

ASSIGNMENT NO. 5

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IMPLICATIONS OF THE MENTAL HEALTH ACT AS REGARDS TO BULLYING

I. INTRODUCTION

The mental health is defined as a person's condition with regard to their physical, psychological and emotional well-being. Mental health is important at every stage of life, from childhood and adolescence through adulthood. Quite recently, the issue of mental health, which tends to be the least concerned problem, has been gaining popularity as people are now becoming aware of this neglected concern and the effect the same can have on their health. Bullying is one aspect of mental health and thus, it becomes important to understand the implications of bullying on mental health and what is the role of the mental health act under the prevailing circumstances

II. BULLYING AFFECTS MENTAL HEALTH AND WELL-BEING

There is a strong link between the mental health issues and bullying. For instance, young people are more likely to develop mental health issues if they are bullied and similarly, young people with mental health issues are more likely to be bullied. It is learnt from a very young age that how certain behaviours and experiences can have positive or negative influences on our physical health, for example children are often taught that smoking is bad for your health and can cause lung damage. However, understanding that certain behaviours and experiences can have positive or negative influences on our 'mental health' is more or less ignored or much less recognised and acknowledged.

The phrase 'mental health' is often interpreted in a negative manner to refer to mental health problems or difficulties. It is important to recognise that 'mental health' can be both a negative and a positive state. Mental Health is thus, a state of well-being in which every individual realises

his or her potential, can cope with the normal stresses of life, can work productively and fruitfully and is able to make a contribution to his or her community.

Recently, the issues with regards to bullying have gained voice with several headlines which include a 14-year-old boy committing suicide after being bullied by his schoolmate, an 11-year-old student being harassed by seniors who forced him to dance and give them massages, AIIMS suspending a dozen students for ragging first years, 13-year-olds fleeing a boarding school due to the fear of being bullied and so on and so forth. The research studies have shown that the one involved with bullying or those who bully others or those who are bullied and those who bully and are bullied are at increased risk for depression. The children and youth who bully others over time are at higher risk for more intense anti-social behaviours like problems at school, substance use, and aggressive behaviour. Parents should pay attention to warning signs that their child may be engaging in bullying behaviour, like getting into physical or verbal fights or blaming others for their problems.

A child may face bullying quite early in his childhood but its impact can last well into adulthood. The phrases like “Let them work it out” or “ignore it” were quite popular which encouraged resilience from seemingly normal and unstoppable behaviour, in previous generations. But today, the meaning of bullying is changed comparatively.

III. TYPES OF BULLYING

The most obvious form of bullying is physical. This can be clearly witnessed with little ambiguity to its intention. For instance, when a child with more power either socially, physically, or intellectually, hurts another child to gain more control, the targeted child feels threatened. Examples of physical bullying include: kicking, punching, shoving, hitting, etc. Since physical bullying is the easiest to see, it is the most commonly understood form of bullying.

The other type being “relational bullying,” includes ostracizing someone from a group, spreading rumors, and manipulating others. Relational bullying is used to increase social hierarchy by controlling a person they perceive as weaker. This is most often used by girls and can be emotionally destructive, but, unlike physical bullying, this type of bullying is frequently undetected by parents and teachers.

The most recent and the widely used by the type children and adults is the cyberbullying. The degree of separation from someone when using the internet makes it easier for the people to treat others in a way they would not normally do so in real life. Online harassment can take many forms. Social media plays a role when people write nasty comments that are made public. Sharing nude photos around the web or through phones is also a form of cyberbullying. Impersonating someone online and using their image to embarrass themselves is particularly damaging. Today itself, a headline read, “Minor schoolboy lures 14-year-old girl into sharing nude pics, posts them online”. One may not understand the social stigma that the bullying may cause to the sufferer and this consequently affects the mental health of the sufferer.

