

**LOK SABHA**

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

**EVIDENCE**



सत्यमेव जयते

**LOK SABHA SECRETARIAT  
NEW DELHI**

*December, 1992/Agrahayana-Pausa, 1914 (S)*

*Price: Rs. 30.00*

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
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- \*10. Dr. (Smt.) Padma
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12. Dr. Vasant Niwruiti Pawar
13. Dr. (Smt.) K.S. Soundaram
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17. Smt. Sarla Maheshwari
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19. Shri V. Narayanasamy
20. Smt. Satya Bahin
21. Smt. Sushma Swaraj
- \*\*22.

SECRETARIAT

Shri G.L. Batra	— <i>Additional Secretary</i>
Shri S.C. Gupta	— <i>Joint Secretary</i>
Shri R.K. Chatterjee	— <i>Deputy Secretary</i>
Shri T.D. Dhingra	— <i>Under Secretary</i>

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\* Appointed w.e.f. 20.12.1991 vice Shri K.R. Narayanan resigned.

\*\* Shri Bhaskar Annaji Masodkar ceased to be a member of the Committee w.e.f. 4.7.1992 on the expiry of his term in Rajya Sabha and the vacancy was not filled up.

(ii)

**REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE  
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1. Smt. Usha Vohra — *Secretary*
2. Shri S.B. Mishra — *Joint Secretary*
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**REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY  
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4. Shri M.S. Sharma — *Additional Legislative Counsel*
5. Shri T.K. Vishwanathan — *Additional Legislative Counsel*

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

Sl. No.	Name of Association/Organisation/ individual etc.	Date on which evidence was taken	Page No.
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<b>NEW DELHI</b>			
1.	Saheli Women's Resource Centre <i>Spokespersons</i> (i) Ms. Lopa Banerjee (ii) Ms. Nalini Banot	20-1-1992	1
2.	Medico Friends Circle <i>Spokesperson</i> Dr. C. Sathyamala		
3.	Voluntary Health Association of India <i>Spokesperson</i> Dr. Mira Shiva		
4.	People's Union for Democratic Rights <i>Spokesperson</i> Ms. Rana Vasudevan		
5.	Action India <i>Spokesperson</i> Ms. Devi Kripa		
6.	Family Planning Foundation <i>Spokesperson</i> Dr. (Mrs.) Nalini Abraham	20.1.1992	2
7.	National Federation of Indian Women <i>Spokespersons</i> (i) Mrs. Pramila Loomba (ii) Dr. Usha Srivastava (iii) Mrs. Anurada Gupta (iv) Mrs. Vimla Farooqui	20-1-1992	2
8.	Association of Genetics and Ultrasound Clinics of India <i>Spokesmen</i> (i) Dr. Pyush Aggrawal (ii) Dr. P.S. Bhandari (iii) Dr. K.K. Loomba (iv) Dr. S.P.S. Virk	21-1-1992	23

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9.	Indian Law Institute <i>Spokesman</i> Shri P.M. Bakshi	21-1-1992	23
10.	Nari Raksha Samiti <i>Spokespersons</i> (i) Mrs. Usha Ahuja (ii) Mrs. Madhu Kalia	21-1-1992	23
11.	Mahila Dakshata Samiti <i>Spokespersons</i> (i) Mrs. Puloma Shah (ii) Ms. Rani Jethmalani	20-2-1992	43
12.	Young Women's Christian Association <i>Spokesperson</i> Mrs. Sadhona Ganguli		43
13.	All India Democratic Women's Association <i>Spokespersons</i> (i) Mrs. Brinda Karat (ii) Dr. Laxmi Sehgal (iii) Mrs. Jagmati Sangwan	20-2-1992	44
14.	Forum Against Oppression of Women <i>Spokespersons</i> (i) Ms. Swalija (ii) Ms. Chayanika	18-5-1992	64
15.	Forum Against Sex Determination and Sex Pre-Selection <i>Spokesmen</i> (i) Shri Ravindra R.P. (ii) Ms. Jayashree	18-5-1992	64
16.	Family Planning Association of India <i>Spokesmen</i> (i) Smt. A.B. Wadia (ii) AVM (Retd.) Lele (iii) Shri P.S. Sabhale	18.5.92	64
17.	Sh. Nilesh P. Ron, 53, Shantiniketan Anushakti Nagar, Bombay-400 094	18.5.92	93
18.	Dr. Hema Purandare Birth Defects & Centre Bandra, Bombay.	18.5.92	93
19.	Dr. Sharad Gogali, Surlata Hospital, Mahim, Bombay		

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20. Dr. S.A. Lakhdam Dy. Executive Health Officer Bombay Municipal Corporation, Bombay		
21. State Appropriate Authority, Bombay <i>Spokesmen</i> (i) Dr. Lata Mehta (ii) Dr. P.G. Natrajan (iii) Dr. S.V. Apte		
22. Shradhanand Mahilashram <i>Spokesman</i> Dr. Mridula Kothari	18.5.92	93
23. Dr. Indumati Parikh	18.5.92	93
24. State Vigilance Committee, Bombay <i>Spokesman</i> Dr. Sharadini Dahanukar	18.5.92	93
25. Mrs. Jayashree Parchure	18.5.92	93
26. Mrs. Veena Pradhan	18.5.92	93
27. Mrs. Neelima Aher Social Worker, Post. Deola, Tal Kalwan, Nasik	18.5.92	93
28. Dr. B.R. Agrawal, Vishwas Apartments, Data Wadi, Pune-30.	18.5.92	93
29. Sh. S.N. Nandgare, B-901, Usha Nagar, Bandup (West) Bombay-78.	18.5.92	93
30. Medico Friends Circle, Bombay <i>Spokesmen</i> (i) Shri Anil Pilgawhan (ii) Shri Ravi Duggal	18.5.92	93
31. Foundation for Research in Community Health <i>Spokesman</i> Shri Sunil Nandraj	18.5.92	93

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32.	Representatives of the State Govt. of Maharashtra (i) Dr. S.R. Salunke (ii) Prof. Bomsli Wadia (iii) Dr. P.V. Sathe (iv) Dr. Joyu Shankaran (v) Shri H.A.D. Sawian (vi) Shri D.N. Chaudhari	19.5.92	93
33.	Rajasthan Voluntary Health Association <i>Spokesperson</i> Ms. Purwa Kushwaha	20.5.92	121
34.	Bal Rashmi Society <i>Spokespersons</i> (i) Dr. S.C. Kabra (ii) Ms. Alice Garg	20.5.92	121
35.	Women's Rehabilitation Group Jaipur and Rajasthan University Women's Association, Jaipur <i>Spokesperson</i> Ms. Renuka Pamecha	20.5.92	121
36.	Red Cross Society, Jaipur <i>Spokesman</i> Dr. Prakashwati Bhatnagar	20.5.92	121
37.	Dr. (Mrs.) Pushpa Porwal, Dr. Porwal Nursing Home, Beawar Road, Ajmer-305 001	20.5.92	121
38.	Representatives of State Govt. of Rajasthan (i) Dr. D.C. Bafna (ii) Dr. B.L. Gupta (iii) Shri O.P. Meena (iv) Ms. Anjana Bhushan (v) Mrs. Kushal Singh	20.5.92	121
39	Dr. Badri N. Saxena, DDG (Sr.), Indian Council of Medical Research, New Delhi	7.7.92	137
40.	Dr. (Mrs.) Kamal Buckshee, Prof. and Head Obstetrics and Gynaecology Deptt., All India Institute of Medical Sciences, New Delhi.	7.7.92	137

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41.	Dr. (Mrs.) B. Chadha, Deptt. of Obstetrics and Gynaecology, Kasturba Hospital, New Delhi.	7.7.92	137
42.	Prof. Dr. B.J. Wadia, Prof. Chairman. & Head of the Deptt. of Obstetrics & Gynaecology, Grant Medical College and Sir J.J. Group of Hospitals, Bombay.	7.7.92	137
43.	Dr. (Mrs.) A.M. Lele, Incharge, Genetics Division, Deptt. of Anatomy, GMC and JJ Group of Hospitals, Bombay.	7.7.92	138



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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) BILL, 1991

(Monday the 20th January '92 from 1500 hours to 1800 hours Committee Room 'D', Parliament House Annexe, New Delhi)

**PRESENT**

Smt. D.K. Tharadevi Siddhartha—*Chairperson*

**MEMBERS**

*Lok Sabha*

2. Smt. Dil Kumari Bhandari
3. Smt. Malini Bhattacharya
4. Smt. Saroj Dubey
5. Dr. Mahavirsinh Harisinhji Gohil
6. Dr. (Smt.) Padma
7. Dr. Kartikeswar Patra
8. Kumari Vimla Verma

*Rajya Sabha*

9. Smt. Sarla Maheshwari
10. Shri Sarda Mohanty
11. Smt. Satya Bahin
12. Smt. Sushma Swaraj

**SECRETARIAT**

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Shri R.K. Chatterjee	— <i>Deputy Secretary</i>
Shri T.D. Dhingra	— <i>Under Secretary</i>

**REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE**

1. Shri S.B. Mishra —*Joint Secretary*
2. Shri S.S. Kapur —*Director*

**REPRESENTATIVE OF THE MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)**

Shri T. Vishwanathan —*Deputy Legislative Counsel*

**WITNESSES**

**ORGANISATION**

1. Ms. Lopa Banerjee —*Saheli Women's Resource Centre.*
2. Ms Nalini Banot — —do—
3. Dr. C. Sathyamala —*Medico Friends Circle*

## WITNESSES

4. Dr. Mira Shiva
5. Ms. Rama Vasudevan
6. Mrs. Devi Kripa
7. Dr. (Mrs.) Nalini Abraham
8. Mrs. Pramila Loomba
9. Dr. Usha Srivastava
10. Mrs. Anuradha Gupta
11. Mrs. Vimla Farooqui

## ORGANISATION

- Voluntary Health Asso. of India
- People's Union for Democratic Rights
- Action India
- Family Planning Foundation
- National Federation of Indian Women

**MR. CHAIRMAN:** I welcome you to this sitting of the Joint Committee on the Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Bill, 1991. We have received your memorandum on this Bill. We have already circulated to our Members who have gone through it. You have made very valuable suggestions and the same have been noted and would be duly considered. The Committee would now like to hear your views after the introduction. Whatever discussion we are going to have today should be treated as confidential. Moreover, if you want some portion of it to be made public, the Committee will consider as to whether it should be made public or it can be kept as confidential.

Now, the Committee wants to hear your views.

**DR. C. SATHYAMALA:** Since ours is a joint memorandum, whatever evidence we have collected, we have submitted as a joint one. The signatories are Voluntary Health Organisation of India, People's Union for Democratic Rights, Action India Joint Women Programme, Medico Friends Circle as well as JNU Community Health Centre.

Now, I would briefly present the over-view of it. We are dealing with the issues of health, women and human rights. In our memorandum, we have submitted the reasons for our amendments which we think should be incorporated in the Bill in order to make it effective. We want to present both the evidence which are collected, to substantiate these amendments as well as the reasons as to why we have submitted the suggestions.

As we see it, we feel that in the Indian society which is basically a gender-biased, the misuse of these tests is another violence committed against women. The commercial sector makes huge profits from the misuse of these tests and had these facilities not been available to the commercial sector it would not have been used. The proliferation of these facilities have caused them to be used widely against women society which is gender-biased.

Firstly, we would like to say that it is a matter of concern that it has taken almost ten years of campaign, before this Central legislation has to be tabled. But, in the intervening period, several changes have taken place in the nature of technology. So, we have to see this Bill and consider it in the context of the ten years intervening period, when the issue came to be highlighted.

The second point which we would like to make is this. The private medical sector is permitted to do these tests and if the private medical sector has been invited to represent their case, it should be seen from the context of the commercial interest. We know that the commercial sector has no interest in health needs of the people and that they are interested in their own profit motivation. So, their opinion has to be seen in the context of the commercial interest.

The third point is that even the people who are in responsible position in the Government, say that these tests are a form or a method of controlling population. It is not so and if the Bill as it currently stands today, is passed, it is one of the causes of concern.

The fourth point is that the Bill as it is today, is completely full of loopholes. So, we have suggested several amendments in order to plug the loopholes. Therefore, it should be scrutinised before it is passed. By passing the Bill, as it stands we are indirectly giving illegal protection to those who do this unethical practice of sex determination.

Therefore, keeping all this in mind, we have to see the Bill from the point of view of amniocentesis which is the first technology that was used for sex determination. Amniocentesis was introduced in India for the determination of some congenital disorders. Since the stated objective of the Bill is to control the technologies for sex determination, we should start looking at it as to whether these technologies originally meant for detecting congenital abnormalities can lead to the generation of information on the sex of the child, in the uterus.

Since our organisations are situated in Delhi, we would first like to present evidence on the problems and the nature of technologies that are being used for sex determination in Delhi. I will now ask my colleague Mrs. Devi Kripa to present the case, who visited some of the resettlement colonies and I would supplement it with other information.

**श्रीमती देवी कृपा:** हम लोग पुनर्वास बस्तियों में औरतों के स्वास्थ्य के मुद्दे को लेकर काम करती हैं। इन बस्तियों में लिंग जांच का काम काफी ज्यादा होता है और अगर लड़की हो तो उसका गर्भपात कराया जाता है। यह सोचने के लिए अत्यन्त गम्भीर प्रश्न है। हमने इस सम्बन्ध में कुछ खोज की है। हम लोग पूर्वी दिल्ली के 6 एरियाज़ में गये हैं और वहाँ के नर्सिंग होम्स में जाकर जानकारी प्राप्त की है। नई सीमापुरी में दिलशाद नर्सिंग होम में अल्ट्रा साउंड और गर्भपात दोनों की सुविधा उपलब्ध है। वहाँ हमें बताया गया कि वैसे तो गर्भपात पर प्रतिबन्ध है और अल्ट्रा साउंड पर भी, अगर कोई चाहे तो हम दोनों करते हैं। इसकी फीस एक हजार से लेकर पंद्रह सौ रुपये तक है। गर्भपात की

फीस अतिरिक्त है। पुानी सीमापुरी में हम लोग शशी नर्सिंग होम गये वहाँ पर भी इन दोनों की सुविधा है और उन्होंने बताया कि इसका समय तीन महीने से साढ़े चार महीने तक का है। वहाँ पर खर्चा आठ सौ से एक हजार रुपए के बीच का है। यहाँ 24 घंटे यह सुविधा उपलब्ध है। विवेक बिहार के नर्सिंग होम में गये तो वहाँ से भी हमें वही जानकारी मिली कि तीन महीने से साढ़े चार महीने तक के गर्भवस्था के बीच लिंग की जांच होती है और गर्भपात कराया जा सकता है। यह भी 24 घंटे खुला रहता है और वहाँ भी करीब एक हजार रुपये फीस के लिए जाते हैं। यमुना बिहार में भी हम गये और वहाँ दीपाती नर्सिंग होम में गये तो वहाँ भी अल्ट्रा साउंड और गर्भपात की सुविधा है। इनके भी चार्जेज एक हजार से पन्द्रह सौ के बीच हैं। इन्होंने कहा कि वैसे तो इस पर प्रतिबंध है लेकिन अगर औरत बच्चा नहीं चाहती है तो हम गर्भपात करते हैं। वहाँ पर काउंटर के पीछे लिखा हुआ था कि आपको लड़का चाहिए या लड़की। हम लोग मेरी स्टीस भी गये। उन्होंने बताया कि हमारे यहाँ अल्ट्रा साउंड की सुविधा नहीं है, लेकिन हम गर्भपात करते हैं चाहे लड़का हो या लड़की। उनका यह तर्क था कि तीन से साढ़े चार महीने का हम लोग गर्भपात करते हैं। इस तरह से हम लोगों ने आप के सामने इस कागज़ के द्वारा जो सबूत इकट्ठे किए हैं, आप तक पहुँचाने के लिए लेकर आए हैं, जो जानकारी हमने ली है उस पर हमें चिन्तन करना होगा क्योंकि हमारे देश में लड़कियों के प्रति जो नज़रिया बनता जा रहा है और सामाजिक तथा सरकारी ढाँचे में जो भी नियम बनते हैं, उनमें लड़कियों के ऊपर जो शोषण होता है, इसके ऊपर हमें चिन्तन करने की आवश्यकता है।

**श्रीमती सुषमा स्वराज:** आपने जिन नर्सिंग होमस का जिक्र किया, इनके बारे में मैं समझती हूँ कि ये 6 नहीं बल्कि 60 होंगे जहाँ इनकी जांच होती है लेकिन इन पुनर्वासि बस्तियों में रहने वाली महिलाओं से क्या आपने बात की कि वे वहाँ क्यों जाती हैं? क्या वह लड़की नहीं चाहती या उन का दबाव होता है, तब जाती हैं? कुछ उस तरह की बात हमें मालूम पड़े तो हमारे लिए कुछ मदद होगी, नहीं तो 6 क्या 600 कर्त्तविक चल रहे होंगे जहाँ यह काम हो रहा होगा। भ्रूण परीक्षण भी होता है और गर्भपात भी होता है। हमारे लिए ज्यादा अहमियत यह रखता है कि आपने पुनर्वासि बस्तियों की महिलाओं से यह जांच करने का कोशिश की कि वे भ्रूण परीक्षण क्यों करवाती हैं?

**श्रीमती देवी कृपा:** उनसे बात करने से हमें पता चला कि समाज परिवार दोनों का दबाव पड़ता है कि लड़की नहीं चाहिए क्योंकि लड़का वंश चलाता है।

**श्रीमती सुषमा स्वराज:** यह तो जनरलाइज़ हो गया।

**श्रीमती देवी कृपा:** यह आपके लिए हो सकता है कि जनरलाइज़ हो गया लेकिन हमने खास उन औरतों से बात की है ....।

**श्रीमती सुषमा स्वराज:** यह जनरल ओपीनियन तो है ही, लेकिन क्या आपने उनसे इंटरव्यू लिए हैं, उनसे साक्ष्य लिए हैं? वह साक्ष्य आप हमें दे सकें तो हमारे लिए बहुत उपयोगी होंगे।

**श्रीमती देवी कृपा:** वह हम आपको जरूर दे सकते हैं लेकिन अभी तो हम लाए नहीं हैं।

**श्रीमती सुषमा स्वराज:** हम महज़ यह जानना चाहते हैं कि क्या वह दो बच्चों के बाद परीक्षण कराने गईं या पहली ही लड़की भ्रूण परीक्षण में पाई गईं तो उसे गिरवा दिया? ऐसा उसने अपनी खेच्छा से करवाया या किसी दबाव से करवाया, यह साक्ष्य अहमियत रखता है। वह ज्यादा जरूरी है।

**श्रीमती सरला माहेश्वरी:** आपने कितनी महिलाओं से इंटरव्यू लिया, उन में से कितने प्रतिशत पर व था और कितनी खेच्छा से गई थीं, यह हम जानना चाहते हैं।

**श्रीमती देवी कृपा:** असल में हम अभी आंकड़े लेकर नहीं आए हैं लेकिन जिन औरतों के साथ हमारी बात हुई, उनका कहना है कि दो लड़की होने के बाद या पहले जिस तरह से उस पर परिवार का दबाव पड़ता था, वह मजबूर होकर अपने शरीर के साथ यह खिलवाड़ करती है। यह हम आप को दे सकते हैं।

**श्रीमती सुषमा स्वराज:** वह आप हमें दीजिएगा। वह हमारे लिए ज्यादा अहमियत रखता है।

**MS. LOPA BANERJEE:** My intention of presenting this data is not to stress merely that these tests are being conducted as we are all already aware that these tests are being conducted. I just want to reveal the extent and the widespread nature and certain peculiarities of these tests. One of my colleagues had visited Mayur Vihar Phase-II to find out the facilities for sex determination. A detailed statement signed by her alongwith photographs will be presented to the Committee but I am just going to talk about the salient findings.

There was a particular nursing home called Virmani Nursing Home of which we have a photograph also. This Nursing Home has a board outside saying 'Healthy Boy or Girl' in Hindi and alongside abortion facilities are also available. The tests are conducted by resident doctors and the cost for sex determination, through ultra-sound, is Rs. 1200. This centre also conducts test for detecting genital abnormalities using ultrasound for which the cost is Rs. 300. The cost of sex determination is more than genital abnormalities by Rs. 900. It is done from 10 weeks onwards. Women were advised accordingly in early months of pregnancy so as to facilitate easy abortion.

Sarkar Nursing Home was also visited and there are photographs also. Once again, sex determination was done through ultra-sound and abortion facilities were offered. The cost for sex determination was more than that of genital abnormalities. They did not give us the charges for sex determination but for detecting genital abnormalities, the cost was Rs. 200. But they said that sex determination was there. So, our conjecture is that rates for sex determination were negotiable. Here again, sex determination was done from 16 weeks of pregnancy onwards.

Chirag Diagnostic Centre was also visited. Sex determination and detection of genital abnormalities were done through ultra-sound costing Rs. 900 and Rs. 300 respectively and done from 16 weeks onwards.

**SHRIMATI MALINI BHATTACHARYA:** Sex determination and detection of genital abnormalities are two separate tests.

**MS. LOPA BANERJEE:** They said specifically that there are two kinds of ultrasound tests. One for sex determination and another for detection of abnormalities. But two facts were common in all these above clinics. While they do the ultra-sound tests in their premises, they do not have the

resident ultrasonogists. They hire them from outside and women are required to make prior appointments and pay an advance in order to honour their visits. And it all depends on when the ultrasonologists will be available. All these clinics were practising a particular procedure. Women were asked to come for more than one session and it could be for three or four or even up to five sessions. It means that there will be five rounds of ultra-sound tests. People said that payment had to be made for the entire tests at the first session itself. This really means that gender detection is possible above 16 weeks of pregnancy onwards but women start going to these clinics before 16 weeks also. Doctors say that it is not possible for them to detect the gender at such an early stage. Instead of clarifying this to women and in order not to lose a potential customer, they make them come regularly till they are able to diagnose.

The salient findings that emerged from the survey were (1) a wide range of clinics conduct these tests. We have got photographs here. There are only a few centres which clearly say 'genetic determination centres or gender clinics or even boy or girl tests, etc.' Most of them only say that ultra-sound facility is available but everybody knows that sex determination is being carried out. In many cases they merely say 'Diagnostic Centre' and even these Centres conduct these tests. What is most shocking is that home service is also available. These tests are carried over all over Delhi even in re-settlement colonies. It is not as though a certain section of the population is using this facility. It has crossed all economic borders.

As I have stated earlier, the price charged for conducting these tests ranges from Rs. 800 to Rs. 1500 depending on the area and on the other hand the price for detecting the genetic abnormality through the ultra-sound test is less than that for the sex determination test. This test is being conducted from 16 weeks onwards and up to the 7th month of pregnancy which is in complete contravention of the MTP Act.

We really did not have any difficulty in getting these facts because its use is very wide spread. The ultra-sound technique is used not only for sex determination but also for the other clinical purposes. So, we cannot ban it from use. Secondly, there is no material evidence available to show that the test was used for determining the sex of the foetus, because it is just registered on the screen and no print out is taken. There is nothing that can prove for what purpose the test was conducted.

**SHRIMATI MALINI BHATTACHARYA:** What about differential rates? **Ms. Lopa Banerjee:** The differential rates may be due to the fact that this test is used not only for sex determination but also for detecting the growth defects in foetus.

**DR. KARTIKESWAR PATRA:** All this which you just now mentioned is your information but what are your suggestions?

**DR. C. SATHYAMALA:** We are trying to present a bit of evidence to say as to how we are suggesting this particular amendment.

As I said earlier, the Bill as such focus on amniocentesis and other technology which is used for detecting congenital mal-formation. But in Delhi the ultra-sound is being used primarily as a technology for sex determination. Therefore, we wish that any technology that has a potential for generating information of sex of the foetus in uterus should be brought under the purview of this Bill.

One of the major amendments that we wish to bring about is in the definition. We have used two terms; diagnostic tests and specific test. These are the terms coined by us. There are some tests which are meant for detecting congenital mal-formation. They are called as diagnostic tests. Then there are other kinds of tests which are used for other obstetrical purposes also. Ultrasound is used for obstetrical purpose and for other general clinical tests. So, we cannot club them together.

As I said, diagnostic are of pre-natal technology. But the tests currently available and in use—also the technology which is likely to develop in future—are actually meant for detecting the genetic and other chromosomal abnormalities. So, we suggest that these tests should be conducted only in the medical hospitals or in apex research institutions, which are at par with the medical college hospitals.

These specified tests on the other hand are all pre-natal diagnostic tests and procedure which apart from detecting gynaecological and obstetric abnormalities also find its use in sex determination. They need to be brought under the purview of the Act. Under the diagnostic tests specified tests also come because specific part of these tests generate information on the sex of the child and that is what this Bill should propose to curtail.

So, one of our amendments which follows this definition is that tests like chronic Villi biopsy, amniocentesis should be conducted only in the medical hospitals or apex research institutions which are at par with these institutions.

My colleague, Dr. Mira Shiva will talk about what is the rationale for this.

**श्रीमती सरोज दुबे:** क्या आपकी किसी ऐसी महिला से मुलाकात हुई या कोई शिकायत इस तरह की आपके पास आयी कि जिसमें किसी प्राइवेट नर्सिंग होम में अल्ट्रा साउंड विधि द्वारा गर्भपात इस आधार पर कराया गया हो कि आपके गर्भ में कन्या है, जब कि गर्भपात करने के बाद ज्ञात हुआ कि उसके गर्भ में लड़का था, लड़की नहीं थी। बिजिनैस करने के लिये कई बार ऐसा हो जाता है, लोग झूठ बोल देते हैं कि आपके गर्भ में कन्या है और आप एबॉर्शन करा लीजिये जबकि एबॉर्शन के बाद दूसरी स्थिति सामने आती है। क्या ऐसा कोई केस आपकी जानकारी में आया है।

**डा० सी० सत्यमाला:** अभी तक तो अल्ट्रा साउंड के अप्दर ऐसा कोई मामला नज़र में नहीं आया है।

**श्रीमती सरोज दुबे:** हमें पता चला है कि लोग अपना व्यापार करने के लिये कभी कभी नहीं अक्सर इस तरह की भ्रामक सूचनाएं देकर गर्भपात करा देते हैं और पैसा कमा रहे हैं।

**सुश्री मीरा शिवा:** हां, ऐसा सम्भव है, व्यापार के लिये कुछ लोग करते हों, बाद में दिखाने से पता पड़ जाता है। कई जगह ऐसा हुआ होगा, लड़की लड़की बोलकर गर्भपात करा दिया गया हो या हाफ लड़की हाफ लड़का बाई नेचर बोलकर गर्भपात करा दिया गया हो क्योंकि दूसरी जगह तो उसका टैस्ट होगा नहीं, पहले ही इस तरह का रिपोर्ट तैयार करके रख लेते हों, कुछ लोग इस तरह की धंधेबाजी शुरू किये हुए हैं।

**श्रीमती सरोज दुबे:** अभी आपने बताया कि झुग्गी झोंपड़ी में रहने वाले लोग 800 से 1500 रुपये तक खर्च करके गर्भपात करा लेते हैं, क्या इतने पैसों की वे व्यवस्था कर लेते हैं।

**सुश्री लोपा बनर्जी:** कई लोगों न हमें यह बताया है कि उनकी समझ से अभी 800 या 1500 रु देना अच्छा है बजाय इसके कि बाद में डौरी में 20 हजार या 25 हजार रुपया देना पड़े।

**DR. MIRA SHIVA:** Amniocentesis and chronic villi biopsy are more misused for sex-determination, though these tests are meant to find out congenital mal-formations of the foetus. Now amniocentesis is gone out of vogue because it is replaced by ultra-sound which is cheaper and safer and also it is very difficult to catch the wrong doers, because ultra-sound tests are used for various other purposes. I may state here that congenital mal-formation is a problem of the Western countries where the infant mortality rate is about 10 to 15 per thousand. Infant mortality in India is about 96 to 115 or more per thousand and our children die mainly because of maternal malnutrition, low birth-weight and infectuous diseases such as measles, diarrhoea, etc. If these tests are genuinely conducted for finding out congenital mal-formation, concerted action should have been taken to increase awareness about teratogenic drugs, and indiscriminate use of X-rays which lead to foetal abnormalities and congenital malformation. But in India this is not at all the case. These tests are conducted for purposes of sex-determination under the facade of finding out congenital anomalies. While we were collecting data on this issue, one Dr. Pai of Bombay told us that he had not come across anyone coming to his clinic for any purpose other than sex-determination. So, this is the reality

Therefore, what we feel very strongly is that these persons who are running the genetic centres in the name of saving the humanity are nothing but pretenders and criminals. Theirs is an absolutely commercial exploitation of women, taking advantage of the societal pressures. If these genetic centres are really meant for detecting congenital anomalies, they should have collected the detailed medical history of the pregnant women and her family. But we do not find that any such steps are taken at all.

These genetic centres are now mushrooming all over the country. To detect genetic abnormalities, it requires a fairly sophisticated technology requiring skilled and well-trained people to maintain the equipment as also to conduct the tests. As regards amniocentesis, while taking the sample of amniotic fluid, the needle may cause injury to the foetus. This may also result in bleeding and infection. Licensing and registration of these genetic centres is totally unregulated. When untrained



people conduct these tests, there can be massive mistakes. While these are the attendant hazards, our main feeling is that these tests are conducted purely for commercial purposes. While collecting evidence, we have come across one Dr. Murthia in Jaipur who openly advertises about foetal sex-determination.

If these genetic centres are allowed to continue as they are, it will be nothing but legitimisation of this horrible practice which goes against the girl-child. The question that arises is whether this kind of entities be allowed to get licences and registration. It should also be kept in mind that this problem is not confined to towns and cities. There is a sort of well-established network. Samples of amniotic fluids are sent from villages to the centres in towns and the results are again sent back. It is really amazing that while there are not even elementary and basic health facilities, this type of technologies should be available so easily on a wide scale. I may mention here that the chorionic villi biopsy is not mentioned even in our obstetric text books. It is still at an experimental stage. But even these latest technologies are being used or rather misused for sex-determination purposes. Why should this kind of thing be permitted when nobody is responsible for the attendant hazards to the foetus as well as the pregnant woman and more importantly when it is a part and parcel of larger bias against girl-children?

We do realise that services relating to genetic counselling, congenial malformation, etc. are required to some extent. But these should be offered by big institutions where monitoring is possible. This service should be available only in research institutions and big hospitals of repute. Anybody and everybody should not be allowed to get licenses and registrations all over the place.

Secondly, since this Committee has taken up this matter, we strongly urge that all necessary steps should be taken to provide elementary health and diagnostic facilities and services to the women of our country, before we talk of such high technology-involved tests as amniocentesis and chorionic villi biopsy. Basic health care for women should be our first priority.

**DR. KARTIKESWAR PATRA:** Do you want that this should be restricted only to certain institutions?

**DR. MIRA SHIVA:** The technology should be allowed to be used only in Government Medical College hospitals where the Head of the Department should be held responsible.

**DR. KARTIKESWAR PATRA:** According to your opinion, it should be totally banned for commercial use.

**DR. MIRA SHIVA:** The Committee can decide about it. Most of it is misused.

**DR. C. SATHYAMALA:** Our amendment is that it should be restricted to medical college hospital which are recognised by the Medical Council of India. The reason is that in order to detect congenital malformations, it needs a high level of sophisticated expertise and sophisticated equipments and detailed congenial counselling before it could be detected which ordinary centres cannot do it; these centres are not in a position to do this kind of a test.

We have prepared a set of materials; we have got ten copies of it with us. You could distribute them to the Members.

**MS. NALINI BANOT:** It should be restricted to those institutions which can genuine provide their services and not make fool of everybody. There are all kinds of problems. So, they should draw up a list of tests which they would like to carry out. Let it be known to everybody what they can detect and what they cannot detect, what is the skill of these trained persons who are going to conduct this test. There are three safeguards which should be observed before allowing any centre to conduct this test.

We do not want to ban the whole thing but to regulate it.

We have to pay adequate attention to the ultra-sound method which has been widely used. There are various issues on which some consideration has to be taken how it will be controlled. We may have to change certain definitions which we have in our mind. We have to view the whole thing in a more realistic manner. The ultra-sound method is used in various other things as well. Can we draw a line at all anywhere? There are various indications which are supposed to be justifying the use of ultra-sound method. There are various other studies which point out that the actual scrzening of ultra-sound is not a material benefit to women in any fashion.

When we are asking a woman to undergo an ultra-sound test we have to see in what her pregnancy is going to be altered. Already some information might be required. But we have to see whether it is reducing the morbidity or mortality. The study does not seem to be saying enough. It seems to say that routing screening will not in any way alter the woman's pregnancy. We do not assume the right to make a categorical statement on these areas but we definitely feel that the central, supervisory powers should sit down with experts of WHO. WHO has already made a list of the tests being done. The question is in the Indian conditions how far is it being misused or over-used. Our concern is how far are they necessary. May be, the woman does not need any. She may go in for sex determination. She may get a bio-scan done. And it is entirely to the Government to look into them. In all the studies including those of the WHO the utility of ultra-sound is not yet clear. Even in obstetrics and gynaecology the long term effects of ultra-sound are not known. It took 20 years for the children who have been exposed to X-rays to develop leucaemia. None of these agencies, including the WHO are not saying that it is risk-free. All that they are saying is, at our present state of knowledge

we see that there are certain benefits in ultra-sound. For women, there are certain useful benefits. If there are certain handicaps the woman should be told about them. At the same time, there should not be an indiscriminate use of ultra-sound. Are we going to have the correct information for that? We do not know.

They seem to say that there is some study which may lead to a lower birth rate. To do that study there may be some problems. There is a particular disease which we cannot distinguish easily but which may be detected by ultra-sound.

The general position which we are taking is while exploring the use for an effective purpose, no harm should be caused and we cannot argue that ultra-sound is not a method which is beneficial but its use should be regulated.

Now medical termination of pregnancy has made abortion legal, if it is done within 12 weeks of pregnancy, if there are any medical problems, and it is not recommended ordinarily. But here because the genitals are formed only in the 16th week of pregnancy they are not going to be able to tell you what the sex is till then. They are going to keep on repeating the tests. Then definitely there are much more risks in this. And of course, for the commercial sector, all they do is charge more. They are not concerned here with the issue of what is happening to the health of the woman. So, even from the health point of view there is a need to regulate the use of ultra-sound, whether it is in the Government sector or whether it is in the private sector, it is not an issue which we are talking about right now. Unless there is some regulation put on the use of ultra-sound it may lead to some disastrous results. Of course, preventing the misuse for sex determination will also make some difference.

We have given some suggestions. Our major recommendation in this matter first and foremost is that the equipment must be registered. Manufacturers of this equipment are selling them to a number of people. How are we going to control them? Just everybody and anybody cannot acquire this equipment and misuse it.

The second is, as I have already and I have given a list of indications in which these things can be used. Monitoring should be there to see whether it is actually being used for these indications or not.

The third point is, ultra-sound test very much depends on the nature of the equipment. There is a whole range of equipment and there are various facilities with many attachments and all kinds of advanced techniques. There is also some equipment which is used for detecting congenital abnormalities, which can also be used for amniocentesis because amniocentesis is supposed to be in the realm of ultra-sound. So, specialised equipment is not needed for one purpose only. We should see what kind of equipment should be there and what should be the skill of the people to do it. There is also a course which exists in radiology training. Everybody cannot be allowed to simply put up a board that ultra-sound facility is available. You do not know what is the capacity of the machinery. I am

just saying that there should be some control on the equipment and it cannot be that anybody can buy it and we cannot let anybody do whatever they want.

It is very difficult in the case of ultra-sound to have material evidence that in fact sex determination has been done. After much thought we have been constrained to come to the conclusion that if ultra-sound equipment is used for that purpose and for the termination of pregnancy then the time has come that it can lead to misgivings and the risks involved are also there.

Certainly the other things which we felt is that the tests should be available free for detecting congenital abnormalities. If we do not take steps to act now this may lead to some grave consequences. If the machine has to be paid, the money has to be recovered and without profit motive nobody would do these things. It is only the profit margin available, as we have seen in Delhi today.

**DR. C. SATHYAMALA:** We will have a discussion on it. These things are now commercialised, the main thing is to see what is the benefit available to us. Should these be continued? That is what we would like the Committee to look into.

My colleague Ms. Rama Vasudevan will present some advertisements. The provisions of this Bill, as it stands, may not be able to prosecute anybody. Such kinds of advertisements have been made available.

**MS. RAMA VASUDEVAN:** Apart from the standard advertisements, through sign boards, wall writings and newspapers, we also have things like that. There is a notorious Khamboj clinic, which has been sending letters or depositing the letters in the post boxes in North Delhi area, Azadpur. The letter is ostensibly from a grateful customer of the Khamboj clinic, who has undergone or whose family had many girls and after that, had gone there and been satisfied. The letter says that the use of ultra-sound is safe, quick and reliable method to determine the sex of the child. The address of the customer is not given. In such a case, the only person who could be prosecuted is the Doctor, especially the person-in-charge of the Khamboj clinic, in terms of newspaper advertisements. This is a blatant one. We also photocopied the advertisements. The advertisements assures that foreign returned experts will do the test, who is only M.D. We would like to present to the Committee the extent of problems caused through advertisements which are propagating sex determination.

**DR. C. SATHYAMALA:** We have made recommendations or suggestions in regard to the composition of the Central Supervisory Body. We have asked for reducing the time for taking suitable action within 24 hours of notice either in terms of complaints or information. The power to litigate should be made widely available so that anybody who is aggrieved has a right to litigate and the Court should give its judgement within 90 days. We have suggested that special courts may be set up and if that is not possible, at least in big metropolis, certain Magistrates have to be designated to do this kind of a thing.

The Bill says about the technologies which are presently available. We would like to add here "those likely to develop in future". This is very important. There may be some test in future, which may examine the urine or blood to detect the sex determination of the child. We would like this Bill to take into consideration the future technologies also. One of the functions of the Central Supervisory Board should be to identify as to what are the new technologies being developed and to update the list, and continuously monitor the development of technologies.

We also tried to delink sex determination with foeticide. Some of our colleagues have given us certain letters, which we would like to present to the Chairperson those letters. A group has come from Ahmedabad in this regard and it wanted to know whether the hearings of the Committee would be held outside Delhi. Several organisations desired that the hearings could be held in public as everybody is interested in this Bill. Also we would like to be present as observers during the rest of the hearings so that whenever we get any further information on the points made by others, we could make it available to the Committee. Keeping in view the suggestions which we have given we feel that the title of the Bill should also be amended. And the amended title should be "The Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse for Sex Determination) Bill 1991.

JOINT SECRETARY: So far as the proceedings are concerned, these are confidential and cannot be published. So far as the material which is submitted by the persons concerned is concerned, now whatever material is submitted to the Committee, it is confidential and it cannot be published saying that this is the material which we have furnished to the Committee. But as a general information, whatever information they want to give to the public can be given without referring that this is the material we have given to the Committee. So far as your sitting in the Committee and watching the proceedings as an observer is concerned that is not possible.

MR. CHAIRMAN: Thank you very much for your suggestions and views. The way you have presented your views, it shows that you have done hard work. We have deep appreciation for your hard work, your concern and your sincerity to the cause. We have noted all your points. It will help the Committee to understand the problem. So thank you very much.

(Tea Break)

MR. CHAIRMAN: I welcome Dr. (Mrs) Nalini Abraham, representing the Family Planning Foundation, to this sitting of this Committee today. We have received your memorandum. We have also gone through the memorandum. Your suggestions are noteworthy. We have noted all the suggestions. Now, I invite you to place your views before the Committee. Before that, I request you to introduce yourself to this Committee.

(Introduction)

DR. (MRS.) NALINI ABRAHAM: *Family Planning Foundation*: Madam, I thank you and the other distinguished Members present here. At the outset, I would like to say that I tremble when I think of the responsibility that rests upon you as decision-makers because the future

rests upon the decisions that you are going to make regarding this aspect. The sex ratio at the micro-level seemed to me to be a major problem. I studied the problem at the micro-level. I am a grass-root level worker. I did a study in the Christian Medical College in Ludhiana. There are some slums. We conducted a survey in respect of girls when they were under adolescence. The sex ratio was 399 in respect of females. We conducted another baseline survey in Mathura. The details are contained in our memorandum.

I do not want to repeat again. I found that the sex ratio of girls in the age group of 15-19 was the lowest at 531. It was alarming when the girls were not in the slums. They said that they had left the girls behind in the villages because they are not safe in the slums. When I looked at the entire population of the Mathura Block consisting of 2,000 households, I found that for every hundred boys there were only 50 girls at the marriageable age of 15-19. As I further did an analysis in the age-group of 0-4 years, 5-9, 10-14, I found that the sex ratio is alarming. The alarming results have come out. There is a steady fall in this age-group as far as the sex-ratio is concerned. We have to think of the social implications of having one girl for every two men in the marriageable age. What I feel is that you and I would not have to be discussing this Bill if the previous Bill had been worded carefully. I am referring to the MTP Bill. There are certain aspects. Generally, the doctors will say that they will take care of the risk to the pregnant woman first and then decide about the foetus. It is the common practice for all the medical practitioners to take the oath. It is prevalent everywhere. As per the declaration, he takes the oath. In 1981 the situation became ironic. Around that time, we introduced amniocentesis test in this country just to take care of the disabled child. We have the amniocentesis test to eliminate the severely disabled child. You and I do not have a responsibility to an individual. But we do have a responsibility as far as a coming generation is concerned. We do have a social responsibility. Have we clearly defined the term 'handicap' in this present Bill? Under the MTP Act, only when the child suffers serious physical and mental abnormalities, in that event the child may be eliminated. There are certain circumstances under which the pregnancy can be terminated under that Act. Even under this Bill, provision has not been made to find out what is the serious handicap that will require elimination of a child. I feel that we have to take this aspect into consideration when we are framing this particular Bill. The test are conducted to detect abnormalities like genetic metabolic diseases, sex-linked genetic diseases, congenital anomalies etc. The question is: Are chromosomal defects serious handicaps? For instance, there is the cleft-lip. If this defect is there, are we allowed to eliminate the child? Are we going to eliminate such a child? So, I would like to tell you that we should be very cautious about the wordings. Even the positive test report will allow somebody to do an abortion.

The next important point raised by many other groups was regarding the private nursing homes. I do not think that they should be allowed to carry out this. The gynaecologist must have experience in undertaking the diagnostic procedures such as foetoscopy. It is necessary that the

gynaecologist must have experience and he must be able to do the fluid removal guided under ultra-sonography. Otherwise, he should not be allowed to do that. Even the best expert will abort one out of the 25 cases. Now, we are also talking of inexperienced people performing the job. So, the qualification of the gynaecologist and his experience must be mentioned. Probably, we will have to amend a little more in this regard.

The other aspect is about the certification, that is, giving licence. There is no procedure to de-license if the doctor is involved in malpractices. There should be some provision to de-license the erring doctors. If he has to perform this test, he should be approved by some appropriate Board. He should be given a licence to do this job. Punishment should include de-licensing.

The next point is about the oath of secrecy. If we see the Maharashtra Bill, there is an undertaking that there should be oath of secrecy. We professionals are always used to oath of secrecy. This is the practice of our profession. Further, undertaking the consent of the wife alone is not enough. The husband and the wife both should consent and they should understand what it means. In the Maharashtra Bill, it provides for abortion if the child is not normal. This, I do not find in this Bill. But the Maharashtra Bill has a clear-cut format and it says that if the genetic test is found to be normal, then I should not abort the foetus. I believe this is a loophole as far as the implementation is concerned. In this particular situation, how will we follow-up and see that this does not become a loophole again? Regarding abortion, 90 per cent of the cases are in respect of the female foetus. Now, we have to make it mandatory that all the registered abortion clinics should send sex-data on the aborted foetus. This is essential if we are to see that this Bill can be adequately followed-up. Further, as I understand, in a test of below five-weeks to seven-weeks, there is a per-unit cost which can be quite high to the Government. I would like this to be looked into. Whatever the per-unit cost, I think the social cost of it is so high we should not hesitate to invest in this regard.

Moreover, the abortion clinics, those registered under the MTP Act, should send regular reports. Also, the registered clinics that are doing genetic counselling job should keep the records for five years. At present, it is for two years. I would suggest that it should be made for five years on the lines of legal cases. Apart from the maintenance of record and register, you have not defined the reporting format. There should be regular reporting of the types of cases they come across. It is absolutely necessary to maintain genetic registry. Once we do this, then we will be able to further amend this Act depending on the result we achieve in this regard. The thalassaemia disease is mostly prevalent among the tribal population in this country. They suffer from such diseases. But the sex-linked diseases are so few in number. The percentage is so small. But it would be better to have the genetic registry. Therefore, what I feel is that this Bill can provide mandatory provision to maintain a register. Further, it should also insist on periodical reporting of the types of cases that are being handled by such clinics. Now I would like to look probably a little more into the management of this programme. The Central Supervisory Board is a very busy board. I have recommended that it should be decentralised up to the district level.

The Maharashtra Bill has got a provision and that is what we call as local vigilance cell. I know that we have provided in this Bill for State/ Appropriate Authority but nothing below that. My suggestion in this connection would be that vigilant cells should be created the grass-root level for the whole range of problems that are there in the country and that will give a monitoring feed-back to the Government.

The Advisory Committee should include a few more non-Governmental organizations who are really working hard in the field. I am not speaking as an NGO on behalf of the NGOs but I have been associated at the grass-root level and I think that it would be useful for us to forge a link between the NGOs and the Government so that they can provide intelligence and the Government can function more effectively and efficiently.

I feel that minimum punishment has not been prescribed for the offences and penalties. If they are provided, that will help and nobody can go scot-free. Also I feel that the husband should also be held responsible and should be equally punished and the in-laws who are mostly behind it, they should also be punished. How are we going to deal with them? I am not a legal person. In my opinion, at the grass-root level, it is the in-laws who make the decision but to punish only the woman, to me seems a little unfair because she is making the decision on behalf of somebody else.

On the question of advertisement there are two types of persons who are left out. It is not only advertising in papers or through other media but there is also a person to person advertisement. Every person who has a private practice has got a network of touts spreadover. Also there is another system that is courier service. In some States there are courier services to send samples of the amniotic fluid of pregnant women from rural health centres to big towns and cities, and the reports are going back. I think they should also be punished.

It should be displayed prominently at all genetic clinics that this is a punishable offence. I think that it may not be sufficient and I would like to see<sup>7</sup> this probably in every form that is adopted. In fact, when a Doctor applies for registration of the clinic, he gives an undertaking and will take a oath of secrecy and we should see that persons who are the employees of those clinics do also take this oath of secrecy. I feel that it should be mandatory for every employee. Secondly, all the forms whether it is the record, reports, doctor's forms or the patient's consent for should contain punishment that is there for breaking this law.

Also I would like to see that the MTP Act is amended first to make ground for this. We have a provision in the MTP Act wherein on the ground of failure of a contraceptive device one can go for the termination of pregnancy. I am working for the Family Planning Foundation and the MTP and abortion does not help the family planning.

We are aware that euthanasia is a phenomenon in the West where the doctors are under tremendous pressure. For whatever reason, the medical profession, the world wide is under tremendous pressure to give injections and to put the patients to sleep. If this Act is passed without thinking carefully, we are paving the way for that kind of a crisis in our country. I am very much worried about this euthanasia.

It is all that I wanted to share with you. Thank you.

MR. CHAIRMAN: Any question?



**SHRIMATI MALINI BHATTACHARYA:** You are a doctor and the list of pre-natal diagnostic techniques have been given here. Do you consider them as comprehensive or would you consider of adding others to it or what is your opinion?

**DR. (MRS.) NALINI ABRAHAM:** Ultra-sound has not featured very prominently. I think that it has to be more explicit. Also I have listed other things like Chorionic villus etc. The pre-natal diagnostic procedure should include foetal biopsy, foetal blood sample, chorionic villus, aspiration and biopsy. If we do not go in for even foetal biopsy or for foetal blood sample, we are in for some problems. I think there is a need to lay out all these things as a procedure because one can evade saying that this is not an aspiration and this is only a biopsy. Also there should be chromosomal analysis, DNA analysis and metabolic analysis. The minimum equipment and requirement for each of these tests are different. So in the application of these tests, we should be able to lay out a comprehensive procedure in terms of equipment and also experience of the geneticists and analysts who are doing these tests.

**DR. KARTIKESWAR PATRA:** Are you hopeful that if, and amendment finds place in the Bill, then the female ratio will go up?

**DR. (MRS.) NALINI ABRAHAM:** The female ratio will not go up by this Bill alone. But I think that this is very important step and it is not that it is going to help in a big way. In any case, we cannot see the result of this Bill in the next twenty years. More females are born at the time of the birth than men. Females are superior biologically and have a greater resistance for survival. If the female mortality rate is higher, it is because of deliberate neglect. So unless these are taken care, the specific mortality rate is certainly going to affect the sex ratio. We will not notice the result of this Bill for another twenty years and I think you will not be held responsible.

**SHRIMATI SARLA MAHESHWARI:** You were talking about thalassaemia which is in tribal population. What is the percentage of that disease?

**DR. NALINI ABRAHAM:** It is there in certain tribal pockets, if not in all tribal pockets. It is upto six per cent. I have worked in Orissa, Madhya Pradesh, Chota Nagpur. It is six per cent.

**SHRIMATI SARLA MAHESHWARI:** What are the reasons for it?

**DR. NALINI ABRAHAM:** It is congenital abnormality.

**SHRIMATI SARLA MAHESHWARI:** You were talking about the ultra-sonography which is used for various reasons. Do you want it to be confined only to Government hospitals?

**DR. NALINI ABRAHAM:** I would not say that it should be confined only to Government hospitals, because there is a role of the private sector also. But, I say that every private or non-governmental organisation should be managed by a responsible Board.

**SHRIMATI SARLA MAHESHWARI:** Since these are commonly used techniques, how will you regulate these?

**DR. NALINI ABRAHAM:** I think, it should be available only through certified licenced centres and the granting of licences should be very stringent.

SHRIMATI SARLA MAHESHWARI : Is there any difference in the apparatus?

DR. NALINI ABRAHAM : No, there is no difference.

If the people are of money making mind, they will invest in such equipments and this is an additional temptation. In fact, ultra-sound is being used much more than it should be used. I think that the poor people are fleeced of money, every time they go to the doctor. so, it is good to regulate it.

SHRIMATI MALINI BHATTACHARYA : If we restrict the use of ultra-sonography, do you not think that certain patients would be deprived of their treatment?

DR. NALINI ABRAHAM : No, not at all. I think, if we take it to the district level and if we regulate the ultra-sound machine, that is fine. Its use is very limited. As a professional, I say this. They are using it just to make money out of it. But, its use is extremely limited.

SHRI SHARDA MOHANTY : As a doctor, you say as to how do you regulate it.

DR. NALINI ABRAHAM : I would suggest not to give licence for its manufacture indiscriminately. You can give licence only when necessary. You can also make sure that the Government hospitals are having this facility. If you do not provide through the governmental network, then there is room for all these kinks of thing to take place.

MR. CHAIRMAN : I would like to bring the following to your notice.

Whatever discussion we had here should be treated as confidential. It should not be made public until the report of the Joint Committee is presented to Parliament. Moreover, if you desire that certain portion of it should be treated as confidential, it will be treated as confidential; but it will be made available to the Members of Parliament and can also be published.

DR. NALINI ABRAHAM : Okay. But the two reports from which I quoted are the study reports of certain agencies. So, it is their property.

MR. CHAIRMAN : Okay, thank you very much.

*(The witness then withdrew)*

WITNESSES EXAMINED

1. Mrs. Anuradha Gupta
2. Mrs. Pramila Loomba
3. Mrs. Vimla Farooqui
4. Dr. Usha Srivastava

MR. CHAIRMAN : I welcome you all for today's meeting. We have received your memoranda and they have been circulated to the Members also. They have gone through the memoranda in detail, and we have noted your points.

Now, we would like to discuss the matter further with you. I request you to put your views before the Committee. Now, you may please introduce yourselves to the Committee.

