

Workplace Bullying and Harassment in South Korea

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1. The current situation of workplace bullying and harassment in Korea

Recently, Korean society has been shocked by the news of numerous suicides among middle or high school students who were mobbed at their schools. In addition to the violence of mobbing, bullying, and harassment at schools, this kind of violence in the workplace is an alarming concern for Korean society. For instance, there were two brutal incidents in 2012, one in February, when a man shot his former colleagues and superiors with a shotgun, the other in August, when a man robbed innocent citizens of their lives by stabbing them, though his original targets were his former colleagues and bosses. The common denominator of these two incidents is that the two men insisted they were bullied at their workplaces and their offenses were to get their revenge on the colleagues who bullied them.

Human beings are social animals, so we cannot live without other humans. People need socialization, and we have to keep in harmony with others at our organizations, such as schools or places of work. While Koreans have realized the severity of bullying and harassment problems in our society, our efforts to address the issue have focused on the bullying or harassment among students and not at the workplace. Hence, neither the Korean Statistical Information Service nor the Ministry of Employment and Labor have provided nationwide statistics or data on workplace bullying and harassment. Instead, even though the results are unofficial, some online job websites are regularly surveying and providing the relevant data in regards to bullying or mobbing in the workplace.

I will introduce two current data on workplace bullying and mobbing in Korea. One is a survey that *Segye Ilbo* (a Korean newspaper) and “Job Korea” (an online portal with employment information) published on 7 March 2012. Among the 376 respondents (95% confidence level, sampling error of $\pm 5.1\%$), 285 workers (75.8%) answered that they had been psychologically bullied through, for instance, abusive language or the excessive invasion of privacy. The survey’s patterns (multiple answers) were categorized as verbal abuse (147 workers, 51.6%), semi-forced participation in dining events (94 workers, 33.0%), discrimination on the grounds of educational background, appearance, etc. (69 workers, 24.2%), bullying (62 workers, 21.8%), ignored contributions (45 workers, 15.8%), and sexual harassment (43 workers, 15.1%). Furthermore, concerning how the respondents took action when they were psychologically bullied, 241 workers (84.6%) indicated that they “tolerated the situation,” and 44 workers (15.4%) took measures to deal with the situation. Of the former group, the reasons given for tolerating the situation included: “I thought that it was part of the organization’s culture” (61.4%) and “I thought I could endure it” (27.0%).

More surprising, in-depth interviews with 10 respondents revealed a consensus that “psychological suffering would be more comfortable for me than physical violence.” Lastly, 236 workers (82.8%) answered: “I deeply considered quitting the company” when confronted with bullying. Thus, we can understand that psychological harassment, an “invisible” form of bullying because we tend to overlook it, could be robbing the victims of their working lives.

The other data is a survey that “SaramIn,” an online website for employment information, publicized on 31 July 2012, showing that, among the 3035 workers who participated in the survey, 30.4% have had the experience of being mobbed at their workplace. By gender, 34.1% of female workers and 27.6% of male workers have been mobbed at the workplace. The average period of harassment was seven months, and the bullies were mainly “superiors” (43.2%, multiple answers), “senior colleagues” (38%), “colleagues who joined the company in the same year” (28.2%), and “junior colleagues” (18%). Moreover, the situations in which the respondents felt that they were mobbed included: “when other workers say something behind my back” (57.2%, multiple answers), “when I heard others talking behind my back” (53.1%), “when I am the only one who does not know about the work-related dinners or other private meetings” (34.7%), “when I say ‘Hello’ to my co-workers, but they frequently ignored me” (25.6%), and “when errands or trivial work are mainly allotted to me” (20.8%). Finally, the effects of being mobbed included: “I felt my loyalty to the company weakening, so I thought about changing jobs” (56.8%, multiple answers), “I lost my self-confidence” (47.7%), “I became very sensitive” (45.5%), “my work efficiency had reduced” (41.4%), and “I began to have trouble sleeping or became depression” (33.7%). They all suffered negative effects of being bullied in the workplace.

Granted, the abovementioned data are not official statistics from Korean national agencies, so the overall accuracy of the data remains in doubt. However, it is apparent that Koreans recognize workplace bullying or harassment as societal problems. In fact, the first court decision¹ that acknowledged the liability for compensation regarding workplace bullying occurred in December 2009. The lateness of this court decision (2009) directly reflects how Koreans have been unaware of bullying at the workplace.

As far as I know, this decision, which is based on Article 750 of the Civil Act,² is the first case of workplace bullying in Korea.

2. The definitions of mobbing, bullying, and harassment, and previous research on workplace bullying, harassment and mobbing in Korea

In this chapter, I will investigate the definitions of “bullying,” “harassment,” and “mobbing,” and then I will trace the implications for these definitions based on Korean cultures, sentiments, and societal situations. I will pursue this approach because the actions related to bullying, harassment, and mobbing are likely to differ among countries on the

¹ Busan District Court Decision 2008 Gadan 167281 Decided December 18, 2009 (부산지방법원 2009. 12. 18. 선고 2008 가단 167281 판결).

² CIVIL ACT

Article 750 (Definition of Torts)

Any person who causes losses to or inflicts injuries on another person by an unlawful act, willfully or negligently, shall be bound to make compensation for damages arising therefrom.

basis of cultural backgrounds. Thus, with the establishment of clear definitions, we can understand which actions are to be categorized in these three concepts and the specifically Korean societal need to understand and prevent those categorical actions.

2.1 workplace bullying, harassment, mobbing in previous research in Korea

The research on bullying, harassment, or mobbing at the workplace is typically conducted through studies of management, psychology, medical science, and the law; however, the accumulative amount of research is still sparse.

The research on workplace bullying, harassment, or mobbing in management studies have been conducted from the angle of organizational behavior and human resource management, such as “The Impact of Mobbing on Employee’s Attitude or Job Attitude,”³ “Research on Organizational Efficiency Due to Workplace Mobbing,”⁴ “The Relationship Between the Psychological Work Environment and Mobbing at the Workplace,”⁵ and “The Influence of Workplace Mobbing on Organizational Behavior.”⁶ The abovementioned research mainly considers workplace bullying or mobbing as factors obstructing the improvement of efficiency in the workplace.

