Legal framework for workplace mobbing and harassment prevention in Russia: problems and prospects¹

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Abstract

Studies on workplace mobbing and harassment in Russia, - whether from a legal, sociological, psychological or economical viewpoint, - are sporadic and usually included into more general research projects devoted to discrimination, gender issues and human rights. Doctrine does not provide consistent terminology. Legislation does not address these issues consistently in their entirety, recognizing only specific instances of their manifestation. Collective agreements contain only general provisions on this subject if any, and enterprise regulations have mostly superficial clauses unenforceable because of the lack of essence and relevant procedures.

Russian legislative landscape also lacks stakeholders seriously interested in establishment and promotion of anti-mobbing and anti-harassment culture in the workplaces. Both government and public demonstrate a “we have more urgent questions to address” attitude. In this context absence of landmark cases and court decisions is a logical consequence and a natural result of the general disregard.

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Thus it is all the more important to highlight the circumstances in which a judicial protection can now be provided. This analysis and further research, - including comparative studies, - may help to reveal possible directions for the policy development in this field both in doctrinal and regulatory aspects. This paper attempts to outline the state of the art and the major tendencies in legal regulation of mobbing and harassment phenomena in Russia nowadays and to suggest possible explanations and solutions to the problems revealed.

1. Introduction

In comparison to the majority of developed countries\(^2\), first studies of workplace mobbing and harassment in Russia appeared relatively late (in 2000-s) and have not developed considerably since then. To the moment they are are still very limited in number\(^3\) and mostly address specific aspects of the phenomena (sexual harassment against women, a correlation between harassment and HRM policies, psychological portrait of a mobber, etc.\(^4\)


Some harassment data has been collected in the course of more general studies of gender discrimination, trafficking, etc. These studies show inter alia the specifics of harassment in Russia and a public attitude to it.

One of the most recent of the comprehensive harassment studies conducted together by the US and Russian scholars\(^5\) shows that public attitude to mobbing and harassment is mixed, at least in regard to harassment against women. The most popular answers reveal that about a quarter of respondents see nothing particularly wrongful in the harasser’s behavior and are inclined to an escapist reaction. It provides evidence that as many as 43% of respondents think that a harasser shall not be punished and as many as 26% of them put the blame on victims but not the harassers. As many as 24% of the respondents would advise the victim to avoid conflict and try to defuse the situation with humor and 22% of them would advise her to quit the job. A number of those suggesting more reasonable steps - like obtaining a help from a higher management or a lawyer - falls below 20%. The authors of the study observe that in general Russian people do not believe that the problem of harassment and mobbing is worth serious attention.

Sociological studies of harassment published in Russia reveal a widespread belief that a victim provokes a harasser (by his/her behavior, make-up and/or the way (s)he dresses, etc.) and that the harassment and even violence is either a logical outcome or a fair punishment for this\(^6\). There is also a gap between a public attitude towards male and female harassers. While a male harasser is taken with a sympathy and considered just slightly too “passionate” or too playful, the same behavior of a woman is seen as unacceptable and impudent. This striking discovery proves that a “traditional” perception of a woman as a root of all evil\(^7\) is still widespread.


\(^6\) Stuchevskaya O. Ibid.

in Russia despite all political, economic and social changes of the last century.

Typical victim's response to harassment is mostly passive. People prefer to keep the embarrassing experience to themselves or to quit the job if the situation goes too far. An intention to resist, to protect her/his rights and/or to sue the harasser is often perceived as a strange and disproportionate reaction to a minor issue. It would be interesting to compare these results with similar on harassment against men. It would also be useful to see whether there is some relation between the harassment and mobbing data as between two types of workplace violence. However, unfortunately after a thorough search no comparable studies has been found and there are reasons to think that they have not been ever conducted. Apart from some scattered research initiatives, data on both mobbing and harassment comes mostly from press reports. From time to time an article is published that brings to light a particular target group of "male" harassment (f.i. taxi drivers, chauffeurs, accountants, bodyguards, mid-level managers) or a mobbing

8 See: "Rossiyskie mujchiny sokrushayutsya, chto harassment obhodit ih storonoy" "(Russian men grieve that harassment passes them over") - A sociological research conducted by the Research center of the SuperJob.ru website. - 08.09.2008. - Available online (in Russian): http://www.superjob.ru/community/kollektiv/18364/


case in a particular sector (army, office work, etc.)\textsuperscript{11}. The papers usually contain an overview of the opinions of various stakeholders in regard to the problem, which vary from legislative initiatives to amend the Criminal Code (i.e. with a now non-existent provision aimed at men’s anti-rape protection) to skeptical comments reflecting a widely spread belief that the problem has been greatly and groundlessly exaggerated\textsuperscript{12}.

