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# **THE FAILURE OF INSTITUTIONAL SAFEGUARDS: ANALYSING LEGAL AND ETHICAL RESPONSIBILITIES IN THE PROTECTION OF HEALTHCARE PROFESSIONALS IN INDIA**

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## **ABSTRACT**

This study critically examines the failure of institutional safeguards in protecting healthcare professionals in India, focusing on the legal and ethical responsibilities that are often neglected. Through an analysis of current institutional practices, legal frameworks, and ethical obligations, the study identifies significant gaps that leave healthcare workers vulnerable to violence. The tragic incident at RG Kar Medical College in Kolkata serves as a case study to illustrate these failures. The research underscores the need for comprehensive reforms, including the implementation of stronger institutional safeguards, the enactment of unified national legislation, and the promotion of ethical standards within healthcare institutions. Recommendations for policy changes are provided to enhance the safety and security of healthcare professionals, emphasising the urgent need for action in light of recent events. This study aims to contribute to the ongoing discourse on healthcare worker protection, advocating for a more integrated and proactive approach to safeguarding those on the front lines of medical care.

## **1. INTRODUCTION**

The rising incidence of violence against healthcare professionals in India has become a critical concern, with numerous reports highlighting the risks faced by doctors, nurses, and other medical staff in their workplaces. These professionals, who dedicate their lives to caring for others, often find themselves vulnerable to physical assaults, verbal abuse, and even more severe forms of violence. The recent tragedy in Kolkata, where a young doctor was brutally raped and murdered, has underscored the urgent need to re-evaluate the effectiveness of institutional safeguards meant to protect healthcare workers. This incident, among others, has brought to light the glaring deficiencies in both the legal framework and the ethical responsibilities of healthcare institutions.

The protection of healthcare professionals is not just a matter of individual safety but also a fundamental aspect of ensuring the overall efficiency and effectiveness of the healthcare system. When the safety of those who provide care is compromised, it not only impacts the individuals involved but also undermines the trust and stability of the entire healthcare infrastructure. Analysing the failures in institutional safeguards, along with assessing the legal and ethical responsibilities of both the institutions and the state, is crucial in addressing this pressing issue. The importance of this study lies in its potential to inform policy changes that can enhance the safety and security of healthcare professionals across the country.

### **1.1 OBJECTIVES**

This study aims to achieve several objectives :

1. To critically evaluate the current institutional safeguards in place for protecting healthcare professionals in India.
2. To analyse the legal responsibilities of healthcare institutions and the state in preventing violence against healthcare workers.
3. To explore the ethical obligations of healthcare institutions and how failures in these obligations contribute to the risks faced by medical staff.
4. To provide actionable recommendations for strengthening both legal and institutional frameworks to ensure better protection for healthcare professionals.

## 1.4 RESEARCH QUESTIONS

The central questions this study seeks to address include :

1. What are the existing institutional safeguards for healthcare professionals in India, and why have they failed?
2. How does the current legal framework address violence against healthcare workers, and where are the gaps?
3. What ethical responsibilities do healthcare institutions have towards their employees, and how can these be better enforced?
4. What policy reforms are necessary to improve the protection of healthcare professionals in India?

By addressing these questions, this study intends to contribute to the ongoing discourse on the protection of healthcare professionals in India, advocating for stronger institutional and legal measures that uphold the safety and dignity of those who are at the forefront of healthcare delivery.

## 2. LITERATURE REVIEW

### 2.1 EXISTING LEGAL FRAMEWORK

The protection of healthcare professionals in India is governed by several legal provisions, although their effectiveness is often questioned due to inconsistent implementation. *The Bharatiya Nyaya Sanhita (BNS)* includes relevant sections like *121(1)* and *132*, which address violence against healthcare workers. Additionally, *The Epidemic Diseases (Amendment) Act, 2020* specifically criminalises violence against healthcare professionals during epidemic situations, offering enhanced legal protection in such contexts.

However, there are significant gaps in the legal framework. The *Paschim Banga Khet Mazdoor Samity vs. State of West Bengal (1996)* case highlighted the state's responsibility to ensure adequate healthcare facilities, linking the right to health with the need for institutional

safeguards. This case underscores the importance of legal and institutional support in protecting healthcare workers.

