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OCCUPATIONAL STRESS AND THE LAWS IN SELECTED JURISDICTIONS

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Abstract: In the contemporary modern and globalised world, it is common for the majority of employers to draw a great attention to the productivity of the workforce rather than the employees working capability and physical and mental conditions. Businesses and industries have always been striving towards maximising profit and minimising the cost. As a result, employees of uncountable organisations suffer from the alarming occupational stress in catching up with the respective schedule of productions, shipments and services. The question arises here is that whether there should be some regulatory measures to relief the occupational stress of the workforce? Accordingly, this article examines the laws relating to the occupational safety and health in selected jurisdictions, namely, Malaysia, Australia, Canada, the United Kingdom and New Zealand in order to evaluate whether these laws protect workers’ mental health. It is found that the existing legislations on occupational health and safety in the selected jurisdictions do not explicitly address on the emotional and mental health of employees.

Key words: Occupational Stress, Work-related Stress, Mental Wellbeing, Occupational Health, Work-life Balance

INTRODUCTION

Stress is defined as “to feel pressure or tension, worried and nervous exerted on a material object or caused by a difficult situation, or something that causes this condition”. It can also be defined as “state of mental or emotional strain or tension resulting from adverse or very demanding circumstances”. Stress is usually described as “the body’s nonspecific reaction or response to demands made on it, or to distressing events in the surroundings”. It is “a method by which we perceive and survive with environmental intimidation and challenges”. Stressors - factors that cause stress - can be personal and/or environmental events.
OBJECTIVE

To propose that a specific legislation is warranted to regulate occupational stress closely and carefully in order to provide better work-life balance to the workforce.

LITERATURE REVIEW

There is a significant “relationship between stress and job performance”. Stress is the common denominator for depleting work performance and productivity. This may arise due to various factors such as “persistent lateness or tardiness, taking excessive sick leave and repeated absences,” among others. Persistent lateness or tardiness, absence from workplace and leaving the office earlier than the scheduled working hours, can have serious effects on employer’s productivity, profits and reputation. It may also cause hassle to other co-workers who will have to cover up the more tasks in order to compensate for those who absent from work or reported late for work.

Some commentators have argued that occupational stress effects on memory uniformity where it shows the elements of working memory are prejudiced by occupational pressure like the memory is working even after the office hours. Anxiety is one of the most frequent stress condition through which memory performance has been examined by the concern researchers. Ashcraft and Kirk observe that a person in high anxiety inevitably will lead to slower processing of different aspects of mathematical calculations. Furthermore, researches have also shown that stress plays a vital role in judgment and decision making in day to day life.

FINDINGS

| MALAYSIA | • Employment Act 1955, a statute which is only applicable to employees in the private sector. It prescribes inter alia, the payment of wages, deduction of wages under certain circumstances, maternity protection, certain restriction on night work, underground work and in certain places of work for female workers, rest days in each week for workers, annual leave, maximum hours of work in a day, public holidays, annual and sick leave, and overtime payment for extra hours of work, among others but it does not deal with safety and health of workers at the workplace.  
• The Employees’ Social Security Act 1969 is a social legislation primarily provides inter alia, benefits within their scheme of insurance which all industrial are required to register their establishment with the Social Security Organisation and their employees should be insured in accordance with the Act.  
• Occupational Safety and Health Act 1994 is the Act that provided in the preamble are as follows: “to secure the safety, health and welfare of persons at work and to promote an occupational environment adaptable to the person’s physiological and psychological needs.  
• National Council for Occupational Safety and Health functioned to carry out the objectives of the Act and to submit reports as well as make relevant |

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| **AUSTRALIA**    | • The Commonwealth Fair Work Act 2009 provides a balanced atmosphere for productive workplace relations which can promotes national economic development and social inclusion for all Australians.  
• The observance of the Act is overseen by the Fair Work Commission and the Fair Work Ombudsman.  
• The Fair Work Commission enforces the Act and examines the legislation including “updating entitlements, national minimum wages, and operates as a tribunal to hear claims and declare rulings”.  
• The Fair Work Ombudsman administers and investigates “allegations of breaches in the workplace and initiates legal proceedings”. |
| **CANADA**       | • Federal and Provincial Occupational Health and Safety Regulations for ensuring and protecting occupational health and safety of employees at the workplace.  
• The Occupational Health and Safety Regulations are the basic laws for the protection of the employees in the workplace from any sort of physical and mental disturbance which is often known as occupational stress. |
| **THE UNITED KINGDOM** | • The Health and Safety at Work Act 1974 is the basic legislation for health and safety management in the workplace which enacted and enforced by the Health and Safety Executive (HSE) and local authorities known as the “Local Council”. The Act requires the employers to ensure health, safety and welfare at work for all of their employees. |
| **NEW ZEALAND**  | • The New Zealand Health and Safety in Employment Act 1992 has been substituted by the Health and Safety at Work Act 2015. Which regulates workplace health and safety issues in New Zealand together with the regulations made under that Act.  
• Hazardous Substances and New Organisms Act 1996 is the law that regulates the hazardous substance and new organism to protect the workplace environment for the sake of health and safety of the employees. |
CONCLUSION

As discussed above, the laws in Malaysia, Australia, Canada, the United Kingdom and New Zealand do not explicitly address the issue of occupational stress. The workplace safety and health legislations in the abovementioned jurisdictions merely emphasised on workers safe and healthy work environment at the workplace and thus excludes psychological distress at work. In other words, the existing legislations on occupational health and safety do not explicitly address on the emotional and mental health of employee let alone imposing any liability on the employer. It is therefore submitted that a specific legislation is warranted to regulate occupational stress closely and carefully in order to provide better work-life balance to the workforce.

SELECTIVE REFERENCES


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