

Consultation on Implementation of the PC & PNDT Act 1994



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A REPORT BY LEGAL CELL

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Preface

Since time immemorial, the birth of a girl child has been seen as a stigma and a burden in many a society. This has given rise to Female infanticide which means intentional killing of a baby girl after she is born due to preferences for male babies. With the growth and advancement of diagnostic techniques, female foetus is selectively eliminated after prenatal sex determination, avoiding birth of girls. This is an ill which is plaguing the country in as much as it has not only led to a decline in sex ratio but has also put a question mark on the so called civilized society.

Despite there being equality granted as a fundamental right by the Constitution and also numerous benefits and privileges accorded to a girl child, the situation at the ground level leaves much to be desired.

In order to address the issue and also sensitize the masses, the National Commission for Women, under its able Chairperson, Dr Girija Vyas, organized a Seminar on the issue, at Udaipur, which was widely attended by eminent personalities.

On the basis of the discussion and deliberations made over the issue, during the said seminar, the Commission tried to identify the areas which need immediate attention.

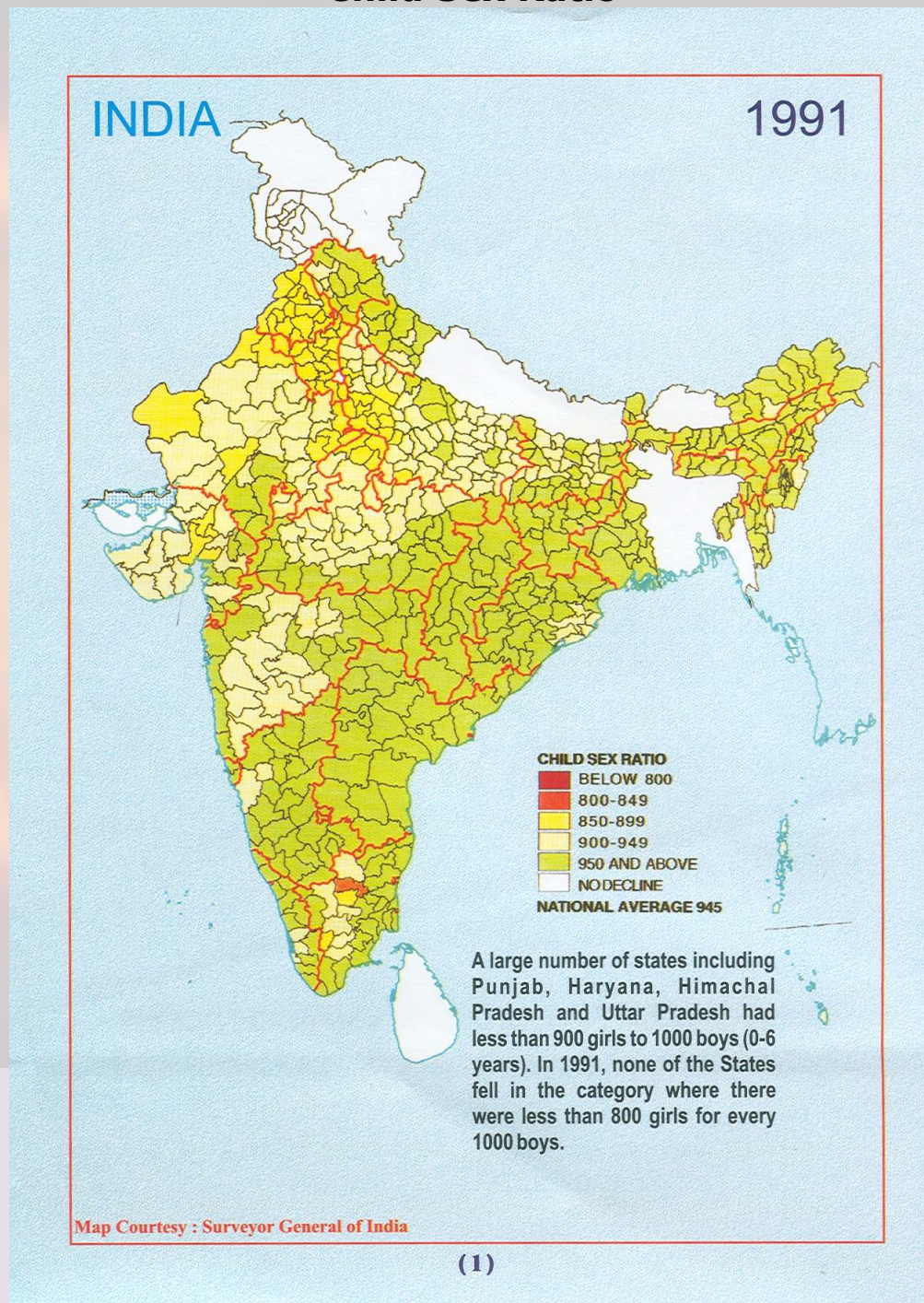
The Commission greatly acknowledges the eminent personalities like Shri T. L. Meena, I G P, Udaipur, Smt. Ranjana Kumari, Director Centre for Social Research, Delhi, Dr. Pam Rajput, Women Resource and Advocacy Centre, Punjab, Mr. M. L. Jain, Director, Medical & Health Services, Govt of Rajasthan, Ms. Mussarrat, Chairperson, Minorities Development & Finance Corporation, Bhopal who attended the said seminar and rendered their valuable views on the issue.

