



## THE STATE OF FEMALE FOETICIDE IN BIHAR

### 1. Executive summary and recommendations

Bihar has the 16<sup>th</sup> lowest Child Sex Ratio (CSR) i.e. number of girls per thousand boys in the age group 0–6 years among 35 States and UTs of India.<sup>1</sup> From 1971 to 2011, Bihar recorded 31 points falls in the CSR. In the 1971 census, the CSR in Bihar was recorded as 964 and it rose to 981 in 1981. However, it fell to 953 in 1991 and further to 942 in 2001 and to 935 in 2011 census.<sup>2</sup>

As per 2011 Census, 24 of 38 districts recorded decline in CSR while 20 districts recorded CSR below state average of 935 girls per 1000 boys. The 21 districts that registered decline in the CSR were Vaishali district with 904 girls per 1000 boys, followed by Patna (909), Muzaffarpur (915), Bhojpur (918), Begusarai (919), Lakhisarai (920), Khagari (926), Saran (926), Nalanda (931), Rohtas (931), Purbi Champaran (933), Mahubani (936), Bhagalpur (938), Sheikhpura (940), Banka (943), Nawada (945), Gopalganj (954), Purnia (954), Jamui (956), Araria (957), Gaya (960) and Katihar (961).<sup>3</sup>

The statistics on Sex Ratio at Birth (SRB) collected for the Annual Health Survey (AHS) in Bihar, one of the 9 high focus States with relatively high fertility and mortality account, are not encouraging. As per the AHS sample survey which claims to be the largest demographic survey in the world, the SRB was respectively 923 in 2011-2012 and

925 during 2012-2013.<sup>4</sup> If the existing under-five mortality rate (U5MR) of 48 deaths per 1,000 births<sup>5</sup> in India is applied in Bihar's context, the CSR will further reduce to little over 900 females per thousand males. Though the figures of the

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AHS are only indicative, it indicates that there is no improvement of the CSR in Bihar.

The implementation of the PC&PNDT Act remains extremely poor. As of April 2015, Bihar had a total of 1,621 ultrasound centres but only 1,449 inspections were carried out from 2012 to April 2015. It means that some of the centres were not inspected even once over a period of three years. No license of any erring doctor was suspended in Bihar from inception of the PC&PNDT Act in 1994 to present. This is despite cancellation of registration of 212 clinics, sealing of 139 clinics, suspension of 72 clinics and seizure of 104 sonography machines. It is as if only the machines are at fault!

The convictions under the PC&PNDT Act remain equally rare. During 2009 to December 2014, Bihar registered only 11 convictions as<sup>6</sup> while 6 cases were pending in courts as of September 2014. In May 2015, the Supreme Court slammed the Bihar government over “low” prosecution rate of cases relating to female foeticide in the state after noting that no case had been registered after 2013.<sup>7</sup> In 15 districts i.e. Araria, Arwal, Banka, Buxar, Gaya, Khagaria, Madhepura, Munger, Rohtas, Saharsa, Samastipur, Saran, Sheikhpura, Sheohar and Sitamarhi, no case has been filed under the PC&PNDT Act as on date.

The Mukhya Mantri Kanya Suraksha Yojna (MMKSY) was launched in July 2008 among others for preventing female foeticide and improving sex ratio.<sup>8</sup> The MMKSY has a number of limitations: it targets only girl children from Below Poverty Line (BPL) families, only up to two girl children from a single family are entitled to the benefits of the scheme (3<sup>rd</sup> girl child will get the benefits only if the 2<sup>nd</sup> and 3<sup>rd</sup> girl children are a twin), post birth grant revert back to the Bihar Government in case of death of girl child before maturity or her completion of 18 years of age and one time financial incentive of Rs 2,000/- under UTI-Children’s Career Balanced Plan-Growth Option which will become Rs 18,000 after 18 years is too less an incentive to encourage even the BPL families.<sup>9</sup>

The Comptroller and Auditor General (CAG) questioned investment of the funds under the MMKSY in the Unit Trust of India-Children Career Plan (UTI-CCP) mutual fund. In its report on Public Sector Undertakings of the Bihar Government for the year ended on 31 March 2012, the CAG termed imprudent the Bihar government’s investment of Rs. 268.71 crore of MMKSY fund in UTI-CCP mutual fund without setting up any monitoring mechanism. The CAG pointed out that investment of such a huge amount without any monitoring mechanism exposed the scheme to market risks. According to the CAG report, the net value of Rs. 268.71 crore of the MMKSY fund invested by the Bihar Government in UTI-CCP was Rs 292.41 crore in May 2012. The CAG observed that the net value of the investment would have been Rs.299.09 crore had the fund been invested in any other long term schemes like post office fixed deposit which are secured/guaranteed in nature unlike the UTI-CCP.<sup>10</sup>

As of February 2016, more than 14.87 lakh beneficiaries had availed the benefit of the scheme with a sum of Rs. 297.56 crore.<sup>11</sup> Access to actual benefits remains in doubt. During a review meeting of the scheme in April 2016, it was found that altogether 11,899 applications were handed over to IDBI Bank out of which only 1,720 bonds were issued by the bank after maturity. The bank had been blocking the payment for no reason.<sup>12</sup>

## Conclusion and recommendations

There is no doubt that any programme that seeks to ensure retention of female foetuses ought to address the burden of marriage.

