



Retaliation against reporters of unequal treatment

Failing employee protection in The Netherlands

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Abstract

Purpose – Equal treatment in the workplace is considered one of the most fundamental rights of employees. This right also implies that employees must be able to address any form of unequal treatment freely and effectively, without fear of retaliation. The purpose of this paper is to investigate the prevalence of retaliation against complaints of unequal treatment in The Netherlands and its underlying factors.

Design/methodology/approach – This article is based on a telephone survey among employees who filed a formal complaint about unequal treatment at work to the Dutch Equal Treatment Commission.

Findings – The main finding is that retaliation against equal treatment reports is commonplace in The Netherlands and in many cases takes on serious forms. Furthermore it is found that the nature and extent of retaliation are primarily explained by the circumstances in which unequal treatment develops and that the extent of retaliation is neither explained by the manner in which unequal treatment is addressed nor by the level of institutionalized protection that is available.

Originality/value – The need for a better understanding of retaliation is high, because retaliation and fear of retaliation have broad consequences for the psychological and physical well-being of individual employees and for employment relationships. Yet, studies on retaliation in the context of employment discrimination are rare, especially outside the USA. This article contributes to a better understanding of retaliation, which may be used by policy makers, employees and employers to address it more effectively.

Keywords The Netherlands, Employment legislation, Discrimination, Workplace, Retaliation, Social protection

Paper type Research paper

Introduction

The terms unequal treatment and discrimination refer to practices in which people are treated unequally on the basis of inappropriate grounds, such as race, gender or age. This paper reports on an empirical investigation of retaliation against people who experienced unequal treatment at work and decided to address this wrongdoing. We start with an illustrative example to set the scene.

A woman of Surinamese origin is almost sixty years of age when she finds a financial accounting job in a foundation in the field of international aid and equal opportunity. Her expectations are high, but she is in for a sobering experience. After some time, she discovers that she is being paid less than her colleagues, that she is denied a tenured

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position for a longer time than is usual and, that she is denied a well-deserved promotion. The first time she addresses these issues, she is simply ignored. When she then claims her right to an assessment by an internal committee, the director uses his powers to prevent this, and she starts getting negative remarks about the quality of her work. She then files a formal complaint to the Dutch Equal Treatment Commission and gets confirmation of what she suspected. The commission investigates her complaint and concludes that it is well founded. She has indeed been treated unequally on the grounds of race and age. Does this help her? Not really. Soon afterwards, the foundation reorganizes and she is the only employee to lose her job, just a few months before she can regularly retire. As a result, her pension is now considerably lower than it would have been.

The above example illustrates employer retaliation in response to an employee who reported unequal treatment at work, but leaves many questions unanswered. How often does this type of retaliation occur? Can we speak of incidents or does retaliation against unequal treatment complaints pose a structural problem? And, which factors contribute to this type of retaliation?

In the Netherlands, the principle of equality forbids discrimination of persons and groups on the grounds of gender, race, age, nationality, religion, belief, political opinion, sexual orientation, marital status, handicap or chronic illness and type of labor contract. The principle of equality has a long history and is laid down in the first article of the Dutch constitution and firmly embedded in several national laws, such as the General Equal Treatment Act and the Equal Treatment in Employment Act. Furthermore, the right to equal treatment at work is established in several international and European treaties, including the European Convention on Human Rights, the International Convention on Civil and Political Rights and the United Nations Conventions on Elimination of all forms of Racial Discrimination and Discrimination Against Women.

In 1994, the Dutch Equal Treatment Commission, a semi-judiciary body, was established, with the tasks of promoting and monitoring compliance with this equal treatment legislation, and of investigating unequal treatment disputes and providing judgments (these are judgments which are not legally binding). In 2012, these tasks of the Equal Treatment Commission have been transferred onto the newly erected Netherlands Institute for Human Rights.

