

Bullying: A Personal or Social Trait?

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Abstract

Anti-bullying policies are failing because they assume that the problem lies with individuals, i.e. the policies ignore the working environment as well as the socio-political culture in which bullying is carried out. This paper reports on ten cases which illustrates breaches of institutional values by senior managers including sexual liaisons on workplace premises, organised covert and overt bullying, and the failure of the politicians, Law Society and Trade Unions to intervene. Unfortunately, these cases represent only the tip of the iceberg. It is, therefore, concluded politicians, employers, lawyers, Trade Unions, and the Law Society are all part of the bullying problem, i.e. bullying thrives when the socio-political culture empowers and sustains a bullying management culture.

Keywords: Bullying; Personal; Social trait

Introduction

In general, the fear of public embarrassment, experiencing physical harm, being inarticulate, loss of belongings, or loss of life has always been a factor considered by those in power/authority to exert control over others. Whether it is embarrassment (an emotional trait) or a calculated risk depending on the personality and attributes of the individuals concerned, this fear has been used to great effect throughout history to manage relationships at all levels wherever there is more than one person, e.g. in family units, schools, workplace. History provides countless stories of betrayal, mental illness, death, and so on as a direct consequence of power over others. With authority comes power. The abuse of power frequently coincides with the abuse of authority. This abuse of power is referred to by various names such as bullying, mobbing, harassment, intimidation and so on [1-3].

In today's civilised society, it is unacceptable to abuse others, to harm or hurt them for personal preservation, gratification and satisfaction. In reality, bullying is common practice [4-7]. An internet search using the term "bullying" resulted in over 91 million hits, and a combined term bullying in news and bullying in workplace yielded over 78 million and 19 million hits respectively. A search of Google Scholar using the term 'bullying' resulted in about 378,000 published scholarly articles and books. However, the literature appears to be concerned about two main points:

- That bullying is instigated by a person targeting a victim
- The adverse consequences of bullying on health, social and economic outcomes.

Thus, most studies and recommendations relate to the victims of bullying, providing support services for them and providing guidelines for employers and relevant authorities to identify bullying and intervene. There are several major problems with this approach.

People who bully very rarely admit to bullying or being a bully so therefore very little is known about their characteristics, and their

mental wellbeing. However, victims of bullying are often willing to provide information. Most studies use victims' accounts and experiences of bullying to make inference about the attributes of the victims, the reasons for bullying, and the characteristics of bullies. In most cases, the bullies hide behind employment rules and laws so very few are prosecuted and made an example of, which in conjunction with the type of support (e.g. counselling, psychological) recommended for victims can be mis-interpreted by bullies as condoning their actions. Unfortunately, anti-bullying policies are wrongly based on the assumption that bullying is a personal problem between one person and his/her intended victim(s). Anti-bullying policies ignore important factors giving rise to bullying in the first place making the policies and policy makers part of the problem, which explains the increasing trends bullying [8,9]. The flipside of the coin is that if anti-bullying policies had effected positive change then bullying should be on the decrease.

In an earlier paper Shahtahmasebi [10], it was argued that the assumption of a bully vs victim (s) scenario is inappropriate for developing anti-bullying policies. A more appropriate approach is to take the view that bullies bully because they think they can. The paper further argued that a bully management culture leads to an environment where "a can bully" attitude will flourish. If society is seen to be tolerant of bullying then bullies will thrive, and policies that attempt to identify and eliminate bullies will fail. Indeed, as demonstrated in the aforementioned paper Shahtahmasebi [10], the management culture, despite having anti-bullying policies, actually instructed and encouraged bullying as a management tool to achieve certain objectives. For example, when a problem was brought to the attention of a manager, the director of human resources (HR) would orchestrate a plan involving the whole of the management executive to vilify and punish the complainant. Such conditions lead to double negative outcomes: firstly, bullies enjoy the support of the management while victims are victimised further, secondly, people are less likely to report bullying for fear of further victimisation, and are more likely to accept it.

This paper argues that since the earlier paper Shahtahmasebi [10], there has been a lot of discussion, media reports, and promises of anti-

bullying actions but these actions have failed to stamp out bullying within our schools and the workplace [4,11,12]. Instead it has spread into cyber space with dire consequences [11,13-16]. And whilst the talk of decisive action is continuing the frequent media reporting on how bullies drive their victims to destruction has become normal, e.g. "bullied teens urged to commit suicide" [4,5,7,8,14,16,17]. Clearly, the only effect 'awareness campaigns' [11] have had has been for the bullies to become faceless making them difficult to identify, i.e. they carry out their deeds from cyberspace without the fear of being identified. Furthermore, survey after survey shows that the problem is getting worse and not better, e.g. after years of talk and campaigns a recent survey suggests that in New Zealand schools, bullying is a huge problem and New Zealand has the world's second highest rate of bullying [11,18,19].

