



RESEARCH ARTICLE

Violence Against Healthcare Workers: Need for a Comprehensive Legislation

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Abstract

The COVID-19 pandemic exposed the persistent vulnerability of healthcare workers to violence, harassment, and institutional neglect in India. Despite temporary protections introduced through the Epidemic Diseases (Amendment) Ordinance, 2020 and the invocation of the National Security Act, 1980, the legal response remains fragmented and inadequate for long-term safeguarding of healthcare professionals. Judicial interventions, notably in *Jerryl Banait v. Union of India*, highlighted the constitutional obligation of the State to ensure security and dignity for medical personnel during public health crises. However, reliance on general penal provisions under the Indian Penal Code, 1860 fails to recognize violence against healthcare workers as a distinct category of offence requiring specialized treatment, graded punishments, and structured compensation mechanisms.

The proposed "Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Bill, 2019" sought to fill this legislative vacuum but was not enacted, leaving systemic deficiencies unaddressed. This paper critically evaluates the existing statutory framework, judicial responses, and enforcement gaps, emphasizing the need for a comprehensive central legislation applicable beyond epidemic situations. It argues for clearly defined offences, proportionate penalties, mandatory FIR registration, institutional accountability, and a dynamic compensation model to restore confidence among healthcare providers. Additionally, the constitutional challenge posed by public health being a State subject is examined, suggesting recourse to national interest provisions for uniform protection. A robust and enforceable legal framework is essential to ensure deterrence, accountability, and respect for the invaluable services rendered by healthcare professionals.

Keywords: Healthcare workers; Violence against medical professionals; Epidemic Diseases Ordinance 2020; Indian Penal Code 1860; National Security Act 1980; Public Health Law; Compensation framework; Legislative reform; Judicial intervention; Enforcement mechanisms.

Introduction

The recent pandemic (COVID-19) has highlighted the ever-present issues of misbehaviour and violence against the healthcare workers and disproportionate safety equipment for them. Violence against healthcare workers has been reported across multiple regions of the nation. In response to these attacks, the Central government had passed an ordinance on 22nd April in order to protect the healthcare

workers. At the same time, various states have also taken several measures, including various enactments and issuing notifications to protect the health care workers. The State Governments are invoking *National Securities Act, 1980* against the individuals causing hurt or grievous hurt to health care workers. Before the ordinance, the attackers were to face prosecution under the India Penal Code 1860

This variety in the use of legal provisions has pointed out the legal shortcomings which has resulted in inadequate protection of healthcare workers. To offset this, Ministry of Health & Family Welfare, prepared a draft bill titled as "*The Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Bill, 2019*" Subsequently known as the "draft bill". Had the same been passed by the legislature, a mechanism would have already been in place to deal with such attacks. This article aims to analyse the available legislative material and provide certain suggestions with regards to a proper legal framework to address the protection of workers related to health care in the long run.

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Judicial Approach

Amid the pandemic (COVID-19), Hon'ble Supreme Court and various other High Courts have heard various petitions seeking proper redressal of such attacks. The Hon'ble Supreme Court of India in the case of *Jerryl Banait v. Union of India*,¹ took cognizance of incidents including the ones where medical staff that had gone to screen persons suspected of coronavirus were attacked and stones were pelted on them by miscreants. Similarly, incidents of misbehaviour with medical staff by the patients and forceful eviction of doctors from their homes by landlords due to fear of transmission came to notice of the Court.

The Court held that *"In wake of calamity of such nature all citizens of the country have to act in a responsible manner to extend helping hand to the Government and medical staff to perform their duties to contain and combat the COVID-19. The incidents as noted above are bound to instil a sense of insecurity in Doctors and medical staff from whom it is expected by the society that they looking to the call of their duties will protect citizenry from disease of COVID-19"* and after doing so, it emphasized that It falls upon the State and police authorities to furnish adequate protection for medical personnel conducting community screenings to detect disease symptoms. The Court further mandated action against individuals who hinder or offend healthcare workers fulfilling their COVID-related duties. In the case of *Sanpreet Singh v. Union of India*², the Uttarakhand High Court instructed the State Government to provide essential nutrition and care for medical staff unable to return home. Additionally, District Magistrates were tasked with addressing grievances from healthcare workers within their jurisdictions.

Additionally, in another case of *Registrar v. State of Maharashtra*³, the High Court of Bombay observed that obstruction to health care workers can result in the imposition of National Security Act, 1980. The High Court of Madras, in the case of *S Jimraj Milton v. Union of India*,⁴ recommended that the State Government shall enhance the salary of the health care workers. Further, in the case of *Azra Usmail v. UT of Jammu and Kashmir*,⁵ The court directed authorities to address complaints from families of healthcare workers unable to manage households due to duty commitments. The same judgment noted that violence against medical staff is a longstanding issue requiring robust legislative intervention. These rulings highlight the clear absence of effective laws tackling such assaults.

Existing Remedies

In the wake of pandemic (COVID-19), the Centre has passed an ordinance², thereby defining the Assaults against health professionals and facilities. The ordinance also makes the acts of violence to be a non-bailable cognizable offence. The imprisonment under the ordinance ranges between three months to seven years. The ordinance also raises a reverse

presumption against the individuals prosecuted under the same. Other than this, the provisions of the Penal Code, 1860 would come to the rescue of affected health care workers. Under the IPC, Section 323; for Voluntarily Causing Hurt, Section 325; for voluntarily causing grievous hurt, Section 352; for Assault or criminal force and section 506; for criminal intimidation among others are the provisions for prosecution of the offenders. The Draft Bill was rejected by the Home Ministry, on the ground of similar provisions coming under the IPC. The draft Bill had increased punishment ranging between six months and ten years along with provisions for compensation. Despite this, the available remedies and the current draft bill do not comprehensively tackle health workers' issues in the long term.

