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Comparative Analysis of National Medical Commission and Medical Council of India: Special Emphasis on Reaction towards Structural Overhaul and Introduction of Bridge Course

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ABSTRACT

Medical Council of India have been criticized severely in the past and reforms have been demanded univocally. The National Medical Commission (or NMC) have been replacement brought by government which have not just overhauled the existing structure but also introduced several new provisions like fixing of the percentage of fees, four autonomous boards, bridge course and common final year exam which have faced severe criticism from medical fraternity. The object of the study is to analyze and compare the working of National Medical Commission with Medical Council of India and to scrutinize provisions of the Act. The article will try to track the reasons for the downfall of the Medical Council of India and verify the fears and criticisms of the NMC Act levelled by the stake-holders and medical fraternity. Further the provisions introduced in the Act will able to attain the goals for which they are made. The Medical Council of India have been considered structurally opaque and have outlived its usefulness. Now question is whether commission will be able to reform the rustic and corrupt structure of medical profession or education along improving the health standards of the nation.

Keywords: *National Medical Commission, Bridge Course, Community Health workers transparency, AAYUSH practitioner, NEXT exam*

I. INTRODUCTION

A massive reformative step has been taken by Indian government in the health sector. The aberrations and inefficiencies highlighted in recent years of medical Council of India have paved the way for formation national medical commission. The bill was introduced by Health Minister Dr. Harsha Vardhan. India is the second most populated country come after china. Despite of around having registered near about 9 lakh doctors as per the 92nd report of department related standing committee on health[2] there are dearth of medical facilities

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[2] 92nd report on department related standing committee health and family welfare 2016.

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specifically in the rural sector. Although present in urban area but the exorbitant expenses makes it difficult for lower middle class whereas far fetch dream for poor class. They have to rely on civil hospital which already been burdened with patients that makes it impossible for even specialist doctor to tender every one with equal care. This is the result despite of producing best doctors in the world India is lagging way behind achieving the health standards as prescribed by WHO.

Medical Council of India is the wholly in-charge of the medical profession as well as education in the country and Act as elected regulatory body which perform various function from recognition of medical colleges, degrees or diploma to maintenance of the national register for doctors. But in recent years the image of the Council have been tarnished with various allegations of corruptions and arbitrariness in various regulatory functions. This have leads to poor health standards prevailing in the country where medical education as well as expenses have become so high that is almost derogatory to the poor strata of society. A Parliamentary panel which had looked into the matter had recommended restructuring and revamping of the regulatory system of medical education and practice.

After successive attempts made by government, passing of several ordinances and replacing the medical Council with Board of Governors (BOG). Finally NITI Ayog in 2016 took the initiate to formulate a scheme following the recommendation of late. Ranjit Chowdhary Committee and National Medical Commission bill come into being. National Medical Commission although introduced in 2017 but after massive backlash from medical fraternity and was lapsed due to dissolution of the assembly. With certain amendments new bill have been passed and on August 8th come into force. National Medical Commission (NMC) will be replacing 63 years old medical Council of India (MCI).

The main aim for implementation of this Act and overhauling the medical structure of nation is to bring the doctor to patient ratio at a level as prescribed by World Health Organization (WHO).

India's doctor-population ratio of 1:1,655 is sub-par, compared with the WHO standard of 1:1,000. Additionally, there is a severe scarcity of doctors in many areas, as reflected in the urban to rural doctor density ratio of 3.8:1. This is despite higher salaries offered to doctors through policies like 'you quote, we pay'. As stated in the Report of the Expert Committee, led by (late) Ranjit Roy Chaudhury, constituted by the government in 2014: "many of the products coming out of medical colleges are ill-prepared to serve in poor resource settings like Primary Health Centre.

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Further to overcome the procedural irregularities created by the medical Council of India and to remove disparities in the fee structure, certain provisions are provided in the new legislation.Despite of the positive step taken by the government there have been several questions being raised on the provisions given in the Act. The intention of government is to restructure the health sector both professional as well as educational and remove irregularities and overcoming the shortcomings and gaps left by the Medical Council of India.

II. MEDICAL COUNCIL OF INDIA

The medical education as well as profession is being regulated by Medical Council of India. As discussed in previous chapter how need for imparting medical education was felt and lots of efforts were made in this direction. It was become necessary to establish uniform minimum standards for higher qualification in medicine as well as regulation of medical profession. Medical Council of India was established in 1934 under the Act of Indian Medical Council 1933. After independence, the need was felt to change the health structure of the country, which was lagging very behind at that point of time as compared with other countries. In order to raise the standard of healthcare, medical education and profession have to be regulated in very productive way to get better results in health sector. So the existing Medical Council of India was repealed and new Medical Council of India was constituted under the new medical Council Act, 1956

The Indian Medical Council Act was enacted to constitute a controlling body which not only regulate the medical profession entirely but set the basic standards to be followed and to punish the defaulters and in order to provide uniform highest standard of medical education. The objective of the Act was reconstitution of the Medical Council of India and maintenance of medical register. It was important to have a new and more structured medical administration for development of the newly independent country as per the requirements.

