

# Origin and Prevention of Workplace Violence in Health Care in China: Legal and Ethical Considerations

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## WORKPLACE VIOLENCE IN HEALTH CARE: A CONTINUOUS GLOBAL PROBLEM AND ITS CHARACTERISTICS IN CHINA

Workplace violence is a persistent problem in health care worldwide. The victims are usually nurses and workers in the emergency department.<sup>[1-8]</sup> The academic debate, as it develops overtime, would allow us to gain an integral insight about this problem. The author searched the related research and debate articles in English in PubMed (www.pubmed.com) dated from 1990 to 2016 [Figure 1]. In total, 1899 items with the keywords of “workplace violence,” 600 items with “workplace violence healthcare,” 786 items with “workplace violence nursing,” and 279 items with “workplace violence emergency” (there is some overlap between these four groups) have been published.

Workplace violence in health care has become a prominent social problem in China in the recent years. A survey conducted by the China Hospital Association in 2012 showed that 96% of the hospitals investigated had verbal violence and as much as 60% had experienced physical violence.<sup>[9]</sup> Another survey in 2012 showed that more than 50% of the 2464 respondents in 12 hospitals from 2 provinces had experienced workplace violence and the rate of physical assault was 11%.<sup>[10]</sup> According to a survey conducted in 2014, 12.6% of 840 respondents admitted being physically attacked at their workplace in that past 12 months.<sup>[11]</sup> Direct care providers, including physicians and nurses, are more prone to suffer from physical assaults.<sup>[11]</sup> However, violence, including fatal physical assault, affects nearly all Chinese health-care professionals.<sup>[12-14]</sup> In addition, “medical mobs”—a group of

people gathered at health care facilities threatening medical staff and create chaos for large compensation instead of the settlement of medical disputes—disturb medical working environment, although more often than not, they do not resort to violence.<sup>[15,16]</sup> Statistical analysis by the Ministry of Health showed that more than 17,000 violent affairs had occurred in 2010.<sup>[17]</sup> In 2015, the Supreme People’s Procuratorate summarized features of violence at hospitals as follows: occur frequently and suddenly with serious consequences, have a wide impact on the public, need urgent attention and handling, cause serious damage, and pose continuous potential dangers.<sup>[18]</sup> Thus, being employed as a hospital staff, especially as a direct care provider, is now considered a dangerous job in China.

## NEGATIVE EFFECTS OF WORKPLACE VIOLENCE ON THE STAFF AND PATIENT OUTCOMES

Frequent instances of workplace violence have direct and indirect negative consequences on both the staff and patients, including compromised patient care.<sup>[19]</sup>

