

Bill No. 99 of 2023

THE HEALTHCARE PERSONNEL AND HEALTHCARE
INSTITUTIONS (PROHIBITION OF VIOLENCE AND
DAMAGE TO PROPERTY) BILL, 2023

By

DR.SHASHI THAROOR, M.P.

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BILL

*to prohibit violence against healthcare personnel and damage or loss to property
of healthcare Institutions and for matters connected therewith
and incidental thereto.*

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

1. (1) This Act may be called the Healthcare Personnel and Healthcare
Institutions (Prohibition of Violence and Damage to Property) Act, 2023.

Short title,
extent and
Commencement.

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(2) It extends to the whole of India.

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

Definitions.

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

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

(b) “Healthcare Institutions” means—

(i) a hospital, maternity home, nursing home, dispensary, clinic, sanatorium, mobile medicare units, e-medicine and tele-medicine centres or an institution by whatever name called that offers services, facilities requiring diagnosis, treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicine established and administered or maintained by any person or body of persons, whether incorporated or not; or

(ii) a place established as an independent entity or part of an institution referred to in sub-clause (i), in connection with the diagnosis or treatment of diseases where pathological, bacteriological, genetic, radiological, chemical, biological investigations or other diagnostic or investigative services with the aid of laboratory or other medical equipment, are usually carried on, established and administered or maintained by any person or body of persons, whether incorporated or not; and shall include a healthcare institution owned, controlled or managed by –

(a) the Government or a department of the Government; or a Public Sector Undertaking or Autonomous Body of the Government;

(b) a trust, whether public or private;

(c) a corporation (including a society) registered under a Central, or Provincial or State Act, whether or not owned by the Government;

(d) a local authority; and

(e) a single doctor.

Explanation.— For the purposes of this clause, a mobile medical unit or an ambulance shall be deemed to be a healthcare institution if such vehicle is fitted with medical equipment and is used for providing healthcare service.

(c) “healthcare personnel” include—

(i) a registered medical practitioner, possessing a recognized medical qualification as defined in clause (r) of section 2 of the National Medical Commission Act, 2019, and enrolled in a State Medical Register as defined in clause (v) (w) of that section;

(ii) a medical practitioner registered for practising in any other system of medicine which is recognized under any law for the time being in force;

(iii) a registered dentist, registered dental hygienist and registered dental mechanic shall have the same meaning as assigned to them in the Dentist’s Act, 1948;

(iv) a registered nurse, midwife, auxiliary nurse-midwife and health visitor who is registered as such under section 15A of the Indian Nursing Council Act, 1947;

(v) a medical student who is undergoing education or training in any system of medicine recognized by any law for the time being in force;

(vi) a nursing student who is undergoing education or training in nursing profession;

5 (vii) para-medical workers, para-medical student;

(viii) diagnostic services provider, and ambulance driver and helper;

(ix) security personnel designated by the healthcare institution;

(x) administrative and other staff of the healthcare institution;

(xi) Accredited Social Health Activists (ASHA); and

10 (xii) any other category of persons notified by the appropriate Government from time to time;

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

(e) “property” means any property movable or immovable or medical equipment or medical machinery owned by or in possession of, or under the control
15 of any healthcare personnel or healthcare Institution;

(f) “verbal abuse” means the words used with the intention to insult or humiliate the healthcare personnel;

(g) “violence” includes any of the following acts committed by any person against healthcare personnel which causes or may cause—

20 (i) harassment impacting the living or working conditions of such healthcare personnel and preventing them from discharging his duties;

(ii) harm, injury, hurt, intimidation or danger to the life of such healthcare personnel, either within the premises of a healthcare institution or otherwise;

(iii) obstruction or hindrance to such healthcare personnel in the discharge
25 of his duties, either within the premises of a healthcare institution or otherwise;
or

(iv) loss or damage to any property or documents in the custody of, or in relation to, such healthcare personnel; and

45 of 1860 30 (h) words and expressions used herein and not defined, but defined in the
2 of 1974 Indian Penal Code, 1860 or in the Code of Criminal Procedure, 1973 shall have the same meanings, respectively as assigned to them in those Codes.

3. No person shall indulge in any act of violence against a healthcare personnel or cause any damage or loss to any property in a healthcare institution.

Prohibition of violence.

