



# R&D

*calls for putting the*

## «HUMAN»

*at the heart of the Human resources management  
of our Institution!*



## Mondays on the Prevention of Psychosocial Risks

### Marie Pezé

**Institutional psychological harassment**  
*When work organisation and pathogenic management push the victim to  
extremes!*

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# PSYCHOLOGICAL HARASSMENT From offence to management style

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**THE APPEARANCE OF THE NOTION OF  
PSYCHOLOGICAL HARASSMENT HAS TO DO  
WITH THE STRONG INCREASE OF  
PSYCHOLOGICAL DISORDERS ASSOCIATED WITH  
ORGANIZATIONAL TRANSFORMATION AND  
NEW MANAGEMENT PROCEDURES**



# Work — an irreplaceable individual and social peacekeeper

Work — an irreplaceable individual and social peacekeeper

If work can cause *suffering*, it is first of all because it holds many *promises*:

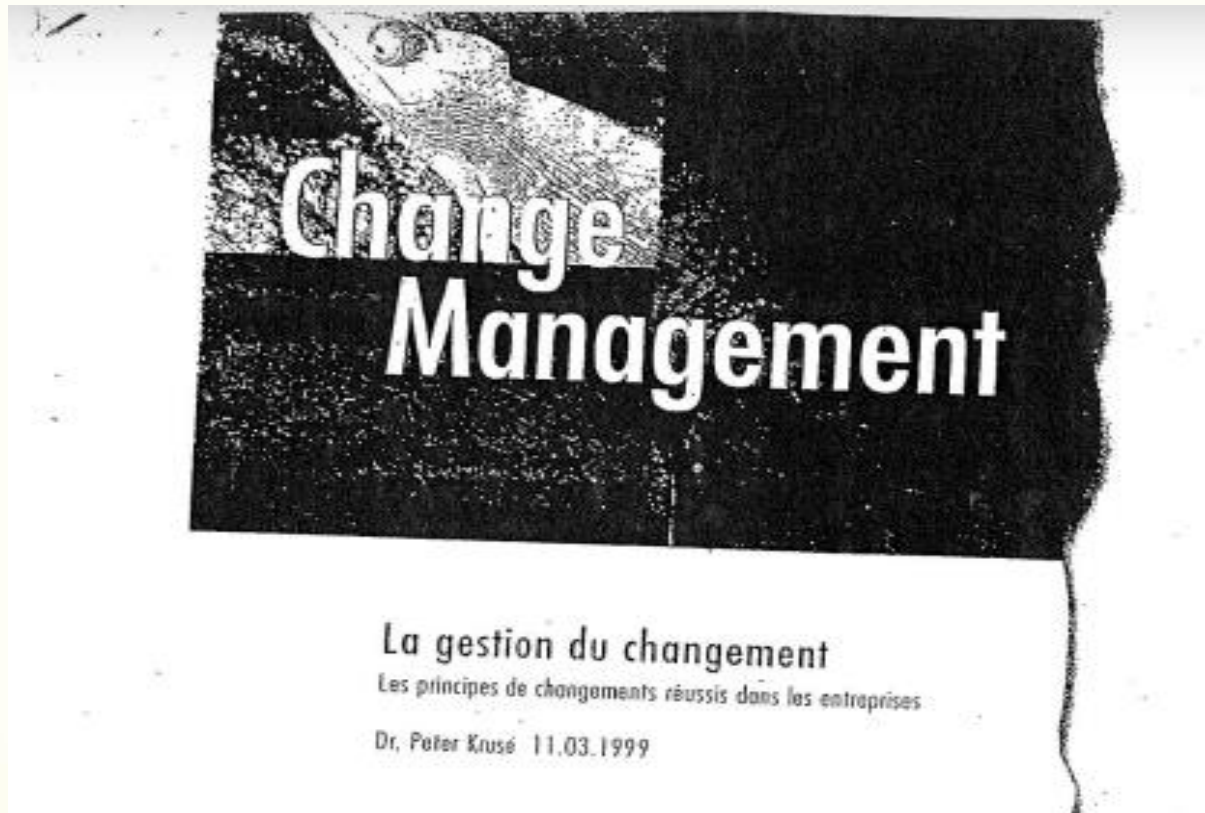
- ▶ Promise of **self-accomplishment** through the recognition of one's skills, allowing **identity construction**, thanks to the gratitude, acknowledgment of users, colleagues and management..
  - ▶ Promise of **social empowerment**, of being **useful** to the world and to others, of learning to live all together
- 

For a few decades, two currents of thoughts oppose each other:

- The first one supports the existence of narcissistic perverts and fragile workers, moving towards the “naturalization” of the phenomenon.
- The second, based on clinical occupational health research, explains the origin of the profound changes in organisational patterns at work by the existence and spreading of specific management guides and their implementation in companies



