

**Minutes of the fourth meeting of the expert committee constituted to re-examine the provisions of the Act with a view to make them more effective in preventing sex selection, held under Chairmanship of JS (RCH) on 10<sup>th</sup> December, 2013**

As per the decisions of the 19<sup>th</sup> meeting of the Central Supervisory Board, an Expert Committee under the Chairmanship of JS (RCH) was constituted to re-examine the provisions of the PC&PNDT Act with a view to making them more effective in preventing sex-selection. The committee during the deliberation in its last three meetings reviewed the proposed amendments suggested by different stake holders and proposed certain possible amendments to the PC&PNDT Act. The proposed amendments were placed before CSB in its 21<sup>st</sup> meeting held under the chairmanship of Hon'ble Union Minister of Health and Family Welfare. The CSB after re-examination was of the view that the proposed amendments may be again re-substantiated by the expert committee constituted to re-examine the provisions of the Act. Consequently the fourth meeting of the expert committee was held under Chairmanship of JS (RCH) on 10th December, 2013. Moreover, Ministry took this opportunity to place the act related queries received from the states before the expert committee for the clarifications. **List of participant are Annexed at A**

JS (RCH) briefed about the objectives of the meeting and said that the committee has to finalise the potential amendments to the Act for better results in terms of prohibiting the use of medical technology for sex selection. He restated that CSB desired that the expert committee may re-substantiate the amendments recommended by the committee so that constructive modification can be brought in the provisions of PC&PNDT Act. Director (PNDT) welcoming the participants apprised the Committee about the suggestion of Central Supervisory Board. He also explained that Ministry expects to take opinion of the expert committee on the clarifications related to the provisions of the Act received from the states/ UTs.

It was agreed that committee will first examine the clarifications on the Act sought from the States/ UTs and then deliberate on the proposed amendments. The committee then examined state issues one by one:

**1. Powers of State Appropriate Authorities to override the decisions of District Appropriate Authorities (DAA) in cases where DAA is unable to take appropriate action as per the provisions of PC & PNDT Act**

In this regard committee clarified that same powers have been given to the **State Appropriate Authorities (SAAs)** have been given the same powers as District Appropriate Authorities. Moreover State Appropriate Authority being an appellate authority, over and above district appropriate authority with the jurisdiction for whole state it has the power to direct the district authorities and incase district appropriate authority fail to deliver as per the provisions of the Act it can take direct action against any violator of the PC&PNDT law. The committee was of the opinion that states may be issued clarification accordingly.

**2. Procedures to be followed by the Appropriate Authorities in case of unused/ idle or surrendered machines lying in the registered clinics that has potential of getting misused.**

This matter was discussed in detail and it was recommended that closure of unused/ idle or surrendered machines lying in the registered clinics by the District Appropriate Authorities should be termed as *voluntary decommissioning of the machines* in place of sealing. It was further explained that such terminology will de-legalise the process as it is voluntary in nature and is not done against any charge of offence. Clarification to the State/UTs in this regard was recommended by the committee.

**3. Procedure to be followed in case of short term demonstration/ display of ultrasound machines/Imaging machines in the workshops/CME organized by Medical Colleges, health Camps or companies for teaching purposes or knowledge update on latest equipment's which are useful for health care sector.**

The committee in this regard was of the opinion that District Authority may grant permission for education/ training or display of diagnostic technologies. For display of at scientific exhibitions it was recommended that the request to District Appropriate Authorities should come from the organizing body along with the details of diagnostic technologies/ equipments to be displayed. The organizing bodies in such cases should take all responsibility and ensure that the diagnostic technologies are not used for live demonstrations.

For use of diagnostic technologies for live demonstrations at workshops and conferences the committee recommended that permission should be granted only when these diagnostic technologies are demonstrated in registered facility with transmission facility for viewing by delegates. Further it was recommended that the details of diagnostic technologies/ equipments and list of experts / professionals demonstrating technologies along with their qualifications must be submitted along with the request by the organizing body. It was also stressed that in case of permission for live demonstration the registered facility that provided its premises for the live demonstrations should intimate along with all pertinent information and details before hand to their respective District Appropriate Authority and ensure that the records are maintained while conducting foetal diagnostic techniques as per the provisions of the PC&PNDT law. It was agreed that guidelines for the same will be issued to the States/ UTs

**4. The registration procedures for the diagnostic centers using tele-reporting (one doctor reporting many MRI / CT Scans Centres in many districts through email/by post/manual)**

In this regard it was recommended that there is no provision for tele-reporting as Act regulates the conduct of diagnostic techniques and whenever diagnostic clinics are registered the qualified person who conducts these tests/ procedures also get registered.

