

PC PNDT Act a national overview and its implementation in context to MTP Act

Dr. Neelam Singh

National overview:

Son preference and discrimination against the girl child is almost universal in India and manifests it in many ways, including pre-birth elimination of female foetuses. This practice has led to decline in the Child Sex Ratio in most parts of India. The Child Sex ratio, which is the number of girls per 1000 boys in the 0-6 years age group, declined from 976 in 1961 to 914 in 2011 (source: Census)

Ironically the major reason for declining sex ratio is the proliferation of modern technology (pre natal diagnostic procedures) and easy and affordable access to such technology with its rapidly expanding use for the purpose of pre and post conception sex selection followed by elimination of foetus, if found to be female. As the first step in female foeticide is sex determination which is followed by the sex selective abortion/termination of pregnancy.

Objective of PC PNDT Act:

The objective of the PC PNDT Act is to provide for the **prohibition** of sex selection, before or after conception, **regulation** of pre-natal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and **prevention** of their misuse for sex determination leading to female foeticide. It precisely concerns itself against the practice of sex selection/determination demanding ethical medical practice & regulation of medical technology that has the potential to be misused.

The technologies (pre natal diagnostic procedures) came in 1975 and with the recognition of the non invasive techniques the demand led supply gradually facilitated in daughter aversion leading to national decline in child sex ratio. Foreseeing the scenario the bill was introduced in the Parliament, successively the PC PNDT Act came in 1994. Taking cognizance of this issue, the Government of India responded to the imperative need of the hour by passing Pre conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 to stop this practice and misuse of technology for prenatal sex determination.

S. no	State (Source: Census 2011)	Child Sex Ratio (0-6 years) 2001			Child Sex Ratio (0-6 years) 2011			Diffrence (2001-11)		
		Total	Rural	Urban	Total	Rural	Urban	Total	Rural	Urban
00	India	927	934	906	919	923	905	-8	-11	-1
01	Jammu & Kashmir	941	957	873	862	865	850	-79	-92	-23
02	Himachal Pradesh	896	900	844	909	912	881	13	12	37
03	Punjab	798	799	796	846	844	852	48	45	56
04	Chandigarh	845	847	845	880	871	880	35	24	35
05	Uttarakhand	908	918	872	890	899	868	-18	-19	-4
06	Haryana	819	823	808	834	835	832	15	12	24
07	Delhi	868	850	870	871	814	873	3	-36	3
08	Rajasthan	909	914	887	888	892	874	-21	-22	-13
09	Uttar Pradesh	916	921	890	902	906	885	-14	-15	-5
10	Bihar	942	944	924	935	938	912	-7	-6	-12
11	Sikkim	963	966	922	957	964	934	-6	-2	12
12	Arunachal	964	960	980	972	975	957	8	15	-23

	Pradesh									
13	Nagaland	964	969	939	943	933	973	-21	-36	34
14	Manipur	957	956	961	936	931	949	-21	-25	-12
15	Mizoram	964	965	963	970	966	974	6	1	11
16	Tripura	966	968	948	957	960	947	-9	-8	-1
17	Meghalay	973	973	969	970	972	954	-3	-1	-15
18	Assam	965	967	943	962	964	944	-3	-3	1
19	West Bengal	960	963	948	956	959	947	-4	-4	-1
20	Jharkhand	965	973	930	948	957	908	-17	-16	-22
21	Odisha	953	955	933	941	946	913	-12	-9	-20
22	Chhattisgarh	975	982	938	969	977	937	-6	-5	-1
23	Madhya Pradesh	932	939	907	918	923	901	-14	-16	-6
24	Gujarat	883	906	837	890	914	852	7	8	15
25	Daman & Diu	926	916	943	904	932	894	-22	16	-49
26	Dadar & Nagar Haveli	979	1,003	888	926	970	872	-53	-33	-16
27	Maharashtra	913	916	908	894	890	899	-19	-26	-9
28	Andhra Pradesh	961	963	955	939	941	935	-22	-22	-20
29	Karnataka	946	949	940	948	950	946	2	1	6
30	Goa	938	952	924	942	945	940	4	-7	16
31	Lakshadweep	959	999	900	911	911	911	-48	-88	11
32	Kerala	960	961	958	964	965	963	4	4	5
33	Tamil Nadu	942	933	955	943	936	952	1	3	-3
34	Ponducherry	967	967	967	967	953	975	0	-14	8
35	Andman & Nikobar	957	966	936	968	976	954	11	10	18

