

***Undesirable behaviour towards staff  
(based on selected works by Edmund Niziurski)  
in the context of legal protection and proposed changes  
to statutory definitions found in the Labour Code***

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**Abstract**

Effective protection of an employee against harassment or mobbing/bullying in the workplace is inextricably linked to the degree of social acceptance of particular types of behaviour that meet the statutory definitions of these terms. Similarly, the classification of particular situations as legally undesirable always comes down to the interpretation of provisions and norms in order to establish whether the prerequisites of the offence defined by the law are met, which often results in arbitrariness and discretion in decision-making. More than half a century's worth of E. Niziurski's output as a lawyer and observer of reality first of all shaped generations of readers, including their attitudes and outlook, and secondly still helps analyse human behaviour in specific places and contexts (as a comparative matrix for proposals to amend the statutory definitions of the abovementioned concepts).

**Introduction**

The purpose of this paper is to take a selective and brief (due to the intended length of the text) look at the evolution of protection, above all legal protection, of victims of discrimination and abuse within organisations

against the background of inspiring socio-cultural changes behind the adoption of new international legal solutions, evoking the need for their proper implementation, including scientific research related to the emergence and evolution of definitions of harassment and mobbing/bullying. Cultural context is provided by selected excerpts of Edmund Niziurski's works from the mid-1960s, a period immediately preceding the cultural revolution of the Atlantic World and therefore untainted by the current ideological disputes.

Due to taking on an interdisciplinary character of this article, it attempts, in line with postulates dating back to the 19th century, to make utilitarian use of cultural texts for the assumed objectives<sup>1</sup>, including testing the legal consequences of the suggested changes, which, according to the authors of the article, may help answer the question of what legal and interpretative consequences legislative changes concerning the new statutory definitions of mobbing/bullying and harassment might cause, especially as the proposed new regulations at one stage promoted referring directly to the subjective feelings of victims of potentially undesirable behaviour, provided that these feelings were reasonable.

In view of the assumed aim of the research, which is to assess the quality of legislation, attention was paid to an analysis of selected fragments of literary texts, which primarily involved adopting a research perspective and methods and techniques characteristic of qualitative research<sup>2</sup>.

For the purposes of the analysis, popular works by Edmund Niziurski were cited as best meeting the assumed requirements, including the short stories *Lalu Koncewicz, broda i miłość* and *Trzynasty występ*, as well as the novel *Sposób na Alcybiadesa*.

Selected excerpts from the works contain subtle socio-creative messages, ahead of the cultural changes, pointing to the axiological system adopted by the author. The common patterns of argumentation used by the writer in the above contexts, the established approaches to the discussed themes and the rich repertoire of rather conventionalized means allow the writer's work to be positioned in the space of the so-called common places (*loci communes*)<sup>3</sup>, where the nature of interpersonal relations reflected in literature is significant.

The selection of E. Niziurski's books was also guided by the universal and culture-forming nature of his work, as well as by his juridical sensitiv-

<sup>1</sup> *Utylitaryzm*, [in:] *Słownik literatury polskiej XIX wieku*, ed. J. Bachórz, A. Kowalczyk, Wrocław 1995, p. 994.

<sup>2</sup> K. Mazurek-Łopacińska, M. Sobocińska, *Badania jakościowe: metody, nowe podejścia konteksty badawcze*, „Zeszyty Naukowe” 2011 (204), p. 8.

<sup>3</sup> *Loci communes*, [in:] *Słownik terminów literackich*, ed. J. Sławiński, Wrocław 1988, p. 261.

ity resulting from his legal education, and by the presence in his writings of impartial portrayals – ones not tailored to specific, currently binding legal norms – revealing both the course and the consequences of so-called undesirable behaviours, which are the focus of the authors' research interests. These accounts, including those of members of staff of different organisations, provide an opportunity to test the newly-proposed contemporary legal solutions based on the illustration of specific cases in the author's work in the absence of objective and unbiased – from the point of view of evidence – descriptions of undesirable behaviour in the justifications of court decisions and legal doctrine, including references to the outcomes and actual feelings and motives of the participants in such proceedings.

