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RIGHTS OF HEALTHCARE PROFESSIONALS: A CRITICAL ANALYSIS OF LEGAL COMPLIANCE IN PRIVATE HOSPITALS IN KERALA

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ABSTRACT:

The increasing incidence of legal challenges and workplace conflicts affecting healthcare professionals has raised serious concerns regarding the protection of their professional rights, particularly within private hospital settings. This article critically examines the extent of legal compliance affecting healthcare professionals in private hospitals in Kerala, with specific focus on the regulatory framework governing medical practice and the challenges arising from its implementation. By analysing relevant statutory provisions, judicial interpretations, and practical difficulties faced by professionals, the study highlights systemic gaps in procedural safeguards and accountability mechanisms. While informed by empirical insights gathered from healthcare professionals, the article primarily adopts a doctrinal and analytical approach to evaluate whether existing legal structures adequately balance patient rights with the rights and dignity of healthcare professionals. The paper concludes by emphasising the need for strengthened legal protections and more balanced complaint redressal mechanisms within the private healthcare sector.

Keywords: Healthcare Professionals; Legal Compliance; Private Hospitals; Professional Rights; Medical Negligence

1. INTRODUCTION TO THE STUDY

1.1 INTRODUCTION

Healthcare Professionals are the most valuable element of a well-functioning healthcare system and have a role which is more than to provide mere clinical care they are one of the sole givers of emotional and moral support to patients in distress. While the caregivers of healthcare carry a crucial social function, most times their rights or workplace are never spoken of or even heard more precisely the private healthcare sector. Most health care is delivered through private hospitals, but within Kerala's private health care sector, legal enforcement, and safeguard of worker rights in health care service becomes an issue too. Problems like unauthorized overtime, contractual overload, job insecurity regarding continued employment, sexual harassment at workplace, and absence of grievance redressal are common knowledge when private hospital workplace is in question.¹ Private hospitals have been considered for this research to ascertain whether laws are indeed safeguarding doctors and nurses as they should be.

The research aims to see whether there are indeed rules and hospital regulations that safeguard the rights of health workers and give them dignity. It also aims to see where the loopholes are, where the laws are failing in practice, and how the loopholes might be impacting the health of health workers, their work morale, and whether they are satisfied with their work. It is a matter of seeing whether the system is taking care of the individuals who look after us. The project seeks to determine the extent to which legal protections align with the reality of healthcare worker's lives by examining pertinent court decisions statutory provisions and actual issues confronting physician's nurses and other healthcare providers.

1.2 BACKGROUND OF THE STUDY

Healthcare professionals are the backbone of any effective healthcare system, contributing not only clinical expertise but also essential emotional and psychological support to patients. Despite their indispensable role, in Kerala's private healthcare sector, these professionals often face exploitative working conditions. Issues such as forced overtime, lack of job security, absence of proper grievance mechanisms, and exposure to workplace harassment persist, raising serious concerns about the protection of their legal rights.²

¹ National Human rights Commission, Report on the Rights of Healthcare Professionals in India (2022).

² Rinku Roy, "Violent-acts against doctors and healthcare professionals in India," (2019) Journal of Family Medicine and Primary Care, 8(11): 3457–3460.

Although India has enacted laws like the Clinical Establishments (Registration and Regulation) Act, 2010 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, their implementation in private healthcare institutions remains fragmented and inconsistent.³ This research aims to examine the extent of legal compliance in private hospitals in Kerala and identify whether these laws effectively safeguard the dignity, rights, and welfare of healthcare workers such as doctors and nurses.

1.3 STATEMENT OF THE PROBLEM

Healthcare professionals working in private hospitals play an essential role in ensuring accessible healthcare delivery. However, in Kerala, many such professionals face challenges like excessive work hours, job insecurity, delayed salaries, and workplace harassment. Despite the existence of laws meant to protect their rights, there remains a significant gap between legislation and its practical enforcement in private healthcare settings. This study aims to examine whether the rights of healthcare professionals of private hospitals in Kerala are being adequately protected under existing legal frameworks and to what extent these laws are implemented.⁴

1.4 OBJECTIVES AND SCOPE OF THE STUDY

The objectives and scope of my study are:

- a) To examine the legal framework protecting healthcare professional's rights in private hospitals.
- b) To assess compliance with labour laws and human rights standards in private hospitals in Kerala.
- c) To identify challenges faced by healthcare professionals and evaluate grievance mechanisms.
- d) To assess the impact of inadequate legal protections on healthcare professionals and service quality.
- e) To propose reforms for better legal protection and compliance.

