



NATIONAL HUMAN RIGHTS COMMISSION

Proceedings of the Meeting of the 'Core Group on Health and Mental Health' held on 24th April, 2024 at Manav Adhikar Bhawan

The National Human Rights Commission organized a Meeting of the 'Core Group on Health and Mental Health', on 24th April, 2024, at Manav Adhikar Bhawan, New Delhi, to deliberate upon the issues and challenges regarding bonds in medical colleges, and disbursement of stipend to doctors, the rights of patients, and the rights of doctors. The aim was to come out with specific and actionable recommendations and way forward which may strengthen the whole healthcare system of the country at all levels. **Mr Justice Arun Mishra**, Hon'ble Chairperson, NHRC, chaired the meeting. The list of participants is annexed.

2. The meeting was held under four technical sessions, namely, the Issue of Bonds in medical colleges, Rights of Patients, Rights of Doctors and Problems in Disbursement of Stipend to Doctors.

3. The meeting started with a welcome address by **Shri Devendra Kumar Nim**, Joint Secretary, who gave an overview of the four technical sessions, highlighting the significance of each topic and requested all the participants to share concrete and actionable recommendations that can be taken up by the Commission for further appropriate action.

4. **Shri Bharat Lal**, Secretary General, NHRC spoke on the need of having empathy and compassion for other people, especially for those who are most vulnerable of society. He said that the growing number of medical students dying by suicide calls for quick action. "Any kind of negligence is not acceptable in this era of action, consequence, and result," he said. While praising the government for its numerous initiatives and programs for the welfare of the

population, he pointed out that these are not carried out in their entirety, which adds to many of the issues we are currently discussing. For example, the Mental Healthcare Act of 2017 has not been fully implemented nationwide; despite the government and parliament's best efforts, which highlights the problems already in place. He conveyed his hopes that the discussions will provide precise, realistic suggestions and open the door to implementation, resulting in actual change on the ground. Our healthcare systems need to be equipped with the necessary infrastructure, human resources, and funding to provide accessible and high-quality healthcare.

5. In his address, Hon'ble Member, NHRC **Shri Rajiv Jain** discussed the rights of Doctors and patients. He focused on the problem of bonds in medical colleges and payment of stipends to doctors. The Commission receives hundreds of cases pertaining to nonpayment of stipend to medical students. Shri Jain drew attention to the fact that the NMC in such cases states that the "appropriate authority" in the state is responsible for implementing its regulations, but it makes no mention of who that appropriate authority is. He emphasized the necessity for the NMC and the government to create guidelines on cases of medical negligence, citing the landmark Jacob Mathew judgment. In addition, many states still do not have Medical Boards in place to investigate complaints of alleged medical negligence, which is a serious issue that needs to be addressed promptly. He emphasized that the majority of the provisions of CEA, such as classification of medical establishments, have not been implemented. Similar to this, the Ministry of Health & FW must formally notify other important provisions in the CEA that affect patients' rights to health.

6. He further emphasized the poor working conditions that doctors face, such as long hours and continuous shift work, inadequate restrooms, poor cleanliness, and no time for relaxation. He reaffirmed that, just as patients have rights within the healthcare system, doctors also have fundamental rights that are essential to their ability to do their duties effectively. He underscored that medical professionals are negatively impacted by violence against them. It can lead to stress, anxiety, or psychological harm in addition to subpar patient care. Therefore, it is imperative that this issue be addressed by strengthening the legislative framework, improving security protocols, encouraging dialogue, and providing a suitable support structure for doctors and other medical health professionals.

7. Justice Shri Arun Mishra, Hon'ble Chairperson, NHRC, in his inaugural address emphasized that the patient and doctor rights are like the two pillars of our healthcare system. He emphasized the numerous difficulties that both patients and doctors in our nation confront, with particular attention to the heavy workload that doctors endure, dearth of basic hospital amenities for doctors, and the problems associated with cases of alleged negligence against doctors.

8. Speaking on patient rights, Justice Mishra related experiences he had visiting mental health institutions the previous year, including the deplorable circumstances in which patients were housed, inadequate hygienic practices, and the practice of keeping patients in hospitals after they had recovered. Regarding the medical negligence cases, Justice Mishra said that while we want to hold doctors accountable for any negligence, we don't realize how much strain and stress they are under, which undermines their effectiveness.

9. Justice Mishra emphasized that each of these problems is indicative of a systemic problem rather than a personal one. While acknowledging that the healthcare system is overworked, he also insisted that all current laws and schemes be put into effect for the benefit of all people, particularly the Ayushman Bharat initiative, which, if properly and completely implemented, has the potential to be a huge success. Justice Mishra said, "Are we able to transfer the benefits of these schemes directly to the needy?" despite the government's numerous social welfare programs and provisions.

