

Safeguarding Women In The Medical Profession: Legal And Institutional Perspectives

J.P.RAI*

Abstract

Protection of women in the medical profession requires not only the enforcement of laws but also a transformation in attitudes, where dignity, respect, and equality are embedded in every layer of the profession. Legal safeguards alone are not sufficient unless supported by institutional accountability, gender-sensitive work culture, proper grievance redressal mechanism, and widespread awareness among all stakeholders. A collective effort by the legal system, medical institutions, policy-makers, and society at large is essential to ensure that women medical professionals can work in environments that are safe, inclusive, and just.

Keywords: *Protection of women, Workplace, Medical Profession, Sexual Harassment.*

I. Introduction

A powerful way to grasp the essence of any civilization and to truly appreciate its achievements while confronting its failings, is to examine the role and status of its women.¹ Despite constituting half of the world's population, women continue to face entrenched discrimination and systemic bias, particularly in workplaces that pride themselves on progress and service, such as the medical profession.² Any form of discrimination strips individuals of their power, denies them dignity, and exposes the hypocrisy of societies that claim to champion equality while tolerating injustice at their core. India, ranking 108 out of 193 countries in

* LL.M. (Gold Medalist), Ph.D., Professor, Faculty of Law, BHU, Varanasi-221005. Author can be reached at <jprailawschool@gmail.com>

1 Altekhar A.S, The Position of Women in Hindu Civilization, (1938), The Culture Publication House, Benares Hindu University, Varanasi, available at <https://archive.org/details/in.ernet.dli.2015.100033/page/n3/mode/2up>, visited on Sept. 11, 2024.

2 Rao Shankar I.N., Indian Social Problems: A Sociological Perspective, (2015), S Chand Publishing, New Delhi

the Gender Inequality Index 2022³, reflects this paradox starkly. Gender inequality, manifesting in unequal treatment and opportunity, persists in professions where women are both highly visible and uniquely vulnerable. The medical profession, with its demanding hours, rigid hierarchies, and intimate patient interactions, should be an exemplar of safety and respect, yet too often, it fails those who serve within it.

Sexual harassment is one of the most insidious forms of gender-based discrimination, violating dignity, breeding hostility, and undermining the fundamental promise of a safe workplace. While official reports show a worrying rise in workplace sexual harassment cases in India, from 402 in 2018 to 422 in 2022⁴; these figures barely scratch the surface of the reality that remains largely underreported.⁵ Women not only shoulder two-thirds of the world's work but receive barely a tenth of its income, a brutal reminder of the enduring global injustice that extends far beyond pay checks, into the realm of daily indignities, threats, and violence that target women simply for being women. In the medical field, this injustice takes on particularly grave dimensions. Long, irregular hours and a culture of deference to seniority can silence victims and enable perpetrators. Close physical proximity with patients and colleagues can blur boundaries, making vigilance and institutional safeguards indispensable. While laws exist on paper, the persistence of harassment and bias in practice reveals an uncomfortable truth; that protective frameworks are only as effective as the culture that upholds them.

3 Human Development Report 2023/24 by the United Nations Development Programme (UNDP) published on March 13, 2024, available at <https://hdr.undp.org/system/files/documents/global-report-document/hdr2023-24reporten.pdf>, visited on Oct 23, 2024.

4 National Crime Records Bureau (NCRB) Annual Report on "Crime in India" 2022, documents offences against women including incidents of sexual harassment, available at <https://www.ncrb.gov.in/crime-in-india-year-wise.html?year=2022&keyword=>, visited on Nov. 11, 2024.

5 National Women Commission Reports that 46.58% of women have experienced sexual harassment in the workplace, but only 3.54% chose to report the incident to the authorities, and just 1.4% filed a complaint with the police, available at <https://www.ncw.gov.in/yestoposh-issued-in-public-interest-by-national-commission-for-women-2/>, visited on May 10, 2024.

Protecting women in the medical profession, therefore, is not merely a matter of compliance with legal norms, it is a test of whether a society truly values the dignity, safety, and contribution of half its citizens. It demands a renewed commitment to fostering workplaces where respect is non-negotiable, vigilance is active, and inclusivity is not an empty slogan but a lived reality. Keeping in mind recent incident of rape and murder of a trainee doctor in RG Kar Medical College and Hospital, Kolkata, this paper seeks to examine the effectiveness and implementation of legal protections available to women in the medical field, exploring the gaps between law and practice, and identifying barriers that hinder a safe and equitable work environment for female healthcare professionals.

