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Proceedings

of
The Regional Workshop
on
IMPLEMENTATION OF PCPNDT ACT 1994

Organised By
Institute Of Development Studies Kolkata
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At
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1-2 February 2006

Sponsored by: National Commission for Women

1.**Background**

The Pre-conception and Pre-natal Diagnostic Techniques (PCPNDT) Act passed by the Indian Parliament came into force in 1994 for regulation and prevention of misuse of the diagnostic techniques. Subsequently, following a Supreme court order on its proper implementation certain amendments were made to the Act. The declining sex ratio in India particularly in the 0-6 year age group is a matter of grave concern. It was expected that proper implementation of the PCPNDT Act would check the pre-natal sex determination and elimination of the female foetus within the womb at least to some extent. However, although there has been ample time for implementing the Act, there is no sign that the decline in child sex ratio has been halted. Most states have set up the infrastructure prescribed in the Act, but this infrastructure is still to be effective. The problem of decline in sex ratio is very grave in Northern and Western India, particularly in those states that are said to be economically more developed. However, recent studies show that in certain parts of Eastern India too, the phenomenon has been fast catching up. For instance, the metropolitan areas of Kolkata show a steep decline in the sex ratio from 1991 to 2001 as far as the 0-6 year population group is concerned. It was very urgent therefore that the official and non-official stake holders and those who are actively engaged in implementation in the Eastern region come together in a regional workshop, identify the challenges in the implementation of the Act and find out options to overcome the challenges. With this notion, the Institute of Development Studies Kolkata (IDSK) organized a two-day regional workshop at Swasthya Bhawan, Kolkata on 1-2 February 2006. The workshop was sponsored by the National Commission for Women.

2. **Objective**

The main objective of the workshop was to collectively identify and find ways of overcoming the challenges emerging in the implementation of the amended Act. The major output of the workshop has been a set of recommendations to improve the situation.

3. Methodology

The invitees to the workshop covered four states in the region including Jahrkhand, Orissa, Bihar and West Bengal. In total, 97 individuals participated in the workshop. The health and welfare departments in the concerned states were contacted several times in some cases, for deputing their representatives to the workshop. The state of West Bengal was represented in strength. The workshop was attended by health department personnel, particularly the Medical Officers from the districts, teachers from medical colleges and universities and professional organizations of doctors, lawyers, women, human rights activists and others. From Bihar and Jharkhand, representatives of the Welfare and Health departments – particularly the Medical Officers responsible for the implementation of the Act and a few members of the state advisory committee were also present. Despite formal and informal communications with the concerned officials, there was no representation from the Government of Orissa. The list of participants is annexed at the end of this report.

The workshop was conducted in five sessions. The inaugural session was followed by three separate sessions on the challenges in implementation of the Act, its social dimensions and legal implications

respectively. All these finally led to the session on recommendations. The workshop was conducted in an interactive manner.

4. Details of Resource persons

We had contacted a number of professionals and administrators who have been engaged in the dialogues with regard to implementation of the PCPNDT Act. Finally, the following individuals had promised to form the resource team for the workshop:

- Dr. Rattan Chand, Union Ministry of Health & Family Welfare
- Mr. M. K. Sharma, Union Ministry of Law
- Dr. J.P. Babbar, Family Planning Association of India
- Prof. Malini Bhattacharya, National Commission for Women (NCW)
- Prof. Jasodhara Bagchi, West Bengal Commission for Women
- Dr. Satish Agnihotri, Government of Orissa
- Mr. Arvind Kumar, Government of Andhra Pradesh.
- Mr. Sushanta Sen, Former Commissioner, Family Welfare, Government of West Bengal
- Dr. Sabu George, Centre for Women's Development Studies , New Delhi
- Dr.Ujjal Ray, S.N. Pandit Hospital, Kolkata
- Prof. B.S. Chimni, The W.B. National University of Juridical Sciences, Kolkata
- Mr. Jayanta N. Chatterjee, Human Rights Law Network, Kolkata
- Ms. Jasmine Joseph, National University for Juridical Sciences, Kolkata
- Ms. Bharati Mutsuddi, West Bengal Commission for Women
- Ms.Kamayani Bali-Mahabal, CEHAT, Mumbai
- Ms. Sandhya Srinivasan, Indian Journal of medical Ethics.

