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# UNIT 3 LAWS RELATED TO WORK PLACE VIOLENCE AND HARASSMENT

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## 3.0 INTRODUCTION

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Like the previous units of this block, this unit will also be discussing about the various human resource laws. But, primarily the present unit will focus on the

different types of violence and harassment happening at work place and also the different ways to protect the human rights at work places and organisations. This unit will also discuss about the various expectations of the employers as well as the employees and the issues generated from such expectations at work places. In order to get the maximum utilisation from the potentials of employees, but at the same time, prevent the human resource from getting exploited the government has constituted several rules and laws. It is the duty of the employers as well as employees to follow these rules and understand the significance of these laws. Particularly the employers or the organisations have to understand the importance of these laws in order to safe guard the interest of its employees. The present unit will also deal with the different technical jargons or terms that come under the instances of violence and harassment in work place.

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### **3.1 OBJECTIVES**

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On completing this unit, you will be able to:

- Define work place violence and harassment;
- Explain the meaning of work place violence etc.;
- Describe the various types of work place violence;
- Explain the ways of preventing as well as avoiding violence at work place;
- Analyse the different types of harassment at work place; and
- Describe the role and importance of organisation as well as constitution of India in dealing with work place violence and harassment.

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### **3.2 DEFINITION AND MEANING OF WORK PLACE VIOLENCE**

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The legal definition of work place violence is as follows:

Incidents where people are abused, threatened or assaulted in circumstances relating to their work, involving an explicit or implicit challenge to their safety, well being or health.

*(Source- <http://en.wikipedia.org>, accessed on 27/12/2010)*

Technically speaking, work place violence refers to any kind of an act that involves aggression, physical assault, or threatening behaviour which may take place in between employees or the employer and the employees and vice versa in work place settings. These kinds of acts are of serious concern as they cause physical as well as emotional harms to self and other related persons (like the customers, co workers, boss, manager, as well as the subordinates) at the work place. Broad definitions of work place violence also often include acts of sabotage on work site property.

Work place violence has emerged as a severe alarm, as it ultimately affects the quality and service of employees as well as the out put of organisation as well as country.

Unavoidably, these acts of violence is used by individuals in order to get what they want which may include tangible (which can be touched) e.g., money as well as intangible e.g., respect, recognition (which can not be touched) benefit.

They may want faster or better service, or they may desire attention or alternatively to be left alone or scare people off.

Any how, the Indian constitution has taken several steps and amended several laws in order to avoid people from creating as well as suffering from such types of violence and protect the quality of out put of the organisations as well as the country.

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### **3.3 TYPES OF WORK PLACE VIOLENCE**

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It is clear from the above sections that, work place violence is a kind of behaviour that is being done within the work environment, with an objective to create harm to the target person or group. This includes shaking fists, throwing objects, or other overt physical acts, as well as any verbal or written threats to cause harm to anyone or anything.

Occupational Health and Safety Administration (OSHA) reports that on average they estimate that 2 million employees are victimised annually while at work. People within and outside of the work place can commit violence in the work place.

Work place violence can take place in different forms and ways. Some of these types of work place violence have been explained in terms of (i) Criminal violence (ii) Service User violence (iii) worker on worker violence. Let us take up each of these and explain.

#### **3.3.1 Criminal Violence**

A criminal violence takes place within the context of organisation by a person who is in no way related to any employee or the employer. This may take place in form of snatching away cash, drugs, immortal wealth. In such an act robbery is the main motive of the person.

#### **3.3.2 Service User Violence**

Service user violence occurs when the employee is unsatisfied in any aspect with the working conditions or services of the organisation or the employer. It is generated as result of frustration or an emotional conflict being felt by the employee due to the service provided in the work place or by the victim.

#### **3.3.3 Worker on Worker Violence**

Whenever violence is generated by the employees against their own colleagues, supervisors, managers within the work place or the organisation, then such an aggressive act is known as worker-on-worker violence. This is often linked to protests against enforced redundancies, grudges against specific members of staff, or in response to disciplinary action that the individual perceives as being unjust.

