Deepening our Understanding of the Linkage of Working Conditions to Sexism and Racism, Restoring the Regulatory State and Learning Lessons from the Pandemic

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In this issue, NEW SOLUTIONS is pleased to bring you a new (for us) take on work, health, gender and race in the form of “Work as an Understudied Driver of Racial Inequities in Breastfeeding” by Whitley and Banks.1 We have previously published articles that discussed breastfeeding as a pathway by which workplace chemical exposures are transmitted to the next generation and an article2 on the impact of work organization on women’s menstrual health in Korea. However, as our first article dealing with racial differences in the impact of the organization of work on breastfeeding, it deepens the Journal’s work to link working conditions with racism and sexism as key social determinants of health. This linkage, at the nexus of class, race and gender, needs to be integrated into occupational health.

Whitley and Banks use the lens of work to examine a well-known problem in the field of maternal and child health, namely breastfeeding inequities by race. In doing so, they correctly focus our attention as practitioners and scholars of Occupational Health on the disparate impact of work organization on breastfeeding by race. An important takeaway from their work is:

It is not just a mother’s employment status that matters for breastfeeding but also whether her job accommodates breastfeeding. Women who work in jobs that are hazardous, inflexible, lack parental leave benefits, and/or do not have lactation accommodations tend to breastfeed for a shorter duration, as do women working non-professional jobs, such as service and manual labor jobs.1p.6

They observe further that “because of racism and unequal access to education and job opportunities, race is associated with employment, occupation, working conditions, and workplace breastfeeding experiences.”1p.7 Ultimately, this means that to reduce or eliminate racial disparities in breastfeeding, all workplaces, not just some white-collar workplaces will have to be more friendly to breastfeeding, an important policy goal that we should understand as being within the scope of Occupational Health.

We are pleased as well to bring you Goodwin’s review of McGarrity’s book on restoring the regulatory state after the Trump assault.3 This is the first piece we have published that responded to our call for papers on Restoring Science and Reconstructing the Regulatory State. Goodwin tells us that McGarrity provides an “impressively comprehensive picture of the damage that was caused across the full spectrum of substantive policy areas, including environmental protection, worker health and safety, consumer protections, and financial protections.”3p.2 Goodwin proceeds to take us to events beyond McGarrity’s publication date:

McGarrity, of course, acknowledges the unique danger that the federal judiciary poses to future efforts to advance the public interest through regulation… Yet, the reality still seems much worse. The brazen judicial activism we have seen during the first half of 2022 has cast in stark terms just how dangerous the federal judiciary really has become, whether it is striking down COVID protections for workers… or the abandonment of constitutionally protected abortion access.3pp.3–4

Despite this, Goodwin offers hope in McGarrity’s outline “for the incoming Biden Administration a blueprint for ‘rebuilding the protective edifice.’”3p.3 McGarrity sees social movements with an interest in identifying the root cause of social ills and an understanding of “the significance and value of progressive regulatory reform.” Goodwin and

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McGarrity leave us with an open question as to whether our political leaders are ready to act on that understanding.

This discussion of the assault on the regulatory state provides a good context for three articles on lessons learned from the U.S. experience with the COVID-19 pandemic. Brosseau and Stull discuss the work of an expert panel using an American Society for Testing and Materials (ASTM) standard to provide a floor of minimum standards for non-respirator workplace face coverings. This was done before the Centers for Disease Control and Prevention (CDC) recognized airborne transmission of SARS CoV-2 and in the face of failure of the Occupational Safety and Health Administration (OSHA) to enforce its respiratory protection standard with regard to COVID-19. The work of this panel led to recommendations by the National Institute for Occupational Safety and Health (NIOSH) for workplace performance and workplace performance plus masks, which was the first guidance from the U.S. government indicating that there needed to be performance criteria for face coverings used against COVID-19. Respirators provide better protection for workers than face coverings. Ventilation with high percentages of fresh air, very efficient filtration and many air changes per hour is even better. Nevertheless, in the face of complete failure to require those things and of widespread use of face coverings in the workplace, having performance criteria for those face coverings is crucial.