All these formal arrangements, however, do not guarantee that discrimination is effectively banned from the Netherlands or that employees can simply report discrimination to make it stop. As scholarly research points out, an important hindrance to achieving equality in practice is retaliation (Bergman *et al.*, 2002; Brake, 2005; Cortina, 2008; Cortina and Magley, 2003; Cortina *et al.*, 2001; Lee *et al.*, 2004; Mesmer-Magnus and Viswesvaran, 2005; Miceli and Near, 2002; Miceli *et al.*, 1999; Near and Miceli, 1986, 1996; Near *et al.*, 2004; Miles *et al.*, 2010; Parmelee *et al.*, 1982; Sincoff *et al.*, 2006; Skiveness and Trygstad, 2010). Retaliation, and in particular fear of retaliation silences challenges to discrimination, and thereby hinders the realization of equal treatment in the workplace (Bergman *et al.*, 2002; Cortina and Magley, 2003; Miles *et al.*, 2010). For these reasons, retaliation against reporters of unequal treatment is forbidden in many countries. This is also the case in the Netherlands, where retaliation against reporters of unequal treatment is prohibited under article 8a of the General Equal Treatment Act. This article, however, is, again, a formal rule. It does by no means guarantee that retaliation does not occur in practice.

This study focusses on the forbidden practice of retaliation against employees who address unequal treatment at work in the Netherlands. This practice of retaliation is an under-studied phenomenon, which so far has been given little attention outside the

USA (Brake, 2005; Skiveness and Trygstad, 2010). The research question steering our investigation reads:

RQ1. To what extent do employees who complain about unequal treatment experience retaliation and which factors explain the variation in the nature and extent of retaliation?

To answer this question, we proceed as follows. First, in the theory section, we discuss the existing literature on retaliation against employees who address wrongdoing, to arrive at three sets of explanations for variety in the nature and the extent of retaliation. Then, we present the research method used in testing these explanations, including the method of data collection and the measurements. This method section is followed by the results section, and finally by a conclusion, in which we also discuss some practical implications of our findings.

Theory and hypotheses

As argued above, retaliation against employees who report unequal treatment can have important consequences. It is therefore somewhat surprising that the field of employment discrimination research has not addressed this issue of retaliation extensively (Goldman *et al.*, 2006; Miles *et al.*, 2010). Instead, the employment discrimination literature mostly focusses on explaining antecedents, consequences and outcomes of acts of discrimination (Goldman *et al.*, 2006; Miles *et al.*, 2010) and on explaining outcomes of employment discrimination claiming (e.g. Goldman, 2001; Hirsh, 2008). This does not mean, however, that theory on the topic of retaliation is fully lacking. In the literature on whistleblowing, retaliation has received much more attention in the past and, as Bergman *et al.* (2002) argue, this literature on retaliation against whistleblowing is conceptually similar because it is also “intended to end an illegal or unethical situation” (p. 232). So, what does this existing theory tell us about retaliation and about the factors that explain this phenomenon?

First of all, it is found that retaliation refers to a wide variety of punitive actions taken against employees who address unlawful practices (Rehg *et al.*, 2008). The most obvious instance of retaliation is that in which a superior in an organization uses his formal powers to punish an employee by affecting the employee’s work conditions and/or the employee’s promotion opportunities. Cortina and Magley (2003) call this type of retaliation work retaliation. Examples are unjustified negative performance appraisal, denial of promotion or other advancement opportunities, suspension, demotion and transfer to a different geographic location (Cortina and Magley, 2003; Ormerod and Vaile-Wright, 2003).

In addition, Cortina and Magley (2003) distinguish social retaliation as a second important form of punitive action. Social retaliation refers to a variety of actions which do not require any formal power of decision over the employee’s work and work conditions, but which instead are based on social powers, i.e. powers to change the social context in which the employee works. These social powers, which rest primarily with actors with whom the employee is in contact on the work floor, can also be used punitively. Examples of social retaliation are gossiping about the employee, addressing the employee in a negative manner, shunning and excluding the employee from social activities and mobbing (Cortina and Magley, 2003; Namie, 2003; Vandekerckhove and Commers, 2003).

Given the many forms of work retaliation and social retaliation, punitive actions against employees who challenge unequal treatment can vary widely in both nature

and extent. Three types of explanation can be distinguished for this variety in retaliation. The first type of explanation, which has received most attention in the existing literature, links retaliation to the nature of the accusation implied in a complaint or a report about organizational wrongdoing. The second type of explanation concerns the organizational context in which the wrongdoing is addressed and the third type of explanation focusses on the process which is followed by the employee in question, when he or she addresses organizational wrongdoing. These three types of explanation will now be discussed to arrive at seven separate hypotheses regarding the explanation of retaliation against employees who report unequal treatment.