\section*{2. General problem of terminology}

There are two main sources traditionally used for phenomena naming and interpretation. First of all, relevant foreign studies can provide the necessary terminology that could be borrowed as it is and may be slightly adapted to another language if necessary. Secondly, national research data can reveal the most appropriate or at least most widespread terms and understandings which can be further promoted and supported by respective authorities and norms.

In this aspect mobbing and harassment have quite bad luck. These phenomena are hardly understood in Russian in their original sounding, without special clarification and thorough explanation (while understanding is limited to those speaking English or familiar with the phenomena as such) and at the same time each of them has more than one option in translation thus posing objective obstacles for a uniform translation.

Despite this, Russian scholars use both approaches, sometimes taking the phenomena naming in its original form (just transliterating them in Cyrillic) and sometimes employing one or another of their official translations. Russian language happily has got terms that can (and recently have begun to) be applied to each of the concepts\textsuperscript{13}. However, the Russian


\textsuperscript{12} Prihodko D. Ibid.

\textsuperscript{13} For those know Russian it might be interesting to learn that harassment is more and more often called “домогательство” (“domogatelstvo”, i.e. importunity) or “приставание” (“pristavanie”, i.e. pestering), while mobbing has recently become identified with “травля” (“travlya”, i.e. persecution), “групповщина” (“gruppovshchina”,}
terminology in this field is at its very beginning and yet demonstrates neither consistency, nor uniformity, nor common recognition.

One of the systemic problems behind the terminology problem is that being an integral part of the “manually” (and to a considerable extent centrally) governed system, Russian legislator needs a clear message from the stakeholders on the preferable phenomena naming and its uniform understanding. This is a prerequisite for a consistent regulative approach development. Unfortunately modern Russian society has not yet brought any stakeholders particularly interested in the field. This results in the lack of respective research and makes the regulatory authorities of all levels reluctant in advancing the phenomena regulation. Thus the prospects of the consistent terminology development in the field remain opaque until we have a force that can get it moving in any particular, reasonable and substantial direction.

3. Regulative framework

Doctrine and statutory norms

Both legal doctrine and legislation have not consistently addressed either mobbing or harassment. Russian laws do not acknowledge harassment or mobbing per se. However there are several legal concepts that can be applied to cases of either mobbing or sexually tinted harassment or both mobbing and harassment in general:

- sexual harassment can fall under either (1) the Criminal Code provisions on sexual abuses, that entail criminal fines, mandatory, compulsory or corrective works and imprisonment; or (2) the Labor Code provisions on a so called “immoral behavior” of an employee with an educative job function (mostly school and kindergarten teachers, but also other personnel performing such function because of its stipulation in their job description), which may entail a dismissal with no compensation14.

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i.e. “grouping for a definitely ill purpose”) or «АСАОРВИНИА» (dedovshchina, a hardly translatable term initially used to describe violence against younger conscripts in the Russian army).

- mobbing can constitute grounds for a so called “grouping” (i.e. committing a crime in a group) which aggravates criminal liability\textsuperscript{15}.

- both phenomena can also have elements that make them fall under a number of other provisions as well:

(1) if the case contains elements of workplace discrimination, the general prohibition of discrimination in employment\textsuperscript{16} may apply with liability embracing: (1) criminal one, targeting discrimination in general\textsuperscript{17}; (2) administrative one, targeting discrimination developed into violation of employment law\textsuperscript{18}; (3) disciplinary one, targeting the same; to be enforceable this liability shall be stipulated in the enterprise internal regulations according to the Labor Code\textsuperscript{19}. A plaintiff in such cases is also allowed to file the complaint directly to court without prior hearing in a bilateral labor disputes commission\textsuperscript{20} and to apply to a public prosecutor who is authorized to order an elimination of the violation and to commence administrative proceedings or inform the relevant administrative authorities of the violation if the latter is of administrative nature. In most crying cases the public procurement office may also seek for a criminal liability grounds\textsuperscript{21}.

