

Workplace Bullying and the Law, 2000-2010: A Global Assessment

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Policy Objectives

- **Prevention** – Everyone wins
- **Compensation** – Help targets
- **Prompt and fair resolution** – healthy process
- **Punishment** – Deterrence & accountability

As of 2000

- Sweden's Victimization at Work ordinance (1993)
- Haphazard collection of common law, statutory, administrative, and constitutional provisions possibly applicable to, but not intended to address, bullying & mobbing
- Early deliberations about the need for specific workplace bullying protections

Good News

Between 2000 and 2010:

- Growing number of national and state legislatures and regulatory agencies are responding to bullying
- Transnational bodies recognize bullying
- Research on effects of bullying helping to build case for legal intervention
- ***Let's check out a representative sampling of these developments...***

Sweden's Victimization at Work ordinance (1993)

- Employers are obligated to institute measures to prevent victimisation and to act responsively if 'signs of victimisation become apparent', including providing prompt assistance to targets of abusive behavior
- Victimization defined as forms of behavior such as 'adult bullying, mental violence, social rejection and harassment – including sexual harassment'

U.K. Protection from Harassment Act 1997

- PHA imposes civil & criminal liability where a defendant engages in a 'course of conduct (1) which amounts to harassment of another, and (b) which he knows or ought to know amounts to harassment of another'.
- Enacted largely as a response to personal stalking, but it recently has been cited as grounds for relief in bullying cases.

PHA applied to workplace bullying: *Green v. DB Group Services (UK) Ltd.* (2006)

- Bank secretary Helen Green was subjected to a sustained campaign of bullying by peers and a supervisor.
- Her complaints to higher management were largely ignored.
- She fell into depression and eventually was hospitalized and put on a suicide watch.
- On these facts, a British court found Deutsche-Bank vicariously liable under the PHA and awarded Green approximately £800,000 in total damages.

France's Social Modernisation Law (2002)

- Law provides “that no employee shall suffer repeated acts of moral harassment, which have the purpose of causing a deterioration in working conditions by impairing the employee’s rights and dignity, affecting the employee’s physical or mental health, or compromising the employee’s professional future.”
- Provides job security and anti-retaliation protections.
- The Penal Code and the Labor Code allow imprisonment and fines to be imposed on offending parties.

Canadian Provinces and National Government

- **Quebec's Psychological Harassment at Work Act (2002)** provides that '(e)very employee has a right to a work environment free from psychological harassment' and that '(e)mployers must take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it'

Canada (continued)

- Other provinces are following Quebec's example
- In 2008, the **Canadian Government** enacted regulatory amendments to the national occupational health and safety regulations requiring employers in federally-regulated workplaces to address workplace violence and associated bullying and abusive behaviors

Australia

- In 2004, **Queensland** adopted a workplace harassment code that “provides practical advice about ways to prevent or control exposure to the risk of death, injury or illness created by workplace harassment.”
- In 2005, **South Australia** amended its workplace safety law to include bullying among the workplace behaviours covered by an employer’s duty of care to its employees; failure to meet duty can lead to prosecution and fine.

United States

- Healthy Workplace Bill has been introduced, but not yet enacted, in 17 states since 2003 – efforts spearheaded by the Workplace Bullying Institute's legislative campaign.
- Fearing legislation, employment lawyers are starting to advise their clients to adopt workplace bullying policies.
- Small number of unions are starting to bargain over abusive supervision.

Transnational Entities

- In 2007, the **European social partners** signed a framework agreement designed to prevent and manage problems of workplace bullying, sexual harassment, and workplace violence.
- **World Health Organization** and the **International Labour Organization** have recognized the harm caused by workplace bullying and mobbing.

Progress and Challenges

Much progress during the past 10 years.

However:

- Emerging research on regulations in Sweden and Quebec raise questions about efficacy
- Strong opposition from corporate interests
- Must remember that legal protections offer incentives to prevent & compensation, but do not end the behaviors

Looking Back, Looking Ahead

- 2002 conference in London
- Though still much to do, we've come a long way since then
- **Let us never forget:** Workplace bullying destroys lives and livelihoods. This is about individual dignity and the right to do one's job without abusive interference.

Sources/Resources

- This presentation is drawn largely from David C. Yamada, *Workplace Bullying and the Law: Emerging Global Responses*, in Stale Einarsen & Helge Hoel, eds., *Workplace Bullying: Developments in Theory, Research and Practice* (London: Taylor & Francis, forthcoming 2010).
- My other articles about workplace bullying and the law can be downloaded without charge from my page on the Social Science Research Network: http://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=506047.
- Please visit my blog, Minding the Workplace, at <http://newworkplace.wordpress.com>.
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