Nature of the accusation

In the case of a report of unequal treatment, retaliation forms a reaction to that report. This means that there is good reason to assume that both the nature and the extent of retaliation are related to the nature of that report and more particularly the accusation implied (Cortina and Magley, 2003; Near and Miceli, 1986; Near *et al.*, 2004; Skivenness and Trygstad, 2010). Here, in essence, the question is: who is accused of what? In other words, retaliation against complaints of unequal treatment may be explained by the types of actors which are accused implicitly or explicitly of wrongdoing, and the content of the accusation.

With respect to the types of actors accused, the form and extent of retaliation can be expected to depend on the specific powers these actors have *vis-à-vis* the employee in question (Bergman *et al.*, 2002; Cortina and Magley, 2003; Lee *et al.*, 2004; Mesmer-Magnus and Viswesvaran, 2005; Miceli *et al.*, 1999; Near and Miceli, 1986; Rehg *et al.*, 2008). Here, a distinction can be made between two types of actors. On the one hand there are actors who work on or close to the employee's work floor – co-workers and immediate supervisors – who have social powers over the employee. On the other hand there are actors in the organizational hierarchy, who may work at some distance to that work floor, who may apply formal powers to affect the employees work. Following this distinction, a rather straightforward assumption is that the extent of social retaliation will be higher when the accusation that is implied in a report or a complaint about unequal treatment, concerns actors on or near to the work floor (*H1*).

Although it may seem logical to assume a similar straightforward relationship between the formal powers of those accused and the extent of work retaliation, it is likely that in practice such a relationship will be obscured. One reason is that even if the implied accusation is directed against an actor without any formal powers, such as a colleague or a client, other actors, with formal powers, such as supervisors, may take punitive action on their behalf (Callahan and Collins, 1992; Lewicka-Strzalecka, 2002; Near and Miceli, 1996). Furthermore, any complaint about unequal treatment at work will almost automatically imply a partial accusation of those in power, who have the formal responsibility to prevent unequal treatment and to make it stop. For this reason, it is not logical to assume a straightforward relationship between the formal powers of those directly accused and the extent of work retaliation.

The second element of the nature of the accusation concerns the content of the complaint or report. With respect to this content, it has been suggested that the extent of retaliation is positively related to the severity of the accusation implied (Cortina and Magley, 2003; Miceli *et al.*, 1999; Near and Miceli, 1986; Near *et al.*, 2004; Parmerlee *et al.*, 1982). Until now, the effect of this severity has mainly been explored in studies that addressed a single equality ground – mostly gender or race – in which severity was measured in terms of the costs and frequency of the wrongdoing. We propose to relate the severity of the accusation of unequal treatment to the equality ground

that has been breached. As current equal treatment legislation distinguishes various grounds of equal treatment, we assume that, to paraphrase Orwell (1956, 1995), all grounds of discrimination are equal, but some grounds are more equal than others. Not every ground carries the same level of social condemnation. More specifically, the level of social condemnation may be expected to be higher, when unequal treatment on the grounds of race, sex or disability is involved, while the level of social condemnation is likely to be lower in cases of discrimination on age or type of contract, as these latter grounds are actually applied in Dutch statutory law to lawfully discriminate between workers. Following this line of reasoning, we assume that social and work retaliation will be more severe when the ground of equal treatment involved is associated with a greater level of social condemnation (*H2*).

Furthermore, when considering the severity of an accusation, the issue of merit arises. Not every accusation of unequal treatment carries the same merit. Sometimes employees invent false accusations, or presume that a certain practice amounts to discrimination, when this is actually not the case. Following Parmerlee *et al.* (1982) and Near and Miceli (1986, 1996), it is expected that the extent of social and work retaliation can be affected by the merit of an accusation via two separate and contradictory processes. On the one hand, a lack of merit may lessen the severity of an accusation, as the accused actor will know that he or she has little to fear. On the other hand, however, it is possible that an actor reacts especially strong to false accusations. Therefore, a two-sided hypothesis is formulated, relating the extent of retaliation to the merit of the implied accusation (*H3*):

- H1.* When the accusation of unequal treatment is directed against actors on or near the work floor of the complainant, the extent of social retaliation is greater than when the accusation of unequal treatment is directed against actors who stand further away from that work floor.
- H2.* When the ground of equality is associated with a greater level of social condemnation, the extent of both social and work retaliation is increased.
- H3.* The extent of both social and work retaliation is related to the merit of the implied accusation.

