

Bill No. 98 of 2023

THE HEALTHCARE SERVICE PROVIDERS AND FACILITIES
(PREVENTION OF VIOLENCE AND DAMAGE TO PROPERTY)
BILL, 2023

By

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A

BILL

*to prohibit violence against healthcare service providers, patients, and their attendants
and to prevent damage or loss to property in healthcare service facilities and
for matters connected therewith or incidental thereto.*

BE it enacted by Parliament in the Seventy-fourth Year of the Republic of India as follows:—

CHAPTER-I

PRELIMINARY

- 5 **1.** (1) This Act may be called the Healthcare Service Providers and Facilities (Prevention of Violence and Damage to Property) Act, 2023.

Short title,
extent, application
and
commencement.

(2) It shall extend to the whole of India.

(3) It applies to clinical establishments defined and registered under the Clinical Establishments (Registration and Regulation) Act, 2010 or under any State Act for the time being in force. 23 of 2010.

(4) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint. 5

Definitions.

2. In this Act, unless the context otherwise requires,—

(a) “appropriate Government” means in the case of a State, the Government of that State and in other cases, the Central Government.

(b) “arms” means arms as defined in clause (c) of section 2 of the Arms Act, 1959; 10 54 of 1959.

(c) “damage” includes loss or harm to property, whether in whole or in part, with or without taking possession of the property that renders it inadequate for its designated purpose or wholly or partially incapable of performing its function;

(d) “healthcare services” means the administrative, curative, rehabilitative, preventive, promotive, and supportive services for the control of diseases, injuries, or disabilities as well as measures ensuring the health of persons and include activities that ensure or provide support or access for persons in need of these healthcare services or activities such as searching for, collecting, treating or transporting persons in need of healthcare or the administration of healthcare service facilities; 15

(e) “healthcare service facilities” include healthcare centres, hospitals, healthcare teaching facilities, diagnostic centres, blood banks, medical clinics, nursing homes, maternity homes, dental clinics, all registered alternative medicine healthcare facilities, physiotherapy clinics, medical camps, first-aid posts, or any other premises or conveyance that is wholly or partly used for providing healthcare services in the public and private sectors; 20 25

(f) “healthcare service providers” in relation to a healthcare service facility means the administrative, clinical, support, and auxiliary staff including students in healthcare, and includes the following—

(i) registered medical and dental or alternative medicine practitioners including those having provisional registration; 30

(ii) registered nurses;

(iii) medical students;

(iv) nursing students;

(v) paramedics;

(vi) all registered alternative medicine’s practitioners 35

(vii) paramedical students;

(viii) pharmacists;

(ix) Lady Health Workers;

(x) polio workers;

(xi) volunteers; 40

(xii) management staff; and

(xiii) non-clinical staff;

(g) “mental anguish” means extreme pain, distress of mind, severe misery or mental suffering;

5 (h) “mental illness” means a mental illness as defined in clause (s) of section 2 the
10 of 2017. Mental Healthcare Act, 2017;

(i) “obstruction” means any act that hinders the provision of healthcare services;

(j) “patient” means any recipient of healthcare services;

(k) “prescribed” means prescribed rules made under this Act;

10 (l) “property” means any property, movable or immovable in possession of or
under the control of any healthcare service facility or healthcare service provider in
relation to his professional duty;

(m) “relevant authority” means a competent authority in relation to healthcare
services facilitates or healthcare services providers as provided in any other laws, rules,
15 and regulations of the State Government, as the case may be;

(n) “violence” means and includes harassment, provocation, or use of force against
a person, group or community, or healthcare service facility which results in mental
anguish, physical injury, or death to the healthcare service providers or beneficiary of
healthcare services, or results in interruption of healthcare services provision or damage
20 to such property and shall not include—

(i) collateral or defensive violence, if any, caused by the law; and

(ii) enforcing agencies or security personnel of the healthcare service facility
on duty.

CHAPTER-II

25 OFFENCES AND PENALTIES

3. No person shall use violence against a healthcare service provider, patient or his
attendants, or any other person within a healthcare service facility.

Prohibition of
violence.

4. (1) Whoever contravenes the provisions of section 3, shall be punished under the
45 of 1860. relevant provisions of the Indian Penal Code, 1860.

Punishment.

30 (2) Where an act, in contravention of section 3, causes bodily injury or death or which
45 of 1860. in the ordinary course of nature is likely to cause injury or death, such person shall be liable
to punishment under the relevant provisions of the Indian Penal Code, 1860:

35 Provided that in case of injury to a healthcare service provider or to the patient or his
attendant, as the case may be, in addition to the punishment specified above, the accused
shall also be liable to pay compensation to such healthcare service provider, patient, or his
attendant, as the case may be, in such manner as may be prescribed.