The first study on workplace bullying from a legal perspective was a “Legal Remedy for Workplace Mobbing.”⁷ However, nothing more was pursued until J.H. Kim’s (2002) “Research on Relief of Retired Employees Resulting from the Pressure to Retire, Mobbing, and Bullying in the Workplace.”⁸ In recent years, some more studies have occurred, such as the “Study on Workplace Mobbing,”⁹ “Employees Mobbing at the Workplace,”¹⁰ and “Mental Illness and Labor.”¹¹ Furthermore, some studies have tried to introduce legislative systems or trends from foreign countries: “Workplace Mobbing in German Labor Law,”¹² “Regulating Harassment in the Workplace in the United Kingdom,”¹³ and “Workplace Mobbing in French Labor Law.”¹⁴

The most noticeable point among these studies is the diverse conceptions on bullying, mobbing, and harassment in the workplace that the various researchers give. Hence, it is difficult to define these concepts. For instance, J.H. Lee (2009) indicates, “if we can explain the action or present state that we try to refer to without any difficulty, there is no

³ Choi, H.S., & Lim, H.C. (2005). The Impact of Mobbing on Employee’s Attitude. *Korean journal of business administration*, Paper of autumn academic conference, 21-44; Park, K.K., Choi, H.S., & Kim, H.Y. (2006). The Impact of Mobbing on Employees’ Job Attitude: Investigation on Moderating effect of self-esteem. *Zeitschrift fur Wirtschaftswissenschaften*, 35, 169-193.

⁴ Park, J.M. (2009). A Study on the Relationship between Mobbing and Organizational Effectiveness. Korea University of Technology and Education (master’s thesis).

⁵ Choi, H.S., & Park, H.S. (2010). Relationship between Psychological Work Environment and Mobbing at Workplace: Investigation on Moderating Effect of Neuroticism. *Journal of Korea service management society*, 11(2), 209-232.

⁶ Park, K.K. (2005). The Mobbing in the Organization; Its Influence on Organizational Behavior. *Sogang Journal of Business*, 16(2), 115-127.

⁷ Kim, Y.M. (1998). Legal Remedy for Workplace Mobbing. *Lawyers Association Journal*, 498, 128-158.

⁸ Kim, J.H. (2002). Research on Relief of Retired Employees Resulting from Pressure to Retire, Mobbing and Bullying in the Workplace. *Hanyang Law*, 13, 215-227.

⁹ Lee, J.H. (2009). A Study on Workplace Mobbing. Korea University (master’s thesis).

¹⁰ Lee, D. H. (2011). Employee’s Mobbing at the Workplace. *Chung-Ang Law Review*, 13(4), 477-528.

¹¹ Shin, K.C. (2012). Mental Illness and Labor – Focusing on Legal Issues. *Research on Labor Law*, 32, 193-236.

¹² Oh, S.H. (2011). Mobbing in German labor law. *Kyungpook National University Law Journal*, 37, 337-366 ; Kim, H.S. (2012). A Study on the Mobbing: Bullying in the German Law. *Journal of Business Administration and Law*, 22(2), 349-392.

¹³ Shim, J.J. (2012). Regulating Harassment in the Workplace: The Case of the United Kingdom. *Korean Society of Comparison Labor Law*, 25, 45-78.

¹⁴ Jo, I.Y. (2012). Workplace Mobbing and French Labor Law. *Korean Society of Comparison Labor Law*, 25, 1-43.

reason why we make a special effort to make each word indicate each action. Therefore, I will employ the words of ‘workplace mobbing’” (15). Likewise, when introducing the concept of mobbing in Germany, H.S. Kim (2012) points out that “it is better to arrange the general character which constitutes the word rather than to spend endless pains on knowing the exact terminology” (353), so he did not establish the concept of mobbing or bullying in his study. Lastly, D.H. Lee (2010) regards the concept of mobbing as “the collective, repetitive act of being mobbed by a person, individual, or group with more power than an employee in the workplace” (481).

From the previous literature, it is clear that there are no provisions to deal with the phenomena of mobbing, harassment, or bullying at the workplace in Korean labor law or regulations. More importantly, most researchers in Korea have focused on the “mobbing” issue in the workplace, while offering diverse and obscure definitions of the term and its relation to bullying and harassment. Thus, these concepts have yet to be clearly defined.

2.2 The definitions of bullying, harassment, and mobbing

In order to clarify our understanding of bullying, harassment, and mobbing, I will look into dictionary definitions of those terms.

In Korea, we often use the words “괴롭힘 (*Goerobhim*),” “따돌림 (*Ttadollim*),” “왕따 (*Wanta*),” “음해 (*Eumhae*),” and “구박 (*Gubak*)” to indicate the acts of bullying and harassment. According to the Standard Korean Language Dictionary of The National Institute of The Korean Language,¹⁵ “괴롭힘 (*Goerobhim*)” is a noun of the verb “괴롭히다 (*Goerobhida*).” *Goerobhida* means “to make someone feel uncomfortable in body and mind, to distress someone.” “따돌림 (*Ttadollim*)” is a noun of the verb “따돌리다 (*Ttadollida*).” *Ttadollida* is to “exclude or keep away from someone hated or disliked.” “왕따 (*Wanta*)” is “to exclude someone, or to cast them out”, “음해 (*Eumhae*)” is “to do harm to someone secretly by wicked ways,” and “구박 (*Gubak*)” is “to distress tormentingly.”

According to Collins Cobuild Advanced Dictionary,¹⁶ “bullying” is a noun of the verb “bully” that means that “someone who uses their strength or power to hurt or frighten other people.” “Harassment” is “behaviour which is intended to trouble or annoy someone, for example repeated attacks on them or attempts to cause them problems.” “Mobbing,” which is academically similar to bullying, relates to the word “mob,” a “large, disorganized, and often violent crowd of people.” Moreover, according to the Longman Dictionary of Contemporary English,¹⁷ to “bully” is “to threaten to hurt someone or frighten them, especially someone smaller or weaker,” the verb “harass” is “to make someone’s life unpleasant, for example by frequently saying offensive things to them or threatening them,” and “mob,” the noun of “mobbing,” is “a large noisy crowd, especially one that is angry and violent.” Finally, according to the Cambridge Dictionaries Online,¹⁸ “bullying” is “to hurt or frighten someone who is smaller or less powerful than you, often forcing them to do something they do not want to do,” “harass” is “to continue to annoy or upset someone over a period of time,” and a “mob” is “a large angry crowd, especially one which could easily become violent.” By the way, in the case of the United Kingdom, the “ACAS Policy

¹⁵ http://www.korean.go.kr/09_new/index.jsp

¹⁶ <http://www.mycobuild.com/>

¹⁷ <http://www.ldoceonline.com/>

¹⁸ <http://dictionary.cambridge.org/>

Discussion Paper” (2006),¹⁹ published by the Advisory, Conciliation, and Arbitration Service (ACAS), defines “bullying” as “offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient.” That same paper gives a definition of “harassment” as “unwanted conduct affecting the dignity of men and women in the workplace. It may be related to age, sex, race, disability, religion, sexual orientation, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident.” The difference between them is that “The harassment definition makes clear that an individual’s dignity is affected by harassing behaviour and that the harassment is unwanted. While the definition of bullying does not express bullying as unwanted, it is taken for granted that no one desires bullying or that their dignity is affected by bullying. The other key difference between bullying and harassment, that the above definitions make clear, is that harassment is linked to a personal characteristic of the recipient, and therefore linked to anti-discrimination law in this country.”

