

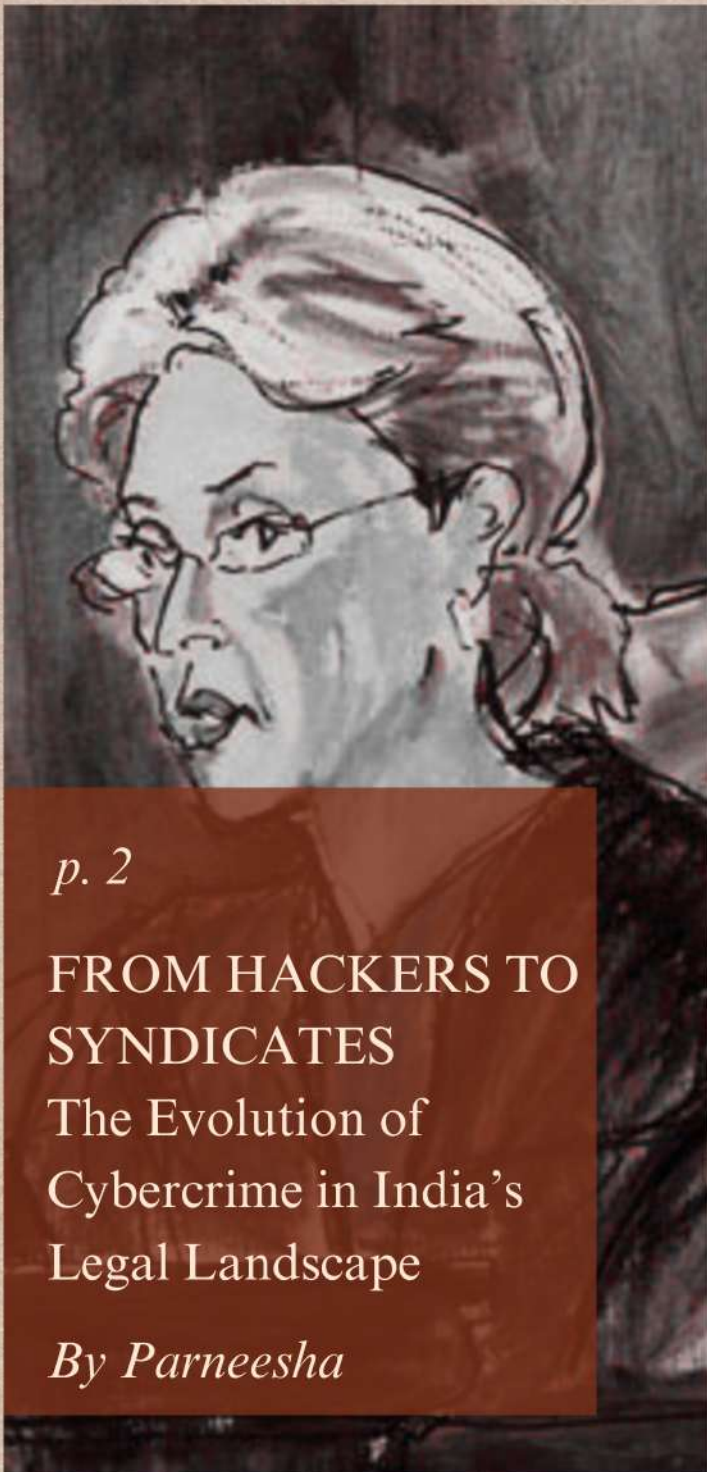


THE CRIME & JUSTICE GAZETTE

NEWSLETTER BY GNLU CENTRE FOR RESEARCH IN CRIMINAL JUSTICE SCIENCES

Issue 15

August, 2024



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MESSAGE FROM THE CENTRE-HEAD

It is my utmost pleasure to write this message in the fifteenth edition of the Crime and Justice Gazette, a newsletter by the GNLU Centre for Research in Criminal Justice Sciences. Truth, courage & bravery, these qualities stand must for every criminal case that is to be instituted, investigated, and tried.

Our Hon'ble Director Sir, Prof Dr. S. Shanthakumar, who laid the foundation of this center, in September 2019, made its mandate clear that GCRCJS should bring out study, research, and training in every aspect of criminal justice, and the present Newsletter, is one step ahead in the same direction.