Finally however, three of the above resource persons namely Dr. Satish Agnihotri, Mr. Arvind Kumar and Mr. M. K. Sharma, were stopped from attending the workshop because of unforeseen circumstances.

5. Proceedings

5.1 Welcome Address

At the outset of the workshop, Prof. Amiya Kumar Bagchi, Director, IDSK welcomed the participants and other guests. He pointed out that the gender, which is responsible for reproducing human species has been subjected to oppression through out the history of civilization. He reflected that even in the marriage vows of the Hindus a woman is blessed that she would become mother of sons and not a mother of daughters. This traditionally rooted discrimination against women has continued and increased over time with the progress of prosperity and technology. According to him, aggressive commercialization of modern technology is a major factor associated with the decline in sex ratio in south Asia. Besides, legislation that is to be beneficial for the most oppressed is least implemented owing to various social, administrative and political reasons. He said that since a foetus cannot complain, it is the duty of the whole society to stop sex selective abortion. Social and political mobilization and proper implementation of the PCPNDT Act can end the gruesome sufferings of women. Finally, he invited the participants to be engaged in a dialogue over the following two days and concluded his speech, with the hope that effective recommendations would emerge from the deliberations.

5.2 Inaugural Session

Chaired by Prof. Amiya Kumar Bagchi, Director, IDSK

Dr. Rattan Chand, Deputy Director of Health Services -in charge of the PNDT cell in the Union Ministry of Health and Family Welfare was the key speaker in this session. In his presentation, he gave a detailed picture of the declining sex ratio as he focused on the national, state and district level trends of declining child sex ratio over the past two censuses of 1991 and 2001.

He viewed female sex selective abortion as a major social factor associated with declining sex ratio. He also mentioned that son preference, neglect of girl child, and practice of dowry and male biases in enumeration of population are some of other factors associated with the decline. He informed the participants with details of the Act, its beneficiaries and roles and responsibilities of the implementation authorities, violations and penalties formulated under the Act. He mentioned some of the major consequences of sex selection on the condition of lives of women in the society and their health.

He gave an idea of the types and numbers of bodies/ clinical establishments, which have been registered in recent years and types and numbers of cases registered for violating the norms. Penalties under the Act include imprisonment up to 3 years and fine up to Rs. 10,000. For any subsequent offences, the period of imprisonment may further increase up to 5 years and fine up to Rs. 50,000 / 100,000. He also narrated the process of how the name of the violator (generally a registered medical practitioner) is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of professional registration, if charges are framed by the court and till the case is disposed of.

Following this, Dr. Chand shared the main observations and recommendations of the National Inspection and Monitoring Committee (NIMC), which is under the Union Ministry of Health and Family Welfare. In preceding eight months, teams of the NIMC visited selected districts in the states of Maharshtra, Punjab, Haryana, Himachal Pradesh, Delhi and Gujarat. Reports have been sent to the Chief Secretaries of the states for necessary action. According to him, monitoring / supervision of the registered clinics by the Appropriate Authorities is poor. It is suggested that teams like the NIMC may be formed at the state /UT level for conducting visits to the districts. Similarly, teams at the district level may also be formed to effectively supervise the activities of the clinics. According to him, the state Appropriate Authorities, due to non availability of full time staff, it is difficult to monitor the PNDT Act at state / district level. The states should keep provision for this in the state / district Project Implementation Plans. In many cases, the Appropriate Authorities are not aware of their functions and responsibilities. They need to be regularly sensitized. The number of ultrasonic tests performed is under reported. The follow up of court cases is poor. District authorities may utilize services of lawyers and for this purpose, registration money available with them may be utilized. Law department may be requested to provide full assistance to Appropriate Authorities. Close watch needs to be kept on doctors with mobile ultrasound machines. There is a need to have regular interaction with the registered centres. For this, professional bodies such as IMA/IRIA are to be involved. It is also found that maintenance of records by the registered clinics is poor (address of pregnant women missing/incomplete, form F not signed by the PW / doctor, blank form F signed etc.). During the visit of the NIMC, the district Appropriate Authorities took action against a number of clinics. The number of clinics sealed/licences suspended were nine in Himachal Pradesh (six and three in Una and Kangra districts respectively), and eight in Delhi. Twelve such clinics were sealed in Gujarat of which four are in Gandhinagar, five in Mehsana and three in Ahmedabad districts. Violations were also found both, in rural and urban Bangalore in Karnataka too.