It was apex body which functions as not only regulator of medical education as well as profession, in order to provide a solid foundation. It have performed really well in some fields and have raised the standard of medical education and set lots of benchmark and such unattainable feats difficult to realize again. But with time every superior institution of its time could become rustic, such thing happened with Medical Council of India, which was attacked by discrepancies and irregularities which not only tarnished the image of the medical fraternity moreover have resulted in degradation of the medical standards not only in education but profession as well. This in turn have very bad impact on healthcare system of country. Alleged and proven charges of corruption, high capitation fees of colleges have

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shown that the medical education have become a rich's reality and poor man's lost dream. The need of revamping the regulating structure of Indian medical education as well as profession to improve the health standards and to reduce the doctor to patient ratio. But before understanding the present scenario we have to understand the previous structure and function and then realize why a need was felt to overhaul the previous and bring in the new legislation. Moreover India is the only country where regulatory mechanism of medical profession and education is governed by same profession people whereas in japan U.K and U.S.A there are people of other fields which ultimately increase the efficiency of the regulatory body as suggested in 92nd report of Standing Committee.

(A) Functions of the Council

There were various functions performed by the Council in order to maintain and regulate medical profession, health standards of the country. It performed varied functions ranging from determining the medical educational standards, recognizing medical degrees and diplomas, both for undergraduate as well as post graduate level, regulating the professional conduct, maintaining a Medical register and others. Every State Medical Council had to maintain the register which contained the details of the doctors who are qualified to practice the profession as per the rules and guidelines of the medical Council of India[3]. After registration person can hold any office of physician or surgeon in government or private institution or practice medicine in any state and can recover lawfully any expenses and charges for his service and legally authorized to sign or authenticate fitness certificate as well as give evidence in court[4]. That person can be convicted for imprisonment for a term extending to one year with or without fine on doing aforesaid things without registration[5] Similarly Medical Council of India also tend to maintain such register known as Indian Medical register which contained the names of all the persons enrolled in State Medical register and those possessing the required qualifications. Registrar have to keep the medical register in accordance with rules and regulations of the Council in synchronization[6]. The name of the person will be removed from the register if found guilty of professional misconduct and can appeal against the Action of the Council to the Central government whose decision shall be final and binding[7]. Even in these provision the control of Central government can be seen evidently. In order to have uniform and high quality standard of

[3] s.21, The Indian Medical Council Act ,1956, No. 102, Act of Parliament, 1956.
[4] s.15, The Indian Medical Council Act, 1956, No. 102, Act of Parliament, 1956.
[5] s.21, The Indian Medical Council Act, 1956, No. 102, Act of Parliament, 1956.
[6] s.15, The Indian Medical Council Act ,1956, No. 102, Act of Parliament, 1956.
[7] s.24, The Indian Medical Council Act ,1956, No. 102, Act of Parliament, 1956.

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education, there were several measures taken by the legislature to prevent the compromise with quantity over quality. Accordingly for establishing a medical college or starting new or higher course or to increase the number of seats prior permission of the MCI was required although Central government were not required to follow aforesaid process. There was submission of scheme to Central government who in turn submit to the MCI for assessment. It was tested on touchstone of fulfilment of minimum standards of medical college, staff, hospital, infrastructure like accommodation and training facilities as required. Permission was granted or rejected on the recommendations of MCI[8].

Student passing from such a Medical College which do not have appropriate permissions as granted by Central government would result in non-recognized qualification. It was creating a lots of problem recently as discussed in 92nd report[9] which shows how a private medical college was set up and for the time of inspection it was shown adequate facilities that once they get recognition they give up on quality education and sometimes the authorities were fake and on removal of cloak there would be just a story of corrupt greed ridden individuals which have played with the future of the kids who have nowhere to go and are crushed under the debris of their shattered dreams. To ensure the uniformity of standards in post-graduation Central Government constituted the Post-Graduate Medical Educational Committee, consisting of nine members, out of which six ought to be nominated by the Central Government and remaining three are to elected by members amongst themselves. Recommendations were to be submitted to MCI who would forward it to Central Government[10]. The responsibility of the Council should not end on granting recognition but it have to constantly check and inspect to overcome the above stated issues but in this function MCI have been failed miserably. The executive committee appoint medical inspectors which required to inspect any medical institution, college, hospital or other institution where medical education is imparted. It will check the adequacy of the facilities and whether standard of education is maintained in the institution or not, report shall be given to the institution as well as Central Government.[11]

(B) Drawbacks

In 2015 medical Council of India published a vision document in which it gave three main reason for the healthcare issues related to India that were lack of physicians which have

[8] s.10-A, The Indian Medical Council Act,1956, No. 102, Act of Parliament,1956.
[9] Department Related Standing Committee Report on Health and Family welfare, ninety second Report on 'The functioning of the medical commission (2016)'.
[10] s.20, The Indian Medical Council Act,1956, No. 102, Act of Parliament,1956.
[11] s.17, The Indian Medical Council Act,1956, No. 102, Act of Parliament,1956.

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reduced doctor to patient ratio much lower than prescribed. Even in the 92nd report [12] it was mentioned that the data is not accurate as many of the registered physicians have died or have been retired from practice or have gone to a foreign country which reduce the ratio to further lower. It was estimated that near about doctor to patient 1:2000 or more be there. The other major concern which have been raised univocally by many social thinkers that there have been lack of medical service in villages where no doctor want to provide service due to financial reasons, there are several factors which may have leads to this situation but this gap have resulted in promotion of quackery and in turn have promoted the poor health scenario in the rural sector. The high capitation fees and many other sub-standard impartation of medical education have made several Deficiencies in the quality of medical education.

