

Prevention of Workplace Bullying in the United States Law and Practice

Cing-Kae Chiao*

Abstract

Workplace bullying is an emerging concern for employers, employees, labor unions and business entities in the United States. Unlike in Europe, where the topic has received extensive attention, with some countries, such as United Kingdom, France and Sweden, have initiated legislation and policies to protect employees from bullying behavior. In the United States, however, this problem has received less emphasis as the focus has been on high-prolife shooting, homicides, and other acts of physical violence. It is only during the late 80s that bullying and other non-fatal forms of violence have attracted attention in that country. The purpose of this article is to make an all-out examination of the phenomenon of workplace bullying in the United States, which has become a very important topic in employee-and-employer relations in recent years. In addition to introductory and concluding remarks, the contents of this article are divided into five sections. Section 1 traces development backgrounds, seriousness, and negative impacts on employees, employers and business entities themselves of workplace bullying. Section 2 reviews the effectiveness of existing labor statutes, including anti-discrimination laws, occupational safety and health acts, worker compensation laws and legal regime governing collective industrial relations in coping with this phenomephon. Remedies offered by common law, such as tort, especially intentional infliction of emotional distress, to determine whether they can provide adequate protections for those employees who have encountered this mistreatment while at work are also analyzed. Section 3 discusses several reform measures, such as the efforts of enacting the Healthy Workplace Bills in a number of states and reasons for their

* Adjunct Research Fellow, Institute of European and American Studies, Academia Sinica.
E-mail: chiao@sinica.edu.tw

failure to pass will also be examined. Section 4 indicates that since employers, labor unions, and employees all play important roles in preventing and handling of workplace bullying, how they utilize in-house procedures to cope with this internal conflict just as they manage workplace violence and sexual harassment in the past will also examine. Finally, in Section 5, because the newly amended Occupational Safety and Health Act in Taiwan has also imposed strict liability on local employers to effectively prevent and correct this mistreatment of their employees while at work. Therefore, experiences from the United States in this field can certainly provide useful guidance for Taiwan when it tries to cope with this new issue in the workplace.

Keywords: workplace bullying, employment discrimination, violence in the workplace, sexual harassment at work, intentional infliction of emotional distress, employer liability, Healthy Workplace Bills (U.S.A.), Occupational Safety and Health Act (Taiwan)