1.5 REVIEW OF LITERATURE

Healthcare professionals in private hospitals in Kerala, have become central to

³ Ministry of Health and Family Welfare, Clinical Establishments (Registration and Regulation) Act, 2010.

⁴ Indian Medical Association (Kerala Unit), survey report: "No duty room for 45% doctors on night shifts, safety measures worse in hospitals", The Print, 30 August 2024.

contemporary discussions about labour rights because of recurring evidence of exploitation, unsafe work environments, and legal non-compliance. A report by the Vidhi Centre for Legal Policy (2020) identifies core systemic causes such as chronic understaffing, excessive workloads, duty-hour violations, and institutional apathy as structural contributors to workplace violence. It advocates for frameworks that shift the focus from criminal penalties to enforceable employer duties.⁵

At the global level, similar insights have emerged from international case studies conducted under the joint initiative of global labour, health, and public service bodies. These studies show that even in high-income countries, the absence of institutionalised safety policies such as clear reporting mechanisms, zero-tolerance protocols, and enforceable accountability frameworks leads to frequent incidents of violence and harassment against healthcare workers.⁶ These global findings offer critical benchmarks for evaluating private-sector labour conditions in India, where such protections are often lacking or unenforced.

Empirical research specific to Kerala underscores the urgency of this issue. A recent study published in a peer-reviewed journal found that over 65% of doctors surveyed in the state reported experiencing incidents of workplace violence, including verbal threats and physical assaults. Very few of these incidents resulted in formal complaint mechanisms being triggered or in legal redress.⁷ Complementing this, a national news article based on 2024 data revealed that around 35% of doctors in India feel unsafe while on duty, citing inadequate hospital infrastructure, lack of proper duty-room facilities, and poor security provisions as key concerns.⁸ These statistics are especially alarming when viewed against the backdrop of policy formation in the state. Kerala enacted legislation mandating protection of healthcare service personnel and institutional accountability following high-profile cases of violence against medical staff.

⁵ Vidhi Centre for Legal Policy, *Violence Against Healthcare Professionals in India: Recent Legal and Policy Issues*, 31 Jan 2020.

⁶ Vittorio Di Martino, *Workplace Violence in the Health Sector: Country Case Studies*, ILO/ICN/WHO/PSI Joint Programme, 2002–2003.

⁷ Rahul Kunnath et al., “Workplace Violence Faced by Medical Doctors in Kerala, India,” *Cureus*, 15(11), 2023, e48887.

⁸ PTI, “Over 35% of 3,885 doctors, mostly women, feel unsafe during night shifts: IMA study,” *Hindustan Times*, 30 August 2024.

⁹This trend is further supported by medico-legal scholars who argue that inadequate working environments not only endanger worker safety but also increase the likelihood of medical negligence, ultimately eroding patient trust in private healthcare institutions.¹⁰ Another layer of complexity arises from the gap between policy recommendations and their enforcement. Professional body such as the National Medical Commission have issued guidelines for safer workspaces, mandatory rest periods, and mental health support for junior doctors and staff. However, these advisories are not legally binding, and compliance is often at the discretion of the institution. Kerala's health department, for example, issued a government notification in 2021 recommending minimum standards for duty rooms, including separate restrooms and lockable cabins. Yet, this applies only to public institutions, with the private sector left to decide its own norms.¹¹

1.6 RESEARCH METHODOLOGY

This research is conducted on a mixed method study with the integration of doctrinal and non-doctrinal research methodologies for overall analysis of the employment status and legal rights of health professionals in private hospitals in Kerala.

The doctrinal analysis depends on critical examination of the law, statutes, court precedents, and provisions of the law on healthcare professional's rights. It is done in research where secondary sources such as legal materials, academic writings, case laws, and policy guidelines are studied to ascertain the framework of the law and theoretical basis under healthcare professional's rights. Non-doctrinal research involves the study of practical contexts, including published reports, hospital policies, and secondary data, to understand the implementation and challenges of legal compliance in private hospitals.

1.7 HYPOTHESIS

There is a significant gap in legal compliance regarding the rights of healthcare professionals in private hospitals in Kerala, which adversely affects their working conditions and professional well-being.

2. LEGAL FRAMEWORK AND LABOUR RIGHTS

⁹ Partha Lodh & Salzberg Ghosh, "Quality of Work Life and its Impact on Performance of Healthcare Providers," 2023.

¹⁰ Dr. Lilly Srivastava, Law, and Medicine: Ethical and Legal Issues in Healthcare (2020).

¹¹ Kerala State Health Department Notification on Duty Rooms & Rest Facilities, 2021.

