

Daily Diary

To be filed - Women's Health

RESPONSE TO THE QUESTIONNAIRE ON THE PRE-NATAL  
DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION  
OF MISUSE) BILL 1991.

Question 1. For many years now, organizations like ours working on issues pertaining to Women, Health, Social Justice and Human Rights have been concerned about the increasingly widespread misuse of prenatal diagnostic techniques for sex determination and have consistently campaigned for strict regulation of such tests. We therefore feel it is eminently desirable for the Central Government to enact suitable legislation to control these tests at the earliest.

Question 2 : Medically speaking, the terms 'pre-natal diagnostic techniques', 'pre-natal diagnostic procedures' and 'pre-natal diagnostic tests' cover a wide range of techniques, tests and procedures necessary for ante-natal monitoring and care. These could include anything from checking of blood pressure, weight, examination of urine for the presence of albumin, sugar to use of high-resolution ultra sound equipment, to exhaustive genetic counselling and detailed chromosomal analysis. Such ante-natal services and care is supposed to be provided in a tiered fashion beginning from the dispensary level run by an ANM (Auxillary Nurse Midwife) to highly specialized apex institutions such as the All India Institute of Medical Sciences. While it is essential to standardize and streamline all procedures related to ante-natal care, the expressed purpose of this legislation is to regulate and control pre-natal diagnostic techniques, procedures and tests which have a potential for sex determination. For the purpose of this Bill, the terms pre-natal diagnostic techniques, procedures and tests as defined are not specific enough and hence provides considerable scope for ambiguity and arbitrariness thereby defeating the very purpose of the Bill. In our note on "Suggested amendments in Bill No. 155, of 1991", we have therefore used the terms designated tests and specified tests and to pinpoint exactly which pre.natal diagnostic techniques, procedures and tests this legislation should control.

Designated tests are all pre-natal diagnostic techniques, procedures and tests currently available, and in use and those likely to develop in future which are essentially meant for the detection of chromosomal anomalies, genetic metabolic diseases, haemoglobinopathies, sex-linked genetic diseases and congenital anomalies. As part of the diagnostic procedure for detecting sex-linked genetic diseases, these tests are also meant to detect sex of the fetus which is necessary both for the rational management of the disorder and for the counselling of the parents. It is this aspect of the procedure that has been widely misused and which

the proposed Bill undertakes to control.

Specified tests are all pre-natal diagnostic techniques, procedures and tests which apart from the function of detecting fetal abnormalities may also find wide use in general gynaecological and obstetrical practice. For instance, ultrasonography can be used for detection of congenital malformation as well as for detecting growth deviations, and establishing placental implantation amongst many others. However, since such techniques, procedures and tests have within them the inherent possibility of providing information regarding the sex of the fetus, they are naturally open to misuse for sex determination and are being increasingly misused for sex determination. It is therefore, necessary to bring them under the purview of the Act. Specified tests thus include the specified part of all pre-natal diagnostic technique, procedure and tests, whether or not they are designated to detect congenital and genetic disorders and which generate information on the ~~the~~ sex of the fetus as well.

This legislation should make it incumbent upon the diagnostician to withhold information regarding the sex of the fetus from the woman undergoing such tests, her family and other interested parties unless it is related to the provision of genetic counselling in sex-linked disorders. Further, under no circumstances should a specified test be used for the sole purpose of sex determination of the fetus.

Question 3 & 4: Addressing question 4 first, the proposed legislation has rightly taken the view that the designated tests (as termed by us) are intended for the purpose of detecting chromosomal abnormalities, genetic metabolic diseases, haemoglobinopathies, sex-linked genetic diseases and congenital anomalies. In order to do so there is need for specialized equipment, a high degree of skill and expertise for accurate detection and interpretation of the results. Further, a wide range of tests are necessary to rule out the possibility of the numerous disorders whose prevalence and incidence have however been reported to be only between 1 to 2.5 % of all births. Experts in our country agree that such disorders do not constitute the major cause of perinatal mortality in India.

A consideration of these facts leads to the conclusion that while it is necessary to provide high quality services to families requiring such specialized services, the prevalence is not widespread enough to warrant their inclusion in the general health services. We therefore, feel that these services should be restricted to apex medical institutions which have the requisite specialized equipment, a high degree of technical skill and expertise.

In keeping with the perspective and structure of the general health services in India, it is important that the provision of specialized services should be made available through a well coordinated system of referral. The central supervisory board may bring within its purview a consideration of how the existing referral system may be strengthened as well as create wide public awareness regarding the provision of such facilities.

We therefore, strongly recommend that the services for the detection of chromosomal abnormalities, genetic metabolic diseases, haemoglobinopathies, sex-linked genetic diseases and congenital anomalies and others be provided only by -

- (a) hospitals attached to medical colleges recognized by the Medical Council of India.
- (b) Apex Research Institutions which have facilities on par or higher than the teaching hospitals.

The numbers of such institutions which can provide high quality services for the accurate detection and interpretation of results in genetic disorders will not be large enough to warrant an elaborate system of registration and licensing. The Central Supervisory Board with the help of the Appropriate Authority can on its own make a list of ~~its~~ such institutions on the basis of the minimum standard such centres would require and constantly update them.

Thus, in answer to question No. 3, we feel that there is really no need for an elaborate system of registration and licensing. Further, we feel that by opening the registration for genetic clinic genetic counselling centre, and genetic laboratory, to all, we fear that institutions currently responsible for the rampant misuse of the already defined designated tests and Specified tests for sex determination, may only gain legitimacy by henceforth registering themselves under the euphemistic terms of Genetic Clinic, Genetic Laboratory and Genetic Counselling Centre. Such an eventuality will defeat the very purpose of the Act. Moreover, it would only serve to misguide those in genuine need of genetic diagnosis and counselling.

Question 5 : The proposed legislation does not infact state the specific abnormality and disorders for which designated tests may be used. It merely indicates the broad categories of disorders. For instance, chromosomal abnormalities is a broad category which could include Down's, Turner's, Klinefelter's Syndromes, Trisomy 18, Trisomy 13-15 among several others. Further, not all chromosomal abnormalities may be detected by the designated tests currently in use.

We therefore strongly suggest that it should come under the purview of the functions of the Central Supervisory Board to make a list of

- (a) Congenital abnormalities and genetic disorders, haemoglobinopathies, sex-linked genetic diseases and chromosomal anomalies and the designated tests which may be used to detect the same.

Question 6 : In keeping with the changes recommended by us on the definitions of designated and specified tests, we have suggested amendments in the proposed Bill. Please see our "note on suggested amendments in Bill No. 155, of 1991". Accordingly, the titles of Chapter III now reads " Regulation of use of Designated Tests" and the title of Chapter II reads " Prohibition of use of specified tests".

Our main suggestions are

- (i) That the designated tests be conducted only when satisfactory documentary evidence is available to support the conditions for which these tests are to be performed.
- (2) Under the rules and regulations, a list may be made of potentially teratogenic drugs, infections and hazardous chemicals and constantly update them.

Question 7 : We consider the provision made in Section 5 of the Bill inadequate. For our suggestions on additional safeguards, see our note on amendments.

Question 8 : We have suggested amendments in the constitution and functions of the Central Supervisory Board. Please refer to our note on amendments.

Question 9 : We have amended the role and the function of the Appropriate Authority in keeping with the overall objectives of the Bill. For our comments refer to our note on amendments.

Question 10 : We feel that the Advisory Committee could play an useful role in aiding and advising the Appropriate Authority. For our comments on the constitution of the same please refer to our note on amendments.

Question 11: In keeping with the overall objectives of the Bill and the amendments suggested by us we consider the registration, licensing of Genetic Centre, Genetic Laboratory and Genetic Clinic as proposed redundant.

Question 12 : In our opinion, the primary onus of responsibility for misuse rests on the ones who are carrying out or authorizing the conduction of such tests. They, therefore, ought to be considered the primary offenders in case of contravention. Given the prevailing social situation, in our opinion, the husband of the woman on whom such tests are carried out and his relatives are responsible for aiding and abetting the crime. The woman on whom such tests are being carried out is to be perceived as the victim of the prevalent gender bias and therefore not liable for punishment.

Question 13 : In our opinion, any person/institution who promotes in any manner whatsoever sex determination or sex pre-selection should be liable for prosecution. The provisions of the Bill should be broad enough to incorporate the promotion of any method of sex determination or sex pre-selection be it allopathic or non allopathic system of medicine.

Question 14 : The proposed Bill leaves enough scope for the concealment and obliteration of evidence which may include equipment, records, literature among many others. The Appropriate Authority should be given adequate powers.

Question 15 : It should come within the purview of the functions of the Central Supervisory Board to set adequate funds to create public awareness regarding

- (a) Centres at which facilities for designated tests are provided.
- (b) the illegality of conducting these Specified tests for sex determination
- (c) and to create wide public awareness against gender bias and female feticide

Question 16 : The Bill as it is proposed is totally inadequate to the task of curbing female feticide. We have therefore, made comprehensive suggestions for amendments in the proposed Bill.

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**DR. KUMAR'S ULTRASOUND SCANNING**

Patient's Name \_\_\_\_\_ Age \_\_\_\_\_ Refd by \_\_\_\_\_  
 Part Examined \_\_\_\_\_ Date \_\_\_\_\_

**FACILITIES AVAILABLE :****ROUTINE ULTRASOUND**

Chest, Abdomen  
 Obst & Gynae and  
 Other Organs

**SPECIAL PROCEDURES**

- Fine Needle Aspiration Biopsy (FNAB)
- Aspiration of Fluid & Abscesses
- Ovulation Study
- Biophysical Profile of Fetus
- Gender

To protect the identity of the patient to whom this prescription was given, all particulars have been erased.

**BY APPOINTMENT**

**SAWAN NEELU ANGEL'S NURSING HOME**  
 J-293 SAKET  
 TEL 653094 6863948

**SUNDER LAL MEMORIAL HOSPITAL**  
 C-201 JAWAHAR PARK  
 KHANPUR ROAD  
 TEL 6433912

**KUNJ HOSPITAL**  
 F-73/9 Kishan Gatt  
 JNU Road Vasant Kunj  
 New Delhi  
 Tel 6895136

**DAYA POLYCLINIC**  
 40/12 YUSUF SARAI  
 NEAR UPHAR CINEMA  
 TEL 652689

**KHARBANDA POLYCLINIC**  
 L-114 LAJPAT NAGAR II  
 TEL 6836203

**KAPIL X-RAY & PATH LAB**  
 SHOP NO 2 BANK STREET  
 MUNIRKA TEL 683595

**SAURABH DIAGNOSTIC CENTRE**  
 SHOP NO 5 DDA MARKET  
 ROCKET JIJMAJUR Vihar  
 TEL 2646793

**DR. N. KUMAR**  
 CONSULTANT ULTRASONOLOGIST

For Complete & Modern Diagnostic Check-up Visit

## M.P. DIAGNOSTIC CENTRE

D2/50, JANAK PURI, NEW DELHI-110058  
Near 'D' Block Bus Stand & CGHS Dispensory

### Facilities Available :

1. Ultra Modern X-Ray High Technique Modern Unit.
    - a) Routine and colour X-Rays.
    - b) Screening Facilities.
    - c) All Types of colour X-Rays (Barium-Swallow, meal, enema, I.V.P., H.S G., Myelogram etc.)
  2. Ultra Sound (Facilities available at home on call)
    - a) Whole Body      b) Abdomen      c) Pregnancy & Pelvic disease.
    - d) Sex determination
  3. Clinical Laboratory Equiped with ultramodern equipments for all types of pathological Exam
    - a) Routine                      b) Culture & Sensitivity
    - c) Tissue Culture              d) Biopsy
    - e) Specially equiped for ELECTROLITES STUDY  
Calcium, Pottassium, Sodium & Lithium
  4. E.C.G. For study your Heart [Resting & Exercise]
- N.B. Home Service Available For :
- a) Laboratory Investigations
  - b) Ultra-Sound                      c) E. C. G.

# Saheli

Women's Resource Center

Date...20.1.92.....

To,

The Joint Parliamentary Committee  
on The Pre-Natal Diagnostic Techniques  
(Regulation and Prevention of Misuse) Bill, 1991.

Madam,

I, Nilanjana Biswas, work in Saheli, and on Jan 10, 1992 went to the area around Mayur Vihar Phase II to collect information about sex determination tests being conducted in the clinics in this area. The information obtained by me is as follows:

## VIRMANI NURSING HOME

One of the boards outside this establishment reads, "Healthy Boy or Girl". Alongside this abortion is also mentioned.

Ultrasound facilities are available and screening is done on wednesdays and saturdays by Dr. (Mrs.) Virmani, (gynaecologist) and a visiting ultrasonologist.

The cost of ultrasound screening to detect congenital malformation is Rs 300/- while the cost of ultrasound screening to detect sex of the foetus is Rs 1200/-

Screening for sex determination is done from 10 weeks of pregnancy onwards, but women are advised to get it done before 7 months of pregnancy so that MTP can be done if required.

## SARKAR CLINIC AND NURSING HOME

Ultrasound facilities are available for sex determination.

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Unit above Shop. 105, to 108, Shopping Centre, Defence Colony, Bridge (South Side),  
New Delhi-110024                      PHONE : 61 6485

# Saheli

Women's Resource Center

-2-

Date.....

The cost of ultrasound screening to detect congenital malformations is Rs 200/- while for sex determination it is "more".

Sex determination using ultrasound is done here from the 16th week of pregnancy onwards.

Abortion facilities are also available.

## CHIRAG DIAGNOSTIC CENTER

This centre offers ultrasound facilities for sex determination.

The cost of detecting congenital abnormalities is Rs 300/- using ultrasound, while cost for sex determination is Rs 900/-.

Ultrasound for sex determination is done from 16 weeks of pregnancy onwards.

All the above-mentioned clinics possess ultrasound equipment but do not have qualified sonologists to actually perform the test; therefore an advance sum of money is secured from the client in order to meet the fees of the visiting ultrasonologist. This step ensures the client's commitment to subsequent appointments for ultrasound testing. Furthermore, a pregnant woman is asked to undergo at least twice, the ultrasound test for sex determination. However, the doctors advise the woman to return for a third or fourth session if the results of the

# Saheli

Women's Resource Center

Date.....

of the first tests are deemed to be unsatisfactory by them.

Yours faithfully,

*N. Biswas*

(NILANJANA BISWAS)

( for Saheli.)

All correspondence may be addressed to :  
40 Above shop 105-108, Defence Colony Flyover  
market,  
New Delhi - 110024

To,

The Chairperson,  
Joint Committee on Pre-Natal Diagnostic Techniques  
(Regulation and Prevention of Misuse) Bill, 1991.

20-1-1992

Madam,

We the undersigned women's organizations, groups and concerned individuals would like to draw your attention to the following:

1. We have been given to believe that the Committee headed by you is holding hearings in New Delhi on Jan. 20 and 21, 1992. Many of us have not yet been informed of this hearing even though we have independently submitted memoranda to the Committee. We would like to emphasise that it is the women's organizations and the women's movement in general which have been focussing on this issue for several years. For the Committee to get a holistic view of the problem it is essential that all the groups and organizations be given a hearing. We therefore hope that you will extend the dates of the hearing.
2. We would also like to draw your attention to the fact that with the wide proliferation of clinics all over the country and the experience in different States, it would be necessary to get the experience of the organizations and individuals working in those areas before coming to any conclusions regarding the Bill. Therefore we feel it is essential for the Committee to hold hearings at least in Bombay, Calcutta, Trivandrum, Vijaywada, Ahmedabad and Madras so as to hear the opinions of those facing the problems there. A Delhi-based view can certainly not be taken as a national one and the Committee should not be critiqued for being Delhi-centric.
3. Since in our experience there are very strong vested interests and lobbies involved in the continuation of sex determination tests it would be much better if the hearings were made public and not in camera as at present. The rules of these public hearings can be similar to those of an open court. We therefore strongly feel that while deciding the procedures this should be taken into consideration.

Thanking you,

Yours Faithfully,

Akhaiya - Jagori  
(Abha Baiya)

bindalavar  
AIDWA

Ranjana Kumari  
Mahila Dakshata  
Samiti

Bhaskara Sen  
ISST

Shella Balkar  
WANI

Vinika Farooqi  
NFIW

Bulusareen  
WCA of India

Ms. Yasmina  
SND

Raj Vaidi  
ISST

P.T.O.

Tanushree  
Chingari Ahmedabad and Forum Against Sex Determination,  
Ahmedabad

~~Advocate~~  
Advocate

Gouri Chandhury  
Action India Women's Programme

Jhunjivastava 'Antara'  
(JATA)

Kamlesh Prasad, 'Karmika'

~~\_\_\_\_\_~~  
S. N. E. L. I

Kamud Sharma,  
Director

CWDS - Centre for Women's Development Studies

action india

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ACTION INDIA  
5/24 Jangpura B  
New Delhi 110014.