Insufficient Legislative Framework

The Epidemic Diseases (Amendment) Ordinance, 2020 states that an act of violence includes harassment, harm, injury, hurt, intimidation or danger to the life, obstructing or hindering discharge of duties, or causing loss or damage to any property or documents. Thereby, causing or abetting acts of violence against the healthcare professional, a penal offence. However, there are issues with the present ordinance which make it insufficient to be adopted as long-term legislation. Primarily, the ordinance concerns itself with epidemics only, making it infructuous for general circumstances. Further, as the ordinance came into force keeping COVID-19 in focus, the act of violence lacks an important form of harm. COVID-19 is a highly contagious disease and there have been alleged instances where some suspected patients have been spitting openly, thereby being negligent towards the communicability of the disease. Looking at the severity of the situation, the Ordinance should also include a provision which makes the person liable for transmitting the virus, whether negligently or purportedly, and thereby invoking the principle of strict liability. The Ordinance raises a presumption of *actus rea* and *mens rea* towards the accused. Even though this reverse onus is fruitful to deal with this pandemic, the same cannot be true in the long run. Generally, these acts of violence are a form of disappointment and sadness caused by the loss of a loved one or some similar situation. This certainly is not true for all the acts of violence, nevertheless a reverse presumption would be unnecessary harassment to the accused and violate principle of fair and impartial trial.

Moving forward to the draft Bill, violence is stated to be causing harm, injury, hurt, grievous hurt, intimidating or endangering the life of the healthcare professional in the discharge of duty. It also includes individuals hindering or obstructing the discharge of duty by the health care workers or causing harm to the clinical establishment. The trouble herein is with the ambiguity attached to the prohibited act of violence. There shall be a description of penalties for different acts, for example: acts of causing hurt by means

of weapons, acts of causing grievous hurt by means of dangerous weapons and acts endangering the life of the healthcare worker, or even causing death. Each shall have a different scale of punishment prescribed. It had been the apparent ground of rejection for the draft bill that these provisions are available under the IPC. However, attacks against medical workers form a different class of offence which need to be addressed specifically in a separate legislation. IPC fails to make this kind of distinction. Besides this, IPC also lacks the principle of compensation making it insufficient to deal with the issue of violence against the healthcare workers in the long run. Therefore, the vacuum of legislation for the safety of healthcare workers cannot be fulfilled by the IPC. The present ordinance and draft Bill with several modifications and a reformulation can take the shape of a legislation that will be applicable even after the epidemic.

The success of legislation cannot be ensured unless proper enforcement of the same is done. The evidence of poor enforcement is rarely found but one such evidence can be found in a report of Vidhi Centre for Legal Policy¹ which states that in the state of Haryana, no punishment has been ordered between the years 2010-2015. And more often than not, the grievances were not converted into First Information Reports. This raises a serious question over the enforcement of legislation.

A solution to ensure that proper enforcement is done and the grievance of the healthcare workers is not left unheard, it should be mandatory for the head of an institution to lodge a complaint when a written grievance is received from a healthcare provider. Further, it should be made mandatory that details of the complaint are to be shared with the National President of the Indian Medical Association and the General Secretary of the Indian Medical Association. These organisations shall also be directed to keep a record and vigilance over the FIRs so registered.

Compensation

Compensation is an essential factor through which the confidence of the health care workers can be regained. However, the amount of compensation is a topic of wide disagreement. It is advisable that the amount be kept

dynamic and no minimum or maximum limit is enforced. The final compensation should be calculated by granting the money spent on the recovery of the health care worker along with the amount which one such worker might have earned but failed to do so because of the harm caused (This factor shall be calculated based upon the average receipt over last one year.) Further, for the loss of properties, the compensation shall be provided based upon the market value of the property including the depreciation over the year and the loss caused for the period till the property is properly functional again (This factor keeps in mind the loss of property in private clinics and hospitals). Such a hefty amount of compensation will be a proper deterrence against the miscreants.

Concluding Remarks

In summation, while comprehensive laws are urgently needed to shield healthcare workers from unwarranted attacks, constitutional obstacles remain. Public health governance sits under Entry 6 of the State List, posing challenges to central legislation. Still, Parliament can invoke Article 249 to enact it in the national interest.

State-specific laws have failed to curb violence incidents. A unified framework would deliver deterrence, compensation, enforcement, and renewed trust in legal safeguards. Such protection would honor the vital role and dignity of these essential service providers.

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References

- Azra Usmaail v. UT of Jammu and Kashmir. (2020). *High Court of Jammu and Kashmir*.
- The Epidemic Diseases (Amendment) Ordinance. (2020). Government of India.
- Jerryl Banait v. Union of India. (2020). *Supreme Court of India*.
- Registrar v. State of Maharashtra. (2020). *Bombay High Court*.
- S. Jimraj Milton v. Union of India. (2020). *Madras High Court*.
- Sanpreet Singh v. Union of India. (2020). *Supreme Court of India*.
- Vidhi Centre for Legal Policy. (2020). *Violence against healthcare professionals in India: Recent legal and policy issues*. New Delhi: Vidhi Centre for Legal Policy.

1 *Jerryl Banait v. Union of India*, 2020 SCC OnLine SC 357