

# P N D T ACT – A REVIEW

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## Abstract

As evident by census 2001, India being a developing country still faces the challenge of large-scale female feticide and infanticide. The data shows an alarming decline in female to male sex ratio. This reduced sex ratio is contributing to domestic, social and sexual violence on women. In order to check female foeticide, the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 was enacted and became operational from 1 January 1996. The Act has been amended in February 2003 to correct certain inadequacies, practical difficulties in its implementation and due to scientific advances happened to select in sex determination. The motive was to prevent the misuse of pre-natal diagnostic techniques for sex selective abortions. This article is an attempt to throw light on the important features of PNDT act and the need of active participation of the people for its successful implementation.

## Introduction

Denial to a girl child of her right to live is one of the heinous violations of the right to life committed by the society. It is well established fact that in Indian society, female child is not welcomed and discrimination against girl child still prevails in various levels of the society. It may be due to various religious myths, uncontrolled dowry system despite the Dowry Prohibition Act and lack of education of the society <sup>1</sup>. The misuse of modern science and technology by preventing the birth of a girl child

by sex determination before birth and abortion thereafter is evident from the 2001 census figures, which reveal greater decline in sex ratio in the 0-6 age group in several states of India <sup>2</sup>.

Sex ratio at birth (SRB) is an indirect measure of female foeticide. There has been a decline in the sex ratio (number of males per 100 females) during the present century with substantial differences between states in sex ratio at birth. The observed sex ratio of 110 is much higher than the internationally accepted ratio of 106 <sup>3</sup>. The key factors responsible for SRB are pre natal sex determination, female infanticide and selective female foeticide.

In developing countries like India, many could be blamed for the increasing trend of female foeticide that include her/his parents, the in-laws, husband, woman herself, medical professionals and the society as a whole. The antiquated legal system and the lack of education also contribute either directly or indirectly to this.

In order to curb this social evil the Government of India enacted this act from 01-01-1996, further amended and came into force from 14-02-2003. The Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 renamed after amendment as “The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act” referred to as PNDT Act thus came into force.

## Determinants for declining female sex ratio

- a)Unchecked Pre-natal Sex Determination
- b) Selective Abortions
- c) Female Foeticide
- d) Misuse of MTP Act 1971
- e) Non-priority of PNDT Act 1994

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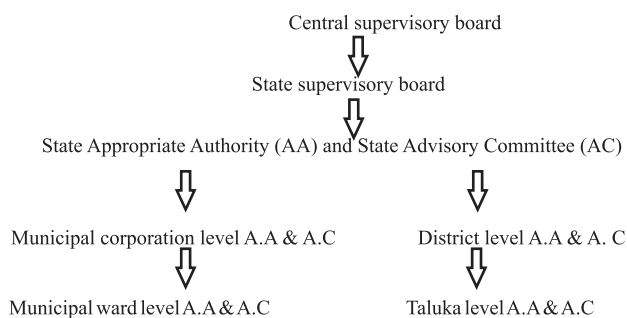
f) Government Failure - Legislature/  
Executive.

### Definition

“An Act 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 the prevention of their misuse for sex determination leading to female foeticide; and for many matters connected therewith or incidental thereto”.

### Features of PNDT Act 1994<sup>4</sup>

#### Code of conduct



### Regulation of Prenatal Diagnostic Techniques

1. No prenatal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:
  - Chromosomal abnormalities
  - Genetic metabolic diseases
  - Haemoglobinopathies
  - Sex-linked genetic diseases
  - Congenital anomalies
  - Any other abnormalities or diseases as may be specified by the Central Supervisory Board
2. No prenatal diagnostic technique shall be used or conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled, namely:
  - Age of the pregnant woman is above 35 years
  - The pregnant woman with two or more spontaneous abortions or foetal losses.
  - The pregnant woman exposed to potentially teratogenic agents such as drugs, radiation, infection or chemicals.
  - The pregnant woman or her spouse has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease.
  - Any other condition as may be specified by the Central Supervisory Board
3. No person including a relative or husband of the pregnant woman shall seek or encourage the conduct of any prenatal diagnostic test on her except for the purpose mentioned in the indications.

#### Written consent of pregnant woman and prohibition of communicating the sex of the fetus

No person shall conduct the prenatal diagnostic procedures unless-

He has explained all known side and after effects of such procedure to the pregnant woman concerned.

He has obtained in the prescribed form her written consent to undergo such procedure in the language, which she understands.

A copy of her written consent

obtained given back to the pregnant woman.

No person conducting prenatal diagnostic procedure shall communicate to the pregnant woman concerned or her relative the sex of the foetus by words, signs or in any other manner. .

### Various procedures under PNDT Act

**Registration :**It is done by State's Appropriate Authority after application and paying fees of Rs. 3000/- for genetic counseling centre, genetic laboratory, genetic clinic, ultrasound clinic or imaging centre and Rs. 4000/- for an institute, hospital, nursing home.

**Minimum requirements for registration:** registration certificate is not issued unless all requirements as to qualification and prescriptions regarding the place, person and equipments specified as per PNDT Act are fulfilled. Documentary proof of all employers is must.

**Procedure of certification:** The appropriate authority first conducts inspection of the place followed by inspection regarding adequacy, quality and qualification of working staff. After consulting advisory committee, the registration is granted. One copy of the registration certificate has to be displayed in the machine room and other in the waiting room.

Grant of certificate of registration or rejection of application is done within 90 days from the date of receipt of application. No fee is collected for re submission if it is within 90 days of

rejection. In the event of change of ownership / change of management of the centre, a fresh application for registration certificate is mandatory.

Certificate of **registration is valid** for a period of five years from the date of its issue.