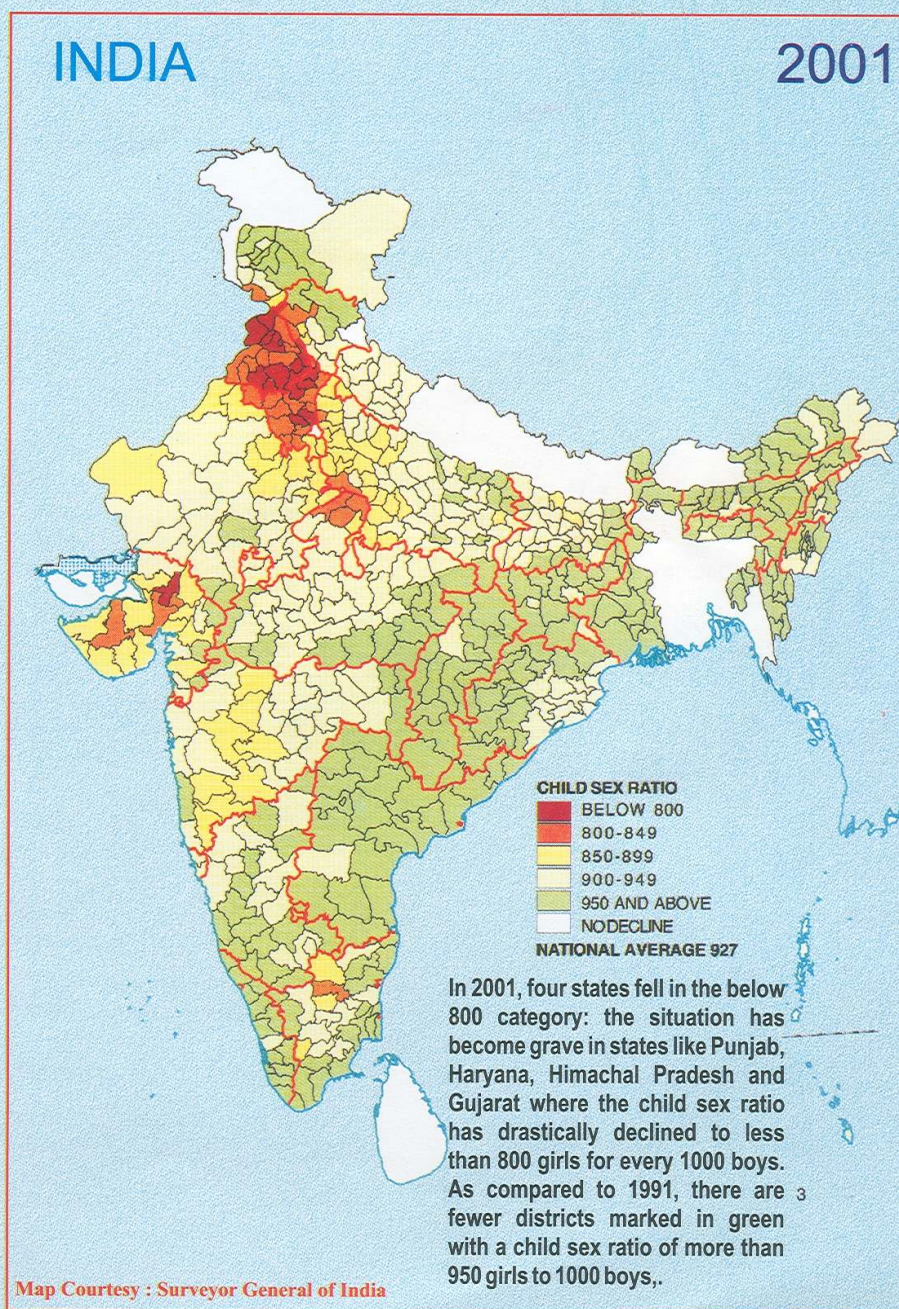


SAVE THE GIRL CHILD



Child Sex Ratio





(2)

Facts & Realities about Gender Discrimination

Every individual has a right to live and live with dignity. The same is also enshrined in the Constitution by way of the Fundamental rights. However, statistics about female infanticide and foeticide are a powerful and shocking tool for grasping the scale of the denial of women's human rights, and the extent to which so many women are expected to be 'seen and not heard'. The crime against women in general is a worldwide phenomenon with their human right getting blatantly violated with impunity.

It is worth conceptualizing that:

- **Violence** causes more death and disability worldwide amongst women aged 15-44 than war, cancer, malaria or traffic accidents (Directorate of Public Health).
- **One** in three women worldwide has been beaten, coerced into sex, or abused in some other way, most often by someone she knows.
- One in four women were abused during pregnancy (Amnesty

International).



- **In** the UK, in 1999, 37% of female homicide victims were killed by their present or former partner, compared to 6% of men. This totaled 92 women one every three days.
- **Three** out of four fatalities of war are women and children (Network for good). In the former Yugoslavia, 20,000 women and girls were raped during the first months of the war (Physicians for Human Rights).
- **Between** 200,000-300,000 women are trafficked to Europe every year (Human Rights Watch). Well over \$7 billion a year is generated from sex-trade trafficking (Peace Women).
- About 7 married women worldwide are raped by their spouse and marital rape accounts for 25% of all rapes (Wesley Center for Women).
- **Domestic** violence is the leading cause of injury and death for women worldwide (Intervarsity press).

- Every day 6,000 girls undergo female circumcision (Amnesty).
- **Reproductive** health services for all women would cost \$12



billion a year- as much as is spent on perfumes in Europe and the US every year, which is not being spent. (Alan Guttmacher Institute).

- **16.4 million** women in the world are living with HIV and AIDS (U.S. Pharmacist). 55% of all HIV positive adults in sub-Saharan Africa are women (Afrol).
- **Around** half of pregnant women in Southern Asia and one third of women in many countries Africa receive no antenatal care (UNAIDS) Around 60% of women in Sub-Saharan Africa and Southern Asia have no skilled attendant present when they give birth (UNICEF).
- **One** woman dies every minute from pregnancy related causes, most of which are preventable (RHRC).
- **2 million** females are killed before or at birth simply because

of their sex.