2.1 INTRODUCTION

Healthcare professionals form the backbone of the healthcare system as these services are the things to cure people to the extent possible, to help maintain their health, to ensure public health, and social welfare. Generally high-pressure and complex areas provide a physical, mental, or ethical challenge to these professionals such as doctors, nurses, pharmacists, paramedics, and laboratory technicians. In this backdrop of an important activity, the problems faced, relating to work condition safety and contract law, by healthcare professionals in both public and private sectors, are many.

On the other hand, the rights of healthcare workers are evidently protected by the Indian legal system, which looks after this task through labour laws, regulations of the medical field, and constitutional provisions. The main issue of these rights remaining ignored lies in the initiative level to ensure that it happens, especially in private hospitals where profit motive erodes employee welfare considerations.¹²

2.2 HUMAN RIGHTS LAW AND INTERNATIONAL LEGAL STANDARDS

The rights of the healthcare professionals as doctors, nurses, technicians, or ancillary personnel do not only include traditional labour rights. They are part of the greater regime of human rights, based on dignity, security, equity, and decent working conditions. In India, these principles are enshrined in constitutional guarantees and supported by international human rights obligations. Where doctors are overworked, undercompensated, subjected to violence, or deprived of necessary rest and security, these conditions are of grave concern to human rights. Therefore, their consideration should involve both international and local human rights norms.¹³

2.2.1 RELEVANCE OF HUMAN RIGHTS TO HEALTHCARE PROFESSIONALS

Medical professionals work in hazardous working conditions, such as long hours of work, physical and mental exhaustion, poor remuneration, and repeated exposure to harassment or

¹² Anmol Mahani & Rudranath Zadu, Ensuring the Safety of Healthcare Professionals: A Review of Current Challenges and Legal Frameworks in India, *Indian Journal of Forensic & Community Medicine*, Vol. 11(4): 152-58 (2024).

¹³ UN High Commissioner for Human Rights, *Guiding Principles on Business and Human Rights: Implementing the United Nations "Protect, Respect and Remedy" Framework* (United Nations, 2011), Principles 1–2, Guidelines 8.

assault most prominently in the private hospital environment. These are not only workplace issues; they are the actions under the right to life and dignity guaranteed under Article 21 of the Indian Constitution.

In *Consumer Education and Research Centre v. Union of India*,¹⁴ the Supreme Court directly held that the right of health and medical care is included in the right of life under Article 21 which is not only for the patients but for all those who provide care to health. The Supreme Court, in the COVID-19 pandemic, in *In Re: Proper Treatment of COVID-19 Patients and Dignified Handling of Dead Bodies in the Hospitals etc. (Suo Motu W.P. (C) No. 7/2020)*, put emphasis on the compelling necessity of providing proper protection, infrastructure, and care to healthcare personnel, reiterating once again that their dignity and well-being are basic human rights which cannot be removed even at times of crisis.

2.2.2 INTERNATIONAL INSTRUMENTS

The international human rights framework provides strong support for the rights of healthcare professionals:

I. Universal Declaration of Human Rights (UDHR), 1948:

- Article 23 recognizes the right to just and favourable conditions of work, and protection against unemployment.
- Article 25 ensures the right to an adequate standard of living, including health and well-being covering both healthcare recipients and providers.¹⁵

II. International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966 (ratified by India):

- Article 7 affirms the right to fair wages, equal pay for equal work, and safe and healthy working conditions.
- Article 12 guarantees the right to the highest attainable standard of physical and mental health, which necessarily includes protecting those delivering such care.¹⁶

III. ILO Convention No. 155 on Occupational Safety and Health (1981) promotes safe and healthy working environments in all sectors, including healthcare.

¹⁴ AIR 1995 SC 922.

¹⁵ United Nations, Universal Declaration of Human Rights (adopted 10 December 1948), arts 23 & 25.

¹⁶ United Nations General Assembly, International Covenant on Economic, Social and Cultural Rights, 993 U.N.T.S. 3 (entered into force 3 January 1976), arts 7 & 12.

- IV. ILO Convention No. 190 on the Elimination of Violence and Harassment (2019) sets international standards for protecting workers particularly women from abuse in the workplace, including in hospitals and clinics. Though India has not ratified this Convention, its principles are reflected in various national guidelines.¹⁷

2.3 CONSTITUTIONAL PROVISIONS

The Constitution of India provides a comprehensive legal foundation for safeguarding the rights and dignity of healthcare professionals. Both the Fundamental Rights (Part III) and the Directive Principles of State Policy (Part IV) play a significant role in ensuring that medical professionals are protected from exploitation, discrimination, and unsafe working conditions.

