁷

iii. Status of decoy, Mukhbir and other complaint schemes

The Government of Andhra Pradesh established toll free number '104' to complain against violations under the PC&PNDT Act.¹⁷⁸ District Collectorate

175. Government of Andhra Pradesh shuts down 42 sex determination centres, NDTV, 04 March 2013 available at <http://www.ndtv.com/south/andhra-pradesh-Government-shuts-down-42-sex-determination-centres-515127> and Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994", 20-April, 2011 18:00 IST, available at <http://pib.nic.in/newsite/erelcontent.aspx?relid=71711>

176. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

177. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

178. Government of Andhra Pradesh shuts down 42 sex determination centres, NDTV, 04 March 2013 available at <http://www.ndtv.com/south/andhra-pradesh-Government-shuts-down-42-sex-determination-centres-515127>

of Kakinda also established two numbers i.e. 0884-2365424 and toll-free number 1077 to file complaints against sex determination.¹⁷⁹

The Government of Andhra Pradesh claimed that by March 2013 the government officials conducted 173 decoy operations, 6,560 inspections, 226 search and seizures.¹⁸⁰

In May 2013, the Medical & Health Department further announced that over 100 trained decoy customers to expose the doctors or their staff determining and disclosing sex of the foetus, with solid evidence in the form of audio and video footage were deployed in Guntur district. It was reported that in the first round of the decoy operation conducted in 70 hospitals/labs in Chilakaluripet, Guntur and Tenali in April 2013 found no disclosure of sex of foetus.¹⁸¹

The initiative of Andhra Pradesh was bound to fail as the State Government had already announced in public that decoy operations would be conducted in certain districts and that decoys have been trained. It almost amounted to alerting the sonography centres and radiologists/ doctors as the districts where decoy operations would be conducted were already announced before the media.

3.3.13. Chhattisgarh

i. Status of the CSR in Chhattisgarh

The CSR in Chhattisgarh consistently declined from 984 in 1991 to 975 in 2001 and to 969 in 2011.¹⁸² Though the CSR is on the healthier side, consistent decline is a serious concern.

179. PCPNDT Act: ultrasound centres under scanner, The Hindu, 20 March 2013 available at <http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/pcpndt-act-ultrasound-centres-under-scanner/article4528011.ece>

180. Government of Andhra Pradesh shuts down 42 sex determination centres, NDTV, 04 March 2013 available at <http://www.ndtv.com/south/andhra-pradesh-Government-shuts-down-42-sex-determination-centres-515127>

181. 'Sting operation' on hospitals, scanning centres planned, The Hindu, 31 May 2013 available at <http://www.thehindu.com/todays-paper/tp-national/tp-andhrapradesh/sting-operation-on-hospitals-scanning-centres-planned/article4768281.ece>

182. The 'Beti' issue - Declining CSR (Child Sex Ratio) in India available at <https://factly.in/the-beti-issue-declining-child-sex-ratio/>

ii. Status of enforcement of the PC&PNDT Act

As of September 2014, in Chhattisgarh 691 genetic counseling centre/genetic clinic/genetic laboratory etc were registered, 7 court cases were pending while no conviction was secured. No medical license was suspended/ cancelled and no machine was seized/sealed under the PC&PNDT Act.¹⁸³

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, no conviction was secured under the PC&PNDT Act in Chhattisgarh during 2009-2015.¹⁸⁴

iii. Status of decoy, Mukhbir and other complaint schemes

In June 2012, the Government of Chhattisgarh announced to reward the persons providing information about unregistered and illegal sonography centres with Rs 25,000.¹⁸⁵ However, a perusal of the Annual Reports of 2014-2015¹⁸⁶ and Quarterly Reports¹⁸⁷ up to August 2015 of the PC&PNDT Department of Chhattisgarh does not show any reward being given to any informer.

3.3.14. NCT of Delhi**i. Status of the CSR in Delhi**

The CSR of National Capital Territory of Delhi (NCT Delhi) has been consistently declining. Delhi's CSR in 1971 i.e. prior to the invention of technology for sex determination and/or sex selection was 909 and it improved to 926 in 1981 to fall again to 915 in 1991. However, it declined sharply

183. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

184. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

185. Chattisgarh: Persons informing about sex determination to be rewarded, Indian Express, 22 June 2012 available at <http://indianexpress.com/article/india/regional/chattisgarh-persons-informing-about-sex-determination-to-be-rewarded/>

186. http://cg.nic.in/health/pcpndt/Documents/AnnualReport_01042014to31032015.pdf

187. http://cg.nic.in/health/pcpndt/Documents/Quaterly_Apr-June&July-Aug15.pdf

by 47 points from 915 as per 1991 census to 868 as per 2001 census and showed marginal recovery by 3 points to 871 during 2011 census. Delhi is still way behind the national CSR of 919 as per 2011 census.¹⁸⁸ Obviously, the invention of technology for sex determination and/or sex selection has contributed to the fall in the CSR of Delhi.

ii. Status of enforcement of the PC&PNDT Act

With respect to implementation of the PC&PNDT Act, as per the Ministry of Health and Family Welfare of the Government of India, as of September 2014 the NCT of Delhi had 1,794 genetic counseling centre/genetic clinic/genetic laboratory etc registered, 62 pending court cases, one conviction secured and suspension/cancellation of medical licenses of two doctors under the PC&PNDT Act. However, no machine was seized/sealed under the PC&PNDT Act.¹⁸⁹

As per information placed before the Parliament by the Ministry of Health and Family Welfare as given in Table 2 of this report, only 7 convictions were secured under the PC&PNDT Act in Delhi during 2009-2015.¹⁹⁰

iii. Status of decoy, Mukhbir and other complaint schemes

In October 2015, the Government of the National Capital Territory (NCT) of Delhi announced its plan to reward Rs one lakh cash to those providing information about the centres conducting illegal sex determination. The Government of NCT of Delhi also decided to launch a separate website and a toll-free helpline number to enable people to lodge complaints against

188. For CSR from 1971 to 2001, please refer to Special Service and Features, "Pre-Conception & Pre-Natal Diagnostics Techniques Act, 1994" of Press Information Bureau, Government of India dated 20-April, 2011 available at <http://pib.nic.in/newsite/erecontent.aspx?relid=71711> and for CSR of 2001 refer to Decline In Child Sex Ratio, Ministry of Health and Family Welfare dated 11-February-2014 available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=103437>

189. See Annexure III as referred to reply to part (a) of Lok Sabha Unstarred Question No. 799 answered on 27.02.2015 Union Minister of Health and Family Welfare, J. P. Nadda, <http://164.100.47.132/LssNew/psearch/QResult16.aspx?qref=12203>

190. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016

hospitals and centres conducting illegal sex selection tests and sex selective abortions.¹⁹¹ The Government of NCT of Delhi subsequently announced in October 2015 itself that the cash reward would be reduced to Rs 50,000.¹⁹² The Government of NCT Delhi is yet to finalise this scheme.¹⁹³

3.4. Problems faced by the decoys & Mukhbirs

Under Section 28(1)(a) of the PC&PNDT Act,¹⁹⁴ the Appropriate Authority is the only authorised body to file a complaint against illegal sex determination and no court shall take cognizance of an offence under this Act except on a complaint made by the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or the State Government, as the case may be, or the Appropriate Authority. The Court can take cognizance only if the AAs fail to take action in not less than 15 days. It implies that a person giving complaint to the AA has to wait for 15 days and approach the Court only if the AAs fail to act. However, 15 days is enough to doctor evidence if those conducting sex determination tests are alerted by unscrupulous AAs upon receipt of a complaint/information. The AAs can act as law unto themselves.

191. Delhi govt announces Rs 1 lakh reward for giving info about sex determination test, The Times of India, 5 October 2015 available at <http://timesofindia.indiatimes.com/city/delhi/Delhi-govt-announces-Rs-1-lakh-reward-for-giving-info-about-sex-determination-test/articleshow/49231503.cms>

192. <http://medicdialogues.in/rs-50000-scoop-for-the-one-who-helps-crack-down-female-sex-determination-conduct/>

193. Cash incentives for informers to stop foeticide in Delhi, The Hindustan Times, 14 October 2016 available at <http://www.hindustantimes.com/delhi/cash-incentives-for-informers-to-stop-foeticide-in-delhi/story-JTjstEZvUONh8dPAL1zuJ.html>

194. 28. Cognizance of offences.

