

Case Study

SEXUAL HARASSMENT PROVISIONS IN THE UAE AND THE FRENCH PENAL CODES

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ABSTRACT

Background: *The study compares sexual harassment laws in the UAE and France, focusing on their legal provisions and differences, with the aim of developing and raising awareness to combat this growing issue. This crime is prevalent in work environments, educational institutions, public places, and even homes and is no longer confined to any specific group but has spread in a manner that no one is immune from. It is, therefore, necessary to address the concept of sexual harassment and distinguish it from other criminal behaviour that intersects with it in some ways but differs in others. The study explores the legal structure of this crime under French and UAE law, discussing the material element and the criminal intent of the perpetrator, as well as the penalties imposed on the perpetrator in both its simple and aggravated forms.*

Methods: *The study focused on the UAE and France from the outset. A mixed-methods design was employed, combining analytical and comparative approaches to compare changes approved in the UAE Penal Code regarding sexual harassment with indicators from France. This involved assigning thematic units to the respective articles on sexual harassment in the UAE and French Penal Codes, as well as the jurisprudential orientation on sexual harassment achieved in the French judicial context. The main data collection techniques consisted of legal and non-legal document analysis, which are the best and most efficient methods for comparative legal research. These methods are effective in revealing and interpreting legislative and jurisprudential changes. Data were collected from different sources based on legal documents, such as the UAE Penal Code and the French Penal Code, to avoid approval bias of the changes made in the UAE or the French connection errors.*

Results and conclusions: *The French Penal Code criminalises five types of sexual harassment with varying punishments. The definition of “unwanted acts of sexual aggression” is unclear, but it can be divided into physical and verbal abuse. The closest definition is “physical contact taking the form of an act of a sexual nature”. French rape and sexual harassment laws do not harmonise. In contrast, the UAE Penal Code also criminalizes sexual harassment but adopts a different legal framework and terminology. The lack of harmonization between the rules addressing rape and sexual harassment in both French and UAE laws underscores the demand for clearer legislative guidelines. Finally, the study contains many suggestions and recommendations that aim to enhance the legislative role in combating such kinds of crimes.*

1 INTRODUCTION

Sexual harassment is a sensitive social issue that has recently garnered significant attention both internationally and nationally, fueled by the rise of human-rights-based calls and other voices denouncing the severity of sexual harassment and its profound social, psychological, economic, and educational impact on individuals and communities. It has emerged as a palpable problem affecting a broad segment of the population.

In UAE, sexual harassment-related crimes have fluctuated between 2017 and 2023, reflecting increased societal awareness and reporting. Rape rates rose slightly from 0.2 per 100,000 in 2017 to 0.3 in 2023, peaking at 0.4 in 2022. Aggravated assaults linked to sexual violence showed notable spikes in 2020 and 2022 (2.0 per 100,000). These trends highlight a growing need for enhanced preventive measures and stricter legal enforcement to address sexual offences.¹

A survey of 4,111 students aged 10–18 revealed that 132 out of every 1,000 children face abuse at school, compared to 65 at home. Boys are more prone to abuse, with 7.2% affected at home versus 5.7% of girls and 15.1% at school compared to 9.3% of girls. Middle school students experienced the highest rates of abuse. The sample included students from 39 private schools, with a near-equal gender split.²

Both reports underline the importance of addressing abuse and harassment through stronger legal frameworks, societal awareness, and preventive strategies. The Dubai Police report highlights fluctuating crime rates, while the Foundation’s study sheds light on the prevalence of child abuse, emphasising the need for protective measures in schools and homes.

1 Dubai Police, ‘Major Crime Statistics’ (*Government of Dubai: Dubai Police*, 3 September 2024) <<https://www.dubai.police.gov.ae/wps/portal/home/opendata/majorcrimestatistics>> accessed 19 November 2024.

2 Majda Malawi and others, ‘Child Molestation is a Dehumanization’ *Al-Bayan* (Dubai, 24 May 2016) <<https://www.albayan.ae/across-the-uae/accidents/2016-05-24-1.2646226>> accessed 19 November 2024.

Sexual harassment in France, particularly street harassment, has shown a significant rise in recent years. In 2023, 3,400 sexist harassment offences were reported under the gender-based contempt law, marking a 19% increase from the previous year. Since the law's introduction in 2018, a total of 11,300 cases have been reported, though the actual numbers are believed to be much higher. Urban areas, especially Paris, see the highest rates, with 8.5 incidents per 100,000 inhabitants in 2023. Most victims (88%) are women under 30, while perpetrators are predominantly men (97%). The rise in reports highlights growing public awareness but represents only a fraction of the actual violence faced by women in public spaces.³

Sexual harassment is often misunderstood and has long been considered a taboo subject that should not be discussed. Indeed, there was a time when even uttering the word "harassment" was considered daring. However, this does not justify ignoring the presence of harassment or pretending it does not exist. Importantly, sexual harassment is not an unfamiliar issue; it occurs daily in both public and private spaces. It takes place on the streets, in workplaces, schools, universities, shopping areas, and parks, on public transportation, in offices, and even within homes.

Harassers can be individuals or groups, male or female. A harasser might be a stranger to the victim or someone they know—a boss, employee, coworker, client, passerby, relative, family member, or guest. Victims can also be individuals or groups, encompassing all segments of men, women, or both. Although sexual harassment most commonly involves men harassing women, it is not exclusive to them; women can also harass men, and same-sex harassment occurs as well.

Most sexual harassment cases involve men harassing women, but this does not negate the occurrence of other forms. Therefore, most legislation does not specify the gender of the perpetrator or the victim. It is a daily and repeated exposure for many women to the extent that some people trivialise it, viewing it as part of male behaviour. However, the discomfort felt by a woman experiencing harassment is pivotal. Every woman has the right to enforce personal boundaries that ensure her comfort and to have those boundaries respected.⁴

It is crucial to remember that sexual harassment is never the fault of the harassed or assaulted individual. Harassment is a choice made by the harasser, regardless of the victim's clothing or behaviour.

3 Service Statistique Ministériel de la Sécurité Intérieure, 'Sexist Street Harassment Complaints on the Rise in France, Figures Show' (*The Local France*, 1 August 2024) <<https://www.thelocal.fr/20240801/sexist-street-harassment-complaints-on-the-rise-in-france-figures-show>> accessed 19 November 2024.

4 A recent report on the use of social networks in Morocco revealed that one in every three women has been subjected to sexual harassment, compared to 4.3% of men. Read more: Mohammed Al-Siddiqi, 'A Third of Moroccan Women have Experienced Sexual Harassment on Social Media' *Moroccan Depth* (Rabat, 15 April 2024) <<https://al3omk.com/924541.html>> accessed 19 November 2024.

Moreover, sexual harassment is a form of sexual violence that the victim endures. Recently, online harassment has been recognised as a cybercrime punishable under most comparative penal codes⁵ and regional agreements and conventions.⁶

The research questions are presented as follows:

1. What forms of sexual harassment are recognised in the UAE and France, and how are they distinguished from similar behaviours?
2. How do the legal definitions in both countries address the nature of sexual harassment, including intent and conduct?
3. What are the key legal elements that define sexual harassment in the UAE and France?
4. What penalties are imposed for sexual harassment in both jurisdictions and how do they compare?
5. What aggravating circumstances influence penalties for sexual harassment in the UAE and France?