II. Historical Perspective

The status of women in any profession, including medicine, cannot be understood in isolation from the broader historical forces that have shaped societal attitudes toward gender. For centuries, the lack of genuine effort to understand female psychology and lived experiences has contributed to deeply rooted misconceptions, often portraying women as biologically inferior⁶ or unsuited to demanding intellectual and professional roles. This misuse of biological differences has repeatedly served as a convenient justification for discrimination, exclusion, and systemic bias.⁷

In India, the colonial period under British rule, which spanned nearly two centuries, played a paradoxical yet significant role in the trajectory of women's rights. While colonial policies often reinforced patriarchal structures, the era also gradually laid the groundwork for women's emancipation. Influenced by the ideals of European liberalism: liberty, equality, individual dignity, and universal rights, this period saw the

6 Beauvoir, Simone de. *The Second Sex*. Translated by Constance Borde and Sheila Malovany Chevallier, Vintage Books, New York, 2011, available at https://uberty.org/wp-content/uploads/2015/09/1949_simone-de-beauvoir-the-second-sex.pdf, visited on March 13, 2024.

7 Chodorow, Nancy. *The Reproduction of Mothering: Psychoanalysis and the Sociology of Gender*. University of California Press, 1978, available at <https://www.ucpress.edu/books/the-reproduction-of-mothering/paper>, visited on July 22, 2024.

emergence of critical reforms aimed at addressing some of the most egregious social injustices faced by women.⁸ The Social Reform Movement and the Nationalist Movement were pivotal in this transformation. Reformers, thinkers, and activists began to question oppressive practices like child marriage, sati, and the denial of education to women.⁹ These movements gave voice to the struggles of women, championing the idea that a nation could not progress while half its population remained subjugated. In doing so, they laid a moral and ideological foundation for future generations to continue the fight for gender equality.

Post-independence, India's legal framework took significant strides toward correcting historical wrongs and institutionalizing gender equality. Landmark reforms granted women the right to own and inherit property; an essential step toward economic independence and empowerment. These changes sought to place women on an equal footing with men under the law, fostering a more inclusive mindset rooted in the principles of equality, liberty, and the inherent worth of every individual. While these legal milestones are important, the persistence of discrimination and harassment in modern workplaces, including the medical profession, reminds us that true equality is not achieved through legislation alone. It requires a cultural shift that dismantles lingering prejudices born of historical misconceptions about women's capabilities and roles. Understanding this historical context is vital to recognizing that the fight for women's protection and empowerment; whether in the home, society, or the operating theatre, is far from over.

III. Protection Of Women At Workplace: International Perspective

The protection of women from discrimination and harassment in the workplace is not just a local or national concern; it is a universal human

8 Sarkar, Sumit, and Tanika Sarkar. *Women and Social Reform in Modern India: A Reader*. Indiana University Press, 2008, available at <https://iupress.org/9780253220493/women-and-social-reform-in-modern-india/>, visited on April 10, 2024.

9 *Ibid.*

rights issue that has been consistently addressed by the international community for decades. Various global treaties, declarations, and institutional frameworks have laid down comprehensive definitions, responsibilities, and pathways for eliminating sexual harassment and promoting gender equality at work. Yet, a closer look reveals a persistent gap between the promises enshrined in international instruments and the lived reality for millions of women worldwide.

The United Nations Charter, 1945¹⁰ laid the philosophical cornerstone for modern human rights discourse by recognizing the inherent dignity and equal, inalienable rights of all people.¹¹ Its preamble reflects an unwavering commitment to fundamental freedoms and equal rights for men and women, asserting that discrimination based on sex has no place in a just and peaceful world order.¹² Building on this foundation, the **Universal Declaration of Human Rights (UDHR), 1948**¹³, often hailed as the *Magna Carta of Rights*, declared that every human being is entitled to all rights and freedoms without distinction of any kind, including sex.¹⁴ Its principles: universal, indivisible, and interdependent, continue to inspire global efforts to address sexual harassment, an affront to the dignity that the UDHR upholds.¹⁵

Further strengthening this framework, the **International Covenant on Civil and Political Rights (ICCPR), 1966**¹⁶, and the **International**

10 Available at <https://www.un.org/en/about-us/un-charter>, visited on July 12, 2024.

11 Donnelly, J., *Universal Human Rights in Theory and Practice*, (2003), Cornell University Press available at <https://www.cornellpress.cornell.edu/book/9780801477706/universal-human-rights-in-theory-and-practice/#BookTabs=1>, visited on Nov. 11, 2024.

12 Article 1, The UN Charter.

13 Available at <https://www.un.org/en/about-us/universal-declaration-of-human-rights>, visited on July 30, 2024.

14 *Ibid.*, *Universal Declaration of Human Rights (UDHR)*, Preamble.

15 Glendon, M. A., *A World Made New: Eleanor Roosevelt and the Universal Declaration of Human Rights*, (2002), Random House, New York.