- More than 60 million women are 'missing' from the world today as a result of sex-selective abortions and female infanticide (Amnesty).



- 50 million women are 'missing' from India.
- **In** China, the 2000 census revealed the ratio of girls to boys is 100: 199. The norm is 100:103.
- Of 8,000 fetuses aborted in a Bombay clinic, 7999 were female.
- Annually, 2 million girls worldwide are forced into marriage.
- 5,000 women in the world are estimated as killed in 'honour killings' (Christian Science Monitor).
- Every year in India, 5000 brides are murdered or commit suicide because their marriage dowries are considered inadequate.
- Every year, 2 million girls between the ages of five and 15 are

coerced, abducted, sold or trafficked into the illegal sex market (International Humanitarian Campaign against the Exploitation of Children).

- More than half of women in the world, over the age of 15,



cannot read or write. Two thirds of people who cannot read or write are women. Two thirds of the children who receive less than four years' education are girls. Nearly 60% of children not in school are girls (Women's Learning Partnership).

- Women produce nearly 80% of the food on the planet, but receive less than 10% of agricultural assistance (Peacekeeper)
More than 1 billion people live in abject poverty on less than \$1 a day.
- 70% of people in abject poverty are women.
- Only 1 % of the world's assets are in the name of a woman (SEWA).
- Although women do two thirds of the work in the world, the rate of paid employment for women is two thirds that of men (International Labor Organization). There is no country in the

world where women's wages are equal to those of men (Women's Learning Partnership). Worldwide, when women do the same work as men; they are paid 30-40% less than men (Feminism).



- Women occupy only 2% of senior management positions in business worldwide (Business week).
- Only 15% of parliamentary seats across the world are held by women. Women ministers remain concentrated in social areas (14%) compared to legal (9.4%), economic (4.1 %), political affairs (3.4%) and the executive (3.9%).
- 3.5% of the world's cabinet ministers are women and women have no ministerial positions in 93 countries worldwide (Feminism).
- Saudi Arabia denied its 179,564 women the right to vote in 2004 (Amnesty International).
- In Indian states, like Rajasthan and Uttar Pradesh, it is usual for girls and women to eat less than men and boys and to have their meal after they have finished eating.

- Greater mobility, when compared to girls, outside the home provides boys with the opportunity to eat sweets and fruit from saved-up pocket money or from money given to buy articles for food consumption.



- In case of illness, it is usually boys have preference in health care,
- More is spent on clothing for boys than for girls, which affects morbidity. (Karlekar)
- Various studies have shown that foetal sex determination has been established in India for over the last 10-15 years. Son preference, neglect of the girl child, socio-cultural mind-sets and large scale misuse of modern technology for Pre-Natal Determination of Sex led to female foeticide in India.
- The numbers of abortions in India are gigantic. A study reveals that in a year around 60 lac abortions take place out of which only few thousands are legal and 90 per cent of which are intended to eliminate the girl child.

Current evidence which indicates the critical factors that affect sex ratio at birth:

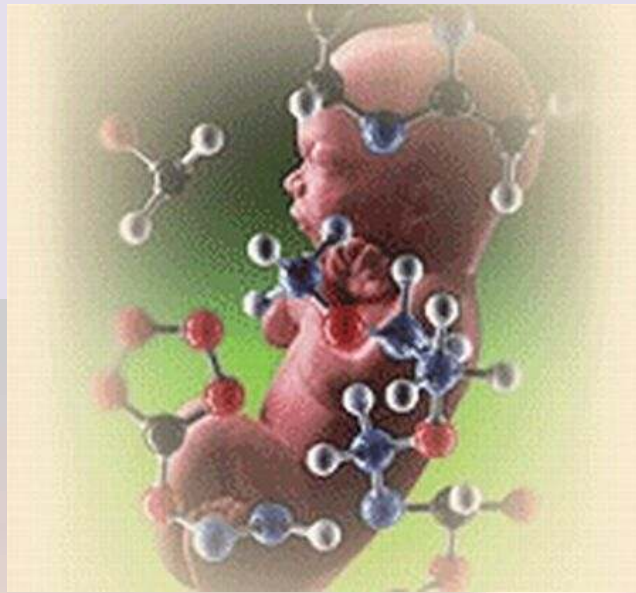
- Ownership of land property.