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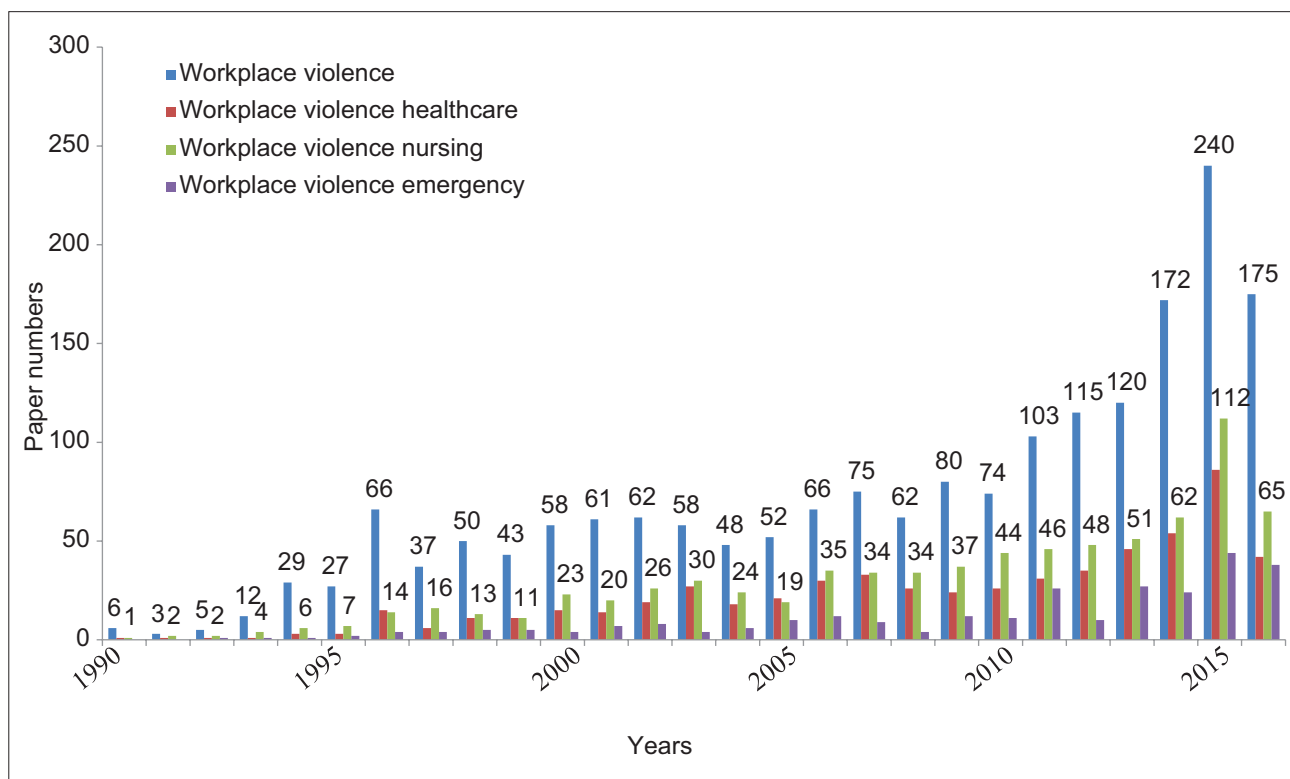
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**Figure 1:** Workplace violence papers searched by keywords in PubMed from 1990 to 2016. Papers included in <http://www.pubmed.com>. Here shows the account of items from 1990 to 2016 when searched with “workplace violence” (blue), “workplace violence healthcare” (red), “workplace violence nursing” (green), and “workplace violence emergency” (violet), respectively.

Violence and inadequate managerial care after violent incidents may reduce nurses’ proficiency, which could have negative implications for patient care.<sup>[20]</sup> Physical violence against care providers has been associated with patient falls, medication errors, and late administration of medications.<sup>[20,21]</sup> Numerous studies have documented experiences of violent incidents resulting in severe psychological distress, increased work stress, and reduced work efficiency.<sup>[22-26]</sup>

Violence in the health sector is also associated with job dissatisfaction and turnover intention among care professionals.<sup>[27,28]</sup> Both bullying and physical violence have led to increased turnover intention.

Shortage of physicians and long waiting time for visits and treatment are challenges faced by China’s health care, and these are also some of the reasons for workplace violence.<sup>[17]</sup> Chinese medical staff faces heavy workload, providing service to one-fourth of the world’s population. An investigation by the Chinese Medical Doctor Association in 2009 showed that more than 60% of the registered physicians were not satisfied with the working environment. The Ministry of Health statistics in 2008 showed that 1 million people had acquired physicians’ license in the past 6 years; however, 40% of them did not register.<sup>[17]</sup> If this situation continues, Chinese patients will have to face a further shortage of physicians.<sup>[29]</sup>

Moreover, the practice of defensive medicine among physicians in Chinese hospitals has been reported for years.

This may also have negative implication for doctor–patient relationship and subsequently contribute to the incidences of violence against health-care professionals.

The author conducted a survey in 13 hospitals of Beijing from July 2007 to March 2008 that showed most of the respondents’ (83.0%,  $n = 811$ ) practiced defensive behavior, and defensive practices were significantly associated with their experience of complaints ( $P = 0.0318$ ) and medical negligence claims ( $P < 0.0001$ ). Notably, even in emergency cases, a surprisingly high percentage of the physicians (43.3%,  $n = 811$ ) had a negative attitude toward first aid when the patient was not accompanied by any family member; they would not implement invasive treatment without the consent in writing from the patient’s families, even if the patient needs the treatment as prompt first aid. Instead, they chose to wait for the signed consent or followed the manager’s decision. Defensive behavior is becoming more widespread due to the frequency of violent incidents. A written informed consent by the patient or his family for any operation, special examination, or special treatment is required by Tort Law of China, making the situation even worse. When the author gave lectures during Beijing resident training on courses of law and regulations from 2015 to 2016, a rough statistical analysis of the emergency question showed that less than 20 of the 1200 residents who attended the courses showed no hesitation to provide prompt invasive treatment to the patients on basis of the patients’ interests rather than a written consent form. Ultimately, it is the patients who end up paying for the violence.