Ref. No. ....

Dated 18, Jan. 1992...

ENGLISH TRANSLATION

To Chairperson,

Joint Parliamentary Committee on Prenatal Diagnostic  
Techniques (Regulation and Prevention of Mis-use) Bill 1991.

Madam,

We, Ramzan, Prem and Devi, workers of Action India,  
5/24 Jangpura B, New Delhi visited three sex determination  
clinics in the New Seemapuri area on January 6, 7, 1992 to seek  
information regarding the techniques.

We collected the following information:-

I. Dilshad Nursing Home, New Seemapuri, F Block, Delhi 110095.

- a) We talked to the doctor's assistant, who informed us that sex determination was banned but this service was available in this clinic.
- b) Sex determination is conducted by ultra-sound and they also perform abortions.
- c) These tests are conducted after 3 months of pregnancy.
- d) They charge a fee of Rs 1000 to Rs 1200 for sex determination.
- e) These services are available for 24 hours.

II. Sashi Clinic and Maternity Home, H 168 old Seemapuri Delhi-95.

- a) We talked to the lady doctor Sashi.
- b) She informed us that sex determination is conducted through ultra-sound.
- c) This test is conducted after the third or fourth month of pregnancy.  
Abortion facilities are available after the test.
- d) They charge a fee of Rs 1000, but make concessions of Rs 200 for the poor.
- e) Consultation timings 10 AM to 5 PM on all days.

Registered under the societies registration act XXI of 1860 (No. 7989)

III Singh Nursing Home. Vivek Vihar, Delhi 110093.

- a) A board outside the nursing home reads, "Diagnosis by ultra-sound" in red paint.
- b) We talked to the lady doctor Rekha Singh.
- c) This nursing home conducts sex-determination tests from 3 to 4½ months by ultra-sound.
- d) They charge a fee of Rs 1000.
- e) These facilities are available for 24 hour.

Signed

Ramzan

Prem

Devi Kripa.

action india

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ACTION INDIA  
5/24 Jangpura B,  
New Delhi 110014.

Ref. No. ....

Dated 18 Jan. 1992.

ENGLISH TRANSLATION

To, Chairperson,

Joint Parliamentary Committee on Pre-Natal Diagnostic  
Techniques (regulation and Prevention of mis-use) Bill 1991.

Madam,

We Gyanwati and Sudha, workers of Action India 5/24 Jangpura  
B, New Delhi, had visited on January 8, 1992. A Sex Determination  
Clinic in Azadpur to collect information regarding the use of  
this technique.

Kamboj Clinic, Hisarpurwale, Fanchvati, Azadpur, Delhi.

Doctor's Name: Dr. Mahindra Pal  
Consulting Timings: Tuesdays 9Am to 12 Noon.

A cloth banner displayed outside the clinic reads, "Ladka ho ya  
ladki."

On the glass door of the clinic is written in red paint, "Swasthya  
ladka ya ladki."

Outside the clinic on a board is written "Siraf ultra-sound se  
Janch panch minute mey turanth report", (Diagnostic test through  
ultra-sound report in five minutes only).

This clinic conducts prenatal sex determination tests after  
the third month of pregnancy. They charge a fee of Rs 1000 and  
do not perform abortion.

We enquired whether there was any other technique for  
prenatal sex-determination. They informed us that amniocentesis was  
dangerous. Ultra-sound was the perfect method.

Signed:-  
Gyanwati

Sudha

action india

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ACTION INDIA  
5/24 Jangpura B.  
New Delhi 110014.

Ref. No. ....

Dated..18.Jan..1992..

ENGLISH TRANSLATION

To Chairperson

Joint Parliamentary Committee on Prenatal Diagnostic  
Techniques (regulation and prevention of mis-use) Bill 1991.

Madam,

We, Rajrani, Dulari and Maharani, workers of ACTION INDIA,  
5/24 Jangpura B, New Delhi, visited two sex determination clinics  
on 2 January 1992 in the Yamuna Vihar area.

We collected the following information.

I. Rupali Nursing Home, G.T.Road, Yamuna Vihar, Delhi.

- a) Outside the nursing home, written in large letters on a board,  
"ULTRA SOUND".
- b) Inside the nursing home, written on the cabin "Ladka Ya ladki".  
Timings: 10 AM Tuesdays and Fridays.
- c) We spoke to the lady doctor who informed us that sex  
determination through ultra-sound is conducted after 3 month of  
pregnancy. They charge a fee of Rs 1000.  
Aboration fees are Rs 1000. upto 3½ months.  
The abortion charges after 15 weeks of pregnancy are Rs 1500.
- d) This clinic does not have ultra-sound facilities. On Tuesdays  
and Fridays, they take the women seeking sex determination  
test to some other place after taking appointment by telephone.

II. Raj Medical Research Centre G.T.Road, Yamuna Vihar Delhi.

This centre conducts prenatal sex determination tests after  
3 months of pregnancy. These facilities are available daily.  
They charge a fee of Rs 1000 to Rs 1200. Aboration charges are  
Rs 500 to Rs 700.

Signed:-

Rajrani

Dulari

Maharani.

action india

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5/24 Jangpura - B  
New Delhi 110014

Ref. No. ....

Dated 18-1-92

सेवा में,

संयुक्त संसदीय समिति  
गर्भावस्था के दौरान बच्चे (भ्रूण)  
का जांच (गत इस्तमाल से रोकने सम्बन्धित जिल 1991)

गदीयता,

हम, ज्ञानवती और सुधा, श्वशुरान इंडिया 5/24 जंगपुरा बी,  
नई दिल्ली, के कार्यकर्ता, आजादपुर इलाके में जनवरी 8, 1992 के दिन जांच  
लिंग जांच के बारे में जानकारी लेने गये थे। जो कि इस प्रकार है।

1. कबीज क्लीनिक हिसार पुर वाले, पंचवटी आजादपुर

डाक्टर का नाम - महेन्द्र पाल

बैठने का समय - मंगलवार सुबह 9 बजे से 12 बजे तक

इस क्लीनिक के बाहर एक कपड़े का बैग है। जिससे लिखा है।  
"लडका हो या लडकी" क्लीनिक के शीशे पर लाल रंग से लिखा है  
"स्वस्थ लडका या लडकी"। क्लीनिक के बाहर बोर्ड पर लिखा है  
सिर्फ अल्ट्रासाउंड से जांच, 5 मिनट में तुरन्त रिपोर्ट।

इस क्लीनिक में 3 महीने गर्भ के बाद अल्ट्रासाउंड से लिंग  
जांच होती है। जांच के चैसै रूपसे 1000/- गर्भपात जदी करते।

हम पूछा की अल्ट्रासाउंड के इलावा क्या लिंग जांच का कोई और  
भी तरीका है। उन्होंने बताया कि सुई का तरीका स्वतंत्रताक है,  
अल्ट्रासाउंड ही सही तरीका है।

ज्ञानवती, सुधा

action india

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5/24 Jangpura - B  
New Delhi 110014

Ref. No. ....

Dated. 18.1.92

सेवा में,

संयुक्त संसदीय समिति

गर्भावस्था के दौरान बच्चे (बच्चा)

का जांच (गलत इस्तेमाल से रोकना सर्वोपरि) विल 1991

महोदय,

हम राजशानी, दुलारी और महारानी, रमेशजी इंडिया 5/24 जंगपुरा की  
नई दिल्ली के कार्यकर्ता यमुना विहार के इलाके में जनवरी 8, 1992 के  
दिन गर्भ विंग जांच के बारे में जानकारी लेने गए थे।

इस इलाके में हमने 2 स्त्रीनिकों से जानकारी प्राप्त की जो  
कि इस प्रकार है :

I. रूपाली नरसिंह होम, जी पी रोड यमुना विहार दिल्ली

- क. बाहर बोर्ड पर बड़े अक्षरों में लिखा था अल्ट्रासाउण्ड
- ख. इस नरसिंह होम के अन्दर, ~~के सिना कोठन~~ पर लिखा था लड़का  
या लड़की, अल्ट्रासाउण्ड, समय 10 बजे गंगलवार व शुक्रवार।
- ग. इस नरसिंह होम में हमने लेडी डाक्टर से बात किया और हमें  
बताया गया कि लड़का/लड़की की जांच अल्ट्रासाउण्ड से तीन  
महीने के गर्भ में जांच होती है। इस जांच के 1000 रु लगते हैं।  
उपर सर्जि किरानी है और गर्भ स्वतंत्र महीने का है तो  
1000 रु लगेगा। अगर गर्भ तीन चार महीने का है तो 1500 रु  
लगेगा।

घ. अगर औरत को लिंग जांच करवानी है तो उसे अणाली क्लीनिक  
मंगलवार या शुक्रवार को आना पड़ेगा। अणाली क्लीनिक वाले  
फोन करके कहीं दूसरी जगह जाड़ी से जांच के लिए ले जाने  
वापिस ले आते हैं। अगर गर्भपात करवाया हो तो अणाली  
नर्सिंग होम में ही किया जाता है।

III राज मेडिकल रिसर्च सेंटर जी टी रोड, रामुना विहार, दिल्ली  
इस सेंटर में अल्ट्रासाउंड से लिंग जांच उअहीने गर्भ की  
होती है। यह जांच हर रोज उपलब्ध है। जांच का पैसा  
1000 रु० से 1200 रु० तक। गर्भपात का पैसा 500 रु० से  
700 रु० तक।

Raj Rani

डेली  
महारानी

FORUM AGAINST SEX DETERMINATION & SEX PRESELECTION (FASDSP)  
120, Safalya B, Near Currey Road Station, BOMBAY.

APPEAL FOR URGENT ACTION

Dear Friends,

You have been actively associated with the campaign against S.D. tests. We are writing this letter to seek your help as our struggle enters its final phase on the legislative front.

We have just received a letter from Shri T.D. Dhingra of New Delhi. It informed us that a Joint Parliamentary Committee has been constituted to review the Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Bill, 1991 (PNDT (R&PM) Bill 1991). The composition of Committee is enclosed herewith. Shri Dhingra, as the Under Secretary of the Committee, has sent letters to activist groups and doctors' associations to seek their views on the Bill in form of a memorandum. A questionnaire related to each clause and a copy of Bill were sent to us with the letter.

We have written to Smt. D.K. Tharadevi Siddhartha, Chairperson of the Committee and requested her to--

- i) send letters to all activist groups associated with the campaign (including yours) and give them sufficient time to respond as many groups may not be able to meet the deadline of Nov.25 prescribed by Committee;
- ii) waive off the condition of sending 65 (45 English + 20 Hindi) copies of memoranda to the Committee;
- iii) not to treat the memoranda as confidential matter;
- iv) conduct open public hearings in 4 major cities to record evidences of interested groups.

Have you received a letter from Committee? If not, please do not wait for it and send your memorandum to Committee at your earliest.

Please get in touch with the Committee / any of its members to support the demands raised in our letter. We must demand that the Committee should function in an open manner so that the doubts generated by it has under participation and is useful for creating awareness on this issue.

We are enclosing herewith a gist of our critique of the Act based on earlier debates and experience of the (non) implementation of Maharashtra Act. Please encourage other groups and individuals, specially doctors, sociologists, legal experts, to send separate memoranda and show willingness to give oral evidence before Committee. The vested interests opposing us have much better resources and organisation. Still we succeeded in sustaining the issue upto this stage. We should not fail in the final crucial phase.

Please inform us after sending the memorandum and of your reactions/suggestions regarding the bill.

Yours in solidarity,

CHAYANIKA/KAMAXI/VIBHUTI/RAVINDRA/SANSKRITI/SWATI/  
SANDHYA & others.

Encls: i) Critique of Bill.  
ii) Composition of Committee.

JOINT COMMITTEE ON THE PRE-NATAL DIAGNOSTIC TECHNIQUES  
(REGULATION AND PREVENTION OF MISUSE) BILL, 1991.

COMPOSITION OF THE COMMITTEE

Smt. D.K. Tharadevi Siddhartha

- CHAIRPERSON

MEMBERS

LOK SABHA

2. Smt. Dil Kumari Bhandari
3. Smt. Malini Bhattacharya
4. Smt. Saroj Dubey
5. Smt. Girija Devi
6. Dr. Mahavirsinh Harisinhji Gohil
7. Dr. Viswanatham Kanithi
8. Smt. Sumitra Mahajan
9. Smt. Geeta Mukherjee
10. Dr. Kartikeswar Patra
11. Dr. Vasant Niwenti Pawar
12. Dr. (Smt.) K.S. Soundaram
13. Kumari Uma Bharati
14. Kumari Vimla Verma
- \*15. Vacant.

RAJYA SABHA

16. Kumari Chandrika Premji Kenia
17. Smt. Sarla Maheshwari
18. Shri Bhaskar Annaji Masodkar
19. Shri Sarda Mohanty
20. Shri V. Narayanasamy
21. Smt. Satya Bahin
22. Smt. Sushma Swaraj

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\* Vacant due to resignation of Sh. K.N. Narayanan  
w.e.f. 11.10.1991.

# All India Democratic Women's Association

23, Vithal Bhai Patel House, Rafi Marg, New Delhi-110001

President : Manjari Gupta  
Working President : Ahilya Rangnekar  
General Secretary : Susheela Gopalan

Ref. No.

Dated 2-1-92.

## MEMORANDUM

1. Being an active participant in the struggle against sex determination tests, we feel that such legislation on the part of the Central Government has already been considerably delayed. In the Act itself we feel that it should be specified that after it is passed by parliament it will come into force within at least 3 months. We have already the experience of the National Commission for Women Act which was passed by Parliament in Aug. 1990 but is still not in force.

2. It would be better to specify the tests.

3&4. All genetic tests which include sex determination techniques should be confined only to Government hospitals. However ultrasonography which is used much more commonly may be practiced outside the Government institutions but with strict conditions of licensing and regulation.

The elaborate system of licensing etc. provided for in the Act for all genetic clinics etc therefore becomes infructuous. It remains valid only for ultrasonography centres.

4 (2) & 4 (3). Correctly leaves scope for more detailed purview by the Central supervisory Board which is necessary. The Act at present only mentions the broad categories which is inadequate. Clearly with the use of new technologies it will be incumbent to constantly review the type of tests being conducted. Therefore it should be left to a competent supervisory board.

.....2)

# All India Democratic Women's Association

23, Vithal Bhai Patel House, Rafi Marg, New Delhi-110001

President : [REDACTED]  
Working President : Ahilya Rangnekar  
General Secretary : Susheela Gopalan

Ref. No.

Dated 2-1-92.

- 2 -

7. This section is inadequate. We have already suggested that genetic tests should be conducted only in Government hospitals. But for Ultrasonography it is essential for such Centres to maintain records of all cases of Ultrasonography conducted on pregnant women.

8. Qualifications for members of this Board should include a proviso that such members have never been or known to have been associated in any way in the conduct of sex-determination tests or have approved or supported such tests. The Board should meet at least once in 3 months. Also the Board should have the right to appoint sub-committees to study any specific aspect of review or the implementation of the Act within a specified time frame.

9. We disagree on the definition of Appropriate Authority in the Act. It would be preferable to have a committee as [REDACTED] legislation has, instead of a single Officer as proposed in the Central Government draft (Section Ch.3 of Maharashtra Act). We have already stated that since all genetic tests should be conducted in Government hospitals the licensing and regulation procedures detailed in Section.17 should apply only to centres where Ultrasonography is done.

10. Advisory committee should be constituted.

11. Registration of all Ultrasonography centres should be included while specifying that genetic clinics etc. will be in the Government sector.

.....3)

# All India Democratic Women's Association

23, Vithal Bhai Patel House, Rafi Marg, New Delhi-110001

President : Manjari Gupta

Working President : Ahilya Rangnekar

General Secretary : Susheela Gopalan

Ref. No.

Dated 2-1-92.

- 3 -

12. The minimum punishment of at least one year should be specified and maximum increased to five years for first offence. In 23 (2) it has to be made mandatory for the State Medical council to take action on the report of the Appropriate authority otherwise it will leave a loophole for the convicted medical ~~per~~ practitioner. We do not agree that the woman should be punished. She is usually the victim not the protagonist and it would make a mockery of the law if she were held guilty for a crime committed against her. Provision has to be made in the law for appropriate action on complaints by social organizations/individuals. In section 28 these organizations should also have the right to go to court. The proviso in section 28 (b) that first notice of 60 days has to be given to the Appropriate Authority should be removed as it will lead to inordinate delay.

13. Punishment for advertising sex-determination tests should certainly include all publications including magazines/newspapers as also advertising hoarding spaces which are used for this purpose.

