



**PARLIAMENT OF INDIA**  
**RAJYA SABHA**

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**DEPARTMENT-RELATED PARLIAMENTARY STANDING  
COMMITTEE ON HEALTH AND FAMILY WELFARE**

**FIFTY-THIRD REPORT**

**ON**

**THE NATIONAL INSTITUTE OF MENTAL HEALTH AND NEURO-SCIENCES,  
BANGALORE BILL, 2010**

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**(PRESENTED TO THE RAJYA SABHA ON 4<sup>TH</sup> MARCH, 2011)**  
**(LAID ON THE TABLE OF LOK SABHA ON 4<sup>TH</sup> MARCH, 2011)**

**RAJYA SABHA SECRETARIAT  
NEW DELHI**

**MARCH, 2011/PHALGUNA, 1932 (SAKA)**

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## COMPOSITION OF THE COMMITTEE (2010-2011)

### RAJYA SABHA

1. Shri Brajesh Pathak - **Chairman**
2. Shri Janardan Dwivedi
3. Shrimati Viplove Thakur
4. Dr. Vijaylaxmi Sadho
5. Shri Balbir Punj
6. Dr. Prabhakar Kore
7. Shrimati Brinda Karat
8. Shrimati Vasanthi Stanley
9. Shri Rasheed Masood
- \*10. Shrimati B. Jayashree

### LOK SABHA

11. Shri Ashok Argal
12. Shrimati Sarika Devendra Baghel Singh
13. Shri Vijay Bahuguna
14. Shrimati Tabassum Hasan
15. Dr. Sanjay Jaiswal
16. Shri S. R. Jeyadurai
17. Dr. Kruparani Killi
18. Shri Nimmala Kristappa
19. Dr. Tarun Mandal
20. Shri Datta Meghe
21. Dr. Jyoti Mirdha
22. Dr. Chinta Mohan
23. Shrimati Jayshreeben Patel
24. Shri R.K. Singh Patel
25. Shri M. K Raghavan
26. Shri J. M. Aaron Rashid
27. Dr. Anup Kumar Saha
28. Dr. Arvind Kumar Sharma
29. Shrimati Meena Singh
30. Shri Pradeep Kumar Singh
31. Shri Ratan Singh

### SECRETARIAT

Shrimati Vandana Garg,	Additional Secretary
Shri R.B.Gupta,	Director
Shrimati Arpana Mendiratta,	Joint Director
Shri Dinesh Singh,	Assistant Director
Shri Satis Mesra	Committee Officer

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\* nominated to the Committee w.e.f 21/9/2010

## PREFACE

I, the Chairman of the Department-related Parliamentary Standing Committee on Health and Family Welfare, having been authorized by the Committee to present the Report on its behalf, present this Fifty-third Report of the Committee on the National Institute of Mental Health and Neuro-Sciences, Bangalore Bill, 2010.\*

2. In pursuance of Rule 270 of the Rules of Procedure and Conduct of Business in the Council of States relating to the Department-related Parliamentary Standing Committees, the Chairman, Rajya Sabha, referred\*\* the National Institute of Mental Health and Neuro-Sciences, Bangalore Bill, 2010, (**Annexure**) as introduced in the Rajya Sabha on the 7<sup>th</sup> December, 2010 and pending therein, to the Committee on the 8<sup>th</sup> December, 2010 for examination and report, by 6<sup>th</sup> March, 2011.

3. The Committee considered the Bill in its meeting held on the 5<sup>th</sup> January, 2011.

4. In its meeting held on the 5<sup>th</sup> January, 2011, the Committee heard the Secretary and other officers of the Department of Health and Family Welfare and Director, NIMHANS. Thereafter, the Committee considered the draft Report and adopted the same on the 1<sup>st</sup> March, 2011.

5. The Committee has relied on the following documents in finalizing the Report:

- (i) Background Note and Clause-by-Clause Note on the Bill received from the Department of Health and Family Welfare;
- (ii) Presentation, clarification and Oral evidence by Secretary of the Department;
- (iii) Memoranda received on the Bill from various bodies/associations/organizations/experts; and
- (iv) Replies to the questions/queries raised by Members in the meeting on the Bill received from the Department.

6. On behalf of the Committee, I would like to acknowledge with thanks the contributions made by those who deposed before the Committee.

7. For facility of reference and convenience, the observations and recommendations of the Committee have been printed in bold letters in the body of the Report.

NEW DELHI

*1<sup>st</sup> March , 2011*

*Phalguna 10, 1932 (Saka)*

BRAJESH PATHAK

*Chairman,*

*Department-related Parliamentary  
Standing Committee on Health and Family Welfare*

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\* Published in Gazette of India Extraordinary Part II Section 2, dated 7<sup>th</sup> December, 2010.

\*\* Rajya Sabha Parliamentary Bulletin Part II, No 47225, dated 8<sup>th</sup> December, 2010.

## **REPORT**

The National Institute of Mental Health and Neuro-Sciences, Bangalore Bill, 2010 was introduced in the Rajya Sabha on 7<sup>th</sup> December, 2010 and referred to the Parliamentary Standing Committee on Health and Family Welfare for examination and report on 8<sup>th</sup> December, 2010. The Statement of Objects and Reasons appended to the Bill gives the background justifying the need for bringing a Bill in the following manner:

“The Institute in its present form faces constraints in (a) growing further and in evolving new courses in diverse fields relevant to the present national scenario in India; (b) giving greater thrust to inter- disciplinary research and innovation and (c) evolving strategies for enhanced service delivery, rehabilitation of patients with neurological and mental disability.