Organizational context

The second type of explanation for variation in the nature and the extent of retaliation concerns the organizational context in which discrimination is addressed, and in particular the extent to which this context provides protection. Here, based on the literature, two types of protective resources can be distinguished: co-worker support and institutional protection.

Cortina and Magley (2003), Miceli *et al.* (1999) and Parmerlee *et al.* (1982) point out that the availability of co-worker support may prevent or reduce retaliation. As Parmerlee *et al.* (1982) argue, retaliation directed against a single employee who stands alone in an organization is likely to be easier and to involve fewer risks than retaliation against an employee who is a member of a larger group. Especially when co-workers share characteristics with the target this may influence their identification with the target (Chattopadhyay *et al.*, 2004; Goldberg *et al.*, 2010, 2011). This in turn stimulates a “shared perception of justice violations” and, as a result, co-worker support (Goldberg *et al.*, 2011, p. 82). In the context of unequal treatment, we contend that this group which shares characteristics is best understood as the group of employees who may

fear similar discrimination themselves, based on the same equality ground. Thus, *H4* expresses a negative relationship between the relative size of this group and the extent of both social and work retaliation.

Institutional protection refers to the development within and between organizations of rules and practices to cope with normative pressures (Dimaggio and Powell, 1983; Scott, 2003). Both equal treatment and complaints handling are issues around which such institutionalization is known to take place. Especially when organizations get larger, they are likely to develop formal procedures, offices and functionary roles to deal with such issues (e.g. health and safety executives, confidential advisers and complaints committees). Such institutions may lead to a climate of protection from retaliation (Cortina and Magley, 2003; Miceli *et al.*, 1999) and are indeed found to be related to organizational size (Miceli and Near, 1985; Woldringh, 1999). Accordingly, *H5* expresses the assumption that employees in larger organizations experience less retaliation:

H4. When more co-workers may be discriminated against on the same ground, social and work retaliation are decreased.

H5. The extent of both social and work retaliation is negatively associated with the size of the organization.

Process of addressing unequal treatment

A third set of explanations for variety in retaliation, which until now has received remarkably little attention in academic work, concerns the process by which unequal treatment is addressed. Employees who want to address unequal treatment, have many options (Goldberg *et al.*, 2011; Harlos, 2001). They may do so in an informal manner on the work floor. They may decide to involve persons in the organizational hierarchy. They may, in many cases, address specialized actors within the organization, such as confidential advisers, equal treatment officers or internal complaints committees. They may turn to actors outside the organization, such as labor unions or mediators, and they may even go to court or seek publicity in the media (Callahan and Collins, 1992; Lewicka-Strzalecka, 2002; Near and Miceli, 1996).

Although a vast industry exists, in the Netherlands and elsewhere, to advise employees on the appropriate actions to take, surprisingly little is known about the differential effects of these actions on the extent of retaliation. However, following leads from the literature mentioned above and the suggestions provided by practitioners in the field, we can distinguish two hypotheses concerning the effects of process on retaliation, which both depart from the idea that employees who address unequal treatment can avoid retaliation by respecting procedural norms.

A first hypothesis can be derived from the fact that addressing unequal treatment is a complex and potentially explosive issue to deal with. This implies that an employee might benefit from the help of a specialized adviser with a better understanding of and a greater experience in achieving results and avoiding pitfalls. Legal advisers, equal treatment officers, health and safety executives, labor unions and specialized associations such as an association of disabled persons can all provide advice to employees who have experienced discrimination. In addition, specialized advisers may provide legitimate authority or expert power to an employee's complaint (Miceli and Near, 2002). It is hypothesized here, that consulting one or more of such specialized advisers will help the employee to respect the proper norms and to avoid pitfalls which may lead to or exacerbate retaliation (*H6*).

A second hypothesis may be derived from the so-called inside-out norm of whistleblowing. Involving outside authorities in matters of unequal treatment is

generally regarded as an act of whistleblowing and as an option of last resort (Lewicka-Strzalecka, 2002; Miceli *et al.*, 1999). This means that when outside reporting is neither mandatory nor dictated by the severity of wrongdoing, employees are expected to express their grievances first within the organization (Miceli *et al.*, 1999; Near and Miceli, 1996). *H7*, therefore, expresses the assumption that retaliation will be less when the employee respects this norm:

H6. When a specialized adviser is involved in the process of addressing the inequality, the extent of social and work retaliation is more limited than when such an adviser is not involved.