From Rossol, we learn that film industry unions that were able, early in the pandemic, to insist on high quality ventilation and respiratory protection under threat of stopping production. She contrasts this to live theater unions, under pressure to return to work after a long hiatus, who did not insist on the same exacting standards and were not able to protect their members as effectively. From this comparison, she draws lessons as to how unions can protect their members in the absence of adequate regulation. Ryan et al. address the U.S. experience with pandemic in the context of the “fissured workplace,” characterized by subcontracting, outsourcing, franchising, misclassification of workers as independent contractors, “temping,” and platform employment. Employers use the fissured workplace as a means of avoiding regulatory protections that apply only to employees. The authors point out that the fissured workplace has combined with the assault on regulatory authority (as discussed by McGarrity) to make it more difficult for government to protect workers. Like other authors in this issue and previous issues of NEW SOLUTIONS, they observe that OSHA protection from COVID-19 was largely absent, even in traditional employment settings such as hospitals and meat packing plants. They note that the ability of government to protect workers in the future may continue to be limited by courts.

Like Rossol, these authors point to the need to look outside government for worker health and safety protection. They argue that government’s growing inability to protect workers suggests that worker health and safety must be incorporated into the struggle to promote decent work and build effective networks that can help workers advocate for themselves. They advocate for “standard-setting from below,” in which OSHA enforcement is enhanced through active engagement of worker representatives and standard setting occurs through agitation and the collective action of a community of interests in solidarity with workers.

To broaden our view further, MacEachen et al. discuss the relationship between the pandemic and the decline of traditional employer-employee relationships in six European Union (EU) countries New Zealand and Canada. They focus on the greater vulnerability of low wage and digital platform workers to both the health and economic impacts of the pandemic compared to those with more employment security and/or the ability to work from home. They observe that the pandemic led to greater recognition of the hardships faced by these workers. In many countries, emergency measures enacted in response to the pandemic showed that it was possible to provide low wage and digital platform workers with greater access to the social safety net and the protections of the regulatory state. This can be done by reducing the number of workers classified as independent contractors, strengthening employer obligations, and/or increasing the number of people covered the social safety net and the protections it provides.

Another impact of the pandemic was the stress it caused for health care workers and first responders. In a document originally submitted to NIOSH, Punnett discusses the primary prevention of mental health conditions and substance use disorders through improved working conditions such as adequate staffing, worker participation in key decisions, safe patient handling to prevent injuries, supportive supervision, and prevention of bullying and assault.

Taken together, these articles lay out a broad agenda for occupational and environmental health that is well worth pursuing. It includes:

- Expanding our understanding of occupational health to include making all workplaces friendly to breastfeeding by all mothers regardless of race or occupation;
- Restoring the regulatory state that suffered a frontal assault in the Trump Administration, is undergoing ongoing assault by the Supreme Court and has been under continuous attack since before the Reagan Administration.
- Understanding that, even as we pursue the reconstruction of the regulatory state, we cannot wait to protect workers from pandemic and endemic diseases now and in the future. The authors of the articles in this issue provide excellent examples. These include using science outside the regulatory context as discussed by Brosseau and Stull, using strength of labor unions to demand effective infectious disease prevention, as discussed by Rossol, and using those victories to demand the protection for all affected workers through movement organizing and activism as discussed by Ryan et al.
- Recognizing the plight of low-wage and platform workers while understanding that including them in the protection of the social safety net and the regulatory state is entirely a matter of public choice. There is nothing natural or inevitable about their exclusion. Excluding some workers from these protections makes them appear to be a privilege for others and damages worker solidarity. Access to the social safety net and to basic health and safety protection should be rights for all workers regardless of employment status and the labor movement should fight for these rights.

- Providing healthcare workers and first responders with the working conditions they need to minimize stress and maintain their mental health. This is necessary both because it is their inherent right as humans and as workers and because the rest of us need them to perform at their best both in emergencies like the COVID-19 pandemic and every day.

This is an ambitious agenda, and it leaves out much of what must be done in occupational and environmental health, for example climate change and the opioid epidemic. Nevertheless, all these things must be pursued in order to bring health and justice to our workplaces and our society.

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