Summary Report of the National Consultation of Safe Abortion and Sex Determination – 21-22 April 2008[1]

Introduction:

With a welcome to all participants, a brief background to the present consultation was provided. In recent times, the National Abortion Assessment Project coordinated by CEHAT and Healthwatch Trust brought together many researchers and experts in the field of abortion. The project has produced massive evidence on various aspects of access to abortion care for women in India. In 2006, a similar process brought several organisations namely ARTH, CEHAT, FPAI, IPAS, Pop Council and SoMI together to form a consortium for safe abortions in India. The consortium seeks to improve access to comprehensive abortion care for women in the public health system through setting up of intervention sites in two primary health centres in two states. In addition to this it also advocates for expanding the provider base for abortion care and is working in two states towards better implementation of the MTP Act. As part of the conceptualisation of this work, especially on advocacy for implementation of MTP Act, several discussions took place and very early on the concerns related to the impact of the campaign on sex selection was brought into discussion. It was then agreed that CEHAT would hold a consultation to deliberate on abortion rights and sex selection.

Around the same time, there was a meeting called by the MOHFW for discussing amendments to the MTP Act. While some positive and progressive amendments were agreed upon by the group, one contentious issue was related to 2nd trimester abortion. During this meeting and a few events following that, it became evident that a dialogue on the issue was essential. A few civil society groups and the representatives of the PNDT Cell of the GOI strongly recommended further restrictions to 2nd trimester abortion and cited this aspect of the MTP Act as being the biggest barrier in implementing the PCPNDT Act.

The consortium members decided to expand this discussion and invited other groups working on women's health and concerned about the issue so the HealthWatch forum, MASUM, ANS, CMNHSA were invited. While planning for a national consultation, the group strongly felt the need to launch a campaign for safe abortion. In India, there has not been a campaign clearly demanding right to abortion for women. It was felt that this required at least a two year sustained effort that engaged with various stakeholders.

The group decided that a consultation for arriving at better clarity on safe abortion and sex selection was a must. It also identified three core issues that it would focus on:

[1] *Summary Prepared by Divya Patel based on documentation by Aarthi Chandrashekhar and Padma Deosthali*

- Improving access to safe abortion
- Addressing gender discrimination including sex selection
- Affirming women's reproductive rights and right to self determination.

The two days programme had been conceptualised by the working group. Following this, an overview of the planned programme for the next two days was provided. It was reiterated that this was a consultation and an attempt to bring together people working in the field to proactively address the issue. The outcome of the consultation would depend on the manner in which the discussion would evolve.

DAY I

Safe abortion - women's perspectives

Presenter: Renu Khanna
Chairperson: Padmini Swaminathan

Renu began by saying that women, even today, view abortion as an illegal act. She presented findings from research studies on the profile of abortion seekers showing that the majority were aged 20-29, married with two or more children. Up to 30% were unmarried of which up to 50% were adolescents. Reasons why women seek abortion include: reaching family size, birth spacing, sex-selective abortions, medical reasons, and failure of contraception. Abortion was often a last resort for women with little control over sex in their marriage or use of contraception. Sex selective abortions were common amongst the more affluent groups or from joint families where women had less autonomy and unlikely to be involved in family decision-making. They were also less likely to have an independent source of personal income and even when they did earn money, a significantly lower proportion of these women were able to keep or spend their earned income (12.5 versus 38.4 per cent)"

Renu highlighted that women's perspectives were rarely captured by studies with the main issues being: lack of knowledge that abortion is legal, lack of public and private provider choice, and strong need for confidentiality, which for some women was greater than cost and close proximity. She said that as women preferred the private sector for mainly these reasons the campaign faced a large challenge as it was centred around safe abortion access to the public sector.

Padmini said that the voices of men also needs to be included in order to strengthen the campaign. Key issues in the subsequent discussion were:

- Addressing **barriers in accessing abortion and limitations of the MTP Act** by the campaign.

- **Lack of choice in abortion methods used**: D&C being the most unsafe but still most widely available despite safer methods being available; Also, the

methods of abortion are imposed on women and unless the conceptual framework is recognised, the campaign will not be very successful. To form an understanding of the different ways in which abortion is carried out, the science of abortion also needs to be looked at. This was said with reference to medical abortions.