## GOVERNMENT EFFORTS TO PREVENT WORKPLACE VIOLENCE AND THE RESULTING OUTCOMES

The Chinese government has been exploring various ways to prevent workplace violence in health care, especially in the recent years. For example, the Ministry of Health and the Ministry of Public Security had called for the protection of health-care professionals from suffering violence in a joint notice as a response to the fatal violence at the First Affiliated Hospital of Harbin Medical University.<sup>[30]</sup> In addition, the Supreme Court, on April 24, 2014, announced the decision to work together with four-related departments to penalize those responsible for workplace violence in hospitals. The notice listed six kinds of violent behaviors that hurt doctors or disturb/disrupt the daily operation of hospitals, including carrying dangerous materials or threatening medical staff.

Despite the presence of security officers in some hospitals for assistance, the situation has continued to deteriorate in the recent times. Wei Xiao, a spokesperson of the Supreme People's Procuratorate, stated on June 24, 2015 that more than 10 cases of violence against doctors were reported by the media within 20 days in China, only 2 days before the fifth Chinese Doctor's Day.<sup>[31]</sup> Under the Amendment of Criminal Law in effect from October 1, 2015, those who organize or participate in medical mobs will face criminal penalties if their violent behavior disturbs work order seriously and causes heavy losses. However, preventive measures for workplace violence have not proved to be entirely effective. Bullying, physical assault, and serious personality insult still occur occasionally.<sup>[13,15,16,32]</sup> Recently, Li Baohua, a pediatrician of Shandong Laiwu Steel Group Hospital, was stabbed 27 times and killed by a patient's family member causing serious injuries.<sup>[33]</sup> This heinous violent behavior happened exactly 1 year after the Amendment of Criminal Law was in effect. A female physician was also stabbed for no reason,<sup>[14]</sup> only a few days after, "the Opinion on Performing the Procuratorial Functions Fully to Provide a Strong Judicial Support for Promoting healthy China" was published on September 29, 2016.<sup>[34]</sup> In this opinion, the Supreme People's Procuratorate stresses that they will intensify the crackdown on criminal behavior against medical staff to ensure normal medical order and safety of medical personnel. It appears that the government's efforts were not very effective.

## LEGAL AND ETHICAL REASONS BEHIND FAILURE OF PREVENTIVE MEASURES

Even criminal penalty has been unable to prevent violence in health care. Insufficient investment in the health system, lack of communication between health professionals and patients, negative media reports, and unrealistic patient expectations from treatments may be the reasons for this. However, the government may not have realized that the factors described below are important reasons that directly cause and worsen workplace violence and promote medical mobs as well.

## Unfair and time-consuming litigation process of medical negligence claims

Many people prefer not making claims due to the fear of failure and prolonged course for arbitration of disputes; instead, they sort to medical mobs and behaviors alike. If people suffer an injury during treatment under a medical service, they can allege medical negligence. However, litigation procedure for medical negligence is a time-consuming process that usually lasts several years, especially for complicated disputes. As a part of structured retrospective reviews, Li *et al.* analyzed 1086 medical dispute lawsuits from 1998 to 2011 from a nationwide database in China.<sup>[35]</sup> Results suggested that the average time span between the occurrence of disputes and issue decision was 3 years;<sup>[35]</sup> nearly 76% of the claims in negligence received compensation under civil judgment (640 of 841) although fault liability was not confirmed in 7% of these claims (43 of 640).<sup>[35]</sup> In general, the judges cannot make a decision by themselves about the professional problems of medical disputes, and they usually arrive at a decision based on the conclusions issued by a judicial authentication of the claims. Thus, the patients and their family have to wait for a long time for the compensation through litigation. Such legal proceedings are not established under patient-centered ethical considerations. Apparently, patients in urgent need of subsequent treatment cannot benefit from compensations through litigations. Moreover, patients who fail in the court do not get compensation and end up paying the litigation costs.

