Shortcomings of antibullying regulations: The case of Sweden

Helge Hoel\textsuperscript{a}; Ståle Einarsen\textsuperscript{b}

\textsuperscript{a} Manchester Business School, The University of Manchester, Manchester, UK
\textsuperscript{b} Department of Psychosocial Science, Faculty of Psychology, University of Bergen, Bergen, Norway

First published on: 06 March 2009

To cite this Article Hoel, Helge and Einarsen, Ståle(2010) 'Shortcomings of antibullying regulations: The case of Sweden', European Journal of Work and Organizational Psychology, 19: 1, 30 — 50, First published on: 06 March 2009 (iFirst)

To link to this Article DOI: 10.1080/13594320802643665
URL: http://dx.doi.org/10.1080/13594320802643665

PLEASE SCROLL DOWN FOR ARTICLE
Shortcomings of antibullying regulations: The case of Sweden

Helge Hoel
Manchester Business School, The University of Manchester, Manchester, UK

Ståle Einarsen
Department of Psychosocial Science, Faculty of Psychology, University of Bergen, Bergen, Norway

By means of a qualitative study, the article examines the possible reasons for the apparent shortcomings and limited success of the Swedish statutory regulations against workplace bullying which pioneered and inspired statutory antibullying regulations in other countries following its enactment in 1993. Semistructured interviews were carried out with 18 participants, each with extensive knowledge and experience of the issue, representing employer and trade-union organizations, enforcement authorities, academia, and victim-support organizations. A range of potential reasons for its limited success emerged from the study, encompassing shortcomings associated with the involvement (or lack of involvement) of key actors—employers, trade unions, and labour inspectorate, and with the antibullying regulatory framework itself. In addition, some cultural and socioeconomic conditions may also have hampered its effectiveness and success. In light of these findings the study raises questions about how to regulate for intangible issues such as bullying. However, the Swedish Ordinance against bullying has contributed to giving the issue credibility. Yet, in order to be successful, legal interventions must be accompanied by well-informed, trained, and motivated employers and trade unions who, in collaboration, are willing to deal with the problem proactively on an organizational level as well as responding to individual cases when they occur, supported by an enforcement agency or inspectorate which is equipped and geared up for its role.

Keywords: Bullying; Legislation; Mobbing; Regulation; Victimization.

Correspondence should be addressed to Helge Hoel, Manchester Business School, The University of Manchester, Booth Street West, Manchester, M15 6PB UK.
E-mail: helge.hoel@mbs.ac.uk

The authors would like to thank the interviewees for sharing their insight with us. We would also like to acknowledge the contribution of Svend Björk in making this study possible.

© 2009 Psychology Press, an imprint of the Taylor & Francis Group, an Informa business
http://www.psypress.com/ejwop DOI: 10.1080/13594320802643665
INTRODUCTION

Workplace bullying, ie persistent exposure to aggression, social exclusion or intimidation by others, peers or superiors, has been identified as the most common form of violence and harassment in the workplace (Di Martino, Hoel, & Cooper, 2003), affecting 5–10% of the European working population (Paoli & Merllié, 2000; Parent-Thirion, Fernández Maćias, Hurley, & Vermeylen, 2007).

Exposure to bullying has severe health consequences for those involved, variously manifesting itself in somatic symptoms, anxiety, and depression (Einarsen & Mikkelsen, 2003). In the most severe cases, exposure to bullying may even produce symptoms resembling posttraumatic stress disorder (PTSD; Matthiesen & Einarsen, 2001). As being a target of bullying frequently leads to absenteeism, increased employee turnover, and reduced productivity, bullying is considered to carry a substantial cost to organizations (Hoel, Einarsen, & Cooper, 2003). Moreover, with consequences seemingly extending to bystanders (Hoel, Faragher, & Cooper, 2004) and families of those directly involved (Keashly & Neuman, 2004), there is a strong societal dimension to the problem as society is left to pick up many of the long-term costs, including medical treatment, work incapacity benefits, and costs associated with premature retirement (Di Martino et al., 2003).

Realization of the magnitude and seriousness of the problem is reflected in considerable development in the legal arena (Di Martino et al., 2003; Yamada, 2003). In this respect Sweden enacted in 1993 the first legal regulation specifically targeting workplace bullying entitled the “Victimization at work ordinance” (Swedish National Board of Occupational Safety and Health, 1994). Whilst Sweden throughout the 1990s was considered an anomaly in this respect (Yamada, 2003), a number of countries have recently followed suit, with new legislation to combat psychological violence and “bullying” emerging in a number of countries, e.g., The Netherlands, France, and Belgium (Di Martino et al., 2003). This development is not confined to Europe, with similar legislation adopted elsewhere, e.g., Quebec (Harvey & Keashly, 2005) and South-Australia (Barren, 2006). This development is supported by the actions of key stakeholders, most prominently trade unions and victim support groups who have campaigned vigorously for the enactment of antibullying legislation in the belief that this can become effective instrument to mitigate the problem and provide targets with redress. Yet, the effectiveness of a regulatory approach to combating workplace bullying is yet unknown, with indications that the Swedish approach has been far from as successful as sometimes suggested. The article contributes to the literature by investigating the potential reasons for its shortcomings and limited success.
SWEDISH STATUTORY RESPONSE TO BULLYING