H7. When unequal treatment is first addressed internally, the extent of social and work retaliation is more limited than when this step is omitted.

Method and data

Data collection for the empirical part of the study consisted of telephone interviews with employees who had taken their case outside the organization, namely by filing a formal report about unequal treatment at work to the aforementioned Dutch Equal Treatment Commission.

Based on experiences in earlier research, this sample was selected carefully. First, following the findings of Jaspers and Kleinwee (1985), the target population was limited to those employees who had submitted a complaint concerning unequal treatment against their then employers. This implied that two particular types of complaints were excluded, namely, claims about unequal treatment during application procedures, and claims from employees who at the time of filing their complaint had already left their employer. Second, the study was limited only to those employees whose complaints had been taken up by the Equal Treatment Commission. The reason for this was that only if the commission had taken up the case, it was certain that the employer had been informed about the complaint and that the conditions had been present in which retaliation could have occurred (see also Miles *et al.*, 2010). Third, the target population was limited to those employees who had submitted their complaint between one and four years before the research was conducted. The latter limit was chosen because the study was meant to shed light on the recent state of affairs. The reason not to study more recent cases was that retaliation can take some time to develop and to be recognized as such.

In total 126 persons were interviewed about their experiences, which amounted to a response rate just under 55 percent, which is considered quite high in the Netherlands. Most non-response was caused by the practical problem of contacting the persons involved (31 percent). This was often due to out-dated contact information, but also the result of failure to get telephonic contact within six attempts. In total, 12 percent of those contacted refused to cooperate altogether or did not complete the whole interview. In less than 2 percent of the cases the interview could not be conducted as a result of insurmountable language problems.

The interviews

The interviews were conducted in 2007, using an extensive questionnaire which systematically addressed the different issues of interest in more or less chronological order. The interview started with questions about the nature of the complaint (the ground of equal treatment and the conditions in which this had taken place). It continued with the actions the complainant had taken to address this treatment and ended with

questions about the forms of retaliation the complainant had experienced. The variables used in testing the hypotheses were operationalized as follows.

Dependent variables: social retaliation and work relation

The extent to which the employees had experienced social retaliation and/or work retaliation was measured using the scales as developed by Cortina and Magley (2003). Of the 14 items of the original scales, two items about involuntary demotion and formal disciplinary action were excluded, as these were regarded as hardly applicable in the context of unequal treatment in the Netherlands. The frequencies of occurrence of each form of unequal treatment are presented in Table I. As the second column of the table shows, the forms of retaliation most frequently experienced were the milder forms of social retaliation: "being considered a trouble maker," "being criticized for complaining" and "being gossiped about." Harsher forms of social retaliation were less common, but certainly not rare. One in five respondents reported slighting and social exclusion. A similar level of incidence was reported for most forms of work retaliation.

Whereas 34 percent of the respondents reported none of these forms of retaliation and 14 percent reported only a single form, about half the respondents reported retaliation in more than one form.

In order to produce the dependent variables for social and work retaliation, a factor analysis was conducted (Table II). This factor analysis quite accurately reproduced the original scales of social retaliation and work retaliation by Cortina and Magley (2003). For the purpose of comparison, the variables for social and work retaliation were computed applying a linear transformation to the factor scores, so that the values on both scales ranged from 0 (no retaliation) to 10 (maximum level possible). The means and standard deviations of both dependent variables are presented at the bottom of Table II.

Independent variables

The operationalization of the independent variables is presented in the order in which they appear in the hypotheses. For information about the distribution of the independent variables the reader is referred to the tables in the results section.

The actor(s) responsible for the unequal treatment were determined by asking the question: "By whom were you treated unequally?" Based on the answers provided, four types of situations were distinguished: situations in which the organizational leadership was identified as the single responsible actor; situations in which the supervisor was identified as responsible, but not the colleagues; situations in which colleagues had been responsible; and situations in which the inequality was a result of plans and regulations. The latter category mostly consisted of complaints concerning provisions in plans and regulations that had been agreed upon by employer and labor representatives (e.g. in the context of a redundancy scheme).