He mentioned some of the recent measures taken in this regard. For instance, interaction with various partners has been intensified through organizing meetings, participation in workshops, delivering sensitization lectures to the physicians and others A training of the Judiciary was conducted on 15-17 September 2005 at the National Juridical Academy in Bhopal. He informed that the first annual report on implementation of the PCPNDT Act 2004-2005 would be published soon. Sensitization of officers of the MOH&FW and other ministries and departments are being conducted on the issue of sex selection and the possible areas of integration. There have been attempts in other spheres too. As part of these, spiritual leaders have been requested to spread the message against sex selective abortion, a meeting was held with the Art of Living group, Swami Aginivesh led a rally/ 'yatra' from Gujarat to Amritsar to spread awareness on this issue. Besides, to spread awareness among the administrators, map of Delhi indicating the scenario of 'Missing Daughters' has been distributed among the Secretaries of important Departments for display in their office buildings.

In conclusion, Dr. Chand shared some of the plans for future. These include more frequent visits of NIMC to the states and districts, telecasting of the PNDT Video spots on Doordarshan and private satellite channels in near future, involvement of NGO in training and district level workshops.

The second speaker of this session was **Dr. J.B Babbar** of the Family Planning Association of India. In his brief speech, Dr. Babbar expressed his hopes that West Bengal – the place known for social

movements and leaders like Raja Ram Mohan Roy and Pandit Vidyasagar, will also play a key role in the implementation of the Act. He focused on changing the mindset of people and said that one needs to address the issue of son preference in terms of a son's right to light up one's pyre. According to him, daughters should come up and take up this responsibility. He concluded after indicating that a new website will be launched soon. This will not only offer people a new channel for registering their complaints but also ensure privacy.

Prof. Malini Bhattacharya was the concluding speaker of this session. She began with expressing thanks to IDSK for holding this workshop and opening opportunities for exchanging views at a time when the National Monitoring Committee was visiting West Bengal. Referring to Dr. Chand's presentation she said that there are many problems in West Bengal. She explained saying that though the problem of declining sex ratio is not so serious in this state as compared to others, the situation of the 0-6 year age group living in Kolkata and some other districts has worsened since the census of 1991. As a member of the National Commission for Women she asserted that the NCW has placed the matter of declining sex ratio among the children or missing girls on the top of agenda towards proper implementation of the Act. She appealed for being proactive to arrest the trend immediately and said how the National Commission for Women is committed to that.

Prof. Malini Bhattacharya said that while the PCPNDT Act is a good tool, it is not implemented properly. Some of the problems such as those of space at district level to keep documents and others need to be solved by Appropriate Authorities themselves at the state/ district levels. To make the law proactive, attention is to be paid to the issues of non-registration or failure of clinics to maintain documents among others. She ended her brief speech with the positive consequences of the PIL filed by CEHAT, Mumbai and Dr. Sabu George and improvements with the order of the Supreme Court.

Finally, Prof. Amiya Bagchi as the chair person, concluded the session saying that son preference, which was initially confined to upper caste Hindus has now pervaded across all religions and castes. He added that this issue is to be handled taking other spheres/dimensions like unemployment into account.