Bullying research was pioneered in Sweden by Heinz Leymann (1990, 1996) from the early 1980s. By describing a social phenomenon he had frequently come across in his role as a labour inspector, Leymann effectively provided targets with a label, thus assisting them in making sense of their experience. A national, representative survey carried out in 1991, which operationalized the definition of bullying in terms of regular exposure to negative behaviour of a weekly occurrence over a 6-month period, concluded that 3.5% of Swedish employees were subjected to severe and persistent bullying at work (Leymann, 1992). Then, already in 1993, a statutory provision against bullying entitled “Victimization at work” (Ordinance AFS 1993:17; Swedish National Board of Occupational Safety and Health, 1994) was enforced. The ordinance was promulgated by the Swedish National Board of Occupational Safety and Health (SNBOSH) in 1993 in accordance with powers given to them in the Swedish Work Environment Act. The ordinance consisted of six brief paragraphs organized under three subheadings: “Scope and Definitions” (Section 1), “General Provisions” (Sections 2 and 3), and “Routines” (Sections 4, 5, and 6) (Swedish National Board of Occupational Safety and Health, 1994). To support and facilitate the implementation of these regulations in the workplace, they were accompanied by a set of general recommendations.

It is noteworthy that the regulation does not use the Swedish term for workplace bullying, “mobbning”. Instead, the official English translation of the Ordinance uses the term “victimization” (in Swedish “kränkande särbehandling”) and defines it as:

By victimization is meant recurrent reprehensible or distinctly negative actions which are directed against individual employees in an offensive manner and can result in those employees being placed outside the workplace community. (Swedish National Board of Occupational Safety and Health, 1994, Section 1)

According to the author of the Ordinance, Anita von Schéele:

the expression “kränkande särbehandling” is a relatively holistic term emphasising that a person is exposed to inappropriate conduct, being treated in a way which differs from the treatment one has the right to expect. Besides, it points to the violation, the traumatic experience, the strong emotional pain or crisis which develops naturally when one is hit hard or unfairly treated. (1993, p. 13, our translation)
Similarly, the term “särbehandling” has connotations of discrimination and treating someone differently, with a focus on those cases where individuals are singled out for negative treatment. Consequently, situations where a manager might treat everyone in a group badly would, therefore, strictly speaking fall outside the scope of the regulation. Yet according to von Schéele, being treated differently refers in this sense equally to experiences that appear to be in breach of acceptable norms of contemporary society. To avoid misunderstanding, this article will refer to the Swedish Ordinance against bullying (Swedish National Board of Occupational Safety and Health, 1994) as the “Ordinance” and the English term “bullying” interchangeably with “victimization” and the Swedish term “mobbning”.

THE AIM OF THE STUDY

Amongst legislative moves to combat workplace bullying it is the Swedish approach which has received particular prominence and attention, going well beyond its pioneering status as the first statutory provision in this area (Yamada, 2003). In this respect, Vega and Comer (2005, p. 105) comment: “This ordinance has language to prevent workplace bullying, protect employees, that tries to address bullying, compensate targets/victims, and penalize bullies and employers who permit transgression.”

Despite such a glowing assessment, there is evidence to suggest that the Ordinance has not been as effective as anticipated. First, results from several large-scale surveys carried out in Sweden within the last decade have reported prevalence rates of between 8 and 10% (Arbetsmiljöverket, 2006; Widmark, Oxenstierna, Westerlund, & Theorell, 2005), which could actually indicate a higher level of bullying than at the time the Ordinance was enacted. This interpretation is shared by a recent report from the Labour Inspectorate (Arbetsmiljöverket, 2003), which found that numbers of complaints of bullying were on the rise. Second, a Swedish regional survey (Arbetarskyddsstyrelsen, 2000) exploring the experience and opinions of employers and labour inspectors, reported that employers found the Ordinance difficult to understand and apply. Furthermore, most organizations had failed to introduce preventive measures including antibullying policies and procedures dealing with incidents of bullying. Third, serious concerns about the regulation were also raised in a White paper from the Ministry of Enterprise, Energy, and Communication (Statens Offentliga Utredningar, 1999), referring to the legal protection of “victims” of bullying as “fragile” (p. 267). Furthermore, and with direct implication for our argument, in its recommendations the report explicitly points to the need for research on possible shortcomings of the legal
framework against bullying to be considered (p. 268). Fourth, in 2003 the Labour Inspectorate suggested repealing the Ordinance altogether as part of a move to integrate various regulations within a new unified regulatory framework for psychosocial issues (Arbetsmiljöverket, 2003). Although portrayed as a practical move by the Inspectorate to assist application in the workplace in response to a fragmented set of regulations, as far as the Ordinance against bullying is concerned it was also a response to a perception that the regulations were difficult to understand and apply (Arbetsmiljöverket, 2002, p. 2). Although the Inspectorate later withdrew its proposal, it reflected a critical attitude to the Ordinance. With such critical observations in mind, it is the aim of this article to identify possible reasons for the shortcomings of the Swedish regulation. In this we contribute to the scarce literature on the prevention and management of workplace bullying and to the discussion on the implications of relying on legislation or regulatory frameworks to prevent workplace bullying and destructive interpersonal conflicts at work. This may also have implications for the wider debate on the usefulness of legal frameworks in the management of undesirable human behaviour and destructive interpersonal conflict at work.