Additionally, the website “Bully OnLine”²⁰ that is the world’s largest resource on workplace bullying and related issues defines “bullying,” “harassment,” and “mobbing.” According to “Bully OnLine,” The MSF Union defines “bullying” as “Persistent, offensive, abusive, intimidating or insulting behaviour, abuse of power or unfair penal sanctions which makes the recipient feel upset, threatened, humiliated or vulnerable, which undermines their self-confidence and which may cause them to suffer stress,” and Tim Field indicates that “Bullying is a compulsive need to displace aggression and is achieved by the expression of inadequacy (social, personal, interpersonal, behavioural, professional) by projection of that inadequacy onto others through control and subjugation (criticism, exclusion, isolation etc). Bullying is sustained by abdication of responsibility (denial, counter-accusation, pretence of victimhood) and perpetuated by a climate of fear, ignorance, indifference, silence, denial, disbelief, deception, evasion of accountability, tolerance and reward (eg promotion) for the bully.” Considering “mobbing,” “The word mobbing is preferred to bullying in continental Europe and in those situations where a target is selected and bullied (mobbed) by a group of people rather than by one individual.” And the different between bullying and harassment is that “acts of harassment usually centre around unwanted, offensive and intrusive behaviour with a sexual, racial or physical component.”

2.3 The conceptual approach to bullying, harassment, and mobbing in this paper

When considering the above definitions, I will classify the peculiarities of bullying, harassment, and mobbing.

In the case of bullying, bullies certainly have “strength” or “power” over their victims. Yet, if there is no obvious superiority in the workplace, the case of abuse by a subordinate or a colleague in a horizontal relationship might not fall under the category of “bullying.” Therefore, bullies have to be in superior positions, and the act of bullying is individual (it is not a group mentality). Furthermore, psychological bullying is more applicable to the workplace than physical bullying, and repeated acts are more common than one-time acts. Finally, the reasons for acts of bullying resulted from such as victim’s job performance that

¹⁹ ACAS (2006), Workplace Bullying and Harassment: Building a Culture of Respect. ACAS Policy Discussion Papers, 4, 2.

²⁰ <http://bullyonline.org/>

makes for other persons to recognize the bullying acts.

Harassment is an extensive concept because the performer and victim need not be a superior and subordinate, respectively. Likewise, the number of performers does not affect the nature of harassment, nor do distinctions between physical or psychological harassment and repeated or one-time acts. However, the biggest difference being bullying and harassment is that harassment is specific to the victim's sex, race, age, religion, disability, etc. and is clearly recognized in others as such.

Mobbing is a term that is current in European discourse, especially regarding the workplace, whereas bullying is often used to describe school situations. Mobbing could be categorized as a subset of bullying, but the performers of mobbing have to be groups, not individuals, irrespective of the performers' standing in an organization's hierarchy, and mobbing usually involves repeated acts.

Based on these definitions, it is clear that recent scholarly publications in Korea have focused on cases of mobbing at the workplace. A discussion on workplace bullying and harassment is long overdue when compared to discussions on workplace mobbing.

We can assume that bullying, harassment, and mobbing have their own unique attributes, but in actual work situations, the acts of bullying, harassment, and mobbing may show characteristics that are particular to the workplace, and the concepts may have various intersections that are unique to the work environment. Therefore, the objective of this paper is to explain actual situations in Korean workplaces and to draw the implication from the above discussion on the basis of Korean society. This research combines the reviewed literature of scholarly publications and newspapers with interviews conducted with experts²¹ to grasp actual cases and trends about workplace bullying or harassment issues in contemporary Korean society.

3. The background in which workplace bullying and harassment have occurred and current changes in Korean society

3.1 The establishment of “measures to prevent mobbing in workplaces” in 1999 and its contents

At the end of 1997, due to the financial crisis that affected Korean society, many businesses were forced to carry out restructuring in a desperate effort to survive. Businesses tried to utilize workers' productivity and abilities as much as possible while greatly reducing the number of workers in order to reduce fixed costs such as labor. However, workers made desperate efforts not to be the subject of employment adjustments. In this situation, workers frequently slandered and defamed their colleagues, although this did not happen outwardly.²² Furthermore, businesses that had to carry out restructuring actually conducted mobbing to select the employees for layoffs.²³

²¹ Two interviews with experts were conducted: one on 13 December 2012, with Mr. Sungho Ahn, a certified public labor attorney who offers counseling services for human resource management, mainly concerning sexual harassment at the workplace and workplace bullying; the other on 17 December 2012, with Mr. Junheui Lee, who wrote his Master's thesis on “The Study on Mobbing in the Workplace” (2009). With his working experiences at the Korea Employer's Federation, he is also offering advice on workplace bullying issues.

²² Kim, Y.M. (1998). Legal Remedy for Workplace Mobbing. *Lawyers Association Journal*, 498, 128.

²³ Kyunghyang Shinmun 1999.5.10; Hankyoreh Shinmun 1999.5.10; Kim, J.H. (2002). Research on Relief of Retired Employees Resulting from Pressure to Retire, Mobbing and Bullying in the Workplace. *Hanyang Law*, 13, 215 ; Park, K.K. (2005). The Mobbing in the Organization; Its Influence on Organizational Behavior. *Sogang Journal of Business*, 16(2), 115.

As a result of these situations, the Ministry of Employment and Labor announced “Measures to Prevent Mobbing in Workplaces” for the first time in May 1999. Based on the judgment that the recent social problem of mobbing was serious enough to affect industrial fields and labor disputes, in particular, the Ministry of Employment and Labor prepared to enforce measures to prevent mobbing.²⁴

In April 1999, the striking workers of the Seoul Subway Union created a specific catalyst for the ministry’s intervention. The union mobbed against employees who did not participate in the strike or who broke away from it. The Seoul Subway Union called the strike against the civic government and the Seoul Metropolitan Subway Corporation’s restructuring plan, whereby the union passed a resolution for “guidelines for the struggle by the general strike” to enable the union to “punish,” in any way, “union members who did not participate in the strike or who broke away from the strike.”²⁵ In fact, those who broke away from the strike became hesitant to go back to work, fearing that other union members would mob them and that violent language and other forms of violence would be used against them. Consequently, the union head and several instigators who actively participated in the violence eventually faced judicial actions.

The Ministry of Employment and Labor defines mobbing as “mentally or physically harmful acts conducted by business owners, superiors, or workers who formed a group to alienate a certain person from the group to which the person belongs, thereby restricting his performance of roles as a member or neglecting or slandering him.”²⁶ The types of mobbing in the workplace, as specified by the Ministry of Employment and Labor, are as follows:²⁷

- * Department members whispering to each other with their own languages and laughing at a certain person’s mistakes;
- * Assigning a certain person to a department in which workloads are excessive without considering his/her health conditions or deploying him/her to an unimportant post;
- * Excluding a certain person from congregate dining events/meetings;
- * Speaking ill of a certain person’s clothing/ways of speaking/behavior or disclosing his/her personal physical flaws;
- * Not providing job-related information or not cooperating with a certain person;
- * Treating a certain person as incompetent and not dealing with him/her; and
- * Stigmatizing a certain person, even though he/she works hard.