- **Caste, class, religious and social issues** affecting certain groups in accessing safe abortion services and the risk some women face if they continue with pregnancy. **Access to safe abortion for vulnerable groups**, in particular unmarried women and adolescents who will be particularly hit hard if second trimester abortion was restricted.

- Little knowledge in the research arena on **women's perspectives** on abortion, in particular sex selective abortions, and circumstances under which women have unwanted pregnancies and consequent inaccessibility to safe abortion; a need to retain **women's voice** in the campaign.

- Abortion as an **access or rights issue** as opposed to a family planning issue - mirrored in where safe abortion sits within Government policy.

- **Choice of provider**: lack of choice of registered abortion providers whereas unsafe providers are easily available; public hospitals offering abortion on condition of sterilisation making them less accessible.

- Importance of **ensuring quality abortion services** followed by post abortion counselling and follow-up as necessary.

- Practice of self-induction or using informal providers remained the first choice among unmarried women, adolescents, rural and economically disadvantaged women.

- Women increasingly see the availability of drugs for medical abortion as a self-medicative process. The easy availability of the drugs in the country is rankling enforcement agencies. Interaction with adolescents indicates that the media has a strong impact on their mindset. The emergency pills that are sold over-the-counter have increased the risk of unsafe abortion.

- Bela clarified that the morning-after pill is essentially a contraception which differs from medical abortion drugs that are at the moment available only on prescription by gynaecologists. These drugs have been available since 2002. There has been fear of misuse and efforts have been made towards controlling these drugs. A study in Bihar on the use and awareness of medical abortion showed that it was not being used widely in the form of self-medication. Other forms of oral drugs – Ayurveda and indigenous medicines were being used as they were much more easily available, at a fraction of the cost.

- The barriers in accessing abortion and limitations of the MTP Act too should be taken up by the campaign as the law continues to provide abortion under certain condition and not as a women's right. It therefore remains a moral issue for women as well as providers.

- Padmini mentioned that in the study in Gujarat several doctors spoke of the emotional distress they experience after performing abortions. When talking of abortion, it is only seen in terms of the woman's right; what about **the doctor's right** to refuse to perform abortions owing to the distress caused.

- It was also pointed out that amongst providers the notion of the husband's right over the foetus is very high and is reflected in their insistence on getting the paper signed by the woman's husband when she comes for an abortion when as per the MTP Act this is not a criterion.

- The framing of rights needs to be done carefully after adequate consideration to possible opposition and backlash.

Declining sex ratio and challenges in forestalling the evidence

Presenter: Leela Visaria
Chairperson: Subhash Mendhapurkar

Leela reported that the deficit of women had progressively increased in India's population from 972 women per 1,000 men in 1901 to 933 per 1,000 men in 2001, with the North of India seeing the most significant decline in sex ratio. Deficit of girls among second and third child was greater compared to the first child and when there is already one daughter present. There was also a deficit of girls among educated, landed and high caste women indicating a preference for a certain sex composition of children and while at the same time keeping the family unit small.

Leela reported that the main drivers for declining sex ratio were social and cultural practices. Technologies like portable sonogram and blood tests had made sex determination possible and attributed to sex selective abortion. She felt that ethical considerations and legislations that directly affect the practice of physicians should be incorporated into the medical curriculum.

She mentioned that several measures had already been taken to bring an end to the prevailing practice of sex selection and sex-selective abortion, for example the PCPNDT Act, extensive media spreading messages about the value of girl child and development of nationwide advocacy and communication strategies.

However, she also stressed that the Act has created some confusion with many interpreting it to mean that all abortions are illegal resulting in reduced access to safe and legal abortion. The distinction between physiologically abnormal foetus for which termination is legal and termination of a foetus that is sociologically

undesirable was also confused. She also spoke of the confusion created by some activitists when they demand that records of all women seeking medical termination of pregnancy be made public. This would further reduce women's access to safe and legal abortion. The final aim of any campaign should be towards changing ingrained attitudes about the value of women.

The discussion session (in the form of a question and answer session) highlighted the following issues:

- The linkage between the declining sex ratio and sex-selective abortion.