This is the result of the hard work of our student team, which has infinite zeal and never-ending motivation. I wish the team every success and also hope that this newsletter will fill the gap of information in the field of criminal laws for its readers. My best wishes to whoever has made this newsletter a reality, to the editors, to every team member as contributors, and to every reader, who will let us know about improvements and enable further excellence in this endeavor.

Prof. (Dr.) Anjani Singh Tomar

Professor of Law

Head, Center for Research in Criminal Justice Sciences



MESSAGE FROM THE TEAM

The GNLU Centre for Research in Criminal Justice Sciences, since its establishment, has been a pioneer in inculcating the culture of research and analysis in the field of criminal justice and criminal law. Since its inception in 2019, the Centre has successfully managed to conduct several activities such as competitions, discourses, webinars, conferences, workshops, etc. in the field of criminal law. GNLU Centre for Research in Criminal Justice Sciences is committed to shaping diverse and unique perspectives in the area of criminal law through the lens of academic research and to bringing the debates and discussions regarding issues of significance in the aforementioned area to the forefront.

Owing to this vision and commitment of ours, we hereby present to you the fifteenth edition of “The Crime & Justice Gazette” which aims to bring to you a mix of pieces revolving around the contemporary issues of Criminal Law, an exclusive spread of the various activities that we as a centre have undertaken as well as other fun activities for your perusal. We would like to express our heartfelt gratitude to our Hon'ble Director Sir, Prof.(Dr.) S. Shanthakumar, and our Faculty Convenor, Prof.(Dr.) Anjani Singh Tomar, for their unwavering support, as well as for believing in us and encouraging us to put the best of our efforts into the growth of the centre. We would also like to thank the student editorial team of the centre for their support in the creation of the fifteenth edition of the newsletter!

TRIGGER WARNING AND VIEWER DISCRETION: The following newsletter contains articles that discuss topics of sexual assault and violence. These articles may contain explicit descriptions and accounts that could be distressing to some readers. We recognize the sensitivity of these subjects and advise caution to those who may be affected. Viewer discretion is advised.

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PREFACE

Welcome to the fifteenth edition of The Crime and Justice Gazette!

With this edition, we have tried to provide the you (the readers!) an insight into how the space of criminal law has evolved over the past few months. We also bring you movie reviews that will engage you in how the certain legal provision have been brought to the attention of the masses through the medium of film.

Our first article serves deals with the introduction of cybercrimes with the newly enacted BNS, 2024. The article explores the new definitions and identifies the inadequacies of the traditional legal system in dealing with issues of cybercrimes. It also give the readers an insight into how these challenges are addressed by the global community.

We also look into the recent rape and murder incident at Kolkata's R.G. Kar Medical College and Hospital. The authors have looked into the inadequacies of the legal system in terms of ensuring the safety of healthcare workers, who are always at the front line of any medical crisis. They have also looked into why there is no central framework the same.

Lastly, we embark on a cinematic journey with a comprehensive analysis of Siddharth P. Malhotra's Maharaj which follows a writer and renowned social reformer, who was brought to trial in the Bombay Supreme Court in what came to be known as the historic Maharaj libel case of 1862. The review involves a in depth analysis of the criminal law provisions and case laws to provide a critique of the movie form the perspective of a student of law.

Thank you for joining us on this pursuit of knowledge, analysis, and meaningful dialogue. We hope this newsletter serves as a valuable resource in your exploration of criminal law.

FROM HACKERS TO SYNDICATES

The Evolution of Cybercrime in India's Legal Landscape

By Parneesha



The lines between the actual and virtual worlds are blurring, and with it comes cybercrime, a problem that knows no bounds and defies established legal systems. Cybercrime has evolved from discrete online transgressions to complex networks that resemble traditional criminal organisations. It is crucial to comprehend this contemporary danger because hackers' strategies are always evolving along with technology. There is an immediate need for a strong and flexible legal framework that can handle the intricacies of this digital threat, as cybercrime is now classified as an organised crime under the *Bharatiya Nyaya Sanhita (BNS)*, marking a significant change in India's strategy to combat these complex threats.

Unmasking the Cyber Scourge

A diverse array of offences characterises the cybercrime landscape in India, each presenting unique challenges to law enforcement and the judiciary. Data theft, phishing, hacking, and cyberstalking have emerged as the most prevalent forms of these digital transgressions, forming a complex ecosystem of criminal activities that often overlap and intersect.