### **Selected legal regulations on protection against discrimination in international legislation**

The new world order after the experience of the Second World War was characterised by the adoption of successive legal solutions aimed at shaping the post-war order in the spirit of international cooperation and human rights, including successive aspects of action taken against discrimination, i.e. the undesirable behaviours addressed in this study. On 10 December 1948<sup>4</sup>, the UN General Assembly adopted the Universal Declaration of Human Rights, in which Article 2, Article 7 and Section 2 of Article 23 contain the prohibition of discrimination on the basis of any difference such as race, colour, sex, language, religion, political or other opinion, national or social origin, wealth, birth or any other circumstance. This prohibition is reiterated in Article 2 of the UN Covenant on Civil and Political Rights<sup>5</sup>. Whereas, Article 3 of the aforementioned Covenant contains a commitment to ensure equal rights for men and women.

Two other key treaties for the protection of human rights, including those relating to dignity, equality, health and labour, were adopted in 1966 by the United Nations. These are: International Covenant on Civil and Political Rights of 16 December 1966<sup>6</sup> and International Covenant on Economic, Social and Cultural Rights of 19 December 1966<sup>7</sup>.

<sup>4</sup> Original text <https://www.ohchr.org/en/universal-declaration-of-human-rights> (accessed 01 VI 2025). Polish text <https://libr.sejm.gov.pl/tek01/txt/onz/1948.html> (accessed 01 VI 2025).

<sup>5</sup> International Covenant on Civil and Political Rights opened for signature in New York on 19 December 1966, source: Appendix to the Announcement of the State Council of 3 March 1977.

<sup>6</sup> Journal of Laws of 1977, no. 167 and 168.

<sup>7</sup> Journal of Laws of 1977, no. 169 and 170.

On the issue of the prohibition of discrimination, the following UN Conventions should also be referenced: International Convention on the Elimination of All Forms of Racial Discrimination. Opened for signature in New York on 7 March 1966<sup>8</sup>, the Convention on the Elimination of All Forms of Discrimination against Women of 18 December 1979<sup>9</sup> and the Convention on the Rights of Persons with Disabilities of 13 December 2006<sup>10</sup>. The prohibition of discrimination in particular on grounds of sex, race, colour, ethnic or social origin, genetic features, language, religion or belief, political or any other opinion, membership of a national minority, wealth, birth, disability, age or sexual orientation is also found in the Charter of Fundamental Rights of the European Union, adopted in 2009<sup>11</sup>.

In the context of addressing undesirable phenomena in the workplace (discrimination, harassment and mobbing/bullying), the following conventions should also be referenced: International Labour Organisation, i.e. Convention 111 on Discrimination in Employment and Occupation of 25 June 1958<sup>12</sup>, Convention 100 on Equal Remuneration for Men and Women Workers for Work of Equal Value of 29 June 1951<sup>13</sup>, or Convention 190 on the Elimination of Violence and Harassment in the World of Work of 21 June 2019, not yet ratified by Poland<sup>14</sup>.

The above ratified acts of international law underpinned the principles of equality and non-discrimination contained in the Polish Constitution<sup>15</sup>. In the Polish legal system there are legal, statutory definitions of discrimination, including harassment and mobbing/bullying, based on the sources referred to above. These are the Act of 26 June 1974 on the Labour Code<sup>16</sup>, which applies to persons employed on the basis of an employment contract, and the Act of 3 December 2010 on the implementation of certain provisions of the European Union on equal treatment<sup>17</sup> (applied mainly to persons employed on a legal basis other than an employment contract). The authors of the draft amendments to these definitions in the Labour Code assume that “the con-

<sup>8</sup> Journal of Laws of 1969, no. 187 and 188.

<sup>9</sup> Journal of Laws of 1982, item 71.

<sup>10</sup> Journal of Laws of 2012, item 1169 and of 2018, item 1217.