*(Introduction)*

MRS. VIMLA FAROOQUI : We have already sent our memoranda. Our organisation—The national Federation of Indian Women has been very much concerned for quite some time as to how the sex determination tests are being misused to abort the female child. Now, we believe that a

Bill has been brought forward in the Parliament and we want that it should be a Bill which gives minimum possibility of being mis-utilised.

It has been said in the Bill that all the clinics will be registered and they will be permitted and that it should be done only under the direct control of the Government and the Indian Medical Council. Our suggestion is that only those clinics and hospitals which are attached to the medical colleges and are recognised by the Indian Medical Council should be permitted. It should not be permitted to all clinics, hospitals because wider the permission, more it will be mis-utilised. As the prevailing conditions in our country go, girl child is not required by many people. This will be misused to abort female child. Secondly, the suggestion that the woman who gets abortion done should be penalised, we believe, is not a correct thing. All of us know that women are forced to abort if the family thinks that we have two daughters or we have one daughter and we want a son. So, woman does it under the family's pressure. As an organisation, we know cases where women have been pressurised. So, there should be no punishment for the woman. We believe that the test is done to know if the child is abnormal. If there is any deformity in the child, it should be told that the child is not normal. But the sex of the child should not be revealed under any circumstances.

We want that it should be a cognisable offence so that women are not in a position to go and complain that they were forced to do this thing. Social organisations should take cognisance of it. We believe that some of these things should be taken into consideration. Firstly, the woman, who is being pressurised to abort, is not punished. Secondly, this is something which has to be controlled knowing that in our society, as it is, girls are not wanted. So, we request you to consider our memorandum and give permission with definite controls.

**DR. USHA SRIVASTAVA:** One of the questions was: do you think that sonography should also be included? Our experience is that mostly the pre-natal diagnostic techniques are performed through ultrasonic examination and ultrasound of the lower abdomen for mere use of sex determination than for other medical purposes. I feel that this Bill will not be practically implemented unless and until you check on ultrasound of lower abdomen. I know of practical difficulties because ultrasound examination is used for almost all the organs. That is a revolutionary step. But at the same time in our country seeing the social attitudes of people, before 16 weeks of pregnancy, pre-natal sex-determination is just not possible.

My submission is that any ultrasound of lower abdomen, which is done after 16 or 18 weeks of pregnancy, should be notified to the appropriate authority for implementation of this Bill.

Also, any woman, who is even going through termination of pregnancy after 18 weeks of pregnancy, should make a declaration.

There are certain disorders which are not included in section 4(2) of the Bill like neural tube defects, specific enzyme disorders, HLA-locus-linked diseases, hemolytic diseases of the new-born and assessment of foetal distress and foetal maturity and any other Unless and until we know about it, how can we do something about it? Our submission is that it should be restricted. Sonography should be included in the pre-natal diagnostic techniques.

**SHRIMATI PRAMILA LOOMBA:** About the punishments that are provided in the Bill, if we go on making the punishments harsher and harsher, the punishing authorities are not very keen to award the harshest punishment. We feel that fine also has a limitation. A doctor, who is making millions of rupees out of this illegal kind of practice that he is having, has absolutely no hesitancy in paying Rs. 10,000 or 20,000 or even Rs. 50,000. I think, Rs. 50,000 is the maximum that has been provided for in the Bill.

About the doctors, who do not obey the law and are liable to forfeit the licence, I feel, we have been discussing this. We feel that some provision must be there for a limited period of time. If anybody has violated the provisions of the Act and performs his duties for female foetus abortion, we should take away his licence for a period ranging anything from one year to three years. It would act as better deterrant than many of the other punishments that are provided.

**SHRIMATI MALINI BHATTACHARYA:** If your suggestion is that there should not be a system of licensing but rather tests should be restricted to Government hospitals, then the advances of techniques which comes through medical research for saving life of the mother and the child. That should also be included from time to time because in our country, the whole idea of pre-natal diagnostic techniques comes only when amniocentesis is used for female foeticide. These are more misused than used. These should also be included. Unless and until these tests are restricted to Government hospitals, it is not practical to curb this. In the countryside, it is not a question that the tests will be performed at the genetic clinics/laboratories/counselling centres. The patient goes for a simple examination in a doctor's clinic and it is a five-minute procedure. The doctor just withdraws a few ml. fluid and tests it in her chamber. Only two people are involved—the examining doctor and the pregnant woman. So, you have to put a lot of restrictions on the registration of these centres. Unless and until you put a check on abortions, you cannot implement it. You must have a lot of restrictions on registration of the genetic clinics.

Actually, practically in our country, these tests are being performed either in the examining doctor's chamber or in the radiologist's chamber with the woman. The ultrasound is there. The fluid is taken and in five minutes, it is over. Nobody else comes to know. question of issuing licences, of course, does not arise.

**SHRIMATI PRAMILA LOOMBA:** I am saying about the licence to practise. Despite the fact that even if it is agreed that these tests are confined to the hospitals attached to medical colleges, we will still expect that there will be some ways of this being circumvented. Therefore, if we are providing for punishments, then we should include whoever is involved. If that is added, it will cover a much wider category of people who can be punished. The only other punishment which can be given for those who are in Government hospitals is that they have to lose their jobs. And that can be done if it is agreed that it is provided. But even then they are in league with other private practitioners and doing it illegally, finding their way out in some kind of counselling centres or clinics. Then, I think, that can be included and it can cover much better ground.

The other thing which we would like to emphasis is this. The women who undergo these tests should not be made liable. She is a victim and therefore, she is not to be treated as an offender. We have suggested that when all the techniques are explained to her, a member of her parental family should be present which would probably check the pressures. And if she is surrounded by her in-laws, then the pressures are much greater for her to agree to these tests.

I believe that the Committee has decided to get the evidence tomorrow last and confining itself only to women groups in Delhi. We also feel that some way has to be found out without necessarily prolonging and delaying the enactment of this Bill. We must find out how other groups operating in various parts of the country are conducting themselves either through advertisements, of course within the time limit and not delaying it very much. Some of these groups must be asked to give evidence, specially groups in Gujarat. This is a vast country and a very complex system seems to be operating round the country regarding conducting of these tests. Therefore, it would be more profitable for the Committee if they will be able to get evidence from other groups too.

**SHRIMATI SUSHMA SWARAJ:** Do you find any contradiction between the MTP and this Bill?

**DR. USHA SRIVASTAVA:** There is no contradiction because the MTP Act clearly says that even within 12 weeks of pregnancy, it is absolutely legal and the woman does not have to give reason for getting the termination of pregnancy done. Normally, psychological, social grounds or due to failure of contraceptive 12-20 weeks are allowed or only in case where it is medical emergency for the mother. As we know, amniocentesis cannot be done before 16 weeks of pregnancy. Then the uterus is only an abdominal organ and no fluid can be withdrawn from it. Amniocentesis can start only from 16 weeks onwards.

**MR. CHAIRMAN:** Thank you very much. Your suggestions will be duly considered. We will meet again tomorrow at 3 PM.

*(The meeting then adjourned.)*

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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON  
PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION  
OF MISUSE) BILL, 1991

*Tuesday the 21st January, 1992 from 1500 hrs. to 1800 hrs. Committee  
Room 'D', Parliament House Annexe, New Delhi.*

PRESENT

Smt. D.K. Tharadevi Siddhartha—*Chairperson*

MEMBERS  
*Lok Sabha*

2. Smt. Dil Kumari Bhandari
3. Smt. Malini Bhattacharya
4. Smt. Saroj Dubey
5. Smt. Sumitra Mahajan
6. Dr. (Smt.) Padma

*Rajya Sabha*

7. Smt. Sarla Maheshwari
8. Shri Sarda Mohanty
9. Smt. Sushma Swaraj

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND  
FAMILY WELFARE

1. Shri S.B. Mishra — *Joint Secretary*
2. Shri S.S. Kapur — *Director*

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE AND  
COMPANY AFFAIRS  
(LEGISLATIVE DEPARTMENT)

Shri T. Vishwanathan — *Deputy Legislative Counsel*

SECRETARIAT

1. Shri S.C. Gupta — *Joint Secretary*
2. Shri R.K. Chatterjee — *Deputy Secretary*
3. Shri T.D. Dhinera — *Under Secretary*

## WITNESSES

1. Dr. Pyush Aggarwal
2. Dr. P.S. Bhandari
3. Dr. K.K. Loomba
4. Dr. S.P.S. Virk
5. Shri P.M. Bakshi
6. Mrs. Usha Ahuja
7. Mrs. Madhu Kalia

## ORGANISATION

Association of Genetics and  
Ultrasound Clinics of India

Indian Law Institute  
Nari Raksha Samiti

MR. CHAIRMAN: I welcome you all to today's meeting. We have received your memorandum which we have circulated to all the Members. We have gone through the memorandum. I request you to put your views before the Committee. Before you do that I request you to introduce yourselves to the Committee.

MR. CHAIRMAN: If you want to say anything more than what has been stated in your memorandum, you can do so.

DR. PYUSH AGGARWAL: We are actually the people who are in touch with the patients; we are at the ground level. We have seen that, in more than 95 per cent of the cases, the people who are already overburdened with their children, are coming forward for this sort of investigation. This is a very human aspect which we cannot ignore. In our country, it will take some time for us to change our system. At the moment, the choice in front of us is to see what is the reasonable solution. People literarily cry when they are told that it is a female child because they are already having eight children. To force them to continue with the female child certainly is not preventing discrimination. At the same time, we cannot allow this practice to go on. People will become more and more adventurous and they will say we do not want any female child; we want only sons. That is where a serious situation develops. This dangerous situation should be prevented.

Secondly, to alter the sex ratio is very very difficult. We have got very large population. The tests are so expensive. People are not aware of it. Any impact on the sex ratio is not going to come up in a couple of decades. Our basic problem is population control. Even top people are coming forward for this test because they want a son. Wanting a son is not a crime.

SMT. MALINI BHATTACHARYA: Why have you changed the name of your Association?

DR. K.K. LOOMBA: We felt that we should not be only supporters; we should also try to criticise this malpractice. We do not want that this practice should be allowed to continue only on those couples who are having at least two girls. That was the idea behind changing the name of our Association.

SMT. MALINI BHATTACHARYA: Has it been recognised by the Indian Medical Council?

DR. K.K. LOOMBA: We are getting it registered; it is not registered because we got very less time when this issue came in the Press.

SMT. MALINI BHATTACHARYA: Have you formed this Association after the issue came in the Press?

DR. K.K. LOOMBA: Yes. We have got two memoranda. I do not know whether you have received the second one.

**SMT. MALINI BHATTACHARYA:** This one we have got a couple of days back. From the presentation that you have made, it seems one of your arguments is two children norm; and in order to enforce it, you think, if it is necessary, abortion should be practised. In that case, why should sex determination test be necessary?

Also, in your earlier memorandum you have suggested that when some couples are keen to have daughters they undergo a sex determination test because they do not want another male child. I want to know whether on the basis of such tests whether you have found any cases of male feticide.

**DR. PYUSH AGGARWAL:** We do have some cases. But the number is quite significant.

**SMT. MALINI BHATTACHARYA:** If population control is the argument then why is sex-determination test necessary for that?

**DR. PYUSH AGGARWAL:** There are a vast number of people who are determined to have a male child. They will not listen to anything. They go on trying till they have a male child. But even after that if they have to have another female child, or in some cases, even after two daughters if they have four more daughters, then they will have six daughters and it will be difficult to educate them.

**SMT. MALINI BHATTACHARYA:** If they have six sons and daughters also, will it not be the same?

**DR. PYUSH AGGARWAL:** It is the same. But 25 years back what was there, they still believe and they do not listen to us.

**DR. K.K. LOOMBA:** The craze for a male child is prevailing in our society. That we cannot deny even now. That of course cannot be ruled out. As people were against family planning in the earlier stages, now socially people have a system and now the two-child norm is being accepted. So, what is the harm in giving the knowledge to the couples so that they can have a male child? We cannot make people understand that there is not difference between the male and female children. We cannot put a ban on them. As we have said, the Government of India has been successful in convincing people and the two-children norm has been accepted. Still people have a craze for a male child. It is not so only in the villages. Since we are dealing with it, I have seen it and I can say that ministers, Members of Parliament, IAS officers, all educated people are also interested to have a male child. The craze for a male child cannot be removed in a day or so.

Take for instance my own case, I have one son and a daughter. We do not have any discrimination. We cannot educate hon. Members in a day or so as also the other people.

**SMT. MALINI BHATTACHARYA:** Do you think by legalising a craze or by some law you can drive it out?

**DR. K.K. LOOMBA:** We cannot say. I am just mentioning it.

**DR. P. S. BHANDARI:** I am an MBBS, graduate and so is my wife. We have two son and two daughters. I do not want to increase the family. First I had a daughter. Second time, I was told by the astrologer that I would have a son. I went to all religious places and offered prayers and everybody told us that we would have a son. But it turned out to be a daughter. I want to have a balance family. The daughters are more affectionate than my son. We do not have social security. I learn that the



Government looks after the old people in some countries. Unfortunately, in this country supposing I am paralysed and deprived of my own earning I cannot get a single penny for my ailment, because the income-tax people do not allow us to spend our money. Basically the children have to look after their parents. As daughters go to another family we cannot get our daughters and sons-in-law to look after us. This is our custom. Then, people do not allow their wives to visit their parents always and daughters cannot keep their parents with them for two or three years. It is only the son who can look after the parents. Some sons may be of help. Some can be goondas also.

**SMT. MALINI BHATTACHARYA:** You talked of partial restriction in a way, not a blanket ban. In two cases we can think of such restrictions. In one case where there is one child when the earlier one is a son, the second time you say that the test need not be done. But if there are two children or two sons, if there is a third pregnancy then you say that it is necessary. These are the partial restrictions in general you have mentioned.

**DR. PYUSH AGGARWAL:** We will have to study it and do it. One is a blanket ban and we make a legislation that these procedures are illegal. Second suggestion is, as we have talked about, to have a law to ban after two children. The first one is a sort of compulsory forced legislation in which both the patients and the doctors examine and the society in general is running away from the Government. It is a situation in which the patient will run, escape and quietly with the help of a doctor like a thief, he will get it done.

The second situation is that the patient has two children and then he gets the test done. They may have some change of attitude later. The question is, there will be by passing of the law in both the situations. We all of us do not say that these laws will be followed. Supposing we are allowing those people to go on after two children, it gets the same social respectability. If it becomes illegal people still try to get the tests done somehow or other. We can look for something else. It is not necessary that something illegal has to be done. We can look for other alternatives. It is not that as if we will ban sex determination tests; but it will continue. That is what is exactly happening. This is what has happened in Maharashtra. A lot of people are doing it in Maharashtra. They are doing it very nicely with speed and accuracy. The number of tests have gone up. In the process, the patients are suffering. The charges are going up. And the middlemen have started to enter in this. These are the two situations which we have to see. And what we are suggesting in this memorandum in this. Let us have a look at it and let us give a try. Let us see what happens after five or ten years. We are not making policy for one hundred years. After ten years, we can certainly review it and modify it.

**SHRIMATI MALINI BHATTACHARYA:** Do you want this law to be enacted at this stage?

**DR. PYUSH AGGARWAL:** Definitely. There should be partial restriction. At the same time, social awareness should be created. Only those people who have got this type of a problem should be allowed to do this and the cooperation of the doctors and medical fraternity should be sought. This law can only be implemented with their cooperation. By force, I do not think the desired results can be achieved.

**SHRIMATI MALINI BHATTACHARYA:** What is the cost for doing this test?

**DR. PYUSH AGGARWAL:** It varies from Rs. 300 to Rs. 5000.

**SHRIMATI MALINI BHATTACHARYA:** That means, it is not necessarily confined to upper rich class people.

**DR. PYUSH AGGARWAL:** Now it is gradually becoming cheaper and even the poor class people can do this.

**DR. K.K. LOOMBA:** There is no point in making any law, which cannot be implemented. If we are not able to implement the law, then we are not honouring our Constitution. I would like to give certain examples—Anti Dowry Act, Child Marriage Act, Child Labour Act. These are well known to the Members. At the present stage, it would be impossible to ban this test. You cannot ban the ultrasound because it is a diagnostic technique.

**श्रीमती सरोज दूबे:** किसी भी बुराई या गलत काम को रोकने के लिए कानून या नियम तो बनाने ही पड़ेंगे। हर कानून को बनाने में शुरूआत में थोड़े से लूपहोल्स रह जाते हैं, उसका लोग फायदा उठाते हैं। लेकिन इससे पहले यह देखना है कि फीमेल चार्डिल्ड के ऐबॉर्शन को किस तरह से रोका जाए। इसके लिए कोई बीच का रास्ता हमें निकालना है कि कानून की सहायता से हम फीमेल चार्डिल्ड के ऐबॉर्शन को किस तरह से रोक सकते हैं।

**DR. K.K. LOOMBA:** My mother had four sons and three daughters and she was pregnant for the 8th time. At that time, abortion was known to be a criminal act. Now the same thing has been legalised. In such a situation, if a couple, who has two or three daughters, can be allowed to have a male child. We have to educate the people in this regard as we have been doing it successfully in the case of family planning.

**DR. S.P.S. VIRK:** With the latest development in ultrasound technology, it has mushroomed in the country like anything. Now in every nook and corner of the country, we are having ultrasound. If at all there is a ban on that, will you be able to implement it on scanning? A doctor who does this scanning can just tell the sex of the child to his patient. Then, I wonder how do you implement the ban? The genetic techniques, Amniocentesis and other techniques are relevant to the genetics. These are the main topics of this discussion. But they have all become outdated by now. The latest technology is ultrascanning and this is again going to be outdated. New things are going to come in. The people are going to determine the sex of the child by studying the spit of the lady. Then, I wonder, how a blanket ban could help? It would be a very tricky situation then.

Ultrasonography is a common thing in medical terminology. The doctor has to know whether the pregnant lady is carrying twins and whether the growth of the child is normal or not and for that, he has to ask her to undergo scanning. Now the people have become fully aware about ultrasonography. A doctor who is doing this scanning has to just tell the patient whether she is carrying the male or female child. In such a situation, how the Bill can be implemented? The scanning machines are in lakhs. I belong to a small town to Punjab, which has five lakhs population. And there, we are having forty ultrasound machines.

**SHRIMATI MALINI BHATTACHARYA:** Suppose we take a decision that only in special cases where there are very strong indication of some kind of genetic disorders or foetal malformation, ultrasonography will be done, then how do you think that it will be a very big deprivation?

**DR. S.P.S. VIRK:** Earlier none was going to the Gynaecologist during pregnancy. Now the modern facilities are available to every one. Now the awareness is also there. The ultra sonography is such an advanced stage. You cannot put a ban on that. Now every couple is supposed to do anti-natal check up. She is supposed to undergo scanning in the first three months so of her pregnancy or the second three months or at least at the end to know whether the child is in a proper position to be delivered or otherwise.

The doctor has to just utter a word to his patient as to whether it is a male child or a female child. My question is that in such a situation, how are you going to stop this.

**SHRIMATI MALINI BHATTACHARYA:** You are wondering about its implementation. But do you think in principle ultrasonography should be a universal practice?

**DR. PYUSH AGGARWAL:** Any decision to restrict or ban ultrasonography is unfair to the patient. Suppose 5% of the people are coming for that, you are depriving 95% because of them. The only question is how much we can persuade the people from doing it. We cannot allow the country to take a technological leap backward.

**SHRIMATI MALINI BHATTACHARYA:** Are you aware that World Health Organisation has said that ultrasonography has some side effects?

**DR. PYUSH AGGARWAL:** Just ten years back it was very well known to every one that x-ray is having side-effects on the foetus. But then came the ultrasound. Maybe if we come to know that it is harmful to the child or the mother, some other method may come in.

**SHRIMATI MALINI BHATTACHARYA:** There are some hazards in ultrasonography.

**DR. S.P.S. VIRK:** Hazards may be 5% and 95% take advantage of the ultrasonography. Those 5% hazards can be ignored.

**श्रीमती सरोज दुबे:** आप यह बतायें कि इसमें आपकी क्या भूमिका हो सकती है जिससे यह और अधिक प्रभावशाली हो सके।

**श्री पीयूष अग्रवाल:** जैसा कि मैंने पहले भी कहा कि 10 साल के लिये पार्शल रिस्ट्रिक्शन की जाये। सब को कोआपरेट करने के लिये कहा जाये। अवेयरनेस बढ़ायी जाये। इस सम्बन्ध में लोगों को एजुकेट करना भी आवश्यक है। अगर हम यह कहेंगे कि दो बच्चों तक नहीं करना चाहिये तो ऐसे में वे तीसरे में करना शुरू कर देंगे। अब कई लोग पहले और दूसरे बच्चे के समय में ही इसमें कन्वरा रहे हैं। यह ट्रेंड अभी शुरू हुआ है। जो ज्यादा पढ़े-लिखे लोग हैं, चार्टर्ड एकाउन्टे हैं, इंजीनियर हैं वे कहते हैं कि एक बेटी के बाद दूसरी बेटी नहीं होनी चाहिये। अगर इसके खिलाफ कोई कानून होगा तो उन्हें इस बात की फीलिंग रहेगी कि इसके बारे में कानून है। ऐसे में डाक्टर को भी रहेगा कि इसके बारे में कानून है। दोनों की ही जिम्मेदारी रहेगी कि यह नहीं करना है। ऐसे 15-20 परसेंट लोग निकल जायेंगे। अगर हमने इस पर रोक नहीं लगायी तो जिस का बस चलेगा। वह कर लेगा। भले ही पहला बच्चा है या दूसरा बच्चा है। बैन करने के दो प्रोसीजर हैं—एक तो बॉयप्सी और दूसरा ऐमनयूस्टिस। दो पार्टियां इसमें इनवाल्व्ड हैं—एक डाक्टर और दूसरा पेशेंट और तीसरी पार्टी इसमें इनवाल्व्ड नहीं है।

**DR. P.S. BHANDARI:** Even in China if the first issue happens to be a daughter, they allow to go in for second baby and also sex determination test.

**श्रीमती सरला महेश्वरी:** हमारा यह विचार है कि इस पर रिस्ट्रिक्शन लगा देनी चाहिये। इसको किये बिना हमारा यह अभियान सफल नहीं हो सकता है। आपका इस बारे में क्या विचार है?

**श्री के०के० लुम्बा:** दो बच्चों के बाद रिस्ट्रिक्शन इस पर लगा दें।

**डा० पीयूष अग्रवाल:** इसके लिए अवेयरनेस कैम्पेन किया जाए कि दो से पहले नहीं कराना चाहिए। ऐडवर्टाईजमेंट बन्द कर देने चाहिए।

**श्रीमती सरला महेश्वरी:** यह तो चेतना जगाने वाली बात है कि दो के बाद करें या तीन के बाद करें। इसे आप कैसे रोकेंगे।

**डा० पीयूष अग्रवाल:** इसे तो डाक्टर भी रोक नहीं सकता है। इसके लिए हाई स्पीड अवेयरनेस कैम्पेन होना चाहिए कि दो से पहले यदि करेंगे तो वह इललीगल होगा। यदि पेशेंट कह रहा है कि उसके दो बेटियाँ हैं तो वह इसे करवा सकता है।

**श्रीमती सरोज दूबे:** ऐसे मामले बहुत कम आते हैं।

**डा० पीयूष अग्रवाल:** यह रेसट्रिक्टेड ढंग से होना चाहिए और साथ-साथ ऐडवर्टाईजमेंट भी बन्द होने चाहिए।

**DR. S.P. VIRK:** The onus lies on the patient only. We have to believe the patient. We can take an Affidavit. Otherwise, what is the trend. Eighty five per cent of the patients who have got daughters, usually go for sex determination test and only ten to twenty per cent of patients who have got the first female child go for this test. There are also a few cases, if they have two male child, and if they want another child to be a female child, they go for this test. So, this difference is there.

**SHRIMATI DIL KUMARI BHANDARI:** You are supporting even after changing your name. We want to put a ban on that. Suppose a couple is having two, three or four daughters and they want to go for this test. That is a crime against women.

**SHRIMATI MALINI BHATTACHARYA:** I can put a problem before you. Suppose a lady has two daughters and again she is pregnant. She goes for sex determination and after that if it is found that the third child is a female child, she gets this child aborted. But, here you see the motive is not population control. Here the motive is just to control coming of the female child. So, again on the fourth time when she gets pregnant, she does the same thing.

**DR. S.P.S. VIRK:** The patient is going for abortion. If this facility is not there, then she will keep on doing. It may occur a number of times. It will reflect on the socio-economic condition of the couple. I think, we cannot say it is male of female foeticide. It is a scientific procedure. If MTP is legalised, how can you say it is the killing of the female child.

**SHRIMATI DIL KUMARI BHANDARI:** We are here to discuss the Bill and the crime against women. It starts at the stage of foeticide. Somewhere, we have to make a start. Here, Members are more resourceful. You can educate the people and the people can also do that. But, you are more resourceful. After two children whether male or female, people should go for MTP or whatever is there. It should not be like if it is a female child, they have to go for this test.

**DR. PYUSH AGGARWAL:** Madam, I agree with your views. We can have a Bill. But, we have to see what the impact will be. Of course, the Bill is not a problem. None would have objected to this Bill. It was on the last day of the Session, the Bill could have been passed. But, it did not happen. Now, we are having discussions on the same Bill, so we must see as to what are the ground realities. We have to see our society and within our limitations, we have to find a solution, a workable solution. And out of the two or three solutions, we have to see which is the most workable.

**SHRIMATI SARLA MAHESHWARI:** What will be the future repercussion?

**DR. PYUSH AGGARWAL:** We can have a study. Our society is liking son. Son syndrome is going to remain there in our society. Suppose the technology is going to be banned, you cannot ban other things like astrology etc.

**DR. K.K. LOOMBA:** I hope you will agree that what the people want, you cannot stop. अगर आप कहेंगे कि शराब पीना बुरी चीज है तो वह शराब पीना नहीं छोड़ेगा।

**DR. S.P.S. VIRK:** The people have to be educated. There are masses of people. It is not thousands of people. If a few doctors stop it, people are not going to remain there. It was banned in Maharashtra. Do you know what the people did there?; It was the test which was banned. डाक्टरों ने फ्ल्यूड दिया और गुजरात में टैस्ट करवा लिया।

The fluid was flown from Bombay outside the border of Maharashtra and it was tested.

**श्रीमती सरला महेश्वरी:** इस बात पर हम बहुत डिबेट कर सकते हैं कि क्या-क्या लैकूना हो सकते हैं और कौन-कौन से दरवाजे हैं जिससे इसकी अवहेलना की जा सकती है। यह दूसरी बात है। आप यह बतायें कि कैसे इसको रोका जा सकता है?

**DR. S.P.S. VIRK:** Public awareness is a must. We must basically educate the people to have two children irrespective of sex. That is going to play more prominent role.

**SHRIMATI SARLA MAHESHWARI:** Doctor awareness also counts.

**DR. P.S. BHANDARI:** It is not that they want sons only. Some also want to have daughters. One lady who wanted to have only son jumped into the well. How can we stop that? Daughters are, in fact, more important than sons. But, this cannot be impressed on society.

MR. CHAIRMAN: You said that only by creating awareness and also by educating, this kind of problem can be solved. I would like to ask you how this awareness could be created? Creating awareness in our society is the responsibility of every section. All the citizens of this country have a role in that task. Only then it would be possible to create that awareness.

We are against sex determination test. But you want us to allow the sex determination test to continue. You also want us to create awareness among the public. Is it possible for us to do?

You said that legislation may not bring the desired effect. In the present conditions, it may be true. But at least it will create a climate in the country and it will create public awareness, directly or indirectly. It helps to create a climate that this sex determination test is against law or it is an insult to the womanhood. It is degradation of woman. Apart from that, it also creates an awareness that it is bad for health and other things.

You say that legislation is not workable. I would not accept it. At least, it helps to create a climate in the country.

You said that there is a preference in the society to have a son. That is the desire which is there in society. I agree with you. Do you want that craziness to continue or to decrease?

I want the medical fraternity to play an important role. I want to involve you in it.

DR. S.P.S. VIRK: We agree with all that you have said. We will do our best on our part to create awareness in the society. As far as the support of the Government is concerned they have got all the mass media with them. The best thing to do is to educate the people not to get the sex test done. That is a better way to create awareness. The Government, with the media of advertising agencies, television and the Doordarshan can play a major role in creating awareness among the masses.

As far as the medical fraternity is concerned, they are definitely going to do their job and they will definitely help a lot in bringing this down. The basic thing to do is that the person who is in dire need of this facility should not be deprived of it. By this genetic test, we not only tell the sex. Genetic abnormalities are also done by these tests. So, imposing a blanket ban on the genetic tests in India will be amounting to depriving the patients from getting other checks done like genetic abnormality which again is very important.

MR. CHAIRMAN: The Bill has permitted this. Provision has been made.

SHRIMATI MALINI BHATTACHARYA: In your answer to Q.5, only five or six genetic disorders and anomalies are mentioned. There are about

3,000 listed. What is the source of your information? I would like to know how many of these anomalies are likely to result in serious physical and mental handicap among the people.

DR. PYUSH AGGARWAL: More and more anomalies are being added and they are very complicated. The rate of increase is fast. It is almost impossible to keep track. How serious a particular condition is going to be will depend on the anomaly which will be known after the delivery of the child.

SHRIMATI MALINI BHATTACHARYA: How many of these anomalies are to be found in India itself? What would be the percentage?

DR. PYUSH AGGARWAL: All of them can occur in India. Earlier there was no equipment or personnel for doing these tests.

SHRIMATI SARLA MAHESHWARI: What is the percentage of people who come to you for ultra sound genetic test or genetic abnormalities?

DR. PYUSH AGGARWAL: Awareness is increasing. At the moment, the percentage of people is high. Facilities are not easily available. The charges are high. The personnel are not there. Some development will take place with the passage of time.

SHRIMATI SARLA MAHESHWARI: How is the ultrasound test made?

DR. PYUSH AGGARWAL: You cannot use it for genetic abnormalities. It is only for genetic tests. Ultrasonography is basically used to have a gross picture of the foetus. For final details regarding chromosomal and gene disease, one has to go for the genetic tests.

SHRIMATI DIL KUMARI BHANDARI: The sex ratio of females is going down every year in our country.

Dr. S.P.S. VIRK: As per records, in 1901, there were 1,000 females. This is the figure of females shown here. It has come down to 930 in 1971. As per 1981 census, the figure is 929.

DR. PYUSH AGGARWAL: We will divide the period into two parts. 1901 and 1971 is one part. 1971—91 is the second part.

The period 1971—91 forms the second part. In the first part, the ratio has come down from 1971 to 930. At that time there were no sex-determination tests.

SHRIMATI DIL KUMARI BHANDARI: What will happen if we carry on with this state of affairs?

DR. PYUSH AGGARWAL: One of the reasons given is that of the under-enumeration of females. Normally ladies do not come out when counting is done.

**SHRIMATI MALINI BHATTACHARYA:** You are so liberal in your attitude towards sex-determination tests. Why do you want the women to be punished? You have stated that women should also be punished if they violate the laws.

**DR. PYUSH AGGARWAL:** Once a law is enacted, it applies to both. Generally, the ladies prefer to have a male child.

**DR. P.S. BHANDARI:** Abortion itself is a foeticide.

**SHRIMATI SARLA MAHESHWARI:** The point is you are knowingly allowing the female child to be killed at the pregnancy stage itself.

**DR. S.P.S. VIRK:** If the couple want to get a male child, we cannot do anything. The basic question is one should know the implications of that. It is the will and pleasure of the couple to decide.

**DR. K.K. LOOMBA:** Suppose, a patient comes to us with the urine specimen to know whether she is pregnant or not, we have to act. It is for the couple to decide whether to have the child or not. The laboratory technician is not at all concerned. We do not ask the lady to continue with the child.

**DR. PYUSH AGGARWAL:** We are not debating whether there should be discrimination against the female child or not. It should not be there. We are not debating whether the son-syndrome should be there. What we are debating is what is the solution to it.

**DR. P.S. BHANDRI:** In 1970 there was a decline in the female ratio. But after 1970, the decline ratio is very less.

**DR. S.P.S. VIRK:** The ratio is not coming down due to sex-determination test. It is natural. Since the advent of this test, the ratio remains the same.

**DR. PYUSH AGGARWAL:** The total figure is not an exact figure. There could be some aberration as far as the figure is concerned.

**श्रीमती सरोज दूबे:** आपके यहां अविवाहित माताएं भी आती होंगी, उनका इस बारे में क्या विचार रहता है।

**DR. PYUSH AGGARWAL:** It is never in our experience. No one comes for the first child.

**श्रीमती सरोज दूबे:** मान लीजिए किसी व्यक्ति ने दूसरी शादी कर ली लेकिन वह समाज की नजरों में शादी नहीं मानी जाती। उस व्यक्ति की पहली पत्नी से लड़कियां हों और वह चाहता है कि दूसरी पत्नी से बेटा हो जाए। क्या इस तरह के मामले भी आते हैं?

**DR. S.P.S. VIRK:** We do not have even a single case in this regard.

**श्रीमती सरोज दूबे:** क्या ऐसे भी केसेस हैं जो आपके पास इलाज के लिए तो आते हैं लेकिन लड़के या लड़की के सेक्स जानने के बारे में इच्छुक नहीं होते?

**DR. K.K. LOOMBA:** It may be male or female child. They do not bother. They will never come for sex-determination.

**SHRIMATI MALINI BHATTACHARYA:** You have mentioned about the 3000 listed anomalies. What is your source? Where can we find this?



DR. S.P.S. VIRK: It can be found from the WHO. Also, in India, we can find it from various genetic journals. One has to go through the journals. There is no other official list available. It is only the genetic centres which are doing research on it. They maintain a table of it.

MR. CHAIRMAN: Thank you, very much. We have had a very lively discussion. Yesterday, we had discussion with some other organisation. Today, you have given the evidence outlining the reasons. Your views would enable us to understand the present situation and if any loopholes are there in the laws, your views would enable us to pluck the loopholes and make it more effective.

I would like to make it clear that whatever discussions that we had should be treated as confidential and is not to be made public unless the report of the committee is presented to Parliament. Secondly, even if it is treated as confidential, if the Committee wants to make it public, your views would also be made public unless you have some reservations about it.

THANK YOU.

*(Then the Witnesses withdrew)*

MR. CHAIRMAN: Shri Bakshi, I welcome you for today's meeting. Your memorandum has been circulated to the Members. We have also noted the points which you have raised in your memorandum. Now, we would like to know your views. You may now kindly put your views before the Committee.

SHRI P.M. Bakshi: Mr. Chairman, the first point is that the Bill makes two kinds of main provisions. First is to regulate the running of genetic clinics and similar institutions and secondly to prohibit certain kinds of tests. I think that the objective of the Bill could be sufficiently achieved by prohibiting the resorting to certain procedures. There is a provision in Clause 5 of the Bill on which a query is raised. This Clause provides that all possible risks of the pre-natal diagnostic techniques shall be explained to the woman. This may require a slight modification. The risk to be explained should be such that it should be as per the responsible body of professional information in the field. It is because if you use the words "all possible risks" the net is thrown very wide and the general principle in law is that a doctor is bound to explain, to communicate to the patient whatever risk is there and is normally disclosed according to the responsible body of medical information of that particular time. So, that may need to be modified particularly because the non-compliance of this provision under the Bill will attract criminal proceedings.

There is a query as to whether there should be any punishment for the expectant woman who decides upon female foeticide. Really speaking, this falls within the purview, not of this particular Bill, but within the purview of the MTP Act 1971, and if there are any amendments to be made it is in that Act because the query is raised about the foeticide. It seems to me

that this can be better taken care of in the MTP Act. But, of course, in that case, it will have to be worked out as to in what particular situation the woman is proposed to be furnished.

There is a stringent provision in Clause 4, sub-clause (2) which seeks to regulate the use of pre-natal diagnostic techniques and procedures. The problem here is that certain abnormalities are mentioned in Clause 4, sub-clause 2. But it is quite likely that those may not cover the entire region of abnormalities. What I would suggest is that Clause 4, sub-clause 2 should permit the resort to these procedures of tests, for the purpose of detecting four main kinds of defects. The first is genetic or metabolic disorders without remitting them or nominating them. The second is chromosomal or congenital abnormalities again without delimiting them. Third is haemoglobin that is already mentioned and the fourth is sex linked disorders.

My object in making the suggesting for Clause 4 is to recast this in broader and simpler form. It is not possible at a given movement of time to describe all the genetical or abnormal disorders or defects or deficiencies which may, *Prime facie* justify the use of these techniques. It is true that the Clause gives the power to the Board to notify the diseases.

Then, the law will cease to be self-contained. It is better to have a kind of genus comprising of these four categories, that these will be bonafide reasons for diagnostic test or procedures.

Then, there is another query which related to the use of a particular kind of test, which I think is linked to Clause 6(2) of the Bill. As I can see, the contemplation of the Bill is - as it is provided - that ultra-sonography should not be resorted to for the purpose of determining the sex; subject to the provision under Clause 6, the intention of the Bill is that ultra-sonography is not prohibited.

I think that there is no change needed in this regard because from what I could gather, I could see that ultra-sonography is practised not merely for the purpose of locating the genetic disorder. That is one of the objectives. But, it is resorted also to determine the expected duration of the pregnancy, though it is one of its uses. I also find from the literature - I am reading all the medical literatures - that it is also resorted to in order to determine the number of foetus in the uterus, because if it is going to be a birth of a twin, then, certain precautions have to be taken. I find that they have cases in the medico-legal scenario where the fact that there is going to be a second baby if is detected at the time of actual delivery only after the first baby comes out, by that time, certain precautions which would normally be taken in delivery would have been exhausted. So, there might be an urgent need for giving oxygen because it is not provided for and this might render the life of the women difficult. It understand that now-a-days, they are forgetting the sex determination. It is a very normal practice to find out the number of foetus in order to enable the doctor to

find it out at the proper time and to take more than-normal precautions. From that point of view, I do not think that ultra-sonography should be prohibited more stringently, that what is already contemplated in Clause 2.

Regarding query No. 10, I would say that the most convenient way of complying with these, is by asking them to display an extract of Clause 6 of the Bill which specifically prohibits two things. One is that these genetic centres should not resort to these provisions for determining the sex and the other is that the person also cannot resort to and approach the genetic clinic for determining the sex. So, that could be the convenient way of carrying out this suggestion.

Regarding query No. 11, I do not think that in the long run, the facility should be confined to Governmental institutions, because it is quite likely that the Governmental institutions may not be able to cope up with the rush. But, so long as the other provisions of the Bill are enacted, it does not appear to be very unsafe.

Query No. 12 raises certain questions regarding punishments. I think, by and large, the provisions as proposed in the Bill should be adequate.

Query No. 13 relates to Clause 22 of the Bill, dealing with the advertisements. I am responding only to part (b) of query No. 13. I think that the owner might not be really quite conversant with day-to-day running of the newspaper. So far as the Editor of the newspaper is concerned, there is a law on the Statute Book which is, 'Press and Registration of Books Act, 1867'. Section 7 of that Act already creates a condition that if a person's name is printed on the newspaper as the Editor of the Newspaper, then, *prime facie*, there is a presumption that he is responsible for whatever is published in that particular issue of the newspaper. Beyond that, I do not think that any kind of secondary liability needs to be imposed on persons other than the advertiser himself.

With regard to query No. 14, I do not think that this kind of prohibition would be workable. It will be very difficult to detect any possible violation, if we insert such a Clause.

Query No. 15 relates to taking cognizance of offences. Under the scheme of the Bill, the cognizance can be taken either on the complaint of the authorised officer or of a private complaint, which is made after giving 60 days notice. I believe that this provision for permitting a private complaint, after giving 60 days notice is taken from similar provisions in the Environment Protection Act, 1986. I do not think this should be further widened because the kind of offences, which will be committed under the new legislation, will be possessing at least two very peculiar characteristics. The first is that they will be committed if at all, within the precincts of a registered genetic place or a laboratory normally. So, in any event, it is difficult for an ordinary person to come to know of the alleged contravention of the law because of the very limited geographical surroundings.

The other reason is that the normal person who is not involved in the profession of gynaecology or genetics, will not ultimately be able to understand the test which has been performed and what are its implications and whether it was medically advisable, etc. Therefore, I do not think that this clause needs to be widened.

Regarding query No. 20, I do not think that in the scheme of the Bill, these laws will require any modification excepting that I mentioned some time ago. One of the queries already discussed by me relates to the prohibition against female foeticide. That is query No. 3. If that query has to be pursued by the Committee, then obviously consequential and very far-reaching changes will be needed in the MRTP Act, 1971.

Query No. 21 deals with the preservation of records for two years. I think, it relates to clause 29 of the Bill. The query which is put here is, whether the period should be increased to five years. In fact, the clause itself gives a leeway, gives a discretion to widen the period. Should the Act provide five years or two years? Two years is reasonably long period for preserving records in such cases. If by that time, a prosecution or criminal proceeding has not been already initiated, I think, the matter should end there. Clause 29 makes an appropriate termination of prolonging the period for preserving the records if prosecution is launched. That should suffice for the all practical purposes.

The last query in the questionnaire says:

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

I think, the Bill itself gives the answer in clause 16 of the Bill where there is a specific mention, imposing on the Board the specific functions of creating awareness among the population. That should for all practical purposes, be sufficient.

I have got two or three points which arise not out of the questionnaire but these are small points regarding the definition in clause 2. I think, it would be a better idea if the expression ‘Member’ is defined. This is normally to indicate the ‘Member’ as a Member of the Board, because at a number of places, the word ‘Member’ is used without any qualifying words. And it might facilitate the draftman’s job if the definition is inserted in the definition clause.

The second point which I would like to mention is that there is a reference in clause 16, item (ii). Clause 16 says:

“The Board shall have the following functions, namely:—

- (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;”

Obviously, there is some slip here. The intention is to refer to this Act.

Then, I find in the same clause 16, item (iv), which enables the Board:

“to lay down code of conduct to be observed by persons working at Genetic Counselling Centres, Genetic Laboratories and Genetic Clinics.”

There seems to be a need for amplifying what is going to be the effect of this code of conduct because on the one hand, a code of conduct is normally something which is observed professionally. It does not carry any definite positive sanction. But on the other hand, as it appears in the Bill, probably the intention is to incorporate it in the rules in which case one might expect a suitable specific mention of the code of conduct.

The last point I would like to make as far as I can see, clause 4, sub-clause (4) and clause 23, sub-clause (3) relate to the same subject. I will try to explain what I have in mind. The subject matter of clause 4, sub-clause (3) and clause 23, sub-clause (3) is the non-medical person seeking the aid of Genetic Counselling Centre, etc., in order to get the sex determination by performing pre-natal diagnostic technique. The same subject is dealt with in clause 23 (3). It might be a good idea if the two are combined. Incidentally, I find in clause 23(3) a specific mention of the ‘woman’ herself also, when it says:

“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...”

So, in this Clause, there is a specific mention of the woman herself. Read with Clause 4, Sub-Clause 4, Clause 23(3) appears to need a certain amount of clarification. These are some of the points which strike me. Thank you.

**SHRI SHARDA MOHANTY:** In the memorandum, you have mentioned that the age limit should be reduced.

**SHRI P. M. BAKSHI:** I explained the background that when the memorandum was written, I was not the Director of the Institute. I joined in the middle of December as an honorary Director. But I would like to express my views. It is true that the age limit of 35 years is, in a sense, arbitrary or artificial. But I find that in Clause 4, Sub-Clause 3, the age limit is not the only criterion. It is one of the possible situations in which pre-natal diagnostic techniques are permitted. Apart from that, there are other situations also. And Clause 4(3) says:

“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.”

Even if the woman is less than 35 years, she can fall under other categories which are mentioned in Clause 4(3). These are alternatives and not cumulative conditions. These will not create any problems. But my suggestion is that pre-natal diagnostic techniques should be amplified as to embrace four categories and that will definitely necessitate some consequential changes in Clause 4(3).

**SHRI SHARDA MOHANTY:** The owner or the proprietor of an institution is punishable under law for the fault done by his institution as in the case of bus accident, even if the driver of the bus is directly involved, the owner of the bus is also taken to task or punished. This should apply in the case of newspapers also where the proprietor or the editor should be punished for the faults in the advertisements. What is your suggestion in this regard?

**SHRI P.M. BAKSHI:** I am not saying that the owner of a newspaper knows all the advertisements being circulated or published and that is a different situation. And if we make the owner the criminal, it would not be fair and at the moment, it is not there also. Normally, we do not punish the owner of an undertaking for something which is going on in his undertaking. In the case of a newspaper, normally, he will not be exercising direct control over the newspaper. If he encourages the publication, then he becomes the abettor under Section 107 of the IPC. So, this does not need any separate provision.

**SHRIMATI MALINI BHATTACHARYA:** In the course of your presentation, you made some mention regarding need for a change in the MTP Act.

**SHRI P. M. BAKSHI:** What I mentioned was, if you want to pursue the question of prohibiting female foeticide as such, then there are two situations. One is pre-natal diagnostic techniques which are given in the definitions. It may be the ultimate killing of the female foeticide. But if you want to make a specific provision for the foeticide then naturally, it would amount to termination of pregnancy as the Act describes it, in which case one has to examine the entire MTP Act, 1971. Of course, that also needs a very radical change. At the moment, there are three main indications in which pregnancy can be terminated. One is what we call eugenic, that is, baby is going to be born deformed. The other is a social one where pregnancy is the result of incest or rape and the third is a socio-economic one where the couple has been practising family planning which has failed or it may be that the unwanted child would be damaging their health or happiness. If a decision is taken to totally prevent female foeticide, that would mean radically getting down

the permissible situations in the MTP Act and naturally, it would require a very thorough study.

**SHRIMATI MALINI BHATTACHARYA:** As far as the interpretation of the term 'unwanted pregnancy' is concerned, it make it necessary that this part of the MTP Act should be changed.

**SHRI P. M. BAKSHI:** I do not express my opinion as to whether it is good or bad. If the Committee wants to tackle very realistically the query about punishing women and prevent female foeticide, then, my submission would be that it would require a very thorough and comprehensive study of the entire philosophy, history and background of the MTP Act, particularly Sections 3 and 4 where the term 'unwanted pregnancy' is not defined clearly but in a circuitous manner. For this, a comprehensive study will be necessary.

**MR. CHAIRMAN:** Thank you, Mr. Bakshi. Your suggestions are noteworthy and we have taken note of your points.

(Direction 58 read out)

*(The witness then withdrew)*

**TEA BREAK**

**MR. CHAIRMAN:** I welcome you to today's meeting, I have received your memorandum and we have gone through it. The memorandum is circulated to all the Members. Some of the valuable suggestions which you have made in your memorandum have been noted by us. I request you to put your views before the Committee. Before you begin, you may please introduce yourself to the Committee.

*(Introduction)*

**SHRIMATI USHA AHUJA:** I am feeling very happy that you have given me an opportunity to put my points of reference before the Committee. अगर आपको आपत्ति न हो तो मैं हिन्दी में बात करूँ? आज हम तो प्री-नेटल डायग्नोस्टिक टैक्नीक्स को लेकर रहे हैं, यह बहुत अच्छी बात है और आज यह जो ट्रेंड चल रहा है कि फीमेल बर्थ को कैसे कंट्रोल किया जाये, इसको निश्चित रूप से रोका जाना चाहिए। हमने अपने मैमोरेण्डम में बहुत से सजेरनास दिये हैं कि यह होना चाहिए, यह होना चाहिए, ऐज लिमिट क्या होनी चाहिए लेकिन जब हमारे सोशल वर्कर्स ने फील्ड में जाकर सर्वे किया, हालांकि मैं आपकी भावना को एप्रोशिएट करती हूँ कि आपने यह इतना अच्छा काम करने की कोशिश की, तो उससे यह पता चला कि आपने विधेयक में जो पाइंट्स दिये हैं, जो व्यू दिया है उससे इस प्रॉब्लम पर कंट्रोल हम नहीं कर सकते हैं। आज यह जो जगह-जगह मशरूम की तरह जैनेटिक सैटर्स फैल रहे हैं जो यह बताते हैं कि लड़का होगा या लड़की होगी, उनको आप इससे कंट्रोल नहीं कर सकते हैं। क्योंकि, सोशली और

साइकोलोजिकली हमारी जो थिंकिंग है, हमारा जो सोशल, कल्चर है उसमें अगर किसी के घर में पहले से दो तीन फीमेल चाइल्ड हैं तो कोई भी यह नहीं चाहेगा, कोई महिला भी नहीं चाहेगी कि अगला चाइल्ड भी फीमेल हो, चाहे उसका पति न भी कहे, उसके सास ससुर न भी कहें तो भी कोई वूमन यह नहीं चाहेगी कि उसके लड़का न हो। मैंने बहुत लोगों से इस बारे में डिस्कस किया है। मैं मानती हूँ कि आपने जितने भी प्वाइंट्स दिए हैं वह ठीक हैं। लेकिन आज कल लोगों में ऐसी फीलिंग हो गई है वे चाहते हैं कि हमको लड़की नहीं चाहिए और इसके लिए वह सेंटर में जाकर दिखा सकते हैं और इसका पता भी लगा सकते हैं। इस पर रोक लगनी चाहिए। इस तरह की मशीनें सिर्फ सरकारी हस्पताल में ही एवलेबल होनी चाहिए।

**श्रीमती सरला माहेश्वरी:** यह जो अल्ट्रासाउंड की तकनीक शुरू हुई है और इसका दूसरी बीमारियों की जांच के लिए भी इस्तेमाल किया जाता है तथा इससे ध्रुण का भी पता चलता है। इसको सरकारी अस्पतालों तक ही सीमित रखना चाहिए।

**श्रीमती ऊषा अहूजा:** मैं आपकी इस बात से सहमत हूँ लेकिन जो अच्छे नर्सिंग होम हैं उनको इसकी मशीनरी दी जा सके, सब को नहीं दी जानी चाहिए जिससे कि लोग इसका मिसयूज न कर सकें। यहां पर मैं आपको एक बात और बताना चाहती हूँ जैसे कि कई छोटे-छोटे ऐरियाज़ हैं जहां पर इस तरह की मशीनें रखी हुई हैं। आप टैगोर गार्डन में ही देखिए वहां पर आपको इस तरह की मशीनें नजर आएंगी और उन्होंने इसके लिए फीस रखी हुई है जिनका काम यह पता लगाना है कि मेल चाइल्ड है या फीमेल चाइल्ड है।

**श्रीमती सरला माहेश्वरी:** मेरा कहना तो यह है कि इसको सरकारी अस्पतालों तक ही सीमित कर दिया जाए और इसके लिए लाइसेंस दे दिए जाएं।

**श्रीमती मधु कालिया:** यहां पर मेरा कहना भी यही है कि इसको कई प्राइवेट क्लिनिक चला रहे हैं तो इस मशीनरी को हम गवर्नमेंट अस्पतालों तक ही क्यों नहीं सीमित रख सकते हैं। इसमें यह भी देखा जाना चाहिए कि किस को लाइसेंस दिया जाना चाहिए।

**श्रीमती सरला माहेश्वरी:** मेरा कहना यहां पर यह भी है कि कुछ को गवर्नमेंट अस्पतालों के बाहर भी लाइसेंस दे देना चाहिए लेकिन सब को नहीं देना चाहिए।

**श्रीमती ऊषा अहूजा:** सीलमपुर एरिया में और अन्य कई जगहों पर भी इस तरह की मशीनें लगी हुई हैं। *Mother herself does not want a girl.* पेपर, मेगज़िस में भी इसके एडवर्टाइजमेंट नहीं आने चाहिए। इसमें सोशल अवेयरनेस लानी चाहिए। *Social awareness should be brought in the women that this is not a good thing. Social awareness is one of the biggest things which the social organisations must do.*

**श्रीमती मधु कालिया:** इसमें ओनर के लिए कोई पनीशमेंट नहीं है, ओनर्स भी उसके लिए लाइसेंस होने चाहिए।

**SHRI SHARDA MOHANTY:** It has been mentioned in your answer to Q. No. 10. It reads as follows:

“This Advisory Committee shall be consisting of two medical experts.”



