
LEGAL AMBIGUITIES IN DISTINGUISHING WORKPLACE BULLYING IN TAIWAN: A CASE STUDY OF THE MILITARY CONTEXT

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ABSTRACT

This article focuses on the military context to examine the legal ambiguities surrounding the identification of workplace bullying within Taiwan's armed forces. With the enactment of the workplace bullying prevention chapter under the Occupational Safety and Health Act, which came into force in July 2026, psychological safety has been formally incorporated into the core framework of occupational safety protection. This legislative development has also brought renewed attention to the particular difficulties involved in identifying bullying within the military system. Notably, the Occupational Safety and Health Act does not apply to military personnel, nor does Taiwan currently have legal provisions specifically designed to address workplace bullying in military settings. By comparatively analyzing the definitions of bullying found in campus regulations, the civil service system, and labor law, this article distills the shared core elements of bullying under the law in Taiwan. These elements include structural power imbalances, inappropriate conduct, actions exceeding reasonable and necessary bounds, the creation of a hostile or unfriendly environment, an emphasis on continuity in principle, and infringements upon personal dignity as well as mental and physical well-being. The article further observes that the hierarchical structure and culture of obedience inherent in military organizations tend to conceal bullying behaviors under the guise of discipline and management. To address this challenge, the article proposes a layered evaluative framework based on factors such as the necessity of the official purpose, proportionality of means, a distinction between task-oriented and personality-oriented conduct, and the application of the "mosaic theory." This framework is intended to assist practitioners in distinguishing legitimate high-pressure management from impermissible abuses of power. In conclusion, the article emphasizes that the effective prevention of workplace bullying in the military depends not only on institutional design but, more critically, on enhancing the awareness and conceptual understanding of bullying among those who exercise authority, so as to prevent high levels of obedience from becoming a mechanism that systematically obscures workplace bullying.

Keywords : workplace bullying, military arena, covert bullying, soldiers, environment.

I. Problem Awareness

In December 2025, Taiwan's legislature passed amendments to the Occupational Safety and Health Act, introducing a dedicated chapter on the prevention of workplace bullying, scheduled to take effect on July 1, 2026. For the first time, the law explicitly imposes on employers a statutory duty to prevent, receive complaints about, investigate, and address workplace bullying, while substantially increasing administrative penalties for non-compliance, with maximum fines reaching NT\$4.5 million. This legislative reform not only challenges the long-standing workplace culture that has tended to rationalize high-pressure, humiliating, or exclusionary behaviors as "normal management practices," but also signifies the State's formal recognition of workers' psychological safety as a core component of occupational safety and health protection.

However, with respect to the scope of application, the Occupational Safety and Health Act remains centered on "workers" within private-law employment relationships. In principle, employees in private enterprises, legal entities, and government agencies fall under the new regulatory regime. Military personnel, by contrast, are appointed pursuant to law and are subject to public-law relationships of command and supervision rather than private employment contracts. As such, they do not qualify as "workers" under the Occupational Safety and Health Act. Consequently, the prevention and handling of workplace bullying in the military context do not directly fall within this statute, but instead revert primarily to regulation under the Civil Service Protection Act.

Even so, notwithstanding differences in the applicable legal frameworks, the essential nature of the conduct targeted by the concept of "workplace bullying" does not substantially diverge. In both contexts, workplace bullying refers to improper treatment that arises from power asymmetries, exceeds what is necessary and reasonable for the performance of duties, and infringes upon personal dignity and physical or psychological integrity. The military environment is not exempt from the risk of bullying by virtue of its special characteristics. On the contrary, its highly centralized command structure, strict hierarchical order, and organizational culture that emphasizes obedience may render bullying behaviors more easily concealed under the guise of discipline, training, or management (Stuart & Szeszeran, 2021).

Accordingly, the critical issue is not whether workplace bullying exists within the military, but whether the legal boundary between "tolerable" high-pressure management and

“intolerable” bullying conduct differs from that applicable to the general workforce. In other words, when a high degree of obedience and exposure to pressure are regarded as inherent elements of military service, how should one determine which behaviors remain within the scope of reasonable occupational requirements and which have crossed the line into workplace bullying? This question is likely to constitute the most controversial and challenging core issue in the recognition and remediation of workplace bullying within the military system.