The main objective of this study can be summarised as follows:

1. To explore the forms of sexual harassment in the UAE and France and how they differ from similar behaviours.
2. To analyse the legal definitions and the nature of sexual harassment in both countries.
3. To compare the legal frameworks defining sexual harassment in the UAE and France.
4. To examine the penalties for sexual harassment in both countries and their severity.
5. To investigate aggravating circumstances that affect penalties for sexual harassment in both legal systems.

2 METHODOLOGY

The study employs a mixed-methods design, combining analytical and comparative approaches. The analytical approach is used to deeply analyse the legal provisions related to sexual harassment within the UAE and French penal laws, focusing on their meaning, scope and legislative structures. This is achieved through legal text analysis, dissection of legal terms, and case law examination. The study begins by gathering the relevant articles from the UAE and French Penal codes regarding sexual harassment, including

5 Lisa Sugiura and Smith April, 'Victim Blaming, Responsibilities and Resilience in Online Sexual Abuse and Harassment' in Jacki Tapley and Pamela Davies (eds), *Victimology: Research, Policy and Activism* (Palgrave Macmillan Cham 2020) 45, doi:10.1007/978-3-030-42288-2_3.

6 Council of Europe Convention on Preventing and Combating Violence against Women and Domestic Violence (Istanbul Convention, 11 May 2011) [2023] OJ L 143I/7, art 40.

definitions, reporting mechanisms, penalties and measures for victim protection. Key legal terms related to sexual harassment in both codes, such as “consent”, “workplace”, or “sexual conduct,” are analysed. Moreover, the analytical approach is used to analyse relevant judicial rulings concerning sexual harassment in both the legal environments of the UAE and France.

The second approach is a comparative one, used to compare the differences and similarities between the sexual harassment laws of the UAE and France and to identify areas for potential improvement. This involves identifying areas of comparison, including legal definitions, scope and coverage, juristic views, and penalties. Both approaches are integrated, starting with an analytical breakdown of legislation in each country. Data and case studies provide a practical lens for both approaches, demonstrating how legal norms, provisions, judicial rulings and juristic efforts reflect the effectiveness of each system in criminalising and penalising acts of sexual harassment.

This study addresses the topic by examining the nature of sexual harassment, including its concept, forms, and distinctions from similar behaviours. Additionally, it explores the legal framework for the crime of sexual harassment in the UAE and France, focusing on several key issues, such as the elements of the crime (*Actus Reus* and *Mens Rea*) and the associated penalties.

3 THE NATURE OF SEXUAL HARASSMENT

Sexual harassment is a complex issue involving personal and professional spheres, often manifesting in the workplace due to unequal hierarchical relationships.⁷ It involves varied interpersonal relationships between victims and perpetrators, and some individuals experience repeated adverse effects on their personal and professional lives.

3.1. The Concept of Sexual Harassment

Sexual harassment is a concept that exists independently in various international legal instruments. It is often labelled as “equal treatment,” “obligation to protect human rights,” or “discrimination.” However, some aspects of the issue have not been specifically addressed in some international legal instruments. In the UAE, the concept of sexual harassment in the workplace has been imported from a France.

Sexual harassment is considered a violation of human values and rights, as it undermines equal opportunities and equal treatment. Both Islamic and Western feminists view it as a

7 Raphaël Simian, ‘Le harcèlement en droit penal’ (Thèse de doctorat, Université de Nice 2005) 16.

violation of power dynamics.⁸ Legal systems often include “human dignity” as a necessary element in defining harassment, prohibiting any distinction, exclusion, or preference based on race, colour, sex, religion, or national origin.

Defining sexual harassment is complex due to its varying victim experiences. It requires a comprehensive understanding of psychology, sociology, penal jurisprudence, international conventions, and national laws.⁹

Sexual harassment is defined as verbal or physical behaviour initiated by a male against a female, causing sexual, psychological, physical, or moral harm. It can occur in various settings, including workplaces, educational institutions, public spaces, and on the streets.¹⁰ Harassment includes unwelcome advances, obscene remarks, and abusive sexual conduct, forming a form of sexual discrimination.¹¹

Sexual harassment is a psychological issue where the harasser seeks to gain power and control by exploiting the victim's body.¹² This can include explicit sexual behaviours, non-physical harassment, and attempts to sexually arouse a female without her consent. The most common instances of sexual harassment occur in the workplace, where men in positions of power engage in such behaviours.¹³

The crime of harassment threatens individuals' values, moral principles, and the sanctity of their bodies. It involves behaviours that violate personal dignity and boundaries, causing emotional, psychological, or physical harm. Harassment undermines respect for individual autonomy and safety, infringing on rights and creating a hostile environment.¹⁴

Sexual harassment is defined as deliberate sexual behaviour by the harasser, causing harm to the victim in various settings, including public and private spaces.¹⁵ It can be linked to fear, exploitation of influence, or rejection of sexual tendencies.¹⁶ It can involve physical, verbal, written, or obscene material and can be expressed in various

8 Norani Othman, ‘Muslim Women and the Challenge of Islamic Fundamentalism/Extremism: An Overview of Southeast Asian Muslim Women's Struggle for Human Rights and Gender Equality’ (2006) 29(4) *Women's Studies International Forum* 339, doi:10.1016/j.wsif.2006.05.008.

9 Simian (n 7) 16.

10 Abdessamad Dialmy, ‘Sexuality in the Contemporary Arab Society’ (2004) 299 *Al-Mustaqbal Al-Arabi* 138.

11 Jamal Shihatah Habib, *Community Police and Social Defense* (Al-Maktab Al-Jaami'i Al-Hadith 2011) 445.

12 Gabriel A Akinbode and Folusho Ayodeji, ‘Sexual Harassment: Experiences, Prevalence and Psychopathology in Some Selected Higher Institutions in Lagos, South-West Nigeria’ (2018) 21(3) *African Journal for the Psychological Studies of Social* 112.

13 Rashad Ali Abdel Aziz Musa, *Questions about Harassment, Sexual Assault, Perfume, and Sexual Attractiveness* (Alam Al-Kutub 2009) 13.

14 Linda C McClain, ‘Inviolability and privacy: The castle, the sanctuary, and the body’ (1995) 7(1) *Yale Journal of Law & The Humanities* 195.

15 Rasha Mohamed Hassan and Aliaa Shokry, ‘*Clouds in the Sky of Egypt*’: *Sexual Harassment from Verbal Altercations... to Rape (A Sociological Study)* (Al-Markaz Al-Masri li-Shu'un Al-Mar'a 2008) 6.