(2) if the case contains any signs of a “minor disorderly conduct” (i.e. for such cases - a “disturbance to public order expressing evident disrespect to society” accompanied by, inter alia, an “insulting importunity to citizens”), it entails administrative

\textsuperscript{15} Article 35 of the Criminal Code of the Russian Federation.

\textsuperscript{16} Article 3 of the Labor Code of the Russian Federation.

\textsuperscript{17} Article 136 of the Criminal Code of the Russian Federation. The Code provides for criminal fines, revocation of right to hold specific positions or perform specific activities, mandatory or compulsory works or imprisonment.

\textsuperscript{18} Article 5.27 of the Code of Administrative Infractions of the Russian Federation. The norm provides for administrative fines for employers or disqualification of the guilty, if this is a repeated violation.

\textsuperscript{19} Article 192 of the Labor Code of the Russian Federation. Generally the Code provided for three types of disciplinary liability: rebuke, reprimand and dismissal.

\textsuperscript{20} Articles 3(4), 391(3) of the Labor Code of the Russian Federation.

\textsuperscript{21} Articles 27 and 28 of the federal Act No. 2202-1 of 17.01.1992 “On the Public Prosecutor’s Office of the Russian Federation”.

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liability\textsuperscript{22}. However as for now there exist neither legal cases nor court rulings with such interpretation of this norm.

Russian labor law, - both doctrinal and statutory, - knows neither a “constructive dismissal” concept in its common interpretation, nor a more general idea of being (directly or indirectly) driven to a contract termination. Therefore there is almost\textsuperscript{23} no chance for an employee to prove that (s)he has been forced to resign, whether directly or indirectly (by an employer’s or a fellow employees’ attitude, unreasonable requirements, unfair working conditions, hostile working environment, verbal or physical violence, etc). The general idea of “driving somebody to something” is reflected only in particular branches of law where it implies various forms of liability, from fines and disqualification to imprisonment. Thus, Russian criminal law recognizes “driving to a suicide” or “[...to an attempt to [commit] a suicide”\textsuperscript{24}, and the banking law utilizes a concept of “driving to a bankruptcy” in bankruptcy regulation\textsuperscript{25}. However, nothing of this kind can be found in the employment legislation except one (and rather general) instruction issued by the Plenum of the Supreme Court\textsuperscript{26}. There is no legal definition of the concept, no comprehensive guidelines for its interpretation and no norms outlining legal consequences it shall entail.

International law\textsuperscript{27} could have served as a driving force in the development of this field, but Russian legislator has not yet given it a chance. Among many international agreements which Russia has signed

\textsuperscript{22} An administrative fine of 500-1000 rubles ($15-30) or administrative arrest for the period up to 15 nights.

\textsuperscript{23} We address the exceptions to this rule below when analyzing the case law.

\textsuperscript{24} Article 110 of the Criminal Code of the Russian Federation. Punishment embraces custodial restraint for 1-3 years, or compulsory work for up to 5 years, or imprisonment for the same period.

\textsuperscript{25} Articles 14.12(2) of the Code of Administrative Infractions of the Russian Federation; article 169 of the Criminal Code of the Russian Federation; article 399 of the Civil Code of the Russian Federation; article 14 of the Federal Act No. 40-FZ of 25.02.1999 “On the insolvency (bankruptcy) of credit institutions”. Penalties embrace criminal and administrative fines, disqualification, prohibition to work on certain positions or in certain fields, and mandatory work.

\textsuperscript{26} We address this issue in more details below when analyzing the case law.

\textsuperscript{27} According to the article 15(4) of the Constitution of the Russian Federation, generally recognized principles and norms of international law are considered a part of the legal system of the Russian Federation.
and/or ratified, only the European Social Charter contains explicit provisions concerning mobbing and harassment per se and provides particular guidelines to the states. However, the essence of these provisions (set forth in the article 26 of the Part II of the Charter) has been missed during the Charter ratification in 2009.