35 **4.** (1) Whoever commits an act of verbal abuse to a healthcare personnel shall be punished with simple imprisonment for a term which may extend up to three months, or with fine which may extend up to fifty thousand rupees, or with both.

Offences and penalties.

(2) Whoever commits violence or abets or incites commission of violence

against any healthcare personnel or abets or incites or causes damage or loss to any property of a healthcare institution, shall, upon conviction, be punished with imprisonment for a term which shall not be less than six months but which may extend up to five years, and with fine, which shall not be less than fifty thousand rupees but which may extend up to five lakh rupees;

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(3) Whoever, while committing violence as referred to in sub-section (2) causes grievous hurt as defined in section 320 of the Indian Penal Code, 1860 to any healthcare personnel, shall, upon conviction, be punished with imprisonment for a term which shall not be less than three years, but which may extend up to seven years, and with fine, which shall not be less than two lakh rupees, but which may extend up to ten lakh rupees.

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Offence to be cognizable and non-bailable.

5. Notwithstanding anything contained in the Code of Criminal Procedure, 1973, an offence punishable under this Act shall be cognizable and non-bailable.

2 of 1974

Information, investigation and trial of offences.

6. Notwithstanding anything contained in the Code of Criminal Procedure, 1973,—

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2 of 1974

(i) upon a written request of the aggrieved healthcare personnel, it shall be mandatory for the person in charge of a healthcare institution to inform the officer in charge of the concerned police station of the commission of an offence under this Act;

(ii) on receiving a complaint either from the institution or the affected healthcare personnel, a First Information Report should be registered within one hour of receiving the complaint;

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(iii) any case registered under this Act shall be investigated by a police officer not below the rank of Inspector and investigation of such cases shall be completed within a period of thirty days from the date of registration of the First Information Report and such investigation shall be supervised by senior police officer not below the rank of Deputy Superintendent of Police;

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(iv) in every inquiry or trial of a case under this act, the proceedings shall be held as expeditiously as possible, and in particular, when the examination of witnesses has once begun, the same shall be continued from day to day until all the witnesses in attendance have been examined, unless the Court finds the adjournment of the same beyond the following day to be necessary for reasons to be recorded, and an endeavour shall be made to ensure that the inquiry or trial is concluded within a period of one year:

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Provided that where the trial is not concluded within the said period, the Judge shall record the reasons for not having done so:

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Provided further that the said period may be extended by such further period, for reasons to be recorded in writing, but not exceeding six months at a time;

(v) for the purpose of providing for speedy trial, all cases registered under this Act shall be tried in designated special courts, which the State Government shall, with the concurrence of the High Court by notification in the official Gazette, set up in each district; and

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(vi) for every Special Court the State Government may, by notification in the Official Gazette, designate Special Prosecutor for the purpose of conducting cases in that court.

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7. Where a person is prosecuted for committing an offence punishable under sub-section (1) and sub-section (2) of section 4, such offence may, with the permission of the Court, be compounded by the personnel against whom such act of violence is committed.

Composition of Certain Offences.

5 8. (1) Where a person is prosecuted for committing an offence punishable under sub-section (3) of section 4, the Court shall presume that such person has committed such offence, unless the contrary is proved.

Presumption as to certain offences and culpable mental state.

(2) In any prosecution for an offence under sub-section (3) of section 4 which requires a culpable mental state on the part of the accused, the Court shall presume the existence of such mental state, but it shall be a defence for the accused to prove the fact that he had no such mental state with respect to the act charged as an offence in that prosecution.

Explanation.—For the purposes of this section,—

15 (a) a fact is said to be proved only when the Court believes it to exist beyond reasonable doubt and not merely when its existence is established by a preponderance of probability; and

(b) “culpable mental state” includes intention, motive, knowledge of a fact and the belief in, or reason to believe, a fact.

20 9. (1) In addition to the punishment provided for the offence punishable under sub-section (2) and sub-section (3) of section 4, the convicted person shall be liable to pay, by way of compensation,—

Composition for acts of violence.

(i) such amount, as may be determined by the Court for causing hurt or grievous hurt to any healthcare personnel.

25 (ii) in case of damage to any property, or loss caused, the compensation payable shall be twice the amount of fair market value of the damaged property or the loss caused, as may be determined by the Court.