2.3.1 ARTICLE 14 – RIGHT TO EQUALITY

Article 14 guarantees “equality before the law and equal protection of the laws.” It prohibits arbitrary discrimination against healthcare professionals on the grounds of employment status, designation, or gender. The Supreme Court has clarified that any classification must be based on intelligible differentia and must bear a rational nexus to the object sought to be achieved.¹⁸

2.3.2 ARTICLE 19(1)(g) – RIGHT TO PRACTICE ANY PROFESSION

Article 19(1)(g) guarantees every citizen the right to practice any profession, including medicine. This right ensures that doctors and healthcare professionals are free to pursue their careers, subject only to reasonable restrictions imposed by the state in the interest of the public.¹⁹

2.3.3 ARTICLE 21 – RIGHT TO LIFE AND PERSONAL LIBERTY

Article 21 provides that “no person shall be deprived of his life or personal liberty except according to procedure established by law.” Through judicial interpretation, this Article has come to include the right to health, medical care, and safe working conditions for both patients and healthcare providers. In *Bandhua Mukti Morcha* and other cases, the Supreme Court held

¹⁷ International Labour Organization, Convention on Violence and Harassment Convention, 2019 (No. 190), adopted 21 June 2019, entered into force 25 June 2021

¹⁸ *Ram Krishna Dalmia v. Tendolkar*, AIR 1958 SC 538; *E.P. Royappa v. State of Tamil Nadu*, AIR 1974 SC 555.

¹⁹ *H. Anuradha Bhasin v. Union of India*, (2020) 3 SCC 637.

that the right to health is an integral part of the right to life.²⁰ A peer-reviewed study affirms: Health is a fundamental component of human growth, and Article 21 of our Constitution recognizes it as a fundamental human right.²¹

2.3.4 DIRECTIVE PRINCIPLES OF STATE POLICY (Articles 39, 41, 42 & 47)

Though not justiciable, the Directive Principles serve as guiding principles for legislation and policy-making. They include:

- Article 39(e) & (f): mandates the protection of workers health and strength and the prevention of exploitation.
- Article 42: Provision for just and humane working conditions and maternity relief.
- Article 47: Duty of the State to raise the level of nutrition and public health.²²

2.4 LABOUR LAW PROTECTIONS FOR HEALTHCARE PROFESSIONALS

Healthcare professionals are protected by several general labour laws in India, which establish minimum employment standards. However, the extent of protection varies based on the nature of their employment, designation, and institutional practices.

2.4.1 INDUSTRIAL RELATIONS CODE, 2020

The Industrial Relations Code, 2020 applies to healthcare professionals who qualify as “workers” under Section 2(zl), depending on their duties and nature of employment.²³ Section 4 provides for the constitution of a Grievance Redressal Committee in every industrial establishment employing 20 or more workers.²⁴ This helps healthcare workers formally raise workplace concerns.

Section 62 prescribes procedures for retrenchment, layoff, and closure, protecting employees from sudden termination.²⁵ This provision echoes the principles laid down in the landmark case of Gujarat Steel Tubes Ltd. v. Gujarat Steel Tubes Mazdoor Sabha,²⁶ where the Supreme Court emphasized that any form of retrenchment must be based on just cause and adherence to natural

²⁰ Bandhua Mukti Morcha v. Union of India, (1984) 3 SCC 161; State of Punjab v. Ram Lubhaya Bagga, (1998) 4 SCC 117; State of Punjab v. M.S. Chawla, (1996) 5 SCC 894.

²¹ Rakesh Sharma, “Right to health under the domain of Article 21,” International Journal of Law, Justice and Jurisprudence, 1(2) (2021), pp. 85–87.

²² Constitution of India, Articles 39(e), 39(f), 41, 42 & 47.

²³ The Industrial Relations Code, 2020, No. 35 of 2020, Acts of Parliament, 2020 (India, s.2(zl))

²⁴ Ibid., s.4.

²⁵ Ibid., s.62

²⁶ 1980 2 SCC 593

justice. Section 65 empowers the government to exempt certain establishments, including healthcare ones, from provisions of the Code in special circumstances.²⁷

2.4.2 MINIMUM WAGES ACT, 1948

The Minimum Wages Act, 1948 authorizes the appropriate government to fix wage rates for employees in scheduled employments, including hospitals and medical institutions. Under Section 3, this ensures that healthcare support staff like nurses and ward assistants are paid at least a minimum wage.²⁸ This law is vital for preventing exploitation, especially in private healthcare sectors.