II. Legal Definitions of “Bullying” in Taiwan

Taiwan’s only statutory framework explicitly denominated as addressing “bullying” is the Regulations on the Prevention of School Bullying, promulgated pursuant to Article 8, Paragraph 5 of the Fundamental Act of Education. However, across different legal domains—including workplace bullying and related forms of bullying—the concept is also addressed in several statutes and subsidiary regulations, as follows:

1. Article 4, Paragraph 1 of the Regulations on the Prevention of School Bullying: “Bullying” refers to continuous acts, committed by an individual or a group, through verbal, written, pictorial, symbolic, physical gestures, electronic communication, the internet, or other means, that directly or indirectly involve intentional behaviors such as demeaning, exclusion, harassment, intimidation, or ridicule against others. Such conduct creates a hostile or unfriendly environment, resulting in psychological, physical, or property-related harm, or interfering with the normal conduct of learning activities.
2. Article 19, Paragraph 2 of the Civil Service Protection Act: Workplace bullying refers to situations in which personnel of a public agency, by abusing authority or opportunity in the course of their duties, repeatedly engage in threatening, offensive, discriminatory, insulting, isolating, or other behaviors beyond the necessary and reasonable scope of work. Such conduct creates a hostile, coercive, or offensive work environment and causes harm to the physical or mental health of public servants. In cases of severe misconduct, repetition is not required.
3. Article 3, Paragraph 3, Subparagraph 3 of the Gender Equity Education Act: Sexual bullying refers to ridicule, attacks, or threats directed at another person’s gender characteristics, gender temperament, sexual orientation, or gender identity through

verbal, physical, or other forms of violence. Such conduct falls under the category of sexual bullying rather than sexual harassment.

4. Article 22-1, Paragraph 1 of the Occupational Safety and Health Act: Workplace bullying refers to situations in which a worker, while performing duties in the workplace, suffers harm to their physical or mental health due to continuous acts of offensive, threatening, neglectful, isolating, insulting, or other inappropriate words or behaviors committed by personnel of the employer, who abuse their authority or position and act beyond the necessary and reasonable scope of business operations. In severe cases, continuity of conduct is not required.
5. Article 8, Paragraph 2 of the Enforcement Rules of the Teacher Act, Article 10, Subparagraph 3 of the Enforcement Rules of the Early Childhood Education and Care Act, and Article 12, Subparagraph 3 of the Enforcement Rules of the Preschool Education and Care Act: “Bullying” in these provisions is defined by reference to the definition set forth in the Regulations on the Prevention of School Bullying.

In summary, although Taiwan’s various legal instruments concerning “bullying” or “workplace bullying”—spanning educational settings, public service systems, and labor law frameworks—differ in legislative basis, scope of application, and regulatory purpose, they exhibit a high degree of conceptual convergence (Cowie et al., 2002). In terms of the constitutive elements of bullying (including workplace bullying), a set of highly consistent and stable core features can nevertheless be identified, thereby forming the substantive contours of the legal concept of bullying in Taiwan. These features are elaborated as follows.

1. The Essential Nature of the Conduct as Improper Treatment Arising from Power Asymmetry

Across school bullying, workplace bullying in the public service sector, and workplace bullying in labor contexts, the central concern consistently lies in situations where perpetrators exploit their identity, status, authority, opportunities, or numerical advantage to exert direct or indirect influence over others. Such power asymmetry may derive from formal authority (e.g., supervisors over subordinates), organizational hierarchy, role-based relationships, or de facto influence, rather than being limited solely to formally assigned managerial orders (Zedlacher & Koeszegi, 2021).