16 Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-civil-and-political-rights>, visited on June 22, 2024.

Covenant on Economic, Social and Cultural Rights (ICESCR), 1966¹⁷, compel state parties to guarantee equal rights to men and women¹⁸ and to take measures to prevent and redress gender-based discrimination.¹⁹ The ICCPR mandates that states must protect victims of sexual harassment as a violation of civil and political rights²⁰, while the ICESCR recognizes the right to safe and fair working conditions; a right gravely compromised when harassment persists unchecked.²¹

The **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979**²², represents perhaps the most comprehensive international legal instrument dedicated exclusively to women's rights. Often described as an International Bill of Rights for Women, CEDAW defines discrimination expansively²³ and calls on signatory states to root out cultural and institutional biases that sustain gender inequality. Its Optional Protocol (1999) further strengthens accountability, allowing individuals and groups to bring complaints directly to the CEDAW Committee, highlighting an essential move from rhetorical commitment to enforceable action.²⁴

Recognizing that violence remains one of the greatest barriers to gender equality, the **Declaration on the Elimination of Violence Against Women, 1993**²⁵, built on CEDAW's foundation to focus specifically on violence, both physical and psychological, as a structural impediment to equality and development. The **Beijing Declaration and**

17 Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/international-covenant-economic-social-and-cultural-rights>, visited on Oct. 18, 2024.

18 *Ibid*, Article 2(2).

19 *Ibid*, Article 2(1).

20 *Ibid*, Article 3.

21 *Ibid*, Article 7.

22 Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>, visited on May 23, 2024.

23 *Ibid*, Article 1.

24 *Ibid*. Article 2.

25 Available at <https://www.ohchr.org/en/instruments-mechanisms/instruments/declaration-elimination-violence-against-women>, visited on Nov. 17, 2024.

Platform for Action, 1995²⁶, reaffirmed this urgency, setting a transformative agenda for empowering women in public and private spheres and prioritizing protection from violence and harassment.

The **International Labour Organization (ILO)**²⁷ has played a pivotal role in operationalizing these broad commitments within the realm of employment. Through its Discrimination (Employment and Occupation) Convention, as well as resolutions and symposiums since 1985, the ILO has consistently identified sexual harassment as a grave workplace hazard that undermines productivity, violates equality, and erodes trust in institutions meant to protect workers. Its practical focus on policies, training, and workplace culture offers a crucial bridge between high-level declarations and the day-to-day realities of working women.²⁸

Despite dense latticework of international norms and institutional efforts, sexual harassment and gender discrimination persist in workplaces worldwide including in supposedly progressive and highly regulated professions like medicine. This exposes an uncomfortable truth: international declarations can articulate ideals and bind states to obligations, but the real battle lies in translating these obligations into lived realities. Nations vary widely in how earnestly they implement these standards, how robustly they enforce protective measures, and how far they go to challenge patriarchal mindsets that treat harassment as a trivial occupational hazard rather than a human rights violation. As the medical profession continues to evolve within this global context, it must ask itself whether it will mirror the hollow gap between high-minded commitments and day-to-day practice or rise as a beacon of meaningful protection, respect, and dignity for women who devote their lives to the service of others.

26 Available at <https://www.un.org/womenwatch/daw/Beijing/pdf/BDPfA%20E.pdf>, visited on Sept. 30, 2024.

27 Available at <https://www.ilo.org/>, visited on Oct 27, 2024.

28 Addressing gender-based violence and harassment in a work health and safety framework, ILO Working Paper in June 2024, available at https://www.ilo.org/sites/default/files/2024-07/116_web.pdf, visited on Nov. 22, 2024.

IV. Protection Of Women At Workplace: Constitutional Perspective

India's long and complex history of gender-based discrimination has made it necessary to craft a constitutional framework that does more than merely promise equality in theory, it must actively dismantle centuries of systemic bias and social injustice.²⁹ The framers of the Constitution recognized that gender equality could not be left to chance or to the slow evolution of social attitudes. Instead, they embedded within the Constitution both broad guarantees and targeted provisions to uplift women and protect them from discrimination, including sexual harassment in the workplace.³⁰

At its core, the Preamble of the Indian Constitution lays out a bold promise: to secure to all citizens regardless of gender; justice, liberty, equality, and dignity. These ideals are not ornamental rhetoric; they are binding commitments that demand real, actionable safeguards to ensure that women can participate fully and fearlessly at every level of society, including in their workplaces.