The question posed to the Supreme Court in *Trained Nurses Association of India v. Union of India* (2016)²⁹ was whether nurses were being paid below the minimum wage thresholds set under the Minimum Wages Act, 1948. The Supreme Court ordered the Central Government to form a committee to address the proper implementation of the Act to shelter nurses from private hospital exploitation.

2.4.3 EMPLOYEE'S STATE INSURANCE ACT, 1948

The Employee's State Insurance Act, 1948 offers medical, maternity, sickness, and injury benefits to eligible workers. Section 2(9) includes healthcare workers earning under a certain wage limit within the definition of "employee".³⁰ Section 46 outlines the benefits such as sickness allowance, maternity leave, and disablement support, which are essential for junior doctors, nurses, and interns.³¹

A landmark case interpreting the provisions of the Employee's State Insurance Act, 1948, where employers are supposed to provide health benefits and social security to employees. The case puts priority on the employer's task of providing the workers, even the medical workers, under the ESI scheme and benefits such as medical care, sickness benefit, and insurance.³² The case emphasizes the importance of the observance of the law to the extent that medical professionals, and specifically private hospital staff, are safeguarded by the statutory social

²⁷ The Industrial Relations Code, 2020, s.65.

²⁸ The Minimum Wages Act, 1948, No. 11 of 1948, Acts of Parliament, 1948 (India), s.3.

²⁹ 2016 (13) SCC 748.

³⁰ The Employee's State Insurance Act, 1948, No. 34 of 1948, Acts of Parliament, 1948 (India), s. 2(9).

³¹ *Ibid.*, s. 46.

³² *Employee's State Insurance Corporation v. M/S Eastern Engineering Co.* 2018 (5) ALL MR 578.

security scheme.

2.4.4 OCCUPATIONAL SAFETY, HEALTH AND WORKING CONDITIONS CODE, 2020

This Code consolidates 13 different laws governing workplace health and safety. Section 6 mandates registration of establishments like hospitals with the relevant authorities.³³ Section 8 requires employers to provide a safe and hazard-free environment.³⁴ Further, Section 18 insists on welfare facilities, including clean water, restrooms, and first-aid, crucial for protecting health workers from fatigue, infections, and unsafe conditions.³⁵ In *Jacob Mathew v. State of Punjab* (2005),³⁶ the Supreme Court held that it is the responsibility of the management of the hospitals to whom the doctors have pledged their services to provide the equipment and infrastructure needed to enable proper care to patients and for the safety of workers. This case is in favour of the principle of the Occupational Safety, Health and Working Conditions Code, 2020, under which the employers are required to provide a safe working condition for the workers performing complex job risks and work like healthcare.

2.5 MEDICO - LEGAL FRAMEWORK IN INDIA

Beyond general labour laws, healthcare professionals are also protected by laws specifically targeted at regulating the medical sector.

2.5.1 CLINICAL ESTABLISHMENTS (REGISTRATION AND REGULATION) ACT, 2010

This Act regulates clinical establishments across India by requiring them to register and adhere to prescribed standards. Section 3 makes registration mandatory for all clinical establishments operating in notified states and union territories.³⁷ Section 11 empowers the National Council to frame minimum standards of facilities and services, classify establishments, and update the register.³⁸ The Act strengthens healthcare delivery by enforcing compliance with infrastructural and professional standards, thereby creating a safer and

³³ The Occupational Safety, Health and Working Conditions Code, 2020, NO. 37 of 2020, Acts of Parliament, 2020 (India), s.6.

³⁴ *Ibid.*, s.8

³⁵ *Ibid.*, s.18

³⁶ (2005) 6 SCC 1.

³⁷ Clinical Establishments (Registration and Regulation) Act, 2010, No. 23 of 2010, Acts of Parliament, 2010 (India), s.3

³⁸ *Ibid.*, s.11

regulated work environment for healthcare professionals.

2.5.2 NATIONAL MEDICAL COMMISSION ACT, 2019

The National Medical Commission Act replaced the Indian Medical Council Act, 1956, and now governs the regulation of medical education and ethics in India. Section 4 of the Act establishes the National Medical Commission, responsible for setting standards for medical education and professional conduct.³⁹ Section 10 gives the Commission authority to frame policies for medical institutions and coordinate with state bodies.⁴⁰ Section 27 mandates the maintenance of a National Register for licensed medical practitioners, ensuring accountability and legitimacy in the profession.⁴¹ Section 31 establishes the Ethics and Medical Registration Board (EMRB) to regulate professional conduct and redress complaints.⁴² The National Medical Commission ensures that medical professionals are held to ethical and clinical standards while offering them institutional support and clarity on professional rights and duties.