The Ministry of Employment and Labor also established a policy to take legal action (on the charge of violating the Labor Standard Act) against those who fire or unjustly transfer workers afflicted with mobbing and (on the charge of violating the Equal Employment Opportunity Act) against those who exclude female workers. Moreover, the Ministry of Employment and Labor imposed criminal penalties (on the charge of interference with business) when the conditions of mobbing became violent language, physical violence, menacing threats, etc. Finally, the Ministry of Employment and Labor recommended that individual businesses establish and enforce company regulations that autonomously impose sanctions against mobbing. However, in the process of being

²⁴ Hankyoreh Shinmun, 1999.5.10.

²⁵ Dong-A Ilbo, 1999.4.24.

²⁶ Kyunghyang Shinmun, 1999.5.10; Weekly Dong-A, 2000.6.1.

²⁷ Hankyoreh Shinmun, 1999.5.10.

concretized, these policies have faced objections from many stakeholders and, thus, concrete policies have not yet been presented.²⁸

3.2 Characteristics of changes since the 2000s

No government agencies have produced guidelines or regulations regarding workplace mobbing, bullying, or harassment since 1999. However, we know that the situations of workplace bullying have been spreading. According to “Scourt,” a website offering employment information, in April 2003, 9.1% of all respondents (5024 people) have been bullied at work, and 23.6% of those who have been bullied resigned from the companies that employed them.²⁹

Of course, it is difficult to compare that data with the situation in 2012, since there are different research subjects and organizations. Yet, recent data by SaramIn shows that 30.4% of respondents replied that they have had some experience with workplace bullying or harassment. In this respect, the number of employees having experiences with workplace bullying is increasing.

The main reasons for the recent increase in workplace bullying are decreasing job security and increasingly fierce competition for jobs due to structural adjustments and the mergers and acquisitions (M&A) of businesses.³⁰ Yet, from the purview of contemporary neoliberalism, some major Korean businesses, such as Samsung, LG, and SK, have taken stride to address bullying and harassment issues at work. Nevertheless, the majority of local Korean companies have yet to show initiative in this concern. This is because multinational enterprises (MNEs) in Korea already have corporate cultures that “respect the individual” and global policies for harassment issues, whereas local Korean companies do not.³¹

Why then have local Korean companies not addressed workplace bullying and harassment so far? And why are these issues becoming company concerns and social problems? The answers could involve Confucianism, a militaristic culture, and a change of consciousness in the younger generation.

Confucian ideas have influenced Korean society for a long time. In particular, we have been educated in the principle of “elders first,” which means that the young should give deference to their elders. This idea is deep-rooted in Korean culture. Thus, it is traditional for the young not to defy their parents, elder, or superiors in any group dynamic to which the young belong, an idea that it reinforced in Korea’s military culture.

For over 60 years, South Korea has maintained a ceasefire with North Korea, but two years of military service is required of male citizens of South Korea who are over 18 years of age. For that reason, almost all Korean men experience the very strict, military relationship between subordinates and superiors for two years, and they grow accustomed to the abusive language of their superior officers. When these men finish their military service and enter the business world, they maintain rigid relationships with their corporate

²⁸ In fact, the ministry’s text on “Measures to Prevent Mobbing in Workplaces” could not be obtained from the homepage of the Ministry of Employment and Labor. Labor law experts point out that, after its announcement in 1999, the policy fizzled out, and thus, it was not properly implemented. This paper consequently relies on newspaper reports from the time of announcement to reconstruct the contents of this policy.

²⁹ Ohmynews, 2003.4.2.

³⁰ Park, K.K., Choi, H.S., & Kim, H.Y. (2006). The Impact of Mobbing on Employees’ Job Attitude: Investigation on Moderating effect of self-esteem. *Zeitschrift für Wirtschaftswissenschaften*, 35, 170 ; Park, J.M. (2009). A Study on the Relationship between Mobbing and Organizational Effectiveness. Korea University of Technology and Education (master’s thesis), 1.

³¹ Interview with Mr. Ahn.

superiors, as reflected in the occupational hierarchies and seniority systems of Korean companies. Therefore, the abusive language and actions of superiors or elders in a company might be accepted as normal and not the deeds of bullies.

However, change of consciousness is occurring in the younger generation of Korea. With greater frequency, youths are questioning the actions of their superiors or colleague; hence, the problems related to bullying and harassment at the workplace are now coming to light.

Some experts also point out that workplace bullying originates in a lack of human relation skills, personality education, and the intense competition of work. Moreover, current employees in their 20s and 30s have a strong individualistic inclination, which leads to conflicts with their peers or superiors, reinforcing the perception of being victims of workplace bullying and harassment.³²

4. Legal regulations related to workplace bullying and harassment

4.1 The present state of legislations pertaining to bullying and harassment

At present, there are no specific Korean regulations or legislations to prevent or deal with workplace bullying and harassment. When bullying or harassment occur in the workplace, the relevant provisions of the Civil Act and Criminal Act, and labor-related regulations of the Labor Standards Act³³ and the Act on the Promotion of Workers' Participation and Cooperation³⁴ are used to handle the problems.

Of course, some legislation stipulates on bullying and harassment, providing definitions on the terms. For instance, Article 2 of the Equal Employment Opportunity and Work-Family Balance Assistance Act has definitions for "discrimination" and "sexual

³² MK Business News, 2012.2.17.

³³ LABOR STANDARDS ACT

Article 7 (Prohibition of Forced Labor)

An employer shall not force a worker to work against his/her own free will through the use of violence, intimidation, confinement, or any other means by which the mental or physical freedom of the worker might be unduly restricted.

Article 8 (Prohibition of Violence)

An employer shall not do violence to a worker for the occurrence of accidents or for any other reason.

³⁴ ACT ON THE PROMOTION OF WORKERS' PARTICIPATION AND COOPERATION

Article 26 (Grievance Handling Committee)

Every business or workplace shall have a grievance handling committee to hear and handle workers' grievances: Provided, that this shall not apply to business or a workplace employing less than 30 persons on a regular basis.

[This Article Wholly Amended by Act No. 8815, Dec. 27, 2007]

Article 27 (Composition of Grievance Handling Committee and Term of Office)

(1) A grievance handling committee shall be composed of not more than three members representing labor and management, and for business or a workplace where a council is established, the council shall elect such members from among its members and for business or a workplace where no council is established, the employer shall commission them.

(2) Article 8 stipulating the term of office of council members shall apply mutatis mutandis to the term of office of grievance handling committee members.