14. The way the present Act is drafted, we feel it will set a dangerous trend of recognition and legal sanction to the so-called genetic centres besides leaving tremendous scope for corruption by concentrating all powers in the hands of a single individual. Thus important changes have to be made if the Act is to fulfill its objectives.

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NOTE PREPARED BY SAHELI, VOLUNTARY HEALTH ASSOCIATION  
OF INDIA, PEOPLE'S UNION FOR DEMOCRATIC RIGHTS,  
JOINT WOMEN'S PROGRAMME, ACTION INDIA, MEDICO  
FRIEND CIRCLE, DR. IMRANA QUADEER, FOR CIRCULATION  
AMONG THE MEMBERS OF PARLIAMENT REGARDING THE  
PROPOSED BILL ON PRE NATAL DIAGNOSTIC TESTS,  
TECHNIQUES, PROCEDURES.

Extent of problem

1. In 1974, amniocentesis was being clinically tested in India as a technique for detecting genetic abnormalities for example birth defects in government run hospitals. The survey outcome of 11,000 couples who had volunteered for this test at AIIMS Delhi revealed that the basic motivation for this enthusiastic response had been the possibility of getting to know the sex of the child during pregnancy. Following protest by women's groups these techniques were banned by the Janata government in 1978 for sex determination in government run hospitals.

2. In 1979 tests such as amniocentesis became available through private clinics/hospitals for sex determination. By 1980 these clinics began to blatantly advertise these techniques for specific use of sex determination.

It is roughly estimated that between 1978 and 1982, 78,000 female fetuses were aborted after sex determination in our country (Times of India, June 1982).

3. The data collected by government of Maharashtra in 1986-87 showed that from less than 10 clinics in 1982 in Bombay city, the number of clinics had gone up to 248 in 1986. These 248 centres where amniotic fluid (fluid from birth sac) is collected, were linked to 16 genetic laboratories where the amniotic fluid was tested to determine the sex of the foetus. These 16 laboratories were known to receive samples of amniotic fluid from clinics located in towns as far away as 500 km from Bombay. According to an estimate made by a group of doctors, between 30,000 to 50,000 female fetuses were aborted in a year.

4. A study done by Dr. Sanjeev Kulkarni in Bombay at the initiative of the Maharashtra government in 1986 revealed that 84% of the gynaecologists interviewed were performing amniocentesis for sex determination. These doctors performed on an average 270 sex determination tests per month. While most of them had been using amniocentesis for sex determination since the last 5 years, some had been performing these tests for the last 10-12 years.

5. According to a report prepared by Garbh Parikshan Virodhi Manch, 2400 tests were conducted in Baroda city alone in 1987. A well known genetic laboratory in Baroda had tested 20,000 samples of amniotic fluid in the last 10 years.

6. A Delhi University researcher found that more than 13,000 tests were performed in one year only in seven of the several sex determination clinics in Delhi.

7. Clinics for sex determination are not restricted to urban areas. Places like Bijnor district in U.P., Dhulia, Satara and Sanghi districts in Maharashtra, or Saurashtra in Gujarat which do not have potable water and electricity, have flourishing clinics for doing amniocentesis.
8. Rural health centres in Gujarat and Maharashtra, where facilities do not exist to examine sputum for tuberculosis or to maintain the cold chain for oral polio vaccine, are sending samples of amniotic fluid in ice packs through courier service to laboratories in Rajkot, Bhavnagar, Anand, Ahmedabad, Baroda, Bombay, for sex determination.
9. In the 10-12 years since amniocentesis was commercially introduced in India, sex-determination tests have spread to the small towns of Punjab, Haryana, Himachal Pradesh, Delhi, U.P., Bihar, Rajasthan, Gujarat, Maharashtra, Goa. Sex determination clinics are also reported to exist in Hyderabad (A.P.) Mangalore and Bangalore (Karnataka), Madras (Tamil Nadu), Calcutta (West Bengal), M.P. and Orissa.
10. Dr. Pai, President, Health Promotion Society who runs the Pearl Centre at Dadar, Bombay, claims "In our country amniocentesis is essentially done, I can say upto 90%, purely for sex determination of the foetus". "I have yet to come across a person who has come here for the test purely for detection of genetic diseases". (The Lawyers, March 1986, pg.5).
11. In the study conducted by Garbh Parikshan Virodhi Manch in Gujrat, out of 30 doctors interviewed, only 3 were against sex determination tests. The rest said they did not favour the test at a personal level but did it because of the demand for it. They claimed they would stop doing it if the government banned the test. Till then they would continue as their income would suffer if they stopped while others still did it.
12. Advertisements for sex determination appear in almost every newspaper, in trains and buses, through wall writing, hoardings, pamphlets, and letters to doctors. Recently doctors have started advertising training programmes on fetal sexing assuring other doctors that they can recover costs of the training in no time.
13. An Ayurvedic drug "SELECT" is in the market which promises the birth of a male child.
14. Several books have also appeared on the market promoting procedures for sex selection such as diet control, timing of insemination by coitus creating a favourable climate in the vaginal tract by douching etc.
15. Several new medical technologies are being developed which are capable of determining the sex of the foetus. Among them are:
- a) Testing of fetal cells in maternal blood;
  - b) Detecting levels of Testosterone in amniotic fluid or maternal blood;
  - c) Determining the sex of test-tube embryos.

16. The most common and routinely (mis)used technique for sex determination purposes today is ultrasonography. Due to the wider applications of this technique in general gynaecological and obstetrical practice eg. for detection of growth deviation and establishing placental implantation, it becomes much easier to (mis)use it for sex determination under the guise of antenatal care. The regulation and control of such tests/ techniques/procedures as ultra sonography thus becomes imperative under the proposed central legislation.
17. Several techniques are also being developed for sex pre-selection i.e techniques for separating X and Y chromosome bearing sperms in-vitro (outside the body). The methods being tried include sedimentation or centrifugation, Ericsson's methods, Electrophoresis, ion exchange through resins, froth floatation etc.
18. Demand for legislation has been raised in Himachal Pradesh, Punjab, Orissa, Haryana, Tamil Nadu, Gujarat, Goa and Maharashtra. In addition there has been continuous demand for central legislation.
19. The state of Maharashtra has enacted legislation in 1988 while Gujarat and Goa have introduced legislation in the state Assembly.
- Since 1988 the Central Government has drafted several Bills.

Major Amendments suggested in the proposed Central Legislation.

It is crucial to specify which pre-natal diagnostic tests/procedures/techniques the legislation proposes to control.

Medically speaking, the terms 'pre-natal diagnostic techniques', 'pre-natal diagnostic procedures', and 'prenatal diagnostic tests', cover a wide range of techniques, tests and procedures necessary for ante-natal monitoring and care. In our note on "suggested amendments in Bill No.155, of 1991", we have therefore used the terms designated tests and specified tests to pinpoint exactly which pre-natal diagnostic techniques, procedures and tests this legislation should control.

2. Designated tests are all pre-natal diagnostic techniques, procedures and tests currently available, and in use and those likely to develop in future which are essentially meant for the detection of chromosomal anomalies, genetic metabolic diseases, haemoglobinopathies, sex-linked genetic diseases and congenital anomalies. As part of the diagnostic procedure for detecting sex-linked genetic diseases, these tests are also meant to detect sex of the fetus which is necessary both for the rational management of the disorder and for the counselling of the parents. It is this aspect of the procedure that has been widely misused and which the proposed Bill undertakes to control.

3. Specified tests are all pre-natal diagnostic techniques, procedures and tests which apart from the function of detecting fetal abnormalities may also find wide use in general gynaecological and obstetrical practice. Some of these techniques, procedures and tests have within them the interest possibility of providing information regarding the sex of the fetus.

Specified tests thus include the specified part of all pre-natal diagnostic techniques, procedures and tests, whether or not they are designated to detect congenital and genetic disorders and which generate information on the sex of the fetus as well.

This legislation should make it incumbent upon the diagnostician to withhold information regarding the sex of the fetus from the woman undergoing such tests, her family and other interested parties unless it is related to the provision of genetic counselling in sex-linked disorders. Further under no circumstances should a specified test be used for the sole purpose of sex determination of the fetus.

The proposed legislation has rightly taken the view that the designated tests (as termed by us) are intended for the purpose of detecting chromosomal abnormalities, genetic metabolic diseases, haemoglobinopathies, sex-linked genetic diseases and congenital anomalies. In keeping with the sophisticated and specialized nature of these tests/procedures/techniques, and the fact that the prevalence and incidence of the disorders concerned is not high enough to warrant their inclusion in the general health services, elaborate licencing procedure should be dispensed with. We strongly recommend that such services be available only through a) hospitals attached to medical colleges recognised by the Medical Council of India b) Apex research institutions which have facilities on par or higher than teaching hospitals.

5. The legislation needs to specify the purposes for which designated tests may be used. The proposed legislation nearly indicates the broad categories of disorders and does not state the specific abnormality and disorders for which designated tests may be used. Further, not all abnormalities and disorders in the stated categories are detectable by the designated tests currently in use.
6. We therefore strongly suggest that it should come under the purview of the functions of the central supervisory Board to make a list of:
- a) Specific congenital abnormalities and genetic disorders, haemoglobinopathics, sex-linked genetic diseases and chromosomal anomalies.
  - b) the designated tests which may be used to detect the same.
7. The legislation should not take a static view of technology. The pace of technological progress in this field is fast and the Central Supervisory Board needs to continually upgrade:
- a) the list of tests/techniques/procedures covered under the Act.
  - b) the specific disorders for which these may be used.
  - c) the infrastructure and expertise required for conducting these tests.
8. This crime is a crime against the whole society. As such, any concerned individual/organisation should have the right to report violations in this regard and to initiate prosecution.
9. In our opinion the primary responsibility for conducting these tests lies with the medical professions. They therefore have to be treated as prime offenders. Also, under the prevailing social conditions, the husband and other relatives of women are responsible for aiding and abetting the crime. The woman on whom such tests are conducted is only a victim of existing gender bias and should not be liable for prosecution.
10. In order to simplify regulation of prenatal Diagnostic tests/techniques/procedures capable of misuse for sex determination it is suggested that the legislation makes it incumbent upon manufacturers of equipment used to carry out specified tests (such as ultrasound) to register with the appropriate authority and provide information on a regular basis regarding name and addresses of the purchases of the specified equipment to the Authority so that periodic checks of such equipment to ensure that provisions of the Act are not contravened. The prohibition of transferred lending lease of such specified equipment without the written authorization from the Appropriate authority is also suggested with the same intent.

## LIST OF RECOMMENDATIONS

### 1. Future Techniques

It had been suggested by us that the purpose of this legislation should be not only to regulate and prevent the misuse of pre-natal diagnostic techniques that are presently available, but also those that are likely to be developed in future (see Annexure III pg. 2). It is important to keep in mind that rapid technological advancement is taking place in this field, and soon new techniques of sex-determination will enter the market. Therefore, for the present law to be effective, it must include within its ambit, the regulation and prevention of the misuse of future pre-natal diagnostic techniques.

The Central Supervisory Board should also have the specific function of regular and continual review and upgrading of the list of tests/techniques/procedures covered under the Bill.

We have also recommended (Annexure V, Pg. 6) that an additional clause be inserted in Sec 16 of the Bill i.e. "to monitor recent developments in medical technology and to bring under the purview of the Act, at the earliest time possible, all techniques which have a potential for sex-determination," to prevent their misuse.

### 2. Woman should not be punished

The JPC in its Report (Annexure II pg. 18, Para 44), states, "The Committee deliberated on the question at length whether the pregnant woman who undergoes such pre-natal diagnostic techniques should be exempted from such punishment, considering the social status and compulsions in which the Indian woman is placed today. However, the Committee felt that *providing for punishment for the pregnant woman herself will go a long way in achieving the cherished objectives of the Bill*" (emphasis ours).

In response to the Questionnaire on the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991, we had stressed (Annexure IV pg. 5, Ques.12), that the primary onus of responsibility for the misuse of these techniques rests on those who are carrying out or authorising the conducting of such tests. They, therefore, ought to be considered the primary offenders in the case of contravention. Given the prevailing social situation, in our opinion, the husband of the woman on whom such tests are carried out, and his relatives, are responsible for aiding and abetting the crime. The woman on whom such tests are being carried out is to be perceived as the victim of the prevalent gender bias and therefore not liable for punishment".

Likewise, we had, in our "Note on Suggested Amendments" (Annexure V), stated (pages 8-9), "Section 24 to be amended as :

"Notwithstanding anything in the Indian Evidence Act, 1872, the Court shall presume that the pregnant woman has been compelled by her husband and relatives to undergo specified test for the sole purpose of sex-determination, and such persons shall be liable for abatement of offence under sub section (3) of Section 23, and shall be punishable for the offence specified under that section".

And Section 25 to remain the same but an "explanation" needs to be added as follows :  
"Explanation : The woman on whom such a test is conducted is to be considered a victim of gender bias existing in society, and will not be liable for punishment notwithstanding anything in the Indian Evidence Act, 1872".

While we welcome Section 24 (Annexure I pg. 11), which presumes the pregnant woman to have been compelled to undergo the test, we strongly feel that the proviso, "unless the contrary is proved", be removed. Our experience of shifting the burden of proof, as in custodial rapes, has shown that such a shifting of the onus to prove guilt, does not necessarily go in favour of

women, given the gender bias in society, and even in the judicial system.

The JPC's plea for " providing punishment for the pregnant woman herself " contravenes both the spirit and letter of the Indian Constitution which seeks to protect the dignity of women; as also the International Instrumentalities on the Rights of Women, to which the Government of India is a signatory. We strongly feel that such a serious and blatant travesty of justice should not be allowed to go unchecked.

Further, we also feel that presuming the pregnant woman to be absolutely innocent , may go a long way in effective implementation of the Act, since it is only in this situation that the woman may feel free to make a complaint. In the absence of a complainant, effective implementation of the Act would thus be affected.

### 3. Commercial Interests.

A grave anomaly in this Bill is the legitimacy, nay, open call given to mushrooming of commercial Genetic Clinics and Genetic Laboratories for conducting Pre-Natal Diagnostic Procedures/Tests. This is in conformity with similar steps being taken in other sectors as a result of the process of economic liberalisation - a conditionality imposed by the World Bank-IMF combine. Multinational companies, taking full advantage of slashed import duties, are flooding the country with gadgets for conducting pre-natal diagnostic tests, and reaping a rich harvest at the cost of Indian women.

In our "Response to the Questionnaire " (Annexure IV) we had strongly recommended that the services be provided only by :

- "(a) hospitals attached to medical colleges recognised by the Medical Council of India.
- (b) Apex Research Institutions which have facilities on par with or higher than the teaching hospitals.

The number of such institutions which can provide high quality services for the accurate detection and interpretation of results in genetic disorders , will not be large enough to warrant an elaborate system of registration and licensing. The Central Supervisory Board with the help of the Appropriate Authority can make a list of such institutions on the basis of the minimum standard such institutions would require, and constantly update them."

The Joint Committee Report records on Pages 4-5, " Some members expressed the view that, in order to prevent misuse of pre-natal diagnostic techniques for the purpose of determining the sex of the foetus, these facilities should be permitted only in Government hospitals. Some other members, however, opined that there is already pressure on Government institutions for the facilities available for pre-natal diagnosis, and they may not be able to cater to the needs of the people all over the country. Therefore, it would not be desirable to prohibit such facilities in the private institutions. The Committee are of the view that the facilities for pre-natal diagnosis should be permitted both in the Government as well as the private sector."

Thus, the only reason adduced for the pre-natal diagnostic facilities to be permitted in the private sector, is the averment by some members of the JPC that, "...there is already pressure on government institutions for the facilities available for pre-natal diagnosis". We stress that there is no basis for this averment. No official study/survey has, till date, ever come to such a conclusion.

In our earlier submission (Annexure IV, pg. 2, Ques 3-4) in the Response to the Questionnaire, we had pointed out that "...a wide range of tests, with specialised equipment, high degree of skill and expertise for accurate detection and interpretation of the results is essential. Further, a wide range of tests are necessary to rule out the possibility of the numerous disorders, whose prevalence and incidence have however been reported to be only 1 to 2.5 % of all births. Experts in our country agree that such disorders do not constitute the major cause of perinatal mortality in India."

While it is true that the health care facilities provided at State institutions leave much to be desired, it would be impossible to agree with the position taken by these members of the JPC. Unwittingly, or otherwise, the JPC has been misled. While there is no pressure on government institutions for facilities available for pre-natal diagnosis, there seems to be a definite pressure on the Indian Government by the World Bank to facilitate privatisation of the health sector.

We are happy to note that some members of the JPC are in concurrence with our views. In the Note of Dissent by three Honourable Members, they state inter alia (Annexure II pg. 20), "Having gone through the evidence from various groups, organisations and individuals, the undersigned discovered that in a large majority of cases, recommendations have been for keeping pre-natal diagnostic techniques confined to the government sector. The available data lead us to agree with this point of view."