## "Successful" resolution of negligence claims by medical mobs

Research shows that only about 5.4–25.3% of medical disputes have been solved by litigation.<sup>[35-38]</sup> Many of the "successful" negligence claims are the result of medical mobs. This factor not only contributes to workplace violence but also to the origin of medical mobs. There are several reasons for the popularity of medical mobs.

First, the staff, including some managers in China's hospitals, has always adopted an evasive and conciliatory attitude and preferred to resolute disputes with money when they encounter disputes with patients. Such an attitude invited medical mobs, which had been proven quite effective in medical disputes—amount of compensation or indemnity depends on the extent of trouble caused by the mobs rather than the extent of the medical damage.<sup>[39]</sup> This has gradually led to the proliferation of medical mobs. From the year 2000 to 2012, at least 150 medical violence cases that caused more than 30 deaths have been reported by the media. However, it is regrettable that most of the hospitals chose to terminate the disputes monetarily.<sup>[35]</sup> The staff prioritizes quick resolution of disputes, and consequently, they often pay a substantial amount of money for little or even no negligence.

Second, through communication with physicians and managers, the author found that some hospitals have even formulated some unfair rules to avoid disputes, such as "a

doctor or nurse will be punished for a complaint or dispute, no matter whether he or she is at fault.” Such unjustified rules ignore feelings of medical staff.

When patients and their families realize they can obtain more money quickly by threats and violence, litigation became less popular.

### **The tolerance and forgiveness for patients and their families worsen the situation**

Palliative attitudes of the Supreme People’s Procuratorate and Public Security Forces and misleading media reports worsen the situation.

On June 24, 2015, the Supreme People’s Procuratorate stated that they would treat medical mobs differently—“Procuratorate at all levels will try to promote reconciliation when the medical mobs are patients or their relatives; on the contrary, they will attack professional mobs.” The Supreme People’s Procuratorate’s statement shows different attitudes to violence from medical mobs and patients’ families. That difference and the weakness of security personnel are mistakenly attributed to the government’s tolerance of violence from patients and their families. A survey showed that only 28% of public security personnel provided active help to resolve violent incidents resulting from medical disputes<sup>[35]</sup> despite a cross-sectional survey showed 22.6% and 62.3% of the perpetrators of physical assaults were patients and their relatives, respectively.<sup>[11]</sup>

In addition, forgiveness and tolerance of the patients and their family’s violent behavior showed in the media reports are looked on as an encouragement of the future violence. Media reports on violence also mislead people—these reports seldom discuss the truth behind the violence and the potential legal liability of such behaviors, which directly worsen the medical working environment.

## **SUGGESTIONS FOR PREVENTION OF VIOLENCE AND MEDICAL MOBS**

It is important for the Chinese government to evaluate and implement alternative strategies to address workplace violence. Stringent guidelines may play a significant role in preventing workplace violence and fatal assaults.<sup>[40-43]</sup> Active postviolence management for relieve the pressure on the staff is as important. However, continuing violence has highlighted that the policies and actions taken by the government cannot entirely resolve the problem. Following are a few suggestions for resolving this issue:

### **A law- and evidence-based process for medical disputes should be established**

It is usually the patients or their families who are responsible for most physical assaults and fatal violence incidents.<sup>[11]</sup> Although the aim of medical mobs is to create chaos at workplaces and exert pressure and they seldom cause fatal harm to the staff, the tolerance of violence stemming from patients is a barrier to preventing workplace violence. The medical staff deserves protection by the law as citizens.

The Supreme People’s Procuratorate’s statement on treating mob violence differently is a breach of the principles of law. The Procuratorate has a criminal law in place for violent behavior, and treating physical assaults and fatal violence in hospitals differently is, thus, a breach of criminal law.

To prevent workplace violence effectively, the government should change this attitude. The Procuratorate and courts need to treat all physicians, patients, and medical mobs as citizens, and address violence and mob incidents under a common principle of law.