It is not important to have a world class facility and regulation if result is a poor health standards and less efficient doctors which would adversely affect the health of society. The health and health related aspects are important part of life. It is impossible to live a happy life without being healthy. Person may not require to meet an engineer on daily basis but he have to be always in touch with his doctor either for minor or major ailments. The dependency on doctor is non-replaceable. It becomes very important to focus on health standards of the citizens, it becomes one of the major responsibility of the state to take care of its citizens in this respect. There have been major irregularities being faced by the institution which have not just tarnished the image of the Council but it has been considered as lately exploiting the poor and helping rich. The tarnished image of this profession is very disturbing because of the importance and value attached to it, people have started losing faith on doctor and which have result in adverse healthcare scenario. The medical education sector have been hit with the nepotism as only a doctor can afford to pay hefty sums whether their ward deserve it or not. The less deserving candidates acquired seats by paying hefty sums to private medical colleges and marred the chances of deserving candidates. Many private college in-cash the inefficiencies of the undeserving candidates further by charging excessive fees. The middle class ward who though deserving acquired seat on merit when have to pay such fees, usually have to take loans and then have work hard after graduation for paying off the debt, for obvious reason he will never chose rural area where there is less resources and will opt for the practice medicine in the urban areas which can fulfil his requirements.

There are further many reasons for the degradation of medical profession and education which have in turn resulted in lowering of the standards of health in the nation like

[12] Department Related Standing Committee Report on Health and Family welfare, ninety second Report on 'The functioning of the medical commission(2016).

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Disproportionate distribution of medical colleges inter as well as intra state, almost Sixty per cent seats of medical college are in three states, namely, Andhra Pradesh, Karnataka, Maharashtra and Tamil Nadu similarly there have been huge disparity in presence of healthcare as well as medical colleges in rural and urban areas. There are several reasons for low doctor to patient ratio, one of the major concern is faulty medical education system prevalent in the nation where either through channel of reservation or through management seats come in this course but they are not able to pass the examination which not only increase result in drop-out rates and number of repeaters, which in turn effect not just quantity but quality of the doctors as well. Another reason being efficient doctors prefer to go abroad and have better financial and environment. Moreover MCI regulations prevent experienced MBBS doctors from carrying out procedures like cesareans and ultrasound tests. Experienced nurses are barred from administering anesthesia. This leads to failure of utilizing the experienced manpower to increase the service delivery. Moreover the quality of medical education have been very poor as there is lack of faculty as well the syllabus is very outdated and old which further adding to the inefficiency of the students.

The above discussion have proved one thing that the Medical Council of India have outlived its utility. Once it was the necessity of that the time when the nation was at the primary stage of healthcare development and it Act as not only the regulator but also promoter of the exemplary medical education and profession. India have most number of brilliant doctors to its soil. The sole reason was the efficient regulations and better quality of medical education. But with advent of 21st century there have been constant downfall, even after several amendments restoration of previous glory cannot be sustained. The whole structure have to be revamped, outdated curriculum and lack of faculty are already been discussed but the recent corruption scandals involving high post holders in the commission have made the every believe that the Medical Council of India have been reached a stage which is beyond repair and any more amendments or slight changes will not solve the purpose unless whole of the regulatory mechanism is not revamped considering recent developments and getting inspiration from various other country mechanisms. The worst doctor to patient ratio, high exorbitant fees charged, unequal distribution of medical colleges, high capitation fees, poor quality of doctors and rampant corruption clearly indicate the failure of the MCI as a regulatory body.

III. NATIONAL MEDICAL COMMISSION

In 2010 Indian medical Council (amendment) ordinance 2010 was promulgated to supersede

the medical Council of India and provided for the constitution of board Of Governors (BOG) to take over the function of MCI. However it was extended thrice and meanwhile several other legislatures come into being. National Commission for Human Resources for Health Bill, 2011 was introduced on 22nd December 2011 in the Rajya Sabha to set up a National Commission for Human Resources for Health (NCHRH), an overarching regulatory body, which would take over the functions of all the existing councils in the health sector, including the MCI. This NCHRH Bill sought to consolidate the law in certain disciplines of health sector and establish a mechanism to determine, maintain and regulate the standards of health education in the country with a view to ensure adequate availability of human resources in the health sector throughout the country.[13] However after scrutinizing and examination by the standing committee the bill was recommended to be withdrawn as it was voiced against by many stakeholders and it was suggested to formulate a new bill.

Prof. Ranjit Roy Chaudhary headed a committee consisting of group of experts on 7th July 2014 to study existing system of medical education and profession under the medical Council of India. The major recommendations made by committee were establishment of a National Medical Commission (NMC) that will provide regulatory oversight to the educational process and professional conduct. Moreover he suggested for creation of a National Advisory Council and four autonomous board providing insight for undergraduate (UG) training, postgraduate (PG) training, Accreditation and Assessment, and Registration and Ethics. Members to be nominated by a transparent and robust process whereas the state representatives shall be elected. A national level entrance for both UG and PG training to provide equal access to all aspirants and a national exit examination for all PG training to introduce better and uniform standards and similarly introduction of a licentiate examination to ensure minimum standards of practice. Re-vamping of the complaint process and re-defining the Central Council– State Council relationship.

The Department Related Parliamentary Standing Committee on Health and Family Committee presented its 92nd Report to the Rajya Sabha with respect to 'The Functioning of Medical Council of India' in 2016. It was observed that the Medical Council of India has repeatedly failed in all of its regulatory functions over the years. They hold tussle between center and state government responsible for the unequal distribution of medical colleges across the state. Although committee was in consonance with the Dr. Ranjit Roy Chaudhary Committee's observations and suggested to bring legislature on the basis of

[13]Department Related Standing Committee Report on Health and Family Welfare, One Hundred Ninth Report on 'national medical commission bill(2017)'.

