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Domestic Violence Spillover into the Workplace: An Examination of the Difference Between Legal and Ethical Requirements.

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ABSTRACT

Domestic violence is a growing societal concern that often spills over into the workplace. However, employers are not recognizing the spillover of domestic violence as a workplace issue. This is problematic considering the serious financial, legal, and ethical consequences for organizations. We analyzed six cases involving domestic violence that were litigated under specific legal bases: Violence Against Women Act, discrimination laws including Title VII, Family and Medical Leave Act, Americans with Disabilities Act, Social Security Disability, Occupational Safety and Health Act, and associated state and municipal ordinances. We chose cases that illustrate the problems of companies meeting the legal standards but not necessarily reaching ethical expectations. Our approach is congruent with the perspective that both legal and

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ethical analyses should be used in organizational decision making. We suggest for future research the analysis of additional litigated cases, other ethical perspectives, and additional sources of data. In addition, we suggest that companies who are striving for corporate social responsibility should integrate the ethical treatment of domestic violence victims.

INTRODUCTION

Domestic violence is a growing societal concern. We define domestic violence as abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner. Domestic violence can be physical, sexual, emotional, economic, or psychological actions or threats that influence another person. This includes any behaviors that intimidate, manipulate, humiliate, isolate, frighten, terrorize, coerce, threaten, blame, hurt, injure, or wound someone (<http://www.justice.gov/ovw/domestic-violence>).

As increasing societal attention is being directed to the issue of domestic violence research indicates that the issue can have serious consequences for the workplace as well. However, employers are not recognizing the spillover of domestic violence as a workplace issue (Swanberg et al. 2012). This response by employers is problematic considering that the spillover effects of domestic violence can lead to serious financial, legal, and ethical consequences for organizations.

From an employee relations perspective, there are a variety of legal bases that theoretically should protect employee victims of domestic violence from certain employer responses, including the Violence Against Women Act (VAWA), Title VII of the 1964 Civil Rights Act, Family and Medical Leave Act (FMLA), Americans with Disabilities Act (ADA), Social Security Disability, Occupational Safety and Health Act (OSHA), and tort negligence. Additionally, more states are enacting protections in the form of domestic violence laws. Therefore, employers should be aware of the rapidly changing legal climate.

Ideally, business ethicists suggest that ethical standards should surpass the minimum legal requirement (Dunn and Burton 2008; Liedtka 1996). These standards include issues of fairness, justice, and right and wrong (Carroll and Buchholtz 2000). In fact, evaluating the extent to which an action is right or wrong is often the central focus of ethical decision making (Mudrack and Mason 2013). These decisions are complicated as there are many stakeholders' values to consider in business decisions. From the organization's perspective, the issues involve resources, including loss of productivity and litigation. From both the victim and coworkers' perspectives, the issues involve privacy, safety, their perceived value to the organization, economic security, and processes to address organizational contextual issues.

This article documents the magnitude of the issue of domestic violence spillover in the workplace and the potential impact it has on employees and organizations. This is done by examining the monetary and psychological costs, as well as related litigation. In most instances, the spillover does not result in litigation. However, as a methodological approach based on the suggestions of Mudrack and Mason (2013), we use litigated cases, rather than using vignettes or scenarios, to evaluate the legal and ethical underpinnings of the spillover of domestic violence as it impacts organizations. This allows for a greater understanding of the decision making by the various stakeholders of plaintiffs, defendants, and judges. The cases were purposefully selected to illustrate the legal and ethical aspects of this issue.

The purpose of this study was to develop a framework for understanding the legal and ethical issues involving domestic violence spillover into the workplace. By analyzing litigated cases taken from various laws covering domestic violence, we aimed to determine whether the laws were sufficient for addressing real problems of domestic violence spillover in the workplace. Ethical models for decision making rarely include a role for the law, or if the law is mentioned, it is set as a boundary constraint (Christensen 2008). Therefore, we address this limitation by examining ethicality in litigated cases. Although justice may be sufficient in court, while in the workplace employees should expect more. They should expect that employers would provide more than justice, and that employers would exhibit virtues such as empathy, compassion, and loyalty. These litigated cases were examined through specific ethical

lenses often used in business contexts. The importance of this study is that it examines the intersection of law, ethics, and human resource management as it relates to domestic violence spillover into the workplace.

WHY THIS IS A BUSINESS ISSUE

Domestic Violence Prevalence and Costs

Domestic violence is a pervasive issue that extends across cultural, ethnic, and socioeconomic groups (Smith and Orchiston 2011). It has become widely recognized as a serious human rights issue that concerns all sectors of society (Garcia-Moreno et al. 2006; Heise 1996; Joachim 1999; Mayhew et al. 2007). In the United States, 24 percent of adult women and 14 percent of adult men have been physically assaulted by a partner at some point in their lives. It is the most common cause of injury for women ages 18–44. In addition, it leads to an increased incidence of chronic disease: Abused women are 70 percent more likely to have heart disease, 80 percent more likely to experience a stroke, and 60 percent more likely to develop asthma (Pearl 2013).

This issue can have serious consequences for the workplace as “the workplace often serves as a location where a perpetrator can readily access or locate an intended victim” (Jacobs and Raghu 2010). According to the U.S. Bureau of Labor Statistics, in 2012, 21 percent of all work-related homicides of women (3 percent of work-related homicides of men) were caused by a relative or domestic partner (U.S. Department of Labor 2014).