**SMT. USHA AHUJA:** They should be involved in that. Licences are already given only to the doctors.

**SMT. MALINI BHATTACHARYA:** Revising clause 35 is not absolutely necessary. There are some other clauses also. Even if a woman is not of 35 years, she can undergo these tests.

**SMT. MADHU KALIA:** Yes.

**SMT. MALINI BHATTACHARYA:** It is not as if the Bill excludes all those women who are below 35 years. The limit of 35 years is there because the medical opinions say when a woman conceives for the first time, when she is 35 years, chromosomal abnormalities are more likely.

If you think that all such tests should be conducted in Government institutions, then the question of licensing does not arise. In that case, the function of the appropriate authority becomes almost nil.

**SMT. USHA AHUJA:** The appropriate authority is needed to see that the doctors and others are not misusing the sonography. If you allow the use of sonography to other institutions, then they can also misuse it. So, the appropriate authority is needed.

**SMT. MALINI BHATTACHARYA:** It is need in so far as the licensing system is concerned. Is there any other function of the appropriate authority, which you envisage?

**श्रीमती ऊषा अहुजा:** मैंने जो सुझाव दिया है, उसको करने से मुश्किल तो होगी, लेकिन आपको लाइसेंस तो देना पड़ेगा। पहले हम कितना कन्ट्रोल कर सकेंगे, यह कहना तो मुश्किल है। इसमें एक परेशानी यह भी है कि इसको देने से फिर भी गलत तरीके से इस्तेमाल कर सकते हैं।

**श्री शारदा मोहन्ती:** आप क्या यह सुझाव देना चाहती हैं, इस कानून का गलत तरीके से इस्तेमाल होने पर सजा तो हो ही, लेकिन दूसरे कानूनों की तरह से फाइन भी किया जाए?

**श्रीमती मधु कालिया:** इसमें सजा तो होनी ही चाहिए और फाइन भी, दोनों, होना चाहिए।

**SHRIMATI MALINI BHATTACHARYA:** I would like to have your opinion on one more point. In the M.T.P. Act, there is a Clause. In case of failure of family planning methods, where the unwanted pregnancy might cause mentalanguish or physical danger to the women, this medical termination of pregnancy is allowed. Do you think that this Clause in the M.T.P. Act needs to be amended in the present situation? Or is it likely to be misused for female foeticide?

श्रीमती मधु कालिया: इसको चेंज करेंगे तो बहुत काम्लिकेटेड हो जाएगा। आईपीसी में तो इसकी .डेफिनिशन दी हुई है। इसमें चेंज करने की जरूरत है। स्पेशल एक्ट लाने से सारा कंवर हो जाएगा।

MR. CHAIRMAN: Thank you for your suggestions.

*The witnesses then withdrew*

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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON  
PRE-NATAL DIAGNOSTIC TECHNIQUES  
(REGULATION AND PREVENTION OF MISUSE) BILL, 1991

(Thursday the 20th February, 1992 from 11.00 hrs. to 13.15 hrs. Committee  
Room 'D' Parliament House. Annexe, New Delhi)

PRESENT

Shri Sarda Mohanty—*In the Chair*

MEMBERS

*Lok Sabha*

2. Shrimati Saroj Dubey
3. Shrimati Girija Devi
4. Dr. (Smt.) K.S. Soundaram

*Rajya Sabha*

5. Shrimati Sarla Maheshwari
6. Shri V. Narayanasamy
7. Shrimati Satya Bahin
8. Shrimati Sushma Swaraj

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE

Shri S.B. Mishra—*Joint Secretary*

Shri S.S. Kapur—*Director*

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE AND COMPANY  
AFFAIRS (LEGISLATIVE DEPARTMENT)

Shri M.S. Sharma—*Addl. Legislative Counsel*

SECRETARIAT

Shri R.K. Chatterjee—*Deputy Secretary*

Shri T.D. Dhingra—*Under Secretary*

WITNESSES

1. Mrs. Puloma Shah
2. Ms. Rani Jethmalani
3. Ms. Sadhona Ganguli

ORGANISATION

Mahila Dakshata Samiti

Young Women's  
Christian Association

4. Smt. Brinda Karat
5. Dr. Laxmi Sehgal
6. Smt. Jagmati Sangwan

All India Democratic  
Women's Association

**SHRIMATI PULOMA SHAH:** Sir, I have been working in this field since 1970, the time when all these tests became popular in USA.

I would like to say that all the existing pre-natal diagnostic tests include: Amniocentesis, Choro Villi biopsy and ultrasonography. If we just mention these tests by name then we will be keeping some other such tests—Foetoscopy, Amniography and so on—out of the purview of this Bill. So, I would suggest that all the pre-natal diagnostic techniques which are available today should be included in this Bill. Every six months some such new techniques keep on coming. So I would say that all the pre-sex selection techniques should also be covered under this Bill.

Another point which I would like to make is that the hospitals or other places where such tests are carried out, they should have at least one qualified geneticist. In our country we do not have any postgraduate degree in Genetics as such. So, I wonder how will you get that qualified geneticist. I think a medical officer who has at least three years' experience in the field of genetics which include clinical genetics, Amnio-genetics and so on should be considered for this job. Some kind of certificate or license should be issued to such people so that other people may not claim that they are geneticist.

We see that almost all the clinics where a pregnant woman goes for the check-up have this Ultrasound machine. The sex of the child can be determined after 16 weeks of pregnancy. So, even a radiologist can tell before hand what the baby is going to be. The problem is that these tests are also used to see any abnormality in the foetus so we cannot completely ban them. What I feel is that if a woman has to go for abortion then she undertakes this operation in the early days of her pregnancy. All the cases of abortions which are undertaken after 14 to 16 weeks of the pregnancy should be monitored because it is the period when the sex of the child can be known. It is very likely that after knowing that she is carrying a girl child the woman might have opted for the abortion.

Our point is that all these tests should be done only in Government hospitals because they are easy to monitor. But if the feeling is that we cannot stop private hospitals or individuals from doing such tests, then I would say that, these places should be checked properly because if they are genuinely doing these tests for detecting any error, then they should have certain equipments like tissue culture laboratory, photography

equipment and so on. Then only, one can know that they are genuinely doing this kind of work. At present what is happening is that these so-called sex determination clinics have just a microscope. They just remove the fluid and then just test. If we are going to allow the private clinics, then I feel really that these places have to be properly checked. Unless and until, you see all these equipments are there and they are being used for detecting genetic defects and so on.

Abortion clinics should be told that they have to note down the reason for the abortion. It is very important. Then, they also should record the sex of the foetus. That is also very important. If we see that that particular clinic is engaged only in the abortion of female babies, then you would suspect that something is fishy there. Otherwise, there would be only 50 per cent chance. So, by means of this, we can come to know that they are doing abortions after knowing the sex of the baby. If all the abortions were performed very late, then also you can enquire that these abortions were performed after knowing the sex of foetus. Abortions should not be performed after 19 or 20 weeks.

The sex of the foetus should not be disclosed in any way. Because, it is not necessary. People would be interested only in knowing how the baby is going to be; and how the health of the baby would be. I do not know why they are interested in knowing the sex of the baby. It should be made compulsory that the doctors should not disclose the sex of the baby unless and until, there are genetic defects. Take the example of haemophilia. It affects only the male babies. Here, you can do it. Otherwise there is no reason why the doctor should disclose the sex of the baby. I think, it is because, the Indian society is biased on one particular sex. so, the doctor should not disclose the sex of the foetus.

MS. RANI JETHMALANI: First of all, I would like to apologise to Members of this House for having a bit delayed and not coming at 11 O'clock. I believe that the law cannot be in abstract. We have also to take the opinions of psychologists, sociologists, doctors, etc. So, I am very happy that my friend Dr. Shah, who was also consulted by the Mahila Dakshita Samiti, when we sent our proposal, is here to elaborate what she considers to be necessary, if the Bill really is to be effective and efficient. It is because, most of the legislations have not really provided justice to those who are really seeking justice in this country. The proposals from the Mahila Dakshita Samiti is before you. I would just like to say one thing. I know that when the Bill goes to the Parliament, it is likely to be opposed by the Members of Parliament, on the ground that it is really changing the rules of evidence, the burden of proof etc., is being again shifted and that the law is also, to some extent, being completely changed. Many male Lawyers, I am sure, will say that this Bill will not serve any purpose for which it is intended. It does not have feminist component and to some extent—according to our

experience and also according to the realities—it does not fulfill the hopes of the people.

What the Members of this House are doing? The Bill that has been introduced, to my mind, is really a path breaking legislation. It is because, you are feminising the law. You are putting into this legislation, how the women's realities and experiences require a particular type of legislation, which you, as men, may not particularly, feel is necessary and is to some extent opposed to the jurisprudence that prevails in this country.

So, we are really writing a female jurisprudence and therefore, when the Bill comes before the Members of the House, I think, it will create some amount of opposition as the rape laws did. It was because, the rules of evidence which they had. We have to create a more humane jurisprudence so that it becomes very essential for all. I do believe that the members of this House are really doing very very innovative act in introducing the legislation as the rape laws. I received enquiries from all over the world about the rape laws. Even my own feminist counterpart in America is asking me to send her the laws of rape and how the burden of proof has actually worked. When you have this law in your country, how has it affected the whole question of rape? It is because, now a new feminist jurisprudence is coming up. We must change our perceptions and put these feminist components in it. So, this is the new Bill that has been propounded all over the world and I am happy to say, India is taking the lead now in introducing this very radical jurisprudence. I think, the Members should know that they are doing some extremely good work and it will be seen by the people all over the world that India is experimenting with a new type of jurisprudence. I also feel that Section 24 of the Act is extremely important.

“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 relatives to undergo a pre-natal 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.”

So, once again, here the Court is going to presume until the contrary is proved that the pregnant woman was compelled to undergo such a technique. This once again is in favour of the victim who comes before the court and therefore, to that extent, we are feminising the rules of jurisprudence and rules of evidence and to my mind, this is a provision which must remain. And when Members of Parliament are deliberating on this, I do believe that Section 23 is important and it should be retained and it ought not be dropped on the ground that you are creating radically a new jurisprudence.

It is important that we include more and more doctors in all these legislations that are being introduced. To my mind the important provision is MTPA. This Bill does not touch it. We have suggested that two clauses should be added to Section 3 of the MTPA where this Act is silent and misused. There are lacunae and it is not referring to Section 3 at all. This Bill will create some sort of loopholes. Therefore, Section 3 of the Act should be amended.

I have suggested two new amendments on page 3 of our note. The drafting Committee should word it properly.

Then there is Section 22 in which advertisement relating to pre-natal determination of sex and punishment for contravention is prohibited. I think most of the damage is done by the advertisements in all the newspapers. We have to see that people should know that such tests are bad. Any advertisements in such forms are completely penalised.

Then something has been mentioned about the new technique. It is very important. We do not want that it is not available to the people who need it; but it should not be misused.

This form of legislation must be accepted as part of the creative legislation available to jurisprudence all over the country and elsewhere.

Regarding abortion, I am for a free choice. But it should not be misused. Therefore, that particular clause should be introduced.

SMT. SARLA MAHESHWARI: You have mentioned about the new techniques which are not included in the Bill.

SMT. PULOMA SHAH: Actually, it is done within eight to twelve weeks. But, still, it is quite dangerous and only very expert doctors can do it.

Through ultrasonography, we can visualise foetus.

SMT. SARLA MAHESHWARI: If a new technique is not available in India now, but in future it may be available.

SMT. PULOMA SHAH: I do not agree with the ayurvedic medicine. There are two kinds of spurns. In future, they will be able to separate them. At present, it is not perfect.

SMT. SARLA MAHESHWARI: Where is it being used?

SMT. PULOMA SHAH: They are trying it. So far, it is not perfect and it is not used. But there will be a day when it is used. Through it, you can see the outline of the baby. All these techniques in one form or the other reveal the sex of the child. All these new techniques be included in the Bill.

We are sex biased. I have read in the paper that Indian doctors have started centres of these techniques in the USA and Canada also. They know that Indians have a preference for a boy. So, they have started such clinics in the western countries also.

As far as I know, no other non-Indian has started such clinics. So, we can say that in the other Western countries they are not doing it, but we have started it. There are a sizeable number of Indians living there and my personal experience also shows that about 3000 and odd cases of amniocentesis are done when I was in charge there. The hospital was in New York and New York has a large number of migrant population consisting of the Spanish, the Italians and Puerto Ricans, Chinese, Japanese, and all other people also. And I would like to say that many of them came when they had already four to six children. One reason why 90 per cent of the tests are done in the USA is that women above 35 years of age considered it an advanced age and there is a high risk of producing a chromosomically abnormal child, and they take this test. Lot of career women postpone the child bearing and many are pregnant after 35. In that case there is a late pregnancy and in 95 per cent of such cases by the time they come for examination, many of them have two to six children also. In some Catholics and other categories also several times they do not want to tell the sex of the child. But when they come to know that it is a female foetus, still they do not inform even if the couple had two or three daughters just because it is a female child. And I would say that in my experience of 14 years there were only two instances when the information was given; one was an Indian couple and the other was a Chinese couple. In China also they have a preference for boys. They did not ask me, because I know the tendency of Indians. As I said mostly the Indian couples had come for such tests. There was one Indian couple who told us that as the lady was 36, she wanted to have the test done. They had two daughters. They told us that if it was going to be a girl, she would go in for an operation. We told them that it was going to be a boy.

Anyway, out of those six cases only one case was different. It shows how Indians feel. So, you can very well imagine the conditions here and I believe that the Indian statistics also show that in the cities where these tests are being used are, more couples are from upper strata in the sense high income category. So, the argument that the people are against this legislation, has to be seen in this light. But they still think in those terms.

श्रीमती सरोज दूबे: क्या आप समझती हैं कि यहां सरकारी अस्पतालों में इतने केन्द्र स्थापित हो जाएंगे और हम उनको सुविधा दे पाएंगे? क्या यह काम सिर्फ सरकारी अस्पतालों द्वारा हो पाएगा? यदि नहीं हो पाता हो उसके लिए क्या करना चाहिए।

MS. RANI JETHMALANI: The responsibility is there on the society also. We cannot shirk the realities even though our Government institutions may be providing this particular facility. But if they are registered clinics and they provide the facilities which are there in the Government hospitals, institutions, etc., I think it is perfectly possible to make the Act work. You can never prevent people who want to make use of those services. It cannot be done. But some check on these techniques



can be there. It can be done. It is not that it is impossible, within the provisions of the Act.

**श्रीमती सरोज दूबे:** क्या आप सरकार के नियंत्रण में प्राइवेट डाक्टर्स को यह करने की इजाजत देते हैं?

**MS. RANI JETHMALANI:** If they are registered medical practitioners the Government can say that they will recognise their services.

**SHRI V. NARAYANASAMY:** To my mind the Medical Termination of Pregnancy Act which gives an authority to the people to terminate pregnancy of the woman is repugnant to the MRTTP Act. Because this Act says that there should be no sex determination test. The test can be done and punishment can be given. In clause 4(3) it is very clearly mentioned and there are some conditions.

In Clause 4 (3), there are some conditions such as the age of the women should be more than 35 years and she should have aborted two or three times and other things. I would like to know, whether we can give an option to undergo this test for the parents who have got two children or not.

**MS. RANI JETHMALANI:** The purpose of this Bill is to prevent the misuse of certain technology, which is creating imbalances and also lowering or devaluing the status of women. We do not want to create now any kind of discrimination in this regard or any suggestion that one can use this technology for the purposes of aborting a female child. We want to prevent any devaluation of women. That is our primary aim. Those who have two sons will never come for this particular technology. Those who have two daughters will come for this technology. We do not want to allow that. We are trying to change the psychology in the country. It is that psychology which creates distorted attitudes of women. We do not want to have any form of encroachment or to give any concession to people in this country to have this particular loophole in the Act.

**SHRI V. NARAYANASAMY:** Clauses 3(a) and 3(b) should go. Is it not?

**MS. RANI JETHMALANI:** After 35 years of age, chromosomal disorders and genetic disorders take place. Beyond 35 years women are vulnerable to certain forms of children being born, who might have those disorders. That is why, we had put this age there.

**SMT. PULOMA SHAH:** For women, 35 years age is a cut-off line because it has been observed that when women are advanced in age, the number of children born with chromosomal abenations increases. After 35 years of age, women have a risk of carrying or producing chromosomal defective child and so, she should be offered this test. When a woman is 40 years old, the chance of carrying chromosomal defective child is one in 100.

When she is 45 years old, the chance is one in 30. And when she is 25 years old, the chance is one in 1500. So, as the age increases, the chance also increases. So, a woman, after 35 years of age, is permitted to have this test just to find out whether she is carrying a normal child or not, and not for knowing whether she is carrying a male or female child.

MR. CHAIRMAN: Thank you very much. Whatever we discussed here should be treated as confidential and it should not be leaked to the press till the report of the Committee is presented to Parliament.

*Witness examined*

MS. SADHONA GANGULI: Young Women's Christian Association of India.

MR. CHAIRMAN: Please take your seat.

MS. SADHONA GANGULI: I will start by saying that we are honoured by the invitation of the Committee to present our points of view. I have also kept in mind the fact that the Committee would have a number of hearings and our points are in line with the questions that have been sent to us. They are as under:

- 1.(a) General comment: YWCA of India supports the Bill and calls for all curbs to the undesirable and inhuman practice of female foeticide. Such practices undermine the status of women and have the potential of reducing women to baby making machine and further unbalancing the already adverse male-female sex ratio in our country.
- (b) Reflected in the points given below.
2. We believe that it is not necessary to obtain the written consent of the husband or local guardian.
3. Though we are fully aware that women are pressurised into undergoing such tests and therefore could be victims of the system we recommend that the pregnant woman on whom sex determination test is carried out should also be punished along with her family members to avoid the possibility of a legal loophole through which family members may be able to escape.
4. No comments.
5. We agree.
6. No Comments.
7. and 8. It is observed that there, a growing number of new techniques being developed to serve the purpose of sex determination and sex pre-selection. Therefore, we recommend that the scope of the Act be widened to regulate the use of all future techniques and technological interventions which have the potential to systematically prevent the birth of female children.
9. We recommend that test for sex determination should be confined to the Govt. hospitals the number of which should be

increased for the purpose. There should be a complete ban on these tests in private clinics.

10. We support the suggestion.
11. As above.
12. Strengthen the implementation mechanism so that the Act does not remain merely a paper legislation. Women's organisations and other concerned group/individuals should be involved to be enable them to monitor the implementation of the Act.
13. A deterrent punishment is advisable.
14. Does not seem practical.
15. Appropriate Authority:— We strongly believe that this should be a person with medical experience and qualification and familiar with the techniques NOT a bureaucrat. It is further recommended that social organisations with experience in this field where the pregnant girls can go should also be recognised as having 'Appropriate Authority'. The report should be submitted within 30 days and not after 60 days as prescribed.
16. In addition, to the machinery being created at the centre, there should be supervisory board and NGO net-work at the state levels also.
17. Yes.
18. No further suggestions.
19. The central legislation should apply all over India and supersede the Acts passed by the State Governments in this regard.
20. The tremendous sensitivity and insight has to be given to studying the implications of the proposed legislation to the medical termination of pregnancy Act. In order to ensure that India's liberal abortion laws do not get diluted.
21. Yes, five years.
22. The media to be used to continue to create positive images of the girl child and women. Further, value education to be incorporated in a systematic way in the curriculum of formal and non-formal educational forum.

**Note:** The principle of accountability, we believe requires a clear definition as to who is to be held 'accountable', for the penalties. It is recommended that the appropriate authority should submit its report together with recommendations for action.

Thank you.

**SHRI V. NARAYANASAMY:** Appropriate authority that the bureaucrat should not be there and only a person with medical experience and qualification and familiar with the techniques should head the appropriate authority. The psychologist should be there and social voluntary organisations should be there. I want to know as to how many persons should be there?

**MS. SADHONA GANGULI:** There should not be bureaucrat and only persons with the background of medical knowledge and with the experience of women's health should be there. So, for the norms you are mentioning, persons having the background of experience should be there.

**SHRI V. NARAYANASAMY:** We are a developing country wherein the Government is taking all the responsibilities in respect of family welfare as far as the techniques are concerned. You have said that it has to be done in the Government hospitals. Private clinics should not be there. It is agreeable and we can avoid a kind of racket in sex-determination. Even if it is necessary, private clinics should adhere to the rules and regulations prescribed.

**MS. SADHONA GANGULI:** This is a very tricky area because the enforcement machinery—we have seen in most of the cases—is not able to make sure the qualities, standards and the protective measures in these private clinics. It is so closely related to the question of money or income by the people. That is why we feel that it should be in the hands of the Government or preferably within the Government hospitals, if not with direct connection at least with the supervision of the Government machinery.

**SHRIMATI SARLA MAHESHWARI:** About Sonography whether it should be confined to Government hospitals and it should be registered.

**MS. SADHONA GANGULI:** The same question about the enforcement machinery arises that will make sure that the registered agency is following the techniques. We realise that Sonography cannot be limited to Government hospitals.

**श्रीमती सरोज दूबे:** आपने अपने विचार रखते समय एक सुझाव दिया है कि लिंग निर्धारण परीक्षण में महिला के साथ कुटुम्ब के सदस्यों को भी दण्ड दिया जाना चाहिए तो कुटुम्ब से आपका क्या आशय है? इसमें पति, सास, ससुर, जेठ वगैरह से आपका तात्पर्य है?

**MS. SADHONA GANGULI:** I would say the marriage, the family that is in the immediate circle of the child that is to be born. We have thought of parents, the husband and the in-laws.

**श्रीमती सुषमा स्वराज:** इनलाज़ अलग रहते हों तो उसमें क्या है? पति-पत्नी उनके साथ नहीं रहते हैं तो क्या है? मेरा सवाल यह है कि जहाँ ज्वायंट फैमिली में पति-पत्नी रहते हैं तो साथ-साथ पकड़ें। यह तो उनके सोचने का ढंग है कि वे लड़का चाहते हैं या लड़की चाहते हैं और यदि वे ऐसा करते हैं तो उनको भी दंड दो।

**श्रीमती साधना गांगुली:** ज्वायंट फैमिली के लिए यह जरूरी है। The punishment should definitely be for the husband.

**श्रीमती गिरिजा देवी:** देखने में यह आया है कि यह कॉमन डिसेज़न होगा कि वहां बेटा हो लेकिन कई बार मां का भी प्रभाव होता है कि दो बेटे हो गयी हैं, अब बेटा होना चाहिये, इसलिए वह कहती है कि अब टैस्ट करवा लें. तो क्या हर बार ऐसा ही होगा?

श्रीमती साधना गांगुली: नहीं, ऐसी कोई बात नहीं होगी।

श्रीमती सुषमा स्वराज: यदि ज्वायंट फैमिली में कहीं रहे हैं तो सास-सुसर भी पकड़े जायें।

श्रीमती गिरिजा देवी: एक ज्वायंट कुटुम्ब में पति-पत्नी का बड़ा रोल होता है, उसमें कुटुम्ब हावी नहीं होता है, यदि पति चाहता है तो एबोरशन हो जाता है, लेकिन महिलाओं के मामले में ऐसा बहुत कम होता है।

श्रीमती सरोज दूबे: गरामीण क्षेत्रों में तो सास का प्रभाव ज्यादा होता है।

श्रीमती सुषमा स्वराज: लेकिन जब तक पति नहीं चाहे, यह नहीं हो सकता है।

श्रीमती सरोज दूबे: इस मायने में जिन परिवारों में बेटा होता है और अगर ऐसा कुछ होता है तो हर जगह पर ऐसे लोगों को इन्वॉल्व करना चाहिये।

MS. SADHONA GANGULI: I do not think that would be justified.

श्रीमती गिरिजा देवी: कुटुम्ब में यदि सास-सुसर आते हैं तो माता-पिता का आना भी उतना ही प्रभावशाली होता है। एक उम्र के बाद जब लड़की की शादी हो जाती है, उसके माता-पिता की मानसिकता को नकार नहीं जा सकता है। उनकी भी संयुक्त जिम्मेदारी रहती है कि उनकी लड़की है और वह इस तरह से कोई अनर्थ नहीं करेगी और वह अपनी जिम्मेदारी को समझे। इस प्रकार यदि सास-सुसर भी आते हैं तो माता-पिता भी आते हैं।

श्रीमती सत्या बहिन: मां-बाप की कहां-कहां सहमति रहती है?

श्रीमती सरोज दूबे: शहर में तो पति-पत्नी की सहमति होती है।

MS. SADHONA GANGULI: You have raised a very important question as to who will be the family members. Definitely it will cover both the husband and the wife. The earlier question was regarding the women being spared, so, I said that we feel strongly that she should not be made a tool. If there is a proof that somebody had some influence in her going in for the test, then this should be a matter for justice.

श्रीमती सरोज दूबे: हम तो यह जानना चाहते हैं कि विचार-विमर्श करके यदि आप कोई अच्छा सा सुझाव दे सकती हैं तो दें।

MR. CHAIRMAN: I want to ask one question. 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?

MS. SADHONA GANGULI: We have said "yes" and we have said "yes" because the possibility of the unborn child developing deformities begins in pregnancies of women after 35 years of age which indicates of the requirement for such a test.

MR. CHAIRMAN: Thank you very much. Whatever discussions we have had here is to be treated as confidential and it is not to be made public until the report of the Joint Committee is presented to the Parliament.

Thank you very much once again.

### Witnesses Examined

1. Mrs. Brinda Karat
2. Dr. Laxmi Sehgal
3. Mrs. Jagmati Sangwan

(From All India Democratic Women's Association)

MR. CHAIRMAN: Mrs. Karat, please introduce your colleagues to the Members of the Committee.

(Mrs. Karat introduced her colleagues to the Members of the Committee.)

MRS. BRINDA KARAT: We have already given our memorandum to you, Sir.

MR. CHAIRMAN: Would you like to explain it briefly?

MRS. BRINDA KARAT: First of all, we would like to thank the Committee for giving us an opportunity to present our views. Our organisation is an all-India organisation and we have gathered quite a lot of information from the grass-root level as far as the sex determination tests are concerned. Although we welcome the fact that this Bill is now being proposed to be put forward in Parliament, but the reality is that the technologies for sex determination such as, genetic test, the genetic clinics and all those tests which you have very correctly mentioned in the Bill, seem to have overtaken us. However, the reality from our own experience is that it is now no longer amniocentesis which is being used which is the most popular method of sex determination. In other words, this Bill is actually talking about controlling a reality which existed about a decade ago. Therefore, one lacuna or the biggest weakness in this Bill is that it appears to have a sort of static approach to the very quick developing technologies as far as sex determination is concerned.

The first point that we would like to make here is that in the control about genetic testing, we also have to include the most popular method of sex determination which is ultra sonography. Unfortunately, this new technology does not find any place in the Bill, as we understand the Bill. So, this is really the biggest thing. If you are really talking about the ban on sex determination, first of all, you have to leave enough space for the new technologies. The ground reality today is that it is the ultra sonography which is more widely used as far as genetic test is concerned. We agree with the definition given in the Bill.

I think some of the World Health Organisation publications also mention about this. This seems to be quite comprehensive. I believe that the genetic testing is being misused. I think only 0.5 per cent cases are correctly used. The proper medical attention to the pregnant women is missing. In these circumstances and in the background of this reality,

we feel that just giving licence for genetic testing to genetic clinics is not going to serve any purpose. I am afraid it may have reverse effect.

There should be absolutely no question about licencing, in the case of genetic counselling. Only a tiny fraction of the population go for the actual genetic testing. Most of the tests are only for the sex-determination of the foetus. I feel that it should be limited only to medical colleges, Government hospitals etc. We, therefore, disagree with the objective of licencing the genetic test which is proposed in the Bill. Only big hospitals which have research centres attached to them should be permitted to have such facilities.

My next point is about ultra sonography. I think this is not mentioned in the proposed Bill.

I feel that this should be brought in the ambit of the Bill. It is a very useful test. It is being used very widely. It is used, in addition to sex-determination, for a host of other medical ailments. It will be impractical for us to suggest that ultra sonography should be limited to Government hospitals. We do believe that this Bill will take this aspect into account. There should be an appropriate authority to have a check over, all these matters as far as genetic counselling is concerned.

Coming to the sex-determination tests, I may mention that on a sample survey done in Rajasthan a good number of clinics were found in the State doing these tests. In one small resettlement area in Delhi, there were three such clinics operating. I am sure such clinics are spread all over the country. I think if this ultra sonography test is brought in the ambit of the proposed Bill there will be some sort of check over such clinics. The monitoring of these clinics will be a difficult task. But the Government should do something in this regard.

The ultra sonography test has today become a fantastic profit-making event. There is one clinic in Jehangirpuri, Delhi where there is constant rush for such tests. The charges are about Rs. 1,000 for the sex-determination and about Rs. 1,000 for the abortion to be done in the same clinic. We have done a survey in about seven such clinics in Delhi. The Committee will be surprised to know that about 37 tests are conducted every day on an average. The income is Rs. 37,000 a day! Hence my submission is that such misuse should be avoided and there should be an appropriate authority to check the whole thing.

In this connection I would like to draw the attention of the Committee to Clause 3 of the Act passed in Maharashtra. They have clearly defined the jurisdiction, powers and responsibilities of the appropriate authorities in this regard. I feel that Government may consider incorporating some of the salient features of this clause in the proposed Bill. The role of the voluntary agencies is also defined in that Act.

There seems to be no space in this Bill for the monitoring of licencing which should be vested with the organisations which are responsible for bringing the question of sex determination to the forefront. I am talking about prominent women organisations, medical groups, medical activists, progressive medical associations etc. All of them must be involved.

My suggestion would be that a section should be added in the law in which the appropriate authority must be made to consult the women organisations and social organisations for the monitoring of these clinics.

My next point is about the punishment. There has been quite a debate on the question of punishment. It is correct that there should be a debate. There are weighty arguments on both sides. We have had a number of detailed surveys conducted in different States. We undertook all-India signature campaign also. The one point that came put distinctively is that you cannot isolate the women. There is tremendous social pressure on women for which they are victims. A woman cannot be held responsible for the abortion. The social pressure brought on her makes her to undergo the sex-determination test and the abortion. I feel that the women cannot be punished in this regard.

There are two more aspects to this. One is that this Bill punishes the employee of any institution or clinic. This is very wrong. You cannot equate the ordinary employee who is there for a job with the doctor or the owner of that clinic. This is a big lacuna. As far as punishment is concerned, this clause should be removed from the ambit of the Bill. The Bill is far too lenient for the doctors. In the Maharashtra Bill, they have not got a single doctor's licence revoked, because there is a clause in the Bill which says that the appropriate authority will refer the case to the Medical Council and it will take a long time for settling the case. Therefore, since the doctor is the key person profiting from this totally illegal and anti-social activity, the licence of the doctor has to be revoked. The doctor's licence, who has been convicted for sex determination tests, should be revoked for two or three years.

Then, we do not even give the minimum punishment for the doctor. The minimum punishment, I would say, should be increased from two years to five years.

Then, you had asked a specific question about the amendment to the MTP Act. We do believe that it is certainly necessary to amend the MTP Act. There is a loophole of 20 weeks. In this country, we do not want to make the abortion laws very stringent; we do not want to be a country in which women are forced to have abortions illegally. But, at the same time, at the grassroot level unfortunately abortion has become a kind of family planning. This will affect the health of the women very seriously. So, that clause in the MTP Act has to be amended.



Then, when we talk about the responsibility of the media in this, one thing is absolutely clear. A very large section of the population including educated women do not know that it is the man who is responsible for the sex of the child. This is one thing which is totally missing from the media propaganda. Secondly, the electronic media should be used in a much better way. These are basically the main points that we have given you in the memorandum. Now, my colleague will speak on her case study which she has done in Haryana.

श्रीमती जगमती सागवान: मैं हरियाणा से आई हूँ। हरियाणा हिन्दुस्तान का वह राज्य है जहाँ पर मेल-फिमेल सैक्स का रेशो अरुणाचल प्रदेश के बाद सबसे नीचे है। 1982-83 से जब से यह शुरू हुआ है तभी से मैं महिला समिति की तरफ से इस क्षेत्र में काम कर रही हूँ। हमने इसके लिये हस्ताक्षर अभियान भी शुरू किया। 12 हजार हस्ताक्षर इकट्ठे करके स्टेट गवर्नमेंट को जमा करवाये। सभी एम०एल०एज० को इसके लिये मैमोरेंडम दिया। बहुत निराशा हुई यह देख कर कि सिर्फ एक एम०एल०ए० को छोड़कर यानी कि सुषमा स्वराज को छोड़कर कभी किसीने इस पर ध्यान देने की कोशिश नहीं की। इसके जैसे एड्स आते हैं और रोज अखबारों में विज्ञापन आते हैं, उन पर रोक लगनी चाहिये। अब इस संबंध में जो कानून बनने जा रहा है, उसका जोरों-शोरों से प्रचार किया जाना चाहिये। नेशनल मास मीडिया की तरफ से इसका प्रचार किया जा सकता है

वूमैन को पनिश करने की जो बात की जा रही है, में उससे असहमत हूँ। कोई महिला यदि 2-3 ऐसे टैस्ट करवा लेती है तो वह घर का काम करने लायक नहीं रहती है। उसको इससे चारपाई पर ही जाना पड़ता है। यही उसके लिये बहुत बड़ी सजा है। हमने इस बारे में औरतों का इंटरव्यू लिया। उन्होंने हम से कहा कि लड़के के बिना हमारी मुक्ति नहीं होगी। हरियाणा में अगर किसी कभी 3-4 लड़कियां हो जाती हैं तो मर्द दूसरी शादी कर लेता है। इस वजह से भी वह इसे करवा रही हैं और इसकी विक्टिम हैं।

इसके इम्प्लीमेंटेशन और मॉनिटरिंग का जो एस्पैक्ट है, उसमें हम महसूस करते हैं कि जो महिला आर्गेनाइजेशन्स हैं, उनको जरूर मॉनिटरिंग में रखा जाये वरना यह इम्प्लीमेंट नहीं हो पायेगा। यह बहुत गम्भीर समस्या है। हरियाणा में कभी किसी ने इस समस्या को उठाने की कोशिश नहीं की। इस पर सब का ध्यान जाना चाहिये।

हरियाणा में रोहतक एक ऐसा जिला है जहाँ पर औद्योगिकीकरण नहीं हुआ है। इसको स्टडी के लिये लिया जाए। दिल्ली से काफी लोग वहां गये थे। वहां जो लड़कियां पी०एच०डी० और एम०डी० कर रही हैं, उन्होंने स्टडी जो किया, वह मैं आपको सबमिट करूंगी

जब इस बिल को बनाया जायेगा तो बहुत गम्भीरता से बनाने की जरूरत पड़ेगी। अब जो एड्स आती हैं उसमें लिखा होता है कि "स्वस्थ लड़का होगा या लड़की"। उसमें "स्वस्थ" छोटा सा लिखा होता है और "लड़का होगा या लड़की" बड़ा-बड़ा लिखा होता है।

दूसरी बात यह है कि अब डाक्टर्स का जिस फील्ड में स्पेशलाइजेशन था, उस को छोड़कर पार्टिकुलरली इसी फील्ड में अपना बिजनेस शुरू कर रहे हैं और वह भी न सिर्फ

क्लीनिक में कर रहे हैं बल्कि मोबाइल क्लीनिक में भी वह यह टेस्ट कर रहे हैं और प्रचार कर रहे हैं कि दो दिन यहां करेंगे, दो दिन वहां करेंगे। यह अब तहसील लेवल तक भी जाते हैं इसलिए सबसे पहले इसके ऊपर भी रोक लगानी पड़ेगी। आज हमारे जहां स्वास्थ्य के लिए अस्पताल नहीं हैं लेकिन आज गांवों में भी इनका प्रचार पहुंच गया है, यह बहुत प्रभाव फैला रहा है।

**DR. LAXMI SEHGAL:** My colleagues have given a very clear picture of what is happening and what the stand of the organisation is.

I am a practising obstetrician and gynaecologist in the city of Kanpur, since 1947. On the average, I see at least 10 to 15 pregnant women every day. It is less than 0.3 per cent of women who required genetic testing. Though Kanpur and Lucknow have prestigious medical colleges and hospitals genetic testing is not done there and those patients are referred to Bombay. The mushrooming of genetic clinic is really under the cover name for sex determination test. We are facing the problem of ultra sonography. By no means we can have absolute control over this ultra sonographic laboratory. But the only way, we can prevent this female foeticide after ultra sonography is by being very very strict about MTP which should be restricted to 14 weeks. Up to 14 weeks, sonography cannot say accurately whether the foeticide is male or female and it is more or less conjecture.

I also agree that the woman should not be punished. Actually woman are provisional in our country from the day of birth. Now even before birth, they are punished in the form of female foeticide. It is the family and society which compels the woman to go for sex determination. Actually, woman herself being a mother, she does not really feel difference between male child and female child. Love is there for both of them. This gender ratio is a misconception. There are more women than men, is a misconception.

Only by propoganda and by recognising the status of women, giving them equal status, giving them education, the situation can be improved. Actually, incentives should be given to the parents of two girls or three girls. Those girls should be given facilities for education, for employment and things like that.

**SHRI V. NARAYANASAMY:** You have said, voluntary organisations should also be given the power to prosecute.

Clause 28 (d) of this Bill says: No court shall take cognizance of the fact except on a complaint made by an appropriate authority. The person has to given a notice of not less than 60 days.

**MRS. BRINDA KARAT:** This clause is curtailing even the normal procedure available in this country. If I am considered a *bona fide* party, I can go directly to a court of law. But here you are having two tier system of justice. Why shall I have to go first to the appropriate

authority and that also to give a notice of 60 days? It does point out the fact that this is going to be very cumbersome and long procedure.

My submission would be, I should have the access to the court. I am for deletion of this clause. As far as the prosecution is concerned, I do not want the "appropriate authority" to come between me and the court.

**SHRI V. NARAYANASAMY:** If you go through clause (d) you will find, it is for the purpose of collecting the documents, for the purpose of enabling you to move the court. Therefore, 60 days period has been given. The appropriate authority will arrange to furnish all the documents for the purpose of prosecution. That has not been curbed under this clause. If you want any improvement, you can kindly suggest.

**MRS. BRINDA KARAT:** I stand corrected. What I understand of this Bill is that if you have a complaint, first of all, a social organisation do not have the right to move the court. I want that right. I want this law to include the right to all women's organisations to come to an agreement about the definition of the concerned party.

Secondly, I want specifically the right to go direct to the court. This Bill does not give me that right. Wherever it is mentioned, as far as proceedings are concerned, for whatever reason, they are still telling him first to make application to the appropriate authority. I say the appropriate authority is the Government mechanism to monitor ultra sonography. It has got nothing to do with punishment. The appropriate authority is collecting this information without facts. On the information is collected on any illegal sex determination, the appropriate authority will go to the court. I can tell you now that I have got information. I have information of sex clinics in Delhi. I will go straight to court in Delhi and say "Here is my information." I do not have to go to the appropriate authority.

I can tell you another thing because it has such a wide proliferation. If you are going to make one authority a nodal agency to give you justice, in fact it is going to be injustice. What about mobile clinic? I can get my women in Rohtak. Doctor comes. I will get them the doctor. I will take them to the panel. The case will be delayed in this way, for over a week.

On this question of the appropriate authority, on the one hand, you are giving too much authority to one individual first.

Secondly, how can a law give the authority of punishment to a Government servant? It cannot. Give it to a court as every other law does. If I have a dowry case, tomorrow the Anti-Dowry Act says "Let the appropriate authority do that." I am nowhere. For that, I have to convince the appellate authority. By that time, the criminal will be free. This is the way I understand and I am moving for deletion of that Clause.

**SHRI V. NARAYANASAMY:** While making some observations, you said that ultra sonography has not been prohibited under this Act. You may go through Clause 6 of the Bill which has prohibited ultra sonography.

**MRS. BRINDA KARAT:** Ultra sonography is mentioned there. But the way to control this ultra sonography has not been made clear by this Bill.

**SHRI V. NARAYANASAMY:** What are your suggestions?

**MRS. BRINDA KARAT:** It is in my memorandum. I want to separate the question of genetic with ultra sonography. It is totally in the Government sector. What I suggest is to have the appropriate authority to monitor ultra sonography as best as it can.

**SHRI V. NARAYANASAMY:** It has got a mixed reaction. You do not agree that women should be punished. I agree with you in general. But I have a question. If a woman having three or more female children is also a party to the sex determination, according to you, she should not be also punished. When you say that there should be blanket ban on punishing women, what is your idea?

**MRS. BRINDA KARAT:** I think you have a very important point here. But basically when we talk about norms for rendering justice, I think that we have to go by the reality of the majority of cases. Therefore, although I certainly would agree with you that you will have cases of very well educated women who will make a personal choice of having sex determination, however they are in a fraction. They are in a minority and, therefore, we cannot have a law which will punish the majority in the name of bringing a minority to justice. Therefore, I do not deny that you have a very important and valid point that there are certainly cases in which women themselves will make the choice, but our experience and the experience of most women's organisations will be at the grassroot level that it is social pressure which is determining all these things. I give you an example.

We are working under anti-dowry laws. But we are finding that there are one or two cases where a woman may want to misuse Section 488 just to punish her husband for something else. There are very few such cases. Of course, there is always a possibility of misuse of something. I agree. But that does not mean that all these cases against dowry are bogus although we recognise the reality that it is in some cases being misused, although there are certainly cases where women would make a personal choice, we cannot take that as a general rule for punishment under a system in India where the family structures are so clearly biased against women.

**श्रीमती सुषमा स्वराज:** यदि इस पहलू को छोड़ दें तो भी कुछ महिलायें अपनी ओर से जाती हैं और इसके पीछे यह कारण है कि यह फैमिली प्रेशर से होता है और इस कारण वे जाती हैं, यदि उनको

बुलाकर सज़ा देते हैं तो इसके डेटेंट इफेक्ट्स उन महिलाओं के लिए क्या होंगे? वे तो फैमिली प्रेशर के आगे झुकती हैं और अबोरशन करवा लेती हैं। इसलिए यदि महिला को सज़ा हो जाये तो फैमिली पर डेटेंट एफेक्ट्स होंगे।

**श्रीमती वृन्दा कराट:** यह सही है लेकिन उसका उल्टा भी होगा। डेटेंट इफेक्ट्स महिला पर ही नहीं उसके पति और सुसराल पर भी होगा। इस संबंध में यह एक आम बात होगी लेकिन हमें मालूम नहीं कि उस स्त्री ने अपने आप करवा लिया।

**श्रीमती सुषमा स्वराज:** आप जो बात कर रही है उसमें तो अकेले महिला को सज़ा दी जाये, हम तो पति की बात कर रहे हैं।

**श्रीमती वृन्दा कराट:** आप ऐसा नहीं कर सकते हैं। बाद में यह कैसे मालूम होगा कि मेन एक्यूल्ड कौन होगा? हम आपको बता देते हैं कि उस समय पति ही रहेगा।

**श्रीमती सुषमा स्वराज:** यह तो आज भी होगा।

If you do not give us a statement that you are the only person responsible for this, do not bother to come back into this house, it is what is happening. A woman is not punished.

**SHRI V. NARAYANSAMY:** Unless the contrary is proved, therefore, the husband is also liable. Fathers in the families are more affectionate towards daughters. That is the human psychology. Therefore, when you say that the woman actually should be removed from the purview of this Act, it seems to be rather giving discrimination and trying to protect women who are also a party to it.

**श्रीमती सुषमा स्वराज:** इसमें आपका स्टेटमेंट है। बाद में और कहा जायेगा। अगर अकेले पति को कसूरवार ठहरायेगे तो वह और कुछ कहेगी।

**MRS. BRINDA KARAT:** I have made our point clear. We feel, while deciding about any law, you cannot do it without taking the social realities into account. And the basic social reality is the total gender discrimination within the family. If a woman does not have a right to say that she does not want to be pregnant, what is the basis that we are fighting for. We are talking of discrimination, we are talking about women's control over her own body. But the reality is that they do not have the control over their body. But there is no such thing on the other side. We have come to this conclusion from our own experience. I only like to request to take into account the inequalities within the family structure in which they live.

**श्रीमती सत्या बहन:** आपने अपने मैमोरण्डम में एक बात कही है कि एडवाईज़री कमेटी कांसटीट्यूट होनी चाहिए। आपने किस तरह के सुझाव दिए हैं, इसके क्रियाकलाप कौन से हैं और किन व्यक्तियों की आपने अपेक्षा की है।

**श्रीमती वृन्दा कराट:** हमने कहा कि वौलन्ट्री औरगनाइजेशन और उनके रिप्रैजेन्टेटिव की जरूरत है। मुझे नहीं मालूम आप रेशियो कैसे तय करेंगे लेकिन मेरा सुझाव है कि इसे केवल टैक्नीकल रूप नहीं दिया जाए। एडवाईज़री कमेटी का मतलब है कि जो महिलाएं इस क्षेत्र में

काम कर रही हैं उनके प्रतिनिधि इसमें होने चाहिए। इसके अलावा जो मैडिकल एसोसिएशन के हैं, उनको भी उसमें जोड़ना चाहिए। महाराष्ट्र के एक्ट में कुछ क्राइटेरिया है

एक बात यह है कि सैन्ट्रल अथोरिटी के एक्ट में सही तरीके से इजाजत दी है कि वे सब-कमेटी बनाएं।

Although they have mentioned it, I feel, it should be slightly elaborated. The special committee is very important to monitor the new technology. You can get some kind of an all-India picture. There is regional disparity.

कहीं जैनेटिक ज्यादा है, कहीं अल्ट्रासाउंड ज्यादा है। तमाम चीजों का सैन्ट्रल अथोरिटी के पास फीड बैक हो तो सही रहेगा।

MR. CHAIRMAN: Whatever discussions we have here is treated as confidential and it is not to be made public before the report is submitted to the Parliament. Besides that any part of the evidence tendered by you is to be treated as confidential till the report is submitted.

श्रीमती सरोज दूबे: 20 तारीख के बम्बई के कार्यक्रम को स्थापित करने के क्या कारण हैं?

SHRIMATI BRINDA KARAT: I have got some material with me and I submit that to the Committee.

*(Witness then withdrew)*

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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON PRE-  
NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE)  
BILL, 1991

(Monday the 18th May, 1992 from 0930 hrs. to 1230 hrs. and 1515 hrs. to  
1700 hours Vidhan Bhawan, Bombay)

*PRESENT*

Smt. D. K. Tharadevi Siddhartha — *Chairperson*

MEMBERS

*Lok Sabha*

2. Smt. Dil Kumari Bhandari
3. Smt. Saroj Dubey
4. Smt. Girija Devi
5. Smt. Sumitra Mahajan
6. Smt. Geeta Mukherjee
7. Dr. (Smt.) K.S. Sundaram

*Rajya Sabha*

8. Smt. Chandrika Abhinandan Jain
9. Smt. Sarla Maheshwari
10. Shri Bhaskar Annaji Masodkar
11. Shri Sarda Mohanty
12. Smt. Satya Bahin

SECRETARIAT

Shri S.C. Gupta — *Joint Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE  
(DEPT. OF FAMILY WELFARE)

Shri S.B. Mishra — *Joint Secretary*

Shri Ramesh Chandra — *Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY  
AFFAIRS (DEPT. OF LEGAL AFFAIRS)

Shri N.K. Agrawal — *Joint Secretary and Legislative Counsel*

NAMES OF THE NON-OFFICIAL ORGANISATIONS

1. Forum Against Oppression of Women;
2. Forum Against Sex Determination and Sex Pre-Selection; and
3. Family Planning Association of Inida.

CHAIRPERSON: Now we will start the oral evidence. I now request the Members of Organisation to kindly introduce themselves.

(The Members of Forum against sex determination & sex preselection and Forum against oppression of women introduced themselves.)

KUM. CHAYANIKA SHAH: We have asked for a joint session because although we are two separate organisations, we have been jointly working on this campaign. We are very glad to have an opportunity here to share our experiences of having campaigned against this practice for sex determination. Ours is a women group which has been working in Bombay for the last 12 years. It has been involved in various issues relating to women rights and women conditions. Sex determination is one of the issues taken by us. We welcome the idea of having Joint Parliamentary Committee to go into the aspects of the legislation which has been proposed. Our experience of the Maharashtra act when it was introduced is there was not much debate and there have been certain shortcomings in the legislation. We welcome that we have a chance to discuss and share our concern and our understanding of the issue. The division that we have made of the presentation is firstly we would like to present to you about how we look at the issue itself and what is the purpose of this kind of legislation. Based on this what are the modifications that we would like to suggest within the proposed Bill and we would like you to share our experience of the Maharashtra Act with you.

The modifications which we would like to suggest in this Central legislation are mentioned in the presentation. Hon. Members can have the copies of it. Participation of women's group is since 1974. In 1976 it was for the first time we took this issue of Sex determination because of the fact that while trials were going on in the AIIMS, 90 % of the couples who came to know that they could know the sex of the foetus wanted to go in it. We know the status of woman in the society and this would lead to discrimination to female foetus. In 1977 there was Govt. Directive banning use of sex determination in public hospitals. The note has been taken of the fact that the test which was being made available for testing of genetic defects had the liability of being misused for the purpose of sex determination. The Govt. has taken a stand of banning these tests for the purpose of sex determination in Govt. Hospitals. At this point few groups



had taken up this issue because if these tests were to continue there would be no kind of stop to it. The private centres or clinics would go into it and the dimension of the spread could not be measured. In 1982 we came to know through an advertisement in the national daily of one Dr. Bhandari clinic who openly advertised that you can have a selection of boy child. There was another newsitem that by mistake sex determination of the foetus had detected male foetus as a female foetus and the couple concerned and undergone abortion and realised afterwards that it was actually a male foetus. So, there could be failure of these tests. Women's group had raised this issue as an issue of discrimination against women. Other groups like the Health groups, reserach groups also joined, protests were made. Meanwhile this method of testing had spread. We found that even in a small town of Dhulia in Maharashtra this test was available. The nature of the spread was quite alarming. Once again in 1986 there was a conserted effort by various groups in Bombay to come together and follow up this issue. As an outcome of that protest the Forum Against Sex Determination and Sex Pre-selection was formed. Right from the beginning we have tried to focus on the aspect of sex determination as an process of discrimination against women. We do not want to look at one particular test. We do not want to go into the failure or the effectiveness or the dangers of the test because there will be modifications in the method of testing. The basic issue here is discrimination. So our focus has been that sex determination in a society is discriminatory to women. On the basis of discrimination alone one cannot allow sex determination test to go on.

We realise that these tests are available for detection of genetic abnormalities. So right from the very beginning we have made it very clear that these tests are for detection of disorders and they should not be allowed for the purpose of sex determination. These clarity has been there. The campaign has duly focused on two aspects. One, right from the time to say we were wanting Legislation from the Government which would do this type of regulating. We were not asking for a total ban. We were asking for regulated use of the technique. So there ought to be a regulatory legislation initiated by the Government. It should also take some kind of imiliative for creating public awareness. Our campaign to protect the women of their every rights; for that legislation from the government must be there and at another level creating public awareness in issues of discriminating girls within the society.

We look upon such legislation as a statement from the Government on behalf of the society against such social practices. We know the limitations of any such legislation. We look upon it as an effort as a sincere, strong effort by the Government. It has to be severe. That is our point. The kind of ban or regulatory legislation has to be there to remove the social sanction. Our submission is, it has to be strong and deterrent. It should not have loopholes or it should not have any room or point where it can be misused. Along with the legislation there should be more and more

efforts on the part of the Government about public awareness and the policy has to be there for that. There has been no amount of public awareness campaign done by the Government so far on this. Public awareness creating has to be part and parcel of this legislation.

We feel that it should be only in public hospitals. There should not be any licence for private sector.

I would also believe that the Government infrastructure and the government machinery is sufficient to cater to the needs of the people for this purpose and there is not need for any private centre as we go on from Maharashtra experience. The control helps today.

SMT. CHANDRIKA ABHINANDAN JAIN: How many Government Centres are there?

SMT. SHAH: I would like to add that out of 19, fourteen are in Bombay City only; there are five in the rest of Maharashtra. Out of 19 only four are in Government.