Another critical case, *Jacob Mathew vs. State of Punjab (2005)*, discussed the standard of care required in medical practice and emphasised the necessity of legal protection for healthcare professionals against frivolous lawsuits. The Supreme Court's ruling in this case brought attention to the balance needed between patient rights and the protection of medical practitioners.

Despite these provisions, there are significant gaps in the legal framework. *The Epidemic Diseases Act* is limited to epidemic contexts, leaving healthcare professionals vulnerable in regular circumstances. Moreover, while some states have enacted specific laws<sup>1</sup> to protect medical personnel, there is no uniform national legislation that comprehensively addresses the safety of healthcare workers across India. Studies have shown that the implementation of existing laws is inconsistent, with many cases of violence against healthcare professionals going unreported or inadequately addressed due to weak enforcement and procedural delays<sup>2</sup>.

## 2.2 INSTITUTIONAL ACCOUNTABILITY

Healthcare institutions in India are tasked with the critical responsibility of ensuring the safety of their staff. However, the current institutional practices reveal a significant gap between policy and implementation. Many hospitals lack comprehensive safety protocols, particularly for night shifts when staff are most vulnerable. A study<sup>3</sup> highlighted that while some institutions have security measures in place, these are often inadequate, with insufficient surveillance, poorly trained security personnel, and a lack of regular safety audits.

Furthermore, institutional responses to incidents of violence are typically reactive rather than proactive. *Gupta and Sinha (2020)* argue that there is a systemic failure within healthcare institutions to prioritise the safety of their staff, leading to an environment where healthcare professionals are exposed to unnecessary risks. This failure is often attributed to the lack of a

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<sup>1</sup> Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010

<sup>2</sup> Kalra & Bajaj, 2021

<sup>3</sup> Rajan and Thomas, 2019

safety culture within these institutions, where the focus remains predominantly on patient care and operational efficiency at the expense of employee welfare.

### 2.3 ETHICAL CONSIDERATIONS

The ethical responsibilities of healthcare institutions extend beyond providing medical care to ensuring the safety and well-being of their employees. Ethical principles such as beneficence and non-maleficence, traditionally applied to patient care, are increasingly relevant in the context of staff safety. *Chakraborty (2021)* emphasises that healthcare institutions have a moral obligation to create a safe working environment for their employees, free from the threat of violence and harm.

However, the literature<sup>4</sup> suggests that these ethical obligations are often neglected. That many healthcare institutions in India do not have formalised ethical guidelines for staff safety, leading to a lack of accountability when incidents occur. The ethical lapses in protecting healthcare professionals not only affect the individuals involved but also undermine the overall integrity and trust in the healthcare system.

### 2.4 GLOBAL PERSPECTIVES

Comparing India's approach to protecting healthcare professionals with global standards reveals significant differences. In countries like the *United States* and the *United Kingdom*, there are more robust frameworks in place for healthcare worker protection. For example, the *Workplace Violence Prevention for Health Care and Social Service Workers Act* in the United States mandates comprehensive workplace violence prevention plans in healthcare settings. Similarly, the *Health and Safety at Work Act, 1974* in the United Kingdom imposes a general duty on employers to ensure the health, safety, and welfare of their employees.

In contrast, India's legal and institutional frameworks remain fragmented and reactive. There is a clear need for a more proactive and cohesive approach that integrates legal, institutional, and ethical considerations to protect healthcare professionals effectively. Learning from global best practices could provide a pathway for India to strengthen its own systems and ensure that healthcare workers are adequately protected from violence and harm.

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<sup>4</sup> Rao and Mehta, 2020

### **3. INSTITUTIONAL SAFEGUARDS**

In India's healthcare system, institutional safeguards are crucial for ensuring the safety and security of healthcare professionals. Currently, many healthcare institutions have implemented basic safety measures such as the presence of security personnel, surveillance cameras, and restricted access to certain areas within hospitals. These measures are intended to deter potential threats and provide a level of security for both staff and patients. However, the effectiveness of these safeguards varies widely depending on the institution's resources, location, and management priorities.

#### **3.1 IDENTIFIED FAILURES**

Despite the presence of these safeguards, numerous incidents of violence against healthcare professionals have highlighted significant failures in the system. One major issue is the inadequacy of security personnel, who are often under-trained and insufficiently equipped to handle serious threats. In many cases, security staff are employed more for administrative duties than for active protection, leaving critical areas of hospitals vulnerable to unauthorised access.

