

Jan Swasthya Abhiyan Thematic Brief: Regulation of Private Healthcare and Protection of Patients' Rights

1. The background: Massive and unchecked privatisation of Healthcare

India's healthcare landscape today shows massive contrasts and deep divides. On one side stand gleaming corporate hospitals, hubs of medical tourism offering 'world-class' care. On the other hand, underfunded and overcrowded public health services struggle to serve the majority. Over decades market liberalisation has promoted the growth of corporate and commercial private hospitals, while the public system has remained under-funded, fragmented and inadequately staffed.

Today the commercialised private sector dominates the delivery of health services, accounting for around 70 % of all healthcare utilisation. Private hospitals house 63 % of all hospital-beds in India, and around 80 % of doctors and 70% of nurses are employed in the private sector. This massive commercial dominance is the background for rapidly growing corporate hospital chains, which are backed by huge profit-seeking foreign investments. These impacts of privatisation have deep implications for equity, affordability and accountability of health services—especially for working people, informal sector workers, women, and marginalised communities. This is the backdrop for widespread violations of people's rights in commercial private healthcare.

2. Large scale violations in private healthcare sector

As the private sector's dominance has grown, so too have systemic violations of patients' rights and major distortions in practice.

a) Non-transparency and over-charging: Patients in private hospitals usually have to seek care without clear information on diagnosis, treatment options, risks or costs. Many receive inflated bills, hidden charges, forced package payments and refusal of itemised bills or discharge summaries. The opacity of cost and services leaves patients unprotected and vulnerable.

b) Irrational, unethical and sub-standard care: Commercial imperatives often override clinical judgement. Corporate hospitals often impose revenue targets, pushing for high-margin procedures and aggressive diagnostics. Unnecessary interventions, branded prescriptions and overuse of expensive technology are reported widely, leading to inflated costs and undermining evidence-based care. There are huge variations and widespread lack of assured quality of care in the commercial private healthcare sector.

c) Denial of emergency healthcare: Despite judicial directives, multiple reports show that most private hospitals deny emergency treatment until large payments are made. Such denials violate both ethical standards and legal obligations, especially when patients are brought to hospital in vulnerable conditions.

d) Absence of effective grievance redressal: Although private hospitals may nominally have "grievance officers", in practice patients seldom get meaningful redress. Public authorities rarely enforce laws; private providers operate with impunity. Significant failures also occur within publicly funded insurance schemes (e.g., Ayushman Bharat-PMJAY) when empanelled hospitals refuse to honour cards, demand additional payments, or restrict services only to procedures that are profitable.

These range of perverse, commercially driven practices highlight a broader systemic failure: the predominance of profit over care, and the erosion of patient agency in the face of institutional power imbalances. The consequences of this private-dominated, weakly regulated system are profound. According to recent estimates (CAM survey 2022-2023), in urban areas people spend nearly 77 percent of their hospitalisation cost from their pockets, while for rural people this stands at nearly 92 percent. This financial toxicity pushes crores of Indians into poverty each year due to unaffordable healthcare expenses. Medical inflation is running high at 14% and far outpaces general inflation, meaning the cost of getting sick is rising faster than a family's ability to pay.

3. Legal frameworks for regulation, and status of implementation

The Clinical Establishments Act, 2010 (CEA)

Enacted to provide nation-wide minimum standards, registration requirements and cost regulation, the CEA was supposed to be a transformative legal instrument. The rules for CEA were framed in the year 2012, requiring each clinical establishment to publicly display the rates for all services and facilities provided, and to charge for treatment procedures within the rate range set by governments. As of today, 12 states - Arunachal Pradesh, Assam, Bihar, Haryana, Himachal Pradesh, Jharkhand, Mizoram, Rajasthan, Sikkim, Telangana, Uttar Pradesh, Uttarakhand have enacted the Clinical Establishments Act. The remaining states have yet to adopt this Act, though several of them have adopted their own state level acts. However, even in the states where the Act has been enacted, massive delays in ensuring its proper implementation have so far rendered this legislation completely ineffective.

The national minimum standards required for regulation have not been notified after nearly a decade of delay, so hospitals and establishments operate only with provisional registration. Crucial provisions like display of rates by hospitals, standardisation of rates and ensuring basic standards for quality of care remain blocked, implying total lack of effective regulation. Resistance by private hospital lobbies and weak political will have rendered CEA ineffective; this is one of the reasons for JSA filing a PIL in the Supreme Court as described further.