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recommendations.

A committee headed by vice-chairman of NITI Ayog was constituted in 2016 to examine and suggest reforms in medical education. It had visited several institutions for suggestions and to gain from experienced players in medical field and even from other fields which could play an important role in formation of a new regulatory body which will be formed and replace the existing Council[14]

The Group of Ministers comprising of eight Ministers including the Finance Minister, the Ministers of Railways, Road Transport and Highways, Rural Development, Science and Technology, Health & Family Welfare, the Minister of State (IC) of the Ministry of Power and the Minister of State in the Prime Minister's Office have suggested the formation of non-permanent body Medical Commission Appellate Tribunal (MCAT) which should be headed by a sitting or a retired High Court judge, with one Member from the medical profession and the other with an administrative experience in the field of medical education/health administration at the level of Secretary to Government of India which should be final appellate body rather than Central government.

Cabinet while approving the bill dropped the suggestion of MCAT rest all were accepted The National Medical Commission Bill, 2017 was introduced in the Lok Sabha on 29th December 2017 and subsequently referred to the Department related Parliamentary Standing Committee on Health and Family Welfare by the Chairman, Rajya Sabha in consultation with the Speaker, Lok Sabha on 4th January 2018 for a detailed examination and report.

(A) National Medical Commission Act, 2019

The national medical commission Act was not entirely different from the drafted bill passed in Lok Sabha, although there were some provisions were eliminated due to back lash from the medical fraternity, although bill was lapsed as the Lok Sabha got dissolved. After re-election the bill was passed in Lok Sabha again with major changes in it. Bill have faced severe criticism being of anti-federal character, anti-poor, complex and confusing. The goal of the legislative that was structural transparency was although appreciated but the provisions were not leading to the goal. Ultimately the aim was to improve the quality of medical education for the maximum output which in turn increase the doctor to patient ratio which consequently increase the health standards of the country. Before discussing further it is important to discuss certain main provisions of the Act and understand the logic behind the provision.

[14] Department Related Standing Committee Report on Health and Family Welfare, One Hundred Ninth Report on 'national medical commission bill(2017)'.

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1. Composition

National medical commission shall be constituted by Central government to perform and exercise the functions assigned to it by the provisions of the Act. It shall be a body corporate, with power to own and dispose of property[15].

It consist of a chairman, medical professional of outstanding ability, having proven administrative capacity and integrity with a post graduate degree in any discipline of medical sciences. He should have an experience for at least twenty years and out of which been the head of department for ten years or more. There will general superintendence, direction and control of the administration of commission vested in him[16].

There are Twenty two part-time members which are to be appointed by Central government. The chairman and part-time members will hold office for four years or on attainment of age of seventy years however they are not re-appointed or nor any extension is given to them. This provision have been criticized for having dual terms of expiration of period which create confusion and can give rise to mal-practices as well. Hence defeating the very objective of the Act. Although there is a positive outlook as well no extension ensure no domination of same persons and which in turn curb the menace of the politics within the institution.

2. Search committee

In order to ensure the fair procedure for appointment of the members although nominated but still that process need to be transparent. Present Act[17] provide for the appointment of search committee which shall further appoint chairperson, part-time members and secretary. Search committee shall satisfy itself before recommendation to Central government , that person do not have any financial or any other prejudicial interest which would likely affect the functioning of the person on that position. They will recommend three person against every vacancy being referred to them[18]. Although earlier there was provision for the membership of NITI Ayog which was criticized for conflict of interest it was removed.

Every member and chairman will declare his assets while entering as well delimiting the office. He shall also show his professional and commercial engagement or involvement and it should be published on website. Moreover he will not accept any employment in any capacity in any private medical institution medical institution, whose matter have been dealt with directly or indirectly for at least two years of time period earlier there was only one year

[15]s.3, The National Medical Commission Act,2019, No. 30, Act of Parliament,2019.
[16]s.4, The National Medical Commission Act,2019, No. 30, Act of Parliament,2019.
[17] National Medical Commission Act,2019, No. 30, Act of Parliament,2019.
[18]s.5, The National Medical Commission Act, 2019, No. 30, Act of Parliament,2019.

cooling period but after committee's recommendation it was extended to two year. Although this prohibition is not applicable to the institution of Central or state government's institution.[19] The recent incidents of corruption have made legislature to make very sensitive provision with respect to the financial interests of the members.

3. Functions of the commission

One of the most praise-worthy yet controversial provision is in this clause ten of the bill, where although other functions are mentioned as well but the most noted one is regulation fees in private medical colleges, earlier in the bill the slab was forty per cent which after the recommendation was increased to fifty per cent in the Act. It is important to note that in the previous Indian medical Council Act there was no such provision, for the first time it was introduced and was appreciated. Medical fraternity appreciated the concept but criticized that this will lead to excessive fees imposition by private colleges. Government although safeguarded the slab not to increase to 100 per cent as this will discourage private investors which will reduce the scope of expansion of medical colleges. There cannot be any uniform fees applied to all medical colleges as every area have specific requirements and fees have to be charged accordingly. Although legally Supreme Court have in many of its decision have declared dual structure of fees unconstitutional as it have classification on this basis in violation of article 14 of Indian Constitution.