5.3 Session I: Challenges in Implementation of the PCPNDT Act 1994

Chair: Prof. Malini Bhattachrya, National Commission for Women

At the outset, the chair-Prof. Bhattacharya informed the participants that two resources persons – Dr. Satish Agnihotri and Mr. Arvind Kumar could not be present in the session. They were prevented respectively due to thick fog in Bhubaneswar and airport strike hitting flight operations in Hyderabad. After this, she introduced the speakers of the session.

The first speaker of this session was **Dr. Sabu George** of Centre for Women's Studies (CWDS), New Delhi. Dr. George was the first with CEHAT-Mumbai to bring the issue to public attention. As a consequence of their PIL, the Supreme Court was forced to look at the issue more seriously. In his deliberation, proactive Dr. George expressed his anger at the grim situation in West Bengal where a number of reforms have taken place. According to him, when it is the issue of implementation of the PCPNDT Act, Bengal plays a dormant role. He pointed out that the State Women's Commission in other states like Karnataka and Maharastra have been very active and appealed that the West Bengal Women's Commission also be proactive to address such an important issue or social concern. He pointed to the fact that while some very active and dedicated doctors are working in Kolkata, they are individuals. In

contrast, the Bengal chapter of Indian Medical Association (IMA) does not take a positive role in eradicating an issue like sex selective abortion. According to Dr. George, this should become a primary concern for all medical professionals. He was of the view that the state High Courts' stay order should be challenged / vacated and all out effort should be made to fight this social problem. He also added that the health departments should take up responsibilities, identify the practices/ mal practices happening openly and widely in respective states, who can take help from the 'good' doctors, if necessary. Referring to the media-highlighted article published in *The Lancet* as sensational, he hoped that proactive steps by institutions would stop the related malpractices. He would not like the rest of the world to blame India as the country of 'missing female births'.

The next speaker of this session was **Mr. Susanta Sen –** the former Commissioner, Family Welfare, West Bengal. In partial agreement with Dr. George, Mr. Sen presented some additional facts on West Bengal. He pointed out that districts of North and south 24-parganas, Bardhaman, Hoogly, Mursidabad, Medinipur and Kolkata need to be monitored very closely. He said that in all the districts, Appropriate Authorities are formed and guidelines are given but there are certain difficulties faced by the Authorities as well as the District Medical Officers in implementation of certain specific aspects of the Act. He mentioned three major difficulties in implementation of the ACT – at registration, in maintenance of F-forms and analysis of birth and death registers / records. He informed that since the order of the Supreme Court, out of three hundred and twenty cases in total, three hundred and two have been given registration, while eighteen are pending. Till date, there are cases against ten institutions for not following the registration procedure, not maintaining records and unethical use of USG machines. According to him, issues are not related to the PCPNDT ACT alone, rather they are related to both, the PCPNDT Act and the clinical Establishment Act as well. He mentioned in further details some of the court cases, which are yet to hear the verdict. He said that there are issues involving unethical use of Ultra Sonography (USG) and offences commenced by the companies on fronts of sale, re-sale and purchases of equipments. Finally, Mr. Sen put forward some measures, which he thought would be necessary for proper implementation of the PCPNDT Act. These primarily include methodical analysis of the birth and death registers in order to understand the trends and strengthening and expansion of the team of Appropriate Authorities. According to him, the team is now constituted of a handful of individuals, who also have other duties to fulfill. A big team will be of help particularly during raids and seizure of ultra sound machines. He concluded with the assurance of intensifying the rigour in implementation of the Act by already involving the local TV channels for disseminating information and generating mass awareness and involving the panchayats in reporting from the districts in future.

This session ended with interesting interactions among the Speakers / resource persons, the Chief Medical Officers of Health from the districts and the representatives of professional bodies such as the Indian Medical Association, The Bengal Obstetricians and Gynaecologists Society (BOGSY) and teaching medical hospitals (names are available in the participants' list). The concerns of the CMOH and professional bodies were rooted in their experiences and differed from each other. However, what was common in what they said is recognising the act of sex selection as a 'social problem' that requires change in the mindset of people rather than a subject of unethical medical practice or both administrative and organizational failure in regulation of the health sector.