Regulatory acts in non-CEA states

In some states that have not adopted the central CEA, much older laws continue —such as the Maharashtra Nursing Homes Registration Act (1949) or the Madhya Pradesh Nursing Homes Act (1954)—which are outdated, inadequate and poorly enforced. Other states like Tamil Nadu, Kerala, Karnataka, Chhattisgarh, West Bengal, Punjab etc. have their own state level regulatory acts, but there is considerable variation in their provisions. Certain common features are required across all legislations to guarantee basic protections like transparency and standardisation of rates. Hence the JSA petition has demanded that certain common, basic regulatory provisions and the Charter of Patients' Rights must be implemented uniformly across all States and Union Territories of India.

The Patients' Rights Charter (circulated by NHRC in 2018; updated by MOHFW in 2021)

The updated *Charter of Patients' Rights and Responsibilities* circulated by the Union Health Ministry in August 2021 includes 20 rights to protect patients from overcharging and malpractices, and includes the following important rights:

1. **Right to information, records and reports:** Patients have a right to receive relevant information about the illness, proposed treatment, possible complications and expected costs of treatment. They have right to copy of their medical records, reports and case papers.
2. **Transparent pricing and itemised bills:** Patients have the right to receive clear information on the rates being charged for each service, hospitals must prominently display these rates. All patients are entitled to receive an itemized bill.
3. **Freedom to choose source of medicines and tests:** Patients are not obligated to buy medicines from the hospital's pharmacy or undergo diagnostic tests at hospital-recommended facilities. They can opt for external sources offering lower costs.
4. **Right to raise complaints and have them addressed:** All hospitals must have a grievance redressal system with a designated officer. If the hospital fails to resolve an issue, patients should be able to contact the district registering authority for further assistance.
5. **Right to prevent detention of a dead patient's body:** Hospitals cannot deny the release of a deceased patient's body for any reason.

Although this charter is displayed on the Union health ministry's website, it remains an advisory document and is not displayed in most private hospitals. The implementation of the charter by states is minimal, and even where

charters are displayed, these tend to contain only selected provisions or headings instead of the complete charter. There has not yet been much movement in India towards giving this charter a legal regulatory frame, except in the case of Rajasthan Right to Health Act. To safeguard the rights of patients, the rights codified in the present patient's rights charter must be notified as legally enforceable rights.

Consumer Protection Act (2019)

This Act recognizes patients as consumers, enabling claims for medical negligence and unfair trade practices. However, the associated judicial systems are not easy for people to access and redress their grievances. The redressal process is complex, lengthy and expensive—being effectively inaccessible for most patients and poorly suited for routine accountability in private healthcare.

Overall, the provisions for regulation of private healthcare in India are quite inadequate, yet the gap between legal commitments and ground reality is even more damaging. Regulatory provisions exist, but implementation has been consistently sabotaged and diluted. While several service sectors have an autonomous regulatory authority (insurance, banking, airlines etc.), with the exception of West Bengal, none of the Indian states have a dedicated regulatory authority / commission for the health sector.

Here it is also relevant to note that regarding complaints of unethical conduct by medical practitioners, *earlier aggrieved persons and patients had the right to file an appeal to the Medical Council of India (MCI)*, which had the power to punish doctors in case of professional misconduct. However along with replacement of MCI by the National Medical Commission (NMC), *now the patient complaint/appeal mechanism at national level has been effectively eliminated*, appearing as a major step backwards in context of a medical system which is already weighted heavily against patients and ordinary people.

4. Examples of people's mobilisation and JSA legal intervention

4a. Actions to claim patients' rights in Maharashtra

Maharashtra provides an example of a state where significant efforts have been made for popular mobilisation around private healthcare accountability. During the COVID pandemic, the state issued amended **Maharashtra Nursing Homes Registration Rules (2021) (MNHRA Rules)** which requires all registered private hospitals to display the Patients' Rights Charter and to display key service rates, while requiring all cities and district authorities to operate grievance redressal cells. However, the expected massive gap between positive legal provisions, and dismally sluggish implementation in practice, has led several civil society organisations to take action.

In the cities of **Pune, Nashik, Sangli**, SATHI in partnership with local organisations and patient rights groups launched participatory campaigns during 2022-23, including actions such as:

- Organising **public awareness workshops**, which helped grassroots activists to understand rights concerning private hospitals under MNHRA. Publication and dissemination of patients' rights charter in popular form.
- Formation of **Patients' Rights Committees** based on which groups of volunteers conducted fact-finding visits to over 100 private hospitals across the three cities, checking whether rate display, patients' rights charters and complaint mechanisms were functional.
- The emerging evidence confirming large-scale non-implementation of the legal provisions was shared through well attended **Patients' Rights Assemblies** where citizens, hospital representatives, municipal health officials and media participated in open dialogue for accountability.
- Through sustained follow-up, **Grievance Redressal Cells (GRCs)** with toll-free helplines were initiated in each of these cities— which are important steps forward, but are yet to become fully operational.

