

Nightlife Entertainment Spots in Cities as a Potential Criminogenic Focus of Sexual Harassment

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Purpose:

The purpose of this paper is to illustrate the issue of sexual harassment, with a focus on nightlife entertainment areas in cities. It also presents the theoretical background, manifestation, and comprehensiveness of the phenomenon, as well as the victimological perspectives and some criminological interpretations.

Design/Methods/Approach:

A review of literature related to sexual harassment was conducted for the purpose of this paper, after which the method of deduction was applied to draw general findings with respect to the nightlife entertainment areas in cities.

Findings:

When reviewing the issue, it was found that the critical element for identifying diverse verbal, non-verbal and physical acts as sexual harassment stems from the fact that these acts are unsolicited and unwanted by the harassed individual. Sexual harassment occurs in all areas of human participation, either as part of domestic violence, in the workplace, in the context of education or in public places, where the nightlife (entertainment) areas in cities remain rather under-researched. The criminogenic potential of nightlife areas arises from, *inter alia*, the presence of alcohol and drugs in these areas, which contributes to the emergence of various types of deviant behaviours, including sexual harassment. Studies conducted abroad reveal that street harassment and stranger harassment represent an issue occurring in public places that, firstly, are not explicitly legally restricted. Secondly, they represent a form of sexual harassment, which is challenging to prove.

Originality/Value:

The paper focuses on providing an insight into the issue of sexual harassment in nightlife entertainment areas, which was deemed essential in terms of setting potential starting points for further discussion and research. Due to the theoretical nature of the paper, the findings can be used as a base for the empirical study of sexual harassment in nightlife entertainment spots in Slovenia.

Keywords: sexual violence, sexual harassment, street/stranger harassment, nightlife entertainment spots, urban areas

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Območja nočnega življenja v mestih kot potencialno kriminogeno žarišče spolnega nadlegovanja

Namen prispevka:

Namen prispevka je ponazoritev problematike spolnega nadlegovanja s poudarkom na območjih nočnega življenja (zabave) v mestih, predstavitvi teoretičnega ozadja, pojavnih oblik in razsežnosti pojava kot tudi viktimološkega vidika ter nekaterih kriminoloških razlag.

Metode:

V prispevku smo pregledali in analizirali literaturo, ki se nanaša na spolno nadlegovanje, nakar smo z metodo dedukcije splošne ugotovitve implementirali na območja nočnega življenja v mestih.

Ugotovitve:

Pri pregledu problematike smo ugotovili, da ključen element za opredelitev raznolikih verbalnih, neverbalnih in fizičnih dejanj kot spolno nadlegovanje predstavlja njihova nezaželenost z vidika nadlegovane osebe. Spolno nadlegovanje se pojavlja na vseh področjih človekovega udejstvovanja bodisi kot del nasilja v družini, na delovnem mestu, v sklopu izobraževanja ali javnih krajev. Med slednjimi predstavljajo manj raziskana območja območja nočnega življenja (zabave) v mestih. Kriminogen potencial območij nočnega življenja se med drugim skriva v prisotnosti alkohola in drog na teh območjih, kar vpliva na pojav različnih vrst odklonskega vedenja, tudi spolnega nadlegovanja. Ulično spolno nadlegovanje in nadlegovanje, ki ga storijo neznanci, sta v tuji literaturi prepoznana kot problematika javnih krajev, ki v prvi vrsti ni eksplicitno zakonsko omejena, kot drugo pa je tovrstni obliki spolnega nadlegovanja težko dokazati.

Izvirnost/pomembnost prispevka:

V prispevku smo se osredotočili na predstavitev vpogleda v problematiko spolnega nadlegovanja na območjih nočnega življenja, kar se nam zdi pomembno z vidika odpiranja potencialnih izhodišč za nadaljnjo razpravo in raziskovanje. Teoretična narava prispevka omogoča uporabo ugotovitev kot podlago za empirično študijo o spolnem nadlegovanju na območjih nočnega življenja v Sloveniji.