## Company management guides — examples



# PSYCHOLOGICAL HARASSMENT

## From offence to management style

tous." Les gens seront irrités et vous poserez cette question humaine: "Mais, pourquoi? Pourquoi devrais-je vous suivre et abandonner ma sécurité si vous ne savez même pas où vous allez?" Au début de chaque processus de changement, il faut pouvoir donner une réponse très plausible. C'est normal que les gens aient des idées personnelles et veuillent les suivre. Il vaut mieux un danger qu'on connaît qu'un danger qu'on ne connaît pas. Les gens préfèrent rester dans une situation connue plutôt que de prendre le risque de changer, même si l'objectif est attrayant. Donc, au début de chaque processus de changement, il faut une réponse crédible à la question "Pourquoi?". Aussi curieux que cela puisse paraître, du point de vue physiologique et neurologique, il n'existe que deux solutions et demie à ce problème. En termes neurologiques, il n'y a que deux raisons et demie pour que le cerveau déclenche un processus de changement et pour que la créativité soit possible. En ce qui concerne les entreprises, la première solution n'est à vrai dire qu'une demi-solution. On peut trouver des gens qui adorent prendre des risques. Ça existe! Environ 10% des gens aiment les situations instables et plongent les yeux fermés. Chez eux, le goût du risque est inné. Mais, si vous remplissez votre entreprise de ces gens-là, je peux vous dire ce qui va arriver. Votre entreprise sera sans aucun doute une entreprise vivante mais pas du tout rentable, car, ces gens-là ne sont pas intéressés par la routine ni par l'optimisation mais uniquement par le changement. Ils voudront donc du nouveau même si l'ancien modèle est encore efficace. C'est pourquoi, ceci n'est pas une réponse complète mais une réponse partielle. Il existe néanmoins deux solutions complètes. La première consiste à effrayer les gens. Cela peut paraître curieux, mais la peur force les gens à changer. La crainte est le premier pas vers l'inconnu, c'est le moteur du changement. Les gens commencent à bouger quand ils ont peur. Mais, si vous utilisez la peur pour motiver votre personnel, ça va vous coûter cher, parce que vous devez entretenir leur crainte. En plus, la peur n'est efficace que si elle est réellement ressentie. Il suffit qu'elle disparaisse pour que le changement s'arrête. Cette expérience est fascinante. Faites un bruit assourdissant et observez la réaction des gens. Ils vont s'encourir, peut-être sur 5 mètres, puis s'arrêter et regarder autour d'eux. Il faut un autre bruit assourdissant pour qu'ils se remettent à courir et, la deuxième fois, ils ne parcourent que 4,5 mètres avant de s'arrêter. Il faut donc continuer à faire du bruit et que le bruit soit de plus en plus fort. Le degré de frayeur doit augmenter pour que le mouvement continue. En tant que cadre, vous occupez une position bizarre, car, vous devez effrayer les gens et continuellement augmenter leur frayeur pour maintenir le niveau des performances. C'est exactement ce qui se passe dans beaucoup d'entreprises. La direction arrive avec un scénario catastrophe. Le personnel reste assis et se dit: "Alors, quoi? Ça y

est, un autre qui monte à l'assaut, encore un prophète, etc." En fait, c'est pour ainsi dire mieux que les gens ne se laissent pas trop affecter par leur peur parce que, si on augmente systématiquement le niveau de frayeur et si les gens le prennent trop au sérieux, on arrive à un point de non-retour, où la peur se transforme en panique et où le changement s'arrête. La motivation par la peur ne fonctionne qu'à petites doses. Une fois que la peur devient panique, il n'y a plus de changement possible. Les gens réagissent tous de la même manière, ils attrapent le meilleur nounours à leur portée, s'assoient dans un coin et appellent leur maman. La panique arrête tout mouvement et, à partir de ce moment-là, c'est la régression. Les gens retrouvent des modèles archaïques et essaient de se stabiliser à n'importe quel prix. Donc, si vous utilisez la peur comme moyen de motivation – Ce qui est votre droit – vous serez confrontés à ce qu'on appelle une situation très difficile en termes psychologiques. 1\*) Vous devrez entretenir la motivation par la peur tout le temps, 2\*) intensifier la peur systématiquement et 3\*) faire très attention à ce que la peur ne se transforme pas en panique, ce qui impliquerait la fin du changement. Bref, on pourrait dire que ceux qui utilisent la peur comme élément de motivation doivent avoir des talents psychologiques pour la compréhension, car, ils doivent savoir exactement ce qu'ils font. Curieusement, ce sont toujours les cadres les moins psychologues qui essaient d'effrayer leur personnel. Voici un autre exemple. Une personne à peine capable de peler une pomme avec un couteau à fruits a le droit d'opérer un cœur avec un scalpel. La motivation par la peur est sans aucun doute efficace (Cela a été prouvé sur le plan neurophysiologique.) mais très difficile à réaliser. Il existe, heureusement, une autre forme de motivation, dont je vais parler maintenant. C'est la fascination. Si vous avez quelque chose qui intrigue les gens, ils commenceront à changer sans même penser aux risques qu'ils courent. Si vous parvenez à frapper l'imagination des gens, s'ils disent "Oui, j'aime ça", le potentiel de changement est infini. Maintenant, j'ai une question à vous poser. Qu'est-ce qui vous plaît dans votre banque? Qu'est-ce que la C... a de si séduisant? Si vous ne savez pas me répondre, ça sera difficile d'instaurer des processus de changement. Vous devez trouver quelque chose à propos duquel vous pouvez dire: "J'adore ça, c'est ce qui rend ma vie professionnelle excitante, c'est ce que je veux vraiment." Les cadres devraient être les premiers à se poser cette question. C'est là qu'intervient la notion de vision. Vous ne réalisez sans doute pas à quel point ce concept a été mal utilisé dans l'industrie. Il y a eu tant d'actions marketing avec la notion de vision comme thème central que personne ne la prend plus au sérieux. Les gens n'ont pas compris que la vision n'avait rien à voir avec du papier de luxe couvert de beau texte mais qu'il s'agissait d'une résonance dans l'esprit des cadres. Si vous ne parvenez pas à

# Questioning work

Changes in the organization of work and  
their consequences





**The production of values is no longer to be sought in work but, instead, in new management methods..**



# NEW SEMANTICS TO BETTER INTEGRATE NEW LOGICS

**We speak of:**

managers, reporting:, objectives and individual interviews,  
performance;

**Anglicisms are used, a “newspeak”**

The terms ‘disruption’, ‘agility’, ‘lean management’ or ‘digital natives’, etc

These terms are not neutral and are not a makeover of old terms.  
They serve to:

- define the realities of these ‘operational improvements’
- Create a gap between the corporate governance and the primary function, the grassroots workers
- Euphemise, neutralize the negative realities that are produced
- Create a “specific common vocabulary”, an inside language which makes you powerful if you master it.



