CHAPTER – 1
PREAMBLE

1.1 **INTRODUCTION:** Bullying is an intimidating behaviour at workplace that makes the target feels offensive, threatened, stressed, humiliated or unsafe. It is a gesture or behaviour that can be termed as an ‘unwelcome’ gesture or behaviour that imbibes the feelings that insults, humiliates, degrades, intimidates or creates offensiveness. It is a continuous behaviour which is unreasonable and is degrading and is often intended to degrade or undermine or humiliate the victim. Though this behaviour is not specifically unlawful but, such behaviour can adversely affect the dignity of the person. At workplace, everyone has a right to be treated with dignity and respect at workplace.

Workplace harassment and bullying is on the rise. Workplace is any place where working relationship exists i.e. where there is an employer employee relationship. It is a major concern affecting both men and women at workplace and this is a harsh reality that exists everywhere. Our Constitution provides equal rights for all, irrespective of their gender. It cannot be forgotten that the harassment and bullying of employees at workplace is connected with their right to live with human dignity enshrined in our Constitution. Our Constitution imposes an obligation on the part of the State to protect the dignity of the individuals at all places including the workplaces too in the form of Directive Principles of State Policy. Directive Principles of the State Policy are the directions given by the Centre to the State for formulation of certain laws so as to promote the welfare of the people.

Workplace harassment and bullying is a pattern of negative behaviour that tends to intimidate, offend, degrade or humiliate a person or group of people. It is assertion of power. Assertion is directly related to aggression. Thus, assertion of power here means to overpower the person or group of people through aggression. Harassment and bullying is a workplace issue, although in the beginning it is very difficult to know if harassment and bullying is happening at the workplace.
The harassment and bullying has taken into gulp the corporate employees to such an extent that majority of employees go into depression. Due to excessive work pressures, negative working atmosphere and target related salary/stipends causes depression amongst the employees in corporate. As far as depression at workplaces is concerned, it has engulfed not only the metro or the major cities, but also the rural areas. The research conducted in the different sectors indicates that the employees of private sector organizations are more mentally disturbed as compared to the employees of a government sector. The employees of private sectors are also most affected by the life standard related diseases. During the last few years, there is a rise in mental disturbances amongst the employees of corporate sectors. Lack of proper food at proper times has affected the health of the employees in such sectors. The employees of corporate sectors are mostly diagnosed with diseases that can be called as ‘occupational diseases’ such as obesity, diabetes, high blood pressure, spondylitis, heart diseases, cervical, asthma, slip disk, joint pains etc. The worst part is the employees hardly get less than 6 hours of sleep and they hardly get time for exercises. The most important factors that came from the research were that the employees of corporate and private sectors suffered:

- Mental stress
- Physical stress
- Psychological stress
- Work environmental stress

In India, ‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 defined the terms employee, employer, domestic worker and workplace. It specifically covered all women working in organized as well as unorganized sectors under the Act. It is important to understand the concept of following words:

1.1.1 Workplace: Any department, organization, establishment, enterprise, institution, office, branch or unit, hospitals, nursing homes, society, trust, non-governmental organizations, or service providers carrying on commercial, vocational, professional, entertainment, financial activities or health services etc refers to workplace.
1.1.2 Workplace Harassment: It means any unwelcome comment or conduct against a worker or the employee at a workplace.

1.1.3 Workplace Bullying: It means any unreasonable or repeated or inappropriate conduct directed towards a worker or the employee that can create a risk to health and safety is termed as workplace bullying. Bullying at workplace creates fear in the minds of workers or employees. The effects are devastating as bullying leads to workplace stress and staff turnover, which in turn leads to less productive workplace and subsequently, the employer is also prone to the cost associated with the legal claims by the persons who have been bullied. Bullying is directly associated with humiliation and humiliation in turn leads to stress.

1.1.4 Workplace Violence: Use of any physical force or an attempt to use physical or mental force against a worker or the employee at the workplace that could cause physical or mental injury is termed as workplace violence.

1.1.5 Workplace Mobbing: Any systematic or ongoing bullying of an individual by a group i.e. a group of colleagues is termed as workplace mobbing. Mobbing usually takes the form of rudeness and many a times of physical intimidation. It can either be overt or intentional. Most of the times mobbing is unintentional and it leads to exclusion and social ostracism. It lowers the self-confidence and self-esteem of the person who has been mobbed.

1.1.6 Employer: Employer refers to any person who employs others to do the work. It includes any person who is responsible for management or supervision or control of the workplace. It also includes a person who discharges his/her contractual obligations with respect to his/her employer.

1.1.7 Employee: Employee means a person who is employed by an employer to do his/her work at a workplace. These are the persons who are employed at a workplace for any work on regular or temporary or ad-hoc or daily wage basis. They may be employed directly or indirectly or through an agent or contractor.
1.2 **BACKGROUND OF THE STUDY:** Harassment and bullying is a big problem at workplaces. The major barrier to prove harassment and bullying at workplace is that there is little evidence to decide the best course of action. There is no book or laws or directions that consist of list of the benefits or the challenges or the appropriateness of interventions that can be used to address the allegations of bullying and harassment at workplace.

Every workplace has its own working culture or environment. Many workplaces provide friendly working culture and many of them does not provide friendly culture at workplace. Bullying is not only verbal but also non-verbal and it not only refers to inequality but also refers to discrimination. Thus, favoritism leads to inequality and this in turn means depriving the workers some benefits. Discrimination on the other hand means dealing someone in a different way, which is not cordial and that is beyond their control (Shangar and Yazdanifard, 2014). Any kind of harassment and bullying at workplace denies such rights i.e. the rights such as right to non-discrimination, right to healthy work environment etc. of the people. Harassment and bullying is one of the most common health and safety concern at workplace. The problem of harassment or mistreatment has always been in existence at workplaces since long, thereby causing unhealthy working environment. The main purpose of bullying or all forms of bullying is on creating a situation by which the victim is dominated by the aggressor. Thus, harassment or bullying or humiliation is a menace which prevails at workplaces in one form or the other. The most of the sufferers are the one whose terms of employment are always at the discretion of the higher authorities, who work in shifts.