#### 4. Implementation of the Act.

The scheme of the present Act places the Appropriate Authority in a pivotal role in the enforcement of the provisions. However, the Act, (Annexure I) in Chapter V is silent regarding the composition of the Appropriate Authority. The number of members who would constitute the Appropriate Authority, as also the categories to which they would belong must be specified.

The Act in Section 17(2) provides for the constitution of one or more Appropriate Authorities for the whole or part of the State/Union Territory. To be effective, there must also be Vigilance Committees established at the local/district level. These should comprise of representatives from women's and social organisations, social scientists, non-political public representatives who are known to have campaigned against the misuse of such tests in the past.

These Vigilance Committees should have a legal standing and should submit their reports to the Appropriate Authority and the Central Supervisory Board. These reports should be made public.

The functions of the Local Vigilance Committee shall be :

- (a) to pay periodic and surprise visits to the centres, laboratories and clinics, with a view to check compliance of the provisions of the Act and the Rules.
- (b) to investigate complaints by members of the public or other institutions/women's organisations or the press, about contraventions of the provisions of this Act or the Rules.
- (c) to seize incriminating evidence or records for further administrative or legal action.
- (d) to recommend to the Appropriate Authority the cancellation or otherwise of registration of, or prosecution against a centre, laboratory or clinic.
- (e) to check and prevent operation of unauthorised centres, laboratories, or clinics.
- (f) to take such other action as the Appropriate Authority, Central Supervisory Board, or the State Government may direct.

#### 5. Pre-selection

For the desired objective to be achieved, the Act must be expanded to include techniques of sex-preselection. In our Note submitted earlier (Annexure III pg. 3 point 17), we had already pointed out that techniques of pre-selecting the sex of the fetus would further aggravate the adverse sex-ratio of 1029 females per 1000 males, given the obsession about son preference in this country. Such an adverse sex-ratio has grave and long term implications. Newer techniques being developed include : sedimentation or centrifugation, Ericsons method, electrophoresis, ion exchange through flotation etc., which aim to separate X and Y chromosome bearing sperm in-vitro.

We urge that the ambit of the Act be expanded to include this aspect of the problem.

###

ALL INDIA PROGRESSIVE WOMEN'S ORGANISATION

श्रीत श्री

AIDS BHEDBHAV VIRODHI ANDOLAN

Hol

ANKUR

Jhuvirastara

FORUM FOR WOMEN'S HEALTH Sandhya Gekhale  
(Forum Against Sex Determination and Sex Preselection) (Bombay)

JAGORI

श्रीती

JOINT WOMEN'S PROGRAMME

Vinita

MAHILA SAMOOH, AJMER

Arati Sawhney

PEOPLES UNION FOR DEMOCRATIC RIGHTS

sharmila Purbhoye

SABLA SANGH

देवी कृपा

SAHELI WOMEN'S RESOURCE CENTRE

halskuni Murthy

VOLUNTARY HEALTH ASSOCIATION OF INDIA

Suronekaba for

Dr. Miss. Sharma

Enclosures

1. List of Recommendations
2. Annexure I - The Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991 [As reported by the JPC]
3. Annexure II - Report of the Joint Committee
4. Annexure III - Note prepared for circulation among Members of Parliament
5. Annexure IV - Response to the Questionnaire
6. V - Note on suggested Amendments

Contact Address

c/o Saheli,  
Under Defence Colony Flyover Market,  
Defence Colony,  
New Delhi 110 024  
Phone: 4616485

JOINT COMMITTEE ON PRE-NATAL DIAGNOSTIC  
TECHNIQUES (REGULATION AND PREVENTION OF  
MISUSE) BILL, 1991.

.....  
Points for discussion on the provisions  
of the Bill

1. (a) Do you wish to make any general comments/  
suggestions on the proposed legislation.  
If so, please explain your point of view  
very precisely.  
(b) What specific amendments would you suggest  
to the proposed Bill to make it a workable  
instrument ?
2. Clause 5 of the Bill provides that before a  
pregnant woman is subjected to pre-natal diagnostic  
procedures, the side and after effect of the  
procedure will be explained to her and her consent  
will be taken.

Do you think that written consent of the  
husband and/or lawful guardian (beside the wife)  
should also be taken?

3. Do you favour any punishment for the expectant  
woman who may decide upon female foeticide ?
4. Clause 4(2) of the Bill seeks to permit use of the  
pre-natal diagnostic techniques for detection of  
specific abnormalities/disorders.

Do you think that the list of abnormalities/  
disorders is comprehensive or it should be modified  
in any particular manner ?

5. Clause 4(3) of the Bill seeks to limit the use of  
the techniques under certain conditions/purposes.  
(a) Do you agree with the conditions/purposes as  
contemplated in the proposed legislation ?  
If not, in what way the provisions of the Bill  
should be modified.  
(b) Do you think that the age limit of thirty-five  
years of pregnant woman provided for permitting  
the use of pre-natal diagnostic techniques  
is reasonable ?

6. Clause 2 of the Bill defines the various expressions,  
like 'Genetic Counselling Centre', 'Genetic Clinic',  
'Genetic Laboratory' etc.

Do you think that the definitions are comprehen-  
sive enough to achieve the basic objectives of the  
proposed Act or you would like to make any suggestions  
in this regard ?

प्रसव पूर्व निदान तकनीक विनियमन और दुरुपयोग  
निवारण विधेयक, 1991 संबंधी संयुक्त समिति

विधेयक के उपबंधों पर चर्चा के लिए प्रश्नों की सूची ।

.....

1.
  - क) क्या आप प्रस्तावित विधान के संबंध में कोई सामान्य टिप्पणी/ सुझाव देना चाहते हैं । यदि हाँ, कृपया संक्षेप में अपने विचारों को सुस्पष्ट करें ।
  - ख) आप प्रस्तावित विधेयक में किस प्रकार के विशिष्ट संशोधनों का सुझाव देते हैं जिससे कि यह एक कार्यक्षम दस्तावेज बन जाये ।
2.
 

विधेयक के खण्ड पांच में यह उपबंध है कि कोई व्यक्ति प्रसव पूर्व निदान प्रक्रियाओं का तब तक संपादन नहीं करेगा जब तक उसने संबंधित गर्भवती स्त्री को ऐसी प्रक्रियाओं के सभी संभाव्य उपप्रभावों और पश्चात्तर्ती प्रभावों को स्पष्ट न कर दिया हो और उसकी सहमति प्राप्त करेगा ।

क्या आपके विचार में पति और/ अथवा विधिमामूल्य संरक्षण/पत्नी के अतिरिक्त लिखित सहमति ली जानी चाहिए ?
3.
 

क्या आप इस बात का समर्थन करते हैं कि कोई गर्भवती महिला यदि स्त्रीलिंगी भ्रूण हत्या का निर्णय करती है तो क्या उसे दण्ड दिया जाना चाहिए ?
4.
 

विधेयक के खण्ड-चार दो में विशिष्ट असमानताओं/विसंगतियों का पता लगाने के लिये प्रसवपूर्व निदान तकनीक प्रक्रिया आनाने की अनुमति देता है ।

क्या आपके विचार में विसंगतियों/असमानताओं की सूची व्यापक है अथवा उसे किसी विशेष ढंग से सुधारा जाना चाहिए ?
5.
 

विधेयक का खण्ड-चार तीन प्रसवपूर्व निदान तकनीक का प्रयोग तिनहीं शर्तों/प्रयोजनों तक सीमित रखा गया है ।

  - क) क्या आप शर्तों/प्रयोजनाओं जैसे कि विधान में प्रस्तावित हैं, से सहमत हैं ? यदि नहीं, तो विधेयक के उपबंधों में किस प्रकार सुधार किया जाना चाहिए ।
  - ख) क्या आपके विचार में रक्षा गर्भवती स्त्री की आयु 35 वर्ष से अधिक रखे जाने की सीमा जो उसे प्रसवपूर्व निदान तकनीक हेतु अनुमति देती है, उपर्युक्त है ।
6.
 

विधेयक के खण्ड-दो में 'आनुवंशिकी सलाह केन्द्र' अनुवर्षिकी क्लिनिक, 'आनुवंशिकी प्रयोगशाला' आदि विभिन्न शब्दों को परिभाषित किया गया है ।

क्या आपके विचार में अधिनियम के मूलभूत उद्देश्यों को पूर्णतः के लिये ये परिभाषायें व्यापक हैं अथवा आप इस संबंध में कोई सुझाव देना चाहते हैं ?

7. Do you think that Sonography should also be included in the pre-natal diagnostic techniques/tests/procedures etc., besides those contemplated in Clause 2 of the Bill ?
8. It has been suggested to the Committee that besides the pre-natal diagnostic techniques, procedures and tests included in Clause 2, a further sub-clause should be included to empower the Government to specify by Notification any other technique/procedure/test to be included in the list.

What are your views in this regard ?

9. Under Chapter VI of the Bill, requirements and procedures for Registration of Centres/Laboratories/Clinics have been outlined.

What are your views on this ? Would you suggest any changes in this regard ?

10. It has been suggested to the Committee that the registered genetic centres etc. should display prominently that sex pre-determination is a punishable offence.

Do you have any other suggestion in this regard?

11. Under the present Bill Pre-Natal diagnostic techniques are proposed to be permitted in all registered Genetic Clinics/Laboratories/Counselling Centres.

(a) How far in your view, is it necessary or desirable to confine the activities only to Government institutions keeping in view the fact that these are used in connection with abnormalities.

(b) What practical difficulties do you envisage if the techniques are confined only to Government institutions ?

12. The Bill provides for punishment for violation of the provisions of the proposed legislation.

(a) Do you think that the punishment provided for in the Bill is adequate; and

(b) In what way, in your opinion, the penal provisions should be modified ?

(c) Do you think that a minimum level of punishment should be prescribed so that offenders are not let off with nominal punishment.

7. क्या आपका यह विचार है कि विधेयक के छंड-दो में सुविचारित के अतिरिक्त सोनोग्राफी को भी प्रसवपूर्व निदान तकनीक/परीक्षणों/प्रक्रियाओं आदि में सम्मिलित किया जाए?

8. समिति को यह सुझाव दिया गया है कि छंड-दो में सम्मिलित प्रसवपूर्व निदान तकनीक प्रक्रियायें और परीक्षण के अलावा एक और उप-छंड शामिल किया जाना चाहिए ताकि किसी अन्य तकनीक/प्रक्रिया/परीक्षण को सूची में शामिल करने के लिए अधिसूचना द्वारा विनिर्देशित करने हेतु सरकार को शक्ति प्रदत्त की जा सके।

इस संबंध में आपके क्या विचार हैं ?

9. विधेयक के अध्याय-छ: के अंतर्गत केन्द्रों/प्रयोगशालाओं/क्लीनिकों के पंजीकरण के लिए अपेक्षाओं और प्रक्रियाओं को स्पष्ट किया गया है।

इस संबंध में आपके क्या विचार हैं ? क्या आप इस संबंध में संशोधन के लिए कोई सुझाव देगे ?

10. समिति को यह सुझाव दिया गया है कि पंजीकृत आनुवंशिकी केन्द्रों आदि को प्रमुख रूप से यह प्रदर्शित करना चाहिए कि लिंग पूर्व-निर्धारण करना एक अपराधिक दण्ड है।

क्या इस संबंध में आप कोई अन्य सुझाव देना चाहेंगे ?

11. वर्तमान विधेयक के अंतर्गत प्रसवपूर्व निदान तकनीक को सभी पंजीकृत आनुवंशिकी क्लीनिकों/प्रयोगशालाओं/सलाहकार केन्द्रों में अनुमति देने का प्रस्ताव है।

क) इस तथ्य को ध्यान में रखते हुए कि इन्हें अतामान्य परिस्थितियों में ही प्रयोग में लाया जाए, आपके विचार में यह कितना आवश्यक है अथवा वांछनीय है कि इन क्रियाकलापों को केवल सरकारी संस्थाओं तक ही सीमित रखा जाए ?

ख) यदि इन तकनीकों को केवल सरकारी संस्थाओं तक ही सीमित रखा जाए तो आपके विचार से कौन-कौन सी व्यवहारिक कठिनाईयां सामने आएंगी ?

12. विधेयक में प्रस्तावित विधान के उपबंधों का उल्लंघन करने के लिए दण्ड का प्रावधान है।

क) क्या आप यह समझते हैं कि विधेयक में जितन दण्ड की व्यवस्था है वह पर्याप्त है;

ख) आपके विचार से दण्ड प्रावधानों में किस प्रकार संशोधन किया जाना चाहिए; और

ग) क्या आपके विचार से न्यूनतम दण्ड निर्धारित किया जाना चाहिए ताकि अपराधी केवल मामूली दण्ड पाकर ही न छूट जाये ?

13. Do you think that the Bill contains adequate provisions for prohibition of advertisements for Pre-Natal Diagnostic Techniques for detection or determination of sex.
- (a) If not, in what way should the provisions of the Bill be modified to achieve the basic objectives of the Bill.
- (b) Should the owners of the newspapers/magazines which carry any such advertisements also need to be punished besides the advertiser.
- (c) Should a minimum level of punishment also be prescribed for this purpose ?

14. It has been suggested to the Committee that prohibitions of advertisements contemplated in Chapter VII of the Bill should also include "person to person communication in any manner". Do you agree with this view ?

15. Under Clause 28 of the proposed Bill, cognizance of an offence under the Act can be taken by the Board only on a complaint by the appropriate authority concerned or any officer authorised by the Central or State Government, or by a person who has given notice of at least 60 days of the alleged offence and of his intention to make a complaint.

Do you have any suggestion in this regard ?

16. The Bill makes provision for a Central Supervisory Board as also an Appropriate Authority for administration of the Act.

Do you think that the institutional machinery sought to be created under the Bill at the Centre as also in the States will meet the requirements ? Should there be Supervisory Boards at the State level also?

17. Do you think that one of the functions of the Supervisory Board besides those contemplated in Clause 16 of the Bill should be to prepare a list of minimum standard in terms of equipment, level of skills and expertise that would be required to perform the designated tests in a proper manner ?

18. Clause 7 of the Bill makes provision for a Central Supervisory Board.

Do you think that all the concerned interests are adequately represented. Do you have any suggestion in this regard ?

13. क्या आपके विचार से इस विधेयक में लिंग का पता लगाने अथवा इसके निर्धारण हेतु प्रसव पूर्व निदान तकनीक के लिए विज्ञापनों पर प्रतिबन्ध लगाने हेतु पर्याप्त उपबंध है ?

क० यदि नहीं, तो विधेयक के मूल उद्देश्यों की प्राप्ति के लिए विधेयक के उपबन्धों में किस प्रकार के संशोधन करने चाहिए ?

ख० क्या इस प्रकार के विज्ञापनों को प्रकाशित करने वाले समाचारपत्रों/पत्रिकाओं के मालिकों के साथ विज्ञापन दाताओं को भी दीण्डत किए जाने की आवश्यकता है ?

ग० क्या इस प्रयोजन के लिए दण्ड के न्यूनतम स्तर को निर्धारित किया जाना चाहिए ।

14. समिति को यह सुझाव दिया गया है कि विधेयक के अध्याय सात में उल्लिखित विज्ञापनों के निषेध से संबंधित वाक्य में किसी भी तरीके से एक व्यक्ति से दूसरे व्यक्ति से सम्पर्क भी जोड़ा जाना चाहिए । क्या आप इस विचार से सहमत है ?

15. प्रस्तावित विधेयक के छण्ड 28 के अन्तर्गत बोर्ड द्वारा अधिनियम के अन्तर्गत किसी अपराध का संज्ञान तभी किया जा सकता है जबकि किसी सम्बद्ध उपयुक्त प्राधिकारी द्वारा अथवा केन्द्र या राज्य सरकार द्वारा प्राधिकृत किसी अधिकारी द्वारा अथवा किसी ऐसे व्यक्ति द्वारा जिसने उक्त अपराध की और शिकायत करने के अपने उद्देश्य की सूचना कम से कम 60 दिन पूर्व दी हो ।

क्या आपका इस संबंध में कोई सुझाव है ?

16. इस विधेयक में अधिनियम के लागू करने हेतु केन्द्राय पर्यवेक्षण बोर्ड और उपयुक्त प्राधिकारी का भी उपबन्ध किया गया है । क्या आपके विचार में केन्द्र में और राज्यों में विधेयक के अन्तर्गत संस्थागत तंत्र की स्थापना से अपेक्षाएं पूरी हो जास्गी ?