# THE INDIVIDUALISATION

is based on individual assessment and is implanted in order to isolate the worker:

- ✓ annual appraisal **interviews, ranking**
- ✓ **quantified performance targets** to be achieved,
- ✓ **variable salary** components, **bonuses**
- ✓ atomisation of work tasks to the detriment of know-how, professions and workgroups
- ✓ breakdown of workspaces
- ✓ New computer technologies inducing virtualization
- ✓ Need to self-train, to be proactive, to build your own skills pathway, to become self-entrepreneur



# THE QUALITY

## Total quality, a commercial argument, is unrelated to the concept of quality of work in the sense of the employee

- The result is far from the promise: Toyota, for example, increased from 60 000 vehicles recalled for manufacturing defects in 2001 to 1.88 million in 2005 (1). We stand at 7 million in 2009, and 10 million in 2010.
- The number of alerts concerning non-food products already marketed and found to be dangerous, either because they were marketed too early or because they do not comply with the standards, indicates that between 2003 and 2015 there has been an almost 15-fold increase in the number of alerts for as many brands as Samsung, Toyota, Ikea, Firestone. (2)

(1) [Watanabe, Hayashi, 2007 : 146-175]

(2) [census by the European Commission]



# The COMMUNICATION

- ✓ The internal communication of the company means getting employees to be **Corporate**, investing their bodies and minds in the service of business
- ✓ **the influx of daily emails makes** necessary to learn how to manage the hierarchy of importance, to know response techniques so as not to be trapped by the email that has not been read.
- ✓ Day and night overflow, or weekends, as can be seen in the files submitted by employees.
- ✓ There is a tendency to report only positive information and to hide the difficulties encountered in real work



## The most common forms of work organisation in companies and establishments today

### THE CONSEQUENCES

- workload, difficult to absorb, time pressure, complexity, *work in degraded mode*,
- emotional requirements, in particular contact with the public,
- lack of autonomy and of room for manoeuvre,
- lack of social support and cooperation from management and work colleagues,
- difficulties in reconciling family and professional life
- lack of recognition and feeling of uselessness of the work done, *loss of meaning* of the work one does,
- conflicts of value between work requirements and personal values that can be harmful to mental health (*ethical conflict*)
- insecurity as a result of organisational changes
- These factors are causing interpersonal *tensions* in the departments, increasing tension at work and, in some cases, the isolation of employees (excluding the one that is suffering also in relation to the image he gives to the working group of what might happen to them), possible moral harassment,

# Work-related pathologies: *overload and isolation*

## Overload

**Psychological decompensation:** Stress, anxiety, disengagement from work, cognitive disorders (memory, logic, concentration), acute stress, burn-out syndrome, **Violence:** Violence against users, between colleagues, against the working tool (sabotage), against management (sequestration), radicalisation of management modes

**Somatic decompensation:** Musculoskeletal disorders, myocardial infarction, and stroke (Karoshi), weight yoyo, metabolic syndrome

## Isolation

post-traumatic stress syndrom, PTSD

suicide (black, red and white)



## PSYCHOLOGICAL HARASSMENT AMONG PSYCHOSOCIAL RISKS

Various models for understanding and analysing work

**In France, psychosocial risks** are *“risks to mental, physical and social health generated by employment conditions, organisational and interpersonal factors that may interact with mental functioning”*

\* Definition of the College of Expertise on PSR, April 2011 (Gollac report)

