

GENDER ROUND TABLE

ON

GENDER BASED VIOLENCE WITH FOCUS ON FEMALE FOETICIDE

28th June 2006, UN Conference Hall, New Delhi

DRAFT RECOMMENDATIONS

Discussed at PNDDT Implementation Task Force Meeting

28th July, 2006

Delhi Commission for Women

RECOMMENDATION #1

DCW should open a PNDDT Monitoring Cell

Creation of a monitoring cell in the DCW to review implementation of the Act.

The cell will have representation from medical, legal and social sector, and will function under the direct supervision of the DCW Chairperson.

The cell will be headed by a lawyer (?), who will associate as a part-time consultant, and will have one social worker with atleast 3 years experience who will be the Field Coordinator.

The Field Coordinator will be trained on PNDDT and its implementation and will oversee the functioning of the PNDDT Authorities in each district. S/he will liaise with the authorities, ensure that monthly reports are called for, and necessary prosecutions take place. In addition to the social worker, the Cell will also have an administrator who will scrutinize the report, prepare summaries and point out discrepancies in the report to the Monitoring Cell, who will in turn take appropriate action (?) in consultation with the Chairperson.

Setting up an action group which will act as a resource group (?) to support the monitoring cell.

The DCW should be given more powers to implement PNDDT Act – (elaborate what powers it would need...)

activities to be undertaken by the Monitoring Cell

1. AUDIT OF PNDDT AUTHORITIES

- Conduct surprise checks/regular audits on CDMOs/PNDDT Authorities to check they're ensuring timely submission of forms from ultrasound clinics
- Conduct (sample or full) audits of forms submitted to check that they have been filled in properly, and have not been fabricated/manipulated/filled in falsely.
- Make authorities accountable. If they're not ensuring timely submissions, issue notices, have powers to suspend/recommend suspension for the authorities

(If we are unable to perform duties, we have no right to be in authority.)

Under the PNDDT Act, the onus of submitting monthly statements lies with the ultrasound clinics and there is no provision or requirement to send notices and re-notices to the erring clinics. They may directly be sealed and their machines seized as the FIRST step. (Confirm...) Why is this not being done already? Why are the authorities on the defensive mode rather than the offensive? Issue white paper notices to authorities based on their historical records. Take punitive action for deliberate leniency/colluding with culprits, to set an example for other PNDDT Authorities.

- d. Ensure that Ultrasound clinics not filing timely Form F statements should be sealed

2. AUDIT INDIVIDUAL HOSPITALS

- a. Registrar of Deaths has records of deaths in each hospital.
- b. Find out figures for neo-natal death during delivery for each hospital.
- c. If female neonatal deaths are significantly more, it is indicative that the hospital may be indulging in femicide.

(Comment: Can it be used as a conclusive evidence???)

(Comment: What powers should be vested with the DCW in case a clinic is found to have very skewed sex ratio in terms of baby deaths during delivery??? Whom should DCW instruct for follow-up? Discuss role of an existing/new vigilance body)

- d. Identify and pursue cases District-wise (through a fast-track mechanism?)

3. CONDUCT STUDIES FOR ADVISING ON FORMULATION/AMENDMENT IN POLICIES/LAWS

a. GUJARAT'S EXAMPLE

(suggested time frame: 1 month)

Conduct a study on the example set up by Gujarat (any other states?) which has made good progress in addressing the issue.

b. ROLE OF CDMOs – CAN THEY BE GRANTED EXCLUSIVE STATUS? OR SETTING UP EXCLUSIVE PNDD BODIES

(Suggested time frame: 3 months)

c. STUDY NEW "FORM F" – ESPECIALLY THE 23 CONDITIONS WHERE ULTRASOUND IS PERMITTED. ARE THEY NECESSARY, OR ARE THEY HELPING CULPRITS GET AWAY WITH FEMALE FOETICIDE?

(Suggested time frame: 15 Days)

In 1994, ultrasound was included in PNDD Act but not satisfactorily

In 2003, in Form F – 23 conditions were included where ultrasound is permitted.

Probe peculiarities in Form F to find if the form makes it easy for culprits to hide behind excuses and pretexts.

- d. Study the provisions of the MTP Act, and submit recommended amendments after reviewing pertaining to greater control focusing on 2nd trimester abortions since that is when the sex is established.
- e. WILL SPECIAL PPs help in PNDD Cases?
 1. Study details of provision in Cr. PC by which special PPs can be appointed if needed.
- f. Under the CrPC, police action is needed in cognizable offences *(Study Section 27. Please refer experts for more on this)*

4. AWARENESS/ADVOCACY ROLE

- a. Hold advocacy workshops for Public Prosecutors/Judges as a refresher on PNDD Act, and also sensitize them on being more empathetic in such cases
- b. Hold Workshops for CDMOs on RCH Scheme of Govt. of India by which they can

The Central Government has already initiated a scheme called RCH where CDMOs can recommend any renovation or other plans to GOI, and what improvements they would like to be incorporated. Study the RCH plan in detail. Conduct awareness programs for CDMOs/PNDT authorities so they can maximally benefit from it.