19. What lessons, in your opinion, could be drawn from the operation of the existing laws in some States, like the Maharashtra Regulation of Use of Pre-Natal Diagnostic Techniques Act, 1968? What specific changes would you suggest in the proposed Bill on this basis?
20. (a) Do you think that any other existing laws, like the M.R.T.P. Act or the Medical Council Act etc., needs to be modified for effective enforcement of the proposed legislation?  
(b) If so, please elaborate your answer.
21. The proposed legislation provides that records shall be preserved for two years. However, it has been suggested to the Committee that the period of retention of records should be raised to five years.

What are your views in this regard ?

22. What steps should the Government initiate to create social awareness and change attitude of the people to protect the female foetus ?

क्या राज्य स्तर पर कोई प्रयोगिक बोर्ड भी होना चाहिए ?

17. • क्या आपके विचार में प्रयोगिक बोर्ड का एक कार्य विधेयक के खण्ड 16 में दिए गए कार्यों के अतिरिक्त उपकरणों की सूची कुशलता का स्तर और विशेषज्ञता के संबंध में न्यूनतम मानक निर्धारित किया जाना चाहिए जिससे कि निर्दिष्ट परीक्षण उचित ढंग से किया जा सके ?
18. विधेयक के खण्ड 7 में केन्द्रीय प्रयोगिक बोर्ड का उपबन्ध दिया गया है । क्या आपके विचार में सभी संबंधित हितबद्ध पक्षों का पर्याप्त प्रतिनिधित्व दिया गया है । क्या आपके इस संबंध में कोई सुझाव है ?
19. आपके विचार में, कुछ राज्यों में जैसे प्रसवपूर्व निदान तकनीक अधिनियम, 1968 के उपयोग के संबंध में महाराष्ट्र के विनियमन के विद्यमान नियमों में से किन-किन पाठों को लिया जा सकता है ? इस आधार पर प्रस्तावित विधेयक में आप कौन-कौन से विशेष परिवर्तनों का सुझाव देंगे ?
20. {क} क्या आपके विचार में प्रस्तावित विधान को प्रभावकारी ढंग से लागू करने के लिये, एम.आर.टी.पी. अधिनियम अथवा चिकित्सा परिषद अधिनियम आदि किन्हीं अन्य विद्यमान नियमों में परिवर्तन किये जाने की आवश्यकता है ?
- {ख} यदि हां, तो कृपया विस्तृत उत्तर दें ।
21. प्रस्तावित विधान में प्रावधान है कि अभिलेखों को दो वर्ष तक सुरक्षित रखा जायेगा । तथापि, समिति को यह सुझाव दिया गया है कि अभिलेखों को सुरक्षित रखने के लिये अवधि पांच वर्ष तक बढ़ा दी जाये । इस संबंध में आपके क्या विचार हैं ?
22. बालिका भ्रम की रक्षा करने हेतु सामाजिक जागरूकता पैदा करने और लोगों के दृष्टिकोण में परिवर्तन लाने के लिये सरकार द्वारा क्या कदम उठाये जाने चाहिये ?

To,

14-1-1992

Shri T.D. Dhingra  
Under Secretary  
Lok Sabha Secretariat  
Parliament House  
New Delhi

Subject : Joint Committee on Pre-Natal Diagnostic Techniques  
(Regulation and Prevention of Misuse) Bill, 1991.

Sir,

This is with reference to your letter No. 6/4(1)/91-CII,  
dated January 7, 1992.

Representatives from the following organizations who were co-sig-  
natories to the memorandum submitted by us would like to be  
present for the personal hearing on the provisions of the Bill.

<u>Name</u>	<u>Organization</u>
Ms. Lopa Banerjee	Saheli Women's Resource Centre
Ms. Nalini Bhanot	Saheli Women's Resource Centre
Dr. C. Sathyamala	Medico Friends Circle
Dr. Mira Shiva	Voluntary Health Association of India
Ms. Ramaa Vasudevan	People's Union for Democratic Rights
Ms. Devi Kripa	Action India

Yours Faithfully,

*Handwritten notes:*  
Lopa  
14/1/92

*Handwritten signature:*  
Nalini Bhanot  
(Nalini Bhanot  
for Saheli Women's Resource  
Centre. )

M.P.'s

Background note including our main amendments.

2 adverts. to be reworked - Chamber of + Petal Se

To other women's groups:

- ① Background note given to MP's.
- ② Amendments to Bill ✓
- ③ Answers to D'naime v.
- ④ ~~Investigative~~ ✓
- ⑤ Bill ??
- ⑥ Demands ~~for~~ agreed to earlier by  
99's groups re: Central legislation.
- ⑦ ?? ~~Agreements~~ Myths & reality of S.A. tests

Letter to be drafted.

Ankur  
 Achin Sudra  
 Shakti Shalini  
 JWP  
 Agnivesh  
 YWCA  
 Janwadi  
 Kali  
 NFIW  
 Jagori  
 VHAH  
~~CHAI~~  
~~ISST~~  
 MDS

CWDS. ?  
 Karvika ?  
 MDS  
 Manushi  
 ISST  
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 Lawyers?  
 College lecturers ??  
 Doctors ??

recd. 8.4.92

by special messenger.

CONFIDENTIAL  
BY SPECIAL MESSENGER

LOK SABHA SECRETARIAT  
(Committee Branch-II)

Parliament House Annex, New Delhi-110001.

No.6/3(1)/91/C-II

Dated the 7 April, 1992

From

Shri T.D. Dhingra,  
Under Secretary.

To

Ms. Lopa Banerjee,  
Above Shop No.105-108,  
Shopping Complex,  
Under Defence Colony Flyover,  
(South Side), New Delhi.

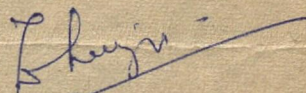
SUBJECT: Joint Committee on Pre-Natal Diagnostic Techniques  
(Regulation and Prevention of Misuse) Bill, 1991.

I am directed to refer to this Secretariat letter No. 6/3(1)/91/C-II dated 10.3.1992 on the subject mentioned above forwarding therewith the proceedings of the sitting of the Committee held on 20.1.1992 containing your/speech(es) of your representative(s) for correction and return.

Since your copy of the proceedings has not been received back in this Secretariat, I am directed to request you kindly to return your copy, containing corrections, if any, to this Secretariat immediately in the manner as already described in this Secretariat letter dated above.

2. It may be added for your information that it is not permissible to take copies of these proceedings, nor can they be quoted anywhere or made use of in any manner without the permission of the Committee, as such an act would constitute a breach of privilege of the Committee.

Yours faithfully,



UNDER SECRETARY

CONFIDENTIAL

LCK S/BM SECRETARIAT  
(Committee Branch-II)

Parliament House Annexe,  
New Delhi-110001.

No. 6/3(1)/91-CII

Dated the 10th March, 1992

From

Shri T.D. Dhingra,  
Under Secretary.

To

Ms. Lopa Banerjee,  
Above Shop No.105-108,  
Shopping Complex,  
Under Defence Colony Flyover,  
(South Side), New Delhi.

SUBJECT: Joint Committee on In-vitro Diagnostic Techniques  
(Regulation and Prevention of misuse) Bill, 1991.

.....

Sir/Madam,

I am directed to send herewith the marginally noted pages  
of the proceedings of the sitting of the above-mentioned Joint  
Committee held on the 20 January, 1992

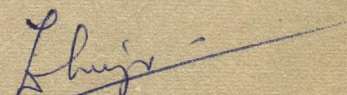
Pages 1 - 31

containing the speeches of  
~~xxxx~~ representatives for correction  
and return.

2. It may be mentioned that copies of the speeches are sent for confirmation only and for correcting inaccuracies which may have occurred in the process of reporting and not for the purpose of improving their literary form or altering substance by additions and deletions.
3. It is requested that the corrected copy bearing the signature of the concerned representatives may kindly be returned in a sealed cover so as to reach the undersigned on or before the 12 March, 1992, if the copy is not received by the said date, it will be assumed that the record of speeches as made by the Reporters has been found correct.
4. It may be added for your information that it is not permissible to take copies of these proceedings, nor can they be quoted anywhere or made use of in any manner without the permission of the Committee, as such an act would constitute a breach of privilege of the Committee.
5. The proceedings may kindly be treated as CONFIDENTIAL.

Yours faithfully,

✓ of organisations signatories  
to the Joint Memorandum

  
(UNDER SECRETARY)

LOK SABHA

UNSTARRED QUESTION No. 2662

TO BE ANSWERED ON THE 12TH AUGUST, 1991

SONOGRAPHY FOR FOETUS TEST

2662. PROF. ASHOK ANANDRAO DESHMUKH:

Will the Minister of HEALTH AND FAMILY WELFARE  
स्वास्थ्य और परिवार कल्याण be pleased to state:

(a) whether 'sonography' which had been devised for foetus test is being used for foeticide; and

(b) if so, the steps proposed to be taken by the Government in this regard?

A N S W E R

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE

(SMT. D.K. THARA DEVI SIDDHARTHA)

(a): Ultra-Sonography is one of the several methods for pre-natal diagnosis and can be used for determination of the sex of foetus. Government are aware, however, that different pre-natal diagnostic techniques, including ultra-sonography, are being misused for determination of the sex of the foetus leading to female foeticide in different parts of the country.

(b): It is proposed to enact a comprehensive Central legislation to regulate the pre-natal diagnostic techniques and ban use thereof for determination of the sex of the foetus.

Bill No. 155 of 1991

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION  
AND PREVENTION OF MISUSE) BILL, 1991

ARRANGEMENT OF CLAUSES

CHAPTER I

PRELIMINARY

CLAUSES

1. Short title, extent and commencement.
2. Definitions.

CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRE, GENETIC LABORATORY  
AND GENETIC CLINIC

3. Regulation of Genetic Counselling Centres, Genetic Laboratories  
and Genetic Clinics.

CHAPTER III

REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. Regulation of pre-natal diagnostic techniques.
5. Written consent of pregnant woman.
6. Determination of sex prohibited.

CHAPTER IV

CENTRAL SUPERVISORY BOARD

7. Constitution of Central Supervisory Board.
8. Term of office of members.
9. Meeting of the Board.
10. Vacancies, etc., not to invalidate proceedings of the Board.
11. Temporary association of persons with the Board for particular  
purposes.
12. Appointment of officers and other employees of the Board.
13. Authentication of orders and other instruments of the Board.
14. Disqualifications for appointment as member.
15. Eligibility of member for reappointment.
16. Functions of the Board.

CLAUSES

CHAPTER V

APPROPRIATE AUTHORITY

17. Appropriate Authority.

CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC  
LABORATORIES AND GENETIC CLINICS

18. Registration of Genetic Counselling Centres, Genetic Laboratories or Genetic Clinics.
19. Certificate of registration.
20. Cancellation or suspension of registration.
21. Appeal.

CHAPTER VII

OFFENCES AND PENALTIES

22. Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.
23. Offences and penalties.
24. Presumption in the case of conduct of Pre-natal diagnostic techniques.
25. Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.
26. Offences by companies.
27. Offence to be cognizable, non-bailable and non-compoundable.
28. Cognizance of offences.

CHAPTER VIII

MISCELLANEOUS

29. Maintenance of records.
30. Power to search and seize records.
31. Protection of action taken in good faith.
32. Power to make rules.
33. Power to make regulations.
34. Rules and regulations to be laid before Parliament.

Bill No. 155 of 1991

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION  
AND PREVENTION OF MISUSE) BILL, 1991

A

BILL

*to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Forty-second Year of the Republic of India as follows:—

CHAPTER I

PRELIMINARY

5. 1. (1) This Act may be called the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1991.
- (2) It shall extend to the whole of India except the State of Jammu and Kashmir.
- (3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Short  
title,  
extent  
and com-  
mence-  
ment.

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) "Appropriate Authority" means the Appropriate Authority appointed under section 17;

(b) "Board" means the Central Supervisory Board constituted under section 7; 5

(c) "Genetic Counselling Centre" means an Institute, Hospital, Nursing Home or any place by whatever name called, which provides for genetic counselling to patients and for performing obstetrical or gynaecological procedures such as foetoscopy, taking samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to genetic clinic or laboratory for conducting pre-natal diagnostic test; 10

(d) "Genetic Clinic" means a clinic and includes a place used for the purpose of conducting the activities of Genetic Counselling Centre or Genetic Laboratory or both; 15

(e) "Genetic Laboratory" means a laboratory and includes a place where facilities are provided for conducting analysis or tests of samples received from Genetic Counselling Centre for pre-natal diagnostic test;

(f) "gynaecologist" means a person who possesses a post-graduate qualification in gynaecology; 20

(g) "medical geneticist" means a person who possesses a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has experience of not less than two years in such field after obtaining— 25

(i) any one of the medical qualifications recognised under the Indian Medical Council Act, 1956; or

(ii) a post-graduate degree in biological sciences; 102 of 1

(h) "pre-natal diagnostic procedures" means all gynaecological or obstetrical or medical procedures such as foetoscopy, taking or removing samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman for being sent to a Genetic Laboratory or Genetic Clinic for conducting pre-natal diagnostic test; 30

(i) "pre-natal diagnostic techniques" include all pre-natal diagnostic procedures and pre-natal diagnostic tests; 35

(j) "pre-natal diagnostic test" means any test or analysis of amniotic fluid, chorionic villi, blood or any tissue of a pregnant woman conducted to detect genetic or metabolic disorders or chromosomal abnormalities or congenital anomalies or haemoglobinopathies or sex-linked diseases; 40

(k) "prescribed" means prescribed by rules made under this Act;

(l) "registered medical practitioner" means a medical practitioner who possesses any recognised medical qualification as defined in clause (h) of section 2 of the Indian Medical Council Act, 1956, and whose name has been entered in a State Medical Register; 45 102 of 1956

(m) "regulations" means regulations framed by the Board under this Act.

## CHAPTER II

REGULATION OF GENETIC COUNSELLING CENTRES, GENETIC LABORATORIES  
AND GENETIC CLINICS

3. On and from the commencement of this Act,—

5 (1) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic unless registered under this Act, shall conduct or associate with, or help in, conducting activities relating to pre-natal diagnostic techniques;

10 (2) no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall employ or cause to be employed any person who does not possess the prescribed qualifications;

15 (3) no medical geneticist, gynaecologist, registered medical practitioner or any other person shall conduct or cause to be conducted or aid in conducting by himself or through any other person, any pre-natal diagnostic techniques at a place other than a place registered under this Act.

Regulation of Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.

## CHAPTER III

## REGULATION OF PRE-NATAL DIAGNOSTIC TECHNIQUES

4. On and from commencement of this Act,—

20 (1) no place including a registered Genetic Counselling Centre, or Genetic Laboratory or Genetic Clinic shall be used or caused to be used by any person for conducting pre-natal diagnostic techniques except for the purposes specified in clause (2) and after satisfying any of the conditions specified in clause (3);

25 (2) no pre-natal diagnostic techniques shall be conducted except for the purposes of detection of any of the following abnormalities, namely:—

(i) chromosomal abnormalities;

(ii) genetic metabolic diseases;

30 (iii) Haemoglobinopathies;

(iv) Sex-linked genetic diseases;

(v) congenital anomalies;

(vi) any other abnormalities or diseases as may be specified by the Central Supervisory Board;

35 (3) no pre-natal diagnostic techniques shall be used or conducted unless the person qualified to do so is satisfied that any of the following conditions are fulfilled, namely:—

(i) age of the pregnant woman is above thirty-five years;

40 (ii) the pregnant woman has undergone two or more spontaneous abortions or foetal loss;

(iii) the pregnant woman had been exposed to potentially teratogenic drugs, radiation, infection or hazardous chemicals;

Regulation of pre-natal diagnostic techniques.

(iv) the pregnant woman has a family history of mental retardation or physical deformities such as spasticity or any other genetic disease;

(v) any other condition as may be specified by the Central Supervisory Board.

(4) no person being a relative or the husband of the pregnant woman shall seek or encourage the conduct of any pre-natal diagnostic techniques on her except for the purpose specified in clause (2).

Written consent of pregnant woman.

5. No person referred to under clause (2) of section 3 shall conduct the pre-natal diagnostic procedures unless he has explained all possible side and after effects of such procedures to the pregnant woman concerned and has obtained her consent in writing to undergo such procedures, in the prescribed form.

Determination of sex prohibited.

6. On and from commencement of this Act,—

(a) no Genetic Counselling Centre or Genetic Laboratory or Genetic Clinic shall conduct or cause to be conducted in its Centres, Laboratory or Clinic pre-natal diagnostic techniques including ultrasonography, for the purpose of determining the sex of a foetus;

(b) no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultrasonography for the purpose of determining the sex of a foetus.

CHAPTER IV

CENTRAL SUPERVISORY BOARD

Constitution of Central Supervisory Board.

7. (1) The Central Government shall constitute a Board to be known as the Central Supervisory Board to exercise the powers and perform the functions conferred on the Board under this Act.