The equality ground was determined based on the records of the commission, which distinguished six common grounds: race/nationality, gender, handicap/chronic illness, age, working hours and labor contract. Cases related to less common grounds (such as one case concerning sexual orientation) or concerning combinations of grounds were taken together in a seventh rest category.

The merit of the claim was determined using the opinions that had been formulated by the Dutch Equal Treatment Commission. Initially, two categories of merit were distinguished: "claim acknowledged" and "claim refuted." As it was found that in 32 cases an opinion had not been formulated, because the complainant had withdrawn or otherwise discontinued the report, a third category had to be introduced: "no opinion given."

Form of retaliation	Percent (completely) agree ^a
<i>Social retaliation</i>	
I was blamed for the situation	37
I was criticized for complaining about the situation	38
I was gossiped about in an unkind way	34
I was slighted or ignored by others at work	19
I was shunned or excluded by others at work	18
I was considered a "troublemaker"	43
I was threatened	12
<i>Work retaliation</i>	
I was given less favorable job duties	18
I was unfairly denied a promotion I deserved	17
I was denied an opportunity for training I deserved	10
I was transferred to a less desirable job	17
I was given unfair poor job performance appraisals	25

Notes: *n* = 126. ^aExperiences of retaliation were asked in the form of a five-point Likert type items (completely agree, agree, neutral, disagree, completely disagree)

Table I.
Experiences of different forms of retaliation

	Social retaliation	Work retaliation
I was blamed for the situation	0.84	
I was criticized for complaining about the situation	0.84	
I was gossiped about in an unkind way	0.80	
I was slighted or ignored by others at work	0.79	
I was shunned or excluded by others at work	0.77	
I was considered a "troublemaker"	0.71	
I was threatened	0.55	
I was given less favorable job duties		0.89
I was unfairly denied a promotion I deserved		0.84
I was denied an opportunity for training I deserved		0.80
I was transferred to a less desirable job		0.77
I was given unfair poor job performance appraisals		0.74
Eigenvalue	5.79	1.65
Mean factor score (SD)	3.57 (2.71)	2.95 (2.49)

Notes: *n* = 126. ^aExtraction method: principal component analysis; rotation method: Oblimin with Kaiser normalization

Table II.
Structure matrix of factor loadings of social retaliation and work retaliation^a

The relative size of the group of similar employees was determined by asking the respondent the following question: "Were you the only female/elderly/handicapped/ [...] employee in your organization?" (the interviewers had been instructed to insert the equality ground to which the complaint referred). The respondent was then asked to indicate whether in this sense he or she had been the only employee, a member of a small minority, a member of a minority or a member of a majority.

In order to determine the organization size the respondent was asked to select the size category, to which the organization belonged (1-5, 5-20, 20-50, 50-100, 100-500, 500-1,000, more than 1,000 employees).

To determine whether the complainant had involved a specialized adviser, the complainant was asked whether he/she had addressed a number of specific advisers,

such as: legal advisers, anti-discrimination offices, health and safety executives, labor unions and specialized associations. This information was used to distinguish two groups: complainants who had consulted one or more of these advisers and complainants who had not consulted any of these advisers.

To determine whether the complainants had addressed the issue internally, two levels of addressing were distinguished as relevant. First, unequal treatment could have been addressed on the work floor: with the complainant's colleagues and with the complainant's supervisor. Second, unequal treatment could have been addressed in the higher ranks of the organization, with higher management, the personnel department and an internal complaints committee. For both levels, the respondent was asked whether or not he/she had addressed the inequality internally.

Statistical analysis

The statistical analysis was performed using PASW 18.0. As the independent variables were measured at binominal, multinomial and ordinal level, the *t*-test, the ANOVA procedure and the Spearman's rank correlation were used for testing the hypotheses. Before each test the data distribution was inspected and in the case of the multinomial variable equality ground, the non-parametric *post hoc* test Tamhane's T2 was applied for pairwise comparison of the mean retaliation scores for the different grounds.

Results

The results of the statistical tests of the three sets of hypotheses are presented in Tables III through V. In addition, we also present the mean scores for both social and work retaliation, for the different categories of each independent variable.