Ključne besede: spolno nasilje, spolno nadlegovanje, ulično spolno nadlegovanje, območja nočnega življenja, urbano okolje

UDK: [343.541+343.436]:351.758.3

1 INTRODUCTION

Sexual harassment¹ represents a form of sexual violence (Krug et al., 2002), which mostly involves an expression of power, control and discrimination in society

1 The term "sexual harassment" and the expression "gender-based harassment", which is rarely used in reviewed literature, will be used in this paper as synonyms primarily because the two terms are described under the same definition in Directive 2004/113/EC (2004), Directive 2006/54/EC (2006) and in the Employment Relationships Act (ZDR-1, 2013). To facilitate the understanding and for ease of reference, we found it more appropriate to use the terms as synonyms in cases referring to both forms of sexual harassment. The reader will be clearly alerted in the event of significant differences between the two terms.

(Bargh et al., 1995; Stop Street Harassment, n. d.) and has long been normalised, justified and invisible, and has represented an inevitable part of life, particularly of women and girls (Mlambo-Ngcuka, 2019). Sexual harassment, which affects a wide range of people in comparison with other forms of discrimination, concerns the highest share of the population (Bargh et al., 1995; Stop Street Harassment, n. d.). It includes any form of “unwanted verbal, non-verbal or physical behaviour of a sexual nature”, having the “purpose or effect of violating the dignity of a person, in particular when creating an intimidating, hostile, degrading, humiliating or offensive environment” (Council Directive 2004/113/EC of 13 December 2004 implementing the principle of equal treatment between men and women in the access to and supply of goods and services (hereinafter: Directive 2004/113/EC, 2004)). The above definition is also reflected in Directive 2006/54/EC of the European Parliament and 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 (hereinafter Directive 2006/54/EC, 2006). The European Union has also legally protected the fundamental right to human dignity and banned discrimination in cases of sexual harassment in the workplace (Charter of Fundamental Rights of the European Union (2012/C 326/02), 2012). Slovenia’s Employment Relationships Act (Zakon o delovnih razmerjih, 2013) is also worth mentioning. Sexual harassment can occur among persons of the same or opposite sex and is directed both against women as well as men (United Nations Secretariat, 2008).

As is apparent from the very definition of sexual harassment, it is most often identified in the scope of the workplace. In the past, most of the research attention has been devoted to this area. However, as will be presented in this paper, sexual harassment occurs in various forms and different locations, and can be seen as part of domestic violence; it may also occur in a more generalised way, such as sexual harassment in public places (Ahmed et al., 2014). Regardless of the context in which verbal or non-verbal sexual harassment linked to gender, gender expression or sexual orientation (Burn, 2019) occurs, it affects the harassed individuals/victims and the environment in which they are located.

In the scope of this paper, the phenomenon of sexual harassment is first discussed in a broader context of sexual violence, followed by the definition of behaviours and practices that constitute sexual harassment and the demonstration of the magnitude of the phenomenon. The theoretical background and criminological interpretations of sexual harassment, as well as the victimological aspects, which focus on the presentation of consequences caused by sexual harassment, will also be presented. The final discussion provides suggestions for further research on sexual harassment in cities’ nightlife areas.

2 FROM OBTAINING AN INSIGHT INTO THE ISSUE OF SEXUAL VIOLENCE TO THE UNDERSTANDING OF SEXUAL HARASSMENT

Sensitive issues of interpersonal violence constitute a burning issue in all societies or cultural environments, which are carried out through social interactions at different levels and include both sexual and non-sexual violence. Interpersonal

violence, which can be defined as an attack on the physical and mental integrity of an individual (El-Bushra & Piza Lopez, 1993), also represents an act of an individual who, in relation to a fellow human being, acts or behaves in a way “that is not wanted by the other person or hurts him or her, and which, according to the applicable norms, is inadmissible” (Muršič, 2004, p. 389). Furthermore, interpersonal violence can be divided into two subcategories, which are, following the definitions provided by Foege and Rosenberg (1995, as cited in Krug et al., 2002), summarised by the World Health Organization [WHO] (Krug et al., 2002). The first subcategory of interpersonal violence involves family and intimate partner violence, which usually, albeit not necessarily, occurs at home and may include forms of violence, such as child abuse, intimate partner violence and violence against the elderly. The second subcategory entails community violence (or violence in the community), which occurs outside of an individual’s home between individuals, who are not related to each other, nor do they necessarily have mutual acquaintanceship. This subcategory can also include youth violence, random violent acts, rape and sexual assaults on unknown individuals (strangers), as well as violence in institutional settings (Foege & Rosenberg, 1995 in Krug et al., 2002). Those acts of violence may be both physical, psychological and sexual or include different forms of disadvantage and neglect (Krug et al., 2002).

