

Agenda Item No.1

Minutes of the Seventh Meeting of Central Supervisory Board constituted under the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 held on 2-4-2002.

The list of members and special invitees who attended the meeting is **annexed** (Annexure I).

The meeting was presided over by Hon'ble Minister for Health & Family Welfare, Dr. C.P.Thakur, who is the Chaitman of the Board (CSB). He welcomed all participants to the Seventh Meeting of the Central Supervisory Board. He pointed out that ever since the Census, 2001 highlighted graphically the decline in child sex ratio there has been a lot of concern articulated regarding the abominable practice of sex selective abortion, which, among other things, will lead to social distortions in the years to come. HFM said that the problem as seen today is not only about ensuring absolute compliance of the PNDT Act, 1994 by the various State Governments, doctors or citizens, but the media also needs to play a vital role and must shoulder the responsibility clearly articulated in the Act. Since the implementation of the Act was almost non-existent in various States/UTs, a Public Interest Litigation was filed and the Hon'ble Supreme Court directed the Central and State Governments for immediate and effective implementation of the Act. The Public Interest Litigation has strengthened the hands of the Govt. towards enforcing the law in letter and spirit.

The case is coming up for hearing almost every month and the Supreme Court is giving clear and unambiguous directions to the States/UTs and to other stakeholders who can help in implementing the Act. The Supreme Court has directed manufacturers of ultrasound machines to furnish details about the ultrasound machines sold by them to clinics/individuals/hospitals with addresses. In this manner over 12,000 names/addresses of the users of the ultrasound machines have been received and have been forwarded to the concerned State Government. The Hon'ble Supreme Court has also directed that State/UT Governments should seize and seal the ultrasound machines being used by organizations who have not got themselves registered under the Act. According to the

reports received from the States and UTs more than 12500 clinics/bodies have been registered. In pursuance of these directions of the Supreme Court, 25 ultrasound machines have been seized and sealed in the States. Besides 133 complaints have been filed against the violators of the law.

Hon'ble Minister conveyed that with the proactive implementation of the Act , several other issues have cropped up and the Department is receiving complaints. The complaints received by the Department are isolated cases of professional rivalry. Such cases of abuse of official powers do occur, here and there. The Hon'ble Supreme Court directives should be followed strictly. Recently the Central Govt. has issued specific instructions empowering State level Appropriate authorities to intervene and take action for the effective implementation of the Act at District and Sub-district levels where the work relating to implementation of the Act is not satisfactory. Minister of Health and Family Welfare informed the participants that the amendments to the PNDT Act ,which were approved by the Board have been forwarded to the Ministry of Law and hopefully, the amended PNDT Act will be introduced in the current session of Parliament. HFM invited participants to deliberate upon the PNDT Rules, and give concrete suggestions such that any remaining infirmities in the PNDT Act may be addressed.

As the Hon'ble Minister was called away to attend a Cabinet meeting, he had to leave in the midst of discussions. Thereafter the meeting was presided over by Smt. Meenakshi Datta Ghosh, Joint Secretary (Policy), who is also the convener of the Central Supervisory Board.

After a brief introduction by the members of the CSB and the special invitees Joint Secretary (Policy) invited the deliberations.

Agenda Item No.1: Confirmation of the minutes of the sixth meeting of the CSB held on 18-1-2001.

During the item on confirmation of the minutes, Dr. Anuradha Kapur, IMA, objected to the statement in the minutes of the last meeting which stated that "Dr. Sabu

M. George felt that IMA is not cooperating in implementation of the PNDT Act". She conveyed to the participants that IMA is actually spearheading the campaign against female foeticide. IMA has held three successful workshops in Chennai, Patna and Ambala in the year 2001 on this issue, where legal experts, NGOs, social activists and politicians got together to think of ways to end this pernicious social evil. IMA along with UNICEF and National Commission for Women held a very successful meeting of religious leaders in June, 2001 in which leaders of different religions condemned the practice of female foeticide from one common platform. IMA has also brought out a journal dedicated to the causes of female-foeticide. IMA has written to all 1500 Branch Presidents and Secretaries to motivate them to ensure the registration of ultrasound machines within their respective jurisdictions to forward a list to IMA headquarters.