Methodology

As mentioned above, a quick Google Scholar search using the term 'bullying' yielded 378,000 published articles, 14,500 of the documents were for 2015 alone. This suggests a large volume of work being done in this area but like other fields in human behaviour very little progress has been made to eliminate bullying.

The research literature and various surveys, on bullying have already covered the consequences of 'bullying', its incidence and prevalence, the characteristics of victims and the adverse effects of bullying on the victims. Very little has been written about why people bully in the first place?

It was postulated earlier that bullies and bullying only thrive when the management has a bullying culture [10]. Furthermore, a bullying culture is only sustainable within a socio-political culture that is tolerant of bullies and bullying. In other words, a lack of social and political accountability creates an environment where bullies feel safe to continue. To understand how socio-political process are used to disguise bullying we need to explore the experiences of victims of bullying and do something about it.

This discussion paper is based on conversations between the author and six individuals who had discussed their Cases after the publication of an earlier paper [10]. Their experiences are used anonymously in conjunction with the media reports and research literature to raise and discuss issues. Here is a brief summary of the Cases:

Case 1

After a reasonable start in a new job in a new location the Case began working closely with a senior colleague to develop academic and course programmes, receiving praise and positive feedback in private and in public. All this changed when the Case rejected the affections of the senior colleague. It became extremely stressful for the Case when the attention and affections by the colleague became more sinister and included stalking, for example: the colleague turned up at the Case's house late at night demanding the Case to reciprocate. The Case took stress leave but the harassment did not stop. The Case sought assistance from HR. Subsequently, using negative gossip and rumour the Case was isolated, was belittled in meetings and in front of colleagues, was accused of unprofessional behaviour, and so on. The Case suffered a nervous breakdown, lost self-esteem and the will to live. The relentless negative comments, loss of friends and colleagues, and workplace stress, convinced the Case to believe and accept the alleged negative attributes, i.e. all the workplace problems were the Case's fault. The Case felt completely useless and suffered a nervous

breakdown. After recovery, the only way forward for the Case was to leave. Following the Case's departure the offending staff were promoted.

Case 2

He was an outspoken staff member who was not afraid to raise issues or question the management's decisions and policies. The Case was not liked by the managers, rumours and gossip was rife indicating the management's dislike of the Case. The Case experienced frequent interference in carrying out her/his duties. The Case's complaints were trivialised and were not addressed. The threat of legal action by the Case precipitated what seemed to be a climb down by the employer in which the Case was promised full time research if the Case relinquished her/his teaching duties. This promise involving a major change in job description which was made without following due process should have acted as a very strong warning to the Case. The Case failed to see the warning as the promise had come from the HR Director. Once the transfer of the teaching role to other staff was completed the Case's contract was terminated for the sole reason that the Case no longer had teaching responsibility and was now surplus to requirement. The Case was caught by surprise and lacked the resources to initiate a legal action against the employer.

Case 3

This Case had a long, unblemished and successful work history. The reasons for this Case being targeted are not known but could be related to restructuring and a new line manager. The Case became overloaded with teaching duties, was criticised openly for no reason, and unreasonable requests were made (e.g. to teach subjects outside of the Case's expertise while more qualified staff were available to provide cover). Covert and overt harassment continued until the Case was not able to cope and went on stress leave. The harassment continued on each occasion when the Case returned to work. Amongst other reasons given by the employer to terminate the Case's contract was that there had been a complaint from a student. To receive only one complaint after over nearly twenty years of service is a ridiculous reason for dismissal. Even if the claim was true it should not be a sacking matter. The Case engaged the services of a lawyer. A cat and mouse game then ensued which eventually took its toll on the Case's health. The Case was in no fit state to pursue it through court action and was forced to settle.