- Literacy of the family and especially of the parents.
- Traditional family occupations and the occupations of the parents (Like Agriculture etc.).
- Prevalence and the extent of dowry.
- Sons are looked to as a type of insurance.
- Attitude about girls remains that they are considered as liabilities.
- Murdering girls is believed to be a wiser course than raising them.
- Costs involved in the marriage of a daughter.
- Sex determination becoming a lucrative business.



This is what is a matter of worry..



1. Introduction to the Seminar

The declining sex ratio has become a constant concern. Despite the natural equity accorded to the sex of a new born, ways and means have come up over the years thereby this equity has been twisted in favour of males. As a consequence, today the sex ratio in the country stands at 933 females for every 1000 males. The fact has empirical evidence particularly when we look at the sex ratio in children between 0-6 years of age.



Mr. M. L. Jain, Dr. Pam Rajput, Shri T. L. Meena , Dr. Girija Vyas, Smt. Ranjana Kumari, Ms Yasmin Abrar , Ms. Mussarrat

Female infanticide is the intentional killing of baby girls after she is born due to preferences for male babies. Demale Foeticide refers to a practice where female foetuses are selectively eliminated after prenatal sex determination, avoiding birth of girls.



Chairperson Dr. Girija Vyas addressing the guests

The scientific advances and the modern medicine have become double edged sword further cutting across the socially determined girl child ratio, complementing each other and in turn providing an opportunity to potential parents saying 'NO' to the birth of girl child. Pre - natal diagnostic techniques like amniocentesis and Ultra -

sonography have been used all over the world for detection of genetic abnormalities. However, in India they are being misused for the past three decades for the detection of the sex of the unborn child and subsequently for sex selection- that is to eliminate foetus selectively, if they are females.

Female foeticide is one of the major reasons behind lesser number of girls in the age group of 0-6 years. In order to check this evil practice, the Pre-Conception and Pre-Natal Diagnostic Techniques (PC&PNDT) Act, 1994 was implemented and amended in 2003 as the Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act. The act prohibits sex selection before or after conception and regulates the use of preconception and pre-natal diagnostic technique so that these are not misused for sex selection.



Sex Ratio: India

• Year	No. of Females
• 1901	972
• 1911	964
• 1921	955
• 1931	950
• 1941	945
• 1951	946
• 1961	941
• 1971	930
• 1981	934
• 1991	927
• 2001	933

The National Commission for women organised a National Consultation on the Implementation of the PC & PNDT Act 1994 on the **10th of April 2010 at Udaipur**. The inaugural session was presided by Dr. Girija Vyas, Chairperson, National Commission for Women. The guests of honour included Shri T. L. Meena, I G P, Udaipur, Smt. Ranjana Kumari, Director Centre for Social Research, Delhi, Dr. Pam Rajput, Women Resource and Advocacy Centre, Punjab, Mr. M. L. Jain, Director, Medical & Health Services, Govt of Rajasthan, Ms. Mussarrat, Chairperson, Minorities Development & Finance Corporation, Bhopal.

The Consultation was attended by the Government officials, representatives of the Health Services, PC &PNDT Coordinators , police officials, academicians, activists, NGO's from Rajasthan , Gujarat , Maharashtra , Delhi, Haryana and Punjab. The main objective of the workshop was to collectively identify and find ways of overcoming the challenges emerging in the implementation of the Act. The major output of the workshop has been a set of recommendations to improve the situation and make implementation of the Act more effective.

