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Regulation now! It's time for a Clinical Establishments Act in Maharashtra

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Despite a large private healthcare sector in Maharashtra, there is limited regulation governing many of the practices of providers. In this month's post, Shweta Marathe and Dr Indira Chakravarthi call on Maharashtra's MLAs to demand adoption of a rights-based Maharashtra Clinical Establishment (Registration and Regulation) Bill in 2019.

In 2010, the Parliament of India passed the [Clinical Establishment Act \(CEA\)](#) (<http://clinicalestablishments.gov.in/cms/Home.aspx>) to regulate clinical establishments in both the public and private sector. So far 11 states have adopted the act, including Arunachal Pradesh, Himachal Pradesh, Mizoram, Sikkim, Uttar Pradesh, Uttarakhand, Rajasthan, Bihar, Jharkhand, Assam and Karnataka. Maharashtra has not.

Popular mobilisation and government inertia

After two years of government inertia regarding the CEA, civil society organisation Jan Arogya Abhiyan (JAA – Maharashtra state chapter for the People's Health Movement in India) organised mass demonstrations (<https://timesofindia.indiatimes.com/city/nagpur/Demand-for-improving-health-care-services/articleshow/17684290.cms>), in 2012 and 2013 to demand enactment of CEA in Maharashtra. They submitted a draft bill to the Maharashtra government, resulting in the state's Health Minister agreeing to form a multi-stakeholder committee (<https://timesofindia.indiatimes.com/city/pune/Activists-upbeat-about-committee-on-Clinical-Establishment-Act/articleshow/27100454.cms>) to prepare state legislation. Representatives from medical associations and JAA joined public health officials in drafting a 'Maharashtra Clinical Establishment Bill'.

The draft Maharashtra CEA included provisions to promote transparency and accountability, including a charter of patients' rights, guidelines to standardise treatment, stipulations for healthcare fee, and a district-level multi-stakeholder appellate body with representation from health professionals and civil society. JAA requests for fee standardisation, and an adequately staffed dedicated implementing agency, were opposed by other members of the committee and omitted from a final draft in 2014. Nonetheless a change in governing party in Maharashtra did not take any move for adopting the bill.

Medical opposition kills the Bill?

The 2014 drafting of a Maharashtra CEA faced opposition from parts of the medical community. Provisions for rate standardisation were met with stiff resistance from representatives of medical associations in the drafting committee and were not included in the final draft (<https://opendocs.ids.ac.uk/opendocs/handle/123456789/13676>). During our September 2018 witness seminar on the regulation of private healthcare in Maharashtra (transcript to be posted [here](https://unsettlinghealthcare.org/projects/corporatisation-and-regulation/) (<https://unsettlinghealthcare.org/projects/corporatisation-and-regulation/>), soon), one witness noted a 'sense of panic' regarding likely effects of the CEA on income amongst contemporaries: 'my batchmates asked me, why are you supporting the act which is likely to hit our bread and butter?'

Another doctor at the witness seminar blamed 'entanglement between political parties and doctors' for the state government's ultimate failure to adopt the Bill in 2014: 'a lot of senior people in medical associations are also close to all sort of ruling parties. And I suspect that, for any regulation, therefore, it is the health minister, their connections in the profession, what they hear from the profession, what they hear from other stakeholders, which unfortunately derails these processes.'

Civil society fighting to be heard

In January 2018, another committee was formed to again draft a Maharashtra CEA. This time the committee was dominated by doctors from private hospitals and there was no representation from civil society. Following the filing of a Public Interest Litigation case in June 2018, which alleged several healthcare providers in Maharashtra were operating in violation of existing registration rules under the Bombay Nursing Homes Registration Act and without valid licenses, legal representation for the Maharashtra government revealed that the government was in the process of devising a 'stringent' law (<https://www.firstpost.com/india/maharashtra-govt-says-it-is-formulating-stringent-law-to-regulate-private-hospitals-4502485.html>) in this area. They noted that a drafting committee had been established to consider the 'objections and suggestions' of 'some doctors and other members of the medical community' and propose amendments.

The exclusion of civil society voices from the Bill's latest drafting committee provoked outrage. After protests by civil society, two members of JAA were added to the drafting committee. However given the reluctance to hear civil society, it is perhaps not surprising that the drafting committee's final Bill

omitted provisions suggested by JAA to promote patient rights.

MLAs – stand up for health!

Nine years after CEA at the centre, patients in Maharashtra have little protection from spiralling fees. Ahead of the 2019 Maharashtra Legislative Assembly budget session and the 2019 General Election, we, and other members of JAA, call on Members of the Maharashtra Legislative Assembly and the Maharashtra Government to stand up for their constituents and demand adoption of the Maharashtra CEA. Further, we call on Members to ensure that the following provisions are included in the final Act:

- a charter of patient's rights with guidelines for every clinical establishment, whether public or private, to implement those rights;
- standard treatment protocols and prescription audits to prevent unnecessary investigations, medications and surgeries;
- clear displays of fees in all clinical establishments and standardisation across establishments, with multi-stakeholder participation in fee-setting processes that includes public health officials, health rights activists and representatives from healthcare professional associations, judiciary, women rights groups and healthcare user groups;
- district-level grievance redressal (and appeal) systems for patients with multi-stakeholder participation;
- creation of a State Council for Clinical Establishments with multi-stakeholder participation;
- exclusion of out-patient clinics from space and infrastructure criteria, and inclusion of representatives of small-medium-sized hospitals in infrastructure standards-setting processes to ensure development of fair criteria; and
- a dedicated implementing public agency for this Act, with adequate staffing to avoid over-burdening existing district-level public health bureaucracy.

Now is the time to make sure patients in Maharashtra get the right Clinical Establishments Act – one that protects their rights and promotes their health.

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