Data theft is at the core of this ecosystem, where perpetrators illegally access and exploit sensitive personal or corporate information. This illicit practice is a foundational element for numerous other cybercrimes, providing criminal syndicates with valuable resources that can be leveraged for financial gain or further malicious activities. The stolen data often finds its way to underground marketplaces on the dark web, fuelling a thriving economy of illicit information exchange. Building upon the foundation of stolen data, phishing has emerged as a particularly insidious method of deception. This practice involves using electronic communication to impersonate trusted sources, often to acquire additional sensitive information or financial access. The success of phishing operations frequently relies on exploiting human psychology and manipulating victims through social engineering tactics that capitalise on fear, urgency, or misplaced trust.

As these criminal enterprises grow in sophistication, hacking has evolved from isolated incidents perpetrated by individual actors to become a cornerstone of organised cybercrime operations. Modern hacking syndicates employ teams of highly skilled digital infiltrators armed with an arsenal of sophisticated tools and techniques. These groups systematically breach computer systems and networks, extracting valuable data, disrupting operations, or even holding entire organisations hostage through ransomware attacks. Ultimately, the goal is to deceive individuals into taking actions that compromise their security.

The pervasive nature of digital technology has also given rise to new forms of interpersonal abuse, with cyberstalking emerging as a particularly egregious offence. This relentless harassment and monitoring of victims through digital means represents a disturbing intersection of technology and criminality, leaving targets feeling trapped and powerless in spaces that were once considered safe havens.

The interconnected nature of these cybercrimes presents significant challenges for law enforcement and the judiciary. The Hon'ble Supreme Court in the case of *Attorney General For India (S) v. Satish And Another* highlighted the inadequacies of both the *IPC* and the *IT Act* in dealing with modern forms of crime, particularly those facilitated by digital technologies. The court's observations suggested a pressing need for legislative reforms to impose stricter punishments and provide more comprehensive protections in the digital realm.

The Inadequacy of Traditional Legal Frameworks

In the face of this rapidly evolving cyber landscape, India's existing legal framework is primarily rooted in the Indian Penal Code (IPC) and the Information Technology Act, 2000 (IT Act). The IT Act primarily regulates offences about computers, information technology, and virtual environments. It includes provisions such as 43, 66, 66C, and 66D, which specifically handle hacking, data theft, identity theft, and cheating by impersonation. In contrast, the Indian Penal Code (IPC) imposes penalties for several offences, such as 378, 420, 463, and 468, which are sometimes not explicitly tailored to address the 'cyber' aspect.

However, there are instances when their prohibitions overlap, resulting in problems over jurisdiction; the Supreme Court resolved this issue in the case of *Sharat Babu Digumarti v. Government of NCT of Delhi*, stating that in situations where a crime includes electronic records, the Information Technology Act (IT Act) should take precedence over the Indian Penal Code (IPC) because of the special law's superior authority. Despite such orders and adaptations that have been brought into the legislation of the Indian Penal Code and the Information Technology Act to address various aspects of cybercrime, the evolving nature of these modern offences, such as their becoming organised in syndicates, has revealed several inherent limitations of this framework. This sentiment was reinforced in the case of recently by the Bombay High Court in the case of *Abhishek (S) v. State of Maharashtra and Ors (2021)*, where the court acknowledged the limitations of the current system in addressing the intricate, networked nature of organised crime, including its digital manifestations. The judgment noted how criminal syndicates had become adept at leveraging various forms of communication, including wire, electronic, and oral methods, to facilitate their activities. This observation pointed out the need for a more robust and tailored legal response to address modern criminal enterprises' technological sophistication.

The intersection of organised crime and terrorism, particularly cybercrime, was highlighted in the *Sherbahadur Akram Khan & Ors. v. State Of Maharashtra*. The court drew attention to the alarming trend of criminal syndicates exploiting technology, including cyber means, to advance their nefarious agenda. This recognition further emphasised the urgent need for a comprehensive legal framework capable of tackling the evolving nature of these threats. Further, the Hon'ble Supreme Court, in the case of the *State of Punjab and Ors v. Amritsar Beverages Ltd And Ors*, went to the extent of saying that there is a need for creative interpretation of laws to keep pace with advancement in technology, hence, suggesting that the existing legal framework may be insufficient in addressing the complexities of modern cybercrimes. The same court also suggested a need for the establishment of committees and recommendations for more effectively tackling cyber-crimes in the case of *Videos of Sexual Violence and Recommendations, In Re*. These observations have led to the addition and recognition of cybercrime as part of Organised crime under *Section 111* of the Bharatiya Nyaya Sanhita as a new addition.