Case 4

A highly qualified and experienced staff member, was being covertly undermined by a senior executive referred to as 'X' (who according to staff members had the "ear of the CEO"). According to one faculty Dean X was self-appointed and had no authority over academic aspects. X engaged in a covert character assassination to discredit and isolate the Case through rumours and gossip. For example, staff members reported to the Case that the X had announced "the Case won't succeed if I have anything to do with it". The undermining went on for two years until the harassment became overt and the executive interfered with funding applications. The Case made a complaint. The bullying and harassment continued and the complaint was then passed on to the source of the problem, i.e. X was asked to investigate the complaint. The Case became the centre of the investigation, and in the absence of any evidence the Case was bullied covertly and overtly. This included belittling, criticism of the Case's work, over loading the Case with work, and the threat of disciplinary action. The organisation also surveyed staff using a biased questionnaire (with leading questions) to

rate the Case's performance. The Case engaged the services of a lawyer, which made matters worse and led to a counter complaint against the Case by the senior manager and a disciplinary hearing was held without following due process. The Case's lawyer shut the disciplinary hearing down for failure to follow process, however this led to the employer playing a cat and mouse game of alleging misconduct, then withdrew the allegations and replaced them with another set of accusations. The employer terminated the Case's contract based on affidavits signed under oath by colleagues of the Case. Signed statements from the same colleagues stating the opposite were produced to prove the affidavits were purgery and false. The Case settled accepted an offer of settlement because the Case's lawyer advised two possible outcomes: a higher financial settlement without resolution, or win the legal argument but with a much smaller financial compensation.

Information retrieved from the employer under the Official Information Act revealed that the CEO, the senior manager and HR manager had interfered with the funding process: and the CEO had prevented the Case's applications for funding from being considered by the review panel. The complaint was never addressed but following the settlement, staff members who signed false allegations against the Case were promoted, those who didn't participate in isolating the Case were subjected to bullying who subsequently succumbed to workplace stress and were "retired" due to medical incapacity.

Case 5

After a long and dedicated service the Case was targeted for no apparent reason. The harassment coincided with restructuring and a change in management. This was, yet again another sudden rise to a management position by a junior staff member. The Case stated that there were complaints against this manager by other staff due to an unreasonable and unfair working environment. The harassment became more overt after the Case raised concerns about increasing problems in the department with the line-manager and HR director, and local union. The Case's union held sessions with HR to supposedly address the issues, however, the Case felt that HR was always one step ahead. Once again, the Case's teaching responsibilities were given to another staff member and the Case's contract was terminated. The Case sought help from a lawyer but was not satisfied with the lawyer's approach and made a complaint. According to the Case, when HR was asked by the Case to explain the reason for the harassment, the director of HR replied: "because you talk to the person who likes to make trouble for us".

Case 6

This Case suffered a similar fate at the hands of the Case's employer. The Case's predicament coincided with the Case staying in contact with and refusing to participate in isolating another staff member. In common with the other Cases described, a prolonged period of harassment ensued, including increased work load, extra teaching outside the Case's expertise, belittling, disparaging comments in public, treating the Case like a child, interference with the Case's projects, and so on. The Case suffered stress related illnesses and like other colleagues (in the same institution) went through several episode of stress related sickness and sick leave over a long period. The threat of legal action and union intervention against the employer resulted in the HR manager deviously extracting information by offering to resolve the Case's problem with the line-manager, by visiting the Case at their home, and then used these observations to make allegations in

order to demoralise the Case. After over two years of harassment and bouts of stress and a lack of support from colleagues and the union the Case gave up and left the institution.

Case 7

A highly productive individual with many years of experience with 100% positive students' evaluation. It is not clear why the Case was targeted but, it coincided with (yet another) department restructuring and a change in management. Covert harassment followed but the Case did not leave. A student's complaint about a failed assignment suddenly surfaced and was used by the line-manager to issue a written warning to the Case. The student was given a pass grade by the line-manager, the Case continued to be scrutinised and access to internal resources including funding were restricted putting the Case under tremendous pressure.

Case 8

A highly qualified, experienced and highly productive individual. In a short period the Case had accelerated the rate of progress in scholarly activities and improved the outlook of the department through new and innovative strategies. A change in line-management and the failure to appoint a new manager despite several rounds of advertising and interviewing a number of national and international candidates led to restructuring and the appointment of an internal candidate as the new manager. Under the new manager all the progress that had been previously achieved was undone. The new manager had no management experience other than following directives from the executive office. Furthermore, the manager had no academic track record nor did they have any peer reviewed publications. Very soon the working environment became a place of distrust and chaos. Team managers were separated from their teams and moved into a designated "management" zone. There were reports that gossip, racist comments, and belittling of staff, were rife in the management zone. When the management aired such anti-staff sentiments, the Case raised concern and objected to the comments about colleagues who were entitled to be protected by their line-manager. Not only did this behaviour not stop but the Case became the target of rumours. Again, as the Case's track record and output could not be faulted the Case was overtly undermined by the manager in meetings with comments such as: "people report to me about what you say", or, "you are not a team player", or made false accusations, e.g. the Case had influenced staff to rebel. Furthermore, whilst accusations were made publically the manager did not like a public response and always insisted on discussing it alone and behind closed doors. These claims were challenged by the Case. Interestingly, the manager defined a "team player" as: "a team player does what s/he is told by the executive without question". On several occasions it was alleged that staff had reported to the manager that the Case had influenced staff to disregard a management directive. This complaint was made in a work meeting without following due process. The complaint was proved baseless and emotive as in a staff meeting called by the Case, staff strongly denied the management's claim. In a move to eliminate the Case the management restructured the Case's job description to make the Case surplus to requirements. The Case lodged a complaint against the department manager that the employer had failed to follow due process. Unrelated to the complaint the department manager resigned. The organisation carried out several rounds of recruiting campaigns nationally and internationally after which they finally appointed internally a junior inexperienced staff member with no management