16 Nabil Saqr, *The Concise Dictionary of Personal Crimes* (Dar Al-Huda 2009) 32.

forms.¹⁷ Sexual harassment is a form of violence expressed in diverse forms, regardless of gender or age group.¹⁸

From our perspective, sexual harassment can be defined as: "Any deliberate behaviour in the form of an action, word, gesture, drawing, insinuation, or inappropriate compliment, whether in a public or private setting, or via traditional or electronic communication, that carries sexual implications towards another person, regardless of their gender or age group, causing physical, psychological, or moral harm, which is not merely unaccepted but also rejected."¹⁹

The 1979 Convention on the Elimination of All Forms of Discrimination Against Women defines sexual harassment as unacceptable behaviour, including physical contact, advances, and pornography demands. It is discriminatory if the woman believes it would disadvantage her employment or create a hostile working environment.¹⁹

Transparency International's report on sexual harassment identifies it as a form of corruption in the workplace, characterised by hostile, aggressive, and embarrassing sexual behaviour affecting employee performance, health, and livelihood.²⁰

The UN General Secretariat defines sexual harassment as any unwelcome sexual advances, requests, or gestures that cause offence or humiliation interfere with work, affect employment conditions, or create an intimidating work environment.²¹

Sexual harassment is defined by various national laws, including American law, which includes verbal, physical, and visual harassment, which must be perceived as an assault on the victim.²²

Art. 222/33 of the French Penal Code defines sexual harassment as repeated acts of imposing words or actions with sexual connotations, either undermining dignity or creating an

17 Thuraya Naeem Shalala, *Lawsuits Involving Harassment and Sexual Assault* (Mansurat Al-Halabi Al-Huquqiyya 2010) 8.

18 Guadalupe Pastor-Moreno and others, 'Frequency, Types, and Manifestations of Partner Sexual Violence, Non-Partner Sexual Violence and Sexual Harassment: A Population Study in Spain' (2022) 19(13) *International Journal of Environmental Research and Public Health* 8108, doi:10.3390/ijerph19138108.

19 Convention on the Elimination of All Forms of Discrimination against Women (adopted 18 December 1979) <<https://www.ohchr.org/en/instruments-mechanisms/instruments/convention-elimination-all-forms-discrimination-against-women>> accessed 19 November 2024; Hisham Abdel Hamid Farag, *Sexual Harassment and Crimes of Honor* (Dar Al-Wathaa'iq 2011) 20.

20 Transparency International - National Branch Palestine, *Sexual Harassment in Workplaces as a Form of Corruption (Annual Report, Aprile 2010)* (Advocacy and Legal Advice Center 2010) 4.

21 Secretary-General's bulletin on Harassment, Including Sexual Harassment, and Abuse of Authority, ST/SGB/2008/5 (11 February 2008) <<https://daccess-ods.un.org/access.nsf/Get?OpenAgent&DS=ST/SGB/2008/5&Lang=E>> accessed 19 November 2024.

22 Atiq Al-Sayyed, *The Crime of Sexual Harassment: A Comparative Criminal Study* (Dar Al-Nahdah Al-Arabiyya 2003) 7.

intimidating or offensive situation, even if not repeated.²³ The definition extends to sexual harassment even if the act is not repeated, encompassing the use of any kind of serious pressure for the clear purpose of obtaining a sexual favour, whether for the benefit of the perpetrator or another party.²⁴

Art. 413 of the Penal Code in UAE defines sexual harassment as persistent harassment aimed at compromising a victim's modesty or influencing their sexual desires.²⁵

French and UAE legislators have broadened the definition of sexual harassment beyond work-related situations, encompassing all instances of harassment in any environment. Sexual harassment is defined as unwanted sexual behaviour, manifesting physically and verbally. Despite penal laws, it is difficult to fully encompass its various forms, causing daily victim suffering.

Both the UAE and French legal systems recognise the psychological harm caused by harassment. UAE law emphasises the manipulation of sexual desires, while French law covers a broader range of unwanted behaviours, both repeated and non-repeated. Both systems extend protection beyond the workplace and prioritise personal dignity and the prohibition of discrimination.

In our view, both legal frameworks offer significant protections against sexual harassment, but they differ in scope and approach. UAE law focuses on persistent behaviour impacting modesty and sexual desires, reflecting a more traditional view, especially in workplace contexts. However, this may not fully address modern forms of harassment, particularly non-physical ones such as online harassment.

French law provides a broader definition, recognising both repeated and single acts of harassment and including verbal and psychological harm. This wider approach may offer stronger protection by acknowledging the full spectrum of harmful behaviour, even without physical contact. While both systems emphasise dignity and anti-discrimination, adopting a broader definition of harassment, like the French model, could improve the UAE legal framework's effectiveness in addressing all forms of sexual harassment, aligning with global standards and the evolving nature of such offences.

23 Art. 222-33 of the French Penal Code states: "Sexual harassment is the act of repeatedly imposing on someone, in a repeated way, words or actions that have a sexual connotation and that either undermine their dignity by reason of their degrading or humiliating nature, or create an intimidating, hostile or offensive situation." See: Code Penal (adoption 22 July 1992) <https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006070719/> accessed 19 November 2024.

24 The French legislator has also defined sexual harassment in Art. 1153-1L of the French Labor Law. See: Code du travail (version in force 2024) <https://www.legifrance.gouv.fr/codes/texte_lc/LEGITEXT000006072050/> accessed 19 November 2024.

25 See: Federal Law by Decree no (31) of 2021 'Promulgating the Crimes and Penalties Law' [2021] Official Gazette 712 <<https://uaelegislation.gov.ae/en/legislations/1529>> accessed 19 November 2024.

3.2. Forms of Sexual Harassment

Recognising sexual harassment's forms, including verbal, non-verbal, physical, bargaining, and intimidation harassment, is crucial for addressing the issue among men, women, or both.²⁶

3.2.1. Verbal Harassment

Verbal Harassment is a form of violence against a victim involving language with sexual connotations. It can manifest in various ways, such as direct sexual propositions, persistent phone calls, offering services in exchange for favours, inappropriate comments about body parts, and sending inappropriate messages.²⁷ It involves intrusion into an individual's personal life, persistently monitoring their activities, and invading their privacy, as well as interfering in their work or personal affairs for sexual purposes.

Bargaining harassment occurs when a superior at work offers subordinates work-related privileges such as promotions, transfers to more desirable positions, job security, and bonuses in exchange for sexual favours.²⁸

3.2.2. Non-Verbal Harassment

Direct harassment (non-verbal harassment) involves sexual gestures, movements, or expressions, including kissing, lewd gestures, scrutinising the body, winking, suggestive hand movements, and facial expressions.²⁹ It includes stalking, offering contact details, sending text messages, and making suggestive noises.³⁰

Harassment occurs when verbal or non-verbal actions are rejected by the victim, causing psychological and moral harm or threatening their well-being. It is distinct from consensual romantic interactions.³¹

Intimidation harassment involves similar demands for sexual favours as seen in bargaining harassment but lacks mutual consent between the harasser and the victim concerning job

26 Mohamed Ali Qutb, *Sexual harassment: Dimensions of the Phenomenon and Mechanisms of Confrontation: A Comparative Study between Statutory Laws and Islamic Law* (Etrac for Printing, Publishing and Distribution 2008) 26.

27 Dialmy (n 10) 139.

28 Fatimah Qaffaf, 'The Crime of Sexual Harassment of Women in the Workplace in Algerian Legislation' (2020) 7(2) *Al-Baheth Journal of Academic Studies* 354.

29 Joan Williams and others, 'What's Reasonable Now? Sexual Harassment Law after the Norm Cascade' (2019) 1 *Michigan State Law Review* 139, doi:10.17613/haww-h214.

30 Wendy Pollack, 'Sexual Harassment: Women's Experience vs Legal Definitions' (1990) 13 *Harvard Women's Law Journal* 35.