Asian Centre for Human Rights recommends the following to the State Government of Bihar:

- Revise *Mukhya Mantri Kanya Suraksha Yojana* to increase the amount for post birth benefits at par with other States<sup>13</sup>, scholarship<sup>14</sup>, financial assistance for marriage<sup>15</sup> to be paid to surviving girls and insurance cover<sup>16</sup> in

case of death of the parents to the surviving girls;

- Expand the coverage of the *Mukhya Mantri Kanya Suraksha Yojana* to include all girl children of Bihar irrespective of income of their parents or place of birth and benefits be provided to all the girl children in the family;
- Undertake specific programme for increasing coverage of all families under the *Mukhya Mantri Kanya Suraksha Yojana* scheme by connecting the programme with all hospitals;
- Link the *Mukhya Mantri Kanya Suraksha Yojana* with all Anganwadi Centres and Schools to monitor the progress of the beneficiaries;
- Digitise the funds sanctioned and utilization certificates and upload the same in the website of the Department of Women and Child Development;
- Develop mechanisms for effective implementation of the *Mukhya Mantri Kanya Suraksha Yojana* by digitizing the data of the beneficiaries and ensuring timely payment after maturity;
- Undertake effective measures to monitor and ensure proper implementation of the

PC&PNDT Act including mandatory inspection of all the registered centres at least once in a year and initiate trial of the cases registered under the Act in a time bound manner.

## 2. The state of female feticide in Bihar

Female feticide has been one of the features of the India's patrilineal society. The son preference for a number of reasons, such as inheritance passing on to male offspring, male offspring providing economic support and security in old age and performing death rites has been in India for ages. Many of these practices were legalized and women in India under the Hindu Marriage Act were not allowed to inherit properties. The dowry<sup>17</sup> custom in India makes daughters an unaffordable economic burden leading to son preference.

Entire India has been affected by declining child sex ratio and Bihar has not been an exception.

### 2.1 Child sex ratio in Bihar

Child Sex Ratio (CSR) is defined as the number of females per 1000 males in the age group 0-6 years.<sup>18</sup> In Bihar the CSR has declined by 7 points from 942 in 2001 to 935 in 2011.<sup>19</sup>

**Child Sex Ratio in Bihar districts: 2001-2011<sup>20</sup>**

Sl. No.	District/State	Census 2001	Census 2011	Change in points (-/+)	District ranking as per 2011 Census CSR
	Bihar	942	935	-7	
01	Vaishali	937	904	-33	1st
02	Patna	923	909	-14	2 <sup>nd</sup>
03	Muzaffarpur	928	915	-13	3 <sup>rd</sup>
04	Bhojpur	940	918	-22	4 <sup>th</sup>
05	Begusarai	946	919	-27	5 <sup>th</sup>
06	Lakhisarai	951	920	-31	6 <sup>th</sup>
07	Munger	914	922	+8	7 <sup>th</sup>
08	Jehenabad	926	922	-4	8 <sup>th</sup>

09	Samastipur	938	923	-15	9 <sup>th</sup>
10	Khagaria	932	926	-6	10 <sup>th</sup>
11	Saran	949	926	-23	11 <sup>th</sup>
12	Sheohar	916	929	+13	12 <sup>th</sup>
13	Sitamarhi	924	930	+6	13 <sup>th</sup>
14	Madhepura	927	930	+3	14 <sup>th</sup>
15	Darbhanga	915	931	+16	15 <sup>th</sup>
16	Nalanda	942	931	-11	16 <sup>th</sup>
17	Rohtas	951	931	-20	17 <sup>th</sup>
18	Saharsa	912	933	+21	18 <sup>th</sup>
19	Purbi Champaran	937	933	-4	19 <sup>th</sup>
20	Buxar	925	934	+9	20 <sup>th</sup>
21	Madhubani	939	936	-3	21 <sup>st</sup>
22	Bhagalpur	966	938	-28	22 <sup>nd</sup>
23	Arwal	920	940	+20	23 <sup>rd</sup>
24	Siwan	934	940	+6	24 <sup>th</sup>
25	Sheikhpura	955	940	-15	25 <sup>th</sup>
26	Kaimur	940	942	+2	26 <sup>th</sup>
27	Banka	965	943	-22	27 <sup>th</sup>
28	Supaul	925	944	+19	28 <sup>th</sup>
29	Aurangabad	943	944	+1	29 <sup>th</sup>
30	Nawada	978	945	-23	30 <sup>th</sup>
31	Paschim Champaran	953	953	0	31 <sup>st</sup>
32	Gopalganj	964	954	-10	32 <sup>nd</sup>
33	Purnia	967	954	-13	33 <sup>rd</sup>
34	Jamui	963	956	-7	34 <sup>th</sup>
35	Araria	963	957	-6	35 <sup>th</sup>
36	Gaya	968	960	-8	36 <sup>th</sup>
37	Katihar	966	961	-5	37 <sup>th</sup>
38	Kishangaj	947	971	+24	38 <sup>th</sup>

Bihar has the 16<sup>th</sup> lowest CSR among 35 States and UTs of India.<sup>21</sup> As per 2011 Census, CSR in India is 919 girls per 1000 boys.<sup>22</sup> In Bihar it is 935, just 17 point above the national CSR. From 1971 to 2011, Bihar recorded 31 points decline in the CSR. In

the 1971 census CSR was 964 girls per 1000 boys, in 1981 it was 981, in 1991 it was 953, in 2001 it was 942 and in 2011 it was 935.<sup>23</sup> Between 2001 and 2011, Bihar registered 7 points decline in the CSR.<sup>24</sup>

As per 2011 Census, 24 of 38 districts recorded decline in CSR while 20 districts recorded CSR below state average of 935 girls per 1000 boys. Thirteen districts registered improvement in CSR but 7 of these districts recorded CSR below the State average of 935 girls per 1000 boys. These 7 districts are Munger (922), Sheohar (929), Sitamarhi (930), Madhepura (930), Darbhanga (931), Saharsa (933) and Buxar (934).