2.5.3 THE EPIDEMIC DISEASES (AMENDMENT ACT), 2020

This Act amended the 1897 legislation in response to the violence faced by healthcare workers during the COVID-19 pandemic. Section 1A expands the definition of “healthcare service personnel” to include doctors, nurses, and other paramedics.⁴³ Section 3B introduces penalties for violence against healthcare workers, prescribing imprisonment from 3 months to 7 years and fines up to ₹5 lakhs.⁴⁴ The amendment mandates that investigations be completed within 30 days and trials within one year. This law is pivotal in providing frontline protection for medical personnel during public health emergencies.

2.5.4 HEALTHCARE SERVICE PERSONNEL AND CLINICAL ESTABLISHMENTS (PROHIBITION OF VOLENCE AND DAMAGE TO PROPERTY) BILL, 2019

Although not enacted, this Bill highlights legislative intent to protect medical workers and hospital infrastructure. It proposes stringent penalties, imprisonment up to 10 years and a fine up to ₹10 lakhs, for any act of violence or damage to hospital property.⁴⁵ Clause 2(b) defines

³⁹ National Medical Commission Act, 2019, No. 30 of 2019, Acts of Parliament, 2019 (India), s.4.

⁴⁰ Ibid, s. 10.

⁴¹ Ibid, s.27

⁴² Ibid, s.31

⁴³ Epidemic Diseases (Amendment) Act, 2020, No. 34 of 2020, Acts of Parliament, 2020 (India), s.1A.

⁴⁴ Ibid, s.3B

⁴⁵ The Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and Damage to Property) Bill, 2019, cl.8.

“violence” comprehensively to include harassment, obstruction, verbal abuse, and physical assault.⁴⁶ While the Bill remains pending, its provisions have informed subsequent policies and provided a framework for future protections.

2.6 KERALA PERSPECTIVE AND LOCAL CONTEXT

The state of Kerala has witnessed several distressing incidents involving healthcare professionals, particularly those working under unsafe or exploitative conditions in private and public hospitals. A 2022 cross-sectional study conducted at Thrissur Medical College revealed that 41.1% of junior doctors had experienced workplace abuse, including both verbal harassment and physical aggression, underscoring widespread insecurity in clinical settings.⁴⁷ A particularly tragic incident occurred on May 10, 2023, when Dr. Vandana Das, a 23-year-old house surgeon at Kottarakkara Taluk Hospital, was fatally stabbed by a patient in police custody.⁴⁸ The Kerala High Court, taking *Suo motu* cognizance of the matter, condemned the incident as a “systemic failure” and emphasized the urgent need for enhanced security protocols within healthcare institutions. The Court directed the installation of CCTV surveillance, the presence of police escorts with custodial patients, and better infrastructure to protect medical personnel.

In response, the Kerala Government informed the Court that it was actively considering deploying the State Industrial Security Force (SISF) in hospitals across the state.⁴⁹ The High Court also mandated the immediate implementation of a protocol for producing accused persons before medical professionals, reinforcing the need for structured safety measures during such procedures.⁵⁰

Supporting this urgency, a 2024 study by the Indian Medical Association (Kerala Chapter) found that 35% of doctors felt unsafe at work, citing issues like poor duty room conditions, overcrowding, and insufficient hospital security.⁵¹ These developments collectively highlight the pressing need for state-level legal and administrative reforms to safeguard the rights,

⁴⁶ *Ibid.*, cl. 2(b).

⁴⁷ Emmanuelle Vanlalhratpuii et al., Perspectives of junior doctors on violence against medical professionals: a cross-sectional study in a tertiary care centre in Thrissur District, *Int. J. Research Med. Sci.*, Vol. 11, No. 1 (2023).

⁴⁸ Doctor murder systemic failure, need protocols to prevent such cases: Kerala HC, *Indian Express*, May 11, 2023.

⁴⁹ Actively considering deployment of SISF in hospitals, Kerala govt tells HC, *Onmanorama*, May 25, 2023.

⁵⁰ Kerala HC asks govt to implement protocol on producing detained people before doctors on war-footing, *Onmanorama*, May 23, 2023.

⁵¹ 35% doctors in India feel unsafe while at work, study shows, *The Hindu*, Nov 16, 2024.

dignity, and safety of healthcare professionals in Kerala.

