

## MENTAL HARASSMENT AT WORKPLACE

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### INTRODUCTION

Psychological harassment or emotional abuse being suffered by an individual at the place of his source of income or other place of profit/work can be considered as a basic definition of workplace harassment. It is a common suffrage of the employees of our country. This article aims to highlight the plight of employees laboring away and suffering in the dark. It also focuses on the impact such emotional abuse has on the individual – their health and personal lives.

### WHAT DOES HARASSMENT MEAN?

There is no proper definition provided for mental harassment under the Indian Penal Code, 1860, however, for our understanding we can refer to the following definition.

“Harassment” is unwelcome discriminatory conduct that is based on race, color, religion, sex (including sexual orientation, gender identity, or pregnancy), national origin, older age, disability, or genetic information (including family medical history). Harassment becomes unlawful where:

- 1) enduring the offensive conduct becomes a condition of continued employment, or
- 2) the conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

The continuity of repetitiveness and the distressing, alarming or threatening nature may distinguish it from a mere insult or admonishment.

A few common types of harassment are:

- 1) Mental harassment
- 2) Physical harassment
- 3) Discriminatory harassment

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\*LLB, SECOND YEAR, SAVITRI BAI PHULE UNIVERSITY, PUNE.

- 4) Sexual harassment
- 5) Emotional or Psychological harassment
- 6) Cyberbullying

### **MENTAL HARASSMENT AT WORKPLACE**

In today's professional world, mental harassment is extremely prevalent. People-pleasing tendencies are so deeply embedded into our minds that the employees often forget the fine line between pleasing their superior versus becoming their personal slave. That is where the seed of mental harassment is sown. It is almost expected from the employee to accept the superior's demands without questioning them, without any reason or logic.

The fine line between respect and fear blurs and the employee is thus subjected to mental harassment at the workplace. In some organizations, bullying is dressed up as tradition which the juniors are often subjected to. The power dynamics of the organizational culture are painstakingly targeting the nimble brains of its employees and abusing hierarchy. Unlike physical harassment which leaves a tangible mark, mental harassment cannot be seen however the severe impact of the mental harassment can be felt and seen in that individual. There's a huge impact on one's emotional and psychological state. This sort of harassment is hostile and detrimental to that individual's potential and reduces productivity, absenteeism and a lot more.

### **LAWS PROHIBITING WORKPLACE MENTAL HARASSMENT**

There is no proper definition provided for mental harassment, however, provisions for protection from different types of harassment exist.

(A) Section 294 Of Indian Penal Code: Obscene acts and songs.--

Whoever, to the annoyance of others,

(a) does any obscene act in any public place, or

(b) sings, recites or utters any obscene song, ballad or words, in or near any public place, shall be punished with imprisonment of either description for a term which may extend to three months, or with fine, or with both.<sup>1</sup>

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<sup>1</sup> Section 294. Indian Penal Code, 1860

(B) Section 509 of Indian Penal Code,1860: Word, gesture or act intended to insult the modesty of a woman

Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, <sup>1</sup> [shall be punished with simple imprisonment for a term which may extend to three years, and also with fine].<sup>2</sup>

(C) Section 503 of Indian Penal Code,1860: Criminal intimidation.

Whoever threatens another with any injury to his person, reputation or property, or to the person or reputation of anyone in whom that person is interested, with intent to cause alarm to that person, or to cause that person to do any act which he is not legally bound to do, or to omit to do any act which that person is legally entitled to do, as the means of avoiding the execution of such threat, commits criminal intimidation.<sup>3</sup>

(D) Section 504 of Indian Penal Code,1860: Intentional insult with intent to provoke breach of the peace.