Depending upon the types of harm done through brutality, violence can also be categorised as follows:

- Non physical violence (intimidation, abuse, threats etc.)
- Physical violence (punching, kicking, pushing etc.)
- Aggravated physical violence (use of weapons, e.g. guns, knives, syringes, pieces of furniture, bottles, glasses, etc.)

**Self Assessment Questions**

Fill in the blanks

- i) The \_\_\_\_\_ kind of violence takes place when the employee is unsatisfied in any aspect with the working conditions or services of the organisation or the employer.
- ii) Work place violence refers to any kind of an act that involves \_\_\_\_\_ between two or more than two persons within an organisation or work place.
- iii) The act of work place violence is used by individuals in order to get. \_\_\_\_\_

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### **3.4 EFFECTS OF WORK PLACE VIOLENCE**

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Work place violence occurs more often than employees and employers may realise. Such violence can have serious physical and psychological effects. The levels of work place violence can encompass a wide range of severity. Types of violence can include threats, bullying, verbal abuse, physical abuse, sexual harassment and even murder.

#### **3.4.1 Physical Effects**

Serious physical trauma, even death, can result from work place violence.

The obvious and potentially most dangerous effect of work place violence is physical trauma. If the violence is of a physical nature, injuries, scarring, pain, hospitalisation and even death may result. Threats of physical violence should not be taken lightly. It is the manager’s responsibility to ensure the safety of all employees by eliminating risks due to threats. Investigation, counseling, termination and security might be necessary actions taken with regard to the person making the threats.

#### **3.4.2 Psychological Effects**

Long-term psychological problems often occur in victims of work place violence.

Victims of work place violence are more likely to suffer the long-term effects of post traumatic stress disorder (PTSD). PTSD is a common psychological disorder that usually affects veterans, victims of terrorism, rape and other violent crimes. Other long-term psychological effects may include self-doubt, depression, fear, insomnia, irritability, relationship conflicts, lack of motivation and self-blame. If victims do not get the support and psychological help they need when reporting violence in the work place, it will deter them and other witnesses from ever reporting violence again. There are a number of approaches that can help victims of work place violence, including counseling, emotional support, time off, and medication.

#### **3.4.3 Business Effects**

Work place violence can permanently close a business.

The damage to the company as a result of work place violence is not nearly as important or severe as the emotional or physical harm done to the victims, but it

is still a matter of concern. Work place violence can damage company morale. Some employees might require extended time off, or may even resign. Other problems that may occur include lower productivity and damage to the company's image. There may also be a loss of funds due to legal costs, compensation, pension payments and providing better insurance premiums.

In no way, violence can yield any positive result to the work or output of the organisation. It is a kind of an act that leads to physical or non physical harm to the person, group or the organisation concerned. Work place violence is an issue of which all businesses should be aware. An average of 16 people per day died while at work during 2004. There are yet several negative outcomes or harmful effects of the work place violence-

An act of violence can lead to poor morale and a poor image for the organisation, making it difficult to recruit and keep staff.

It can also mean extra costs, to the organisation as a result of the after effects of the violence for example – absenteeism, higher insurance premiums and legal fees, fines and compensation payments.

None the less for the victims who may be the employees, violence can cause pain, distress and even disability or death. Physical attacks are obviously dangerous but serious or persistent verbal abuse or threats can also damage employees' health through anxiety or stress.

The non physical violence can also result in domestic violence. The victims may try to get rid of the frustration at the home front (they may be abusive or physically harmful to their family members and other relatives).

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## **3.5 PREVENTING AND STOPPING WORK PLACE VIOLENCE**

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Experts believe that businesses can take a number of steps to dramatically reduce their likelihood of an employee carrying out an act of work place violence. Many of these are proactive in nature, designed to minimise the business's exposure to violent acts by employees:

### **3.5.1 Formulate Norms and Policies Regarding Work Place Behaviour**

The best method to avoid work place violence is to form and adopt certain rules and norms which would be compulsory to be followed by each and every employee of the organisation. Such a policy should clearly state that threats, intimidation, destruction of company property, and violence in any form will not be tolerated and disciplinary actions may be taken against them.

### **3.5.2 Training Programmes**

The organisations should periodically schedule and organise training programs which would help in generating awareness amongst the employees. They need to be aware of the different types of work place violence, how to raise voice against such violence and the after effects of work place violence.