(2) The Board shall consist of—

(a) the Minister in charge of Family Welfare, who shall be the Chairman, *ex officio*;

(b) the Secretary to the Government of India in charge of Family Welfare, who shall be the Vice-Chairman, *ex officio*;

(c) two members to be appointed by the Central Government to represent the Ministries of Central Government in charge of Woman and Child Development and of Law and Justice, *ex officio*;

(d) eight members to be appointed by the Central Government, two each from amongst—

(i) eminent medical geneticists;

(ii) eminent gynaecologists;

(iii) eminent social scientists; and

(iv) representatives of women welfare organisations;

(e) two members to be appointed by the Central Government by rotation in alphabetical order to represent the States and the Union territories:

Provided that no appointment under this clause shall be made except on the recommendation of the State Government, or as the case may be, the Union territory;

5 (f) an officer, not below the rank of a Joint Secretary or equivalent, of the Central Government, in charge of Family Welfare, who shall be the member-secretary, *ex officio*.

8. (1) The term of office of a member, other than an *ex officio* member, shall be three years.

Term  
of office  
of mem-  
bers.

10 (2) If a casual vacancy occurs in the office of any other member, whether by reason of his death, resignation or inability to discharge his functions owing to illness or other incapacity, such vacancy shall be filled by the Central Government by making a fresh appointment and the member so appointed shall hold office for the remainder of the term of office of the person in whose place he is so appointed.

15 (3) The Vice-Chairman shall perform such functions as may be assigned to him by the Chairman from time to time.

(4) The procedure to be followed by the members in the discharge of their functions shall be such as may be prescribed.

9. (1) The Board shall meet at such time and places, and shall observe such rules of procedure in regard to the transaction of business at its meetings (including the quorum at such meetings) as may be provided by regulations;

Meetings  
of the  
Board.

Provided that the Board shall meet at least once in six months.

25 (2) The Chairman and in his absence the Vice-Chairman shall preside at the meetings of the Board.

(3) If for any reason the Chairman or the Vice-Chairman is unable to attend any meeting of the Board, any other member chosen by the members present at the meeting shall preside at the meeting.

30 (4) All questions which come up before any meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the Chairman, or in his absence, the person presiding, shall have and exercise a second or casting vote.

35 (5) Members other than *ex officio* members shall receive such allowances, if any, from the Board as may be prescribed.

10. No act or proceeding of the Board shall be invalid merely by reason of—

Vacancies,  
etc.,  
not to  
invalidate  
proceed-  
ings of  
the  
Board.

(a) any vacancy in, or any defect in the constitution of, the Board; or

40 (b) any defect in the appointment of a person acting as a member of the Board; or

(c) any irregularity in the procedure of the Board not affecting the merits of the case.

Temporary association of persons with the Board for particular purposes.

11. (1) The Board may associate with itself, in such manner and for such purposes as may be determined by regulations, any person whose assistance or advice it may desire in carrying out any of the provisions of this Act.

(2) A person associated with it by the Board under sub-section (1) for any purpose shall have a right to take part in the discussions relevant to that purpose, but shall not have a right to vote at a meeting of the Board and shall not be a member for any other purpose. 5

Appointment of officers and other employees of the Board.

12. (1) For the purpose of enabling it efficiently to discharge its functions under this Act, the Board may, subject to such regulations as may be made in this behalf, appoint (whether on deputation or otherwise) such number of officers and other employees as it may consider necessary: 10

Provided that the appointment of such category of officers, as may be specified in such regulations, shall be subject to the approval of the Central Government. 15

(2) Every officer or other employee appointed by the Board shall be subject to such conditions of service and shall be entitled to such remuneration as may be specified in the regulations.

Authentication of orders and other instruments of the Board.

13. All orders and decisions of the Board shall be authenticated by the signature of the Chairman or any other member authorised by the Board in this behalf, and all other instruments issued by the Board shall be authenticated by the signature of the Member-Secretary or any other officer of the Board authorised in like manner in this behalf. 20

Disqualifications for appointment as member.

14. A person shall be disqualified for being appointed as a member if, he— 25

(a) has been convicted and sentenced to imprisonment for an offence which, in the opinion of the Central Government, involves moral turpitude; or

(b) is an undischarged insolvent; or 30

(c) is of unsound mind and stands so declared by a competent court; or

(d) has been removed or dismissed from the service of the Government or a Corporation owned or controlled by the Government or; 35

(e) has, in the opinion of the Central Government, such financial or other interest in the Board as is likely to affect prejudicially the discharge by him of his functions as a member.

Eligibility of member for re-appointment.

15. Subject to the other terms and conditions of service as may be prescribed, any person ceasing to be a member shall be eligible for re-appointment as such member. 40

16. The Board shall have the following functions, namely:—

Func-  
tions  
of the  
Board.

(i) to advise the Government on policy matters relating to use of pre-natal diagnostic techniques;

5 (ii) to review implementation of the Act and the rules made thereunder and recommend changes in the said Act and rules to the Central Government;

(iii) to create public awareness against the practice of female foeticide;

10 (iv) to lay down code of conduct to be observed by persons working at genetic counselling centres, genetic laboratories and genetic clinics.

(v) any other functions as may be prescribed under the Act.

## CHAPTER V

### APPROPRIATE AUTHORITY

15 17. (1) The Central Government shall appoint by notification in the Official Gazette one or more officers as Appropriate Authorities for each of the Union territories for the purposes of this Act.

Appro-  
priate  
Authority.

(2) The State Government shall appoint by notification in the Official Gazette one or more officers as Appropriate Authorities for the 20 purposes of this Act.

(3) The officers appointed as Appropriate Authorities under subsection (2), shall be of and above the rank of the Joint Director of Health and Family Welfare of the State Government or of the Union territory, as the case may be.

25 (4) The Appropriate Authority shall have the following functions, namely:—

(i) to grant registration, suspend or cancel registration of a Genetic Counselling Centre, Genetic Laboratory and a Genetic Clinic;

30 (ii) to enforce standards prescribed for the Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics; and

(iii) to investigate complaints of breach of the provisions of this Act and the rules made thereunder and take appropriate action.

35 (5) (i) The Central Government or the State Government shall, as the case may be constitute an Advisory Committee to aid and advise each Appropriate Authority in the discharge of its functions.

(ii) The Advisory Committee shall consist of two gynaecologists or medical geneticists and three eminent social workers of whom not less than one shall be from amongst representative of women's organisations.

40 (iii) The terms and conditions subject to which a person may be appointed to the Advisory Committee and the procedure to be followed by such Committee in the discharge of its functions shall be such as may be prescribed.

## CHAPTER VI

REGISTRATION OF GENETIC COUNSELLING CENTRES, GENETIC  
LABORATORIES AND GENETIC CLINICS

Registra-  
tion of  
Genetic  
Counselling  
Centres,  
Genetic  
Laborato-  
ries or  
Genetic  
Clinics.

18. (1) No person shall open any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic after the commencement of this Act, unless such Centre, Laboratory or Clinic is duly registered under this Act.

(2) Every application for registration under sub-section (1), shall be made to the Appropriate Authority in such form and in such manner and shall be accompanied by such fees as may be prescribed.

(3) Every Genetic Counselling Centre, Genetic Laboratory or a Genetic Clinic engaged, either partly or exclusively, in conducting pre-natal diagnostic techniques for any of the purposes mentioned in section 4, immediately before the commencement of this Act, shall apply for registration within sixty days from the date of such commencement.

(4) Subject to the provisions of section 6, every Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic engaged in conducting pre-natal diagnostic techniques shall cease to conduct any such technique on the expiry of six months from the date of commencement of this Act unless such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic has applied for registration and is so registered or till such appli- cation is disposed of, whichever is earlier.

(5) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be registered under this Act unless the Appropriate Authority is satisfied that such Centre, Laboratory or Clinic is in a position to provide such facilities, maintain such equipment and standards as may be prescri- bed.

Certifi-  
cate of  
registra-  
tion.

19. (1) The Appropriate Authority shall, after holding an inquiry and after satisfying itself that the applicant has complied with all the requirements of this Act and the rules made thereunder, grant a certificate of registration in the prescribed form to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, as the case may be.

(2) If, after the inquiry and after giving an opportunity to the applicant of being heard, the Appropriate Authority is satisfied that the applicant has not complied with the requirements of this Act and the rules, it shall, for reasons to be recorded in writing, reject the application for registration.

(3) Every certificate of registration shall be renewed in such manner and after such period and on payment of such fees as may be prescribed.

(4) The certificate of registration shall be displayed by the registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic in a conspicuous place at its place of business.

Cancell-  
ation or  
suspension  
of  
registra-  
tion.

20. (1) The Appropriate Authority may *suo moto*, or on complaint, issue a notice to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic to show cause why its registration should not be suspended or cancelled for the reasons mentioned in the notice.

(2) If, after giving a reasonable opportunity of being heard to the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the Appropriate Authority is satisfied that there has been a breach of the provisions of this Act or rules, it may, without prejudice to any criminal action that it may take against such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic suspend its registration for such period as it may think fit or cancel its registration, as the case may be.

(3) Notwithstanding anything contained in sub-sections (1) and (2), if the Appropriate Authority is of the opinion that it is necessary or expedient so to do in the public interest, it may, for reasons to be recorded in writing, suspend the registration of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic without issuing any such notice referred to in sub-section (1).

21. The Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic may, within thirty days from the date of receipt of the order of suspension or cancellation of registration passed by the Appropriate Authority under section 20, prefer an appeal against such order to—

Appeal.

(i) the Central Government, where the appeal is against the order of the Central Appropriate Authority; and

(ii) the State Government, where the appeal is against the orders of the State Appropriate Authority;

15 in the prescribed manner.

## CHAPTER VII

### OFFENCES AND PENALTIES

22. (1) No Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall issue or cause to be issued any advertisement in any manner regarding facilities of pre-natal determination of sex available at such Centre, Laboratory or Clinic.

Prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention.

*Explanation.*—In this section, "advertisement" includes any notice, circular, label, wrapper or other document and also includes any visible representation made by means of any light, sound, smoke or gas.

25 (2) Any person, who contravenes the provisions of sub-section (1), shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees.

30 23. (1) Any medical geneticist, gynaecologist, registered medical practitioner or any person who owns a Genetic Counselling Centre, Laboratory or Clinic or is employed in such a Centre, Laboratory or Clinic or who renders his services to or at such a Centre, Laboratory or Clinic, whether on an honorary basis or otherwise and who contravenes any of the provisions of this Act or rules made there-  
35 under shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

Offences and penalties.

40 (2) The name of the registered medical practitioner who has been convicted by the court under sub-section (1), shall be reported by the Appropriate Authority to the respective State Medical Council for taking necessary action including the removal of his name from the register of the Council for a period of two years for the first offence and permanently for the subsequent offence.

(3) Any person who seeks the aid of a Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic or of a medical geneticist, gynaecologist or registered medical practitioner for conducting pre-natal diagnostic techniques on any pregnant woman (including such woman unless she was compelled to undergo such diagnostic techniques for purposes other than those specified in clause (2) of section 4, shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees. 10

Presumption in the case of conduct of pre-natal diagnostic techniques.

24. Notwithstanding anything in the Indian Evidence Act, 1872 the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section.

Penalty for contravention of the provisions of the Act or rules for which no specific punishment is provided.

25. Whoever contravenes any of the provisions of this Act or any rules made thereunder, for which no penalty has been elsewhere provided in this Act, shall be punishable with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention. 20

Offences by companies.

26. (1) Where any offence, punishable under this Act has been committed by a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of the business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly: 25

Provided that nothing contained in this sub-section shall render any such person liable to any punishment, if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence. 30

(2) Notwithstanding anything contained in sub-section (1), where any offence punishable under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly. 35 40

*Explanation.*—For the purposes of this section,—

(a) "company" means any body corporate and includes a firm or other association of individuals; and 45

(b) "director", in relation to a firm, means a partner in the firm.

27. Every offence under this Act shall be cognizable, non-bailable and non-compoundable.

Offence to be cognizable, non-bailable and non-compoundable.

28. (1) No court shall take cognizance of an offence under this Act except on a complaint made by,—

Cognizance of offences.

(a) the appropriate Authority concerned or any officer authorised in this behalf by the Central Government or State Government, as the case may be, or the Appropriate Authority; or

(b) a person who has given notice of not less than sixty days, in the manner prescribed, to the Appropriate Authority, of the alleged offence and of his intention to make a complaint to the court.

(2) No court other than that of a Metropolitan Magistrate or a Judicial Magistrate of the first class shall try any offence punishable under this Act.

(3) Where a complaint has been made under clause (b) of subsection (1), the court may, on demand by such person, direct the Appropriate Authority to make available copies of the relevant records in its possession to such person.

## CHAPTER VIII

### MISCELLANEOUS

29. (1) All records, charts, forms, 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.

Maintenance of records.

25. Provided that, if any criminal or other proceedings are instituted against any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, the records and all other documents of such Centre, Laboratory or Clinic shall be preserved till the final disposal of such proceedings.

(2) All such records shall, at all reasonable times, be made available for inspection to the Appropriate Authority or to any other person authorised by the Appropriate Authority in this behalf.

30. (1) If the Appropriate Authority has reason to believe that an offence under this Act has been or is being committed at any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic, such Authority or any officer authorised them in this behalf may, subject to such rules as may be prescribed, enter and search at all reasonable times with such assistance if any as such authority or officer considers necessary, such Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic and examine any record, register, document, book, pamphlet advertisement or any other material object found therein and seize the same if such Authority or officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

Power to search and seize records etc.

(2) The provisions of the Code of Criminal Procedure, 1973 relating to searches and seizures shall, so far as may be, apply to every search or seizure made under this Act.

Protection of  
action  
taken in  
good  
faith.

\* 31. No suit, prosecution or other legal proceeding shall lie against the Central or the State Government or the Appropriate Authority or any officer authorised by the Central or State Government or by the Authority for anything which is in good faith done or intended to be done in pursuance of the provisions of this Act. 5

Power to  
make  
rules.

32. (1) The Central Government may, make rules for carrying out the provisions of this Act. 10

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for—

(i) the minimum qualifications for persons employed at a registered Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under clause (1) of section 3; 15

(ii) the form in which consent of a pregnant woman has to be obtained under section 5;

(iii) the procedure to be followed by the members of the Central Supervisory Board in the discharge of their functions under sub-section (4) of section 8; 20

(iv) allowances for members other than ex-officio members admissible under sub-section (5) of section 9;

(v) the terms and conditions subject to which a person may be appointed to the Advisory Committee under clause (iii) of sub-section (5) of section 17; 25

(vi) the form and manner in which an application shall be made for registration and the fee payable thereof under sub-section (2) of section 18;

(vii) the facilities to be provided, equipment and other standards to be maintained by the Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic under sub-section (4) of section 18; 30

(viii) the form in which a certificate of registration shall be issued under sub-section (1) of section 19;

(ix) the manner in which and the period after which a certificate of registration shall be renewed and the fee payable for such renewal under sub-section (3) of section 19; 35

(x) the manner in which an appeal may be preferred under section 21;

(xi) the period up to which records, charts etc. shall be preserved under sub-section (1) of section 29; 40

(xii) the manner in which the seizure of documents, records, objects etc. shall be made and the manner in which seizure list shall be prepared and delivered to the person from whose custody such documents, records or objects were seized under sub-section (1) of section 30; 45

(xiii) any other matter that is required to be or may be prescribed.

33. The Board may, with the previous sanction of the Central Government, by notification in the Official Gazette make regulations not inconsistent with the provisions of this Act and the rules made thereunder to provide for,—

Power  
to make  
regula-  
tions.

5 (a) the time and place of the meetings of the Board and the procedure to be followed for the transaction of business at such meetings and the number of members which shall form the quorum under sub-section (1) of section 9;

10 (b) the manner in which a person may be temporarily associated with the Board under sub-section (1) of section 11;

(c) the method of appointment, the conditions of service and the scales of pay and allowances of the officer and other employees of the Board appointed under section 12;

15 (d) generally for the efficient conduct of the affairs of the Board.

34. Every rule and every regulation made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, 20 before the expiry of the session in which it is so laid or the session immediately following the session aforesaid both Houses agree in making any modification in the rule or regulation as the case may be or both Houses agree that the rule or regulation as the case may be should not be made, the rule or regulation shall thereafter have effect only in 25 such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done or omitted to be done under that rule or regulation.

Rules and  
regula-  
tions to  
be laid  
before  
Parlia-  
ment.

## STATEMENT OF OBJECTS AND REASONS

It is proposed to prohibit pre-natal diagnostic techniques for determination of sex of the foetus leading to female foeticide. Such abuse of techniques is discriminatory against the female sex and affects the dignity and status of women. A legislation is required to regulate the use of such techniques and to provide deterrent punishment to stop such inhuman act.