1.3 **HUMAN RIGHTS INSTRUMENTS:** Instruments means the treaties, the conventions, the declarations, and the documents etc. that are basically designed to protect certain rights. Here, the human rights instruments refer to the international laws related to human rights and in general, it refers to protection of such human rights. The most prominent international human rights instruments are; The Universal Declaration of Human Rights (UDHR), The International Covenant on Civil and Political Rights (ICCPR) and The International Covenant on Economic, Social and Cultural Rights (ICESCR) and all these three
international human rights instruments are termed as ‘International Bill of Human Rights’. There are various Human Rights Conventions which guarantee protection of human rights. The rights are grouped as:-

- Social Rights: The rights that are guaranteed to its citizens through their legislation are termed as social rights. Such rights include: right to education, right to security i.e. right to social security, right to receive medical services, right to health etc.

- Economic Rights: The rights that preserve the economic freedom and economic equality are termed as economic rights. These rights are the part of principles that are legally based on obligations that are social. Such rights include: right to work, right to freely choose their employment, right to just, humane and favourable conditions of work at the workplace, right to form or join any trade union etc.

- Political Rights: The rights that provides natural justice i.e. complete fairness (procedural) in law is termed as political rights. Such rights include: right to trial (fair trial), right to legal remedies, right to assemble etc.

- Civil Rights: The right that are only of the individuals and that provide treatment that is equal in all aspects and that is free from any discrimination is termed as civil rights. Such rights include: right to speech without interruption i.e. freedom of speech, freedom of press, freedom of voting etc.

- Cultural Rights: It refers to those rights that are gives assurance of enjoying the culture without any discrimination and with all equality. Such rights are termed as cultural rights. Under these rights the person has the right to participate freely in the culture.
The human rights are the basic rights which are available to all human beings irrespective of their caste, race, religion, sex etc., thereby ensuring that there is no discrimination.

**HUMAN RIGHTS CONVENTION**

- UDHR
- ICERD
- ICCPR
- ICESCR
- CEDAW
- CPRD

Figure 1: International Human Rights Conventions.

(i) The Universal Declaration of Human Rights, 1948 (UDHR)
(ii) International Convention on the Elimination of All Forms of Racial Discrimination, 1965 (ICERD)
(iii) International Covenant on Civil and Political Rights, 1966 (ICCPR)
(iv) International Covenant on Economic, Social and Cultural Rights, 1966 (ICESCR)
(v) Convention on the Elimination of All Forms of Discrimination against Women, 1979 (CEDAW)
(vii) Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, 1984

Some of the prominent Human Rights recognized by these International Human Rights Conventions are:-

(i) Right to equality:- Everyone is equal before the Courts. Right to equality includes right not to be discriminated on the basis of race, religion, caste, creed, colour, sex, language, etc.

(ii) Right to freedom:- It is a right which is inalienable and this inalienable right is possessed by all human beings.
Right to live with dignity: All human beings are born free in dignity i.e. they have a right to live with dignity.

Right to life: Every human being has inherent right to life, liberty and security. This right also includes right to health as well as right to enjoyment of highest attainable standard of physical and mental health.

Right to privacy: All human beings are entitled to right of privacy. No one shall be subjected to any arbitrary or unlawful interference with his/her privacy.

Right to freedom of opinion and expression: Freedom of speech means freedom to speak freely without any interference. Right to hold opinions without interference is also included in this right.

Right to work: Article 23(1) of the UDHR recognizes right to work. Even the ICESCR, 1996 in its Part III, under Article 6 recognizes right to work. The African Charter on Human and Peoples’ Rights also recognizes labour rights in its Article 15, thus emphasizing on right to work under equitable and satisfactory conditions. All human beings have right to work in just and favourable conditions of work. This right includes right to safe and healthy working conditions. Everyone, without any discrimination has a right to equal pay for equal work. This right also ensures decent living for employees as well as their families. This right also provides all with an equal opportunity to get promoted in his/her employment to an appropriate higher level.

Right to rest and leisure: All human beings have right to rest and leisure at their workplaces. This right also ensures that all human beings get reasonable limitation of working hours along with periodic holidays with pay.
The laws all over the world have ensured that the employees or the workers are protected against any kind of discrimination at their workplaces. Apart from this the workers or the employees are covered under the safety aspects of every workplace i.e. right to work in a place which is free from toxic substances or hazardous substances. Apart from this, the workers or the employers are also possessed with fair wages for the type of work performed or assigned to them.

1.4 **TYPES OF HARASSMENT AND BULLYING:** Harassment and bullying at workplace can be of various types:-

- Verbal bullying
- Physical bullying
- Cyber bullying

Such bullying and harassment can occur either:-

- Verbally
- Through gestures
- Via text messages
- Via emails

Bullying and harassment can occur anywhere. It can occur in:-

- Educational Institutions
- Workplaces
- Online social spaces

No matter, whatever is the form of harassment or bullying or whatever is the concept of harassment and bullying, its results are just the same. It can lead the victim to severe distress and pain.

Verbal Bullying refers to negative use of words which leads to an insult or letting down of a person. It’s in oral form and it is done to gain power over the life of others. In general terms, when we speak about bullying, we mean physical bullying but it is not so. Verbal bullying can be just as harmful as physical bullying.
In case of verbal bullying the main goal is to degrade the victim or the person. This is to make the aggressor look more dominant and powerful. Verbal bullying can lead a victim to suicidal tendencies as in some cases, verbal bullying can reach a point, where the victim feels so depressed that he/she wants to escape from it. Verbal bullying is just equivalent to physical bullying and the consequences are the same, even if the aggressor has never laid his/her fingers on the victim. This kind of bullying disturbs the victim to such an extent that he or she starts feeling isolated.