Dr. Sabu M. George clarified that his observation on IMA were based on interactions with the National and the State IMAs of Karnataka, Tamil Nadu, Kerala, Punjab and Andhra Pradesh over the last three years.

Dr. Dahiya, State Appropriate Authority, Haryana, brought to attention of the Board the harassment he faced from the local IMA in Faridabad. In fact, in one of the raids on a clinic suspected of conducting sex determination which he led as the then Chief Medical Officer of Faridabad district, his team was obstructed by a group of IMA members who arrived at the clinic while the evidence was being collected.

Smt. Meenakshi Datta Ghosh said that over two lakh letters were addressed to doctors by the Hon'ble Health and Family Welfare Minister to sensitise them about provisions of the PNDT Act. She said that we need to know the steps initiated by IMA against those doctors who continue to abet sex selection and female foeticide. Dr. A.K.Dutta, Prof.& HOD, Paediatrics, Lady Hardinge Medical College clarified that IMA, as a body cannot take any action against the erring doctors, but can help in campaigning against female foeticide.

Smt. Meenakshi Datta Ghosh suggested in the spirit of partnership that the remarks on IMA made by Dr. Sabu George be dropped from the minutes of the Sixth Meeting of the CSB. It was decided by the Board that the minutes of the sixth meeting of the CSB be confirmed after dropping the said statement of Dr. Sabu M. George therefrom.

Agenda Item No. 2: Action taken report in respect of the recommendations of the sixth meeting:

The participants noted the action taken report in respect of the recommendations of the meeting held on 18-10-2001.

On the IEC activities undertaken regularly for creating public awareness through Govt. media, on radio, television and other media units, Dr. M.K.Premi, Institute for Human Development raised the issue of using private channels for awareness campaign.

Mrs.Sadhna Shankar, Director (IEC), Department of Family Welfare, clarified that some of the private channels have been displaying the message free of cost, but as a matter of policy, the department is not approaching the private channels as the cost becomes prohibitive.

Dr.A.K.Dutta, Prof. & Head of the Department, Paediatrics, LHMC, Dr. S. Suresh and Dr. Anuradha Kapur were vocal in their observations that the perceptible bias against the doctors, IMA and MCI in each and every meeting should stop and that this problem should be looked at from a larger perspective. Every stakeholder should come together and unitedly launch a multi-pronged attack on this social evil of female foeticide.

Dr. A.K.Dutta emphasized that we cannot lose sight of the fact that ultrasonography and other imaging techniques have revolutionised the art and science of diagnostics in the field of medicine across the board. This naturally is utilised in a variety of conditions inclusive of pregnancy and its outcomes. The ultrasonography is a very safe, simple, non-invasive method for the detection of many foetal malformations. Currently it is deemed an essential tool for evaluation of maternal and foetal conditions. A large number of congenital mal-formations can be detected and appropriate

interventions can be initiated in time. The routine ultrasonographic examination at different periods of gestation is common practice in all the developed countries of the world. He further suggested that for routine ultrasound examination we should not insist upon written consent but for invasive techniques, e.g. amniocentesis and chorionic villous sample where there is risk for mother and the foetus, written consent should be taken. He emphasized on the need to organize IEC programmes so that the whole community is made aware of this social problem.

Dr. S. Suresh initiated the discussion by expressing concern over some of the ambiguities in the Act concerning ultrasound machine. Shri R.N.Bansal, Under Secretary (Policy) clarified that according to Section 3 of the Act, no such machine can be used at any place other than a place registered under the Act. According to Supreme Court's Order dated 29-1-2002 ultrasound machines/scanners of all those bodies using ultrasound machines/scanners, who have not even applied for registration, have to be seized and sealed for the time being. There is no provision for giving warning/time, as the same would amount to contempt of Court. PNDT Act does not differentiate between public and private institutions.

Mr. Manmohan Sharma, VHA Punjab, gave a detailed account of a case framed by the District Appropriate Authority in Fatehgarh District of Punjab State against the women as well as her sister-in-law for causing abortion after knowing the sex of the foetus through ultrasonography. He informed that by arresting the woman and her sister-in-law for causing abortion the witness is lost which could have been used against the doctor in whose clinic sex determination test was done. Since there is no evidence against the doctor and the ultrasound clinic, the case would be weak in the court of law. He emphasized on the need to create awareness for police officers also so that the cases are registered and presented properly before the Court.

