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MEDICAL PROFESSION AND WORKING WOMEN: ISSUES, CHALLENGES AND LEGAL REMEDIES

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Abstract

Gender-based discrimination and violence in India is still a big problem affecting every woman across all spheres, including healthcare sector. Primarily due to the social values of patriarchy and structural inequalities are these manifested in several and detrimental effects on women's lives that contribute to psychological trauma, poor health outcomes in impoverished populations, and loss of trust in the healthcare system. Despite notable advances in gender equality over the past few decades, female doctors and other medical professionals still run against obstacles that slow down their professional progression, and work-life balance. Though there are several important instruments to protect the working women from the atrocities and harassment at workplace such as Domestic violence, sexual harassment and protection of human rights, still there are gaps mostly in enforcing and de-stigmatizing the cultural elements causing the ongoing susceptibility of the female health worker that these initiatives address. An attempt is made to look into the several difficulties which the women experienced in the medical profession such as gender-based discrimination, sexual harassment and behavioural attitude of fellow person, salary inequities, family leave policies, and the intersectionality of gender with other identical elements are all humbly examined thoroughly by the researcher and the relevant laws and judicial pronouncement, institutional policies, and developing trends in tackling these issues are also covered in this paper.

Key Words: Medical Profession, Working Women, Issues & Challenges, Legal Remedies.

I. Introduction

Medical profession is always treated as a novel profession in all society since long. The medical professional explores the complex challenges which require critical learning and thinking skills in health education and examine the impact of medicine on the health of mankind. The medical profession is highly respectable in every society and this recognition attract the women to enters this novel profession which secures the sufficient financial position of women. Since many Indian families prefer that women should consult and be treated by female doctors, women

have an excellent career opportunity in the field of medicine. Like teaching, the medical profession has traditionally been a favoured vocation for Indian women, particularly from the colonial period. Women are accepted in the medical profession now and are gradually branching out to almost all specialties. Women entering the medical profession have been drastically increased. But still women doctors entry at post- graduation and doctoral levels is almost one-third of the men. It is found that fewer women compared to men are in specialties.¹

Women made a tiny showing in the medical field when India became free in 1947. Statistics still show that the degrees earned by women in the field of medicine in 1952 constituted just 5% of the total. By 1988, when almost 50% of medical college graduates were women, this progressively rose to some equivalence. But this was not a question that could be viewed as a constructive development because only roughly one third of post graduate and doctoral levels followed this. Several different factors were ascribed to the change. First among them was Indian society's mindset, which earlier was not prepared to welcome women into the medical field. Sadly, this meant that many women were not ready to be treated by male doctors, hence avoiding hospitals. Another factor was the chance the economy presented women in general to help in the country's development by loosened autocratic control, which stimulated private investment in many sectors, medicine being one of them.²

II. Legal Framework and Policies Analysis in Medical Profession

India has developed thorough legal and constitutional structures to address problems women encounter in workplaces including the medical field. These clauses aim to guarantee equality, prohibit discrimination and provide special safeguards taking into account the particular circumstances of women.

A. Constitutional Provisions

The Constitution of India in various important Articles especially provides the safeguards to women against the all form of discrimination and ensures the dignity of women including the medical female personnel. The Constitution of India under Article 14 provides for all people within the India's territory equality before the law and equal protection of laws. This basic

¹Mita Bhadra, "Indian Women in Medicine: An Enquiry Since 1880",41(1),Indian Anthropologist, 17-43, 2011. available at <https://www.jstor.org/stable/41921931> (last visited on 29th April, 2025.)

²Sharad Khattar, "Women in Modern Medicine in India: Progression, Contribution, Challenges and Empowerment", 13(2), Australasian Accounting, Business and Finance Journal, 89, 2019.available at <https://core.ac.uk/download/pdf/232895355.pdf>, (last visited On 1st May, 2025)

clause forbids discrimination in every governmental action including public medical institutions, government hospitals, and state-run medical colleges. For women doctors and medical students, this clause guarantees to all women whether doctors or nursing staff the equal treatment in government medical institutions with respect to admissions, employment, promotions, and working conditions. Further, Article 15 deals with prohibition of discrimination on grounds of religion, race, caste, sex, or place of birth. This clause specifically targets medical education and employment gender-based discrimination. Article 15(3) gives the State special authority to provide for women and children. Article 16 addresses equality of opportunity in public employment according with this article this clause specifically applies to women doctors looking for employment in research facilities, public medical colleges, and government hospitals. In public employment, it forbids discrimination on grounds of sex, and it has been used to question unfair selection criteria and advancement plans.