2. Diversity and Non-Exhaustiveness of Behavioral Forms

Across Taiwan's regulatory frameworks on bullying, a consistent approach is the adoption of open-ended enumerations that encompass a wide range of behavioral manifestations, including verbal expressions, written communication, images, symbols, physical gestures, electronic communication, and internet-based interactions. Such regulations further include acts such as threats, offenses, discrimination, insults, exclusion, isolation, harassment, ridicule, neglect, and other inappropriate words or conduct. This design reflects a clear legislative understanding that bullying is not limited to overt physical violence or explicit aggressive behavior. Rather, it also encompasses covert, relational, structural, and psychological forms of harm. In other words, bullying is conceptualized as a multifaceted phenomenon that includes not only direct and visible aggression but also subtle and systemic patterns of psychological and relational abuse.

3. The Requirement that Conduct Exceeds the Necessary and Reasonable Scope and Lacks Legitimate Purpose

Across Taiwan's legal frameworks, bullying is consistently assessed against standards such as "interference with normal learning activities," "conduct beyond the necessary and reasonable scope of official duties," or "actions exceeding the necessary and reasonable scope of business operations." These formulations collectively indicate that the core criterion for identifying bullying lies in whether the conduct has ceased to serve legitimate educational, managerial, or operational purposes. Once behavior no longer functions as a means to achieve such institutional objectives, it is instead recharacterized as an abuse of power that infringes upon personal dignity or the integrity of physical and mental well-being. In this sense, bullying is understood as the "de-legitimation" or "misuse" of authority—namely, the transformation of power from a functionally justified exercise into conduct that exceeds necessary boundaries and becomes harmful in itself.

4. The Requirement that Harm Manifests in the Formation of a Hostile or Unfriendly Environment

In Taiwan's legal frameworks, all relevant regulations concerning bullying consistently adopt "hostile," "unfriendly," "coercive," or "offensive" environments as key outcome-based indicators. These formulations are further linked to resulting harm to psychological well-being,

physical integrity, mental and physical health, property interests, or the normal conduct of learning or working activities. This demonstrates that bullying is not assessed solely on the basis of isolated acts or individual incidents. Rather, the legal focus is placed on the broader impact of such conduct on the overall environment and on the victim's condition. In other words, the conceptualization of bullying emphasizes its cumulative and contextual effects, particularly the extent to which conduct alters the surrounding environment into one that is hostile or detrimental to an individual's dignity, safety, and functional participation.

5. A General Requirement of Continuity, Subject to an Exception for Severe Cases

Continuity is a typical characteristic of bullying, serving to distinguish it from isolated conflicts or single instances of inappropriate conduct. However, both the workplace bullying framework under the civil service and the Occupational Safety and Health Act explicitly recognize that where the severity of the conduct is substantial, a single incident may nevertheless suffice to constitute bullying. This approach reflects a shift in legal assessment from a formalistic focus on repetition to a substantive evaluation of the degree of harm involved. In other words, the determination of bullying is no longer strictly contingent upon the frequency of occurrence, but increasingly grounded in the intensity and seriousness of the infringement upon the victim's rights and well-being.

6. Protection of Legal Interests Centered on Human Dignity and Physical and Psychological Integrity

Across contexts ranging from schools and workplaces to educational institutions and public service systems, the regulatory frameworks governing bullying are not solely aimed at safeguarding order or efficiency. Rather, their primary objective is the protection of individual human dignity, psychological safety, and physical and mental well-being. This indicates that the law in Taiwan has progressively recognized a "workplace or learning environment free from bullying" as an essential component of fundamental rights protection. In this sense, the right to be free from bullying is no longer treated as a peripheral concern of organizational governance, but as a substantive entitlement inherent in the protection of human dignity and personal integrity.

In sum, workplace bullying under the law in Taiwan (including general forms of bullying) refers to situations in which, within a structure of power asymmetry, an actor engages in diverse

and inappropriate forms of conduct that exceed the necessary and reasonable scope, and continuously or severely imposes demeaning, exclusionary, or harmful treatment upon others. Such conduct results in the victim being placed in a hostile or unfriendly environment and causes substantive harm to physical and mental health, personal dignity, or the ability to perform normal work or learning activities (Rayner & Hoel, 1997). Although this core concept may vary in institutional design and procedural mechanisms depending on the applicable context, its substantive criteria demonstrate a high degree of consistency. It thus serves as an important common benchmark for cross-system understanding and comparative analysis of workplace bullying regulations.

