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HOW TO PREVENT AND DEFEND AGAINST MOBBING IN A WORKPLACE?

Zbigniew Kohnke, Jacek Winiarski

Abstract

The phenomenon of mobbing has been recognized by researchers, psychologists, lawyers and legislators as very harmful. However, employees suffering from mobbing in the workplace can be protected in many ways. This article aims to show the most important ways of protecting against mobbing in the workplace. Our work identifies psychological forms of support. We put an emphasis on victim and persecutor personalities as well. We also show our recommendations concerning prevention of this form of harassment in an organizational perspective. The next part of the article explains how important is the legal aspect of mobbing and protection of employees' personal rights: we write about the case-law cited in the Labour Code, the Civil Code and the Criminal Code. Particular emphasis is placed on the Polish labour market.

Keywords: harassment, mobbing, workplace, prevention, law

JEL classification: M5 Personnel Economics, J7 Labor Discrimination, I1 Health

Introduction

Mobbing is a workplace phenomenon comprising negative and unacceptable actions of one person or group of people (an employer or group of employees) towards a weaker individual (most commonly an employee with a lower position; Leymann, 1990; 1996). The phenomenon of mobbing is characterized by the use of various cruel, repeated behaviours of one perpetrator or a group of perpetrators against the victim (Leymann, 1996). All perpetrator activities are aimed at destroying the victim. Perpetrators are mostly senior managers or other people who have power over the victim. Usually, they have great ambitions and low self-esteem, as well as an exaggerated opinion about their own skills (Wichrowska-Janikowska, 2005).

Most often, perpetrators of mobbing are people with higher education (43%), then with secondary education (20%), vocational (8%) and primary education (1%; Wawrzyniak, 2012). Research has shown that the most frequent forms of mobbing are restricting contacts, humiliation, isolating the person from colleagues, prohibiting contacts, gossiping, parodying, inadequate evaluation of work performance, threats or intimidation. Probably the last form of harassment is the most severe for victims (Wichrowska-Janikowska, 2005).

People who have no friends in the workplace are particularly vulnerable to mobbing (Korach, 2015). Mobbing behaviour is frequently observed among employees who belong to informal organizations, like trade unions (where people spend time together at personal meetings, family events etc.; Korach, 2015). The next group are young employees with a good education who have foreign internships and apprenticeships. Their skills are a threat for other employees (especially employees with an established and stable professional position) who often question their successes (Kratz, 2007). Another group are people at the pre-retirement age. Experienced and committed employees in a pre-retirement age do not fit the young team, which can be a cause of mobbing (Korach, 2015; Sarzała, 2009).

Another group at risk from mobbing are people who differ from the rest of the team, be it in origin, nationality, religion, political views, sexual orientation, clothing, non-acceptance of rules prevailing in the workplace or extraordinary talents (Korach, 2015; Szostek, 2013).

Women, especially single ones, living alone or with parents, divorced, single mothers and pregnant women who do not have high qualifications are particularly at risk. On the other hand, mentally strong women who do not succumb to moral terror, reject sexual propositions and avoid the company of other women employed in the company can become victims, as well (Korach, 2015).

According to a survey conducted by public opinion research agency CBOS, 32% of respondents have been subject to inappropriate treatment at the workplace (Szumpich, 2013). An important element is the ability to distinguish mobbing and interpersonal conflict, which is a natural phenomenon in human relations.

1. Psychological context and forms of support

It is important to have knowledge about the mechanisms of mobbing in order to avoid such harassment.

Notably, everyone has a different way of communicating and behaves differently in specific situations (Leymann, 1990; 1996). In no case, however, should the way of cooperation between employer and employee put pressure on the employee and reduce him/her to a victim. A person with the ability to behave assertively in conflict situations increases his chances of defending his/her dignity, preserving his/her rights and taking into account the point of view of others. It is possible that the employer also acts under pressure and is forced to discharge his/her duties. Thus, such a person may have problems with controlling emotions in the same manner as employees do (Duffy and Sperry, 2007).

Employees who are harassed explain their lack of reaction with fear of losing their jobs. Victims often do not reveal the existence of mobbing and passively submit to it. This attitude only confirms perpetrators in the conviction of their impunity. Consequently, they continue their action without fear of being prosecuted. Understanding that, we might have a chance to counter mobbing in the workplace (Leymann, 1996). A person aware of potential stressors in the place of employment is able to see what is the reason for inadequate behaviors and know in advance how to avoid disastrous problems.