Domestic violence does not have to take place at the workplace facility to affect workplace performance. Nearly a quarter of employed women report that domestic violence has affected their work performance at some point in their lives. Each year, an estimated 8 million days of paid work is lost in the United States because of domestic violence. Domestic violence costs \$8.3 billion in expenses annually: a combination of higher medical costs (\$5.8 billion) and lost productivity (\$2.5 billion) (Pearl 2013). Employers are seeing an increase in civil litigation cases for various violations of state and federal laws, such as wrongful discharge, negligence, and failure to warn or protect (Perin 1999).

Domestic Violence and Productivity Issues

Domestic violence can have a significant impact on the work behavior of the victim. Negative consequences include increased absenteeism, reduced performance and work productivity, and increased turnover (Schmidt and Barnett 2012). Reasons for increased absenteeism often include addressing emotional and/or mental issues, addressing physical injuries, attending court or legal proceedings, hospital/medical visits, rest and recovery post incident, visiting a police station, and addressing relationship issues with a partner. It can also include complying with the partner's demand not to attend work, moving or making relocation arrangements, and/or avoiding the partner's harassment through either phone calls at work or avoiding coming into contact with the partner at the workplace.

Issues with regard to reduced performance and work productivity often stem from difficulty concentrating while at work, being unable to focus, experiencing feelings of distress, dealing with exhaustion, being preoccupied with thoughts that might be centered on the most recent violent episode, or in some cases, being preoccupied with worry over the next form of communication with the partner, or even fearing that the workplace is no longer a safe place (Banyard et al. 2011; Schmidt and Barnett 2012).

Finally, domestic violence can have negative consequences on a victim's employment in the form of turnover. The rate of job loss for victims of domestic abuse has been reported to be between 24 and 52 percent. Victims may be fired from work due to absences, workplace disruptions, performance problems, or prejudice (Finlay 2012; Franklin 2011). As an example, a teacher in California, and a victim of domestic violence, was fired from her job because her abusive husband invaded the school parking lot and put the school on lockdown. While her abuser was sent to prison, she was also punished for his crime by losing her employment (Covert 2013a).

WHY THIS IS A LEGAL ISSUE

As previously indicated, employers face a variety of legal bases concerning domestic violence spillover into the workplace. Below, we identify and describe various laws that theoretically would provide

protections for victims and responsibilities for employers (Pollet 2005). Relief can also be pursued in the form of civil/tort actions. This entails the situation in which someone suffered loss or harm but not necessarily because of a crime. To prevail, the domestic violence victim must show that the action or lack of action was the cause of the harm.

Violence Against Women Act

The VAWA is a federal law aimed at ending violence against women and remedying the laws and social practices that have fostered and justified violence against women. VAWA focuses on nine specific areas of intervention: enhancing judicial and law enforcement tools to combat violence against women (Title I); improving services for victims (Title II); services, protection, and justice for young victims of violence (Title III); strengthening America's families by preventing violence (Title IV); strengthening the healthcare system's response (Title V); housing opportunities and safety for battered women and children (Title VI); providing economic security for victims (Title VII); protection of battered and trafficked immigrants (Title VIII); and safety for Indian women (Title IX).

Discrimination and Domestic Violence

Title VII of the Civil Rights Act of 1964 prohibits discrimination against individuals in the workplace based on race, color, religion, sex, or national origin. This act applies to victims of domestic violence because the negative job consequences have a disproportionate impact on female employees. In 2013, the EEOC published explicit guidelines for employers to handle issues involving employees or applicants who are victims of sexual assault, domestic or dating violence, or stalking (Oliveira 2013).

While Federal laws provide domestic violence leave protection, many states have chosen different ways to have increased protections for individuals who have suffered from domestic violence. Seven states, California, Connecticut, Hawaii, Illinois, New York, Oregon, and Rhode Island, have laws that bar employment discrimination against victims of domestic abuse or sexual assault (Covert 2013b).

Family and Medical Leave Act

The FMLA technically provides leave for employees to attend to severe medical problems. However, there are a variety of shortcomings in the FMLA. Under the FMLA, employees are not entitled to take the leave that is necessary to leave their abusive partners. In addition, the victim's injuries may not fall under the definition of a serious medical condition and therefore, the employee may not be able to take the necessary time off from work.

Several states including California, Florida, Illinois, Washington, and Washington, DC have created laws that grant domestic violence victims the right toward taking a leave of absence (Guerin 2015). Specifically, these state laws grant domestic violence victims the right to unpaid leave, the right to accommodation, increased unemployment insurance, and workplace restraining orders (Stone 2010). However, in states that have not enacted domestic violence employment laws, employers are within their right to fire the employee victim.

Americans with Disabilities Act

The ADA prohibits discrimination based on disability; however, it does not prohibit discrimination against applicants or employees who experience domestic or dating violence, sexual assault, or stalking. Therefore, potential employment discrimination and retaliation against these individuals may be overlooked (http://www.eeoc.gov/eeoc/publications/qa_domestic_violence.cfm). There are however, situations in which the ADA may still apply to employment situations involving employees who experience domestic or dating violence, sexual assault, or stalking. The EEOC gives an example of a female employee, suffering from major depression after being stalked by an ex-boyfriend, who works in the same office building. She sought reasonable accommodation by requesting a transfer to a different location.