In the welcome address, Chairperson, National Commission for Women, **Dr Girija Vyas**, expressed her deep concern over the declining sex ratio and missing girls. She quoted the Supreme Courts observation **"It is unfortunate that for one reason or the other, the practice of female infanticide still prevails despite the fact that the gentle touch of a daughter and her voice has soothing effect on the parents."** She observed that the situation remains grim and this is reflected in the overall sex ratio in various states where female infanticide still prevails. However, the traditional system of killing the girl child after her birth has now given way to the more modern techniques of sex selection and female foeticide.



Dr. Girija Vyas, Chairperson NCW, lighting the lamp.

Dr Vyas recalled the recent incident where Doctors at Bhumika Hospital and Khicher Hospital at Sikar Rajasthan were caught red handed on 2nd April 2010 for conducting the sex determination test on the decoy customer in Sikar district of Rajasthan.

While appreciating the role of authorities, Dr Girija Vyas observed that there was a lot of actions to be initiated as the PC&PNDT Act 1994 has not been implemented properly and asked everyone present to take a pledge to prevent and prohibit female

foeticide and infanticide and thereafter announced that a committee would be constituted at the Commission named

“PCPNDT Committee” with the sole purpose of monitoring the effective implementation of the law.

Shri T. L. Meena, I G P, Udaipur also showed his concern over the declining sex ratio and mentioned that unfortunately the police have a very minimal role in the Act. He felt police should be given more power in the Act. He felt the issue can be highlighted right from elementary and primary education system so that the child grows with strong values.



Shri T. L. Meena, I G P, Udaipur

Smt. Ranjana Kumari, Director Centre for Social Research, Delhi, Dr. Pam Rajput, Women Resource and Advocacy Centre , Punjab , in their respective address observed that the girl child is seen as an economic drain as her marriage and dowry crushes her family under huge burden of debts. Pam Rajput said that Punjab is a '**kudi maru**' state where the sex ratio is alarming low (1000/773). She said that the PC & PNDT Act, 1994, has been unfortunately a **"non-starter"**

They expressed their concern on the declining sex ratio and observed that the scripting of an Act alone is not sufficient in itself. This calls for a concerted effort on part of everyone from the potential mother to Providers and Planners. In view of the fact that a mass mobilization of community is needed, besides the efforts made by the government in effective implementation of the Act; it is imperative to have the grass-root organizations subscribe to their role a little more effectively for making people know the importance of the parity that the female child should get in the family and the society by and large. Smt. Ranjana Kumari and Pam Rajput observed it a social terrorism which needs to be combated effectively by collective efforts of all.



Smt. Ranjana Kumari, Director Centre for Social Research, Delhi



Dr. Pam Rajput, Women Resource and Advocacy Centre, Punjab

Ms Yasmeen Abrar, Member National Commission for Women, thanked the dignitaries and the participants and expressed that there is an urgent need to inculcate amongst all the importance of girl child.



Ms Yasmeen Abrar , Member National Commission for Women



The Technical Session

The Technical Session was chaired by Prof. Pawan Surana. Activists, doctors and eminent people who have worked considerably in this field deliberated elaborately on the non implementation of PC & PNDT Act 1994. Presentations were given by the following and open house discussions were held:-

- Dr Sabu George , Activist, Delhi
- Smt. Ranjana Kumari, Director Centre for Social Research, Delhi
- Dr. Pam Rajput, Women Resource and Advocacy Centre , Punjab
- Dr. Sudha Yadav
- Dr. Meeta Singh, State Institute of Health & Family Welfare, Jaipur
- Mr. Ritesh Tiwari, Legal Advisor, PC & PNDT , Govt. of Rajasthan
- Dr. Shah, Secretary, FOGSI
- Ms. Shivani Bharadwaj
- Jaya Shukla, Activist, Delhi
- Ameer Yagnik, Lawyer, Gujarat
- Shakuntala Pracha
- Yogesh Mehta ,Law Officer, NCW