The first level of mobbing is that the victim is able to defend himself/herself and return to performing professional duties. The next phase is when the person ceases to resist attacks. This is the moment when the victim begins to feel physical and psychological losses due to

the situation (Hryniewicka, 2012). At this stage, recovery is difficult, but not impossible. The third degree is characterized by total inability to undertake professional activities by the harassed person. There is also a direct impact on the personal and social life of the victim (Kruk, 2006). Among other things, the phenomenon of mobbing in the workplace has for these reasons become of special interest to opinion-forming individuals. Public awareness of mobbing can help victims in protecting their rights.

Which is the best approach to cope with mobbing in the workplace?

Employees with a passive approach to conflict resolution usually withdraw from the relationship, pretending that they do not seem to have a problem or wait for a better moment to cope with it. They give up on their own goals. Thus, they do not deal with conflict situations (Lewicka, 2014).

Other employees can take an active position: fight for their goals, perceiving fighting as the only method to solve the problem (Lewicka, 2014), and the opponent's surrender as the only satisfactory outcome. Such behaviour is justifiable only when there is a large disproportion between the parties to the conflict, based on experience, competence and skills. However, people who find their job deeply fulfilling and have high self-esteem tend to compromise. Moreover, self-awareness is helpful to understand other people's emotions (it can help in the conflict solution). Very important is the ability to control emotions and behaviours. What is more, it is also important to be aware of one's own suitability and competence (Lewicka, 2014).

Remarkably, each party to the conflict should have a chance to present their own point of view. It is important to show understanding to the other side. Finally, the focus should be on finding a constructive solution to the problem. A single conflict situation is not mobbing but can become its source. Conflict leads to the establishment of the roles of victim and persecutor. Employees competing with each other for promotion or bonus become rivals. It is easy to trigger stressful situations (Gotowska, 2011). In such a situation it is very important to have outside help. This can have the form of support from at least one employee who can observe the perpetrator's actions and react to them.

Moreover, there are many situations in which mobbing victims may need outside help. The injured party may be perceived as mentally ill or hysterical. When the problem escalates, delusions or mental instability can be attributed to such a person (Leszczyńska, 2008). There is often a situation where the employer joins the critic. The dramatic position of the victim may force him/her to conclude a settlement and give up the position (Byczkowski, 2008). The victim may feel completely helpless, as well as experience regret or fear and very low self-esteem. The effects of such a situation depend on the level of mobbing and the possibility of receiving help from friends or family. Especially in such situations, support from someone who can objectively assess which party to the conflict is right can be very helpful (Lutgen-Sandvik and McDermott, 2008). Moreover, this person may suggest the need to receive assistance from a doctor or a lawyer.

2. Self-esteem in the process of preventing and coping mobbing

Firstly, let us take a look on a potential persecutor. The persecutor is usually a neurotic, timid, jealous and overly controlling person. Such a person has a wide or even excessive range of privileges and powers that allow him to harass other people. He or she has usually very low self-esteem. The persecutor's sense of self is weak, leading to fear and the need to maintain the position at work (Gotowska, 2011). The successes of other people remain unnoticed by him. He/she also hopes that other co-workers do not notice when others have good ideas or results. He/she is critical of people's merits and achievements. Such a person does not tolerate

opposition and does not respect co-workers. A potential persecutor quickly conflicts with others and derives satisfaction from humiliating them (Segal, 1994).

Pretend confidence is usually a desperate attempt to gain self-esteem and to get rid of the fear and other negative emotions. When he or she destroys one person, the search for another victim starts (Segal, 1994). This often happens secretly, meaning that the persecutor not only remains unpunished, but sadly, manages to achieve professional success taking on more and more responsible positions. Those successes, however, do not result in stopping the violence, but conversely – seeking for next employee to persecute (Szeląg, 2005).

Only the person who is aware of his/her own capacities and competences does not use other people to make him feel more competent. Such a person does not acknowledge the merits of other people. He/she uses the plural when talking about the success of a group of people. The self of such a person is strong enough not to feel threatened by other people (Wojciszke, 2002).

Secondly, let us now discuss the victim.