experience or academic track record. In a very short time the Case's complaint against the previous manager had turned into a complaint against the Case and a written warning was issued. The union appeared to be in discussion with HR but were unable to intervene and advised the Case that the case against the employer was weak and advised that they should negotiate an exit package. The Case disagreed and enlisted the services of a lawyer. After a long period of playing cat and mouse games designed to wear the Case down the employer came forward with a settlement offer just before the commencement of a court hearing. The Case reported that a concerned member of HR approached the Case and gave a private warning: "please watch your back, management have never seen anyone like you, they consider people like you who ask questions 'trouble makers'".

Case 9

This is an example of losing the results of one's hard work to a senior colleague. The Case in this example had developed a prize winning product which was claimed by the Head of Department. The Case became the target of bullying after protesting and exercising his/her academic rights to at least be associated with the product. With the support of the whole organisation, the manager vilified and isolated the Case and created a poisonous working environment. The mere protest by the Case turned into a complaint against the organisation. Subsequently the employer alleged that the Case had attempted to own a product that did not belong to the Case and that this had damaged the reputation of the Head of Department. The Case suffered stress induced illnesses and spent a long period on stress leave with depression and diminished self-esteem. The union proved ineffective. The Case did not have the resources of a large academic institution to take legal action and was forced out of their job.

Case 10

This is the case of a well-respected individual who for many years risked his/her career by supporting anyone who had been targeted by the institution. The Case was viewed by management as a "trouble maker" because the Case's support was often effective and resolved conflicting issues. Ironically, such interventions by the Case were interpreted as interference in the management process by managers! For example, in one case a staff member was stressed over an issue with IT requirements that had hindered delivery of teaching/research duties. The staff's line-manager had refused to help to provide the help the staff needed to do his/her job. The Case intervened and resolved the problem very quickly. Whilst the staff member was happy, the line-manager interpreted the help as interference and scorned the Case. The bullying and harassment that took place proved counterproductive for the management, e.g. placing too much demand on the Case's time proved ineffective and strengthened the Case's position. As noticed in some of the previous cases, with a weak union the most effective way to terminate a contract is through restructuring. The Case's job was restructured rendering the Case surplus to requirement, once again, the union were unable to prevent this happening, and similar to Case 8, did not bring legal action against the employer for constructive dismissal.

Discussion

In all of these Cases, bullying behaviour was initiated because the Cases were exercising their rights to own their own ideas or to question a management decision. In at least two of the Cases the theft of ideas was unashamedly overt with rewards and funding diverted to

another manager. This is a loss not only to the Case but also to the institution concerned.

Similarly, in all of these Cases, the harassment of staff followed a similar pattern, i.e. staff were isolated, overloaded with work, covert and overt activities designed to damage the victims' health, their productivity, and reputation, belittling, constant criticism, and so on. For example, in one institution it was quite common for the manager to misplace applications and after the deadline had passed and decisions had been made claim that the Case(s) had never lodged an application. There was evidence from the above cases that candidates for management positions were chosen NOT on merit or their ambitions for the institution but by their willingness to perform certain tasks. To this end candidates were screened for their "suitability" at the job interview with questions such as "what methods would you use to effectively deal with troublemakers?" For example, in an interview for a management position in one of the institutions involved short-listed candidates were asked a similar question by the HR manager. Unsurprisingly, a junior Team-Leader was promoted to the management role. In another institution, a manager was removed and replaced by a junior staff member for failing to deal effectively with "trouble makers". The evidence suggests that the "candidates" accepted the job title and managerial salary but were unable to cope with the responsibility of being a manager or decision making. The evidence also suggests these managers received directives from the HR manager for decision making in particular how to deal with "trouble makers".