The Right to Equality, enshrined in Articles 14 to 18, provides the legal backbone for gender justice. Article 14 guarantees equality before the law and equal protection of the laws, while Article 15³¹ explicitly prohibits discrimination on grounds only of sex, among others. Significantly, Article 15(3) empowers the state to make *special provisions* for women and children: a recognition that true equality sometimes requires affirmative action to correct deep-seated historical disadvantages.³² Article 16 reinforces this principle within the sphere of

29 Jain M P Prof., *Indian Constitutional Law*, Lexis Nexis, 8th Edition (2022), Wadhwa, Nagpur

30 Government of India, *The Constitution of India*, Articles 14, 15, and 21. See also: B. Sivaramayya, *Gender Justice: Constitutional Perspectives*, (2001) Eastern Book Company, Lucknow.

31 See also *Air India v Nargesh Meerza*, AIR 1981 SC 1829, where the Court invalidated certain employment regulations for air hostesses, such as mandatory retirement after the first pregnancy and marriage restrictions. The Court found these rules to be unreasonable, arbitrary, and unconstitutional under Articles 14 and 15(1).

32 In *Government of Andhra Pradesh v. P.B. Vijaykumar*, AIR 1995 SC 1648, the Court acknowledged that women's limited participation in

public employment, mandating equal opportunity for all citizens. While these provisions provide a robust constitutional shield, the reality on the ground often exposes gaps between constitutional promise and institutional practice. For decades, the absence of a clear legal definition of sexual harassment left countless women without explicit recourse, relying instead on the broader equality guarantees that, while powerful, were too abstract to tackle the nuanced realities of workplace misconduct.

This vacuum was partly filled by the judiciary's creative interpretation, most notably in the landmark *Vishaka v. State of Rajasthan*³³ case, where the Supreme Court explicitly recognized sexual harassment at the workplace as a violation of fundamental rights under Articles 14, 15, and 21. The Vishaka Guidelines became the bedrock for workplace protection until Parliament codified them in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The Directive Principles of State Policy (DPSPs) further illuminate the Constitution's vision of substantive gender equality. While not enforceable in Court, they set out a roadmap for the State's moral and policy obligations with the help of Articles 38³⁴, 39³⁵ and 42³⁶ which are key aspects in securing women's full participation in the workforce without fear of exploitation or harassment. In addition, Article 51(c) obligates India to respect international law and treaty commitments, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). This not only underscores India's alignment with global human rights standards but also situates its constitutional vision within a broader international context.

employment stemmed from social and economic inequalities. The law thus supports women's empowerment and aims to eliminate such disparities.

33 AIR 1997 SC 3011.

34 To secure a social order, and to minimize inequalities in status and opportunities amongst people.

35 To ensure that all citizens, men, and women equally, have the right to an adequate means of livelihood and that there is equal pay for equal work for both men and women.

36 To secure just and human conditions of work and for maternity relief.

The real test of constitutional values lies not in their eloquence but in their enforcement. While India's constitutional architecture is impressively progressive on paper, societal attitudes, weak institutional redress, and lack of accountability often erode its transformative potential. The medical profession, with its unique vulnerabilities, hierarchies, intimate patient interactions, and odd working hours must be a priority arena for realizing these constitutional promises. True protection for women requires moving beyond tokenism or reactive measures after harm has occurred. It demands proactive creation of safe, inclusive, and dignified workplaces where every woman, regardless of rank or role, can thrive without fear.

V. Protection Of Women At Workplace: General Statutory Perspective

A workplace free from discrimination, harassment, and violence is not just an ethical aspiration but a legal imperative for any society that claims to value equality and human dignity. In India, the need for robust statutory protections for women has been driven by the stark reality that women continue to face disproportionate risks of exploitation and harassment in their professional lives. While constitutional ideals lay the foundation, it is the statutory framework that translates these ideals into actionable, enforceable rights. The Indian legal landscape has evolved significantly, layering multiple statutes to secure women's rights in the workplace. These laws aim to tackle the problem at every level; from punishing perpetrators of harassment to obligating employers to prevent and redress such misconduct proactively.

The **Indian Penal Code (IPC), 1860**, now complemented by the **Bharatiya Nyaya Sanhita (BNS), 2023**, provides the bedrock of criminal accountability. Sections dealing with assault³⁷, sexual harassment³⁸, stalking³⁹, intimidation⁴⁰, obscenity⁴¹, and rape⁴² address the most direct

37 Section 354 of IPC (Section 74 of BNS).

38 Section 354A of IPC (Section 75 of BNS).

39 Section 354D of IPC (Section 78 of BNS).

40 Section 503 of IPC (Section 351 of BNS).

41 Sections 292-294 of IPC (Sections 294-296 of BNS).

42 Sections 375 of IPC (Section 63 of BNS).

threats to women's safety in workplaces and beyond. This evolution, particularly with the BNS's reorganization, reflects an ongoing attempt to modernize legal terminology and expand protections for women's bodily integrity and dignity. However, these criminal provisions primarily address misconduct *after* it has occurred. They do not directly build preventive workplace cultures; highlighting a gap that specialized employment and labour laws must bridge.