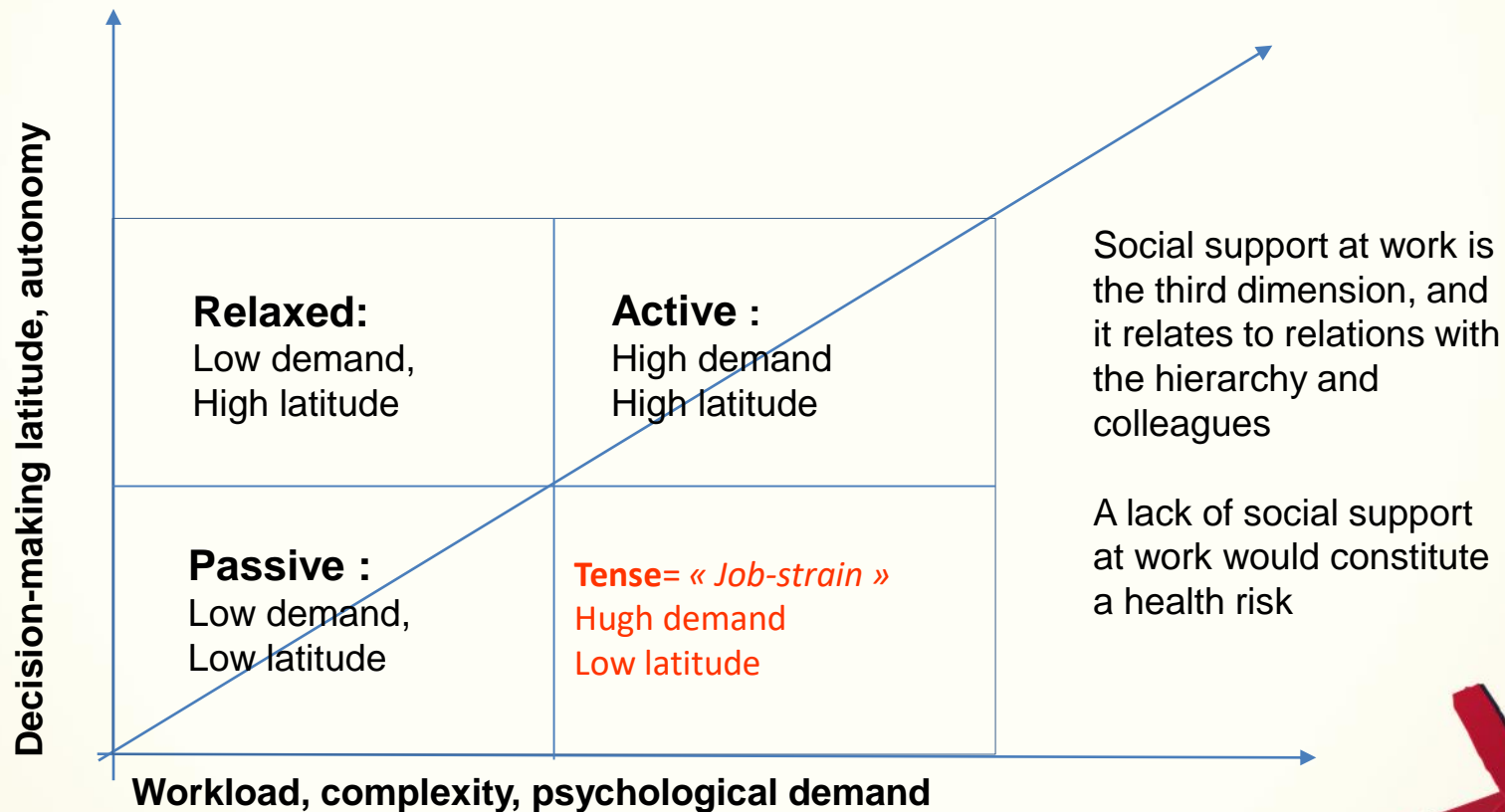




# PSYCHOLOGICAL HARASSMENT AMONG PSYCHOSOCIAL RISKS

Various models for understanding and analysing work

## The Karasek model



# **PSYCHOLOGICAL HARASSMENT IN LAW AND CASE LAW COMPARISON BETWEEN FRANCE AND THE EUROPEAN CIVIL SERVICE**



## FRENCH LEGAL DEFINITION

- «**No employee** shall be subjected to **repeated acts** of psychological harassment which have as their **object or effect** a deterioration in working conditions which could **infringe** his **rights** and **dignity**, **impair his physical or mental health** or **compromise his professional future** »

L. 1152-1 of the Labour Code

Article 222-33-2 Criminal Code



## Legal definition — case law clarification

- 3 necessary (and cumulative) conditions
  - Repeated conduct
  - AND a deterioration in working conditions
  - AND an infringement of the rights or health of the victim of the acts (whether committed or likely to be carried out)

If one of the steps in the demonstration of harassment is missing, the offence cannot be characterised



## Legal definition — case law clarification

- **repeated conducts :**

**Number :** **2** acts may suffice, not 2000

*C. Cass. 20/10/2010 – a single act cannot characterise the repetitive character*

**Time space:** within such a short or long period of time as desired (case law has been able to retain between **2 weeks and 3 years**);

*C. Cass. 21/04/2010 – The seniority of certain facts (several years) which may characterise psychological harassment does not preclude their repetition;*

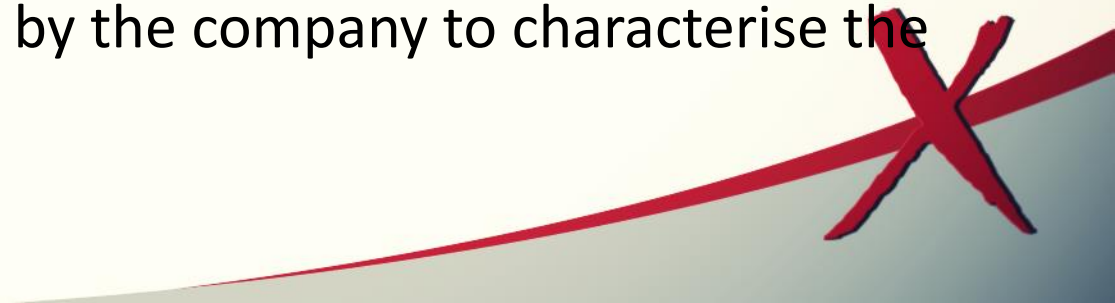


## Legal definition — case law clarification

- **Nature of the conduct**

No precise definition. All those that can be considered from the point of view of deteriorating working conditions. Clearly, the Court of Cassation has always retained as repeated conduct all acts which were *abusive, illegitimate* (including unlawful) or *unjustifiable* by the employer.

The types of conduct taken into account by the criminal chamber are the same as those used by the company to characterise the infringement.



## Legal definition — case law clarification

- **No employee**

Vertical or horizontal psychological harassment in both directions; the perpetrator does not have to be the line manager or in the company but can be a person linked to the work (spouse, external trainer); if not employed, not Labour Code but Penal Code..



## Legal definition — case law clarification

- Which have as their purpose or effect

Purpose = intention      effect = consequence

The intention to commit is not a necessary condition required by law; the intention to harm is not required; we look at the consequences

- **Likely to cause harm**

It is not even necessary for the harm to be carried out, the potential harm is sufficient





## Legal definition — case law clarification

- **Infringement of rights**, dignity, impairment of health, jeopardy of professional future

Any infringement of the employment relationship which does not respect the fundamental rights of the employee

In the view of the Court of Cassation, dismissal **necessarily** jeopardises the employee's professional future, and social isolation is necessarily an attack on dignity



## Legal definition — case law clarification

- ***No intentionality*** : the judges reject the argument that there is no intentional element of the offence of psychological harassment, which the lawyer argued that *“it is constituted only insofar as the judges note, not only that the accused has voluntarily committed acts of harassment, but also that he was motivated by the desire to degrade working conditions with the aim either of undermining his rights and dignity, or of altering his health or even compromising his professional future”*.

Soc. 17.04.2013 and Soc. 19.06.2013 et criminal 25.04.17



## Legal definition — case law clarification

- **Potential damage** (not necessarily realised): CRIM.FBP 14,01,2014 No 11-81.362
- **Reversal of the burden of proof:** the employee “presents facts suggesting the existence of psychological harassment” (all forms of evidence: written, testimonies, SMS and recordings). The employer then proves that the evidence relied on is objective for reasons other than psychological harassment. If he is unable to provide such proof in respect of all of these elements, the conviction is incurred. L. 1154-1 in the version Labour Law+ Soc. 24.01.2014



# Adjustment of the burden of proof (civil service)

## Méthodology in 3 stages :

- “It is up to a public servant who claims to have been the victim of psychological harassment to submit to the judge the facts likely to give rise to a presumption of the existence of such harassment;
- it is for the administration to produce, on the contrary, an argument capable of demonstrating that the conduct in question is justified by considerations unrelated to any harassment;
- the conviction of the judge, who is responsible for assessing whether or not the acts of harassment is established, is determined in the light of these contradictory exchanges, which he may supplement, in the event of doubt, by ordering all appropriate measures of inquiry”.