The introduction of cybercrime under Bharatiya Nyaya Sanhita: A Paradigm Shift

Within this context of growing cybercrime sophistication and the recognised inadequacies of existing laws, the Bharatiya Nyaya Sanhita (BNS) emerged as a watershed moment in India's legal landscape.

By incorporating cybercrime under the umbrella of organised crime, BNS represents a bold and transformative step in the nation's quest to combat the threat posed by digital criminal enterprises.

Drawing inspiration from specialised state legislation such as the *Maharashtra Control of Organized Crime Act, 1999 (MCOCA)* and *Gujarat Control of Organized Crime Act, 2015 (GCOC)*, *Section 111* of the BNS provides a comprehensive definition of organised crime that explicitly acknowledges the collaborative and technological nature of modern cyber offences. While these state laws and the *Bharatiya Nyaya Sanhita* provide for similar various degrees of punishment for offences linked to organised crime, BNS makes a major difference, wherein even the attempt to commit an offence linked to organised crime resulting in the death of any person will be punished with death or imprisonment and are liable for a fine for not less than Rs. 10 lakhs. In contrast, under MCOCA, only the “commission” of this act attracts the punishment of death or life imprisonment, apart from a minimum fine of Rs. 1 Lakh.

However, introducing these stringent measures also presents new challenges for law enforcement and the judiciary, particularly in digital evidence. Recognising this, the BNS addresses these concerns head-on in conjunction with the *Bharatiya Sakshya Adhiniyam (BSA)*. *Section 57* of the BSA allows the admission of digital documents, emails, and other electronic records as primary evidence without requiring additional verification, a crucial development in prosecuting cyber offences. Furthermore, *Section 63* of the BSA outlines the conditions for authenticating electronic evidence, ensuring its reliability and admissibility in court proceedings.

The *Bharatiya Nagarik Suraksha Sanhita (BNSS)* further enhances this technological integration by mandating audio-video communication and electronic means in various judicial procedures. This includes using electronic communication for summoning witnesses, recording statements, and even conducting trials via digital modes. These innovations aim to streamline the administration of justice, empowering law enforcement and the judiciary to navigate the complexities of the cyber realm with greater efficiency and effectiveness.

Global Perspective

Due to the growing occurrence of cybercrime that transcends national boundaries, nations are acknowledging the necessity of integrating cybercrime into their legislation concerning organised crime.

The United States, by engaging in the Council of Europe Convention on Cybercrime and extradition treaties, and the European Union, with its strong legislative framework and Europol coordination, prioritise international cooperation in addressing cybercrime. Australia has also included cybercrime into its legal framework by enacting the Criminal Code Amendment (Sharing of Abhorrent Violent Material) Act, 2019. Additionally, Australia actively collaborates with other countries to address cyber threats, with the Australian Cyber Security Centre playing a crucial role in strengthening the nation's ability to withstand such attacks. Along the same lines, Canada combats cybercrime by utilising its Criminal Code and the Canadian Cyber Incident Response Centre, which fosters collaboration between the public and business sectors to enhance cybersecurity.

International coordination between Interpol and the United Nations is crucial to synchronise legal structures and promote collaboration across borders. The United Nations Office on Drugs and Crime (UNODC) supports the inclusion of cybercrime in measures against organised crime, emphasising the importance of international treaties that promote collaboration and the exchange of information. To address the increasing issues of cybercrime within the context of organised crime, it is necessary to focus on improving legislative frameworks, developing law enforcement capacities, and promoting international collaboration.

Conclusively, incorporating cybercrime into organised crime under the Bharatiya Nyaya Sanhita signifies a significant change in India's strategy to combat digital dangers. Nevertheless, the efficacy of these measures will rely on how they are put into practice and how the legal system continuously adjusts to the always-evolving cyber dangers.