Mr. Sabu George, Activist



Dr. Shah, Secretary, FOGSI

The recommendations emerging from the seminar are briefly summarized as under:-

1 AWARENESS & SENSITISATION

- i). The Appropriate Authority, Advisory Committees and Doctors throughout the country should be made aware of the provisions of the Act as well as the rules.
- ii). The National Commission for Women and State Women Commissions could be given a proactive role to launch campaign against sex-selection in a concerted manner, to create awareness among the medical fraternity, society and the public.
- iii). There is a need to empower women and educate them and also to create awareness and sensitization amongst the MPs and MLAs, Govt. servants and to involve them in the campaign against sex selection.
- iv). Interaction with religious leaders who are willing to cooperate in preventing sex selection is needed.

- v) A system of awards as encouragement to the govt. servants as well as the public may be instituted.
- vi). **"Value Girl Child"** Campaign may be initiated which may include, Documentation and Research, Consultations with all the stakeholders, sessions in medical colleges, short films on the issue, Campaign in colleges and schools, Media campaigns.
- vii). Specific commitment should be there at the policy level by the Central Government to reach equal sex ratio at birth by 2020.
- viii) Introduction of schemes as '**Beti Ek Anmol Ratan**', giving mementos to parents having daughters, celebrating birthdays of girl child and promotion of girl education.
- ix) Celebrating Girl Child Day on lines of Women's Day, Population Day etc.
- Incentives to be given to mother giving birth to girl child.
 - Building awareness through non formal education and income generating schemes.

2. MONITORING AND IMPLEMENTATION

- i) NCW may examine constituting a PNDT Committee within its existing framework or as per its mandate. The Cell would comprise of experts like Dr.Sabu George and others who would offer their expertise and guidance to the cell, so as to enable NCW to take up the issue of implementation of the PC PNDT Act and advise the Central Monitoring Cell constituted by the Ministry of Health and Family Welfare as well as advising the State Authorities. The committee could also network with NGO's actively associated in this area.
- ii) Mechanisms formed so as to assist the AA's in regularly visiting and monitoring registered clinics. Constitute teams from advisory committees to assist District Appropriate Authorities (or AA elsewhere) in regular clinic visits. Ensure regular audit of Form F submitted by all registered clinics. Qualified legal advice for District AAs wherever necessary.
- iii) The records of all diagnosis done by the ultrasound machines or other machines, as well as charts, forms, reports, consent letters etc. used for the purpose of pre-

natal diagnosis should be maintained for at least two years or as directed by the AA.

- iv) The Addresses and names of various members constituting the AA as well assisting the AA should be displayed at every registered Genetic Counseling Centre, Genetic laboratory, Genetic clinic and imaging centre so that anybody interested in filing a complaint can do so easily.
- v) Periodic meetings of the AA and advisory Committees State Advisory Boards as provided in the Acts & Rules and their monitoring by the state and central Supervisory Boards is a must. The decision taken in these meetings should be made public. Meetings of the Advisory Committee should not be merged with routine meetings of the Department.
- vi) Adequate infrastructural and administrative support for State and District Authorities.
- vii) Prepare biennial audits of birth registers at hospitals and clinics to monitor sex ratio trends. It is important to

conduct methodical analysis of the birth and death registers in order to understand the trends.

- viii) Ensure adequate infrastructural and administrative support for State and District Authorities.
- ix) A systematic and periodical Medical Audit may be of considerable help in finding out if a clinic is indulging in sex-determination. Conducting scrutiny of ultrasound records of pregnant woman by clinics and verifying their actual births and sex of the infant would show if the clinic is indulging in sex-determination.



"WE ARE....BECAUSE THEY ARE !!!"