The 21 districts that registered decline in the CSR were Vaishali district with 904 girls per 1000 boys, followed by Patna (909), Muzaffarpur (915), Bhojpur (918), Begusarai (919), Lakhisarai (920), Khagari (926), Saran (926), Nalanda (931), Rohtas (931), Purbi Champaran (933), Mahubani (936), Bhagalpur (938), Sheikhpura (940), Banka (943), Nawada (945), Gopalganj (954), Purnia (954), Jamui (956), Araria (957), Gaya (960) and Katihar (961).<sup>25</sup>

**Table 2: Ranking of the districts as per 2011 census (CSR) and Annual Health Survey 2011-12 and 2012-13 (SRB)**

Ranking of the district	Name of the district	CSR as per 2011 census	Name of the district	SRB 2011 -12 AHS <sup>26</sup>	Name of the district	SRB 2012 -13 AHS <sup>27</sup>
<b>Bihar</b>		935		923		925
1 <sup>st</sup>	Vaishali	904	Vaishali	892	Vaishali	885
2 <sup>nd</sup>	Patna	909	Patna	915	Patna	922
3 <sup>rd</sup>	Muzaffarpur	915	Muzaffarpur	883	Muzaffarpur	896
4 <sup>th</sup>	Bhojpur	918	Bhojpur	923	Bhojpur	936
5 <sup>th</sup>	Begusarai	919	Begusarai	958	Begusarai	969
6 <sup>th</sup>	Lakhisarai	920	Lakhisarai	930	Lakhisarai	940
7 <sup>th</sup>	Munger	922	Munger	930	Munger	940
8 <sup>th</sup>	Jehenabad	922	Jehenabad	936	Jehenabad	952
9 <sup>th</sup>	Samastipur	923	Samastipur	890	Samastipur	881
10 <sup>th</sup>	Khagaria	926	Khagaria	922	Khagaria	927
11 <sup>th</sup>	Saran	926	Saran	930	Saran	921
12 <sup>th</sup>	Sheohar	929	Sheohar	937	Sheohar	927
13 <sup>th</sup>	Sitamarhi	930	Sitamarhi	882	Sitamarhi	869
14 <sup>th</sup>	Madhepura	930	Madhepura	938	Madhepura	939
15 <sup>th</sup>	Darbhangha	931	Darbhangha	886	Darbhangha	878
16 <sup>th</sup>	Nalanda	931	Nalanda	933	Nalanda	939
17 <sup>th</sup>	Rohtas	931	Rohtas	913	Rohtas	918
18 <sup>th</sup>	Saharsa	933	Saharsa	929	Saharsa	920
19 <sup>th</sup>	Purbi Champaran	933	Purbi Champaran	896	Purbi Champaran	896
20 <sup>th</sup>	Buxar	934	Buxar	997	Buxar	997

21 <sup>st</sup>	Madhubani	936	Madhubani	910	Madhubani	905
22 <sup>nd</sup>	Bhagalpur	938	Bhagalpur	961	Bhagalpur	959
23 <sup>rd</sup>	Arwal	940	Arwal	N/A	Arwal	N/A
24 <sup>th</sup>	Siwan	940	Siwan	945	Siwan	949
25 <sup>th</sup>	Sheikhpura	940	Sheikhpura	901	Sheikhpura	895
26 <sup>th</sup>	Kaimur	942	Kaimur	871	Kaimur	887
27 <sup>th</sup>	Banka	943	Banka	978	Banka	989
28 <sup>th</sup>	Supaul	944	Supaul	959	Supaul	951
29 <sup>th</sup>	Aurangabad	944	Aurangabad	985	Aurangabad	985
30 <sup>th</sup>	Nawada	945	Nawada	909	Nawada	926
31 <sup>st</sup>	Paschim Champan	953	Paschim Champan	971	Paschim Champan	980
32 <sup>nd</sup>	Gopalganj	954	Gopalganj	899	Gopalganj	901
33 <sup>rd</sup>	Purnia	954	Purnia	878	Purnia	887
34 <sup>th</sup>	Jamui	956	Jamui	956	Jamui	976
35 <sup>th</sup>	Araria	957	Araria	911	Araria	909
36 <sup>th</sup>	Gaya	960	Gaya	970	Gaya	967
37 <sup>th</sup>	Katihar	961	Katihar	920	Katihar	934
38 <sup>th</sup>	Kishangaj	971	Kishangaj	984	Kishangaj	967

The statistics collected for the Annual Health Survey (AHS) in Bihar, one of the 9 high focus States with relatively high fertility and mortality account are not encouraging. Fourteen out of 37 districts where AHS was conducted during 2011-12 and 2012-13 recorded decline in the range of -2 to -17 points while 20 districts registered improvement in the range of 1 – 20 points in the SRB. In three districts there was no change in the SRB from 2011-12 to 2012-13.<sup>28</sup> Overall, the Sex Ratio at Birth (SRB) in Bihar was recorded respectively 923 in 2011-2012 and 925 during 2012-2013<sup>29</sup>. If the existing under-five mortality rate (U5MR) of 48 deaths per 1,000 births<sup>30</sup> in India is applied in Bihar's context, the CSR will further reduce to little over 900 females per thousand males. Though the figures of the AHS are only indicative, it indicates that there is no improvement of the CSR in Bihar.