- A short term emotional approach may work, similar to passing of the Sharda Act that increased the age of consent for marriage which two decades on is now accepted as the norm by most. The group needs to appreciate incremental changes and not accept dramatic changes.

- Clarification of calculation, errors in analysis (e.g. poor birth registration) and reporting of the sex ratio.

- She emphasised the need to work with members of the Indian Medical Association and Federation of Obstetricians and Gynaecologists to abide by the stipulations of the PC/PNDT Act. Ethical considerations should be discussed in the medical curriculum and legislations that directly affect the practice of physicians should be incorporated.

Another matter of focus would be to decide whether it should be viewed from the human rights perspective or the demographic perspective. There also needs to be a clear focus on whose rights were being addressed as there could be backlash about the woman's right to have a son.

There needs to be a clear understanding about how sex ratio gets linked to the campaign and the fall-outs associated with it. While working with the community, the campaign may take the stand of abortion as a right of the woman abortion on the basis of discrimination needs to be realised. Some will argue against abortion on the basis of any discrimination, i.e. disability as well as gender.

Expanding safe abortion

Chairperson: Suchitra Dalvie
Presenter: Bela Ganatra

Bela reported that even over three decades after the legislation, there was still dearth of information on abortion. Official statistics such as NFHS underreport as much as eight to ten times. Morbidity is not declining; the rural, poor and illiterate

remain vulnerable and there are large numbers of informal providers who still use invasive methods.

Banning second trimester abortions was not the solution to sex selective abortion as it is evident that delays occur for a variety of reasons and this will only lead to increased numbers of unsafe abortions. There is a need to personalise women's voices rather than personify the foetus.

Situational analysis with respect to implementation of PCPNDT and MTP in Rajasthan and Maharashtra

Presenters: Leni Chaudhuri and Sharad Iyengar

- Leni reported that in Maharashtra only 17% were provided by public facilities, the remaining in private sector. There has been an increase in number of registered abortion facilities in the State and the District Level Committees have been formed. The implementation of both MTP and PCPNDT has been at the minimal level. The implementation of the MTP Act has remained around formation of DLCs and granting registration whereas civil society involvement in case of PCPNDT has actually led to filing of cases against erring medical professionals.

- Sharad presented the Rajasthan findings which showed the poor registration of facilities, lack of abortion facilities in the public health services, poor reporting and data management within the government department. The poor implementation of the MTP Act was evidenced. A content analysis of messages and posters on sex selection was also presented – reflecting hostility towards safe abortion in Rajasthan. Medical imagery made it appear as a medical problem rather than a social problem.

Discussion

- There is a need to develop a method for critiquing campaign material produced on sex selection. The messages need to be looked into to avoid sex selection and PCPNDT not being mixed with MTP and safe abortion.

- When speaking of sex selection, the issue of disability rights comes in.

- An opinion was that our society is not yet ready to work for abortion as a right, with several religious sects who will remain opposed to this concept. The sex selection campaign needs to be rethought and improved with alternate messages developed rather than disregarded altogether.

- The reproductive health campaign must not function in isolation. Safe abortion is a public health priority that should be seen as a right to health/life

rather than directly calling it right to abortion. Unless the MTP Act is implemented well, undercover sex-selective abortions will continue.

Framework/approach that campaign should adopt

Some of the issues and opinions that came up during this session were that the campaign should adopt an approach that will face least resistance. It was felt that the public health argument would work better as social justice would open up too many other issues. The vulnerability framework presents the view that the poor and uneducated are vulnerable and will access the poorest of services, hence the need for services in the public health system. The social justice argument strengthens the public health argument that looks into the lives affected. The public health argument also presents numbers, which is useful. Women turn to unsafe methods due to poor access and availability of services. Unsafe abortions lead to mortality and morbidity. Abortion services should be made available and accessible within the public health system.

The language needed to be clear – the foetus should be seen a part of the self and the focus should be on preventing harm towards the self than towards murdering the foetus. The working group of the NCSA had discussed that the campaign would take the public health dimension, issue of lack of access to safe abortion and right to non-discrimination.

The right to abortion was viewed in terms of right to health. The disability movement has raised some issues. The right of disabled foetuses does not amount to the right of the foetus to be born.

Conceptual clarity about core concerns

It was decided that a few focused topics be taken up for discussion to get more clarity with regard to the campaign. The discussions are summarised here.