The ADA prohibits different treatment or harassment at work based on an actual or perceived impairment, which could include impairments resulting from domestic violence. The ADA may require employers to provide reasonable accommodation requested for an actual disability or "record of" a disability. A reasonable accommodation is a change in the workplace or in the way things are usually

done that an individual needs because of a disability and may include time off for treatment, modified work schedules, and/or reassignment to a vacant position. Failure to accommodate the employee may violate the ADA, unless the employer can show that the accommodation creates an undue hardship on its operations.

Social Security Disability

Social Security Disability may potentially offer some form of protection for victims of domestic violence. However, there are several parts that must be considered, including an understanding of who is eligible for Social Security retirement, Social Security disability, and Social Security supplemental income.¹ In terms of its impact on the employer, Social Security retirement benefits have a different impact than Social Security disability benefits or supplemental Social Security benefits. This impact is in part contingent on the possibility of whether the domestic violence victim collecting Social Security disability benefits is re-employable, though not necessarily by her/his previous employer.

A person can collect Social Security under a spouse's, or former spouse's, account without the approval of the spouse or former spouse (*Elwanda Faye Futrell Adams v. Ronnie Gale Adams* 2013). In addition, dependent children might also be entitled to benefits, which reduce the reluctance on the part of the victim to leave the abusive situation. Whether there is personal coverage for Social Security benefits may also be a factor (Johnson 2010). Finally, comorbidity may be a part of the context of eligibility, especially since victims of domestic abuse may also experience alcohol and drug abuse as well as depression (Barlow 1998; Hunt and Baumohl 2003; Von Wachter et al. 2011). If a victim of domestic violence qualifies and decides to receive Social Security Disability, the employer loses a potentially valued employee. In addition, there could also be a significant disruption experienced in the workplace as the employee victim makes the transition from employment to Social Security Disability.

Occupational Safety and Health Act—Tort Negligence

In addition to the legal basis related to the workplace, an individual may pursue relief in the form of tort actions. A tort can be

intentional, but is more likely to result from carelessness or negligence. It is a civil rather than criminal wrong. Briefly, this entails a situation in which someone suffered loss or harm but not necessarily because of a crime. In order to prevail, the individual must show that the action or lack of action was the cause of the harm.

Under the General Duty Clause of the OSHA, employers are required to provide their employees with a place of employment that “is free from recognized hazards that are causing or are likely to cause death or serious harm to employees” (www.osha.gov). This, therefore, presents the employer with a legal obligation to implement a workplace violence prevention program combined with engineering and administrative controls, and training, should acts of violence have occurred in the workplace, or the employer has been made aware of threats, intimidation, or other indicators showing the potential for violence in the workplace (www.osha.gov).

This aspect of the general duty clause has been linked to the notion that employers should shoulder responsibility for ensuring the protection of their employees who are victims of domestic violence (Gaffen 2010). Particularly since reports indicate that a high percentage of victims of domestic violence experience harassment by their abusers while at work (Corporate Alliance to End Partner Violence) and corporate security directors often report partner violence as a high security problem in the workplace. According to Porter (2006) and Gaffen (2010), in order to establish a duty to protect, a plaintiff must prove “(1) that there were warning signs of the violence act; (2) that if the company had been paying attention, it would have noticed the warning signs; and (3) the company could have minimized or prevented the violence” (Gaffen 2010, pp. 6–7).

WHY THIS IS AN ETHICAL ISSUE

While these existing laws could theoretically offer protections for victims of domestic violence that spillover into the workplace, it is apparent that there are also several limitations and shortcomings within these laws. These potential deficiencies create a genuine concern for this severe problem and if a company wishes to be recognized as a good ethical corporate citizen, a corporation that cares about its employees, and a good place to work, then simply meeting legal requirements will not suffice. Employers must take it upon

themselves to deal with this issue in a more effective, more ethical manner.

The recognition of being a good ethical corporate citizen can lead to many positive outcomes for the organization such as employee retention and higher productivity. Thus organizations should use sound ethical reasoning in their interactions with employees and other stakeholders. Ethics should therefore play a role in organizations because laws are often absent or insufficient to guide morally complex decisions (Carroll 1989; Stone 1975; Weiss 1994).

Hosmer (1991) offers five major characteristics of ethical problems that show the complexity of managerial decision making: (1) most ethical decisions have extended consequences, (2) most ethical decisions have multiple alternatives, (3) most ethical decisions have mixed outcomes, (4) most ethical decisions have uncertain consequences, and (5) most ethical decisions have personal consequences. Weiss (1994) further notes that business ethics deals with what is "right and wrong" in business decisions, behavior, and policies. Therefore, business ethics provides principles and guidelines that assist in making informed choices to balance economic interests and social responsibilities.

Domestic violence spillover in the workplace is just such an issue that illustrates all of the above points. To the extent that companies stay within the law and abide strictly by legal requirements, victims dealing with issues such as domestic violence spillover in the workplace will realize minimal protections.

ETHICAL DECISION-MAKING FRAMEWORK

While there are many approaches to making decisions about moral dilemmas, we will limit our discussion to rights and virtue models. Both of these moral principles examine morality from a different perspective. The rights principle focuses on the methods, whereas the virtue principle focuses on the character traits of the person performing the action (Baker 2008; Schumann 2001; Velasquez 1996; Whittier et al. 2006).