THE CHAIRPERSON: So, you are of the view that the facility should be only there in the government-hospitals and should not be there in private-hospitals.

SMT. SHAH: Yes.

SMT. CHANDRIKA ABHINANDAN JAIN: Are you trying to say that there should not be sex determination tests in the private-hospitals and there should be only diseases and disorders in the pre-natal checks. Suppose some one in a family is suffering from genetic disorder or if some problems are there and that must also be detected and if you are restricting them only to government-hospitals and then you are not allowing private hospitals in detecting genetic disorders.

SMT. SHAH: They are not detecting it.

SHRI MASODKAR: Why are you preferring government hospital to the private one. As genetic tests are much more for many other diseases how are we going to government only?

SMT. DIL KUMARI BHANDARI: You find Maharashtra legislation lacking many things. This new legislation which is being brought here by Govt. of India, whether you find it more comprehensive than Maharashtra legislation? If so, in what way or still you find some loopholes in it.

SHRI RAVINDRA: First I will respond to the question as to why we want the licences to be restricted only for Govt. hospitals. Experience from 1978 to 1982 shows that as far as Govt. hospitals are concerned, there is not a single case reported in the news-paper anywhere in India that these hospitals have violated the ban. For more than last ten years in Govt. hospitals there is a ban on misuse of techniques and there is no single report of this ban being violated. There is only one case in Karnataka about a private practitioner who used the machinery in public hospital. Till 1982 the number of clinics, centres were very less not more than 10 at that time all over India. But within a period of 4 years, the number of

private clinics went up from 10 to 1000. Thus private clinics are responsible for making this business. I think all of you must have seen the report of the Experts Committee of the Govt. of India and in one of the annexures they have given a list of 26 institutions. They are from Delhi, Karnataka, Madhya Pradesh, Maharashtra, Punjab, Tamil Nadu, U.P. and West Bengal whererin it is indicated that Govt. sector has necessary infrastructure, i.e., either directly Govt. hospitals or hospitals attached to medical colleges, they can cater to the needs of pre-natal diagnosis. If you want the right use to be promoted then infrastructure is available in govt. hospitals.

**SMT. CHANDRIKA ABHINANDAN JAIN:** Even private clinics to function, they need licence. If we bring such private clinics under the ambit of our law then the chances of misuse will be minimum.

**SMT. SHAH:** This is for the government machinery to bring them to book. By stating in the legislation that you ban the private institutions, you are bringing them into the ambit of legislation. You do not have to bring them only under the licencing procedure.

**SMT. SAROJ DUBEY:** Can you tell us the number of cases filed by the State Government?

**SHRI RAVINDRA:** To the best of our knowledge, not a single case has been filed by the Government of Maharashtra.

**श्रीमती सुमित्रा महाजन:** आपके अनुभव के आधार पर हम यह जानना चाहते हैं कि आपके द्वारा बनाए गए कानून में क्या खामियां हैं? क्या आपके यहां पर कानून बनने के बाद आपके यहां की स्थिति में कुछ फर्क आया? यदि आपके यहां पर कुछ सुधार आया होगा तभी कोई फायदा केन्द्र सरकार द्वारा कानून बनाने पर होगा, ऐसा हमें लगता है।

**श्रीमती सरोज दुबे:** मैं भी एक सवाल पूछना चाहती हूं कि क्या उन लोगों के खिलाफ अभी तक कोई कार्रवाई की गई है जो कि कानून के खिलाफ कोई कार्य करते हैं। सेक्स डिटरमिनेशन के कार्य को रोकने के लिए क्या कुछ सफलता आपको मिली है?

**श्रीमती सत्या बहिन:** जो लोग इस तरह का टेस्ट करते हैं उनको वांच करने के लिए क्या कोई एजेंसी आपके यहां पर है क्या कोई दूसरा तरीका आपके पास है? क्योंकि जो लोग वहां पर टेस्ट कराने जाते हैं वे खुद तो किसी तरह की कोई शिकायत करेंगे नहीं।

**श्रीमती सुमित्रा महाजन:** मैं आपको यह भी बताना चाहती हूं कि हमारे पास कई पत्र आये हैं और उनमें उन लोगों ने बहुत ही प्रभावशाली ढंग से अपनी बात कही है उन्होंने कहा है कि 3-4 लड़कियां हो जाने के बाद स्थिति बहुत मुश्किल की हो जाती है, इसलिए इस तरह से अबॉर्शन कराना अच्छा रहता है मैं आपको पत्र भी दिखा सकती हूं। इसलिए हमें पूछना है कि इस बारे में जब आप लोगों से बात करते हैं तो आपका अनुभव क्या है, वे लोग आपसे इस बारे में क्या कहते हैं। उनका यह भी कहना है कि लड़के की इंतजार में 3-3, 4-4 लड़कियां हो जाती हैं इसलिए इस तरह से टेस्ट करने में फैमिली प्लानिंग का काम भी हो जाता है। मेरा कहना है कि इस तरह का विचार भी आज समाज में है।

**श्री रविंद्र:** हम आपके बताना चाहते हैं पूरे देश में यह पहला गुप है जिसने इस तरह का केम्पेन शुरू किया है। महाराष्ट्र राज्य पूरे देश में पहला ऐसा राज्य है जहां पर इस तरह का कानून बना है।

हमने महाराष्ट्र सरकार की एक्सपर्ट कमेटी में भी काम किया और कमेटी के सब लोगों ने एक राय से यह कहा कि इस बारे में कानून बनाना चाहिए। लेकिन बहुत ही दुख के साथ कहना पड़ता है कि कानून बनाने के 4 साल बाद भी इसका इम्प्लीमेंटेशन नहीं के बराबर है। यह कानून सिर्फ कागज पर ही रहा है। हमारे पास मण्टी, हिन्दी, इंग्लिश गुजराती तथा अन्य भाषाओं की पेपर कंटिंग हमारे पास हैं उनसे मालूम पड़ता है कि आज भी इस तरह से गैर कानूनी काम चल रहा है। लेकिन सरकार की ओर से एक भी रिपोर्ट या एक भी सजा इस बारे में अभी तक नहीं हुई है।

**श्रीमती सरोज दुबे:** यही तो हम जानना चाहते हैं।

**श्री रविंद्र:** हमने पिछले 4 सालों में कम से कम 6 बार सरकारी मशीनरी के साथ सम्पर्क किया, हम व्यक्तिगत रूप से उनके पास गए, उनको पत्र भेजे, प्रेस के द्वारा उनको खुली विदितियाँ लिखीं हमने उनसे कहा कि इस बारे में हम कोऑपरेट करना चाहते हैं लेकिन किसी चिट्ठी का जवाब तक भी नहीं आया। हमारे साथ एक भी मीटिंग नहीं हुई है।

हमने उन लोगों की जानकारी उनको दी जहाँ पर इस तरह के बोर्ड लगे हुए थे कि यहाँ पर इस तरह सेक्स डिटेमिनेशन किया जाता है। उसके फोटो हमने उनको भेजे लेकिन अभी तक कोई कार्रवाई इस बारे में नहीं हुई है। महाराष्ट्र के कानून में सबसे बड़ी खामी यह रही है कि किसी भी ग्रुप या व्यक्ति को इस बारे में कार्रवाई करने का कोई अधिकार नहीं है।

We have no direct access to the Judiciary. According to the Act, we have to give 60 days Notice to State Appropriate Authority, and the State Vigilance Committee.

एक महत्व की बात यह है कि स्टेट एप्रोप्रिएट अथॉरिटी और विजिलेंस कमेटी कई महीनों तक अपाईड नहीं हुई थी। हमने माँग की थी कि इस कानून के तहत 3 महीने के अन्दर दोनों बॉडीज का गठन होना चाहिए, लेकिन करीब 9 महीने तक स्टेट एप्रोप्रिएट अथॉरिटी और विजिलेंस कमेटी का गठन नहीं हुआ जो लोग इस बारे में काम कर रहे हैं, उनमें से कोई भी व्यक्ति इस कमेटी पर नहीं रखा गया। सरकार के अनुसार इस क्षेत्र में शायद हमारी कोई हैसियत नहीं है, लेकिन जाने-माने लोग हैं, डाक्टर्स हैं, सोशल साइंटिस्ट हैं, जिन्होंने इस संवाल पर स्पष्ट भूमिका ली थी, ऐसे किसी भी व्यक्ति को कमेटी पर नहीं रखा गया है। बिला स्तर पर विजिलेंस कमेटी अभी तक बन रही है। बम्बई इसका मुख्य केन्द्र है, 16 क्लिनिकल बम्बई में है, उसके बावजूद बम्बई के लिए विजिलेंस कमेटी अभी तक नहीं बनी है। सब से चौकाने वाली बात तो यह है कि और इससे पहले के एक प्रश्न का जवाब भी आ जायगा कि प्रॉवेटेड डाक्टर्स के ऊपर रोक क्यों लगाना चाहते हैं। बम्बई के जाने-माने जेनेटीसिस्ट है, सरकारी कमेटी पर काम किया है, उन्होंने प्रेस को इन्टरव्यू दिया कि मैं इस परीक्षण का गलत इस्तेमाल नहीं करता हूँ और केवल सही ढंग के लिए इस्तेमाल करती हूँ। उन्होंने एक इन्टरनेशन कॉन्फ्रेंस में पेपर रखा, जिसमें कहा गया है कि 900 से ज्यादा केसस उन्होंने अँकशस परेडस के लिए किए, जेनेटिक रीजन्स की वजह से नहीं किए, यानि सिर्फ sex determination के लिए किये उस पेपर की कॉपी हमारे पास है। वह हमने सरकार को बताई है। उसके बाद जब कानून बना, जब यह गैर कानूनी था, उसके बावजूद भी वे जेनेटीसिस्ट इसका गलत इस्तेमाल कर रहे थे। एक रिपोर्टर उनके पास गई, उनसे कहा कि मैं प्रिगनेट हूँ और पेट में लड़का है या लड़की यह जानने के लिए यह टैस्ट करना चाहती हूँ। डाक्टर ने कहा ठीक है, अभी तो कानून बन गया है, मैं रिस्क लेना नहीं चाहती, इसलिए आपको लिखकर कुछ नहीं दूँगे, मौखिक रूप से बता दूँगे आप 2,500 रुपए लेकर आ जाएँ। उस जर्नलिस्ट ने यह बातचीत रिकार्ड की, न्यू आइडम बनाकर प्रिंट पेज पर छपा गया। विजिलेंस कमेटी तब तक नहीं

बनी थी। सरकार ने उस जेनेटीसिस्ट के खिलाफ यह कार्रवाई की कि उसे विजिलेंस कमेटी का मेंबर बना दिया। आप सोच सकते हैं कि इस बात का बाकी जेनेटीसिस्ट के ऊपर क्या असर पड़ा होगा। गाजियाबाद के कोर्ट ने डिसीजन दिया था कि उनकी टेक्निक बराबर नहीं है, गलत जांच की और इसकी वजह से एक बेबी जो नॉर्मल बताया था, एबनार्मल पैदा हुआ। इसके लिए कोर्ट ने 2 लाख रुपए का हर्जाना देने के लिए कहा। इस प्रकार से जो कम्पीटेन्ट नहीं हैं, उस टेस्ट का गलत इस्तेमाल करते हैं, सरकार उनके विजिलेंस कमेटी का मेंबर बनाती है। सरकार ने उनको विजिलेंस कमेटी से निकाला नहीं, उन्होंने शर्म के मारे खुद ही त्याग पत्र दे दिया है। ये प्राइवेट प्रैक्टिशनर हैं।

**SMT. SARLA MAHESWARI:** How far you rely on the Government?

**SHRI RAVINDRA:** Madam, Chairperson.

मैं एक उदाहरण देना चाहता हूँ। हमने 3 मई, 1990 को मीटिंग रखी थी, कोई रेस्पॉन्स नहीं आ रहा है। हमने सरकार के लोगों को चिट्ठी लिखी कि आपस में बात करें। *Let us find out what are common hurdles? Let us work in co-operation with each other. We are not a part of the Committee, still we would like to work with you. So, please tell us, can we meet and discuss across the table, as to what are the difficulties? Not a single Govt. Officer has accepted our invitation. At least, one Doctor, who is a Member of the Vigilance Committee, was kind enough, and she gave a statement before the Press that, she is totally dis-satisfied with the performance of the Committee. She said that, meetings are not convened, and only initial meetings are convened. Licence were given. Later on Govt. did not bother to invite Committee members for regular meetings.*

**THE CHAIRPERSON:** What is the reason for this failure?

**SHRI RAVINDRA:** She told the Press that she is totally dis-satisfied. The records are not kept. She said that, we have visited some Centres, but they are not working satisfactorily. Another thing is that according to the Act, the Director of Information & Publicity is an ex-officio Member of the Vigilance Committee.

पूरे राज्य के लोगों में चेतना जगाने की उनकी जिम्मेदारी होती है। जब हम उनके पास गए और कहा कि मीटिंग में आएँ तो उन्होंने कहा कि इस तरह की कमेटी है, यह भी उन्हें मालूम नहीं है। यह मई 1990 की बात है, जबकि यह कानून अप्रैल 1988 में बना। शासन का एक सर्वोच्च मंत्रालय के फर्स्ट फ्लोर से ग्राउन्ड फ्लोर तक नहीं पहुंचा था। *The Director of Information & Publicity does not know that any such Committee exists, and that he is a Member of that Committee. So, how can the Director of Information & Publicity bring awareness in the people? This is the height to which Government can go.*

**श्री सारदा मोहनती:** यह हाईली पब्लिश होना चाहिए।

**श्री रवींद्र:** महाराष्ट्र के बारे में बड़े दुख के साथ कहना पड़ता है कि सरकार ने यह कानून क्यों बनाया। इसका कारण शायद यह था कि उस समय सरकार के ऊपर प्रेशर था, पूरे देश में कैम्पेन जारी थी, इंटरनेशनल पब्लिकेशन्स जैसे न्यूयार्क टाइम्स में लेख आ रहे थे, सरकार को अपनी प्रोप्रेसिव छवि बनाना जरूरी हो गया था। कुछ अच्छे ब्यूरोक्रेट्स भी हैं, उन्होंने कानून तो बनाया है। लेकिन जिनका वेस्टेड इन्ट्रेस्ट था, वे ब्यूरोक्रेट्स के लोगों से मिलकर इन कानून को नाकाम सिद्ध करने की कोशिश कर रहे हैं। because Maharashtra is the experimental ground for this particular Law, and they wanted to show that Law has failed in Maharashtra. Then, they can say that, there is no use in having the Law, and therefore, why should we have a Law at the national level?

जो लोग कानून के खिलाफ बात कर रहे थे, उन्होंने साजिश की कि इसके ऊपर अमल न हो। हमारी जितनी कोशिश हुई है, वह नाकाम सिद्ध हुई है। हमारा अनुरोध है कि केन्द्रीय सरकार ऐसा कुछ कार्य करे, जिससे इसमें परिवर्तन आए। महाराष्ट्र में जब तक यह कानून बना तब तक सरकार हर बात में प्रेस को बताती थी। कानून बनने के बाद सरकार ने प्रेस को कुछ नहीं बताया। विजिलेंस कमेटी के बारे में किसी को पता नहीं चला। किसको लाइसेंस दिए, पता नहीं चला। महाराष्ट्र के एक्ट के अन्दर जो रूल्स बने हैं, उसमें कहा गया है कि क्लिनिक्स हर 3 महीने में रिपोर्ट भेजेंगे कि कितने टैस्ट किए गए, किस कारण से किए गए और उनका क्या असर हुआ। लेकिन पिछले 4 साल से इस बारे में एक भी रिपोर्ट प्रकाशित नहीं हुई है।

**SMT. CHANDRIKA ABHINANDAN JAIN:** I would like to interrupt. He is talking about his experience of the Maharashtra Legislation. He has come out with some facts or allegations. I think, officials from the Govt. of Maharashtra are sitting here, and we can ask them about it.

**SHRI RAVINDRA:** Madam, we will give one copy of the evidence, and the Press Reports etc. to the Committee in this regard.

**SMT. CHANDRIKA ABHINANDAN JAIN:** What sort of action you have taken? You are just depending on the Government. Your Agency has to see that this Law is implemented. As a Voluntary Organisation, what sort of role you have played to see that this Law is implemented properly? Have you been able to detect some such cases and have you brought it to the notice of the Government? You found that, there is lot of in-action on the part of the Government. Have you brought it to the notice of the Vigilance Committee?

**KUM. CHAYANIKA SHAH:** We have made three complaints of advertisements. Since the Local Vigilance Committee was not formed at that time, we were not aware of the procedure? We were asking for the procedure.

क्योंकि हमें ऐसा लगता है कि जो कानून बना है उसमें टेस्ट केसीज में हमें जाना पड़ेगा क्योंकि अगर कोई औरत टेस्ट के लिए जा रही है तो वह खुद पनिशेबल है, इसके घरवाले पनिशेबल हैं और डाक्टर पनिशेबल है। To gather evidence is difficult. There is no way in which that

person herself would come forward and say that I have undergone the test. We have got to be very clear about this.

We have three complaints about advertisement.

ऐसा नहीं होना चाहिए कि हम वहां पर जाएं और पूरे एविडेन्स हमको न मिलें। So, we took photographs of the boards that they have displayed in Bombay city. We have made complaints about this, and we have not received reply for a single complaint till today. One doctor has openly advertised in the Bombay Hospital Journal for sex determination. This doctor is not having licence and in case even if he has the licence he cannot advertise in the Journal. We have given these two complaints but nothing has happened.

**SMT. JAYA VELANKAR:** We also do not have direct access to judiciary therefore we cannot approach courts.

**SMT. GEETA MUKHERJEE:** We were discussing on a particular suggestion. It is being said that these clinics are not only going for sex determination of the foetus but there are other tests which are essential and are the subject matter of the clinics. So what would be our answer to it? Do you think there will be mis-use of the facility by the private clinics? Do you think that only the Govt. hospitals should be allowed to carry out these tests?

We feel that the existing Govt. Centres can meet with the requirements of the people in terms of detection of genetic abnormalities. If it is proven beyond doubt that these existing Govt. Centres could not cope with the requirements of Public, the Govt. can set up more centres at district level. Secondly, we have to see the overall percentage of genetic abnormalities in our population. I think it is hardly about 5%. We have to see the number of centres existing under the garb of detecting genetic abnormalities and the percentage of genetic abnormalities actually in the society. It is very essential for the Govt. to find it out.

**KUM. CHAYANIK SHAH:** We would like you to go into the experience of Maharashtra for the last 3 years after the licences have been given to each Centres. You have to see the number of tests carried out, what is the kind of detection they have done, how many genetic abnormalities they have detected. If genetic detection is being done only in these registered clinics then we should have clear cut picture of the prevalence of genetic abnormalities in the Maharashtra State. The data we have is that in some centres not a single test for genetic abnormalities was done till 1991, then why is it necessary for that centre to have licence?

**SHRI RAVINDRA:** I would just like to add. The Govt. has not made available any information regarding this to us. One Govt. Officer has given some data to a journalist which was published in newspapers. According to that statistics out of the 19 approved centres/clinics/laboratories till

October 1990 the number of tests carried out was less than 10 each. Seven clinics have zero cases and in eight clinics the tests carried out were 1-8 cases each. It is a mystery why licences were given to them when there was no need of pre natal Diagnosis in that area.

**SHRI SHARDA MOHANTY:** Your point is that there must be some Act which we follow strictly.

**SHRI RAVINDRA:** I strongly feel that a public awareness programme in this regard should be launched by the Govt. One Member has point out, what you have been doing? The Govt. has left this public awareness business to the voluntary organisations, that is not fair. Govt. has a strong machinery if it has will it can effectively conduct such public awareness programme. It can use the Mass Media like T.V., Radio etc. Just as we see before 9.30 news or at 9.00 p.m. some family planning ads.

**SMT. DIL KUMARI BHANDARI:** You must have gone through this Central legislation. Do you find anything lacking in it? Do you find any loop-holes?

**KUM. CHAYANKIA SHAH:** Common part of both the Central legislation and the Maharashtra Act is that they are giving licences to private sector.

**SHRI RAVINDRA:** There are two aspects in this. One is that we have to see what are the loopholes and secondly the problems in implementation. We will have to discuss them separately.

**श्रीमती दिल कुमारी भंडारी:** महाराष्ट्र के अनुभव से आपको क्या लगता है?

**श्री रविन्द्र:** कानून बनाते वक्त उसमें जानबूझकर कुछ कमियां छोड़ी जाती हैं। जिससे कि कानून का असर ही खत्म हो सकता है। मैं महाराष्ट्र का एक उदाहरण इसलिए दे रहा हूँ कि केन्द्र में ऐसा भी हो। मुझे कहना है कि जब महाराष्ट्र में यह बिल इन्ट्रोड्यूस हुआ, महाराष्ट्र असेंबली में इन्ट्रोड्यूस हुआ तो हमने मांग की थी कि किस औरत को इस टेस्ट को करने की इजाजत दी जाये।

Apart from other commonly accepted indication for pre natal diagnosis, we asked for one specific clause to be included. That is exposure of a pregnant women to potentially teretogenic chemicals, radiations, drugs or infection.

Potentially teretogenic के मायने है जिससे कि गर्भ में विकृति पैदा हो सकती है। यह clause इसलिए रखा गया है कि कई बार pregnant औरतों को गलत दवा दी जाती है या वह गलत दवा खा लेती हैं एक्सरे जैसे रेडिएशन का exposure होता है। Women are exposed to hazardous chemicals sometimes.

क्योंकि हमारे देश में भोपाल जैसे हादसे होते हैं। या इस देश में औरते इंडस्ट्रीज के अंदर मजदूर के रूप में काम करती हैं उनका वहां ऐसे केमिकल्स से एक्सपोजर होता है। इसलिए उनके लिए कहीं न कहीं ऐसी जगह चाहिए जहां पर टेस्ट किया जा सके। लेकिन जब महाराष्ट्र में यह बिल आया तो पोर्टेशियली टेराटोजेनिक जैसे शब्द निकाल दिए गए। इसका मतलब यह होता है कि यदि कोई भी औरत यदि प्रेग्नट है और वह कहती है कि उसके सिर दर्द हो रहा है और



उसने गोली खायी है तो उसको चेक करने दिया जाना चाहिए। उसने कहा कि उसे सर्दी या जुकाम हो गया है और गोली खायी है तो उसे भी यह चेक करने के लिए अलाऊड है। यानि कि कोई भी औरत किसी भी बहाने से यह टेस्ट कर सकेगी इसका मतलब जो लोग इसकी Technical बारीकी को जानते हैं उन्होंने जानबूझकर ऐसे शब्द इसमें से निकाल दिए हैं।

**SHRI MASODKAR:** The Appropriate Authorities are given powers. You can refer to the Appropriate Authority any other abnormality or disease as may be declared by the Appropriate Authority for the purposes of it.

**श्री रविन्द्र:** इतना बड़ा लूप होल रखते हैं तो कोई भी औरत यह टेस्ट कर सकती है। इसलिए महाराष्ट्र में अपोजीशन के एक एम०एल०सी० ने official bill में अमेंडमेंट दिया तो सरकार को उसको स्वीकार करना पड़ा। इसके बावजूद महाराष्ट्र के बिल में और भी कई खामियां थी सेंट्रल का यह बिल जब संसद में आया तो लास्ट मूमेंट पर इस तरह के कई सवाल आ सकते हैं। इसलिए आपको भी और हमें भी सचेत रहना पड़ेगा।

**श्रीमती दिल कुमारी भंडारी:** इस बिल में ऐसा प्रावधान है कि जिस औरत की उम्र 35 वर्ष या उससे अधिक है तो उसके ऊपर यह लागू नहीं होना चाहिए। इस बारे में आपके क्या विचार हैं?

**श्री रविन्द्र:** जिस औरत की उम्र 35 साल से अधिक हो, उसे यह टेस्ट की सुविधा देनी चाहिए, क्योंकि 35 साल के बाद बच्चा एबनार्मल पैदा होने के अधिक अवसर होते हैं। इसमें हमें कोई तकरार नहीं है। यह पूरी दुनिया में "कट ऑफ" ईयर माना गया है। लेकिन बेसिक पाइंट यह है कि औरत को पनिशमेंट देने के बारे में दोनों कानूनों में कहा गया है। हमारा विचार यह है कि यह औरत को नहीं होना चाहिए, दंड डाक्टर को होना चाहिए। औरत आज की समाज व्यवस्था में खुद ही विकृत है। घर वाले कहते हैं कि टेस्ट नहीं करोगी तो घर से निकाल देंगे, डायवोर्स दे देंगे। वह तो चक्की में पीसी जा रही है, इसलिए किसी भी हाल में दंड नहीं देना चाहिए। इसके ऊपर इस प्रकार से अमल होना चाहिए कि औरतों में हिम्मत आए। अगर उनको बताया गया कि आपको भी दंड हो जाएगा तो कोई भी औरत बाहर नहीं आएगी और यह नहीं बताएगी कि उसने टेस्ट करवाया है। इसलिए औरत को दंड देना बहुत गलत बात है। महाराष्ट्र के एक्ट में औरत को दंड देने का प्रावधान है। इसलिए महाराष्ट्र में इस पर अमल नहीं हुआ।

**श्रीमती सत्या बहिन:** आपके विचार से किस किस को दंड दिया जाना चाहिए?

**श्री शारदा मोहन्ती:** यदि औरत को दंड नहीं देना है तो फिर घर वालों को करना चाहिए।

**कु० चयनिका शाह:** हमारा मानना है कि यह कानून रेगुलेशन ऑफ मेडीकल टेक्नोलोजी के लिए है। यह इल्लीगल एक्ट करने के लिए जो डाक्टर्स हैं, जो हास्पिटल वाले यह टेक्नोलोजी दे रहे हैं, वहीं जिम्मेदार हैं। उन्हें ही दंड मिलना चाहिए। Providers of technology should be punished and not the family or the girl.

Any person who goes to the doctors, hospitals or professional technicians whether she or her family or anybody else should not be liable to the punishment. The punishment should be to the person providing the technology because this law is made for regulating the technological misuse. The person providing the technology are in position to say that he would not provide anything illegal.

**श्रीमती सरला माहेश्वरी:** सिद्धान्त रूप से तो आपकी बात ठीक है कि इसके लिए मेडीकल प्रोफेसन खुद जिम्मेदार है और उनके ऊपर नियंत्रण होना चाहिए। लेकिन क्या यह बात इस तरह से नहीं

लगती है कि हम स्वयं अपराधी से कह रहे हैं कि आप अपनी सजा स्वयं तय कर लीजिए, अब आप अपने आप को सजा देते हैं या नहीं, यह ज़िम्मेदारी आपकी है। आप सिर्फ़ डाक्टर्स को ही ज़िम्मेदार कहती है। डाक्टर स्वयं तो बोलेंगे नहीं कि मैं अपराधी हूँ। इसलिए जो इसका मिस-यूज करते हैं, उस परिवार को भी शामिल करना आवश्यक है। यह टेक्नोलोजी तो रहेगी, आप उसको बंद नहीं कर सकते। इसका मिसयूज रोकने के लिए जब तक इसके तमाम पक्षों को कानून की परिधि में नहीं लाएंगे, दूसरे पक्ष को छोड़ देंगे तो यह आधा-अधूर सत्य होगा।

**कु० चयनिका शाह:** यह थ्योरी के स्तर पर मान लिया है तो फिर प्रकटीकली हमें लगता है कि...

**श्रीमती सत्या बहिन:** यदि पति को दंड दिया तो कैसा रहेगा?

**कु० चयनिका शाह:** यदि औरत को यह मालूम रहेगा कि उसके शिकायत करने से घर वालों को दंड मिलने वाला है तो वह शिकायत नहीं करेगी।

**श्रीमती सरोज दुबे:** जब यह मालूम होगा कि इस तरह का काम करने से परिवार वालों को दंड होगा तो वह टैस्ट नहीं करायेंगी।

**श्रीमती सरला माहेश्वरी:** औरत हमेशा शोषित रहे और कभी कुछ बोले नहीं, क्या हमें यही मानकर चलना चाहिए?

**श्रीमती सरोज दुबे:** गांव में परिवार में सास का होल्ड रहता है, इसलिए परिवार वालों को इसमें शामिल करना चाहिए।

**SMT. SARLA MAHESHWARI:** We give one weapon in their hands.

**KUM SHAH:** I do not think that it is a weapon. It is not such a simple matter.

It will not be used by the women because they cannot say anything against their family. If they want to oppose and fight against their family they can go under the clause of mental cruelty in Section 498A of Cr.Pc.

We should be able to bring some control. The purpose of the legislation is to make a start, a mechanism and a kind of control. By having this legislation we are bringing that control.

The **CHAIRPERSON:** You have made two suggestions; one is restriction to Government hospitals and secondly about punishment part which should be only go to the medical practice.

You have already covered two aspects of the Bill.

**SHRI MASODKAR:** Have you interviewed any doctors, victims or have you gone to the field?

**SHRI RAVINDRA:** I think once the law comes into existence then it is difficult because things are going on under-ground. So there cannot be any statistics which can be relied upon. We have talked to certain women who have undergone these tests. We have also talked with groups working in slums and villages. According to their information, even tribal woman know that such a test is available for a price. We strongly feel that it is possible to control this through a legislation. What happened to State Act? During the first four months the number of clinics went down drastically. Because I think it is different from Acts such as Dowry Act. It is difficult to implement Dowry Act but it is easier to implement this Act because here additional factor is a doctor. By and large, doctors are law abiding.

When we talked to some doctors they said we feel guilty. We do not want to do these tests. But some other doctors are doing it and we don't, means we are losing our clients. The moment law will come into force, we will not do it. Now when they come to know that the law is not implemented strictly, slowly the number of doctors violating the law is also increasing now. What we need is just one or two test cases. If we file only one case in the court and if the doctor gets negative publicity which is not in his interest, then it is deterrent for the doctor and other doctors will also not go for it. Secondly the rates of such tests have also gone high. Minimum rates before the law came into existence were Rs. 100 and now they are around 2500 rupees. So poor people have stopped doing this. This itself is an achievement. Thirdly, this law is applicable in Maharashtra only and not to other States. So people go to Gujarat and Goa and get the tests done. So once the law at the Centre is passed, these loopholes can be plugged. Lastly, there may be thousand of centres but if we can control these one or two genetic labs then we can control the entire business. This process is not very difficult provided government has political will and sincerity. So my concrete suggestions would be that all the rules should be published within a time of three months. Government functionaries should be made answerable and accountable to people. This was lacking here in the State. Also there should be a provision to submit the report of the appropriate authority to Parliament or State Legislature after every six months, as the case may be.

**SMT. GEETA MUHKERJEE:** In the draft law, there is a provision of an Advisory Committee. Do you think it is enough or do you think that this Committee should associate more organisations for effective functioning?

**SMT. SHAH:** The experience in the State shows that it makes not a much difference. Wider the participation, it becomes a loophole for malfunctioning of these bodies. Earlier we had hoped for participation of voluntary organisations in govt. machinery but we are not really sure today that whether having more voluntary organisations in the govt. bodies alone can serve the purpose. So we are not able to respond to your question of broad-based participation of voluntary organisations. We would like the provisions within the Bill to make general groups, any group which is not a part of voluntary body and individuals are access to information and right to approach Judiciary. There has to be accountability of this machinery to people in general and not to certain chosen representative organisations because that does not work. So a provision should be made to table the report, making the report accessible to people, making it public in newspapers. In fact, your Committee like that can go to various States to find out what is happening.

**SMT. GEETA MUHKERJEE:** That is another subject. We really need dedicated voluntary organisations seriously to be associated with it not by the grace of anybody, but in the body of the law. Otherwise, who is going to be accountable? Public Undertakings Committee is there, Public Accounts Committee is there. Their Reports are placed before the

Parliament all the time. Who is implementing on that? So grass-root people must be associated with it. Whether you can suggest something more than what has been said? I would like to know from you.

**KUM. CHAYANIKA SHAH:** Madam, some more suggestions can be given. You want me to suggest certain conditions for the organisations, who should be present there. I may say that, at least somebody, who has made a public statement about this issue, and who has not been advocating these tests in its past history, such organisations may be associated with this work. These clauses have to be included for everybody. Whether it is Central Supervisory Board or Advisory Board.

**SMT. SUMITRA MAHAJAN:** The organisation should be dedicated to the cause.

**KUM. CHAYANIKA SHAH:** There should be some criteria which debars them from participating.

**SMT. GEETA MUKHERJEE:** They want certain guarantees in the Act itself. That is the point.

**KUM. JAYASHREE VELANKER:** The Committee like the Joint Parliamentary Committee can continue functioning and it can visit various places, States or Centres, to see what is happening there, and publish a report. The publication of such report, and access to this information, even to a common citizen, should be guaranteed. I think, that is very important.

**SHRI MASODKAR:** You mean, it should be a Parliamentary Committee.

**KUM. VELANKAR:** We feel that such process should continue. I request all hon. Members of this Committee that while sending your report, your Committee should make some budgetary provisions for 'Public Awareness Programmes' to be undertaken by the Government. That is very important. Otherwise, Govt. will say that we don't have budget. That aspect is always over-looked.

**The CHAIRPERSON:** In the present Bill, a provision has been made for information, education, and communication. That is one of the objectives.

**KUM. VELANKAR:** There should also be some system for punishment to Government officials, who are failing in their duty. They should be made more accountable.

**SHRI MASODKAR:** Let us go to the Bill, which is before us. I think you have read the Bill. Do you think, the present draft of the Bill achieves the objects, which you are propogating? Should we add something more to it? What is your suggestion? Your case is that the Doctors are indulging in malpractices. A Doctor is a person, an individual. Now, that Doctor may be medically qualified, or medically non-qualified. This Bill does not deal with these cases. Please see Clause 4. I will read it. "Clause 4 (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)".

Do you think that these provisions require more specification? Whether all persons, who do or manage to do all these things should be brought within the network of this Bill?

**SHRI RAVINDRA:** Sir, normally the practice is that, the qualifications of medical practitioners working as Geneticists, or those who are withdrawing samples, and Gynaecologists, plus the infrastructure required for the tests, etc., all these things are given as a part of the rules. I think whatever is given in the rules framed under Maharashtra Act, and more-over, what-ever is given in the Central Government's Expert Committee Draft Bill, that is quite sufficient to begin with. Moreover, clause 4(1) is applicable to any person not only medically qualified doctor clause 23(1) also specifies punishment to doctor—registered medical practitioner or any other person who performs this test. Secondly, Central Supervisory Board has also the authority, and power to make suitable changes, because the technology is advancing, and there may be some problems.

More and more women may be able to under-go pre-natal diagnostic tests and more techniques may be coming. So, Central Supervisory Board has that authority to make various changes. The only point about the Central Supervisory Board is that, it is an Apex Body, and it has to do lot of functions, but without any powers. I think, it is a paradox. Lot of things have been given. But, the powers of Central Supervisory Board have not been specified, which is the biggest lacuna of the Act.

**THE CHAIRPERSON:** Whether the present form of Appropriate Authority is not effective? Whether it requires some changes to make it more effective?

**SHRI RAVINDRA:** I think, powers should be specified because without powers the Committee has no meaning. It has to do lot of functions without powers. The Composition is all right.

**KUM. SHAH:** Madam, it is mentioned that at district level, the departmental Secretary will be responsible. What is the structure of this whole mechanism? People at district level should know, to whom they should approach. The whole structure should be considered after taking into account the proliferation of the tests in that region, and the spread of genetic deformities. We think that, it is quite geographical. The nature of genetics deformities is quite based on the geography of the region. There has to be some studies done to find out what would be the prevalence? I think, in the whole process, we are losing track somewhere. We are talking of detection of genetic abnormalities also, and so public awareness has to be there. It should not be misused for sex determination. The focus of the public awareness campaign should also be on the detection of genetic abnormalities.

**SMT. GEETA MUKHERJEE:** Should there not be any Advisory Committee at district level?

**श्रीमती सरोज दुबे:** इस बारे में जनता में जागरूकता लाने के लिए और इसका प्रचार करने के लिए जिस तरह से परिवार कल्याण के कार्यक्रम में प्राथमिकता चिकित्सा केन्द्र, आंगनवाड़ी सेन्टर्स की मदद ली जाती है, उसी तरह से क्या इस कार्यक्रम के बारे में इनका इस्तेमाल किया जा सकता है?

कु० शाह: इसमें एप्रोप्रिएट अथॉरिटी के रूप में जो भी मशीनरी है, वह स्पेसीफाइड नहीं है।

It is not very clear as to what is the structure of the Appropriate Authority right down to the level of the district?

THE CHAIRPERSON: What is your suggestion? What kind of Authority should be there at district level? What is your opinion?

SHRI RAVINDRA: The Advisory Committee at district level, with the involvement of Voluntary Agencies, is a good idea, provided that some power is given to them. Again, if it is only advisory in nature, it cannot be effective.

श्रीमती सरोज दुजे: एडवायजरी कमेटी में किस तरह के लोग होने चाहिए?

श्री रविन्द्र: सिद्धान्त रूप से हम ऐसा मानते हैं कि सरकारी मशीनरी, डाक्टर्स और वालियन्टर्स इन तीनों का समान प्रतिनिधित्व होना चाहिए।

Almost equal representation is given to three factors, viz. Govt. machinery, Doctors and Voluntary Agencies.

श्रीमती सरोज दुजे: ग्राम सभा स्तर पर या पंचायत के स्तर पर किस तरह के लोग शामिल करने चाहिए?

श्री रविन्द्र: आज की हालत में जिला स्तर तक ही कमेटी बनाना मुमकिन है।

श्रीमती सरोज दुजे: इस प्रकार से यह कानून नीचे तक नहीं जा सकेगा।

श्री रविन्द्र: एडवायजरी कमेटी जिला स्तर तक बने तो पर्याप्त है। इस बात का प्रचार करना है। लोगों को जागरूक करने के लिए क्या करना है, इस बारे में एक अलग नोट एक्सपर्ट कमेटी की रिपोर्ट में है।

श्रीमती चन्द्रिका अभिनन्दन जैन: इसमें 2 अथॉरिटी बनाई गई हैं। एक सेन्ट्रल सुपरवायजरी बोर्ड है और दूसरा एप्रोप्रिएट अथॉरिटी है। दोनों के अधिकार क्षेत्र एक्ट के माध्यम से मालूम नहीं पड़ते हैं। आपको इस बारे में क्या लगता है कि कौन से अधिकार क्षेत्र सेन्ट्रल सुपरवायजरी बोर्ड को देने चाहिए और कौन से अधिकार एप्रोप्रिएट अथॉरिटी को देने चाहिए। दूसरी बात यह है कि कानून के अंतर्गत अपेक्स बॉडी बनायी गयी है पर आपने देखा होगा कि कन्ज्युमर काउंसिल कई जगह पर बनी हुई है। सेन्ट्रल गवर्नमेंट लेवल पर अपेक्स बॉडी रहती है फिर स्टेट लेवल पर भी यह बॉडी रहती है और छेप्टे-छेप्टे लेवल पर भी यह बॉडी बनती है। जहां तक इस कानून का संबंध है इस किस्म की बॉडी का जिक्र कहीं पर नहीं आया है। मैं समझती हूँ कि इस बात को बहुत अहमियत देनी चाहिए। यहां पर इस कमेटी के कम्पोजीशन के बारे में बताया गया है कि सेन्ट्रल सुपरवाइजरी बोर्ड बने जिसमें सेन्ट्रल मिनिस्टर तथा देवी जी चेरमैन बनें, कुछ दूसरे आफिसर्स रहेंगे, 8 दूसरे प्रतिनिधि रहेंगे जिसमें बड़े बड़े डाक्टर्स तथा विमेन वेलफेयर आरगेनाइजेशन से भी दो प्रतिनिधि रहेंगे। दो सदस्य केन्द्रीय सरकार नियुक्त करेंगी जो कि रेटेशन से रहेंगे और राज्यों का प्रतिनिधित्व करेंगे। इस बारे में आपको क्या मत है? मुझे यह कम्पोजीशन ठीक नहीं लग रहा है। यहां पर बहुत सारे ऐसे लोग हैं जिनके पास समय नहीं होता है। कुछ वॉलन्टियर आरगेनाइजेशन ऐसी हैं जिनको इस काम में दिलचस्पी नहीं है। तो मेरा कहना है कि लेडी जर्नलिस्ट हैं जो इस काम में दिलचस्पी रखती हैं, टीचर्स हैं, मेम्बर ऑफ पार्लियामेंट तथा मेम्बर ऑफ लेजिस्लेटिव असेंबली को भी यहां पर स्थान मिलना चाहिए या नहीं, उस बारे में आपको क्या सुझाव है?

कु० शाह: हमें यह कहना है कि सेन्ट्रल सुपरवाइजरी बोर्ड जो बनाया गया है उसके पास पावर नहीं है। It has just advisory powers, it does not have any other powers.

**SMT. CHANDRIKA ABHINANDAN JAIN:** Powers and functions come together.

**SHRI RAVINDRA:** Clause 16 gives functions but no powers.

**The CHAIRPERSON:** Section 25 clause 4 says Appropriate Authority has powers to grant registration. Central supervisory Board is a policy making body to give advice Appropriate Authority is a executing body. So functions includes powers also.

**SMT. CHAYANIKA SHAH:** How does the Central Supervisory Board have any power over the functioning of the Appropriate Authority? Can there be any way by which the Central Supervisory Board has some kind of control over the Appropriate Authority, which is actually the implementing body.

**SMT. CHANDRIKA JAIN:** Implementation of the Act has also to be kept in mind. The appropriate Authority has to be functioned by the Central Supervisory Board. What do you think about the composition part at the district level?

**SMT. CHAYANIKA SHAH:** The Clause says any person who is included should not be associated with these tests. Criteria should be specified in the Act itself. Secondly, about having it at the District level, we think that instead of having representatives of organisations chosen by the Govt. on the committee more power to the Public should be given. The public should be able to make complaints to the Appropriate Authority.

**THE CHAIRPERSON:** That is why the Central Supervisory Board reviews the functioning of Appropriate Authority as and when it requires technical advice etc.

**SMT. JAYA VELANKAR:** But still the weakness remains. As a Common citizen I should have access to information. Any citizen should be able to approach the board and seek information.

**SMT. DIL KUMARI BHANDARI:** In clause it is said a notice of not less than 60 days, is the period more or less?

**SMT. CHAYANIKA SHAH:** We think there should be not time limit.

**श्रीमती सत्या बहिन:** जहां पर अभी तक यह टेक्नीक नहीं है वहां पर भी कुछ "दाई" ऐसी हैं जो यह बताती हैं कि संबंधित महिला को लड़का होगा या लड़की होगी। आप उनको कैसे कंट्रोल करेंगे।

**कुं शाह:** यहां पर हम माडर्न टेक्नालॉजी की बात कर रहे हैं।

**श्रीमती सरोज दुबे:** जिला स्तर पर इस काम के लिए किसको जवाबदार रखें?

**श्री रविंद्र:** महाराष्ट्र में जो अप्रोप्रिएट आथॉरिटी है और विजीलेंस कमेटी हैं उस पद्धति को भी आप अपना सकते हैं। इसके अलावा यहां पर जो कन्जयूमर एक्ट की बात कही गयी वह भी अच्छा रहेगा। क्योंकि उसके क्वासी ज्युडिशल पावर हैं। लेकिन यह भी अनुभव रहा है कि कन्जयूमर काउंसिल कई सालों तक नहीं बनी। उस बारे में भी विचार करना चाहिए। एक माननीय सदस्या का यह सवाल था कि पुरानी पद्धति से लड़का अथवा लड़की पता लगाने की प्रथा है उस पर कैसे रोक लगायी जाए तो उस बारे में हमारा कहना यह है कि इस तरह की प्रथा तो कई सालों से चल रही थी। उस तरह की बात सुनने के बाद कोई औरत अबॉर्शन के लिए नहीं जाती थी लेकिन अब जो माडर्न पद्धति आ गयी

है उसमें 95 प्रतिशत जानकारी सही रहती है इसलिए लोग उस पर ध्यान देकर अब्रेशन करने की बात करते हैं। जो पुरानी प्रथा चली आ रही है उन पर तो कंट्रोल नहीं कर सकते हैं।

**श्रीमती सरोज दुबे:** आप चाहते हैं कि जिला स्तर पर कमेटी बने?

**THE CHAIRPERSON:** The suggestion that he has made, we can discuss it later.

**श्री रविन्द्र:** सेंट्रल सुपरवाइजरी बोर्ड का काम पॉलिसी बनाना है और अप्रोप्रिएट आथॉरिटी का काम रेजमरी की फंक्शनिंग का है। फायनेशियल मेमोरेंडम में स्टाफ इत्यादि के बारे में बताया गया है, लेकिन जो दूसरी बातें इसमें नहीं हैं उन सब पर भी विचार होना चाहिए।

**SHRI RAVINDRA:** The appropriate authority should be answerable to the Supervisory Board. Though the powers are given, there has to be sufficient financial powers also in regard to staff and other expenditure provisions.

**SMT. SARLA MAHESHWARI:** Do you think that even after the regulations and licensing they will continue to do illegal works?

**SMT. SHAH:** Illegally they will continue. But the appropriate authority should be also active in the districts.

**SMT. SARLA MAHESHWARI:** When you are saying of proper regulation and licencing and supervisory Board, do you say that it need not be only in the Government hospital?

**SMT. SHAH:** We are also saying that the private hospitals should not be licensed.

**SMT. SUMITRA MAHAJAN:** Is it that there has to be some kind of appropriate authority in the District?

**THE CHAIRPERSON:** The State Government can appoint by notification one or more appropriate authorities. So even at the District level there can be appointed Appropriate Authorities. That is already provided in the law.

**SHRI MASODKAR:** Here it is a social problem which has to do to with your social psychology. As you say on the one hand there is poverty in our country. In the slum there are ladies who work and have children. Then is there any proper agency to see to it. It is all right to say that you must have a child and don't discriminate it. But then the social organisation is having this type of a burden. Can you suggest as a social organisation at what stage and which agency should come forward to support such poverty—stricken, people so that this tendency will go?

**SWATIJA PARANJPE:** We feel that the technology cannot be the answer to this social problem. Providing the answers by technological use or misuse cannot be there. For this sort of dimension of sorrow or pain cannot be changed by technology. That is why we say that it is not possible to answer the social problems by providing some particular techniques.



There we have certain expectations from this Committee. We feel that the Committee should make some efforts to record the data on the working of these 19 centres that were given licenses under Maharashtra Act.

FAMILY PLANNING ASSOCIATION OF INDIA

Smt. Avabai B. Wadia, President

Shri E.S. Lala, Secretary-General

Shri P.S. Sadhale, Director, Branch Management.

**THE CHAIRPERSON:** I welcome the President of FPAI and her colleagues here at this meeting. I request her to submit her valuable views and suggestions if any to the Committee.

**SMT. A.B. WADIA:** In the first place, sex selection is very derogatory to the female sex and it is also unjust, unfair and should be treated as illegal as far as possible. There are cases we know that in a family there may be 5-6 girls and the parents may wish to have a son which can be a normal desire. But since they have these girls, they should accept the reality. Especially it is not a mothers, fault as to the child's sex. People imagine, especially in traditional families, that it is the mother who is concerned with the sex of a child which is an absurdity scientifically—it is the father's X chromosome. Thus this is a new kind of attack on the status of women. Although the Constitution has given us equality, but as you know the reality on the ground is quite different. Therefore, we should do everything in our power to see that this sort of treatment is not given to women. Very often it is not a woman who is concerned but her relations force her into this. So there could be a punishment for the relations who induce her to have these kind of procedures—and these procedures are not harmless. Apart from the purely medical side, on the social side we feel that this type of a Bill is necessary. We also feel that an Act in itself is not going to eliminate such evils. Like other social legislation, it is really education and inculcating consciousness about family responsibilities, that can be a proper way to deal with it. But a Bill of course can always support those who are for fair action and justice.

**SHRI SALUNKE:** The expert Committee can of course go through the papers there. The Central Government Expert Committee Report and even from the report of this Committee one can perhaps have some idea of the position in Maharashtra and Gujarat.

**THE CHAIRPERSON:** We place our deep appreciation for you efforts and concern and tremendous awareness to this great social cause.

We thank you very much for your valuable participation.

**SHRI RAVINDRA:** Thank you. We will give you a note which we have now.

**THE CHAIRMAN:** Thank you all.

To that extent the Bill would be useful. This is our general view. The other thing is that, where the question of the arupetic abortion is involved, that should not be disturbed, because with a great deal of thought and consideration, the M.T.P. Act has been passed, and that should not be disturbed in any way. But one thing is that, the Abortion Act, also sets out a few conditions under which it is allowed. They are so liberal, and rightly so, that you can always find some condition that will fit the case. Technically, it is illegal to have an abortion to avoid a female child but people can always find one or the other reason for doing it. That is something, we can't help.

**SHRI B.A. MASODKAR:** Madam, your colleague may like to say something.

**SHRI E.S. LALA [Air-Vice Marshal (Retd.) ]:** Madam, I support, whatever our President has said. When this pre-natal diagnostic technique is used to select the female foetus for abortion, just because it is a female, it tantamounts to a kind of medical mal-practice, and it is wrong in terms of ethical, social, legal, and humanatarian grounds. Now, in India, it is estimated that only 3 to 5% of new borns have genetic dis-orders. Therefore, it is comparatively rare that Amniocentesis and other procedures are needed, unless there is some family history, or other medical grounds.

**SMT. GEETA MUKHERJEE:** I think, you have already seen this Bill. Do you think that this Bill will answer the problems, which you have stated, balancing from both the sides? If not, what are your further suggestions?

**SMT. WADIA:** Well, as I said, this is really a social measure, and the law can only work "thus far and no further". But, at the same time, if something is really illegal under the Law, those who want to work for better social conditions can be supported by the law. We have seen that in the cases of Dowry Act and other Acts, it all goes by default, because social consciousness has not been raised. So here, we need to raise the social consciousness of people, about this, and at least, those medical people who are more conscientious will not go for these tests, if they find that it is illegal. So, to that extent, it will help.

**SHRI B.A. MASODKAR:** Madam, what is your experience about the Law of Maharashtra on this subject?

**SMT. WADIA:** We are not much in touch with that, because in our Association, we don't handle this matter. But, I was asking others about this Act, and I understand that a certain number of cases have been done.

**SHRI B.A. MASODKAR:** You see, only three complaints about violation of the law were received by the Government, since the law was passed.

**SMT. WADIA:** But, how any procedures were done?

**SHRI B.A. MASODKAR:** About 1800 procedures were done, but for the violation of law there were only 3 complaints.

**SMT. WADIA:** But, we have heard that thousands of cases were being done, and people came to Maharashtra as far as from Bihar, in order to get their procedures done. Certainly, the provisions to prohibit advertisements of any kind will be very useful. I think, that is a very strong point, which should be enforced very strongly. I think, not only the persons, who want to do it, should not be allowed to advertise, but the publishers of the advertisements should also be brought into the net. If you put advertisements in the newspapers, the newspapers will say, well it is an advertisement, and we have nothing to do with it. We don't know anything. Therefore, the publishers should also be brought into the net.

**SHRI B.A. MASODKAR:** That is a criminal offence.

**SMT. WADIA:** They may issue hand-bills. The Act should see that such things should not be done.

**SHRI B.A. MASODKAR:** What exactly your Association is doing on this aspect?

**SMT. WADIA:** Well, as I said, we are not concerned with doing this procedure.

**SHRI MASODKAR:** What your Association is doing to create awareness on this aspect?

**SMT. WADIA:** We do certain work on human sexuality. We give sex education, especially for young people and that extends to giving them right information and trying to create right attitude against sexual diseases, against AIDS, and this too would be a part of that kind of counselling.

**SHRI E.S. LALA:** I may add that actually we are giving wide-spread publicity in our programmes also that the sex chromosome 'X' comes from the male and not the female, and it is the male, who is genetically responsible for the sex of the child. Now, this information is given in all our programmes. We also say that public opinion should be built up against selective female foeticide by whichever way. So, all these are the items of our various programmes like family life education, sex education counselling, research and therapy clinic, and other programmes.

