

Minutes of 4th meeting of the Expert Committee held on 10th November, 2014 in DBT to discuss and finalize the draft Human DNA Profiling Bill

The fourth meeting of the Expert Committee constituted by the Department for Human DNA Profiling Bill was held on 10th November, 2014 at 10.30 am in DBT to discuss and finalize the draft Bill. The following participants were present in the meeting:

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| 1. Dr. T. S. Rao, Senior Adviser, DBT | - Chairman |
| 2. Dr. Raghubir Singh, Former Secretary, Ministry of Law & Justice | - Member |
| 3. Shri. Kamal Kumar, Director General of Police, (Retd), Hyderabad | - Member |
| 4. Dr. R. K. Gupta, Research Associate, Planning Commission, nominated by the Planning Commission | - Member |
| 5. Dr. Usha Ramanathan, Researcher & Advocate | - Member |
| 6. Dr. Alka Sharma, Director, DBT | - Member |
| 7. Dr. D.P. Kasbekar, Centre for DNA Fingerprinting & Diagnostics, Hyderabad | -Special invitee |

Dr. J. Gowrishankar, Director, CDFD, Hyderabad joined the meeting through Video Conference.

Dr. C. Muralikrishna Kumar, Sr. Adviser (ICT), Planning Commission; Shri Amar Jesani, Mumbai; Mr. Jacob P Koshy, Science writer, Mint and Dr. Madhusudhan Reddy, CDFD could not attend this meeting due to unavoidable reasons. Mr. Sunil Abraham, Director, CIS, Bangalore was available for the meeting through Skype, however, he could not be connected due to some technical problems.

Prof. K. VijayRaghavan, Secretary, DBT welcomed the participants and mentioned that the purpose of this meeting is to deliberate upon the privacy issues related to the draft DNA Profiling Bill in detail to finalize the document. The report of this Expert Committee meeting will be submitted to the Hon'ble Supreme Court as per its orders during a hearing held on 27th October, 2014 in response to a Writ Petition filed by Lokniti Foundation. He further mentioned that the public will get an opportunity to provide their comments during consultation process. He stated that the efforts will also be made by DBT to organise a meeting with the Hon'ble Minister of Science and Technology, once draft Bill is finalized, to expeditiously process it further in the Government for necessary approvals.

Dr. T. S. Rao, the Chairman, welcomed the participants and thanked for spending their valuable time and he briefed the Expert Committee on the agenda of the meeting. He requested the members of the Committee to focus discussion on the pending issues especially privacy issues related to the Bill and provide their final recommendations for incorporation in the draft Bill. Further, he requested to honour the Hon'ble Supreme Court order/directions.

Dr. Alka Sharma briefed the Committee that as per the suggestions made by the then Hon'ble Minister of Science and Technology, DBT constituted an Expert Committee in 2012 to consider the privacy issues in draft Bill. Accordingly, between January and November 2013 the Expert Committee met three times. This Expert Committee also constituted a Sub-Committee to consider and to incorporate in the draft Bill comments received from the members. The Sub-Committee has incorporated the comments appropriately in its meeting held on 13th September 2013. The modified draft Bill was circulated to all the members of the Expert Committee for further discussion and their recommendations were taken during the meeting held in November 2013. Since some of the members could not attend the last meeting, they were requested to provide their written inputs/comments on the modified version of the draft Bill. Since then, despite repeated reminders, and meetings in DBT, comments were received only in last minute prior to the meeting.

Dr Alka Sharma further informed the Committee about the Writ Petition filed by Lokniti Foundation Vs Union of India & Ors in Hon'ble Supreme Court regarding creation of DNA data banks to identify the unidentified dead bodies. So far two hearings have been held in the Supreme Court in September and October 2014. As per the Record of Proceedings of the Supreme Court for the hearing held on 27th October 2014, this meeting of the Expert Committee is being organized and a report of this Committee need to be submitted to the Hon'ble Supreme Court by 10th of January, 2015 in the form of an affidavit.

Dr. J. Gowrishankar appreciated the concerted efforts made by Dr. Alka Sharma to bring the draft Bill to this stage. The same was endorsed by other members. He also reiterated the difficulties being faced in the past few years to bring clarity on various issues, especially the privacy issue, in this Bill. Most of the members also expressed their concerns for the delay in finalizing the document as they had provided their inputs within the time frame recommended by the Expert Committee. The Expert Committee took a note of Writ Petition filed by Lokniti Foundation to identify the unidentified dead bodies and efforts made by DBT to provide facts and current status in the form of the Affidavits.

The Committee observed that the members who could not attend the last meeting and were requested to provide their comments have not adhered to the time lines, and delayed the finalization of the Bill. The Committee expressed its unhappiness in comments coming in at the last minute.

Taking note of the discussion held on the Affidavits filed by the Department in response to the Writ Petition filed by Lokniti Foundation and based on the comments received from the Expert Committee members including Mr. Sunil Abraham and Dr. Usha Ramanathan, the following recommendations were emerged:

1. The Committee recommended incorporation of the comments received from the members of the Expert Committee appropriately in the draft Bill.

- i. Point no. 1 suggested by Mr. Sunil Abraham in the Schedule of the draft Bill to define the cases in which DNA samples can be collected without consent by incorporating point no. 1 (i.e. *"Any offence under the Indian Penal Code, 1860 if it is listed as a cognizable offence in Part I of the First Schedule of the code of Criminal Procedure, 1973).*
 - ii. Summary of Para 1 and 2 suggested by Mr. Abraham under the heading "Duty to consult of the DNA Board" at a suitable place in the draft Bill.
2. The Committee felt that the report/comments provided by Dr. Usha Ramanathan are very general in nature and also that most of the concerns raised have already been addressed and covered under various Articles in the draft Bill.
 3. The Expert Committee also discussed and emphasized that the Privacy Bill is being piloted separately by the Government. That Bill will over-ride all the other provisions on privacy issues in the DNA Bill.
 4. The Committee also suggested that the most of the issues highlighted in the report/comments provided by the some of the members of the Committee will be covered either by formulating appropriate rules and regulations or by taking scientific opinion, once the Bill is enacted by the Parliament.
 5. The Expert Committee discussed the details of the Writ Petition and recommended that the provision for creating a DNA Data Bank of DNA profiles of several categories of individuals exists in the draft Human DNA Profiling Bill. This database will inter-alia will also cater to the need for identifying the unidentified dead bodies. Therefore, it would be appropriate to establish a DNA Data Bank only after the Bill is enacted.
 6. The Committee further recommended that Drs. Madhusudan Reddy and. Kasbekar from CDFD, Hyderabad may be requested to incorporate the comments received from the members of the Committee in the draft Bill appropriately in track changes and submit the same to DBT by 17th November, 2014 (Monday) positively for further processing by DBT.

The meeting ended with vote of thanks to the participants.


(Dr. T. S. Rao)
Chairman