Freedom to practice any profession is addressed in Article 19(1) (g). This clause ensures every citizen has the freedom to engage in any line of work, trade, commerce, or profession. For women in medicine, this right guarantee that they can work in any medical field of their choosing free from legal constraints founded on gender. Article 21 does not specifically mention gender equality, its guarantee of the right to life and personal liberty has been broadly understood by applying the very best court to comprise the right to stay with human dignity. This understanding has been especially important in situations of sexual harassment and hostile workplace environments for women medical professionals, thereby confirming that respectable working conditions are a basic right.

Article 42 addresses humane and just working conditions. This directive principle of national policy guides the country to at ease just and humane conditions of work and maternity comfort. Although not directly enforceable in court, this idea has shaped laws on maternity pay, job safety, and work hours particularly impacting women in the tough medical field. Article 47 indirectly promotes women's equal involvement in the healthcare workforce by placing a responsibility on the government to enhance public health and nutrition. According to Directive Principles of State Policy, the government shall aim to guarantee that men and women have equal pay for equal work and access to a sufficient means of living. This directive helps policy ideas encouraging gender equality in medical employment. These constitutional clauses create a robust legal basis to stop gender-based discrimination and guarantee the

safeguarding and advancement of women's rights in the medical profession.³

The Supreme Court of India gives various guidelines for preventing and addressing sexual harassment in the workplace especially in the *Vishakha* case. This case was a direct result of a Public Interest Litigation (PIL) filed by various women's groups, including Sakshi, led by Naina Kapur, following the brutal gang rape of Bhanwari Devi. The Honourable Supreme Court recognized sexual harassment at workplace as a violation of fundamental rights under Articles 14, 19, and 21 of the Constitution, and it laid down the "*Vishakha Guidelines*" to protect women from such harassment.

In Anuj Garg case the constitutional validity of S.30 of Punjab Excise Act, 1914 was challenged which prohibited the employment of "any man under the age of 25 years" or "any woman". The High Court struck down the provision as unconstitutional under Articles 19(1) (g), 14 and 15 to the extent of its prohibition on the employment of women. The judgment laid down the anti-stereotyping principle. It held that if the justification for a discriminatory provision on the basis of sex, rested upon "stereotypes" of the role of men and women in society, the classification was considered unconstitutional.⁴ This judgment enforces the principles of anti-discrimination and equal remuneration on a private body, on the basis of its establishment under general regulatory provisions, thereby reinforcing the universal application of Articles 14 and 16 in the case of gender discrimination.⁵ The decision given in this case is significant because the Court came down strongly against the actions of the Petitioner company and its non-compliance with the POSH Act. The quantum of compensation awarded by the Court is one of the largest sums on record to be awarded in a case of sexual harassment.

B. Statutory Provisions

- i. **The Sexual Harassment of Women at Workplace:** This act addresses sexual harassment at workplace. In other words, this act was enacted to provide a protection to woman who has been subject to sexual harassment whether employed or not. Women have a choice in case of sexual harassment either to take criminal action against the accused person or take the remedies provided in the POSH Act.⁶

³ Constitution of India.

⁴*Anuj Garg V. Hotel Association of India and Others*, MANU/SC/8444/2007

⁵*Charu Khurana V. Union of India and Others* MANU/SC/1044/2014

⁶The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.

- ii. **The Maternity Benefit:** Maternity leave and other perks for women workers, including those in the medical sector, are provided by the Maternity Benefit. Designed to protect and preserve the rights of working women during their maternity period, this act is a historic body of law in India.⁷
- iii. **The Protection of Women from Domestic Violence Act:** Women in fields like medicine, which often include long and variable work hours, night shifts, or travel, may experience backlash or controlling behaviour from family members. In such instances, the woman's professional life helps to connect the maltreatment though coming from domestic sources to her life. Women experiencing surveillance, stalking, or coercive control from intimate partners at their place of work may also find relief under the Act.⁸
- iv. **The Apprentices (Amended in 2014)⁹:** This act prohibits apprentice recruitment and training in medical and healthcare sectors including gender discrimination. The Act helps women seek practical experience in biomedical engineering, hospital upkeep, surgery support, and clinical environments. It strengthens the argument that all genders should have equal access to medical and technical education, therefore advancing gender diversity in highly skilled healthcare jobs.¹⁰
- v. **The Medical Termination of Pregnancy (MTP) Act:** This act guarantees confidentiality and increases access to abortion services in India including for female healthcare providers. The amendment lets women including those in the medical field seek abortion up to 24 weeks of pregnancy under particular conditions, provided the process remains secret. It also enables women in healthcare to offer these services, therefore guaranteeing legal protection and advancing independence over reproductive health choices. By giving a legal framework for safe and accessible abortion services, this Act helps to protect the rights of women including medical practitioners thereby critically supporting those rights.¹¹
- vi. **The Occupational Safety, Health and Working Conditions Code:** The act combines several acts to guarantee health and safety criteria in workplaces throughout India, the Occupational Safety, Health and Working Conditions Code. Women in the medical field receive extra protection from this Code, especially in risky settings like clinics and