**Renewal of registration** has to be done thirty days before the date of expiry by paying one-half of the original fees.

### Maintenance of Records <sup>5,6</sup>

All records, charts, reports, consent letters and all other documents required to be maintained under this Act and the rules shall be preserved for a period of two years or for such period as may be prescribed.

If any criminal or other proceedings are instituted, the records and all other documents shall be preserved until the final disposal of such proceedings.

Even if a non-pregnant woman undergoes any such procedure, still the record should be maintained but only to the extent of taking name, address of the person concerned, name of the referring doctor, purpose for which the procedure is carried out.

Every genetic counseling centre, genetic laboratory, genetic clinic, ultrasound clinic or imaging centre should send a complete report in respect of all pre-conception or pregnancy related procedures/techniques/tests conducted by them in each month by 5th day of the following month to the concerned Appropriate Authority.

### Cancellation/suspension of registration <sup>7</sup>

Even after registration has been validly granted to a faculty, the same can be suspended and/or cancelled if the faculty is found to violate

any provisions of the act or it subsequently falls short of any requirement as to place, equipments and persons employed. Cancellation should be done only after giving show cause notice and giving an opportunity of hearing to the offending party and consideration of the facts and circumstances of the case.

### Offences and Penalties<sup>5,7</sup>

According to section 22 PNDD Act, advertisement in any manner including internet, regarding facilities of prenatal determination of sex available at any genetic centre, clinic or laboratory, shall be punishable with imprisonment for a term, which may extend up to three years, and fine which may extend up to Rs.10,000 for first offence and 5 years imprisonment and Rs.50,000 fine for subsequent offence. In addition, his/her name will be reported to state medical council. His/her medical council registration will be suspended when charges are framed by court, till the case is disposed off and on conviction his/her name will be removed from the medical register for 5 years for first offence and permanently for subsequent offence. [Advertisement includes any notice, circular, label, wrapper or any other document including advertisement through internet or any other media in electronic or print form and includes any visible representation made by means of hoarding, wall painting, signal, light, sound, smoke or gas].

Any geneticist, gynecologist, pediatrician or any other person

contravenes any of the provisions of this Act or rules shall be punishable with imprisonment for a term which may extend to three years and fine of Rs.10,000. On any subsequent conviction, imprisonment may extend to five years and fine may extend to Rs.50,000.

According to section 23(3), 24 of PNDD Act, court shall presume, woman is innocent unless the contrary is proved. Court presumes that her husband or any other relative compelled the pregnant woman, to undergo prenatal diagnostic technique. Such a person shall be liable for abatement of offence with imprisonment up to 3 years and fine of Rs.10,000.<sup>(7)</sup>

According to section 29 of PNDD Act, non-maintenance of records is considered as the violation of PNDD Act and punished accordingly.

According to section 27 of PNDD Act, all offences are cognizable, non-bailable and non-compoundable.

### Discussion

“Girl child is equally welcome” in the society and particularly in the family so that social, familial harmony could be established and crimes related to reduced female population can be controlled. Sex selection in the present context is a complex issue with several stakeholders - doctors, the government machinery looking after the implementation of the Act, health and women's groups and civil society. It is the responsibility of each citizen of the country to contribute in the prevention of injustice to a female child both before and after birth. Each has to play their part to deal with it at various levels.

Our challenge today is to initiate a vibrant, effective campaign against female foeticide. We can reach out to the hearts and minds of our people only if we are all committed to the cause.

### **Various steps to be taken to prevent female foeticide include**

Social awareness for changing public mind-set.

Strict implementation of PNDT and MTP Acts uniformly in all states and union territories.

Sensitization of doctors, NGO'S, Government machinery, Panchayat leaders, Appropriate Authority, Advisory Committee.

Protect unborn girl child.

Educating /sensitizing members of family about gender equality.

Equal treatment, dignity and respect for girl child.

Fight against social evils, religious myths.

Women empowerment- to make it a reality.

### **Role of Forensic Medicine specialist**

In the present situation role of forensic medicine expert is not only confined to four walls of the mortuary but also extends to the betterment of the society and this can be rendered by

Holding seminars to medical and paramedical professionals on the crime of female foeticide and implementation of the PNDT Act at various levels.

Take active participation in public meetings and religious gatherings

and creating social awareness among people regarding equality of both sexes.

Forensic medicine specialists should be appointed as members of State and District Supervisory Committees on female foeticide and PNDT Act.

In order to create awareness in budding doctors Chapter on female foeticide to be included in text-books of Forensic Medicine and Toxicology.

### **References**

1. Sheth SS, Malpani AN. Inappropriate use of new technology: Impact on women's health. *International Journal of Gynecology and Obstetrics* 1997; 58: 159-65.
2. Jain Sharda. Changing Sex Ratio- The dark horizon. *Journal of Indian Medical Association* 2003; 101 (12): 697-9.
3. Griffiths P, Matthews Z, Hinde A. Understanding the sex ratio in India: a simulation approach. *Demography* 2003; 37 (4): 477-88.
4. Supreme Court Judgment dated May 4, 2001 in the PANDT Act, 1994. Reproduced in *Issues in Medical Ethics* 2001; 9: 97-8.
5. KSN Reddy. The essentials of Forensic Medicine and Toxicology. 29<sup>th</sup> edition: Sugunadevi, Hyderabad .2010; 355.
6. Pillay VV. Textbook of Forensic Medicine and Toxicology. 15<sup>th</sup> edition, Paras Publications 2010: 637-638.
7. Guidelines on the implementation of Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994. Government of India; Ministry of Health and Family Welfare: Department of Family Welfare.