Addressing legal frameworks for MTP & PCPNDT - some were of the opinion that abortion need not necessarily be framed as a right. The discussion was clear that abortion services must reach across different groups and good implementation of the MTP Act must be the focus. Legally, the boundaries of the MTP & PCPNDT Acts need to be looked at closely as it can raise controversies. Response to these could be in the form of government plans and schemes.

Improving access to safe abortion - A large gap between having a policy and implementing the policy was identified. There is a poorly regulated private and public sector which must have some form of accountability. Issues that need addressing include: access through the public service, a better referral system for avoidance of quacks providing services, access to safer methods, comprehensive care and standards, and consent issues including minors. The campaign needs to

focus on women's perspective (making them feel more empowered) and provider perspectives.

Social determinants of sex-selection - There is a clear link between determinants of lack of access to abortion and sex ratio. Sex selection is associated with gender discrimination. In India there is a preference of giving birth and raising a son in terms of inheritance, kinship and performing death rites. In some communities the social and financial cost of raising a girl – for example dowry - also plays a part. The misuse of technology and economic driver for service providers is also a determinant. There is a need to understand the political economy and the morals they preach.

DAY II

Following a brief recap of the previous day, Bela made a presentation on medical abortion as several participants had requested information on this topic.

Safe abortion: technical and policy guidance for health system

Presenter: Bela Ganatra

Bela in her presentation reported that training on abortion procedures should be part of the curriculum at the undergraduate level. However, it is taken up only during post-graduation. This is why only gynaecologists or those with six-month training on abortion techniques are eligible for providing abortion services. The Population Council are conducting a trial on abortions by non-doctors similar to those done by the WHO in South Africa and Vietnam. Appropriate methods for each trimester and appropriate methods as evidenced in a WHO publication were explained by Bela during the session.

Other issues discussed during this session were around contraception and how weak providers were in counselling for family planning post abortion. Often providers also ignored patients' rights who were also not given complete and accurate information.

Building a campaign for safe abortion - issues for consideration

Facilitator: Abhijeet

Abhijeet began by reminding the group that they had assembled because of the prevailing discomfort associated with abortion. Through the discussions of the past one-and-a-half days, dimensions have been explored and policies have been analysed. There was an open discussion through this session, facilitated by Abhijit.

Developing the campaign

There has been no systematic campaign on abortion. The Women's Movement in the 1980s which included abortion was part of a larger movement. Other campaigns have been around the MTP Act as opposed to safe abortion. The National Abortion Assessment Project threw up valuable evidence but there was no systematic advocacy.

The campaign needs to recognise the difference between sex-selective abortion/sex determination and safe abortion as the previous campaign on sex selection was a setback to safe abortion campaigns. The question posed was whether everybody agreed that a woman has a right to sex-selective abortion in which case the individual right is in conflict with social justice, reframed as 'all women should have the right to expel/remove product of conception before onset of natural labour (unless medically contra-indicated)'. There were mixed views on this of which a few summarised below:

- The woman has a right because if one does not agree then it would mean personification of the foetus.
- It was voiced that as a campaign group, if we were okay with sex-selective abortion, it also meant that we were okay with sex-selection.
- A dilemma was presented by a doctor when he/she comes to know that the woman has undergone sex-selection and demands an abortion. As a doctor she is forced to refuse in such a scenario.
- One participant said that she had come with a position against sex-selective abortion. But the discussions have shown that such a position keeps the female foetus in mind, rather than the woman. While speaking of right to body and health, there is opposition towards sex-selective abortion. The woman may be facing other forms of violence too. If she is denied safe abortion, she will go elsewhere. Therefore, she felt that for the campaign on safe abortion, sex-selective abortion should be included as well.
- It was felt that decision should be well-informed. There is an interface between social and individual priority. The right to abortion leads to the right to sex determination.
- It was also articulated that if sex-selective abortions were stopped, women in desperate situations would have nowhere to go. Hence the participant was for abortion even if it were to be sex-selected.
- Another member said that other than on medical grounds, there should be no need to ask the woman for reasons for seeking an abortion. Though personally in favour of abortion, as a campaign the participant said that was a need to restrict sex-selected abortion.
- An urge was made to distinguish between sex determination and sex-selected abortion. While sex determination needs to be opposed strongly, at the time of seeking abortion services no further barriers should be posed on women. There is a need to respect the right of women to seek abortion under any condition.