**5. Registration procedures for the ultrasound machines used for veterinary purpose**

In this regard committee clarified that under the PC&PNDT law no person can open any centre/ laboratory having any technology capable of undertaking determination of sex of foetus and sex selection, or render services to any of them, after commencement of the PC&PNDT Act, unless such centre/ laboratory are clinic is duly registered under the Act, henceforth all such clinics including the diagnostic clinics used for **veterinary purpose** has to get registered under the PC&PNDT law. It was further recommended that it has to be ensured that such clinics are used only for animals and a qualified professional in this specialized field is allowed to use the diagnostic techniques on animals only. The committee also recommended that District Authorities has to monitor such clinics closely to check their misuse. Clarification in this regard has to be issued to the States/ UTs

After examining the quires and clarification on the Act the committee re-examined the proposed amendments to the PC&PNDT Act. The committee after due deliberations finalised the list of potential amendments the Act as below.

	<b>Existing provision of PC &amp; PNDT Act</b>	<b>Proposed amendments</b>
<b>PREAMBLE:</b>		
1.	<b>Statement of Objects and Reason:</b> Point No. (i): prohibition of the misuse of pre natal diagnostic techniques for determination of sex of the foetus, leading to female foeticide;	<b><u>Point No. (i): May read as</u></b> (i) prohibition of the misuse of pre natal diagnostic techniques for determination of sex of the foetus, leading to <b>decline sex ratio at birth</b> (Number of females born/ thousand boys)
2.	<b>Statement of Objects and Reason:</b> Point No. (iii) permission and regulation of the use of Pre Natal Diagnostic Techniques for the purpose of detection of specific genetic abnormalities or disorders;	<b><u>Point No. (iii): May read as</u></b> (iii) prohibition and prevention of the misuse of Pre Natal Diagnostic Techniques for detection or determination of sex;
3.	Use of appropriate terms for- <b>“leading to female foeticide”</b> and <b>“Abortion”</b>	<b><u>Terms to be replaced as</u></b> 1. <b>“decline in female child sex ratio at birth”</b> 2. <b>“sex selective termination of pregnancy”</b> respectively.
<b>CHAPTER I</b>		
4.	<b>Section 2(g):</b> “ medical geneticist” includes a person who possesses a degree or diploma in genetic science in the fields of sex selection and pre-natal diagnostic techniques or has experience of not less than two years in any of these fields after obtaining –	<b>“</b> medical geneticist" is defined as a person who has DM/ MD in Medical Genetics recognized by MCI or has worked/done research for not less than five years in a recognized university or institute or has obtained a doctorate

	<p>(i) Any one of the medical qualifications recognised under the Indian Medical Council Act,1956; or</p> <p>(ii) A post-graduate degree in biological sciences;</p>	<p>degree in the area of clinical or medical or human genetics after obtaining:</p> <p>(i) Medical qualifications recognized under the Indian Medical Council Act, 1956 (102 of 1956); <b>Or</b></p> <p>(ii)A recognized post graduate degree in subjects like Zoology/ Molecular Biology/ Human Genetics/ Bio-chemistry/ Bio-technology, Biomedical sciences and Biosciences /Life sciences</p>
<b>CHAPTER II</b>		
<p><b>5.</b></p>	<p><b>Section 3B:</b> <i>Prohibition on sale of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.</i> - No person shall sell any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counseling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.</p>	<p><i>Prohibition on sale <u>or otherwise transfer</u> of ultrasound machines, etc., to persons, laboratories, clinics, etc. not registered under the Act.- No person shall sell <u>or in any other manner transfer</u> any ultrasound machine or imaging machine or scanner or any other equipment capable of detecting sex of foetus to any Genetic Counseling Centre, Genetic Laboratory, Genetic Clinic or any other person not registered under the Act.</i></p>
<b>CHAPTER III</b>		
<p><b>6.</b></p>	<p><b>Section 6: Determination of sex prohibited</b></p>	<p><b><u>Insertion of Section 6 (1) as :-</u></b> Prevention of misuse of prenatal diagnostic techniques: (a) Every Appropriate Authority shall prevent and may interpose for the purpose of preventing, and shall to the best of his ability, prevent the misuse of pre-natal diagnostic techniques and commission of any offence under the Act. (b) Appropriate Authority may, if it thinks fit, for purpose of preventing commission of any offence under the Act, obtain a bond from the concerned person giving undertaking that he will not indulge into misuse of pre-natal diagnostic techniques.</p>