The important challenges that were mentioned by the **CMOH** of districts included difficulties in detecting cases as ultra sonography for sex selection and abortion are done at different places, inadequacy of manpower and lack of information on whether registration of USG machines could be transferred from

one district to another. A suggestion was made to involve the NGOs in reporting of cases. A member representative of BOGSY who had earlier led the state **IMA-** Dr. Kajol Krishna Banik, admitted that the medical profession should not engage in a heinous act like sex selection, however a large proportion of USG is done by non-medical persons or institutions. There was also a discussion on who among the physicians can be qualified to use the USG machine. There were some who said in favour of the doctors with a M.B.B.S degree alone and there were some others in favour of an additional qualification in Radiology. Dr. Sanjeeb Mukhopadhyay, the president of the **BOGSY**, however, admitted that the medical practitioners do have access to information about the malpractices in the city. He considered 'medical audit' could be an important step towards fighting against the social evil.

The resource persons had very productively intervened in above discussions. Dr. Sabu George suggested that an early response by the health departments in arresting the declining situation in the districts, provision of adequate legal assistance, effective regulations are necessary at this point in time. They all agreed that women's rights are to be protected in ways such as stopping fetal sexing but not restricting women's rights to abortion. While there is a huge social pressure on women that forces them to undergo sex selection, often it is the women who are blamed or socially victimized for this. Changes have been incorporated in certain section of the Act and as a result, women cannot be made equally responsible for sex selection till her active involvement is proved.

At the end the chair thanked the speakers and concluded the session.

5.4 Session II-Social Dimensions of the PCPNDT Act 1994

Chair: Prof. Prasanta Ray, Institute of Development Studies Kolkata

This session was started by a deliberation of **Prof. Jasodhara Bagchi,** West Bengal Commission for Women. She started off by referring to the discussions in the previous session and emphasized the fact that mindset of the people that is dominant for long time, needs to be addressed. She mentioned that contrary to the popular belief that son would take care of parents in old age, in present time the daughters actually look after their parents. The traditional folk stories and songs have largely reiterated the glory of having a son over the drudgeries of giving birth to a baby. Till today people follow the rituals and rites that offer a superior status to men. She also pointed out how the advertisement of GEN SELECT that was floated a few years ago in the year of 2001 had used and fueled this popular belief among the masses. She stated that practice of 'dowry' is yet another important factor that plays a role in son preference.

Prof. Bagchi expressed her concern about how young women were trafficked from West Bengal to other states where girls are in fewer numbers. She described how these girls – through marriage- are trafficked to the states like Punjab and Haryana but there was absolute lack of coordination in catching the culprits. Declining sex ratio in these states where sex selective abortion using PNDT (technique) has become a status symbol is rather explained more as a demographic problem. Very often such abortions become extremely precarious for women's health. But people are not bothered about women's health because the sole objective of these people is to stop a female foetus from being born. So it is an extremely problematic situation that we are dealing with. Therefore, our fight needs to be more pointed and systematic. Dr.Bagchi referring to the morning session said that the issue that caught her attention was the lack of sharing of information. The Appropriate Authority or the monitoring body and the Associations, those who can send out signals to the numerous doctors, unfortunately lack coordination between them.

All these have tremendous implications for women's health. Under such circumstances, she stated that there are many social impediments that are to be dealt with in a social manner. If it is an issue of changing mindset then we have to find out means for bringing about that change. One way of doing that could be incorporation of information on misuse of the pre-natal diagnostic technique into medical education and all kinds of health awareness programmes. She concluded urging that PNDT should not be misused by some to campaign against abortion. The problem is that very systematically one half of mankind, the half that is responsible for the future of any country is being eliminated and it is imperative that immediate actions are taken to stop such an organized, heinous crime.