Whoever intentionally insults, and thereby gives provocation to any person, intending or knowing it to be likely that such provocation will cause him to break the public peace, or to commit any other offence, shall be punished with imprisonment of either description for a term which may extend to two years, or with fine, or with both.<sup>4</sup>

(E) The Industrial Employment (Standing Orders) Act, 1946:

This Act contains provisions for maintaining discipline in the workplace. It includes clauses that require employers to specify rules regarding the conduct of employees, thereby prohibiting any form of harassment, including mental harassment. Violation of these rules can result in disciplinary action or termination, and employees can seek redressal through the relevant labour authorities.<sup>5</sup>

(F) Section 499 of Indian Penal Code,1860: Defamation.

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<sup>2</sup> Section 509, Indian Penal Code,1860

<sup>3</sup> Section 503, Indian Penal Code,1860

<sup>4</sup> Section 504, Indian Penal Code,1860

<sup>5</sup> The Industrial Employment (Standing Orders) Act, 1946

Whoever, by words either spoken or intended to be read, or by signs or by visible representations, makes or publishes any imputation concerning any person intending to harm, or knowing or having reason to believe that such imputation will harm, the reputation of such person, is said, except in the cases hereinafter excepted, to defame that person.<sup>6</sup>

(G) MATERNITY BENEFIT ACT, 1961– It lays down provisions for non-discriminatory treatment of women during pregnancy and provides for maternity benefits to be provided to women employees.<sup>7</sup>

Plenty of other such laws and provisions have been provided in India for safeguarding and providing remedies to victims of any type of harassment. The landmark judgment for any Harassment is *Vishaka & Ors. vs. State of Rajasthan, AIR 1997 SC 3011*.<sup>8</sup> *In this case, the majority of the focus was on sexual harassment however the emotional injury faced by the victim as a consequence of the sexual harassment amounted to mental harassment too.*

Another case is *UP Dookan and Vanijya Adhistan Adhiniyam 1962*.<sup>9</sup> This landmark case dictated the mandatory registration of commercial establishments and shops, terms and renewal of registration licenses-hours of business, overtime, payment of minimum wage and many other such important topics.

In the case of *Consumer Education and Research Centre v. Union of India*, the Hon'ble Supreme Court has declared that "Right to life includes protection of the health and strength of the worker is a minimum requirement to enable a person to live with human dignity."<sup>10</sup> This landmark case highlights the plight of a workman and how he is forced to work under unhealthy and hazardous circumstances.

A few examples of workplace harassment are:

1. Being targeted for no reason
2. Stealing credit constantly
3. Demeaning behaviour
4. Sending malicious or derogatory emails to co-workers
5. Excluding individuals from team meeting

<sup>6</sup> Section 499, Indian Penal Code, 1860

<sup>7</sup> Maternity benefit act, 1961

<sup>8</sup> *Vishaka & Ors. vs. State of Rajasthan, AIR 1997 SC 3011*.

<sup>9</sup> *UP Dookan and Vanijya Adhistan Adhiniyam 1962*, [uplabour.gov.in](http://uplabour.gov.in)

<sup>10</sup> *Consumer Education and Research Centre v. Union of India 1995, AIR 922, 1995 SCC(3) 42*

6. Unnecessary social isolation
7. Sabotage of work
8. Verbal abuse
9. Failing health due to stress

### **REMEDIES AGAINST MENTAL HARASSMENT ON A CORPORATE LEVEL**

For mental harassment, the employee can turn to the internal management for justice or seek help from labour unions outside the firm. The following are a few :

- (A) **EMPLOYEES ASSISTANCE PROGRAMMES:** It is a voluntary programme that offers free and confidential services to employees with regard to their personal or professional lives.
- (B) **HUMAN RESOURCE DEPARTMENTS:** the human resource department is responsible for ensuring that the work environment is a safe space for employees.
- (C) **LABOUR UNIONS**
- (D) **WHISTLEBLOWER POLICY AND VIGIL MECHANISM**
- (E) Any other such services

### **CONCLUSION**

The impact of mental harassment should not be underestimated anymore. It can diminish the living quality of not only an individual but also his family and friends. If help in due time is not received, the victim can take extreme measures such as suicide or hurting others. In no case is such a violation of one's right to live with dignity acceptable. So the victims of mental harassment deserve justice too.