These initiatives have used MNHRA rules as a tool of public mobilisation in selected cities, enabling ordinary people to hold private hospitals and regulators to account.

Subsequently taking forward these initiatives, in 2025 the SATHI team has collaborated with local activists to extend such processes to Solapur, Ratnagiri and Sindhudurg, along with continuing activities in Nashik. Key activities here include-

- Promoting **patients' literacy**—workshops, pamphlets, media outreach help citizens understand entitlements, hospital obligations and grievance pathways.
- Formation of new **Patients' Rights Committees** —local citizen platforms which have started actively monitoring hospitals and interfacing with local authorities.
- **Organising dialogues by engaging hospital associations, doctors, officials and social groups** - creating spaces where social accountability meets professional bodies and officials, promoting local reform.

These participatory actions have been accompanied by operation of a **Patient support helpline** by SATHI since the COVID period. This helpline is frequently approached by patients and relatives as a source of critical information, enabling many of them to tackle common problems faced in private hospitals like overcharging, detention of dead body by the hospital, denial of free care as part of official health insurance schemes etc.

These series of mobilisations and activities demonstrate **several key strategies for making private hospitals accountable**: creatively using legal anchoring (MNHRA Rules); using patients' rights as a popular idiom for mobilisation around social accountability of private healthcare; public education and participatory monitoring of private hospitals; providing technical support to individual patients facing violations; organising public assemblies and dialogues with professional/administrative stakeholders; and local advocacy to make grievance redressal cells functional. These local actions have raised awareness, they have promoted display of rates by many private hospitals, and have initiated GRCs even though these need further activation. These small impacts are significant, in a system where commercial actors traditionally hold massive clout without any public accountability. Yet major challenges remain since these mobilisations face considerable resistance from hospital owners and weak regulatory follow-through by officials.

4b. JSA's National PIL for regulation of private healthcare and patients' rights

At the national level, Jan Swasthya Abhiyan has intervened strategically to ensure regulation of private healthcare through litigation and linked advocacy. In early 2021, **JSA has filed a Public Interest Litigation (PIL) in the Supreme Court of India** (W.P. Civil No. 289/2021) demanding:

- Regulation and standardization of private healthcare across India, by pushing for effective implementation of Clinical Establishments Act (CEA) in the states where it has been adopted. The main plea is to ensure standardization of rates of private hospitals, while also making these transparent through mandatory public display of rates by hospitals.
- Implementation of the 20-point Patients' rights charter, which would protect and safeguard patients from various malpractices. JSA's PIL has made the Central Government and all State governments as respondents, so that basic regulatory provisions are implemented irrespective of whether the state has adopted the central CEA or other legislation.
- Establishment of grievance redressal mechanisms at the district, state, and central levels to address and resolve issues faced by patients seeking treatment in the private healthcare sector.

Two other people-oriented petitions (one by the Veterans Forum for Transparency in Public Life in 2020, another by Consumer Voice in 2025) have been clubbed with this JSA PIL. In March 2024, the Supreme Court directed the Union Health Ministry to propose a framework for rate regulation and even suggested using CGHS (Central Government Health Scheme) rates as an interim standard. However, private hospital lobbies have intervened in court and have vigorously opposed any regulation of rates, deploying high-profile legal representation and arguing that rate caps infringe business freedom. In this situation as the case moves towards definitive hearings, now JSA units in various states need to support efforts within the court, and also can build collaborations for public awareness and advocacy on regulation of private healthcare to protect people's interests.

5. Diversity in private healthcare, need for participatory oversight of regulation

India's private healthcare sector includes a wide spectrum of providers - large corporate hospital chains and investor-owned hospitals, small doctor-run nursing homes, charitable trust and mission-run institutions, and individual practitioner clinics. Yet public debates and regulations frequently treat all private providers alike. This diversity matters: while corporate hospitals dominate capital-intensive tertiary care and operate on profit-maximising models, not-for-profit and charitable institutions deliver more affordable, community-oriented care and are less extractive in their approach. Yet many of the latter are today under severe financial strain due to rising costs and declining public support, pushing them also toward commercialisation.

Governments must therefore *differentiate between corporate and not-for-profit providers*, offering the latter preferential support—through subsidised land, concessional loans, and collaboration for affordable services. *Regulatory frameworks must avoid a corporate-oriented approach* based on excessively demanding physical and infrastructural standards, which would threaten smaller rural and not-for-profit providers. Instead, there is need for developing *appropriate and context-sensitive standards* which protect patient welfare, without driving out ethical, low-cost providers, especially in remote areas. At the same time, standardisation of rates needs to be ensured in appropriate manner across various categories of providers. Strengthening non-profit providers can preserve socially oriented healthcare, which would complement and support the public health system.