It will laid down policies and necessary regulations for maintenance of a high quality and standard of medical education and for regulation of medical institutions, medical researches and medical professionals. Identification of the requirements in healthcare infrastructure and develop a road map for meeting such requirements. It will promote co-ordination among the commission, Autonomous boards and state medical boards while laying necessary guidelines for proper functioning of the commission and board. Moreover it will ensure there is co-ordination in between autonomous boards as well while taking such measures and making regulations for better compliance and functioning of the state medical boards. Policies and codes will be laid by the commission to ensure observance of professional ethics in medical profession and to promote ethical conduct during the provision of care by medical practitioners. It will frame such guidelines for determination of fees and all other charges in respect of fifty per cent of seats in private medical institutions and deemed to be universities which are governed under the provisions of this Act. Person who is aggrieved by any decision of the can appeal to Central government with in thirty days of the communication of such

[19] s.6, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.

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decision. Commission will exercise appellate jurisdiction with respect to the decisions of the Autonomous Boards[20].

4. The medical advisory Council (MAC)

It will be constituted by the Central government, consisting chairman and every member as ex-officio member of the council. One member to represent each state and union territory who is vice chancellor of a health university in state or union territory who would be nominated by Central government and ministry of health affairs in the government of India respectively, one member from each state and union territory nominated amongst the elected members of state medical council. Chairman of university grant commission, director of national assessment and accreditation Council will be member. Four more members holding the post of director in Indian institute of technology, Indian institutes of management and Indian institutes of science will be nominated by Central government. The presence of UGC chairman was disputed as it was considered of no use however government supported the presence of the UGC as many issues like of ragging ought to be dealt together accordingly.[21] It will be meet at least twice in a year, quorum will be formed by half of the total member present. It will Act as the primary platform through which the state and union territory may put forth their views and concerns before the commission. Council will suggest measures to enhance equitable access to medical education and to determine and maintain the minimum standards of medical health, education and training[22].

5. National examination

There shall be a uniform National Eligibility-cum-Entrance Test for admission to the undergraduate and postgraduate super-specialty medical education in all medical institutions[23]. The Commission will specify by regulations the manner of conducting common counselling by the designated authority for admission to undergraduate and postgraduate super-specialty seats in all the medical institutions and the common counselling for the seats will be conducted by the designated authority of state government at state level. Earlier it created a lot of confusion as provision earlier provided for common counselling for entire nation to which standing committee on bill recommends separate counselling for state as well as all India level so that there seems to be no misunderstanding and discomfort for the students as well as their parents moreover to avoid vacancy of seat in this confusion. It was

[20] s.10, The National Medical Commission Act 2019, No. 30, Act of Parliament, 2019.
[21] s.11, The National Medical Commission Act 2019, No. 30, Act of Parliament, 2019 .
[22] s.12, The National Medical Commission Act 2019, No. 30, Act of Parliament, 2019 .
[23] s.14, The National Medical Commission Act,2019, No. 30, Act of Parliament, 2019.

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suggested to change the pattern of NEET to check the holistic approach of the student although negated by the government as well as the standing committee.

This was the most disputed provision earlier as well even after enforcement of the Act as well. Earlier government try to bring a reformatory set up which would test the future doctors on common platform which was national licentiate exam as have been discussed extensively in previous chapters. This was not just going to be entry exam to get license but the score can be used in admission in the post graduate course, a very new approach and severe criticism which made government to change the exam altogether, now it was considered like a common final year exam which will decide triple aspect of the medical aspirant's future. A common final year undergraduate medical examination, to be known as the National Exit Test shall be held for granting license to practice medicine as medical practitioners and for enrolment in the State Register or the National Register. It will be conducted by commission through designated authority. This will become operational within three years from the date of commencement of the Act. Person with foreign medical qualification can obtain license to practice medicine and enrollment in state or national register only after clearing the NEXT examination. Moreover it will be the basis for admission to the postgraduate broad-specialty medical education in medical institutions. Although Commission will specify the manner of conducting common counselling by the designated authority for admission to the postgraduate broad-specialty seats in the medical institutions.

There is still lot of confusion with respect to this clause as it is still not made clear whether students who failed to pass the exam can be re-appear or not and for how many times does a person can give exam. But it Act as a relief to give a single final year exam rather than giving multiple exam which would only focused on theoretical approach as it have been seen earlier as well that student used to put less emphasis on clinical experience and more focus on NEET-PG which was not a right approach. This will induce students to focus more on clinical work rather than theory.

Although the provisions itself in the Act is not very clear with respect to this test as in one section it has been mentioned that NEET-PG will be conducted[24] and in other it is provided that post graduate seats will be allotted on basis of scores in NEXT exam[25]. Although this can be interpreted that it is a transitory provision for the time being the NEXT exam format and pattern is not decided. There is one more contradiction that it have allowed many of reputed medical colleges like AIIMS who are governed by separate Acts to hold their entrance exam

[24] s.14, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[25] s.15(5), The National Medical Commission Act,2019, No. 30, Act of parliament,2019.

and provision of this Act will not be applicable.

6. Autonomous board

There are four boards constituted by this Act to aid and advice and in order to increase the efficiency in performing function of regulation of profession as well education while maintaining standard as well as quality[26].

It was suggested there shall be combined board for the under graduate as well as post graduate students for better functioning whereas there shall be separate ethics and medical boards as they deal with different aspects, although both of these suggestions were negated.