It is proposed to make the Institute a statutory body corporate and to declare it as an institution of national importance under Entry 64 of List I of the Seventh Schedule to the Constitution so that it may develop as a high level institution of Mental Health and Neuro Sciences on the pattern of the All India Institute of Medical Sciences, New Delhi, the Post-Graduate Institute of Medical Education and Research, Chandigarh and the Jawaharlal Institute of Post-Graduate Education and Research, Puducherry.

This Bill will empower the Institute with academic autonomy to develop its own curriculum, set new trends in mental health and neuro sciences, award its own degrees and also enable it to have appropriate delegated administrative and financial powers. The conferring of statutory status on this Institute will enable it to grow into a model centre of excellence.”

2. Initiating the process of consideration of the Bill, the Committee heard the views of the Secretary, Department of Health and Family Welfare, alongwith the Director, NIMHANS in its meeting held on 5<sup>th</sup> January, 2011. Tracing the evolution of the Institute, the Director informed the Committee that Lunatic Asylum of 1848 was converted into Mental Hospital in 1926. Thereafter, to meet the needs of independent India, it took the shape of a Postgraduate Training Institute as the All India Institute of Mental Health in 1954. After a gap of twenty years, amalgamation of 120 years old State Mental Hospital and the All India Institute of Mental

Health took place in 1974. This was followed by its elevation as a Deemed University in 1994, keeping in view its academic excellence and manpower training. Since then, the Institute has continued to grow with faculty strength increasing from 107 in 1994 to 145 in 2009. This is reflected in the number of students whose enrolment has increased from 186 in 1990-94 to 867 in 2004-09. Number of courses offered also has increased to 23 at present from 14 courses being offered in 1990-94. The Committee was further informed that the Institute was a tertiary care medical and academic Institution, dedicated to the care of neurological, neurosurgical and psychiatric disorders and manpower development in super specialty branches related to neurosciences, including nursing and basic sciences. Integrating mental health and neurosciences, the Institute has gained international recognition in patient care and education. It was not only the country's only Brain Bank but also enjoyed the status of WHO Regional referral Lab for Rabies, JE and HIV.

3. The Committee was given to understand that NIMHANS, as a specialty hospital for secondary and tertiary care for neurological and psychiatric disorders, was entrusted with the mandate to develop trained manpower to cater to the needs of the community and carry out research in the field of mental health and neurosciences. The Institute also had the added responsibility of formulating and evolving policy statements for implementation in the sphere of community mental health.

4. The Secretary emphasized that given the achievements made by the National Institute of Mental Health and Neurosciences, there was a widely articulated need to grant the Institute greater administrative and academic autonomy. It was proposed to make the Institute a statutory body corporate and to declare it as an institution of national importance under Entry 64 of List 1 of the Seventh Schedule to the Constitution so that it may develop as a high level institution of Mental Health and Neurosciences on the pattern of the All India Institute of Medical Sciences, New Delhi, the Post-Graduate Institute of Medical Education and Research,

Chandigarh and the Jawaharlal Institute of Post-Graduate Education and Research, Puducherry.

5. The proposal for declaring NIMHANS as Institution of National Importance was first mooted by the Governing Body of the Institute in 1987. The proposal was subsequently approved by various bodies of the Institute including NIMHANS Society. Following positive developments were anticipated as a result of NIMHANS being declared an Institute of National Importance:-

- Greater impetus, autonomy and flexibility in initiating new courses in diverse fields some of which are unique to NIMHANS, relevant to the nation, thus enhancing the scarce human resource in the broad field of Mental Health and Neurosciences.
- Greater thrust to interdisciplinary research and innovations in the field of mental health and neurosciences.
- Enhanced service delivery and rehabilitation of patients with neurological and mental disorders and disability closer to the community.
- An opportunity to play a pivotal role in formulating national and international policies related to Mental Health, Human Rights issues, Disaster Management, Neurological and Mental Disability Management.

### **Consultation process**

6. Keeping in view the present status of NIMHANS being registered under the Karnataka Societies Registration Act, 1960, a specific query was made about the response of the State Government of Karnataka about the proposed legislation. In response, the Committee was informed that the Government of Karnataka had communicated their endorsement, as early as on 21<sup>st</sup> April, 2006 to the Ministry's proposal to declare NIMHANS as Institute of National Importance. They had requested Government of India to approve this proposal at the earliest.

7. When asked to clarify the stand of faculty members, medical and para-medical staff and other entities associated with the Institute in the matter, the Committee was categorically informed that all cadres of NIMHANS had unanimously approved the proposal without any reservation.

8. The Committee was very much concerned about the interests of the existing employees of the Institute. As a matter of abundant precaution, the Committee approached all the Employees' Associations of the Institute seeking their views on the proposed legislation. The Committee received comments from the following Associations:-

- 1) The NIMHANS Faculty Association (Regd.)
- 2) NIMHANS Employees Association (Regd.)
- 3) NIMHANS SC/ST Employees Welfare Association (Regd.)
- 4) NIMHANS Group "D" SC/ST Employees Association (Regd.)