Whilst there was a general disagreement with having sex selection as a strategy in the core principles, there was no real consensus on how to handle the issue. It was felt that ways of dealing with the issue of sex-determination and a woman's right to sex-selective abortion need to be articulated carefully.

Plan for the future

Padma said that the agenda was planned keeping in mind the issues that needed deliberation and clarity. The last two days discussion has thrown up the need to think through several issues much more in depth. The invitees for the consultation were decided by the Working Group as it was felt that each one of them would meaningfully contribute to the discussion and in taking the discussion ahead.

It was agreed that the right to safe abortion needs to be safeguarded. The commitment by participants towards taking the campaign forward were documented; a selection of commitments and suggestions are given below:

- Some operational statements need to be looked at (Sharad).
- Autonomous women's groups need to be included as they have been involved with the issue historically on issues raised here (Sababla).
- Regional dialogue on the matter was needed where these issues could be taken up (Anupama).
- Need to be reactive in the short term. The long term goal also needs to be visualised (Supriya).
- People from regions where sex-selective abortion is rampant must be roped into the campaign. Some work on damage control and preventive work needs to begin (Lester).
- There has to be an open dialogue at the national level (Lester).
- When the backlash of the sex-selective abortion movement on abortion was explained to a group they were working with, they were willing to change. Such groups that can change must be identified and dialogue should be initiated with them (Subhasree).
- Bureaucrats, the medical association and the media must be involved.
- Further work required on sex selection and access to abortion with demographers (Leni).
- Need to look at State project implementation plan and give feedback (Abhijit).
- Need for pre and post counselling centres at MTP centres and facilities for young single women (Subhash).
- Voices of women seeking abortion should be documented (Abhijit).

Several issues had come up at the meeting. Asha concluded that the group had come a long way from their understanding of abortion by developing a common ground and showing patience and tolerance. The working group would stay in touch to develop future steps for the campaign.

The full report of the National Consultation can be obtained from CEHAT.

Annexure I

National Campaign for Safe Abortion:
Working for Women's Health and Self-Determination

Venue: The YMCA International, Mumbai Central
Agenda for the national consultation,
21st April and 22nd April, 2008

Objectives of the National Consultation

- Develop conceptual clarity about safe abortion and sex selection
- Highlight concerns based on state level situational analysis
- Develop campaign strategies that address safe abortion and sex selection issues within frameworks of gender discrimination and reproductive rights

DAY 1

9.30 am to 10.00 am	Registration and tea
10.00 am to 11.00 am	Welcome and Introduction: Padma Deosthali
11.00 am to 11.30 noon	**Safe Abortion: Women's Perspectives and Legal Frameworks**

Chairperson: Renu Khanna

11.30 noon to 12.30 pm	Plenary Discussion
12.30 pm to 1.00 pm	**Declining Sex Ratio & Use of Diagnostics: Evidence**

Chairperson: Subhash Mendapurkar
Presentation: Leela Visaria

1.00pm to 2.00pm	Plenary Discussion

Lunch

Safe Abortion and Sex Selection
Chairperson: Suchitra Dalvie

2.30 pm to 2.45pm	Presentation I: Overview of evidence: Bela Ganatra
2.45 pm to 3.00 pm	Presentation II: Maharashtra: Leni
3.00 pm to 3.15 pm	Presentation III: Rajasthan: Sharad Iyengar
3.15 pm to 4.15 pm	Discussion

Tea

4.45 pm to 8.00 pm	**Conceptual clarity about core concerns, key actors, next steps**

Open Discussion - Facilitators: Suchitra Dalvie and Asha George

- Improving access to safe abortion
- Addressing legal frameworks for MTP and PNDT
- Addressing the social determinants of sex-selection
- Addressing groups working on sex-selection

DAY 2

9.30 am to 10.00 am	**Review/reflections**: Asha George
10.00 am to 1.30 pm Facilitator: Abhijit Das	**Campaign Structure and open discussion**
1.30 pm to 2.30 pm	Concluding and future plan: Asha and Padma