Anyone, in fact, can become a victim of mobbing (Leymann, 1996). There are no typical features characterizing the potential victims in a clear way. Psychologists write about two types of people that are predisposed to mobbing.

The first group consists of people with a “weak” personality, vulnerable, non-assertive. Such people avoid psychological and physical contact and are not able to push through their opinions or demands. They are fragile, submissive and helpless. People with such a personality can provoke the perpetrator, giving him satisfaction from dominating (Matthiesen and Einarsen, 2001).

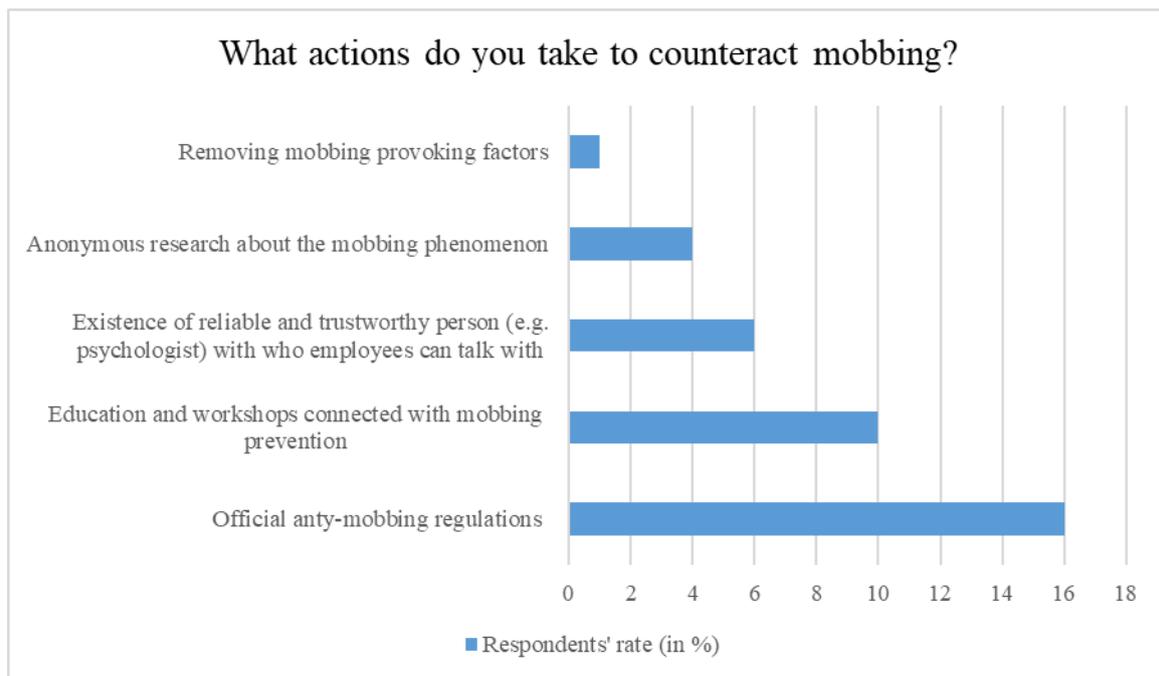
The second group is the opposite. This applies to extremely intelligent, dominant and aggressive people. The possibility of danger from their side is the cause of fear experienced by a persecutor. As a result of this emotion, a potential attack may occur (Matthiesen and Einarsen, 2001; Wolińska-Uchman and Berezowski, 2011).

3. Preventing mobbing – an organizational perspective

The improper conduct of a business is an excellent condition for mobbing persecutors. One of the elements of protection against mobbing is the releasing of employees from excessive responsibility for the effects of work, organizational chaos and cohesion of employees and superiors. Also important is the competence of the management, clear remuneration system and promotion of ambitious, creative people (Wojtczuk-Turek and Turek, 2011).

Below we can find the results of the research project in which organizational management was asked “What actions do you take to counteract mobbing?”. The most important – in the eyes of the participants – were clear and direct antimobbing regulations (Table 1).

Table 1: Results of the research project in which organizational management was asked “What actions do you take to counteract mobbing?”.