**SMT. SARLA MAHESHWARI:** You said that, in India the percentage of genetic abnormalities in new born babies is only 3 to 5%. Would you prefer that these Genetic Tests should be confined only to the Government Hospitals?

**SMT. WADIA:** Well, I think, I have a little variation on that point. It would be best, if it is done in the Govt. Hospitals. But, it may not be possible all over the country. If there are Gynaecologists of proven standing, and if they are running their clinics with all the facilities, they

may be allowed. I think, few private Gynaecologists should also be allowed, especially in areas where there is no access to Government Hospitals.

**SMT. SARLA MAHESHWARI:** As you said that in India, the percentage of genetic abnormalities in new born babies is 3 to 5%. I think, Government has efficient infrastructure to do these tests, and Govt. will be able to do it. Private Clinics will be misused.

**SMT. WADIA:** Suppose, they do not have access to Government Hospitals, then what will happen? I am a little hesitant about this, unless you select a private clinic with a great deal of care.

**SMT. DIL KUMARI BHANDARI:** As you have said that the MTP is for the family planning purpose. Don't you feel that this is also being used for indulging in selective female foetus? Have you come over any evidence about this?

**SMT. WADIA:** We perform MTP according to Act and Regulations. So far we have never come across this kind of case. Not to our knowledge, unless somebody has concealed it very cleverly. MTP done is about 20 thousand, which is not very much considering that we have 160 clinics.

**SMT. DIL KUMARI BHANDARI:** I am also for it. It is for the control of family in Family Planning. I was concerned whether this was misused.

**SHRI E.S. LALA:** One thing is that we never advocate MTP as a measure of contraception. We carry it out as per the law.

**श्रीमती सरोज दुबे:** आपने बताया है कि महाराष्ट्र में यह एकट लागू होने के बावजूद भी गर्भजल परीक्षण के टेस्ट हो रहे हैं। आपके रय में इस कानून को प्रभावकारी किस प्रकार से बनाया जा सकता है?

**SMT. WADIA:** In Maharashtra the Act was in 1988. So it is very early to come to any conclusion. And it is mostly done in Govt. centres and we are not very much aware of it.

**श्रीमती गिरिजा देवी:** आपने सोशल कॉन्सस के बारे में कहा है तो इसके लिए कुछ योजना, कुछ कार्य क्या आपके मन में है?

**श्रीमती वाडिया:** योजना तो नहीं है, लेकिन "स्टेट्स ऑफ वुमन" के बारे में अलग से काम करना चाहिए।

It seems to me that at the time of India's independence and after independence there was a greater desire to bring up the status of women and to get rid of their disabilities than you find today. I can't explain this because I have not done any research. But, at least in the earlier days there was a good deal of public opinion being built up to bring women forward. It seems to have subsided. Also politics have become difficult than the earlier days. It's not just Politics, I think that evils are being exposed more or the oppression and depression of women is growing. We really have to do something about it. I am strongly of the view that

the status of woman has to be improved faster. Why family planning is so important is that if women are given access and knowledge to practice family planning and are allowed to do it without family constraints, the family planning programme would move much faster. But as it is, even if the women have the knowledge and access they do not have any encouragement, so we find family planning is also a difficult programme to promote.

**SHRI SHARDA MOHANTY:** Have you anything to say about the Punishment clause? To whom punishment should be given?

**SMT. WADIA:** Yes, you give it to the people who commit this, you give it to the person who does it. But what about the pregnant woman? Sometimes the woman is forced into it. Even if she is forced into it, she is forced to say that she wanted it. Little bit of fine is okay to her, but not imprisonment because already she is poor pregnant woman. I think this should be our point of view.

**The CHAIRPERSON:** What is your view about allowing ultrasonography facility in private clinics, hospitals?

**SMT. WADIA:** I think that with care and caution it may be allowed in some institutions. It is a very tricky point and on the other hand, if you disallow it totally there will be doctors who will defy the law. Perhaps it is better that a good selection of gynaecologists is made who can be entrusted to carry out according to the procedures properly and not reveal the sex of the foetus. This procedure can be carried out to detect genetic abnormalities, but there is no reason why the doctor should inform the patient about the sex of the foetus.

**SHRI MASODKAR** It means according to you there should be ban on private doctors.

**SMT. WADIA:** Yes, they should not disclose the sex of the foetus.

**THE CHAIRPERSON:** So, you are of the view that tests should be there but the sex should not be disclosed.

**SMT. WADIA:** Tests should be there but prohibition on the doctor not to disclose the sex should be there. If you see, they may go through the procedure because there may be some history of some medical defects in the family. For that whether they go to private hospitals or government hospitals is of not concern to them. If there is some defect and due to that there may be some effect in the family due to the abnormalities as there are persons exposed to sex-related, haemofolia, haemafelia and all like that, they may have the tests; but there would be a total ban in disclosing the sex of the child.

**SHRI E.S. LALA:** The centres should be carefully chosen; for clinical reasons the tests will be doing; but even then there would not be disclosing of the sex. After carefully choosing the centres should be registered.

**THE CHAIRPERSON:** That is in the Act.

**SMT. WADIA:** When you pass the Act you must really have an extensive educational campaign.

**SHRI MASODKAR:** That will depend upon you as you are such a celebrity in this field.

**THE CHAIRPERSON:** The Family Planning Association of India is a multi-State agency with educational projects of importance in this field. You have been taking a lot of care on the improvement of women etc. in connection with family planning and status of women.

**SMT. GEETA MUKHERJEE:** So I believe as the Hon. Chairperson and all of us would also join in it, as part of it in your agenda you particularly focus all these aspects.

**SMT. WADIA:** Yes, we will be very happy to do that. We are trying for a higher quality of life. Now as it is the census ratio in the 1990-91 Census reveals that it has gone down four or five points since the last census, as 928. In developed countries the sex ratio is the opposite. To have more women than men is a healthy way because biologically women are stronger. Because there is so much ignorance of girl child and people have said they were against this Bill. If there is already a family with two or three girls and on the top of it you bring another girl then you have to be very careful in the matter. This is one of those cases where you have to bear with it and actually what has to be done is after 3 or 4 children they should practise family planning strictly whether it is a boy or a girl.

Now may I thank you all.

**THE CHAIRPERSON:** Thank you very much for accepting our invitation and really coming all the way and participating in this discussion here.

**SMT. WADIA:** Thank you.

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*(The Committee was adjourned at 12-35 P.M. till 3-30 P.M.)*

**(AFTER LUNCH BREAK)**

**THE CHAIRPERSON:** On behalf of our Joint Select Committee, I welcome Smt. Mrinal Gore who is a leading personality associated with various social movements and hence need no introduction. Knowing your interest and commitments to the various social causes, we, the Committee Members are very eager to hear your views on the subject of female foeticide, pre-natal diagnostic techniques. The Committee extends you a warm welcome and its appreciation for appearing before the Committee. We are sure your views will assist us in formulating the law. I request Smt. Mrinal Gore to express her views.

श्रीश्रुती मृगाल गोरे: अध्यक्ष महोदया, आपने जो कुछ मेरे बारे में कहा उसके लिए आपका बहुत-बहुत धन्यवाद, मैं आप सबको इस बात के लिए भी धन्यवाद देना चाहूंगी कि जब एक बहुत ही महत्वपूर्ण विषय के बारे में हम कानून बनाने जा रहे हैं तो इस समिति ने यहां पर आकर ओरल एविडेन्स लेने का फैसला किया।

इस संबंध में महाराष्ट्र राज्य एक ऐसा राज्य है जिसने पूरे भारतवर्ष में कानून बनाया है। जब मैं यहां पर एम०एल०ए० थी तो उस समय मैंने इस संबंध में एक पब्लिक बिल सदन के सामने विचार के लिए रखा था। महाराष्ट्र सरकार ने इस बात को रिसर्प्स देकर सरकार की ओर से इस बारे में कानून बनाने का फैसला किया।

मैं कहना चाहूंगी कि यह टैकनिकल सब्जेक्ट है और जो मेडिकल साइंस के लोग हैं वे इस बारे में ज्यादा सुझाव दे पायेंगे। मेरे जैसे एक सामाजिक कार्यकर्ता का तो इस समय भी यही इन्टरेस्ट था और आज भी यही है कि फीमेल फीटिसाइड जो होता है यानी महिलाओं को इस दुनिया में आने से पहले ही खत्म करने की जो साजिश चल रही है उसको रोक जाये।

महाराष्ट्र का कानून बनने के बाद हमें अफसोस के साथ कहना पड़ता है कि सन् 1988 में यह कानून बना लेकिन ऐसा महसूस नहीं हो रहा है कि इस संबंध में हमने कोई खास प्रगति की हो। मैं यह बात जानती हूँ कि यहां पर विजीलेंस कमेटी भी है लेकिन उसकी वजह से इस काम पर रोक लगी हो, ऐसा महसूस नहीं हो रहा है। महाराष्ट्र में कानून बनने के बाद यहां के कुछ लोग "वापी" जाकर इस तरह के टैस्ट करवाने लगे। यह वापी नाम की जगह गुजरात राज्य में है जो कि बम्बई से बहुत ही नज़दीक है। मुझे यह भी कहना है कि आज अल्ट्रा सोनोग्राफी बहुत कॉमन को गयी है। कई मेडिकल कार्यों की वजह से यह अल्ट्रा सोनोग्राफी आज होती है। लेकिन अल्ट्रा सोनोग्राफी और एमनीओस्टेसिस का कोई संबंध नहीं है। और ज्यादा तो इस बारे में डाक्टर ही बता पायेंगे। लेकिन अल्ट्रा सोनोग्राफी करने वाले जो लोग हैं, जो क्लिनिक हैं वे फ्ल्यूइड एक्जामिन करने का भी काम कर रहे हैं।

मैंने आपका बिल भी पढ़ा इसके सेक्शन 4 में बताया गया है कि किन स्थितियों में डॉयग्नोसिस करने की इजाजत रहेगी। लेकिन असल में यह सब काम सेक्स डिटरमिनेशन की वजह से ही हो रहा है। सेक्स देखकर ही अबॉरशन किया जाता है। फीमेल फीटिस का ही अबॉरशन करवाया जाता है। इसलिए इस बारे में कुछ अलग से व्यवस्था की जानी चाहिए।

- (i) chromosomal abnormalities;
- (ii) genetic metabolic diseases;
- (iii) haemoglobinopathies;
- (iv) sex-linked genetic diseases;
- (v) congenital anomalies;

ऊपर लिखी हुई अंबनॉर्मलीटीज हैं और यदि फीमेल फीटिस है और अबॉरशन करना पड़ रहा है तो उसकी स्पेशल रिपोर्ट की जाए और स्पेशलिस्ट के जरिए उनको एक्जामिन करना चाहिए। जिससे कि पता चल सके कि वास्तव में अबॉरशन की जरूरत थी या नहीं थी। इस बारे में स्पेशलिस्ट ही कुछ कर पायेंगे, ऐसा मुझे लगता है। एक बात मुझे यह भी कहनी है कि इस प्रकार से चैक करने की व्यवस्था, एक्जामिन करने की व्यवस्था यदि सिर्फ सरकारी अस्पतालों में ही हो तो उन पर निगरानी रखना मेरे ख्याल से ज्यादा आसान होगा। जहां केवल अल्ट्रा सोनोग्राफी होती है, वहां इस तरह का बोर्ड लगाए कि यहां पर अल्ट्रा सोनोग्राफी और सेक्स डिटरमिनेशन का कोई संबंध नहीं है, तभी इसे प्राइवेट सेक्टर में एलाउ करें। एंब्रॉमलटीज के मामले तो बहुत कम रहते हैं। इसके लिए तो सरकारी अस्पतालों में

जांच करना संभव होगा। मुझे ऐसा लगता है कि यदि एक बार प्राइवेट क्लिनक्स में इसको एलाउ कर दिया तो फिर वहां चैक रखना बहुत मुश्किल होगा। मेरी सूचना है कि यहां जो एक्ट में रजिस्टर्ड प्राइवेट क्लिनक्स को परमीशन दी है, वह नहीं देनी चाहिए। यह केवल सरकारी अस्पतालों में रहनी चाहिए। अल्ट्रा सोनोग्राफी को अलग करके इसका सेक्स डिटरमिनेसन से कोई संबंध नहीं है, ऐसा बोर्ड लगाएं, तभी अल्ट्रा सोनोग्राफी को एलाउ करें। ऐसा कई डाक्टर कहते हैं।

**SMT. GEETA MUKHERJEE:** You want a sign board to be put up in the Government Hospitals also.

**SMT. MRINAL GORE:** It is not necessary. Private Medical Clinics should be allowed to do ultra-sonography, but not amniocentesis tests. Wherever ultra-sonography is done at such places board should be put up. I want these amniocentesis tests to be carried out in Government Hospitals only. That is my suggestion.

यदि यह बात समझ में आई कि कहीं पर गलत काम चल रहा है तो आपके इस बिल में ऐसी कोई बाँड़ी दिखाई नहीं पड़ रही, जिसके पास में पावर्स हों, वह केवल एडवायजरी तरीके से है। इस बाँड़ी में एक तरफ तो ऐसे लोग होने चाहिए जो मेडीकल साइड से हों और यह टैस्ट नहीं करते हों और दूसरी तरफ इसमें ऐसे लोग होने चाहिए जो सामाजिक कार्यकर्ता हैं और उन्होने इसके बारे में काफी मेहनत करके अध्ययन किया है। बम्बई शहर में तो मैं जानती हूँ कि "फोरम अगेन्स्ट सेक्स डिटरमिनेसन एंड सेक्स प्रि-सलेक्शन" और "फोरम अगेन्स्ट ऑप्रिजन ऑफ वूमन" ये संस्थाएं कार्य कर रही हैं। इसमें श्री इनामदार जैसे डाक्टर्स भी शामिल हैं। ऐसे लोग इस पर रहें जिन्होंने इसके ऊपर सामाजिक रूप से विचार किया हो, काम किया हो तो ऐसे मामले चैक करने में ज्यादा आसानी होगी, ऐसा मुझे लगता है।

In fact, I would like to mention about one Mr. (Dr.) Bal Inamdar. It would be better, if you call him tomorrow, because he would be able to help you in this subject. When I moved that Bill, I found that he was very useful, very knowledgeable. He has his own Maternity Home, and he knows everything about this subject.

हम सब लोग जानते हैं कि सोशल लेजिस्लेसन को लागू करना मुश्किल होता है जब ऐसा कायदा बनना शुरू होता है, तभी से इसमें लूप-होल्स ढूँढने शुरू हो जाते हैं। इसके लिए लोगों में पब्लिक अवेअरनेस होनी चाहिए। इस क्षेत्र में हम लोग बहुत पिछड़े हुए हैं। जहां महिलाएं शिक्षित नहीं हैं, यह सब समझना बहुत मुश्किल है। लेकिन पब्लिक अवेअरनेस का प्रोग्राम हाथ में लेने के सिवाय इस बिल का कोई उपयोग नहीं होगा। ऐसा मुझे लगता है। हम महाराष्ट्र में 1988 से देख रहे हैं। मैंने महाराष्ट्र सरकार की रिपोर्ट देखी है, उसमें ज्यादा केसे सरकारी अस्पतालों में ही है, जैसे जे०जे० हॉस्पिटल, बॉम्बे हॉस्पिटल इत्यादि। प्राइवेट क्लिनक्स में बहुत कम केसे है, पूरे साल भर में 25 या 30 केसस हैं।

मेरा स्पष्ट विचार है कि सरकारी अस्पतालों में ही यह सुविधा प्रदान की जाए। प्राइवेट में नहीं। इसके ऊपर रोक लगाने के लिए विजिलेंस कमेटी का प्रभावी होना आवश्यक है। लेकिन सेन्ट्रल एक्ट में इस प्रकार की एक कमेटी होगी तो वह सभी प्रदेशों में जाकर जांच नहीं कर पाएगी। स्टेट के लिए स्टेट विजिलेंस कमेटी अलग से रखनी पड़ेगी और उसको कुछ पावर्स देने पड़ेंगे।



इस बिल में मैंने कितना समझने की कोशिश की है तो अगर इसके बारे में किसी को शिंकायत करती है तो उनको 7 दिन का नोटिस दे दिया। 7 दिन का नोटिस देने के बाद सारे एबीडिस निकाले जा सकते हैं। ऐसा डाक्टरों का ही कहना है। इसलिए कुछ इमंडिएट पावर्स देकर यह काम करना चाहिए।

पेनल्टी का जहां तक संबंध है तो जो महिला इस प्रकार का टैस्ट कराती है, उनके उपर पेनल्टी नहीं होनी चाहिए। मेरे ख्याल से पेनल्टी डाक्टर को होनी चाहिए। आज हम समाज में देखते हैं कि महिलाओं की इच्छा नहीं है, फिर भी कई बार एबोर्शन करने के लिए घर के लोगों द्वारा मजबूर किया जाता है। ऐसी हालत में महिलाओं को पेनल्टी करना ठीक नहीं रहेगा। ऐसा करने वाले डाक्टर को मालूम होना चाहिए कि यह कार्य हमें नहीं करना है। इस बारे में कानून से मनाही है, फिर भी वे करते हैं तो पेनल्टी डाक्टर को होनी चाहिए। महिलाओं को पेनल्टी न करें, ऐसा मुझे लगता है।

जहां तक कोर्ट के प्रोसीजर की बात है तो यदि महाराष्ट्र में इस प्रकार के 2-3 केसस हो जाते तो ज्यादा समझ में आता। 1988 से 1992 तक एक भी कोर्ट केस नहीं हुआ है। केस करने के बारे में कहीं हिचक है, ऐसा मुझे लगता है। किसी एक के ऊपर केस हो जाएगा तो उसका पूरा बम्बई और महाराष्ट्र में असर होगा। इसलिए मैंने कहा कि इसमें जो समाजिक रूप से रुचि रखते हैं, जानकारी रखते हैं, इस प्रकार के लोगों को विजिलेंस कमेटी में रखकर उनके कुछ पावर्स दिए जाएं तो फिर शायद यह रेकने में कामयाब हो सकेंगे। जहां पर इस प्रकार के मामले हों, उनकी रूंग पब्लिसिटी होनी चाहिए। एक बात मुझे यह कहनी है कि एकट के इम्प्लीमेंटेशन की रिपोर्ट पार्लियामेंट के सामने आनी चाहिए, और पब्लिक के सामने भी आनी चाहिए ताकि सबको पता चल सके कि क्या काम इस बारे में हो रहा है? सोशल वर्कर्स को भी इस बारे में दखल देनी चाहिए और रिपोर्ट पब्लिश करने के बारे में भी कुछ किया जाना चाहिए, ऐसा मुझे लगता है। कि मुझे यही कुछ बातें खासतौर से कहनी हैं।

**श्रीमती सत्या बहिन:** यदि इस बारे में संबंधित महिला को डंड न देकर यदि उसके परिवार के किसी दूसरे सदस्य को जवाबदार उरहर कर उनमें से किसी को सजा दी जाये तो आपके हिसाब से वह कैसा रहेगा?

**श्रीमती मृणाल गौरे:** आप यह निश्चित कैसे करेंगे? उस संबंध में संबंधित स्त्री को फकड़ों तो आसान है लेकिन घर में उसको किस ने इस बात के लिए मजबूर किया इस बारे में मुझे पता नहीं कि आप इस बारे में कितना कुछ कर पायेंगे? हां डाक्टर को यदि इस बारे में सजा दी जाये तो जरूर कुछ हो सकता है। डाक्टर को सजा करने से आप इस काम को रोक पायेंगे।

**श्रीमती सरला महेश्वरी:** जिन लोगों को इसका दुरूपयोग करना है वे तो ऐसे डाक्टर के पास पहुंच ही जायेंगे जो इस काम को उनके कहने पर कर देगा और इस प्रकार से वे इसका दुरूपयोग कर ही लेंगे। इस प्रकार डाक्टर की कंप्लेंट कौन करेगा?

**श्रीमती मृणाल गौरे:** मैंने कहा कि यदि टैस्ट करने के बाद अबॉरशन जरूरी है और वह फ्रीमेल फ्रीडस है तो उसकी सोशल रिपोर्ट करनी चाहिए और एक्सपर्ट के द्वारा यह बात पता करनी चाहिए कि क्या सही मायने में अबॉरेशन की जरूरत है या नहीं है?

**श्रीमती सरला महेश्वरी :** क्या सिर्फ डाक्टरों पर ही जिम्मेदारी छोड़ दी जाये?

**श्रीमती मृणाल गौरे:** डाक्टरों पर ही जिम्मेदारी छोड़ने की बात मैं नहीं कह रही हूं विजिलेंस कमेटी को इस बारे में देखना चाहिए और समझदार लोग उसमें रहें तथा वे अलर्ट रहें। यदि एक बार यह निश्चित हो जाए कि डाक्टरों की वजह से यह हुआ है तो फिर डाक्टर को सजा मिलनी चाहिए, ऐसा मेरा कहना है।

**श्रीमती सरोज दुबे :** गांव स्तर पर कितन कितन लोगों को विजिलेंस कमेटी में शामिल करना चाहिए। क्या फेक्टिवली प्लानिंग से संबंधित लोगों को तथा आंगनवाड़ी से संबंधित लोगों को इस कमेटी में शामिल करना उचित रहेगा?

**श्रीमती मृणाल गोरे:** उन लोगों को आप इसमें शामिल नहीं कर पायेंगे। क्योंकि वे इस बारे में ज्यादा कुछ समझ ही नहीं पायेंगे। वैसे भी इस तरह के केसीज बहुत कम हैं। महाराष्ट्र में कानून बनने के बाद सन् 1990 में पूरे महाराष्ट्र में करीब 1097 केसीज फिकाई हुए हैं। उसमें से बम्बई के ही जे०जे० हास्पीटल में भेरे ख्याल से करीब 6-7 सौ केसीज हैं। इसका मतलब है कि इस तरह के केसीज बहुत कम हैं। इसलिए प्रार्थमिक सेवा इत्यादि के लोगों को इसमें शामिल करना जरूरी नहीं है। इसलिए मैंने पहले ही कहा कि ये फ्ल्यूइड टैरिफ सिर्फ गवर्नमेंट हास्पीटल में ही की जाये। तभी हम इस पर कंट्रोल रख सकेंगे और फिर्त सभी लोगों को कमेटी में शामिल करने की जरूरत नहीं होगी।

**श्रीमती सरोज दुबे:** गांव में हम कैसे इस पर निगरानी रख पायेंगे?

**श्रीमती मृणाल गोरे:** गांव में देखने की जरूरत ही नहीं है।

**श्रीमती सरोज दुबे :** लोग तो वहां भी आते हैं।

**श्रीमती मृणाल गोरे:** गांव में टैस्ट होने वाले नहीं हैं वे सब लोग शहर में जाते हैं और सिर्फ गवर्नमेंट हास्पीटल में ही यह निगरानी रखनी पड़ेगी।

**श्रीमती सरोज दुबे:** क्या गवर्नमेंट हास्पीटल में गैर कानूनी ढंग से काम नहीं होगा?

**श्रीमती मृणाल गोरे:** इसीलिए उस पर निगरानी रखनी है और इस प्रकार के टेस्ट की इजाजत आप प्राइवेट हास्पीटल में न दें। आप सिर्फ अल्ट्रा सोनोग्राफी की परमीशन ही प्राइवेट हास्पीटल में दें और वहां पर आप बोर्ड लगाएं कि यहां पर सेक्स डिटरमिनेशन से कोई संबंध नहीं है। गवर्नमेंट हास्पीटल में आप एमनीओसेटिसिस की परमीशन दें।

**श्रीमती सरला महेड्यारी:** मृणाल जी आपके महाराष्ट्र का अनुभव बहुत ही निराशाजनक रहा है। यह जानकर हमको बहुत ही अफसोस हुआ कि 4 साल में एक भी व्यक्ति को दंडित नहीं किया गया है। जो लोग विटनेस के लिए यहां पर आए थे उन्होंने बताया कि विजिलेंस कमेटी में एक ऐसी डाक्टर को रखा गया है जिस पर बार-बार अभियोग लगाया गया, आरोप लगाया गया कि वह डाक्टर इस तकनीक का दुरुपयोग कर रही है। मैं जानना चाहती हूं कि क्या कारण था कि इस महिला को दंडित नहीं करवा सके। उन्हा हुआ यह कि इस तरह की खबर अखबार में आने के बाद भी उस महिला को विजिलेंस कमेटी का मेम्बर बना दिया गया।

**श्रीमती मृणाल गोरे:** इसीलिए मैंने पहले कहा कि विजिलेंस कमेटी में कृपा करके ऐसे डाक्टर्स को मत रखिए। ऐसे लोगों को मत रखिए जो इस तरह के टेस्ट करते हैं।

**श्रीमती सरोज दुबे:** इसका प्रमाण-पत्र कौन देगा?

**श्रीमती मृणाल गोरे:** उसका पता चल सकता है।

**श्रीमती सरला महेड्यारी:** गलत आदमी आ सकते हैं लेकिन चेक कैसे किया जाए। सोशल केम्पेन करके भी आप इसको क्यों नहीं हटा पायें? कमनू से भी नहीं हटा पाये।

**श्रीमती मृणाल गोरे:** कमनू का इस्तेमाल करके हटाना तो मुश्किल था। इसलिए उन्हीं लोगों को कमेटी में रखना चाहिए जो इस तरह का काम नहीं करते, यह शर्त ही होनी चाहिए।

DR. (SMT.) DAHANUKAR (K.E.M. Hospital—Member, State Vigilance Committee): Madam Chairperson, after having accepted that it is a socio-medical problem, education of public about the gender equality is most important in this issue. Myself and another Sr. Doctor and a Member of the Vigilance Committee, Smt. Indumati Parikh, who has just left, have the same views. We feel that all cases of 'Amniocentesis' & 'Chorionic villi sampling' should be notifiable operations, and each report, when it is carried out, whether in a private or public institute; must mention the gender of the foetus. It should also mention names of the parents, their addresses, number of children and their gender again. How many are males and females? Later on, if the pregnancy is retained, the result of the pregnancy, and this notification must be done within 10 days of having performed the genetic tests.

DR. MRDULA KOTHARI (Shraddhaniand Mahila Ashram): Madam Chairperson, I have mentioned all these things in my letter dated 26th December, 1991. All these tests should be notified and the notification itself would be a control. It is very difficult to have any kind of control. Now, we have a Central Body and Local Bodies to monitor these tests. We have to appoint experts on these bodies. In this, we should have Governmental control, and Government should handle and regulate the inspection. But, the experts will do the physical verification of the records. So, these experts should be very senior and well established Geneticists or Gynaecologists, so that, they have no more charm for money, name and fame. They already had all these things. Therefore, they will be able to give more justice to the monitoring aspect, because implementation of the Act is the main part. When we have an Act, and if we cannot implement it, it is futile. To be able to implement it, we have to think of Local Monitoring Bodies rather than Central Monitoring Bodies. In the case of a city like Bombay, where there are most number of such Genetic Clinics, Laboratories, etc., on the Local Monitoring Body, we have to appoint senior persons, and these senior persons should be well established, famous persons. Now, these people will not be doing these inspections, if they are not offered very good remuneration for this work. It is, therefore, very important to give them very good remuneration.

Madam, ours is a Women Welfare Organisation. I cannot say anything more from medical aspect, though I myself is a medical person. I am only talking from welfare point of view. Female foeticide itself is deplorable and it should be banned. But these genetic tests are very important aspects of medical investigations, especially in to days time. We should not be having a feeling of distress for them. We should give them their due respect. The format for notification should be very small but comprehensive and worth-while, so that it is not very difficult work to do. Otherwise, people will lose interest in it. You know, half of the questionnaire remains unfilled, and nobody bothers to look into it. So, the questionnaire or the format for notification should be very small, but it should be comprehensive. This is what I would like to say. Thank you.

DR. LATA MEHTA (State Appropriate Authority): Madam Chairperson, I think, taking into consideration what the two previous speakers have said, there are few points on which I would like to give explanation. Now, we are dealing with this Act in Maharashtra, and we have lot of teething trouble, which is very natural, because the particular technique is based on specially social, economic, and cultural basis. Now, taking into consideration 3-4 points, which we have come across, we feel that, we will be able to solve these problems. Some hon. members have asked about the question of awareness among the people. Secondly, they have raised a point about the expertise available into this field, and thirdly they have enquired about the monitoring of the system, which is the main and major stumbling block for us. I would like to talk on these three things.

The first thing is that, we must realise that today the Genetic expertise is much less even all over India. Only very few people are there. Unfortunately no degrees in any Universities in India for getting expertise in Genetics. Fortunately, in Maharashtra, we are happy that we have a lot of expertise concentrated into this area. So, it will be very difficult to say at this moment, who should do it and who should not do it? The important thing is, whether he will be able to monitor the private people, and whether he can monitor the Govt. people better? I think, on that basis this problem has come, but we must remember that experts in Genetics are much much less than any other super speciality available here.

So, one has to be very careful when one says that non institutional people should not be in it. Some kind of monitoring of tests should be done. Awareness amongst the people has to be there. Unfortunately, the major benefit of the genetic investigation has been by-passed, this again has got social implications. The whole genetic investigation is not sex determination. From the social patterns, people concerned have emphasised and concentrated only on the sex determination and this is unfortunate thing. Those in social organisations have to come forward and go with the Doctors hand in hand to tackle this problem. Secondly, the same quantum of co-operation from the social gathering and the Govt. has to come for public awareness. We have only one person who has got the personal contact with the people and he is a social worker. He has to be given expertise on what kind of awareness he has to bring. The academic part of it has to come from the Doctors. Doctors has to spell out the language, what has to be done. The third thing to solve the problem is monitoring. Monitoring can be done by private genetic clinics, Govt. institutions or Govt. recognised institutions, but monitoring is a must. The next thing is how to monitor this system. Unless we have a creation of monitoring cell, which has got lot of financial implications, it will be very difficult to monitor. The other method can be that to go through the letters written by the Public in newspapers or to us or even a phone call can go directly to the police, as any other type of case go. The police can

then refer these cases to the Govt. or to the Appropriate Authority where experts can sit, talk, analyse and advice on the necessary action to be taken. And if there is any other monitoring system I would be happy to know about it. I know to create a new monitoring system will require a lot of finance. If we have the money and we do it, it will be very much welcomed.

Thank you.

**SHRI NILESH RON:** I propose to put forth my views on the pre-natal diagnostic techniques.

In my opinion, this is a big leap for science and has tremendous potential for the welfare and the betterment of the country. Every issue has a darker side to it and it is our responsibility to look at the positive side too and see if the advantages outweigh the disadvantages.

I understand that Amniocentesis may lead to female foeticide but I feel that the advantages that I am going to enumerate below far outweigh this disadvantage. Besides, I feel that morality should never be allowed to supercede science. If delicate matters like this are not handled in proper manner, it might hamper the development and the progress of the entire nation. This can be better understood through an analogy-use of nuclear power. Before the construction of nuclear power plants, there was strong opposition from many people saying that it might lead to explosions, health hazards etc. But, all the safety measures adhered to, the possibility of such fears materialising is reduced to a near zero level. But the brighter side indicates that this sources of power in a few years would become very important & indispensable when all the other resources like coal, petrol etc. get exhausted.

In the same way through massive educational programmes, the citizens of our country can be enlightened about the positive side of these pre-natal techniques & enforce strict law, if necessary, against the possible misuse of such technique.

The number of advantages of these techniques are enumerated below Transabdominal amniocentesis in combination with ultrasonography is the most widely used technique for pre-natal diagnosis. This can be used for detecting genetic disorders and hence selection abortion can be done wherever possible. This would save the child from living the life of a vegetable and in the same case treatment of many genetic disorders can be done by various methods as follows. Replacement of deficient enzyme, protein etc. viral therapy, preventice therapy, surgical removal of diseased tissues, transplantation of normal tissues. The other advantages are verifying whether the foetus is alive, determining the gestational age by measurement of the foetal head size, diagnosing multiple gestations, determining placental and foetal positions, detecting gros foetal malformations such as anencephaly or placental malformation such as hydratid mole. In view of all these advantages I would rather support the

use of these pre-natal techniques. Now, I would like to present some statistics: To rule out the risk of down's syndrome, for the age of women who are 35 years or more, the removal of down syndrome for a female in her twenties. At 35 years of age increase to 1 in 350 & 1 in 100 at 40 years and at 45 years 1 in 40. Other heritable chromosomal abnormalities for which one of the parents is a carrier. When the mother herself is a carrier in X-linked disorder, the male foetus carries a 50% risk of being affected. When the family has a neural tube defect, in such case when the first child has a neural defect the risk of 2nd child having it is 1 in 25 i.e. 4%

Amniocentesis can help to detect foetal lung maturity by measuring the lecithin/sphingomyelin ratio and also by light absorption by the amniotic fluid at 650 ml. Foetal haemolytic diseases can be detected by measuring the bilirubin level. It also feels the presence and intensity of these diseases. Kidney maturation can be detected by measuring the creatinin level in the amniotic fluid. Relieved maternal distress in hydramnios in excess of fluid cases. It can be used before intrauterine transfusion in erythroblastosis foetalis. Detection of malformation in testing like siamese, congenital absence of kidney or lungs....

**THE CHAIRPERSON:** What we want to know is of your views about the use or misuse of this technique and how to regulate and how to prevent so that we can make this Bill more effective.

**SHRI NILESH RON:** Since there are several advantages in this prenatal diagnostic techniques I would say that it is advisable to carry out this technique. I feel that these techniques should not be left to be carried out in private hospitals because these techniques are misused in private hospitals and I think it will be better to carry out them in public institutions.

**THE CHAIRPERSON:** Thank you very much for coming before us here today and giving your views.

**श्रीमती निलिमा आहरे** [सामाजिक कार्यकर्त्या, कलवण ता०, जि० नाशिक, पंचायत समिती सदस्य]: महोदया, ग्रामीण भागात मी० सामाजिक कार्य करते। ज्याप्रमाणे गर्भजल परीक्षा ही शहरी भागात आणि संपूर्ण भारतात एक समस्या होऊन बसली आहे, त्याप्रमाणेच ग्रामीण भागापर्यंत देखील या समस्याचं लोण पसरलेले आहे। फक्त आमच्याव परिसरपुरता विचार करावयाचा झाला तर मला असाही अनुभव आलेला आहे की, हे लोण अगदी झोपडीतील गरीवांपर्यंत पोहोचलेलं आहे। गर्भजल परीक्षा करून घेण्यामागे प्रामुख्याने दोन कारणे आढळून आली होती। पहिले म्हणजे गर्भजल परीक्षा स्त्रिया करून घेतात, गर्भजल परिक्षेत मुलीचा गर्भ असल्याचे आढळल्यास यचा नायनचाट केला जातो। त्याच्या पाठीमागचा उद्देश त्यांच्या दृष्टिने असा की, मुलीला हुंडा द्यावा लागतो। हुंडा ही समस्या समजून मुलीचा गर्भ असल्यास त्या ठिकठिकाणी गर्भपात केला जातो। दुसरी गोष्ट अशी की, मुलगाच कुलदीपक होऊ शकतो व घराचा वारस मुलगाच होऊ शकतो, मुलगी होऊ शकत नाही हा त्यांचा गैरसमज आहे आणि म्हणून त्या ठिकठिकाणी गर्भजल परीक्षा करून गर्भपात केला जात असतो। परंतु अलीकडे ज्या वेलेला मी सराउंडींगचा अभ्यास करते त्या वेलेला माझ्या असे निदर्शनास आले की, खेड्या-टेड्यातून देखील

आता स्त्रिया खूप जागृक व्हायला लागल्या आहेत। म्हणजे पूर्वीची एक जी धारण होती की, कुलदीपक फक्त मुगाच होऊ शकतो, ती ब-याच अंशी कमी झालेली आहे। आमच्याकडे अगदी अलीकडे मुलींनीसुद्धा बापाच्या आणि आईच्या प्रेताला खांडा लावलेला आहे। पाहिजेतर मी त्यांची नांवं देऊ शकते! बागलाण, कलवण, मालेगांव या तिन्ही ठिकाणी मुलींनी खांडा लावला आणि आता वडिलांना पाणीदेखील दिलेले आहे आणि आपण हुंडा हुंडा घे म्हणतो, तर हुंडा तर हुंडा ही समस्या फक्त जो प्रतिष्ठीत समाज आहे त्यांनी निर्माण केलेली आहे आणि त्यामुळे गर्भजल परिक्षेची जी समस्या आहे ती वरच्या वर्गात प्रामुख्याने दिसून येते। कारण गरीब लोक म्हणतात की, जी मुलगी आपल्या पोटात सामावली गेली आहे ती ताटातदेखील सामावली जाईल, आणि मग गर्भजल परिक्षा करण्याकरिता नाशिकपर्यंत किंवा आणखीन तालुक्याच्या ठिकाणी कशाला जा? आपल्याकडे पैसा नाही म्हणून गरीब वर्ग या भानगडीत पडत नाही। जास्तीत जास्त जो उच्चमू समाज आपण समजतो आणि जे स्वतःला प्रतिष्ठीत समजतात त्यांनीच या समस्येचे लोण जास्त पसरविले आहे। पण त्यामुळे समस्या खूप निर्माण झालेल्या आहेत। हल्लीसारखं ते वाढत चालल आहे। परंतु तरीदेखील आपण खेड्यातून कायदेशीरीत्या काय करू शकतो? आता अनधिकृतपणे गर्भपात करणारे डॉक्टर आपल्याला खेड्यातूनही काही ठिकाणी दिसतात। त्यांची प्रेक्टिस खरोखरच कायद्याने बंद व्हायला पाहिजे। दुसरी गोष्ट म्हणजे हुड्याचा प्रश्न आहे। ज्या ठिकाणी खूपच पैसा वगैरे लग्न होते त्याला प्रतिष्ठा समजली जाते। ज्या ठिकाणी जेव्हा गरीब घराण्यातील मुली जातात तर त्यावेळी त्यांना सहाज वाटते की आपलेही असे लग्न व्हावे किंवा तेथे दुस-याही मुलींचे गरीब बाग असतात त्यांनाही असे वाटते की। आपणही आपल्या मुलीचे लग्न अशा रीतीने घाटात करावे। म्हणजे त्या ठिकाणी लग्नाला आलेल्या मुलीच्या मनात आणि मुलीच्या बापाच्याही मनात न्युगंड निर्माण होते। म्हणून जे स्वतःला समाजसेवक समजतात किंवा समाजाचे जे पदाधिकारी आहेत। उदा० आमदार, खासदार आणि आमच्यासारखे समाजसेवक, मी अगदी स्पष्ट बोलते की, त्यांनी अशा ठिकाणी मानाचे हारतुं, फेटे घेण्यासाठी जाऊ नये। आमच्याकडे एखाद्याच्या लग्नास मंत्री वगैरे आले तर तेथे अक्षरघे फवारे वगैरे उडविले जातात, हारतुं दिले जातात आणि त्या ठिकाणी लग्नाला मंत्री पेणे ही खूप प्रतिष्ठीची वाज झाली असे आपण समजतो। म्हणून अशा खोट्या प्रतिष्ठेच्या विवाह सोहळ्यांना उपास्थित राहण्याचे आपण टाळले पाहिजे। याची सुलवात आपल्यासारख्या प्रतिनिधीपासूनच व्हायला पाहिजे। असे हुड्याचे लग्न टाळायचे आणि त्या लग्नावर बहिष्कार टाकला तरच मग कुठेतरी समाजात रणणीत निर्माण होईल की, मुली काही कमी नाहीत।

**श्री यी० ए० मासेदकर:** तुम्ही या कथ्याचे स्वागत करता का?

**श्रीमती निलिमा आहेर:** हो आम्ही या कथ्याचे स्वागत करतो आणि दुसरी गोष्ट अशी की, जर मुलींची संख्याच कमी व्हायला लागली तर काय होईल याचाही विचार समाजाने व शासनाने केला पाहिजे। मी अगदी ग्रामीण भागातून आलेली आहे। त्यामुळे जे अनुभव आलेले आहेत ते मी अगदी मोकलया मनाने सांगत आहे। दुसरी गोष्ट म्हणजे देीन मुलं आणि एक मुलगी हे प्रमाण जे आहे ते विसंगत वाटते आणि मग अशी मीती वाटायला लागते की, पुढेमागे आणखी बहुपलीलाचा कायदा निर्माण होईल की काय? मी शिक्षकसुद्धा आहे आणि माझा थोडासा मानस शास्त्र वागैचा अभ्यासही झालेला आहे। परंतु माझे जे मत आहे ते मी चांगल्याप्रकारे इंमर्जीमपून व्यक्त करू शकत नाही किंवा हिंदीमधूनही व्यक्त करू शकत नाही। परंतु तुम्ही जे काही बोललात ते मला समजले। म्हणजे आता ही विसंगती निर्माण होईल। समाजात असमतोल निर्माण होण्याची शक्यता आहे। देीन मुली आणि एक मुलगा असे प्रमाण, अशी परिस्थिती आमच्या भागात दिसून येते।

यमुले बहुपत्नीत्व व्यवहार पुढे येईल। जर मुलींची संख्या झपाटयाने कमी झाली तर "पाच पांडव आणि एक द्रौपदी" अशीसुध्दा परिस्थिती निर्माण होण्याची शक्यता आहे। हे अगदी विदारक सत्य भविष्यकाळात अनुभवावे लागेल।

तेव्हा माझी आपणाला विनंती आहे की, समाजात मुला-मुलींच्या प्रमाणाचा समतोल कायम राखला गेला पाहिजे। त्यादृष्टिने शासनाने पावले उचलली पाहिजेत। अनधिकृतपणे गर्भजल परिक्षा करणा-या डॉक्टरांवर कायद्याने बंदी घातली पाहिजे। श्रीमतीचे प्रदर्शन मंडणा-या व हुंडा घेणा-या वा देणा-यांच्या मुलांच्या लग्न समारंभास जाण्याचे टाळून अशा लग्न समारंभावर बहिष्कार घातला पाहिजे। एवढेच मला या निर्मित्ताने सांगायचा आहे।

जास्तीत जास्त जो उच्चभू समाज आपण समजतो आणि जे स्वतःला रतिष्ठीत समजतात त्यांनीच या समस्येचे लोण जास्त पसरविले आहे। पण त्यामुळे समस्या खूप निर्माण झालेल्या आहेत। हरलीसारखं ते वाढत चालत आहे। परंतु तरीदेखील आपण खेड्यातून कायदेशीरीत्या काय करू शकतो? आता अनधिकृतपणे गर्भपात कारणे डॉक्टर आपल्याला खेड्यातूनही काही ठिकाणी दितात। त्यांची प्रकटीस खरोखरच कायद्याने बंद व्हायला पाहिजे। दुसरी गोष्ट म्हणजे हुंड्याचा प्रश्न आहे। ज्या ठिकाणी खूपच पैसा वगैरे देऊन लग्न होते त्याला प्रतिष्ठा समजली जाते। त्या ठिकाणी जेव्हा गरीब घराण्यातील मुली जातात पर त्यावेळी यांना सहज वाटते की आपलेही असे लग्न व्हावे किंवा तेथे दुस-याही मुलीचे गरीब बाप असतात त्यांनाही असे वाटते की, आपणही आपल्या मुलीचे लग्न अशा रीतीने थाटातऱू करावे। म्हणजे त्या ठिकाणी लग्नाला आलेल्या मुलींच्या मात आणि मुलींच्या बापाच्याही मनात न्यूनगंड निर्माण होतो। म्हणून जे स्वतःला समाजसेवक समजतात किंवा समाजाचे जे पदाधिकारी आहेत। उदां आमदार, खासदार आणि आमच्यासारखे समाजसेवक, मी अगनी स्पष्ट बोलते की, त्यांनी अशा ठिकाणी मानाचे हारतु, फेदे घेण्यासाठी जाऊ नये। आमच्याकडे एखाद्याच्या लग्नास मंत्री वगैरे आले तर तेथे अतराचे फवारे वगैरे उडविले जातात, हारतुने दिले जातात आणि त्या ठिकाणी लग्नाला मंत्री येणे ही खूप प्रतिष्ठेची बाब झाली असे आपण समजतो। म्हणून अशा खोट्या प्रतिष्ठेच्या विवाह सोहलयांना उपस्थित राहण्याचे आर्षण टाळले पाहिजे। याची सुरुवात आपल्यासारख्या प्रतिनिधीपासूनच व्हायला पाहिजे। असे हुंड्याचे लग्न टाळायचे आणि त्या लग्नावर बहिष्कार टाकला तरच मन कुठेरी समाजात जाणीण निर्माण होईल की, मुली काही कमी नाहीत।

**श्री बी० ए० मासोदकर:** तुम्ही या कायद्याचे स्वागत करता का?

**श्रीमती निलिमा आहरे:** हो आम्ही या कायद्याचे स्वागत करतो आणि दुसरी गोष्ट अशी की, जर मुलींची संख्याच कमी व्हायला लागली तर काय होईल याचाही विचार समाजाने व शासनाने केला पाहिजे। मी अगनी ग्रामीण भागातून आलेली आहे। त्यामुळे जे अनुभव आलेले आहेत ते मी अगदी मोकल्या माने सांगत आहे। दुसरी गोष्ट म्हणजे दोन मुलं आणि एक मुलगी हे प्रमाण जे आहे ते विसंगत वाटते आणि मन अशी भीती वाटायला लागते की, पुढेमागे आपणखी बहुपत्नीत्वाचा कायदा निर्माण होईल की काय? मी शिक्षिकासुध्दा आहे आणि माझा थोडासा मानस शास्त्र वर्गाचा अभ्यासही झालेला आहे। परंतु माझे जे मत आहे ते मी चांगल्याप्रकारे इंग्रजीमधून व्यक्त करू शकत नाही किंवा हिंदी मधूनही व्यक्त करू शकत नाही। परंतु तुम्ही जे काही बोलतात ते मला समजते। म्हणून आता ही विसंगती निर्माण होईल। समाजात असमतोल निर्माण होण्याची शक्यता आहे। दोन मुली आणि एक मुलगा असे प्रमाण, अशी परिस्थिती आमच्या भागात दिसून येते। त्यामुळे बहुपत्नीत्व व्यवहार पुढे येईल। जर मुलींची संख्या झपाटयाने कमी झाली तर "पाच पांडव आणि एक द्रौपदी" अशीसुध्दा परिस्थिती निर्माण होण्याची शक्यता आहे। हे अगदी विदारक सत्य भविष्यकाळात अनुभवावे लागेल।



तेव्हा माझी आपणाला विनंती आहे को, समाजात मुला-मुलींच्या प्रमाणाचा समतोल कायम राखला गेला पाहिजे। त्यादृष्टिने शासनाने पावले उचलली पाहिजेत। अनधिकृतपणे गर्भजल परिक्षा करणा-या डॉक्टरांवर कायद्याने बंदी घातली पाहिजे। श्रीमंतीचे प्रदर्शन मांडणा-या व हुंडा घेणा-या वा देणा-यांच्या मुलांच्या लग्न समारंभास जाण्याचे टाळून अशा लग्न समारंभावर बहिष्कार घातला पाहिजे। एवढेच मला या निमित्ताने सांगावयाचे आहे।

**SHRI B. A. MASODKAR:** Our traditional society is as such where man being only of very importance and while daughters and ladies suffer. All these have to undergo some change. Though the dowry system is banned still if one finds that dowry-money is being paid at the marriages, then there one should not attend such marriage functions and such systems are still prevalent in our society. The MLAs or M.Ps. or Ministers should not attend such marriages where dowry is taken or given. Mrs. Ahire is very categorical about it.

**SMT. GEETA MUKHERJEE:** On the problems which Mrs. Ahire just elaborated whether in our urbanisation policy or in our rural social restructuring, we have to put forward some sort of help to daughter should be accepted to have some social roles and rights. Some solution to their problems may be provided whether we come from rural or urban areas.

**SHRI B. A. MASODKAR:** According to Mrs. Ahire the problems necessitating the Bill are not only restricted to the urban city areas but now they have gone to the villages and spread there also. Therefore, she welcomes this Bill.

**SMT. GEETA MUKHERJEE:** You are working in practical field and you feel that notification will help you. Notification to whom, for what and what action by whom?

**DR. (SMT.) DAHANUKAR:** This is our experience in State Vigilance Committee that in the name of genetic abnormality many female child get aborted. So doctors cannot be questioned as genetic abnormality is medically accepted. Unfortunately in our country we do not have past documents, the data. It is time for us to generate these things. Again the birth of a female child should be watched for atleast one year. Once it is notified then it can be watched, atleast the infanticide.

**SMT. GEETA MUKHERJEE:** What do you want to do with this record? These records may go to those parties and then those who want to do it will do it by any means. What is your intention in monitoring?

**DR. (SMT.) DAHANUKAR:** Atleast at first stage a data base can be generated to find out what is happening in the current situation and we have one base of which comparisons can be made. If there are ten cases of MTP and all have reported of genetic abnormality and out of

that you find that eight are female child and two are male then naturally there is a cause of suspicion. Thus most of the time abortions are done saying that there is a genetic abnormality.

DR. ANIL: One of the reasons why we say that it should be with public hospitals is that commercial angle is absent. Secondly when we say that there is a case for genetic abnormality, it has to be doubly checked by someone else.

SHRI SARDA MOHAN: Do you think that doctor should be penalised? Except female, family members should be penalised or not.

DR. ANIL: Women is a victim and she should not be penalised. Any penalty bestowed on her husband will ultimately transferred on to her only, who is already burdened. We want to liberate her and so it should not be there.

DR. DAHANUKAR: Women is the one who is responsible for getting female foeticide. So monitoring becomes very difficult. No record or report come before the Vigilance Committee as far as how many cases have been aborted due to genetic abnormality and how many because of sex. This is the crux of the problem. So education and equanimity are most important things.

SMT. VEENA PRADHAN: Till now we have not given much propaganda to this thing that man is responsible for female sex. So even if husband does not want female child he should be made to understand that even if this female sex is removed again he will get a female sex. So that propaganda should be made and then female foeticide will be minimised.

SHRI DUGGAL: Madam, Chairperson, I concur with what Smt. Geeta Mukherjee has said about the notification. For what purpose it is done? Who will be doing it, and towards what end? That is very important. If you see, our country is having many laws, and we also have so many social legislations. But, nothing is happening. So, why add it unnecessarily. My question is that, if you cannot regulate general medical practice, how are you going to regulate a super speciality, where a medical professional will not come out to give evidence against his fellow professional? You have seen in Medical Council, how reluctant Doctors are to talk against their professional fellows? How are you going to regulate this? That is an important issue. Doctors have so many Associations of each speciality, but they have never made an effort to regulate themselves, unlike in Britain. In Britain, they have total self-regulation. Britain's Medical Association regulates itself. The Indian Medical Association does nothing here. The I.M.A. just functions for the Pharmaceutical industry to push new techniques and new drugs. Even Pharmaceutical Companies are having their Conferences and Meetings through the I.M.A., and it is basically to push new drugs. This is an important issue, which the Committee must consider while formulating the new Act. How and towards what end you are doing this? Given the current form of regulations, you cannot just talk

of one particular fact of medical life being regulated. It has to be in the total context. That is very important.

**SHRI SUNIL NANDRAJ:** Madam, I just want to add to what Mr. Duggal has been saying. In the Union Ministry right now, there is a Bill, which is being worked out on minimum medical equipments and minimum standards, which are required for the private hospitals in the Delhi Authority. I think you must have information about it. Basically, this thing came about because, private nursing homes were being run unregulated in many places. I am sorry, if I have given an impression that all private sector is bad. I don't think so. What I am just now saying is that private health sector should be regulated, and should be made accountable to the people. This is a basic crux of the thing, and the other thing is about de-registration. Please don't leave it to the Medical Councils. Let there be another Appropriate Authority to take action against Doctors, because once you leave it to the Medical Council, nothing is going to happen, if you see the way in which the Medical Councils are functioning.

**DR. AGRAWAL:** You see, medical practitioners and patients are co-related. You cannot take any action on any specialist unless and until there is a complaint from the patient. So, that complaint is very important. This point should always be considered, when you will take action against the Doctors. Even to-day, after banning all these tests, they are being carried out by ultra-sound method, and that is informed to the patient. No patient has come to you to give that information, which has been given to him. Such things have already happened. How are you going to meet this problem?