3. LEGAL CHALLENGES AND JUDICIAL INTERVENTIONS

3.1 INTRODUCTION

Healthcare professionals in private hospitals in Kerala usually contend with every type of legal matter that affects their lives at work, their employment, and their wellbeing. These are not necessarily issues that are about laws but also the way that the profession is organized, primarily because there are not enough overt rules and regulations. While government hospitals are more stringently regulated, private hospitals have plenty of managerial discretion, and this occasionally leaves employees at the mercy of arbitrary treatment or exploitation.⁵² Examples of some of the common legal issues include being coerced into unjust contracts, misuse of authority by higher-level officers, unjust dismissal, and absence of means for raising complaints.

3.2 UNFAIR EMPLOYMENT CONTRACTS AND ARBITRARY TERMINATION

Healthcare professionals in private hospitals often face unfair contractual terms permitting sudden dismissal without cause or procedural safeguards contrary to their rights under labour law and principles of natural justice. In Kerala, private hospitals often engage staff through contracts with unclear termination clauses. Sudden dismissals without proper procedure have been reported, particularly among nurses and junior-level staff.

In *Uttam Manohar Nakate v. Bharat Forge Co. Ltd.*,⁵³ the Supreme Court upheld the dismissal of an employee caught repeatedly sleeping during duty. It emphasized that a fairly conducted disciplinary process that is non-malafide and in good faith does not violate fairness doctrine even in private employment.

3.3 SEXUAL HARASSMENT AND GENDER – BASED DISCRIMINATION

Sexual harassment and gender – based discrimination continue to exist in private hospitals in Kerala, particularly affecting female staff and junior professionals who often lack the support or courage to speak out. Despite the enforcement of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, many private

⁵² Ministry of Health and Family Welfare, 'Clinical Establishments (Registration and Regulation) Act, 2010' accessed 3 June 2025.

⁵³ AIR 2005 SC 947; (2005) 2 SCC 489 (SC).

hospitals in Kerala lack active Internal Complaints Committees (ICCs), making legal protections largely ineffective. This leads to fear among female employees in reporting harassment cases.

In *Vishaka & Ors. v. State of Rajasthan & Ors.*,⁵⁴ the Supreme Court of India laid down binding guidelines requiring the constitution of ICCs, confidential inquiry procedures, and gender-sensitization guidelines that later became law through the 2013 Act. A national cross-sectional study involving 1,211 healthcare workers in India found that sexual harassment remains a pressing concern, yet formal complaints are rare due to fear of retaliation and lack of awareness about complaint mechanisms.⁵⁵

3.4 ABSENCE OF GRIEVANCE REDRESSAL MECHANISMS

In Kerala, private hospital's effective grievance redressal systems are often absent or poorly implemented, leaving healthcare professionals without immediate support when facing workplace issues. Most employees hesitate to raise complaints due to fear of management backlash and lack of trust in internal procedures. This leads to unresolved grievances escalating into legal disputes, causing emotional and financial strain.

3.5 EXPLOITATION OF JUNIOR DOCTORS AND INTERNS

Interns and junior doctors are particularly vulnerable to exploitation in private hospitals due to their temporary status, lack of job security, and dependence on supervisors for career advancement. Many work excessive hours beyond their training, receive little or no pay, and face ethical and legal compliance failures leading to burnout and distress. The absence of institutional safeguards compounds their vulnerability.

A National PLOS ONE survey of 617 doctors across India found that 77.3% had experienced workplace violence, with significant impacts on their psycho-social wellbeing and patient care quality.⁵⁶

3.6 CONTRACTUALIZATION AND DENIAL OF PERMANENT STATUS

⁵⁴ AIR 1997 SC 3011; (1997) 6 SCC 241

⁵⁵ Suraj Kapoor, *Emerging Paradigms of Sexual Harassment among Healthcare Workers in India: A Cross-Sectional Study*, (2020) accessed 7 June 2025.

⁵⁶ Amandeep Kaur et al., "Pattern of Workplace Violence Against Doctors Practising Modern Medicine and the Subsequent Impact on Patient Care, in India," (2020) 15(9) PLOS ONE e0239193.

In private hospitals, healthcare professionals especially physicians, nurses, and allied health staff are frequently employed on successive short-term contracts with no assurance of permanent status despite years of continuous service. This leads to job insecurity, denial of employment benefits, and exploitation. In several hospitals, staff who have served for many years are still on short-term contracts. This practice denies them benefits like job security and provident fund.

Similarly, in *U.P. State Electricity Board v. Pooran Chandra Pandey*,⁵⁷ the Court affirmed that denying equal treatment and regularization to temporary employees performing similar duties as permanent staff violates constitutional equality guarantees. These principles extend directly to private hospitals, where long-serving staff are denied permanence and the associated benefits.