- c. Promote online registration of complaints on PNDT that has already been initiated nationally (by GoI).
 - d. Judiciary Training
 - e. Joint efforts with spiritual leaders
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RECOMMENDATION #2

PERTAINING TO REGULATING ACTIVITIES OF ULTRASOUND CLINICS

- ^a No direct ultrasounds on females (pregnant or any?) should be allowed to be conducted. ***Make it mandatory*** only to be referred by a Gynecologist. *(But how do you decide & differentiate if the ultrasound is for conducting sex selection and not a mere abdominal pain arising in a woman.)*
 2. Ban or severely limit the use of portable ultrasound machines, in which it is very difficult to keep a vigil if the machine was being illegally used to conduct a sex test at home.
The Central Supervisory Board had also received a complaint on June 14th, 2006, seeking restrictions on portable ultrasound machines and that a discussion on this is expected in August 2006. keep a watch on the developments, and do necessary backing up so that definitive action is taken in this regard, and that the matter is not delayed.
 3. Conduct a comprehensive review of all registered ultrasound clinics in Delhi. While renewing registration licenses, based on their past histories that are assessed during the review, the ultrasound clinics may be filtered as genuine/law-abiding or fake/not-submitting-reports, so that in the next 2 years, we'll have more genuine clinics remaining after RE-REGISTRATION, and less of fraudulent clinics which are not approved. (Designate role to appropriate review panel. Freeze time frame. Break submission of reviews into phases, if necessary.)
 4. Only qualified Radiologists, and not technicians and others, should be allowed to perform ultrasonography. (Issues: will the cost of ultrasounds not shoot up? Should the pricing be fixed for various kinds of ultrasounds?)
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RECOMMENDATION #3

PERTAINING TO ROLE OF CDMOs

1. **Reconstitute the PNDT Authorities.** (based on review of DCW PNDT monitoring cell?)
Include a larger cross-section of society, even other than doctors, since the erring party is the doctors themselves, and can not be entrusted with the responsibility exclusively.
The major hold of the PNDT Authorities should not be vested with doctors/gynaecologists.
2. Consider setting up **separate & EXCLUSIVE PNDT bodies instead of CDMOs**
 - a. CDMOs are loaded with several other responsibilities besides just PNDT, which then becomes just one of the several tasks and cannot be given as much importance as it merits.

- b. CDMO is personally summoned by name in all meetings/reportings, so he cannot designate anybody even if he's handling something urgent. He HAS to leave everything in between to attend that meeting himself.
 - c. Short staffing with CDMOs → No extra staff is made available due to Govt. recruitments being withheld
 - d. Crystallize the role of the CDMOs vis-à-vis the PNDDT Act. (This suggestion was seconded by various CDMOs present.)
 - e. Meanwhile, set-up a Committee to do a realistic need assessment and suggest possible alternate mechanisms. Constitute exclusive bodies for PNDDT monitoring, rather than CDMOs. (REVIEW COMMITTEE UNDER DCW MONITORING CELL?)
3. **Revise Area of Jurisdiction for PNDDT Authorities**
 - a. Too large area of jurisdiction for each CDMO – becomes practically difficult to monitor every case of sex-based determination, leave alone any action.
 - b. Area of jurisdiction should be appropriate and not too large to manage.
 4. **Provide an investigative arm to PNDDT authorities for conducting investigations**
 - a. There should be an investigative arm (police or otherwise) provided to the appropriate authority for support rather than overloading them with conducting investigations.

RECOMMENDATION #4 **OTHER RECOMMENDATIONS**

1. ***Permit Social Audits***
As of now, the access is not provided to NGOs/aware citizens, to get figures from hospitals. (Under RTI Act,) it should be made publicly available to all citizens. It is alleged that even the Army is not very gender friendly. Provide access to the data of the Cantt. Area to bring them under public scanner. Make Army authorities also accountable.
2. ***Have Fast Track Courts for PNDDT related cases***
3. ***Rope in Advertising Council or similar body to keep a watch on advertisements & TV programs.***
4. **AMEND DELHI MEDICAL COUNCIL ACT**
Under the DMC Act, a change should be brought wherein if found guilty of conducting sex determination test, not only the technician but also the referring doctor should be held as guilty.
5. **SUSTAINED TOP MANAGEMENT INVOLVEMENT**
Introduce a mechanism of periodic (monthly) reporting at the highest authority level, which is Principal Secretary. The reporting may be done directly to the Chief Minister every 6 months. Only with the active and persistent involvement of the top authorities will the sense of urgency percolate downwards.
6. **Allotment of funds for each MLA for undertaking advocacy**
The Ministry of Health and Family Welfare has already proposed allotment of Rs. 5 lakhs for each of the MP's for undertaking advocacy.