1. No court shall take cognizance of an offence under this Act except on a complaint made by— (a) the Appropriate Authority concerned, or any officer authorised in this behalf by the Central Government or Government, as the case may be, or the Appropriate Authority; or (b) a person who has given notice of not less than fifteen days in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court. Explanation.—For the purpose of this clause, “person” includes a social organisation.
2. No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.
3. Where a complaint has been made under clause (b) of subsection (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person

Rajan Chaudhury, Secretary of the Rajasthan-based *Shikshit Rozgar Kendra Prabandhak Samiti*¹⁹⁵ stated that in many cases the AAs who have at least 15 days to act upon a complaint do not act and instead inform the doctors, genetic counseling centre/genetic clinic/genetic laboratory etc who destroy the evidence. The *Mukhbirs* face threat and intimidation from the powerful doctors and owners of genetic counseling centre/genetic clinic/genetic laboratory etc. Counter cases are filed against the *Mukhbirs*. The witnesses/decoys are bought off and pregnant women face tremendous pressure from the family and society where they live. As the erring genetic counseling centre/genetic clinic/genetic laboratory etc earn huge amount though sex selection, they can easily bribe the officials and public prosecutors.

Ultimately, the success of the *Mukhbir Yojana* depends on the predilections of the AAs – if the AAs are sensitive, the *Mukhbir Yojana* can be effective or else it can be counter-productive for the *Mukhbirs*, decoys and her associates.

The Government of India enacted the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014¹⁹⁶ relating to code of conduct of various authorities under the Act. These Rules provide for general code of conduct, to be observed by Appropriate Authorities, the code of conduct for processing of complaint and investigation by all the Appropriate Authorities including the State, District and Sub-district notified under the Act, Code of conduct for Advisory Committees, code of conduct for registration and renewal of applications under the Act, Code of conduct for Legal Action, progress report under Form H, regulation of ultrasound equipments, code of conduct for inspection and monitoring and code of conduct for establishing accountability.

195. Intervention at the National Consultation on Submission to the UN's UPR on the issue of female foeticide organised by Asian Centre for Human Rights on 15 September 2016 in New Delhi

196. Available at http://164.100.130.11:8091/administrative/PCPNDT_gazette_LNo-2747.pdf

However, the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Amendment Rules, 2014 relating to conduct does not go far enough to establish accountability in case of violations of the Code of Conduct or the PN&PNDT Act by the authorities under the Act.

The situation was lucidly articulated by Advocate Varsha Deshpande who was part of the National Inspection and Monitoring Committee (NIMC) sent by the Union Government to inspect Belagavi, Bagalkot and Vijayapura of Karnataka in January 2016, *“We sealed 10 centres in Vijayapura in one day and not a single case has been filed. Wherever the cases were filed, the machines were released. Instead of filing an appeal against the court’s order to release the machines, the State was keen on getting the machines released. Judicial officers are less sensitive about the issue and public prosecutors are corrupt. The appropriate authorities see PCPNDT as an opportunity to indulge in corruption.”*¹⁹⁷

3.5. Critique of the Standard Operating Guidelines on decoy operations

Though the use of the decoys and *Mukhbirs* for the successful implementation of the PC&PNDT Act has been stressed by each and every authority of the Government of India, there is no direct reference to decoy operations or use of *Mukhbirs* in the PC&PNDT Act and Rules. Authorities rely on Section 17(4)(c) which authorises the AAs *“also to initiate independent investigations in such matter”* to engage decoys and *Mukhbirs*.

Twenty two years after the enactment of the PC&PNDT Act of 1994, in April 2016 the Ministry of Health & Family Welfare, Government of India circulated the *“Standard Operating Guidelines for District Appropriate Authorities”* on the implementation of the PN&PNDT Act. The Guidelines, among others, include the Guidelines for Conducting a Decoy Operation

197. In 14 years, only 52 cases of sex determination, The New Indian Express, 15 October 2016 available at <http://www.newindianexpress.com/cities/bengaluru/2016/oct/15/in-14-years-only-52-cases-of-sex-determination-1528106.html>

along with Sample Format for Undertaking from Pregnant Woman Acting as Decoy and Sample Format of Panchnama Concerning a Decoy Operation.¹⁹⁸

While the Guidelines *per se* are recommendatory and not mandatory, the *Standard Operating Guidelines* relating to decoy operations even fail to incorporate existing best practices. The Guidelines fall short in many respects as highlighted below.

First, the *Standard Operating Guidelines* provide sample of undertaking to be given by decoy customer/pregnant woman that under no circumstances will she undergo a sex selective abortion if the sex of the foetus is revealed to her during the course of the decoy operation. However, it fails to provide any incentive for retention of the unborn foetus. The revised guidelines of Rajasthan's *Mukhbir Yojana*, *inter alia* provide that "*provisions should be made to give an insurance policy to the yet-to-born baby of the pregnant woman participating in a decoy operation*".¹⁹⁹ The *Standard Operating Guidelines* failed to include this best practice.

Second, the Guidelines do not make use of technology such as hidden camera or smart phones mandatory. The violators have found ingenious ways. Determination and communication of sex of foetus as provided under Sections 5 and 6 of the PC&PNDT Act can be committed by a 'word' or a 'sign' for which there can be no physical proof without the use of technology.

Third, the Guidelines do not address the time period within which the decoy operations are to be conducted in case of a complaint being

198. Standard Operating Guidelines for District Appropriate Authorities, Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, Ministry of Health and Family Welfare, Government of India, April 2006 and available at http://india.unfpa.org/sites/asiapacific/files/pub-pdf/FINALfinalUNFPA_SOGsReport_Inside_LowRes%20%281%29.pdf

199. New guidelines define role of pregnant woman in decoy operation, The Times of India, 7 September 2015 available at <http://timesofindia.indiatimes.com/city/jaipur/New-guidelines-define-role-of-pregnant-woman-in-decoy-operation/articleshow/48851311.cms>

received from *Mukhbirs*/decoy customers. Fifteen days time given to the AAs to act upon a complaint received from third parties can be abused by the AAs to inform the doctors, genetic counseling centre/genetic clinic/genetic laboratory etc to destroy the evidence.

Fourth, the Guidelines do not address or refer to threat and intimidation faced by decoy customers including during the trial in the courts;

The shortcomings cited above cannot be addressed in the Guidelines. Therefore, the need to amend the PC&PNDT Rules to streamline the role of the decoys and *Mukhbirs* and address these shortcomings is of paramount importance.

4. RANKING OF THE STATES AS PER CONVICTIONS UNDER THE PC&PNDT ACT

The status of conviction under the PC&PNDT Act can be considered one of the yardsticks to measure the seriousness of the Government of India and the State Governments to combat sex determination and/or sex selection.

As per the Ministry of Health and Family Welfare, a total of 291 convictions had been secured under the PC&PNDT Act from its inception to December 2015. In the first 11 years i.e. till 2005, not a single conviction under the Act could be secured.²⁰⁰ Before 2009, only 26 convictions were secured²⁰¹ while the remaining 265 convictions were secured between 2009 and 2015 as given in Table 2 below.

Table 2: Convictions under the PC&PNDT Act from 2009 to 2015²⁰²

S. No.	States/ UTs	2009	2010	2011	2012	2013	2014	2015	Total
1	Andhra Pradesh	0	0	0	0	0	0	0	0
2	Arunachal Pradesh	0	0	0	0	0	0	0	0
3	Assam	0	0	0	0	0	0	0	0
4	Bihar	0	0	0	0	11	0	1	12
5	Chhattisgarh	0	0	0	0	0	0	0	0
6	Goa	0	0	0	0	0	0	0	0
7	Gujarat	2	1	0	0	3	0	3	9

200. Govt plans sting operations to check female foeticide, Tribune News Service, 5 May 2005 available at <http://www.tribuneindia.com/2005/20050505/nation.htm#2>

201. As per the press release issued by Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>, a total of 26 convictions were secured before 2009.

