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Review Article

Central protection act: Urgency or emergency in India?

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ABSTRACT

Very recently, another history was made with one of the most gruesome crimes Indians and the world could ever imagine. A 31-year-old doctor was sexually assaulted and murdered in RG Kar Hospital in Kolkata, West Bengal. Why, being a healthcare professional, are we facing this frequent workplace violence? We don't have the right to feel safe and secure in our workplace. There have been multiple acts and provisions for the safeguarding of healthcare professionals. The matter of concern is whether these provisions implemented are working or are just feeble and defenceless. Is this growing violence against healthcare professionals just a State Government issue, or do we need an amendment to a centralized established act for uniformity and justice?

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1. Introduction

"Doctors have a big responsibility to bring out smiles in suffering humanity," said RN Narayan Murthy. But now, after growing instances of violence against doctors, it's high time to look after the sufferings of healthcare providers as well.

The word "violence" means an act which causes or may cause any harm, injury, or endanger of the life of or intimidation, obstruction, or hindrance to any doctor or medical professional in the discharge of his duties, or causes to be the reason for any damage or loss to the property or reputation (inordinately) of a doctor, medical professional or a medical institution.¹

According to a study made by the Indian Medical Association, more than 75 % of doctors have faced some form of violence while on duty. A recent survey by the Indian Medical Association showed that 82.7% of doctors feel stressed out in their profession, 62.8% fear violence,

and 46.3% say violence is the main cause of their stress.^{2,3}

Between the years 2016-18, almost 22 outrages and grievous injuries against doctors have been reported in India. A few of these cases were: a doctor was tied to a tree, robbed, and his wife and daughter gang-raped in the Gaya district of Bihar; two resident doctors of Banaras Hindu University were beaten up by patient's attendants and goons; two resident doctors of JJ Hospital, Mumbai were beaten up by patient's relatives; two medical residents working at the Sassoon Medical College were brutally thrashed. From 2014-16 there have been almost 14 strikes in hospitals per year against these brutal violence.³

On 10th May 2023, a junior doctor Vandana Das was killed in hospital premises while taking care of her own patient Mr. Sandeep who was brought to emergency for physical examination by the police in that hospital in Kottarakkara, Kerala. According to her autopsy, she was stabbed by surgical scissors around 10 times on her neck and back, leading to her death.⁴

Now the recent outrage in the State of West Bengal in RG Kar hospital where a heinous crime took place. A 31-

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year-old chest medicine PG female doctor was assaulted and killed while on duty in the seminar room of her campus (RG Kar Hospital). After this horrific rape and murder of a junior doctor, all over India residents and doctors came forward to demand justice, leading to a Pan-India doctor's strike. They want to highlight and express their outrage over the darkest crime this century could ever witness and for the urgent need to increase vigilance and support for medical professionals and implement the Central Protection Act.

Central Protection Act for Doctors, also known as the 'Prevention of Violence against Healthcare Professionals and Clinical Establishment Bill,' was introduced in the Lok Sabha in 2022.⁵ This bill demands to highlight violence against medical professionals, security staff, and support staff in hospitals. "Medical professionals" means all those who practice or profess services associated with the medical profession, including nurses, radiologists, technicians, medical social workers, pharmacists, medical administrators, para-medical staff, and practitioners, including those seeking or imparting medical education. This bill addresses the acts of violence, the establishment of penalties, and appropriate reporting procedures. Unfortunately, this bill was not passed as it was stated that the highlights of this bill are mostly covered under the Epidemic Disease Ordinance, 2020.⁵

But after this Kolkata incident and revolting protest, the government of India should amend this bill and implement it with proper enforcement with certain key elements, including rigid and uncompromising penalties, surveillance, and securities.

We cannot deny that there were minimal CCTV cameras and inadequate security measures in and around the crime site during this incident. Thus, according to the demands of medical professionals, the Central Protection Act must ensure hospital security. Establishment of trained security personnel employed at hospitals to manage crowds and grievous persons. Infrastructure development: separate resting room for male and female doctors, male and female nurses, and gender a neutral common room. Adopting technologies to regulate critical and sensitive areas through biometric and facial techniques. CCTV cameras should be installed all over the entrance and at the point of departure, including areas of OPDs, IPDs, patient corridors, balconies, waiting areas, and streets. Adequate lighting in all hospital zones and, if attached to the medical college, then all over the campus.