Complementing these penal provisions are labour and industrial statutes that embed protective measures into the fabric of employment itself. The **Industrial Employment (Standing Orders) Act, 1946**⁴³ compels employers to set clear codes of conduct, establishing behavioural baselines that can prevent misconduct before it escalates. The **Factories Act, 1948**⁴⁴ goes further, incorporating gender-specific measures such as regulating night shifts, mandating crèches, and providing sanitary facilities, which recognize the unique vulnerabilities of women in industrial settings.

Social security and welfare statutes like the **Employees' State Insurance Act, 1948**⁴⁵, and the **Maternity Benefit Act, 1961**⁴⁶, demonstrate an important truth: workplace safety is not only about physical security but also about economic and emotional security. Paid maternity leave, medical benefits, and safeguards against unfair dismissal during pregnancy are not "special privileges;" they are structural guarantees that make women's participation in the workforce viable and dignified. The **Equal Remuneration Act, 1976**⁴⁷ takes aim at the persistent wage gap by mandating equal pay for equal work and

43 Available at <https://labour.gov.in/sites/default/files/Industrial-Employment-Standing-Orders-Act-1946.pdf>, visited on Sept. 10, 2024.

44 Available at https://labour.gov.in/sites/default/files/factories_act_1948.pdf, visited on Oct.19, 2024.

45 Available at https://labour.gov.in/sites/default/files/the_employees_act_1948_0.pdf, visited on Oct. 17, 2024.

46 Available at https://labour.gov.in/sites/default/files/the_maternity_benefit_act_1961_0.pdf, visited on Sept.22, 2024.

47 Available at https://labour.gov.in/sites/default/files/equal_remuneration_act_1976_0.pdf, visited on Nov. 10, 2024.

prohibiting discrimination in recruitment and promotion. Its existence underscores a core reality: economic exploitation is often intertwined with other forms of harassment and bias. When women are seen as lesser contributors economically, they become more vulnerable to mistreatment and less empowered to resist it.

At the heart of India's statutory framework is the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**⁴⁸, commonly known as the POSH Act. Born from the judiciary's proactive *Vishaka Guidelines*⁴⁹ The POSH Act represents a landmark shift from purely punitive measures to a comprehensive model combining prevention, prohibition, and redressal. It legally obligates all employers to establish Internal Complaints Committees (ICCs), conduct awareness programs, and adopt policies that foster safe working environments.

The POSH Act's implementation reveals a sobering truth: laws alone do not ensure compliance. Many organizations either underreport or fail to properly constitute ICCs. Women often hesitate to file complaints due to stigma, fear of retaliation, and the risk of career setbacks. The reality is that statutory protections can remain paper tigers unless reinforced by genuine institutional commitment, active monitoring, and a workplace culture that prioritizes dignity over silent complicity. Integration of statutory protections with mandatory gender-sensitization training and third-party audits may be a good initiative. While current laws focus on mechanisms like ICCs and reporting structures, they do not adequately address the cultural inertia that allows harassment to flourish. This step would also empower victims to come forward, knowing that the system does not rest solely on internal goodwill but is supported by independent oversight.

48 Available at <https://wcd.delhi.gov.in/wcd/sexual-harassment-women-workplaceprevention-prohibition-and-redressal-act-2013sh-act-2013>, visited on July 10, 2024.

49 *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

VI. Protection Of Women At Workplace: For Medical Professionals

Women form the backbone of India's healthcare system; whether as nurses, junior doctors, resident doctors, or senior consultants. They work in high-pressure, high-risk, and emotionally demanding environments where workplace safety and dignity are essential for effective healthcare delivery. Yet, paradoxically, while they care for patients' well-being, their own safety and dignity often remain vulnerable especially during night shifts, emergency duties, and in isolated hospital areas. A recent Indian Medical Association (IMA) survey (August 2024)⁵⁰ starkly illustrates these gaps: over one-third of doctors, with women disproportionately represented, report feeling unsafe during night shifts. Poorly equipped and inadequately located duty rooms, lack of secure sanitation facilities, and the threat of physical or verbal abuse, even from intoxicated patients or attendants, paint a worrying picture. In some extreme cases, doctors felt compelled to carry weapons for self-defence, an indictment of the system's failure to guarantee even basic security for its most vital personnel.