**METHOD**

A qualitative study was carried out in Sweden at the end of 2004, consisting of a 12 in-depth semistructured interviews with a total of 18 participants. Each interview lasted between 70 and 90 minutes. The interviews were recorded and transcribed and then translated into English.

**Participants**

All interviewees were selected for their extensive knowledge and experience of the issue of bullying in Sweden in various professional roles and capacities. For most respondents their experience at the time of the interview spanned a minimum of 10–15 years. The following groups and institutions were represented: the Labour Inspectorate (SNBOSH): head office (four participants) and two regional offices (three participants); Confederation of Swedish Enterprises (SN) (one participant); Swedish Trade Union Confederation (LO) (one participant); trade-union officials (in total three participants from two public sector trade unions); academic and author of several books on the issue (one participant); policy maker and author of the Ordinance on “Victimization at work” (one participant); spokespersons for victim support groups (two participants); a labour law expert and a disability assessor with professional background in psychotherapy and extensive experience from bullying cases (one participant).
Procedure

An interview guide provided a general framework for the interviews against which the responses could be compared and assessed. Where necessary, the interviewer departed from the main line of inquiry in order to follow up issues or leads that emerged during the cause of the interviews; thus “the interviewee is seen as an active participant in the process shaping the process itself” (King, 2004a, p. 11). The objectivity of such a method could be questioned as the researchers’ presence may impact on how the interviewee chooses to respond to the questions. However, the fact that all interviewees were educated, professional people, referring to their own extensive experience should reduce considerably any impact of “social desirability”.

The translated interview transcripts were then coded, organized, and analysed thematically in line with common frameworks for template analysis (King, 2004b), with themes organized in a hierarchical structure. This process was initially carried out by one of the researchers who also carried out all the interviews. All transcripts and corresponding codes were then checked by the second researcher and any inconsistencies and disagreement were addressed. As the study was addressing experiences, opinions, and views of participants based on their substantial experience with the issues, the coding process was more straightforward than would have been the case if the focus was on participants’ understanding of the phenomenon itself, which would have required a more in-depth discourse analysis, with consequences for the coding process. Moreover, this process was also eased by the fact that the interviewer, throughout the interview process, aimed to address and clarify any potential ambiguities in the responses of interviewees. The researchers also had the opportunity to contact individual interviewees after the interviews, which offered a further opportunity to clarify any uncertainty or inconsistency or other factors potentially affecting the coding process.

RESULTS

The respondents mainly agreed that the Swedish ordinance against bullying had not been as effective and successful as had been hoped. Grouping the responses into themes of possible explanations for the lack of success revealed a series of shortcomings. These could be ascribed to: the ordinance itself, the problems victims faced when seeking redress, to the responses of the employers, the trade unions and the Labour Inspectorate respectively, and to cultural and socioeconomic factors. We will address each of these shortcomings in turn.
Shortcomings associated with the regulatory framework

Participants agreed that the presence of the regulation has contributed to raising awareness of the problem, making it possible to talk about a problem that Swedish people often feel uncomfortable discussing.

However, while awareness might have increased, some respondents doubted its “regulating effect”:

I don’t believe it has prevented bullying. On the contrary, it has put the focus on the problem and led to complaints (to the Inspectorate), so giving rise to false expectations in many cases.

Therefore, it is argued that the presence of the regulation may lead to victims having their expectations raised and subsequently dashed when their hope for support and rescue are not forthcoming.

Although some participants identified a potential problem involved with the rather narrow way “victimization” is defined in the regulation, many informants were concerned with what was described as the vagueness of the regulation, which leaves it open to interpretation. As stated by one informant:

With regard to the disadvantages, it is obvious that bullying as a concept has also been a general waste-bin for all kinds of problems, which has led to a failure to analyse what it is about.