⁷ The Maternity Benefit Act, 1961.

⁸ The Protection of Women from Domestic Violence Act, 2005

⁹ The Apprentices Act, 1961

¹⁰ *Supra* note 17.

¹¹ The Medical Termination of Pregnancy (MTP) Act, 1971 (Amended in 2021)

- hospitals. It requires sufficient amenities, safety measures, and protective gear, thereby guaranteeing that women employed in healthcare are covered from occupational risks.¹²
- vii. **The Healthcare Service Personnel and Clinical Establishments:** This legislation was passed to protect clinical establishments and healthcare professionals from property damage and violence. Broadly speaking, the draft Bill defines "healthcare service personnel" as registered medical practitioners, nurses, para-medical staff, medical and nursing students, and ambulance workers. Commonly known as the Central Protection Act this legislation deals with violence directed against medical professionals including women.¹³
- viii. **The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations:** These rules provide a framework for ethical practice and define the professional behaviour expected from medical practitioners under the Indian Medical Council. They also protect women practitioners in particular from unjustifiable legal actions when they follow established ethical norms.¹⁴
- ix. **Criminal Legislations:** The several remedies were provided to women against Sexual assault in erstwhile Indian Penal Code and Now in Bharatiya Nyaya Sanhita . The intent to outrage the modesty or disrobe her person and not including rape were provided under section sections 354, 354B IPC now under Section 74, 76 of BNS. The other acts which outraging the modesty of a woman but not amounting to physical assault were punishable under section 509 of IPC now under section 79 of Bharatiya Nyaya Sanhita, sexual harassment, stalking and voyeurism were provided under sections 354A, 354C, 354D of IPC now is provided under sections 75, 77, 78 of BNS. Gangrape is specifically criminalised under sections 376D, 376DA, 376DB of IPC now under Section 70, of BNS.

III. Issues and Challenges in Medical Profession

Women in medical fields have had a long road and made noteworthy advances over the past century. Women in medicine still face a number of ongoing difficulties affecting their professional life despite advances. These difficulties have their roots in cultural systems, institutional norms, and entrenched gender prejudice. Women entering clinical fields in India

¹² The Occupational Safety, Health and Working Conditions Code, 2020

¹³The Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Act, 2019

¹⁴The Indian Medical Council (Professional Conduct, Etiquette and Ethics) Regulations, 2002

have surged dramatically over the past few decades. Women medical practitioners make up almost half of the country's medical student body, yet they still face several obstacles that hinder their professional development and general well-being. With a particular emphasis on professional concerns including workplace discrimination, career advancement obstacles, work-life balance difficulties, and professional recognition, this article examines the multifarious problems women in the medical field in India face.

- i. Discrimination at Workplace:** Women have demonstrated their value in every field today. From holding highest political post to highest public office in bureaucracy, the women have shouldered all kinds of responsibilities with great success. Indian working women yet experience unabashed discrimination at their places of employment. Working women face a variety of issues including leadership, unequal pay, gender bias, mental or physical harassment, etc. Most working women still lack their right to equal pay under the Equal Remuneration Act of 1976 and are underpaid relative to male co-workers.¹⁵
- ii. Balancing Family and Career:** Since women are frequently expected to take on most of the care giving responsibilities, one big difficulty they in medicine face is juggling their jobs with family responsibilities. In challenging fields with long hours or night shifts, this is particularly difficult. Many women eventually either choose more flexible jobs or cut back on their professions. Although some colleges have encouraging policies, they are usually restricted and women are left to decide between their career and family life.
- iii. Gender Distribution Across Medical Specialties:** Although women constitute a large portion in disciplines like paediatrics, obstetrics and gynaecology, and family medicine, their numbers are quite different across surgical and procedural fields. Historical gender norms as well as ongoing elements like little mentoring, early training encounters, and societal messages about what fields are acceptable for women all affect this unequal distribution. These factors still affect employment decisions and help to sustain gender bias in the healthcare sector.
- iv. Workplace Violence and Sexual Harassment:** Regular exposure to workplace violence and sexual harassment is a serious danger to the safety, dignity, and professional well-being of doctors and nurses. Female doctors working night shifts or