Verbal bullying means use of verbal threats or insults. Verbal bullying includes:
- Teasing
- Inappropriate sexual comments
- Calling
- Taunting
- Threatening to cause harm

It is difficult to detect verbal bullying since no physical harm takes place. The effects of verbal bullying are:
- It destroys one’s self – image
- Affects the victim emotionally
- Affects the victim psychologically
- Creates low self – esteem
- Reluctance to go to work/school
- Complaints that no one likes them
- Drop in performance
- Drastic changes in eating habits
- Drastic changes in sleeping patterns
- Depression
- Suicidal tendencies
- Anxiety

Words alone have power. Verbal bullying is insidious and over a period of time destroys self-esteem of the victim. Though it is difficult to deal with verbal bullies, but there are some things that the victim can do in order to avoid bullies:
- Ignore the bully
- Complaint about bullying
- Remain civil and not resort to rudeness or aggressiveness
- Be focused on work
- Indulge in other sources of enjoyment
- Discuss the matter don’t remain silent

Physical bullying means harassing another person in a face to face confrontation. The bullying is continuous and is intended to hurt, embarrass or intimidate the victim. The situation of physical bullying usually occurs when the bully is stronger than the victim or has a higher social standing. Physical bullying means use of power to hurt a person’s body or possessions. Physical bullying includes:-

- Hitting
- Spitting
- Kicking
- Pinching
- Tripping
- Slapping
- Stealing
- Pushing
- Taking or breaking someone’s things
- Making rude or mean gestures through actions

Many a times, physical bullying can lead to sexual harassment or sexual assault. Physical bullying is most dominant not only at workplaces, but also at school level. Victims of physical bullying are usually physically weaker than the bullies. Bullying is not only common amongst the students or between the teachers and the students, but it is also predominant amount the teachers and the management apart from employers and the employees or employees and employees or employer and employer. The tussle between the management and the teachers leads to high stress among the teachers, which can also induce them to commit suicide.
The effects of physical bullying are:

- Low self – esteem
- Violent behaviour
- Bruises, cuts or other injuries
- Damaged clothing or possessions
- Loosing things which they possess
- Frequent complaints of not feeling well so as to avoid going to work or school
- Acting sad or depressed
- Withdrawing from the society or others
- Skipping the work or the school
- Mood swings
- Wanting to run away
- Talking about suicide or violence against others

Bullying should always be taken seriously. The victim of bullying requires extra love, affection and support. The victim also requires continuous explanation that the bullying is not their fault and that what the bully is doing is wrong as the victim tends to feel isolated. One of the best ways to overcome bullying is to avoid them or ignore them or react as little as possible. But, it is not possible to ignore or avoid or react to physical form of bullying.

Though it is difficult to deal with physical bullies, as they cannot be avoided, a strong action is required in this case such as:

- Formulation of strong anti – bullying policy
- Organizing anti – bullying campaigns
- Zero – tolerance policies
- Counseling

Cyber bullying means use of electronic technology or electronic communication to harass others. It is in the form of sending messages which are intimidating and threatening in nature. Such kind of bullying is carried out either through the internet,
or through mobile phones or through social networking sites or through emails or through texts.

Cyber bullying is the result of use of information or communication technologies such as instant messaging or chat or through social networking sites or forums. Sometimes, it becomes difficult to remove the uploaded material, which is causing harassment and bullying to the victim. The various forms of Cyber bullying are:

- Text messages through mobiles or tablets
- Emails
- Rumours posted on social networking sites
- Posting of embarrassing pictures or videos on websites
- Creation of fake profiles

Cyber bullying is much faster than any other form of bullying which can cause immediate damage to the victim. The reputation of the victim is damaged within no time through cyber bullying. It immediately brings hatred in other’s minds about the victim. Cyber bulling severely damages the character of the victim and leads to tarnishing of their image in the society and defaming and thereby humiliating them. Though it is difficult to deal with verbal bullies, but there are some things that the victim can do in order to avoid bullies:

The victims who are cyber bullied tend to show following symptoms:
- Alcohol
- Drugs
- Lack of concentration
- Skip work or school or unwilling to work
- Receives poor grades due to lack of concentration
- Lower self – esteem
- Health problems

1.5 **EFFECTS OF WORKPLACE HARASSMENT AND BULLYING:**
Harassment and bullying affects everyone in different forms and ways. Harassment and bullying at workplace has devastating effects on the victim. It
leads to increased absenteeism which is due to attacks, which can be termed as panic attacks leading to anxiety, fear, depression, ill-health or stress. Stress due to harassment and bullying if not addressed in time often leads to errors at work, fatigue and illness and above all it leads to high levels of stress. This thus affects the productivity at work and leads to lower work performance. All this is caused due to isolation, breakdown in work relationships and low morale. This creates negative work environment at workplace. The relationship between an employee and the employer breaks, the relationship between the employee and employee breaks and it may also break the relationship between an employer and the employer. Sometimes apart from the victim, other staff members are also affected. This negative atmosphere leads to unhappy and unmotivated staff at workplace. Increased staff turnover is the result of unwarranted behaviour of superiors at workplace. The ongoing conflict between the employee and the employer or the superior makes the culture at workplace unhealthy, leaving the reputation of the victim tarnished. Apart from this, if a complaint is lodged by the employee it leads to increased management time spent on investigating and dealing with the complaints and expensive litigation procedures and negative publicity. The litigation becomes very expensive as there are no conclusive and specific laws relating to harassment and bullying at workplaces. In case a person is bullied, he or she goes through physical as well as mental stress. Due to bullying and harassment his or her perks may be curtailed or stopped and he or she may be deprived of other eligible benefits, which means, the person or the victim will land up into multiple litigations such as for wages or perks related problems, he or she will have to file case under The Wages Act, for tarnishing their image, they will file Defamation case etc.

Bullying and harassment need not necessarily be face to face. It may occur in written form also such as through emails or phone calls or through automatic supervision methods. Automatic supervision methods include computer recording of work or the number of calls handled.

Studies have shown that bullying and harassment leads to lower employee productivity, high stress and harm not only to the physical health but also to the emotional health of the employees. As far as everyday conflicts are concerned at
work, they are different from bullying, as bullying is a long-lasting conflict. That is, it is a conflict which is continuous and here the person is harassed systematically by one or more seniors. Harassed and bullied employee results in severe damage to his psychological health and physical health. This in turn creates an unhealthy atmosphere.

Be it harassment or bullying, the effects of both are same. Not even effects, but the reasons and the consequences are also common. The victim of harassment and bullying starts feeling that his or her very existences is threatened. The atmosphere around the victim becomes so negative that their colleagues also tend to distance themselves from the victim. Similarly, cyber bullying is also another form of harassment and bullying. In case of cyber bullying, technology is used to intimidate or terrify the victim.