As shown in Table III, the nature of the implied accusation was found to matter. First of all, *H1* was supported by the finding that social retaliation was significantly higher when complainants accuse actors closer to the work floor – such as colleagues and/or direct supervisors – than when complainants accuse their formal employers or “plans and regulations.” As expected, the relationship between the type of actor accused and the extent of work retaliation was not statistically significant. As presented in the same table, we also found support for *H2*, as the extent of social and work retaliation were both significantly related to the equal treatment ground involved. On the basis of Tamhane *post hoc* test it could be concluded that especially complainants who had addressed racial discrimination, had experienced significantly more social retaliation than complainants who had addressed discrimination on the grounds of age or type of labor contract. With respect to *H3*, no significant difference in social or work retaliation was found between cases in which the claim had been acknowledged to have merit and cases in which the claim had been refuted.

The tests of *H4* and *H5*, concerning the organizational context, provided a mixed picture (Table IV). A significant correlation was found in support of *H4*, that both social and work retaliation are less severe when an employee has more colleagues who may be discriminated against on the same equality ground. *H5*, about the positive effect of more extensive institutional protection in larger organizations, was not supported by the data. Here we found no significant correlation between the size of the organization and the extent of social and work retaliation.

Finally, Table V shows, that both process *H6* and *H7* were not supported by the data. No evidence was found for the assumption that involving a specialized adviser or respecting the inside-out norm helps to reduce the risk of social or work retaliation.

Failing employee protection

	<i>n</i>	Social retaliation	Work retaliation
<i>Responsible actor, in order of increasing distance to the work floor</i>			
Colleagues	4	7.3	4.5
Supervisor	28	4.3	3.2
Employer	88	3.2	2.8
Plans and regulations	6	2.3	2.9
Spearman's rank correlation		-0.258	-0.094
Significance (one-sided)		0.002	0.148
<i>Equality ground</i>			
Race/nationality	9	6.7	5.3
Gender	28	4.3	3.6
Disability/chronic illness	24	4.2	2.9
Age	26	2.3	2.3
Working hours	15	3.0	3.1
Labor contract	17	2.3	1.6
Other/multiple grounds	7	2.9	2.4
Significance (ANOVA)		0.000	0.007
<i>Merit (the commission's opinion)</i>			
Claim acknowledged	56	3.1	3.0
Claim refuted	37	3.5	2.8
No opinion given (see text)	33	4.2	3.0
Significance (ANOVA)		0.273	0.954

Note: *n* = 126

Table III.
Test of nature of accusation hypotheses

	<i>n</i>	Social retaliation	Work retaliation
<i>Size of group of similar co-workers</i>			
Only employee	66	4.2	3.5
Member of a small minority	40	3.2	2.7
Member of a minority	17	2.4	1.7
Member of a majority	3	2.0	0.3
Spearman's rank correlation		-0.251	-0.275
Significance (one-sided)		0.002	0.001
<i>Size of the organization (employees)</i>			
1-5	8	3.9	3.9
5-20	12	2.7	2.7
20-50	16	3.5	3.5
50-100	14	3.8	2.4
100-500	26	3.2	2.9
500-1,000	9	4.5	2.1
1,000 or more	41	3.7	3.0
Spearman's rank correlation		0.062	-0.085
Significance (one-sided)		0.246	0.173

Note: *n* = 126

Table IV.
Test of organizational context hypotheses

Conclusion

This investigation has revealed a high incidence of retaliation against employees who address unequal treatment in the Netherlands. The survey showed that almost two-thirds of the employees who had submitted a complaint to the Dutch Equal

	<i>n</i>	Social retaliation	Work retaliation
<i>Specialized advisers consulted</i>			
One or more advisers consulted	60	3.7	3.2
No advisers consulted	66	3.4	2.7
Significance (<i>t</i> -test, one-sided)		0.264	0.119
<i>Inequality first addressed internally (with management, personnel department, and/or internal complaints committee)</i>			
Yes	36	4.0	3.2
No	90	3.4	2.9
Significance (<i>t</i> -test, one-sided)		0.114	0.302
<i>Inequality first addressed on work floor (with supervisor and/or colleagues)</i>			
Yes	108	3.5	2.9
No	18	3.9	3.0
Significance (<i>t</i> -test, one-sided)		0.317	0.484

Table V.
Test of process hypotheses

Note: *n* = 126

Treatment Commission reported retaliation. Therefore, the first conclusion must be that retaliation is a widespread and structural problem in the Netherlands and that, despite the formal statutory ban on retaliation against unequal treatment complaints, true freedom from this type of retaliation does not exist.