As a result, the only Charter provision on workplace violence applicable in Russia nowadays is par. 26 of the Part I establishing a general right of all workers to having dignity at work. Unfortunately this wording is too vague to guarantee an enforecability of the provision in the positivistic Russian legal system. The non-ratified article 26 of the Part II of the Charter - remaining inapplicable and unenforceable, - can nevertheless have an indirect effect, providing an official European interpretation to the “dignity at work” concept that can be invoked in court. However, until now without a major state support and promotion this option has not been tried.

Industry and enterprise regulations

Having some anti-harassment or anti-violence clauses seems has become fashionable among large corporations and, - surprisingly, - public institutions. However having “fashion” instead of legislative requirements or public pressure as a major reason for their establishment means the clauses serve mostly as an accessory and are not enacted as a mandatory legal norm, usually finding a place in codes of “ethical norms” which are clearly unenforceable according to the Russian law and do not fall under

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20 See for instance article 17 of the Code of Professional Ethics of the workers of the bodies of interior of the Russian Federation, approved by the Order of the Ministry of Interior No. 1138 of 24.12.2008 which has both a direct reference to sexual harassment (both manifested separately and accompanied by bullying) in the list of gross violations of professional ethical standards and a reminiscence of prohibition of bullying in the provision concerning the moral rights of superiors in this sphere: it’s explicitly stated that a superior has “no moral right... to manifest formalism, conceit, rudeness, use battery towards the subordinates” (Article 16(8) of the Code). The term “bodies of interior” embraces police forces, internal military forces, investigation department, etc. More information can be obtained from the official website of the Ministry of Interior: http://eng.mvdrf.ru/ (in English). Other examples can be found in the Standard on quality control of public social services (see Preamble of the GOST (State All-Russian Standard) P 53062-2008, approved by the Order of the Federal Agency for Technical Regulation and Metrology No. 439-st of 18.12.2008); Standard on public social services provided for women (see Preamble of the GOST P 52886-2007, approved by the Order of the Federal Agency for Technical Regulation and Metrology No. 564-st of 27.12.2007), etc.
an employer’s obligation to familiarize employees with relevant enterprise regulations as stated in the Labor Code\textsuperscript{29}. 

The very idea of such codes is relatively new for the Russian regulative environment, thus creating the situation where employees have no reasons to expect their employer to adopt such instruments, not to speak about making use of them. An ethical code may be adopted in a form of enforceable legal act but it implies some particular steps in full compliance with the Labor Code which employers seldom make. An ethical code is not allowed to impose any legal liability unless it has been enacted as a legal act and have to resort to impressive but hollow constructions useless in the Russian legal system\textsuperscript{30}.

However, recently a step has been made to popularize ethical codes. In May 2012 President ordained the government to prepare bills aimed at institutions of self-government development and at codes of professional ethics adoption\textsuperscript{31}. This initiative could be used for efficient combating workplace violence, all the more so that it has been announced as a step towards expansion of employees’ participation in enterprise management.

Unfortunately the initiative happened to contain no explanations of the status or the contents such codes should have. It also had no specific instruction to incorporate either anti-harassment or anti-mobbing norms in such codes. Thus when later - in September 2012 - the government had adopted a Complex of measures aimed at implementation of this initiative in the field of social services (i.e. in educational, research, health, cultural services and in the field of social protection)\textsuperscript{32} and several draft codes had

\textsuperscript{29} Article 22(2) of the Labor Code of the Russian Federation.

\textsuperscript{30} For instance, article 3(1) of the above mentioned Code of Professional Ethics establishes a “moral liability” of the violator against the society, the work team and the conscience as a measure supposed to ensure compliance with the Code’s provisions; similarly article 3(4) of the Code establishes liability in the form of “public warning” or “public censure” for the Code violations in general. Disciplinary liability (that may serve as a ground for dismissal according to the par. 1(5) of the article 81 of the Labor Code) is imposed only in cases where legal offence or a breach of discipline is committed in connection with the violation of the Code provisions.