202. For year-wise convictions under PC & PNDT Act from 2009 to December 2014, please refer to Press Information Bureau, Government of India, Ministry of Health and Family Welfare, 03-March-2015, Effective Implementation of PNDT Act available at <http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303> and for the year 2015, refer to Lok Sabha Unstarred Question No.1707 To Be Answered On 25th November, 2016 available at <http://164.100.47.190/loksabhaquestions/annex/10/AU1707.pdf>

8	Haryana	0	4	7	0	38	5	9	63
9	Himachal Pradesh	0	0	0	0	1	0	0	1
10	Jammu & Kashmir	0	0	0	0	1	0	0	1
11	Jharkhand	0	0	0	0	0	0	0	0
12	Karnataka	0	0	0	0	0	0	0	0
13	Kerala	0	0	0	0	0	0	0	0
14	Madhya Pradesh	0	0	1	0	1	0	0	2
15	Maharashtra	1	2	11	3	44	0	15	76
16	Manipur	0	0	0	0	0	0	0	0
17	Meghalaya	0	0	0	0	0	0	0	0
18	Mizoram	0	0	0	0	0	0	0	0
19	Nagaland	0	0	0	0	0	0	0	0
20	Odisha	0	0	0	3	0	0	0	3
21	Punjab	1	0	0	1	0	0	2	4
22	Rajasthan	0	0	0	0	37	0	48	85
23	Sikkim	0	0	0	0	0	0	0	0
24	Tamil Nadu	0	0	0	0	0	0	18	18
25	Tripura	0	0	0	0	0	0	1	1
26	Uttarakhand	0	0	0	0	0	0	0	0
27	Uttar Pradesh	0	0	0	0	0	1	1	2
28	West Bengal	0	0	0	0	0	0	7	7
29	A & N. Island	0	0	0	0	0	0	0	0
30	Chandigarh	0	0	0	0	0	0	0	0
31	D. & N. Haveli	0	0	0	0	0	0	0	0
32	Daman & Diu	0	0	0	0	0	0	0	0
33	Delhi	0	0	0	0	1	0	6	7
34	Lakshadweep	0	0	0	0	0	0	0	0
35	Puducherry	0	0	0	0	0	0	0	0
TOTAL		4	7	19	7	137	6	111	291

It is clear that the effective implementation of the PC&PNDT Act took place during 2013 (137) and 2015 (111). Out of the total 291 convictions secured during 2009-2015, about 85% of the convictions took place during 2013 (137) and 2015 (111) following the directions of the Supreme Court on 4 March 2013 in the *Voluntary Health Association of Punjab vs. Union of India & Ors*²⁰³ among others to various Courts in the country through the Registrars of various High Courts to “take steps to dispose of all pending cases under the Act, within a period of six months”.

About 77% of the total convictions took place in three States i.e. Rajasthan (85), followed by Maharashtra (76) and Haryana (63). The high number of convictions in Rajasthan, Maharashtra and Haryana may not be a mere coincidence – the implementation of the decoy and *Mukhbir* schemes in these three States have been more effective than the other States.

203. (2013) 4SCC 1, *Voluntary Health Association of Punjab vs. Union of India & Ors*

ANNEXURE I: MUKHBIR YOJANA OF RAJASTHAN



क्रमांक : राज्य पीसीपीएनडीटी प्रकोष्ठ/स्वा.प्रबं/2012/1062

राजस्थान सरकार

निदेशालय चिकित्सा स्वास्थ्य एवं परिवार कल्याण सेवाएँ

राज्य पीसीपीएनडीटी प्रकोष्ठ

राजस्थान, जयपुर

दिनांक : 30/07/12

मुखबिर योजना हेतु दिशा-निर्देश

राज्य में पीसीपीएनडीटी अधिनियम के प्रभावी क्रियान्वयन के लिये मुखबिर योजना प्रारम्भ की गयी है। चिकित्सक को तकनीक के दुरुपयोग को रोकने के लिए गोपनीय रूप से सूचना जनता से प्राप्त करना आवश्यक है तथा ऐसी सूचना को प्रदान करने के लिए जनता को अभिप्रेरित करना भी आवश्यक है। इसमें जनसहयोग की आवश्यकता है। इस योजना के द्वारा लिंग परीक्षण के दोषी व्यक्तियों तक विभाग की पहुँच को सुनिश्चित करते हुए उन्हें कानून के दायरे में लाया जा सकता है। समाज में यह सन्देश दिया जा सकता है कि लिंग परीक्षण करने/कराने वाले व्यक्तियों के विरुद्ध जनसूचना के आधार पर उन्हें दण्डित कराया जा सकता है तथा इसके लिए लिंग परीक्षण करने वाले व्यक्ति/चिकित्सक की सूचना विभाग को देने वाले व्यक्ति का नाम गुप्त रखते हुए उसको विभाग द्वारा पुरस्कार प्रदान किया जायेगा।

राज्य सरकार द्वारा पूर्व में जारी किये गये आदेश क्रमांक राज्य पीसीपीएनडीटी प्रकोष्ठ/2011/2919 दिनांक 27.12.2011 एवं क्रमांक राज्य पीसीपीएनडीटी प्रकोष्ठ/स्वा.प्रबं./2012/674 दिनांक 26.05.2012 को अधिक्रमित करते हुए राज्य सरकार द्वारा प्रारम्भ की गई "मुखबिर योजना" एवं संबंधित दिशा निर्देश निम्न प्रकार जारी किये जाते हैं :-

1. मुखबिर योजना के उद्देश्य :-

- समाज में घटते हुए बाल लिंगानुपात पर रोक लगाने का प्रयास करना।
- ऐसे व्यक्तियों के खिलाफ कार्यवाही कर उन्हें कानून के शिकंजे में लाना जो कि तकनीक के दुरुपयोग से भ्रूण का लिंग परीक्षण कर बेटियों को जन्म लेने से रोक रहे हैं।
- समाज को बेटी बचाने के लिये जागरूक करना व इस कार्य के लिये उनकी भागीदारी सुनिश्चित करना।
- गर्भधारण पूर्व एवं प्रसव पूर्व निदान तकनीक के दुरुपयोग को रोकना।

2. मुखबिर योजना के लाभ :-

यदि लोग इस योजना के द्वारा चिकित्सकों को लिंग परीक्षण में लिप्त पाये जाने पर कानून के दायरे में लाने के लिए मदद करते हैं, तो उन चिकित्सकों में भय का वातावरण पैदा होगा जो तकनीक के दुरुपयोग से बेटों के जन्म को रोक रहे हैं।

3. कार्य नीति :-

मुखबिर द्वारा दी गई लिंग परीक्षण किये जाने की सूचना के आधार पर, समुचित प्राधिकारी/प्राधिकृत अधिकारी, समुचित प्राधिकारी द्वारा सूचना का सत्यापन किया जाएगा। सूचना के सत्यापन में बोगस ग्राहक (गर्भवती महिला) की उपलब्धता के आधार पर डिकॉय कार्यवाही सम्पादित की जाएगी जिसमें मुखबिर द्वारा दी गई सूचना एवं सहयोग में चिकित्सक का नाम तथा गर्भवती महिला के भ्रूण का लिंग परीक्षण किया जाना साबित होने पर, मुखबिर पुरस्कार के प्रथम किस्त का हकदार होगा।

4. मुखबिर योजना हेतु विभाग द्वारा निर्धारित पुरस्कार :-

- मुखबिर के रूप में लिंग परीक्षण की सूचना देने वाले व्यक्ति को, लिंग परीक्षण की शिकायत स्वीकृत पाये जाने एवं सफल डिकॉय कार्यवाही की जाने पर 50,000/- रु. राशि पुरस्कार के रूप में प्रदान की जायेगी एवं उक्त मामले में अभियुक्त के विरुद्ध न्यायालय में आरोप विरहित होने के पश्चात् 25,000/- रु. की अतिरिक्त राशि एवं अभियुक्त को न्यायालय द्वारा दोषी ठहराये जाने पर 25,000/- रुपये की अतिरिक्त राशि पुरस्कार के रूप में प्रदान की जायेगी। इस प्रकार कुल 1,00,000/- रु. राशि पुरस्कार स्वरूप प्रदान की जायेगी।

मुखबिर प्रारम्भित योजना हेतु दिशा-निर्देश

2. डिकॉय ऑपरेशन में गर्भवती महिला से, डॉक्टर द्वारा लिंग परीक्षण हेतु प्राप्त की जाने वाली राशि, जिस व्यक्ति के द्वारा दी जायेगी तथा उस राशि की बरामदगी होने के पश्चात्, प्रकरण में
3. परिवाद सक्षम न्यायालय में प्रस्तुत होने एवं अभियुक्त के विरुद्ध आरोप विरचित होने पर तथा सम्बंधित व्यक्ति (साक्षी) के न्यायालय में कथन हो जाने के पश्चात् विभाग के द्वारा संबंधित व्यक्ति को उस राशि का पुनर्भरण कर दिया जायेगा।
4. मदद करने वाले मुखबिर/गैर-सरकारी संगठनों/व्यक्तियों को सार्वजनिक नहीं किया जाकर उनके नाम गुप्त रखे जायेंगे।