A thriving bullying culture and our inability to eradicate it is a concerning commentary on our society. Indeed, undesired outcomes, e.g. increased incidence of bullying, are symptomatic of socio-political processes. In other words, the failure of anti-bullying policies and awareness campaigns to date indicates that bullying is part of the cultural fabric and socio-political processes. Otherwise, bullying in all its shapes and forms should have been eliminated from all socio-political processes. To the contrary, bullying is rampantly dominant.

Many authors, in an attempt to provide solutions, have concentrated on the dual relationship between the bully and the victim. Often based on the fact that victims more readily identify themselves as being bullied, most studies obtained information about the bully-victim relationship from victims' accounts. Clearly, bullies don't admit to being a bully so studies based on bullies are rare. Therefore, anti-bullying recommendations and policies are based on incomplete and biased information which only serve to support a bullying culture. In other words we have no evidence about the mental state of bullies and why they enjoy bullying, thus anti-bullying policies are often weak, counterintuitive, and ineffective. Social conditioning therefore supports the bullies by concentrating on the victims, or dismisses bullying as harmless fun, as part of growing up, toughening up, lack of assertiveness, or low self-esteem.

Bullying in the workplace

The workplace can nurture or repel bullies. In an earlier paper [10], using a Case study, it demonstrated that it is a fallacy to base anti-bullying policies on the presumption that bullying is between two people. If this assumption was true, given that most organisations have anti-bullying policies, then bullying should have been eradicated or at least reduced. On the contrary, a hostile workplace management culture provides an environment for bullying. For example, a case of sexual harassment and stalking against a head of school was made to human resources (HR) by an individual. Instead of investigating the complaint HR investigated the complainant. Whilst, the Case was

driven to a nervous breakdown and made suicide attempts, those involved in the bullying were promoted. A serious observation that all the Cases reported was the reaction of colleagues to the bullying: some cut off all contact and others made sure that they were seen to contribute to the bullying.

An important observation from the case studies is that when bullying occurs in effect all staff are subjected to bullying: staff being coerced to abandon a colleague. In other words, an environment of fear is created when staff are afraid to exercise their legitimate rights, to ask questions, to contribute to the goals of the organisation. If staff are fearful to exercise their basic rights to carry out their job duties and if they feel they are not entitled to their employer's protection then this is clear evidence that they are collectively also the victims of a bullying management culture.

An examination of the organisations in these case studies revealed that overt and covert bullying activities occurred over a long period of time despite the fact that the organisations had anti-bullying and anti-sexual harassment policies, guidelines and procedures to deal with a complaint! It is plausible that employers have been busy creating organisational values and list of boxes to tick in order to satisfy bureaucracy. Often, the same anti-bullying policies are used as a tool for bullying, e.g. alleging breach of organisational values in order to initiate disciplinary action against staff. For example, in the cases above, the Cases' enquires about the management process was interpreted as "unprofessional" communication or "not-a-team-player" and used to justify disciplinary action by managers. It is, reasonable to assume that anti-bullying policies have had no effect in creating a non-bullying work environment; in fact they may have exacerbated the problem.

In all of the Cases described the employers would rather risk court action than attempt to resolve their differences, and through devious actions, e.g. restructuring, force the Cases out of employment. For example, one employer promised the Case full time research on the condition that the Case relinquished their teaching responsibilities. After the Case gave up their teaching responsibilities the employer claimed that the Case had no teaching commitment so the Case was now surplus to requirements and their contract was terminated. The same employers terminated other Cases' contracts by restructuring their jobs and making them surplus to requirements.

In most of these situations the trade unions seemed to be an extension of the management. At best, the unions were only concerned with whether the employers acted in line with union rules. The unions do not have the skills to challenge restructuring based on insidious personal and emotional reasons. Unsurprisingly, the unions were unable to prevent restructuring in all Cases, and as was expected, HR vilified the Cases despite the fact that the Cases had union representation. Some of the Cases dismissed their union representative because they proved ineffective and hired a lawyer.

Three Cases that had an exemplary track record with 100% positive student evaluation were disciplined on the basis of a single complaint from a rogue student. In several other Cases, although no evidence was produced, the employers claimed that colleagues had complained that the Case made them feel inferior! In challenging this claim it transpired that the Cases were successful academically implying that colleagues didn't like these successes. Such actions demonstrate the desperation of lawyers and their clients (employers) to manufacture evidence.