Thus, each moral principle focuses on a different perspective, as no principle by itself is sufficient to look at the whole picture of ethical behaviors, and each theory is considered morally acceptable (Hinman 2003; Postow 2007; Velasquez 1996). By analyzing these

principles together, “we are more likely to consider the relevant moral issues in reaching a judgment about human resource management ethics” (Schumann 2001, p. 96). Each principle will be described briefly followed by how they relate to the issue of domestic violence spillover in the workplace.

Rights Principle

The moral rights principle evaluates the means to the ends (methods) for ensuring ethical conduct. Therefore, fundamental to the moral rights theory is that equal respect must be given to all individuals. The theoretical aim of moral theory has to do with coming to an understanding about the underlying nature of right and wrong, and good and bad. An action is right if and only if (and because) the action does not interfere with the well-being of those individuals who are likely to be affected by the action (Timmons 2013).

When analyzing the cases, it has to be established who has the alleged right, what actions or states or objects the asserted rights pertain to, why the right holder (allegedly) has the right, and how the asserted right can be affected by the right holder's actions. This is made more understandable through the use of stakeholder analysis. Stakeholder analysis enables individuals to map and manage corporate relationships with groups who affect and are affected by the corporation's policies and actions. A stakeholder is any individual or group who can affect or is affected by the actions, decision, policies, practices, or goals of the organization (Weiss 2014). Moral rights are based on legal rights and on the principle of duties. My moral right implies that you have certain duties toward aiding—or at least not obstructing—my rights (Weiss 2014). Using the principle of rights in a stakeholder analysis is particularly useful when conflicting legal and/or moral rights of individuals occur or when individual and group rights may be violated if certain courses of action are pursued (Velasquez 1998; Weiss 2014).

In the case of domestic violence spillover into the workplace, the rights of one person can conflict with the rights of others. This is critical considering that the duty to protect an employee victim might conflict with the duty to protect other employees and customers from any spillover effects. To resolve conflicting rights, the employer must “identify the competing interests, judge which

interest is more important, and then give precedence to the right that protects the more important interest" (Schumann 2001, p. 100).

Virtue Principle

The virtue principle is a system of thought that focuses on the individual becoming virtuous. It emphasizes the evaluation of a person's character as the basis of his/her morality. According to the virtue principle, a virtue can be roughly described as (1) a relatively fixed trait of character or mind, (2) typically involving disposition to think, feel, and act in certain ways across a range of different circumstances, and which furthermore (3) is center in the positive evaluation of the moral worth of persons (Timmons 2013).

Virtue ethics is mostly "agent-centered" rather than "act-centered," which is concerned with being rather than doing (Timmons 2013). However, a virtue can be defined as a trait characteristic that manifests itself in the actions of the individual (MacIntyre 1981; Rachels 1999). We have chosen to use the following established virtues in our analysis of virtue ethics: conscientiousness, cooperativeness, courage, empathy, fairness, generosity, industriousness, loyalty, moderation, self-control, self-reliance, tolerance, trust, and truthfulness (Ferrell et al. 2009; Rachels 1999; Schumann 2001).

In dealing with an ethical problem of domestic violence spillover into the workplace, using the virtue approach, we might ask, "What kind of organization should it be?" What will promote the development of character within the organization and its community? Did the employer behave honestly? With integrity? With Care and compassion? With Generosity?

Through reviewing the context of the cases, we discerned the virtues (possessed, sought, and attained) manifested in the behaviors of the individuals involved. Virtue ethics would involve reciprocity whereas the victim would possess certain virtues, seek reciprocity, and attain them in the process of the business exchange. Similarly, the agent of the organization would possess certain virtues, seek reciprocity, and attain them in the process of the exchange as well. According to Ferrell et al. (2009), "these virtues, including truth, trust, tolerance, and restraint can play a role in the functioning of an individualistic, contractual economy and

create obligations that make social cooperation possible” (p. 157). This would be applicable for the individual victim, the employer, and subsequently in the courts.

In summary, the difference between the rights and virtue ethics is that the focus shifts from what a person should do (rights) to who the person is (virtue) as a reflection of how they ought to behave (Hartman and Desjardins 2008). Thus, moral rights focus on the decisions and the effects on the victim, coworkers, and the organization. Moral rights evaluate the means to the ends for assuring ethical conduct. It is designed to guide actions and decisions (Carroll and Buchholtz 2000) and answer the question “what should I do?” Virtue ethics focuses on the character of the decision makers and the organization and answers the question “Who am I? or “What are we?”

In the case of domestic violence spillover into the workplace, employers would be expected to be proactive and provide a safe working environment before the domestic violence has a chance to spillover. In addition, the employer would be expected to provide accommodation for workers who had experienced domestic violence.

METHODOLOGY AND APPLICATION OF ETHICAL THEORIES TO REAL LIFE DOMESTIC VIOLENCE SPOILOVER INTO THE WORKPLACE

We describe six litigated cases involving domestic violence spillover in the workplace. Each case was selected because it illustrates one of the following major legal bases: VAWA or state equivalent, discrimination, FMLA, ADA, social security disability, and tort negligence.