31 Musa (n 13) 20.

benefits. The harasser employs threats to disadvantage the victim or cause them to miss opportunities unless they acquiesce to sexual demands.³²

3.2.3. Digital and Physical Harassment

Digital harassment, also known as online sexual harassment, is a growing concern in contemporary society. It occurs on social media or electronic message boards and shares similarities with traditional workplace sexual harassment. Digital harassment is primarily intra-professional, while traditional harassment occurs across both constituency spheres.³³ It is a unique form of harassment where the perpetrator remains anonymous for a long time before being identified by law enforcement. Targets are usually unaware of the harassment, and the psychological impact is nine times greater than street sexual harassment. Victims may feel isolated and stigmatised, making it urgent to address this issue effectively.³⁴

Physical harassment involves sexually explicit actions, such as unwanted touching, rubbing, or exposing body parts, which can escalate to sexual assault, causing discomfort or harm through contact with sexual implications. It involves the harasser or victim engaging in deliberate physical contact, such as grabbing body parts or touching genitals, often in public spaces. Sexual exhibitionism involves the perpetrator deliberately exposing sexual body parts, coercing the victim to undress, or displaying suggestive body parts.³⁵

3.3. Differentiating Sexual Harassment from Similar Behaviors

Unlike other types of harassment that can arise in various situations, sexual harassment refers explicitly to inappropriate conduct occurring within a workplace setting.

3.3.1. Sexual Harassment and Bullying

Bullying and harassment are prevalent forms of aggression, crossing cultural, intellectual, economic, social, and age boundaries. The term “bullying” lacks a precise definition due to legislative gaps.³⁶ The UAE law does not include sexual bullying in the Penal Code, as the

32 ibid

33 See: Jaber Ghanaimi, ‘Cyber Harassment in Light of National and International Laws’ (*Shams Al Yaoum*, 8 October 2023) <<https://shams-alyaoum.com>> accessed 19 November 2024.

34 Emma Marshak, ‘Online Harassment: A Legislative Solution’ (2017) 54(2) *Harvard Journal on Legislation* 503.

35 Nawal Ali Al-Shahri and Waheed Bin Ahmad Al-Hindi, ‘The Woman and Sexual Harassment in the Workplace: A Survey Study on the Banking Sector in the Kingdom of Saudi Arabia’ (2015) 22 (3) *Arab Journal of Administrative Sciences* 393.

36 Mohamed Saeed Al-Qaza’ah, ‘The Crime of Bullying in Light of the Recent Amendments to Law No 189 of 2020: A Comparative Study’ (2023) 35(101) *Spirit of Laws* 1449, doi:10.21608/las.2022.178921.1111.

crime of bullying is not criminalised in UAE law, while French law treats it as an independent crime under terms like “moral, psychological, or emotional harassment”.

The French legislator has codified the crime of bullying in the Penal Code at various levels (Art. 222-33-2), with specific provisions criminalising bullying when committed in the workplace, as well as in contexts such as marital relationships, civil solidarity pacts or between partners. Additionally, there is a general provision that broadly punishes bullying.³⁷

Bullying in France involves aggressive behaviour that degrades an individual's working conditions and causes psychological or physical disorders. It is characterised by power imbalance and repeated behaviour.³⁸

The UAE Penal Code does not define or specifically criminalise bullying. However, Paragraph 2 of Art. 14 of the 2021 Federal Labor Law prohibits sexual harassment, bullying, or any verbal, physical, or psychological violence against an employee by an employer, supervisors at work, or colleagues.³⁹ This indicates that the UAE legislator equates sexual harassment with bullying to some extent.⁴⁰

In brief, bullying and harassment are often rooted in individuals' belief in impunity, lack of accountability, or the ability to manipulate the law to escape consequences. Bullying, both verbal and non-verbal, has escalated to harassment, causing violations of rights, particularly for women.

3.3.2. Sexual Harassment and Acts against Modesty

Modesty violations involve voluntary physical actions that violate public and private modesty. Overtly indecent acts, such as caressing or embracing someone without consent, are also considered.⁴¹

Sexual harassment and acts that violate modesty share similarities and differences. Both involve acts that affect personal honour and are characterised by deliberate behaviour. These acts can occur publicly or privately, with or without force, and can involve spoken words or

37 Evelyne Monteiro, 'Le concept de harcèlement moral dans le code pénal et le code du travail' (2003) 2 *Revue de science criminelle et de droit pénal comparé* 277.

38 David Masson, 'Harcèlement Moral: Identification et Preuve' (*Village-Justice*, 31 July 2023) <<https://www.village-justice.com/articles/harcelement-moral-identification-preuve,26467.html>> accessed 19 November 2024.

39 Federal Decree by Law no (33) of 2021 'Concerning Regulating Labour Relations' [2021] Official Gazette 712 <<https://uaelegislation.gov.ae/en/legislations/1541>> accessed 19 November 2024.

40 E Baillien et d'autres, *Violence, Harcèlement Moral ou Sexuel au Travail: Facteurs de Risque Organisationnels* (SPF 2006).

41 Hassan Al-Marsafawi, *Al-Marsafawi on Special Criminal Law* (Al-Maaref Establishment in Alexandria 1991) 667.

actions.⁴² While sexual harassment can involve male and female victims, acts that violate modesty typically involve male perpetrators and female victims.⁴³ In both cases, consent is absent, and actions are directed towards another individual. Some laws also require dependency relationships.⁴⁴ Acts can occur in public or private locations, while acts that violate modesty typically require public places.

Indecent acts are overt, observable, and require consent from the victim, while sexual harassment is an act intended to derive sexual benefit without consent, involving words, physical contact, or gestures, both publicly and privately.⁴⁵

3.3.3. Sexual Harassment and Indecent Assault

Indecent assault is a severe sexual freedom attack, like rape but involving unnatural sexual contact and touching private parts.⁴⁶ It involves a physical violation of the victim's privacy, causing severe harm to their modesty. Examples include touching the victim's anus, placing a hand inside a woman's clothes, or touching her breasts or abdomen.⁴⁷

The UAE legislator has categorised two types of indecent assault under Art. 407 of the Penal Code: one involving force or threat, and the other without force or threat.⁴⁸

Sexual harassment and indecent assault share similarities but also have notable differences. Both crimes can be committed by males against females, females against males, or both. Victims are human, regardless of gender or age. Both crimes involve acts short of intercourse. Sexual harassment involves the perpetrator using actions, gestures, words or acts to obtain sexual gratification from the victim, while indecent assault involves contact with the victim's body and breaches modesty. Indecent assault occurs when the act violates modesty significantly, with the severity determined by the presiding judge.⁴⁹ Sexual harassment involves persistently disturbing the victim through repeated actions, words, or gestures, aiming to induce them to acquiesce to the harasser's sexual desires.

42 Appeal no 1348 of Legal Year 26 (Egyptian Criminal Cassation, 29 December 1975) [1975] Technical Office 196/891.

43 *ibid.*

44 Catharine A MacKinnon and Reva B Siegel (eds), *Directions in Sexual Harassment Law* (Yale UP 2008).

45 Mohamed Al-Saeed Abdelfattah, *Crimes against Persons and Property: Explanation of the Federal Crimes and Penalties Law of the United Arab Emirates* (Dar Al-Afaq Al-Ilmiyyah 2022) 169.