*« Whereas it is for a public official who claims to have been the victim of acts constituting moral harassment to submit to the judge facts from which it may be presumed that there has been such harassment; it is for the administration to produce, on the contrary, an argument capable of demonstrating that the conduct in question is justified by considerations unrelated to any harassment; the judge’s conviction, who is responsible for assessing whether or not harassment is established, is determined in light of these contradictory exchanges, which he or she may supplement, in the event of doubt, by ordering any appropriate measure of inquiry.”*

(Council of State, Section 11 July 2011, No 321225 and Council of State 25 November 2011, No 353839)



## **Judicial review on psychological harassment**

- Psychological harassment = 1,000 rulings per year Court of Cassation (99 % Social Chamber, easier for lawyers in the field of OSR and termination of employment contract)!!
- In broad terms: 20 % acquittals/80 % of convictions in civil matters; since 2005, 156 judgments of the Criminal Chamber have condemned (only 15 acquittals).



## Legal definition — clarifications of case law

- Judges must ***take into account all the elements “taken as a whole”*** in order to qualify the offence, and thus not assessing them separately
- A ***legal entity*** can be found guilty of psychological harassment, even in the absence of a conviction of the natural person



## Legal definition — penalties

- Penalty of 2 years' imprisonment and 30,000 euros fine (aligned with the Criminal Code and the Labour Code since 2012).
- The Law on Social Modernization has already been validated by the Constitutional Council, so no priority question on constitutionality (QPC) is possible



# The various forms of harassment

## Individual harassment

practiced by an obsessive personality or a narcissist or a person with a character pathology. It is intentional, aims to humiliate, destroy the other and enhance his or her social or personal power.

- The instrumentalization of individuals and bodies by these personalities delays or makes it impossible to recognize criminal conducts, as their methods can be hostile, subtle and frighteningly efficient, especially when dealing with individuals who are highly committed to their work.





# horizontal harassment

- It is carried out between staff, with no hierarchical relationship.
- It is a collective dynamic in which conducts contrary to fundamental human rights are deployed in an employment relationship.
- In this situation, the harassed individual or group becomes the scapegoat, bearing the responsibility for situations of suffering at work or organisational malfunctions.

# Institutional harassment

It can take 3 forms:

- deliberate management practices involving the disruption of the social relationship affecting all staff, which undermine the dignity of individuals and which have the effect of damaging working conditions (management through stress, fear);
- strategic harassment aimed at excluding staff whose age, state of health and level of training no longer correspond to the needs of the service and their general interest missions;
- lack of intentionality in management methods which, however, promote conflict and psychological harassment. Institutional harassment occurs not only when management is voluntarily involved in the harassment process, but also when it is only involuntarily involved.
- This position is ultimately in line with the legal definition, which describes as moral harassment acts which have as their object an attack on the dignity of the person and a deterioration of working conditions, as well as those that have the effect of damaging the dignity of the person and deteriorating working conditions.

## The contribution of judges: from “individual” psychological harassment to “ORGANISATIONAL” PSYCHOLOGICAL HARASSMENT

- Progressively, case law has taken the view *that work organisation, management techniques* and restructuring could, on account of their impact, characterize the offence of psychological harassment: “**Organizational and/or managerial” harassment** is then referred to as harassment»
- The organisation of the deterioration of employment relationships, even involuntary, (public humiliation, isolation, systematic monitoring of work at all time, professional downgrading, removal from duties, failure to take a decision on the part of management in the face of known relational problems, excessive workload following dismissal or company reorganization, repeated omissions and errors, etc.) results in a deterioration in working conditions and a potential damage to the health, rights or dignity of the individual workers who are exposed to it.

## The contribution of judges: from ‘individual’ psychological harassment to “ORGANISATIONAL” PSYCHOLOGICAL HARASSMENT

- Cass. soc. 24.06.2009, “the employer is prohibited, in the exercise of his management authority to take measures which would have the object or effect of not complying with his **obligation of safety** and protection of the health of the workers”
- It is in this logic that case law — and with the concept of OSR — may restrict the employer’s rights over the organisation of his business
- Lyon Court of Appeal “benchmark”: the conditions for **implementing an organisation of work** can cause harm to workers’ health
- Paris Court of Appeal “PSE FNAC”: suspension of the job preservation plan pending **the company’s assessment of the residual workload** that will weigh on the "survivors" after the effective dismissals
- TGI Paris “Bristol”: prohibition **to increase the workload of household women unilaterally and without compensation**
- **Legal entity** guilty of moral harassment Soc. 29.01.2013

## Protection of victims and witnesses of psychological harassment

- Civil protection of victims and witnesses against any disciplinary sanction as a result
- +  
• criminal sanction for breach of this principle (dismissal)



## Protection of victims and witnesses

- Protection of victims and witnesses against any penalty (dismissal null and void + claim for compensation of damages for abusive termination + moral prejudice).  
Nullity of dismissal implies reinstatement as of right, but little enforced (employee's choice , 6 months minimum wages).
- Since Law 06.08.12, also constitutes a criminal offence of discrimination:  
L. 1155-2 Labour Code (1 year and € 3,750 fine, if discriminatory due to refusal or testimony)  
Or 225-1-1 Penal Code (3 years and € 45,000 fine, if refusal of recruitment, sanction or dismissal).



# France Telecom (Paris Court of Justice 20/12/2019)

- An exemplary judgment acknowledging the **institutional psychological harassment**
- The legal element: The law extends to the repression of a group of people at the institutional level
  - It is necessary to demonstrate three conditions
    - a) **a structured and implemented enterprise policy**
    - b) **actions leading to deterioration (potential or actual) of working conditions and health**
    - c) **that exceed the power of management**
- The intention: the willingness to carry out repeated actions, either by knowing their effect or by knowingly seeking their object. That does not mean that, in all circumstances, the offender intended to infringe the rights or dignity of the victim, but awareness of such a result or possibility is sufficient,
- The guilt of the defendants: the facts relied on fall within the remit of the **Directorate's own powers**.
  - Sentence by the maximum penalty (including 4 months' imprisonment)
  - The executives involved in the implementation considered as complicit
  - The legal person sentenced as well to the maximum

# A SPECIFIC CLINICAL SYNDROME: PTSD

## POST-TRAUMATIC STRESS SYNDROME





# Alert phase

- Its clinical form is difficult to detect and subclinical::

*Anxiety, sleep disorders, social disengagement, boredom*, an increase in the use of medication or various toxic substances (*addictions*), are the precursor signs, not to mention fatigue. Often trivialised, this symptom is disqualified. It must be seen as the first level of wear and tear of the work gesture, emptied of its identity building power, which is a precursor sign of an asymptomatic depression.