III. Standards for Workplace Bullying in the Military Context

As discussed above, Taiwan has gradually developed a relatively consistent core concept of “workplace bullying.” Against this background, a particularly contentious and difficult issue arises in the military context: how to distinguish between tolerable high-pressure management and disciplinary requirements on the one hand, and intolerable workplace bullying on the other. To address this challenge, it may be practically useful to construct a set of “layered and multidimensional boundary-referencing standards” as an operational guideline for determining whether certain conduct within the military system constitutes workplace bullying.

1. The Necessity of Occupational Purpose as the Primary Boundary

Although the military system is characterized by a high degree of obedience and discipline, and the intensity of command, training, and orders may justifiably exceed that of ordinary workplaces, all forms of conduct must nonetheless maintain a substantive connection to specific occupational purposes, such as mission accomplishment, training safety, and immediate risk management. Where such behavior no longer contributes to mission completion, training effectiveness, or organizational safety, and instead serves merely to vent emotions, humiliate personal dignity, or establish dominance relations, it may be regarded as having departed from occupational necessity and entering a zone of heightened risk of constituting workplace bullying.

2. Distinguishing Management from Bullying through the Principle of Proportionality and Means Appropriateness

Even where conduct serves an occupational purpose, it must still be examined in terms of

whether the means employed are proportionate and appropriate to that purpose. Methods such as public humiliation, degradation of personal dignity, relational isolation, or threats of retaliation are, in principle, difficult to justify as indispensable or irreplaceable tools of management or training. Where less intrusive and less harmful alternatives are available, yet a more injurious method is nevertheless chosen, this indicates that the conduct exceeds the bounds of reasonable managerial discretion and may fall outside the scope of legitimate organizational governance.

3. The Distinction between Person-Oriented and Task-Oriented Conduct as a Key Determinant

Within the military system, strict requirements and critical evaluation of conduct, performance, and mission outcomes are generally permissible. However, it is not permissible for evaluative focus to shift from “behavior and occupational performance” to the individual’s “personality, dignity, or inherent identity.” When criticism is directed not at specific work-related conduct but instead at humiliating an individual’s personal worth, perceived abilities, or intrinsic traits—including race, belief, gender, background, or attitude toward obedience—such conduct constitutes a significant red flag for workplace bullying.

4. Identifying Latent Bullying through the Mosaic Theory

When reinterpreted through the lens of the mosaic theory¹, workplace bullying in the military context may be understood as a process in which seemingly fragmented and individually justifiable managerial actions, when accumulated over time and pieced together, gradually reveal an overarching structure of coercive power². From this perspective, behaviors such as neglect, deliberate exclusion, differential assignment of high-risk or low-value tasks, and persistent denial or demeaning treatment are no longer treated as isolated or independently assessable managerial measures. Instead, they function as discrete “informational fragments” which, when observed individually, may not appear to exceed the necessary scope of duty. However, when these fragments are examined longitudinally and integrated as a whole, they may form a coherent and directional pattern³—namely, a systematically constructed working environment in which a particular individual is marked, isolated, and progressively weakened

¹ United States v. Marchetti (1972) ,466 F.2d 1309 (4th Cir. 1972).

² CIA v. Sims, 471 U.S. 159 (1985).

³ DOJ v. Reporters Comm. for Free Press, 489 U.S. 749 (1989).

through organizational practices.

5. Reasonably Foreseeable Psychological and Physical Impact as the Outcome Criterion

The determination of whether conduct constitutes workplace bullying should not rely solely on the victim's subjective perception. Rather, it requires an assessment of whether the conduct is sufficiently serious that it can be reasonably foreseen to cause psychological fear, humiliation, a hostile environment, or harm to physical and mental health (Campbell-Sills et al., 2023). In the military context, if it remains foreseeable that an ordinary person would experience significant psychological stress as a result of such conduct, it should not be justified merely on the basis of "institutional custom" or established practice.