Drawing a parallel with other psychosocial phenomena such as “burnout”, it was argued that the impreciseness of the regulation may lead to targets too quickly concluding that they have been bullied. Thus, with this Ordinance being the only statutory regulation referring to personal violations at work, there is a tendency that anyone who feels violated, irrespective of whether their experience strictly speaking can be considered bullying or not, will point to this regulation.

Yet the majority disagreed with the conclusions of a regional survey undertaken by the Labour Inspectorate (Arbetarskyddsstyrelsen, 2000), which claimed that the regulation was difficult to understand, a view particularly widespread among the employers surveyed. Instead, most participants considered that the Ordinance, and in particular the guidelines, were clearly written. Consequently, this type of criticism of the regulation was often considered a “convenient explanation”, more indicative of the reader, and reflecting an underlying attitude to the problem and the effort required, particularly by management:

Easy to say that the regulations are the problem. It has to do with judgement, working with these issues is associated with blood, sweat and
tears. It is not like with a technical issue, that if you move the screen 2mm, then it is like this. It is not fully black and white.

Still, participants broadly agreed that, in practical terms, workplace bullying was difficult to control and manage. In this respect, although the guidelines accompanying the regulations were judged to be helpful, the regulation itself was considered difficult to adapt to local circumstances, with the meaning of expressions such as “routines” and “signals”, unclear to the readers. Moreover, despite the regulation envisaging a response within the confines of the workplace with the employer in the driver’s seat, it says nothing explicitly about external intervention and assistance where necessary.

With reference to the employers’ obligations expressed in the regulation, the interviewee from the Confederation of Swedish Enterprises (SN) expressed reservations about managing such issues by means of regulations altogether:

I don’t think it is possible to regulate it by means of law because it is all about attitudes, human relations, human experiences and this is impossible to regulate by means of a legal text. It would be great if it was possible. One may by means of the legal text get rid of the more extreme behaviours and acts.

Emphasizing that “the employer has no interest in having such processes going on in the workplace”, the employer representative doubted whether regulation was the correct tool, suggesting that:

It is like regulating that we should be satisfied at work and be nice to each other.

Shortcomings of the Labour Inspectorate’s response

Although participants agreed that the Inspectorate’s professionalism in dealing with the problem has increased significantly since 2000, in the period following the introduction of the Ordinance, insufficient attention was seemingly given to systematic training and building of competencies with focus often remaining on more tangible work hazards of a physical nature. Consequently, lack of knowledge as well as methodology often negatively influenced Inspectors’ confidence with respect to applying the regulation and its requirements.

The criticism of the Inspectorate seems to go in different directions. Some criticise the Inspectorate for focusing on the individual and individual cases as opposed to approaching bullying as an organizational problem associated
with organizational shortcomings. According to some informants, individual cases have been used as a justification for inspections whether the problem surfaced during an inspection or came to the inspector’s attention due to an individual complaint or even through an informal telephone call. Other informants highlighted the opposite problem, with inspectors only attending to individual cases when as part of an inspection they come across widespread problems with bullying in the organization. This latter point must be understood in connection with the location of the Ordinance within the framework of the wider work environment regulations and, thus, governed by the principle of self-regulation. Consequently, in principle, the Labour Inspectorate is seen as having no authority to enter the workplace with the aim of following up individual cases, as their role is primarily concerned with the health and safety system of the organization.

Hence, the lack of clearly formulated strategies, methods, and procedures to handle bullying cases within the Inspectorate seems to have severely hampered the Inspectorate’s effectiveness in enforcing the Ordinance.

The absence of sanctions against employers who fail to prevent bullying was another issue which surfaced in many interviews. According to the Swedish work environment regulations, sanctions can only be applied where employers fail to comply with any improvement notice given in response to identification of clear breaches of the regulation. Such notices, however, appear to be relatively rare. As one informant put it:

If one makes a regulation and no instruments to assist the employer in succeeding implementing it successfully in their workplace, then absolutely nothing happens. It is so typical of the “Swedish model”. We are supposed to sort everything out by means of negotiations without any sanctions . . . One should have combined it with a packet of interventions. But now as usual one trusted that the employer would “play ball” and implement this regulation. But nobody has done that. There is no employer who has developed policy document against victimisation.

Nevertheless, where confident inspectors have identified serious shortcomings, they have sometimes been successful in stretching their mandate beyond what strictly speaking is within their discretion, putting forward far-reaching demands to the employer.