Generally, harassment and bullying behaviour include rude and disrespectful behaviour. There is a cause and effect relationship between the bullying and its consequences. Harassment and bullying at workplace can be in the form of repeated and continuous remarks by the bully against the victim, which can be in any form. Such remarks may be for making the fun of the victim or his/her work. As far as making fun of the victim as an individual is concerned, it can be on his/her family, gender identity, sex, sexuality race, religion, culture, education or may be economic background. It can also include sexual harassment in the form of unwelcome touching or through sexually explicit comments and requests which can make the victim uncomfortable.

The bully adopts certain techniques to harass the victims such as; excluding or stopping the victims from participating in official meetings or get-togethers or stopping the victims from working with people or taking part in activities that relates to the work. This ultimately leads the victim to psychological harassment as the bully tends to play mind games or tries to ganging up on the victim. As a result of this, the victim tends to feels intimidated i.e. the victim starts feeling less important or undervalued.
Not only this, the bully tries to give pointless tasks that have nothing to do with the job or tries to give impossible tasks that can’t be done in the given timeframe or with the available resources, as the basic idea of the bully is to prove that the victim is incapable of carrying his/her duties. To harass and bully the victim, the working hours are deliberately changed or deliberately the schedule is changed to make it difficult for the victim to function under such circumstances.

The harassment and bullying can be in the form of deliberately holding back vital information that is needed for getting the work done properly. The bullying and harassment can also be in the form of allotting such work which is humiliating or inappropriate or degrading.

Such bullying and harassment is generally resorted to by the bully in following ways:-

- Exclusion from productive duties
- Blocking training opportunities
- Constantly changing work guidelines
- Constant criticism
- Unwelcome sexual advances
- Unfair treatment
- Suspicion
- Forced to stay late
- Giving nasty looks
- Making rude comments
- Making rude gestures
- Being rude or impolite
- Constantly negative teasing
- Keeping out of a group
- Acting in an unpleasant way
- Being given extra work as compared to others
- Not being allowed to take holidays
- Not believed if sick leave is taken
- Not getting fair increase in salary
- Public humiliation
- Verbal abuse
- Threatening behaviour
- Destructive Gossip
- Compelled resignation from job
- False accusations
- Staring
- Silent treatment
- Separating from others
- Encouraging people to turn against victims
- Yelling
- Screaming
- Stealing credit for work done
- Abusing evaluation processes
- Lying
- Retaliation
- Creating unrealistic demands
- Sabotage
- Calling names
- Spreading rumours or lies
- Threatening with disciplinary action
- Blaming for errors
- Discounting accomplishments
- Harassment on the basis of race, religion, sex, gender or disability
- Intentionally or repeatedly hurting physically
- Intentionally stalking
- Intruding on a person’s privacy
- Removing areas of responsibilities without cause
- Undermining or deliberately impeding a person’s work
- Creating unnecessary pressure of work
- Creating a feeling of uselessness
- Unwarranted or undeserved punishment
- Blocking applications for training, leave or promotion
- Tampering with a person’s personal belongings or work equipments
- Taking undue advantage of their power
- Damaging the reputation of a person
- Use of obscene language
- Intimidation
- Social exclusion
- Isolation
- Aggressive behaviour
- Impossible targets

Such harassment and bullying adversely affects the victim and the victim tends to feel less active or successful at the workplace. The confidence level of the victim decreases and he/she starts feeling scared or stressed or anxious or depressed. This in turn also affects the social life of the victim. The victim tends to isolate himself/herself. The victim also tends to avoid work or stay away from work. The trust of the victim is shaken to such an extent that he/she feels like not to trust either the employer or the people with whom they work with. The confidence level of the victim decreases. This in turn not only affects the physical health, but also the mental health of the victim.

In short, bullying and harassment at workplaces leads to:-

- Low self-esteem
- Poor self-confidence
- Decreased self-worth
- Self-hatred
- Sleep problems
- Anxiety
- Depression
- Anger
- Nervousness
- Insecurity
- Increased sickness absence
- Bitterness
- Less active
- Concentration difficulties
- Chronic fatigue
- Suicidal tendencies
- Strain
- Trauma
- Mood swings
- Stress
- Job dissatisfaction
- Low morale
- Low motivation
- Decreased motivation

Harassment and bullying at workplace creates an ‘unhealthy’ work environment. It affects the overall health of an organization. Such unhealthy atmosphere at workplace tends to create negative effects not only on the organizations but also on the employees or the workers such as:-

- Labour turnover
- Absenteeism
- Increased costs to the organizations
- Increased cost for employee related programmes such as recruitment etc.
- Increased risk of accidents or incidents
- Decreased productivity
- Reduced corporate image
- Lack in customer confidence
- Poor customer service

Bullying and harassment causes distress and risk to the wellbeing of the victims. Bullying is resorted to by those people who are powerful or influential or who want to make someone feel less powerful or helpless. It is usually seen that bigger the organization higher is the risk of harassment and bullying.
It is necessary to differentiate between bullying and conflict. Both are not same. Conflict is like having fight between the people. On the other hand, bullying is a sort of repeated behaviour.

There are common feelings that are experienced when one gets bullied or harassed. These symptoms are:-

- Feeling guilty as if it is their fault
- Feeling unsafe
- Feeling afraid
- Feeling hopeless
- Feeling stuck as if it is difficult to come out of the situation
- Feeling alone
- Feeling as if it is difficult to cope up
- Feeling as if it is difficult to work in groups or you don’t fit in the groups
- Feeling depressed
- Feeling rejected
- Feeling dejected
- Feeling confused
- Feeling stressed
- Feeling ashamed

Bullying is on rise at workplaces and it adversely affects the health and safety of the workers. In North America, workplace bullying has become a ‘silent epidemic’ as it damages not only the physical or emotional health of the person, but also the mental health of the person who is targeted and all this is leading to silent suffering of the victims or the employees.

It is very difficult to recognize bullying at workplace. The reason behind this is that bullying at workplace is often subtle and many think it as a part of culture of the workplace. Bullying ranges for a longer period of time. This is the reason, the person who is getting bullied doesn’t recognizes or realizes for a longer period of time whether he/she is getting bullied. Through abuse and intimidation, a hostile environment is created. The person who bullies is the one, who knowingly or
intentionally abuses another person, so as to gain control over that individual and this results in abuses of his/her rights. The bullies usually are surrounded by their own fears and securities; it is their low self-esteem that leads to bully others. It is the power and authority that they posses, which is usually used to suppress others. Bullying is never accidental. It is done with intent. It is the sense of superiority which drives the bully to suppress others. Bullying is an illegitimate behaviour, which is unwelcome. For example; when the joke is no longer funny and it tends to cause pain to the person concerned then it results in bullying.