6. Rejection of "Traditional Organizational Culture" as a Ground for Exemption

A culture of high obedience and high pressure may serve only as a contextual factor, rather than as a perpetual legal justification or exemption. If workplace bullying is denied solely on the basis that "this is how things have always been done" or "everyone has gone through it," such reasoning effectively renders structural bullying invisible and persistent within the system. This approach is also fundamentally inconsistent with the core objectives of current legal frameworks, which emphasize the protection of human dignity and physical and psychological integrity (Tsewu, 2025).

IV. Conclusion

In sum, the determination of the boundaries of workplace bullying in the military context does not primarily depend on whether a broader or stricter abstract standard is adopted. Rather, the core issue lies in how to construct an evaluative framework capable of distinguishing between "legitimate disciplinary operations" and "improper abuse of power" within a highly hierarchical and mission-command-oriented organizational structure. From the perspective articulated in International Labour Organization Convention No. 190, the central concern is whether conduct, within a context of power asymmetry, results in sustained, hostile, or structural harm to human dignity, psychological safety, and the working environment. Nevertheless, military organizations operate on the basis of national security, public order, specialized training, and high-risk missions. Their internal governance therefore necessarily involves high-intensity demands, immediate compliance with orders, and a certain degree of

sacrifice in the public interest. Precisely for this reason, the boundary of workplace bullying in the military should not be arbitrarily relaxed; instead, it must be defined through more refined internal standards of assessment. This article argues that the determination of workplace bullying in the military should adopt a composite evaluative model based on “necessity of duty,” “proportionality of means,” and “degree of infringement on personal dignity.” Even where conduct is formally associated with orders, training, or managerial authority, if the means employed clearly exceed what is required for mission accomplishment and result in significant or sustained humiliation, isolation, hostile environments, or systemic exclusion of specific individuals, such conduct may still constitute workplace bullying and cannot be automatically justified solely on the basis that it occurs within a military system.

Notably, the most significant institutional challenge in preventing and addressing workplace bullying in the military context does not primarily lie in evidentiary collection or the absence of regulatory provisions. Rather, it lies in the cognitive threshold of commanders and supervisors with respect to the very concept of “bullying” itself (Steele, Fogarty, & Rodgers, 2024). Within a highly command-oriented culture, humiliation-based leadership, disciplinary language that negates personal dignity, or the use of isolation and excessive pressure as mechanisms of personnel selection are easily internalized as legitimate managerial practices. As a result, bullying behaviors may be obscured at the level of perception itself. This cognitive normalization further undermines complaint and investigative mechanisms at their initial stage, depriving them of functional momentum from the outset. Accordingly, unless the interpretive framework of those exercising authority is first addressed, even the most carefully designed institutional safeguards are unlikely to achieve meaningful substantive effectiveness.

Based on the foregoing analysis, this article proposes the following recommendations :

1. The prevention and regulation of workplace bullying within the military system should adopt a codified composite evaluative framework as its core decision-making standard. Such a framework would enable a clear distinction between disciplinary requirements and infringements upon personal dignity within a unified institutional context, thereby ensuring conceptual clarity in adjudication and practice.

2. Preventive strategies should prioritize ex ante prevention. In particular, systematic training programs and case-based guidelines should be developed for commanders and supervisory personnel to assist them in identifying the boundary between legitimate high-pressure

management and bullying behavior. This would help prevent the normalization and institutionalization of power abuse arising from unexamined assumptions and habitual practices.

3. Given the substantial differences among military personnel in terms of legal status, organizational culture, working environment, training regimes, and operational risk, it is inappropriate to adopt a single, generalized definition of workplace bullying. Instead, differentiated definitions, standards of determination, and procedural mechanisms should be developed in accordance with the specific characteristics and needs of the military context. Where necessary, such differentiation may be further institutionalized through dedicated legislation.

Only through such an approach can the core functions of the military system be preserved while preventing high levels of obedience from becoming a structural shield for bullying. At the same time, it ensures that the exercise of authority remains consistently constrained by the fundamental boundaries of human dignity and the principle of proportionality.

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