While general workplace safety laws apply to hospitals too, the unique challenges faced by medical professionals, especially women, require specific statutory safeguards. India's legislative efforts in this domain have been partial and fragmented. A comparative look at statutory protections reveals both strengths and significant gaps:

A. The Epidemic Diseases Act, 1897⁵¹, revitalized through the **Epidemic Diseases (Amendment) Ordinance, 2020** (which was converted in the form of Act later on), brought critical, time-bound

50 Available at <https://www.thehindu.com/news/national/35-doctors-in-india-feel-unsafe-while-at-work-survey-shows/article68872488.ece>. The study, the largest of its kind in the country, involved 3,885 respondents from over 22 States, with 85% under 35 years old and 61% being interns or postgraduate trainees. Women comprised 63% of the participants, reflecting the gender ratio in some MBBS courses.

51 Available at https://www.indiacode.nic.in/bitstream/123456789/15942/1/epidemic_diseases_act%2C1897.pdf, visited on Aug. 27, 2024.

protections for healthcare workers during COVID-19.⁵² This was a positive precedent: it recognized that healthcare workers, including women, are frontline responders deserving explicit legal shields. Yet, such crisis-based protection should not be an exception, it must be a permanent guarantee.

B. The Employees' Compensation Act, 1923⁵³ remains important for addressing workplace injuries and occupational hazards including biological risks for doctors. However, while it provides post-incident relief, it does not deter violence or harassment before it happens.

C. The Indian Medical Council Act, 1956⁵⁴ now replaced by the **National Medical Commission (NMC) Act, 2019⁵⁵**, sets ethical standards for the medical profession. While the NMC can discipline professional misconduct, it does not directly address physical safety, infrastructure standards for secure duty rooms, or harassment reporting mechanisms.

D. The Clinical Establishments (Registration and Regulation) Act, 2010⁵⁶ holds promise by mandating minimum facility standards. However, it focuses primarily on patient-facing infrastructure. It must evolve to set enforceable standards for safe staff quarters, gender-segregated duty rooms with locks and bathrooms, and 24x7 security, especially for on-call women doctors and nurses.

52 The 2020 amendment specifically criminalizes assault, harassment, or violence against healthcare workers, including verbal abuse and physical attacks; damage to property or healthcare facilities. Such acts are made cognizable and non-bailable, with imprisonment up to 7 years.

53 Available at https://labour.gov.in/sites/default/files/ec_act.pdf, visited on April 27, 2024.

54 Available at <https://wbconsumers.gov.in/writereaddata/ACT%20&%20RULES/Relevant%20Act%20&%20Rules/Medical%20Council%20of%20India%20%20Act.pdf>, visited on June 23, 2024.

55 Available at https://www.indiacode.nic.in/bitstream/123456789/11820/1/A2019_30.pdf, visited on June 25, 2024.

56 Available at https://www.indiacode.nic.in/bitstream/123456789/7798/1/201023_clinical_establishments_%28registration_and_regulation%29_act%2C_2010.pdf, visited on April 30, 2024.

E. The **Consumer Protection Act, 2019**⁵⁷ though not directly addressing workplace safety, does mitigate the burden of false allegations—an indirect safeguard that reduces stress and harassment of medical practitioners. However, it does not tackle direct threats or gender-based violence.

F. India's legislative landscape shows multiple lapsed private member bills; from the **Protection of Medical and Health Service Professionals from Assault Bill, 2019**⁵⁸, to the more recent **Healthcare Personnel and Healthcare Institutions (Prohibition of Violence and Damage to Property) Bill, 2023**⁵⁹. Each sought to criminalize violence, establish special courts, and ensure swift justice. Yet repeated lapses with each Lok Sabha dissolution underscore a disturbing policy neglect toward the safety of medical professionals, especially women who face unique vulnerabilities like sexual harassment and gender-based violence.

In India, while general workplace laws and penal provisions offer broad protection, they fail to address the structural and environmental aspects that uniquely expose women medical professionals to harassment and violence. Laws focusing solely on punishment *after* the fact do not tackle the root causes: poor hospital security protocols, inadequate duty room standards, lack of safe transport for night shifts, and the absence of gender-sensitive facility design. There is a compelling case for a dedicated, gender-sensitive Healthcare Workplace Safety and Dignity Act providing for secure, gender-segregated rest rooms with attached bathrooms, CCTV coverage, panic alarms, deployment of trained security personnel, police (where needed), safe transport for female staff working late hours, institutional gender sensitization training, institutional grievance redressal system, dedicated ombudsman offices, and special

57 Available at https://ncdrc.nic.in/bare_acts/CPA2019.pdf, visited on May 24, 2024.

58 Available at <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/947LS%20As%20Int....pdf?source=legislation>, visited on Sept. 12, 2024.