<sup>11</sup> Article 21(1) Charter of Fundamental Rights of the European Union, Official Journal of the European Union 2012/C 326/02, no. C 326/391.

<sup>12</sup> Journal of Laws of 1961, item 218.

<sup>13</sup> Journal of Laws of 1955, item 238.

<sup>14</sup> <https://eur-lex.europa.eu/legal-content/PL/TXT/PDF/?uri=CELEX:52020PC0024>, (accessed 10 IX 2025).

<sup>15</sup> Constitution of the Republic of Poland of 2 April 1997 (Journal of Laws of 1997, No. 78, item 483 as amended).

<sup>16</sup> Journal of Laws of 2023, item 1465, as amended.

<sup>17</sup> Journal of Laws of 2024, item 1175, as amended.

cepts of discrimination, harassment, sexual harassment and mobbing/bullying have been defined in Polish law in connection with the need to adapt the Polish legal order to Community law”<sup>18</sup>. They specifically cite the following Council directives: 2000/43/EC of 29 June 2000 implementing the principle of equal treatment between persons irrespective of racial or ethnic origin<sup>19</sup>, 2000/78/EC of 27 November 2000 establishing a general framework for equal treatment in employment and occupation<sup>20</sup> and 2006/54/EC of the European Parliament and of the Council of 5 July 2006 on the implementation of the principle of equal opportunities and equal treatment of men and women in matters of employment and occupation<sup>21</sup>.

### Shaping the definitions of harassment and mobbing/bullying

The term *mobbing* (from *to mob* – to attack someone or something) was first used by Konrad Lorenz in 1963, to describe collective attacks on an individual animal<sup>22</sup>. In relation to humans, the term was used to characterise victims of psychological terror in school and the military<sup>23</sup> by Peter Paul Heinemann. Heinz Leymann first used the term in 1984<sup>24</sup>, and went on to propose a definition of mobbing as psychological terror in the workplace, characterised by hostile, unethical communication that is directed regularly by one or a number of people against an individual<sup>25</sup>. Such activities should occur frequently, over an extended period of time. It is accepted, following H. Leymann, that in order to find the occurrence of mobbing, three criteria need to be satisfied: duration, repetition and negative intent<sup>26</sup>.

Discrimination in the common sense means differentiation (Latin *discriminatio*)<sup>27</sup>. In the above general sense, discrimination means worse treatment or persecution of a person or group of persons because of some feature

<sup>18</sup> Regulatory Impact Assessment, <https://legislacja.gov.pl/projekt/12393651>, (accessed 24 V 2025).

<sup>19</sup> OJ EU L 2000.180.22.

<sup>20</sup> OJ EU L 2000.303.16.

<sup>21</sup> OJ EU L 2006.204.23.

<sup>22</sup> B. Hołyst, *Patologia w miejscu pracy: mobbing i molestowanie seksualne*, „Prokuratura i Prawo” 2004/1, p. 7.

<sup>23</sup> K. Lorenz, *Tak zwane zło*, Warsaw 1972.

<sup>24</sup> H. Leymann, B. Gustavsson, *Psychological violence at workplace: Two explorative studies*, [in:] *Arbetskyddsstyrelsen*, Stockholm 1984.

<sup>25</sup> H. Leymann, *Mobbing and psychological terrors at workplaces*, “Violence and Victims” 1990, vol. 5, p. 119–125.

<sup>26</sup> *Ibidem*.

<sup>27</sup> J. Marciniak, *Mobbing, dyskryminacja, molestowanie – zasady przeciwdziałania*, Warsaw 2011, p. 28.

which distinguishes them from the general public<sup>28</sup>. However, it should be noted that different treatment alone is not sufficient to speak of discrimination<sup>29</sup>.

Age discrimination, on the other hand, is referred to by the English term *ageism*, derived from the word *age*. The originator of the term was Robert Butler<sup>30</sup>, who defined ageism as the stereotyping and discrimination of people based on their age. It is a set of beliefs, prejudices and stereotypes based in the biological diversity of people, which relate to the competences and needs of people according to their age<sup>31</sup>.