¹⁵Dr. Kamini B. Dashora , “Problems Faced By Working Women In India” 2, International Journal of Advanced Research in Management and Socia Sciences, 91, 2013.

in remote rural placements also report cases of intimidation or hostility. Many women either don't know their rights or are afraid of stigma, reprisals, or career harm so hesitate to report events. From patients, their families, or perhaps coworkers, workplace violence against female medical personnel includes verbal abuse, threats, harassment, and physical attacks. In high-stress environments such emergency rooms or mental health wards, the risk rises because of patient agitation, drug misuse, or psychiatric disorders.

The judgment titled IN RE: ALLEGED RAPE AND MURDER INCIDENT OF A TRAINEE DOCTOR IN R.G. KAR MEDICAL COLLEGE AND HOSPITAL, KOLKATA AND RELATED ISSUES delivered by the Supreme Court of India on August 20, 2024, addresses a grievous incident of the alleged rape and murder of a trainee doctor at RG Kar Medical College Hospital in Kolkata.¹⁶ In another important case dealing with the right to die with dignity and the legal status of euthanasia in India centred on Shanbaug, a nurse who had been left in a persistent vegetative state after an assault, and the question of whether she should be allowed to die with dignity through the withdrawal of life support.¹⁷

IV. Remedies

There are some guidelines giving by various institutions which must be followed to curb the increasing incidents in medical professions

- i. **National Medical Commission (NMC) Guidelines:** Replacing the Medical Council of India (MCI), the National Medical Commission (NMC) establishes rules to control medical education and professional behaviour. The NMC emphasizes professionalism, there no particular policies or complaint mechanisms to deal with gender-based discrimination or harassment.¹⁸
- ii. **Indian Nursing Council (INC) Guidelines:** This includes rules on training hours, shifts, and dress codes to tackle important gender-specific concerns including workplace safety, maternity support, and shielding from harassment especially during hospital assignments or night shifts.¹⁹

¹⁶Enhancing Institutional Safety for Medical Professionals 2024 INSC 613

¹⁷ *Aruna Ramchandra Shanbaug V. Union of India and Ors.* 2011 INSC 187

¹⁸ National Medical Commission, *Regulations for Professional Conduct, Etiquette and Ethics for Registered Medical Practitioners*, (National Medical Commission, 2020) available at <https://www.nmc.org.in/rules-regulations/national-medical-commission-registered-medical-practitioner-professional-conduct-regulations-2023-reg/>, (last visited on 1st May 2025)

¹⁹ Indian Nursing Council (INC) Guidelines

- iii. **University Grants Commission (UGC) Guidelines (for Medical Colleges under Universities):** Applicable to all higher educational institutions, including medical colleges, the University Grants Commission (UGC) put into effect the 2015 Curbing Sexual Harassment at the Workplace Regulations. These rules call for Internal Complaints Committees (ICCs) to manage complaints of sexual harassment.²⁰
- iv. **National Health Mission (NHM) and Public Health Policy Guidelines:** This provides guidelines for recruiting and managing female doctors in rural and tribal area focusing on improving infrastructure and service delivery, particularly in maternal and child health.²¹
- v. **Ministry of Women and Child Development (MWCD) – POSH Compliance:** This aims for enforcing the POSH Act, 2013, which applies to all healthcare institutions to public as well as private. These steps ensure a safe and supportive environment for women in the medical profession.²²

V. Implementation Failures

- i. **Underutilization and Poor Implementation of POSH Act, 2013:** The POSH Act applies to medical institutions which are poorly implemented in hospitals and medical colleges across India. Many fail to set up proper Internal Complaints Committees (ICCs) or they exist only on paper without functioning effectively. Most medical staff especially junior doctors, nurses, and interns aren't properly trained or informed about how to report harassment. The biggest fear which exists in mind of these women is retaliation, career damage, or social stigma due to which many women remain silent. The problem is even worse in smaller or privately institutions where strong hierarchies and weak oversight make enforcing the law even more difficult.²³
- ii. **No Protection under Occupational Health and Safety Laws:** In India, many nurses, interns, and junior doctors labour under difficult and hazardous environment. They frequently confront ill treatment, long hours, inadequate rest facilities, and risk of catching infections. But there is no particular safety regulations created for healthcare workers; present regulations do not consider the additional difficulties women