5. मुखबिर योजना के अन्तर्गत दी जाने वाली सूचना :-

राज्य स्तर पर:-

1. अध्यक्ष, राज्य समुचित प्राधिकारी पीसीपीएनडीटी एवं विशिष्ट शासन सचिव, (प.क.)।
2. राज्य नोडल अधिकारी, पीसीपीएनडीटी एवं निदेशक (प0क0), चिकित्सा एवं स्वास्थ्य सेवाएँ।
3. उप निदेशक (आरसीएच) एवं प्रभारी राज्य पीसीपीएनडीटी प्रकोष्ठ, चिकित्सा एवं स्वास्थ्य सेवाएँ, राजस्थान जयपुर।
4. प्राधिकृत अधिकारी, राज्य समुचित प्राधिकारी।

जिला स्तर पर:-

1. जिला समुचित प्राधिकारी पीसीपीएनडीटी एवं जिला कलेक्टर।
2. जिला नोडल अधिकारी पीसीपीएनडीटी एवं मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी।

उपखण्ड स्तर पर:-

1. उपखण्ड समुचित प्राधिकारी पीसीपीएनडीटी एवं उपखण्ड अधिकारी।

१५
प्रमुख शासन सचिव
चिकित्सा एवं स्वास्थ्य विभाग
राजस्थान, जयपुर

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है :-

1. निजी सचिव, प्रमुख शासन सचिव, चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, राजस्थान, जयपुर।
2. निजी सचिव, अध्यक्ष, राज्य समुचित प्राधिकारी पीसीपीएनडीटी एवं विशिष्ट शासन सचिव (प0क0), चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, राजस्थान, जयपुर।
3. राज्य नोडल अधिकारी, पीसीपीएनडीटी एवं निदेशक (प0क0), चिकित्सा एवं स्वास्थ्य सेवाएँ, राजस्थान, जयपुर।
4. समस्त जिला समुचित प्राधिकारी पीसीपीएनडीटी एवं जिला कलेक्टर, राजस्थान।
5. उप निदेशक (आर.सी.एच) एवं प्रभारी राज्य पीसीपीएनडीटी प्रकोष्ठ, राजस्थान, जयपुर।
6. समस्त जिला नोडल अधिकारी, पीसीपीएनडीटी एवं मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, राजस्थान।
7. समस्त उपखण्ड समुचित प्राधिकारी पीसीपीएनडीटी एवं उपखण्ड अधिकारी राजस्थान।
8. सैन्ट्रल सर्वर रूम, मुख्यालय।

मिशन निदेशक (एन.आर.एच.एम.) एवं
विशिष्ट शासन सचिव (प0क0)
चिकित्सा एवं स्वास्थ्य विभाग
राजस्थान, जयपुर

मुखबिर प्रोत्साहन योजना हेतु दिशा-निर्देश



बेटी बचाओ
Save the girl child

क्रमांक : राज्य पीसीपीएनडीटी प्रकोष्ठ / स्वा0 प्रबं0/2015/ 410

राजस्थान सरकार

निदेशालय चिकित्सा स्वास्थ्य एवं परिवार कल्याण सेवाएँ

राज्य पीसीपीएनडीटी प्रकोष्ठ

राजस्थान, जयपुर

दिनांक : 31/3/2015

मुखबिर योजना हेतु दिशा-निर्देश

राज्य में पीसीपीएनडीटी अधिनियम के प्रभावी क्रियान्वयन के लिये मुखबिर योजना प्रारम्भ की गयी है। चिकित्सक को तकनीक के दुरुपयोग को रोकने के लिये गोपनीय रूप से सूचना जनता से प्राप्त करना आवश्यक है तथा ऐसी सूचना को प्रदान करने के लिये जनता को अभिप्रेरित करना भी आवश्यक है। इसमें जनसहयोग की आवश्यकता है। इस योजना के द्वारा लिंग परीक्षण के दोषी व्यक्तियों तक विभाग की पहुँच को सुनिश्चित करते हुये उन्हें कानून के दायरे में लाया जा सकता है। समाज में यह संदेश दिया जा सकता है कि लिंग परीक्षण करने/कराने वाले व्यक्तियों के विरुद्ध जनसूचना के आधार पर उन्हें दण्डित कराया जा सकता है तथा इसके लिये भ्रूण लिंग परीक्षण करने वाले व्यक्ति/चिकित्सक की सूचना विभाग को देने वाले व्यक्ति का नाम गुप्त रखते हुये उसको विभाग द्वारा पुरस्कार प्रदान किया जायेगा।

राज्य सरकार द्वारा पूर्व में जारी किये गये पत्र क्रमांक राज्य पीसीपीएनडीटी प्रकोष्ठ/स्वा0 प्रबं0/2012/1062 दिनांक 30.07.2012 को अधिक्रमित करते हुये राज्य सरकार द्वारा प्रारम्भ की गयी "मुखबिर योजना" एवं संबंधित दिशा निर्देश निम्न प्रकार जारी किये जाते हैं :-

1. मुखबिर योजना के उद्देश्य :-

1. समाज में घटते हुए बाल लिंगानुपात पर रोक लगाने का प्रयास करना।
2. ऐसे व्यक्तियों के खिलाफ कार्यवाही कर उन्हें कानून के शिकंजे में लाना जो कि तकनीक का दुरुपयोग से भ्रूण का लिंग परीक्षण कर बेटियों को जन्म लेने से रोक रहे हैं।
3. समाज को बेटी बचाने के लिये जागरूक करना व इस कार्य के लिये उनकी भागीदारी सुनिश्चित करना।
4. गर्भधारण पूर्व एवं प्रसव पूर्व निदान तकनीक के दुरुपयोग को रोकना।

2. मुखबिर योजना के लक्ष्य :-

यदि लोग इस योजना के द्वारा चिकित्सकों को भ्रूण लिंग परीक्षण में लिप्त पाये जाने पर कानून के दायरे में लाने के लिये मदद करते हैं, तो उन चिकित्सकों में भय का वातावरण पैदा होगा जो तकनीक के दुरुपयोग से बेटे के जन्म को रोक रहे हैं।

3. कार्य नीति :-

मुखबिर द्वारा की गयी भ्रूण लिंग परीक्षण किये जाने की सूचना के आधार पर, समुचित प्राधिकारी/प्राधिकृत अधिकारी, समुचित प्राधिकारी द्वारा सूचना का सत्यापन किया जायेगा। सूचना क सत्यापन में बागस ग्राहक (गर्भवता माहला) की उपलब्धता के

(4)

आधार पर डिकॉय कार्यवाही सम्पादित की जायेगी, जिसमें मुखबिर द्वारा दी गयी सूचना एवं सहयोग में चिकित्सक का नाम तथा गर्भवती महिला के भ्रूण का लिंग परीक्षण किया जाना साबित होने पर, मुखबिर पुरस्कार के प्रथम किस्त का हकदार होगा।

4. मुखबिर योजना हेतु विभाग द्वारा निर्धारित पुरस्कार :-

1. सफल डिकॉय ऑपरेशन करवाने पर सरकार द्वारा प्रोत्साहन राशि दो लाख रुपये स्वीकृत की जायेगी।
2. प्रोत्साहन राशि रुपये दो लाख में से 40 प्रतिशत मुखबिर, 40 प्रतिशत गर्भवती महिला एवं 20 प्रतिशत गर्भवती महिला का सहयोगी को निम्न तीन किस्तों में दी जायेगी :-

क्रम संख्या	कुल प्रोत्साहन राशि 2,00,000 /- (रुपये दो लाख मात्र)	मुखबिर 40%(80,000 रुपये)	गर्भवती महिला 40%(80,000 रुपये)	गर्भवती महिला का सहयोगी 20% (40,000 रुपये)
1	प्रथम किस्त :- डिकॉय ऑपरेशन के तुरन्त बाद	26600 /-	26600 /-	13300 /-
2	द्वितीय किस्त :- न्यायालय में बयान के दौरान डिकॉय ऑपरेशन की स्पष्ट पुष्टि करने के पश्चात	26600 /-	26600 /-	13300 /-
3	तृतीय किस्त :- न्यायालय के निर्णय के पश्चात	26800 /-	26800 /-	13400 /-
		80,000 /-	80,000 /-	40,000 /-

3. डिकॉय ऑपरेशन के लिये गर्भवती महिला को सोनोग्राफी फीस राशि व अन्य व्यय का अग्रिम भुगतान समुचित प्राधिकारी द्वारा मुखबिर योजना की मद संख्या A.7.2.3 में से स्वीकृत किया जायेगा।