[This Article Wholly Amended by Act No. 8815, Dec. 27, 2007]

Article 28 (Grievance Handling)

(1) Upon hearing from a worker about grievances, a grievance handling committee shall notify the worker concerned of the contents of any measure taken and other results of handling within ten days from the date of hearing.

(2) Any matter shall, if deemed difficult for a grievance handling committee to deal with, be referred to a council for settlement through consultation.

[This Article Wholly Amended by Act No. 8815, Dec. 27, 2007]

harassment on the job.”³⁵ According to this act, “sexual harassment on the job” occurs when an employer, a superior, or a worker causes another worker to feel sexual humiliation or a repulsion through the use of sexual words or actions, or by utilizing a position within a workplace or in relation to duties, or by providing any disadvantages in employment on account of sexual words or actions or any other demands (Article 2 (2)). Furthermore, no employer, superior, or worker shall commit any sexual harassment on the job against another worker (Article 12), and the employers shall, where they or their employees have committed sexual harassment in violation of Article 12, be punished by a fine for negligence, not to exceed 10 million KRW (Article 39). Moreover, this act stipulates that the employer should take measures with regards to sexual harassment (Article 13.14), including the training of employees in the preventive education of sexual harassment on the job (Article 13), the development of measures to be taken in the event of sexual harassment on the job (Article 14), and the prevention of sexual discrimination by clients, etc. (Article 14-2). Finally, an the employer will be punished by a fine for negligence, not to exceed five million KRW, in violation of Article 14 (1) and Article 14-2.

The Act on the Prohibition of Discrimination of Disabled Persons: Remedy Against Infringement on Their Rights, etc. also provides a definition of harassment. According to this act, harassment is physical, mental, emotional, or verbal acts committed against a disabled person in the form of organized exclusion, neglect, abandonment, aggravation, harassment, abuse, monetary extortion, and infringement of sexual self-determination (Article 3 (20)). Furthermore, disabled persons who have suffered from harassment shall have the right to receive counseling, treatment, legal aid, and other appropriate measures and shall not receive any disadvantageous treatment on the grounds of reporting harms caused by harassment (Article 32 (2)).

While it is not directly related to employment, the Welfare of the Aged Act has regulations on sexual violence or harassment that cause a sense of sexual shame to the aged (Article 39-9 (2)), and the Child Welfare Act also includes regulations against making a child feel sexually ashamed, as through sexual harassment and violence (Article 29 (2)). There are no penal provisions concerning the violation of the Welfare of the Aged Act, but in the Child Welfare Act, any person who violates the provisions of Article 29 shall be punished by imprisonment for not more than five years or a fine not to exceed 30 million KRW (Article 40).

The Equal Employment Opportunity and Work-Family Balance Assistance Act, the Act on the Prohibition of Discrimination of Disabled Persons: Remedy Against

³⁵ In addition to this, the Framework Act on Women’s Development and the National Human Rights Commission Act stipulate on sexual harassment.

FRAMEWORK ACT ON WOMEN’S DEVELOPMENT

Article 3 (Definitions)

4. The term “sexual harassment” means a case in which any employee, employer or worker of State agencies, local governments or public organizations prescribed by Presidential Decree (hereinafter referred to as “State agencies, etc.”) commits an act falling under any one of the following items in performing duties, employment and other relations: (a) Making the other party feel sexual humiliation or aversion with verbal or physical behavior of a sexual nature, etc. utilizing position or in relation with duties; and (b) Putting the other party at a disadvantage in employment on grounds of not complying with any verbal or physical behavior of a sexual nature or other demands, etc.

NATIONAL HUMAN RIGHTS COMMISSION ACT

Article 2 (Definitions)

5. The term “sexual harassment” means that the working persons, employers or employees of a public agency make others feel sexually humiliated or loathsome by their sexual comments, etc. or giving others disadvantage in the employment on the pretext of disobedience to sexual comments, other demands, etc., by taking full advantage of their superior position or with regard to the duties, etc.

Infringement on Their Rights, etc., and the Welfare of the Aged Act all regulate harassment in terms of sex, disability, and age. However, these regulations cannot function as general laws because they do not cover all types of harassment in the Korean workplace or the concept of bullying. This is why the Roh Moo-Hyun administration tried to propose the pre-announcement of legislation on an anti-discrimination law in 2007. In that proposal, there was a definition of bullying: the act that inflicts physical pain or mental pain, such as humiliation, insult, fear, etc., toward an individual or group. Yet, the proposed law did not have a regulation specific to bullying and harassment at work. Furthermore, this law was practically scrapped when a new regime came to power in 2008.³⁶

4.2 The responsibility for bullying and harassment in the workplace³⁷

In a sense, mobbing hinders the free expression of workers' personalities in the workplace, potentially infringing on personality rights. However, since the illegality of subjects is traditionally assessed based on the concrete actions of individuals, legally judging social problems that occur outside the legal system is not easy. Nevertheless, mobbing cannot be left unattended simply because the implementation of laws concerning that social problem will be difficult. In particular, because mobbing violates the worker's body and health, it is against the principle of constitutionalism.

Legal remedies for bullying and harassment in the workplace may be largely divided into civil and criminal legal responsibilities and responsibilities under the labor law. However, in this paper, the responsibilities of the related parties and the responsibilities under the labor law will mainly be examined.

4.2.1 The inflictors' responsibilities

Inflictors of bullying or harassment can be business owners, corporate representatives, superiors, or workers. Unless the inflictors of bullying or harassment are business owners, no contractual relations exist between inflictors and victims; thus, the inflictors' responsibilities become the responsibilities for torts under Article 750 or 751 of the civil law. That is, if the victims' personality rights or rights of labor are infringed upon because of the inflictors' bullying or harassment, the victims may request for compensation for losses for the reason of illegal acts.

4.2.2 The employers' responsibility

This applies to cases where business owners are the ones bullying or harassing others and cases where colleagues, corporate representatives, or superiors bully or harass someone. In cases where business owners are directly responsible for the bullying or harassment, they will have to compensate for the victims' loss or for defaulting on their obligation to consider safety under their labor contracts. Even if business owners are not directly responsible for the bullying or harassment, they shall bear the consequent responsibilities.

(1) The business owners' responsibilities under Article 750 or 751

In cases where business owners are directly responsible for bullying or harassment,

³⁶ Lee, J.H. (2009). A Study on Workplace Mobbing. Korea University (master's thesis), 110.