Shortcomings of the employers’ response

Most informants were of the opinion that employers had showed little willingness to engage with the issue. Consequently, few manifestations of intent in terms of policies or similar local initiatives have emerged. This corresponds with the conclusions in a report by the Swedish Labour
Inspectorate (Arbetarskyddstyrelsen, 2000), where only one out of nine businesses taking part in the study had taken any measures against bullying. Several informants emphasised that too little had been done with respect to developing an intervention methodology to assist employers. As one informant suggested:

We should have taken time and ensured that there was appropriate training available on this, particularly directed at the employers. This should have happened before the Regulation came in so that the introduction of the Regulation would seem as natural.

Indicative of the attitude among employers to the regulation, the employers’ informant questioned employers’ responsibility for individual employees’ treatment of each other during the course of their work. Rather it was emphasized that management’s primary task was to ensure that the work was carried out properly.

Human beings have to take responsibility for themselves. We infantilise people and harm them in this way. Because, if I can bully someone else and it is the boss’s fault, then I have no responsibility. We don’t get anywhere before we direct it towards those who bully . . . The way the regulations are written it is the employer’s fault.

As worker on worker aggression seems to be the most common form of bullying in Sweden, it was argued by the employer representative that identifying the persons behind a bullying campaign is often difficult and beyond what can be expected by managers who may not have witnessed the incidents themselves.

One may argue that, to the extent that these views are representative of Swedish employers, management initiatives in this area, e.g., introduction of antibullying policies, are unlikely to be successfully implemented or take place at all, at least as long as no sanctions are available.

Shortcomings of the trade unions’ response

Since little emphasis has been placed on the introduction of local policies and organizational procedures on bullying it is argued that the task of trade unions has become more difficult. Their contribution appears to have varied greatly, from showing little interest in the issue to becoming too involved. A substantial discrepancy appears to exist between union involvement at the local as opposed to the central level, with national officers being better informed and more willing to prioritize issues associated with the psychosocial work environment, including bullying. Local unions and shop
stewards on their part were often seen to focus more on workload-related matters or matters associated with economic benefits of members, whereas safety representatives were emphasizing hazards associated with the physical work environment. Where cases of bullying have emerged and indeed escalated, local unions have at times been accused of taking the side of the perpetrators, as expressed by one labour inspector:

They have been so involved locally, looking at things so narrowly and been so entangled in the difficulties. And mixed in with economic incentives, they have not seen the underlying causes, but seeing that “Peter” does not function at work and that results in that “Lisa” gets more to do. And then there is a problem, and then it is better to remove “Peter”.

This problem is also expressed in the following quotation from a national union officer:

When the union comes in and it has been decided not to call upon the inspectors, then it usually is about trying to remove this person whether it is the one who is bullied or those who bully, because it is impossible to resolve it. But maybe the employer has discovered that if one removes the victim, even if it was not that person’s fault, then the others can remain. And we try to assist in this way. The person who perceives they have been bullied, feels, “why move the one who is bullied when it is those who bully who are the problem”.

The union officials taking part in the study acknowledged that solutions which led to removal of the target from the group were very problematic. For good reason the victims tend to view the actions taken as extremely unfair with many, according to the trade-union spokesperson reacting by “becoming hysterical”. It is argued that, such a “rescue-operation” does not remove the antecedents or causes of the problem, as it is likely that the problem could flare up again involving a new target. At the same time, one must bear in mind that all those involved may be members of the same union and convinced that the opposite party represents the problem, presenting the local union representatives with a dilemma with regard to who should be supported, and therefore possibly experiencing both role conflict and role ambiguity.

Shortcomings in meeting victims’ needs for redress

According to Yamada (2003), any legal or statutory response to bullying should protect workers who engage in self-help to address
experiences of bullying as well as provide incentives and guidance to employers. Moreover, it should provide relief, justice, and rehabilitation for those severely affected, and it should punish the bullies or the employer under whose jurisdiction bullying is taken place. From our data it is clear that the protection and redress for targets described by Yamada has definitely not been achieved since the enactment of the Ordinance. First, as it is only when it is impossible to resolve a case internally that the assistance of inspectors may be called upon, the Labour Inspectorate often tends to become involved at a stage when the process has moved past the point where constructive resolution is possible. At this stage victims may be preoccupied with thoughts about achieving justice and seeking punishment for the perpetrators, remedies which neither the employer, the trade unions, nor the Inspectorate have provided.

With respect to financial compensation as redress, an important distinction exists between compensation paid by an employer in agreement with the trade union and compensation for work injury paid by the state via the National Insurance System. Local agreement involving a financial settlement would normally require the victims to resign. Still, some respondents saw this as a positive development in as much as a financial penalty may force employers to take bullying cases more seriously, although it may not cost individual employers much as society picks up the bill through the National Insurance system. The Work Environment Act also provides opportunity for compensation for work injury, although with respect to bullying the system has so far proved very restrictive for fear of opening the “floodgates”, with only a handful cases succeeding.