Dr. (Mrs.) M. Sachdeva, Secretary, MCI pointed out that the objection of some participants to the routine use of ultrasonography in every pregnancy is not correct in this day of scientific advancement. She felt that now-a-days ultrasonography has become necessary due to complications arising out of late pregnancy. We should try to prevent

its misuse instead of stopping its use altogether. She suggested that MBBS doctors with adequate training should be allowed to do ultrasounds for purposes of routine checkup. More and more qualified people should be allowed to do ultrasonography. She informed that MCI has included sex determination for sex selection in the list of actions construed as professional misconduct.

Dr. Mira Shiva, Director, Voluntary Health Association of India, said rational use of medical technologies should be promoted to prevent their abuse and unnecessary use by profit-hungry practitioners. The Census figures bear testimony to the fact that the misuse of tests is the rule and not an exception in several parts of the country. Therefore, misuse of ultrasound machine for determination of sex has to be tackled by imposing certain restrictions. Misuse of ultrasound machines cannot be legitimized.

Shri R.P. Ravindra opined that with the advancement in technology, we must achieve progress, but simultaneously we must catch the culprits who are still doing sex determination tests by imposing certain restrictions. Shri Ravindra remarked that he is against the misuse of authority and victimization of doctors on the pretext of implementation of the law. It would be wrong to paint the medical community as innocent sufferer. Ideally, no law would have been needed if doctors had not misused the PNDT Act unscrupulously and on a very large scale. The need for the Act and the subsequent PIL arose specifically due to the attitude of the medical community to disregard law and ethics and by their associations to ignore such acts by its members. The field situation in most States, specifically in places like Haryana is so grim that any serious attempt to curb sex determination business is met with by threats and attacks. He appealed to the members of medical community to introspect and show firm commitment to prevent sex determination, work in solidarity with civil society groups in tackling this problem and use their influences within their circle to expose the culprits so as to stop the misuse of these useful techniques.

Shri Ravindra pointed out that the Department has not considered amendments suggested by him in the PNDT Act. Mrs. Madhu Bala, Director (PNDT) clarified that all suggestions received from him on the amendments to the PNDT Act have been included

in the draft, which has been sent to Ministry of Law. Mrs. Meenakshi Datta Ghosh, Joint Secretary(Policy) directed that a copy of the draft amendments sent to the Ministry of Law may be made available to the members.

Dr.A.T.Dabke, Dean, Pt. Jawaharlal Nehru Medical College, Raipur, was of the view that majority of doctors are doing their duty. Only guilty doctors should be punished.

Mrs. Meenakshi Datta Ghosh, Joint Secretary (Policy) emphasized the need for the rational use of ultrasonography during pregnancy. Dr. Nomita Bedi, Director, Reproductive Health, ICMR, stated that in the last meeting of the CSB, ICMR was asked to provide the list of indications for the rational use of ultrasonography. Suggestions of ICMR were discussed in the meeting. Dr. A.K. Dutta, Prof.& Head of Department, Lady Hardinge Medical College, pointed out that the list of indications of ultrasound in pregnancy as prepared by ICMR requires some modifications. Other indications should include (i) any other indications on an individual case as deemed fit by the obstetrician and (ii) in 3rd trimester, to identify foetal well being, especially to look for foetal heart rate and umbilical artery blood flow. He pointed out that those who are indulging in malpractice of ultrasonography examination and determination of pre-natal sex should be dealt with existing law, on the contrary, the rational practitioners in ultrasonography should not be blamed for its misuse.

Shri Manmohan Sharma said that the guidelines put forth by ICMR for use of sonography would make the abuse of sonography for sex determination easier and therefore making the implementation of the PNDDT Act extremely difficult.

Dr. Sabu M. George informed that in a Public Interest Litigation filed by a women's organization in the High Court in March, 2002, the Court has directed that MCI should ensure that the code of conduct be harmonized with the PNDDT Act. He emphasized that the Department of Health should finalize the code of conduct in consultation with the Department of Family Welfare.