Stop

Female

Foeticide

**Family Is
Incomplete
Without**





A 'GIRL' Child

3. MODIFICATION IN ACTS/RULES

- i). There is a need to strengthen the provisions of the Act and make the sex selection practices, a high risk business, instead of a low risk business. Penalties for offences should be made more stringent as it is '**murder in the womb**'.
- ii) NCW and SWCs must be represented at the appropriate levels in the advisory and the monitoring committees and the appropriate authorities and advisory committee and may also be given the power for periodic inspection of centers and clinics.
- iii). Under the Act, violation of the provisions is punishable with imprisonment and fine, whereas under Rule 11(2) if the appropriate Authority seizes any ultrasound machine or other equipment capable of detecting sex of fetus which is used by an organization not registered under the act, the machine of the organization is released only on payment of penalty equal to five times the registration fee and on such organization giving an undertaking that it will not indulge in detection of sex of foetus or selection of sex before and after conception. The Rule takes away the rigor of the punishment provisions under the Act. It permits a clinic/ laboratory to run without

registration, thus indulging in violation of the provisions of the act but it can be let off merely on payment of fine and undertaking.. This rule is required to be deleted; otherwise it will be misused by 'those who are indulging in heinous practice of sex determination of foetus.

- iv). The mandatory regular submission of Form F by all clinics to the AAs must be ensured through Rule 9(8). This would make it possible also to monitor abortions conducted after 12 weeks of pregnancy. A team for auditing these documents regularly to help the AAs may be formed possibly by using law interns for the purpose. It shall be mandatory for all registered centre's to maintain all records, charts, forms reports consent letters for a period of two years or until permitted by the concerned AA.

These must be available for inspection by AAs or any other person authorized by AAs or by the National Commission for Women or the State commission. If records are not properly maintained this may lead to suspension of registration.

- v). Use of decoy customers and sting operations should be made an integral part of the strategy to catch the doctors/clinics

indulging in the illegal practice of sex-determination and sex-selection of the foetus. It has been effectively used in Haryana and Rajasthan where the first case of conviction has come by using decoy customer.

- vi) Rule 3 provides the minimum requirements for a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre. There requirements of personnel and equipment for the last three categories are clubbed together under Rule 3 (2) There should be a provision for separate registration of sonography / imaging techniques and gynaecological techniques like Amniocentesis and Chronic Villi Biopsy (CVB) as their requirements are totally different. In the case of gynaecological techniques too, the applicant should have the choice to register for one or more specific techniques.
- vii) All powers of the Appropriate Authorities may be clubbed together under Sec. 17 A of the Act. Therefore, Sec. 30 (1) and 30 (2), which deal with search and seizure and empower the AAs (or a person authorized by it) with the provisions of Code of Criminal Procedure, 1973, need to be included under Sec. 17 A to get a comprehensive view of the power of the AA. The provisions under Code of Criminal Procedure, 1973,

which would help the AA in its search and seizure operations, should be explicitly mentioned.

- viii) The role of the police in the implementation of this Act needs further elaboration. However, in the absence of clear guidelines, AAs often find it difficult to seek help from the police while conducting raids, searching premises, seizing and sealing equipments and records. At times, without such help, the AA may not be able perform its duty if confronted by vested interests.
- ix) There is a need to regulate indiscriminate supply/sale of ultrasound machines suitable provisions need to be made in the Act. One of the loopholes in the Act which requires to be plugged is that there is no mandatory provision for regulating the suppliers of machines.
- x) 'Quacks' should also come within the purview in the Act.
- xi) Crackdown on advertisements

Conclusion

Chairperson National Commission for Women, Dr Girija Vyas, in her concluding remarks, summed up the recommendations as highlighted above and conveyed her heartfelt gratitude to the participants for making this workshop a success. Dr Vyas stressed the importance for kick starting the PCPNDT campaign from Mewar, the land historically acknowledged for guarding the safety of women. She assured that the recommendations will be followed up by concerned authorities/ institutions. The participants also expressed their pleasure in being a part of the purposeful interactive Consultation at a National level and thanked the National Commission for Women for organizing it successfully.