In identical response, all these Associations informed the Committee that they had no reservations on the proposed legislation since all their service conditions, emoluments and other benefits remained unaltered and expressed their solidarity with the NIMHANS Administration to take the Institute forward as an Institute of National Importance.

9. The Committee's attention was drawn by the reference made in the Statement of Objects and Reasons about a number of constraints being faced by the Institute at present. When asked to elaborate, the Committee was informed that NIMHANS was currently involved in the manpower development in the field of Mental Health and Neurosciences by offering traditional courses such as MD, DM, M.Ch, M.Phil(Clinical Psychology), M.Phil (Psychiatric Social Work), etc. However, two-fold limitations were being faced by the Institute. Firstly, at present there was a limited scope of evolving new innovative, interdisciplinary, need-based postgraduate course of variable duration, especially MD/DM in Community Mental Health, Child and Adolescent Psychiatry, Family Psychiatry, De-addiction Medicine, Geriatric Mental Health, Neuro-rehabilitaiton and others. Besides that, many of these courses were interdisciplinary in nature like integration of traditional systems (Ayurveda and Yoga) with modern systems of medicine requiring approval from multiple statutory bodies such as Medical Council of India, Rehabilitation Council of India, Indian Nursing Council, and Central Council for Ayurveda and Allied Sciences, etc. There was also a limitation on the intake of number of

students/ trainees by statutory bodies (MCI, RCI, INC) with limited scope to evolve need-based curricula of interdisciplinary courses.

10. It was emphasized that the present deemed university status of NIMHANS posed several limitations in obtaining research grants, undertaking collaboration of multidisciplinary research, exchange of faculty and students, establishing collaboration in any part of the world with objectives similar in nature. It was pointed out that such constraints were not coming in the way of other institutes (such as AIIMS, PGIMER, IITs and IIMs), which had been declared as “Institute of National Importance”.

11. The Committee’s attention was also drawn to the fact that by declaring NIMHANS as an Institute of National Importance, it would be outside the purview of the Medical Council of India, Rehabilitation Council of India, Nursing Council of India, etc. Thus, the Institute would have the requisite freedom to develop its own courses and to issue degrees/diplomas. Not only this, it would provide academic and administrative freedom to evolve and experiment effective teaching methods and develop new courses, and evolve translational research to meet the national needs and challenges.

12. Keeping in view the fact that the present Bill is on the pattern of All India Institute of Medical Sciences, New Delhi, the PGIMER, Chandigarh, Jawaharlal Institute of Post-graduate Medical Education and Research (JIPMER), Puducherry, Sreechitra Tirunal Institute for Medical Science and Technology, Thiruvananthapuram, the Committee requested directors and renowned scientists of the above institutes to offer their valuable comments for the benefit of the Committee. The Committee received comments from most of the experts and scientists.

13. The clauses where the Committee has suggested amendments are discussed in the succeeding paragraphs.

**Clause 4: Incorporation of Institute**

14. Clause 4 lays down that the National Institute of Mental Health and Neuro-Sciences, Bangalore, an Institute registered under the Karnataka Societies Registration Act, 1960 on the 27<sup>th</sup> day of December, 1974, is hereby constituted a body corporate by the name aforesaid and as such body corporate, it shall have perpetual succession and a common seal with power, subject to the provisions of this Act, to acquire, hold and dispose of property and to contract and shall, by that name, sue and be sued.

15. This clause seeks to provide for incorporation of the National Institute of Mental Health and Neuro-Sciences, Bangalore into a body corporate by the same name having perpetual succession and common seal with certain powers. Apprehensions were voiced by the Committee about the likely adverse impact of the incorporation of the institute as body corporate as the Institute might be registered under the Companies Act thereby leading to profit-making activities.

16. When asked to clarify the basis for inclusion of such a provision, the Department informed the Committee that the use of the phrase “institute as a statutory body corporate” was similar to the phrase used in other Acts pertaining to institutes of national importance such as AIIMS, New Delhi; PGIMER, Chandigarh; JIPMER, Puducherry; IITs, etc. Statutory body corporates were public enterprises which came into existence by a special Act of the Parliament. The Act defined its powers and functions, rules and regulations governing its employees and its relationship with the Government. Intention of the Government was not to make the NIMHANS a corporate body. Committee’s attention was drawn to clause 25 whereunder the Institute was mandated to carry out the directions issued by the Central Government from time to time for the efficient administration of the Act. Further, clause 26 laid down that if any dispute or difference arose between the Institute and the Central

Government with regard to the exercise of powers and discharge of functions by the Institute, the decision of the Central Government thereon shall be final.

**17. The Committee is not convinced by the clarification given by the Department about the incorporation of the Institute as a body corporate. The argument that it was based on similar provisions included in the Acts governing AIIMS and PGI fails to allay the apprehensions of the Committee. Doubt remains about the exact status of the Institute- a non-profit Institute or not-for-profit Institute or a profit-making Institute as per the connotation of the term 'body corporate'. The Committee takes note of the assurance given by the Secretary of the Department for getting a legal clarification in the matter. The Committee would appreciate if all the apparent ambiguity arising due to the use of the term 'body corporate' is removed at the earliest. It would not be out of context to draw the attention of the Government to the Memorandum of Association governing NIMHANS at present which clarifies specifically that the Institute had been established for public benefit and accordingly its objects had been incorporated and restricted to meet such objectives and purposes as were regarded in law to be of public charitable nature. The Committee is of the firm opinion that conferring a status of national Institute should be a further step towards this noble objective only. Any deviation therefrom was not acceptable to the Committee.**

