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Trade, Labor and EU Law Perspectives

Tackling cyberbullying in the world of work

Valerio De Stefano (Osgoode Hall (Canada)) · Friday, February 14th, 2020

Valerio De Stefano,* Ilda Durry,* Harry Stylogiannis,* Mathias Wouters*

It started as an investigation into something long dismissed as an urban legend. Finally, even if far too late, the awful scale of the Parisian *Ligue du LOL* – internationally known as the *LOL league* – unfolded. Members of a private social media group had 'cyber-harassed' people for several years. Some commentators described this as a potential French Weinstein affaire. LOL league members seemed to target in particular feminist writers and fellow journalists. Dismissals soon followed for perpetrators working at *Libération* and other media outlets.

Disciplinary sanctions against these workers make this a remarkable labour law case. Even if no sanctions had been issued, however, this case would have been extremely interesting for labour scholars. Under existing laws, employers are increasingly required to be aware of the psycho-social risks affecting their workers, and to take action to mitigate them. Journalists, for instance, are in an occupation that makes them particularly likely to be a target of cyberbullying conducts, coming

from readers and even colleagues. The labour implications of the *Ligue du LOL* case, therefore, could not be overstated.

As digital technologies become more and more ubiquitous, cyberbullying at work is progressively becoming a critical labour issue. In 2019, the International Labour Office commissioned a comparative legal research on this topic. We were privileged to be able to conduct this research, which resulted in a working paper just published by ILO (**important disclaimer: this paper, just as like this blog, reflects our opinions and not necessarily those of the ILO!**). It was a fascinating endeavour, also because, in June 2019, the ILO Constituents adopted a Convention and a Recommendation on violence and harassment in the world of work, which also cover cyberbullying conducts.

What is cyberbullying

In our study, we have first tried to come up with an adequate understanding of cyberbullying based on existing legal and psycho-social research, also taking into account legislation around the world. We identify cyberbullying at work as any aggressive behaviour against an individualized (group of) victim(s) through ICT tools happening in the context of work. Cyberbullying can affect workers, regardless of their contractual arrangement and employment status, but also managers and supervisors, employers as well as job-seekers and clients and customers. All these subjects can be both the victims and the perpetrators of violence and harassment committed through ICT tools.

Cyberbullying shares essential features with traditional aggressive conducts such as bullying and harassment. It has, however, some distinct traits. Firstly, it can reach victims well beyond the physical and temporal boundaries of the workplace. Victims can be affected via email, social media or chats whenever and wherever they have access to the Internet – including at home, during their spare time or while commuting.

Many definitions of bullying, moreover, require that aggressive conducts be repeated over time. ICT tools can make "repetition" in cyberbullying quite different from traditional bullying. For instance, they may allow individuals to repeatedly access the aggressive content that has been posted online in one sole occasion. One single action could also affect the victims repeatedly without the perpetrators having necessarily meant so. For instance, retweets, shares, forwards of an aggressive message can reach an enormous and uncontrollable audience. Acts of cyberbullying may also end up being unerasable, in practice, once they openly reach the Internet.

Cyberbullying, therefore, can have extremely negative consequences. We map some of the literature on the detrimental implications of bullying and cyberbullying. We find that not only victims can suffer significant damage – harms also impact on the victims' families, bystanders and employers. The latter can be affected both in terms of reputation and of loss of productivity. They may also be called to answer for damages inflicted to the victims by fellow workers or clients.

Finding solutions against ICT-based harassment

Given its widespread harmful potential, contrasting cyberbullying will soon likely become a key concern for policymakers and social partners. In this regard, it is crucial to examine existing laws and regulation to make sure they keep pace with the challenges posed by ICT-based aggressive behaviours.

In our research, we found that several legal systems have adopted legislation explicitly addressing these behaviours, which may also occur in the world of work. For instance, they may allow courts to issue orders to unmask anonymous perpetrators or injunctions to stop and remove aggressive conducts. Moreover, we find that legislation addressing traditional violence and harassment in the world of work may be used to counter ICT-based conducts. We map this legislation (and we translate and report many relevant legal provisions from all around the world). In some cases, however, judicial cases show that sometimes regulation is not fully up-to-speed with the pervasiveness of cyberbullying. For instance, this may happen when protection does not apply to work-related abuses committed online when victims access bullying comments on social media at a time when they are not "at work".

After analyzing legislation and case law, we go on tracking existing best practices against ICT-based violence and harassment. Many initiatives have been put in place by lawmakers, social partners, also through collective bargaining, and employers, through internal policies. We also describe some of the most interesting examples in these areas and conclude expressing our hope for a proactive approach of regulators, institutions, social partners and researchers to react to novel developments in this area. Technologies, we think, can considerably improve our lives and work. Tackling the new challenges they raise, however, is essential for their benefits to be shared across societies.

* Institute for Labour Law, KU Leuven, Belgium

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