³⁷ Kim, Y.M. (1998). Legal Remedy for Workplace Mobbing. *Lawyers Association Journal*, 498 ; Lee, J.H. (2009). A Study on Workplace Mobbing. Korea University (master's thesis) ; Lee, D. H. (2011). Employee's Mobbing at the Workplace. *Chung-Ang Law Review*, 13(4) ; Shim, J.J. (2012). Regulating Harassment in the Workplace: The Case of the United Kingdom. *Korean Society of Comparison Labor Law*, 25.

they shall bear the responsibilities for not creating a workplace environment where workers' lives or health would not be damaged in the course of providing labor. In addition, business owners have the duty to consider the maintenance of a workplace environment where workers can work free of occurrences that cause serious inconvenience to the provision of labor due to the infringement of the workers' personal dignity in the performance of work. Impeding workers' abilities to cope with the performance of work, including the infliction of bullying or harassment, violated this duty. Thus, the violating business owners are subject to Article 750 of the Korean civil law.

In cases where business owners are corporations, responsibilities for illegal acts consist of the following: First, the business owners shall bear responsibilities under Article 756 of the civil law for employees' illegal acts. Second, the business owners may bear responsibilities under Article 35 of the civil law for representatives' acts. Clause 1 of Article 35 of the civil law specifies: "Corporations have the responsibility to compensate for losses inflicted by directors or other representatives to others in relation to their jobs." Since mobbing is an infliction "in relation to" the victims' job, the issue falls under article 35 of the civil law.

In the case of an individual business, if superiors or colleagues bully or harass the victim(s), and the victim(s) notifies the business owner of this fact, but the bullying or harassment continues, the business owner's responsibilities for illegal acts by nonfeasance can also be considered. That is, if a business owner instigates or abets in bullying or harassment, he/she shall bear responsibilities for joint illegal acts (clause 3 of Article 760 of the civil law).

(2) The business owners' responsibilities under articles 756 and 760

In cases where supervisors appointed by business owners bully or harass those under their supervision, and if business owners do not take immediate and appropriate actions when they know or could have known about the problem, the business owners shall also bear the responsibilities (Article 756 of the civil law) because they did not take reasonable care in appointing and supervising the supervisors. Reasons for exemption from these employers' responsibilities are: first, that employers took all necessary actions to prevent bullying or harassment, such as implementing education and making sufficient efforts to prevent mobbing; second, that employers made efforts to quickly correct employees when bullying or harassment occurred; and third, that employees did not use opportunities provided by employers to prevent bullying or harassment, and did not make an effort to avoid damages. If evidence for these factors can be presented, the business owner can be exempted from the employers' responsibilities.

(3) The business owners' responsibilities under contracts

In cases where business owners are directly responsible for bullying or harassment, they bear the responsibilities under contracts for violation of the obligation to protect workers, the obligation to consider workplace safety, or the obligation for equal treatment under labor contracts. In cases where business owners are not directly responsible for bullying or harassment, they still have the obligation to protect workers from the bullying or harassment of superiors or other workers. Therefore, when a worker has been afflicted with bullying or harassment from corporate representatives, superiors, or colleagues, the business owner still violated the obligation to protect workers, the obligation to consider workplace safety, or the obligation for equal treatment under labor contracts. Consequently,

the business owner shall bear the responsibility for compensation for losses when defaulting on those obligations. For instance, if a worker reports difficulties to the business owner, but the owner does not take appropriate actions, the lack of appropriate actions constitutes a violation of the obligation to consider workplace safety.

If a business owner does not know about a case of bullying or harassment because the afflicted worker did not declare the fact and the inflictor's bullying or harassment was conducted in secret, it cannot be said that the employer failed to perform his obligation to protect the victim under the employment contract.

4.2.3 The responsibilities under the labor law

The labor law of Korea does not have any direct legal provisions regarding mobbing, bullying or harassment at the workplace. There is only a provision regarding sexual harassment in the Equal Employment Opportunity and Work-Family Balance Assistance Act. Therefore, it is questionable if bullying and harassment-related issues can be coordinated with the provisions regarding sexual harassment. If the provision under the Equal Employment Opportunity and Work-Family Balance Assistance Act are applicable, then education for prevention should be implemented for mobbing, as it is for the prevention of sexual harassment (Article 13). Likewise, disciplinary actions or other equivalent actions should be taken against those who bully or harass others, as with the actions taken against those who sexually harass others (Article 14). Additionally, unfavorable actions should not be taken against workers who are victims of bullying or harassment. Finally, the issue of whether mobbing in the workplace falls under the category of discrimination should also be considered because workers may not be discriminated against without reasonable cause, thanks to Article 6 of the Labor Standard Act of Korea, which specifies equal treatment. This is a concretization of the principle of equal rights under the constitution.

(1) The issue of applying the Equal Employment Opportunity and Work-Family Balance Assistance Act

Article 12 of the Equal Employment Opportunity and Work-Family Balance Assistance Act specifies: "Business owners, superiors, or workers should not conduct sexual harassment in the workplace." Whether this provision can be interpreted as a general warning against bullying or other forms of harassment is at issue here. If such an interpretation is possible, the provision under the Equal Employment Opportunity and Work-Family Balance Assistance Act would be applied to bullying at work. In this respect, the relationship between bullying and sexual harassment should be examined. In general, it can be said that bullying causes harassment. If harassment occurs in relation to sex, it becomes sexual harassment, and if it occurs due to bullying, it becomes moral harassment. Essentially, sexual harassment can be said to be one type of harassment. Yet, it cannot be said that sexual harassment is included in bullying. That is, the provision for sexual harassment is not to be interpreted as a general provision for bullying.

(2) The issue of applying equal treatment under the Labor Standard Act

Since Article 6 of the Labor Standard Act of Korea has a provision for equal treatment, workers may not be discriminated against without reasonable cause. In the business setting, discrimination means the unfair provision of different employment or labor conditions to different workers or to take other unfavorable actions without reasonable cause (see the first clause of Article 2 of the Equal Employment Opportunity and Work-Family Balance

Assistance Act).

Whether the bullying or harassment of workers falls under the category discrimination should be examined. Since the bullying or harassment of workers appears as a deterioration of labor conditions for the affected workers, the bullying or harassment of workers can be said to be discrimination. Therefore, the provision under Article 6 of the Labor Standard Act applies to discrimination.

5. Implications for bullying and harassment cases

In this chapter, I will introduce four bullying cases that actually occurred in the workplace. All information was provided by Mr. Ahn and Mr. Lee.

[Case 1]

When the sales department and the finance department dined together, Kim (male), the chief of sales, told his subordinates: “Do not toast deputy chief Park (female) of the sales department who has ignored our department.” Yang, the chief of another department, said, “I am not a sales department member, so is it alright if I toast Park?” When Yang attempted to toast Park, Kim got angry and said: “You do not toast her.”

At the time, other employees felt sorry for Park, but no one dared to stop Kim because he was the senior member among them. Kim’s exclusion of Park in front of many employees caused Park to feel shame and a sense of indignity.

[Case 2]

Jeong (female), a sales representative, underwent surgery in 2011 due to a chronic disease, and she had a hard time recovering from its sequela. Because Ryu (male), the team manager and Jeong’s immediate superior, knew that many sales occurred in Jeong’s area at the end of every month, he telephoned Jeong continuously and threatened her: “I am not interested in your circumstances. Will you be able to make your sales in this way? I will wait and see how well you do during the remaining 10 days.”