### **Definitions of mobbing/bullying and harassment in Polish law illustrated with selected examples from Niziurski's novels**

In Poland, it was not until 1 January 2004 that the Labour Code<sup>32</sup>, in Article 18<sup>3a</sup>, introduced the requirement of equal treatment with regard to the establishment and termination of the employment relationship, terms and conditions of employment, promotion and access to training to improve professional qualifications and the prohibition of discrimination in any manner, directly or indirectly, on the grounds of sex, age, disability, race, religion, nationality, political opinion, union membership, ethnic origin, religion, sexual orientation, employment for a definite or indefinite period of time, full-time or part-time employment.

Direct discrimination occurs when an employee, for one or more of the reasons set out above, is or could be treated less favourably than other employees in a comparable situation. Indirect discrimination, on the other hand, exists where an apparently neutral provision, criterion or measure creates or might create a disproportion or particular disadvantages in respect of the establishment and termination of employment relationships, terms and conditions of employment, promotion and access to vocational training for improving professional qualifications with regard to all or a significant number of employees belonging to a group distinguished on the basis of one or more of the abovementioned grounds, unless the provision, criterion or

<sup>28</sup> Ibidem.

<sup>29</sup> D. Lewicka, D. Mentel, J. Michniak, *Zjawisko dyskryminacji w organizacji*, [in:] *Zapobieganie patologiom w organizacji*, ed. D. Lewicka, Warsaw 2014, p. 63.

<sup>30</sup> *Legacy of Dr. Robert N. Butler*, <https://www.publichealth.columbia.edu/research/centers/robert-n-butler-columbia-aging-center/about/butler-legacy>, (accessed 14 IX 2025).

<sup>31</sup> M. Butrymowicz, *Dyskryminacja w dostępie do pracy ze względu na wiek – osoba starsza w pracy*, "Studia Socialia Cracoviensia" 2018, no. 1 (18), p. 104.

<sup>32</sup> Consolidated text, Journal of Laws 2025 item 277.

measure is objectively justified by a legitimate aim and the means of pursuing that aim are appropriate and necessary.

An example here could be an excerpt from the novel entitled *Sposób na Alcybiadesa*, depicting the employment policy of the Upper-Secondary School named after Samuel Linde<sup>33</sup>, where a gender criterion was applied to the employment of a history teacher. The head of the establishment justified for this staffing policy with the “masculine” traditions of the school and the poor mental resilience of previously employed female teachers. In this situation, under the current legislation, it would be problematic for a non-employed female history teacher to prove that her non-employment was due to gender. In addition, the General Labour Code in § 5 of the aforementioned Article now defines *harassment* as a manifestation of discrimination consisting of unwanted conduct that has the purpose or effect of violating an employee’s dignity and creating an intimidating, hostile, degrading, humiliating or derogatory atmosphere towards the employee. There is no need to demonstrate the reasons for the offender’s behaviour.

Whereas *mobbing* (or *bullying*) has been defined since 14 November 2003 (entering into force on 1 January 2004) in Article 94<sup>3</sup> §2 of the Labour Code as actions or behaviours concerning an employee or directed against an employee, consisting of persistent and prolonged harassment or intimidation of an employee, causing them to underestimate their professional competence, causing or aiming to humiliate or ridicule the employee, isolating them or eliminating them from colleagues.

### Legal protection against harassment and mobbing/bullying in selected countries

It is worth mentioning that for example in Spain the concept of mobbing/bullying is regulated by labour, criminal and administrative law. In addition, Act 62/2003 defines harassment as follows: “Any unwanted conduct related to a person’s racial or ethnic origin, religion or belief, disability, age or sexual orientation that has the purpose or effect of undermining their dignity and creating an intimidating, humiliating or offensive environment”<sup>34</sup>.

In France, the Labour Code<sup>35</sup> (Art. L.1132-1 of the French Labour Code) prohibits discrimination, i.e. exclusion from recruitment procedures, punishment, dismissal or any other discriminatory measures, while

<sup>33</sup> E. Niziurski, *Sposób na Alcybiadesa*, Warsaw 1964, p. 77-78.