46 Appeal no 290 (Dubai Court of Cassation, 20 November 2006).

47 Mahmoud Najeb Hosni, *A Concise Explanation of the Special Section of the Criminal Law* (Dar Al-Nahdah Al-'Arabiyyah 1993) 464.

48 Farag (n 19) 20.

49 Ahmed Fathi Suroor, *The Simplified Reference for the Special Part of Criminal Law* (Dar Al-Nahdah Al-'Arabiyyah 2016) 662.

4 THE LEGAL FRAMEWORK FOR THE CRIME OF SEXUAL HARASSMENT IN THE UAE AND FRANCE

Legal provisions' effectiveness depends on offence formulation, liability standards, and penalties for sexual harassment, but weak provisions can hinder victims' access, and civil society groups and advocates influence legal discourse.

According to the UAE Legislation Art. 413 of the UAE Penal Code states, "Anyone who commits the crime of sexual harassment shall be punished by imprisonment for no less than one year and a fine of no less than 10,000 dirhams, or by one of these two penalties. Sexual harassment includes any persistence in bothering the victim by repeating actions, words, or gestures that are likely to violate their modesty with the intent of inducing them to comply with the sexual desires of the perpetrator or others. The penalty increases to imprisonment for no less than two years and a fine of no less than 50,000 dirhams if there are multiple perpetrators, if the perpetrator is armed, if the victim is a child under the age of 18, if the perpetrator is a parent, relative, guardian, or has authority over the victim, or was employed by them or by someone previously mentioned."⁵⁰

The French Law Art. 222-33 of the French Penal Code⁵¹ defines sexual harassment as any act committed by the perpetrator through issuing orders, threats, or coercion to obtain sexual favours or gratification, and the perpetrator is punished in this case with two years imprisonment and a fine of 30,000 euros. The penalty increases to three years imprisonment and a fine of 45,000 euros if the sexual harassment occurs under aggravated circumstances.⁵²

4.1. Elements of the Crime of Harassment

The UAE and French penal codes define harassment as intentional acts, words, and communications causing suffering or fear. The intent of the perpetrator in a case of harassment is difficult to prove due to the lack of knowledge between the parties.

50 Federal Law by Decree no (31) of 2021 (n 25).

51 Code Penal (n 23).

52 In cases of sexual harassment with aggravating circumstances, the perpetrator may face up to three years in prison and a fine of 45,000 euros. The law recognizes several aggravating circumstances:

- The victim is a vulnerable person: a pregnant woman, sick individual, physically or mentally disabled person, elderly person, etc.
- The perpetrator has abused the position of authority conferred by their role.
- The victim is a person under the age of fifteen.
- The sexual harassment was committed by several individuals acting as perpetrators or accomplices.
- The offense was committed in the presence of a minor.

4.1.1. Actus Reus (The Guilty Act) under the UAE and French Legislation

The Actus Reus outlines the visible aspect of sexual harassment, encompassing conduct, result, and causal relationship, reflecting the sinful intent of the perpetrator.

A. The Actus Reus Under French Legislation:

In French law, the legislator has outlined several means or forms that a harasser may use, including:⁵³

- **Orders:** Sexual harassment involves unjustified orders from superiors to subordinates, often expressed verbally through gestures or eye signals.⁵⁴ Following the amendment to Art. 222-33 of the French Penal Code by Law No. 2002-73 in 2002, the French legislator no longer requires a dependent relationship between the perpetrator and the victim or a boss-subordinate relationship for a harassment charge. Instead, the crime may occur if the perpetrator is a colleague of the victim, a child of the employer, a hiring manager, or a client of the company.⁵⁵ This means that the French legislator no longer requires a specific status for the perpetrator. The 2012 amendment by the French legislator has made the exploitation of power an aggravating circumstance for the penalty.⁵⁶
- **Threats:** Sexual harassment can involve threats, verbal or written, involving crimes against oneself, property, or others or scandalous events. These threats can include psychological violence, such as termination from employment, and physical harm to the victim or someone close to them.⁵⁷ The extent of the threat is irrelevant if the person can understand its meaning.
- **Coercion:** French law does not define coercion in sexual harassment, leaving it to jurisprudence and the judiciary. Coercion is a physical or psychological pressure, either physical or psychological, that cannot be repelled or expected, compelling the person to commit the crime.⁵⁸ Psychological coercion is the pressure exerted on an individual to perform a specific act due to the fear of

53 See: 'Le harcèlement sous toutes ses formes: Réunion CST inter associations, Du 16-12-2019' <https://www.afrcinetv.org/wp-content/uploads/2020/06/doc_cchsct_harce_lement-_cst122019b.pdf> accessed 19 November 2024.

54 Saqr (n 16) 330.

55 Law of the French Republic no 2012-954 of 6 August 2012 Concerning Sexual Harassment 'Relative au harcèlement sexuel' [2012] JORF 0182/1.

56 Christophe Radé, 'Le Conseil constitutionnel et le harcèlement sexuel' (*LexBase*, 28 August 2014) <<https://www.lexbase.fr/revuesjuridiques/6262806jurisprudencelconseilconstitutionnelletleharcelementsexuel>> accessed 19 November 2024.

57 Marine Gautier, 'Le harcèlement sous toutes ses formes: quels sont les recours pour les victimes?' (*Justifit*, 12 June 2024) <<https://www.justifit.fr/b/guides/droit-penal/droit-penal-harcelement/>> accessed 19 November 2024.

58 Abdelaziz Alhassan, Explanation of Crimes and Punishments under UAE Law (Dar Al-Nahdah Al-'Ilmiyyah 2022) 363.

imminent harm.⁵⁹ For this form of criminal behaviour to be realised in the crime of sexual harassment, the following conditions must be met: There must be physical or psychological coercion, it must be practised on a person, male or female, and the purpose of exercising the coercion must be to obtain a favour, privilege, or advantage of a sexual nature.

As regards the criminal result of sexual harassment, the French legislature establishes sexual harassment as a formal crime, requiring no tangible criminal result. This protection of sexual freedom is achieved without the need for sexual desires, as the crime occurs even without realisation. There is no punishment for attempts at this crime.

Trial courts have not established a causal link between sexual harassment and the criminal result, which is a violation of the right to sexual autonomy, even though the perpetrator's actions were not necessary for this violation.

B. The Actus Reus under the UAE Legislation

Art. 413 of the UAE Penal Code defines sexual harassment as the persistent troubling of a victim through actions, statements, or gestures aimed at causing them to succumb to sexual desires. The methods that a perpetrator may use to persistently harass include:⁶⁰

- **Sexual harassment through actions:** Perpetrators engage in indecent gestures, sexual harassment through written communication, and physical behaviour to induce prohibited acts, including touching, kissing, pinching, hugging, and holding hands.
- **Sexual harassment through words:** Harassment involves using obscene language, jokes, questions, and sounds to persuade someone to conform to their sexual desires or those of others.
- **Sexual harassment through gestures:** Harassment involves the harasser using physical gestures, such as suggestive looks, physical hints, winks, and hand gestures, to compel the victim to submit to their sexual desires.

As regards the criminal result of this crime, the UAE legislator does not require a tangible criminal result for sexual harassment to be established, making it a formal crime designed to protect sexual freedom. Sexual desires are not required, and there is no punishment for attempts at this crime.

Trial courts must establish a causal link between sexual harassment and the criminal result, which is a violation of the right to sexual autonomy, even though the perpetrator's actions were not necessary for this violation.