A further point relevant to victim redress is the issue of rehabilitation. Several informants pointed out that the Swedish law on compensation for work injury states that it is the responsibility of the employer to carry out a rehabilitation assessment. If this is approved by social security, financial support for rehabilitation will be made available to the employer. However, there is a catch, or as one respondent put it “a total system failure”, as the regulation requires that the rehabilitation is carried out within the confines of the workplace.

There are bullied people who cannot even walk past the old workplace without throwing up. . . . And what does the employer say at the end of the rehabilitation process. Yes, come back and we will ensure that you will get a good rehabilitation. So, first we know that the employer doesn’t really mean it. And, secondly, then the danger can increase because it is impossible. And the employers don’t understand it. It is a catch 22.
Shortcomings due to socioeconomic and cultural factors

Many informants pointed to factors of a socioeconomic nature, which they considered having influenced the presence of bullying in Swedish workplaces since the enactment of the regulation as well as the effectiveness of the legal response to it. First of all, the antivictimization regulation coincided with an economic downturn in Sweden (Lindbeck et al., 1994). Among the casualties of public spending cutbacks were state contributions to local initiatives aimed at work environment development, and the withdrawal of state support to occupational health services (see also Marklund, Bjurvald, Hogstedt, Palmer, & Theorell, 2005). According to the Trade Union Confederation’s spokesperson, the result was a reduction in the number of occupational health services with remaining ones more focused on medical health screening as opposed to prevention and rehabilitation as the employer now carried the full cost of the service. Furthermore, according to one of the trade-union spokespersons, facing threats of job losses, the trade unions’ internal priorities were affected, with issues concerning job saving and unemployment taking precedence.

Like most of the Western world, Sweden has experienced organizational restructuring and downsizing on a large scale since the 1990s. Consequently, it is argued that bullying cases that otherwise might have been resolved by resignation are not brought to a conclusion in this way as targets find it increasingly difficult to leave their job in pursuit of alternative work. Moreover, according to several informants, in the downsized organizations there is also less opportunity to protect vulnerable people against attacks from tormentors and less time to resolve cases (see also Zapf, Doorman, & Frese, 1996).

Since the early 1990s, a shift in the balance of power between employers and trade unions in Sweden in favour of employers appears to have taken place (e.g., Wikman, Anderson, & Bastin, 1998), a view shared by many interviewees. Several participants argued that the employers increasingly opposed any regulations or initiatives that, as they saw it, could challenge management’s prerogative to manage, not least their monopoly in the allocation of work. With no policies in place on which trade unions could rely, any effort to draw attention to the issue locally becomes more difficult.

Throughout the interview process it became apparent that most participants, including those representing trade unions, addressed the issue of bullying largely in terms of a group phenomenon where individuals were excluded or ostracised by their peers:

You know that bullying in Sweden has a different face than in other countries. Here people are being excluded from the group in a silent way. Here bullying is not aggressive in the way that people are shouting at each
other. They just exclude you, they don’t talk to you, don’t listen to you. They do all the culturally adequate things you know. And it is very difficult to say, oh, why didn’t you talk to her. We have a right to exclude you—it is sanctioned by the culture.

A common view was that peer bullying emerges when frustrations or dissatisfaction within the group are being offloaded or projected onto particular group members. To further account for such “scapegoating” processes in Swedish workplaces, one of the interviewees points to three contributory factors: first, managers’ reluctance to get involved in group conflicts; second, the power and position of Swedish work groups with implications for intragroup relations and dependencies; and third, a strong belief in peer dialogue and group discussions as a useful instrument in conflict resolution.

Many leaders do not dare to go in and make use of their power and leave it to the single individuals or work-groups to deal with these conflicts. And then the conflicts are dragged on to such an extent that people are “ripped apart” during the course of the conflict. . . . I believe that this is connected with the fact that we have a different type of leadership. We have, at least we believe that we don’t have so much autocratic leadership, although the power stays to a greater extent in the work groups, which means that the individual becomes more dependent upon good relations with the work group than good relations with the boss. . . . In part it could be our notion of “mutual understanding and consensus” (“samförstånd”), we should be loyal to each other, this kind of horizontal loyalty.

One may argue that the belief that the work group represents an arena for constructive collective debate is flawed when unity and loyalty to the group might be questioned. It also exposes the weakness of the dialogue as a conflict resolution method when discussions are highly charged, with the danger of group power being wielded against individuals in drawn-out and escalating conflicts. With the Swedish virtues of transparency and openness, including the importance of expressing one’s points of view in mind, several informants emphasized that openness might come at a price in terms of making oneself vulnerable to criticism and counterattack.

Some participants were also adamant that lack of progress on the ground was associated with the “shameful” nature of the problem, as reflected in this statement:

It is too difficult, too infectious, nobody wants to touch it. It is like incest, it is too shameful. . . . It is about the shady side of life. It is like school
bullying. “No, no, no, no, hide that somewhere under the table.” It is too shameful, it is too embarrassing. . . . rather than rolling up one’s sleeves and making a strong attempt to get rid of bullying from the workplace.