The Under-Graduate Medical Education Board

Section 24 provides that board will be determining the standards of medical education at undergraduate level and oversee all aspects with respect to that and promote quality of education by inculcating dynamic curriculum with updated syllabus and clinical experiences for better exposure while addressing the need of primary health services, community medicine to ensure health facilities in remotest corners. [27] Another major function with respect to determination of minimum standards for conducting examination, courses, standards and norms for infrastructure, faculty for under-graduate level. Moreover in order to improve the quality of medical education imparted to student it will facilitate the development and training of faculty members teaching.

In order to ensure transparency and to discourage the private medical institutions to work under the table norms will be specified by the board for compulsory annual disclosures with respect of its working and function. Another important role played by the board is granting recognition to a medical qualification at the undergraduate level.

The Post-Graduate Medical Education Board

Most of the function of the Post-Graduate medical education is same as compared under-graduate medical board with respect Post-Graduate and super-specialty courses except that in addition of all the functions performed required it will promote and facilitate postgraduate courses in family medicine[28].

The Medical Assessment and Rating Board

Section 26 of the Act[29] provides that board prescribe the procedure for assessment and rating

[26] s.16, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[27] National Medical Commission Act,2019. No. 30, Act of parliament,2019.
[28] s.25, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[29] National Medical Commission Act,2019, No. 30, Act of parliament,2019.

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of the medical institution for their compliance with standards laid down by other boards as discussed in previous portion.

Any person can establish a new medical college or start any postgraduate course or increase number of seats only with prior permission of the Medical Assessment and Rating Board. Earlier prior permission was not required in the draft bill which was severely criticized by the stakeholders resulting in the change of the provision, on rejection from the board first appeal lies with the commission whereas second appeal can be made to the Central government.

The Medical Assessment and Rating Board can conduct evaluation and assessment of any medical institution at any time on adequacy of financial resources, academic faculties, hospital facilities[30] and others as prescribed although with approval of Central government certain provision can be relaxed as per the areas in which it is set up.

The exemption given by the Central government was not very well received and viewed as the backdoor entry for the private players but in reality the provision server singular purpose to facilitate the mushrooming of the medical colleges even in the remotes corners of the country in order to counter the disproportionate growth of medical colleges and hospital inter-state as well as intra-state.

Another note-worthy step taken by legislature to ensure transparency is to make the information gathered by it while inspection to be published on the website and those who failed to do so will be heavily penalized and if still not abide by the rule, recognition will be withdrawn.

The Ethics and Medical Registration Board

It will maintain Registers of all licensed medical practitioners accordingly. The Board will be responsible for maintaining a National Register containing the name, address, all recognized qualifications possessed by a licensed medical practitioner, ensuring electronic synchronization of the National Register and the State Register in such a manner that any change in one register is automatically reflected in the other register. It will be made available to the public on the website of the Board[31].

Professional conduct and medical ethics will be regulated and promoted by the board and compliance will be ensured by the state medical Council which will be in continuous interaction for efficient working. Board will Act as appellate authority over the Actions taken

[30] s.29,The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[31] s.31, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.

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by the state medical council[32].

7. License

Any person who qualifies the National Exit Test will be granted a license to practice medicine and can enroll himself in the National Register or a State Register Provided that a person who has been registered in the Indian Medical Register maintained under the Indian Medical Council Act, 1956 prior to the coming into force of this Act and before the National Exit Test becomes operational will be deemed to have been registered under this Act and be enrolled in the National Register maintained under this Act[33].

Any person who has obtained medical qualification from a medical institution established in any country outside India and is recognized as a medical practitioner in that country can enroll only if he qualifies the National Exit Test.

Only after enrollment person can be allowed to practice medicine as a qualified medical practitioner and hold office as a physician or surgeon. He will be entitled to sign or authenticate a medical or fitness certificate or any other certificate required by any law to be signed or authenticated by a duly qualified medical practitioner and can give evidence in court of law. A foreign citizen who is enrolled in his country as a medical practitioner in accordance with the law regulating the registration of medical practitioners in that country may be permitted temporary registration in India for such period and in such manner as may be specified by the regulations. This provision was very much disputed as well. It was criticized as it gives an exception to the foreigner to practice without passing the test and fulfilling the condition but the intention of the legislature behind this government is with respect to increase of medical personnel in country whether for the educational purpose or for research purpose which will in turn benefit the nation, so they have waive of a condition for special circumstances

The Commission may grant limited license to practice medicine at mid-level as Community Health Provider to such person connected with modern scientific medical profession who have required qualifications however the number of limited license to be granted will not exceed one-third of the total number of licensed medical practitioners registered. He can practice medicine to such extent, in such circumstances and for such period, as may be specified by the regulations.[34] The Community Health Provider may prescribe specified medicine independently, only in primary and preventive healthcare otherwise prescribe

[32] s.30, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[33] s.33, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.
[34] s.32, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.

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medicine only under the supervision of registered medical practitioners.

Any person who contravenes any of the provisions of this section shall be punished with imprisonment for a term which may extend to one year, or with fine which may extend to five lakh rupees or with both.

This was in the attempt of the government to increase the standard of healthcare facilities in rural areas where there is dearth of doctors and consequently resulted in even reduced doctor to patient ratio as compared to cities. Although the provision for bridge course have been left out or dropped but there have been an attempt to bring all of the Indian as well as foreign medical field on levelled playground, There will be a joint sitting of the Commission, the Central Council of Homoeopathy and the Central Council of Indian Medicine at least once a year to enhance the interface between Homoeopathy, Indian Systems of Medicine and modern systems of medicine[35].