Dr. (Mrs.) V. Rajeswaramma, Member of Parliament, was of the view that the State Governments are not serious in implementation of the PNDT Act and are not taking the orders of the Hon'ble Supreme Court and the Govt. of India seriously. Therefore, there is a need for stringent punishment under the Act. She gave a detailed account of a case wherein a lady was admitted in the hospital in Hyderabad on 7-3-2002. After knowing the sex of the foetus through ultrasonography, her husband paid Rs. 6000/- and got foetus aborted. The pregnant lady had also undergone tubectomy in the hospital and was discharged. After two days she developed paralysis and died. On enquiry, her husband has been informed that death was due to abortion at advanced stage of seven months pregnancy. She desired that the Medical Council of India should look into such cases. Dr. (Mrs.) Sachdeva, Secretary, MCI, agreed to look into the case.

Shri M.K.Sharma, Deputy Legal Adviser informed that the proposed amendment to the PNDT Act are in the final stage and file will be cleared by Ministry of Law soon.

Agenda Item No.III: Proposed amendments to the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Rules, 1996.

The proposed amendments to the PNDT Rules were briefly discussed in the meeting. Smt. Meenakshi Datta Ghosh desired since these proposed amendments to the PNDT Rules have not been discussed in the Technical Sub-Committee, the Sub-committee should first examine the amendments.

Accordingly a meeting of the Sub-Committee was convened immediately after the conclusion of the Central Supervisory Board meeting on the same day (2-4-02), as most of the members of the Technical Sub-Committee were present in the Board meeting.

The meeting ended with vote of thanks to the chair.

Action Taken Note on the suggestions of the seventh meeting of the Central Supervisory Board held on 2.4.2002

Sl. No.	Recommendation	Action Taken
1	Mr. Manmohan Sharma, VHAI emphasized on the need to create awareness for police officers also so that the cases are registered and presented properly before the Court.	Funds are being released by this Department to the State Government to create awareness.
2	Dr. A.K. Dutta pointed out that the list of indications of ultrasound in pregnancy as prepared by ICMR requires some modifications. Other indications should include (i) any other indications on an individual case as deemed fit by the obstetrician and (ii) in 3 rd trimester, to identify foetal well being, especially to look for foetal heart rate and umbilical artery blood flow.	This was discussed in a meeting of the Technical Sub-Committee of CSB held on 5.9.2002. Revised list is to be discussed in this meeting.
3	Dr. A.K. Dutta has also suggested that for routine ultrasound examination we should not insist upon written consent but for invasive techniques, e.g. amniocentesis and chorionic villous sample where there is risk for mother and the foetus, written consent should be taken. He emphasized on the need to organize IEC programs so that the whole community is made aware of this social problem.	To be considered in this meeting alongwith the amendments to the Rules.
4	Dr. (Mrs.) V. Rajeswaramma, Member of Parliament gave a detailed account of a case wherein a lady was admitted in the hospital in Hyderabad on 7-3-2002. After knowing the sex of the foetus through ultrasonography, her husband paid Rs. 6000/- and got foetus aborted. The pregnant lady had also undergone Tubectomy in the hospital and was discharged. After two days she developed paralysis and died. On inquiry, her husband has been informed that death was due to abortion at advanced stage of seven months pregnancy. She desired that the Medical Council of India should look into such cases. Dr. (Mrs.) Sachdeva, Secretary, MCI, agreed to look into the case.	Complaint was referred to Medical Council of India (MCI). MCI has forwarded the complaint to their State Branch (Andhra Pradesh) for investigation and report.
	The proposed amendments to the PNDT Rules were briefly discussed in the meeting. Smt. Meenakshi Datta Ghosh desired since these proposed amendments to the PNDT Rules have not been discussed in the Technical Sub-Committee, the Sub-committee should first examine the amendments.	Proposed amendments to the Rules were discussed in detail in the meeting of the Technical Sub-Committee of the CSB held on 5.9.2002. As the amendment Bill is taking time, those amendments to the Rules, which relate to the present Act, are placed in this meeting for approval.