**Clause 5: Composition of Institute**

18. As per this clause, the Institute shall consist of the following members, namely:-
- (a) the Minister of Health and Family Welfare, President;
  - (b) Secretary to the Government of India in the Ministry or Department of Health and Family Welfare, ex officio;
  - (c) the Director of the Institute, ex officio;
  - (d) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) Ministry of Finance, Department of Expenditure, ex officio;
  - (e) Secretary to the Government of India or his nominee (not below the rank of Joint Secretary) in the Department of Higher Education, Ministry of Human Resource Development, ex officio;

- (f) the Director-General of Health Services, Government of India, ex officio;
- (g) the Vice-Chancellor of Rajiv Gandhi University of Health Sciences, Karnataka, ex officio;
- (h) the Chief Secretary or his nominee of the Government of Karnataka, ex officio;
- (i) seven persons of whom one shall be a non-medical scientist representing the Indian Science Congress Association to be nominated by the Central Government in such manner as may be prescribed;
- (j) four representatives of medical faculties of Indian Universities to be nominated by the Central Government in such manner as may be prescribed;
- (k) three Members of Parliament of whom two shall be elected from among themselves by the members of the House of the People and one from among themselves by the members of the Council of States.

19. This clause seeks to provide for the composition of the Institute with the Minister in charge of Health & Family Welfare as its President and twenty-one other members consisting of seven ex officio members, medical specialists, etc., and three Members of Parliament (two from Lok Sabha and one from Rajya Sabha) as its members. It also provides that the office of a member of the Institute shall not disqualify its holder for being chosen as, or for being, a member of either House of Parliament.

**20. A comparative analysis of proposed composition of NIMHANS with other Institutes like AIIMS and PGI reveals a distinctive feature. Whereas relevant provisions of the Acts governing these two Institutes simply give the details of different categories of Members, proposed provision for NIMHANS specifies that the Minister of Health and Family Welfare would be the president of the Institute. Not only this, another provision (Clause 7) relating to 'Powers and functions of President' again mentions that the Minister of Health and Family Welfare, Government of India, New Delhi shall be the President of the Institute.**

**21. The Committee is constrained to observe that this is a case of bad drafting. What is more disturbing is that both the AIIMS and PGI Acts have a specific provision which clearly lays down that the President of the Institute shall be nominated by the Central**

**Government from among the members other than the Director of the Institute. The Committee fails to understand the reasons for such a departure on the part of the Government. On drawing the attention of the Department towards the JIPMER Act, 2008 whereunder the Jawaharlal Institute of Medical Education and Research, Puducherry was conferred the status of National Institute having a provision similar to AIIMS and PGI Act, clarification given by the Department was far from satisfactory. The Committee was informed as follow: -**

**“The JIPMER Bill was passed with an amendment by which Minister of Health and Family Welfare was not retained as Ex-officio President. Accordingly, the original clause relating to appointment of the President was modified to the effect that there shall be a President which will be nominated by the Central Government from amongst the members of JIPMER. However, the Minister of Health and Family Welfare is the President of the Institute body in AIIMS and PGI Act.”**

**22. The Committee views with serious concern the justification given by the Department on such a crucial issue. The very fact that the JIPMER Bill had to be passed in Parliament with an amendment so far as President of the Institute is concerned should have made things very clear to the Department. The Committee would have appreciated if the Department had taken note of its strong recommendations in this matter in its Report on the JIPMER Bill, 2008. The Committee can only reiterate that its stand remains unchanged. Head of the Institute body pertaining to very specialized areas has to be an eminent person having full command on such matters.**

23. On this provision, the Committee sought the opinion of a number of experts who were not in favour of appointing a political head as President of the Institute Body as well as its Governing Body. Similarly, the Sreechitra Tirunal Institute for Medical Sciences and Technology, Thiruvananthapuram always has a renowned scientist/medical professional as its President approved by the Central Government. It was pointed out that it would be advisable

to have an eminent medical professional/renowned scientist as the President of the Institute and Chairperson of its Governing Body who will be able to provide expert advice and supervision on the functioning of the Institute far better than a political head over-burdened with multiple activities.

**24. The Committee strongly feels that the appointment of a political head as President of the Institute Body of national importance cannot be considered advisable in any respect. It is a well known fact that the Ministers are entrusted with manifold responsibilities and functions. It becomes very unpractical to expect full attention at all times from Ministers, that too in the functioning of premier Institutes like NIMHANS and other similar bodies. Therefore, the Committee is not in favour of proposed provision in clause 5(1)(a) as well as clause 7(1). The Committee, accordingly, recommends that the above sub-clause relating to appointment of Health Minister as President of the Body of the Institute may be deleted from Clause 5 and clause 7(1) may be modified on the pattern of relevant provisions in AIIMS and PGI Acts as indicated below:-**

**Clause 7(1)**

**“There shall be a President of the Institute who shall be nominated by the Central Government from among the members other than the Director of the Institute”.**

25. Clause 5(1)(h) provides that the Chief Secretary or his nominee of the Government of Karnataka will be a member (ex-officio) of the Institute Body.