59 Available at <https://sansad.in/getFile/BillsTexts/LSBillTexts/Asintroduced/99%20of%202023%20AS84202371745PM.pdf?source=legislation>, visited on Oct 23, 2024.

courts for speedy trial of violence or harassment cases against medical professionals.

By combining these measures under one comprehensive law, India can shift from a patchwork of crisis-driven or lapsed measures to a robust statutory guarantee that prioritizes the well-being of its women healthcare workforce.

VII. Protection of Women At Workplace: State Laws

In India's federal structure, workplace safety, particularly for medical professionals, has found some of its strongest statutory protections not in national law but in state-level legislation. Several states have enacted sector-specific laws to curb violence against doctors and healthcare personnel, recognizing that safeguarding frontline health workers is vital for public health security.

The state-specific laws Tamil Nadu's 2008 Act⁶⁰, Karnataka's 2009 Act⁶¹, Maharashtra's 2010 Act⁶², and similar statutes in Uttar Pradesh⁶³ and West Bengal⁶⁴ pioneered a legislative approach criminalizing violence against Medicare Service Persons and damage or loss to property in Medicare Service Institutions. However, these laws differ in scope, penalties, definitions, and enforcement mechanisms, creating uneven protection across the country. This legal inconsistency not only undermines the fundamental right to workplace safety but also creates confusion for hospital administrators who often run multi-state institutions. More so, despite the statutory framework, these state laws have not translated into robust ground-level protection. Further, while

60 Available at https://prsindia.org/files/bills_acts/acts_states/tamil-nadu/2008/2008TN48.pdf, visited on May 22, 2024.

61 Available at <https://www.indiacode.nic.in/handle/123456789/7086?locale=en>, visited on June 30, 2024.

62 Available at https://www.indiacode.nic.in/bitstream/123456789/19822/1/the_maharashtra_medicare_service_persons_and_medicare_service_institutions_act%2C_2010.pdf, visited on June 23, 2024.

63 Available at https://www.indiacode.nic.in/bitstream/123456789/17563/1/act_16_2013_pdf_merged.pdf, visited on July 23, 2024.

64 Available at https://prsindia.org/files/bills_acts/acts_states/west-bengal/2017/2017WB4.pdf, visited on June 23, 2024.

these laws address *violence* against medical personnel in general, they fail to sufficiently account for the gender-specific threats women healthcare workers face.

West Bengal has gone further by addressing the root cause of gender-based violence through the **Aparajita Woman and Child Bill, 2024**⁶⁵. This is not limited to medical workplaces but marks India's first attempt by a state to amend central criminal laws for crimes of a sexual nature against women and children. Its introduction of the death penalty for heinous cases, time-bound trials, penalties for delay, and a female-led special task force shows an integrated approach combining deterrence, speed, and gender sensitivity. This represents an innovative model of how states can supplement central protections through legislative and institutional creativity. By creating dedicated courts and setting strict timelines for adjudication, the Bill recognizes the urgent need to address the prolonged trauma caused by procedural delays.

VIII. Protection of Women At Workplace: Judicial Response

The Indian judiciary has played a pivotal role in shaping workplace safety standards for women, especially in the absence of robust legislative frameworks for emerging sectors like healthcare. Landmark rulings and proactive judicial interventions demonstrate the Court's progressive stance in recognizing sexual harassment, violence, and institutional neglect as serious violations of women's fundamental rights at work in general and not specifically toward medical profession which demands special treatment.⁶⁶

The *Vishaka v. State of Rajasthan*⁶⁷ judgment laid the essential groundwork for combating sexual harassment by mandating employer obligations to create safe workplaces, later codified into the POSH Act,

65 Available at https://en.wikipedia.org/wiki/2024_Kolkata_rape_and_murder#:~:text=On%209%20August%202024,%2C%20a,and%20+nationwide%20+and%20+international%20+protests, visited on Nov. 22, 2024.

66 Gupta Ritu, *Sexual Harassment at Workplace*, Lexis Nexis, 1st Edition, 2014

67 AIR 1997 SC 3011.

2013. In the healthcare sector, this was vital: women doctors, nurses, and trainees often work in secluded wards, isolated duty rooms, or night shifts; making them more susceptible to harassment not only by co-workers but also by patients and their relatives.

Judicial oversight through *Medha Kotwal Lele v. Union of India*⁶⁸ and cases like *Anusha Deepak Tyagi*⁶⁹ reaffirmed the binding nature of Internal Complaints Committees (ICCs) and the duty of medical institutions to ensure impartial investigations and protect complainants from retaliation. These judgments extended the constitutional mandate of equality and dignity into healthcare workplaces, where patriarchal hierarchies often stifle reporting. However, implementation failures persist. In many hospitals, ICCs exist only on paper, composed of members dependent on the same management they must hold accountable. In medical academia, where students and trainees are particularly vulnerable to exploitative power dynamics, the judiciary's reiteration of the need for independent and trained ICCs remains a goal far from reality.