The Bill *inter alia* provides for:—

(i) prohibition of the misuse of pre-natal diagnostic techniques for determination of sex of foetus, leading to female foeticide;

(ii) prohibition of advertisement of pre-natal diagnostic techniques for detection or determination of sex;

(iii) permission and regulation of the use of pre-natal diagnostic techniques for the purpose of detection of specific genetic abnormalities or disorders;

(iv) permitting the use of such techniques only under certain conditions by the registered institutions; and

(v) punishment for violation of the provisions of the proposed legislation.

2. The Bill seeks to achieve the above objectives.

NEW DELHI;  
The 6th September, 1991.

M. L. FOTEDAR.

*Notes on clauses*

*Clause 2.*—This clause seeks to define the various expressions used in the Bill.

*Clause 3.*—This clause provides that no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall conduct any pre-natal diagnostic technique unless it is registered under the proposed Act. It also provides that such Centre, Laboratory or Clinic shall not employ any person who does not possess the prescribed qualifications. It also provides that no medical geneticist, gynaecologist or registered medical practitioner or any other person shall conduct any pre-natal diagnostic technique at a place other than the place registered under the Act.

*Clause 4.*—This clause provides that no Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic shall be used for pre-natal diagnostic techniques except for the purposes mentioned in that clause and subject to the fulfilment of the conditions specified in that clause. It also provides that no person shall seek or encourage the performance of any pre-natal diagnostic technique on any pregnant woman except for the purposes mentioned in that clause.

*Clause 5.*—This clause provides that before the pregnant woman is subjected to pre-natal diagnostic technique the person conducting such test shall explain all the side and after effects of undertaking such tests and has obtained her consent in writing to undergo such procedures.

*Clause 6.*—This clause imposes an absolute prohibition on the use of pre-natal diagnostic technique including ultra-sonography for the purposes of determining the sex of foetus.

*Clause 7.*—This clause provides for the constitution of Central Supervisory Board with the Minister in charge of Family Welfare as its Chairman.

*Clause 8.*—This clause provides for term of office of members appointed to the Central Supervisory Board.

*Clause 9.*—This clause provides for meetings of the Board and the procedure to be followed for such meetings.

*Clause 10.*—This clause provides that vacancies in the Board shall not invalidate proceedings of the Board.

*Clause 11.*—This clause provides for temporary association of persons with the Board for particular purposes.

*Clause 12.*—This clause provides for appointment of officers and other employees of the Board.

*Clause 13.*—This clause provides for authentication of orders and other instruments of the Board.

Genetic Counselling Centre, Genetic Laboratory, Genetic Clinic, medical geneticist, gynaecologist or a registered medical practitioner for conducting pre-natal diagnostic technique at any pregnant woman, including such pregnant woman unless she was compelled for any purpose other than those specified in the proposed Act shall be punishable with imprisonment for a term which may extend to three years and fine which may extend to ten thousand rupees and for subsequent conviction with imprisonment which may extend to five years and fine which may extend to fifty thousand rupees.

**Clause 24.**—This clause provides that the court shall presume unless the contrary is proved that the pregnant woman has been compelled by her husband or the relative to undergo pre-natal diagnostic technique and such person shall be liable for abetment of the offence under sub-section (3) of section 23.

**Clause 25.**—This clause provides for penalty for contravention of the proposed Act or the rules made thereunder for which no provision has been elsewhere provided in the Act.

**Clause 26.**—This clause provides for punishment for offences by companies.

**Clause 27.**—This clause provides that every offence under this Act shall be cognizable, non-bailable and non-compoundable.

**Clause 28.**—This clause provides that the court shall take cognizance of an offence under the Act only on a complaint made by the Appropriate Authority or any officer authorised by the Central Government or State Government or the Appropriate Authority or by a person who has given notice of not less than sixty days to the Appropriate Authority of the alleged offence and his intention to make a complaint to the court.

**Clause 29.**—This clause provides for maintenance of records, charts, forms, reports, etc. for a period of two years.

**Clause 30.**—This clause confers power upon the Appropriate Authorities to seize records and search premises of any Genetic Counselling Centre, Genetic Laboratory or Genetic Clinic.

**Clause 31.**—This clause provides for protection of action taken in good faith.

**Clause 32.**—This clause confers power upon the Central Government to frame rules for carrying out the purposes of this Act.

**Clause 33.**—This clause confers power upon the Central Supervisory Board for framing of regulations not inconsistent with the provisions of this Act and the rules made thereunder with the previous permission of the Central Government.

**Clause 34.**—This clause provides for the laying down of rules and regulations before the Parliament.

## FINANCIAL MEMORANDUM

Bill provides for the constitution of a Central Supervisory Board. It will exercise the powers conferred on, and to perform the functions assigned to it under the proposed legislation. The Central Supervisory Board, with the Minister in charge of the Ministry of the Central Government dealing with the Family Welfare, as its Chairman will include 14 members.

Clause 9 of the Bill provides that members other than the *ex officio* members of the Board, shall receive such allowances, if any, as may be prescribed by the Board. The Bill also provides that at least two meetings of the Board shall be held during every year. Out of the eight experts representing different disciplines, four experts can be expected to represent governmental sector and the remaining four, the non-governmental sector. The financial liability that will accrue to the government will be in respect of payment of DA/TA to the four experts belonging to non-governmental sector. The estimated expenditure, covering the cost of air travel and payment of per diem to these four experts will be of the order of Rs. 41,200 for holding two meetings in a year. In respect of the remaining four experts as also the representatives of States/UTs, there will also be cash outgo. The extent of cash outgo is estimated to be of the order of Rs. 1,23,600 making a total of Rs. 1,64,800 per annum.

2. The Bill also envisages constitution of Appropriate Authorities for the UTs as well as for the States. These Appropriate Authorities shall have the powers of granting registration, suspension or cancellation of the registration. Though one of the existing officers in States and UTs is expected to take over this responsibility to start with, yet with the passage of time, he may be requiring additional secretarial assistance for his effective functioning under the Act, which will depend upon the workload which the concerned officer will have to shoulder under the Act. It is, therefore, not possible at this stage to indicate precisely how much secretarial assistance is needed and what will be the financial liability on this account. Likewise for the effective functioning of Central Supervisory Board, there may be a need for giving additional or exclusive secretarial assistance for handling this work. No precise estimates about the likely expenditure, on this account can be given at this stage.

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 32 of the Bill empowers the Central Government to make rules to carry out the provisions of the Bill. Such rules may, among other things, provide for any of the following matters, namely:—

(i) minimum qualifications of the person employed in registered Genetic Counselling Centre, Genetic Laboratory and Genetic Clinic;

(ii) the form and manner of application for registration, records to be maintained, consent of pregnant woman to be obtained at such registered Centre, Laboratory or Clinic;

(iii) minimum equipment necessary and the standards to be maintained by the Centre, Laboratory or Clinic;

(iv) the manner in which an appeal may be filed to the Central or State Government against the order of refusal, cancellation or suspension of registration;

(v) the duration of validity, procedure of renewal and fee to be charged for registration; and

(vi) the records, charge, report and the other documents to be maintained by the Genetic Counselling Centre, Laboratory or Clinic.

Clause 33 of the Bill empowers the Central Supervisory Board to frame regulations. Such regulations, among other things, may provide for the time and places of meetings of the Board, the procedure to be followed for the transaction of business at such meetings, the number of members which shall form a quorum and the conditions of service of the employees of the Board.

2. As the matters in respect of which rules and regulations may be made are matters of procedure or administrative detail, the delegation of legislative power is of a normal character.

LOK SABHA

A

BILL

to provide for the regulation of the use of pre-natal diagnostic techniques for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders, and for the prevention of the misuse of such techniques for the purpose of pre-natal sex determination leading to female foeticide; and for matters connected therewith or incidental thereto.

STATEMENT REFERRED TO IN REPLY TO THE LOK SABHA  
STARRED QUESTION No. 400 FOR 12TH AUGUST, 1991.

.....

The Government are aware of the misuse of the pre-natal diagnostic techniques for determination of the sex of the foetus leading to cases of female foeticide in different parts of the country.

A Central legislation to regulate pre-natal diagnostic techniques and to ban the misuse thereof for determination of the sex of the foetus, is under active consideration.

Information relating to clinics performing amniocentesis tests is not being monitored by the Government of India as there is no Central Law regulating such tests.

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LOK SABHA

STARRED QUESTION No. 400

TO BE ANSWERED ON THE 12TH AUGUST, 1991

FOETICIDE CASES

\*400. PROF. ASHOK ANANDRAO DESHMUKH:

SHRI PRAKASH V. PATIL:

Will the Minister of HEALTH AND FAMILY WELFARE

स्वास्थ्य और परिवार कल्याण विभाग) be pleased to state:

- (a) whether the Government are aware about the recent cases of foeticide in the country;
- (b) if so, the steps taken by the Government to check this evil practice;
- (c) the names of clinics in the country which perform amniocentesis tests;
- (d) whether the Government propose to ban such tests; and
- (e) if so, the details thereof?

A N S W E R

MINISTER OF HEALTH AND FAMILY WELFARE

(SHRI M.L. FOTEDAR)

(a) to (e): A statement is laid on the Table of the House.

LOK SABHA

UNSTARRED QUESTION No. 2662

TO BE ANSWERED ON THE 12TH AUGUST, 1991

SONOGRAPHY FOR FOETUS TEST

2662. PROF. ASHOK ANANDRAO DESHMUKH:

Will the Minister of HEALTH AND FAMILY WELFARE

स्वास्थ्य और परिवार कल्याण विभाग be pleased to state:

(a) whether 'sonography' which had been devised for foetus test is being used for foeticide; and

(b) if so, the steps proposed to be taken by the Government in this regard?

A N S W E R

THE MINISTER OF STATE IN THE MINISTRY OF HEALTH AND FAMILY WELFARE

(SMT. D.K. THARA DEVI SIDDHARTHA)

(a): Ultra-Sonography is one of the several methods for pre-natal diagnosis and can be used for determination of the sex of foetus. Government are aware, however, that different pre-natal diagnostic techniques, including ultra-sonography, are being misused for determination of the sex of the foetus leading to female foeticide in different parts of the country.

(b): It is proposed to enact a comprehensive Central legislation to regulate the pre-natal diagnostic techniques and ban use thereof for determination of the sex of the foetus.

Additional Submissions to "Note on Suggested Amendments in  
Bill No. 155 of 1991"

Regulation of use of Designated Test (pg. 3 of Note on Suggested  
Amendments)

16. Section 4, Clause (1) to be amended as

"On and from the commencement of the Act,--

No person other than an authorised Head of Unit or such other  
qualified person authorised by the Head of Unit, on the Head  
of Unit's responsibility, shall use or carry out any designated  
test."

29. Section 7, Clause (2) sub clause (e)

the paragraph following (ii) (pg 5 of Note on Suggested Amendments)  
to read-

"Provided that no appointment of the eminent social scientists  
and representatives of Women's Welfare Organizations shall be  
made except on the recommendation of Women's Welfare Organiz-  
ations and in consultation with the State Governments"

49. Section 17, Clause (2) to be amended as (pg 7 of Note on Suggested  
Amendments)

"The Central Government, State Governments and Union Territories  
should appoint by notification in the Official Gazette one or  
more officers on the basis of the population to be covered and  
on the prevalence of the misuse of the tests as Appropriate  
Authorities for the purposes of this Act"

55. Section 17, a new clause to be inserted (pg 7 of Note on Suggested  
Amendments)

" The Appropriate Authority should act upon information made  
available to it or a complaint filed to it by any person  
aggrieved by the offence or by an organization or an institution  
within the shortest possible time and not exceeding 24 hours  
to prevent the removal and obliteration of evidence by the  
accused party."

63. Section 24, to be amended as (pg 8 of Note on Suggested Amendments)

"Notwithstanding anything in the Indian Evidence Act, 1872,  
where it has been established that a pregnant woman has  
undergone a specified test exclusively for the purpose of  
sex determination of the foetus, the Court shall presume  
that the pregnant woman has been compelled by her husband  
or relatives to undergo the specified test for the sole  
purpose of sex determination and such persons shall be liable

for abetment of offence under sub section (3) of Section 23 and shall be punishable for the offence specified under that section".

FURTHER AMENDMENTS SUGGESTED

- I. A new section on regulation of <sup>the specified test</sup> ultrasonography to be added-
- "Notwithstanding anything in the Indian Evidence Act 1872, the Court shall presume, unless the contrary is proved, that ultrasound equipment, when used on a pregnant woman upto the second trimester (six months) of pregnancy, has been used for the exclusive purpose of sex determination of the foetus and this shall constitute a violation of the provisions of this Act and shall be prosecuted accordingly".
- II. To hasten the process of litigation Special Courts in the metropolises may be designated to try cases relating to the provisions of this Act and that these cases may be decided in a period of not more than 90 days from the date of filing the complaint.
- III. The role of the Advisory Committee to the Appropriate Authority may enlarged such that the Advisory Committee to the Appropriate Authority may also act as a watchdog body with powers to inspect and report a complaint.
- IV. There should be a ceiling on the service charges that are levied on patients for the use of ultrasound for different indications.
- V. The title of the Bill may be amended to read:
- "THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE FOR SEX DETERMINATION) BILL, 1991."

Submitted by: Saheli Women's Resource Centre, Voluntary Health Association of India, Action India, Joint Women's Programme, People's Union for Democratic Rights, Dr. Imrana Qadeer, and Medico Friend's Circle.

*M. K. Das*

Note on Suggested Amendments in Bill No. 155 of 1991.

THE PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) BILL, 1991.

(N.B. For easy reference the amendments are underlined )

1. A bill to provide for the regulation of the use of pre-natal diagnostic techniques, presently available and those likely to be developed in future, whether or not for the purpose of detecting genetic or metabolic disorders or chromosomal abnormalities or certain congenital malformations or sex-linked disorders or for the sole purpose of sex determination of the foetus or embryo, and for the prevention of misuse of such techniques for the purpose of pre-natal sex-determination whether or not leading to female foeticide, and for matters connected therewith or incidental thereto.
2. Section 1, clause 1 to remain the same.
3. Section 1, Clause (2) to be amended to read "It shall extend to the whole of India including the State of Jammu and Kashmir".
4. Section 1, Clause 3 to be amended to read "It shall come into force on such date as the Central Government may, by notification in the Official Gazette appoint but not later than six months of passing of the Bill or the receipt of the President's assent whichever is earlier".
5. Section 2, Clause (a) & (b) to remain the same.
6. Section 2, Clause (c), (d) and (e) to be deleted the basis for which is presented in our response to question No. 4 circulated by Lok Sabha Secretariat, Committee Branch - II.
7. Section 2, Clause (f) to remain the same.
8. Section 2, Clause (g) (i) and (ii) to be amended to "medical geneticist" means a person who possesses a post graduate degree in medical genetics".
9. Section 2, Clause (h), (i), & (j) to be deleted and instead the following definition needs to be inserted.  
"Designated tests" means any of the following pre-natal diagnostic tests, techniques, procedure, namely

- (i) Amniocentesis
- (ii) Chorion Villi Biopsy
- (iii) Foetoscopy
- (iv) Any other test which the government may by notification in the official Gazette designate"

AND

"Specified test means any of the following pre-natal diagnostic tests, techniques, procedures namely

- (i) any of the designated tests mentioned in sub-clauses (i) to (iii) in clause on designated tests.
- (ii) any other test notified as a designated test by the government under sub-clause (iv) in the clause on designated tests.
- (iii) Sonography.
- (iv) any other test which the Central Government may, by notification in the official Gazette specify."

- 10. Section 2, Clause (k), (l), and (m) to remain the same.
- 11. An additional Clause to be included in the definitions namely "Authorized Head of Unit is one who is
  - (a) Head of the Department of obstetries and Gynaecology and / or Genetics in the hospital attached to the a medical College recognized under the Indian Medical Council Act 1956 or
  - (b) Head of the Department of Obstetrics and Gynaecology and/or Genetics in an apex research institute with facilities at par or higher than the hospitals attached to Medical Colleges recognized under the Indian Medical Council Act. "
- 12. The title of Chapter II to be amended as "PROHIBITION OF USE OF SPECIFIED TEST"
- 13. Section 3, Clause (1) & (2) to be deleted.
- 14. Section 3, Clause (3) to be amended to read
  - (a) "no medical geneticist, gynaecologist, registered medical practitioner, or any other person shall conduct or cause to be conducted or aid or abet in conducting by himself/herself or through any other person, or aid or abet submission of a woman to any

specified test for the sole purpose of determination of the sex of the fetus irrespective of whether or not it is intended to terminate pregnancy under the medical termination of Pregnancy Act, 1971".