## 2.2 Implementation of the PC&PNDT Act

### i. Provisions of the Act

India enacted the Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act) to address sex selective abortion. The PNDT Act has since been amended to make it more comprehensive and keeping in view the emerging technologies for selection of sex before and after conception and problems faced in the working of implementation of the Act and certain directions of Supreme Court. The amended Act came into force with effect from 14 February 2003 and it was renamed as "Preconception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994" (PC&PNDT Act).

The PC&PNDT Act provides for regulation and punishment. Section 3 of the PC&PNDT Act provides for regulation of Genetic Counselling

Centres, Genetic Laboratories and Genetic clinics through the requirement of registration under the Act, prohibition of sex selection and sale of ultrasound machines to persons, laboratories, clinics, etc. not registered under the Act. Section 4 provides that no such place shall be used for conducting pre-natal diagnostic techniques except for the purposes specified and requires a person conducting such techniques such as ultrasound sonography on pregnant women to keep a complete record in the manner prescribed in the Rules. Section 5 requires written consent of pregnant woman for conducting the pre-natal diagnostic procedures and prohibits communicating the sex of foetus. Section 6 provides that no pre-natal diagnostic techniques including sonography can be conducted for the purpose of determining the sex of a foetus and that no person shall conduct or cause to be conducted any pre-natal diagnostic techniques including ultra sonography for the purpose of determining the sex of a foetus. Section 22 provides prohibition of advertisement relating to pre-natal determination of sex and punishment for contravention with imprisonment for a term which may extend to three years and with fine which may extend to ten thousand rupees. Section 23 provides for offences and penalties with imprisonment up to three years and fine up to Rs. 10,000. For any subsequent offences, there is imprisonment of up to five years and fine up to Rs. 50,000/1,00,000. The name of the Registered Medical Practitioner is reported by the Appropriate Authority to the State Medical Council concerned for taking necessary action including suspension of the registration if the charges are framed by the court and till the case is disposed of. On conviction, the name of Registered Medical Practitioner is removed for a period of 5 years for the first offence and permanently for the subsequent

offence. Section 24 provides for punishment for abetment of offence as prescribed under sub-section (3) of section 23. Section 25 provides for penalty for 'contravention of any provision of the Act or rules for which no specific punishment is provided' with imprisonment for a term which may extend to three months or with fine, which may extend to one thousand rupees or with both and in the case of continuing contravention with an additional fine which may extend to five hundred rupees for every day during which such contravention continues after conviction for the first such contravention. Section 26 provides for offences by companies.<sup>31</sup>

## ii. Status of implementation

As per affidavit submitted by the Department of Health, Government of Bihar in the Supreme Court in April 2015<sup>32</sup>, a total of 1,621 ultrasound centres were registered under the PC&PNDT Act across the 38 districts of the state. Of the 38 districts, two districts viz. Patna (339) and Muzaffarpur (122) have the maximum number of sonography centres registered under the Act, followed by Darbhanga (86), East Champaran (79) and West Champaran (62).

As per the said affidavit, the District Appropriate Authorities carried out only 1,449 inspections as of April

2015. It means that the total number of inspections conducted was less than the number of centres registered. In other words, some of the centres were not inspected even once over a period of three years during 2012 - 2014.

Nonetheless, registrations of 212 clinics were cancelled while 139 clinics have been sealed and 72 clinics were suspended. A total of 104 sonography machines have been sealed/seized under the

The implementation of the PC&PNDT Act remains extremely poor. As of April 2015, Bihar had a total of 1,621 ultrasound centres but only 1,449 inspections were carried out from 2012 to April 2015. It means that some of the centres were not inspected even once over a period of three years. No license of any erring doctor was suspended from 1994 to present despite cancellation of registration of 212 clinics, sealing of 139 clinics, suspension of 72 clinics and seizure of 104 sonography machines.

PC&PNDT Act and maximum of them were sealed/seized in East Champaran (30), followed by Nalanda (10) district. However, not a single license of any doctor has been cancelled in Bihar since 1994.

In terms of conviction under the PC&PNDT Act, implementation remains extremely poor despite rampant violations. The Health Minister of India Mr J P Nadda informed in the Rajya Sabha (Upper House) on 3 March 2015 that during 2009 to December 2014, only 11 convictions were secured in Bihar<sup>33</sup> while 6 cases were pending in courts as of September 2014.<sup>34</sup>

On the other hand, in the affidavit filed before the Supreme Court of India in September 2015, a total of 159 court cases have been registered in the court of CJM/FCM under the PC&PNDT Act across 38 districts of Bihar. Out of these, convictions were secured in only 7 cases from Darbhanga (5) and Jehanabad (2) districts while 19 cases have been closed without any penal actions against the accused. A total of 132 cases were pending in different courts as of September 2015. Cases had been filed in the courts in only 23 districts while no court case was filed in the remaining 15 districts. A large majority of the cases have been filed in the courts in East Champaran district (30), followed by Siwan (25) and Gopalganj (16). The districts where no case has been filed in the courts were: Araria, Arwal, Banka, Buxar, Gaya, Khagaria, Madhepura, Munger, Rohtas, Saharsa, Samastipur, Saran, Sheikhpura, Sheohar and Sitamarhi.