The analysis illustrates how applicable law is insufficient in providing protections needed for safe and fair working environments. We chose cases that illustrate the problem of companies meeting the legal standards, but not necessarily reaching ethical expectations. We then analyze each case through the rights and virtue principles.

VAWA or State Equivalent Laws

In the case of *Cummings-Fowler v. Suffolk County Community College* (SCCC) 2010, Dr. Cummings-Fowler claimed a hostile work environment, discrimination, and retaliation. Our study focuses on the alleged retaliation complaint. This case was filed with the New

York State Division of Human Rights, which provides protection from retaliation against domestic violence victims. This case was selected to illustrate that even when there is extreme physical violence, a victim might not have sufficient legal protections. When taking an ethical perspective, most people would empathize with the victim and consider the organization morally deficient. It also illustrates the problem of when the victim and the perpetrator are both employed by the same organization.

Mr. Fowler was verbally and physically abusive to the plaintiff and her daughters. Dr. Cummings-Fowler had three orders of protection against Mr. Fowler. However, Mr. Fowler was hired by SCCC as a proctor anyway. After Dr. Cummings-Fowler informed Security about the order of protection, Mr. Fowler was then terminated in such a manner that he would blame her for his dismissal.

Dr. Cummings-Fowler's claim under the New York Human Rights Act for retaliation was that SCCC hired her husband in retaliation for her filing a previous discrimination action against the College. They then terminated him. Upon receiving the termination letter, he drove to her home, kicked open the door and shot her ten times, although not fatally. However, the court ruled that she failed to offer evidence that demonstrated that the hiring of her husband was a retaliatory act.

In this case, the victim sued to attain her rights under New York Human Rights Law. She did not prevail in her retaliation lawsuit, but her ex-husband was incarcerated. The College prevailed in the retaliation lawsuit, since the court ruled that the plaintiff failed to produce evidence from which a rational jury could conclude that defendants' reasons were pretext for retaliation. While the College prevailed in meeting the legal standards, arguably, more could have been done by the organization in an ethical capacity.

ETHICAL ANALYSIS

Rights Principle

First we examine who has rights, what actions or states or objects the asserted right pertains to, why the rightholder (allegedly) has the right, and how the asserted right can be affected by the rightholder's actions. In terms of who has rights, the victim and the

company have rights. The victim has the right to expect a safe work environment, free from hostility, and safe from retaliation for exerting rights under the law. The organization has the right to hire based on objective qualifications and to maintain a harmonious and safe workplace. In addition, the organization has the right to hire and fire at will in the state of New York. The organization had a duty to enforce the protection orders. It should be more than a privilege, since the organization has a duty. Since the victim requested, but could not require, the organization to refrain from writing the letter of termination with her being attributed as the reason for the firing, the organization has no accountability. This was subsequently ruled by the court. The victim had the moral right to not be targeted in the letter of termination, after she informed them that it was a dangerous approach. However, there was no legal right to expect such a privilege.

Virtue Principle

Second, we examine virtue in terms of what are virtuous behaviors as discussed above and in Table 1 (Dobson 2007; Ferrell et al. 2009; Rachels 1999; Schumann 2001). Through reviewing the context of the case, we discerned the virtues (possessed, sought, and attained) manifested in the behaviors of the individuals involved. Dr. Cummings-Fowler, the victim of the domestic violence spillover, possessed the virtues of courage and self-reliance. The agents of the organization possessed the virtue of conscientiousness. The victim sought cooperativeness, empathy, fairness, and loyalty. The agents sought cooperativeness, fairness, industriousness, and truthfulness. The victim attained none of the virtues she sought. The organization attained industriousness and truthfulness.

Discrimination/Title VII

This case illustrates the situation of prior victimization combined with supervisor sexual harassment. The case has been cited in another case as an example in which the court engaged in "extraordinarily sensitive and comprehensive analysis necessary to assess a total set of workplace circumstances," (*Flowers v. Northern Middlesex YMCA*) meaning prior victimization can be used

TABLE 1 Summary of Assessment of Virtues Possessed, Sought, and Attained

	Conscientiousness	Cooperativeness	Courage	Empathy	Fairness	Generosity	Industriousness	Loyalty	Moderation	Self-control	Self-reliance	Tolerance	Trust	Truthfulness
1. Cummings-Fowler v. Suffolk County Victim		y	x	y	y			y			x			y, z
Agents of organization	x	y			y		y, z							
2. Pryor v. Jaffe Victim			x	y	y			y	y					y
Agents of organization														
3. Catherine Carr v. the Boeing Co. Victim			x	y	y			y			x			y
Agents of organization		y			y	y, x								y, z
4. Lawtone-Bowles v. the City of New York- Victim			x	y	y						x	y		y, z
Agents of organization					y, z		y							
5. Perry v. Colvin Victim			x		y, z						x			y
Agents of organization					y									
6. Sabric & Sabric v. Lockheed Victim		y			y						x		x	y, z
Agents of organization		y			y, z		y					x		y

x, possesses; y, sought; z, attained.

within the context of the Court's decision making. If a company wants to approach decision making in an ethical manner, it needs to be more empathetic to employees' emotional needs.

In the case of *Pryor v. Jaffe*, 2014, Katherine Pryor worked for Jaffe and Asher, a law firm in New York and reported to Jeffrey Tseng. She informed her superiors, including the defendant that she was a victim of an episode of domestic violence and she was still suffering the physical and emotional effects of that incident.