The next speaker of this session was **Dr. Ujjwal Ray** of S.N. Pandit Hospital in Kolkata. He began with a statement that women have a right to live. He showed some slides and informed how social stigma is helping the culprits to misuse PNDT and continue with their heinous activities. He felt that despite knowing who these culprits are, responsible people and institutions are reluctant to take action. This is because often it is difficult to find proof of such acts. He also felt that doctors are either showing a mixed response or largely remaining silent – not coming out to help as required in a problem of such a big dimension. He felt that though there are display boards in every hospital/nursing home saying sex selection is not done here, this is not effective. According to him, more money should be spent on public awareness using television and other media.

Ms. **Kamayani Bali-Mahabal** was the last speaker in this session. After briefly narrating the key role played by CEHAT- the organization that she represents- in the legal amendments of the 'Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act-1994' and its implementation, she said that CEHAT works on the issues of health and human rights. CEHAT along with MASUM and Dr. Sabu George (independent activist) had filed a PIL in the Supreme Court in February 2000 to review the Act, which till then existed on paper only. Narrating the findings of a survey conducted in Rajasthan and other observations, she pointed out that people often get wrong signals and are confused between 'rights to abortion' and commercially organized opportunities for abortion of the female fetus preceded by sex selection using PNDT.

She suggested that the National Commission for Women and the state commissions should monitor the kind of communications materials that are being distributed among the masses. Special attention should be given to words used in these documents. In addition, she said that Appropriate Authorities are sometimes helpless, as they have to monitor many health programmes and above all do not know how much power they have with regard to this specific Act. Also there is shortage of space and manpower to accommodate the seized unregistererd USG machines. According to her, lack of coordination is one of the key factors in their failure in performance and the authorities and NGOs should work together.

Following Ms. Kamayani's speech, debates and dialogues continued for some time. While the members of IMA and BOGSY who were present in the session said that policing doctors was not their job, the activists felt that these organizations could be proactive, if they so wanted. Dr. Sabu George said if the political parties took up this issue, it would be much easier for the social activists to work in this regard. Ms. Kamayani said that if doctors do not take responsibility, no one else can stop this mass killing. Dr. Kajol Krishna Banik representing IMA and BOGSY pledged that they will take active role and try to punish the offenders in future. Prof. Amiya Kumar Bagchi of IDSK said that doctors are the best persons to counsel a woman and her family against sex selection. Dr. Sabu George further pointed out that it is

medical ethics that doctors should expose corruption. Dr. Ujjwal Roy suggested that IMA should strike off name of the offenders. That will be severe punishment for them.

Prof. Jasodhara Bagchi had take the dialogue to another dimension. She said that the State Commission for Women is still looking for more concrete spaces for intervention. She mentioned that their original interventions were of the kind which meant that two of their members be selected in the advisory committee. Prof. Malini Bhattacharya and Ms. Bharati Mutsuddi of the Commision are part of the State Advisory Committee. But even then, the real problem is that the meetings are held irregularly and these meetings stop often when evidences against some professionals are found.

In addition, Dr. George expressed an opinion that people in Bengal read both, the media and the political system very closely. Therefore, these channels of communication should be optimally utilized to generate mass awareness on these issues. The political leaders should make statements about such a grave matter.

Drawing attention to the socio-cultural system women are rooted and citing example and perceptions of some woman doctors in Mumbai, Ms. Kamayani argued that doctors unfortunately (even a woman doctor) are not sensitized enough to realize the burden of sex selective abortion on a woman. There are several factors such as the family pressures wanting a son that force a woman to give in her consent for an abortion.

At the end Prof. Prasanta Roy summarized the session and thanked the speakers.

5.5 2nd Day_Session III: Legal Implications/Aspects of the PCPNDT Act 1994

Chair: Prof.B.S.Chimni, The West Bengal University of National Juridical Sciences

Prof. Chimni began the session by saying that the PCPNDT Act 1994 raises a few generic issues like the issue of unintended consequences of any legislation; secondly, the extent to which laws can be effective in bringing about social reform especially when laws have to address issues which fracture our society. Besides such generic issues, there are technical ones as well, like how to gather evidence with regard to the abuse of the Act and what kind of evidence is required in courts of law to prosecute offenders. The Act also makes it imperative to ponder on the role of medical associations and/or consider the issue of medical ethics. He hoped that the distinguished panelists would address a wide range of these issues.