People tend to harass or bully others for various reasons. The main idea behind harassing and bullying others is to dominate others and improve their social status. The bully may possess:-

- High self – esteem
- Show no regret for their bullying behaviour
- Not see harassment or bullying as morally wrong

Whereas, on the other hand some people tend to harass or bully others out of:-

- Anger
- Frustration
- May be struggling socially
- Could also have been victims of harassment or bullying

Bullying is on rise at workplaces and it adversely affects the health and safety of the workers. In North America, workplace bullying has become a ‘silent epidemic’ as it damages not only the physical or emotional health of the person, but also the mental health of the person who is targeted.

One of the biggest drawback of bullying is it tends to drain the performance of even a good employee thus making a good employee looking like a bad employee. For every kind of situation the target is held responsible. As a result the target tends to lead a life under threat. Infact, bullying tends the target push towards isolation and isolation is the bully’s most powerful tool which cuts the target from rest of the people. The
bullying is so subtle that the target tends believing that they are somehow meant for such kind of bullying or they deserve this abuse.

The Article 21 of the Constitution protects every faculty or limb, i.e. the protection of such things through which the life is enjoyed is protected by Article 21. Therefore any damage or injury or interferes including the use of any limb or faculty concerning a person whether it is permanently or whether it is temporarily is covered with in the ambit of Article of 21.

![Figure 2: Process of Bullying (flow chart)](image)

This is how the process of bullying generally goes, making the life of the target miserable. As a result of bullying, the targets develop a change in their behaviour.
They tend to drain emotionally and will find them almost in tears. The target avoids going to work even if the work is perfect and they generally choose to remain silent.

The Province of Quebec in Canada has legislation to protect workers against mobbing. It is of utmost importance to combat mobbing at workplace. It is necessary for the organizations to integrate their harassment and violence policies.

As stated above, the harassment and bullying is not only at the workplaces, but also at school levels. In California, the Sikh students are the target of the locals. Here bullying is culminated with racism. The Sikh students are often threatened by the locals. In spite of the growing incidents of bullying, racism and discrimination, the California State has approved a new law to provide a safer school environment for children from the minority communities, which consists of Sikh-American, South-Asian and Muslim students in the US. The bill is known as the “Safe Place to Learn Act”, which seeks to address bullying of such minority students.

Apart from all this, gender bias at workplace also influences how supervisors view a manager’s long term potential. This can also be termed as managerial derailment which indicates that the supervisors can have subtle or even subconscious differences particularly while expecting behaviour from male and female managers. This results in costly consequences for females in the workplaces, prominently and notably the mentorship loss. It is very easy to identify gender bias, if one is doing performance related evaluations, as the records in the Human Resource file could be referred to for this purpose. All this leads to negative assessments of female managers by the male supervisors basically for the notions they have that women should not get ahead of them. This negative assessments leads to less mentoring and the easiest targets are women. Many a times while evaluating managers, who exhibit equal levels of ineffective interpersonal behaviours, the supervisors most of the times prefer derailment of women managers than for men. Moreover, in a male dominated hierarchy, particularly the corporate hierarchy, the women are less connected to those higher in the corporate hierarchy as compared to men, the reason being in a corporate hierarchy, there are more men as compared to women at such higher levels.
Harassment and bullying, which is basically targeted at an individual is said to exist where someone is physically threatened or threatened with dismissal threatening. The threats are basically to destroy their career prospects. Dignity and self respect is the constitutional right and any violation to this is to be punished. The clutches of harassment and bullying are so deep rooted and are visible apparently that unless certain prompt rules, guidelines or laws are framed this vicious circle cannot be broken and the effects of harassment and bullying are devastating. It decreases staff morale thereby affecting the productivity and creativity at workplace. The unwelcome gesture at workplace can be repeated incident or an isolated incident. These incidents are so significant that they affect victims’ performances and their contributions. It thus adversely affects the work environment. Such gestures include various symptoms which can lead a victim to depression.

Thus, any unwanted conduct affecting the dignity of an individual or a situation where in the environment at workplace become offensive is defined as harassment and bullying at workplace. It is necessary for every employer to protect the physical health and the mental health of the workers or the employees at workplace. It is infact, the legal duty of an employer to provide protection to the employees at workplace from harassment, bullying and violence. It is very important to differentiate the activities that lead to harassment and bullying. For an activity to be harassment and bullying it has to occur repeatedly and regularly over an uncertain period of time. This repeated and continued activity leads the victim to isolation and such victim becomes the target of systematic harassment and bullying. As a general term, harassment and bullying could be termed as a form of discrimination.

Harassment and bullying can have negative impact not only on the victim but on the bullies itself. It is not just the problem of the victim or the bullies, but it is also the problem of the bystanders i.e. the spectators who witness the harassment and bullying or who can see or know of others being bullied or harassed. The instant reaction is:-

- Anger
- Fearful
- Guilty
- Sad
The spectators or the bystanders might feel the same sadness or might fell bad the same way as the victim. Even the bystander or the spectator feels worried that the harassment and bullying could happen to them. Under such circumstances, it becomes necessary to raise voice or to stop or challenge such behaviour. Otherwise, such harassment and bullying behaviours can create an environment where harassment and bullying is accepted and where everyone starts feeling powerless.

As a matter of fact, everyone has a right to feel safe and protected at their workplaces. Everyone deserves to be treated with dignity and fairly at workplaces. Harassment and bullying is a serious problem which results in serious mental and physical impacts. Harassment and bullying violates many of the human rights including:

- Right to life and liberty
- Right to free from mental, emotional and physical violence
- Right to education
- Right to safe work environment

![Figure 3: Vicious circle of effects of harassment and bullying](image.png)

The above figure shows that the effects of harassment and bullying are continuous and never ending. Harassment & bullying affects the persons psychologically, physically and behaviourally. Until tackled properly at early stage, the effects are vicious.