### **3.5.3 Recruitment Policies**

While recruiting potential candidates for a particular position, the organisation should screen out the biodata of the applicants in advance. Those having a criminal back ground, irregular employment history or violent in nature should be avoided.

### **3.5.4 Identify Warning Signals**

The signs of violence can easily be detected in the vicinity of the organisation. If the management gets a sign of any arguments or unwanted behaviour that might be taking place within a group, between two group or in between two employees it is the responsibility of the management to identify them and give them the warning signals in advance.

### **3.5.5 Steps for Detecting and Avoiding Work Place Violence**

No matter if you are in an office environment, or lab environment the red flags remain the same. The same goes for Principal Investigators at work.

Certain characteristics and behaviour constitute a profile that personify the likely candidates and should trigger a red flag:

- Male between 35 and 55 years old
- Mid life transition, dissatisfied with life!
- Loner without a true! support system
- Low self esteem!
- Generally works in jobs with high! turnover
- History of being disgruntled during employment!
- Tends to! project his shortcomings to others
- History of intimidating coworkers and! supervisors
- Feels persecuted and views efforts to help with suspicion!
- Watches others for violations and may keep records!
- Interested in! weapons, may be a collector or marksman
- Probably does not have a police! record

Take potential warning signs seriously. When a person displays several of these characteristics or behaviour traits, an employer must take such warning signs seriously. Management, at all levels, who lack the necessary experience and expertise to handle this type of potentially explosive situation should rely on appropriate outside resources. For example, these types of situations may call for specialised psychological counseling or extra security measures on a temporary or even permanent basis.

In the health care and research fields it has been noted that nonfatal assaults occur nearly four times more often in health care than in all private sector industries combined.

Ideally, the workplace is free of violence, in terms of threats or actions, either verbal or physical.

A comprehensive organisational violence prevention program begins with a zero tolerance for violence policy and is supported by a data collection mechanism to monitor violence, ongoing prevention initiatives, and a post-event support plan.

Work place violence monitoring tools typically capture the type, mode, and severity of the incident and, like safety monitoring tools, support the identification of trends for ongoing intervention and education.

In the event of a severely violent event, the organisational response should encompass a variety of group and individual efforts to support and stabilise the staff and work environment immediately, and in the many months to follow.

Indicators that an individual has potential work place violence:

- Attendance Problems
- Impacts on Supervisor Time
- Decreased Productivity
- Inconsistent Work Patterns
- Poor On-The-Job Relationships
- Concentration Problems
- Safety Issues
- Poor Health/Hygiene
- Continual Excuses – Blame
- Unusual Behaviour
- Fascination with Guns – Weapons
- Possible Drug Alcohol Abuse
- Stress in Personal Life
- Unshakable Depression
- Warning signs that an individual may become violent
- Verbal Threats
- Physical Actions
- Bizarre Thoughts
- Physical Actions
- Inappropriate - Repeated Boundary Crossing
- Angry Confrontations
- Restlessness and Agitation
- Bizarre thoughts:
- Self-Centered Fantasies
- Irrational Violent Associations or Thoughts
- Delusional Commands to Act Violently
- Workplace violence cycle
- Obsession

- Escalation
- Stated Intentions
- Repeated Statements Multiple Reports

If you or a co worker see any of these signs. Please take appropriate actions to report them. Work place violence is becoming a norm. Education is the Key to stopping it.

### 3.5.6 Counselling

The organisations should hold employee assistance programs or training programs which can be very valuable to workers who are struggling with stress at home and/or in the office.

**Self Assessment Questions**

State whether the statements are true or false:

- i) An act of violence can help in boosting the image of the organisation ( )
- ii) The work place violence can also result in domestic violence. ( )
- iii) The best method to avoid work place violence is to form and adopt certain rules and norms. ( )

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## 3.6 WORK PLACE HARASSMENT

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Work place harassment refers to any kind of an action towards one employee or a group of targeted employees, which makes them uncomfortable at their work place. Such kind of unwanted actions not only hampers the work performance of employees, it also make the employees feel that they are working in a hostile environment. The harassment may be based on such factors as race, gender, culture, age, sexual orientation, or religious preference.