## CHAPTER VII

<p>7.</p>	<p><b>Section 23: Offences and Penalties</b> <b>Section 23 (1):</b> Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory or clinic or render his professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rule made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to <b>ten thousand rupees</b> and on any subsequent conviction, with imprisonment which <b>may extend to</b> five years and with fine which may extend to <b>fifty thousand rupees</b>.</p>	<p><b>Section 23 (1):- <u>May read as</u></b> “Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a genetic counselling centre, a genetic laboratory, or a genetic clinic or is employed in such a centre, laboratory or clinic or render his professional or technical services to or at such a centre, laboratory or clinic, whether on an honorary basis or otherwise, and who contravenes any of the provisions of this Act or Rule made thereunder shall be punishable with imprisonment for a term which shall not be less than three years and with fine which may extend to <b>fifty thousand rupees</b> and on any subsequent conviction, with imprisonment which <b>shall not be less than</b> five years and with fine which may extend to <b>one lakh rupees</b>.</p> <p>.</p> <p><b><u>Insertion of Section 23(1)(a).as :-</u></b> Any person who shall not abide by the following prescribed norms including: (a) Wearing apron with proper name plate while performing diagnostic procedure , (b) Putting up-sign board disclaiming sex selection at a prominent place in the clinic. (c) Copy of PNDT Act always present in the clinic shall be punishable with a fine of not less than one thousand rupees and in case of continuing contravention with an additional fine of not less than five hundred rupees for every day.</p>
<p>8.</p>	<p><b>Section 25: Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided:</b> Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty</p>	<p><b>Section 25: <u>May read as</u></b> <b>Penalty for contravention of the provisions of the Act or Rules for which no specific punishment is provided:</b> Under Section 25, fine may extend to Rs10,000/- and in the case of continuous contravention, with an</p>

	has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contraventions with and additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction of the first such contravention.	additional fine which may extend to Rs.1,000/- for every day during which such contravention continues. Confiscation of sonography machine and other equipment used for commission of offence maybe provided as per provision of Section 55 of the Indian Forest Act,1927. *
9.	<b>Section 26: Offences by the companies</b>	<b><u>Insertion of Section 26 (3) as:</u></b> When any offence punishable under this Act has been committed by a company it should be liable to a punishment of not less than 3 years and a fine not less than 25 lakhs
10.	<b>Section 31:</b>  <i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act	<b>Section 31: <u>May read as</u></b>  <i>Protection of action taken in good faith.-</i> No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorized by the Central or State Government or by Authority <b>or by any person including social organization which has made complaint to the Court under Section 28 (1)(b) of the Act</b> for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act.

\* **Section 55 in The Indian Forest Act, 1927:** *Forest- procedure, tools, etc., when liable to confiscation.*

(1) *All timber or forest- produce which is not the property of Government and in respect of which a forest- offence has been committed, and all tools, boats, carts and cattle used in committing any forest- offence, shall be liable to confiscation.*

(2) *Such confiscation may be in addition to any other punishment prescribed for such offence.*

The meeting concluded with the vote of thanks to the chair.

**LIST OF PARTICIPANTS**

1. Dr. Rakesh Kumar, Joint Secretary (RCH), MOHFW
2. Dr. R. P Meena, Director (RCH), MOHFW
3. Dr.Asaram Khade, Consultant PNNDT, govt. of Maharashtra
4. Ms. Meenakshi Rathore, NMEW, MWCD
5. Dr. Vasudha Shukla, NMEW, MWCD
6. Mr. Pulkit Tare, NMEW, MWCD
7. Dr. O.P. Bansal, Secreatry IRIA
8. Dr. Nozer Sheriar, Secretary General, FOGSI
9. Dr. Sabu.M.George, Social Activist