The Hon’ble Supreme Court of India for the first time recognized sexual harassment as violation of human rights and systematic gender based discrimination. The Hon’ble Court has clearly defined sexual harassment and has made compulsory to
implement ‘Vishaka Guidelines’ in all the organizations to redress and prevent sexual harassment at workplace. The guidelines are basically for resolving and preventing sexual harassment by holding the employers or anyone responsible for it at the workplace. The guidelines provide for safe work environment for women. These guidelines are broad enough within which all necessary appropriate measures can be adapted. A grievance cell is very important to deal with the complaints of sexual harassment of women at workplace and today due to ‘Vishaka Guidelines’ all the workplaces have a grievance cell.

The definition of sexual harassment as given by the Hon’ble Supreme Court refers to any behaviour that is unwelcome and which is sexually determined such as any contact in physical form or in any other form, any demand or request for sexual favours, any sexually oriented remarks, showing any pornography or any other physical or any conduct, that may be verbal or non-verbal conduct of a sexual nature. Sexual harassment takes place if a person subjects another person to any unwelcome act of intimacy which can be a physical intimacy such as grabbing, brushing, pulling, patting, touching, pinching etc. Such intimacy is nothing but an unwelcome demand.

Thus, the intimacy makes an unwelcome demand for favours in the form of sexual favours in lieu of employment, wages, increment or promotion i.e. materialistic or unmaterialistic benefits etc. Any sexually oriented connotations like sexually oriented jokes, compliments and remarks or any sexually explicit audio or video material either in the form of pictures, cartoons, calendars, screen savers, emails etc. or engaging in any other unwelcome conduct which is of sexual nature such as making offensive gestures, kissing sounds etc. thus making the other person uncomfortable leads to sexual harassment. All such activities lead to sexual harassment at workplaces. Thus, other conduct that is unwelcome which is of sexual nature is harassment.

Sexual harassment also includes certain acts such as lure for other benefits or threats to sack for non-co-operation. It is also sexual harassment when a boss makes intrusive inquiries into the private life of employees or persistently asks them. It is also sexual harassment when a group of employees or workers joke amongst
themselves about sexual conduct in an attempt to embarrass or humiliate another person.

Sexual harassment at workplace is grouped under two types:

- Quid pro quo
- Hostile work environment

‘Quid pro quo’ refers to certain favours such as sexual favours or advances in exchange for work benefits. In general terms it refers to ‘something for something’ i.e a favour for a favour. It’s a mutual consideration between the two parties. The word ‘Quid pro quo’ has different meaning in different contexts. In contract, ‘Quid pro quo’ refers to exchange of valuable consideration which is essential for a valid contract. It’s the mutual consideration between the parties to intending to adhere to the terms and conditions of the contract between them. In the context of politics, the term ‘Quid pro quo’ refers to use of political office for benefits of personal nature. For example the elected person might use his position or office to promise favourable governmental treatment by using his powers and office in exchange of some value. In the context of sexual harassment, the word ‘Quid pro quo’ describes a form or type of sexual blackmail. It’s a condition of employment benefits whether made explicitly or implicitly.

“Unwelcome” is the key in defining sexual harassment. The barrier to implementation of any law lies in patriarchal attitudes and values for women in the society.

Bullying refers to an unwelcome behaviour which is persistent, which includes unwarranted criticism, unnecessary finding of faults, exclusion from work, creating a situation of isolation, giving different treatment by singling out, shouting in front of others or otherwise, humiliation, excessive monitoring of work or activities, every now and then imposition of verbal or written warnings, denial of eligible benefits, threats of disciplinary actions etc.
Workplace harassment and bullying appears to inflict more harm on employees as these kinds of non-violent forms of workplace aggression leaves the victims to fend for themselves and where the victims tend to fend themselves, they go into isolation, which can be termed as silent killer. This isolation or depression is so severe that at the end, it leads the victims to commit suicide. It is imperative that if proper guidance or proper care or proper treatment is not provided to the victims of harassment and bullying, then it may lead the victim to commit suicide.

The benchmarks of business success are respect, tolerance, diversity and dignity. A Company or the workplace which respects its workforce, bears or tolerates certain actions or rules or polices for the sake of the benefit of their workers, does not differentiate with their workforces, treats their workforce equally and ensures that the dignity of their workforces is maintained, such companies or the workplaces flourish and never faces any employer employee dispute. It is often said that if your workers or employees are happy, then they leave no stone unturned to put in their best for their company. The employees or the workforce also tend to be satisfied and they put in all their efforts for the progress of their company because they are also ensured that if their company progresses, they also are benefitted from it. Thus it is in the interests of the employer’s to identify and address the threat or occurrence of harassment and bullying at workplace. On the other hand, even employers have legal duties to protect and safeguard the health and safety of their employees. Failure to deal with it or take reasonable steps to prevent harassment and bullying at workplace will undermine the business performance and could be unlawful. Infact, the responsibility for determining the appropriate measures to prevent and deal with harassment and bullying at workplaces rests with the employers, whereas, workers play an important role in determining and reporting the incidents. It is important to raise awareness and increase understanding of workers and employers and framework of response to identify, prevent and manage problems of harassment and bullying at workplace. Employers can create their own procedures and methods for tackling harassment and bullying. Most important is that the workplace culture does influence the prevalence of harassment and bullying and this can be ‘managed’ by promoting strategies combating such negative behaviour.
There are reasons why people bully others. One such main reason is because they are driven by a need for power and control others and the other reason is they dominate to choose to seek out a weaker employee. The terrible toll created by the bullies in the organization is so much that it leads to increased levels of stress among the employees. This in turn increases the rate of absenteeism.

Generally at workplace certain amount of teasing takes place. Sometimes such teasing is purposefully or sometimes it occurs naturally or sometimes it is not teasing but it is harassment at workplace. This harassment when becomes unwelcome, repetitive, continuous leading to stress, then it crosses over to the line of bullying. Harassment at workplace becomes bullying when the unwelcome behaviour causes stress and depression and the unwelcome behaviour becomes repetitive. Women are more prone to harassment and bullying as they are generally perceived as weaker section. Generally people don’t speak out of harassment and bullying due to:

- embarrassment
- shame
- fear

It is because of above referred three factors which are misplaced and these three factors are used by all the abusers to control and silence their victims. People usually don’t speak much about harassment and bullying at workplaces due to the fear of losing job. At many workplaces, the tension level created by the so called ‘bullies’ is so high that it creates problems not only for the employees or the workers at workplace, but it also creates problems to the organizations. Majority of harassment and bullying at workplaces is unreported and if reported they are unresolved.