3.7 NON-PAYMENT AND DELAY OF SALARIES

Delayed or withheld salaries remain a common challenge for healthcare professionals in private hospitals. These practices infringe on fundamental labour rights and harm financial and mental well-being. Delayed salary payments have been reported in private hospitals in Kerala, especially affecting nurses and junior doctors. This causes financial strain and dissatisfaction among employees.

In *People's Union for Democratic Rights v. Union of India*,⁵⁸ the Court took a stronger stance, declaring the non-payment of minimum wages tantamount to forced labour under Article 23, affirming that dignified remuneration is a constitutional mandate. Recent news highlights the prevalence of this issue in healthcare. Over 100 contractual staff at ESIC Hospital in Nagpur including technicians, pharmacists, nurses, and sanitation workers staged a strike in June 2025 due to three months of unpaid salaries, impacting critical services.⁵⁹

3.8 LACK OF MEDICAL INDEMNITY AND LEGAL PROTECTION

Healthcare professionals in private hospitals often lack legal protection and indemnity. Even competent doctors face criminal charges or civil claims, discouraging sound clinical judgment and fostering defensive medical practices. In Kerala, many junior doctors are

⁵⁷ AIR 2007 SC 2154; (2007) 11 SCC 92

⁵⁸ AIR 1982 SC 1473; (1982) 3 SCC 235

⁵⁹ Services hit as ESIC hospital contract staff launch strike over 3 months unpaid salaries, Times of India (Nagpur), 17 June 2025.

unaware of indemnity coverage and receive no legal support from hospitals during complaints. This leaves them vulnerable to personal liability and stress.

In *Kusum Sharma & Ors. v. Batra Hospital & Medical Research Centre & Ors.*,⁶⁰ the Court emphasized a balance between patient interests and doctor's clinical autonomy, applying the Bolam test to shield medical professionals against claims made in error of judgment rather than negligence.

3.9 VIOLATION OF WORKING HOUR REGULATIONS

One of the major issues in private hospitals is the disregard for sanctioned working hours, resulting in overworked healthcare staff, especially junior doctors. Excessive and unsocial work hours compromise both their physical/mental health and the quality of patient care. Private hospital staffs in Kerala often work beyond the legally permitted hours without rest. In *Francis Coralie Mullin v. Administrator, Union Territory of Delhi*,⁶¹ the Supreme Court held that Article 21 of the Constitution guarantees humane working conditions, including reasonable rest periods, and any infringement on such rights constitutes a violation of the right to life.

3.10 WEAK REGULATORY OVERSIGHT AND LEGAL AMBIGUITY

Private hospitals in Kerala often operate under fragmented and unclear regulatory frameworks, exposing healthcare professionals to inconsistent employment conditions, lack of accountability, and professional vulnerabilities. Due to this ambiguity, healthcare professionals often face uncertainty regarding their rights, duties, and legal protections.

In *Maharaja Agrasen Hospital & Ors. v. Master Rishabh Sharma & Ors.*,⁶² the Supreme Court held that private hospitals are vicariously liable for negligence of their empanelled or contractual doctors. This landmark ruling emphasizes that institutional systems must meet recognized standards to protect both patient interests and staff welfare.

4. CONCLUSION

The current research has attempted to analyse the legal protection, problems, and

⁶⁰ (2010) 3 SCC 480.

⁶¹ AIR 1981 SC 746; (1981) 1 SCC 608

⁶² (2020) 6 SCC 501 (SC).

reality on the ground of healthcare professionals who work in private hospitals in Kerala. Based on doctrinal analysis and empirical research, it has been evidently proven that although numerous statutory provisions have been made for safeguarding the rights of such professionals, their implementation and availability is weak and isolated. The practice-law gap could be seen along different axes, from non-protective working hours, absence of employment security, non-official agreements of contract, non-existence of grievance redressal, and sub-standard occupational safety arrangements.

In particular, the implementation of the POSH Act, 2013 remains inadequate, with many private hospitals in Kerala lacking properly functioning Internal Complaint Committees. This weakens the protection against workplace harassment and demands strict institutional compliance in both letter and spirit. This work also emphasizes the need to interpret workplace protections in human rights law, where dignity, safety in the working environment, equality, and non-discrimination are to be given fundamental assurances and not work entitlements.

Finally, if India is to uphold its constitutional values and international commitments in health care, the legal entitlements of those who serve society must be upheld with integrity, sensitivity, and accountability themselves.

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