On 4 March 2016, replying to questions pertaining to causes of declining CSR, Bihar Parliamentary Affairs Minister Shrawan Kumar stated in 2015 that FIRs were registered against 200 such facilities where illegal sex determination test are conducted.<sup>35</sup>

Despite such action, no license of any erring doctor was suspended in Bihar as on date.<sup>36</sup>

**Some cases of female feticide in Bihar are given below:**

On 21 January 2016, Alamganj police station in Patna reportedly registered an FIR against Dr. Hena Rani Rajnath and her husband Dr Raj Kishore Prasad in connection with sex determination tests and female foeticide. According to Patna SSP Manu Maharaaj, another FIR has also been lodged against Dr. Sunita who runs Nidan ultrasound centre on Road No 6-C at Rajendranagar, Patna.<sup>37</sup>

The female feticide racket came to be known following arrest of an NGO activist Ranjit Kumar pursuant to complaints by Dr. Rajnath for making extortion calls to her demanding Rs.5 lakhs. Ranjit told police that he had gone to Dr Rajnath and Dr Sunita with a woman for sex determination test. He made a video clip. Police seized two CDs prepared by Ranjit.<sup>38</sup>

On 10 April 2013, a team of government doctors headed by Purnia civil surgeon (CS)

Dr. R C Mandal, raided 10 ultrasound clinics across Purnia town and sealed as many as seven ultrasound clinics for the breach of the prescribed norms. According to Dr. Mandal these clinics did not possess licenses and were flagrantly breaching the provisions of PC & PNDT Act. The ultrasound clinics, which came under the scanner and sealed, were identified as Kamala Ultrasound, Prabha Scan Centre, Rahim Ultrasound, Avishkar Ultrasound, Parijat Ultrasound, Rajdhani Ultrasound and Pathak Sadan.<sup>39</sup>

On 9 November 2012, a team of special task force, along with two doctors from the office of Patna civil

The convictions under the PC&PNDT Act remain equally rare. During 2009 to December 2014, Bihar registered only 11 convictions as<sup>6</sup> while 6 cases were pending in courts as of September 2014. In May 2015, the Supreme Court slammed the Bihar government over “low” prosecution rate of cases relating to female foeticide in the state after noting that no case had been registered after 2013. In 15 districts, no case has been filed under the PC&PNDT Act as on date.

surgeon and police conducted raids on 10 premises on Govind Mitra Road and Makhania Kuan Lane under Pirbahore police station in Patna and arrested 17 persons for running the pathological labs without licence. They also seized equipment worth Rs 25 lakh.<sup>40</sup>

On 10 – 11 February 2012, the National Inspection and Monitoring Committee (NIMC) team, constituted under the PC&PNDT Act, sealed two clinics alongwith ultrasound machines for alleged violations under the Act found during surprise inspections of clinics offering ultrasound diagnostic services in Vaishali and Patna districts. According to an official press release, the inspection team comprised of members from Union Ministry of Health & Family Welfare and civil society accompanied by appropriate authorities from the State and the respective districts.<sup>41</sup>

On 3 April 2011, police found sixteen foetuses, mostly female, from a container from Subhaspalli locality, close to a private nursing home in Kishanganj district while another was recovered near a garbage heap in Muzaffarpur town.<sup>42</sup>

### 2.3 Implementation of the MTP Act

India also enacted the Medical Termination of Pregnancy (MTP) Act in 1971 to regulate and ensure access to safe abortions. The MTP Act of 1971 (amended in 2002) allows abortion up to 20 weeks of pregnancy in cases where “the continuance of the pregnancy would involve a risk to the life of the pregnant woman or of grave injury to her physical or mental health”, or, “there is substantial risk that if the child were born, it would suffer from such physical or mental abnormalities to be seriously handicapped”.<sup>43</sup> When the pregnancy is caused by

rape or as a result of failure of family planning device or method used by any of the married couples, pregnancy can be terminated.<sup>44</sup> Abortion is allowed only when it is conducted by registered medical practitioners at a hospital established or maintained by the Government or a facility certified by the Government or a District Level Committee constituted by the Government<sup>45</sup>. However, in special circumstances, pregnancy can be terminated any time (i.e. beyond 20 weeks’ gestation) and without approval of a second doctor when “the termination of such pregnancy is immediately necessary to save the life of the pregnant woman.”<sup>46</sup> In this case, the registered medical practitioner need not have the requisite experience or training in gynecology and obstetrics as required under Section 2 (d) to perform the abortion.<sup>47</sup> Specific punishments were prescribed for any illegal abortion under the MTP (Amendment) Act of 2002, which shall not be less than 2 years rigorous imprisonment but which may extend to 7 years under the IPC.<sup>48</sup>

In the affidavit filed before the Supreme Court of India in September 2015, Bihar informed that a total of 159 court cases have been registered in the court of CJM/ FCM under the PC&PNDT Act across 38 districts of Bihar. A total of 132 cases were pending in different courts as of September 2015. Cases had been filed in the courts in only 23 districts. A large majority of the cases have been filed in the courts in East Champaran district (30), followed by Siwan (25) and Gopalganj (16)