26. Some of the experts suggested that the above clause should be replaced by the following provision:-

“The Chief Secretary or his nominee (**not below the rank of Secretary**) of the Government of Karnataka should be an ex-officio”.

**27. The reason given for the above modification was that it would be in conformity with the sub-clause (d) & (e) to clause 5(1). The Committee is in agreement with the**

**above suggestion and, therefore, recommends that the above sub clause may be modified accordingly.**

28. Clause 5(1)(i) lays down that seven persons of whom one shall be a non-medical scientist representing the Indian Science Congress Association shall be nominated by the Central Government in such manner as may be prescribed by rules made under the Act.

29. **It was pointed out to the Committee that since this Institute is a unique one - specializing in medical/physical, behavioral sciences, it would therefore, be in the interest of the Institute to have eminent scientists from these disciplines and from different universities. The Committee would like to emphasize that over the years the Institute has emerged as a premier tertiary care medical and academic institution dedicated to the care of neurological, neurosurgical and psychiatric disorders and manpower development in super specialty branches. Having the status of Deemed University, it has gained international recognition in patient-care and education. It would, therefore, be in the fitness of things to have very eminent persons/ experts in the very specialized medical sciences. The Committee, accordingly, recommends that clause 5 (1) (i) may be modified as follows:**

**“Seven persons of repute of whom one shall be a non-medical scientist representing the Indian Science Congress Association and one each from biological, behavioural and physical sciences from any universities to be nominated by the Central Government in such manner as may be prescribed.”**

30. As per clause 5(1)(j), four representatives of medical faculties of Indian Universities are to be nominated by the Central Government in such manner as may be prescribed by rules.

31. One of the suggestions placed before the Committee was that it would be better to have one more faculty in addition to the Director of the Institute as Member of the Institute Body as it would facilitate better decision making.

**32. The Committee finds some merit in the above suggestion and recommends the Ministry to modify the sub-clause as indicated below:**

**“Four representatives of medical faculties of Indian Universities of whom one shall be from NIMHANS to be nominated by the Central Government in such manner as may be prescribed”.**

**Clause 12 - Objectives**

33. Clause 12 provides for the following objectives of the Institute:

- a) to develop patterns of teaching in undergraduate and postgraduate medical education in all its branches with a focus on mental health, neuro-sciences and allied specialties so as to demonstrate a high standard of medical education;
- b) to bring together, as far as may be, in one place educational facilities of the highest order for the training of personnel in all important branches of health activity;
- c) to attain self-sufficiency in postgraduate medical education to meet the country's needs for specialists and medical teachers, particularly in the field of mental health, neuro-sciences and allied specialties.”

34. The Committee's attention was drawn to the fact that the proposed objectives did not cover all the aspects as envisaged by the founders of the Institute of Mental Health. A perusal of the Aims and Objects as given in the Memorandum of Association of NIMHANS confirms this fact. The Committee takes note of following additions/ modifications suggested in the objectives of the Institute by one of the Directors associated with NIMHANS since 1956:

**Modification suggested:**

- (a) To evolve innovative strategies to offer diagnostic and comprehensive therapeutic service facilities to reach all corners of India in the field of Mental Health and Neurosciences, utilizing the advances in information technology and to be nodal centre.

- (b) To attain self sufficiency in manpower development to meet the country's needs for specialists, teachers, service providers at various levels, including technicians and others through undergraduate and postgraduate education and training programmes in the field of mental health and neurosciences and all allied sciences.
- (c) To develop and establish new and cohesive patterns of teaching and training and to impart knowledge in the field of mental health and neurosciences to all parts of India and to all the developing countries through institutional and distance learning.
- (d) To make an in-depth study and research to understand and integrate physical, physiological, psycho-social, behavioral and metaphysical aspects of functioning of the brain and mind.
- (e) To be the nodal center for the country in Research and Development in the field of genetically transmitted neuropsychiatric disorders and vaccinology of tropical infectious diseases.
- (f) To be at par with World leadership in the field of neurosciences and behavioral sciences.

35. The Committee is of the opinion that besides the above proposed objectives, the aims and objects as included in the Memorandum of Association of NIMHANS need to be reviewed and in view of its present status as well as further anticipated growth, appropriate objectives may be redrawn and included in the Bill.

### **Clause 13: Functions of Institute**

36. As laid down in clause 13 (f) (i), the Institute shall establish and maintain one or more medical institutions with different departments staffed and equipped to undertake education in different subjects.

37. It has been pointed out that service delivery and research were not included in the above sub-clause. Accordingly it was suggested that the Institute may be entrusted with the power to establish and maintain one or more medical institutions with different departments, staffed and equipped to undertake education, **research and medicare** in different **specialties**.

38. **The Committee appreciates the above suggestion and desires the Ministry to modify the sub-clause accordingly.**

39. The Committee's attention was drawn by two specific powers and functions of JIPMER, Puducherry. One of them relates to reservation of at least 20 seats out of every 75 seats in undergraduate courses in the Institute for local applicants. The other was provision of free treatment to the poor patients in the same manner as being provided by medical institutes of the Central Government. On a specific query with regard to existing provisions in NIMHANS, the Committee was informed that since its inception in 1994, NIMHANS has been offering all post graduate seats on an all India basis without any regional reservation except in the case of Diploma in Psychological Medicine (DPM) wherein six seats are reserved for local applicants (domiciles of the state of Karnataka). It was clarified that this shall continue in future also. Secondly, NIMHANS since its inception has been providing free treatment to poor patients and the same shall continue in future also.