If hospitals or medical professionals' rooms are away from the hospital, transport between 10 PM and 6 AM to those who wish to travel from their place of stay to the hospital should be provided by the hospital authority.

Establishment of investigation panel be created by the clinical establishment to investigate the case of violence against the healthcare workers and to prevent medical negligence and mismanagement for victims.^{6,7}

2. Discussions

Workplace violence is very common, but why is there absolute urgency for this act? It's because many studies have shown healthcare professionals are more vulnerable to such violence than other professions all over the world. Now, it's not the Era where doctors are treated parallel to deities and given the same respect. Now, they are just ordinary service providers who provide services and are paid for them. There are many causes of this violence related to the workplace, which include - long waiting lines, anxious patients, and lack of communication gap. Patients are already anxious and disturbed due to their condition, and where communication plays a major role in calming them, but over time, this skill is slowly deteriorating. Many patients complain about the attitude of unfriendly and rude staff, lack of transparency in the treatment process, difficulty in understanding complex medical terms, and lack of empathy from staff who are ill-equipped to alleviate the fears and anxiety of patients.^{8,9}

The most important condition that causes doctors to become more vulnerable is doctors the doctor-to-patient ratio. India has achieved the WHO-recommended doctor-patient ratio of 1:1000 if we include allopathic and ayurvedic doctors. In this context, it becomes impossible to cater to and satisfy the needs of every patient who walks in through the door.⁸

The milestone of this act is as follows. Initially, the need for this act was required during the time of the COVID-19 pandemic, when multiple violence against health care was reported. An Epidemic Disease Act was passed in 1897 to prevent the spread of dangerous epidemic diseases. After the reported violence during the pandemic days, this act was the Epidemic Diseases (Amendment) Ordinance, 2020, which was proclaimed on April 22, 2020, to include protections for healthcare personnel combatting epidemic diseases and expand the powers of the central government to prevent the spread of such diseases.

The "Central Protection Act for Doctors", was introduced in the Lok Sabha in response to the need for a law to protect healthcare professionals from violence. The bill was introduced after a nationwide protest in 2019 and aims to define violence against doctors, establish punishments, and prohibit violence. However, it was said that new central legislation may be useless because similar state laws in 26 states and Union Territories have not effectively deter attacks.¹

Instead of 2020, 19 states have implemented their state wise law according to their own provisions. But other States and Union Territories had no laws at all, which led to a lack of uniformity and inconsistency, and the laws, though present, were not very effective.¹⁰

Maharashtra alone, between 2015 and 2020, there were 636 complaints and 1,318 arrests related to violence against healthcare workers, yet only four convictions were secured. This laws were absolute waste because of many criminal

lawyers to circumvent convictions due to its loopholes.¹⁰

In September 2020 a PIL (Public Interest Litigation) was made by healthcare workers to strengthen this condition. The Advocate General of Maharashtra made a statement in the High Court on 13-07-2021 which is reproduced below “We have further been informed in course of hearing today that the appropriate authority of the Government had discussions with the petitioner and a draft of the amendments required to be incorporated in the Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010 has been prepared; however, Mr. Kumbhakoni submits that he has himself perused the draft and found the same to be clumsy. He, therefore, submits that the Government ought to be given the liberty of considering whether to introduce a new legislation or to amend the existing law, and for such purpose, he has prayed for time”.¹⁰ And thus further no law was made.