\textsuperscript{31} Par. 1"z" of the Decree of the President of the Russian Federation No. 597 of 07.05.2012 (hereinafter - Social Policy Decree).

\textsuperscript{32} Complex of measures for institutions of self-government development and codes of professional ethics adoption for social services employees No. 5324p-P12 of
already been published online, it had become evident that the authors of the code samples did not plan to address harassment and mobbing problem as such. What codes samples do have is mostly general anti-discrimination provisions and clauses imposing politeness and refraining from rude words in communication with clients and colleagues, but nothing more. Thus as for now another chance to introduce a concept of a violence-free workplace seems to have been lost.

Therefore nowadays in Russia neither ethical codes nor more traditional industry or enterprise regulations perform a serious protective function. Regulations usually do not address the workplace violence problem while ethical codes remain vain and employees are reported to be hardly aware of their existence.

Sometimes enterprises that belong to large transnational structures benefit from having access to model enterprise regulations drafted by their headquarters or just use its direct translations. Such regulations are usually well developed acts that outline not only values and approaches to doing business but also company strategies, policies and procedures to support proper conduct and approaches and combat improper ones. They usually contain examples explaining all these aspects in a very graphic way and understandable language. Such companies have particular procedures of familiarizing their employees with the regulations and they do take this task seriously. As a result, most of their employees know from their first day in the company what is tolerated and what is not, when and where to complain, what help can be provided, what measures guarantee compliance with the regulations, etc.

However to be enforceable such acts need to be enacted as a “legal norm” in full compliance with the Labor Code procedures and doctrinal understanding of the “legal act” notion. Otherwise it remains just an

08.09.2012. According to this Complex, codes samples and codes drafting manuals shall have been made ready by July 2013 to be submitted for public debate in October 2013.

Thus, for instance Thomson Reuters has single Code of Business Conduct and Ethics with particular anti-harassment (pp. 20-21) and anti-violence (p. 22) provisions. This Code has been translated into 20 languages (according to the countries in which the company conducts its business) without any changes or amendments or drafting separate versions for every country. The Code preamble says that it “…applies to all directors, officers and employees of Thomson Reuters and its subsidiaries”. Available online: http://ir.thomsonreuters.com/phoenix.zhtml?c=76540&p=irol-govConduct.
enterprise “wish list” and have limited to no effect onto the workplace relations and atmosphere.

Small and medium-sized companies are reported to have small number of brief and simple regulations that use standard wording borrowed from various legal databases. Unfortunately developers of such standard regulation samples demonstrate little to no interest to include anti-harassment and anti-mobbing provisions into their products. And when they do, the regulations they still prove to contain no provisions aimed at combating workplace violence.

Collective agreements
Collective agreements rarely have any anti-mobbing and anti-harassment provisions, and if they do, these are mostly borrowed wordings hardly going beyond an enterprise level. Their initial sources are either model agreements of international trade unions, or agreements in force at the parent foreign company or affiliated foreign companies.

Recently we have also got a governmental step in the allied direction: it publish its plans to include issues in “professional ethics” into industry and enterprise collective agreements in the field of social services, as a part of the Social Policy Decree implementation. However, as have been shown above, the “professional ethics” concept does not immediately address workplace violence.

When industry has a powerful supra-national or international trade union federation or confederation, collective agreements in it may echo collective agreement samples promoted by that body. Such clauses can be applied effectively when the entire framework has been happily borrowed as well (interpretations, bodies, procedures, etc.) in line with the

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34 Par. 5 of the Complex of measures for institutions of self-government development and codes of professional ethics adoption for social services employees No. 5324p-P12 of 08.09.2012.

35 Thus, the Seafarers Union of Russia (SUR), an affiliated member of the International Transport Workers Union (ITF), endorses the ITF Standard Collective Agreement as a sample of a collective agreement between seafarers and their employers. This Agreement sample explicitly prohibits harassment (and even bullying) in the article 28 devoted towards equality: "...Each Seafarer shall be entitled to work, train and live in an environment free from harassment and bullying whether sexually, racially or otherwise motivated, in accordance with ITF policy guidelines". Available at the SUR official website: http://www.sur.ru/sailor/cont/8/2012ItfStandardAgreement.pdf.
national legislation. However such comprehensive borrowing is a rare occurrence in the workplaces in Russia and its application is even rarer.