In addition, the media should report impartially and encourage people to resolve disputes through negotiation and legally prescribed ways. Moreover, tracking reports are needed to inform people of the investigated results and the subsequent penalty for the violence.

### **Alternative dispute resolutions should be introduced in medical disputes**

Besides building a law- and evidence-based dispute resolution process and environment, the government should develop multiple alternative dispute resolutions (ADRs), such as arbitration and mediation, which have been confirmed to be successful in settling medical disputes in other countries.<sup>[44,45]</sup>

Meditation is the most common method of ADR, and it has been confirmed to be the most effective method when supported by organizational commitment and conducted by independent, experienced, and qualified mediators in workplace conflict<sup>[46]</sup> and has successfully addressed a part of the medical disputes in China in the recent years.<sup>[47]</sup>

Arbitration, which has more advantages than mediation, however, is commonly applied only in economic disputes in China. Arbitration can address a dispute quickly and make decisions through a team of professional experts and lawyers. Choice of arbitration authority can help in reaching an agreement between the parties easily. Moreover, the decision is legally enforceable. Thus, arbitration can resolve medical disputes effectively and efficiently.

Arbitration is a potentially feasible pathway for medical disputes resolution. A survey conducted in 2008 showed that both medical staff (83%) and patients (67.69%) considered that a fair and reasonable decision of medical disputes should be made by a group, which comprised multi-field professionals, especially including both medical professionals and lawyers (74.61% of doctors and 55.26% of patients).<sup>[45]</sup> In addition, the majority of doctors and patients (57.6%, 51.3%) chose to resolve the dispute through a variety of ways; nearly 28.40% of doctors and 15.86% of patients chose arbitration to solve the disputes, even when arbitration was not a very popular option for the people.<sup>[45]</sup>

### **Face high-risk in medical work with active managements and attitudes**

Healthcare worksites should develop specific plans to minimize and prevent workplace violence. Hospital

managers and front-line health-care workers should actively participate in implementing such programs.

To eradicate medical mobs, the medical staff must change their attitude and principles during a dispute resolution process, which will also benefit the establishment of law- and evidence-based process to solve disputes. Violence, especially by medical mobs, will reduce and finally stop when they can obtain nothing except punishment.

In addition, the medical staff should be encouraged to discuss high-risk medical treatment with the patients. They should explain the potential risks to the patients and also share undesirable prognosis and outcomes with them. Even when things do not go well as expected, hospital and staff should tell the truth. Most patients or relatives often simply want the truth and an explanation. The staff should not be afraid of sharing their failure with the patients and the public. The staff should not expect patients to face the risk of medicine and the possible adverse results when they would not want to face and accept the risks. The patients and the public can understand the position of the medical staff only if they understand the limitations of medicine.

### Media should play a positive role in the patient-physician relationship

Media should undertake their due social responsibility. Fundamentally, three tasks are imperative for the media to carry out. First, workplace violence incidents should be reported objectively, with the background of medical technology and legal provisions, thus improving the medical knowledge of law among the masses. Second, subsequent processes of the violent incidents, especially the legal consequences of medical violence and the court verdict, should be reported promptly, thus letting people know the legal responsibilities and consequences of violent behavior against health-care professionals. Third, promoting the popularization of medical science among the public through self-media, such as microblogging platforms and messaging resources, should be encouraged; however, information about the deficiency and limitation of the existing clinical diagnoses and treatment technologies should be predominantly provided. Thus, the patients and their family can gradually realize the truth that what the doctors can do for treating human diseases is limited.

Conclusively, workplace violence in health care has had a negative influence on patient safety and progress of health care in China. The government needs to explore strategies and plans for effective prevention of violence and medical mobs in health care. The government and hospitals should realize the underlying reasons behind the violence and find ways to address them. Most importantly, the government should establish a law- and evidence-based dispute resolution process and environment and develop effective ADRs, which include introducing arbitration into medical disputes to provide fairness and justice to both medical staff and patients. The patients and their families should be provided opportunities to understand the limitations of medicine.

The patients, public, and government will be the ultimate beneficiaries of a safe health-care environment.

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