40 5. (1) If an act, in violation of section 3, causes mental anguish without causing any
bodily injury or harm to a healthcare service provider, patient, or his attendants, as the case
maybe, the person to whom mental anguish has been caused may apply for mediation and
settlement with the person or persons causing such mental anguish in such manner and
procedure as may be prescribed.

Institutional
Mediation and
Settlement.

	(2) The Central Government may, by notification, authorize the Authorities constituted under the Legal Services Authorities Act, 1987, for the purposes of institution mediation under this Act.	39 of 1987.
	(3) Notwithstanding anything contained in the Legal Services Authorities Act, 1987, the Authority authorized by the Central Government under sub-section (2) shall complete the process of mediation within a period of three months from the date of application made by the plaintiff under sub-section (1):	39 of 1987. 5
	Provided that the period of mediation may be extended for a further period of two months with the consent of the parties:	
	Provided further that, the period during which the parties remained occupied with the institution mediation, such period shall not be computed for the purpose of limitation under the Limitation Act, 1963.	10 36 of 1963.
	(4) If the parties arrive at a settlement, the same shall be reduced into writing and shall be signed by the parties to the dispute and the mediator.	
	(5) The settlement arrived at under this section shall have the same status and effect as if it is an arbitral award on agreed terms under sub-section (4) of section 30 of the Arbitration and Conciliation Act, 1996:	15 26 of 1966.
	Provided that if the parties fail to arrive at a settlement for any reason, section 4 of the Act shall be applied.	
Prohibition of damage to Property.	6. No person shall cause damage or loss to property owned by or under the care of healthcare service providers or healthcare facilities in connection with or incidental to their activities in healthcare service facilities.	20
Penalty for contravention of section 6.	7. Whoever contravenes the provisions of section 6, shall be punished with—	
	(a) imprisonment for a term which may extend upto three years or with a fine equivalent to double the market value of the property damaged or lost at the time of the commission of the offence or with both, if an act causes irreparable wrongful damage or loss to the property having value equivalent to or exceeding one lakh rupees; or	25
	(b) imprisonment for a term which may extend upto one year or with a fine equal to double the cost of repairing the damaged property including the cost of deprivation of healthcare services to the public or with both, if an act causes reparable wrongful damage or loss to property the value of which is equivalent to or exceeding one lakh rupees; or	30
	(c) imprisonment for a term which may extend upto one month or with the fine or with both, if an act which causes wrongful damage or loss to property having value less than one lakh rupees:	35
	Provided that where loss to property constitutes other offences to property, it shall be dealt with under the relevant provisions of the Indian Penal Code, 1860.	45 of 1860.
Prohibition of obstruction or disruption of healthcare service.	8. No person shall cause disruption or obstruction of healthcare services in a healthcare facility.	

9. Whoever contravenes the provisions of section 8 shall be punished with—

Penalty for
contravention
of section 8.

(a) imprisonment for a term which may extend upto three years or with fine which may extend to three lakh rupees but shall not be less than fifty thousand rupees or with both, if an act causes obstruction of healthcare services; or

5 (b) imprisonment for a term which may extend upto one year or with fine which may extend to one lakh rupees but shall not be less than fifty thousand rupees or with both, if an act which in the ordinary course of nature is likely to cause interruption in the provision of healthcare services.

10 10. No person shall keep, carry or display arms of any kind, including licensed weapons, within the premises of a healthcare service facility:

Prohibition
of carrying
weapons into
a healthcare
facility.

Provided that the provisions of this section shall not apply to the carrying of arms officially allowed for security purposes to the law enforcing agencies or security personnel of a healthcare service facility on duty.

15 11. Whoever contravenes the provisions of section 10 shall be punished with imprisonment for a term which may extend upto six months but shall not be less than one month or with a fine which may extend to three lakh rupees but shall not be less than fifty thousand rupees or with both.

Penalty for
contravention
of section 10.

20 12. Any registered medical and dental or alternative medicine practitioners, including those having provisional registration in a healthcare facility, are of the opinion that any person is imminent to act in contravention of the provisions of this act may document, report the behaviour, and refuse to treat the patient:

Refusal to
treatment.

Provided that if the person suffers from a fatal or life-threatening disease or is in dire need of immediate medical assistance, the provision of this section shall not be applicable on such person.