Ineffectiveness of the anti-mobbing and anti-harassment clauses of collective agreements in the Russian Federation can be attributed to a number of reasons.

First of all, most of them are introduced in very general wordings that lacks explicitness: proper workplace environment is referred as “... conditions which do not disparage human dignity...”36, “... healthy moral and psychological climate in the organization...”37, etc. The wordings used neither explain what is meant or what shall be understood under these concepts, nor give any allusions to relevant international treaties or doctrinal definitions and typologies. The lack of explicitness leads to the same problem with applicability and enforceability as for the European Social Charter, thus making the clauses useless and irrelevant to the noble task of workers’ protection. Such clauses are seldom applied and even when they are this is done mostly for form’s sake38.

Secondly and logically, no collective agreements have been found that contain - or obliges the parties to develop and implement - particular procedures for victims’ protection, not to speak about preventive measures. Collective agreements usually contain no explicit employer’s

36 Resolution of the VII Congress of the Federation of Independent Unions of Russia.
37 Sectoral tariff agreement of organizations of oil-processing industry and the system of provision of oil products of the Russian Federation for the years 2012-2014.
obligation to make particular steps - even the simplest ones like posters placement, booklets distribution, etc. - to raise employees’ awareness of established instruments and channels.

This can be attributed partly to the lack of awareness of the parties that the problem can and should be addressed at collective bargaining, and partly to the well-known weakness of the majority of Russian trade unions that leads to their inability to efficiently push employers to undertake particular steps for workers protection even when they succeed in having new concepts introduced in the agreements.

Employment contract as a last resort

Theoretically nothing prevents parties from incorporating anti-harassment and/or anti-mobbing clauses into an employment contract. The Labor Code allows to stipulate there additional terms and conditions apart from those directly named in the Code if these terms and conditions “… do not worsen the employee’s state in comparison to what is provided in employment legislation, other legal regulations containing employment law norms, collective contract, agreements and enterprise regulations” 39. But there is no evidence whether such practice exists even in regard to directors’ contracts.

4. “Case law” and court hearings

Most workplace violence cases do not find their way to court because both lawyers and police investigators demonstrate reluctance to help the victims, and because the victims themselves prefer to put up or quit instead of fighting, filing claims and making the case public. There is hardly one case on 3-5 years that touches upon this sort of problems and even this rare occurrence has been observed mostly during the last 5-10 years, after “Western” model of workplace relations have become more habitual.

Cases that do reach hearing usually relate to either discrimination or unfair dismissal or both, but do not aim at combatting the harassment or mobbing per se. If ever mentioned, harassment and/or mobbing are named among secondary claim grounds. Since Russian legislation does not

directly recognize a “constructive dismissal” concept, employees that have been forced to resign, have little chances to have their cases considered.

Another chance to make a court consider a case is to provide evidence that it can be seen as a criminal offence. It is possible for the cases where threats, cruel treatment or a systematic humiliation of an employee’s human dignity has led him/her very close to death. Criminal Code provisions are clear enough to be efficiently applied and Russian courts are rather experienced in their application. They do not afraid of taking over such cases as much as new and embarrassing harassment and mobbing cases which have no particular statutory regulation.

Being aware of this problem, the Supreme Court of the Russian Federation made a step to address a “constructive dismissal” phenomenon (though without giving it any special naming). From that moment on (for about ten years by now) a plaintiff that insists on being compelled by the employer to file a statement of a “voluntary” resignation which in fact was not voluntary has been obliged to prove the circumstances (s)he refers to, and the court has been required examine these circumstances. Unfortunately since then this step has not developed any further in either conceptual or procedural sense.

Evidence and witnesses are also a serious problem in such cases, and it roots in the same legislative deficiency. Audio and video records has been recognized as legitimate evidence for civil disputes only in 2003 and provided that the plaintiff states “…when, by whom and in what circumstances the records were performed”. Apart from the difficulty of obtaining a the records (which is possible mostly for recurring and thus somewhat predictable acts), in civil cases (including those on workplace violence) this type of evidence still faces restrictions and courts reluctance.