The stance of the French legislator is focused on protecting personal dignity, ensuring public order, and safeguarding vulnerable individuals, particularly minors. The French legal

59 Olivier Fardoux, *Fiches de Droit pénal du travail: Rappels de cours et exercices corrigés* (Ellipses 2018) 239-49.

60 Federal Law by Decree no (31) of 2021 (n 25) art 413.

system criminalises a wide range of sexual offences, from harassment to assault, with varying severity based on the nature of the act and the parties involved. The law recognises both physical and psychological harm and provides clear avenues for victims to seek justice. It also aims to create a safe environment in workplaces and public spaces by holding offenders accountable for actions that create hostile atmospheres. Arts. 222-27 to 222-29 of the French Penal Code specifically address sexual assault, including non-violent acts like groping or unwanted touching, and extend protection to both adults and minors. Art. 222-30 strengthens penalties when the offence involves minors or vulnerable persons, reflecting their heightened vulnerability and offering additional protection to those at greater risk of sexual assault, such as children or individuals with disabilities.⁶¹

In French and UAE law, sexual harassment must offend modesty and involve repetition by the perpetrator. A single occurrence is not criminal. However, the French judiciary does not require repetition in cases where severe pressure is used to obtain sexual favours, regardless of whether the intent is real or apparent.⁶² In such cases, the crime is considered to have occurred irrespective of whether there is severe, repeated pressure.⁶³

French and UAE legislation does not mandate specific characteristics for sexual acts or gestures, as the crime is merely a desire for a sexual favour. The requirement to prove consent in response implies that the victim's consent is absent, thus excluding the act from the realm of sexual harassment. The court's discretion in determining if a specific form is present is crucial, but it must specify it in its reasoning for a conviction.

French and UAE criminalise sexual harassment if the criminal aims to obtain advantages or favours, excluding behaviour without such intent. Sexual desires or advantages embody any sexual acts, including kissing, bodily contact, fondling, and touching, which constitute the preliminaries to sexual intercourse.

4.1.2. Mens Rea (The Guilty Mind) under the UAE and French Legislation

Sexual harassment is considered an intentional crime requiring criminal intent, regardless of the perpetrator's knowledge of the specific consequences. In comparative jurisprudence, it is based on general intent. Perpetrators must be aware of infringing on the victim's sexual freedom and understand the seriousness of the act. They must also consciously direct their will to command their body parts to perform the crime, aiming to gain sexual advantages.⁶⁴

61 Code Penal (n 23).

62 *ibid*, art 222-33, states: "II. - Is assimilated to sexual harassment the act, even if not repeated, of using any form of serious pressure with the real or apparent aim of obtaining a sexual favor, whether for the benefit of the perpetrator or a third party."

63 See: Marilyn Baldeck et Laure Ignace, 'La Cour de cassation consacre l'acte unique de harcèlement sexuel en droit du travail' (*Avft*, 27 November 2017) <<https://www.avft.org/2017/11/27/cour-de-cassation-consacre-lacte-unique-de-harcement-sexuel-droit-travail/>> accessed 19 November 2024.

64 Abbas Hekmat Farman and Mayada Mahmud Fayyad, 'The Crime of Sexual Harassment' (2020) 8 *The College of Law and Political Science Journal* 77, doi:10.61279/edv7zt31.

French jurisprudence has settled on the requirement of specific criminal intent for the crime of sexual harassment. Therefore, the mere presence of general intent, consisting of knowledge and volition, is insufficient for the crime to occur. Rather, the perpetrator's specific intent must be present, aimed at achieving a particular goal—namely, gaining a sexual favour.⁶⁵ The French Court of Cassation has emphasised that trial courts must determine this intent in their reasoning for a conviction and must literally state “the perpetrator's intent to coerce the victim to comply with his sexual desires.” If this intent is absent, the act does not constitute sexual harassment.⁶⁶

Similarly, UAE law considers that the mere presence of general criminal intent alone is insufficient for the crime of sexual harassment to occur. It additionally requires specific intent aimed at gaining sexual favour for the perpetrator or someone else. This is evident from the phrases used by the UAE legislator in defining the crime of sexual harassment, which establish a causal link between the perpetrator's behaviour in harassing the victim through repeated acts, words, or gestures that could offend the victim's modesty, with the intent to compel them to respond to his or others' sexual desires. If the perpetrator's intent lacks the aim of gaining sexual favour, then his act is not considered sexual harassment.⁶⁷

Proving specific intent in sexual harassment is challenging due to the perpetrator's lack of physical evidence and dual interpretation of behaviours. Instances are examined through the judgment of a trial judge, who examines elements and circumstances that can be interpreted as harassment or inappropriate.

It is believed that if the presence of general criminal intent alone sufficed for the occurrence of the crime of sexual harassment, this would be the optimal solution for proving this, especially since requiring and proving specific intent is extremely difficult and would consequently lead to many sexual harassers escaping criminal liability.

In brief, the UAE's criminalisation policy is more focused on modesty and sexual conduct, with a particular emphasis on workplace harassment, while French law has a broader, more inclusive approach, encompassing both physical and non-physical behaviours and extending protection across different settings. The differences in the criminalisation policy reflect the varying emphases on the scope and nature of sexual harassment in each jurisdiction.

In the past, the UAE judiciary recognised the power dynamics involved, emphasising verbal, non-verbal, and coercive behaviours that create a hostile environment. This landmark ruling led to new legislation explicitly addressing sexual harassment, providing clearer guidelines

65 See: Appeal no 10-80570 (French Court of Cassation, Criminal division, 8 June 2010) <<https://www.legifrance.gouv.fr/juri/id/JURITEXT000022457458>> accessed 19 November 2024.

66 Gautier (n 57).

67 Helema Mohammed Humaid and Mohammed Al-Hourani, 'Sexual Abuse against Children in UAE Society' (2022) 142 *Al-Adab Journal* 383, doi:10.31973/aj.v1i142.2801.

for the judiciary. It sparked conversations about consent, boundaries, and gender equality, creating increased awareness and consciousness. Case No. 37 marked a turning point in the fight against sexual harassment, contributing to a more inclusive society where individuals can speak out, and everyone's rights and dignity are protected.⁶⁸

5 PENALTIES FOR THE CRIME OF SEXUAL HARASSMENT IN THE UAE AND FRENCH LEGISLATION

Both UAE and French legislators have determined penalties for the crime of sexual harassment in both its simple and aggravated forms.

5.1. Penalties of Sexual Harassment in the UAE Law

Art. 413 of the UAE Penal Code stipulates that anyone committing the crime of sexual harassment in its simple form, as presented in the previous section, shall be imprisoned for no less than one year and fined not less than ten thousand (10,000) dirhams, or shall be given one of these two penalties.

The second paragraph of Art. 413 of the UAE Penal Code states that the punishment for a harasser is increased such that the period of imprisonment shall not be less than two (2) years and the fine not less than fifty thousand (50,000) dirhams or one of these two penalties in cases where there are multiple perpetrators, or the perpetrator carries a weapon, or if the victim is a child who has not reached eighteen (18) years of age, or if the perpetrator is a relative of the victim or responsible for their upbringing or care, or has authority over them, or was a servant at their residence or that of those mentioned above.