Sexual violence is present globally regardless of the cultural environment, which means that it is a topic that is often at the forefront of discussions about violence. Gender-related violence, or sexual violence, entails an imbalance of power inherent in a patriarchal society (El-Bushra & Piza Lopez, 1993) and is more commonly found in societies that promote the superiority of men and the inferiority and subordination of women (Kalra & Bhugra, 2013). The social definition of acceptable behaviour is defined culturally and, therefore, subject to change. Actions that are tolerated by societies as acceptable on the basis of cultural rules or customs and those that represent sexual violence vary in different cultural contexts (Heise et al., 1996). For example, intercultural differences are reflected in the incidence, definition, and consequences of severe forms of sexual violence, such as rape (Rozée, 1993). A claim that marital rape cannot exist because of the meaning of marriage (Heise et al., 1996) is contrary to the current position of Slovenian criminal law, which recognises that rape constitutes, in any event and irrespective of the type of intimate partnership (formalised or non-formalised), a criminal offence (Korošec et al., 2018).

Although there is still a noticeable predominance of men when it comes to sexual violence, there is no significant religious or social code of ethics that would justify sexual violence (Heise et al., 1996). Typically, society blames the victims for the occurrence of most forms of violence against women. For example, women who experienced intimate partner violence are often accused of provoking violence due to their disobedience, infidelity, or failure as wives. Girls and women who were sexually assaulted or raped are usually considered to have “asked for it” due to the way they behaved or dressed (Watts & Zimmerman, 2002). The way in which societies choose to respond to or supervise inherent violence reflects their values, mutual respect, tolerance to diversity, respect for human rights, democracy, and ultimately good governance of the state (El-Bushra

& Piza Lopez, 1993). The Istanbul Convention, adopted in 2011, is the first legally binding regional document, which comprehensively addresses the various forms of violence against women, such as psychological violence, stalking, physical violence, sexual violence, and sexual harassment (Council of Europe and European Commission, n. d.; Council of Europe Convention on preventing and combating violence against women and domestic violence, 2011). Any sexual act or attempt to acquire it, unwanted sexual intercourse, advances or comments of sexual nature, acts of human trafficking, and other acts directed against the sexuality of persons, committed by coercion², represent sexual violence. The offenders may, however, include anyone, regardless of their relationship to the victim, at any location which is not confined solely to the domestic and working environment (Krug et al., 2002). According to Slovenia's Domestic Violence Prevention Act (Zakon o preprečevanju nasilja v družini, 2008), sexual violence involves "actions of a sexual nature without the victim's consent, to which the victim is forced or does not understand their meaning owing to the victim's stage of development, threats to use sexual violence and publication of material of a sexual nature relating to the victim". As mentioned before, sexual violence, particularly the violence of men against women, includes a wide range of acts, including verbal and other forms of sexual harassment (WHO, 2012). Acts of sexual violence constitute a violation of fundamental human rights (Sen et al., 2018) and a burning public health issue, as millions of women face violence and its implications at the global level (WHO, 2013). Globally, 35% of women or about one in three women suffered physical and/or sexual violence, the perpetrator of which was an intimate partner and/or an individual with whom they were not in an intimate relationship (WHO, 2013, 2017).