While the government of India does not have any official data on illegal abortions, the Ministry

of Health and Family Welfare has unambiguously acknowledged that “*Although abortions were made legal in 1971, actually illegal abortions still outnumber legal abortions by a large margin. It is estimated that 10-15 thousand women die every year due to complications resulting from unsafe abortions conducted at unapproved places by untrained providers.*”<sup>49</sup> The official number on abortions varies. According to the Ministry of Health and Family Welfare’s report “Health and Family Welfare Statistics in India 2013”, a total of 6,49,795 medical termination of pregnancies (or abortions) were performed during 2008-2009; 6,75,810 during 2009-2010; 6,48,469 during 2010-2011; 6,25,448 during 2011-2012

and 6,36,010 during 2012-2013.<sup>50</sup> Further on 6 August 2013, then Union Minister of Health and Family Welfare Mr Ghulam Nabi Azad told the Rajya Sabha that a total of 11.06 lakh abortions were recorded in the year 2008-09 in India.<sup>51</sup>

But unofficial estimates made by independent research study of 2004 "Abortion Assessment Project - India (AAPI)" coordinated by CEHAT, Mumbai and Health watch, Delhi estimated a staggering 6.4 million (64 lakhs) abortions taking place annually in India. Of these, 1.6 million (16 lakhs) abortions i.e. 25% were performed by informal (traditional and/or medically non-qualified) abortion providers.<sup>52</sup> The Population Research Institute, a non-profit research group, states that at least 12,771,043 sex selective abortions had taken place in India in the years between 2000 and 2014. The yearly average of sex selective abortion is 851,403 or daily average of 2,332.<sup>53</sup>

The underreporting under the MTP Act is glaring. It is assumed that States with more population will report more such cases. For example, Assam with a total population of 31,205,576 as per 2011 census reported a total of 3,53,309 cases of termination of pregnancies under the MTP Act during 2008-2009 to 2012-13. In comparison, Uttar Pradesh with a population of 199,812,341 as per 2011 census reported a total of 3,60,555 cases during the same period. In other words, Uttar Pradesh despite having 159 million populations more than Assam reported only 7,246 cases more than Assam. On the other hand, Maharashtra having a population of 112,374,333 as per 2011 census i.e. less than Uttar Pradesh reported 5,44,671 cases of termination of pregnancies under the MTP Act during the said period. Some other major States with population

more than Assam as per 2011 census reported fewer cases than Assam. These States include Andhra Pradesh (32,842 cases) with over 84 million population; Gujarat (1,04,901 cases) with population of over 60 million; Karnataka (1,30,410 cases) with population of over 61 million; Madhya Pradesh (1,32,118 cases) with population of over 72 million; Odisha (103,146 cases) with population of over 41 million; Rajasthan (158,470 cases) with population of over 68 million; Tamil Nadu (299,083 cases) with population of over 72 million; and West Bengal (269,091 cases) with population of over 91 million.<sup>54</sup>

As per the official records, Bihar recorded 67,895 abortions under the MTP Act during 2008-09 to 2012-13 with 9,182 abortions in 2008-09, 15,884 abortions in 2009-10, 18,555 abortions in 2010-11, 13,129 abortions in 2011-12 and 11,145 abortions in 2012-13.<sup>55</sup>

The underreporting under the MTP Act is glaring. It is assumed that States with more population will report more such cases. For example, Assam with a total population of 3 crores as per 2011 census reported a total of 3,53,309 cases of termination of pregnancies under the MTP Act during 2008-2009 to 2012-13. Bihar with a population of 10 crores recorded only 67,895 abortions under the MTP Act during 2008-09 to 2012-13. This raises serious questions about the implementation of the MTP Act.

The possibilities of the MTP Act being used to abort female foetuses remain high.

## 2.4 Mukhya Mantri Kanya Suraksha Yojana

The Bihar Government launched Mukhya Mantri Kanya Suraksha Yojna (MMKSY) on 3 July 2008 for the welfare of minor girls belonging to the BPL families. An amount Rs. 2000 is invested in Unit Trust of India-Child Career Balanced Plan (UTI-CCP) in the name of a newly born girl child and the maturity proceeds is paid to her on attaining 18 years of age.<sup>56</sup>

### 2.4.1 Objectives of the scheme

The following are stated to be the objectives of the Mukhya Mantri Kanya Suraksha Yojana<sup>57</sup>:

- To ensure the rightful place of pride in the society for a girl child;

- To assure her of safety and security;
- To prevent female feticides;
- To promote birth of the girl child in order to bring a balanced ratio between sex ratio of girls and boys

#### 2.4.2 Eligibility conditions

The conditions of eligibility for the benefits under the MMKSY are<sup>58</sup>:

- Girl child should have born on or after 22 November 2007
- Only two girls are eligible from one family
- The girl's family should be categorized as Below Poverty Line family
- Birth of the girl should be registered<sup>59</sup>
- Registration under the scheme is allowed only up to one year after birth of the girl child<sup>60</sup>

#### 2.4.3 Benefits under the MMKSY and modalities for disbursement

Under the MMKSY, the Government of Bihar contributes Rs.2000/- for every girl child belonging to BPL families born on or after 22 November 2007. The said amount of Rs.2000/- is invested by the in UTI-Children's Career Balanced Plan-Growth Option. The matured value is estimated to be approximately Rs.18,000 on completion of 18 years as per the scheme. In case of death of girl child before maturity or her completion of 18 years of age, the amount will be paid back to Women Development Corporation, Patna, Bihar.<sup>61</sup>

### 2.5. Assessment of performance of the MMKSY scheme

#### a. The structure of the Scheme

##### i. Positive aspects of the Scheme

The objectives of the MMKSY are ensuring the

rightful place of pride in the society for the girl child; ensuring her safety and security; preventing female feticide; and improving sex ratio and to encourage birth registration etc are very good and are expected to have a direct bearing on an improved CSR.<sup>62</sup>

The MMKSY is applicable irrespective of whether the beneficiaries are receiving benefit under any other schemes. The scheme does not exclude girl children on the basis of how many male siblings they might have.