Against the harassment which is unlawful harassment the State and Federal Laws protect people. A female employee if is repeatedly taunted or through jokes that are sexually explicit jokes or any type or forms or kinds of taunts about the physical appearance of the female or if women is a victim of employment discrimination or is sexually harassed, then she has the remedies under the State and Federal Laws. In case the victim is fired or sacked from the workplace then the solution is available in the form of retaliation. Such situations are created because of filing of a complaint.
by the females who have suffered and then in that case the remedy available is for retaliatory discharge.

The harassment and bullying is not only at workplaces but also at various other levels such as schools level too. When one child or adolescent is taunted, tormented or harassed continuously by negative actions of others, then it leads to school bullying. In such cases due to imbalance in proper power, there is very little possibility of the victim to defend him or herself. The impulsiveness or the urge to dominate others is much stronger in case of bullying at school levels. In case of school bullying, some group members follow the footsteps of the aggressive bully. Usually, these are the students who carry on bullying started by someone else and who do not take the initiative of bullying other students as they eagerly participate in bullying activities when it is started by someone else. Bullying at school level refers to acts such as stealing lunch, stealing pens, stealing pencils, stealing any stationery item, making fun, pushing etc. Many students have found themselves victim of teasing, taunting and name calling.

At school level the harassment and bullying is in the form of:-

- funny name calling
- sexual name calling
- simple verbal assault
- spreading rumours
- writing sexual messages on bathroom walls or locker rooms etc.

Apart from this, physical acts too take place in the school such as:-

- forcibly taking clothes off
- grabbing butt
- touching girls inappropriately

These are some of the ways that students usually describe harassment and bullying at school level. In any way, harassment at school level upsets the students and their everyday school lives. This results in changing their seats, bunking school, avoiding
other students, getting afraid. Many a time’s students take it as a part of their everyday life and do not report the harassment as it is widespread. Many take it as fun.

1.6 **WHAT IS NOT HARASSMENT OR BULLYING:** It is not necessary that all the actions taken by the management leads to harassment or bullying. It means that there are certain activities which may not seem fair and cannot be termed as harassment and bullying. Infact, the employer is allowed to take certain actions such as, transfer, demote, discipline, retrench, counsel or sack employees. As long as the employees are acting reasonably, the employer cannot take any action against them.

It is the moral and legal responsibility of the employer to provide a safe workplace. They have a duty of care towards health and wellbeing of the employees at workplace. It is not only the employer, infact it also the moral responsibility of the bystanders or the spectators to help create a positive and safe workplace. If anyone at workplace is getting harassed or bullied in front of you, then it is your moral responsibility to give them emotional support and guide them through proper channels.

The actions or the comments that are objective or subjective and that are intended to provide constructive feedback cannot be termed as harassment and bullying. Such actions or comments are intended to assist the employees or the workers with their work. Certain actions or comments or behaviours at managerial level do not amount to harassment or bullying such actions are intended to:-

- Express difference of opinion
- Feedback or guidance or advice about work or working environment
- Reasonable action taken by the employer

Thus, it is clear that harassment and bullying does not include expressing differences of opinion. Offering constructive feedback or guidance or advice related to work behaviour also does not amount to workplace harassment and bullying. Similarly, any reasonable action taken by the employer or the supervisor
or the senior relating to the management and relating to direction of workers or relating to workplace does not amount to harassment and bullying at workplace. Such actions are taken pertaining to:

- Managing the performance of a worker
- Taking reasonable disciplinary actions
- Assigning tasks or work

Thus, it is clear that harassment and bullying at a workplace are a problem of social concern. It is indeed difficult to identify harassment and bullying at workplaces as it usually takes place covertly and in many cases, it is just out of the sight of either the co-workers or the supervisors. Such types of problems at workplaces affects the morale of the employees on one side and on the other side, it adversely affects the financial performance of the organizations. Thus, organizational factors play a dominating role in either allowing or in disallowing bullying and harassment. There are some factors that enable bullying whereas, there are other factors that actually motivate and trigger bullying and harassment. One needs to indeed create a ‘Zero tolerance’ for bullying and harassment, thereby creating awareness.

Although managers occupy a key role in dealing with bullying and harassment at workplaces, they also make the employees aware of the bullying and harassment tactics and implications and they also impart knowledge about harassment and bullying at all levels, so as to quickly identify the situations that may help the employees or such victims to combat bullying and harassment. The most important factor in any organization is early intervention. Early intervention in any organization is very important as it requires getting information about unacceptable behaviour quickly. It is necessary and important for the organizations to describe what an organization actually do in order to prevent and intervene in bullying, more particularly, in the country where anti-bullying legislations has been in force.

Many a times it is found that the management strategies are connected to harassment and victimization at workplaces. The conditions of employees who are victims of harassment and bullying somehow manage their shame and pride at workplace. Organizations that fail to create a workplace that is respectful of employees and that
has no clear and transparent policies are basically into creating an environment in which bullying is likely to be tolerated. Such conditions lead to a feeling of insecurity among the employees.

Harassment and bullying at workplace is the biggest problems to resolve. People in the authority are the ones who indulge in harassing and bullying their co-workers. In the past many organizations have adopted various other policies and procedures that seem to offer remedies in case of harassment and bullying. It is obvious that any policies and procedures must reflect existing statutes and must continue to be revised as new legislation unfolds. It is not that easy to address harassment and bullying as personal constructions of what does or what does not constitute unwanted and unreasonable conduct can vary so dramatically. One person’s friendly behaviour can be another’s verbal harassment on the other hand one person’s assertive management style can be another’s overt bullying.

Therefore, it is necessary that any policy and associated procedures must be tailored to suit the needs and characteristics of the concerned organizations.

1.7 STATEMENT OF THE PROBLEM: This non-gender based harassment and bullying at workplace cannot be ignored as it has major effects or ramifications on the mental and physical health of the employees and this in turn affects the performance of their work. Harassment and bullying is a situation whereby the victim is prone to excessive criticisms, isolation by refusing to talk to the victim, treating the victim differently and unfavorably by comparing with other staff, being rude and abusive to the victim, humiliating the victim in front of others, imposing unrealistic targets, threatening with disciplinary actions etc. The after effects of harassment and bullying are psychiatric illness.