The aggravated circumstances of the crime of sexual harassment under the UAE Law can be explained as follows:⁶⁹

- **Multiple offenders:** The UAE legislator has increased punishment for crimes committed by multiple perpetrators, recognising the increased danger to victims when the crime is carried out by a collective effort.⁷⁰ This intensification is necessary to prevent victims from losing their ability to resist and submit to the situation, as the minimum threshold for plurality is at least two persons.

68 Appeal no 37 of 7 QC (Ras Al Khaimah Court of Cassation, 7/10/2012).

69 See: Federal Law by Decree no (31) of 2021 (n 25) art 413.

70 Mahmoud Najib Hassani, *Criminal Participation in Arab Legislation* (Dar Al-Nahda Al-Arabiyyah 1992) 51.

- **Armed perpetrator:** The UAE legislator has made the carrying of a weapon an aggravating circumstance in harassment crimes, as it facilitates the crime.⁷¹ Visible weapons instil fear and terror, while invisible weapons endow the perpetrator with power and make them more dangerous.⁷² Weapons can be inherently recognised or designated. While inherently recognised weapons are considered aggravating, designated weapons must be visible.⁷³
- **Harassment by a victim's progenitors or *Mahrams*:** The UAE legislator has increased the punishment for harassment committed by a victim's progenitors or mahrams, including parents, grandparents, and others. This is due to the personal nature of the perpetrator, guided by personal status laws and Islamic Law. The penalty also applies to harassment by close kin, such as parents, siblings, or marriage partners, who are permanently barred from marrying the victim.⁷⁴
- **Perpetrators responsible for the upbringing or care of the victim:** The UAE legislator increases penalties for sexual harassment committed by individuals responsible for the victim's upbringing and care, such as guardians, custodians, tutors, teachers, stepfathers, uncles, and maternal uncles, as the mere act of committing such harassment is sufficient.⁷⁵
- **Perpetrators with authority over the victim:** Harassment penalties increase when perpetrators have authority over the victim, whether it's legal or practical. This authority can be temporary or permanent, and anyone tasked with supervising the victim, regardless of duration, is considered to have actual authority. The Egyptian Court of Cassation has ruled that the presence or absence of actual authority is a substantive issue decided by the trial court without Court of Cassation oversight.⁷⁶
- **Minor-aged victims:** Art. 413 of the UAE Penal Code states that perpetrators of minor-aged victims of harassment face up to two years imprisonment and a fine of fifty thousand dirhams. This is due to their vulnerability and lack of discernment, which facilitates the perpetrator's behaviour. The victim's age is determined at the time of the crime, and official documents are used to establish it.⁷⁷

71 AS Abu Khattouah, *The Special Section in the Penal Code: Crimes of Aggression on Property* (Dar Al-Nahda Al-Arabiya 1994) 116.

72 Mahmoud Najib Hassani, *Explanation of the Penal Code: A Special Section* (Dar Al-Nahda Al-Arabiya 2012) 116.

73 Appeal no 13 (Dubai Court of Cassation, 19 March 2005).

74 Samir Khalaf and John Gagnon (eds), *Sexuality in the Arab World* (Saqi 2014).

75 Bahaa Al-Marri, *Bullying and Suspected Crimes* (Dar Al-Ahram 2021) 15-85.

76 Appeal no 9077 of Legal Year 62 (Egyptian Criminal Cassation, 6 June 1994) [1994] Technical Office 109/714.

77 Art. 4 of the 2022 Law on Juvenile Delinquents and Juveniles at the Risk of Delinquency states: "Age shall be proven by an official document; if that is not possible, the investigative or judicial authority shall appoint a specialized physician to assess it using technical means." See: Federal Law no (6) of 2022 'Concerning Juvenile Delinquent and Juvenile at Risk of Delinquency' [2022] Official Gazette 741 <<https://uaelegislation.gov.ae/en/legislations/1618>> accessed 19 November 2024.

- **The victim is a servant of the perpetrator:** The UAE legislator has increased the punishment for perpetrators who harass a victim employed as a servant, imposing a minimum of two years imprisonment and a fine of fifty thousand dirhams. This aims to protect servants from the abuse of power that the perpetrator may have on them, which could lead to negative psychological effects.

5.2. Penalties of Sexual Harassment in French Law

The French legislator punishes the perpetrator of sexual harassment, in its simple form, with two years' imprisonment and a fine of thirty thousand (30,000) euros.⁷⁸ It should be noted that the French legislator has combined both penalties without giving the judge the choice to apply one without the other, reflecting the legislator's concern in addressing the widespread phenomenon of sexual harassment.

Art. 222, para. 3, item 3 of the French Penal Code specifies circumstances for increasing the punishment. Some relate to the characteristics of the perpetrator, and others to those of the victim or the nature of the means used to commit the harassment. When any of these aggravating factors are present, the punishment increases to three years imprisonment and a fine of 45,000 euros.

The aggravated circumstances of the crime of sexual harassment under French Law can be explained as follows:⁷⁹

- **Dependency relationship between the perpetrator and the victim:** Harassment punishment increases when the perpetrator has authority over the victim and uses it to harass others, often during duties⁸⁰ or on occasion, indicating a dependency relationship between the perpetrator and the victim.⁸¹
- **Multiple perpetrators:** Sexual harassment can be intensified when multiple perpetrators collaborate to commit the criminal act. This intensification is due to the increased danger to victims when multiple perpetrators work together.⁸² Sound penal policy requires increasing punishment for crimes committed by multiple perpetrators, with the minimum involvement of at least two individuals.⁸³

78 Code Penal (n 23) art 222-33 III, sates: "The acts mentioned in I and II are punishable by two years' imprisonment and a fine of €30,000."

79 *ibid*, art 222-33.

80 See more at: Sophie Ferry, 'Le harcèlement sexuel' (*Le Mag*, 3 August 2022) <<https://www.lemag-juridique.com/categories/penal-15552/articles/le-harcèlement-sexuel-3080.htm>> accessed 19 November 2024.

81 Abigail C Saguy (ed), *What Is Sexual Harassment?: From Capitol Hill to the Sorbonne* (University of California Press 2003).

82 Hassani (n 72) 51.

83 Michel Véron, *Droit pénal spécial* (15e éd, Sirey 2015) 80.

- **The perpetrator is a progenitor of the victim or holds legal or actual authority over them:** French law intensifies punishment for sexual harassment if the perpetrator is a progenitor of the victim or holds legal or actual authority over them, regardless of lineage. This is due to the moral influence these individuals have over the victim, whether temporary or permanent.
- **The young age of the victim:** The French legislator increases the punishment for perpetrators who harass victims under the age of fifteen due to their vulnerability and inability to fully recognise the behaviour. This age group is particularly vulnerable due to their inability to manage their affairs without assistance and their inability to defend themselves against assault.
- **Vulnerability of the victim:** Victim vulnerability can be attributed to age, illness, disability, impairment, economic or social condition, or if the perpetrator knows or sees the victim is pregnant. Sexual harassment can be attributed to various factors, including age, vulnerability, illness, and disability.⁸⁴ Victims of advanced age are more vulnerable to harassment, as they have a weakened physical constitution and a weakened will. Additionally, victims with disabilities, such as those with visual, auditory, mental, or learning disabilities, are often subjected to increased punishment.
- **Pregnancy of the victim:** The punishment for sexual harassment increases if it occurs against a pregnant woman if her pregnancy is visible or known to the perpetrator. The rationale for this lies in the physical vulnerability and psychological disturbance that pregnant women experience.
- **Vulnerability or dependence of the victim:** The victim's vulnerability or dependence, arising from their fragile economic or social status, if visible or known to the perpetrator, also leads to an increase in the penalty.
- **Nature of the means used:** The French legislator increases the punishment if sexual harassment is committed using public communication services over the internet or through any digital or electronic means.