10. He brought out the regrettable situation when top Indian doctors are eager to work in other nations, even in villages, but are unwilling to spend even two to three years working in isolated places back home. Thus, the Hon'ble SC affirmed the requirement of bonds; nevertheless, Justice Mishra contended that the bond system shouldn't be exploitative and should be fairly changed to enforce its intended purpose. He acknowledged that health is a matter for the states, but with the assistance of every stakeholder involved, specific guidelines may be established for the bond system. He ended his speech with a strong sense of optimism, reflecting on the need for every participant to put in endless effort and execute all programs in the best interests of the underprivileged in particular.

Below is a brief summary of the discussions held in each session:

Technical Session I: Issue of bonds in medical colleges

11. Dr. B.N. Gangadhar, Chairman (officiating), National Medical Commission, offered his opinions on behalf of the NMC throughout the technical sessions. He made several important points, including those on the bond system, mental health of medical students, and the mental health human resource in our country. He shared that the NMC has formed a committee to investigate suicide deaths and medical student dropout rates, with the director of NIMHANS, Bangalore, serving as the group's head. He acknowledged that there is no orientation to the new students entering the medical field about any stress management skills. Keeping that in view, he shared that they have introduced yoga as a stress-management tool for medical professionals and students. Furthermore, a mentor-mentee programme has also been introduced, in which a mentor would have 20-30 mentees under them, and a module is being developed by NMC. This would also mitigate the chances of ragging in medical colleges. Anti-ragging cells have been set up in medical colleges which are being overseen by a committee set up in NMC.

12. Dr. Gangadhar also shared that in PG medical education, the work stress faced is also taken into consideration, as there is a need to create a balance between what is the amount of clinical exposure they must get and the workload they face. He acknowledged that continuous work beyond sixteen hours without giving adequate rest, i.e. 6-8 hours of sleep should not be promoted; however, he mentioned that giving these specific numbers are also very tricky. There should be adequate rest time, leaves, weekly offs, maternity and paternity leaves, child care leaves, and proper restrooms, separate for women doctors, Dr. Gangadhar emphasized. He also underlined that all medical colleges must adopt this, and that the NMC would be keeping a close eye on the implementation.

13. With regard to the increasing suicide rates among the medical students, Dr. Gangadhar informed that NMC is taking steps to mitigate the issue. One of the major concerns is the bond related issue and the NMC's stand is that Bond is not required. However, each state has its own requirements because medical colleges are not distributed uniformly across the country.

Recent undergraduate guidelines issued by the NMC maintain that each state should reach upto hundred medical seats per million population, to be able to distribute medical colleges and medical seats uniformly across the country. Unfortunately, this could not be implemented this year but hopefully states would see it positively in the coming year. There are some states which have only 20 seats per million population, while some others have more than 150 seats per million population. This variable distribution, which is determined by the state government, leads to some states to enforce bond system. Dr. Gangadhar agreed that some guidelines may be issued with regard to the bond system and its three main provisions could include that bond is to be instituted just after the student completes his graduation, and not after some number of years when he has started his practice or PG; no student should be disturbed with the bond during his PG course; thirdly no student should be restricted to write their PG entrance examination due to the bond they need to serve, and lastly if the bond has to be implemented, it must be done taking into account a doctors specialty and training.

14. Dr. Lakshya Mittal, National President, United Doctors Front Association (UDFA), in his presentation, highlighted, that there should be a 'no bond policy' in medical education, which may also promote more equitable, flexible and ethical considerations in medical education. He also suggested, if required, a uniform bond policy across the nation be adopted which could uphold principles of individual freedom.

15. Dr. Aviral Mathur, President, Federation of Resident Doctors' Association (FORDA) stated that it may be more feasible to move in accordance with the laws, instead of trying to repeal them. He suggested that the bond can be integrated or replaced with the District Residency Programme initiated by the NMC/ MOHFW.

16. During the open house, **Dr. Sunil Khattri**, Advocate, reiterated that the working hours of doctors are to be kept within the NMC guidelines. **Dr. Utture** highlighted that different states have different bond issues, and some states do not have bond at all; there are also different bond amount, ranging from 2-3 lakhs to 40 lakhs. Talking about mental health of students, he reiterated that long working hours and pressure leads to suicides, as in any other professional course they can quit and get out, but not in medical courses as their families would have to pay the bond amount, which adds to the pressure. District Residency Programme must be

encouraged, as it has the potential to solve the issue of availability of doctors in remote areas of the country. It must also be ensured that proper facilities, and any incentives, and higher reimbursements must be provided in the remote/ rural areas where doctors are posted. He also suggested that they may also be given priority in government jobs, so as to encourage rural postings.