AND

"In the event that any of the specified test is used for gynaecological and/or obstetrical indications other than that indicated for the use of designated tests, the sex of the faetus shall not be communicated verbally or symbolically or in writing or in any other form to the woman on whom it is conducted and or to her relatives"

15. The title of Chapter III to be amended as  
REGULATION OF USE OF DESIGNATED TEST

16. Section 4, Clause (1) to be amended as

"On and from the commencement of the Act, -  
No person other than an authorized Head of  
Unit shall use or carry out any designated test"

AND

"No authorized Head of Unit shall use or carry out a designated test at any place other than the place prescribed under the rules and regulations of the Act".

17. Section 4, Clause (2) to be amended as

"No designated test shall be used or conducted by the authorized Head of the Unit except for the purposes of detection of any of the following abnormalities"

18. Section 4, Clause (2), sub-clauses (i) to (vi) to remain the same.

19. Section 4, Clause (3) to be amended as

"No designated test shall be used or conducted unless the authorized Head of Unit is satisfied that there is documentary proof that any of the following conditions are fulfilled namely":-

20. Section 4, Clause (3), Sub-clauses (i) and (ii) to remain the same.

21. Section 4, Clause (3) Sub-clause (iii) to be amended as  
" The pregnant woman had been exposed to potentially teratogenic drugs, radiation, infection or hazardous chemicals as per the list prepared in the rules and regulations under the Act".
22. Section 4, Clause (3), Sub Clause (iv) to be amended as  
" The pregnant woman has a family history of mental retardation or major physical deformities or any other genetic disease as per the list prepared under the regulation of the Act".
23. Section 5, to be amended as  
" The designated test shall be carried out by the authorized Head of Unit only after he/she has communicated all possible side or after effects of such procedures to the pregnant woman concerned both verbally and through information pamphlet in the concerned regional language and has obtained her consent in writing to undergo such procedures in the prescribed form in the concerned regional language which shall not contain any matter contravening any of the specifications of the Act and only after giving a copy of the same to the woman".
24. Section 5, an additional clause to be inserted namely  
"Unless a designated test is specifically meant for the detection of sex-linked disorders, the sex of the foetus shall not be communicated verbally, or symbolically or in writing or in any other form to the woman on whom it is conducted and or her relatives."
25. Section 6, clause (a) & (b) to be deleted.
26. Section 7, Clause (1) to remain the same.
27. Section 7, Clause (2), Sub-clause (a) to be amended as  
"The Minister in charge of Health and Family Welfare, who shall be Chairman ex-officio".
28. Section 7, Clause (2) Sub Clause (d) to be amended as  
"ten members to be appointed by the Central Government two each from amongst :-  
(i) eminent medical geneticists;  
(ii) eminent gynaecologists  
(iii) eminent social scientists who are known to have campaigned against the misuse of such tests in the past."

- (iv) representatives of women welfare Organisations who are known to have campaigned against the misuse of such tests in the past.
- (v) eminent legal experts who are known to have campaigned against the misuse of such tests in the past."

29. Section 7, Clause (2) sub clause (e) to be amended as  
"ten members to be appointed by the Central Government  
and by rotation/by starting with those states where misuse  
of these tests for sex determination is significantly  
higher in order to represent the States and Union  
territories, with a minimum of four each from amongst

- (i) eminent social scientists who are known to have campaigned against the misuse of such tests in the past".
- (ii) "representatives of women Welfare Organisations who are known to have campaigned against the misuse of such tests in the past".

Provided that no appointment of the eminent Social Scientists and representatives of Women Welfare Organizations shall be made except on the recommendation of women's organisations".

30. Section 7, Clause (2) Sub-clause (f) to be amended as  
"an officer, not below the rank of a joint Secretary or equivalent of the Central Government in charge of Health and Family Welfare, who shall be the member-Secretary, ex-officio"

31. Section 8, Clause (1) to (4) to remain the same.

32. Section 9,, Clause (1) to (4) to remain the same.

A new Clause to be inserted namely :

"All questions related to major policy decisions should be made open for public debate before final decision is taken on such matters by putting it to vote not withstanding the clause on secrecy of the proceedings of the Board".

33. Section 9, Clause (5) to be amended to Clause (6) and the content to remain the same.

34. Section 10, clause (a) to be deleted and instead amended to as  
"The Board shall be functional within six months of the commencement of the Act with all the appointments duly filled in as specified in the Act"
35. Section 11, Clause (1) and (2) to remain the same.
36. Section 12, Clause (1) and (2) to remain the same.
37. Section 13, to remain the same
38. Section 14, to be amended as  
"A person shall be disqualified for being appointed as a member or as an associate if he/she"
39. Section 14 14, Sub clause (a) to (e) to remain the same. In addition one more clause needs to be added.  
(f) has, in the past known to have supported or to have conducted or caused to have conducted any of the specified tests for the sole purpose of sex determination.
40. Section 15 to remain the same.
41. Section 16, clause (i) and (ii) to remain the same.
42. Section 16, clause (iii) to be amended as  
"to create public awareness against the practice of female foeticide and sex selection as well as the social, economic, and health consequences of such medical technologies"
43. Section 16, clause (iv) to be amended as  
"to lay down code of conduct to be observed by the authorized Heads of Unit in the Institutions authorized to carry out the designated tests"
44. Section 16, two additional clauses to be inserted.  
(a) "to lay down code of conduct to be observed by all gynaecologists, medical geneticist, registered medical practitioner or any other person in their carrying out of the specified tests"  
(b) to prepare a list of minimum standards in terms of equipment, levels of skill and expertise that would be required to perform the designated tests in a proper manner and to make a list of such institutions where these tests could be carried out in an adequate manner.
45. Section 16, clause (iv) to be deleted
46. Section 16, clause (v) to remain the same
47. Section 16, an additional clause to be inserted  
"to monitor recent developments in medical technology and to bring under the purview of the Act at the earliest time possible all technologies which have a potential for sex determination whether or not leading to female foeticide"

48. Section 17, clause (1) to remain the same.

49. Section 17, clause (2) to be amended as

"The State Government shall appoint by notification in the official Gazette one or more officers on the basis of the population to be covered and on the basis of prevalence of misuse of these tests as Appropriate Authorities for the purposes of this Act"

50. Section 17, clause (3) to remain the same.

51. Section 17, clause (4) to be amended as

"The appropriate authority shall have the following functions, namely

- (i) to ensure and monitor that the designated tests are being conducted only in the authorized place by the authorized person and within the specifications in the Act.
- (ii) to ensure and monitor that the specified tests are not being conducted or caused to be conducted in contravention to the specifications ~~xx~~ in the Act.
- (iii) To carry out periodic screening of medical records pertaining to the specified tests carried out within the area of his/her jurisdiction in order to ascertain that the individual and or the institution is not violating any of the specifications of the Act.
- (iv) To investigate complaints of breach of the provisions of this Act and the rules made there under and take appropriate action.

52. Section 17, clause (5) sub clause (i) to remain the same.

53. Section 17, clause (5) Sub clause (ii) to be amended as

"The Advisory Committee shall consist of two gynaecologists or medical geneticists and three eminent social workers of whom not less than two shall be from amongst representatives of women's organisations.

54. Section 17, clause (5) sub ~~x~~ clause (iii) to be amended as

"The terms and conditions subject to which a person may be appointed to the Advisory Committee and procedure to be followed by such committee in the discharge of its functions shall be same as that the central supervisory board is subject to"

55. Section 17, a new clause to be inserted,

"The appropriate authority shall act upon a complaint filed by any person aggrieved by the offence or by an organisation or an institution within the shortest possible time and not exceeding 24 hours to prevent the removal and obliteration of evidence by the accused party"

56. Chapter VI, Sections 18 to 21 to be deleted.

57. Section 22, clause (1) to be amended as

"No one shall issue or cause to be issued any advertisement or any piece of communication whatsoever which refers in any positive manner to sex determination or sex pre selection of the foetus

and

No one shall issue or cause to be issued any advertisement in any manner regarding facilities of specified test available at any place"

58. Section 22, clause (1) "Explanation" of advertisement remains the same.

59. Section 23, clause (1) to be amended as

"Any medical geneticist, gynaecologist, registered medical practitioner or any other person who contravenes any of the provisions of this Act or rules made thereunder shall be punishable with imprisonment for a term which may extend to three years and with fine, which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to fifty thousand rupees".

60. Section 23, a new clause be added

"Any ~~xx~~ authorized Head of Unit who contravenes any of the provisions of the Act or the rules made there under shall be punishable along with the Head of the Institution with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years and with fine which may extend to fifty thousand rupees.

61. Section 23, clause (2) to remain the same.

62. Section 23, clause (3) to be amended as

"Any person who seeks the aid of any medical geneticist, gynaecologist or registered medical practitioner or any one else for the conducting of a specified test on any pregnant woman for purposes other than specified in the Act shall be punishable with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees and on any subsequent conviction with imprisonment which may extend to five years with fine which may extend to fifty thousand rupees".

63. Section 24, to be amended as

"Notwithstanding anything in the Indian Evidence Act, 1872, the Court shall presume that the pregnant woman has been compelled by her husband or relatives to undergo specified test for the sole purpose of sex determination and such persons shall be liable for abetment of offence under sub-section (3) of section 23 and shall be punishable for the offence specified under that section".

64. Section 25 to remain the same but an "explanation" needs to be added as follows

"Explanation : The woman on whom such a test is conducted is to be considered a victim of gender bias existing in society and will not be liable for punishment not withstanding anything in the Indian Evidence Act 1872".

65. Section 26, Clause (1) to remain the same.
66. Section 26, Clause (2) to remain the same.
67. Section 26, Clause (2), the "explanation" of company and director to remain the same.
68. Section 27 to remain the same.
69. Section 28 Clause (1) and sub clause (a) to remain the same.
70. Section 28, clause (1), sub clause (b) to be amended as

"any person or an organization or institution aggrieved by an offence"

71. Section 28, clause (2) to remain the same.
72. Section 28, clause (3) to remain the same.
73. Section 29, clause (1) to be amended as

"All records, charts, forms, reports, consent letters and all other documents required to be ~~maintained~~ under this Act and the rules shall be preserved for a period of not less than ten years or for such period as may be prescribed".

and

"Provided that if any criminal or other proceedings are instituted against any violator of this Act be they individuals, companies or institutions, the records and all other documents of such companies or institutions or place where the tests were conducted or caused to be conducted shall be preserved till the final disposal of such proceedings or ten years whichever is later".

74. Section 30, clause (1) to be amended as

"The Appropriate Authority shall be vested with powers to enter, search, arrest and prosecute any person/s who is reasonably suspected of having committed or is about to commit an offence against the provisions of the Act and shall be vested with power to examine any record, register, document, book, pamphlet, advertisement or any other material, object including the equipment found there-in and seize the same if such Authority of officer has reason to believe that it may furnish evidence of the commission of an offence punishable under this Act.

75. Section 30, clause (2) to remain the same.
76. Section 31, to remain the same.
77. Section 32, clause (1) to remain the same.

84. On and from the commencement of this Act the pertinent section relating to prohibition of use of specified tests . prohibition of advertisement promoting sex determination and sex pre-selection in any manner will automatically come into force.

Statement of Objects and Reasons

It is proposed to regulate and prevent misuse of prenatal diagnostic techniques for the determination of sex of the foetus whether or not leading to female foeticide. Such abuse of techniques is discriminating against the female sex and affects the dignity of the female sex and affect the dignity and status of women. A legislation is required to regulate the use of such technique and to provide deterrant punishment to stop such inhuman acts.

The Bill interalia provides for:-

- i) Prohibition of the specified tests for determination of sex of foetus whether or not leading to female foeticide.
- ii) Prohibition of advertisement of specified test for sex determination or sex selection.
- iii) Permission and regulation of the use of designated tests for the purpose of detection of genetic abnormalities or disorders to be carried out by authorised persons in specified places.
- iv) Punishment for violation of the provisions of the proposed Legislation.

The Bill seeks to achieve the above objectives.

78. Section 32, clause (2) sub clause (i) to be deleted.
79. Section 32, clause (2) sub clause (ii) to (v) to remain the same.
80. Section 32, clause (2), sub clause (vi) to (x) to be deleted.
81. Section 32, clause (2) sub clause (xi) to (xiii) to remain the same.
82. Section 32, clause (2) the following additional sub clauses need to be inserted:-
  - a) List of designated and specified tests and a list of their indications.
  - b) List of abnormalities and defects that may be diagnosed by designated tests.
  - c) Prescribe minimum standard for equipment, expertise and skills required for carrying out the designated tests.
  - d) List of Institutions that have the minimum prescribed standards for performing the designated tests.
  - e) List of authorised Head of Units of the institutions which have the minimum standard required to perform the designated tests.
  - f) List of potentially teratogenic drugs, infections or hazardous chemicals.
  - g) List of history of major malformations, genetic diseases, which may indicate the need for a designated tests.
  - h) Issuing public notice on the provisions of the Bill.
  - i) Standardized information leaflet to be given to the woman who undergoes a designated test in regional language.
83. Section 33 to 34 to remain the same.
83. Two additional sections to be added.

"Registration of Equipment used in the carrying out of a specified test (such as ultra sound)

  - i) Manufacturers of such equipment to register with the Appropriate Authority.
  - ii) Manufacturers to provide information to the Appropriate Authority at regular periods regarding the names and addresses of the purchaser of the specified equipment.
  - iii) Periodic check of the use of these equipment to ensure that the provisions of the Act is not being contravened.
  - iv) To prohibit transfer, lending lease of such specified equipment without the written authorization from the Appropriate Authority.

4. The legislation should not take a static view of technology. The pace of technological progress in this field is fast and the Central Supervisory Board has to continually upgrade a) the list of tests/techniques/procedures covered under the Act b) the specific disorders for which these may be used c) the infrastructure and expertise required for conducting these tests.

5. This crime is a crime against the whole society. As such any concerned individual/organization should have the right to report violations in this regard and to initiate prosecution.

6. In our opinion the primary responsibility for conducting these tests lies with the medical professionals. They therefore have to be treated as prime offenders. Also, under the prevailing social conditions the husband and other relatives of women are responsible for aiding and abetting the crime. The woman on whom such tests are conducted, is only a victim of existing gender bias and should not be liable for prosecution.

Though we have attempted to submit a comprehensive list of suggestions we feel that the time given to us to prepare our memorandum is too short and would like to have the opportunity to give additional submissions in the near future. Therefore we would like to be kept informed of the progress in this regard.

Finally, we hope that the urgency with which our responses have been sought is an indication of a time bound programme on which the Joint Committee is working to finalize its recommendations and for final enactment.

We request that this letter be handed over to the Joint Committee along with 40 copies of our submissions. *We would also like to present in person, our views on the bill and our amendments, before the committee.*

Thanking you,

Yours Sincerely,

*Saheli*

OFFICE ABOVE SHOP  
105-108, Shopping Complex  
Defence Colony Flyover  
(South Side)  
OFFICE-110 02.

*Saheli* (LOPA BANERJEE)  
SAHELI  
Above shop 105-108  
Shopping Complex  
Under Defence Colony Flyover  
(South Side) New Delhi: 24  
Ph: 616485

*Dr. Mira Shiva*  
(DR MIRA SHIVA)  
HEAD PUBLIC POLICY DIV  
CEDRIC B. FINCH

*[Signature]*

Voluntary Health Association of India  
40, Institutional Area, (Near Qutab Hotel)  
South of IIT, New Delhi-110016.

*C.V. Subbarao*  
(Secretary)  
Peoples Union for Democratic Rights  
(C.V. SUBBARAO)

D-II Intravastha College  
Shamshat Marg  
Delhi.

Gauri Choudhury  
5/24 Jangpura - B

For ACTION INDIA  
Women's Programme

New Delhi  
110014

Chairman

Jyotsna Chatterji

Associate Director  
JOINT WOMEN'S PROGRAMME

Kadeer

DR. I. QADEER

ASSOC. PROF.

CENTRE OF SOCIAL  
MEDICINE & COMMUNITY  
HEALTH.

SCHOOL OF SOCIAL SCIENCES.  
JNU.

C. Sathyamala

(Dr C. SATHYAMALA)

For MEDICO FRIEND CIRCLE



DR. H. VIRMANI (M.B.B.S., D.M.S., D.O.)  
GYN & OBSTETRICIAN  
M.B.B.S., D.M.S., D.O.  
VEDANI MATERNITY  
GYN & OBSTETRIC HOME  
M.B.B.S., D.M.S., D.O.  
M.B.B.S., D.M.S., D.O.

VEDANI MATERNITY  
GYN & OBSTETRIC HOME

# ENDOMETRIOSIS ASSOCIATION

International Headquarters  
8585 N. 76th Place  
Milwaukee, WI 53223



For IPC Submission  
Sex-determination Board Photos /  
Newspaper  
Cpic: Laxmi Murthy

LAXMI MURTHY  
B-61 POCKET B MAYUR  
VIHAR PHASE 2  
NEW DELHI INDIA, 11092