<sup>34</sup> <https://legislacja.gov.pl/projekt/12393651/katalog/13106695#13106695>, (accessed 14 IX 2025).

<sup>35</sup> French Labour Code: Titre V : Harcèlements (Articles L1151-1 à L1155-2) – Légifrance.



Article L11152-1 of the Labour Code defines the concept of moral harassment (fr harcèlement moral), which is similar to the Polish definition of mobbing and stipulates that no employee may be subjected to repeated acts of moral harassment whose purpose or effect is to worsen their working conditions, which may lead to a violation of the employee's rights or dignity, deterioration of their physical or mental health, or harm to their future professional career.

In Belgium, Article 32(2) of the Act on Wellbeing of Workers at Work<sup>36</sup> defines moral harassment as an offensive combination of a series of similar or different behaviours occurring over a period of time and having the purpose or effect of violating the dignity or physical or mental integrity of an employee in the performance of their duties, endangering their employment or creating an intimidating, hostile, degrading, humiliating or offensive atmosphere, manifested in particular through words, intimidation, actions, gestures or one-sided writings. In particular, moral harassment may relate to age, marital status, place of birth, wealth, race, skin colour, sexual orientation, pregnancy, maternity or paternity<sup>37</sup>.

In Germany, there is no legal definition of mobbing in the legislation, but it has been shaped by the jurisprudential activity of the labour courts, which consider systematic hostility, harassment or discrimination of employees among themselves or by superiors as mobbing/bullying. These actions must be characterised by a clear intention and systematic approach aimed at violating the rights of the individual or their dignity and should take place over an extended period of time. In turn, the Equal Treatment Act prohibits unjustified discrimination on grounds of racial or ethnic origin, gender, religion or belief, disability, age or sexual identity<sup>38</sup>.

### **Postulated changes in the definition of mobbing/bullying and harassment and the consequences of their possible introduction (on the example of Niziurski's short stories)**

On 15 January 2025, a draft amendment to the Labour Code Act was published on the website of the Ministry of the Family, Labour and Social Policy (hereinafter "ML")<sup>39</sup>. Following a public consultation, additions were

<sup>36</sup> <https://www.ejustice.just.fgov.be/eli/loi/2007/05/10/2007002099/justel>, (accessed 14 IX 2025).

<sup>37</sup> <https://legislacja.gov.pl/projekt/12393651/katalog/13106695#13106695>, (accessed 14 IX 2025).

<sup>38</sup> Ibidem.

<sup>39</sup> Ibidem.



made to this draft on 30 May 2025<sup>40</sup>. The Ministry of Labour's draft proposes adding to the definition of simple harassment, which currently only applies to its categorised form, i.e. sexual harassment, examples of constituent forms of behaviour such as physical, verbal or non-verbal elements, and introducing definitions of discrimination by association and discrimination by assumption. New forms of discrimination concern situations where an employee has been or could be treated less favourably than other employees in a comparable situation, even if the reason for this was mistakenly associated with them (e.g. they are suspected of having a certain characteristic or trait, or it occurs because of a connection to another person, such as a family member).

An example of the effects of change can be found in E. Niziurski's short story *Lalu Koncewicz, broda i miłość*<sup>41</sup>, which describes the situation of Lalu Koncewicz, who was ascribed views (existentialist) that his teachers found unacceptable. They thought that was the reason for growing a beard and refusing to shave it. Here is an example of characteristic dialogue:

- Koncewicz, are you an existentialist?
- No, ma'am. Not only existentialists have beards<sup>42</sup>.

At present, such behaviour towards a man, if he were an employee, does not bear the hallmarks of discrimination, whereas the introduction of the concept of discrimination by association results in a different legal perception of the analysed situation.