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40 Par. 22(a) of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 2 of 17.03.2004.

41 Article 55(1) of the Code of Civil Judicial Procedure of the Russian Federation: “…Evidential documents are legally obtained information on facts, on which a court ascertains existence or nonexistence of the circumstances which substantiate claims and objections of the parties, as well as other circumstances significant for the correct investigation and adjudication for the case. This information can be obtained out of explanations of the parties and the third parties, witnesses’ evidence, written and material evidence, audio and video records, and expert opinions”.

The specifics of a prospective witness in a workplace violence case are that (s)he usually either non-existent because the act has not been manifested in public, or involved himself/herself as either a offender or another victim, or afraid of employer’s reprisal. The Russian legislation contains neither effective protection for whistleblowers nor effective procedure of ensuring witnesses presence at hearing or a serious liability for not showing up at hearing, providing false evidence or a refusal to testify. Some provisions concerning protection of witnesses in criminal cases do exist, but civil procedure contains nothing similar.

Case law tells a sad story of a widest spread of these specifics in Russia, to the extent that even court employees themselves suffer from it. There was a revealing case in 2007 in which a constantly harassing behavior of a judge had come to light only in the process of his pre-term termination of the office. His subordinates had complained to the Qualification Board of Judges about that but decided not to sue him for criminal offence because they thought they would never be able to prove this since all sexual actions had always been done one-to-one.

However the number of disputes on workplace violence is slowly increasing. Not having particular statutory anti-mobbing and anti-harassment provisions, plaintiffs and courts base their reasoning on much more habitual Labor Code and Plenum provisions on unlawful dismissal, compulsion to resign (i.e. “constructive dismissal”), health and moral damages and wage arrears.

43 According to Article 168(2) of the Code of Civil Judicial Procedure of the Russian Federation, witnesses that didn’t show up at the hearing after being exacted, shall be fined (up to 1000 rubles, which equals to approximately $30) if the court finds his/her excuses unreasonable. If the witness fails to show up for the second time the court may (but is not obliged to) issue an order for his/her compulsory attachment. But these provisions are obviously not practicable and are almost never used by courts since it’s impossible to clarify the reasons and excuses of an absent person and civil courts demonstrate no interest in searching and waiting for an absent witness and no liability for not making efforts for conveying the absent witness to the hearing.

44 See Federal Act No. 119-FZ of 20.08.2004 “On the governmental protection of complainants, witnesses and other participants of criminal court proceeding”.

45 Decision of the Supreme Court of the Russian Federation No. KAS07-25 of 03.04.2007.
Unfortunately most of the cases are judged against a plaintiff\textsuperscript{46} and case reports reveal poor judicial technique and lack of the judges’ will to carefully examine cases, all this in obvious defiance of the ruling of the Plenum of the Supreme Court of the Russian Federation\textsuperscript{47}. There is also a dramatic difference in court awards. While in Europe compensation may amount to tens\textsuperscript{48} or even hundreds of thousands of US dollars\textsuperscript{49}, in Russia courts may dismiss a claim of as low as $600 proven (!) medical expenses in a mobbing case, not to speak about wage and moral compensations\textsuperscript{50}.

5. Conclusion

The Russian legislation does have norms which can be used for employees’ protection in the cases of mobbing and harassment. However, as for now they lack efficient legal machinery and effective application.

Without a consistent legislative approach and no direct instructions from both President and the Parliament, governmental authorities do not address this issue at all. Same does the judiciary that feels the general reluctance in addressing the problem and does not endeavor to carefully examine such cases and go deep into the details despite a clear Supreme Court instruction. This leaves little hope for an employee to win the case.


\textsuperscript{47} Par. 22(a) of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 2 of 17.03.2004

\textsuperscript{48} See “Case Law and out-of-court settlements” at the Bullyonline.org, the UK National Workplace Bullying Advice Line website: http://www.bullyonline.org/action/caselaw.htm. And the Bullyonline.org website reports lots of examples when cases are settled out of court with 2-3 times higher compensations\textsuperscript{48}.