MAHARAJ-Movie Review

By Kashvi Gulati



Almost 165 years ago, Karsandas Mulji, a writer and renowned social reformer, was brought to trial in the Bombay Supreme Court in what came to be known as the historic Maharaj libel case of 1862. The movie revolves around the events that led Shri Karsan Das Mulji to become a celebrated women's rights activist who took one of the first steps towards equal rights for women in India.

Set in the mid-1800s, the film follows Karsandas Mulji in his fight against Jadunath Maharaj, a religious leader who sexually exploited women devouts. The film begins with Mulji as a child questioning the traditional practice of '*purdah*' by asking his father, "*What's the point of them covering their face if they can't see properly?*" The '*Purdah*' is an Ancient Indian custom practised by the elite caste and is believed to hide women from '*gandi nazar*'. While the custom is generally considered to be degrading and misogynistic in the more modern social circles of India, it is still a common practice in many Hindu homes and most other cultures. The question is left unanswered, and Mulji is shown to grow up questioning other such archaic and patriarchal social concepts. Another notable idea that Mulji was shown to argue for throughout the film was widow remarriage, which was legalised in the *Hindu Widows' Remarriage Act of 1856* yet still considered taboo in Hindu society.

Jadunath Mulji was shown to use '*charsan seva*' to lure women into his private chambers, where he proceeded to have intercourse with them by convincing them that it was their '*duty*' and taking advantage of their lack of knowledge regarding the matter. He even let other men watch for a fee and called it a '*ritual*'.

Charsan Seva is a time-old tradition that, when practised in a true spirit, represents one's devotion and humility; however, Jadunath Maharaj, who was believed to be god himself by his followers, took advantage of the illiteracy of the time and wrongly translated the Sanskrit vow of Brahma sambandh taken at the Haveli each morning, to forward his depraved agenda. The Sanskrit Shlok translates to "*Shri Krishna, you are my only protector. I humbly offer my body, my mind, my wealth, and my entire world to you. Krishna, I am your das*". The Maharaj's false interpretation of the text changed the meaning to, "*Before one can touch his bride, she needs to be sent to the Maharaj*".

Karsandas Mulji attempted to expose Jadunath Maharaj by writing an exposé on him in the 'Rast Goftar', an Anglo-Gujarati newspaper run by Dadabhai Naoroji and Kharshedji Cama which was merged with Mulji's own newspaper, 'Satya Prakash', at the time due to a fire that burned down Mulji's printing press, as depicted in the film. As the newspaper's allegation began to gain clout with Maharaj's followers, he filed a libel case against Karsandas Mulji, who sued him for Rs. 50,000.

While in court, Karsandas is shown to stand in the witness box and question the spectators present, asking them to name a single Hindu text, including the Vedas, that stated such a rule wherein the bride must be sent to the Maharaj before the marriage is consummated. Karsandas further accused Jadunath of wrongly interpreting many more of such shlokas and 'transcreating' texts rather than simply translating and also arraigned the men present for going along with the 'rules' and sending their brides and daughters to Jadunath.

Maharaj Libel Case of 1862

The landmark libel case of 1862 began when Jadunath Maharaj sued Karsandas Mulji and Nanabhai Rustomjee, the editor and printer of Satya Prakash, respectively, for libel, with a claim of damages for Rs. 50,000, in the Supreme Court of Bombay. Jadunath ji was represented by Sir Lyttleton Holyoake Bayley, who represented Jadunath Maharaj, and Mr. Thomas Anstey, who represented Karsandas Mulji, fought the case for three months in front of Sir Matthew Suesse, the senior judge, and Justice Joseph Arnould.

Many notable differences exist between the historically accurate case proceeding and the one depicted in the film. Firstly, the movie shows the case to be concluded in Karsandas Mulji's favour, which is historically inaccurate. The two judges presiding over the case differed in opinion, and the judgement was split. Sir Suesse ruled in favour of Jadunath Maharaj, reasoning that the matters published by Karsandas were private happenings of the community and should not have been published in the newspaper. Thus, Mulji did indeed commit libel. However, Justice Arnould took a more liberal approach and ruled in favour of Karsandas, justifying that Mulji performed the duty of a true journalist by reporting on grave misconduct and, thus, was not libellous.

Intriguingly enough, both the judges agreed on the truthfulness of Mulji's claim, which was ultimately proven by the doctors' testimony and examination, which showed that Maharaj did indeed have Syphilis. This sexually transmitted disease occurs from having multiple sexual partners.