Such harsh language and threats were obviously inappropriate for a team manager. Ryu could not control his temper, satisfying his resentment of Jeong. Every month, he did the same thing, and Jeong was under severe stress, lapsing into a depression.

[Case 3]

Shim, a 26-year-old (female) employee of C company was under severe mental stress due to continuous bullying by deputy chief Lee, a female in her early 40s. Lee was unmarried, and she satisfied her resentment by continuously harassing her subordinate, Shim. For instance, Lee imposed a lot of work on Shim late on Friday afternoons, saying: "Have the finished work on my desk by the time I come in Monday." Likewise, Lee would have Shim do her translation assignments for graduate school, even though the assignments were Lee's personal work.

After nine months of being bullied, Shim could not tell Lee (who had power over Shim's performance rating) that the stress was causing her to suffer from sitomania. Shim, a young unmarried woman, rapidly gained weight and lost confidence in her appearance. Finally, she made a rash decision. On a Friday night, she e-mailed her foreign CEO, declaring: "I will hang myself at the office during the weekend, and when you come to the office, photograph me and place the image on Lee's desk for harassing me." Fortunately, the CEO read the e-mail that night, immediately contacting Shim and listening to her plight. In the end, he persuaded her not to commit suicide with a promise to prevent such harassment in the workplace.

[Case 4]

Park (male) of D company was eager to be in shape. He always ate chicken breasts and egg whites. Consequently, an odor of rotting egg lingered around him.

Park himself did not realize it, but even though he brushed his teeth well, the egg smell from his mouth was so evident that other employees gradually did not want to eat or talk with him. In particular, female employees did not go near him because of the smell. Yet, Park was very proud of himself, and he did not leave the company or try to resolve the problem. Eventually, other employees did not want to do projects with Park, needing their immediate superior to demand their cooperation. Ultimately, the progress on the tasks was never smooth, the results were unsatisfactory, and Park's low performance rating kept him from being promoted. He left the company voluntarily.

According to Lee,³⁸ the causes of bullying at the workplace include arrogance, rudeness, ostentation, ignorance of customs, job capabilities, appearance, disease, and disorder in victims, and jealousy, competition, concealment of self-display, the display of authority or capability, and anger in the inflictors. As a result, this triggers: degraded job involvement, frustration, depression, physical disorder, and job transfers on an individual level; and weakened organizational solidarity, the destruction of organizational culture, decreased productivity, and a weakened public image on an organizational level.

As the four cases above show, there are diverse causes of bullying in the workplace,

³⁸ Lee, J.H. (2012a). The Problem and Organization Management of Workplace Mobbing. *Management World*, 393, 43-44.

and they may not be objectified. In particular, the fourth case shows that the victims and the inflictors may not be clearly differentiated. This is why it is difficult to resolve such cases of bullying; the roles are not always obvious, and there is a tendency to regard it as a matter of personal problems.

According to the “Measures to Prevent Mobbing in Workplaces,” bullying may start out as a bit of fun, secretly being committed under implied consent, but it has real ramifications for the individuals who constitute the group dynamics of an organization. The workplace involves relationships between individuals and groups; therefore, it is hard for the individual to respond to mobbing. And if the person requests help from outside the group, he/she may be misunderstood as lacking in organizational adaptability or job capabilities, and may be subject to disadvantages.³⁹

As the above cases show, bullying colleagues is in direct violation of the law, but there are more cases where it is not illegal. For example, employees that merely do not get along and do talk with their colleague are not violating the law. Hence, the relative degree of intimacy in interpersonal relationship is not a domain that is usually a matter of legal concern.⁴⁰

In the first and fourth cases, amid bullying of a person other employees just see how the wind blows or become silent sympathizers, weakening organizational solidarity and negatively affecting tasks.

Even though, in the third case, the CEO acted on the victim’s situation immediately and prevented further harm from occurring, this is not usually the case. In terms of mental health as a result of workplace bullying, if victims try to file insurance claims for depression, the company views them negatively. In other words, when a victim applies for the insurance, the company should be under investigation of labor inspectors and the company is put into a difficult situation. Therefore, victims find it difficult to seek help through the company for mental health issues.⁴¹

6. Actions and limitations of companies, labor unions, and the labor relations commission

6.1 The company’s self-helping measures

We have investigated the legal responsibilities of companies (and the measures they can take) when workplace bullying and harassment occur. However, when the problems actually happen, many employers, at first, consider firing the victims.⁴² Conversely, when workplace bullying and harassment occur, the victims might consider suicide, applying for compensation, or leaving the company. Thus, the consequences of workplace bullying and harassment damage a company’s reputation and its investment in human resources.

The following are the actions that companies are taking to prevent or handle bullying and harassment at the workplace:

³⁹ Weekly Dong-A, 2000.6.1.

⁴⁰ Lee, J.H. (2012b). Legal Approach to Workplace Mobbing. *KEF Compensation Quarterly*, 20(1), 99-100.

⁴¹ Interview with Mr. Ahn.

⁴² Interview with Mr. Lee.

- * To open the window for communication, using messages or e-mail to inform the CEO or superiors in the management department of problems at work;
- * To employ a professional counselor or doctor in the health center of the company or the hospitals affiliated with the company (in the case of some major companies);
- * To appoint a confidence worker to communicate with others who have had some difficulties with bullying or harassment; and
- * To understand if teams are working well or not. Those assessments will reflect on the head of the applicable department, and the unification of the each department will be encouraged.

Some companies have thus taken actions to prevent workplace bullying and harassment. Yet, there are no regulations, legislations, or even guidelines from related to government agencies to encourage or enforce further actions. The actions that have been taken originated from company initiatives.

The companies that already suffered from those problems or anticipate their occurrence have considered how they can take prevention measures. However, according to Mr. Lee, when a company seeks his advice in handling bullying or harassment, most companies decline his advice to place a doctor or psychotherapist for victim counseling at the workplace, preferring to let the victims have a face-to-face talk with the boss.

Moreover, despite the money and time invested in mandatory preventive education for sexual harassment, the reality is that the preventive education is conducted as a mere formality and has no effect to alleviate sexual harassment. This situation is similar to the preventive education for workplace bullying and harassment.⁴³

The action that most employers take in situations of workplace bullying and harassment is to make the victims leave the company. The victims are usually regarded as misfits within the organization who struggle with personal difficulties. As a result, many victims voluntarily resign, and the problems related to workplace bullying or harassment remain unexposed. Yet, if companies aggressively intervene to settle these situations, firing both bullies and victims or urging them to resign, it would put a different complexion on the matter, sometimes causing unfair dismissal controversies.⁴⁴

Therefore, companies need to change their perceptions of workplace bullying and harassment. When the employers understand that it is occurring at their workplace, they need to make the bullies and victims undergo an official grievance procedure, and they need to support the victims in receiving psychological counseling. Through these methods, the employers facilitate the mending of relations and support the victims in returning to their original duties.