The second finding is that the nature and extent of retaliation are clearly linked to the organizational circumstances in which the unequal treatment initially developed. These initial circumstances not only concern the nature of the accusation, but also the availability of support from co-workers with similar characteristics. Consistent with prior research on retaliation in the broader context of whistleblowing, we find that work retaliation and social retaliation are significantly more severe when a report of unequal treatment comes from a person who is relatively alone on the work floor and when the inequality addressed concerns an issue of higher social condemnation, especially racism. Furthermore, social retaliation is significantly higher when co-workers and/or supervisors close to the work floor are responsible for unequal treatment.

Third, no empirical support could be found for the positive effects of organizational context and proper process. The fact that no relationship was found between the extent of retaliation and organizational size is remarkable in view of the efforts taken in larger organizations. Despite the fact that many of them invest in policies and protocols for dealing with internal complaints, in complaints committees, in specialized personnel officers and in confidential advisers, retaliation is just as common in larger organizations as it is in smaller organizations, in which this type of protection is hardly formalized. Furthermore, it is remarkable that prudent behavior in addressing unequal treatment does not help to avoid retaliation. Complainants who took the trouble to seek specialized advice were hit just as hard by retaliation as complainants who did not, and complainants who took the prudent route of first addressing the issue internally were in the end not better off than those who immediately involved the Equal Treatment Commission.

Limitations and further research

Whereas this study was limited to experiences of retaliation of employees who had submitted a complaint to the Dutch Equal Treatment Commission, it provides only one step in increasing our understanding of retaliation against equal treatment demands,

and further studies are needed in order to get a more complete picture of this problem. A particular issue, which could not be addressed in this study and which needs further investigation concerns the fate of the many victims of unequal treatment whose complaints never reach the Equal Treatment Commission. To what extent do these employees dare to voice their complaints elsewhere and what happens to these complaints? Answering such questions requires a different and more extensive method of data collection, on which the authors are currently working.

Implications

Despite these limitations, the authors are of the opinion that the study already provides some implications for practice, and, at the end of this paper, we would like to address four of them, namely: the need for improved problem solving on the work floor, the possibility to give special attention to complainants with a higher risk of retaliation, the unacceptability of blaming the victim and the need for greater affirmation of the general norm that retaliation is unacceptable.

First, our research outcome that retaliation against unequal treatment complaints is extensive in the Netherlands, and that it is primarily explained by the initial conditions of unequal treatment, is supportive of the suggestion by Andersson and Pearson (1999), that the problem of retaliation is best addressed at an early stage, by increasing problem-solving capacity on the work floor. By clearly instructing employees and supervisors about the unacceptability of unequal treatment and on ways to deal with this issue, much further harm can be avoided. This not only helps the potential victims of discrimination but benefits all others involved. In the end, employees as well as employers have a clear interest in stopping unequal treatment in an early stage, in preventing a process of formal accusation and retaliation, and in avoiding serious reputation risks (see also Miles *et al.*, 2010; Sincoff *et al.*, 2006; Prekert, 2012). Therefore, employers and employees should take joint action in changing the workplace from within.

Second, the fact that this study has shown that retaliation hits some groups particularly hard, may be used to better focus efforts to suppress retaliation. Professionals involved in dealing with unequal treatment claims, can now be informed that retaliation is especially likely in the contexts of discrimination claims on the grounds of race, gender and disability, and in cases in which employees stand relatively alone on the work floor. Based on this knowledge, they may be expected to provide additional protection to their clients, not only during their involvement in a dispute but also in the form of *ex post* monitoring. This does not only hold for the Dutch Equal Treatment Commission, but also for legal advisers, for labor unions and for judges.

Third, given our finding that, involving specialised advisers and respecting process norms does not help to prevent or alleviate retaliation, practitioners in the field should stop suggesting that victims of retaliation can be blamed for this, themselves. In general, this does not seem to be the case, at all.

Finally, the extent of retaliation found in this study calls for more concrete action against retaliation in the Netherlands, in order to clearly set the norm that retaliation against unequal treatment demands is unacceptable. When we take the case of the Surinamese woman, with which we started this contribution, it is amazing to us that her employer got away, rather easily, with what was an obvious and very harsh form of retaliation.

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