### 3.6.1 Determining Factors of Work Place Harassment

There are certain factors which act as signs of work place harassment. If these factors are present or is being felt by the employee, then the employee is said to be undergoing an unwanted and uncomfortable harassment. These factors can be pointed out as follows.

The action or conduct of the supervisor, boss or any one concerned in the organisation should be uncomfortable or offensive to the employee.

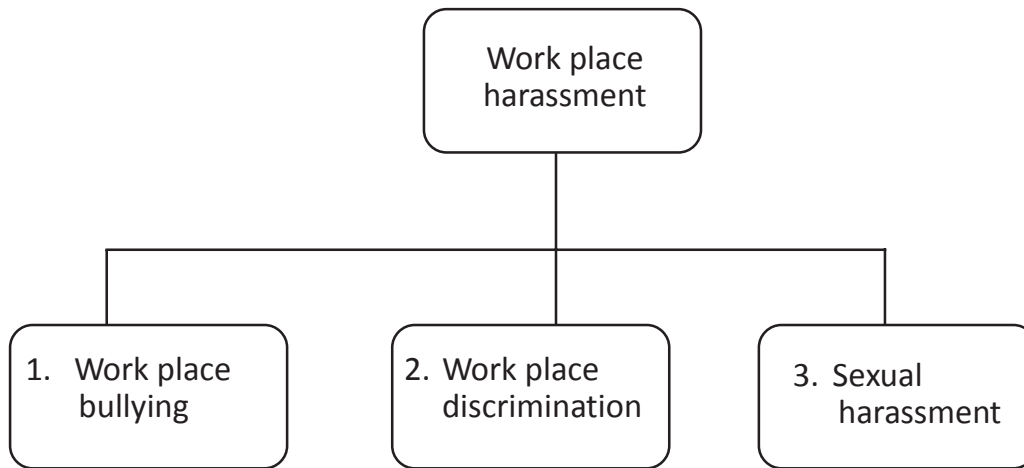
The employee feels and tries out ways to raise his voice against the unwanted behaviour or the conduct of the concerned person at the work place

The behaviour or the conduct of the concerned person might be having a significant impact on the work performance of the employee. It should be having a negative effect on the work efficiency of the employee.

### 3.6.2 Types of Work Place Harassment

Work place harassment can target on the age, sex, religion, belief, culture or many other areas of the employee. There can be many forms or types of work





**Fig. 3.1: Diagrammatic chart showing different types of work place harassment**

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## **3.7 WORK PLACE BULLYING**

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Work place bullying is an act which can be defined as the behaviour of the boss, supervisor or peer which is harmful for the subordinate or the colleague. Bullying behaviours may differ from humiliation to several other tactics which would in a way try to embarrass or dishonour the target employee or subordinate at the work place. According to certain learned scholars it involves repeated, health-harming mistreatment, verbal abuse, or conduct which is threatening, humiliating, intimidating, or sabotage that interferes with work or some combination of the three. Bullying is characterised by (Einarsen, 1999; Keashly & Harvey 2004; Lutgen-Sandvik, 2006):

- Repetition (occurs regularly)
- Duration (is enduring)
- Escalation (increasing aggression)
- Power disparity (the target lacks the power to successfully defend themselves).
- Attributed intent

This distinguishes bullying from isolated behaviours and other forms of job stress and allows the term workplace bullying to be applied in various contexts and to behaviours that meet these characteristics.

### **3.7.1 Types of Work Place Bullying**

On the basis of several researches, the act of bullying at work place can be categorised as:

- 1) **Pair bullying:** This type of bullying takes place between two people, in which one person is very active and uses all verbal techniques to bully the target person and the other person is silent and just keeps on observing the targeted person.

- 2) **Sequential bullying:** This is just like the act of a serial killer, in which there is an individual who serially targets one employee after the other and keeps on attacking and destroying them one by one.
- 3) **Group bullying:** Usually formal or informal groups are formed within organisations. Many a times, these groups act as active gang in mistreating or bullying with employees.
- 4) **Pressurising or coercive bullying:** Under this type of bullying, the boss or the supervisor forces the subordinates to work, beyond the prescribed time schedule or without appropriate resources.
- 5) **Cyber bullying:** When the mode of information technology is being used with an intention to harm an individual employee or a group of employee via e mails, short notices, and junk mails and so on, then such an act of bullying is known as cyber bullying.