According to Pryor, Tseng invited her to join him at a bar after work. During this time, Tseng stroked the Plaintiff's hand in what she described as a sexually suggestive fashion. When she attempted to leave, he tried to embrace her and to kiss her on the neck. The Plaintiff tried to pull away from him but Tseng forcibly pulled her back. Pryor suffered extreme emotional distress due to this incident, and her psychologist advised her that returning to work would have adverse health consequences.

Pryor filed seven claims for relief, including a hostile work environment, and constructive discharge based on gender discrimination and domestic-violence victim discrimination, and common-law battery. Pryor claims that Tseng took advantage of his knowledge of the domestic violence incident and played a role in prompting discriminatory conduct. He then made her workplace a hostile work environment. This led to her charges of constructive discharge, whereby they intentionally created a work atmosphere so intolerable that the individual was forced to quit involuntarily. The defendants did not dispute this. They just ignored it in the court pleadings. The law firm issued a motion to dismiss several of these claims. The court denied their request.

Legally, she may be protected by Title VII gender discrimination and domestic violence discrimination laws. Since this is an ongoing case, she is still able to pursue her legal rights. However, the organization should have exhibited better moral behavior, if it wants to be perceived as a socially responsible organization.

ETHICAL ANALYSIS

Rights Principle

In this case, the victim expected a safe work environment, free from hostility and sexual harassment. The organization did not

meet this expectation, nor did they offer a defense in justifying this behavior. According to the rights principle, the victim had an expectation to be treated fairly. Her employer should not take advantage of the knowledge that she was the victim of domestic violence. She should not be made to feel that her work environment is so intolerable that she has to quit.

Virtue Principle

As shown in Table 1, the victim possessed the virtue of courage. The victim sought empathy, fairness, loyalty, self-control, and truthfulness. She has not yet attained any of the virtues sought. In order for the organization to be perceived as a virtuous organization, the decision makers and agents of the organization should have protected Ms. Pryor as a valued stakeholder. They should have demonstrated empathy, integrity, care, and compassion.

Family and Medical Leave Act

This case demonstrates that even when a victim seeks protection under legal bases and even when a victim has multiple psychological and physical conditions, she or he may not have sufficient protections to prevail. In the case of Catherine Carr v. the Boeing Co., the plaintiff was a manufacturing technician for Boeing. Ms. Carr brought this lawsuit because she was terminated from her job due to excessive absences. She was both a victim of domestic violence and sexually harassed in the workplace. She had a diagnosis of depression, anxiety, and posttraumatic stress disorder (PTSD). She also had a rib contusion because of the domestic violence.

Carr sought protection under the FMLA. The contention of the company was that Carr had exhausted her FMLA leave and missed work subsequently without approval. She also sought protection under the Domestic Violence Leave Act from the State of Washington. However, under this law an employee has to give advance notice of intention to take a leave, which she did not do. This case hinged on her failure to give advance notice and missing approximately one-third of the workdays during the time in question. She also claimed protection under the Washington Law Against Discrimination. She claimed retaliatory discharge, but the company

contended that they were not retaliating against her for asserting the rights, but for missing work after her requested leave had been denied. The court found in favor of the company and upheld the discharge.

ETHICAL ANALYSIS

Rights Principle

In this case, the victim, and the organization are alleged to have rights. The victim has the right to expect a safe work environment, free from hostility, and safe from retaliation for exerting rights under the law. The organization had a right to be notified of her inability to report to work.

Morally, the victim has the right to be treated fairly under the FMLA, in that she should be granted time off, both for her physical condition due to the domestic abuse and for her mental conditions, depression, anxiety, and PTSD. She has a right to not be sexually harassed under Title VII. She also has a right to not be retaliated against for pursuing protections under these laws. The organization has duties to comply with the above-mentioned applicable laws. She sued under several laws: the FMLA, and the Domestic Violence Leave Act in the State of Washington and for retaliatory discharge, but she did not sue for sexual harassment. She is not asserting all of the rights she is entitled to assert. Legally, Boeing prevailed in the discharge and retaliation lawsuit components because she did not give advance notice and missed work. Ethically, Boeing arguably failed to provide a safe work environment.

Virtue Principle

The victim possessed courage and self-reliance. The victim sought empathy, fairness, loyalty, and truthfulness. She did not attain any of the virtues sought. According to the case analysis, the agents of the organization sought, cooperativeness, fairness, industriousness, and truthfulness. They attained industriousness and truthfulness. The agents of the organization failed to provide care and compassion and generosity or leniency in working with the employee who was a victim of domestic violence. The agents of the

organization and culture of the organization can seek/promote virtue, but did not appear to do so in this case.

Americans with Disabilities Act

Like the case above, this case was selected to show that even when domestic violence victims have multiple bases for protection and apply under multiple laws including the ADA, they are not sufficiently protected. Additionally, even though it might seem reasonable on the surface for a person to be protected, the legal basis might not be enough for a company to be considered ethical and concerned about its workers. In the case of *Nicole Lawtone-Bowles v. the City of New York, Department of Sanitation*, she worked for the Department of Sanitation (DSNY) in a probationary capacity as a Sanitation Enforcement Agent. She alleged that her termination arose from discrimination based on age, arrest record, conviction record, disability, domestic violence victim status, marital status, race, ethnicity, and sex, and that her termination was also due to unlawful retaliation for a complaint that the plaintiff had filed against other DSNY employees before she was fired. On June 6, 2012, the plaintiff was suspended from her employment. On June 12, 2012, the plaintiff's probationary employment with DSNY was terminated. She sought accommodation under ADA, Title VII and the ADEA among other legal protections.