5. मुखबिर योजना के अन्तर्गत दी जाने वाली सूचना :-

राज्य स्तर पर :-

1. अध्यक्ष, राज्य समुचित प्राधिकारी पीसीपीएनडीटी।
2. राज्य नोडल अधिकारी (पीसीपीएनडीटी) एवं निदेशक (P0K0), चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान, जयपुर।
3. उप निदेशक (आरसीएच) एवं प्रभारी राज्य पीसीपीएनडीटी प्रकोष्ठ, चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान, जयपुर।
4. प्राधिकृत अधिकारी, राज्य समुचित प्राधिकारी।

जिला स्तर पर :-


1. जिला समुचित प्राधिकारी पीसीपीएनडीटी एवं जिला कलक्टर।
2. जिला नोडल अधिकारी पीसीपीएनडीटी एवं मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी।

मुखबिर प्रोत्साहन योजना हेतु दिशा-निर्देश

उपखण्ड स्तर पर :-

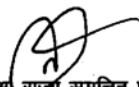
1. उपखण्ड समुचित प्राधिकारी पीसीपीएनडीटी।

मुखबिर बनने की सूचना 104 टोल फ्री सेवा पर भी दी जा सकती है।


प्रमुख शासन सचिव
चिकित्सा एवं स्वास्थ्य विभाग
राजस्थान, जयपुर

प्रतिलिपि निम्न को सूचनार्थ एवं आवश्यक कार्यवाही हेतु प्रेषित है :-

1. सचिव, अध्यक्ष केन्द्रीय पर्यवेक्षण बोर्ड एवं माननीय चिकित्सा एवं स्वास्थ्य मंत्री, भारत सरकार, निर्माण भवन, नई दिल्ली।
2. विशिष्ट सहायक, अध्यक्ष, राज्य पर्यवेक्षण बोर्ड एवं माननीय मंत्री महोदय, चिकित्सा, स्वास्थ्य एवं परिवार कल्याण विभाग, राजस्थान।
3. अतिरिक्त शासन सचिव व मिशन निदेशक (एनआरएचएम), निर्माण भवन, नई दिल्ली।
4. संयुक्त शासन सचिव (आरसीएच), कमरा नं० 145-ए, निर्माण भवन, नई दिल्ली।
5. उप शासन सचिव, मुख्य सचिव, राजस्थान सरकार, शासन सचिवालय, जयपुर, राजस्थान।
6. निजी सचिव, प्रमुख शासन सचिव चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, राजस्थान, जयपुर।
7. निदेशक (पीएनडीटी), कमरा नं० 206 डी, निर्माण भवन, नई दिल्ली।
8. निजी सहायक, राजकुमारी दीया कुमारी माननीया विधायक सवाईमाधोपुर एवं ब्रांड एम्बेसेडर "बेटी बचाओ अभियान"।
9. निजी सचिव, अध्यक्ष, राज्य समुचित प्राधिकारी एवं विशिष्ट शासन सचिव (प०क०), चिकित्सा स्वास्थ्य एवं परिवार कल्याण विभाग, राजस्थान, जयपुर।
10. समस्त सदस्य राज्य समुचित प्राधिकारी एवं राज्य सलाहकार समिति पीसीपीएनडीटी, राजस्थान।
11. राज्य नोडल अधिकारी, पीसीपीएनडीटी एवं निदेशक (प०क०), चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान, जयपुर।
12. समस्त जिला समुचित प्राधिकारी पीसीपीएनडीटी एवं जिला कलेक्टर, राजस्थान।
13. समस्त सदस्य जिला सलाहकार समिति पीसीपीएनडीटी, राजस्थान।
14. परियोजना निदेशक (पीसीपीएनडीटी), उप निदेशक (आरसीएच) एवं प्रभारी राज्य पीसीपीएनडीटी प्रकोष्ठ, चिकित्सा एवं स्वास्थ्य सेवायें, राजस्थान, जयपुर।
15. समस्त जिला नोडल अधिकारी (पीसीपीएनडीटी) एवं मुख्य चिकित्सा एवं स्वास्थ्य अधिकारी, राजस्थान।
16. समस्त उपखण्ड समुचित प्राधिकारी एवं सदस्य उपखण्ड सलाहकार समिति पीसीपीएनडीटी, राजस्थान।
17. समस्त सदस्य राज्य बेटी बचाओ अभियान प्रकोष्ठ, राजस्थान।
18. समस्त जिला पीसीपीएनडीटी समन्वयक, राजस्थान।
19. सैन्ट्रल सर्वर रूम, मुख्यालय।
20. रक्षित पत्रावली।


अध्यक्ष, राज्य समुचित प्राधिकारी
(पीसीपीएनडीटी)
एवं विशिष्ट शासन सचिव (प०क०)
चिकित्सा एवं स्वास्थ्य विभाग,
राजस्थान, जयपुर

UNOFFICIAL ENGLISH TRANSLATION OF MUKHBIR YOJANA 2015

Government of Rajasthan

Directorate of Medical, Health and Family Welfare Services

State PCPNDT Cell

Rajasthan, Jaipur

No. State PCPNDT Cell/Health/2015/410

Dated: 31.3.2015

Guidelines in respect of Mukhbir Yojana

For effective implementation of the PCPNDT Act in the state, the Mukhbir Yojana was launched. To prevent medical professionals from abusing technology it is required to obtain information about any potential abuse secretly from the members of public and the public is needed to be encouraged to provide such information to the authorities. Cooperation from the public is of utmost importance. Through this scheme, persons responsible for illegal sex determination tests can be brought within the reach of the law by securing access of the PCPNDT department to the violators. Through this scheme, a message could be given to the society that based on public information, persons who undergoes as well as who conducts illegal sex determination tests can be punished and that the identity of an informant who provides information about anyone undergoing or conducting sex selection tests shall not be disclosed and the informant would be rewarded.

In supersession of the previous order dated 30.07.2012, the following guidelines are being issued:

1. Aim of the Mukhbir Yojana: -
 1. An effort to prevent declining sex ratio in the society.
 2. To prosecute those who prevent the girl children from birth by

abusing the technology to conduct sex selection tests.

3. To raise awareness in the society to save the girl child and to ensure societal partnership in this work.
 4. To prevent abuse of the Pre Conception & Pre Natal Technology.
2. Benefits of the Mukhbir Yojana: -

If members of the public extend necessary cooperation to bring to justice those medical professional involved in conduct of sex selection tests, then an environment of fear shall grow among such medical professionals who have been preventing the girl children to born through abuse of the technology.

3. Working procedure

Based on information provided by a Mukhbir about of sex selection test, the appropriate authority/authorized officer shall verify the case. On verification of authenticity of case information provided by the informant, decoy operation would be conducted depending upon availability of bogus client (pregnant woman) and the identity and role of the doctor/medical professional in conducting sex selection on the bogus customer (pregnant woman) being established, the informant would be entitled to the first installment of reward under Mukhbir Yojana.

4. Reward determined by the Health Department in respect of Mukhbir Yojana:-
1. On successful conduct of a decoy operation, the encouragement reward of Rs.2,00,000 would be approved.
 2. Out of the encouragement reward of Rs.2,00,000, 40% for the Mukhbir, 40% for the pregnant (bogus customer) and 20% for the attendant of the pregnant woman would be disbursed in the

following manner:-

Sl. No.	Total encouragement reward	40% for Mukhbir (Rs. 80,000)	40% for Pregnant woman (Rs. 80,000)	20% for attendant of the pregnant woman (Rs. 40,000)
1	1 st installment: Immediately after the decoy operation	26600/-	26600/-	13300/-
2	2 nd installment: After substantiating/ supporting the facts of the decoy operation during testimony in court	26600/-	26600/-	13300/-
3	3 rd installment: After decision of the court	26800/-	26800/-	13400/-
		80,000/-	80,000/-	40,000/-

3. The fees for sonography and other expenses that would be required for decoy operation would be approved from Head of Expense No. A.7.2.3 and the appropriate authority will pay the same to the pregnant woman in advance.

5. Information to be given under Mukhbir Yojana:-

At State level:-

1. Chairman, State Appropriate Authority, PCPNDT
2. State Nodal Officer (PCPNDT) and Director (), Medical & Health Services, Rajasthan, Jaipur.
3. Deputy Director (RCH) and In-charge, State PCPNDT Cell, Medical & Health Services, Rajasthan, Jaipur.
4. Authorised Officer, State Appropriate Authority.