### 3.7.2 Acts or Behaviours Involved in Bullying

There are certain typical acts or behaviours which are more or less involved in each and every type of bullying. Evidences show that the following behaviours are typically involved in acts of bullying:

**Threat to Professional status:** Some of the types of bullying usually involve a kind of humiliation to the target person’s efforts or work. It may include claims regarding lack of effort, blame of lower competency skills of the target employee.

**Threat to personal standing:** Certain acts of bullying try to personally harm the targhet employee. It may involve sarcasm, making inappropriate jokes, teasing or insulting the employee under target.

**Seclusion:** The persons who try to bully or harm certain employee may completely keep the target individual in an isolated environment. They may withhold necessary information; prevent access of opportunities to the target employee.

**Self Assessment Questions**

State whether the following statements are true or false:

- i) Under coercive type of work place bullying, the boss or the supervisor forces the subordinates to work, beyond the prescribed time schedule or without appropriate resources. ( )
- ii) Group bullying is a kind of work place bullying which specifically uses the mode of information technology. ( )
- iii) Work place bullying never involves humiliation to the target person’s efforts or work. ( )

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## 3.8 WORK PLACE DISCRIMINATION

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Discrimination at work place refers to any kind of conduct, action, behaviour or decision which is taken against an employee on basis of some prejudice or filthy beliefs. The employees may be discriminated on the basis of age, sex, race, culture. Discrimination occurs when an employee suffers unfavourable or unfair treatment

due to their race, religion, national origin, disabled or veteran status, or other legally protected characteristics. This group could also include employees who suffer reprisals for opposing work place discrimination or for reporting violations to the authorities.

### **3.8.1 Determining Discrimination**

The employer or co-workers can be charged and sued on a number of legal theories that cover discrimination on the job. According to Nolo.com, specific acts of work place discrimination include intentional or negligent infliction of emotional distress, harassment, assault, battery, invasion of privacy, defamation, interference with an employment contract, and wrongful termination. In all such case it is the duty or responsibility of the victim employee to resolve such kind of discriminations. They may directly talk to the employer or superior or may also file a complaint against them under the grounds of right to work.

### **3.8.2 Effects of Discrimination in the Work Place**

Work place discrimination has several adverse outcomes. Some of them are:

- 1) It has a negative effect on the transactions of the organisation and also hampers the company's reputation.
- 2) It restricts the advancement to certain groups or types of employees.
- 3) It lowers down the employee commitment and increases the rate of turnovers
- 4) It categories and creates a strata or group of people which may turn out to be hostile in nature.

### **3.8.3 Sexual Harassment in Work Place**

Sexual harassment is a kind of threat, pressure, coercion or bullying and is totally on basis of the sex of the victim employee or employees. It can also be in form of a promise of rewards in exchange for sexual favors. The act of sexual harassment may also be in form of an unwelcome sexual gesture or behaviour whether directly or indirectly as sexual remarks; physical contact and advances; showing pornography; a demand or request for sexual favours; any other unwelcome physical, verbal/non-verbal conduct being sexual in nature. According to India's constitution, sexual harassment invades the fundamental right of a woman to gender equality under Article 14 of the Constitution of India and her right to life and live with dignity under Article 21 of the Constitution. Although there is no specific law against sexual harassment at workplace in India but many provisions in other legislations protect against sexual harassment at workplace, such as Section 354, Indian Penal Code (IPC) deals with "assault or criminal force to a woman with the intent to outrage her modesty, and Section 509, IPC deals with "word, gesture or act intended to insult the modesty of a woman".

### **3.8.4 Steps to Prevent Sexual Harassment**

No doubts there are certain articles and amendments done in order to protect the act of sexual harassment at work place. But as said, 'prevention is always better than cure'. Then instead of waiting for the incidents to happen, the organisation as well as employees can take care of several factors in advance. Some of the steps which can be followed in order to avoid such unwanted actions can be as follows:

- i) The management may place notices, publish articles as well as circulate notifications against the prohibition of sexual harassment
- ii) As regards private employers, steps should be taken to include the aforesaid prohibitions in the standing orders under the Industrial Employment (Standing Orders) Act, 1946.
- iii) The work environment as well as the work conditions should be as such that there is no hostile environment towards women at work places and no employee woman should have reasonable grounds to believe that she is disadvantaged in connection with her employment.
- iv) The organisations should formulate certain policies norms as well as disciplinary actions against such misconducts.
- v) The organisation should form certain committee which can facilitate victim employees to complain and deal with such kind of harassment.