In light of Mulji's veracity, the judges condemned the practice of the Maharajas as immoral and contemptuous. Furthermore, the judges also ruled that Karsandas was entitled to compensation for any legal fees he incurred. They momentarily remarked Mulji as the 'Martin Luther King of the East', changing the role and reputation of journalism forever.

In the aftermath of the case, the Maharajas sought to revitalise their reputation by shifting to a more accurate and moral interpretation of the Sanskrit texts. Many more Pushti sampradayas, or 'Havelis', were built without a Maharaj presiding over them, a practice mostly uncommon before the case.

Secondly, another important aspect of the case that was changed by the film, perhaps to make it more relevant to society today, was the involvement of women. While the case was centred around the exploitation of women, no woman was called to testify. Men gave testimonies regarding their experiences of sending 'their' women to the Maharajas and the experiences of their wives, sisters, and daughters without letting a single female come up and give testimony herself. As shown in the film, many women were adamant about supporting the Maharaj and were convinced of their 'duty' of charan seva.

Furthermore, as depicted in the film, Karsandas did not have a female assistant and was notably less feminist than shown. While Mulji can be considered a reformist in his own time, his views regarding women were still relatively backwards. This is exemplified mainly in the article he published regarding the debauchery committed by the Maharaja sect in the name of religion. In the exposé, the solution Mulji prescribes for the exploitation by the Maharajas was not to let women go into the temple or meet any Maharaja without the accompaniment of a man. In his article, Mulji says to "claim them (women) as your own" and depicts women as inherently 'innocent' thus shifting the duty of care on the men around the woman for sending her to the Maharaj and the 'guru' for misleading her and taking advantage of the power imbalance at play.

Controversies Surroundings the release of the film

The film 'Maharaj' is set when the caste system was prevalent, much more than it does today, thus sparking a controversy between the Vaishnavite Pushtimarg sect to which Karsandas Mulji belonged.

Originally set to be released on 14th June 2024, the movie received approval for circulation from the Central Board of Film Certification (CBFC).

However, its release was delayed due to a petition filed in the Gujarat High Court by the Vaishnavite Pushtimarg sect.

The petitioners argued that the film defamed their community and, thus, could lead to communal violence within the sect. After reviewing the film, however, the court dismissed the claim, finding no merit in the petitioner's argument.

Conclusion

The movie ended with a thought-provoking truth, that we don't need an intermediary to connect with god, and reiterated that following Dharma does not pave a path to heaven or to becoming god, but rather, to becoming a good human being who is respected and loved, both by society and by god.

The movie ends with the thought-provoking truth that worshippers do not need an intermediary to connect with God, but rather, they must only attempt to be better people and not take advantage of the weaker. It also reiterated that following Dharma is not a sure-shot path to heaven, but rather, to become a more respected member of society and a better person.

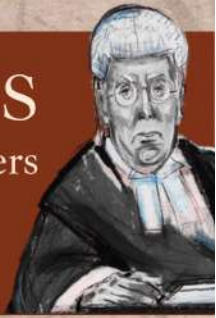
Even though the movie includes quite a bit of fiction and reinterprets many complex characters into more simplified and one-dimensional versions of themselves, the message it sends is still relevant to Indian society even today. The movie depicts an intense battle for the right to free speech and dealing with corruption amongst the powerful, both of which still apply to society as we experience it today, thus making the film a must-watch.



LAW FOR HEALTHCARE WORKERS

The Requirement of a Law for the Protection of Healthcare Workers
in India

By Dev Shroff



What has happened?

A horrifying occurrence took place at Kolkata's R.G. Kar Medical College and Hospital on August 9, 2024. The dead body of a young doctor who had been brutally raped and killed was found in the seminar room of the emergency facility where she was employed. Even though this tragedy had nothing to do with the violence that healthcare professionals frequently encounter while performing their jobs, it does highlight the persistent weaknesses in Indian hospital systems. Additionally, it draws attention to the widespread problem of violence against healthcare workers (VAHCW) throughout the nation. At least 70 Padma awardee doctors wrote to PM Narendra Modi asking him to personally intervene to address the alarming situation amidst the ongoing protest by doctors across the country. They also sought a special law for protection of healthcare workers at the earliest. As protests continue across the country, Amid the Kolkata case, Dr. Praveen Gupta, principal director and chief of neurology, Fortis Hospital, told The Hindu,

“We have repeatedly requested a safe work environment. This incident is a wake-up call. Doctors, particularly junior doctors working night shifts, and nurses — whether female or male — are increasingly under threat, not just physically but mentally as well. There is growing concern about their safety, lives, and mental health.”