##### ii. Flaws in the structure of the scheme

The MMKSY also has a number of limitations.<sup>63</sup>

1. Under the MMKSY, only up to two girl children are eligible from a single family. Three girl children get the benefits only if the 2nd and 3rd girl children are a twin. In other words, girl children born after the second

girl child are not eligible for the benefits under the MMKSY and therefore restrict the outreach of the scheme in case a third girl is born after the second.

Such restriction up to two girl children per family is against the stated objectives of the MMKSY which among others include ensuring the rightful place of pride in the society for the girl child; ensuring her safety and security; preventing female feticide; and improving sex ratio.

2. That in case of death of girl child before maturity or her completion of 18 years of age, the benefits under UTI-Children's Career Balanced Plan-Growth Option would be paid back to Women Development Corporation, Patna, Bihar<sup>64</sup> is too harsh on the bereaved family.

3. The one time financial incentive of Rs 2,000/- under UTI-Children's Career Balanced Plan-

Growth Option is too less an incentive to encourage even the BPL families to give birth to more girl children and prevent feticide and infanticide. Furthermore, the parents do not get any immediate financial assistance upon the birth of the girl child because the amount of Rs 2,000/- is not given in cash to the parents but is deposited under UTI-Children's Career Balanced Plan-Growth Option for investment in the name of the girl child. It is therefore inexplicable as to how the parents shall meet the expenses of their girl children including nutrition, education etc for more than 18 years.

4. The benefits under the scheme are admissible only to girl children from Below Poverty Line (BPL) families. A large majority of the populations who are above the poverty line (APL) are not eligible for benefits under the MMKSY. As per recommendations of the Dr. C. Rangarajan headed Expert Group of the Planning Commission, Government of India set the new poverty line in 2014 at a monthly per household expenditure of Rs.4,860 in rural areas and of Rs.7,035 in urban areas by a family of 5 members constitute the new poverty lines at the all-India level.<sup>65</sup>

## **b. Implementation of the MMKSY**

### ***i. Coverage under the MMKSY***

During the launch of the MMKSY in July 2008, the Government of Bihar estimated that around 7 lakh girl children were born each year in families living below the poverty line across the state. The State Government expected to extend the benefits of the MMKSY to all these girl children born in BPL families.<sup>66</sup>

The Government allocated budget of Rs.2800 lakhs during FY 2008-09; Rs.6700 lakhs during FY 2009-

10 and Rs.4200 lakhs during FY 2010-11. During these three Fiscal Years (2008-09 to 2010 -11), the total budget allocation was Rs.13,700 lakhs. Out of these, Rs.13426 lakhs have been transferred to the Unit Trust of India and Rs.274 lakhs (2% of total budget allocation) have been spent on administrative cost.<sup>67</sup> For FY 2011-12 the target was to benefit 5,00,000 beneficiaries with a total budget of Rs. 1,00,00,00,000. So far an amount of Rs 40,00,00,000 has been distributed and request to provide remaining amount has been sent to the Department. As of 31<sup>st</sup> March 2012, total number of applications received was 12,22,396 and bonds have been issued in the name of 10,66,637 beneficiaries. The total amount invested by UTI was Rs. 2,13,32,74,000.00.<sup>68</sup>

According to information available on the web page <http://www.wdcbihar.org.in/> of Women Development Corporation, Government of Bihar (accessed on 20 February 2016), more than 14.87 lakh beneficiaries have so far availed the benefit of the scheme and a sum of Rs. 297.56 crores have been spent.<sup>69</sup>

The CAG pointed out that investment in UTI-CCP without any monitoring mechanism exposed the scheme to market risks. According to the CAG report, the net value of Rs. 268.71 crore of the MMKSY fund invested by the Bihar Government in UTI-CCP was Rs 292.41 crore in May 2012. The CAG observed that the net value of the investment would have been at Rs.299.09 crore had the fund been invested any other long term schemes like post office fixed deposit which are guaranteed in nature unlike the UTI-CCP.

The MMKSY has brought about a change in the mindset of the poor regarding a girl child. It has also increased the awareness regarding the necessity of registering births. According to Bihar government statistics, the number of births registered increased to from 7.15 lakhs in 2007 to 10.4 lakhs in 2010.<sup>70</sup>

### ***ii. Benefits are too meager to act as an incentive***

The financial benefit of one time post-birth grant @ Rs.2000 for a girl child is too meager an amount to change the outlook of a family in particular and the society at large towards the girl child, to eventually act as an incentive for retention of the girl child. As per the MMKSY, the said amount of Rs.2000/- is invested in UTI-Children's Career Balanced Plan-

Growth Option would be estimated to accrue maturity value of approximately Rs.18,000 on completion of 18 years.

The financial incentive of Rs 18,000 after 18 years that too subject to a number of conditions does not act as a motivating factor to retain the girl child.

Further, in case of death of girl child before maturity or her completion of 18 years of age, the bereaved would not get a rupee as the amount will be paid back to Women Development Corporation, Patna, Bihar.