The employee in this phase does not express himself or herself or speak to his, her colleagues, or those around him or her. *He/she merely 'hold'*, bogged down by *hypervigilance at work* and *reactive hyperactivity*, supposedly to avoid criticism and bullying. This alert phase is therefore difficult to identify except for the general practitioner who has a long-standing knowledge of his patient and the occupational physician who is attentive to this type of illness..

Minor clinical signs are insufficient to detect the disease.

Asymptomatic: absence of clinical symptoms



# Decompensation phase

- *If the harassment process persists* and a cooperation network is not established around the staff member concerned, *clinical signs shall appear*. The most serious form corresponds to the traumatic neurosis table and is similar to *post-traumatic stress disorder*.(DSM IV)
- The PTSD usually occurs in situations where the subject lives of a real or perceived threat to his or her physical or mental integrity. There are specific circumstances for each of us capable of triggering traumatic neurosis because of their significance. There is no objective proportionality between the severity of the situation and the severity of the clinical picture.
- **DSM** – Diagnostic and Statistical Manual of mental disorders (4th edition) = Diagnostic and Statistical Manual of mental disorders (International Classification)



- **The distress** of the harassed patient is subacute with physical symptoms: tachycardia, tremors, sweating, esophageal lump.
- **The recurrent**, unwanted loop-back of work threatening and humiliating scenes impose themselves upon the patient and make him relive the event over and over.
- **Distress attacks occur spontaneously**, triggered by an analogue perception with some cardinal detail of the work scene: noise, color of the wall, gestures of a person in presence, particular smell, etc.
- **Intrusive nightmares** appear, leading to immediate waking up in sweats, screaming.
- **Reactional insomnia tends to** block the intrusive nightmares. Insomnia, fatigue and the fight against distress crises lead to a major social, emotional and sexual withdrawal, a gradual alteration of the general state, in all aspects, somatic, cognitive and mental:
- **Cognitive impairments** are always present: loss of memory, trouble concentrating, trouble thinking.
- **Psychological impairments** lead to: loss of self-esteem, feeling of devaluation, loss of skills, feeling of guilt, defensive position of justification, anxiety and depressive collapse
- **Paroxystic distress with suicidal evolution** (suicidal raptus)

Usually, it is **the sentinel worker, TRAPPED in the work situation** who decides to free himself or herself by committing suicide.

How is the team?



## SOMATIC ATTACKS

Are signs of *damage to immune defences after the collapse of mental defences*

- They are *increasingly serious* depending on the duration of the situation: significant loss or gain of weight, impairment of the digestive, cardiac and gynecological sphere in women (amenorrhea, metrorrhagia or, even more serious, cervical, ovarian and uterine cancers.). From a psychosomatic standpoint, compensation is generally indicative of *failure of representation possibilities, the overflow of the liaison capacity of the psyche* and a stalemate for the person concerned. “Somatisation is the process by which a conflict that cannot find a mental outcome will trigger endocrine metabolic disorders in the body, which is the starting point for an organic disease
- There is also a specific *disarray of identity* for patients suffering from conflicting professional situations where their difficulties on the ground have not returned to the hierarchy, to be recognised and debated up to the trauma: alteration of the moral compass, true and false, fair and unfair, good and bad..



**THE EMPLOYER'S PREROGATIVES  
AND THE RESULTING PATHOGENIC  
MANAGEMENT PRACTICES**  
a guideline to help the worker  
identify  
one's situation



# THE RELATIONSHIP OF SUBORDINATION

**Interpersonal practices** can be used to:

- 1. Overuse the power relationship**
- 2. Isolate the employee from his/her working group**



# **INTERPERSONAL PRACTICES**

- ▶ **Using the familiar form without reciprocity, using asymmetry to humiliate**
- ▶ **Interrupt systematically**
- ▶ **Using a high and threatening verbal level**
- ▶ **Removing social etiquette (no hello, no goodbye nor thank you)**
- ▶ **Refusing verbal communication**
- ▶ **Use the evaluation interview for the purpose of emotional destabilisation**



# ISOLATION PRACTICES

- ▶ **Changes in meal schedules like to separate colleagues**
- ▶ **Failure to provide information on the meetings and then criticize the absence**
- ▶ **Failure to communicate on meetings necessary to the performance at work and then criticize the work**
- ▶ **Order other employees/agents to stop communicating with the designated person**





## **CREATION OF CLANS**

- ▶ **Complacency for some, rigor for others**
- ▶ **Unequal distribution of workload in quantity and quality**
- ▶ **Management of strategic competition (benchmark..)**
- ▶ **Public stigmatization of an employee in front of others**



# DISCIPLINARY POWER

- 1. Disciplinary practices can become persecutory**
- 2. Punitive practices place the employee in a position of constant justification**



# PERSECUTORY PRACTICES


Monitoring of work is a prerogative of the employer/director of the facility, but must be used in fair and good faith

- ▶ **Monitoring of facts and gestures by New Information Technologies (NITs)**
- ▶ **Control of telephone communications, e-mails**
- ▶ **Requests for abusive reporting**
- ▶ **Checking bags, drawers, racks, bins, etc.**
- ▶ **Checking the length of breaks, absences**
- ▶ **Checking conversations with colleagues**
- ▶ **Obligation to leave the door open**



# PUNITIVE PRACTICES

**They put employees/agents in a position of constant justification and are counterproductive by destroying the recognition of their work**