Source: Sedlak & Sedlak, retrieved 5.01.2018, from <https://badaniahr.pl/badanie-spoecznych-warunkow-pracy-2015>

Mobbing in organizations should be overcome in a systematic way. It is important to take care of proper personnel management, conduct appropriate recruitment policy, as well as regular training related to counteracting mobbing. The organization's culture should be open and transparent. All employees should have the right to talk about their problems, needs and ideas. Basic duties of each employee have to include activities specified in an individual contract of employment or in a collective agreement (Sarzała, 2009). An important element is the individual nature of employee's work. Employees who occupy more responsible positions in the hierarchy of the organization should expect greater diligence in fulfilling their duties. The employer must take into account the employee's attitude to entrusted tasks, in any case.

One of the basic duties of an employer is to ensure that there are no situations in which mobbing could occur. The principles are aimed at serving proper social relations. What is more, employees' environment should be free from hatred, persecution and other forms of discrimination. Failure to enforce these rules serves the purpose of mobbing in the workplace (Wichrowska-Janikowska, 2005).

It should be noted that all signs of mobbing should be documented by careful gathering of evidence confirming such activities (e.g. by an employer). Those can include e-mails, text messages, interviews with victims and perpetrators and other documents proving intentional abuses (Sarzała, 2009). This can help victims to assert their rights in the National Labor Inspectorate.

It may be helpful to contact organizations working to defend against discrimination, harassment or mobbing. The problem of mobbing is constantly growing, so the growing number of antimobbing organizations in more urbanized areas is also a testimony to the growing phenomenon of mobbing (Lutgen-Sandvik and McDermott, 2008).

4. Organizations free of mobbing

There is a clear division of powers, tasks and competencies, as well as a precise system of employee evaluation and a clear system of rewards and promotions in such organizations.

Moreover, an efficient exchange of information is between all staff members. Thus, employees have knowledge about how decisions are taken. Employees' ideas are always taken into account by the management, which is very important for them (Naszydłowska, 2009).

The respect, to which employees of all levels are entitled, is another important element. The personal culture that prevails in the workplace is also important. Appropriate procedures in the process of personnel recruitment and selection help to prevent possible problems later. The knowledge of staff dealing with personnel policy is also of great importance (Naszydłowska, 2009).

5. Legal methods of defense against mobbing

The effectiveness of defense against mobbing, as well as protecting potential victims depends on the awareness of existence of the legal measures that can be used in the fight with this pathology.

In fact, mobbing persecutors are not specifically described in a Polish catalogue of crimes, but there are laws which allow an employer to impose penalty payment on or reprimand an employee in the case of inappropriate behavior. In particular, it is worth noting that the victim of mobbing can assert his/her rights in court in Poland. In Poland, legal provisions concerning persecution in the workplace are part of labour law provisions, criminal legislation and civil legislation (Wichrowska-Janikowska, 2005).

Labour law should guarantee all employees employment free of any violence, sexual harassment or mobbing. Moreover, it should oblige employers to take not only measures to combat mobbing, but also to carry out regular monitoring and preventive, corrective actions.

The Labour Code stipulates that employees should be treated equally in terms of establishing and terminating employment relationships, promotion, employment, and access to training. In Poland, the amendment to the Labor Code, in force as of 1 January 2004, obliges the employer to undertake antimobbing measures (Trzeciński and Zaborowski, 2013). An employee who has terminated an employment contract through mobbing activities has the right to claim compensation from an employer in an amount not lower than the minimum remuneration for work, determined on the basis of separate provisions (Trzeciński and Zaborowski, 2013). The term mobbing has a separate legal status. It is not the same concept as a "psychological harassment" within the meaning of Article 94(1) of the Labour Code. Such a situation causes no need to use the opinion of an expert (a psychologist or a psychiatrist) in the case of mobbing (Wichrowska-Janikowska, 2005).

Poland has assumed obligations to respect human rights, including against persecution and discrimination. According to Article 2(1) of the International Covenant on Civil and Political Rights, ratified by Poland "each State Party to the present Covenant undertakes to respect and to ensure to all individuals within its territory and subject to its jurisdiction the rights recognized in the present Covenant, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." (OHCHR, 1966a).

Poland in accordance with Article 2(3) has to "ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity" (OHCHR, 1996a).

Article 17 of the Covenant states that "No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks" (OHCHR, 1966a).

In addition, Article 7 of the International Covenant on Economic, Social and Cultural Rights recognizes the right of everyone to the enjoyment of just and favourable conditions of work conditions (i.e. health and safety working conditions, fair wages and equal remuneration for work promotion on the basis of seniority and qualifications, equal opportunity for everyone to be promoted, right to rest and leisure; OHCHR, 1966b). Article 12 of the Covenant guarantees the right for everyone to enjoy fair living conditions, which include working conditions that meet the requirements of health and safety at work (OHCHR, 1966b).