Harassment and bullying are the acts or verbal comments that could 'mentally' hurt or isolate a person at the workplace. Such behaviour is unacceptable. It is a rampant problem, which is especially on rise in proprietorships and single-person controlled organizations apart from the multi-national companies. The harassment and bullying may be physical, psychological and/or sexual. It’s basically the disrespect shown towards the employees. The norms laid down by
the Hon’ble Supreme Court in Visakha and Others Vs. State of Rajasthan and Others specifies certain guidelines for protection of the women employees from sexual harassment (The Gazette of India, 2013). But it is not the women alone who are subject to harassment at workplaces, equally even men are subject to harassment and bullying at workplaces. Sexual harassment basically is gender based harassment and it includes intimidation, bullying or coercion of a sexual nature or inappropriate promises of reward in exchange of sexual favour, whereas, harassment and bullying is non-gender and it affects both men and women at workplaces.

The harassment and bullying at workplace is either targeted to only females or to both males and females. Talking about sexual harassment, which is mainly targeted at women, is gender oriented harassment. Passing of lewd remarks, whistling, touching, staring, showing pornography etc. are all part of sexual harassment. Working women are the most affected and they most commonly face the backlash. Infact, it can be clearly said that sexual harassment at workplace is an extension of violence in everyday life. Sexual harassment is all about domination of male power over women. Inspite of having various laws, legislations and guidelines sexual harassment is still endemic, hidden and is present in all kinds of organizations. Though almost all organizations have adopted anti-sexual guidelines but they still need to develop proper understanding of sexual harassment and change in the attitude of the people towards women is the utmost requirement. The change in the attitude of the employers, employees, friends, colleagues etc. is very important. The problems of sexual harassment are to be tackled very systematically.

The main purpose of the thesis is to analyze the provisions of Employment Laws, Labour Laws and Contract Laws. To find out whether such laws are unambiguous and clear or there is a need for judicial interpretation or amendment. The main aim is to critically study the various legislative measures as provided in the legislation. The research is also focused on the study of various international Anti-Bullying Laws implemented to control harassment and bullying at workplaces as internationally there are various anti-bullying laws
formulated for the benefits of the victims. This can help the lawmakers to amend and implement the existing laws more effectively.

1.8 **RESEARCH OBJECTIVE**: Harassment and bullying at workplace is possibly one of the commonest forms of discrimination that most employees suffer at least once in their professional life. The harassment at workplaces is so high that it is indeed difficult to cut the roots of harassment and bullying until there is a well defined or specific remedy available. The main aim of the research is to find out the truth which is hidden and which has not been discovered yet or if discovered, not spoken openly about. The objective of the research is:-

1. To study the legislative measures relating to harassment and bullying at workplaces.

2. To analyze and explore the impact of harassment and bullying at workplaces and the outcome of the same in the form of suicidal tendencies.

3. To analyze the facts related to the issues, relevant provisions of workplace harassment and bullying legislation in India and in other countries.

4. To analyze the work culture and environment so as to reduce stress and find out preventive measures that can help in improving workplace culture.

5. To recommend various provisions relating to workplace harassment and bullying that can be implemented more effectively.

The purpose of the research is also to find out what impact does harassment and bullying have on the victims. The effects of harassment and bullying are so high that it leaves the victim to go into depression. The research is aimed at finding the outcome of harassment and bullying and effects of such harassment and bullying on the victims. The research is also aimed at
studying not only the effects of harassment and bullying but also finding out the remedies for the problems.

The study for the purpose of this research is not whether the alleged acts of harassment and bullying amount to abetment in technical sense of the term as used in the I.P.C., but to state that the office environment in our bureaucratic setup is not conducive for the physical and mental health of the employees. After all it is all about rights. It’s about having the right to go to work and not be harassed in the workplace.

1.9 **SCOPE OF RESEARCH WORK:** Harassment and bullying at workplace is a growing problem which has engulfed the entire workplace be it a small concern or a big concern. Employees or workers in every organization face the problem of harassment and bullying. This problem is so severe that it becomes very difficult for the victim to prove that he or she is victim of harassment and bullying and without any recourse such situation causes lot of stress and ultimately the victim goes into depression and sometimes even takes severe step of committing suicide. Such situations at the workplaces let to this research.

Apart from this, a workplace also decides the health of the workers or employees. It is imperative to note that the health of the workers or the employees is determined by social relationships at workplaces, more particularly, the social groups that are formed by the workers or employees. To ensure that both health and performance are enhanced to the extent that workplaces should provide people with a sense of ‘we’ and ‘us’, it became necessary to understand the concept more clearly through this research.

The relationship i.e. the cordial relationship of the employer and the employee is very important. Many a times, the workplace also decides the status of the employees as maximum time of the employee is spent at his or her workplace. Higher production is also related to the satisfaction of the employees. More a satisfied employee the higher would be the production. But the fact today is that maximum of the employees have faced the problem of harassment or bullying once during their lifetime. The research is conducted to find out the reasons
behind such harassment and bullying and what best can be done to eradicate the clutches of harassment and bullying.

1.10 **HYPOTHESIS:** The following null hypotheses ($H_0$) are formulated for the study. The hypotheses developed in this research are based on the reviewed literature on workplace harassment and bullying. These null hypotheses are tested at 0.05 level of significance.

\[ H_{o1} = \text{There is no significant relationship between workplace harassment and bullying and gender.} \]

\[ H_{o2} = \text{There is no significant relationship between workplace harassment and bullying and suicidal tendencies.} \]

\[ H_{o3} = \text{There is no significant relationship between workplace harassment and bullying and legislative awareness at workplace.} \]

The hypotheses developed in this study are based on the reviewed literature and direct interviews on workplace harassment and bullying. A separate analysis has been conducted to test the differences between male and female in regard to their experiences of workplace harassment and bullying.

Total 1000 questionnaires were distributed and only 978 employees/workers responded and 22 forms were returned blank, as such the above referred three hypotheses are tested on the basis of response received from 978 employees/workers.