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### 3.9 LAWS AGAINST WORK PLACE VIOLENCE AND HARASSMENT

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The constitution of India has enacted several laws in order to protect the employees against exploitation, violence and harassment at work place. Some of them can be pointed out as follows.

#### 3.9.1 Workers Compensation Act of 1951

The Workers Compensation Act of 1951 act provides reimbursement for time off work as well and medical costs associated with medical conditions arising from injuries which might have occurred due to the incident of work place violence. A claim form must be completed and lodged with the worker's employer. The employer is obligated to forward the claim to their insurer for consideration.

The sections of the IPC have declared the act of sexual harassment at work place to be a criminal offence. Though, no laws have been amended against sexual harassment at work place, yet certain sections of IPC have regulated certain rules and guidelines against it. They can be mentioned as follows:

- 1) **Section 294:** This section mentions that a person or a group of person will be punished with imprisonment of either description for a term that may extend to three months, or with fine, or with both to the annoyance of others, if the person (a) does any obscene act in any public place, or (b) sings, recites and utters any obscene songs, ballads or words, in or near any public space'.
- 2) **Section 354:** The section mentions that an individual or group of individuals shall be punished with imprisonment for a term which may extend to two years, or with fine, or with both if they assault or use criminal force on any woman, intending to outrage her modesty or knowing it likely that he will thereby outrage her modesty.
- 3) **Section 509:** The section holds that who ever intends to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture is seen by such woman, or intrudes upon the privacy of such woman, shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both.'

### 3.9.2 Indecent Representation of Women (Prohibition) Act (1987)

According to this act, if an individual harasses another with books, photographs, paintings, films, pamphlets, packages, etc. containing the “indecent representation of women”, they are liable for a minimum sentence of 2 years. Section 7 (Offenses by Companies) further holds companies where there has been “indecent representation of women” (such as the display of pornography) on the premises, guilty of offenses under this act, with a minimum sentence of 2 years.

### 3.9.3 Federal Law against Age Discrimination in Employment Act

The ADEA’s broad ban against age discrimination prohibits statements or specifications in job notices or advertisements of age preference and limitations. An age limit may only be specified in the rare circumstance where age has been proven to be a bona fide occupational qualification (BFOQ) and also prohibits the denial of benefits to older employees.

### 3.9.4 Federal Law through Equal Pay Act

The EPA prohibits discrimination on the basis of sex in the payment of wages or benefits, where men and women perform work of similar skill, effort, and responsibility for the same employer under similar working conditions.

#### Self Assessment Questions

Fill in the blanks

- i) Sexual harassment is a kind of threat, pressure, coercion or bullying and is totally on basis of \_\_\_\_\_ of the victim employee or employees.
- ii) Discrimination at work place refers to any kind of \_\_\_\_\_ which is taken against an employee on basis of some prejudice or filthy beliefs.
- iii) Work place discrimination has a \_\_\_\_\_ effect on the transactions of the organisation and also hampers the company’s reputation.

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## 3.10 LET US SUM UP

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The above explanations thereby explain that, no two individuals can have a same kind of thinking. It is because of these individual differences, there happens to be clashes, conflicts, violence and acts of harassment at work place or organisations. Keeping this in mind, the organisation has to take all required steps which can help in minimising as well as preventing such incidences to occur. The constitution of India is also readily amending acts and laws which might help in dealing with such cases.

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## 3.11 UNIT END QUESTIONS

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- 1) What do you understand by the term ‘work place violence’? Explain the different types of work place violence.

- 2) How can you stop the occurrence of work place violence?
- 3) Describe the different types of harassment at work place.
- 4) Suggest different ways through which an organisation can try to cope up with the incidences as well as outcomes of work place violence and harassment.

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