Implementation of PC PNDT Act

S. No.	States	Bodies registered	Cases filed	No. of convictions
1	Uttar Pradesh	4838	52*	0
2	Arunachal Pradesh	23	0	0
3	Assam	566	2	0
4	Bihar	1342	10	0
5	Chhattisgarh	594	7	0
6	Goa	143	7	0
7	Gujarat	3904	109	4
8	Haryana	1451	70	30
9	Himachal Pradesh	238	0	0
10	Jammu & Kashmir	212	1	0
11	Jharkhand	717	0	0
12	Karnataka	2878	45	0
13	Kerala	1336	0	0
14	Madhya Pradesh	1587	24	5
15	Maharashtra	8855	317	45
16	Manipur	58	0	0
17	Meghalaya	36	0	0
18	Mizoram	41	0	0
19	Nagaland	34	0	0
20	Orissa	640	21	3

21	Punjab	1321	120	24
22	Rajasthan	1864	274	0
23	Sikkim	26	0	0
24	Tamil Nadu	4978	77	0
25	Tripura	64	0	0
26	Uttarakhand	516	4	0
27	Andhra Pradesh	4693	21	0
28	West Bengal	2014	7	0
29	Andaman & Nicobar	9	0	0
30	Chandigarh	70	2	0
31	Dadar & Nagar Haveli	15	0	0
32	Daman & Dew	11	0	0
33	New Delhi	1794	62	0
34	Lakshadweep	18	0	0
35	Pondicherry	68	0	0
Total			1232	111

* The data (cases filed & no. of convictions) pertaining to UP is upto September 2012 while for other states/UT it is up till June 2012

Statutory bodies:

The PC PNDT Act prescribes that the state government shall constitute the below given boards & committees and vis-s-vis appoint Appropriate Authorities for the purposes of the Act. The under-mentioned bodies have been structured at all peripheries and are functional.

The statutory mechanisms as prescribed in the PC PNDT Act are as follows:

Central Supervisory Board (CSB)	⋮	National inspection & monitoring committee (NIMC)
State Supervisory Board (SSB)	⋮	State inspection & monitoring committee (SIMC)
State Appropriate Authority (SAA)	⋮	District inspection & monitoring committee (DIMC)
State Advisory Committee (SAC)	⋮	
District Appropriate Authority (DAA)	⋮	
District Advisory Committee (DAC)	▼	

MTP Act

The abortion was a crime, for which the mother as well as the abortionist could be punished except where it had been induced in order to save the life of the mother. The breach of law which went unnoticed, was one of the prime reasons for the untimely death of the pregnant mothers and besides the prevailing medical facilities at the block and Panchayat level were also not adequate which had facilitated in the foundation of quackery (abortions being conducted by paramedical practitioner). Therefore it was the twofold strategy of the GOI, as on the one hand they intended to limit the maternal mortality resulting from the illegal abortions, moreover beyond that **bestow women their reproductive rights**.

Objective of MTP Act:

The law concerns itself with the avoidable wastage of the mother's strength, health and life, consecutively liberalizing and conferring her right to terminate pregnancy under certain provisions as referred below. The aforementioned law provides for the termination of certain pregnancies by registered medical practitioners following three conditions which are to be fulfilled-

- The length of the pregnancy shall not exceed twenty weeks, conclusive of
 - That the continuance of pregnancy would involve a risk to the life of the pregnant woman or grave injury to her physical or mental health

- There is a substantial risk that the child born, shall suffer from physical or mental abnormalities
- The medical practitioner has to be trained (or have experience) in gynae/obs
- The place where the pregnancy to be terminated has to be registered by the district authorities

The woman in India has still lesser information and accessibility to contraceptives and is very much dependable to her male counterpart. Though the Medical Termination of Pregnancy Act was the first progressive step towards her reproductive right which was incredibly empowering but unfortunately it is still not in the hands of a woman to come to a decision to keep or terminate the pregnancy (under the provisions laid by law) which is believed to be the sole right of her husband. Therefore the abortion turns into a mode of contraception, thus providing an absolute family planning measure. Even the lady doctor performing the MTP remarks the consensus of the husband. So where are the rights of woman we are referring to?