- ▶ **Repeated refusal of training requests**
  - ▶ **Inconsistency of evaluation procedures**
  - ▶ **Systematic memos**
    - ▶ **Disciplinary meetings, reprimands and warnings for venial events**
  - ▶ **Authoritarian assignment to a department**
  - ▶ **Holidays imposed or not granted at the last moment**
  - ▶ **Systematic use of registered mail with acknowledgment receipt**
  - ▶ **Strong incentive to transfer**
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# MANAGEMENT AND ORGANISATIONAL POWER

Practices affecting working gestures can lead to loss of sense of work

- ▶ Work too sequenced without vision of the final product
- ▶ Working on the edge of illegality
- ▶ Apply quality standards in convergence with the market but not with business rules
- ▶ Impose quality procedures in parallel with work carried out in degraded mode
  - Paradoxical injunctions
  - Staging the disappearance
  - Emotional surrender through hyperactivity



# PARADOXICAL INJUNCTIONS

- ▶ **Make redo a task that has already been done**
- ▶ **Have non-existent faults corrected**
- ▶ **Tear a report that has just been typed because “deemed useless”**
- ▶ **Oblige to glue the stamps 4 mm from the edge of the envelope**
- ▶ **Setting objectives without giving the means**
- ▶ **Set rigid requirements, far from reality**
- ▶ **Giving contradictory instructions making work unfeasible and prone to mistakes**
- ▶ **Summon the employee/staff member and not give him/her work**



# STAGING OF THE DISAPPEARANCE

- ▶ **Remove tasks or workstation to assign them to another, without informing the employee/staff member**
- ▶ **Block access to the office, telephone, computer, empty cupboards**
- ▶ **Delete the employee/staff member from the organisation chart, letterhead papers**
- ▶ **Give work that does not correspond to the qualification**



# EMOTIONAL SURRENDER BY HYPERACTIVITY LEADING TO BURNOUT SYNDROM

- ▶ **Setting unrealistic and unachievable targets that maintain failure, depletion and systematic criticism**
- ▶ **Increase the workload within a given timeframe**
- ▶ **Repetitively submitting urgent files at the last minute**





# PRACTICES vs. RULES OF LAW

- ▶ **Abuse of the relationship of subordination**
  - Vexatious incivility, refusal to engage in dialogue, insidious or insulting remarks, denigration, etc...
- ▶ **Misuse of disciplinary rules**
  - Unjustified sanctions based on venial events...
- ▶ **Misuse of management authority**
  - Not giving work, giving unachievable objectives, giving unnecessary work, isolating them, etc...
- ▶ **Misuse of the power of organisation**
  - Arbitrarily altering the working conditions or essential attributes of the job



# Quizz



## Psychological harassment?



# Psychological harassment?

- When you think you are already under water, you are given a work overload, by saying you that this is exceptional and in a tone that does not call for any refusal?



## To give an exceptional and temporary work overload is it psychological harassment?

while this overload is exceptional and temporary, as the situation is supposed to return to normal after this “rush”, it is not psychological harassment.

### But be careful!

- The fact that it is not psychological harassment does not exonerate the employer from his obligation to protect the physical and mental health of agents!



# Psychological harassment?

- For some time, tasks relating to your job have been decreasing. You are no longer given as much or nothing to do, you are worried
- For some time, you have been told that you have become bad, you have been removed from your tasks, prerogatives, missions.....



# As always, study the context

## Case 1

- Your sector of activity is disappearing and it is not clear what to give you to do

## Case 2

- You no longer receive the mails about meetings, you are removed from files to entrust them to others, your post is left off



# Staging of the disappearance

- **discarding** strategy consisting of **no longer giving work and depriving** the staff member to whom notes, e-mails and letters would normally be sent
- transfer of the staff member's responsibilities to a less experienced trainee,
- setting aside from their normal tasks,
- to take ownership of his or her work relegating him or her in the eyes of others to a mere performer



# Techniques for attacking the work process

- In addition to the exclusion of the agent from business, the adoption against him of "guilt-laden, contemptuous and ostracizing" words
- Micro monitoring of work, calling for very frequent reports for minor tasks,
- Tasks impossible to carry out, deadlines impossible to meet, in order to prove professional incompetence,





# Interpersonal techniques

- Humiliating remarks in the presence of subordinates with a view to discrediting the authority of the staff member in his/her team,
- Reduce his rating and lead to the failure of any promotional progress,
- Interrupting him/her or yelling at him/her brutally and on a daily basis in front of his/her colleagues,
- Making fun of the agent or make him/her the subject of derision, fake rumours or malicious insinuations,
- Not give any weight or interest in relation to his/her statements, notes or work



# Psychological harassment?

- For some time, the atmosphere at work has been bad, everyone is shouting, getting angry, yelling at each other or no longer talking to each other.
- You are even sidelined



# Repeated conflicts with one or more colleagues?

- Disagreements are commonplace and sometimes give way to harsh or even “ignited” confrontations between two staff members. However, if the reason for this conflict is very clearly defined and precisely defined (an organisational, decision-making or methodical aspect), then it is not psychological harassment

## Yes, but ?

- The hierarchy must organise the workload in order to avoid hostile behaviour between agents, the source of PSR



# Psychological harassment?

- For some time, or on a regular basis, your manager scolds you, speaks loudly to you and continuously criticises you



# Manager under pressure, burnout or harasser?

- Under pressure, the manager may impose too short timeframes, excessive speed and unachievable objectives in a climate of tension.

**Beware**, we come back to work every day and criticism, denigration of work, withdrawal of responsibilities is therefore repetitive

## YES, BUT?

- *since a judgment of 10 November 2009, the Court of Cassation has accepted that **management methods may constitute psychological harassment**, but on condition that the offending management method is manifested for a specific employee by repeated acts, a deterioration in working conditions liable to infringe rights and dignity, to impair physical or mental health or to compromise the employee's professional future*



# Directive and authoritarian management

The boundary between authoritarian management and psychological harassment is thin and in such circumstances the manager must be familiar with **management techniques labelled as toxic**

**Attention is drawn to the fact that psychological harassment is no longer regarded as intentional!**

Reflections and criticisms, systematic questioning of work, criticisms without checking achievement, unjustified aggressiveness, inappropriate remarks on clothing, age



# Psychological harassment?

- Your manager has just called you dumb, dopey in public...