At District Level:-

1. District Appropriate Authority and District Collector
2. District Nodal Officer, PCPNDT & Chief Medical & Health Officer

At Sub-Division Level:-

1. Sub-Divisional Appropriate Authority

Information to become a Mukhbir can also be given at 104 Toll Free number.

Sd/-

Principal Secretary
Medical & Health Department
Rajasthan, Jaipur

ANNEXURE II: SAMPLE FORMAT FOR UNDERTAKING FROM PREGNANT WOMAN ACTING AS DECOY PREPARED BY THE MINISTRY OF HEALTH AND FAMILY WELFARE

Annex 14

Sample Format for Undertaking from Pregnant Woman Acting as Decoy
(To be translated in local language and explained to pregnant woman in a language she understands)

I, _____ Age _____ years, residing at _____
_____ hereby state that I am a resident of the address mentioned above and am _____ months pregnant. I am ready to act as a Decoy client in order to help in implementation of the PCPNDT Act to prevent sex determination.

My future child is precious to me whether it is a son or a daughter. Under no circumstances will I undergo a sex selective abortion, if the sex of the foetus is revealed to me during the course of the decoy operation.

I am giving this undertaking with my free will in order to be of help in implementation of the Pre-conception and Prenatal Diagnostic Techniques Act. I will attend Court proceedings regularly and willingly.

The details of the currency notes given to me to pay to the doctor in order to help in implementation of the PCPNDT Act are as follows

S. No	Serial Number on the Note	Denomination of Note
1		
2		
3		
4		
5		
6		
	Total Amount Paid	

Place:

Date:

Time:

Signature of the woman writing the undertaking

Signature of witnesses

1. Name:

Signature:

2. Name:

Signature:

Declaration of pregnant woman's/decoy's relative:

I Husband/ Mother in Law/ Mother/ Brother/ Any other (please specify) of who has agreed to act as a decoy client have no objection for her role as a decoy that would help in effective implementation of the PCPNDT Act.

Place:

Date:

Signature of the relative of the decoy client

ANNEXURE III: SAMPLE FORMAT OF PANCHNAMA CONCERNING A DECOY OPERATION PREPARED BY THE MINISTRY OF HEALTH AND FAMILY WELFARE

Annex 15

Sample Format of Panchnama Concerning a Decoy Operation
(To be filled in if the decoy operation was successful)

Separate seizure memo shall be prepared of each and every article seized, being the relevant evidence of the case and each has to be proved separately

On (date) // Time AM/PM in Taluka/district____(specify Address), I
Appropriate Authority, Shri / Smt.....Name,(Designation) Medical Officer Of
..... Health Centre / Hospital in Taluka.....,
District in a legal action taken as per the provisions of PCPNDT ACT
1994, in the presence of the following Panchas (There should be no less than two Panchas
for the Panchanama, if possible)

1. Names _____ Address _____
2. Names _____ Address _____
3. Names _____ Address _____
4. Names _____ Address _____
5. Names _____ Address _____

seized the following documents, files, registers, cash, other material, machine/equipment,
etc.

1. Total amount paid by the patient – Rupees./- (provide details below)

S. No	Serial Number on the Note	Denomination of Note
1		
2		
3		
4		
5		
6		
	Total Amount	



2. Register as per Rule 9(1):Nos.
 Beginning with patientending with patient.....
 From dateto date

3. Folders/ File of Consent, Declaration and Forms
 Beginning with patientand ending with patient.....
 from date to date

3. Other Registers and documents (Please specify)
 - xxx
 - xxx
 - xxx

4. Registration Certificate (seize both copies)
 Valid from Date to

5. Ultrasonography Machines/ Equipment: Type.....Nos.....
 - Name of the Manufacturer _____ Model No. _____
 - Name of the Manufacturer _____ Model No. _____
 - Name of the Manufacturer _____ Model No. _____

6. Total No of Probe. _____
 - Serial No on Probe 1.....
 - Serial No on Probe 2.....
 - Serial No on Probe 3.....

7. Computer, laptop and any other equipment linked to the machine/equipment (provide details) _____

All the items as listed above were taken into custody on date _____
 and the acknowledgment of the same was given to the concerned doctor (Specify Name) _____

Place: _____

Date: _____

Time: _____



Signature of Panchas

1. Names _____ address _____ Signature
2. Names _____ address _____ Signature
3. Names _____ address _____ Signature
4. Names _____ address _____ Signature
5. Names _____ address _____ Signature

In the presence of Appropriate Authority or the officer so authorised (specify name) _____ of Hospital (Specify name), _____ (Name of doctor) received acknowledgment of the items seized.

Date: _____

Signature of accused: _____

Name: _____

Time: _____

Address: _____

ANNEXURE – IV: GUIDELINES FOR CONDUCTING A DECOY OPERATION PREPARED BY THE MINISTRY OF HEALTH AND FAMILY WELFARE

Annex 16

Guidelines for Conducting a Decoy Operation

As per the Census 2011, the child sex ratio of the country in the age group 0-6 years declined dramatically to 918 girls per 1000 boys as compared to 927 in 2001. Efforts are on to prevent gender biased sex selection through various measures including, the effective implementation of the Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994. Under the provisions of this Act, the District Civil Surgeon and Medical Officers or the District Magistrate are appointed as the Appropriate Authorities for the district and it is their responsibility to effectively implement the Act in their area of work.

While implementing the PCPNDT Act, the Appropriate Authorities may send decoy cases/ pregnant women to concerned facilities or centres that are suspected to be violating the PCPNDT Act, to carry out a decoy operation at such centres. The guidelines for carrying out such decoy operations in suspected centres are given below:

1. A woman who is 14 to 22 weeks pregnant may be selected as a decoy case and after counselling her, she may be trained to participate in the decoy operation
2. Two witnesses may be selected and sent along with the identified decoy client/ pregnant woman
3. An affidavit/undertaking as per Annex 14 stating that she is willing to participate as a decoy case may be obtained from her. The serial numbers of the notes that are going to be used in the sting operation may be mentioned in the said affidavit/undertaking. These currency notes may be given to the woman or the witnesses and they may be instructed to use the same notes in the decoy operation
4. To gather evidence, they may be given with them, hidden audio and video recorders. The team participating in this decoy operation may be trained efficiently to handle the equipment so as to avoid any confusion. The audio and video recording would prove to be strong evidence in the court of law and help punish the persons violating the law
5. Appropriate Authorities/Authorised officer may be present near the centre where the decoy operation is being carried out to take swift action when required
6. If they feel, AA and the team may keep the phone numbers of the nearby police station handy and may not hesitate to take help of the police if necessary
7. As soon as the Appropriate Authorities come to know that the decoy operation is successful, they may keep the concerned owner, staff, employees of the clinic under constant observation and make sure that his or her phones are switched off so that he/ she does not contact anybody

8. Currency notes may be confiscated after a *Panchnama* from the accused and the numbers on them may be crosschecked and confirmed with the notes used in the decoy operation
9. A thorough enquiry may be made and a statement may be obtained from the accused as well as the co-accused (Paramedical staff, agent, P.R.O.)
10. After a thorough inspection of the centre, all the documents may be seized as per the rules and the centre may be sealed
11. Equipment/ machines may be seized and sealed. After conducting a *Panchnama* and seizure of the machine and papers, acknowledgement receipt of the same may be given to the accused, signed by both parties
12. The video camera may be kept running while the inspection is being made
13. The entire premises of the hospital may be checked and inspected. There is always a possibility that an unregistered machine is in operation. If so, such a machine/ equipment must be seized and sealed
14. Papers including Registration Certificate (both copies), Board, F Form, Declaration of the pregnant woman, Declaration of the doctor, OPD register, Birth register, reference slips, papers concerning registration, papers concerning the Sonography machine, etc. may be seized
15. Testimonies and statements of the woman and the witnesses may be recorded on the location and papers, audio and video recording equipment; cassettes, etc. may be obtained from them. The woman and the witnesses may be given copies of their statements and cassettes
16. Investigation Report may be prepared there right after the investigation is done.