Technical Session II: Rights of Patients

17. Dr. Jitendra Prasad, Addl. DGHS, Directorate General of Health Services gave a brief presentation on the Clinical Establishment, Act, 2010, which was enacted by government of India for registration and regulation Of clinical establishment for government and public sector, all recognized system of medicine, therapeutic and diagnostic types and minimum standards of facilities and services. He briefed about the salient features and benefits of the Act. He apprised that as on date, 15 states/ UTs have adopted as well as implemented the Act, 4 states/ UTs have adopted but not implemented the Act, and 17 states/ UTs have not yet adopted the Act.

18. Dr. Umesh D Suranagi, Associate Professor, Directorate General of Health Services, added that the National Council for Clinical Establishment has approved 15 minimum standards and the gazette notification would be out within two months.

19. Shri Ajay Bhatnagar, DG(I), raised significant and practical questions to all the participants. He asked whether the CEA addresses the rights of the doctors, who provides services to humans and have their lives in their hands, do not get adequate rest and facilities, leading to decreased efficacy, like aircraft pilots, loco pilots, etc. He highlighted that young doctors are humiliated by senior doctors, lady doctors are posted alone in rural areas, with no basic facilities. He lamented the inadequate implementation. He underlined how important it is to make security compulsory in hospitals, so that the doctors can work without any fear of physical injury.

20. Dr. Abhay Shukla, Public Health Specialist, Core Group Member commended NHRC's historic contribution in formulating the first Charter of Patients' Rights in India in 2018, which is the first ever charter developed by any official agency at national level in India. The Charter draws upon various existing national provisions and guidelines, being inspired by international

charters, consolidates these into a single document, towards making these publicly known in a coherent manner. Based on this MOHFW issued national circulars on patients rights and responsibilities in June 2019, expanded form in August 2021. He mentioned that the patients' rights mentioned in NABH hospital standards as norms, need to be interpreted, as they are not given as an explicit charter with accessible format for display. He shared that Jan Swasthya Abhiyan reviewed patients rights implementation in various states and surveyed 100 private hospitals in Maharashtra, conducted a detailed study on COVID hospitalised patients, and found many gaps, including, lack of publicity by governments and official bodies, Absence or limited/ selective display of charter by many clinical establishments, despite existence of charter, frequent instances of violation of specific rights, and non-existent or highly inadequate, inaccessible patient grievance redressal systems. In order to prevent a friction between patient and healthcare provider, he suggested that doctors should compliance by patient in the treatment process by providing complete information, cooperating during treatment. Patient should also respect the dignity of medical staff and not report to physical violence against any provider in any situation and should make payment in timely manner. He also suggested that there should be full implementation of patient rights and responsibilities and suggested that NHRC can convene multi-stakeholder dialogue on ensuring implementation of Patients Rights and Responsibilities including government, patient group, civil society and medical associations.

21. Prof. R K Dhamija, Director, IHBAS, Delhi, highlighted that patient rights are a subset of human rights. The rights and ethics are usually flip sides of the same coin, and behind every 'patient right' is one or more ethical principle from which that right is derived. Patients rights are policies and rules that must be preserved and protected by the Health facility towards patients and their families. He mentioned that the Rights of Persons with Disabilities (RPwD) Act, 2016, lays responsibility on the appropriate governments to take measures and ensure that PwD enjoys equal rights and lays down specific provisions to uphold such rights. In the context of the Mental Healthcare Act, 2017, he mentioned sections 18 to 28, which provides the rights to patients in various aspects, including the right to access mental healthcare, Right to protection from cruel inhuman and degrading treatment, Right to equality and non-discrimination, right to information, right to confidentiality, etc. He stated that the MHA 2017 has taken massive steps in the right direction, this rights based approach needs the right

amount of commitment from the State to enhance the manpower and resources to successfully implement the Act.

22. Dr. M C Misra, Emeritus Professor; Former Director, AIIMS defined medical negligence as the failure to act as per the level of care that a reasonable person would have exercised under the same circumstances. There is very thin line between medical negligence and human error. He emphasized that the doctors are on the side of the patients and there must not be a situation of mistrust, trust deficit or patient feeling that optimal and appropriate care is not being given. He mentioned that the professional associations must be taken into account as stakeholders in policymaking. In all the developed countries, including the gulf countries, CME credits are mandatory, but not yet in India. The skills based courses must be made mandatory. Audits of the clinical work, introspection, evaluation for scope of improvement must be carried out regularly, for quality improvement in clinical care, as suggested by Dr. Misra.