\textsuperscript{50} Decision on the case No. 33-4995 of 23.05.2011 of the Perm Regional Court of Cassation.
A hope to get even a modest compensation is even more questionable. As a result, a number of judicial recourses on mobbing and harassment in Russia show no increase with time.

Trade unions show no particular interest in fighting workplace violence. Employers lack the necessary rule-making culture and experience in this field to introduce special procedures to cure the problem and prefer to have professional in-house psychologists to solve the problems without making them public\textsuperscript{51}.

Having no efficient ways to resist or fight workplace violence, Russian employees have limited choice: to suffer or to quit. It goes without saying that the main reasons for employees to put up with adverse workplace practices are economic or political instability, inadequate professional skills and personal psychological problems of an employee. The more secure is an employee's financial situation, the higher is his/her qualification, - the less (s)he tends to be vulnerable to any hostile workplace environment.

In Russia we may find additional reasons for this vulnerability and many of them are historical. First of all the Soviet rule (especially during the Stalin's era) had been cultivating a culture of intolerance to anybody different in any sense, thus implicitly creating a fertile soil for mobbing and harassment despite the official anti-discrimination rhetoric. It was mostly a governmentally induced and supported climate of intolerance that had been depressing individual courage to fight for equality and other rights, training people that it may have been useless or even dangerous for them themselves and their families as well.

Secondly for some reason the Russian history is a history of regular social destabilization\textsuperscript{52}. The lack of stability posed serious problems for people,

\textsuperscript{51} V Rossiyu prishel mobbing (Mobbing has come to Russia). \textit{// Profsoyuzy segodnya (Trade Unions Today).} - 16.05.2008. Available online (in Russian): http://www.unionstoday.ru/news/analytics/2008/05/16/7128. Among other evidence the paper says that the Moscow HR agencies are overloaded with employers' inquiries for a "relationship professionals" that could "... stop this nightmare".

\textsuperscript{52} For instance 2 revolts and 3 wars in XVII century, 3 revolts and 4 wars in XVIII century, again 3 revolts and 4 wars in XIX century, and in XX century there were 3 revolutions (in 1905, and then in February and October of 1917) and again 4 wars (two world wars, the First and the Second, a Civil War which partly coincided with the First World War, and a so called "Japanese War"). More detailed information on this subject may be obtained online, i.i. on the "History of Russia" website.
and especially women, to find a partner not to speak of entering wedlock. It is hardly possible to find a century in the country history which did not have a couple of revolts, revolutions or wars or all of them at once. This has created an atmosphere of constant welfare insecurity, fears for loss of ability or opportunity to earn a living, and a rivalry for men’s attention (especially after wars). Having somebody to rely on and being an integral part of some group were much more useful strategies then fighting for independency and individual freedoms.

Another reason lies in the traditional Soviet style of workplace organization. During the first years of the Soviet rule most enterprises had army-like discipline requirements, with similar subordination and control. Self-denial and self-sacrifice were considered heroic deeds. Individualization and standing aside of collective life were considered against the communist ideals. “Labor (battle)front” was a commonly used periphrasis for “work”, and “labor (heroic) deed” was used to describe examples of particular self-sacrifice in the interest of the employer, state and/or society. And often they literally were these. There is a famous Stalin’s saying “We do not have irreplaceable people!” It was a common belief that feelings of an individual are not important at work and that an employer shall not care of a particular employee’s individual problems but only of production efficiency and compliance with communist moral requirements.

Such is the historical background of the problem which now Russian people have to overcome if we want a more stable, decent and harmonious society. From what has been said above it is obvious that the task has not been completed. But at the same time there are obvious signs of ongoing change and improvement of the situation. New norms are being introduced, old acts and procedures are being replaced or amended, international norms are being ratified and become a part of the Russian legal system, etc. The changes are evident in younger generations of the Russian people who seem to be leaving the old-fashioned and ineffective practices behind in both professional and interpersonal communication.


Because every war, especially the last two, took lives of the youngest men of a childbearing age and left behind lots of widows, orphans and unmarried women with little hope to find a spouse.
All this gives a viable hope that harassment and mobbing will not flourish in Russia for too long.