Few basic duties of an employer and an employee have been formulated in the Constitution of the Republic of Poland. They states, among others, that everybody deserves his privacy (including family life). Other records reflect that people's civil liberties are protected by law and everyone is obliged to respect them. No one shall be required to perform action that is not defined by law. Any restrictions on the enjoyment of rights provided by the constitution can be established only under a specific act (permitted in cases of absolute necessity). These restrictions, however, cannot affect civil liberties and other fundamental rights (Kruk, 2006).

Moreover, behaviour described as persecuting is included in the provisions of Articles 23 and 24 of the Polish Civil Code. Personal rights (including health, freedom, name, image or the secret of correspondence, physical integrity) remain under the protection of the law in the wording of Article 233 of the Polish Civil Code. In the event of a breach of the victim's rights, the aggrieved party may demand that the perpetrator perform all actions necessary to remove the consequences of the offence and submit a declaration in the appropriate form and content. There is also a possibility to demand compensation in the form of redress (Trzeciński and Zaborowski, 2013).

When it comes to the Criminal Code, the most common manifestations of mobbing are acts classified as punishable offenses (Article 190 of the Criminal Code). In the Article 191 of the Criminal Code it is written – any person who, by force or violence, forces another person to act or omit to act is liable to be punished by imprisonment of up to three years (the exact term of imprisonment may differ in characteristics and degree). It is a crime prosecuted *ex officio*.

Remarkably, no penalty can be imposed unless the penalized staff member is heard. However, there are exceptions from this rule. One exception is the situation in which the employee resigns from his right by choosing a written form or generally resign from the explanations. Moreover, it is possible for the employee to be heard by someone other than the one authorized to administer the penalty. The penalty can be applied no later than two weeks after the breach of employee's duties.

Information on the application of a penalty must be made in writing, as well as specify the type of offense. A copy of the notification is always attached to the employee's personal files (Article 110 of the Code).

An important element is the type of employee's duties violation and the degree of misdemeanor, when applying penalties. An additional element is the evaluation of the employee's current attitude to duties. Moreover, the employer's task is to consider whether the employee has neglected his/her responsibilities in a one-off or repeated manner. The employer should also determine if damage has occurred. The employee must have awareness of the consequences that may be caused by the breach of duties. Judicial authorities adopted the position that intentional and gross negligence in employee's duties always establish all elements of "a serious violation of employee duties". Conduct of the staff member does not have to be harmful, it is enough that it threatened the employer's interests (Szelaąg, 2005).

The employer is not obliged to wait for the end of the criminal trial, in which the court rules the guilt or lack of it. The fact of temporary detention is not evidence proof of a crime. The result of the proceedings must show that the employee committed a prohibited act

threatening the public. If the employer determines that the crime has been committed by a group of employees, he cannot terminate employment contracts. In this case, the employer is obliged to wait for a judgment, which will indicate one employee responsible for the offense. We cannot overlook the scope of protection against mobbing that is guaranteed by the National Labor Inspectorate (pl: Państwowa Inspekcja Pracy). The National Labor Inspectorate has legal tools to enforce employee rights, especially in situations in which employees unsuccessfully tried to enforce their rights in the workplace.

Conclusion

To sum up, mobbing is a common example of irregularities that occur in interpersonal relations in the workplace (Szostek, 2013). This phenomenon should be ruthlessly fought and reported by both witnesses and victims.

Mobbing is the form of psychological harassment in the workplace which is officially recorded by the police in Europe. Mobbing victims are therefore protected by the law.

The importance of the factor of law as a form of help for mobbing victims cannot be overstated. However, employers must take particular account of psychological support for victims of mobbing, as well as education on mechanisms of mobbing in a workplace.

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Zbigniew Kohnke
University of Gdańsk,
Faculty of Economics
Armii Krajowej 119, 81-701 Sopot (Poland)
zbigniew.kohnke@wp.pl

Jacek Winiarki
University of Gdańsk,
Faculty of Economics
Armii Krajowej 119, 81-701 Sopot (Poland)
Jacek.Winiarski@ug.edu.pl