**THE CHAIRPERSON:** Thank you very much. All the hon. Members have taken great interest in participating the discussion. We have a very good and fruitful discussion. Now the oral evidence and the informal discussion is over, and therefore, I conclude the meeting.

Thank you.

*(The meeting was adjourned at 4.50 PM)*

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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON PRE-  
NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF  
MISUSE) BILL, 1991

(Tuesday the 19th May, 1992 from 12.30 hours to 14.20 hours Vidhan  
Bhawan, Bombay)

PRESENT

Smt. D.K. Tharadevi Siddhartha—*Chairperson*

MEMBERS

*Lok Sabha*

2. Smt. Dil Kumari Bhandari
3. Smt. Girija Devi
4. Smt. Saroj Dubey
5. Smt. Sumitra Mahajan
6. Smt. Geeta Mukherjee
7. Dr. (Smt.) K.S. Soundaram

*Raja Sabha*

8. Smt. Chandrika Abhinandan Jain
9. Smt. Sarla Maheshwari
10. Shri Bhaskar Annaji Masodkar
11. Shri Sarda Mohanty
12. Smt. Satya Bahin
13. Shri V. Narayanasamy

SECRETARIAT

Shri S.C. Gupta—*Joint Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH & FAMILY WELFARE  
(DEPT. OF FAMILY WELFARE)

Shri S.B. Mishra—*Joint Secretary*

Shri Ramesh Chandra—*Under Secretary*

REPRESENTATIVE OF THE MINISTRY OF LAW, JUSTICE AND COMPANY  
AFFAIRS (DEPT. OF LEGAL AFFAIRS)

Shri N.K. Agrawal—*Joint Secretary and Legislative Counsel*

REPRESENTATIVES OF STATE GOVERNMENT OF MAHARASHTRA

1. Dr. S.R. Salunke—*Addl. Director Health Services*
2. Prof. Bomsji Wadia—*Head of Deptt. Ob. & Gyn, J.J. Hospital.*

3. Dr. P.V. Sathe— *Director of Medical Education and Research Maharashtra.*
4. Dr. Joyu Shankran— *Secretary, Medical Education & Drugs.*
5. Shri H.A.D. Savian— *Principal Secretary, Public Health Deptt.*
6. Shri D.N. Chaudhari— *Principal Secretary, Law and Judiciary, Deptt., Maharashtra Government.*

THE CHAIRPERSON: Hon'ble Members, Officials of the State and Central Govt., State Institutions and friends, Yesterday we had a very interesting and fruitful interaction with various organisations and individuals on the question of the Central Legislation of Pre-natal diagnostic techniques, the problems as well as the solution to solve it. This morning we visited 2 important institutions to see the implementation of the Maharashtra Legislation in the field. We are now meeting to discuss the implementation of the Maharashtra Govt. connected to the legislation. This discussion is extremely important for our committee for two reasons. Firstly, this is the only law of its kind operating in the country at present. The Central Bill has to be finalised after closely scrutinizing the success and operational problems of the Maharashtra Act. Secondly, the number of organisations and individuals who communicated with the Committee yesterday brought to our notice that due to certain reasons implementation of the Maharashtra legislations has not fully effected. They specifically mentioned the composition of the Appropriate Authority and the Vigilance Committee and inadequate action for the violation of the law. It is very true that the Maharashtra legislation is a recent one and it would take some time to operationalise it fully. The committee would be interested in knowing about your frank appraisal of the system in whole. Since it is a social legislation we must evolve activities for generation of public awareness, we will have to find ways to bring this. The mushrooming of ultrasonography clinics all over the country is a serious problem. The Committee would particularly like your view on whether these centres can be detected, whether these tests be limited to public hospitals only? I would like the Members of this Committee to kindly indicate the issues on which they would like to have clarification from the State Officials, so that the discussion can be very fruitful.

Thank you.

SMT. GEETA MUKHERJEE: Since the Hon. Chairperson has covered all the questions, I would not like to repeat them. I would like to ask about the performance of Govt. through various agencies in the sphere of public awareness. Also I would like to know about the collection of data regarding the genetic deformities. Have you done any work in this regard?

SMT. DIL KUMARI BHANDARI: In view of the Maharashtra legislation, do you feel it has been effective in controlling female foeticide? Secondly, do you find anything lacking in our Central Legislation? In that case which amendments would you suggest.

**SHRI V. NARAYANASAMY:** The Maharashtra Legislation has been implemented, and it seems that only a few cases are referred. I think only about 2-3 cases have come so far and according to the information gathered these 2 cases have not been proved. It means the implementation is not being done properly. Secondly, the Vigilance Committee which you have formed cannot go all over the State and find out misuse of the provisions of the Act by the private clinics. Therefore do you feel that these private clinics should be totally banned? Secondly, do you feel that only the Govt. hospitals should be set up right upto the district or block level to carry out tests for genetic abnormalities?

**SHRI B. A. MASODKAR:** It appeared from the evidences recorded yesterday that even the eminent gynaecologist think that there are reasons why these tests are necessary. There are about 190 sex disorders which can be detected by these tests. So it is very difficult that abortion is done only to the female foetus after this test is carried out. What measures do you suggest to this? The second aspect, which was mentioned by the Chairperson, and which is very important, have you got any programme so as to make the provisions of the law known to the public and to build up strong public opinion, so as to meet the traditional aspect of socio economic reality? We had witnessed yesterday who said that these genetic testing has spread to the local & rural areas. What is the view of the Govt. of Maharashtra to meet this challenge? Is there any scheme, programme, budgetary provision, maintenance of social services so as to build up consciousness among the people.

Then don't you think that advertising of such things directly or indirectly of the availability of such services are to be totally banned?

When these tests should be restricted only to be allowed in the Government hospitals and the private hospitals should be banned from carrying out these tests what would be the effect on the medical services in the State both in the private and public fields?

I would like to have your response to these.

**श्री शारदा मोहन्ती:** इस कानून को बने 4 साल हो गए हैं, इसमें कौन सी कमियाँ हैं, जिनकी वजह से काम नहीं हो रहा है? दूसरा प्रश्न यह है कि विजिलेंस कमेटी पूरे प्रदेश में प्रभावी ढंग से कैसे काम कर सकेगी?

**श्रीमती सुमित्रा महाजन:** इस एक्ट को बनाने के पीछे जेनेटिक सेन्टर्स को बंद करना या उसके ऊपर पाबंदी लगाने की बात नहीं है। लड़की की जो भ्रूण हत्या होती है, उस पर रोक लगाना इसका मुख्य उद्देश्य है। हम प्राइवेट सेन्टर्स पूरी तरह से बंद नहीं कर सकते हैं। सरकारी स्तर पर हम इतने सेन्टर्स नहीं बना सकते हैं। मुझे यह जानना है कि एक जेनेटिक सेन्टर को एस्टाब्लिश करने में कितना खर्च आता है और उसका रिकॉरिंग खर्च कितना है?

दूसरी बात स्टेट विजिलेंस कमेटी बनी है। वह इतनी वर्किंग में नहीं है, अमल नहीं हो रहा है तो क्या उसको और अधिकार देने चाहिए? उसकी एक साल में 2 मीटिंग होनी चाहिए, वह भी नहीं होती है,

सप्राइज विजिट भी नहीं होती है, इसके पीछे क्या कारण है? क्या इनको फंड देना जरूरी है? आपके यहां यह कानून 4 साल से है तो उसके आधार पर पब्लिक अवेयरनेस बढ़ाने की दृष्टि से सामाजिक संस्थाओं से सहयोग किस ढंग से ले सकते हैं? आप अपने अनुभव के आधार पर बताएं कि छोटे-छोटे प्राइवेट क्लिनिक्स में सेक्स डिस्ट्रिब्यूशन टेस्ट होते हैं, उनके ऊपर गेक लगाने की दृष्टि से क्या कर सकते हैं?

**श्रीमती सत्या बहिन:** क्या आपने कभी यह जानने की कोशिश की कि कितने नर्सिंग होम्स में यह टैलीक अपनायी जा रही है। उनमें से कितने लोगों को लाइसेंस दिए गए हैं और कितने लोग बिना लाइसेंस के यह काम कर रहे हैं? एक बात मुझे यह पूछनी है कि क्या इस संबंध में जो विजीलेंस कमेटी है वह ठीक से काम कर रही है या नहीं कर रही। एक बात यह भी है कि आज सरकारी अस्पतालों में इतने सारे लोगों को चिकित्सा सेवा उपलब्ध कर पाना संभव नहीं है तो क्या यह सेवा सरकारी अस्पतालों में ही बढ़ाना चाहिए, उदाहरण के तौर पर यदि कहीं पर 4 मशीनें हैं तो वहां 10 कर दी जायें या जहां पर 10 मशीनें हैं वहां पर 50 कर दी जायें तथा प्राइवेट अस्पतालों में इसके बिल्टुल बंद कर दिया जायें तथा उनसे कहा जाए कि यदि आपको जरूरत है तो आप सरकारी अस्पतालों में इस तरह के टेस्ट के लिए भेजें क्या इस तरह से कर पाना संभव है?

**श्रीमती सरला यशेधारी:** कल से जो बात हो रही है उसमें एक बात उभर कर सामने आयी कि महाराष्ट्र का यह कानून अपने घोषित लक्ष्य को प्राप्त करने में असफल रहा है। तमाम लोगों ने इस बात को स्वीकार है। कुछ आंकड़ों में हेर-फेर हो सकता है, लेकिन सभी लोगों ने इस बात की स्वीकार है। हमें पूछना है कि इस कानून की असफलता के मूल कारण क्या हैं? यदि आप अपनी बात स्पष्ट रूप से रखेंगे तो हमें केन्द्रीय स्तर पर इस कानून को बनाने में मदद होगी। मुझे यह भी पूछना है कि इस बारे में डाक्टर समुदाय की प्रतिक्रिया क्या रही? मेडिकल काउंसिल का इस बारे में क्या रिएक्शन रहा। इस कानून की असफलता के पीछे डाक्टर कहां तक जिम्मेदार हैं। क्या आपने इस को त्साशने की कभी कोशिश की। क्या कारण है कि महाराष्ट्र में इतना बड़ा कानून बनने के बाद और इतनी बड़ी प्रवर्मेट के बाद भी इस काम में सफलता नहीं मिली है। क्या इसके लिए सिर्फ सामाजिक कारण ही जिम्मेदार हैं या इसके लिए कानूनी पक्ष भी जिम्मेदार है। कल हमारे सामने यह बात आयी कि आफूनी जॉ विजीलेंस कमेटी है उसमें ऐसे डाक्टर भी हैं जो इस तरह के टेस्ट करते हैं। उनके बारे में अफेयरों में रिपोर्ट भी छप चुकी है, ऐसे लोग भी विजीलेंस कमेटी के सदस्य बने हुए हैं। हमें जानना है कि कैसे सदस्य वहां पर कैसे हैं? उन्हें वहां से क्यों नहीं हटाया गया। हमें यह भी जानना है कि आपकी जो अप्रोप्रिएट आथॉरिटी है उसके कंपोजीशन से आप संतुष्ट हैं? या आप चाहते हैं कि उसमें कुछ चेंज किया जाना चाहिए। यह एक सामाजिक समस्या है इसलिए क्या सामाजिक संगठनों से संबंधित लोगों को भी विजीलेंस कमेटी या दूसरी कमेटी में प्रतिनिधित्व दिया जाना चाहिए? इस बारे में आपका क्या कहना है?

**श्रीमती गिरिजा देवी:** यहां पर काफी बातें पूछी जा चुकी हैं मैं उन बातों को यहां पर दोहराना नहीं चाहूंगी। मैं पूछना चाहूंगी कि पिछले 4 सालों में सोशल अवेअरनेस की दिशा में आपने क्या काम किया है। दूसरी बात यह कि आपकी जो विजीलेंस कमेटी है उसमें कहीं न कहीं कुछ कमी रह गयी है जिसके कारण वह अपने काम में असम रही है। वे कमियां हैं। क्या अपने इन्फॉर्म को भी कुछ इनाम इत्यादि देने की व्यवस्था की है। क्योंकि कस्टम विभाग ने ऐसे लोगों को हेवी अमाउंट देने की योजना अपनायी है उसके बाद से कस्टम विभाग में दोषी लोगों को पकड़ने की संख्या काफी बढ़ गयी है। बात यहां पर भी क्लॉप्रिट को पकड़ने की ही है। इसलिए क्या आप इन्फॉर्म को किसी प्रकार का इनाम देने की योजना पर विचार कर रहे हैं तथा जो सोशल-अरोगेनाइजेशन है उनको भी इस काम में शामिल

करने की कोशिश आप कर रहे हैं जिससे कि यह काम प्रभावी ढंग से आपके यहां पर हो सके? एक बात और जो मुझे पूछनी है वह यह कि इसमें समय सीमा 60 दिन बतायी गयी है। इतने समय में कलप्रिट सारे मामले को रफा दफा कर देता है। जांच दल के लिए वह कुछ भी सबूत बाकी नहीं छोड़ता। इस प्रकार से सब कलप्रिट बच निकलते हैं। क्या आप इस समय सीमा को कम करना चाहेंगे जिससे प्रभावी ढंग से काम हो सके। यदि आप एक दो केस भी पकड़ लें तो भी काफी अच्छा हो जाएगा। हम यह भी पूछना चाहते हैं कि आप इसमें डाक्टरों का कितना प्रतिनिधित्व चाहते हैं। किजीलेंस कमेटी और अप्रोप्रिएट ऑथोरिटी में डाक्टरों का प्रतिनिधित्व कितना होना चाहिए?

**SHRI B. A. MASODKAR:** One aspect which I would like to ask you is as this Committee which has been formed as part of any other socio-economic measure and law to protect the society from such malpractices just like giving incentives and protection to the mother or giving insurance cover to every pregnant, will that help in building awareness of such type with these discriminatory practices. What are the measures that you think in the light of the economic as well as traditional perspective that we have so that people do not take advantage of these malpractices? You have already passed a law in this field. In order to make the job more effective you must be thinking of some measures. Merely passing a law does not lead us anywhere. We have to create an atmosphere for it so that the law is respected. Would you suggest to the government any incentives to protect the mothers who is pregnant so also any security measures with regard to the protecting of the woman and the foetus and that should be a practical solution.

**DR. (SMT.) K.S. SOUNDARAM:** My anxiety is if private centres are banned, I don't know how it is possible to establish such diagnostic centres in the government hospitals which requires expensive instruments and also need highly qualified technicians. I would like to know as to how this problem will be tackled.

**श्रीमती सरोज दुबे:** पिछले 2 दिन से यहां पर जो विचार विमर्श चल रहा है, उससे स्पष्ट हो गया है कि महाराष्ट्र के एक्ट का अमल विल्कुल नहीं हुआ है। यह इस बात को स्पष्ट करता है कि एक्ट में बहुत सारी कमियां हैं। क्या आप लोगों ने इन खामियों को दूर करने के लिए कोई सुझाव या प्रस्ताव सरकार को दिया है, जिससे इन खामियों को दूर किया जा सके।

जो प्राइवेट क्लिनिक्स इसका मिस-यूज कर रहे हैं, इन लोगों के खिलाफ क्या कार्यवाही हुई, उनकी संख्या कितनी है, क्या उनके लाइसेंस जब्त किए गए, क्या उनके ऊपर जुर्माना किया गया या उनके ऊपर किसी तरह की कार्यवाही की गई? महिला संगठनों ने हमें बताया कि लड़के को लड़की बताकर डाक्टरों ने पैसा कमाया। एप्रोप्रिएट ऑथोरिटी और विजिलेंस कमेटी ने इसके बारे में क्या किया? इन्होंने जब सरकार का ध्यान आकृष्ट करने की कोशिश की तो सरकार ने अपने ही बनाए हुए कानून के खिलाफ कार्यवाही क्यों नहीं की? सरकार इसको अनदेखा क्यों कर रही है? महाराष्ट्र में 1988 में यह बिल पास हो गया तो हम यह मानने के लिए तैयार नहीं हैं कि इस एक्ट का मिस-यूज न हुआ हो। इसका मतलब यह है कि एप्रोप्रिएट ऑथोरिटी, विजिलेंस कमेटी और सरकार में कोई तालमेल नहीं है। इनको कोई अधिकार नहीं दिए गए हैं और इनका राजनीतिकरण हो गया है। इसमें उन लोगों को नहीं रखा गया है, जो इस दिशा में कार्यरत हैं। हमें महिला संगठनों ने बताया कि ऐसे डाक्टर को इस कमेटी पर रखा गया



है, जिसके खिलाफ बहुत प्रचार हुआ, आंदोलन हुआ। यह तो ऐसे हो गया जैसे बिल्ली को दूध की रखवाली के लिए रख दिया हो। जब भी कोई बिल व्यावहारिक रूप लेता है, तभी उसकी कमियां मालूम होती हैं। इन कमियों की ओर सरकार का ध्यान आकर्षित करने के लिए आप लोगों ने क्या किया और सरकार ने उसके ऊपर क्या एक्शन लिया, यह हम जानना चाहते हैं।

जहां तक समाज में जागरूकता लाने की बात है तो उसके साथ महिला संगठनों को जोड़ने की कोशिश आप लोगों ने की या नहीं? जो डाक्टर्स अल्ट्रा सोनोग्राफी की मशीन रखते हैं और यह टैस्ट करते हैं, उनके लिए शपथ ग्रहण करने का आवश्यक नियम बना दिया जाए कि वे बच्चे के सेक्स के बारे में माता-पिता को नहीं बताएंगे। हालांकि इस तरह की शपथ खाना-पूरी ही रहेगी, लेकिन कम से कम उनके ऊपर एक नैतिक बंधन तो रहेगा।

जे० हास्पिटल और वाम्बे हास्पिटल में अल्ट्रा साउंड मशीन है, लेकिन जिला स्तर पर, छोटे-छोटे जिलों में अल्ट्रा सोनोग्राफी मशीन सरकारी अस्पतालों में नहीं है। मेरा मंत्री महोदया से निवेदन है कि कम से कम राष्ट्रीय नीति के तहत हर जिला अस्पताल में जेनेटिक डिस्सीज की जांच के लिए यह मशीन होनी चाहिए। इस तरह से लोग शोषण से बच सकेंगे।

महाराष्ट्र में 4 साल से यह कानून है, लेकिन इसके ऊपर विल्कुल अमल नहीं हुआ है। एक आंदोलन के रूप में इसको लिया जाए। सरकार को इस तरह के विज्ञापन जगह-जगह पर लगाने चाहिए कि लड़का हो या लड़की, जो सेक्स डिटरमिनेसन करेगा, उसके खिलाफ कार्यवाही होगी, तभी आपका कानून लागू हो पाएगा।

**SHRI H.A.D. SAVIAN:** Hon. Madam, with your permission I initiate the discussions and try to explain the position in Maharashtra State. I share the anxiety of hon. Members that this Act which has been enacted about three years ago has made very little impact. This is a social enactment where prosecution is also intended simultaneously. But basically the characteristic of this Act is that it is a social legislation. This social legislation arises because in the society in which we are living is a son preference society. I think even in terms of statistics, the figure of female foeticide is not very staggering. May be in this city of Bombay the figure is little more. I also agree that the implementation of the Act has not been what is desired. If we look at the provisions of the Act as they are, then they are more dependable upon social awareness, to bring the cases to the appropriate authority which has been constituted for the purpose of launching prosecutions.

Now, why the social awareness is not there? Perhaps, my Scientist friends and Doctors on this side will bear with me, and they can correct me also. I think, one of the reasons for not establishing a prosecution case in this situation is that the evidence can be very well hidden. So to say, in the sense that, it is very difficult for you to locate exactly whether, as has been intended by the Act, the sex determination test has been carried out with or without the possible objective of female foeticide. Now that being the situation Vigilance Committees have been constituted. The Appropriate Authority is the Authority at the district level, which is supposed to give registration and licences to these Clinics and Centres.

Now, we have also constituted State Vigilance Committee. As some hon. Members have said; at the local level we have also instituted local authorities. Now, in a situation like this, according to the Act, the State Vigilance Committee and also these local authorities are supposed to make periodic and surprise visits, and investigate complaints by the members of the public. I would request our Director of Health Services later on, to inquire on the question, as to why no periodic or surprise visits have been made? At this point of time, I would like to raise a issue, because now the Parliament has drafted this Act, and it has to be an all embracing Act. Whether any person, who wants to make an application under section 4 of the Act, for applying pre-natal diagnostic technique for determination whether the foetus has got certain congenital defects, should make such application first to the Appropriate Authority and then Appropriate Authority will accordingly send him down to various Clinics? Now, here one constraint, which will be applicable, is the time factor, where the parties purposely, so to say, delay things, where they have got the test conducted surreptitiously at some place, and they knew that they have a female foetus. But, they purposely delay the application, so that Appropriate Authority will be caught in such a situation that it cannot clear the application early. That is why, you have to fix time limit, because some action has to be taken to intervene. Now, we will have to tie up that situation.

Madam, scientifically speaking, therefore, the network of the Clinics, Centres and the man-power and resources which are needed for a programme of this type will be enormous. Now, as has been mentioned by one of the hon. Members, the capital expenditure on such Clinics, Centres is going to be very heavy. Now, to what extent our Government Hospitals, if we are to take this responsibility, can divert resources for this purpose rather than providing much needed medicines for Primary Health Centres, as is the case in the whole country. We are running short of medicines for Primary Health Centres. So, these are the issues, which I request to be considered at the national level and at the level of the Parliament. You will also be getting information about the situation from State to State. It is admitted that this Act is a difficult Act for implementation, if I may say so with due humility. The Anti-dowry Act or the Child Marriage Act are also very difficult to implement, because some-how or the other, they are social legislations, and the society, at the moment, has not yet become fully aware of it. So, the question is that perhaps, alongwith the enactment, we will also have to think of the situation of trying to provide where-withals for the State Authorities, as well as, the Vigilance Committees. By the 'Where-withals', I don't mean only the question of number of people, but we will have to equip them with perhaps Police Officers, who should be seconded to these Authorities into the Vigilance Committee, and also perhaps they may already have the people who are involved in these

Authorities. There are already people, who are engaged in one activity or the other in the Government. They might not be able to get full time for that. Therefore, we need a special Cell for carrying out these surprise visits, investigations, and checking the records. Some hon. Member has been saying that, whether we have checked accounts for these Clinics & Centres? I don't think, we have ever done anything like that. It means, we will have to get an Account's man, a police-man, and also a Scientific Doctor person, who could be equipped into these Authorities and Vigilance Committees, so that when they make a surprise visit, they are in a position in no time, like a police-man, to make searches or investigations and can seize all the situation then and there. Otherwise, there will be delay, and evidence will be wiped out in no time.

**SHRI B.A. MASODKAR:** You have not said anything about publicity. What steps the Govt. of Maharashtra has taken to give publicity to this Act?

**SHRI H.A.D. SAVIAN:** Sir, the publicity was given at the time of the enactment, and thereafter nothing was done. On continuous basis it has not been done, People will be aware of this enactment or any social legislation, as and when Press would come forward. For instance, at the moment, there has not been a single case law. Whenever there will be case law, it will also appear in the press. At the moment, there is nothing of that sort. Therefore, to that extent, we will put in advertisement in the News papers that we have done this thing and we have done that thing. It will be carried to the people. I think, for creating social awareness perhaps Door Darshan will also have to be brought into the picture. The Ministry of Information and Broadcasting should also be brought into the picture, so that it will be a wide net-work.

**SHRI B.A. MASODKAR:** Have you given any publicity to this Act just like the publicity given to the family planning programme? This is a vice, malpractice, and abuse, and therefore, publicity should be given to it. You see, one witness yesterday said before the Committee that in South Korea there is a constant slogan, viz. "Son or Daughter, have only two and bring them up well." This covers both the things. Something like that should be done by you.

**SHRI H.A.D. SAVIAN:** Sir, I think, we have "हम दो हमारे दो". For instance, in Maharashtra, we have introduced a unique scheme about family planning. Gujarat has also done it. If the first child is a daughter, and the family accepted sterilisation, we buy Rs. 10,000/- worth of Government Bonds for that child. If the family gets second child, and at that stage they accepted the family planning programme, we give them Rs. 7,000 /- worth of Government Bonds. This is a sort of little insurance cover for their child and also an incentive to the family. That is what we have introduced in Maharashtra.

**SHRI B.A. MASODKAR:** You have given special incentive for a girl child, and not for a boy child.

**SHRI H.A.D. SAVIAN:** Yes, it is not for a boy child. This Scheme has become more and more popular. It is being accepted by a number of families. I think, alongwith so many other measures that we are going to take, perhaps this Act, if it is enacted at the national level, it will have its effect slowly, because it has to create social awareness and all other factors are there.

**SHRI B.A. MASODKAR:** If there is any material on this aspect of giving incentive for a girl child, please circulate it here. You know, practically all the States are represented in this Committee. So, please circulate it.

**SHRI H.A.D. SAVIAN:** Yes, we will circulate it.

**SHRI V. NARAYANASWAMY:** The Vigilance Committee is not effective in going upto the grass root level. What do you think about it? Whether this kind of activity is going on or not?

**SHRI H.A.D. SAVIAN:** It is because most of the centres or the clinics are in big cities and urban areas. Mostly we have these clinics in Bombay, Pune and Nagpur. I will request Smt. Chandrikapuri to clarify on this.

**SMT. CHANDRIKAPURI:** I would first like to point certain salient features of the Maharashtra Act, written notes of it are given to the Hon. Members. There are a number of questions about which we are worried. This legislation is of social nature and it takes time to implement it. It was in 1988 that this Bill was passed and it took long time for us to formally have the names of the Members and get it passed in the form of Govt. Resolution...

**SMT. GEETA MUKHERJEE:** How much time did you require to form the committee?

**SMT. CHANDRIKAPURI:** We required time because of the fact that we had to formally have the names of the Members...

**SHRI H.A.D. SAVIAN:** I would just like to point out that the Act itself was brought into effect in April 1988. It was a big gap.

**SMT. GEETA MUKHERJEE:** When was the first meeting held?

**SMT. CHANDRIKAPURI:** The first meeting of the State Appropriate Authority was held on 4th April 1989 and that of the Vigilance Committee on 13th April 1989. The difference between the Central Bill and ours is that we have State Appropriate Authority at the State level and also the State Vigilance Committee. We have the district level Vigilance Committee also. When we started to function the State Appropriate Authority we found that Bombay is such a city where large number of such activities are going on. And this type of test facility is not available everywhere. Bombay was one of the biggest centre where large number of centres were existing. So, we did not have local vigilance committee here. We found that the local Vigilance took a little more time to select members and bring it as required by the Govt. Resolution. Delays are there because, if we are

very serious about the implementation then we need to have a complete separate organisation because the functions given to it needs some kind of expertise. And as you are aware there are large number of priorities to which we have to look to. This is just one of the priority. That is why if proper implementation is required then we have got to have some people separately to look after this.

**SMT. DIL KUMARI BHANDARI:** In this Bill Section 17 (5) is regarding the composition of Advisory Committee. It says 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. Do you think this is sufficient? Or do you think there should be Policemen, Advocate in this Committee? Do you find this adequate or do you want to add something?

**SMT. CHANDRIKAPURI:** We don't think that Policemen or Advocate would be of any use in the committee. We suggest that women's organisation should be involved in larger scale. But I am not sure about Policemen or Advocates.

**SHRI H.A.D. SAVIAN:** We don't have the Advisory Committee which is proposed in the Central legislation but we have the Vigilance Committee. As has been rightly pointed out the local Vigilance Committee also has the powers to conducts surprise checks, recommend prosecution on illegal action that come under the purview of the Act. Now, the point here is should the Vigilance Committee have persons like policemen, Advocates in its structure. It should be noted here that in this type of case a lot of investigation has to be done. Someone has to do spade work of investigating, getting information, bringing evidence. The question remains should we not have persons from police or from the medical and scientific side who would be in a position to make suggestions, to bring evidence? That is why we reward the informers for bringing information as is done in customs.

To the question regarding rewarding here I would submit that in the Customs when the reward is there there is already some return in the form of revenue. There the reward would be related to that. Here upto what extent that could be and whether there would be any return to the Government has to be seen.

**SHRI B.A. MASODKAR:** What incentives you can give?

**THE CHAIRPERSON:** Persons appointed to the vigilance committee is not involved in the investigation or finding out whether they malpractice is taking place or not.

**SMT. CHANDRIKAPURI:** In the Vigilance Committee the Secretary of the State Appropriate Authority as chairman and Convener; two representatives of voluntary organisations; the Director-General of Information and Public Relations or his representative; a gynaecologist; a

medical geneticist; a civil-surgeon or the D.H.O. and the Dy. Director in charge of the circle is there. That is according to the provisions of the Act. When somebody applies to the Vigilance Committee as it wants recognition under this Act, then only the Vigilance Committee would go to that particular place and recognises that place. We have these three clinics and a centre and a laboratory. So according to the need they will go. Uptil now what happened is that. We could register 17 centres, 5 clinics and two laboratories. This is because people did want to get registered. They have to come forward for registering. There is no provision that we should go to each and every private practitioner and see what they are doing. These people are doing what other will do. We received only one complaint. There we sent our Vigilance Committee and we found nothing could be seen there and no prosecution could be launched. It is very difficult for us to get the complaint and go and lodge the complaint with the court because lot of activities are involved in this. So unless there is a special person doing only this work it will not be possible of a State Appropriate Authority to do it because there are 7 or 8 members and once the prosecution is launched other activities like giving the evidence, who will go and attend the court will come. That also has to be looked at. Unless we have a proper machinery for the appropriate-authority it could not go to this kind of a job because it is full-time job. Over the last one year we received only one complaint. It is the responsibility of the people in the society and they are responsible for informing if they know that there is such a place. Then the Vigilance Committee will go there, visit and see.

SHRI B.A. MASODKAR: There because 60 days notice is required for the visit things can be changed.

SMT. CHANDRIKAPURI: Even the one complaint which we received was in the form of a Legislative Assembly question. After the Legislature session was over we immediately rushed and sent our people there.

SHRI B.A. MASODKAR: According to the Director, what is the function of the Vigilance Committee if it is merely a decorative Committee?

SMT. SARLA MAHESHWARI: Actually the Vigilance Committee is to go and see, if the people are to go and see then why you have to set up your authority?

SHRI H.A.D. SAVIAN: Section 14 of the Act deals with the functions of the State Vigilance Committee. There the functions are:

“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; to investigate complaints by members of public or other institutions or in the Press about contravention of the provisions of this Act or the rules; to seize incriminating evidence or record for further administrative or legal action; to recommend to the Appropriate Authority the cancellation or otherwise of registration of or prosecution against a

centre, laboratory or clinic; to check and prevent operation of unauthorised centres, laboratories or clinics; to take such other action as the Appropriate Authority or the State Government may direct”.

And Section 21 says;

“No Court shall take cognizance of any offence under this Act except on a complaint made by the Appropriate Authority, State or Local Vigilance Committee or any officer authorised in this behalf by the State Government or the Appropriate Authority or the State or Local Vigilance Committee...”

**SHRI B.A. MASODKAR:** So is it the position that unless a complaint is received you do not act since you have no requisite machinery to do it?

**SHRI H.A.D. SAVIAN:** If the Vigilance Committee is to be active in Maharashtra what are the modifications that you want?

**SMT. CHANDRIKAPURI:** As the complaint is coming the investigation of the complaint has to be done by the Vigilance Committee. But the Vigilance Committee can go and visit the Centres to which they had given recognition which they are conducting according to the provisions of law.

**SHRI NARAYANASAMY:** Section 14 of the law reads that the functions of the Vigilance Committee shall be “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.”

It does not say that the clinics and laboratories which have been recognised, it does not say so. The Committee has got wide powers. The Vigilance Committee can visit any number of clinics.

**SHRI CHOUDHARI:** The ‘centre’ defined in the Maharashtra law says that “Genetic Consulting Centre” or “Centre means and institute, Hospital, Nursing Home or any place by whatever name called, registered under the Act for providing genetic counselling to patients for performing obstetrical or gynaecological procedures such as foetoscopy, taking samples of amniotic fluid, chorionic villi, blood or any tissue of a pregnant female for being sent to genetic clinic or laboratory for prenatal diagnostic test.

**SHRI NARAYANASAMY:** Section 14 cover speaks about laboratories and clinics functioning.

**SHRI CHOUDHARI:** There again Genetic Laboratory or laboratory means a place registered as such under the Act. If the Vigilance Committee is to proceed the process in terms of Section 14 has to be there.

**SHRI B.A. MASODKAR:** Registration is a must.

**SHRI NARAYANASAMY:** If you gave some registered centres and if you go on checking them only periodically and if there are many unregistered centres on which you have no check, then what is the purpose of this law?

**SMT. SUMITRA MAHAJAN:** Is it that we do not take it seriously?

श्रीमती सुमित्रा महाजन: यदि तथ्य हमारे सामने आये तो इन सब बातों पर हम केन्द्र का कायदा बनाते समय विचार करेंगे।

श्रीमती सत्या बहिन: क्या सिर्फ शिकायत मिलने पर ही यह कमेटी एक्शन में आती है या अपने आप भी कुछ देखती है कि कहां पर क्या हो रहा है। विजिलेंस कमेटी में ऐसे लोग हैं जो चुपके से जाकर वहां का काम देखते हैं या उनको लालच देकर यह देखने की कोशिश करते हैं कि वे लोग पैसा लेकर इस तरह के टेस्ट कर सकते हैं या नहीं?

श्रीमती सुमित्रा महाजन: क्या आप लोगों का ऐसा सजेशन है कि केंद्र में इस तरह की कमेटी का गठन करते समय इस बात पर पुनर्विचार होना चाहिए।

श्री सालुंखे: जरूर होना चाहिए।

In Maharashtra except in the Bombay Municipal Corporation there is no machinery for granting licence to medical clinics and laboratories. As in the private clinics and laboratories what happens in respect of other things will be there in respect of this also as it happens in laproscopic tests and elsewhere. In this Act there is no separate machinery. Regarding the malpractice we got only one complaint. Except that nobody has made any complaint. That is the factual position. We are not against making any surprise visits to any clinic or laboratory. We cannot do it because we have no machinery. If the Directorate of Health Services is expected to do this pursuing job we will not be able to do it because today we have no money to do and we have a lot of other pressing things on the health side to be done.

श्रीमती सुमित्रा महाजन: जो डाक्टर्स अल्ट्रा सोनोग्राफी और सेक्स डिटेरीमिनेसन करते हैं, उनके ऊपर आप कंट्रोल कैसे करेंगे?

श्री सालुंखे: मेरा अनुरोध है कि डायरेक्टरेट ऑफ हेल्थ सर्विसेज का टेक्नीकल रोल होना चाहिए। पुलिस जैसा कंट्रोल रखना हमारे लिए संभव नहीं है। हम लोग यह कर नहीं पाएंगे और न ही दूसरी स्टेट वाले कर पाएंगे, यह वस्तुस्थिति है।

**SMT. GEETA MUKHARJEE:** You have not replied to the question asked by hon. Member Smt. Sarla Maheswari. Whether it is a fact that somebody who was actually involved in malpractices, that person has been appointed on the Committee.

श्री सालुंखे: इस प्रकार की न्यूज समाचार पत्र में आई थी, लेकिन उस शिकायत में तथ्य नहीं है।

श्रीमती सरला महेस्वरी: एक प्राइवेट प्रक्टिशनर के विरुद्ध शिकायत आई और उसके बावजूद भी आपने उन्हें विजिलेंस कमेटी का मेम्बर बना दिया?

श्री सालुंखे: यह वस्तुस्थिति नहीं है। वस्तुस्थिति ऐसी है कि प्रेस में रिपोर्ट आई तो उन्होंने खुद ही त्यागपत्र दे दिया।

श्रीमती चन्द्रिकापुरे: पहले वे सरकार के साथ काम करती थीं, बाद में खुद का क्लिनिक खोला और उनका क्लिनिक रजिस्टर्ड है। पेपर में न्यूज आने के बाद विजिलेंस कमेटी से उन्होंने त्यागपत्र दे दिया। उनको अभी लाइसेंस मिला हुआ है।



**श्रीमती सरला महेश्वरी:** जिस डकक्टर के खिलाफ शिकायत आई हो कि इस तरह के मामले में वह लिप्त रहा है तो वह जेनेटिक रिसर्च सेन्टर कैसे चला रहा है। यह तो अखबारों के जरिए प्रमाणित हो चुका है।

**श्रीमती सरोज दुबे:** इस तरह की संस्था में किस तरह से लोगों को रखा जाए, इसके बारे में विचार विमर्श करके एक व्यापक नीति बनाई जानी चाहिए। इस समय आपको यह कानून प्रभावी नहीं है।

**श्री सालुंखे:** इसमें व्यावहारिक दिक्कतें हैं।

**SMT. SARLA MAHESHWARI:** In your law it has been clearly stated that if any person having such type of past history is found, he should not be given any licence. How she has acquired licence?

**SHRI SALUNKHE:** Now, she is doing genetic study.

**SMT. SARLA MAHESHWARI:** She is allowed to have-research centre. Do you give omission exclusively for genetic research centre or any other activities are also carried out there?

**SHRI SALUNKHE:** They carry on multifarious activities.

**THE CHAIRPERSON:** Have you made registration compulsory for the Hospitals, Nursing Homes, Clinics, etc.? If so, what is the position?

**SHRI H.A.D. SAVIAN:** Under the Act, 17 centres, 5 clinics and 2 laboratories have been registered. Mainly they are in Bombay and Pune. Section 23 of the Act also provides for power to seize records. This section is much comprehensive.

**THE CHAIRPERSON:** If you keep registration mandatory for the nursing homes and clinics, I hope this law will be more effective.

**SHRI H.A.D. SAVIAN:** Madam, Section 3 of our Act says: "(1) No Genetic Centre, laboratory or clinic, or place, unless registered under this Act, shall carry out or associate or help in carrying out activities relating to the pre-natal diagnostic techniques with the help of procedures such as Amniocentesis, Chorionic Villi Sampling or any other pre-natal diagnostic technique."

So, that means, unless it is registered, it cannot carry out this activity. The activities of pre-natal diagnostic procedures and techniques have been brought under the purview of this Act.

**THE CHAIRPERSON:** It is about general registration. I would like to know particularly about research equipments. You said that, it is very difficult to find out in which Hospital this facility is available. We cannot go into it and that is a problem. I can understand that problem. It is really very difficult to go and see whether the Clinic or Centre has got the equipments and whether that is being mis-used? It is very difficult to find out

You have the list of private Hospitals, Clinics, and Centres. You should make it compulsory for them to get the licence before installing any such equipment. The licence should be made compulsory. They should produce the licence before clearing excise/custom duty for the equipments. It should be made compulsory, then definitely they will apply for the licence, and your problem will be solved. This suggestion may please be kept in mind.

**SHRI V. NARAYANASAMY:** Section 23 of your Act provides for general powers to seize the records. At any point of time, in the past 3 years, have exercised that power?

**SHRI H.A.D. SAVIAN:** No, Sir.

**श्रीमती सरोज दुबे:** क्या आपने कभी रजिस्टर्ड क्लीनिक जो आपके यहां हैं उनके साथ कभी कोई मीटिंग की।

**श्री सालुंखे:** जैसे ही यह एक्ट पास हुआ हमने सिविल सर्जनस के जरिए जो की डिस्ट्रीक्ट हेड रहते हैं, लोकल पेपर में जानकारी दी कि इस तरह की क्लीनिक को रजिस्टर्ड करवाना जरूरी है। उसके बाद कुल 24 संस्थाओं ने इस रजिस्ट्रेशन के लिए अर्ज दाखिल किए। ज्यादा लोगों ने रजिस्ट्रेशन के लिए अर्ज दाखिल नहीं किए एक बात यह भी है कि सिर्फ बम्बई में ही बाई-लॉ रजिस्ट्रेशन कम्पलसरी है, बम्बई कारपोरेशन में यह रजिस्ट्रेशन करवाना जरूरी है, पूरे राज्य में बाई-लॉ इस तरह का रजिस्ट्रेशन करना जरूरी नहीं है कोई भी अपना नर्सिंग होम खोल सकता है, वहां पर उसके लिए इन्स्ट्रुमेंट खरीद सकता है इसलिए इस तरह से सब का रजिस्ट्रेशन करना मुश्किल है इस तरह का कायदा होना चाहिए कि सबको रजिस्ट्रेशन करना जरूरी है और उनके पास कौन कौन से इन्स्ट्रुमेंट हैं इसकी जानकारी देना भी जरूरी होना चाहिए, तभी इस पर कंट्रोल किया जा सकता है।

**श्रीमती सरोज दुबे:** आपकी स्टेट ऑथारिटी की मीटिंग कितनी बार होती है?

**श्री सालुंखे:** डिस्ट्रीक्ट लेवल पर एक साल में दो बार लेकिन बम्बई में रेग्युलर मीटिंग होती हैं।

**श्रीमती सत्या बहिन:** क्या आपको जानकारी है कि बिना लाइसेंस के कितने लोग हैं जो इस तरह का काम करते हैं?

**श्री सालुंखे:** अगर हमें इस बात की जानकारी होती तो हम जरूर उस बारे में कार्रवाई करते लेकिन उसकी जानकारी हमें नहीं है।

**श्रीमती सरोज दुबे:** क्या आपने कभी कोई चेतावनी या सूचना दी कि सब लोग रजिस्ट्रेशन करवा लें?

**श्री सालुंखे:** जैसे कि मैंने पहले बताया कि हमारे यहां डिस्ट्रीक्ट हेड सिविल सर्जन होते हैं और उनके जरिए हमने लोकल पेपर में जानकारी दी कि जो ऑबस्टेट्रीशन तथा स्त्री रोग विशेषज्ञ हैं, उनकी जो एसोसिएशन है उनको इन्फोरमेशन दी भी कि जो लोग इस तरह का काम कर रहे हैं उनको रजिस्ट्रेशन करना बहुत जरूरी है।

**श्रीमती सरोज दुबे:** आप एक दो लोगों के खिलाफ कार्रवाई कर दें तो सब ठीक हो जायेगा।

**श्री सालुंखे:** शिकायत तो मिलनी चाहिए।

**श्रीमती सरोज दुबे:** इस तरह से आंख बंद करके बैठना ठीक नहीं है, कि शिकायत मिलेगी तभी कोई कार्रवाही आप करेंगे।

**श्रीमती सत्या बहिन:** यह सरकारी काम है और आफिसर्स को इस बारे में ध्यान देना चाहिए।

**श्रीमती सरोज दुबे:** मैं यहां की डायरेक्टर महोदया को बोलूंगी कि इस बात पर पुनर्विचार होना चाहिए।

**SHRI H.A.D. SAVIAN:** Madam Chairperson, I think, the discussions have been very lively and it has evoked a lot of interest, and it is a good sign. I have not mentioned in the beginning, and now I would like to say something about social awareness. We are talking of creating social awareness. It also involves professional integrity. By professional integrity, I mean, the Indian Medical Council, the State Medical Council vis-a-vis Doctors, who indulge in these malpractices. This is where a common effort is required to be made at the national level with the help of various groups, because each speciality has got its own Association. This has to be a cumulative effort or it has to be a sort of movement. Of course, the State is eternally vigilant, but to what extent you can have eternal vigilance?

Madam Chairperson, at this stage, I think the Committee would be enriched by the discussion on scientific points, and therefore, I would request Dr. Wadia to speak. He would be able to throw light on the provisions of the Bill from another angle and from scientific point of view including the latest development in the subject matter.

**THE CHAIRPERSON:** I would like to have one clarification on the point of detecting abnormalities. The Doctors who are qualified in the Genetic subject can only find out abnormalities. Whether any Doctor, having a M.B.B.S degree, can do it or whether only the Doctors, who are trained in that field can do it?

**SMT. CHANDRIKAPURI:** (Director of Health Services, Govt. of Maharashtra):— Madam, any one cannot do it. But, only the Doctors, who are specially trained for that purpose, can do it.

**THE CHAIRPERSON:** Suppose a Doctor has a Clinic, in which he has provided facilities for this test, and he has kept a Technician for that purpose. I think, in such cases, they are mis-using this facility. In the case of Hospitals, where they have Genetic Counselling Centres, and other qualified Doctors to find out abnormalities and sort out the problems, I think, this problem of mis-use is not much at such places. So, we have to separate the Clinics or Centres, which do not have the necessary infrastructure to deal with the problem, but they have that facility only, and they are not qualified to do it. Then, for what purpose they have got that facility? They are using that facility just to find out the sex of the child and nothing. We have also to consider this sort of thing.

**DR. WADIA:** Madam, I don't think, there is any degree or diploma course in India for this Genetics subject. Therefore, there will not be

qualified people in that field. Usually, these are the people who are studying abroad.

DR. (MRS.) A.M. LELE: Madam, in our Centre, we have three Technicians, and they are B.Sc., and Micro-biology was there undergraduate subject. After that we have trained them, and they have appeared for M.Sc. (Applied Biology), where Genetics can be one of the branches. But, we don't have either diploma or degree course in Genetics. About two hours back, I have said that, there is a necessity of some academic qualification, where degree or diploma can be given after M.B.B.S. or after some super speciality.

DR. WADIA: I am a Gynaecologist and a Scientist. I think the Committee should be aware of certain things which we are facing today. People feel that genetic test is an easy thing, but to retreat the material for testing itself is not easy and to read it accurately is restricted to a few persons in this Country. There are centres abroad which will not be able to carry out as much as 190 genetic tests. Each and every genetic laboratory will not be able to do so. The experience that is required has to be mounted up. Under the garb of genetic testing a lot of criticising has been going on. The testing done today is by ultra sonography. I have got a video tape of the tests being carried out. We were trying to detect certain abnormalities on special video tape and at eight weeks we could detect that it is a male child. This was a freak chance and we will not be able to find it in every eight week pregnancy. I have been talking to one German Scientist, who have developed prototypes of certain ultra sound probes which fit on a finger. The way in which you perform vaginal examination, you can probe your finger in the correct direction then you can get details which can be very accurate. By this method you will be able to detect even the gender of the child. There is something called Cetomaternalshunt, it means a baby inside the mother. There are two compartments for blood to facilitate circulation, there is a break in this particular barrier and these cells can go into the maternal cell and you can detect from this maternal blood. This method is very simple and is going to come tomorrow. When we are thinking of an act like this we should have a more practical approach. We face the reality everyday that there are persons who have two girl children and they now want a boy, and this particular idea has been used by medical and para-medical men through the angle of fast money making. Many of the genetic clinics are in it. I have seen in Punjab as soon as a women gets pregnant, she goes to a genetic clinic and if a female is declared the clinic sends her to a gynecologist and both of them have their share.

The committee should be aware of what is going on today. It is very difficult to catch anyone involved in this. We know there is a falacy of 2—10% cases of testing. And this is happening even in our Family Planning programme. This is going to happen. The person concerned would say he did find a genetic defect, and it will be a personal opinion

and the person is interpreting it personally. That is why the Committee should realise what is happening in India and what are the facts of the situation. I am not an expert in framing any law. I am just suggesting this, that what should be our way of thinking. When we have a certain number of girl children in family then these people should really have a proper place to go for detection and not to go to quack Clinics. Formerly where they were going to get 100 females whether it is a boy or girl they were just going to be aborted and they keep aborting. They keep to get aborted and people go on making money out of it. Instead of that now if a person has got one child say female child or two and don't want a third child and if they decide to abort at least they will do to get aborted by going to a recognised clinic as they will do a proper job and will take proper antiseptic application because of these clinics pretend by taking out a sample and they do not take anything really. They don't take out any sample because they have already there a pre-determined female written down there on the report. So with this scientific idea I feel that just like out MTP Act as it want today, ultimately I am not saying with all the illegal termination of pregnancies that are going on in this country, people today even in the remotest of villages know that there is something which is officially allowed by the Government over the clandestine. So, as somebody was pointing out while in the J.J. Hospital this morning that people with Rs. 25,000 go for operation in Delhi as once you started to some rules for the technology. It is going to climb up once you start restriction. If you climb down and give a little time to the society while you make legislation so that the society may move this is going to be ultimately a practical solution. The enactment of the law would be inadequate as you are now hearing very clearly knowing the full scientific fact that you are going to be cheated and there is going to be these very parties there is no way of catching them. You know what is going on. First of all you are going to enact an Act which is going to open a floodgate for corruption for persons going to make a fast bug. Instead of that, if you feel and I think every body would feel, if there are two female child then the third should be a boy. And we should allow it. That is my personal thinking as I will put down it. That is what I have seen in family-planning practice. So for that get a proper genetic finding done; not by quack people who give a 100 per cent girl report; but go to Dr. Lele—or say a genetic expert—and let her give you 50 per cent boy or 50 per cent girl chance. If it is a girl you can get it aborted and then you get ligated. If you get a boy then you proceed with the thing and get ligated at the end of it. Some thing like this will be more practical about the whole approach knowing that there is going to be tests to be done by any mushrooming centre in the country. I think tests would be performed in the corner of this room virtually. That is why I feel that this Committee should be completely aware of the state of affairs and of the technology that is being changes. There is this vaginal probe, about which I may tell you. That probe, probably after going abroad this time I will be getting a prototype

for myself, and I am sure if there any anybody else want to get one will be able to get one—there the accuracy will be much more. If you view at an abdominal section you see a certain amount of the vaginal section you see double that amount; and by a probe of this type you see three times of the amount. So the accuracy there is very very perfect. This technology is coming round the corner as it is already there and you are going to have very difficult problems of legislating on this. It is very nice to legislate as it should make people aware of it; but to implement is going to be almost impossible. You are going to now open up the floodgates for such technology and people are going with Rs. 35,000 of them to do it. So I think, as a scientist and a technician, it is my duty to point out to you that this technology has come Today to do personal problem will take about 4 to 5 months pregnancy to determine this fact. It is a negative sort of determining fact. Please try to understand what I am saying by saying negative a way. When you talk a probe you have to see the male genital organ. There if you do not see the male-genetal organ you presume it is a female. But there could be positions of the foetus in which this organ cannot be seen. So if you see it in that position you see it as totally female. But a very experienced analgist will go on seeing as the baby will move and ultimately, he will be able to say, 'yes', that this is an empty area which means that it is a female or there is a genetal area which makes it the male.

For the vaginal probe this can be done one and a half to two months earlier. I have been using the vaginal probe now for over three years. Every time when I use it is J.J. Hospital we have a photorecording of it at real time. This may be of personal interest to all those in this field. We take a workshop in this. In every workshop Mrs. Lele and her counterpart genetists and gynaecologists who knew techniques which are developing attend. The next one of these workshops is going to be on the 8th of July, 1992 and we are going to have there people from all over India. We have been doing this; this is the 25th workshop conducted at J.J. Hospital.

What I want to tell you again is that the technology is so high today that as you are passing any legislation, please understand that you will be cheated straightaway. It is like the famous Ben Johnson story where he had taken the steriles which could not be detected and as you know it could be detected later on. You know how it could be detected later on ultimately. Please understand that you would be cheated. In the Ben Johnson's story it was ultimately detected by a very very important scientist who has something to do in connection with India and it was that technology which detected it. But he did not know it was detected. That secret is only with great selectiveness.

Now are we going to give and there is going to be another new practice which is going to be done. It is not going to be detected. It was used in our preserving genetics. I am sure that it is already there; naturally so this is going to come on. So I would say that you take a little practical

approach. I have really moved all over India. As I say, I have really gone and operated in almost all the medical colleges. I have demonstrated surgery over there; lectured there. Personally I have seen what are the conditions. Just now also I go into the very backward areas in Bihar personally; as head of the department I go there; I have been doing this and I feel very very strongly that there is very practical approach to this strong problem. It cannot be just in a clause or act of the Legislature and it is not going to work because there are going to be people going to take the preference of a male child and the society. I think this Committee, therefore, should be aware of this particular aspect.