Mr. Jayanta Chatterjee, an advocate representing the Human Rights Law Network in Kolkata was the first speaker of the day's first session. At the outset he gave a brief understanding of the Act. He mentioned that when the Act was enacted in 1994 the name of the Act was Pre-natal Diagnostic Technique (Regulation and Prevention of Misuse) Act 1994. Later, it became operative from 1st January 1996 in order to check sex selective abortion. Rules were framed under the Act, The Act prohibits determination and disclosure of the sex of the foetus. It also prohibits advertisements relating to pre-natal determination of sex and prescribes punishment for its contravention. The person who contravenes the provisions of this Act is punishable with imprisonment and fine. Yet according to him, he could not find any case registered in West Bengal under this Act. He felt that until and unless a few cases are booked, it is difficult to gear up implementation of the Act. In addition, as this offense is described as non-bail able and non-cognizable, involving police is very important. However, police are not generally aware of this Act and therefore they need to be sensitized.

He referred to some important sections of the PCPNDT Act like Sections 3A, 3B, 5, 22 and 23 and discussed some of the major changes in the original Act and related advantages. He expressed that along with NGOs, the police should also have been directly brought under this Act so as to make the Act more effective.

The second speaker in this session was **Ms. Jasmine Joseph** from The West Bengal National University of Juridical Sciences. She began by offering a brief account of and comments on the amendments made in the Act till 2003. She said that statistics very dispassionately speak volumes about the deficit in the sex ratio. According to her, a deeper probe into the issue reveals an unholy alliance between different factors like traditional views regarding son preference and up-market modern technology. The issues vary from social, cultural, ethical, technological, political, economical and legal if not more.

She spoke of missing women and endangered sex. She also challenged the concept of 'norm' in the society. According to her, normalcy is a relative term that influences and implicates the decision of which fetus to be aborted. She considered large-scale female sex selective abortion to be the result of an unholy alliance between traditional views and modern technology. She felt that political and social dimensions of this issue need to be addressed. She added that the social settings of such a situation is to be probed. According to her, this Act attempts to address technological and medical issues but not the social issues. Among the social issues she pointed to more examples such as why there are twice as many as missing girls among educated class compared to the illiterate strata of society? Why the affluent and educated parents were more willing to resort to sex selection than others? Thus she mentioned various arguments that prevail in the legal discourses in this context. These include the relative notion of 'normalcy' used in selection of sex or deciding on abortions, the issue of women's choice in sex planning vis-à-vis the feminist argument in favour of women's right over their bodies and right to self determination and empowerment of individuals with legal right to family planning while sex-planning is prohibited. Finally, she argued that all these contradictions are located and operate in a social setting which is deeply rooted in patriarchy. She added that these arguments also have a sexist bias in them. They are only seemingly pro women or pro family.

The last limb of her speech focused on the fact that if the PCPNDT Act is evaluated against the abovementioned backdrop, does the Act provide any solutions? The problem with the Act is that it is a technical expression of a phenomenon which is not so very technical. The Act does address technology, people behind the technology but the mindset of people who adopt and practice the technology is not given due cognizance. It should have been more contextualized. She hoped that perhaps, these factors can be considered at the level of implementation of the existing Act. She hoped further, that there will be successful prosecutions, active machinery and so on. Most of the cases booked in India under the Act about 250 of them concerned USG machines not having licenses or registration and very few (about 24) of them deal with the problem of sex selection. Unfortunately none of these cases have been successfully prosecuted under the law. According to Ms. Jasmine, the implementation machinery requires to be more sensitive to the actual social setting and the cause of women so as to implement even a bad enactment.