(B) Comparative analysis between medical Council of India and National Medical Commission

The Medical Council of India have been replaced by board of governors and Central government have been given six months to constitute the national medical commission thereafter for regulation of medical education as well as profession. There has been an attempt to transform the corrupt and opaque administrative structure of the Council by a new body with partly nominated and partly elected body consisting of not just only doctors but able and learned people from other discipline as well. MCI on other hand was an elected body with nominees from center and state. MCI was one big body solely responsible for every function ranging from registration to recognition and regulation of profession as well whereas National Medical commission is divided in various boards with various functions distributed amongst themselves for efficient regulation. Common final year exam have been introduced for the uniformity of medical education, and regulation of fifty percent of seat in private medical college have also been provided so that medical education can be promoted.

After going through the provisions of the National Medical Commission Act, the preemptive notions of the legislation seems futile. The landmark step taken by regulating fees of fifty percent of seats have already given upper hand over the existing commission. No doubt there are some local Acts which were providing such regulation but with respect to control of Central government this provision is in favor of the students.

Uniformity of the medical education was one of the important aspect with respect to health of

[35]s.50, The National Medical Commission Act,2019, No. 30, Act of parliament,2019.

the nation, NEET-UG and NEXT exams proven to be the thing which will enforce the uniformity as well as quality of education as in some medical colleges quality was compromised because of quantity, with common final year exam Acting as licentiate as well as basis for post graduate entrance will not only enhance the quality but will also be helpful to students who have to learn now limited syllabus.

Opaqueness with respect to administration and regulation of previous governing body have been targeted and transparency have been made major concern. Rather than being a single body, the NMC with association of Medical Advisory Council and Autonomous boards carry out several functions work as the composite body for better efficiency in regulation of medical profession as well as education.

(C) Reaction of Stake-holders

The bill have been not very well received by every stakeholders, states especially have been very vocal with respect to provisions being provided in the bill being against the federal character and dual fee structure have been very much criticized. A blunderous bridge course was also introduced in the Act which enable any AYUSH practitioner to practice allopathy after completion of a course and by giving an exam, although the intention of the government was bona-fide and was with respect to increasing the degrading ratio of doctor to patient but it was very harshly received by the various part of the society associated with the medical profession and education, several questions were raised and many have declared bill anti-poor. Some of the important criticisms by the stakeholders with respect to the bill passed by Lok Sabha:

States

The Subject of 'Health and Medical Education' is under the Concurrent List of the Seventh Schedule of the Constitution. This makes the States an important stakeholder in the medical education system of the country. Many of states like Karnataka and Tamil Nadu have demanded for the permanent representation in the commission as most number of medical colleges and students are in the respective state although every state have criticized the nominative commission rather than elective moreover lack of representation have resulted in loss of federal structure as it is being violated. All the states unanimously criticized the national license exam as it would add additional futile pressure on student which will divert their attention towards theoretical approach more rather than developing clinical skill. They have criticized the bill on the aspect that only forty per cent seats will be regulated by the center as this will lead to excessive charges by the private medical institutions. Except Bihar,

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rest every state have criticized bridge course which was implemented to face the shortage of qualified doctors. Although when Act come in force the provision for the national licentiate exam have been substituted by NEXT exam, moreover the membership of the national medical commission also have been increased

It was pointed out that the inadequate representation of the States in the NMC as the rotational system of representation where only 3 out of 29 States would be represented in the Commission at any point of time. This way a State would get a chance to be represented on the Commission once in every 8 or 9 years. The issue of bridge course for AYUSH was supported as it would help increase the number and availability of doctors especially in the rural areas and it was suggested similar bridge course could be introduced for the para-medical staff and nurses as they take care of all the routine matters.

Medical institutions

Similarly medical institution and association play a key role in representations of the medical fraternity. They are an important stakeholder in the medical profession and education as they add to the democratic character of the medical institution as whole whereas the giving voice to each and every single individual grievances.

Indian Medical Association had pointed that mostly the commission is nominated having ex-officio members and very less elective representation. There was disparity with respect to tenure of members representatives of state have two year tenure whereas other members have four years. It was also considered that there is no elective representation in autonomous board, Doubts were raised with respect to licentiate examination as there was lots of ambiguity going on and confusion was created among many scholars on this issue that there is nothing about the candidates who failed to qualify the test as they will be holding qualified M.B.B.S. degree but still would not do practice the profession.

Similarly, Medical Council of India (MCI), The Committee was informed that the real powers are vested in the four autonomous boards, which do not have any electoral representation. Therefore, the Boards neither have a representative nor a democratic character. The power given to Central Government to relax the bar on the members of the Commission, for a period of one year from the date of demitting office, to accept any employment in any private medical institution, whose matter was dealt with by them was not only unethical but also in contravention to legality.

There were several issues that were raised the following like Possibility of misuse of discretionary powers vested in the Commission and the Boards; Lack of any regulation and

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requirement of prior approval before introducing a Post-Graduate or super-specialty course and Lack of adequate autonomy granted to the MAR Board, which needs to function independently. The Scheme of dual registration for AYUSH practitioners who qualify bridge course which will somehow legalization quackery by allowing cross-pathy through it.

Medical Fraternity

Medical fraternity have not welcomed the bill with open arms rather it have faced backlash from the entire community. All collectively agree that there needed to be some change in the medical education and profession but they have vehemently opposed the proposed future of medical profession and education as been described by national medical commission. It is to be noted that there have been many doubts been raised by them but they do agree that intention of legislature seems to be in positive way but the execution seems to be shaky and have been very improper. Here are some of the views of noted scholars and professionals related to medical field.