²⁰ University Grants Commission (UGC) Guidelines

²¹ National Health Mission (NHM)

²² Ministry of Women and Child Development (MWCD)

²³ *Implementation of the Sexual Harassment Act in Hospitals: An Assessment* (CEHAT, 2020) available at <https://gmch.gov.in/implementation-of-sexual-harassment-of-women-at-workplace-prevention-prohibition-and-redressal-act>, (last visited on 30th April, 2025)

- encounter. As a result of this, women generally neglect the difficulties they encounter at work.²⁴
- iii. **Inadequate Legal Safeguards against Patient or Attendant Violence:** Although certain Indian states have rules guarding healthcare personnel, there is no federal legislation specifically protecting women medical workers from mistreatment by patients or their caregivers. Women doctors and nurses are particularly vulnerable in stressful environments such as emergency rooms. Current laws are inconsistent and poorly enforced; in absence of fast-track grievance mechanisms, many women find themselves without timely assistance. This legal vacuum often lets violence go unpunished.²⁵
- iv. **Limited Protection During Rural Postings:** Young women physicians stationed in rural areas sometimes confront difficult living conditions including harassment, subpar housing, and insufficient security. Though they are essential in helping isolated areas, there is no legal obligation to guarantee safe lodging or transportation for them. This absence of support increases their risk and discourages many people from accepting or remaining in rural positions, hence damaging healthcare delivery in these areas.²⁶
- v. **Absence of Gender-Sensitive Grievance Cells in Medical Institutions:** In medical Institutions they handle academic problems only. Issues like sexual harassment, gender discrimination, or pregnancy-related discrimination often go unreported. Without any support systems many women feel unsafe due to which the problem remains unsolved.²⁷

VI. Conclusion and Suggestions

Deeply ingrained social norms, institutional prejudice, and structural limits all contribute to a complicated set of problems for women in the Indian medical field. Though their numbers across medical schools and other institutions have soared, lingering obstacles such as workplace bias, few advancement possibilities, insufficient acknowledgment, and poor work-life balance prevent their entire professional potential. To resolving these structural problem calls for government, healthcare agencies, regulatory authorities, and civil society working together in a multi-sectoral strategy. Medical colleges must aggressively destroy gender stereotypes that discourage women from choosing specific fields of expertise.

²⁴ Indian Nursing Council Act, 1947

²⁵ Bindu Shajan Perappadan "Violence against doctors is a symptom. What is the disease?", *The Hindu*, May 23, 2023

²⁶ Rural Health Statistics 2021-22, Ministry of Health and Family Welfare, India, available at <https://ruralhospitalnetwork.org/?p=3048> (last visited on 2nd May, 2025)

²⁷ Ministry of Health and Family Welfare, *National Health Policy 2017*, (Ministry of Health and Family Welfare, Government of India, 2017)

It is vital to reinforce current laws and introduce new rules clearly shielding medical staff. India can create a better working environment for healthcare workers by implementing effective policies and best practices from nations with demonstrated frameworks. These covers putting strong workplace violence prevention plans into action, increasing legal responsibility for offenders of violence, and establishing complete support networks for impacted employees. Furthermore, it's imperative to promote in healthcare environments respect and safety. Emphasizing the need of non-violence and mutual respect, education and training for both healthcare personnel and patients can help to this. Government and healthcare organizations have to work together to establish a workplace where medical staff members feel appreciated and safe. In essence, India can strive for a healthcare system that not only delivers quality care but also protects and empowers those who provide it by giving medical professionals' rights and safety top priority through efficient legislation, worldwide cooperation, and cultural transformation.

Even if there has been a significant rise in the number of women in training and lower-level medical academic roles, the percentage of women in senior faculty posts has not changed. Although not in all specialties, women are increasingly well represented in the medical field, particularly among recent graduates. The main obstacles for Indian women about a century ago were getting medical education; now they are striving for equality in every field of the medical profession. Women have joined the medical field in large numbers, yet we have not seen their whole integration into the profession. Most research on the sociology of the medical profession highlight social closure processes that sort men and women doctors onto separate paths. The historical exclusion of women from medicine has shaped and strengthened the medical culture. For centuries, the model of a doctor has been male; women doctors were not wanted; instead, midwives and nurses were. In the medical field, as in industry and politics, sponsorships, contacts, and networking are as crucial as merit and ability. As a result, breaking into the system is extremely hard for anyone much less for women.