23. Dr. Rajeev Ranjan, co-founder, Aid for Mankind, emphasized the issue of mushrooming of diagnostic centres across the states, especially in Delhi. Patients must be educated and made aware that it is not possible to get Rs 4000/- tests at a discount at Rs. 700 or 800/-. There must be strict guidelines for opening diagnostic centres, hospitals, OPDs, etc.

24. Dr. Rajesh Sagar, Professor of Psychiatry, AIIMS, New Delhi, flagged the importance of communication skills and the need for the doctors to be well trained in that. As human we get defensiveness with terms like audit, which may be replaced by the term assessment, as suggested by him.

25. Dr. Nimesh Desai, Senior Consultant Psychiatrist, Core Group Member, underlined that any evaluation and discussion in the Indian context should have socio-cultural aspect to it. While talking about the rights of patients and the rights of doctors, we must take into consideration and also talk about rights of the relatives and family members of the patients, eg., in cases of dementia patients.

Technical Session III: Rights of Doctors

26. Shri Elangbam Robert Singh, Joint Secretary, Dept. of Health & Family Welfare, M/o HFW, Gol, highlighted that most of the times the rights of doctors are overlooked. As important as the rights of doctors are, their duties and responsibilities are equally important.

27. Dr Shankul Dwivedi, IMA Junior Doctors Network shared that patients think that the doctors are charging high fee from them, increasing the hospital bills, however, the fact is that GST is charged for a bed, essential equipments, batteries, machines, etc., which may be regulated, that may contribute to upholding the rights of the doctors, indirectly. Therefore, GST on such things may be reconsidered, because high expenditure on health, out of pocket expenditures, contribute to their outburst and doctors are at the receiving end. Another issue flagged by him was of the quality of drug, which also is blamed on the doctor, while he just prescribed the medicine, and have no role in the quality of the drug or its procurement. He stressed that there is no shortage of manpower, but lack of adequate infrastructure. There should be a proper grievance mechanism for the doctors to feel heard, as suggested by him.

28. Shri Ajay Bhatnagar, DG (I), mentioned that a great way is the seniors looking after their young doctors, be their mentors and then make them work, so that young doctors have a sense of confidence that they will be okay, and have someone to go to. “A happy doctor is a good and efficient doctor”, Shri Bhatnagar said. If a doctor gets adequate rest, facilities and time to look after himself, his performance will definitely improve. He emphasized that the strength of any organisation comes from the organisational culture.

Technical Session IV: Problems in disbursal of stipend to Doctors

29. Dr. B.N. Gangadhar, National Medical Commission, with regard to the stipend issue, shared that every UG and PG student should get a stipend irrespective of any clause of admission, and the stipend should be equivalent to what the state government pays for any corresponding student of government seat. This stance has been made available in the form of an advisory to all the governments. He also apprised that the NMC has started to collect data from every medical college on their stipend provisions. By 2023-24, all the medical colleges put on the website how much stipend they have paid for each of the years of UG & PG, the total number of students they have and what is the amount they are paying per month vis-à-vis what is per month given in the state government. This is the first step NMC has taken, and if

everyone agrees to this, and if the student and the college is comfortable, the next step would be that each student details be put up, using software, which can be rolled out in the FY 24-25.

30. Dr. Abul Hasan, Chairman, Junior Doctors Network, IMA, acknowledged that the issue of stipend is crucial and requires intervention. He informed about a survey being done by them, which he shall be submitting to the Commission. He suggested that stipend should be disbursed on time, as per agreed schedule, and in cases of delayed stipend, interest should be added. There must be standardized stipend across all medical institutions to ensure fair compensation. The students must not be forced to open account in a particular bank. Hostel accommodation should not be mandated, allowing students to choose their living arrangement, so that in medical colleges where there is compulsory hostel stay and deduction of hostel fee from the stipend can be avoided. Stipend must also be able to cover essential living facilities adequately. Maternity leave for resident doctors is usually without pay, which discourages pregnancy in female residents, impacting their personal lives. Therefore, he suggested that maternity leave should be full paid leave, contributing to the standard employee benefits.