If, despite all these efforts, it is still impossible to mend the situation, the employers could allow the victims to change their posting or to transfer to a different section. Finally, if the employers need to dismiss the victims or to advise them to resign, the employers need to be prepared for unfair dismissal problems by having procedures in place to explain the circumstances and the necessary actions they took.⁴⁵

⁴³ Interview with Mr. Lee.

⁴⁴ Lee, J.H. (2012a). The Problem and Organization Management of Workplace Mobbing. *Management World*, 393,45.

⁴⁵ Lee, J.H. (2012a). The Problem and Organization Management of Workplace Mobbing. *Management World*, 393,45.

6.2 The situations of labor unions and the labor relations commission

As with the case of the Seoul Metropolitan Subway Corporation in 1999, workplace mobbing occurs among members of labor unions. In Korea, most labor union members are often bullies in the workplace.⁴⁶ Labor unions primarily consist of workers, and the workers who can exercise their right to speak or have strong influence in their organizations tend to be bullies of workplace mobbing. Furthermore, one of the characteristics in Korean labor unions is a plethora of diverse factions or affiliations. Usually the antagonistic relations between these factions lead to workplace mobbing. For instance, the majority of faction mobs monitor faction members. Moreover, when union members gather for industrial actions, some members who oppose the leadership's policy or pursue their own lines of action will be the targets of workplace mobbing. For instance, the mobbing union members do not share communal activities with the victims, and they do not share information and personal connections.

Neither the Federation of Korean Trade Unions (FKTU) nor the Korean Confederation of Trade Unions (KCTU) has much interest in workplace bullying issues. FKTU and KCTU are the heads of prominent labor unions, and their main role is to manage on-site organizations. Yet, even union labor members at the on-site level usually do not have any interests in workplace bullying issues. Thus, FKTU and KCTU also do not present their interests about the workplace bullying and harassment issues.⁴⁷

Ideally, the labor unions should help to solve workplace bullying problems. However, in light of the current situation among Korean labor unions, it might be difficult for them to be the main solution. For instance, according to the Act on the Promotion of Workers' Participation and Cooperation, a grievance handling committee could be organized to hear the workers' grievances. The committee would be composed of not more than three members representing labor and management. Yet, the problem is that the union head would be a member of the committee, so the victims of workplace mobbing who would like to use this kind of committee would not get a fair hearing.⁴⁸

Regarding the role of the Labor Relations Commission (LRC), The LRC is a consensus-based administrative body composed of tripartite representatives of employees, employers, and public interest committees. The LRC is an independent, quasi-judicial body that concentrates mainly on mediating and adjudicating labor disputes between labor and management regarding interests and rights. The LRC also has the function of adjudicating unfair labor practices and unfair dismissals and of ordering the correction of discrimination for non-regular workers. Under the current the LRC system, however, workplace bullying and harassment problems are difficult to be handled in the LRC, and the industrial accident issues are also not be dealt with in the LRC.

7. Conclusions

It is necessary to change the way we understand workplace bullying and harassment in Korea, enhancing publicity on the issue, improving the legal regime related to it, and increasing the interests of civil or voluntary organizations. Although many legal experts

⁴⁶ Interviews with Mr. Ahn and Mr. Lee ; Lee, J.H. (2012b). Legal Approach to Workplace Mobbing. *KEF Compensation Quarterly*, 20(1), 101.

⁴⁷ Interviews with Mr. Ahn and Mr. Lee.

⁴⁸ Interviews with Mr. Lee.

perceive the significance of bullying and harassment issues at work, they sometimes find it difficult to pinpoint the legal issue, to objectify it, or to achieve a regulatory format. They conclude by saying that the bullying or harassment problems mainly involve emotional or personal aspects. However, the specific issue of sexual harassment came to the fore when a supervisor sexually harassed a female research assistance in 1993. In 1998, the Supreme Court of Korea determined the professor's liability in compensating for the sexual harassment.⁴⁹ Before then, victims who were sexually harassed at the workplace would silently leave the company to settle the issue. However, from the beginning of the incident in 1993, the issue of sexual harassment started to be publicized; thus, the current legislation stipulates general regulations on sexual harassment, including workplace sexual harassment, and the government is taking active measures to deal with it. Thus, when compared to ten years ago, sexual harassment problems have been publically acknowledged and concrete plans for correction have been implemented.

The two experts interviewed for this paper have pointed out that the current level of discussion regarding workplace bullying and harassment in Korea is similar to the level of discussion concerning sexual harassment in Korea ten years ago. Therefore, these workplace issues need to be classified and relevant judicial precedents need to be accumulated. The problem is that the number of precedents on workplace bullying and harassment is very small. Furthermore, we could consider mental health problems that workplace bullying and harassment cause. Yet, Korea is a place where the victims are reluctant to apply for compensation or to receive psychotherapy, so it is difficult to publicize the issues.

To solve the problems of workplace bullying and harassment, we anticipate the role of voluntary organizations. Concerning sexual harassment, many civil or voluntary organizations, labor unions where they have some interests on or relations to female workers or issues are actively being involved in sexual harassment issues. However, there remains a relative absence of voluntary organizations for the elimination of workplace bullying and harassment. Therefore, enhancing the awareness on workplace bullying and harassment is a prerequisite for invigorating the role and action of voluntary organizations.

Since the Ministry of Employment and Labor announced the "Measures to Prevent Mobbing in Workplaces" in 1999, we have not seen any legislative action to regulate the problems of workplace bullying and harassment. Nevertheless, more and more diverse academics are taking an interest in the problem, especially legal scholars who are looking to foreign legislations for comparable remedies to regulate workplace bullying and harassment problems in Korea.

Most importantly, we need to learn from the former experiences the publicization and regulatory legislations concerning sexual harassment. Of course, many companies initially fought against those regulations, looking to discharge their responsibilities. Therefore, in order to avoid repeating the tensions, companies have to take a deep interest in their employees, taking steps to handle the problems in advance. As with the legislated preventive education for sexual harassment in the workplace, the pre-emptive, periodical use of preventive education would help to eliminate workplace bullying and harassment.

In contemporary Korean society, the idea of a lifelong workplace and the sense of belonging to a company have faded away. Under the global economic downturn, Korean companies have been trying to diversify their employees' working type for reduced

⁴⁹ Supreme Court Decision 95 Da 3953 Decided February 10, 1998 (대법원 1998.2.10 선고 95 다 3953 판결).

expenditures. Consequently, the ideas on ethical management and corporate social responsibility have been proliferating for several years. Hence, companies need to reconsider “the image of employees” that has developed through a workplace hampered by bullying and harassment and a new image that embraces employees for their diversity.

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