(2) If the convicted person does not pay the compensation granted the said sum shall be recovered as an arrear of land revenue under the Revenue Recovery Act, 1890 in such manner as may be prescribed.

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30 10. The provisions of this Act shall be in addition to, and not, save as otherwise expressly provided, in derogation of any other law for the time being in force.

Application of other laws not barred.

11. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power of Central Government to make rules.

35 (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.

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Power of State Government to make rules.

12. (1) The State Government may, by notification, make rules for carrying out the provisions of this Act in respect of matters which do not fall within the purview of section 11.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:— 5

(a) installation of CCTV cameras and round the clock Quick Reaction Teams with effective communication, security gadgets particularly at casualty, emergency and areas having high footfalls;

(b) security of sensitive healthcare institution to be managed by a designated and trained force; 10

(c) entry restriction of entry of undesirable persons in the healthcare institution premises and other areas as may be specified;

(d) display of important information addressing the stakeholders in every healthcare institution and police station;

(e) appointment of Nodal Officer to monitor registered cases of medical negligence; 15

(f) expeditious filling up of vacant posts of doctors and para-medical staff in healthcare institution and Primary Health Centres (PHCs) to avoid excessive pressure on doctors and to maintain global doctor-patient ratio;

(g) better infrastructural facilities and medical equipment and provision of extra monetary incentive for the doctors and para-medical staff serving in remote areas as compared to major and metro cities with better career prospects; and 20

(h) standard operating procedures regarding the manner in which persons in custody, accused or otherwise are to be presented in healthcare institution and before healthcare personnel. 25

STATEMENT OF OBJECTS AND REASONS

The increasing and repeated instances of violence against healthcare personnel represents a complex and grave challenge that must be addressed on a priority basis. Violence in any form and in any setting is reprehensible. However, acts of violence against medical professionals and on healthcare institutions are the most extreme and should be dealt with an iron hand.

While there is no central data on the number of assault cases against healthcare personnel or health facilities, the Indian Medical Association (IMA) estimates that 75 percent of all doctors face some form of verbal and physical abuse during their service, with cases of violence severely underreported. International organizations, such as the World Health Organization (WHO) and the International Council of Nurses (ICN), have also recognized the issue of violence against healthcare workers as a global concern.

The legislative lacunae only further complicate our ability to address this challenge. Currently, no national-level law, including the Indian Penal Code (IPC), 1860 and Code of Criminal Procedure (CrPC), 1973 comprehensively and categorically addresses the issue. State Laws vary: the existing laws are weak in their implementation, vary a lot and lack scope to protect all Healthcare personnel. Infact, several States and Union Territories have no laws at all.

It is submitted that while ‘Health’ and ‘Law and Order’ are state subjects, the Parliament is competent to legislate on matters related to ‘Legal, Medical and other professions’ as listed in Entry 26, List 3 (Concurrent List) of the Seventh Schedule to the Constitution of India. Infact, in 2019, the Central Government had introduced a draft bill titled the *Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Bill* which would have made such violence a non-bailable and cognisable offence with a jail term of up to five years. But this was withdrawn before it could be considered by Parliament.

Our healthcare professionals are neither adequately appreciated nor protected and it is imperative to realise that this is not just a medical fraternity issue. Violence against them also weakens the healthcare ecosystem and affects the quality of services provided to patients, in turn, leading to a further risk of violence.

On May 10, 2023, a young doctor, committed to using her training and education in the serve of humanity, had her life tragically taken away from her at the hands of a patient she was seeking to heal. Her death must not just serve as a reminder of the consequences of our inaction but become a call to action, particularly towards ensuring that the legislative lacuna is addressed so that no doctor has to worry about their own safety in the line of duty.

This, therefore, necessitates a comprehensive central legislation to put a check on such violence at the earliest, to promote a safe work environment for doctors and other healthcare personnel and to serve as a model for state laws.

Hence this Bill.

NEW DELHI;
July 3, 2023.

SHASHI THAROOR

MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 11 and Clause 12 of the Bill empower the Central Government and the State Government respectively to make rules for carrying out the purposes of this Bill. As the rules will relate to matters of detail only, the delegation of legislative power is of a normal character.

LOK SABHA

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(Dr. Shashi Tharoor, M.P.)