**DISCUSSION**

The results confirms a view of the Swedish Ordinance against bullying as less successful than often described and in no way working as effectively as originally intended. Above all, the evidence suggests that the Labour Inspectorate was insufficiently prepared at the time the regulation was introduced, both in terms of its inspectors’ level of knowledge and with respect to specific workplace enforcement strategies and methods. Although a change appears to have occurred in recent years, the problem was often individualized, therefore possibly reinforcing a stereotypical view of bullying as an issue associated with “difficult” individuals. However, approaching the problem systematically from an organizational angle may have its own problems. Thus, where the problem comes to the fore as part of a normal inspection it might be treated like any other organizational problem, which could imply discussions at staff meetings. However, staff meetings are clearly an inappropriate forum for dealing with problems of this nature, possibly further escalating the situation and reinforcing scapegoating tendencies. Moreover, even when appropriately addressed, by strictly adhering to an organizational approach focusing on prevention and issues associated with work environment quality, this could mean that targets of bullying were left without any opportunity to have their personal cases addressed.

With reference to Yamada’s criteria (2003) for a legal framework referred to earlier, the Ordinance appears to fail in its ability to provide victims with adequate resolution and redress, with support to victims within the workplace, whether from the employer or from trade unions. Furthermore, for the individuals perceiving themselves as victimized and in need of support, the system has not been ready to deal with individual cases on such a basis despite great effort by some individual inspectors.

Nevertheless, victims’ advocates may take some comfort from the fact that although the system has proved very restrictive so far, an opening for financial compensation from the National Insurance System has emerged. A greater emphasis on the costs is also likely to force employers to take the issue more seriously (Hoel et al., 2003). Such considerations are also a factor in Swedish rehabilitation policies. However, as this study has revealed, by linking rehabilitation policies directly to the workplace where the victimization took place, most victims are left in limbo, as returning to the work group from which they were expelled appears impossible.

The very notion of redress is problematic as victims may become trapped in their attempt to seek justice, thereby possibly contributing to further
escalation of the conflict. But such views could also contain undertones of moralising. Thus, one may ask whether victims actually are left with a real choice. In a situation where their self-image is faltering and self-blame is never far away (Hoel, Rayner, & Cooper, 1999), clinging to a hope for redress and justice could be vital for psychological self-preservation even where this appears unlikely.

As far as the role of managers is concerned, the Ordinance devised a particular role for employers in preventing and monitoring the problem. Yet, employers’ unwillingness to engage seems to have undermined any realistic opportunity to reduce and control the problem. In this respect it is suggested by some respondents that too little has been done to assist managers in adopting practical measures to address a complex problem as well as ensuring that this is followed up in practice, if necessary by means of sanctions.

The results also revealed that the trade unions have often short-changed the victim. To some extent, the failure of many local trade-unions to support their members, with some positive exceptions, also appears to be related to the nature of the problem in Sweden with bullying being primarily horizontal. This has meant that trade-union shop stewards and safety representatives have often found themselves squeezed between the interests of the group and the individual. Bearing in mind the strong collective tradition of the Swedish trade-union movement, it is not surprising in such situations for the trade union to take the side of the group, even if reluctantly. Moreover, in cases where the local or indeed the central trade-union organization has come out in support of the individual, these conflicts have reportedly often been resolved through an economic settlement on condition that the victim leaves the organization. Other cases have been resolved by removing the individual from the group. In both cases victims may often feel further victimized, seeing the perpetrator as the actual winner. Moreover, the regulation envisaged active involvement in preventing bullying on the part of local trade unions; however, opportunity for trade-union involvement has been severely reduced since the launch of the Ordinance, not least since few local policies have been developed. This finding also suggests that, in order properly to assess the effectiveness of legal means to regulate bullying, contextual factors, such as those identified in this study need to be considered.

Some of these factors, i.e., organizational restructuring and downsizing, are common to many countries and have been explored elsewhere (e.g., Hoel & Salin, 2003). Others, by contrast, appear to be specific to Sweden, its culture, and socioeconomic structures. Moreover, as such organizational changes coincided with a sharp economic downturn, their effects were particularly pronounced in a workplace where internal processes in general, and those associated with the work environment in particular, were based
on wide participation and debate (Milner, 2001). However, it is ironic that a trade-union movement with one of the highest membership densities in the Western world (Eurofound, 2004) appears unable or not motivated to support individual victims, nor able to respond to the problem collectively. It also begs the question whether the Ordinance can actually function in its current form in today’s Sweden or whether it reflects another era as it relies on self-regulation and wide employee participation, products of a particular power distribution that may no longer be present.