The draft also adds the principle of the distribution of the burden of proof in cases concerning violations of equal treatment. According to this principle, the employee is only required to substantiate the violation of this principle, and if this obligation is effectively fulfilled, the employer is required to prove that there has been no violation of the principle of equal treatment. In the new legal situation, it would be sufficient for a female candidate seeking and being denied employment as a history teacher at the Linde Upper-Secondary School<sup>43</sup> to plausibly substantiate that the principle of non-discrimination on the basis of sex had been violated, and it would then be the headmaster who would have to prove that no such discrimination took place.

The draft also supplements the Code's catalogue of employers' obligations to counteract violations of employee dignity and other personal rights, basing it on H. Leymann's definition of mobbing. It was assumed that the

<sup>40</sup> Ibidem.

<sup>41</sup> E. Niziurski, *Lalu Koncewicz, broda i miłość i inne opowiadania*, Kraków 2001, p. 8–11, 22.

<sup>42</sup> Ibidem.

<sup>43</sup> Ibidem.

perpetrators' attacks affect specific spheres and interests of the employee<sup>44</sup>. At the same time, it was proposed to oblige the court, in proceedings involving claims of mobbing, to assess in each case whether there has been any other violation of the employee's personal rights (e.g. harassment). The proposed new regulation brings the employer's obligations closer to those introduced in Spain, France and Belgium, among others.

The ML's proposed changes to the definition of mobbing boil down to dropping the requirement of prolonged actions (also in force in German legislation), which in the doctrine was been defined – following H. Leymann – as lasting at least 6 months<sup>45</sup>, and shortening the definition itself to state that mobbing means behaviour consisting of the persistent harassment of an employee, whereby the persistence of the harassment consists in the fact that it is repetitive, recurrent or permanent. This amendment more closely links mobbing to harassment as referred to Article 190a of the Penal Code<sup>46</sup>. An exemplary catalogue of behaviours considered to be mobbing has also been proposed, such as: humiliation or insulting; intimidation; underestimating an employee's professional competence; unjustified criticism, humiliation or ridicule of an employee, hindering their functioning in the work environment in terms of their ability to achieve results, perform official duties, use their competences, communicate with colleagues, and access necessary information; isolating an employee or eliminating them from the team. At the same time, it was pointed out that mobbing behaviours can consist of physical, verbal or non-verbal elements.

The above changes would result in the possibility of a different legal interpretation of the situation described in Niziurski's short story *Trzynasty występ*. It is about the way the superior behaves towards the camp counselor, Majeran<sup>47</sup>, towards whom, due to his views on pedagogical activities, the camp manager, Waligóra, verbally (among the campers themselves and the staff) belittles his professional competence, hinders his ability to function in the work environment in terms of achieving results, and directly eliminates him from the team. This is indicated by the following passages in which the critical assessment is expressed explicitly, for example:

<sup>44</sup> D. Merez, A. Mościcka, M. Drabek, *Mobbing w środowisku pracy. Charakterystyka zjawiska, jego konsekwencje, aspekty prawne i sposoby przeciwdziałania*, Łódź 2005, p. 9–11.

<sup>45</sup> Ibidem.

<sup>46</sup> M. Matuszak, *Zarządcze i organizacyjne możliwości pracodawcy w zakresie przeciwdziałania mobbingowi w zakładzie pracy*, "Palestra" 2022, no. 5, p. 38.

<sup>47</sup> E. Niziurski, *Trzynasty występ*, [in:] idem, *Lalu Koncewicz, broda i miłość i inne opowiadania*, Kraków 2001, p. 134–152.

- Due to the pedagogical helplessness of some counsellors<sup>48</sup>.
- Unfortunately, Pafnuc, Mr Majer has not managed to do that so far<sup>49</sup>.
  - I see that Mr Majeran is finally starting to think sensibly<sup>50</sup>.

The previous legislation would have precluded the attribution of mobbing characteristics to this situation due to the requirement of prolonged action and made it difficult to prove the existence of intentional and directional action by the supervisor or the existence of the effects of such action.

