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Policy Analysis: The Health Workplace Bill

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Workplace bullying is a widespread, pervasive, and severe problem (Carbo, 2009). As of October 2017, over 160 million citizens were employed in the United States (**bls.gov, 2017**). According to the Workplace Bullying Institute (WBI), 60 million of these employed citizens were directly or indirectly effected by abusive bullying behaviors in the workplace (**WBI, 2017**). If extrapolated, that equates to roughly one third of employed citizens in the United States were facing the debilitating challenge of working in a toxic workplace.

Workplace bullying stems from the hierarchal nature of the worker/supervisor relationship, an abstract that sets the stage for an imbalance of power that is used to exploit interpersonal relationships, between individuals or groups, in the workplace. These behaviors are seen between supervisors and workers as well as in peer to peer relationships. Impacts on workers from these behaviors include Post Traumatic Stress Disorder (PTSD), mental stress, depression, and suicidal ideation/suicide (Lutgen-Sanvic et al 2016). Impacts on other workers and the organization as a whole include decreased productivity and damage to reputations, increased health related costs, absenteeism, and turn-over, (Bartlett, 2011). Regardless of the nature and blatancy of the behavior, the fact that the target perceives the behavior as negative and inappropriate is what ultimately defines the behavior as workplace bullying abuse (Saunders et al., 2017). The overarching financial impacts are considerable too. Research has concluded that stress at work cost the United States \$80 billion per year with 20% of all workplace disease claims in the United States being linked to stress (Carbo, 2009).

For nearly 100 years, two legacies have influenced dominant beliefs about how employees are treated. First, in 1913 Fredrick Taylor published *Principles of Scientific*

Management, now known as Taylorism, with the motivation to make industrial workers better, faster, and cheaper (Guidotti, 2011). Secondly, in the 1930s Elton Mayo's work on motivation in the workplace emerged. Mayo's motivation, it is claimed, was psychological control over workers. He believed that managers were the "natural elite" and this accorded them with a great potential for authoritarianism (Bruce & Nyland, 2011).

These capitalistic, authoritative models of human management have sustained and grown worldwide. Despite laws like the 1964 Civil Rights Act in the United States that banned discrimination of individuals based on gender, race, age, religion, ethnicity, or disability (Lee, 2015), the work environments that evolved out of these methodologies have perpetuated subtler abusive bullying behaviors that are still considered legal. This has resulted in a significant portion of American workers being impacted by abuse (Khubchandani, Price 2015).

Retired social worker, Bruce Tharp has experience in the social services industry in the areas of field work, case management, clinical supervision, and administrative management. Mr. Tharp reports (via face to face conversation with this writer) that he has witnessed workplace bullying at all levels within his industry and has heard of it second hand from multitudes of clients. His task as a manager was to create corrective behavior plans for employees who had complaints filed against them. "Essentially, they were treatment plans, like you would see in any mental health program or anger management program," he says, "But the complaints kept coming because there was nothing in place to prevent or stop the abuse".

Clinical mental health practitioner, Ruth Ralph, MA (via email), reports that she encounters various forms of workplace bullying experienced by her clients today. She says some of the abuse is from supervisors who are unwilling to make accommodations for unseen disabilities, but that most common scenarios are where individuals are being bullied by their

peers. Reasons vary from work being done for them or being belittled and made fun of. Some individuals have their work hours shortened because they refuse to “play along” with others in breaking rules. Workplace politics overshadow the work environment causing oppression with nowhere to turn for help. Currently, US labor law enables an employee to file a complaint with the Labor Board with protection from retaliation. But the courage to do so is often thwarted by the very symptoms of bullying over time: fear, alienation, sadness, and depression. Hence, the lack of accountability for employers means that there is nothing enforcing the abuse to stop, and the complainant is the most likely candidate to suffer consequences from peers or the bully.

Gary and Ruth Namie were also working with individuals who were suffering greatly from abusive workplaces. Noticing that most research on workplace bullying had been done in Europe, the Namies began to explore psychologically abusive work behaviors in the United States, leading to the creation of the *Campaign Against Workplace Bullying* in 1998. Their mission was to bring about more discussion between individuals involved with psychology and human resources. David Yamada added pertinent legal verbiage the Namie’s work after studying the legal obstacles targets of workplace bullying were, and still are, challenged with.

The final draft of the Healthy Workplace Bill was completed in 2001 with the intention of addressing workplace bullying and the need for status blind harassment laws. Since then, the bill has evolved to a bill that holds employers accountable for fostering abusive work environments. It will enable conscientious employers to define unacceptable behaviors that can validate termination, allows a plaintive to use an attorney, and closes gaps in state and federal civil rights protections. For workers, the bill provides a course of action to protect themselves from workplace abuse, whether from a boss or a fellow worker, allows workers to seek wages and restitution, and encourages employers to correct the problem (WBI, 2014).

The Healthy Workplace bill, overseen by the U.S. Department of Labor, was introduced to twenty-nine states. Most recently, introduction to Oregon state legislation occurred January 2017 as House Bill 2167. This bill defines how a place is defined as unsafe or detrimental to health, including an abusive work environment where an employer knew, or should have known abuses existed, but failed to take prompt and appropriate correction action. The measure also provides a private right of action for violations of the Act (HB 2167, 2017).

The manifest intention of The Healthy Workplace Bill is to end suffering of millions of working citizens. Bringing accountability of employers to provide safe environments for employees is paramount. Essentially, the manifest's intention is to actualize the human right to not suffer at the hand of another, the right to not be enslaved, and the right to happiness and well-being in the workplace. Latent intentions for this bill might be seen as the need to punish employers who allow abusive behaviors to continue in their organizations. Addressing this problem with penalization may seem like a dire course of action, however the unfortunate fact is that capitalist enterprises more often rationalize bullying in their organizations as something necessary and rarely do anything good for workers until a law forbids mistreatment or neglect (WBI, 2014).

The Healthy Workplace bill inherently expresses values that are significant to the social work profession. Foremost is the value of no harm to others and belief that the individual's stated experience of tangible harm is sufficient. The requirement of proving tangible harm incorporates elements of both tort and hostile work environment doctrine. Just as the law defines a hostile work environment for sexual harassment, legal protections for bullying should enter the picture "before the harassing conduct leads to a nervous breakdown" (Yamada, 2011). This bill inherently expresses the value of social justice in that there is an accountability of the employer

to act justly. In the processes of this bill, the employer is required, just as it is stated under sexual assault law, to establish that employers use care to prevent and correct abusive bullying behaviors, and to prove that accused individuals were provided with preventative or corrective opportunities, but the accused failed to engage (Yamada, 2011).

The United States is the last of the western democracies to introduce a law forbidding bullying-like conduct in the workplace (WBI, 2014). Sweden was the first country to enact legislation against mobbing in 1993 with the Ordinance on Victimization at Work, and in 2002 France added moral harassment provisions to both its Labor Code and Penal Code (Guerrero, 2004). Research has shown that, unfortunately, ambiguity in the wording of their regulations, coupled with difficulties engaging employers and unions, has not made these laws successful and that they need support from a competent enforcement agency (plymcabcampaigns, 2014). With this in mind, and the historical account of civil rights enforcement by law in the United States, it can be reasonably assumed that placing legal accountability onto employers can lead to safe, healthy work environments for millions of United States citizens.

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