It seems that there are no moral or legal grounds preventing an employer from maintaining control over its staff. For example, level of qualification and experience that are used as selection criteria have been used to belittle and alienate an employee, or accusing a staff member of influencing his/her colleagues, physically removing Cases' applications forms to prevent them being reviewed/funded and then criticising the Case for lack of administration skills and poor academic output, and so on. Employers protect themselves by passing the complaints to the source of the complaint, often a member of the executive or someone on the institution's payroll, to investigate. As noted from the above cases the complaints were never investigated but the complainant was and disciplinary action was taken against the Cases.

There was very little difference between these Cases and the Case reported in an earlier paper [10]. They all had workplace "values", anti-bullying and anti-sexual harassment policies and guidelines. However, as demonstrated, employers address complaints by investigating the complainant, usually this is carried out by the offending staff member. In an environment where fear prevents people from exercising their rights the aim is to raise stress levels so that the employee will give up and leave. This is commonly known as "constructive dismissal" but given their state of health and mental wellbeing and the finances required to pursue legal action very few employees consider taking legal action.

Bullying victims frequently suffer from unsubstantiated and unwarranted rumours and gossip [20-23] further damaging their reputation and self-esteem. This may work in favour of the employers but there is a flip side to gossip and especially rumours: the suppression of information by management can lead to rumours about them. Prospective candidates should take note: rumours about management can be an indicator of a bullying culture.

It is not difficult to visualise how rumours about management can be interpreted as signs of a bullying culture. In practice, all the Cases reported that rumours were rife. Of note were reports that senior managers used their workplace offices to conduct sexual liaisons with other members of staff. Rumours also linked some staff promotions to such liaisons. For example, in one organisation there were rumours that the CEO was caught in a sexual liaison with a member of HR who subsequently rose very quickly through the ranks. But although everyone knew it to be true no one was supposed to talk about it (for fear of disciplinary action)—these are clear signs of a bullying culture.

A direct consequence of a bullying management culture is incompetence, which in turn leads to low productivity. An incompetent executive will surround themselves with incompetence to maintain their powerbase.

In the interest of natural justice employers must satisfy employment laws for hiring and firing staff. A question that arises is can employers break the law when hiring and firing staff? Anecdotal evidence suggests that the interpretation of job descriptions and selection criteria are at the discretion of the employer. For example, as mentioned in the above Cases the process of filling in managerial positions by the employers appear suspect. In each case, the Cases reported that the new candidate was presented to staff as the executive's preferred choice—staff's fear of speaking out were interpreted as affirmative and the candidate was appointed. In one case, the Case reported that an internet search for the manager's name suggested that the claims made about the manager's track record and experience were somewhat exaggerated.

Unfortunately, the increase in bullying indicates a socio-political environment that is tolerant and accepts bullying. Society appears to frown upon bullying but is unwilling to eradicate it which in turn leads to the development of a bullying culture. As a result, it is hardly surprising to observe bullying in all social environments and in particular public services (e.g. government departments, civil service, health boards, hospitals, polytechnics, and universities).

Other signs of a bullying management culture are high staff turnover, high rates of sick leave, stress leave, low outputs of poor quality, number of settlements, a high number of outstanding complaints and disciplinary actions, high number of legal actions against the employer including health and safety breaches.

If prospective candidates are unable to access such information then they may seek information on the prospective employer's definition of workplace stress, their policies and how they address "causes" of workplace stress and how they support stressed staff. For example, some employers' attempted to remove stress by providing jigsaws during lunch breaks. While at the same time staff was being bullied! Another organisation denied there was workplace stress and those who took leave were harassed to return to work or lose their job due to medical incapacity!

Role of trade unions

Once an employee is identified as a troublemaker, an employer may complicate the situation by covert actions against the employee, such as increasing the person's workload, removing the employee from their field of speciality, spread rumours and gossip in order to create a poisonous working environment and isolate the person-the aim is that the employee feels compelled to leave of their own accord. Anecdotal evidence suggests that in New Zealand a staff member's financial commitment is such that they ignore their rights and continue to work in a poisonous environment. Others find the pressure and damaged reputation too much to handle and leave their employment. Whilst others will seek union intervention and then settle for an exit package. In a proportion of the Cases this strategy may not work. As mentioned above, in such Cases a common practice is to restructure the person's job in order to demonstrate that the employee is surplus to requirement and then terminate their contract. It is useful to have the support of the unions to make sure an employer follows due process within the employment laws. But the unions are not experienced in challenging the employer on historical motives and the reasons for wanting to restructure. Trade unions also appear weak in preventing employer malpractice against staff. In the Cases described the trade unions failed to bring the employer to account for their actions. In all the Cases the employers did not follow due process and were able to vilify their victims. Despite this trivialisation the union in most Cases failed to consult or engage the services of their own employment lawyers. In three of the Cases instead of providing legal advice and support the unions' reaction to the victim was "you have no case", and "would you like us to negotiate an exit package?!" The Cases in question reported that they did not want an exit package, they wanted justice, and they wanted their unions to involve the services of an employment lawyer. So the Cases employed their own lawyers who challenged the actions of the employer through the legal process.