The RG Kar Medical College and Hospital incident (2024)⁷⁰ starkly exposed the failure of institutional safeguards. The *Suo motu* action by the judiciary was critical: the brutal rape and murder of a postgraduate doctor during a long duty shift symbolized how poor infrastructure, unsafe duty rooms, and neglect of women's security remain the tragic norm rather than the exception. By ordering the creation of a National Task Force (NTF) for safety recommendations and Employees Safety Committees for quarterly audits, the Court rightly shifted focus from punitive measures alone to systemic reforms. Sentencing life imprisonment rather than the death penalty, to the accused, prompted mixed reactions. Award of ₹17 lakh compensation acknowledges state liability for failing to protect a

68 AIRONLINE 2012 SC 632.

69 *Anusha Deepak Tyagi v. State of Madhya Pradesh*, 2022 INSC 798.

70 *In Re: Alleged Rape and Murder Incident of a Trainee Doctor in RG Kar Medical College and Hospital, Kolkata, and Related Issues*, SUO MOTO WRIT (CrI) No.2/2024, available at https://api.sci.gov.in/supremecourt/2024/37351/37351_2024_1_1_55004_Order_22-Aug-2024.pdf, visited on 23.09.2024.

woman at her workplace.⁷¹ However, this is reactive compensation, not a substitute for robust, enforceable obligations on hospitals to implement preventive measures. While the courts rightly resist capital punishment except in the rarest of rare cases, the broader concern is whether the symbolic severity of sentencing alone can deter such crimes without parallel structural safeguards. Despite progressive interventions in select cases, the judiciary has yet to develop a consistent, proactive jurisprudence addressing the routine physical assaults faced by medical staff and inadequate safety infrastructure in hospitals. The repeated attacks in West Bengal⁷², Bihar⁷³, and Hyderabad⁷⁴ in 2024 reflects a terrifying trend.

Concluding Observations

The protection of women in the medical profession must no longer be viewed as a peripheral human right concern or a reactive law-and-order measure. It is a core question of constitutional governance, workplace justice, and systemic accountability. The unique environment of the medical profession with its long, isolated night shifts, rigid hierarchies, emergency duties, and intense patient-family interactions amplifies the vulnerabilities women face at work.

While Parliament has attempted broad frameworks like the POSH Act and has, in extraordinary situations like pandemics, strengthened protections through special ordinances, these measures remain fragmented. States have stepped in with Medicare Protection Laws criminalizing violence against doctors, but these laws overwhelmingly

71 Available at https://images.assettype.com/barandbench/2025-01-20/eob14cyw/RG_Kar_Case__Judgment.pdf

72 Available at <https://medicaldialogues.in/news/health/doctors/mob-attack-2-surgeons-brutally-attacked-after-patient-death-admitted-in-icu-128063>, visited on Nov,24,2024.

73 Available at <https://timesofindia.indiatimes.com/india/pregnant-womans-death-sparks-violence-by-kin-nursethrown-off-1st-floor-of-bihar-nursing-home/articleshow/110475737.cms>, visited on Nov,24,2024.

74 Available at <https://indianexpress.com/article/cities/Hyderabad/hyderabad-doctor-attacked-in-hospital-by-attendants-after-patient-dies-8604280/>, visited on Nov,24,2024.

focus on physical assaults by third parties and do not address the deeper, gendered layers of workplace violence from harassment by colleagues to unsafe institutional design.

The judiciary's intervention, beginning with *Vishaka*, continuing with *Medha Kotwal Lele*, and extending through tragic cases like *RG Kar Medical College*, has repeatedly recognized that workplace safety and gender dignity are not negotiable. Yet, its response has often been crisis-driven, dependent on isolated petitions or PILs, and has lacked robust monitoring mechanisms to ensure that directions translate into lasting change on the ground.

It is therefore imperative to acknowledge that piecemeal protections; central, state, or judicial cannot by themselves guarantee safe workplaces for women medical professionals if they operate in silos. Legal frameworks, institutional infrastructure, administrative vigilance, and cultural change must converge. Laws must recognize that harassment and violence are not just about individual misconduct but are deeply linked to structural deficiencies, unsafe premises, gender-insensitive duty allocations, lack of grievance redressal, and weak institutional accountability.

The time has come for India to move from guidelines to guarantees, from reactive orders to enforceable norms, and from ad-hoc institutional fixes to a coherent national framework that makes the protection of women in the medical profession an inseparable part of our constitutional promise of equality and dignity at work.