ANNEXURE –V: PC&PNDT AMENDMENT RULES DATED 24.02.2014 ON CODE OF CONDUCT OF THE AUTHORITIES

रजिस्ट्री सं० डी० एल०-33004/99

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


भारत का राजपत्र
The Gazette of India

असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उप-खण्ड (i)

PART II—Section 3—Sub-section (i)

प्राधिकार से प्रकाशित

PUBLISHED BY AUTHORITY

सं. 86]

नई दिल्ली, बुधवार, फरवरी 26, 2014/फाल्गुन 7, 1935

No. 86]

NEW DELHI, WEDNESDAY, FEBRUARY 26, 2014/PHALGUNA 7, 1935

स्वास्थ्य और परिवार कल्याण मंत्रालय

(स्वास्थ्य और परिवार कल्याण विभाग)

अधिसूचना

नई दिल्ली, 24 फरवरी, 2014

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- (iii) यह सुनिश्चित करेंगे कि मामले फाइल करते समय मामले के सभी कागज पत्र, अभिलेख, विवरणियां, साक्ष्य पंचनामा और मामले की फाइल से उपाबद्ध अन्य तात्विक वस्तुएं मूल रूप में हों;
- (iv) प्रसुविधा के अभिग्रहण और सील करने में विधिक कार्रवाई के प्रक्रम में रजिस्ट्रीकरण के प्रमाण पत्र को निलंबित कर दिया जाए;
- (v) यह सुनिश्चित करेंगे कि गर्भधारण-पूर्व और प्रसवपूर्व निदान-तकनीक (लिंग चयन प्रतिषेध) नियम, 1996 के उपबंधों को कार्यान्वित करते समय, गर्भ का चिकित्सीय समापन अधिनियम, 1971 (1971 का 34) और उसके अधीन बनाए गए नियमों के उपबंधों का कोई उल्लंघन न हो;
- (vi) दोषमुक्ति के किसी आदेश की दशा में दोषमुक्ति से तीस दिन के भीतर किंतु दोषमुक्ति के आदेश की प्राप्ति के पंद्रह दिन से पूर्व उच्चतर न्यायालयों में अपील फाइल करने के लिए, पुनरीक्षण या अन्य कार्यवाहियों के लिए तुरंत कार्रवाई करेंगे।

(6) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ साथ, राज्य सरकार के माध्यम से भारत सरकार को त्रैमासिक प्रगति रिपोर्ट प्रस्तुत करेंगे और किए गए सभी रजिस्ट्रेशनों की सूचना को तुरंत रूप से उपलब्ध कराने के लिए प्ररूप ज में रखेंगे।

(7) अधिनियम के अधीन अधिसूचित राज्य, जिला और उप-जिला सहित सभी समुचित प्राधिकारी, अन्य बातों के साथ-साथ, अल्ट्रासाउंड उपस्करों के निम्नलिखित विनियम का पालन करेंगे, अर्थात्:—

- (i) अल्ट्रासाउंड मशीनों के विक्रय और आयात जिसके अंतर्गत पोर्टेबल या वापस-क्रय, असेम्बल, उपहार की गई, स्क्रेप या डेमो भी शामिल हैं, की निगरानी करना;
- (ii) अल्ट्रासाउंड विनिर्माताओं, डीलरों, थोक विक्रेताओं और खुदरा विक्रेताओं तथा अल्ट्रासाउंड मशीनों के विक्रय से संबंधित किसी व्यक्ति से राज्य स्तर पर नियमित त्रैमासिक रिपोर्टों का सुनिश्चय;
- (iii) अरजिस्ट्रीकृत मशीनों की पहचान करने के लिए राज्य या जिले में विक्रय की गई और प्रचालन कर रही सभी अल्ट्रासाउंड मशीनों का आवधिक सर्वेक्षण और परीक्षण संचालित करना;
- (iv) अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के स्वामी और अरजिस्ट्रीकृत अल्ट्रासाउंड मशीन के विक्रेता के विरुद्ध शिकायत फाइल करना;

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

- (i) सभी रजिस्ट्रीकृत प्रसुविधाओं का प्रत्येक नव्वे दिन में एक बार नियमित निरीक्षण करेंगे और निरीक्षण रिपोर्ट की एक प्रति का दस्तावेजी साक्ष्य के रूप में परिरक्षण करेंगे और निरीक्षण की एक प्रति निरीक्षण की गई प्रसुविधा के स्वामी को सौंपेंगे तथा निरीक्षण के संबंध में अभिस्वीकृति अभिप्राप्त करेंगे;
- (ii) तीन मास में एक बार सभी निरीक्षण रिपोर्टों को अनुवर्ती कार्रवाई के लिए सलाहकार समिति के समक्ष रखेंगे;
- (iii) फाइल किए गए मामलों की संख्या और सिद्धदोष ठहराए गए व्यक्तियों, किए गए रजिस्ट्रीकरण, निलंबित या रद्द किए गए रजिस्ट्रीकरण, रद्द या निलंबित की गई चिकित्सा अनुज्ञप्तियां, किए गए निरीक्षण, जिला स्तर पर आयोजित की गई सलाहकार समिति की बैठकों की द्विमासिक प्रगति रिपोर्ट रखेंगे और राज्य स्तर पर त्रैमासिक प्रगति रिपोर्ट रखेंगे;
- (iv) (क) 7 दिन के अंदर विरचित आरोपों की प्रति प्राप्त करेंगे तथा चिकित्सकों की दशा में विरचित आरोपों के व्यौरों को विरचित आरोपों की प्रति की प्राप्ति के 7 दिन के भीतर राज्य चिकित्सा परिषद् को प्रस्तुत करेंगे;
- (ख) यथा संभव शीघ्र सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति प्राप्त करेंगे और चिकित्सकों को सिद्धदोष ठहराए जाने की दशा में सिद्धदोष ठहराए जाने के आदेश की प्रमाणित प्रति, सिद्धदोष ठहराए जाने के आदेश की प्रति की प्राप्ति के 7 दिन के भीतर प्रस्तुत की जाएगी।

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

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

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

[फा.सं. वी.11011/8/2013-पीएनडीटी]

डा. राकेश कुमार, संयुक्त सचिव

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

MINISTRY OF HEALTH AND FAMILY WELFARE

(Department of Health and Family Welfare)

NOTIFICATION

New Delhi, the 24th February, 2014

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

ANNEXURE –VI: CONVICTIONS UNDER THE PC&PNDT ACT FROM 2009 TO 2014

12/28/2016

Effective Implementation of PNDT Act

**Press Information Bureau
Government of India
Ministry of Health and Family Welfare**

03-March-2015 14:21 IST

Effective Implementation of PNDT Act

The Government has adopted a multi-pronged strategy including schemes and programmes and awareness generation/advocacy measures to build a positive environment for the girl child through gender sensitive policies, provisions and legislation. The measures include the following:-

- Intensified effective implementation of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 and amended various provisions of the Rules, viz. programme review at the state level. Five regional review workshops for North, West, central, north east and Southern regions were organized at Srinagar, Pune, Hyderabad, Kolkata and Bhopal during 2013-14 to evaluate and review the progress of implementation of the PC&PNDT Act, 1994 in the country. During the current financial year 2014-15, four review workshops for North, West, north east and Southern regions were organized.
- The Government provides financial support to the States and UTs for operationalization of PNDT Cells, Capacity Building, Orientation & Sensitization Workshop, Information, Education and Communication campaigns and for strengthening structures for the implementation of the PC & PNDT Act, 1994 under the National Health Mission (NHM).
- The Minister of Health and Family Welfare has requested all the State Governments to strengthen implementation of the Act and to ensure timely steps to stop illegal sex determination.
- Directions given vide Order dated 04.03.2013 by the Hon'ble Supreme Court in the matter of WP(C) 349/2006 were communicated to the States/ UTs at the level of Health Minister to Chief Ministers and Chief Secretaries to ensure immediate compliance.
- Inspections by the National Inspection and Monitoring Committee (NIMC) have been scaled up. In year 2014-15, 16 inspection visits were undertaken in the States of Madhya Pradesh, Uttarakhand, Andhra Pradesh, Himachal Pradesh, Karnataka, Uttar Pradesh, Odisha, West Bengal, Delhi (Twice), Chhattisgarh, Bihar, Manipur, Jharkhand, Tamilnadu and Gujarat.
- States have been advised to focus on Districts/Blocks/Villages with low Child Sex Ratio to ascertain the causes, plan appropriate Behaviour Change Communication campaigns and effectively implement provisions of the PC & PNDT Act, 1994.

The Central Supervisory Board (CSB) was constituted by the government under Section 7 of the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994, with the mandate to review and monitor implementation of the Act and rules made there under. A total of 22 meetings of the CSB were held since inception of the Act to review the implementation of the Act.