It is disturbing to learn that the union representing the Cases had discussed details of their Cases with HR without the Cases' knowledge. With the unions offering to settle an exit package, it is plausible that union representatives and HR had reached prior agreement in how to resolve the "conflict". In two of the Cases the management used that

information to terminate contracts, whilst the unions involved refused to appoint or pay for legal representation. Clearly, the unions wittingly or unwittingly work for the management rather than in the interest of their members.

It is not surprising that trade union membership in New Zealand (and globally) has fallen and more employees prefer to sign individual contracts rather than belong to a union. In New Zealand trade unions do not have the power they once had and despite their involvement the Government continues to change the employment laws in favour of the employer [23].

Role of employment lawyers

In all the Cases described, the victims' lawyers were incensed at the way the employers had breached their own processes in order to victimise an employee. Naively, the lawyers assumed that by lodging a personal grievance, the matter would be resolved. In each Case, the employers through their legal representation refused to accept mistakes and denied that they had breached process. When the manufactured evidence was challenged the employers' lawyers withdrew the accusations but replaced them with new allegations. This turned into a dangerous cat and mouse game making the dispute last up to a year. Some of the Cases reported that, mediation was offered but proved to be costly and a complete waste of time. The Cases also reported that the arrogance of the employer prevented utilising mediation to its full potential. In a couple of cases the employers' lawyer claimed that they were bullet-proof and could do anything they wanted which brought the mediation to an early but expensive end.

The evidence from the Cases shows a dangerous game of cat and mouse being played by the employers' lawyers. This involved prolonging the dispute by dismissing personal grievances, making slanderous accusations and threats of terminating the Cases' contracts, then revoking and replacing them with other allegations. In this game of cat and mouse there is no judge, no referee, no adjudicator, and as some of the lawyers openly stated that the employers were bullet-proof and can do what they like. Surely, lawyers engaged in such behaviour whether they are following clients' instructions or not are knowingly and blatantly breaching ethical and moral codes of conduct.

Had the employers a shred of evidence against the victims they would not have felt it necessary to prolong the dispute nor would they have hesitated to terminate the victims' contract. Therefore, lawyers acting for employers have become part of the bullying problem.

It therefore stands to reason that as discussed the lawyers' approach was more than just legal representation of their client. In other words, the evidence from these Cases suggest that, i) that wearing the Case down is an accepted defence strategy by lawyers, ii) the strategy is designed to run the victim into the ground mentally, physically and financially, iii) reduce the chances of the Case reaching court, iv) it is plausible to assume that this strategy is recommended and planned by the lawyers.

Role of the New Zealand Law society

Activities that are aimed at prolonging a dispute and which deliberately harm the opposing party are considered unethical and forbidden by the legal fraternity. However, the fact that new graduates and experienced lawyers are aware of strategies to wear down the opposition, suggests such strategies as gold-standard. In this way the victim's overall health and resources are targeted – a vulnerable person

is more likely to give up or settle for a standard contractual exit package. Thus, often the advice is that it is pointless to make a complaint to the Law Society. However, for this paper, the Law Society of New Zealand was contacted about the issue. Their advice was that the Law Society has a code of conduct by which all lawyers must abide [24]. The question was put to the Law Society about how they would address a complaint about a strategy of prolonging disputes and wearing down complainants? In response the Law Society explained that complaints are considered by a mixed panel of lawyers and lay people.

So a complaint was lodged with the Law Society of New Zealand. Unsurprisingly, the Law Society's reply was that it wouldn't investigate the complaint! Interestingly, the Law Society never rebuked the practice but trivialised it by saying that lawyers are obliged to follow their client's instructions. Thus the employer's behaviour was justified as being in line with the Law Society's code of conduct. The general assumption is that lawyers are obliged to provide their clients with legal advice rather than justify their clients' unethical activities. It is plausible that because being unethical does not mean breaking the law is often used in jurisprudence to justify unethical behaviour. However, deliberate unethical behaviour amounts to bullying, and, under both legislation and the common law a bullied employee has legal claims against their employer [25]. Furthermore, new legislation makes cyber bullying a criminal act [26]. Yet the Law Society condones it. If, as the Law Society claims that engaging in a dangerous cat and mouse game is actually within the code of conduct of the Law Society, then the Law Society is in breach of the Health and Safety laws.