I think the humble suggestion that I would make that there should be an interim period. You pass the legislation so that there is awareness created. But don't start expecting results immediately. After the MTP law was enacted it started to show effect after 10 or 12 years. Today even in the remotest villages one knows what is happening. So if you start expecting results immediately that is not going to happen. There my suggestions would be that if it is to be taken seriously first it has to be taken by the medical colleges. We have to put people in charge of it people like Prof. Mrs. Lele who are the genetic people is in India today. They have to formulate courses. In the starting it may be diploma courses and then you have clam them out all over India. It is not going to be very easy. It is how we started laproscopy. I remember as you have had the first laproscopic surgeon; today there are 100s of laproscopic surgeons and wards. It is not going to that in one day we are all going to be laproscopic surgeons; we have to plan; and I think there should be an interim period for this genetic study. I think there too much difficulty. Out of 290 defects which are really in the abdominaline. It is a cost sharing way of laboratories. It is not the real way. Real thing is that whether it is a male or a female this is a group in which it has to be equated. So my positive suggestion would be an interim period and in that interim period we have definite status where people of the genetic clan and gynaecological clan can come together and ultimately plan where they can train people and once they know that there is a job that is waiting for them at all the medical centres, I think the medical personnel would be interested in it. It cannot happen in a year or two. It is a long time process and policy. There at least we are going in some positive direction. In the meanwhile you say that there is going to be no foetal infantacides as far as female foetus are concerned. You were launching MTP; and you were going to get reports of 190 diseases coming up and nobody is going to question it. It is going to go on happily and you don't expect people not to have this happening at all. But if you liberalise the law at least you are taking these people to proper centre. At least we are not letting them to have finding 100 per cent female natal uterus. At least now we have at least 50 per cent males and at least now the push

will be able to stop it, with a gap over at least, the interim period and a rationalisation of thinking of whether tests applied should be in certain cases or not.

**SMT. GEETA MUKHERJEE:** We have discussed for a long time and this subject is also very complicated. So I think one request I would make because here all of us will agree that we do not pass a law. It is very clear so far as I am concerned. After all even if a law is finalised naturally it will have to be reviewed. In this situation what I will request you is about the machinery that you see is absolutely inadequate. That is there as your experience. So if you would really make another review amongst yourself and let us know what kind of a machinery you believe can make some significant advances. As you know, even in respect of the dowry-deaths and the law regarding dowry we have not been able to put into practice. You know that too. But then if this law is to be there and is to have some social effect then some machinery must be there. From your experience we understand that the machinery is absolutely inadequate; and not only that people with more than one responsibility are given this responsibility and so from that point of view if you can give us some concrete suggestions and you can tell us when are we to have it as we must have it quickly? From your experience we understand that the machinery is inadequate. Please submit your concrete suggestions in this behalf in writing as early as possible.

**THE CHAIRPERSON:** Now let me conclude. Since Yesterday, we are meeting here in Bombay various groups, voluntary organisations. To-day also we have paid visits and held discussions with State Government officials. The Committee was eager to know the implementation part of the law in your State and we are happy that you were free enough to accept that there are some deficiencies. We also come to know about the practical difficulties involved in implementation. These discussions proved very useful to us. On behalf of the Committee I thank the Hon. Minister for Health, Govt. of Maharashtra, officials from Health Ministry of State Government and all other leading personalities who have participated in our deliberations. Once again thank you for co-operation and hospitality.

**SHRI H.A.D. SAVIAN:** Thank you very much Hon'ble Chairperson and Members of the Joint Select Committee of Parliament. We are also enriched by your suggestions which will help us to achieve the desired objective. Thank you all.

*The witnesses then withdrew.*



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

RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON PRE-  
NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF  
MISUSE) BILL, 1991

(Wednesday the 20th May, 1992 from 1015 hrs. to 12.05 hrs. Vidhan  
Bhawan, Jaipur)

PRESENT

Smt. D.K. Tharadevi Siddhartha — *Chairperson*

MEMBERS  
*Lok Sabha*

2. Smt. Dil Kumari Bhandari
3. Smt. Saroj Dubey
4. Smt. Geeta Mukherjee
5. Dr. (Smt.) K.S. Soundaram

*Rajya Sabha*

6. Smt. Sarla Maheshwari
7. Shri Sarda Mohanty
8. Smt. Satya Bahin

SECRETARIAT

Shri S.C. Gupta — *Joint Secretary*

REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE  
(DEPARTMENT OF FAMILY WELFARE)

Shri S.B. Mishra — *Joint Secretary*  
Shri Ramesh Chander — *Under Secretary*

REPRESENTATIVES OF THE MINISTRY OF LAW, JUSTICE AND COMPANY  
AFFAIRS (DEPARTMENT OF LEGAL AFFAIRS)

Shri N.K. Agrawal — *Joint Secretary & Legislative Council*

NAMES OF THE NON-OFFICIAL ORGANISATIONS

1. Rajasthan University Women's Association
2. Bal Rashmi Society
3. Women's Rehabilitation Group
4. Rajasthan Voluntary Health Association

REPRESENTATIVES OF STATE GOVERNMENT OF RAJASTHAN

1. Dr. D.C. Bafna — *Addl. DMHS (FW)*
2. Dr. B.L. Gupta — *DMHS*
3. Shri O.P. Meena — *Special Secretary*
4. Ms. Anjana Bhushan — *Director, Women & Child Development*
5. Mrs. Kushal Singh — *Secretary, Women & Child Development*

HON'BLE CHAIRPERSON: What is the position regarding pre-natal diagnosis here in Jaipur? I would like to request to please respond on this keeping in view private clinics engaged in genes tests.

DR. S.G. KABRA: For sex determination there are three major centres, to my information, working for amniotic fluid test as also removal of it.

HON'BLE CHAIRPERSON: Is there any Government Centre?

DR. S.G. KABRA: No, madam. These all are private clinics, and they have been already named.

HON'BLE CHAIRPERSON: What facilities these clinics provide?

DR. S.G. KABRA: They provide mainly the genetic counselling services, but to my knowledge and information, they provide testing services also. There are large number of maternity centres. In almost all these private maternity centres, removal of foetus services are available.

HON'BLE CHAIRPERSON: They are all private Centres?

DR. S.G. KABRA: Removal of foetus, so far as my information goes, it is done in government hospitals also.

SMT. SARLA MAHESHWARI: Why government allow such things in government hospitals?

DR. S.G. KABRA: That is not done for sex determination purpose there.

Now what is alarming is that large number of maternity centres are working but alongwith, in small cities and in small towns they take fluid for chromosomes and send them to Jaipur or even they send it to Delhi. They simply say it is a male or a female. In Jaipur, for example, they are well equipped men having good qualifications but they do not maintain any record whatsoever. They are qualified doctors...

HON'BLE CHAIRPERSON: Qualified means?

**DR. S.G. KABRA:** They are Post Graduate in qualification, so they are well qualified. Certainly they are not Post Graduate in genetics but they are P.G. in medicines.

**SHRI MOHANTI:** Have they any foreign degree?

**DR. S.G. KABRA:** I do not know, whether they have foreign degree or not, and there is no use of any foreign degree.

They are not maintaining any record. At the end of the day, they simply give a slip writing 'male' or 'female'. That's all.

Now, as per our information, there are about 20 to 30 tests done every day. Then in one Centre and other 20 in other two centres. The charges they take are about Rs. 1500/- per test. It means 30,000/- per day, or 90 lacs rupees per year for this alone they get from these three centres only. If it is a 'female', they advise for an abortion, and if it is a 'male', they will say for another test meaning thereby another Rs. 1500/-, and in case of a female, they will simply advise for abortion. So the total revenue they get is worth Rs. 1.5 crore per year from this procedure alone.

**श्रीमती एलिस गर्ग:** सामाजिक पहलू से हमलोग काम कर रहे हैं। तकनीकी पहलू से तो डाक्टर साहब बात करेंगे। महिला के अधिकार को चुनौती दी गई है। जन्म लेने के अधिकार से वंचित किया गया है। इसके साथ बेटे का महत्व बढ़ता जा रहा है जब इस तरह का तयका निकाल दिया है। गर्ल चाइल्ड की बात तो कर रहे हैं लेकिन जो प्रेक्टिस चल रही है वह गर्ल चाइल्ड के विरुद्ध हो रही है।

आपने अखबारों में पढ़ा होगा, गांवों में कुछ परिवार ऐसे होंगे जिन परिवारों में एक बेटी भी नहीं है चार-पांच भाइयों के बीच में। कई परिवारों में तो घर पर बारात ही नहीं आई है। अब तो खुल्लम-खुल्ला सैंक्शन मिल गई है कि बेटी को जन्म ही नहीं लेने देंगे। पहले तो बेटियों के लिए निर्णय लेते थे कि कितना पढ़े, काम करे या न करे लेकिन अब तो यह भी निणय लेने शुरू कर दिए हैं कि बेटी जन्म लेगी या नहीं लेगी। इसको रोकने की जरूरत है। बेटी का अस्तित्व ही नहीं।

**DR. S.G. KABRA:** The Amniotic fluid test is risky one and this risk depends upon the stage of pregnancy on which it is done. The reports indicate that the after effects are very much harmful of this test. Limb deterioration and harm for woman both are there. In many cases, high risk both to the mother and to the child is there. Further, for sex determination, there is no medical indication. So doing it simply for sex determination, it is illegal and unethical. For sex determination alone, it cannot be done by a doctor, If it is done, it is done with other tests for specific reason. So in absence of other tests, it is illegal. Also, this test before 16 weeks cannot be done and should not be done—16 weeks of pregnancy. So any centre doing it before 16 weeks, it is illegal.

Now, the results of the tests are not very accurate. After test, if it indicates of 'female' child, the doctors will suggest for abortion, and if they think of 'male', they suggest for another test. But to establish whether the diagnosis was correct or not is very difficult. For ads about application of drugs or magic remedies—they are objectionable. There is already Central Act about it. Under this Act, nobody can publish, and in case of such publication, the publisher as also editor are liable to punishment. It is a

cognizable offence. But unfortunately they appear and no cognizance is taken.

Another thing that this is an invasive Act. Without proper consent, it cannot be done and no consent is taken from the woman. I would submit that there is a provision in this Act to the effect that they shall have to be licenced. There is another provision for renewal of this licence meaning thereby that all these licenced centres must submit their report, annual report to the proper authority. If the monitoring is not done, then any agency will degenerate. So there should be a provision to this effect. Therefore, it is essential, which is not included in the Act, the Draft Act, that they must maintain a faithful record of all these tests that are done.

As far as Ultra-sound is concerned, sex determination of the child can be done by ultrasound only at a later stage of pregnancy, a much later stage. Medically it is not a sure method of diagnosing the sex of the child. As far as determination of the sex of the child is concerned, it can be done only at a later stage when the child is developed fully and his sex organs are visible and can be visualised. And as far as this method of ultrasound is concerned, it cannot be prevented. It has got to be faced. But at the time of writing the report of ultrasound, if he writes that it is male child, he commits an offence. He cannot do that and if he does so, he is committing an offence. But ultrasound facility cannot be denied because it is one of the chief diagnostic tools which of great benefit to the patient and it is used for 101 things.

SMT. SARLA MAHESHWARI: Ultrasound technique is developing like anything and after 8 weeks, they can predict the sex of the child?

DR. S.G. KABRA: They can. That is an unfortunate part. Atleast there is no risk to the women and the foetus.

SMT. SARLA MAHESHWARI: In our country, the genetic disorder percentage is very low. About 2% and 5%. So do you think that this genetic test should be conducted only in the Government hospitals?

DR. S.G. KABRA: Not only in the Government hospital but that too in the supervised conditions. Without monitoring their results, it will degenerate. It has got to be monitored.

DR. PUSHPA PORWAL: At the district level hospital or at the level of small dispensary or private centre or anywhere, an advisory committee consisting of social workers, religious persons or political persons, a committee of 4-5 persons can be formed and this committee should meet every week or 10 days or 15 days, or whatever their convenience. Social worker should register cases in hospitals and private clinics and let the advisory committee select or scrutinise them whether this women having four female children need a son. You have no method of suggesting or counselling to the women.

SMT. GEETA MUKHERJEE: How are you going to ensure that the women go to the advisory committee?

DR. PUSHPA PORWAL: Through publicity. We want to make very serious effort to communicate to them to visit district hospital for this purpose. These private centres need to be absolutely supervised. One private centre in Jaipur is working and it is not going to stop.

DR. S.G. KABRA: When I said about monitoring, what I meant was that high level of technology is involved in it. Once provision of monitoring is there, we will know what is the detection rate, what are the types of genetical anomalies are curbed, what they are screening is really high risk group or not. All these things will come in that monitoring. I mean professional monitoring and not just administrative monitoring.

A thing that I would like to point out is that these centres besides determining the sex also terminate them which they are not entitled under the law. MTP permits termination only under specific conditions. One condition is the failure of the contraceptive. A woman who submits before a centre for sex determination with a view that in the case of a male child, she will continue the pregnancy. So naturally this excuse and this contention of contraceptive failure is not available to that woman and if the same doctor does medical termination of the pregnancy, it is murder and it is not permitted under the law.

SMT. SARLA MAHESHWARI: You mean MTP should be amended?

DR. S.G. KABRA: There is already a provision to this effect.

SMT. SARLA MAHESHWARI: Under MTP Act, a woman can have the facility of abortion after about 20 weeks.

DR. S.G. KABRA: The woman has to say that it is because of contraceptive failure. A woman who has undergone sex determination test, cannot take this plea.

SHRI MOHANTI: You have said that these tests should be conducted only in the government hospitals. You have also said about the renewal of licence. Should the private clinics at all be given this licence? And if the licence is to be renewed, what should be time limit? It should be renewed every year or ...?

DR. S.G. KABRA: I would prefer every year. When I said government hospitals, I meant only the large institutions which have medical knowledge. It should be at very few restricted places. And renewal should be done even for these centres. Renewal is a method of monitoring.

SHRI MOHANTI: Will the government hospitals also need renewal?

DR. S.G. KABRA: Renewal can be automatic. Unless it is terminated.

SHRI MOHANTI: Should the sex of the foetus be mentioned in the Report.

**DR. S.G. KABRA:** Not only the sex should be mentioned, but other data, that are also recommended, should be mentioned.

**SHRI MOHANTI:** Whether the woman coming for test is compelled or forced by the family members, have you got any experience regarding this?

**DR. S.G. KABRA:** Different types of compulsions are there. There are social obligations. There are compulsions from the family members. There are financial compulsions. All types of compulsions are there. Even a millionaire is also going for this test. A person who has got a son, he is also going, his wife is also going for this test. So compulsion is there in majority of the cases. But the question is are these compulsions enough justification?

**श्रीमती सरोज दुबे:** आपकी राय में इसमें किसको सजा होनी चाहिए? डाक्टर को, महिला को या उसके परिवार वालों को?

**डा० एस० जी० काबरा:** तीनों गिल्टी बराबर माने जाने चाहिए। ऐसा नहीं कि महिला तो कहे कि मेरे साथ जबर्दस्ती की गयी है।

**श्रीमती एलिस गर्ग:** महिला नहीं मानी जा सकती।

**श्रीमती गीता मुखर्जी:** आप अपने अनुभव बताइये तो ज्यादा अच्छा रहेगा।

**डा० एस० जी० काबरा:** रोकने के लिए तो यही है कि टैस्ट केवल स्पेसिफाइड सेण्टर्स में होना चाहिए प्रोफेशनली सुपरवाइज्ड एण्ड मानिटेर्ड।

**श्रीमती गीता मुखर्जी:** रिपोर्ट में बच्चे का सैक्स होना चाहिए?

**डा० एस० जी० काबरा:** इसको प्रिवेण्ट नहीं कर सकते, इसी एम्बीट में आएगा।

**श्रीमती एलिस गर्ग:** मैं सोचती हूँ कि अभी तक महिला को यह बताया जाता है कि जो लड़की पैदा हुई है उसके लिए वही जिम्मेदार है। अवेयरनेस ही नहीं है, एजुकेशन ही नहीं है कि लड़की हो रही है उसके लिए पुरुष जिम्मेदार है। मान्यता भी यही है कि लड़का घर चलाने वाला है, दीपक है, परिवार का नाम चलाने वाला है। लड़की तो अभी भी राजस्थान में लाइबिलिटी मानी जाती है।

**डा० एस० जी० काबरा:** ये सब टैस्ट सिटीज में हो रहे हैं।

**श्रीमती एलिस गर्ग:** हमने गावों में भी काम किया है, महिलाओं से जाकर बात की है। महिला को महसूस कराया जाता है और जो कुछ उसके परिवार वाले कहते हैं वह स्वीकार कर लेती है।

**श्रीमती सरोज दुबे:** महिला तो इतनी विवश है कि वह तो सिप्रेचर करेगी ही। ऐसी 5-6 महिलाएं बताएं जिनको इसीलिए घर से निकाल दिया गया है या जिनके पति ने दूसरी शादी कर ली है?

**श्रीमती एलिस गर्ग:** हमारे पास सबूत है। एक लेडी का हम केस लड़ रहे हैं फैमिली कोर्ट में। शकुन्तला सिंह नाम है उसका। उसके छः लड़कियां हैं। उसको सिर्फ इसीलिए छोड़ दिया गया कि उसने सिर्फ लड़कियां ही लड़कियां पैदा कीं।

**श्रीमती रेणुका पापेचा:** लड़का होने पर भी छोड़ा जा सकता है। हमको नयी कल्चर डेवलप करनी है और महिला को नये तरीके से एजुकेट होने देना है तो किसी न किसी समय पर डिमार्केशन लाइन

डाल कर शुरू करना पड़ेगा उसे इस बेचारी से निकालने का काम। कब तक यह कहते रहेंगे कि औत दबती है। हमने अपने मैमोरैण्डम में भी यही माना है कि डाक्टर सबसे दोषी है क्योंकि वह अपने ज्ञान का मिसयूज कर रहा है। उससे ज्यादा दोषी कोई हो नहीं सकता। इसलिए इतना जबरदस्त ऑफेंस होना चाहिए। उसका कॉन्जिबल ऑफेंस बनाना चाहिए, उसका लाइसेंस रद्द होना चाहिए और आगे हमेशा के लिए इस तरह की स्थिति बने, माहौल बने, नई कल्चर डवलप होनी चाहिए।

मैं निवेदन करना चाहती हूँ कि सती का कानून बना तो उसमें भी महिला को दोषी माना है। राजनीतिज्ञ सती का नाम लेकर चुनाव नहीं लड़ सकते हैं। उसके बाद जो लोग नाम लेते थे उन्हेनि भी नाम लेना बन्द कर दिया। हमको देश में कानून सख्त बनाने की जरूरत है। उसके बावजूद भी सोशल ऑर्गेनाइजेशन को काम करने की जरूरत है। मेरे हिसाब से महिला को भी दोषी माना जाये, उसके परिवार वालों को भी दोषी माना जाये और डाक्टर को सबसे ज्यादा दोषी माना जाये।

दो-तीन कैसेज का जाम-बूझकर बताया गया है, हमने पता लगाया है उसका नाम है अनिल नर्सिंग होम, यह राजस्थान का सेंटर है। यहां पर 30 कैसेज का बताया है, पर मैं कहना चाहती हूँ कि 100 कैसेज रोज टेस्ट के लिए आते हैं, इतने कैसेज आज आते हैं कि उनको फुर्सत ही नहीं है।

**श्रीमती सरोज दुबे:** बोर्ड लगा रखा है क्या?

**श्रीमती रेणुका पामेचा:** माउथ टू माउथ बात पहुंचती है। उस सेंटर में लोग जाते हैं, उनका रजिस्ट्रेशन नहीं होता है। एक कैसेज जाता है उसका रजिस्ट्रेशन नहीं, 1600 रुपये अबॉर्शन के बताये। वह दूसरी जगह अबॉर्शन के लिए ले जाते हैं, सेटेलाइट (सर्करी) हास्पिटल में ले जाते हैं। वहां पर जो डाक्टर थीं उन्होंने उस महिला को खूब डांटा और कहा कि तुम महिला को, महिला होकर मांला चाहती हो। फिर वह दूसरे हास्पिटल में, जहां पर रेड्स कम ही लिये जाते हैं। प्राइवेट हास्पिटल में जहां पर 600 रुपये अबॉर्शन कराने ले जाते हैं। वहां पर मेरी एक रिस्तेदार भती थी। मैंने उस समय जब मेरे रिस्तेदार से मिलने के लिए गई हुई थीं तब उससे बात की। उसने मुझे बताया कि 10 मिनट में टेस्ट हुआ और मुझे बताया गया कि तुम्हारे लड़की होगी। अलवर और भरतपुर से वह आई हुई थीं। काफी देर तक मैंने उनसे बात चीत की, विचार किया कि मैं क्या कर सकती हूँ। जूलूस निकालूँ, हल्ला करें, क्या करें? मेरे मन में इस प्रकार के श्रम उभर कर आये। मेडिकल कौंसिल रोल क्या रहता है, क्या रोल है इस प्रकार की क्लिनिक्स को लाइसेंस देने में? मैंने मेडिकल कौंसिल को लाइसेंस रद्द करने के लिए चिट्ठियां लिखीं, सम्बन्धित आथोरिटीज को लिखीं, पर किसी का जवाब नहीं आया। खुले तौर पर प्रचार-प्रसार हो रहा है। हम कैसे उसे रोक सकते हैं, मेडिकल कौंसिल, हैल्थ डिपार्टमेंट आदि कानून लागू करने के स्तर पर कितने सीरियस हैं और कितने सीरियसली उसको लेते हैं, यह श्रम बहुत गम्भीर है। लेजिस्लेशन में गम्भीरता को महसूस करें। अल्हा साउण्ड वास्तव में भी हो रहा है, सोनोप्राप्ती भी हो रही है, क्या फर्क पड़ता है जिस तरह की पैसा बनाने की, पैसा पैदा करने की प्रवृत्ति बढ़ रही है उसमें इससे बढ़िया और आसान तरीका क्या हो सकता है? इस प्रकार की प्रवृत्तियों को रोकने के लिए शक्तिशाली कानून की आवश्यकता है और किसी भी स्तर में मेडिकल कालेज और 2=4 रिकग्नाइज्ड जगहों को छोड़ कर इस प्रकार की सुविधा नहीं होनी चाहिए।

**श्रीमती सरोज दुबे:** महिला संगठनों की ज्यादा आवश्यकता महसूस करती है?

**श्रीमती रेणुका पामेचा:** लड़कियों की सुरक्षा की दृष्टि से हमारे यहां कुछ इस तरह की सुविधाएं उपलब्ध कराई जानी चाहिए। माता-पिता ज्यादा लड़के को चाहते हैं, बुढ़ापे में हमें कौन देखेगा, लड़के

को बुढ़ापे के अन्दर अपनी सुरक्षा के रूप में उसे चाहते हैं जबकि इंग्लैण्ड और अमेरिका में बच्चे को इस रूप में नहीं चाहते हैं।

**श्रीमती सरोज दुबे:** यह कैसे हो सकती है? बुढ़ापे में सुरक्षा कैसे हो सकती है?

**श्रीमती रेणुका पामेचा:** सवाल सुरक्षा की दृष्टि से काम हो रहा है। यह समस्या शहरों में ही नहीं है, गांवों में भी यह बात पहुंच गई है और जो नहीं पहुंचनी चाहिए थी, औरत की जिन्दगी का कोई महत्व नहीं है। ऐसा नहीं है कि स्पेसिफिक ला में.....

**श्रीमती सत्या बेन:** राजस्थान के हिसाब से जरूरी है।

**श्रीमती रेणुका पामेचा:** राजस्थान में प्रधान और सरपंच, आफिस बियरर्स ऐसे हैं जिन्होंने शारदा एक्ट की अवहेलना करके बाल-विवाह किए हैं। शारदा एक्ट में कई इस प्रकार की खामियां हैं.....

**श्रीमती सरोज दुबे:** किस किस को दोषी मानना चाहिए, आपके हिसाब से?

मां-बाप, हर्बैड, डाक्टर्स में से किन-किन को दोषी मानना चाहिए?

**श्रीमती रेणुका पामेचा:** हर्बैड ही तो लेकर आता है वह तो दूर खड़ा रहता है।

**श्रीमती सत्या बेन:** हर्बैड के साथ और किसको दोषी माना जाय?

**डा० काबरा:** No husband, and no other person can be prevented because she has given her consent. It means everything was explained to her.

**डा० प्रकाशवती भटनागर:** परिवार में किन किन को माना जाय परिवार में मां-बाप, बच्चे ननद, बेटे-बेटी आदि को रखा हुआ है। मैं यह कहना चाहती हूँ कि अवेयरनेस की ज्यादा जरूरत है, अवेयरनेस क्रिएट करनी पड़ेगी। मैं कई सामाजिक संगठनों से जुड़ी हुई हूँ, परिवार कल्याण कार्यक्रम में भी मैंने काफी सक्रिय योगदान दिया है, रेडक्रास संस्था से भी जुड़ी हुई हूँ। मैंने कई बार लोगों को यह समझाया है कि लड़का हो या लड़की, दोनों रजी-खुशी होने चाहिए। परिवार कल्याण कार्यक्रम में मैं जबर्दस्ती के बहुत खिलाफ हूँ।

**DR. KABRA:** It should be cognizable offence. Once they had informed the Superintendent of Police or police authority they must take it cognizable. It should be cognizable offence. Even child marriage is cognizable and people do that.

**MRS. GEETA MUKHERJEE:** India is challenging the question of awareness. The Bill has failed from that angle. Rights should be given to the social workers and the organisations. They can produce some results.

**श्रीमती एलिस गर्ग:** सामाजिक मानसिकता और वह भी गांवों के संदर्भ में बहुत मुश्किल काम है। आज जो हमारा मीडिया है, टेलीविजन है, रेडियो है और दूसरे दूसरे माध्यम हैं हैलथ डिपार्टमेंट को काम में लेने चाहिए, लोगों में जागरूकता बढ़े, उनकी मानसिकता में बदलाव आये। वह यह समझने लगे कि लड़का और लड़की दोनों बराबर हैं। तभी कुछ काम हो सकता है। राजस्थान के परिप्रेक्ष्य में बहुत आवश्यक है। आज की स्थिति में बहुत मुश्किल है। राजस्थान में महिलाएं घूंघट में रहती हैं, जो पढ़ी-लिखी नहीं होती हैं, मामूली पढ़ी लिखी हैं। आज कई बार ऐसा देखने में आता है कि कई लोगों के लड़के होते हैं, वह अपने मां-बापों को नहीं संभालते हैं/रहे हैं। फिर भी मानसिकता यही है कि लड़का हमें पिण्डदान देगा, दूसरे जन्म में देगा। इस जन्म में नहीं दिया तो कोई बात नहीं। इसके लिए जरूरी है कि उसमें सरकारी विभाग, माध्यम और सामाजिक कार्यकर्ता उन सब को मिलकर काम करना



पड़ेगा। फेमेली प्लानिंग का एक उदाहरण है हमारे सामने कि जब किसी डिपार्टमेंट ने कहा कि यह हमारा काम है यह हमें ही करना है तो क्या हुआ उसको मुझे बताने की जरूरत नहीं। लेकिन उसके बाद जब सामाजिक कार्यकर्ता उसमें लगे, किसी ने अपनी भागीदारी निभाई तो फेमेली प्लानिंग कार्यक्रम में लोग अपने आप आने लगे हैं तो यह भी राष्ट्रीय स्तर पर लेना पड़ेगा। सबको मिलकर अपनी भागीदारी निभानी होगी।

**श्रीमती सरोज दुबे:** आपने कानून देखा होगा हम लोग यह जानना चाहते हैं कि उस कानून में आप कहां कहां कमियां पाते हैं, आप उसका जो ढांचा है उसको उपयुक्त समझते हैं क्या?

**डा० एस० जी० काबरा:** उसमें काफी चेन्जेज हैं।

**श्रीमती रेणुका पामेचा:** पूरा क्लाज वाइज अमेपडमेंट भेजा है, 65 कापीज हैं। क्लाज वाइज वर्ड्स वाइज।

**श्रीमती एलिस गर्ग:** शिक्षा भी ऐसे चेन्जेज नहीं ला पा रही है तो पाठ्यक्रमों से लेकर जहां जहां जरूरत है उन सब मान्यताओं को बदलने के लिए शिक्षा के अन्दर, सिलेबस के अन्दर जो भी खास तौर से लड़कियों के लिए है उसके अन्दर प्रौढ़ शिक्षा जो दे रहे हैं, अनौपचारिक शिक्षा दे रहे हैं। मैं सोचती हूँ कि बहुत जरूरत है कि इसमें बदलाव लायें।

**श्रीमती सरोज दुबे:** महिलाओं से ज्यादा पुरुषों के शिक्षा की...

**श्रीमती एलिस गर्ग:** उनको ज्यादा जरूरत है।

**श्रीमती सत्या बेन:** हमारी धार्मिक मान्यता है कि बेटा ही पिण्डदान कर सकता है क्या बेटियां नहीं करवा सकती हैं?

**श्रीमती एलिस गर्ग:** एक्शन में भी नहीं करने दिया जाता। शमशान भूमि में तो जाने नहीं दिया जाता, क्रियाकर्म की तो बात दूसरी है।

**डा० ठाकुर:** मेरे विचार से सिर्फ मेडिकल दृष्टिकोण ही नहीं है। भ्रूण परीक्षण का सम्बन्ध राष्ट्रीय और समाज के साथ भी है। कानून हम कितने ही बनाएं, जैसे बाल विवाह है, छुआछूत है, इस तरह के कई कानून हमने बनाए लेकिन इनका जो रिजल्ट हमारे सामने है। सिर्फ कानून बनाने तक ही सीमित रहकर हम उसका लाभ नहीं उठा सकते, उसके लिए और कुछ भी करना है। भ्रूण परीक्षण के सम्बन्ध में मैं यह कहना चाहूंगा कि देशवासियों को यह समझना चाहिए कि इसका प्रभाव राष्ट्र पर भी है, समाज पर भी है, यह एक तरह से मातृ शक्ति का अपमान है। इसके दुखद परिणाम आने वाले समय में पूरे राष्ट्र को पंगु बना देंगे। भ्रूण परीक्षण, लड़की को जन्म से पूर्व ही समाप्त कर देना, इसके तीन कारण हैं:— एक, परिवार नियोजन, जिस कारण सीमित परिवार की भावना से पहला पुत्र होने की मानसिकता को बढ़ावा, क्योंकि लोग यह जानते हैं कि हमको सीमित परिवार रखना है इसलिए अगर लड़की है तो समाप्त कर दो।

दूसरा, धार्मिक संस्कारों से, वंश परम्पराओं की मान्यताओं से पुत्र का होना जरूरी है।

तीसरा, दहेज प्रथा का बढ़ता रोग जिसके कारण कन्या बोझ समझी जाती है। हमें इस स्थिति पर विचार करना चाहिए और आम जनता में शिक्षा द्वारा लड़के होने की अनिवार्यता को समाप्त कर देना चाहिए। लड़कियां हो या लड़की हो समानता की धारणा होनी चाहिए। हम अगर भ्रूण परीक्षण को प्रोत्साहन देते हैं तो समानता तो खत्म हो गई। धार्मिक ग्रन्थों में कन्या का होना विशेषता माना गया है क्योंकि कन्यादान करना हर एक परिवार के लिए अनिवार्य माना जाता है। आम तौर से देखा गया है कि जिस परिवार में कन्या नहीं होती है वहां किसी सम्बन्धी की कन्या लेकर कन्यादान के दायित्व को पूरा

किया जाता है। दहेज की बुराई समाज में फैली हुई है जिसको शिक्षा द्वारा दूर करने के लिए बुद्धिजीवियों को निरन्तर प्रयत्न करना चाहिए।

भ्रूण परीक्षण के इस कृत्य पर रोक लगाने के लिए पूरे देश में महिला शक्ति को जागृत होना समय की परम आवश्यकता है। इस महिला शक्ति को अपना संगठित रूप अख्तियार करना चाहिए और इसके विरोध में अपनी आवाज देश के कोने कोने तक पहुंचानी चाहिए। जन्म पूर्व अमानवीय कृत्य को दृढ़ता पूर्वक स्त्री जाति को नकार देना चाहिए। अगर स्त्री नकार देवे तो मैं समझता हूँ इस पर रोक लग सकती है। भ्रूण परीक्षण पर अति शीघ्र प्रतिबन्ध लगाने के लिए मजबूर करना चाहिए। यह भी उचित होगा कि भ्रूण परीक्षण को राष्ट्रीय अपराध मानना चाहिए। अगर हम चाहें कि कानून द्वारा हमको लाभ मिले तो ऐसा सम्भव नहीं है। मैं तो महिला शक्ति को ज्यादा मानता हूँ। महिला शक्ति को अपना वजूद समानता के आधार पर रखना चाहिए।

**श्रीमती सरोज दुबे:** यह कैसे हो सकता है?

**डाक्टर ठाकुर:** जैसे महिलाओं की जितनी सभाएं हैं, बुद्धिजीवियों के प्रचार के जरिए, गांवों में शिक्षा का प्रचार, कई ऐसी सोसाइटियां भी हैं, आपका समान अधिकार है और लड़की लड़के में कोई फर्क नहीं है, लड़का होना जरूरी नहीं है।

दूसरी बात यह है कि मोरल चरित्र का निर्माण होना चाहिए। मैं समझता हूँ इसमें चरित्र का बड़ा योगदान है। हमें राष्ट्रीय चरित्र निर्माण करना चाहिए यह भी एक जरूरी बात है। महिलाओं को जागृत करना और जो फिजिकल नुकसान है...

**श्रीमती दिलकुमारी:** यह तो एक सतत प्रक्रिया है सामाजिक चेतना देने का काम रुक नहीं सकता। यह तो चलता ही रहेगा।

**श्रीमती गीता मुखर्जी:** You have been fighting for this cause. What is the Government reaction?

**श्रीमती रेणुका पामेचा:** गवर्नमेंट कुछ नहीं करना चाहती, जवाब भी नहीं देती चिठ्ठी का। मेरा तो यह रिकार्ड है जब मैं लिखती हूँ तो अन्तिम लाइन कि मेहरबानी करके आप यह दे दें कि चिठ्ठी पहुंच गई।

**SHRIMATI DIL KUMARI BHANDARI:** Dr. Kabra, you said that this taking out of fluid, instead of finding out any disorders, will inflict injuries. Are you of the view that this particular test should be avoided?

**DR. S.G. KABRA:** There is no alternative. As far as the method of removal of fluid is concerned, another better method has come up which is simple. The risk increases with improper facilities. I would like if amino synthesis is totally excluded but that is not possible as for certain diagnostic purposes you require the fluid for chemical examination. So far as Medical Termination of Pregnancy is concerned, abortion is not permitted as a measure to family planning, but with the government consent, it is being used as a family planning measure, which is like a murder. The women should have the right to abortion but they have also right not to abortion. Today, anybody can do abortion. Hundreds of clinics are there for abortion. M.T.P. is permitted

and this is like a murder. The government is encouraging it all in the name of family planning.

**श्रीमती सरोज दुबे:** बार-बार भ्रूण हत्या शब्द प्रयोग किया जाता है। भ्रूण की हत्या की जाती है, जीवन की हत्या की जाती है। क्या आप लोग यह समझते हैं कि डाक्टरों के खिलाफ 302 का मुकदमा होना चाहिये? क्योंकि उनके द्वारा हत्या की जाती है।

वर्तमान में शिक्षा और स्वास्थ्य की बहुत दुकानें खुल गई हैं। इन दुकानों को इतनी खुली छूट है कि हर कोई संस्था इस प्रकार की दुकानें खोल रहे हैं। इनका मिसयूज हो रहा है। आर०एम०पी० की डिग्री लेकर लोग आते हैं, जिसको कोई ज्ञान नहीं है। जिस तरह से लोगों को किया जा रहा है, कोई नियंत्रण नहीं है।

**श्रीमती एलिस गर्ग:** ऐसा इसलिए होता है कि जो सरकारी संस्था है, स्कूल हैं, अस्पताल हैं, वे प्रोपर काम नहीं कर रहे हैं। जब तक लोग नहीं पहुंचते हैं, लोगों की तो यह शिकायत रहती है कि स्कूलों में, अस्पतालों में वहां पर कोई वर्कर मिलता है, कोई देखने वाला नहीं मिलता है। रूरल की स्कूलों में टीचर्स नहीं मिलेगा। इस तरह की स्थिति का होना बहुत बुरी बात है। जहां तक सरकारी, पोलिटिकल विल की बात है, इसमें सरकार का नजरिया यह है कि महिलाओं के हित में यदि कोई काम करता है तो आपको कहीं से सहयोग नहीं मिलने वाला है।

**श्रीमती प्रकाशवती भटनागर:** चेयरपरसन महोदया, मैं निवेदन करना चाहती हूँ कि इस कार्यक्रम के लिए ग्रास रूट पर मेहनत करने की जरूरत है। गांवों में जो दाइयां होती हैं, उनको ट्रेनिंग दिये जाने की आवश्यकता है। दाइयों पर गांव वालों का बहुत विश्वास होता है। उन्हें ट्रेनिंग दिया जाना बहुत जरूरी है। इनके अलावा पैरामेडिकल स्टाफ को भी ट्रेनिंग दिये जाने की जरूरत है।

Traditional 'dhaai' can convince the women because they go door to door. I have been training para medical staff. If the issue is not wanted, immediately they should be permanently sterilised. I have given an example of Panna Dhaai, who sacrificed for other person. So in rural areas, parents should be given to understand benefits of family palnning.

**श्रीमती रेणुका पामेचा:** जब किसी सरकारी अस्पताल में लड़का होता है तो कहीं 51/- रुपये मांगते हैं, कहीं 31/- रुपये मांगते हैं। लड़का होने पर रुपया दे भी दिया जाता है। तब मुझे लगता है कि ट्रेनिंग की बहुत ज्यादा जरूरत है This I have seen with my eyes.

We should suggest something for this.

**श्रीमती एलिस गर्ग:** प्राइवेट अस्पतालों में डाक्टर का यही रवैया रहता है।

**श्रीमती पुष्पा पोरवाल:** प्राइवेट अस्पतालों में जब लड़का होता है तो थाल बजाये जाते हैं, लड्डू बांटे जाते हैं। स्टाफ को भी बख्शीश मिलती है। लड़की होने पर किसी के दिल में खुशी नहीं होती है। इस प्रकार लड़का-लड़की होने पर वातावरण में एक प्रकार का परिवर्तन आ जाता है।

**श्रीमती सरोज दुबे:** ग्राम पंचायत, न्यायपालिका स्तर पर इसको रोकने के लिए क्या उपाय किये जा सकते हैं, इसके बारे में भी तो कुछ बताइये।

**श्रीमती पुष्पा पोरवाल:** वैसे तो हमने सारा कुछ क्लाजवाइज मेमोरण्डम आपको भेज दिया है। यह ज्ञान हम बराबर कहते रहे हैं। उनके साथ इन चीजों को जोड़ा जाना चाहिये। जैसा अभी विचार आया है कि 3 बच्चे वालों को पंचायत का चुनाव नहीं लड़ने देंगे। इस दिशा में और मजबूती से काम करने की

आवश्यकता है। सवाल यह है कि यहां का इन्फ्रास्ट्रक्चर ही ऐसा है कि जो मदद सरकार की ओर से मिलनी चाहिये, उसे वह देने को तैयार नहीं है। कुछ अजीब तरह की स्थिति बनी हुई है।

**श्रीमती एलिस गर्ग:** मैं एक सामाजिक संस्था की प्रतिनिधि होने के नाते एक बात कहना चाहती हूं। हालत तो यह है कि जब कोई काम करवाने की बात होती है तो हम लोगों को पूछा जाता है कि वह प्रोग्राम बनायें, वे प्लानिंग करेंगे। मेरा तो आपसे यह निवेदन है कि इस व्यवस्था को किस प्रकार ठीक किया जा सकता है। इसे देखें। यह बहुत जरूरी भी हो गया है। सामाजिक कार्यकर्ताओं को, सामाजिक संस्थाओं को आप जोड़ें। कुछ लोगों को उसका अनुभव है चाहे कट्टा हो, अच्छ-बुरा हो, वे शेर कर सकेंगे।

**HON'BLE CHAIRMAN:** Rajasthan is socially backward State having very much social problems. But there are number of voluntary organisations and they are doing very well. There are good number of women workers. Not only that, from male side also, they have concern about the situation prevailing in the State. We have gone through the memorandum. There are very valuable points. You are doing very job. It is useful for us for formulating our views.

Thank you very much.

(Hon'ble Chairman welcomed the officers of Rajasthan Government and informed them about the previous meeting, Smt. Kushal Singh, Secretary, Social Welfare Department, Ms. Anjana Bhushan, Director, Women, Child & Nutrition Department, O.P. Meena, Special Secretary, Medical & Health Department, Shri B.L. Gupta, Director, Medical & Health, and B.L. Baphana, Addl. Director introduced themselves.)

**SMT. SARLA MAHESHWARI:** Just how we had a meeting with some voluntary organisations. They have informed us that so many private and even medical hospitals are doing this diagnostic test in the name of disorder. They are doing amniocentesis test. And they had informed government many times.

So I would like to know why your Department is failing. Whether the Department is having knowledge of this development or not? Have you got any complaint?

**SPECIAL SECRETARY:** In fact, some suggestions of general nature have been received. But no complaint about the Government hospitals or the government institutions doing this kind of test or even of private nursing home or private diagnostic centre doing this kind of test, has been brought to our notice.

**SMT. GEETA MUKHERJEE:** There have been lots of press releases and lots of press news.

**श्रीमती सरोज दुबे:** क्या आपने समाचार-पत्रों में जो विज्ञापन निकलते हैं, नर्सिंग होम्स के जो विज्ञापन हैं, जो दीवारों पर विज्ञापन लिखे हैं, उन पर गौर किया है?

**SPECIAL SECRETARY:** Not to my knowledge. Not in Rajasthan. That problem may be there but not this sex determination problem.

**श्रीमती सरोज दुबे:** राजस्थान में भ्रूण हत्याओं के बारे में अखबारों में समाचार निकलते हैं लेकिन इसके बाद भी कोई कार्यवाही नहीं होती। सरकारी अधिकारियों के ध्यान में जब तक नहीं लाया जाये तब तक वे देखते ही नहीं हैं।

**SMT. SARLA MAHESHWARI:** Don't you have any regulating machinery?

**DIRECTOR, MEDICAL:** As a matter of fact, news items in the press are appearing but स्पेसिफिक कोई नॉलेज में नहीं आया।

They have not give any names.

**SMT. GEETA MUKHERJEE:** They have written to you but no acknowledgement of them has been received from the Government.

**श्रीमती सरोज दुबे:** उन्होने एक कटिंग दिखाई है।

**SPECIAL SECRETARY:** This I can say that some of them, an organisation from Rajasthan University has come to us and they have met me personally. But they have never mentioned this subject. They have met about other problems. We keep meeting them and they keep meeting us but I am not aware of even a single meeting in which they raised this issue.

**श्रीमती सरोज दुबे:** उन्होने मीटिंग की है. पेपर में अपना स्टेटमेंट दिया है, उसके बाद भी आपने कोई कार्यवाही नहीं की है।

**DIRECTOR, MEDICAL:** I would just submit that what they are saying; we have to look into our records for that. But for the past six months or so, no specific complaint has been received by me as yet.

**SMT. GEETA MUKHERJEE:** We have been given the names of such nursing homes—Anil Nursing Home, Kamala Nehru Nursing Home.

**SMT. SARLA MAHESHWARI:** We were given names of those nursing homes and the Government is quite unaware of this thing.

**श्रीमती सरोज दुबे:** अभी उन्होने बताया है कि कई नर्सिंग होम ऐसे हैं जिनमें भ्रूण हत्याओं का धंधा होता है। ऐसे कई मामले उनके द्वारा आपके नोटिस में लाये गये हैं लेकिन उनको एक्कोलेजमेंट लेटर के सिवाय कोई जवाब नहीं मिला है। क्या इस संबंध में आपको कुछ बताना है?

**SPECIAL SECRETARY:** We will get it checked.

**DIRECTOR, MEDICAL:** We had a meeting with N.G.O. today itself. But such points have never been raised.

**THE CHAIRMAN:** The Government has received memorandum from several organisations regarding such kind of problems, misuse of this technique which leads to female foeticide misleading the people to believe that there are number of cases where female child's abortions are going on in the private nursing homes. So the Government has received quite a number of memoranda about the malpractices going on or complaints about any individual doctor or clinics or nursing homes.

**DIRECTOR, WOMEN, CHILD & NUTRITION:** Regulation of such practices is beyond the purview of this Department. But we are of the opinion that this evil issue is connected with the larger issue of low image of girl in the society and, therefore, we have been trying to conduct activities which generate some kind of enhanced image of the girl child. We, in a very concerted fashion, started these activities with the first year of the SAARC decade of Girl Child. We have been doing these activities in intermittent fashion from time to time. In 1991, the first year of the SAARC decade, we launched a very intensive girl child campaign in which we comprised village contact teams and the objectives of this was broadly two fold. First phase of the campaign was very decisively anti-child-knowledge. We thought that this negative message is very good point from which to start our discussion with the village community. Having initiated discussion from this point of view, the second phase of the campaign concentrated on trying to enhance the status of girl education and in it we comprised village contact teams into departmental teams in which the 'saathins' of our women development programme, the Aaganwari workers, ANM and other interested persons, a team of five went to villages. We conducted this exercise in 17 blocks. The team resided in the village for 3 days and convened the meetings of gram sabha. They conducted this exercise through methods of inter-personal communication like street plays or basti discussion. They initiated this subject and they did house to house survey of the status of the girls in that village in terms of education, age of marriage, even of child berth and anti-natal care. Having conducted this exercise over a period of one to two months, the results of this survey were known and we evolved a follow-up action with the concerned departments because we found that we were able to considerably generate demand for various services. We felt that legislation and controlling measures will be merely half the story. Our approach has been to educate them. Although we have adopted a softer approach but in the long run, it will be more beneficial approach to tackle this problem.

**SMT. SARLA MUKHERJEE:** But knowledge is not a one way traffic. What propoganda is going on at the grassroot level, your Department is quite unaware of that.

**श्रीमती सरोज दुबे:** जब वे इस लाइन पर काम कर रहे हैं तो वे आपको रिपोर्ट तो करेंगे ही। लेकिन उनके पत्रों का ही जवाब नहीं गया, इसका क्या कारण है? नर्सिंग होम गलत तरीके से पैसा कमा रहे हैं। उन्होंने ऐसे नर्सिंग होम के नाम दिए हैं कि वे किस तरह के टेस्ट करते हैं, किस तरह से एबोर्शन करते हैं? उन्होंने उस पत्र की प्रतिलिपि आपको भी भेजी है। आप तो स्पेशल सेक्रेटरी हैं। आपको जरूर पत्र आया होगा और आप महिला बाल कल्याण विभाग में हैं, यह महिला व बाल कल्याण से संबंधित मामला है। क्या आपने कुछ किया? क्या आपने जापन देखे हैं?

**सुश्री अंजना भूषण:** देखे हैं।

**श्रीमती सरोज दुबे:** देखे हैं तो फिर ध्यान क्यों नहीं दिया?

**श्रीमती सरला महेश्वरी:** आपको जो आंकड़े दिए हैं उनके द्वारा आपके यह ध्यान में आया होगा कि इस पर नियंत्रण करना चाहिए। क्या आपका हेल्थ विभाग के साथ कोई समन्वय है?

**सुश्री अंजना भूषण:** समन्वय है। यह विभाग मेडिकल डिपार्टमेंट की भागीदारी के साथ ही चल रहा है।

**श्रीमती कुशल सिंह:** इसमें बेसिकली यह पाइन्ट आता है कि इस तरह की गतिविधियां बन्द होनी चाहिए। इसके विषय में कई बातें चल रही हैं। यह बात भी है कि गवर्नमेंट ऑफ इण्डिया एक्ट लाने की सोच रही है। हर स्तर पर यह बात आती है कि इसको इलैगल डिक्लेयर कर देना चाहिए। यह चर्चा कई सालों से चल रही है। यह एक्ट आना चाहिए, इस एक्ट की जरूरत है यह बात हर फोरम पर आ रही है।

**श्रीमती सरोज दुबे:** क्या आपने सरकार को या मेडिकल विभाग को कोई सुझाव दिए हैं?

**श्रीमती कुशल सिंह:** जब सेन्ट्रल गवर्नमेंट एक्ट लाने का सोच रही है तो हर स्टेट 'कोई उससे अलग कानून थोड़े ही बनायेगा। यही हम सोच रहे हैं।

**HON. CHAIRPERSON:** Now we are coming to the legislation. That is the main thing.

**MRS. SATYA BEN:** आप लोगों की बात सुन कर बड़ी निराशा हुई। महिलाओं का इतना उत्पीड़न होता है चाहे किसी भी सम्बन्ध में हो और आप लोग कह रहे हैं कि यहां ऐसा कुछ नहीं है।

**सचिव (समाज कल्याण):** महिलाओं के इश्यू पर यहां पर बहुत बार यह बातें रोज की गई हैं। हेल्थ डिपार्टमेंट वाले रेगुलेटिंग प्वाइंट से कह रहे हैं कि वह नहीं है।

**HON. CHAIRPERSON:** Now we should proceed towards legislation.

**श्रीमती सरोज दुबे:** इस बिल में कुछ कमी आपको दिखाई दी?

**श्रीमती सरला महेश्वरी:** यह अल्ट्रा साउण्ड की जो तकनीक है, इसकी क्या गवर्नमेंट हास्पिटल में लिमिट कर देनी चाहिये या प्राइवेट अस्पतालों को भी इसकी इजाजत देनी चाहिये। इस बारे में आपकी क्या राय है?

**MRS. GEETA MUKHERJEE:** We would like to react now.

**MR. B.L. GUPTA (MEDICAL DEPT.)** This should be limited to the Government hospitals so that it can be properly utilised otherwise there will be more chances of malpractices. So I suggest that it should be limited to the Government hospitals.

**श्रीमती सरला महेश्वरी:** बिना कानून की अनुमति के भी सरकार चाहे तो डॉक्टर को अपराधी ठहरा सकती थी क्योंकि मेडिकल आचार संहिता के तहत ही इस पर पाबंदी है कि डॉक्टर सैक्स को डिक्लेयर करे। आपके हाथ में सब्ती थी।

**MR. B.L. GUTTA (MEDICAL DEPT.):** Yes, it is so.

**MRS. SATYA BEN:** महिलाओं का उत्पीड़न यहां पर सामाजिक व्यवहार बन गया है। इस पर रोक जरूरी है।

**HON. CHAIRPERSON:** They cannot give their views. It seems that they have not gone thoroughly and have just read it. No exercise has not

been done. This is what I want to say. Please send us your detailed comments after discussion.

Now we have come to know that this problem is also present in this State because many voluntary health organisations have given their views. I think law should be there. Your Medical Department and Law Department should send their comments after discussion.

**MRS. GEETA MUKHERJEE:** Madam Chairman in how much time is to be given for sending their comments?

**HON. CHAIRPERSON:** Within 15 days.

**MRS. ANJANA BHUSHAN (DIRECTOR-ICDS):** I would like to submit that there is some sort of misunderstandings. The State Government is aware of this fact and we have been raising this issue strongly. It was regulatory part of it.

**MRS. GEETA MUKHERJEE:** As regards Rajasthan women have problems. That is the main thing that we have asked. That is why we have got your suggestions.

**HON. CHAIRPERSON:** Another important point we noted is that there are no properly qualified persons and that is why it is going not only in Jaipur hospitals but in the district hospitals also and they are being sent to some other places. There are other problems also arising because of this situation. It is very dangerous. Awareness is very important in this programme.

**MR. S. MOHANTHI:** People must be made aware of misuse of this technology and that is why they are talking of social problems. This is a medical aspect and this is a serious thing. What is happening in the State you should take some measures and advise us so that we can look into the matter.

**श्रीमती सरोज दुबे:** यह एक अपराध है, इसको रोकने के लिए कुछ होना चाहिए। क्या आप इस बात की जरूरत महसूस कर रही हैं कि इसमें पुलिस के बड़े ऑफिसर्स को भी इन्वोल्व किया जाये?