2.1 Definition of Sexual Harassment Behaviours and Practices

As initially stated, sexual harassment comprises a wide range of unwanted behaviours or practices that are either verbal, non-verbal or physical, and are committed with an intent to harm the dignity of a person subjected to the harassment (Directive 2004/113/EC, 2004; Directive 2006/54/EC, 2006; ZDR-1, 2013). It is virtually impossible to compile the list of behaviours that potentially constitute sexual harassment, just as it is not possible to predict every action and situation in which people find themselves and correspond to the definition of sexual harassment. Furthermore, an undesirable aspect based on an individual decision of the person against whom sexual harassment is directed is necessary to identify a behaviour as sexual harassment (Robnik, 2009). Grossman (2008) highlights the importance of individuals' perception of a particular act, and, by way of example, states that some women perceive sexual harassment as an invasion of their personal space, while others enjoy the attention. In cases of

2 Coercion corresponds to a wide range of actions of different intensity, which, in addition to physical force, also include psychological intimidation, extortion or other threats, such as the risk of bodily harm and, in the case of the workplace, threat of dismissal or preventing the entry into an employment relationship. Coercion also includes actions in which a person is attacked and unable to give consent, e.g. in a drunken or stunned state, during sleep or otherwise mentally incapable of understanding the situation (Krug et al., 2002).

mutually beneficial and desirable practices, which, by definition, could constitute sexual harassment, one cannot speak of sexual harassment as the abovementioned aspect of undesirability is not present (Robnik, 2009). Burn (2019) summarises and complements the tripartite model of sexual harassment proposed by Fitzgerald et al. (1997), which identifies three behavioural dimensions of sexual harassment in the workplace: gender-based harassment (gender harassment), unwanted sexual attention and sexual coercion. Fitzgerald et al. (1995, p. 129) state that these dimensions are both essential and sufficient to cover and clarify the overall variation of sexual harassment in organisational and educational environments. Also, the abovementioned dimensions show stability in time and may be generalised across different cultural settings.

Gender-based harassment refers to sexually verbal and non-verbal behaviour that creates an abusive, hostile and degrading relationship because of gender, gender expression or sexual orientation of a person subjected to harassment. This category includes actions involving the use of sexist or heterosexist language, jokes and comments, showing vulgar sex gestures, showing or displaying sexual images or objects, sending e-mails or sending sexual pictures via messages (Burn, 2019).

Unwanted sexual attention involves the creation of positive or negative suggestive comments about the person's body, lustful viewing, whistling, spreading of sexual rumours, and electronic exchange of sexual images of an individual. Unwanted sexual attention also involves unwanted sexual touching, such as gripping, grabbing, pinching, groping and intentionally sexually brushing at the other person. This category also includes actions of an individual who blocks the way of another or pursues him or her with sexual intent, as well as unwanted, unwelcome advances, which are not reciprocated, i.e. mutually accepted, and include repeated requests for a kiss, date or sexual intercourse, and may ultimately lead to attempted or completed rape (Burn, 2019).

A legally known form of *quid pro quo* ("a favour or advantage in return for something") sexual harassment, which can also be referred to as sexual coercion, involves requests for sexual contact or sexual favours as a condition for receiving rewards or benefits, such as employment, favourable working conditions, assistance or a proper performance assessment (Burn, 2019; Sojo et al., 2016; Thurston et al., 2017).

In view of the foregoing, the *physical conduct of sexual harassment* includes "unwanted physical contact, touching, patting, pinching, forced sexual intercourse" (Harris, 1997, as cited in Jogan, 2000, p. 591). According to Robnik (2009, p. 9), this category also includes "rubbing against the body of a person, touching personal clothing, hair, body, massaging the neck, shoulders, hugging, kissing", as well as physical contact after the break-up of a relationship. Research results obtained by the European Union Agency for Fundamental Rights [FRA] (2014) clearly show that 29 percent of European women over 15 years of age experienced physical forms of sexual harassment, such as unwanted touching, hugging and kissing.

Verbal sexual harassment can be defined as "unwelcome advances, suggestions related to sexuality, or compulsion to sexual activity, recurring

suggestions for socialising outside the workplace, offensive flirting, suggestive remarks, allusion or obscene comments" (Harris, 1997, as cited in Jogan, 2000, p. 591). Robnik (2009, p. 9) states that obscene comments "refer to the dressing, body or appearance of a person". She also believes that verbal harassment involves "addressing a person with expressions, such as 'doll, babe, bird, honey, sweetie, kitten' and similar", and that this category also includes the "use of obscene language or gestures (e.g. whistling), changing work-related topics into sexual ones, stories, jokes or suggestive comments of sexual nature, bragging with sexual feats, and finally 'asking personal questions regarding a person's social or sex life". According to FRA (2014), 24 percent of European women over the age of 15 experienced verbal sexual harassment.