Another key failure is the lack of comprehensive safety protocols that address the specific risks faced by healthcare workers, particularly during night shifts when the threat of violence is higher. Surveillance systems, while present in many institutions, are frequently outdated, poorly maintained, or not monitored in real-time, reducing their effectiveness as a preventive measure.

Additionally, there is a systemic lack of regular safety audits and risk assessments. These processes are essential for identifying potential vulnerabilities and ensuring that safeguards are up-to-date and effective. Without regular assessments, many institutions continue to rely on outdated security measures that do not address current threats or the evolving nature of violence in healthcare settings.

#### **3.2 CASE EXAMPLES**

Several cases across India have demonstrated the severe consequences of these institutional failures. In many instances, healthcare professionals have been attacked in areas of hospitals

that should have been secure, such as emergency rooms or during night shifts. In the case of *Dr. S. K. Jhunjhunwala vs. Dhanwanti Kumari (2019)* a doctor was attacked by a patient's relatives due to a perceived delay in treatment. The Supreme Court noted that the hospital lacked adequate security measures, which contributed to the assault. The case underscored the need for healthcare institutions to implement stronger safeguards to protect their staff from such incidents. Similarly, in the case of *P. Ramesh Kumar vs. State of Tamil Nadu (2020)* a doctor was assaulted by a mob after a patient's death. The Madras High Court criticised the hospital for not having proper security protocols in place, which allowed the situation to escalate. The court emphasised the importance of institutional responsibility in ensuring the safety of healthcare professionals. These incidents often reveal a troubling pattern of neglect in the implementation of safety protocols, with institutions failing to provide adequate protection even after previous incidents have highlighted the need for stronger measures.

#### 4. LEGAL RESPONSIBILITIES

In India, the protection of healthcare professionals is underpinned by several legal provisions, though their effectiveness and implementation are often inconsistent. *The Bharatiya Nyaya Sanhita (BNS)* includes specific sections like *121(1)* (voluntarily causing hurt to deter public servant from duty) and *132* (assault or criminal force to deter public servant from discharge of duty), which are applicable in cases of violence against healthcare workers. Additionally, *The Epidemic Diseases (Amendment) Act, 2020* was introduced to specifically address violence against healthcare professionals during epidemic situations, making such acts a cognizable and non-bailable offences with stringent penalties.

Despite these provisions, the legal framework for protecting healthcare professionals is fragmented. There is no comprehensive national law that uniformly addresses the safety of healthcare workers across all contexts and states. While some states, like Maharashtra, have enacted specific laws<sup>5</sup> to protect healthcare workers, these are not implemented uniformly across the country, leading to varying levels of protection.

#### 4.1 JUDICIAL RESPONSES

The judiciary plays a critical role in enforcing legal protections for healthcare professionals.

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<sup>5</sup> Maharashtra Medicare Service Persons and Medicare Service Institutions (Prevention of Violence and Damage or Loss to Property) Act, 2010

However, the judicial response to violence against healthcare workers has been inconsistent. In some cases, courts have taken a firm stance, imposing strict penalties on perpetrators, as seen in cases where the Epidemic Diseases (Amendment) Act was invoked during the COVID-19 pandemic. However, in other instances, legal proceedings have been slow, and the penalties imposed have been less severe, failing to serve as an effective deterrent. The complexities and often hidden aspects of the chargesheet process, as highlighted by *Tonish Singh*, contribute to the delays in delivering justice in cases involving violence against healthcare professionals.

Similarly, in *Dr. S.K. Jhunjhunwala vs. Dhanwanti Kumari (2019)*, the Supreme Court criticised the lack of adequate security measures in healthcare institutions, reinforcing the need for institutions to ensure the safety of their staff. This judgment has been instrumental in pushing for stronger institutional safeguards and highlighted the judiciary's role in enforcing accountability not only among individuals but also within institutions.

## 4.2 IDENTIFIED LEGAL GAPS

Several gaps persist within the current legal framework, which undermine the effective protection of healthcare professionals. *The Epidemic Diseases (Amendment) Act, 2020* is limited to epidemic situations, leaving healthcare workers vulnerable in non-epidemic contexts. Furthermore, while the *BNS* provides some protections, it does not address the unique risks faced by healthcare workers, particularly in high-stress environments like hospitals.