Sexual bullying is pervasive in our culture not only in schools, but in the workplace as well. “Joking” with girls while touching them inappropriately can feel confusing, especially to teenage girls. When sexual harassment takes the form of a “joke”, it can be difficult to speak up. A girl might be accused of not having a “sense of humor”. Unwanted touching, comments about someone’s body, sexual pressuring, and sharing nude photos without someone’s consent are all forms of sexual bullying. In India, it was the classic case of Vishaka v. State of Rajasthan AIR 1997 SC 3011, wherein the Hon’ble Supreme Court for the first time dealt with issue of bullying and laid down certain guidelines for the protection of woman employees from sexual harassment.

IV. ANTI-BULLYING LAWS IN INDIA FOR SCHOOLS AND COLLEGES

In India there is no specific legislation to deal with bullying at school level. Bullying is prevalent at school level in India, especially in boarding schools. However, in 2015 HRD ministry directed CBSE schools to form anti-ragging committees at school level also putting severe punishments to students indulging in bullying and the punishment may vary to rustication in rarest of rare cases.

In 2015, the Ministry for Human Resource Development, Government of India made the Raghavan Committee report, titled “The Menace of Ragging in the Educational Institution and Measures to curb it” which was subsequently submitted to the Hon’ble Supreme Court of India. The Raghavan committee report recommended that teachers and the principal shall be held liable if any act of bullying takes place in the school premises. In *University of Kerala v. Council, Principal’s*

colleges, Kerala & others (2011) 14 SCC 357 an important question with respect to the safety of the youth was raised:

“Now the Question arises, why should the Indian penal laws not apply to a school? You may say that the school boys are only in late teens but do not forget that there are several crimes in various cities including murders which are committed by teenagers today”

Similarly, UGC has laid guidelines to all the colleges across the country to follow anti-ragging rules in their respective universities and the universities which do not abide by such rules would be brought to task and even UGC could forfeit their recognition. The government of India has also enacted a special regulation to curb bullying at higher educational institutions – “UGC Regulations on Curbing the Menace of Ragging in Higher Educational Institutions, 2009”. Provided, other remedies available under the criminal laws are also there with the students.

V. OPERATIONAL GUIDELINESS ON SCHOOL HEALTH PROGRAMS UNDER AYUSHMAN BHARAT

The School Health Programme under AYUSHMAN BHARAT is a joint collaborative programme between the Ministry of Health and Family Welfare and Ministry of Human Resource & Development. This initiative is targeting both Education and Health implementers and is envisaged to facilitate an integrated approach to health programming and more effective learning at the school level. The quality education and better health remains the task of all of us. It is therefore vital that learners, teachers, health workers, parents and communities are jointly engaged to bring about an improvement of the overall situation of health and well-being of the students. Through better health promotion, strengthened prevention, and appropriate curative measures, the many health barriers experienced by them can be greatly reduced.

Every day millions of children in the country go to school and spend a considerable amount of time interacting with their peers and teachers gaining knowledge, building attitudes and skills, and developing behaviors. Behavioral patterns that develop during childhood and adolescence are retained for life. Schools, therefore, play a crucial role in building healthier nations around the world. And these operational guidelines are brought in force with the primary focus on the health and wellness of the students.

The National Health Policy (NHP) 2017 also envisages attainment of the highest possible level of health and wellbeing for all ages, through preventive and promotive health care. The policy lays greater emphasis on investment in school health by incorporating health education as part of the curriculum, promoting hygiene and healthy practices within the school environs.

The objectives of the operational guidelines on school are as follows:

- To provide age appropriate information about health and nutrition to the children in schools.
- To promote healthy behaviors among the children that they will inculcate for life.
- To detect and treat diseases early in children and adolescents including identification of malnourished and anemic children with appropriate referrals to PHCs and hospitals.
- To promote use of safe drinking water in schools
- To promote safe menstrual hygiene practices by girls
- To promote yoga and meditation through Health & Wellness Ambassadors.
- To encourage research on health, wellness and nutrition for children.