The state court concluded that there was no evidence that she had been terminated because of any associated disability or for any unlawful reason and therefore the issues underlying the plaintiff's ADA claims for discrimination, retaliation, and failure to accommodate under the ADA were dismissed.

ETHICAL ANALYSIS

Rights

The victim and the company have rights. Under the ADA, the victim has the right to reasonable accommodation because of a disability, which may include time off for treatment, a modified work schedule, and/or reassignment to a vacant position. The organization has the right to show that the accommodation creates an

undue hardship on its operations, or that they are under no obligation or duty by the ADA to protect or make accommodations for victims of domestic or dating violence. Therefore, the organization has no accountability, or can show that the employee was terminated for a reason other than the disability. This was subsequently ruled in the court.

In this case, the victim sued to attain her right under the ADA for reasonable accommodation. However, she did not prevail in her lawsuit. The organization prevailed since there was no evidence that she had been terminated for a disability or for any unlawful reason under the ADA.

Virtue

Through reviewing the context of the case, the victim possessed the virtues of courage and self-reliance. The victim sought empathy, fairness, and tolerance. She did not attain any of the virtues sought. According to the case analysis, the agents of the organization sought fairness, industriousness, and truthfulness. The organization attained fairness and truthfulness. Furthermore, the agents of the organization had an opportunity to provide the employee victim with cooperativeness, care, compassion, and tolerance.

Social Security Disability

Sometimes no specific employer is involved in litigation, but the protection is more of a societal issue. For example, the victim may have experienced domestic violence as a child, yet it can continue to affect their entire life. This case was selected for just such a reason. In *Perry v. Colvin, Acting Commissioner of Social Security* (2015), Ms. Perry was the victim of domestic violence during childhood. She has worked as an assistant preschool teacher, cashier, sales associate, and unlicensed daycare provider. She alleges disability based on her bipolar disorder, depression, anxiety, and PTSD, which have prevented her from having worked for 7 years. She has poor memory because of trauma, problems with concentration because of flashbacks, and is unable to accept criticism without crying. Her condition was linked to sexual abuse she

experienced as a child. The finding in this case was that her original denial of social security disability benefits was reversed and the case was remanded for further administrative review. This case is somewhat dissimilar to the other cases, because there is no employer. However, her prior domestic abuse certainly spilled over into the various employments that she had over the years.

ETHICAL ANALYSIS

Rights Principle

In this case, the victim pursued her rights under the Social Security Disability. Unlike the other cases, the organization is not an employer, but rather, the focus is on the Social Security Administration. Morally she has a right to expect income protection. She has rights under the Social Security Disability Act but also as a matter of public policy under the Equal Protection Clause of the Fourteenth Amendment of the United States Constitution.

Virtue Principle

The victim possessed courage and self-reliance. She sought fairness and truthfulness. She attained fairness. The court case did not provide information regarding virtues possessed by the organization. The organization sought fairness and truthfulness and attained truthfulness.

Tort Negligence

Even in a case where the victim of the violence is killed in the workplace and the coworkers knew about the possibility of violence, the estate of the victim does not always prevail. This case was selected to illustrate what must happen to protect victims of domestic violence, namely the possibility of violence must be communicated to the appropriate managerial employees. In the case of Andrew Sabric and Genevieve Sabric, Co-Executors of the Estate of Deborah Bachak v. Lockheed Martin; U. S. Security Associates, Inc., Deborah Bachak was an employee at Lockheed Martin when she was shot and killed by George Zado Inny who was a guard

employed by U.S. Security. Bachak and Inny were formerly involved in an intimate relationship and had been engaged until Bachak ended the relationship some months before the shooting. Bachak was shot and killed by Inny while on her shift.

The co-executors of the Estate of Deborah Bachak sued both Lockheed Martin and U.S. Security Associations, Inc. for a variety of claims including negligence, assault, and battery, vicarious liability, wrongful death, and a survival action. The plaintiffs argued that Lockheed and U.S. Security breached their duties owed to Bachak to protect her and/or prevent Inny's criminal conduct.

To prevail on a negligence claim, the plaintiff must establish that the defendant owed a legal duty to the plaintiff. In addition, there must be evidence of foreseeability. According to the facts, several of Bachak's coworkers knew about Inny's abusive and harassing behavior towards Bachak. However, Inny's conduct was never reported to management or the company's Human Resources Department. As a result, there was no evidence to support that either company had reason to know of the threat to Bachak's safety. Therefore, the companies did not owe Bachak a legal duty to protect. As a result, the court granted summary judgment for both defendants.