This incident is a grim reminder of the fact that even healthcare workers in the world's largest democracy need better legal protection and policies in place, especially when they are on duty. In the first hearing of a *suo moto* petition in the Supreme Court, Chief Justice of India D.Y. Chandrachud emphasized that this is beyond a particular murder, it brings to light systemic issues related to the safety of doctors across India. Further, he expressed concerns about the virtual absence of conditions of safety for young doctors in public hospitals, especially female doctors who are more vulnerable because of the nature of work and their gender. Accordingly, the CJI believes there must be a national protocol to create safe conditions of work, as per the report. The Supreme Court has also set up a National Task Force (NTF) to look into the larger issue of ensuring safety for medical professionals, especially women.

During the hearing, the CJI observed that the NTF should have a portal to receive anonymous complaints from doctors who fear for their safety. CJI also assured the resident doctors that their concerns will be heard by the NTF and there is no need for actual representation from them.

Healthcare Workers in India and the India Need for a Law

Violence against healthcare workers in the workplace has existed in India for long and is a startlingly frequent occurrence. Medical staff in government hospitals, especially junior doctors, interns, and final-year medical students, are most at risk of workplace violence. Statistics show a trend toward increased hostility, especially in public hospitals. In the past few months, there have been numerous violent occurrences recorded in different States that have targeted medical workers, including doctors, nurses, and paramedics. For example, a junior doctor in Agartala was threatened with physical violence by an enraged mob of patients' relatives, while a nurse in Andhra Pradesh was attacked with an iron rod by a patient's cousin. These occurrences serve as a stark reminder that violence is more common in public health settings and that younger and female practitioners are disproportionately affected by it. Experts point to several factors that contribute to violence against healthcare professionals, including the 'poorly funded' public health system in India. A lack of proper management owing to limited resources and staff, expensive healthcare costs, and increased stay at private hospitals, could lead to violent situations. It is imperative that immediate and robust legal protections be put in place. *The Central Protection Act for Doctors* must be urgently enacted, with provisions for severe penalties against any form of violence or harassment targeting medical professionals. This legislation should ensure that such acts of violence are made non-bailable offenses, mandatory reporting, and swift judicial action. The rise in violence against female doctors reinforces the urgent need for comprehensive legal policies tailored to their protection. Legislation should establish severe penalties for gender-based violence and harassment in healthcare settings, ensuring offenders face strict legal consequences.

The Bill about Healthcare Workers

The government had introduced *the Healthcare Service Personnel and Clinical Establishments (Prohibition of Violence and damage to property) Bill, 2019* -- which dealt with violence against healthcare service personnel. The bill involved imprisonment between 6-7 years and a penalty of between Rs 50,000 to Rs 5 lakh. In case of grievous injury, the bill included punishments like 3-10 years and with a penalty of Rs 2,00,000-10,00,000.

Broadly, the bill was formulated through democratic engagement and public suggestions. However, the bill was aborted by the Ministry of Home Affairs in 2022. While rejecting the bill, the ministry stated that the bill could potentially spark other professional communities to demand similar protections.

Why there is no Central Law?

The medical community has repeatedly demanded regulations strong enough to prevent this kind of violence throughout the years. But there was no national legislation protecting healthcare personnel. Rather, 19 States had put their statutes into effect as of 2020; each had different provisions.

“Several States and union territories (total 26) have passed legislation to protect healthcare service personnel. These States include Andhra Pradesh, Assam, Bihar, West Bengal, Tamil Nadu etc. In all these States, the offence is cognisable and non-bailable. Most State Acts define healthcare service personnel to include doctors, nurses, medical and nursing students, and paramedical staff. Also, they define violence as activities causing harm, injury, endangering life, intimidation, obstruction to the ability of a healthcare service person to discharge duty and loss or damage to property in a healthcare institute,” said a senior Health Ministry official.