A PIL (Public Interest Litigation) was requested in Kerala high court after Vandana Das incident on May 10, 2023, for healthcare protection. The resulting “Kerala Healthcare Service Persons and Healthcare Service Institutions (Prevention of Violence and Damage to Property) Amendment Act of 2023” is one of the well-built State laws in India for protecting health professionals. This act protects many healthcare workers, including doctors, nurses, paramedics, pharmacists, lab technicians, clerks, ministerial staff, and security guards. The Kerala Act also makes VAHCW a cognizable and non-bailable offense and should be under special sessions courts with a special prosecutor to try cases under this Act to ensure speedy justice delivery.¹⁰

Karnataka Law Commission in 2018, Karnataka passed “The Karnataka Medical Registration and Certain Other Law (Amendment) Bill of 2024,” which amended the 2009 Act and made it even more potent than the Kerala Act in protecting healthcare workers.¹⁰

Additionally, the Karnataka Act shifted the burden of proof onto the accused from the victim. By doing so, it takes the pressure off of the healthcare professional to prove that an incidence of violence has occurred.¹⁰ But the Criminal lawyers argue in court that there was ‘no intention to hurt.’ It was due to the loss of a family member and emotional triggers. However, there is no safeguard to overcome these loopholes. But to counter this loophole - section 3C – Presumption of Offense and 3D Presumption of Guilty Mind were included by the Central Government in the Epidemic Diseases Act 1897, as amended in 2020 during the pandemic. But the pandemic have ended and these provisions have become redundant.¹¹

Central Protection Act for doctors also known as ‘Prevention of violence against Healthcare professionals and clinical establishment bill’ was introduced in Lok Sabha in 2022. But it was not passed as most of its demand was

covered in Epidemic Diseases Act.¹

Apart from all the loop holes and lacunae in society and Government protocols there have been certain law passed by at least 19 states but it has not been passed called the Protection of Medicare Service Persons And Medicare Service Institutions (Prevention Of Violence And Damage To Property) Act, also known as the Medical Protection Act (MPA). This outlaws attack against physician and damage property with punishment of 50,000 rupees and 3year imprisonment. However, this law has failed to protect doctors it features neither in the Indian Penal Code (IPC) nor in the Code of Criminal Procedure (CrPC). This makes it difficult for victims to approach the police for help or to file a complaint against suspects. Implementation of Central law is not possible since the area of health, including doctor's protection, is a matter of state. “Why is the PCPNDT Act a central one? Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994 — making prenatal sex determination illegal, the Central government never intervened in health laws. The authorities saw a unique problem that could be better monitored and remedied by a central law. The situation is the same when it comes to violence against doctors,” said Dr Nagpal.¹²

Furthermore, with escalating cases, we need a centralized law so that challenges related to consistency, duplication, and lack of coordination can be prevented. Efficient and fast-track action and uniformity could be established for proper justice.

3. Conclusion

Violence against doctors is not a newer trend. There have been multiple incidents since the era with minimal reporting and redressal due to inadequate provisions to look after this matter. Prevention of Violence against Healthcare Professionals and Clinical Establishment Bill’ was introduced in Lok Sabha in 2022. However, it was not passed as most of its demand was covered in the Epidemic Diseases Act. As health is a state issue, many states have passed PIL, like Kerala and Karnataka, to provide healthcare workers with the most robust legal protections in India. Still, there are multiple loopholes made after convictions made in courts. But what about the other states? Healthcare personnel providing services in these places don’t require support and protection. Even in almost 19 states, there are provisions, but whether they are useful or absolutely toothless. To overcome such non-uniformity, inconsistency, and lack of coordination, a Central Protection Act.

It is true that there are multiple voids accelerating such violence in the workplace, making patients and patient attendants anxious and precipitating a condition that causes doctors to be more vulnerable.

The prevalence of this heinous crime will be just be prevented, and proper justice for healthcare personnel will be provided by implementing these provisions.

But this chronicity of crimes is also a concern of society; we need collaboration from all states and central government to prevent such violence towards any profession.

This bill not only ensures chastisement but also focuses on the fact that every personnel providing services has the right to a safe and secure workplace.

With alarming rise of violence against doctors and inadequate redressal and reporting of such instances it's time for amendment and implementation of a centralized act for protection of violence against doctors as it is no more an urgency but it's an emergency.

4. Sources of Funding

None.

5. Conflict of Interest

None.


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