This investigation has revealed that introducing regulations against bullying that are clear, unambiguous, and easy to apply is far from easy. Thus, to describe and define a complex issue in legal terms is difficult, if indeed possible. In the case of the Swedish regulation it could be argued that in its current form it is actually too specific and indeed narrow. However, equally it could be described as too vague and open to interpretation, raising expectations among people who perceive that their feelings are being violated but who strictly speaking may not be bullied or victimized. However, when dealing with issues of a subjective nature, disagreement would always exist about whether a particular case would fall within the scope of the regulation, or not. Yet, where effective methods to investigate bullying cases with the aim of reaching a fair conclusion do not form part of employers’ organizational responses to employee grievances or complaints, the issues become particularly difficult.

This study begs the question whether it is possible to regulate for intangible issues associated with human interaction and relationships such as bullying as argued by one of our informants. Although the issue is philosophical and to some extent political, there is place for legislation to ensure diversity and equality, to protect the dignity of individual employees and to prevent discrimination and harassment in general, as well as bullying. Thus, we would not agree with those who argue that it is impossible to regulate for intangible issues like bullying, rather the task is more arduous and challenging. The fact that in recent years the judiciary in many countries has successfully ruled in bullying cases further demonstrates that the regulatory avenue is not closed. But it is also clear from this study that statutory regulation in this field is not in itself sufficient. Rather, it must be accompanied by provisions for training and methodologies to ensure effective prevention, timely intervention, as well as realistic rehabilitation. Moreover, without sanctions against employers who fail to take necessary measures to protect their employees against bullying, who ignore the mistreatment of employees by their peers, or who indeed actively employ bullying tactics as part of their routine management, any regulations in this field are likely to be ineffective.

Nevertheless, with the demands for specific bullying legislation making inroads in many countries, there might be a danger of overestimating or
relying too much on regulation, to the detriment of continuous attention to the problem within the workplace. In this respect, it is our view that the emphasis should be placed more on ongoing prevention and control where employee involvement would play a vital role. Moreover, organizations need to be equipped by means of appropriate policies and procedures to deal internally with problems as and when they arise, including a systematic and predictable response to formal complaints (Einarsen & Hoel, 2008). An astute Inspectorate would assist such a process.

As far as the Swedish experience is concerned, it is possible that the regulation came too early. Thus, at the time the Ordinance was enacted, the ground was not properly prepared in terms of knowledge, methodology, and a supportive culture. Moreover, for legal remedies or measures to work effectively, they must be accompanied by a range of other interventions and actions by key stakeholders, in particular by local employers and trade unions as well as the Labour Inspectorate. It follows that a statutory response to bullying will only succeed to the extent that it forms a part of such a holistic and multilevel approach to the problem.

**CONCLUSIONS**

This study reveals that, despite contributing to raising awareness about a difficult and complex social problem, the Swedish regulation against bullying has important shortcomings, frequently failing those it was meant to protect. Thus, the realities on the ground appear to be very different from the positive assessment it often has received abroad. Moreover, the shortcomings are not limited to the regulatory framework itself, but include shortcomings among all key stakeholders—employers, trade unions, and the Labour Inspectorate, as well as some socioeconomic and cultural factors, some specific to Sweden. In this respect, it has also become clear that bullying in Sweden to some extent is different from that experienced in many other countries, emphasizing the predominantly horizontal nature of the phenomenon in Sweden. This in itself is likely to have influenced the lack of engagement with the issue on the part of employers, and the trade unions’ rather ambiguous approach to the problem.

The study draws attention to the difficulty in legislating for human coexistence in general, and raises serious questions about the possibility of regulating for intangible issues such as bullying in particular. Nevertheless, we would agree with those who argue that, by placing workplace victimization and bullying within the realm of legislation, the issue is given necessary and welcome legitimacy. However, in order to be successful, antibullying statutory provisions would rely upon a combinations of factors such as well-informed, trained, and motivated employers and trade unions who are willing collaboratively to deal with the problem proactively on an
organizational level as well as responding to individual cases when they occur, supported by an enforcement agency or inspectorate that is equipped and geared up for its role. Within such a system, self-help activity of targets and bystander intervention has an obvious place.

Our findings have implications beyond Sweden. With legislation against victimization and bullying already introduced or emerging in a growing number of countries, a fuller picture of the potential of statutory provisions to prevent bullying and provide redress to its casualties can gradually be put together. Although our study suggests that socioeconomic and contextual factors specific to a particular country will inform not only the likelihood of success of regulation but also how the problem is perceived and experienced, the study clearly reveals the need for any statutory initiative to be accompanied by broad and active involvement by trade unions, employers, and appropriate governmental agencies, in this case the Labour Inspectorate.

REFERENCES


Original manuscript received March 2008
Revised manuscript received November 2008
First published online March 2009