Ms. Bharati Mutsuddi, a representative of the West Bengal Commission for Women and a member of the state Advisory Committee was the last speaker in this session. She started by saying that girl child's rights are not always recognized in society. She agreed that activities such as awareness generation or holding campaigns are necessary but the major challenges are to change the mindset of the people and proper implementation of the law. She believes that without taking up these major challenges, nothing effective can be done. After indicating proper implementation of the Act as an important pre-requisite in

changing the society in favour of the girl children, she went into a detailed discussion on specific sections of the Act, which included sections: 23, 27 and others. She mentioned the huge responsibilities that the administrators, and practioners of law and medical technologies share in a society to protect the rights of a girl child. Lack of monitoring on their part therefore leads to negative implications. She sited examples from West Bengal such as lack of monitoring of the wards under Kolkata Corporation or failure of the court in framing charges against cases lodged and others.

Following the presentations, the floor was open for discussion. Some of the participants had also sought clarifications of specific queries. The chairperson Prof. Chimni concluded the session by summarizing the the suggestions that came up through presentations and the following dialogue. These suggestions are knit into the following section on recommendations.

5.5 Session IV – Recommendations.

Chair: Prof. Malini Bhattaharya, National Commission for Women

The PCPNDT Act 1994 is the first major attempt to regulate medical technology in India. It is one of the better-drafted pieces of progressive legislation in our country, as it has evolved through prolonged interaction among all stakeholders – the state, the medical profession and civil society groups. In this session, the suggestions that emerged in the workshop were presented. These included social, legal and other issues of administration and ethics. The participants responded to this and through a dialogue a list of recommendations were prepared for follow up. It was pointed out that certain aspects of the Act and the Rules create difficulties in implementing the Act. Some of them are included in the list. The list of recommendations included follow up actions in areas of monitoring, sensitization / training, advocacy and changes in the Act itself for facilitating its implementation in future. **The list of recommendations is annexed (Annex A)**.

5.6 Vote of Thanks

The workshop ended with vote of thanks extended by Prof. Amiya Kumar Bagchi, Director of the Institute of Development Studies Kolkata. He expressed that IDSK will continue to provide support in similar issues. In response to the appeal made by women from Durbar Mahila Sammanay Committee (DMSC) of Kolkata, he ensured to take necessary measures in future to communicate the proceedings of such sessions to and conduct training programmes in Bengali for those who are not comfortable with English. He conveyed his heartfelt gratitude to the participants for making this workshop a success. He hoped that the recommendations will be followed up by concerned authorities/ institutions. The participants also expressed their pleasure and thanks to the organizers, in return.

ANNEXE A

RECOMMENDATIONS

A. Monitoring

- Ensure regular meetings of State Supervisory Board.
- Ensure adequate infrastructural and administrative support for State and District Authorities.
- 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.
- Ensure qualified legal advice for District AAs wherever necessary.
- Prepare biennial audits of birth registers at hospitals and clinics to monitor sex ratio trends.
- Follow up pending court cases, if necessary by setting up fast-track courts.
- Ensure direct involvement of the State Commission for Women and other women's organizations in monitoring
- Ensure regular monitoring of the wards in Kolkata Corporation

B. Sensitisation/ Training

- Prepare guidelines in Bangla and Hindi for District AAs.
- Sensitize the government lawyers, police and doctors for better enactment of law.
- Review the language, content and strategies used in mass /public communication

C. Advocacy

- Ensure continuous advocacy in various spheres and at different levels. Concerned monitoring partners can play the role of major advocates on the basis of their observations and experiences.
- Ensure advocacy between neighbouring states, regional representation at the national level.
- Ensure advocacy within the state and upto district level –with the concerned departments/ institutions/ professional associations, panchayats and others. .

D. Suggestions to make the Act Stronger/ more effective

- Rule 3 provides the minimum requirements for a Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, Ultrasound Clinic and Imaging Centre. The 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.
- 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.

- The role of the police in the implementation of this Act needs further elaboration. Going by the experience of other progressive social legislations, the law-makers have continuously denied a clear, significant role to the police. 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.
- The process for filing a legal case 9 and following it up) under this Act needs elaboration. The role of Government Pleader, the AA, Advisory Committee, and civil society groups should be defined properly.

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