Statutory mechanism:

- The chief medical officer is the nodal person in district to vouch the implementation of law
- Composition & tenure of District level committee- such committee is to be formed (renewed after two calendar years) of which the one of the member shall be a Gynaecologist/Surgeon/Anaesthetist and other members from the local medical profession, non-governmental organization and Panchayati Raj Institution of the district.
- The requisite formats have been prescribed under the law according to which the centres are to report and maintain the records pertaining to the termination of the pregnancy

Status of implementation:

The MTP Act is less put into practice than the PC PNDT Act. Of more than 30 years of enactment of MTP Act in India its implementation at the ground level is very poor. The mushrooming of centres in districts & far flung areas has given birth to dais/paramedical practitioners conducting illegal abortions. Moreover we do not have any valid data on abortions in India; the sparse data received till yet is only from the large scale data. Likewise the -

- * Committees have not been formed under MTP at districts
- * Registration under MTP Act is sporadic
- * No regular inspections are conducted under the MTP Act
- * Institutional standards prescribed under MTP Act are not followed across the board
- * Albeit the medical termination of pregnancy has become the modus for the family planning
- * And above all the availability of service in the public health is also dishevelled at block/CHC levels making the scene dreadful for a pregnant woman

A comparison- MTP Act & PC PNDT Act

What confuses the people is that the MTP Act permits the termination of pregnancy, while on the other hand PC PNDT Act prohibits it. Well, on a careful perusal of both the Acts, it is clear that there is no conflict as such between them. While the MTP Act provides for a specific set of conditions on the fulfilment of which termination of pregnancy can be permitted, nowhere does it allow sex-selective elimination of pregnancy. Thus, it is in line with the basic premise of the PC PNDT Act which clearly prohibits sex selection/determination of foetus which may lead to (and in many cases does lead to) sex selective elimination of pregnancy. Here, the main reason for elimination of pregnancy is usually the detection and rejection of female foetus in the womb while the MTP Act provides for safe elimination of pregnancy on the basis of eugenic or humanitarian grounds endangering the mother's health.

Thus, it is evident that the MTP Act and PCPNDT Act are not in any way in conflict with one another. Thus the former do not challenge the constitutional validity of the latter.

Female foeticide/sex selective abortions are the second trimester abortions and whenever they are questioned the doctors consider threat, that they will be scanned under PC PNDT Act. As result it is expressed at various forums that doctors stop providing medical termination of pregnancies of mid trimester and then there is a demand that PC PNDT Act is derogatory to the rights of women and needs correction.

Challenges:

- Taking stock of the PC PNDT Act the Supreme Court had to intervene in to 2001, 2003 and in 2012. Though the amended Act came into effect on 14/2/2003. However, as observed by the Supreme Court, there was total inaction on the part of the Government in implementing the provisions of the Act. Only after several directions were issued by the Supreme Court and the various High Courts, that Government *took upon itself the task of creating general awareness, sensitization and also prosecuting doctors and clinics which were found violating the provisions of the PC PNDT Act*. SC's intervention and attention by the CSO and women agencies has taken momentum which is catching fast but regarding MTP nothing as such is noticeable
- The overarching area of both the Acts. The basic premise or the prime objective of both the MTP & PC PNDT Act are to be understood and valued
- Though the data regarding the child sex ratio & sex ratio at birth is on charts in Census, NFHS, SRS, and right now in AHS (annual health survey- by GOI), contrary in reference to termination of pregnancy we unfortunately have very desegregated data pertaining to maternal mortality resulting from unsafe abortions or in whole
- No reporting of spontaneous/missed abortions?