# Ad hoc verbal attacks

- It is not a matter of psychological harassment if a manager responds exceptionally with impulsivity and aggressiveness. On the other hand, the question arises whether insults or violent behaviour are regular and repeated with a particular employee.

## Yes, but:

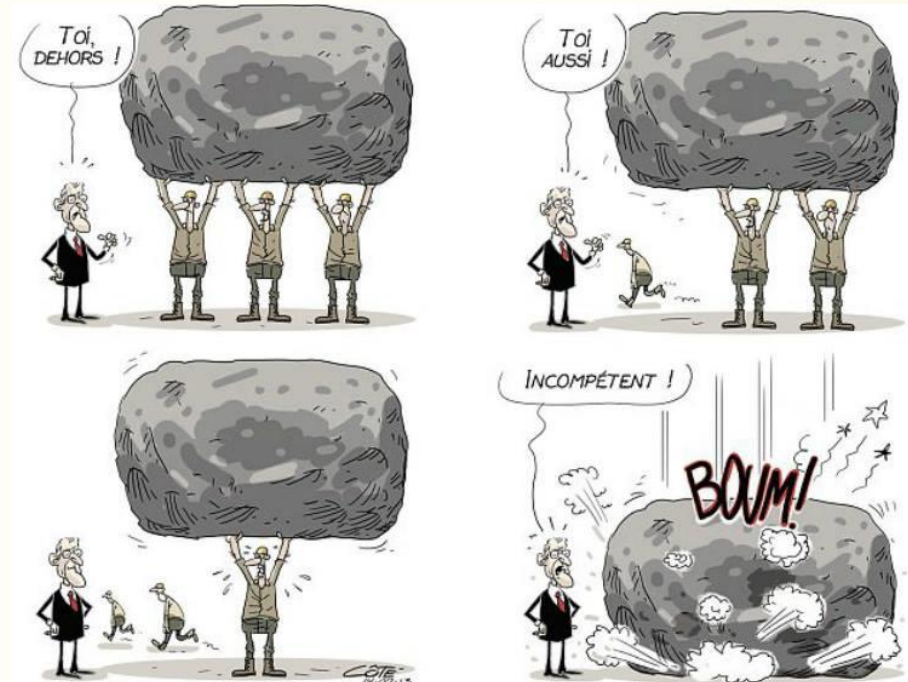
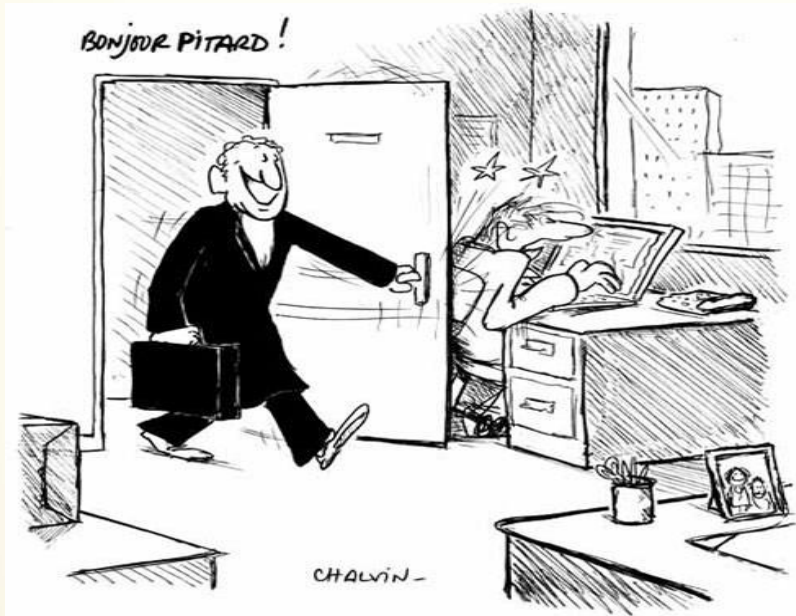
- Verbal aggression can trigger a state of distress and be declared as an accident at work





# Psychological harassment?

- Your premises are outdated, the software no longer works, you lack resources and colleagues to do the job



# Degradation of the material resources needed for good working conditions

- Administration which “refuses to communicate with [its staff], to receive them for interview and [which withholds] information”
- Withholding of information
- E.C. 26 January 2007, Giffard, No. 282.703  
C.A.Nancy 14 June 2012, No. 11NC01167
- C.A.A. Nancy, 25 February 2016, M.C. c/Community of municipalities of Epinal-Golbey, No 13NC00879)  
C.A.A. Bordeaux, 12 October 2015, M.C. c/commune of Cayenne, No 14BX01110;
- C.A.A. Versailles, 22 September 2016, No 14VE02598
- According to the Defender of Rights DDD, Decision MLD — 2016-111
- C.A.A. Nancy 14 June 2012, Previous.
- E.C., ref., 19 June 2014, Commune du Castelet, No 381.061, T., p. 794.
- E.C., 21 November 2014, Chamber of Commerce and Industry Nice-Côte d’Azur, No 375.121, AJDA 2014, p. 2281



# Psychological harassment?

- Your subordinates sling against you, laugh at you, get away from your prescriptions, is this psychological harassment?



# To harass your superior, it is possible

- For the first time, in a judgment of 6 December 2011, No 10-82.266, the Criminal Chamber of the Court of Cassation condemned an employee who committed a bottom-up psychological harassment (ascending) that a subordinate may exercise over his line manager: one educator was prosecuted for psychological harassment of his head of service. Working conditions had deteriorated so much that the head of department committed suicide
- *... the defendant is charged of being guilty of psychological harassment against the person of Mr X..., his immediate superior, by regularly devaluing his action and by disseminating an image of incompetence in his professional environment and among his staff by increasing the number of refusals to submit and criticising his instructions, repetitively engaging in disrespectful and contemptuous behavior; it is true that, in view of their repetition over time, those acts may have had the effect of adversely affecting the working conditions within the SAST and, more particularly, those of Mr X, his hierarchical superior...*



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