25 13. If the registered medical and dental or alternative medicine practitioners, including those having provisional registration, refuses to treat someone for any reason which is not medically justified, which includes but are not limited to race, gender, caste, religion, sexual orientation, disability, and income, and fail to provide a reasonable cause for refusal to treatment, the license of such registered medical and dental or alternative medicine practitioners shall be suspended for a minimum period of two years.

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Refusal to treat
on malicious
grounds.

45 of 1860. 14. Where it is proved at any stage that no violation of the provisions of this Act was committed and the charge levied against the accused was false and malicious, the person levelling such false charge shall be prosecuted under the relevant provisions of the Indian Penal Code, 1860.

Punishment for
False charge.

CHAPTER-III

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RESPONSIBILITIES

15. (1) In addition to any other responsibility of a healthcare service facility or a healthcare service provider under any law for the time being in force, it shall be the responsibility of each healthcare service facility to,—

Responsibilities of
healthcare service
facilities and
healthcare service
providers.

40 (a) ensure that the healthcare service providers explain the procedures of treatment before and during the treatment to the complete understanding of the patients or their designated attendants in a presentable and comprehensible manner;

(b) furnish in writing, the complete information about medical treatment provided by such healthcare service facility, to the patients or his designated attendants who seek treatment in the said facility in a presentable and comprehensible manner;

(c) safeguard patient confidentiality and to maintain the highest standards of ethical conduct and not discriminate amongst patients except on the basis of medical need, and to provide emergency care as a humanitarian duty; 5

(d) provide a copy of the whole or part of the patient's information sheet or medical record on demand to the patient concerned or his designated attendant.

(e) ensure that the healthcare service providers adhere to the responsibilities specified in clause (a), (b), (c) and (d) or in any other law for the time being in force and also to address complaints of any violation in respect of the same, followed by appropriate action against the concerned healthcare service provider or the concerned person in the healthcare service facility, as the case may be, by the relevant authority. 10

Explanation: For the purposes of this section "appropriate action" means disciplinary action, suspension, cancellation or revocation of license for medical practice, profession, sealing of the healthcare facility or any other suitable action prescribed in laws, rules, regulations and standard operating procedures of the State Government, as the case may be. 15

CHAPTER-IV

MISCELLANEOUS 20

Spot Inspection
by officers.

16. (1) Whenever the Sub-Divisional Magistrate or any other Executive Magistrate or any police officer not below the rank of Sub-Inspector of Police receives information from any person or upon his own knowledge that an offence has been committed in contravention of this act within his jurisdiction, he shall immediately himself visit the place of occurrence to assess the extent of violence, obstruction, loss and damage to the property and submit a report forthwith to the appropriate Government. 25

(2) The Sub-Divisional Magistrate or any other Executive Magistrate and any police officer not below the rank of Sub-Inspector of Police after inspecting the place or area shall, on the spot,—

(i) draw a list of victim healthcare provider(s) or healthcare facilities or patient(s) or attendant(s); 30

(ii) prepare a detailed report on the extent of violence, obstruction, loss, and damage to the property of victim(s), which may be categorized in the following form: -

(a) Category A— Abusive language; minor scuffle

(b) Category B— Verbal threat to life, property or family; obstruction of emergency vehicle leading to interference with healthcare services 35

(c) Category C— Acts that cause damage to property; damage to medical equipment

(d) Category D— Threat or actual use of criminal force; armed interference in performance of duties; armed assault; theft of medical equipment or medical transport 40

(e) Category E— Threat or actual use of explosive device.

(iii) take effective and necessary steps to provide protection to the witnesses and other healthcare providers at the healthcare facility.

5 **17. (1)** The appropriate Government shall set up Health Committee under the charge of the concerned Health Secretary and depute an Additional Director General of Police for carrying out the functioning assigned to it under this Act.

Setting up
Health
Committee.

(2) The Health Committees set up under sub-section (1) shall,—

(a) **conduct survey of the identified healthcare facilities where violence, obstruction, loss, or damage to the property has taken place;**

10 (b) make inquiries about the investigation and spot inspections conducted by various officers;

(c) inform the nodal officer about the law and order situation in the identified healthcare facilities;

(d) make enquiries about the wilful negligence by a public servant;

15 (e) **create awareness about mental health and illness and reducing the stigma associated with mental illness among healthcare providers;**

10 of 2017. 20 (f) encourage healthcare providers to seek support and care for their mental health, to help such providers identify risk factors associated with suicide and mental health conditions, and to help such providers learn to respond to such risks, with the goal of preventing suicide and mental health conditions under the Mental Healthcare Act, 2017;

(g) set up peer support groups among healthcare providers and provide mental healthcare and follow-up services, as appropriate;

(h) conduct a review on improving healthcare providers' mental health and the outcomes of programs authorized under this Act;

25 (i) conduct awareness campaigns advocating the provisions of this act and further help in the deterrence of the same;

(j) review the position of cases registered under the Act; and

30 (k) submit a monthly report on or before the 20th day of each subsequent month to the State Government/nodal officer about the action taken and proposed to be taken in respect of the above.