### *iii. Exposing the girl child to market risks*

In its report on Public Sector Undertakings of the Bihar Government for the year ended on 31 March 2012, the Comptroller and Auditor General (CAG) has termed imprudent the Bihar government's investment of Rs. 268.71 crore of MMKSY fund in Unit Trust of India-Children Career Plan (UTI-CCP) mutual fund without setting up any monitoring mechanism. The CAG pointed out that investment of such a huge amount with any monitoring mechanism exposed the scheme to market risks. According to the CAG report, the net value of Rs. 268.71 crore of the MMKSY fund invested by the Bihar Government in UTI-CCP was Rs 292.41 crore in May 2012. The CAG observed that the net value of the investment would have been at Rs.299.09 crore had the fund been invested any other long term schemes like post office fixed deposit which are secured/guaranteed in nature unlike the UTI-CCP.<sup>71</sup>

The audit also observed that the government did not invite any bid from the public and private sectors for selection of the mutual fund manager. It was further noted that the Memorandum of Understanding (MoU) between the Bihar Government and the UTI did not guarantee any minimum assured amount payable to the beneficiary at the time of maturity nor was there any clause inserted in MoU to safeguard the interest of the government or the beneficiary.<sup>72</sup>

Access to actual benefits remains in doubt. During a review meeting of the scheme in April 2016, it was found that altogether 11,899 applications were handed over to IDBI Bank out of which only 1,720 bonds were issued by the bank after maturity. However, the bank had been blocking the payment for no reason.<sup>73</sup>

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## Annexure I: Mukhyamantri Kanya Suraksha Yojana for girls of BPL

### Description

This scheme provides financial assistance to those girls of BPL families who were born after November 22, 2007. Rs. 2000/- is given to girl child after producing Birth registration certificate and the birth has to be registered within a year of the birth. Assistance is given to only for two girls per family. Under this scheme, an amount of Rs 2,000 is invested in Child Carrier Balanced Plan of UTI Mutual Fund in the name of girl

### Objective

This scheme aims to achieve the following goals:

- To ensure the rightful place of pride in the society for a girl child, her safety and security, improve the sex ratio and to encourage registration of birth
- To prevent female foeticides, to encourage birth of girl child
- To improve sex ratio and to encourage birth registration.
- To prevent female foeticide.
- To promote birth of the girl child in order to bring a balanced ratio between sex ratio of girls and boys
- To make sure the rightful place of pride in society for a girl child, to assure her of her safety and security

### Eligibility

To avail the benefits under this scheme, the following conditions should be fulfilled:

The Girls belonging to below poverty line(BPL) families who were born after 22-November-2007 are eligible.

Only for two girls per family can avail the benefits under this scheme.

The benefit is provided to only two girl child born after this date.

The birth registration of the girl child should have been done within one year after the birth and the age of the girl child should not have exceeded three years.

### Beneficiaries

Girl Child

### Benefits

Under this Scheme, the benefits are summarised as below:

The financial assistance of Rs.2000/-will be invested for the first two girls in a family belonging to below the poverty line and born on or after November 22nd, 2007.

When the girl becomes 18 years old, the amount equal to the maturity value will be given to the girl child (Rs.18,000).

In case of death of the girl child during the intervening period, the amount will be paid back to the Women Development Corporation, Patna.

### How To Apply

Contact to any of the followings:

Contact to Child Development Project Officer of your respective area/District Or

Contact to Anganwadi Center that are the nodal unit for the implementation of this scheme. Or

Apply through the Directorate of Social Welfare (DSW) of Bihar

Sponsored By: State Government of Bihar

Ministry: Department of Social Welfare, Bihar

Date of Launch: 2008

## Annexure II: Form for benefits under the Mukhyamantri Kanya Suraksha Yojana for girls of BPL

समाज कल्याण विभाग

प्रगति प्रतिवेदन-2009-10

**प्रपत्र- 'क'**  
**कन्या सुरक्षा योजना हेतु आवेदन पत्र**

सेवा में

बाल विकास परियोजना पदाधिकारी।

.....

**विषय :- कन्या सुरक्षा योजना के तहत आर्थिक सहायता प्राप्त करने के संबंध में।**

महोदय,

मैंने दिनांक .....को एक कन्या सुश्री .....को जन्म दिया। मुझे कन्या सुरक्षा योजना के अन्तर्गत 2000/- (दो हजार रू०) की आर्थिक सहायता प्रदान की जाय। आवश्यक बांछित विवरण/कागजात निम्नांकित है:-

1. बच्ची का नाम :-
2. माता का नाम :-
3. पिता का नाम :-
4. लाभार्थी बच्ची की जन्म तिथि :-
5. जिला/प्रखंड/पंचायत का नाम :-
6. पत्राचार का पता :-
7. स्थायी पता :-

**अनुलग्नक :-**

1. लाभार्थी परिवार का वी०पी०एल० में होने का प्रमाण-पत्र की छाया प्रति।
2. जन्म निबंधन प्रमाण-पत्र की छायाप्रति (मूल प्रमाण पत्र से सत्यापन कर स्वीकृति दी जायेगी)

विश्वासभाजन

श्री/श्रीमती .....

दिनांक .....

( कार्यालय उपयोग हेतु )

रसीद

श्री/श्रीमती .....ग्राम/मो०.....डाकघर/थाना.....

जिला .....से दिनांक .....को कन्या सुरक्षा योजना के लाभ हेतु आवेदन पत्र प्राप्त किया।

दिनांक.....

स्थान .....

( आवेदन प्राप्त कर्ता का हस्ताक्षर )

बाल विकास परियोजना कार्यालय .....



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**ASIAN CENTRE FOR HUMAN RIGHTS**

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