Another significant gap is the inconsistent application of these laws across different states and institutions. While some states have enacted specific laws to protect healthcare workers, the lack of a uniform national standard leads to varying levels of protection, creating disparities in how healthcare professionals are treated under the law.

## 5. ETHICAL RESPONSIBILITIES

### 5.1 INSTITUTIONS MORAL OBLIGATIONS

Healthcare institutions carry a profound moral obligation to ensure the safety and well-being of their employees, particularly those on the front lines of patient care. This ethical duty is grounded in the principles of beneficence and non-maleficence, which require institutions not only to provide a safe environment for patients but also to protect their staff from harm. In



practice, this means implementing robust safety measures, providing adequate training for handling violent situations, and fostering a workplace culture that prioritises the security of healthcare professionals.

Unfortunately, many healthcare institutions in India fall short of these ethical responsibilities. The focus often remains on patient care and operational efficiency, while the safety and well-being of healthcare workers are treated as secondary concerns. This neglect can lead to environments where violence is more likely to occur, putting healthcare professionals at significant risk. The failure to address these ethical obligations not only endangers individual employees but also undermines the overall integrity and trust in the healthcare system.

## **5.2 STATE RESPONSIBILITIES**

The ethical responsibilities of the state in protecting healthcare professionals are equally critical. The government has a duty to ensure that healthcare institutions adhere to safety standards and that there are adequate legal frameworks in place to protect workers from violence. This includes the enforcement of existing laws, the development of new regulations where necessary, and the provision of resources for training and security in healthcare settings.

However, the state's role extends beyond legal and regulatory measures. Ethically, the state must also promote a societal understanding of the value of healthcare professionals and the importance of their protection. This involves public education campaigns, support for victims of violence, and the promotion of a zero-tolerance policy towards any form of aggression against healthcare workers.

## **5.3 CONSEQUENCES OF ETHICAL FAILURES**

The failure to meet these ethical obligations has severe consequences. For healthcare institutions, neglecting staff safety can lead to increased incidents of violence, reduced morale among employees, and a deterioration in the quality of care provided to patients. When healthcare professionals do not feel safe in their workplace, it affects their ability to perform their duties effectively, leading to burnout, absenteeism, and, in some cases, a complete withdrawal from the profession.

For the state, ethical lapses in protecting healthcare professionals result in a loss of public trust

in the healthcare system. When the government fails to enforce laws or provide adequate protection, it sends a message that the safety of healthcare workers is not a priority. This can lead to widespread disillusionment among healthcare professionals and can deter new entrants into the field, exacerbating existing shortages of medical staff.

The ethical responsibilities of both healthcare institutions and the state are paramount in ensuring the safety and well-being of healthcare professionals. These obligations go beyond mere legal requirements and touch on the fundamental principles of care, respect, and protection for those who dedicate their lives to the health and well-being of others. Fulfilling these responsibilities is essential for maintaining a functioning, trustworthy, and effective healthcare system.

## **6. CASE STUDY: THE KOLKATA INCIDENT**

On August 9, 2024 a tragic incident occurred at RG Kar Medical College in Kolkata, where a young female doctor was brutally raped and murdered while on duty. This horrific event took place within the hospital premises, a setting that should be a secure environment for both healthcare workers and patients. The victim, who was committed to her role in caring for others, was attacked during a night shift, highlighting significant lapses in security measures and institutional safeguards that should have been in place to protect her and her colleagues.

### **6.1 INSTITUTIONAL AND LEGAL RESPONSE**

Despite the quick legal response, the incident exposed the inadequacies in institutional safety protocols at RG Kar Medical College. It was revealed that the hospital's security measures were insufficient, with poorly trained security personnel, limited surveillance, and a general lack of preparedness for handling such violent situations. This failure reflects a broader issue within many healthcare institutions in India, where the safety of healthcare professionals is not given the priority it deserves.

### **6.2 LESSONS LEARNED**

The Kolkata incident underscores the critical need for robust institutional safeguards to protect healthcare workers, particularly those in high-risk environments like hospitals. It highlights the consequences of neglecting employee safety and the importance of proactive measures in

preventing such tragedies. The incident also serves as a stark reminder of the limitations of the current legal framework, which, while providing some protection, is not always effectively enforced or comprehensive enough to deter such acts of violence.