40. Keeping in view the above clarification, the Committee strongly feels that in order to remove any ambiguity in future, the above existing provisions should also find place in the proposed legislation. The Committee, therefore, recommends that necessary additions may be made in the relevant provisions.

**Clause 28: Transfer of service of existing employees**

41. Clause 28 is reproduced below:-

“Subject to the provisions of this Act, every person who is employed in the National Institute of Mental Health and Neuro-Sciences, Bangalore, immediately before the commencement of this Act, shall, on and from such commencement, become an employee of the Institute and shall hold this office or service therein by the same tenure, at the same remuneration and upon the same terms and conditions and with the same rights and privileges as to pension, leave, gratuity, provident fund and other matters as he would have held the same on the date of commencement of this Act if this Act had not been passed, and shall continue to do so unless and until his employment is terminated or until such tenure, remuneration and terms and conditions are duly altered by regulations. Provided that the tenure, remuneration and terms and conditions of service of any such person shall not be altered to his disadvantage without the previous approval of the Central Government.”

42. Almost all members of the Committee were very much concerned about the service conditions of the existing employees of the Institute. They were of the view that under no circumstances service conditions of the employees of the existing institute should be adversely affected. In this regard the representative of the Ministry informed the Committee that all the faculty members, medical and para-medical staff and other entities with the Institute had been consulted on the proposed legislation by the NIMHANS Management. All cadres of NIMHANS unanimously approved the proposal without any reservation.

43. Keeping in view the sentiments of Members, comments of all the Faculty and Employees' Association associated with the Institute were sought for. A perusal of the views and comments received from all four Faculty and Employees' Associations, namely, (i) The NIMHANS Faculty Association (Regd.); (ii) NIMHANS Employees Association (Regd.); (iii) NIMHANS SC/ST Employees Welfare Association (Regd.); and (iv) NIMHANS Group "D" SC/ST Employees Association (Regd.) reveals that they have expressed their solidarity with the NIMHANS Administration to take the Institute forward as an Institute of National importance.

**44. The Committee hopes that the Ministry/Institute would keep its promise given to the Committee that none of the existing employees would be adversely affected as a result of the proposed legislation. The rules governing service conditions of the employees should be framed within three months from the date of enactment and laid on the Table of both the Houses for their scrutiny. All such rules should be framed in such a way so that service conditions of the existing employees remain unaltered so far as it is possible and under no circumstances the existing employees should be placed under any disadvantageous position under the new rules.**

**45. The Committee further recommends that none of the employees should face any sort of retrenchment or other similar measures on the pretext of lacking proper training, expertise and professional and technical skills. They should be provided with all opportunities of imparting proper training, expertise, technical and professional skills required for development of the Institute. The Committee hopes that any funds constraints would not come in the way of developing and growing the Institute into a model centre of excellence and fulfilling the goals as enumerated in the statement of Objects and Reasons appended to the Bill. The Committee, therefore, recommends the Ministry to allocate adequate funds to the Institute to enable it to grow into a model centre of excellence and to acquire additional manpower and other infrastructure to fulfill its objectives.**

**46. The Committee hopes that with the new autonomous status as proposed in the Bill, the Institute will grow and develop into centre of excellence in the field of Mental Health and Neuro-Science and a premier Institute of National importance.**

**47. The Committee adopts the remaining Clauses of the Bill, including enacting formula and the title without any amendment.**

## **RECOMMENDATIONS/ OBSERVATIONS AT A GLANCE**

### **Clause 4: Incorporation of Institute**

**The Committee is not convinced by the clarification given by the Department about the incorporation of the Institute as a body corporate. The argument that it was based on similar provisions included in the Acts governing AIIMS and PGI fails to allay the apprehensions of the Committee. Doubt remains about the exact status of the Institute- a non-profit Institute or not-for-profit Institute or a profit-making Institute as per the connotation of the term ‘body corporate’. The Committee takes note of the assurance given by the Secretary of the Department for getting a legal clarification in the matter. The Committee would appreciate if all the apparent ambiguity arising due to the use of the term ‘body corporate’ is removed at the earliest. It would not be out of context to draw the attention of the Government to the Memorandum of Association governing NIMHANS at present which clarifies specifically that the Institute had been established for public benefit and accordingly its objects had been incorporated and restricted to meet such objectives and purposes as were regarded in law to be of public charitable nature. The Committee is of the firm opinion that conferring a status of national Institute should be a further step towards this noble objective only. Any deviation therefrom was not acceptable to the Committee.**

**(Para 17)**

**A comparative analysis of proposed composition of NIMHANS with other Institutes like AIIMS and PGI reveals a distinctive feature. Whereas relevant provisions of the Acts governing these two Institutes simply give the details of different categories of Members, proposed provision for NIMHANS specifies that the Minister of Health and Family Welfare would be the president of the Institute. Not only this, another provision (Clause 7) relating to ‘Powers and functions of President’ again mentions that the**

**Minister of Health and Family Welfare, Government of India, New Delhi shall be the President of the Institute. (Para 20)**