Assessing the adequacy of laws criminalising sexual harassment in the UAE and France highlights key differences. France's Penal Code, including its 2018 law against street harassment, provides a comprehensive framework with clear definitions, strict penalties, and mandatory workplace measures. In contrast, while the UAE also criminalises sexual harassment, its legal framework could benefit from refining definitions, strengthening enforcement mechanisms, and enhancing victim protection and public awareness. Adopting aspects of France's approach could help the UAE strengthen its legal protections and reduce harassment.

84 Appeal no 01-83.559 (Court of Cassation, Criminal Division, 23 January 2002) [2002] Criminal Bulletin 12/31.

6 CONCLUSIONS

To effectively address sexual harassment, comprehensive legal provisions are necessary, covering definitions, types, and related crimes. While the UAE does not have specific sexual harassment legislation, its Penal Code criminalises all forms of harassment. In contrast, France has specialised laws that criminalise five types of sexual harassment, each with varying punishments, and includes specific legislation addressing moral harassment. This study emphasises the severity of sexual harassment as a widespread criminal issue affecting nations globally. It examines the concept of sexual harassment, its various forms, and its overlap with other related crimes. Furthermore, the study evaluates the legal frameworks in both the UAE and France, highlighting the strengths and weaknesses in terms of the comprehensiveness of harassment laws and the adequacy of punishments. The research also identifies the lack of clarity in the French definition of “unwanted acts of sexual aggression,” which can be categorised into physical and verbal abuse, and the distinction between rape and sexual harassment laws in France.

Both the UAE and France criminalise sexual harassment as actions, words, or gestures that violate the victim's dignity, with an emphasis on the intent to obtain sexual favours. Neither jurisdiction requires tangible harm to establish the offence, focusing instead on the perpetrator's specific purpose. Both systems impose imprisonment and fines, with harsher penalties for aggravated circumstances, which are determined by factors such as the victim's vulnerability, the perpetrator's relationship with the victim, and the methods used to commit the offence. Civil society and advocacy groups play a crucial role in shaping legal provisions and ensuring their enforcement in both jurisdictions.

UAE law focuses on persistent behaviour that affects modesty, requiring repeated actions to induce compliance with sexual desires, while French law covers a broader range of acts, including threats, coercion, and psychological pressure, often in workplace settings, without requiring repetition in some cases. French courts require explicit proof of intent, while UAE law allows repeated behaviour as evidence of intent. Penalties in France include both fines and imprisonment, with harsher penalties for aggravated circumstances, whereas UAE judges can impose either or both penalties with minimum thresholds. UAE's aggravating factors include the use of weapons, multiple perpetrators, and the victim's role as a domestic servant, while France emphasises digital harassment, dependency relationships, and public communication services.

Finally, the study offers several suggestions and recommendations to enhance the legislative response to combating sexual harassment. These are as follows:

1. Clarify sexual harassment by distinguishing physical, verbal, and psychological forms to improve legal clarity and victim protection in UAE law, which is in line with French law.
2. Introduce specific laws for online harassment, with adjusted penalties for cyber harassment, ensuring protection across both physical and digital spaces in UAE laws.

3. Incorporate the victim's perspective on intent, especially in cases of coercion or psychological pressure, to enhance legal clarity and support reliable convictions.
4. Include workplace harassment and abuse of authority in aggravating circumstances, addressing power dynamics to better protect victims in professional settings.
5. Introduce graded penalties for harassment of vulnerable individuals (e.g., elderly, disabled), ensuring stronger legal consequences for targeting these victims.

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АНОТАЦІЯ УКРАЇНСЬКОЮ МОВОЮ

Практичне дослідження

ПОЛОЖЕННЯ ПРО СЕКСУАЛЬНІ ДОМАГАННЯ В КРИМІНАЛЬНИХ КОДЕКСАХ ОАЕ ТА ФРАНЦІЇ

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АНОТАЦІЯ

Вступ. У дослідженні порівнюються закони про сексуальні домагання в ОАЕ та Франції, увага зосереджується на їхніх законодавчих положеннях і відмінностях, з метою розвитку та підвищення обізнаності для боротьби з цією проблемою, що зростає. Цей злочин охоплює робоче середовище, навчальні заклади, громадські місця і навіть дім, і більше не обмежується жодною конкретною групою, а поширюється, тож від нього ніхто не застрахований. Тому необхідно розглянути концепцію сексуальних домагань і відрізнити їх від інших видів злочинної поведінки, які в чомусь перетинаються з ними, а в чомусь мають відмінності. У статті досліджується правова структура цього злочину згідно із законодавством Франції та ОАЕ, обговорюється матеріальний склад і злочинний намір правопорушника, а також покарання, призначені злочинцеві як у пом'якшувальних, так і в обтяжуючих формах.

Методи. Дослідження від початку було зосереджено на ОАЕ та Франції. Для порівняння змін, ухвалених у Кримінальному кодексі ОАЕ щодо сексуальних домагань, із показниками Франції, було використано змішаний метод, що поєднує аналітичний і компаративний підходи. Це передбачало присвоєння тематичних блоків відповідним статтям про сексуальні домагання в Кримінальному кодексі ОАЕ та Франції, а також правову спрямованість щодо сексуальних домагань, окреслену в контексті судової практики Франції. Основні методи збору даних полягали в аналізі юридичних та неюридичних документів, які є найкращими та найефективнішими методами порівняльно-правового дослідження. Ці методи ефективні у виявленні й інтерпретації законодавчих та судових змін. Дані були зібрані з різних джерел на основі юридичних документів, таких як Кримінальний кодекс ОАЕ та Кримінальний кодекс Франції, щоб уникнути упередженого схвалення змін, внесених в ОАЕ, або помилок у застосуванні законодавства Франції.

Результати та висновки. Кримінальний кодекс Франції передбачає кримінальну відповідальність за п'ять видів сексуальних домагань із різними покараннями. Визначення «небажаних актів сексуальної агресії» є незрозумілим, але його можна розділити на фізичне та словесне насильство. Найближче визначення – «фізичний контакт у формі акту сексуального характеру». Закони Франції про згвалтування та сексуальні домагання не гармонізовані. На противагу цьому, Кримінальний кодекс ОАЕ

також передбачає кримінальну відповідальність за сексуальні домагання, але приймає іншу правову базу та іншу термінологію. Відсутність гармонізації між правилами щодо зґвалтування та сексуальних домагань у законах Франції та ОАЕ підкреслює потребу в більш чітких законодавчих вказівках. Нарешті, дослідження містить багато пропозицій та рекомендацій, спрямованих на посилення ролі законодавства у боротьбі з такими видами злочинів.

Ключові слова: сексуальні домагання, правова структура, законодавство Франції, законодавство ОАЕ, злочинний намір, матеріальний склад, покарання винних.