VI. WORLD-WIDE BULLYING LAWS

In India there is no specific legislation to deal with bullying at school level. Bullying is prevalent at school level in India, especially in boarding schools. However, in 2015 HRD ministry directed CBSE schools to form anti-ragging committees at school level also putting severe punishments to students indulging in bullying and the punishment may vary to rustication in rarest of rare cases. The School Health Programme under AYUSHMAN BHARAT also focuses on the mental health and well-being of the students. But in other countries there are specific provisions concerning bullying for instance:

- **Australia**

Australia has extensive provisions in place to counter bullying, both in schools and the workplace. In the workplace, individuals are encouraged to first try and resolve bullying issues through the organization's harassment policy. If this doesn't resolve the problem, however, it's possible to seek further help by taking the issue to the Fair Work Commission.

In schools, each state or territory forms its own set of anti-bullying policies and applies these policies to public schools. Private school boards, however, are responsible for the oversight of their schools as public-school legislation does not apply to them.

- **Japan**

In 2013 Japan introduced a law requiring schools to address bullying, including cyber bullying. Schools were required to act to prevent incidences of bullying, and to also report incidents as they arise.

- **Philippines**

Philippines has advanced anti-bullying policies in its schools, with wide-ranging provisions to protect children from physical and psychological abuse. These laws include provisions to address cyber bullying as well as bullying that occurs away from school but on school-sponsored activities. The law mandates that all private and public schools adopt comprehensive bullying prevention programs that involve staff and students at all levels.

- **Singapore**

In 2014, Singapore criminalized cyber bullying as part of a sweeping set of laws targeting anti-social behavior that cover both the workplace and schoolyards. Cyber harassment, the bullying of children, sexual harassment in the workplace, and stalking are all illegal, with a first-time offense resulting in a fine of up to \$5,000 or one year in jail and repeated offenders face fines of \$10,000 and/or a jail term of two years.

- **Belgium**

In 2014, Belgium brought new anti-bullying laws into effect as part of a reform that aimed to address all psychosocial risks in the workplace. This sweeping law covers violence, bullying, and undesired sexual behavior in the workplace. Belgium also has advanced anti-bullying laws in place for schoolyard bullying and is actively addressing the problem of a growth in cyber bullying throughout the country.

- **Sweden**

Sweden was the first, and remains one of the few, nations with laws that specifically prohibit bullying (what it terms ‘mobbing’) in the workplace. Sweden has also been progressive in taking action on schoolyard bullying, placing the burden of prevention on the institution. Schools that are unable to demonstrate that they are proactive in addressing bullying can be taken to court by the child and are liable for any damage incurred to a person or property.

- **United Kingdom**

Since 1998, UK law dictates that state schools are required by law to have anti-bullying policies in place. Independent schools have had similar requirements since 2003. Cyber bullying itself is not a criminal offence in the UK, however there are numerous laws that can be applied to cyber bullying. The Protection from Harassment Act can protect individuals from harassment, while the Telecommunications Act makes it an offence to send anonymous, abusive phone calls.

- **Canada**

Bullying itself is not a punishable crime in Canada at a federal level, however there are other laws concerning the same. The Criminal Harassment Act, Uttering Threats Act, Assault Act and Sexual Assault Act are all new laws that could apply to someone behaving as a bully. These apply equally to schoolyard or workplace bullying.

VII. CONCLUSION

The major issue of Mental health which tends to be very less acknowledged in India has gained popularity in foreign countries. The phrases like “Let them work it out” or “ignore it” were quite popular which encouraged resilience from seemingly normal and unstoppable behaviour, in previous generations. But today, the meaning of bullying is changed comparatively. The issues of children being bullied have come to light more recently. Though India does not have specific legislation to tackle bullying, there are several directives under the Mental Health Act and School Health Program under Ayushman Bharat which focus on the wellness of the children. It is a right time that India brings in force an anti-bullying law, similar to other countries, to punish the persons and also encourage and force the schools, both private and public, to make policies to regulate bullying on their campus.

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