**The Committee is constrained to observe that this is a case of bad drafting. What is more disturbing is that both the AIIMS and PGI Acts have a specific provision which clearly lays down that the President of the Institute shall be nominated by the Central Government from among the members other than the Director of the Institute. The Committee fails to understand the reasons for such a departure on the part of the Government. On drawing the attention of the Department towards the JIPMER Act, 2008 whereunder the Jawaharlal Institute of Medical Education and Research, Puducherry was conferred the status of National Institute having a provision similar to AIIMS and PGI Act, clarification given by the Department was far from satisfactory. The Committee was informed as follow: -**

**“The JIPMER Bill was passed with an amendment by which Minister of Health and Family Welfare was not retained as Ex-officio President. Accordingly, the original clause relating to appointment of the President was modified to the effect that there shall be a President which will be nominated by the Central Government from amongst the members of JIPMER. However, the Minister of Health and Family Welfare is the President of the Institute body in AIIMS and PGI Act.”**

**(Para 21)**

**The Committee views with serious concern the justification given by the Department on such a crucial issue. The very fact that the JIPMER Bill had to be passed in Parliament with an amendment so far as President of the Institute is concerned should have made things very clear to the Department. The Committee would have appreciated if the Department had taken note of its strong recommendations in this matter in its Report on the JIPMER Bill, 2008. The Committee can only reiterate that its stand remains unchanged. Head of the Institute body pertaining to very specialized areas has to**

be an eminent person having full command on such matters.

(Para 22)

The Committee strongly feels that the appointment of a political head as President of the Institute Body of national importance cannot be considered advisable in any respect. It is a well known fact that the Ministers are entrusted with manifold responsibilities and functions. It becomes very unpractical to expect full attention at all times from Ministers that too in the functioning of premier Institutes like NIMHANS and other similar bodies. Therefore, the Committee is not in favour of proposed provision in clause 5(1)(a) as well as clause 7(1). The Committee, accordingly, recommends that the above sub-clause relating to appointment of Health Minister as President of the Body of the Institute may be deleted from Clause 5 and clause 7(1) may be modified on the pattern of relevant provisions in AIIMS and PGI Acts as indicated below:-

Clause 7(1)

“There shall be a President of the Institute who shall be nominated by the Central Government from among the members other than the Director of the Institute”.

(Para 24)

The reason given for the above modification was that it would be in conformity with the sub-clause (d) & (e) to clause 5(1). The Committee is in agreement with the above suggestion and, therefore, recommends that the above sub clause may be modified accordingly.

(Para 27)

It was pointed out to the Committee that since this Institute is a unique one - specializing in medical/physical, behavioral sciences, it would therefore, be in the interest of the Institute to have eminent scientists from these disciplines and from different universities. The Committee would like to emphasize that over the years the Institute has emerged as a premier tertiary care medical and academic institution dedicated to the

care of neurological, neurosurgical and psychiatric disorders and manpower development in super specialty branches. Having the status of Deemed University, it has gained international recognition in patient-care and education. It would, therefore, be in the fitness of things to have very eminent persons/ experts in the very specialized medical sciences. The Committee, accordingly, recommends that clause 5 (1) (i) may be modified as follows:

**“Seven persons of whom one shall be a non-medical scientist representing the Indian Science Congress Association and one each from biological, behavioural and physical sciences of repute from any universities to be nominated by the Central Government in such manner as may be prescribed.”**

**(Para 29)**

The Committee finds some merit in the above suggestion and recommends the Ministry to modify the sub-clause as indicated below:

**“Four representatives of medical faculties of Indian Universities of whom one shall be from NIMHANS to be nominated by the Central Government in such manner as may be prescribed”.**

**(Para 32)**

#### **Clause 13: Functions of Institute**

The Committee appreciates the above suggestion and desires the Ministry to modify the sub-clause accordingly. **(Para 38)**

The Committee hopes that the Ministry/Institute would keep its promise given to the Committee that none of the existing employees would be adversely affected as a result of the proposed legislation. The rules governing service conditions of the employees should be framed within three months from the date of enactment and laid on the Table of both the Houses for their scrutiny. All such rules should be framed in such a way so that service conditions of the existing employees remain unaltered so far as it is possible and under no circumstances the existing employees should be placed under any disadvantageous position under the new rules.

**(Para 44)**

**The Committee further recommends that none of the employees should face any sort of retrenchment or other similar measures on the pretext of lacking proper training, expertise and professional and technical skills. They should be provided with all opportunities of imparting proper training, expertise, technical and professional skills required for development of the Institute. The Committee hopes that any funds constraints would not come in the way of developing and growing the Institute into a model centre of excellence and fulfilling the goals as enumerated in the statement of Objects and Reasons appended to the Bill. The Committee, therefore, recommends the Ministry to allocate adequate funds to the Institute to enable it to grow into a model centre of excellence and to acquire additional manpower and other infrastructure to fulfill its objectives. (Para 45)**

**The Committee hopes that with the new autonomous status as proposed in the Bill, the Institute will grow and develop into centre of excellence in the field of Mental Health and Neuro-Science and a premier Institute of National importance.**

**(Para 46)**

**The Committee adopts the remaining Clauses of the Bill, including enacting formula and the title without any amendment. (Para 47)**

# MINUTES

## VI

### SIXTH MEETING

The Committee met at 2.30 *p.m.* on Wednesday, the 5<sup>th</sup> January, 2011 in Committee Room 'A', Ground Floor, Parliament House Annexe, New Delhi.