The category of *non-verbal sexual harassment* includes behaviours, involving "showing pornography or sexually suggestive images, objects or texts, lusty views, whistling or sexually suggestive gestures" (Harris, 1997 in Jogan, 2000, p. 591), "(re)sending e-mails, letters, telefax and other materials with sexual content", as well as "staring at the parts of a person's body, a close approximation to the person when talking (e.g. tilting over the back of a seated person)" (Robnik, 2009, p. 9). Non-verbal sexual harassment may also comprise other sex-based acts, which are "less clearly related to sexuality" and include "ridicule and mockery, intimidation, physical aggression to an employee, degrading and humiliating defamation, offensive observations on appearance, dress – all due to belonging to a particular gender" (Harris, 1997, as cited in Jogan, 2000, p. 591). According to FRA (2014), 11 percent of European women over 15 years of age reported non-verbal harassment, which included online harassment, i.e. receiving unwanted, offensive explicit e-mails and messages or inappropriate advances on social networks.

Terpstra and Baker (1987) were among the first to set a hierarchy of the severity of various sexual harassment behaviours arising from research studies on the subjective perception of sexual harassment scenarios involving 243 undergraduate students (143 men and 100 women) and 48 employed women. The category of sexual harassment, which included comments and behaviours containing whistling, staring, hugging, and recurring requests for a date, was perceived as the least severe behaviour (less than 50%). Acts involving sexual remarks, sexual gestures, graffiti of sexual nature, sexual proposals that are unrelated to the benefits or disadvantages in the field of employment of the individual subjected to sexual harassment, as well as unwanted physical contact of a potentially sexual nature, were more frequently, i.e. between 70 and 86 percent, perceived as a moderately-severe category of sexual harassment. The most severe behaviours and comments, which contained sexual proposals related to the benefits or disadvantages (linked to employment) of the individual concerned, physical contacts of "obvious sexual nature" and rape, were most commonly (more than 96%) perceived as sexual harassment.

2.2 Theoretical Background of Sexual Harassment

There are various theoretical approaches to the interpretation of sexual harassment. The basic model explaining the occurrence of sexual harassment was presented by Tangri et al. (1982), who, based on a review of the sexual harassment

literature in the workplace, divided sexual harassment in three models: 1) Natural or biological model; 2) Organisational model; and 3) Socio-cultural model.

The natural or biological model, which is based on motivational factors, interprets sexual harassment as a result of natural sexual attraction among individuals. In sum, the natural model recognises the harassment behaviour of an individual but denies the purpose of harassment, discrimination or domination over the person subjected to harassment. The first variation of the model is based on the assumption that sexual harassment is a consequence of men's sexual drive, which is, in principle, not meant as harassment. Secondly, if we assume that there is an equal sexual drive, again, sexual harassment is a consequence of pursuing sexual attraction (without intent to harass) (Tangri et al., 1982).

The organisational model is based on the assumption that sexual harassment is a result of certain opportunities created by work in organisations, i.e. organisational climate, hierarchy in organisations, or specific workplace relationships (e.g. the superior-subordinate relationship), which enable sexual harassment. In the majority of predominantly vertical work organisations, individuals (superiors) can use their power and position to blackmail subordinated in return for "sexual gratification". As a result, sexual harassment may be used as a "tool" for bullying and controlling employees, and the extortion of sexual services. Most often, a superior deprives his or her subordinates of their independence and safety, which is necessary to increase individuals' vulnerability to economic, psychological and social consequences, and to make them less likely to resist to or prevent sexual harassment. Tangri et al. (1982) indicate that the more significant the difference in the situation between the harasser and the harassed is, the more severe and frequent sexual harassment may be. Although men tend to harass women more often, the opposite is not excluded.