However, there were no laws at all in other States and Union Territories. Because of this disarray, there was inconsistent protection, and even with regard to the laws already in place, they could be implemented in a more successful manner. Between 2015 and 2020, violence against healthcare workers resulted in 1,318 arrests and 636 complaints in Maharashtra alone; yet, only four convictions were obtained.

The flaws in the statute that made it possible for criminal defense attorneys to avoid conviction were the real issue, making the provisions of the legislation ineffective.

In India, health and law and order are state subjects under the Constitution. Hence, the state government or Union Territory administration is responsible for preventing violence. Violence against health-care workers (VAHCW) is primarily a public health-related issue. While the concurrent list allows for a central law, the central government has not prioritised this issue, leaving it to the States to manage.

Conclusion

The tragic incident at Kolkata's R.G. Kar Medical College underscores the urgent need for robust legal protections for healthcare workers in India. Despite efforts to introduce legislation, the absence of a comprehensive national law leaves medical professionals vulnerable to violence. The alarming rise in attacks, particularly against female practitioners, highlights the systemic flaws in India's healthcare and legal systems. To ensure the safety and dignity of those who care for the nation, immediate legislative action is crucial, with strict penalties and consistent enforcement across all states to protect healthcare workers and create safer work environments.



KNOW YOUR CODE

By Vardaan Mahajan



Section 2 BNS: Inclusion Of Cyber Crimes

According to various statistical reports, India is currently home to approximately 750 million internet users and 460 million social media platform users, representing nearly 30% of the global user base. Further, independent studies estimate that there are around 650 million smartphone users in India. These figures underscore the significant portion of the Indian populace engaging with digital platforms for various purposes, including interaction, transactions, and operations. Consequently, there has been a notable rise in criminal activities in the digital space. In particular, the 'Crime in India 2022' report published by the NCRB highlights a 24.4% increase in registered cybercrime cases compared to 2021.

In response to the growing incidence of cybercrime, *Section 2(39) of the Bhartiya Nyay Sanhita, 2023 (BNS)*, expressly states that all terms related to technology and digital media shall bear the same meanings as those assigned under *the Information Technology Act, 2000*, as well as the BNS itself. This provision expands the scope of recognisable offences, thereby enhancing the ability to detect and deter crimes within the digital domain. Moreover, *Section 2(8)* of the BNS broadens the definition of 'documents' to include electronic and digital records.

Section 304 BNS: Snatching as a separate offence

Section 304 of the Bhartiya Nyay Sanhita (BNS) for the first time classifies 'snatching' as a distinct offence separate from theft. Reports indicate that snatching is a high-frequency crime, with estimates suggesting it occurs over 5,000 times daily in Delhi alone. The distinction from theft is not merely due to its frequency but also its unique characteristics, which warrant its separate categorization. Snatching involves the forcible or swift removal of movable property from a person, unlike theft, where the perpetrator may use deceptive means and take property without the owner's immediate awareness. Snatching always involves the victim's awareness during the act and may be accompanied by force or violence. The maximum penalty for snatching has been set at three years, compared to seven years for theft.

Section 152 BNS: Abolition of Sedition?

One of the most notable revisions in the Bhartiya Nyay Sanhita (BNS) is the abolition of the colonial-era law of sedition, previously codified under *Section 124A* of the *Indian Penal Code (IPC)*. However, it is important to recognize that *Section 152* of the BNS preserves the underlying principles of *Section 124A*, albeit in a rephrased form that has been criticized for its ambiguity.

The removal of the sedition law follows the recommendations of the Law Commission in its 2023 report, which suggested that sedition, with certain modifications based on a landmark 1962 judgment, should continue to have a place in Indian criminal law.

The terms ‘subversive activities’ and ‘endangers sovereignty’ as mentioned in *Section 152* of the BNS lack precise definitions, potentially leading to issues in the Section's application. This vagueness raises concerns that individuals may be subject to arrest or investigation due to misinterpretations of the BNS, with clarity on the law's limits only emerging through judicial interpretation. Consequently, this provision carries the risk of infringing on the liberties of a large number of people until the judiciary establishes well-defined boundaries through case law.



THE CRIME & JUSTICE GAZETTE




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NEWSLETTER BY GNLU CENTRE FOR RESEARCH IN CRIMINAL JUSTICE SCIENCES

Issue 15

August, 2024