18. (1) The appropriate Government shall nominate a nodal officer to coordinate the functioning of the Executive Magistrates and authorized police officers or other officers authorized by them, investigating officers, and other officers responsible for implementing the provisions of the Act.

Nomination of
Nodal Officer.

35 (2) The nodal officer shall by the end of every quarter review,—

(i) the reports received by the appropriate Government under section 16;

(ii) the position of cases registered under the Act; and

(iii) various kinds of measures adopted for providing immediate relief in cash or kind or both to the healthcare provider(s) or healthcare facilities.

Application of other laws not barred.	19. The provisions of this Act, except as otherwise expressly provided, shall be in addition to and not in derogation of the provisions of any other law for the time being in force.	
Cognizance of offence.	20. No court other than Magistrate of the First Class shall try an offence, punishable under this Act on the report of a Police Officer not below the rank of a sub-inspector.	5
Application of the Code of Criminal Procedure, 1973.	21. The provisions of the Code of Criminal Procedure, 1973, shall <i>mutatis mutandis</i> apply to the procedural matters including trials and bails under this Act.	2 of 1974.
Power to make rules.	22. (1) The Central Government may, by notification in the Official Gazette, make rules for the purposes of carrying out the provisions of this Act.	
	(2) Every rule made under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both the Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.	10 15

STATEMENT OF OBJECTS AND REASONS

The Healthcare Service Providers and Facilities (Prevention of Violence and Damage to Property) Bill, 2023 is an essential piece of legislation aimed at safeguarding the well-being of healthcare professionals, patients, and healthcare facilities. The primary purpose of this bill is to address the rising incidents of violence and damage to property that healthcare service providers and facilities are facing and to provide them with adequate protection and support. The Supreme Court, in *Indian Medical Association v. Union of India*, took cognizance of this issue and directed the Central Government to issue guidelines to protect doctors and healthcare workers from violence. The Court has also directed the State Governments to implement these guidelines and to take strict action against those who violate them.

According to the Indian Medical Association, over 75 per cent of healthcare providers in India have faced violence at some point in their careers. Furthermore, a survey conducted by the Ministry of Health and Family Welfare revealed that 45 per cent of healthcare facilities in the country have experienced some form of violence, ranging from verbal abuse to physical assaults. These statistics reflect the gravity of the situation and underscore the importance of this Bill. This Bill seeks to address these challenges by establishing comprehensive prevention, intervention, and accountability measures. The existing laws provide recourse to criminal litigation alone – a process most healthcare providers are reluctant to initiate. This Bill mandates arbitration as the first recourse in cases of minor offenses under the act, which would offer a much simpler and faster means of resolution and not burden the court at the same time. By implementing strict measures to prevent violence and damage to property within healthcare facilities, the Bill aims to create an atmosphere conducive to quality healthcare delivery. This includes the establishment of State Health Committees to deter potential acts of violence and collecting comprehensive data as well.

Furthermore, the Bill recognizes the importance of supporting healthcare professionals who have been victims of violence or damage to property. It proposes measures to ensure adequate psychological support and counseling for affected individuals. By addressing the aftermath of such incidents, the Bill acknowledges the importance of supporting the well-being and recovery of healthcare professionals, thus promoting retention and job satisfaction within the sector.

By creating a framework that prevents violence, supports victims, and holds offenders accountable, this Bill not only enhances the quality of healthcare services but also protects the fundamental rights and safety of those working in the healthcare sector. It is a necessary step toward building a society where healthcare providers can perform their duties without fear, and patients can receive the care they need in a secure environment.

Hence this Bill.

NEW DELHI;
July 03, 2023.

MOHAMMAD JAWED

FINANCIAL MEMORANDUM

Clause 17 of the Bill provides for setting up Health Committee by the appropriate Government for carrying out purposes of this Act. It further provides for conduct survey of the identified healthcare facilities where violence, obstruction, loss, or damage to the property has taken place and for creating awareness about mental health and illness and reducing the stigma associated with mental illness among healthcare providers by the Committee. The Bill, therefore, if enacted, would involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of about rupees seven hundred crore per annum.

A non-recurring expenditure of about rupees three hundred crore is also likely to be involved.

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 22 of the Bill empowers the Central Government to make rules for carrying out the purposes of the Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

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(Dr. Mohammad Jawed, M.P.)