An important change proposed in the first version of the draft is to take into account both the type of objective impact on the employee and the employee's subjective feelings or reactions, provided they are reasonable, when assessing behaviour experienced by the employee that may constitute mobbing. The above changes would see mobbing behaviour as independent of the intentionality of the perpetrator's action or the occurrence of a specific effect, and would define a rational victim model in order to distinguish actual mobbing from events perceived subjectively as mobbing.

In this context, one can consider, for example, the actions of the high school principal in the novel *Sposób na Alcybiadesa* towards Prof. Misiak, to whom he entrusted "unpleasant" tasks and "sent him to the frontline" and then criticised, often publicly, his overly lenient – in his opinion – way of dealing with pupils<sup>51</sup>.

Whereas under today's legislation, in view of the need to prove the effect or the intentionality of the actions causing the effect, it would be difficult to prove mobbing in the situation presented here, while after the proposed amendment a mere statement by the injured party (for example, that they interpret such behaviour as unjustified criticism of their actions) would suffice (for evidentiary purposes), based on the reasonableness of such a perception of the described circumstances. In the second version of the draft, this provision was replaced, after public consultation, by an indication that behaviour towards an employee which is justified and expressed in an appropriate form, in particular holding them accountable for their work or criticising them, cannot be regarded as mobbing. The above change appears to be a nod towards employers, but it features a vague provision: "in an appropriate form", which – in view of the principle *a contrario* – indicates that an "inappropriate" form of criticism, when the other conditions for mobbing are met, is a prerequisite for finding the occurrence of mobbing. The above leads to scepticism about the law, which in this situation refers to cultural norms

<sup>48</sup> Ibidem, p. 137.

<sup>49</sup> Ibidem, p. 138.

<sup>50</sup> Ibidem, p. 142.

<sup>51</sup> Ibidem, p. 77-78, 161.

that are variable over time and subject to interpretation. Hence the question whether, with such wording, statements said to Prof. Misiak<sup>52</sup>, such as:

- Do you even think?
  - You must be joking,
  - Why are you still roaming around like a stork?
- were within the accepted proper polite form in the particular environment and at the particular time, or were in breach of it?

## Summary

The presentation of cases of undesirable behaviour contained in E. Niziurski's works makes it possible to present the consequences of the proposed statutory changes in the definitions and understanding of the analysed concepts. The anthropological context may also be relevant here, in view of the analysis of situations described more than 60 years ago, for, as Ruth Benedict points out: "Anthropology is the science of man living in society. It focuses its attention on those physical traits and techniques of production, on those conventions and values, which distinguish one community from all others with different traditions"<sup>53</sup>. Hence the presence in Niziurski's works of situations which – also according to contemporary criteria – can be assessed in the same way, i.e. as fulfilling the characteristics of undesirable behaviour. Such attitudes provide an opportunity to infer the cultural appropriateness of the current proposed statutory solutions.

At the same time, it is worth remembering that the examples of the aforementioned behaviour taken from the prose of the author of *Sposobu na Alcybiadesa* are only an illustration of possible situations that could happen in reality (outside the presented literary world). However, in his novels, Niziurski uses a variety of literary tools, including comical language, caricatured exaggerated characters or funny situations, and depicts circumstances which – despite these tricks – may have a high probability of occurring (or not) in the real world. The situational context of the works cited is important, taking into account the impact of particular behaviours, undesirable from today's legal perspective, on their victims. Niziurski's approach to the subject can be seen, among other things, as a form of expressing a postulative assessment of the events described (as undesirable). Indeed, it can be assumed that, being a lawyer by training and a humanist at the same time, he was sensitive to issues that concerned human rights, especially as some of these rights had

<sup>52</sup> Ibidem, p. 162–163.

<sup>53</sup> R. Benedict, *Wzory kultury*, [in:] *Antropologia kultury. Zagadnienia i wybór tekstów*, as discussed by G. Godlewski et al., Warsaw 2005, p. 67.

received universal recognition in the 1960s. This is all the more important as the early editions (1959–1966) of these works coincided with the works on or with the very adoption of the UN conventions directly or indirectly concerning the prohibition of discrimination cited above.

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