ETHICAL ANALYSIS

Rights

The victim and the company have rights. Under the Occupational Safety and Health Act, the victim has the right to a safe working environment that is free from recognized hazards that are causing or are likely to cause death or serious harm to employees. Under tort negligence, the victim may pursue relief if he/she suffered loss or was harmed due to an action or lack of action in which the organization was careless or negligent. The organization has a duty, legal obligation, to provide a safe working environment, as well as to implement a workplace violence prevention program. This is especially true should acts of violence have occurred in the workplace, or the employer has been made aware of threats, intimidation, or other indicators showing the potential for violence in the

workplace. This can be aided if employees are trained in risk assessment for possible violence.

In this case, the co-executives of the estate of the deceased victim claimed that the organization was negligent and breached their duties owed to the victim to protect her and/or prevent the perpetrator's criminal conduct, which occurred on site. However, to prevail on a negligence claim, the plaintiff must establish that the defendant owed a legal duty to the plaintiff. In this case, the plaintiff owed a legal duty to provide a safe working environment, however, there must be foreseeability, in which case there was no evidence to support that management and/or the human resources department of the company was ever made aware of the threat to the victim's safety. Therefore, the court ruled that the company did not owe the victim a legal duty to protect.

Virtue

Through reviewing the context of the case, the victim possessed the virtues of tolerance and trust. There is evidence in the case indicating that the victim downplayed the situation and asked a coworker twice to "leave it alone" and not report the perpetrator to the human resources department. The virtues sought on behalf of the victim included conscientiousness and fairness. The victim (co-executors) did not attain any of the virtues sought. According to the case analysis, the agents of the organization sought conscientiousness, cooperativeness, fairness, industriousness, and truthfulness, and according to the decision of the court, they attained fairness. However, the agents of the organization should have more appropriately demonstrated conscientiousness and industriousness in training and ensuring the safety of their employees.

SUMMARY

This article examined the financial, legal, and ethical issues involving domestic violence spillover into the workplace by analyzing cases that were litigated under six different laws. We provide a perspective on the organizational consequences of domestic violence as it spills over into the workplace. This includes consequences to the employee in the form of increased absenteeism and possible job

loss, as well as consequences to the organization in the form of potential loss of productivity and increased turnover.

Each case was intended to be illustrative of the law and associated shortcomings for victims of domestic violence spillover. The cases were then analyzed using two specific ethical principles. The law is only a minimum basis and companies should consider ethical values in their decision making. In the cases that we analyzed, the companies were found to have met the legal requirements of the law. However, in our ethical analysis, we determined they were not meeting higher ethical standards. If companies hold higher standards, the victims of domestic violence will be provided safer workplaces.

Following the suggestion of Greenwood (2013) and Schumann (2001), our analysis delved deeper into the ethical issues involving human resource management with a differentiated ethical approach. We focused specifically on two ethical theories, the moral rights principle and the virtue principle.

DISCUSSION

Since the law is not sufficiently protecting individual victims of domestic violence spillover into the workplace, additional legal protections are necessary (Finlay 2012; Guerin 2013). Among these protections should be antidiscrimination and retaliation legislation for victims of domestic violence. These protections currently exist in some states. Furthermore, many municipalities and states are enacting more comprehensive protections for victims of crimes in general, not just victims of domestic violence. With additional legal protections, survivors of domestic violence may be more willing to share information with their employers.

Recently the EEOC reminded employers that they should consider Title VII protections when dealing with employees who experience domestic, dating, or other sexual violence. Furthermore, unemployment insurance benefits are also considered a crucial part of the safety net (Jacobs and Raghu 2010). This is because victims of domestic violence are often laid off and may have to rely on employment insurance.

Some human resource management issues are difficult to address because the individual values privacy and may be

ashamed of the situation. Therefore, even though a company would be willing to allocate resources to the victim, they may not have sufficient knowledge. The organization has to be perceived as being approachable and caring for the individual to share their needs.

Increasingly, employers seek to be recognized and designated as socially responsible. An integral part of this concept would include the treatment of victims of domestic violence. Organizations can develop this socially responsible culture as a part of their managerial philosophy and encourage all stakeholders within the company to view domestic violence from both a legal and ethical perspective.

LIMITATIONS AND FUTURE RESEARCH

A limitation of research involving court cases is that there is not necessarily complete information on each case. However, this approach allows for analysis of various contexts. It is necessary to intuit the virtues possessed, sought, and attained in the individual cases to help understand the complexity of the individual/organization exchange relationship. Furthermore, research on litigated cases has become a fruitful source for understanding ethical and societal factors.

Future research should be directed toward the analysis of more litigated cases and ethical perspectives. In addition, research should be encouraged to find ways to alleviate the practice of unethical treatment of domestic violence victims. Moreover, research should evaluate other contexts in which ethical values come into play such as litigation due to hiring, compensation, or employee relations disputes. Situations which are resolved voluntarily by the company or the police may not result in litigation. Therefore, future research may use police, arbitration, mediation, or employee assistance plan reports for analysis.

Finally, additional research should be directed towards the advancement of Christensen's (2008) perspective regarding the relationship between law and ethics. She contends that the law is only a minimum basis for decision making and companies should consider ethical values in their policy decisions. Additionally, there should be ethical-oriented training, given that the laws are insufficient in themselves to protect individuals. With the implementation

of ethical decision making, employees and organizations are both likely to realize positive outcomes.

NOTE

1. Social Security Disability Insurance pays benefits to the insured and certain members if you are “insured,” meaning that you worked long enough and paid Social Security taxes. Supplemental Security Income pays benefits based on financial need.

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