The question is whether this reaction from the Law Society is one of protecting their own, or protecting the reputation of the Law Society from eroding public trust in the profession. In a telephone discussion with the Law Society the author criticised the Law Society's refusal to not investigate the strategy, the response from the Law society's representative was "well I didn't make the decision".

Whatever the reason or motive for the Law Society's decision not to investigate the gold-standard strategy of wearing the opposition down – the Law Society has inevitably become a major contributor in sustaining a bullying culture.

Concluding Comments

During the first decade of the millennium the author along with a number of interested parties sought to engage the community in tackling bullying which involved approaching the media, politicians, Human Rights Commission, and so on. There was very little interest shown in strategizing an action plan. Occasionally the media publishes an article or two highlighting the high rates of systematic bullying especially in schools and the workplace. As mentioned earlier after ten years the rate of bullying is not only higher but has also become more sinister in the form of cyber bullying. That is to say, bullying is now carried out anonymously. Such a social outcome of bullying can only be the result of one operating factor: we love to bully; we are entertained by watching other people suffer, and as such it is part of the socio-political fabric. The employers practise it, the Law Society condones it, the politicians ignore it (and often practise it themselves [27,28], trade unions play along, and society ignores it. It is not surprising that bullying is on the increase, as incompetent managers need it as a tool to maintain control.

In one Case, when the victim asked for the reason for termination of his/her contract after so many years of dedicated service, the

employer's response was "because you are friendly with people who like to make trouble for this institution."

The consequences of bullying are:

- Any settlement whether through the court or out of court involves a financial pay out and in most Cases it is a financial loss to the taxpayer,
- It is estimated that bullying cost organisations billions of dollars a year [29].
- A bullying management culture by default targets not just the victim but all those who work with the victim, the whole department, and the whole organisation. Often the employers establish a "radio silence" during the bullying to isolate the victim. Frequently, misinformation about the victim through gossiping and rumour is released with the aim of creating fear. And often the intention is to make an example of the victim so that staff will 'toe the line'.
- A climate of fear may work in keeping certain staff with a certain disposition in check but this has not dampened nor reduced the number of complaints against employers. High staff turnover is a giveaway.
- An environment of fear prevents progress, innovation, leads to low quality and substandard outputs, breaks down trust; and fails to achieve organizational goals.
- Often the victim of bullying is of a high calibre and is proactive with high output. By deliberately bullying such individuals out of their jobs, the employer also harms itself: firstly through loss of resources (expertise), secondly, the adverse effects on the remaining staff, and thirdly making the organisation unattractive to other high caliber candidates.
- The adverse effects of bullying on the victim are numerous and well documented including poor mental wellbeing, poor physical health, heightened risk of suicidal ideation and suicide, financial loss, low self-esteem, disruption in career and reduced chance of gaining employment, leading to a vicious cycle.
- Therefore there are no winners in a bullying culture except the lawyers' involved.

An apathetic society, an uninterested Government, Law Society and trade unions, inappropriate laws, rules and regulations, and a lack of accountability across the whole socio-political spectrum condones, promotes, and encourages the practice of bullying not just in the workplace but across the whole of society.

The failure of the Law Society to intervene, investigate, clarify laws and set appropriate punishments means the Law Society is part of the problem. If, the Law Society accepts the immoral conduct of its members of running complainants into the ground as being legal, then, there must be political action in the form of legislation or law change to level the playing field by allowing disputes to be heard in court within a certain period, e.g. within two months of the first legal communications. Furthermore, the cap on financial compensation must also be removed so that 'out of court' settlements are not forced on the complainant as being the best financial outcome. Perhaps a more effective alternative to a level playing field would be to provide legal aid for complainants. This will immediately counteract the resource imbalance and render the strategy by employment lawyers to wear the complainant down redundant.

The failure of the trade unions to prioritise the interests of its membership makes them part of the problem of bullying.

The failure of the Government to address bullying appropriately as a social process and hold its agents accountable makes the Government part of the problem of bullying.

A society that allows itself to be controlled by fear, and render its rights is a dictatorial society and therefore is part of the problem of bullying.

Until bullying is addressed as a dynamic process the problem will continue to get worse-bullying is a social process and will involve society in eradicating it. Cyber bullying has been legislated as a criminal act Media [26], perhaps, "bullying culture" should be legislated as criminal.

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