Dr. Sita Naik, Former Dean, Sanjay Gandhi Postgraduate Institute of Medical Sciences, who also had been a former Member, of the MCI and the Board of Governor, was very skeptical with the composition of the national medical commission which was tend for to be bureaucratic institution rather than a profession regulatory body. She felt there was need to revamping the medical education.

Ms. Sujatha Rao, former Health Secretary considered that the power given to the center is such that made it overpowered. The representation is not adequate with respect to state and it do not fulfill the broad objective it place before itself. She opposed the bridge course as it will compromise the trust on Indian medicine system and will promote quackery although she was in favor of national licentiate exam

The Act passed have been termed as anti-poor and anti-federal in structure as despite of being a subject in concurrent list the participation of the state have been kept minimum. On comparing both the Act, National Medical Commission Act 2019 as well Indian medical Council Act 1956, it can be very easily observed that the center was having predominant control over the Medical Council of India, from the recognition of scheme of new medical college as well as introduction of courses or seats, MCI was a recommendatory body only final authority was with Central government. This is wrong to say that the new Act is too centralized. The state have been given representation on the rotational basis so it will be wrong to say that it do not have federal character. Although representation of various state is not apparent like in MCI as a single body whereas it can be seen as a whole regulatory body

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like a system that is commission including all the boards respectively it is evident of state representation. Moreover the demands of the various states with respect of permanent seats in commission is very vague and against the spirit of the federal character. The bridge course which aim to fill the huge gap between doctor to patient ratio have been severely criticized on the ground that the two streams of medicine are very dissimilar and combination will result in very wrong approach. It was a hasty step by government taken down by themselves on criticism from every stake holder as it was apprehended that it could be grave injustice to students enrolled in the M.B.B.S. and B.D.S. courses as they have to work very hard first to clear the NEET-UG to get seat in medical colleges then they have to work even harder for five years not just theoretically but clinically as well and using this course as shortcut will ultimately affect the quality of doctors produced. Hence the provision was dropped.

IV. CONCLUSION AND SUGGESTIONS

A massive reformative step taken by Central government to restructure the robust Medical Council of India have invited appreciation as well as criticism. There have been some first time initiatives like regulation of fees for 50% of seats in private medical college giving government power to control fee structure for at least 75% of seats in medical college in India so that medical education can become reality even for a deserving candidate irrespective of his financial condition.

The doctor to patient ratio being very low have very detrimental effect on the India's healthcare system and rural urban disparity is not unknown. In order to overcome this major concern legislature come up with the scheme of bridge course although dropped, further granting limited license to community health provider to practice allopathy have given a massive opportunity of tapping the latent potential and its not quackery as there will be proper training period along with their experience it could prove to be boon as well as boost to the availability to medical facility. It have already been successfully experimented in Chhattisgarh and Assam with community health workers[36]. In order to streamlined the medical education system and to prohibit malpractices prevalent in medical colleges with respect to quality of education, a common final year exam have been introduced although criticized for being excessive burden on student as it will be basis for post graduate courses. On contrary it will relieve them from the burden of extra exam and they can focus on the final year exam which will test not just theory but practical skills as well. This will bring end to the coaching culture prevalent rather than promoting it as alleged. There have been structural

[36]Available at https://pib.gov.in/newsite/PrintRelease.aspx?relid=192491

transformation of the previous regulatory body and work have been divided amongst various composite bodies which will ensure efficiency and quality. Even the appointment will be made by the search committee which will further bring checks and balances and publishing information online will ensure transparency and will create a positive environment which will revitalize the faith people in the regulating body. On face of it the commission seems to be too much centralized and bureaucratic but careful observation will show that there have been equal representation from the state. The flexibility and relaxation of some provisions with respect to medical colleges have been seen as invitation to mal-practices but it is a sincere effort made by government to encourage development of private medical college even in remotest area not just mushrooming in one or more states or region.

The Act have been received mostly negative reactions from the medical fraternity but on in-depth analysis of the Act it seems that allegation imposed on the intention of the government is farce. Although there are certain loop holes and there certain laws which need to be properly formulated with respect to the objectives of the act. Mostly the Act is just skeletal in nature providing a roadmap for the proper regulation of the medical profession as well as medical education. There is a need for preparation of schemes on the basis of the given provisions. Researcher tend to conclude analysis of the National Medical Commission Act, 2019 with following suggestion:

1. There should be establishment of Medical Appellate Tribunal (MCAT) as suggested by the standing committee for the redressal of the grievances, comprising of the present Supreme Court judge with an expert in the medical profession of high ability and integrity acting as final appellate authority rather than central government.
2. There should be change in structure of the final year examination which is acting as the portal for degree, license and Post-Graduation to include more emphasis on the clinical approach rather than theoretical.
3. There shall be establishment of committee comprising of high court judge and expert in medical profession of high ability and integrity and a person having the experience of the administration of the universities which should work under the supervision of state council for determination of the fees for private colleges including the seats regulated by the commission as well as the other seats so that there could not be huge gap between the dual fee structure and regulated as per the state.
4. There should be formation of the subsidiary body of Ethics and Medical Registration Board which have sole purpose to promote and check the practice of registered doctors in

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rural areas. So that health care benefits can be reach even to the remotest corner of the nation.

There should be proper framing of guidelines with respect to the limited registration of the community health workers, at least five year experience in health sector should be kept as a measure for the eligibility of the person to register. A crash course with respect to primary health should be undertaken. This should be a temporary provision to meet the recent health crisis.

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