**श्रीमती अंजना भूषण (निदेशक—आई सी डी एस):** दरअसल हम लोग कई दिनों से महसूस कर रहे हैं कि महिलाओं के ऊपर जो भी अत्याचार हो रहे हैं और कानून में जो भी महिलाओं के संरक्षण के लिए प्रावधान हैं, जब तक पुलिस विभाग की ओर से इसका ओरिएंटेशन नहीं होगा तब तक हम इसके लिए प्रभावी रूप से कुछ नहीं कर पायेंगे। अभी हमने एक योजना बनाई है जिसके तहत फिलहाल हम राज्य स्तर और जिला स्तर पर शुरू करेंगे। लेकिन कांस्टेबिल स्तर तक Orientation towards women issues, women laws for the protection of women यह करने जा रहे हैं बहुत ही जल्दी और इसमें भारत सरकार की भी स्कीम है जिसके तहत हम भारत सरकार से सहयोग मांगेंगे और वह नहीं मिलेगा तो हम अपने स्तर पर भी इनीशियेट करेंगे।

**HON. CHAIRPERSON:** I will try to study all the facts and send my recommendations to our Health Ministry regarding happenings in the State and to take some measures.



Thank you very much. I appreciate all the arrangements made for the committee here in Rajasthan. The discussion has been very fruitful.

*(Thereafter the meeting adjourned at 11.56 a.m.)*

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

**RECORD OF EVIDENCE TENDERED BEFORE THE JOINT COMMITTEE ON  
PRE-NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF  
MISUSE) BILL, 1991**

*(Tuesday the 7th July, 1992 from 1500 hours to 1900 hours Committee  
Room B, Parliament House Annexe, New Delhi)*

**PRESENT**

**Smt. D.K. Tharadevi Siddhartha—Chairperson**

**MEMBERS  
Lok Sabha**

2. Smt. Dil Kumari Bhandari
3. Smt. Malini Bhattacharya
4. Smt. Saroj Dubey
5. Smt. Geeta Mukherjee

*Rajya Sabha*

6. Smt. Chandrika Abhinandan Jain
7. Shri Sarda Mohanty
8. Smt. Sushma Swaraj

**SECRETARIAT**

**Shri S.C. Gupta—Joint Secretary**

**Shri T.D. Dhingra—Under Secretary**

**REPRESENTATIVES OF THE MINISTRY OF HEALTH AND FAMILY WELFARE  
(DEPARTMENT OF FAMILY WELFARE)**

**Shri S.B. Mishra— Joint Secretary**

**Shri S.S. Kapur — Director**

**NAMES OF NON-OFFICIAL EXPERTS**

1. Dr. Bandari N. Saxena, DDG (Sr.), ICMR, New Delhi.
2. Dr.(Mrs.) Kamal Buckshee, Prof. and Head, Obstetrics and Gynaecology Deptt., AIIMS, New Delhi.
3. Dr.(Mrs.) B. Chadha, Deptt. of Obstetrics and Gynaecology, Kasturba Hospital, New Delhi.

4. Prof. B.J. Wadia, Prof. Chairman & Head of the Deptt. of Obstetrics & Gynaecology, Grant Medical College and Sir J.J. Group of Hospitals, Bombay.
5. Dr. (Mrs.) A.M. Lele, Incharge, Genetics Division, Deptt. of Anatomy, GMC and JJ Group of Hospitals, Bombay.

**THE CHAIRMAN:** I welcome you to this sitting of the Joint Committee on pre-natal diagnostic techniques bill, 1991. We would like to discuss with you your views on the subject. I hope you will give the benefit of your valuable suggestions so that the Committee may have a thorough understanding of the problems relating to this subject and come to right conclusion and present an objective report to the Parliament. Besides, your evidence is liable to be made public unless you specifically desire that all or any part of the evidence tendered by you, is to be treated as confidential. I may also add that even though you may desire the evidence to be treated as confidential, it is liable to be made available to the Members of Parliament. Now I request the eminent experts and gynaecologists from Delhi and Bombay who have come here to give their views. We have given the questions. Our Members want to get more views in response to those questions and they would like to have your suggestions also. Before that, I request you to introduce yourselves to the Committee.

(The experts then introduced themselves to the Committee.)

**THE CHAIRMAN:** We want to know your views on the questions which we have already circulated. We shall take up the questions first.

**SHRIMATI GEETA MUKHERJEE:** You remember the discussions that we had that day. Let us go ahead with these questions. If anyone has to seek clarifications, we will see to that point.

*Q. (i)*

**DR. (MRS.) KAMAL BUCKSHEE:** The first question pertains to whether genetic counselling, genetic clinic and genetic testing is to be done in one place. We want to answer this question. Our primary goal is to help the patient. It would be best in the interest of the patient that all these three facilities should be there at one place in the institution which we are going to define later.

**PROF. B.J. WADIA:** For patients, it is better to have it in one place but there might be reasons why we would like to separate these. I would think that basically the counselling has to be done in a very very different atmosphere than where the actual testing is to be done. If it is feasible to have at one place, it would be ideal. But there can be constraint on this. For instance, in our hospital we have the Genetic Department on one side and Obstetrics Section on the other side. Probably the planners did not think about this 150 years ago. There should be some via-media.

**DR. (MRS.) KAMAL BUCKSHEE:** It is very good to have coordination. It becomes very difficult if the Genetic Department is in the North and the Counselling is in the South of the clinic and if the laboratories are somewhere else. For having immediate results, coordination, monitoring and evaluation are necessary. The expertise should be available at one place.

**DR. BADRI N. SAXENA:** I would like to endorse what Dr. (Mrs) Kamal Buckshee said. We are interested in the good of the patient. How can we implement this and monitor it in a more effective manner? I will endorse the view that we should have the three components at one place.

**DR. (MRS.) B. CHADDHA:** I also agree with Dr. (Mrs) Kamal Buckshee and Dr. Badri N. Saxena. I feel the name should be genetic clinic because it will include all counsels as well as the procedure technique and the lab test.

**DR. (MRS.) A.M. LELE:** I also agree with all my colleagues. It will be labelled as genetic clinic and all the three aspects should be under one roof.

**SMT. CHANDRIKA ABHINANDAN JAIN:** On the question of registration of various categories of genetic centres, one is counselling, the clinic and the laboratory, do you think it is necessary to have all these three different categories together under one roof or they can be separated? You have already expressed your opinions on that. My question is supposing there is a counselling centre, is it eligible to get registration under the Act or not.

**DR. (MRS.) A.M. LELE:** It will be composite registration.

**SMT. CHANDRIKA ABHINANDAN JAIN:** The Counsel Centre is bound to have clinic also.

**THE CHAIRMAN:** We can have registration separately also.

**SMT. CHANDRIKA ABHINANDAN JAIN:** They are not expressing their opinion on that. Separate registration is permissible under the Act. Even if there is only the Counselling Centre, it is permitted under the Act.

**DR. (MRS.) B. CHADDHA:** It will be registered only for counselling and not for other procedure.

**SMT. GEETA MUKHERJEE:** Both from the point of view of the standards of the institution as well as to avoid misuse of techniques for which we have the Bill, is it not that the three categories will give much more weight for their proper utilisation of the facilities? Is that also not a point? Why should we try to get the registration at one place whether we call it counselling centre or genetic clinic? This is also quite pertinent.

**DR. (MRS.) KAMAL BUCKSHEE:** I agree with them but there is a difference because all the three Heads are different. Laboratory is entirely different which can be misused to a large extent. The technique is entirely different. All the three need an expert. So, naturally we are going to choose an institution which has the expertise of all these. It is in those cases that we choose regionalisation of centres.

**DR. BADRI N. SAXENA:** This is the most correct procedure.

**THE CHAIRMAN:** In the Government sector, it is possible to give all these facilities in one place. But in the private sector, some will start Counselling Centre and others will start laboratory and some clinics. Do you have any suggestion because you are experts and you know the ground reality as to how to monitor and regulate such things to prevent misuse?

**PROF. B.J. WADIA:** We talk of two things. One is misuse and the other is monetary expense. It will be difficult for a Centre to have three units. You are talking of surgical theatre etc. Usually, facilities are available in this Hospital because it is the biggest hospital. We will have to have a very very expensive set up for something which is very very minor

in health care. But now we are talking of cost and we are going through ceiling. This is the problem which we are facing now. At the present moment, it is better to have a genetic clinic. But having with it all the facilities already present. You are now talking of medical facilities worth Rs. 6 lakhs and the facilities could not be just in a place for genetic lab. It should be for a wider need. The patient has to come to that facility wherever it is, in the Obstetrics Department or Radiology Department. If you are starting to have ultrasound with full back up which is required only for genetic laboratory, it is going to be very very costly for everybody concerned.

**DR. (MRS.) B. CHADDHA:** In Delhi, there are only All India Medical Institute or Ganga Ram Hospital. AIIMS only has got all the facilities. No other Government hospital has got these facilities. We have people who are sending their specimens to Bombay for testing. I think we can register the people in the private sector provided we know that the person concerned with the Counselling or the procedure and lab test are qualified for it and they have got certain qualifications which we have laid down and if they have got linkage with them and they are getting it done.

**SMT. GEETA MUKHERJEE:** In the beginning, all of you said that the ideal situation would be to have it at one place. The question that was raised in this connection by Prof. B.J. Wadia is whether it will be cost effective to have all that in one place. If it is one place registered, if they think that they can send to another Department of their for that particular test, that can serve the purpose. Otherwise, we cannot ban ultrasonic altogether. But it is very difficult to really make it effective that this test will not be used for the purpose of sex. There is one Centre which is misused. That Centre may refer to some other laboratory or their own doctors in the institution who are well known who will not go in for misuse. Is that not possible? This will be undoubtedly the responsibility of the Institute to whom we are giving the registration. That is the pertinent point in my question.

**PROF. B.J. WADIA:** The question comes altogether to what I had last discussed in Bombay and I would like to endorse that again. There is no way by which you can police this. This has been explained in video-tape. We have to keep a male genital for 11 weeks and a few days i.e., less than 12 weeks. I know it is a rare case. You cannot get that every time. It is getting probed and they are all already available to people at research level. They are going to come to India day after tomorrow. You fit it on to your finger and you can move your finger very accurately to a certain area where you know the foetus is and you will get very enhanced and very accurate image. The probe is not expensive. It can be attached to your normal ultrasound machine. This technology is already available to research candidates. We could determine sex only by abdominal probe at about five months pregnancy. Today almost everybody can detect sex in six weeks. I do realise that with better facilities, you will be able to come down within ten weeks and this you cannot stop at all whether you are having it at the All India Institute or J.P. Hospital or a private institution because this type of machine will be available to everybody and you can get the person concerned and it is going to be very very easy to do it. We

are going to get blood test tomorrow where you test just take a blood sample of the mother and you will be able to detect whether it is a boy or girl that she is carrying. This will have 95 per cent accuracy. You cannot stop somebody's blood being taken. This is also on the cards and this, of course, is still under research. Therefore, we should just forget about policing. There is going to be absolutely no policing at all and I think this Committee could become very much aware of the technological advances because this is very very important. You are going to police something which is absolutely impossible.

On the other hand, by doing these tests, the medical fraternity could get double benefit. This is what is happening in all parts of the country. If you go to some of these laboratories, you will find that 95 to 98 per cent cases detected are that of the girls. So, policing is going to be out. We should just forget about policing as far as technology is concerned. But it is a very humane problem. People having more than two girls are bound to be attracted to this sort of a facility. I would therefore very much endorse it. I think I have given a little note which would be with you all. What is happening today is that when a woman wants to have a sex determination test done, no test is actually done. Money is taken away. Nothing happens. Abortion was legalised in India upto 1956. You cannot catch a person concerned while he is doing the abortion. The point is the parents have opted for an abortion for whatever reason. So, it is termed medical termination of pregnancy. The technology has come to such a stage where it is going to be impossible to police. Still, a practical view has to be taken of the conditions that we are living in.

Coming to the problem, I strongly feel that understanding this technology etc., we should take a practical view and help the patients rather than passing a Bill by which we can never police it. If a woman has one child—boy or girl—and if she wants sex-determination test done, we should help her to get it done. If a person wants to limit the family with a last chance of having a male child, I think we should give that opportunity to him. That is already happening in this country.

**SMT. MALINI BHATTACHARYA:** I am very glad that we have got an idea of it now. We came across what kinds of tests are going to be conducted in future for sex-determination. At the moment, what is happening is that there are no sex determination tests as such. There are genetic tests conducted through which you are actually trying to detect foetal abnormality or the general position of the foetus and so on. Along with that, the sex may also be determined. There is no information available to us on any of the test which is specifically and exclusively a sex determination test.

My first question is: whether the vaginal probe is going to be an exclusively sex determination test. If it is so, then there is a possibility of banning it. We feel very strongly about abortion as such. Why we feel so is because the termination of pregnancy is done only in the case of female foetus. If it is a female foetus, if it has some abnormality, if the child is born and it develops abnormality, in that case the parent has a right to get rid of it. However, just on account of being a female foetus, if it is

aborted, it is that which we are trying to prevent. So, I would like to know whether there is any likelihood of any test coming up which would be an exclusively sex determination test.

**PROF. B.J. WADIA:** No. All the tests would be nothing to do with sex determination. When we talk of vaginal probe, I might do 20 tests in a week. We are doing it in respect of certain cases only. It is not meant for sex determination.

**SMT. MALINI BHATTACHARYA:** It may be used in future for sex-determination purposes.

**PROF. B.J. WADIA:** It may be used. We find it much more useful. To cite an example, satellites are meant for weather forecast. But they are used for military purposes also.

**SMT. MALINI BHATTACHARYA:** In the situation that we have today, it is likely that there will be more techniques of this sort about which we can mention in our Bill. But it is not likely, as far as we can understand that there will be tests meant specifically for the purpose of sex determination. I think, where we are standing today is the correct stand. It is not that we want to ban these tests. We want to make them available to those who need it. But we do not want misutilisation of it.

**DR. (MRS.) B. CHADDHA:** I would only like to say that people are doing blood tests by taking white chromosome and it gives positive results up to 90 per cent.

**DR. BADRI N. SAXENA:** There will never be a single test with the sole purpose of determining sex. The question which we are discussing here is whether we should have the same criteria both for the Government hospitals and the private hospitals. But where the ultimate good of the patient is concerned, we cannot compromise with the public interests and the patients' interest. My humble opinion is that we cannot dilute the provision. We must have a uniform highest ethical standard.

**DR. (MRS.) KAMAL BUCKSHEE:** As far as determination of the sex is concerned, it comes under the sub-heading of any genetic disease or congenital mal-form which has a higher chance of a male foetus. From the statistical point of view, there are many things. One is pseudo muscular dystrophy. Second is the colour blindness. It is there because public is not aware of such things when a patient comes to a doctor, it is very easy to say whether it is a male foetus or a female foetus. But as a doctor, he sees whether the brain is normal, stomach is normal and so on. We in the All India Institute of Medical Sciences want to give the quality of life to every citizen so that we do not make homes for the handicapped. It is in this context, sometimes sexual abuses take place while probing the vagina. Now there are some scientific advances made where just by taking blood samples things can be detected. There is nothing called policing in this. I am sure we are all trying to control the crime which is committed.

**SMT. CHANDRIKA ABHINANDAN JAIN:** There is a mention of genetic counselling centre, genetic counselling clinic and genetic laboratory. Section III and IV deals with the regulation of these centres. Section VI deals with the prohibition of the determination of sex by these methods. And the only exception is made under Section 4 (2) and in this everywhere they have used these three terms. You have been telling us that they should all be under one umbrella. Suppose there is a laboratory. Can it get registered under this Act or it will not be governed by the Act? If you make available the composite sort of facilities then it may not be necessary for a body of a person to get it registered. Don't you think many of these facilities offered in a different form will escape the provisions of the Act? What is your reaction to this?

**DR. BADRI N. SAXENA:** It is our view that the ultimate aim of the Bill is prevention of the misuse of these facilities. Still I hold my view that all these three types of facilities should be under one umbrella. If you do not put them under one umbrella many such centres, clinics and laboratories might open up separately and it will be difficult to prevent them. It will not be for the benefit of the users. If it is together one can monitor it effectively.

**SMT. MALINI BHATTACHARYA:** Do you think that there should be some provision in the Bill to prevent such separate units from carrying on their work?

**DR. BADRI N. SAXENA:** Yes, we think so.

**THE CHAIRMAN:** How is it that if all these facilities are put in one place they will prevent the misuse?

**DR. (MRS) KAMAL BUCKSHEE:** Now-a-days people get the female foetus removed just after an ultra-sound test. The ultra-sound test may have been done for some other medical reason in which sex determination also can be done. Quite often it will have to be verified with other tests also. When we are talking of the genetics we are talking of the whole gamut of it under which the misuse is being done under one head. So when we put all these three components together the misuse will reduce to a marked extent.

**SMT. CHANDRIKA ABHINANDAN JAIN:** Do you agree with the definitions given in the Bill?

**DR. (MRS) KAMAL BUCKSHEE:** Yes, Madam.

**SHRI SHARDA MOHANTY:** If we ask people to register all the three separately, what is the harm?

**DR. (MRS) B. CHADDHA:** If you maintain the standard there is no harm.

**DR. (MRS) KAMAL BUCKSHEE:** Quite often a test conducted at one place is sent to other places also. If it is only to know whether it



is X or Y, it is okay. But if we want to know some genetic reasons where culturing and other sophisticated things are to be done, quite often the culturing becomes infected and the patient is put to a loss. If all the facilities are at one place best results can be obtained under our climatic conditions.

**SHRI SHARDA MOHANTY:** Our aim is to stop the abortions just for the reasons that it is a female foetus. I again want to know if all these three are registered separately, whether there is any harm.

**DR. BADRI N. SAXENA:** We are interested in providing good genetic services. Counselling is one component; laboratory is one component; clinical surgery is one component. Under one institution whom we register, we provide them counselling, diagnostic facility and clinical services. It will be one official body who should have these three components. It may be in the gynaecology department, radiology department or whatever it is. This is the intra-institutional arrangement but the authority will be whosoever is heading the genetic services.

**THE CHAIRMAN:** Now we come to question No. (ii). Here Members want more details.

**DR. (MRS) KAMAL BUCKSHEE:** I beg to differ on this point. I think, it needs a change. Why does it need a change? We are putting under three headings; one is the technique-wise, second is procedure-wise and the third is the counselling-wise. All obstetricians may not be able to do all these procedures. A basic scientist may not be able to do.

We come to the counsellor. A person, who is a geneticist and who has the aptitude and the knowledge, will only be able to counsel. The qualification for all these three will be separate. That is why one would say, if we go to that clause, one component would be an MD in obstetrics and with experience of foetal medicine, which we can say further. As far as genetic is concerned, it would be M.Sc. and Ph.D. in genetics. The third is paediatrician. That means, he is MD in paediatrics with experience in genetics.

Now we come to the sub-headings. The medical geneticist is a person who possesses a degree or diploma, which means a degree or diploma or certificate in medical genetics in the field of pre-natal diagnostic techniques or has an experience of not less than two years in such field. Now the first means MBBS. The second is post-graduate degree in biological sciences. Now he cannot carry out all these three components. That is why this needs a change.

If it is a procedure, it is done by a paediatrician. So, the paediatrician is an MD in obstetrics and gynaecology and then has experience of three years in foetal diagnosis and management. As far as obstetrics is concerned, we have MD in obstetrics. In genetics, one has to be very

good. We must have a minimum three years' experience in the field of genetics.

Then, we have a person who is in the lab. He must have an M.Sc. in genetics plus a Ph.D. programme. That means you are super-specialising. Then, there is experience. One must have minimum of three years. This is how I feel. Others may differ.

PROF. B.J. WADIA: You can appreciate that there are not going to be many of these genetic centres all over Europe also. I would say that there would be a three-tier level to get very very simple tests being done in almost all the medical colleges. Then, you can go a little higher where more sophisticated tests are done. There are one or two in England. There is one in Germany to do it. This sort of thing has to be thought of when you are putting general qualifications. If you are going to put this sort of qualifications, who is going to give certification of three years' experience? We do not have any diploma that I know of.

DR. (MRS.) A.M. LELE: So far as my knowledge goes for the time being, the degrees which are available in genetics are only in Lucknow and in some other cities. There is no diploma in genetics as such.

SMT. MALINI BHATTACHARYA: What kind of degree you have in genetics?

DR. A.M. LELE: At present, we have M.Sc. in applied biology.

THE CHAIRMAN: Who is doing?

PROF. B.J. WADIA: These are people who are interested in science and who have got a basic qualification.

I would say that there is not one laboratory in the world which would do all the tests. There is no such thing available. They will all be very specialised in certain testing and there are identified centres. Therefore, it is centralised. For example, for dope testing, there are only eight or nine centres in the whole of world.

So, these are not the things which can be thrown around. Genetic centres are very very highly specialised and when you are talking about the quality of genetic centres specially, then it will vary. Delhi will be doing some tests, Madras, Calcutta or Bombay will be doing some tests. There are 126 tests available today. You cannot expect the AIIMS to do all the 126 tests. There is no material also and it is not cost effective to do it. There is no centre which does all these tests be it in America, Europe or Japan. When we are talking of people having degrees and diplomas, we do not have any diploma in genetics. So, they are just individuals or who are thrown into the subject and there is a department to control it. Some might be interested in the subject or somebody may be pushed into it. Before the Act is made,

if you want to start developing the genetic situation in India, then it is going to be a time consuming process. It may take years and to my mind, we have got many important things to be done than this particular thing.

**SMT. CHANDRIKA ABHINANDAN JAIN:** I would like you to refer to Section 3(3) where it is mentioned:

“No medical genetics, 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.”

It means a layman can use these techniques and perform these tests. Why cannot just a diploma or a certificate be sufficient under the Act? The Act says that even the gynaecologist can perform the tests. Don't you think that these qualifications are sufficient for the purpose of the Act and not generally?

**DR. (MRS) KAMAL BUCKSHEE:** I will give two clarifications, one is for the Act and the second is on what has been said. That is why, I have said that the basic degree is MD in obstetrics or may be paediatrics and Ph. D. The second component is I have not added any degree or diploma. I have said people who have experience. So, there are people who have experience in dealing with pre-natal diagnostics or feutal techniques.

**SMT. CHANDRIKA ABHINANDAN JAIN:** It says that the person has to possess qualifications like medical qualifications recognised by the Indian Medical Council Act or a post-graduate degree, with not less than two years experience. You refer to Section 2 (g). Do you agree with this?

**DR. (MRS) KAMAL BUCKSHEE:** I do not agree with it. Previously people used to restrict to amniotic fluid which was much simpler of taking out. Quite a lot of all these things are probably not updated in this Bill. As you have very rightly pointed out, the crux is that we have to define the degree and experience if we want to prevent misuse. I agree with you. If we add the word 'experience' then we will be able to get a few. Nobody can do these tests because all these tests are highly specialised. Every centre has to develop a few tests at various places. We have to develop regional centres, say, in five parts of the country like north, south, east, west and central and provide manpower, etc. Then, naturally, public will start going there and thus misuse will gradually die. It is going to be cost effective because only part of the equipments are there. Whatever centres are there will have to be trained further.

**DR. BADRI N. SAXENA:** There are some genetic departments which are going to be set up in some institutions. Honouring research studies, there are five or six human genetic centres. Based on that experience, I would submit that we have to have MBBS degree. Secondly, it should be post-graduate qualification in obstetrics or any medical related subjects, as

far as degree part is concerned, there is no human genetics course officially recognised by the Medical Council of India. But we are interested in the work moving. So, we should have a person of at least two years of experience in the discipline of human genetics, from wherever they can be got. They can be accepted under the definition of human genetics. Only MBBS will not do. Experience should also be there.

**SMT. MALINI BHATTACHARYA:** There are three subjects that they are suggesting. One is MBBS degree and over and above that, specialisation in obstetrics, gynaecology or paediatrics with a minimum experience of two years in any medical discipline is also mentioned.

**DR. (MRS) KAMAL BUCKSHEE:** There have to be three people. We must have MBBS as the basic degree and MD in obstetrics and gynaecology and experience in feotal medicine. The second component is MD and experience in genetics and the third component is regarding the laboratory which Dr. Lele will define.

**THE CHAIRMAN:** In medical genetics, the basic qualification is MBBS.

**DR. (MRS) A.M. LELE:** When one talks of post-graduate degree, it means MBBS is also included. It is understood.

**DR. (MRS) B. CHADHA:** In the Laboratories, the technician need not be an MBBS. M.Sc. plus a genetic course is enough.

**SMT. CHANDRIKA ABHINANDAN JAIN:** Section 3(3) relates to the definition of medical geneticist. This includes a phrase 'any other person'. Don't you think that these words 'any other person' should be deleted?

**SHRI S.B. MISHRA:** Section 3(2) deals with prescribed qualifications. Prescribed qualifications are going to be specified in the rules. It is not under the Act. Section 3(3) is for the purpose of laying an embargo on any person who violates the law. This can be a doctor or a geneticist or any other person. This phrase 'any other person' is inserted here so that nobody can escape punishment if he or she violates the law. So, that phrase should be retained.

**SMT. MALINI BHATTACHARYA:** The qualifications for medical geneticist are specified that he should be a post-graduate doctor in obstetrics/paediatrics/gynaecology/any other related subject with two years experience. Similarly, minimum qualifications for technicians should also be specified. It may be a post-graduation in biological sciences.

**PROF. B.J. WADIA:** Basically, there are going to be certain people who are to identify the cases that require genetic counselling. Predominantly, these are going to be either obstetricians and paediatricians. Very very rarely, cardiologists and haematologists may ask for certain genetic tests be conducted. We must be very clear on these things. So, we may clarify here that the person must be having an MBBS degree plus a post-graduate course. So, a medical geneticist must be an MBBS having additional qualifications and experience.

Second thing is the collection and testing. You do not expect an MD doctor to collect the sample, go to the laboratory and conduct the test and read the result. Ultimately, it has to be done by a technician, supervised by the final authority of the MD. We must be very clear about the technician's qualifications also.

THE CHAIRMAN: Do we have any courses for technicians?

DR. BADRI N. SAXENA: Yes, there are courses. We have bio-chemists, cyto-technicians and so on and so forth. Every Centre employs technicians for collection and testing. But ultimately, the responsibility of reading the test and giving the diagnosis must rest with the medical geneticists.

SMT. CHANDRIKA ABHINANDAN JAIN: In Section 7(d), certain categories have been prescribed. Do you feel that will be able to get these 'eminent people'?

DR. (MRS) KAMAL BUCKSHEE: This genetics is actually an old terminology. Things have changed now. Today, we are talking of foetal medicine and rights of the foetus. With the present day techniques, once we diagnosed a very very rare case where the baby did not have the nerve-endings. So, in category (1), under eminent medical geneticist, I would suggest that three components may be added—(a) paediatric expert with genetics as a specialization; (b) the expert who has developed the techniques and knows DNA probe, cyto-technique, etc; and (c) obstetrician with experience in foetal medicine.

DR. BADRI N. SAXENA: We have already defined the term 'medical geneticist' in very clear terms. We may retain this section 7(d) as it is.

*The Committee then adjourned for Tea*

(After Tea Break)

THE CHAIRMAN: We now take up Question No. 3, about the definitions. Have you any suggestions, or comments to make?

DR. (MRS) KAMAL BUCKSHEE: The definitions appear to be quite sufficient.

DR. (MRS) B. CHADHA: I think they are quite sufficient.

DR. BADRI N. SAXENA: I think there are quite a number of technically qualified people. Perhaps we may also consider some of them for giving technical advice about Genetics Group. If you permit, I can give the names. They may be considered to come and give their advice to the Committee for enlarging the definitions.

The names are:

- (1) Dr. S.S. Agarwal from Sanjay Gandhi Post-Graduate Institute, Lucknow. (He is the first person to start human genetics experiments here.)
- (2) Dr. (Mrs.) Mridula Bhatt Pune Medical College, Pune
- (3) Dr. (Mrs.) Geeta Talukdar from Calcutta
- (4) Dr. S.M. Merchant and Dr. Zareen Patel

(5) Dr. I.C. Verma, AIIMS, New Delhi.

DR. (MRS.) B. CHADHA: We can also add the name of Dr. Murugan Thomas.

DR. BADRI N. SAXENA: We can add some other four or five names also. In addition, we should have the names of some experts who can do ultrasonography. We can add some more names in different lines or branches. These are all technical people who can give the technical know-how which is required.

SMT. GEETA MUKHERJEE: These experts, whose names you are mentioning, may be asked to give us their comments to us. Their comments can be referred to us. If it is possible for him to come in contact with them, he can ask them to give us their suggestions on these. Of course we would also write to them formally.

DR. (MRS.) KAMAL BUCKSHEE: I understand your point. I have not gone through the entire part. I would say that it involves three heads—pre-natal diagnostic tests, procedures as well as techniques. Already we have highlighted that there are three heads for this. So, we will have an Obstetrician. Geneticist means paediatric side and a lab side. So, these people will get together and then we will see whether it is all right or there is any loophole.

PROF. B.J.WADIA: In regard to third question, we would recommend for one addition. Please refer page No. 2 of the Bill: Section 2(h) and 2(j) where there is no mention of the word 'Ultrasonography'. You can put down this word in the pre-natal diagnostic tests.

SHRI S.B. MISHRA: Deliberately we missed this word here because once we put it in the three definitions, then registration of Ultrasound becomes compulsory. The intention was that ultrasound is being used for many other purposes. In the Maharashtra law also, there is no mention of Ultrasound. But in Section is mentioned. Section 6 concerns sex determination.

PROF. B.J. WADIA: For testing blood or any other tissue of pregnant women, you have to use ultrasound. These laboratories are not going to register. Anybody who is testing the blood is not going to register with your body. Section 2(h) of the Bill says:

“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.

Therefore, anybody who is collecting blood of a pregnant woman will have to register according to what Mr. Mishra is saying. Therefore, I do not see any reason as to why we should not put it down here the word 'ultrasound' to make it complete.

**SHRI S.B. MISHRA:** If the answer to question no. 4 is 'yes', then we can put it... Once you said that ultrasound will require registration, than anybody who is having ultrasound machine will have to register it.

**DR. (MRS.) KAMAL BUCKSHEE:** As far as ultrasound is concerned, it is a very tricky and a difficult question. When we talk of procedures, we have to take three. Separate comments and every component has to be registered... We are doing various tests.

Ultrasoundgraphy is a very important, one and even if we say that all ultrasound machines have to be registered, that would not prevent it... We cannot prevent anybody who is seeing the sex. They will see the sex but they would not put it in the report. If we have all three under one umbrella—registering and specifying the clarifications—probably to a large extent we might succeed. But, otherwise to say that we must register all ultrasonography, it may create lot of problems and lot of question will be there.

**THE CHAIRMAN:** In that case ultrasonography comes under three categories. Firstly, Counselling Centres; Secondly, Laboratory and Thirdly Clinics. In the 'Bill, there is a provision that it should be registered.

**SHRI S.B. MISHRA:** Under the rule as we have formulated, a 'Genetic Clinic' will require a licence. That means anybody who have a diagnostic equipment in his Nurshing Home will ultimately require a licence. That means all ultrasonography in the country will compulsory require a licence whether it is for gall bladder stone or for sex determination.

**PROF. B.J. WADIA:** We should remove from article 4 the question of blood or a tissue of a woman. So, therefore, any blood test done during the pre-natal period by any laboratory has to be registered. It comes to the something whether you have ultrasound machine or you have a blood test. Everything will be done, but blood testing will be done. In the case of ultrasound, it will be examining urine etc.

**DR. (MRS.) KAMAL BUCKSHEE:** Here, we have put the blood test. When we are talking of pre-natal diagnostic test, will define each and every test. Every laboratory will be doing this blood test for detecting these abnormalities. So, a laboratory will be of a standard quality which will be giving the services of a genetic.

**PROF. MALINI BHATTACHARYA:** I have something to suggest to what Dr. Buckshee has said. The experts have suggested that 'Genetic Counselling Centres' should be under the same umbrella. The test should be held there. So far as ultrasonography on pregnant woman is concerned, that also should be confined to genetic clinics.

**PROF. B.J. WADIA:** Madam, It may not be practicable because you will be having ultrasound machine in your department. It is coming to a stage where I know Obstetrician today in the country, virtually do everytime when the patients come for a check-up.

**PROF. MALINI BHATTACHARYA:** Does it require to be routine?

**PROF. B.J. WADIA:** Yes.

**PROF. MALINI BHATTACHARYA:** If it is for foetus diagnostic then what percentage of patients do you think suffer from such abnormalities? Why is it necessary for all patients to have genetic test and ultrasound?

**PROF. B.J. WADIA:** It is to see whether the foetus is growing properly or not and if necessary corrective measures can be taken. If the foetus is not growing properly, then you come to know that there is a deficiency and you can correct the same and that is why routinely it is done. This being done every week in Bombay, In private clinics, it is a routine thing. This is absolutely routine and even abroad also it is legally mandatory. So, we will have to do these tests not only just for self-knowledge but also to see the legality of the case whether the ultrasound is good and done properly.

**DR. (MRS.) KAMAL BUCKSHEE:** We are talking of a pre-natal diagnostic procedure in which an ultrasound is a part of it. But, we are not going to register ultrasound. We are going to put the qualifications for the technicians. We are concerned with the early part where they want to diagnose whether the baby is all right or not. We are not preventing an Obstetrician to conduct the ultrasound test.

**DR. BADRI N. SAXENA:** In Page 2 definition (h) and (j): that is in a way keeping the room open for anybody.

**DR. BADRI N. SAXENA:** Ultrasonography is covered in what is written in 6 (a) and 6 (b) on page of the Bill.

**PROF. MALINI BHATTACHARYA:** Do you think the misuse of ultrasonography can be checked by this provision of section 6(a) where it includes ultrasonography?



**DR. (MRS.) A.M. LELE:** That is what we are saying that it is already covered in 6(a) and 6(b).

**DR. (MRS.) B. CHADHA:** As Dr. Wadia has said, when they will write the report, they will not give sex determination in writing but they will always say it verbally. That you cannot prevent.

**SMT. MALINI BHATTACHARYA:** In that case it does not put a check on mushrooming of centres which will have ultrasonographic machines and which will conduct test on the pregnant women and carry on these tests. So, is there any way in which we can check this?

**THE CHAIRMAN:** I think we can club it with question No. 4.

**DR. BADRC N. SAXENA:** If we come to question 4, of course, as technology advances, there will be simpler procedure. Ultrasonography is one. I am sure, there will be more techniques which will be coming in. But the point which we are making is we will not register those clinics for purposes of genetic diagnosis to provide genetic services. We can have centres which can give counselling. For that purpose if it is done at a place where these three things are there, that will be a proper place.

**SMT. GEETA MUKHERJEE:** Going back to the first question, because that is very much related with all other question, I understand that there is difference of opinion among the experts on that. Many of you said that it should be under one umbrella. I also personally think that way because if you need any other test in connection with this, for which that centre, or whatever you call it may not have its own equipment, they can find a place where that equipment is available. If all the three are provided at one place, then they will not go anywhere and everywhere. So, if we agree with that, then the question of clinic being separate and laboratory being separate does not come in. Therefore, why do we not adopt that procedure? This kind of centres will be a very responsible kind of centres because they will be equipped with all knowledge and, of course, with persons of integrity. So, if that is there, then the question of separate registration need not arise. But if it is not there, if they remain as they are, the question of separate registration definitely comes up. So, we have to make up our mind on the first question first. How do you react to this?

**SMT. MALINI BHATTACHARYA:** Suppose all centres having ultrasonographic facilities are registered and they are required to maintain records of ultrasonography done on pregnant women, what difficulty do you feel in that?

**SMT. GEETA MUKHERJEE:** This law to be meaningful, the question of social movement, awareness and vigilance is very much needed. Therefore, that problem we have to keep in mind. The principal question will be how we shall implement it. So, how do you react to this?

**PROF B.J. WADIA:** Sixty to eighty per cent of our population is in the villages. If you are going to have an umbrella, you are not going to reach them. So, the law is obviously made for the twenty per cent who are going to be in the bigger centres. I would say that if you are really wanting genetic counselling to be done, in that case the gynaecologists in the villages have to identify that such and such person requires it. You do not expect the villagers to come to the big centres. So, the material will have to be collected at the centres in the villages and sent to the bigger centres. So, it is very nice to have an umbrella but it is not practicable for our country. It is excellent for them to have the umbrella for that twenty per cent population but when you are really wanting to give service to the 60 to 80 per cent of the people, they will not be able to come to Delhi, Bombay, Calcutta or Madras to get this umbrella. Therefore, the material is to be collected and sent to the centres. The person who is collecting this material is going to be a part of genetic clinic. He is collecting the material for genetic counselling or genetic diagnosis. The report is with the smaller people. I can just go to a technician who is doing it and get the information regarding sex from him. I was very much surprised when I was told that there are two types of papers which are prepared. If it is a pink one, it means the child is a girl, and if it is a blue one, it means the child is a boy. There are asterisk marks also given on the top right hand corner. These are secret marks indicating boy or girl, as the case may be. So, these are the things which are happening today.

**SMT. MALINI BHATTACHARYA:** I do not think that you would prefer to provide sub-standard service to 60 to 80 per cent of the people.

**PROF. B.J. WADIA:** I am of the strong opinion - which I gave in writing also - that you should open your doors to everyone in the country and not to restrict them to the big centres.

**SMT. GEETA MUKHERJEE:** He is of the opinion that this kind of law cannot be made effective. Obviously, other things are connected. We can understand his point of view. We have to understand it in a cogent and co-related manner.

**DR. BADRI N. SAXENA:** We have to learn by experience also. We can take another example of the M.T.P. Act. When we passed the law, we were not preventing illegal abortion. We could not. But we have been able to cut down a substantial portion of illegal abortion which resulted in sickness or death. At least the people knew that they have to go to registered centres for such abortions. By and large the Act itself provided that there will have to be trained persons and best equipment. Statistics do show that these centres having every provision have reduced the death rate considerably. We are, today talking of maternal care. I may mention that the Government of India is launching in a big way the 'Save Mother' campaign and took initiatives in this regard. The genetic component will come up and the mortality and morbidity rate will be reduced. A part from sex determination, it will ensure for better health of the mother. I submit that we cannot compromise on the quality of life of the people. We may make a slow beginning. But at least the people will be informed. If the couple know that they should go to a registered institution, they will feel happy and will feel a sense of guarantee of reliable counselling and best diagnosis and treatment. In that way we can provide better care for mother and child. We are also starting on a project in this regard. It is not that it has to be restricted to metropolitan cities alone. A referral system can be added.

I may mention that the Act is meant to prevent mis-use of the knowledge of sex determination and also to ensure a good mother-child care which will be an important aspect of service to people. For this purpose, we must have, in one place — whether private or public — all three components of tests. We may not be able to prevent the mis-use. But we would be making a good beginning. People will know where they will get best service.

**SMT. MALINI BHATTACHARYA:** What will be the difficulty to have all three centres in one place?

**DR. BADRI N. SAXENA:** It is not that ultrasonography, which is important, itself is all. We should know what is the need of undergoing all these tests. The patient has to under go certain investigations. To have three centres in different places will be difficult to coordinate among them.

**SMT. MALINI BHATTACHARYA:** I think the ultrasonography is a routine test. You cannot withhold that right from the parents. If that is the case, is it not better to have the centres registered for this purpose?

**DR. BADRI N. SAXENA:** Ultrasonography is only one of the tests. We are talking of genetic counselling tests. We do need laboratories. Ultrasonography tells about the sex of the child. We are ultimately talking of the misuse of the test. The main objective is to improve the genetic service.

DR. (MRS.) KAMAL BUCKSHEE: There was a mention by hon. Members about the use of ultra-sonography for sex-determination. I feel that it should not be done and this aspect should find a place in the Bill. In my experience I have seen people who feel that they must not undergo ultra-sound test. There are some others whom you cannot prevent from undergoing such tests. We should not open the flood gates. There are many people who are looking for loopholes in the Act. These loopholes should be plugged. The ultra-sound examination should not be done for sex-determination only unless it is for a genetic reason.

In addition to the above, I feel that we need a helpful and cooperative media to boost up our efforts. Nowadays the media has reached every corner of India including remote villages. People are becoming more aware of contraceptive measures. They are quite familiar with brand names too. We have been seeing large number of parents coming from rural areas prepared to undergo some of the latest tests to ensure health of the mother and child. Dr Saxena mentioned about MTPs. People come and ask for MTPs. I feel that all the three centres of genetics should be at one place.

SHRIMATI MALINI BHATTACHARYA: It is just to prohibit the divulging the sex of the child (foetus) that I suggest that the centres should be registered. It should act as a kind of restrictive measure. Of course, we may not be able to prevent it altogether.

DR. (MRS.) B. CHADHA: I think that if they are scared of legal action for mis-use of sex-determination tests, they will discharge their duties efficiently. There should be some kind of restriction on them.

SHRIMATI MALINI BHATTACHARYA: Will there be any difficulty?

DR. (MRS.) B. CHADHA: I think if they are spending Rs. 5 to 6 lakhs for equipment, they should take some more pain for getting the institution registered.

DR. (MRS.) KAMAL BUCKSHEE: I am afraid they may ask the Government for more exemptions. Further problems are likely to come up. They might come and ask 'We want registration because we want ultrasound equipment. You give us the licence and the benefit because we are doing for the genetics'. This is the other side of the story.

DR. (MRS.) B. CHADHA: For Genetics we have laid down that they have to have post-graduation. So MBBS people will not come.

MADAM CHAIRPERSON: Is there any qualification required for ultrasound?

DR. (MRS.) B. CHADHA: We are to lay down the qualifications for it.

DR. (MRS.) KAMAL BUCKSHEE: Suppose we were to register all these ultrasound machines. What are the advantages? If it is a little more about it, may be we might interact on that.

SMT. MALINI BHATTACHARYA: Just as by registering Genetic Clinic we are trying to exert some kind of minimal control over it, similarly by registering ultrasound centres which have ultrasound machines and at the same time do these ultrasonography, by enforcing this registration, we are exerting a minimal control over them. Otherwise if we just say that ultrasonography test should not be a sex determining test, if we put a condition like that, by no means it is not enough. That is why I am telling this.

DR. (MRS.) KAMAL BUCKSHEE: No. 1 is we register them. Secondly, we ask the records to be maintained. Thirdly, there should be a surprise check to see how best the records may be. We could do that and find the answer. We will find the advantages and problems and if we find the problems we will start looking at the solutions. Let us start with it.

DR. (MRS.) A.M. LELE: We can see the implementation.

SMT. MALINI BHATTACHARYA: There will be difficulties in implementation.

Madam Chairperson, can we go to Question No. 7 ?

MADAM CHAIRPERSON: Yes, let us take up Question No.7 ?

DR. BADRI N. SAXENA: About Question No. 7, I think medical care should be available. If we follow the provision of the Act, I think it is very good to have those centres provided they fulfil the prescribed qualifications under the Act.

DR. (MRS.) KAMAL BUCKSHEE: I agree that they should be in the Government hospitals and institutions, but I would go a step further and say that we should have regional institutes which are going to be the Government hospitals at various zones because those Government hospitals have all these umbrellas. But all may not have because we have so many Government hospitals. So, I would say that it would be worthwhile in the initial stages to select and as you said from 5 we go to 10, 15 and 20. It should be done in a phased manner.

SMT. GEETA MUKHERJEE: So, you advocate Government hospitals.

DR. (MRS.) KAMAL BUCKSHEE: Out of the Government hospitals, those which have all the three components and have regional centres in north, south, east and west—we can have 2 centres each and make it ten together to start with. I would say not all Government hospitals because all hospitals do not have all these three components and I am sure my colleagues will agree. The question is only Government. This is No. 1. And out of the Government, only those who have all the three components—this is No. 2.

DR. (MRS.) A. M. LELE: It would be a phased programme.

SMT. MALINI BHATTACHARYA: Do you want us to confine to Government hospitals?

DR. (MRS.) A. M. LELE: Yes.

DR. (MRS.) B. CHADHA: I think the private people also can do if they fulfil the criteria. If they maintain the standards, they can be registered.

SMT. MALINI BHATTACHARYA: Do you think there are any such institutions outside Government at the moment?

DR. (MRS.) B. CHADHA: I know of one at Bombay at least, manned by a lady Doctor and she has been in Genetics for the last 15 years. And along with her there is Dr. Chakravarty. There is one in Delhi also headed by Dr. Jaiswal who was in U.K. for 15 years. There are more private people who are qualified for this. So, why can't they be recognised? Why only Government people? Why should not those who are in Genetics for 15—20 years be recognised?

PROF. B. J. WADIA: This was discussed a little bit in Bombay. We can come back to the first point. To staff a centre with three umbrellas is very costly. We have our financial constraints today. Whether it is solving the problems of Tuberculosis or not are they all important? The question that is in my mind is that if we are going to restrict it to only Government institutions, are we going to divert those funds may be to more important problems that the country is facing? I do not see what would be the wrong in having these Centres at the present moment. But, is the Government capable—I am not here talking from the point of view of challenge, but from the practical stand-point I am saying—of diverting funds to such sort

of centres? The requirements of the Act, we should not restrict them. Wherever they are meeting the requirements of the Act, they should be encouraged.

**SMT. MALINI BHATTACHARYA:** Do you think that it is feasible to have such facilities at Government hospitals? But, you say at the same time that it is not desirable to restrict it to Government institutions alone because there are some good private clinics which may meet the requirements of the Act.

**DR. BADRI N. SAXENA:** Yes.

**THE. CHAIRMAN:** I think, now we can go back to question no. 4.

**SMT GEETA MUKHERJEE:** To manage and regulate this kind of testing you may kindly spell out some conditions of regulation.

**DR. KAMAL BUCKSHEE:** You are asking them to do registration. That itself is a condition. Moreover we may say that the sex determination test should not be done which becomes another restriction. You are also restricting the private clinics and you are going to choose a few. We will go through these papers once more and we will come again with more suggestions in this regard.

**THE. CHAIRMAN:** Any qualification is required for that?

**DR. B. CHADHA:** They should have a diploma or a degree in Radiology. It will be a post-graduate course after MBBS.

**DR. BADRI N. SAXENA:** Both for questions 5 and 6, I had made suggestions. We have suggested a few names there and they may be able to give more details for this.

**DR. KAMAL BUCKSHEE:** Regarding the qualifications, we can have MBBS and MD in Radiology with experience in ultrasonography for gynaecology or MD in Gynaecology with experience in diagnosing foetal disease for about one or two years. We are doing all in the Obstetrics Department, the foetal diagnosis as well as even the treatment. We can say for the overall covering MD in Radiology with experience of doing ultrasonography for foetal diagnosis. We can say one year or two years. We can say MD in Obstetrics in gynae with two years experience in diagnosing foetal diseases because they do quite often all the training course for one week. That does not specialise it. We will let you know all this. We will come back and give a chart to the Chairman.

**THE. CHAIRMAN:** What about the ultra-sound sex determination test? Is it accurate?

**PROF. B. J. WADIA:** It is negative procedure. If you see the male genitals, then you can absolutely diagnose. If you do not see the male genitals, it is not always female. It could be that the genitals are not seen in that particular angle by which the probe has been directed. If

you go on probing an individual for about 15 or 20 minutes continuously, then the foetus takes different positions and you should be able to see the male genitals. From my personal experience, we record everything in time. Every ultra-sound I do is on tape. We are trying to find out some defects in the child. We see the sex part of it. But later on I try to see some of the ultra tapes and I find at the first moment, it is a girl and later on we do see the genitals, may be a few seconds and which we have not noticed because we are not looking for it. I can run the video tape and see it and you can see it in 10 or 15 minutes of continuous screening.

DR. (MRS.) B. CHADHA: Beyond 16 weeks, 95 to 98% is correct.

DR. (MRS.) KAMAL BUCKSHEE: You want to know how accurate is this test. We see a female foetus and it turns out to be a male foetus. These are the two questions asked. It depends upon what period of gestation is done, 10 or 12 or 14 weeks or 16 weeks. By eight weeks the sex is not very accurate even though diagnostic tests can be done within six weeks. But as far as the chorionic sample is concerned, one can do this within eight weeks.

DR. BADRI N. SAXENA: By and large, ultra-sound gives us a later diagnosis, not early enough.

MR. CHAIRMAN: Within 20 weeks ultra-sound alone, one can predict the sex.

DR. (MRS.) B. CHADHA: You can detect within 20 weeks with 95 to 98% accuracy.

PROF. B.J. WADIA: MTP can be stretched to 22 weeks. For example, for an unmarried girl, we do within 20 weeks.

DR. BADRI N. SAXENA: Complication of MTP are much higher as compared to ultra-sound. It would not be in the interest of the woman to undergo MTP.

DR. (MRS.) KAMAL BUCKSHEE: If you have to terminate a pregnancy, much higher complications are there. Therefore, one wants to do test. One can do it in the early weeks of pregnancy, less than 12 weeks. That means, even less than ten weeks. But people are misusing chorionic test for diagnostic test of sex.

DR. (MRS.) B. CHADHA: If we do chorionic test for 12 weeks, there are chances of complications. In 10 to 15% cases, they are reported to have pre-term miscarriages or labour and congenital defects of the arms. Ultra-sonography is safer. Within 12 weeks, it is critical period. You can do with minimum complications. Failures of ultra-sonography are more. You can say male instead of female. These are the loopholes of these procedures.



**PROF. B. J. WADIA:** The extra obular procedure is comparatively safe. The practice used is a dye which is an antiseptic. So you do not have any real complications unless you start doing it surgically and if it fails then we repeat the injection even up to three times and then get 95% success rate. People have started realising this and, therefore, the method which is employed is that you wait till 16 weeks, get a proper ultra-sound done, make sure of the sex of the child and then start aborting it with complications up to the extent of what we used to have with 8 or 12 week abortions or today what you would have with 16 week abortions. This is what I have been told by the abortionists. Probably, all of us do not resort to this method. In the rural areas this is being done in the form of a package deal.

**DR. BADRI N. SAXENA:** What was the reason to really have the act implemented properly. A media campaign would be essential to make people aware about the dangers, risks and benefits of a particular technique. Family planning message is also coming up in this regard.

**DR. (MRS.) KAMAL BUCKSHEE:** I want to mention that these techniques have reduced the complications but they have big hazards. Now we have patients and many couples who are resorting to one child norm. We have to make people aware of the dangers as well as the advantages of family planning. We can make our public aware through the media.

**SHRIMATI GEETA MUKHERJEE:** Dr. Buckshee, since you could not go through the Bill thoroughly, now if you would go through the Bill, you will be in a better position to give us concrete suggestions with regard to amendments. How much time do you require for this?

**DR. (MRS.) KAMAL BUCKSHEE:** I will be able to give my comments in three week's time.

**SMT. GEETA MUKHERJEE:** As I said the other day, we must know the rules also. In this regard, if the Ministry could give us some more concrete questions that would help us in great detail.

**DR. BADRI N. SAXENA:** Since we are going to have a comprehensive centre, anybody who suspects any genetic cause, can refer the matter to that centre and it is the option of the centre to accept or reject the patient.

**MR. CHAIRMAN:** Can a MBBS Doctor also diagnose it?

**DR. BADRI N. SAXENA:** Yes, he can also diagnose it.

**DR. (MRS.) B. CHADHA:** Normally it is the gynaecologist who will examine any sort of chromosome disorder or congenital disorder. Physicians can also do it who have got MBBS degree in Paediatrics. Basically it should be done by a gynaecologist with postgraduation degree.

**DR. (MRS.) KOMAL BUCKSHEE:** In the beginning, we used to have referrals where patients used to bring slips for getting themselves examined.

**SMT. GEETA MUKHERJEE:** If you have any suggestion on any of the sections, we would welcome it, for example, about the appropriate authority and the advisory committee. There are so many technical things in this part which we do not understand or could not come to any understandable conclusion. On all these, we want your reply. We would welcome your suggestions in this regard also.

**PROF. B.J. WADIA:** During your visit you have asked me to give a small write-up. I had got that ready some time in the mid of June. It is a one page note that I have handed over that to the Secretariat.

**THE CHAIRMAN:** I thank Dr. Badri Saxena, Dr. Kamal Buckshee, Dr. A.M. Lele, Dr. B Chadha and Prof. Wadia, for your valuable views, for your effective participation in the deliberations and your contribution would definitely help the Committee in preparing its Bill and to make it more effective and more meaningful. Thank you very much.

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