

The PC-PNDT act in a nutshell

Anita Bhaktwani

Advocate, Mumbai High Court, Mumbai, Maharashtra, India. E-mail: adv.anitab@gmail.com

I take this opportunity to highlight the basic mandatory requisitions under the PC-PNDT Act. The Act was enacted in 1994, amended and effectively implemented in 2003 and strictly amended in 2011. As can be seen from the daily media reports, almost all over the country, absolute stringent action is being taken against all the erring radiologists/sonologists/gynecologists. The effective implementation of The Act has painted a grim picture of The Act. This article is an effort to show that The Act though draconic can be easily followed by fulfilling certain mandatory requisitions laid under the Act.

The PC-PNDT Act was enacted on 20 September 1994 with the intent to prohibit prenatal diagnostic techniques for determination of the sex of the fetus leading to female feticide. That is to say the preliminary object was to put a check on female feticide. No doubt the bare perusal of the Act indicates that it is a draconic act from the point of its effect on radiologists/sonologists. The Act does not offer any escape to the erring radiologist/sonologist.

But at the same time it is very simple to fulfill and abide by the requisitions of the Act. The few basic requirements of the Act are:

1. Registration under Section (18) of the PC-PNDT Act.
2. Written consent of the pregnant woman and prohibition of communicating the sex of fetus under Section 5 of the Act.
3. Maintenance of records as provided under Section 29 of the Act.
4. Creating awareness among the public at large by placing the board of prohibition on sex determination.

A look at the basic requirement of the Act shows the simplicity of the Act, but non-compliance of the Act in any manner, be it the smallest of an error brings wrath upon the

errant. The Act penalizes all the errants, either involved in sex determination or non-maintenance of records.

The Act is legislated in a manner that it should be a deterrent for those indulging in sex determination. The unfortunate decline in the male-female sex ratio has brought in stringent measures, there is suspension of registration, filing of criminal cases and sealing of machines. Besides, criminal prosecution will also bring in suspension and cancellation of registration granted by the State Medical Council.

Remedies are also provided—like filing an appeal before the appellate authority and getting the machine released from the court of law, but all these remedial measures are time-consuming and bring the career of an individual to a standstill.

It would not be out of place to therefore state that the most effective precautionary measures are to maintain records scrupulously, fill the Form-F as provided in the Act, accurately and correctly, submit the records to the appropriate authority within the stipulated time; then there will be nothing to worry.

There is no doubt that there are a few shortcomings in the Act but that does not give any reason for non-compliance of or contravention of any of the provisions of the Act.

The major contribution by radiologists/sonologists/gynecologists towards prevention of female feticide can be achieved by thus fulfilling the mandatory requisitions of the PC-PNDT Act.

So last but not the least BEWARE.

Legal Aspects and Judgements

The Preconception and Prenatal Diagnostics Techniques (Prohibition of Sex Determination) Act 2003, with Rules made thereunder is an act to safeguard the girl child. The Courts have at all material times and in all possible manners delivered judgments indicating therefore that the PC-PNDT Act is actually a whip to penalize those indulging in sex determination and to serve as a deterrent to others.

The recent judgments of the Courts are also supportive

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of the strict implementation of the PC-PNDT Act. The IRIA is fighting tooth and nail to support the cause of the radiologists all over and also to prevent the misuse or improper and erroneous application of the Act by the appropriate authority.

The appropriate authority on the other hand is itself coming up with some or the other suggestion/idea to somehow curb the menace of female feticide. But in the process the radiologists are at the receiving end and the best possible solution in today's scenario is to abide by the dictum of the PC-PNDT in its true letter and spirit.

The Maharashtra State Branch of IRIA challenged the ban being imposed by the Municipal Corporation of Mumbai on the use of portable machines before the Hon'ble High Court Mumbai, which petition came to be dismissed and the judgment in the petition means that the portable machine can now be used only in the institute or hospital where it is registered thereby restricting the portability of the portable USG.

There is another judgment of the Hon'ble High Court, which upholds the installation of SIOB (i.e. Silent Observer) in the USG. The Collector of Kolhapur has come up with this novel idea of installing the SIOB under the delicate issue of Save The Baby Girl Child and which has been done in Kolhapur. The device is a private external device for the purpose of filling the F-form online and recording all images of the sonographies whether obstetrics or non-obstetrics. The Hon'ble High Court dismissed the petition and review petition filed by the IRIA.

Then the IRIA has also filed a petition before the Hon'ble High Court Delhi, whereby a few provisions of the PC-PNDT Act have been challenged, such as the registration given to other faculty members, the mode of training imparted. The said petition is still pending.

Besides, there are many machines sealed for non-compliance of provisions of the PC-PNDT Act or for improper maintenance of records under the provisions of the Act. Then subsequent thereto-criminal cases are also registered. It is pertinent to note that the conviction may not be very severe, but it may result in suspension of registration under the State Council Act, which is an issue to be seriously noted by all.

There is another issue which arises and that is sealing of machines. Sealing is not a mandamus but all the appropriate authorities are doing that. The release of the machine in a criminal case will be the subject of jurisdiction of the criminal court and otherwise before the appellate authority provided under the PC-PNDT Act.

The recent scenario indicates the strict actions of the appropriate authority and the stern view of the Courts. To sum it all BEWARE.

Anita Bhaktwani

Advocate

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