#### MEMBERS PRESENT

## RAJYA SABHA

1. Shri Brajesh Pathak - **Chairman**
2. Shri Janardan Dwivedi
3. Shrimati Viplove Thakur
4. Dr. Vijaylaxmi Sadho
5. Shri Balbir Punj
6. Shrimati Brinda Karat
7. Shri Rasheed Masood
8. Shrimati B. Jayashree

## LOK SABHA

9. Shri Ashok Argal
10. Shrimati Sarika Devendra Baghel Singh
11. Shri S.R. Jeyadurai
12. Dr. (Shrimati) Kruparani Killi
13. Shri N. Kristappa
14. Dr. Tarun Mandal
15. Dr. Jyoti Mirdha
16. Shrimati Jayshreeben Patel
17. Shri R.K.Singh Patel
18. Shri M.K. Raghavan
19. Dr. Anup Kumar Saha
20. Shrimati Meena Singh

### WITNESSES

#### I. Representatives from Department of Health and Family Welfare

1. Shri K Chandramouli Secretary
2. Dr. R.K. Srivastava Director General, Health Services (DGHS)
3. Shri Keshav Desiraju Addl. Secretary
4. Shri L. C. Goyal Addl. Secretary
5. Shri Surinder Singh Drug Controller General of India
6. Ms Shalini Prasad Joint Secretary

#### II. *Representative from National Institute of Mental Health and Neuro-Sciences, Bangalore.*

- Dr. P. Satish Chandra Director (NIMHANS)

### SECRETARIAT

- Shrimati Vandana Garg Additional Secretary  
Shri R. B. Gupta Director  
Shrimati Arpana Mendiratta Joint Director  
Shri Dinesh Singh Assistant Director  
Shri Satis Mesra Committee Officer

2. Due to delay in arrival of the Chairman of the Committee owing to delayed flight, Shrimati Brinda Karat, Member of the Committee, presided over the meeting of the Committee

in the first half. At the outset, she welcomed Members of the Committee and apprised them of the agenda of the meeting.

3. Thereafter, the Committee heard the Secretary and other officers of the Department of Health and Family Welfare along with the Director, NIMHANS on various provisions of the proposed National Institute of Mental Health and Neuro-Sciences, Bangalore, Bill, 2010. The Secretary briefly dwelt on the grounds warranting conferment of autonomy upon the Institute, inter-alia stating that the Bill would give flexibility in the matters of curricula, administration, recruitment etc. to the Institute, besides ensuring allocation of more funds. The Director, NIMHANS then made a power-point presentation, inter-alia briefing the Committee about the functioning of the Institute as well as the circumstances warranting declaration of the Institute as an Institute of national importance on the pattern of AIIMS, PGI, Chandigarh & JIPMER, Puducherry through the introduction of the proposed Bill.

4. Members raised several queries like the constraints being faced by the Institute in its development and evolution as a pioneer Institute as per its potential; the use of the words “body corporate” in the Bill; collaborative research programmes; continuance of existing facilities to the employees after its becoming an Institution of national importance; consultations with the State Government of Karnataka and other stakeholders, and the funding pattern, etc. Most of the queries raised during the meeting were replied to by the Secretary and other officers of the Department. As regards the appropriateness of the use of the words “body corporate” in the Bill, the Secretary assured the Committee to have a legal opinion and apprise it in this regard.

5. Thereafter the witnesses withdrew.

6. The Chairman joined the meeting and presided over the proceedings of the Committee in the second half of the meeting.

7. \* \* \*

8. \* \* \*

9. A verbatim record of the proceedings of the meeting was kept.

**10. The Committee then adjourned at 5.50 p.m.**

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\*\*\*pertains to other matters

**X**  
**TENTH MEETING**

The Committee met at 3.30 *p.m.* on Tuesday, the 1<sup>st</sup> March, 2011 in Room No. 63, First Floor, Parliament House, New Delhi.

**MEMBERS PRESENT**

**RAJYA SABHA**

1. Shri Brajesh Pathak - **Chairman**
2. Shri Janardan Dwivedi
3. Shrimati Viplove Thakur
4. Dr. Vijaylaxmi Sadho
5. Shrimati Brinda Karat
6. Shrimati B. Jayashree

**LOK SABHA**

7. Shrimati Sarika Devendra Baghel Singh
8. Dr. Sanjay Jaiswal
9. Dr. Tarun Mandal
10. Shri Datta Meghe
11. Dr. Jyoti Mirdha
12. Shrimati Jayshreeben Patel
13. Shri R.K.Singh Patel
14. Shrimati Meena Singh
15. Shri Pradeep Kumar Singh
16. Shri Ratan Singh

**SECRETARIAT**

Shrimati Vandana Garg	Additional Secretary
Shri R. B. Gupta	Director
Shrimati Arpana Mendiratta	Joint Director
Shri Dinesh Singh	Assistant Director

2. At the outset, the Chairman welcomed the Members of the Committee and apprised them of the agenda of the meeting. Thereafter, the Committee took up for consideration its draft 53<sup>rd</sup> Report on the National Institute of Mental Health and Neuro-Sciences, Bangalore Bill, 2010 and after a brief discussion adopted the same.

3. \* \* \*
4. \* \* \*
5. \* \* \*
6. \* \* \*
7. \* \* \*
8. \* \* \*

9. **The Committee then adjourned at 4.10 *p.m.***

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\*\*\*pertains to other matters