As per Reports submitted by States/ UTs, a total number of 206 convictions have so far been secured under the Act. The year-wise details of conviction, maintained since 2009 and the details of total conviction as furnished by States/UTs are given below:-

Year-wise convictions under PC & PNDT Act (Since 2009 to December, 2014)							
S. No.	States/ UTs	2009	2010	2011	2012	2013	2014
1	Andhra Pradesh	0	0	0	0	0	0

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>

1/3

12/28/2016

Effective Implementation of PNDT Act

2	Arunachal Pradesh	0	0	0	0	0	0
3	Assam	0	0	0	0	0	0
4	Bihar	0	0	0	0	11	0
5	Chhattisgarh	0	0	0	0	0	0
6	Goa	0	0	0	0	0	0
7	Gujarat	2	1	0	0	3	0
8	Haryana	0	4	7	0	38	5
9	Himachal Pradesh	0	0	0	0	1	0
10	Jammu & Kashmir	0	0	0	0	1	0
11	Jharkhand	0	0	0	0	0	0
12	Karnataka	0	0	0	0	0	0
13	Kerala	0	0	0	0	0	0
14	Madhya Pradesh	0	0	1	0	1	0
15	Maharashtra	1	2	11	3	44	0
16	Manipur	0	0	0	0	0	0
17	Meghalaya	0	0	0	0	0	0
18	Mizoram	0	0	0	0	0	0
19	Nagaland	0	0	0	0	0	0
20	Odisha	0	0	0	3	0	0
21	Punjab	1	0	0	1	0	0
22	Rajasthan	0	0	0	0	37	0
23	Sikkim	0	0	0	0	0	0
24	Tamil Nadu	0	0	0	0	0	0
25	Tripura	0	0	0	0	0	0
26	Uttarakhand	0	0	0	0	0	0
27	Uttar Pradesh	0	0	0	0	0	1
28	West Bengal	0	0	0	0	0	0
29	A & N. Island	0	0	0	0	0	0
30	Chandigarh	0	0	0	0	0	0
31	D. & N. Haveli	0	0	0	0	0	0
32	Daman & Diu	0	0	0	0	0	0
33	Delhi	0	0	0	0	1	0
34	Lakshadweep	0	0	0	0	0	0
35	Puducherry	0	0	0	0	0	0
	TOTAL	4	7	19	7	137	6

Note: Total 180 convictions were secured since 2009 out of total 206; remaining 26 were secured before 2009.

Total convictions under PC & PNDT Act (up to December, 2014)

S. No.	States/ UTs	No. of convictions
1	Andhra Pradesh	0
2	Arunachal Pradesh	0
3	Assam	0
4	Bihar	11
5	Chhattisgarh	0
6	Goa	0
7	Gujarat	6
8	Haryana	54
9	Himachal Pradesh	1
10	Jammu & Kashmir	1
11	Jharkhand	0

<http://pib.nic.in/newsite/PrintRelease.aspx?relid=116303>

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Effective Implementation of PNDT Act

12	Karnataka	0
13	Kerala	0
14	Madhya Pradesh	2
15	Maharashtra	61
16	Manipur	0
17	Meghalaya	0
18	Mizoram	0
19	Nagaland	0
20	Odisha	3
21	Punjab	28
22	Rajasthan	37
23	Sikkim	0
24	Tamil Nadu	0
25	Tripura	0
26	Uttarakhand	0
27	Uttar Pradesh	1
28	West Bengal	0
29	A & N. Island	0
30	Chandigarh	0
31	D. & N. Haveli	0
32	Daman & Diu	0
33	Delhi	1
34	Lakshadweep	0
35	Puducherry	0
TOTAL		206

As per Quarterly Progress Reports (QPRs) submitted by States/ UTs, A total of 295 court cases for non-registration of clinics have been filed by the concerned Appropriate Authorities under the Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994.

Directions given vide Order dated 04.03.2013 by the Hon'ble Supreme Court in the matter of Voluntary Health Association of Punjab vs UoI were communicated to the States/ UTs at the level of Union Health Minister and Secretary, Health and Family Welfare, Govt. of India to Chief Ministers and Chief Secretaries respectively to ensure immediate compliance.

The Health Minister, Shri J P Nadda stated this in a written reply in the Rajya Sabha here today.

MV/BK

ANNEXURE –VII: CONVICTIONS UNDER THE PC&PNDT ACT DURING 2015

**GOVERNMENT OF INDIA
MINISTRY OF HEALTH AND FAMILY WELFARE
DEPARTMENT OF HEALTH AND FAMILY WELFARE**

**LOK SABHA
UNSTARRED QUESTION NO.1707
TO BE ANSWERED ON 25TH NOVEMBER, 2016**

PNDT Act, 1994

1707. SHRI RAJESH RANJAN:

Will the Minister of **HEALTH AND FAMILY WELFARE** be pleased to state:

(a) whether the Government maintains the details of the number of convictions under the Pre-Conception and Pre-Natal Diagnostic Techniques (PNDT) Act, 1994, if so, the details thereof during the last three years;

(b) whether the Government has agreed to amend the PNDT Act, 1994 as per the demands of the radiologists put before the Central Supervisory Board meeting in April, 2016, if so, the details thereof;

(c) whether the Government plans to accede to demand of radiologists that clerical errors in Form-F should be considered at par with non-display of notice board/not wearing apron/not keeping PNDT handbook and should not be equated with the offence of sex determination, if so, the details thereof; and

(d) whether the PNDT Act, will lose its deterrence value, if lapses in record keeping is decriminalised?

**ANSWER
THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND
FAMILY WELFARE
(SHRI FAGGAN SINGH KULASTE)**

(a): As per information received from States/UTs, the State/UT-wise details of convictions under the Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 for the years 2013, 2014 and 2015, is at Annexure.

(b) & (c): As per the recommendation of the Central Supervisory Board in its meeting held in April, 2016, an Expert Committee was constituted to propose and review the amendments to the PC & PNDT Act, 1994 and rules framed thereunder. The meeting of the Expert Committee was held on 4th July, 2016. As per provision of the Act, the recommendations, if any proposed by the Committee are required to be placed before the CSB.

(d): Maintenance and preservation of records, prescribed under the PC & PNDT Act and Rules made thereunder is a statutory compliance. Any deficiency or inaccuracy found therein shall amount to contravention of the provisions of the PC & PNDT Act, 1994 and Rules framed thereunder. Record maintenance is the crux of the Act and is relied upon strongly, as it also provides the framework for implementation of the Act. An Advisory has been issued to the States/UTs to ensure medical audit of all records including Form F under the PC & PNDT Act.

Annexure

Convictions under the PC & PNDT Act, 1994 (2013-15)

S. No.	States/ UTs	Convictions		
		2013	2014	2015
1	Andhra Pradesh	0	0	0
2	Arunachal Pradesh	0	0	0
3	Assam	0	0	0
4	Bihar	0	0	1
5	Chhattisgarh	0	0	0
6	Goa	0	0	0
7	Gujarat	3	0	3
8	Haryana	38	4	9
9	Himachal Pradesh	1	0	0
10	Jammu & Kashmir	1	0	0
11	Jharkhand	0	0	0
12	Karnataka	0	0	0
13	Kerala	0	0	0
14	Madhya Pradesh	1	0	0
15	Maharashtra	44	0	15
16	Manipur	0	0	0
17	Meghalaya	0	0	0
18	Mizoram	0	0	0
19	Nagaland	0	0	0
20	Odisha	0	0	0
21	Punjab	0	0	2
22	Rajasthan	37	0	48
23	Sikkim	0	0	0
24	Tamil Nadu	0	0	18
25	Telengana	0	0	1
26	Tripura	0	0	0
27	Uttarakhand	0	0	1
28	Uttar Pradesh	0	2	7
29	West Bengal	0	0	0
30	A & N Island	0	0	0
31	Chandigarh	0	0	0
32	Dadra & Nagar Haveli	0	0	0
33	Daman & Diu	0	0	0
34	Delhi	1	0	6
35	Lakshadweep	0	0	0
36	Puducherry	0	0	0
	TOTAL	126	6	111

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

The reports published are:

- The State of Female Foeticide in Bihar, November 2016
- The State of the PC&PNDT Act: India's losing battle against female foeticide, November 2016
- Madhya Pradesh: The land of female infanticide and foeticide in India, September 2016
- The State of Female Foeticide in Goa, September 2016
- The State of Female Foeticide in Uttarakhand, August 2016
- The State of Female Foeticide in Haryana, July 2016
- The State of Female Infanticide in Himachal Pradesh, July 2016
- Female Infanticide Worldwide: The case for action by the UN Human Rights Council, July 2016
- The MTP Amendment Bill, 2014: India's Beti Mar Do Campaign, May 2016

All these reports and forthcoming reports are available at:

<http://www.stopfemaleinfanticide.org/>



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