Regulation of private healthcare must also *adopt a nuanced approach toward AYUSH providers*, recognising their distinct knowledge systems, and long-standing social and cultural roots among people. Rather than applying bureaucratic standards, their regulatory frameworks should be based on system and context-appropriate norms that safeguard patients interests, while supporting ethical AYUSH practitioners. It is also essential to curb misleading or exaggerated claims by certain commercial businesses, which are profiteering by marketing AYUSH remedies.

Further we would recognise that regulation of the private healthcare sector in India has generally been weak and captured by powerful interests which operate within and outside the state. On one hand we have the private healthcare industry's financial and political clout, and on other hand the state apparatus which generally views regulation as a narrow bureaucratic function, and even as a channel of corruption, rather than treating this as a responsive mechanism to uphold patients' rights and social accountability. To protect public interest, *we need to promote regulation from the standpoint of people, ensuring that regulators themselves are held accountable*, and that regulatory frameworks strongly reflect people's concerns. The emerging idea of *social regulation* links state regulation with participatory oversight and elements of professional self-regulation. Such an approach would democratise regulation, strengthen ethical and rational care within the profession, and anchor it in a broader framework of social accountability and rights.

6. What we can do: Mobilising people for accountability and rights related to private healthcare

Along with the health movement's primary task of promoting improvements in public health systems, there is also an urgent need for preventing exploitation and enforcing rights in context of private healthcare. The following activities are not to be developed in isolation, but would be part of a broader set of activities to ensure improved public health services, while resisting various forms of privatisation. We should consider taking action on accountability and rights at locality and district or city level, as well as state and national levels:

At the local, district and city levels:

- **Support patients who face violations** - When patients or families suffer grave violations in private hospitals — such as overcharging, denial of treatment, or unlawful detention of a patient's body for unpaid bills—prompt action is crucial. Health activists should acquaint themselves with related provisions and rights, and can support affected families in dialoguing with hospital management, lodging complaints with local health authorities, and can even assist them for taking legal action for negligence or malpractice. Supporting such cases, strengthens the wider movement for patients' rights and challenges exploitation by commercial hospitals.

- **Establish Patients' Rights Committees** or similar bodies with diverse members (including community activists, consumer groups, active middle class people etc.) as local platforms for awareness generation and mobilisation. Widely publicise the Patients' Rights Charter through community meetings, posters, social media, local newspapers etc.
- **Conduct periodic visits to private hospitals** to check their compliance with key legal requirements such as display of rates, patients' rights charter, and ensuring the freedom to patients to choose the source for accessing their medications and diagnostics etc. Ensure that the patients' rights charter is displayed fully in health facilities, rather than only selected provisions, or some headings being displayed. Hold public dialogues or assemblies to highlight violations in private hospitals, while sharing and documenting testimonies.
- **Engage local health officials, municipal bodies and district health administration** to demand enforcement of relevant regulations. Statistics at district and state levels should be published regularly by regulatory authorities, making known the number of complaints/grievances received and status of decisions, number of actions taken related to private hospitals etc.

At state and national levels:

- **Advocate for implementation of existing positive provisions related to CEA, or action on state specific legislation on private healthcare** which are applicable in our state, along with the Patients' Rights Charter.
- **Highlight the need for standardisation of rates, demand transparency and display of rates in private hospitals, press for and facilitate grievance redressal mechanisms** with state oversight.
- **Demand pro-people modifications** in the existing regulatory acts as relevant. **Demand autonomous, well-staffed and empowered regulatory bodies with civil society oversight. Advocate for adoption of people-centred and appropriate state level regulatory legislations** for private healthcare wherever feasible.
- **Use mainstream media, social media campaigns and documentation to expose the massive distortions** in private care, strengthen social demand for effective regulation, while opposing privatisation of healthcare.
- **Actively support JSA's Supreme Court PIL** through mobilisation, public campaigns and involvement of consumer/rights groups. Consider similar legal actions wherever relevant.
- **Build alliances** between health activists, ethically oriented health professionals, consumer organisations and patient groups to form joint forums for patients' rights and social accountability of healthcare.

Our overall aim is positive transformation of health systems, ensuring that healthcare is treated as a basic human right and social good, while democratising health system governance. Through movements and initiatives on various fronts, we need to move healthcare away from the profit-driven commercial framework, and towards a publicly organised and funded framework, which ensures health rights for all. Our actions on regulation of private healthcare and defending patients from exploitation would be part of this larger movement for the right to health and healthcare for all.

Healthcare for people, not for profit!

स्वास्थ्य हमारा अधिकार – मत करो इसका व्यापार!

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