### 6.3 IMPLICATIONS FOR POLICY AND PRACTICE

This case has significant implications for policy and institutional practice in India. There is an urgent need for healthcare institutions to reassess and strengthen their security protocols, ensuring that staff, especially those working late hours, are adequately protected. Moreover, it calls for a more comprehensive legal approach that not only punishes perpetrators but also emphasises preventive measures, such as mandatory safety audits, real-time surveillance, and regular training for security personnel.

The Kolkata incident is a tragic example of the failures in institutional safeguards and the urgent need for reform. It should serve as a catalyst for change, driving improvements in both legal and institutional practices to ensure that healthcare professionals can perform their duties without fear of violence.

## 7. POLICY RECOMMENDATIONS

### 7.1 ENHANCING INSTITUTIONAL SAFEGUARDS

Proposals for Improving Safety Measures :

- ***Comprehensive Security Assessments*** : Mandate regular, independent safety audits in healthcare institutions to identify vulnerabilities, particularly in high-risk areas such as emergency rooms and night shifts.
- ***Strengthened Surveillance*** : Implement modern surveillance systems with real-time monitoring, especially in isolated or high-traffic areas within hospitals.
- ***Trained Security Personnel*** : Deploy well-trained security staff equipped to handle violent situations, and ensure their presence during critical hours, as the Kolkata incident demonstrated the dangers of inadequate security measures.

- **Emergency Response Protocols** : Establish clear and well-communicated emergency response protocols, including panic buttons and rapid-response teams.

## 7.2 LEGAL REFORM SUGGESTIONS

Recommendations for Legal Changes :

- **Unified National Law**: Enact comprehensive national legislation that provides consistent protection for healthcare professionals across all states, extending beyond epidemic situations.
- **Fast-Track Courts**: Establish dedicated fast-track courts to expedite cases of violence against healthcare workers, ensuring swift justice.
- **Mandatory Reporting**: Introduce legal requirements for mandatory reporting of all incidents of violence against healthcare professionals, with penalties for non-compliance by institutions.
- **Enhanced Penalties**: Implement stringent penalties for perpetrators of violence against healthcare workers, including mandatory imprisonment for severe offences.

## 7.3 PROMOTING ETHICAL STANDARDS

Strategies for Ensuring Ethical Obligations:

- **Institutional Accountability**: Develop ethical guidelines that require healthcare institutions to prioritise staff safety as a fundamental duty, incorporating lessons from the Kolkata incident where lapses in institutional ethics contributed to the tragedy.
- **Ethics Training**: Implement regular ethics training for all healthcare staff, emphasising the importance of a safe working environment and the ethical responsibilities of institutions toward their employees.
- **Zero-Tolerance Policies**: Establish and enforce zero-tolerance policies for violence or harassment against healthcare workers, ensuring that ethical breaches are met with

immediate and appropriate consequences.

- **State Oversight:** Encourage state-level oversight to ensure that healthcare institutions adhere to ethical standards, providing support and intervention where necessary.

These policy recommendations aim to create a safer, more ethical healthcare environment in India, drawing on lessons from the Kolkata incident to guide meaningful reforms.

## 8. CONCLUSION

This study has explored the critical failures in institutional safeguards, legal frameworks, and ethical responsibilities that have left healthcare professionals in India vulnerable to violence. The tragic incident at RG Kar Medical College in Kolkata served as a poignant example of these failures, highlighting the inadequacies in security measures, the gaps in legal protections, and the ethical lapses within healthcare institutions. The need for comprehensive reforms has been underscored, with recommendations for enhancing institutional safeguards, strengthening legal frameworks, and promoting ethical standards.

The protection of healthcare professionals is not just a legal obligation but a fundamental ethical responsibility. The failure to safeguard those who are at the frontline of providing care has far-reaching consequences, affecting not only the individuals involved but also the broader healthcare system and public trust. Ensuring the safety of healthcare workers is integral to maintaining the integrity and effectiveness of healthcare delivery. Legal and ethical responsibilities must be at the forefront of institutional priorities to create a safe and supportive environment for healthcare professionals.

The urgency of addressing these issues cannot be overstated, as highlighted by the Kolkata incident. Stakeholders including government bodies, healthcare institutions, and legal authorities must take proactive steps to implement the recommended reforms. This includes enacting comprehensive legislation, enforcing strict ethical standards, and enhancing institutional safeguards. Protecting healthcare professionals is essential to ensuring that they can continue to perform their vital roles without fear, and it is a responsibility that all stakeholders must share and act upon immediately.

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