31. Dr. Aviral Mathur shared that they have written to the Ministry regarding the issue of maternity leaves. In a ruling by the Delhi court and the subsequent release of an order by DGHS, if there has been a past employment history of at least 180 days, the doctor can get the benefit of maternity leaves. Problem really lies in the contractual agreement, which is 89 days, 45 days, and whenever contract is renewed, it is done after one day, which breaks the continuity, causing a loophole of not getting entitled for any maternity leaves and benefits. He pointed out that some risk hazard allowance may also be given to the doctors. A PG student does not get any benefit from any scheme like CGHS while they fall sick during providing services and treatment. For example, the most common is TB. However, they have no coverage under any scheme of the government like other employees. He also raised a question whether stipend is taxable or not because some medical colleges in some states are cutting TDS from stipends. Dr Aviral also suggested initiating a wave of digitization of data and medical records available in the hospitals.

32. Dr. B. N Gangadhar shared that the NMC is going to mandate that an Essentiality Certificate for setting up a new Medical College will have to be provided by the state government, which would state that the college is now authorized to start and teach in department, XYZ, and that the state government will ensure compliance of regulation of stipend.

33. Dr. Vivek Pandey, RTI Activist, raised concern towards deaths by suicide by 122 medical students and more than thousand medical students dropout, mentioning about one particular death by a medical student by suicide due to his inability to understand medical textbooks in English language. He suggested that a national level committee must be formulated by the NMC or the Ministry to regulate the issue of stipend. He also raised concern on working hours of doctors and also highlighted the incidents of ragging in medical colleges.

34. Dr. Rohan Krishnan, National President, Federation of All India Medical Association (FAIMA), highlighted the issue of mental health of doctors stating that, as per research, almost 80% of suicides that occur among medical students are below the age of 35 years. That many complaints are received from resident doctors against their senior doctors or consultants only and having an anti-ragging committee headed by seniors may not solve the purpose. Therefore, the anti-ragging committee or cell may be uniform, centralised and regulated. He suggested that, although stipend is a state subject, and that it may be difficult to achieve uniformity in that, yet a minimum amount may be fixed which is commensurate to the amount of workload that all the UG & PG doctors have.

The meeting ended with a formal vote of thanks by Mr D. K. Nim, Joint Secretary, NHRC.

List of Participants

1. Mr Justice Arun Mishra, Hon'ble Chairperson
2. Mr Rajiv Jain, Hon'ble Member
3. Mr Ajay Bhatnagar, Director General (I)
4. Mr D.K. Nim, Joint Secretary
5. Dr. Rajul Raikwar, Consultant (Research)
6. Ms Aakanksha Sharma, Junior Research Consultant
7. Mr Raghavendra Singh, Junior Research Consultant
8. Ms Prerna, Junior Research Consultant
9. Ms Vintee, Research Assistant

Core Group Members

10. Dr. Abhijit Das, Director, Centre for Health & Social Justice
11. Dr. Abhay Shukla, Public Health Specialist
12. Dr. Nimesh Desai, Senior Consultant Psychiatrist
13. Prof. Pratima Murthy, Director, National Institute of Mental Health and Neurosciences
14. Dr. Indu Arneja, Psychologist

Representatives from the Government

15. Shri Elangbam Robert Singh, Joint Secretary, Ministry of Health & Family welfare
16. Dr. Jitendra Prasad, Addl. DG (JP), Directorate General of Health Services
17. Dr. B. Srinivas, DDG (ME), Directorate General of Health Services
18. Dr. Umesh D Suranagi, Associate Professor, Directorate General of Health Services

Special Invitees

19. Dr. B.N. Gangadhar, Chairman (Officiating), National Medical Commission
20. Dr. Shivkumar Utture, National Vice President, IMA
21. Dr. Srikumar Vasudevan, Former Convenor, IMA Standing Committee for Medical Ethics
22. Dr. K M Abul Hasan, Chairman, IMA Junior Doctors Network
23. Dr. Sunil Khatri, Advocate, Administrator
24. Dr. M.C. Mishra, Emeritus Professor, Former Director, AIIMS
25. Dr. Rajesh Sagar, Prof. of Psychiatry, AIIMS
26. Prof. R K Dhamija, Director, IHBAS
27. Dr. Aviral Mathur, President, Federation of Resident Doctors Association (FORDA)
28. Dr. Rohan Krishnan, National President, Federation of All India Medical Association (FAIMA)
29. Dr. Shankul Dwivedi, IMA Junior Doctors Network
30. Dr. Lakshya Mittal, National President, United Doctors Front Association (UDFA)
31. Dr. Arun Kumar, United Doctors Front Association (UDFA)
32. Dr. Sanyak Bansal, United Doctors Front Association (UDFA)
33. Dr. Rajeev Ranjan, Gen Sec & co-founder, Aid for Mankind
34. Dr. Vivek Pandey, RTI Activist