The socio-cultural model assumes that sexual harassment reflects a different distribution of the power and status between sexes in society. Sexual harassment can also be interpreted as a mechanism that works to preserve the dominant position of men over women in the workplace and in the economy in general. Sexual harassment thus represents one of the signs of a patriarchal system, in which men and social beliefs uphold their supremacy (Farley, 1978, as cited in Tangri et al., 1982; MacKinnon, 1979, as cited in Tangri et al., 1982). Male dominance has been retained due to cultural patterns governing the interaction between men and women, as well as due to economic and political arrangements. Men and women are socialised or taught in specific sexual roles, which means that society recognises the aggressive and empowering sexual behaviour of men, while women must express their passivity and agreement with such behaviour. Women who were taught to seek self-affirmation from others, especially from men (Bardwick, 1971, as cited in Tangri et al., 1982), are prone to perceive the attention they receive from men as flattering, which is why unwanted attention is less often defined as harassment. Furthermore, the model assumes that gender, when compared to the position in the organisation, better assumes potential victims. It follows that women are harassed more often than men. Nevertheless, the model predicts that women's reaction is reflected in their powerlessness and feeling bad about themselves and their work, and that the emotional consequences of harassment are more severe in victims who urgently need employment and have fewer opportunities (Tangri et al., 1982).

2.3 Street Harassment and Stranger Harassment

The review of the literature revealed the use of two particular terms related to sexual harassment, which refer to sexual harassment in public places but do not yet have a purely standardised definition. These terms are “street harassment” and “stranger harassment”. The latter, contrary to other forms of sexual harassment, presume that the perpetrator is usually unknown to the victim (Fairchild & Rudman, 2008).

In its definition devised in 2015, the Stop Street Harassment³ organisation defines street (sexual) harassment or gender-based street harassment as unwanted remarks, comments, gestures, and other acts of coercion of a foreign person in a public place, which are committed without the consent of a person at whom it is directed due to their gender, gender expression or sexual orientation. Street harassment includes unwanted acts, such as whistling, lustful looking at a person, sexist, homophobic or transphobic⁴ slurs, persistent asking for a person’s name, telephone number or other personal information (such as the place that the person intends to go to), as well as addressing the person in a sexual manner, making comments and requirements that may escalate to the exhibition, public masturbating, groping, sexual assault and rape even after the person at whom the acts of actions are directed had clearly rejected such behaviours. In the context of street harassment, individuals may also be harassed on other grounds, such as race, nationality, religious affiliation, disability or social class. In some instances, individuals may be the target of harassment due to a combination of several of the abovementioned grounds (Stop Street Harassment, n. d.).

Bowman (1993, p. 575) defines street sexual harassment perpetrated by strangers, highlighting that this type of street harassment occurs when one or more unknown men harass one or more women in a public place, on one or more occasions, by disrupting or trying to gain female attention by speaking or acting in an explicitly or implicitly sexual manner, which is not wanted by the woman or women to whom they are addressed. Such language includes, but is not necessarily limited to, references to male/female sexual organs, body parts or sexual activity; sexual demands; marking (with words or actions) the “target of harassment” as an object of sexual desire; the use of words which, at the time of their invention, cause injury or, due to their nature, often provoke violent resistance, even if the harassed person herself did not react with violence (Bowman, 1993).

Kearl (2014) identifies street harassment as unwanted interactions between strangers in public places, which are caused due to the actual or perceived gender, sexual orientation or expression, and cause the person subjected to harassment to be disturbed, angered, humiliated or fearful. Street harassment can take place

3 *Stop Street Harassment [SSH] is a volunteer non-profit organisation that deals with documenting the situation and is devoted to ending gender-based street harassment worldwide through public education and mobilisation of the community (UC San Diego Center on Gender Equity and Health, 2019).*

4 *“Transphobic harassment can be defined as bullying or harassment due to sexual identity or the expression of an individual, in case where the self-defined gender of an individual (for example, a definition as a man, woman or somewhere in between, or out of it) differs from their assigned sex and/or because their appearance or behaviour is not in compliance with the social norms of sexual roles” (Milnes et al., 2015, p. 7).*

on the streets, in shops, in public transport, in parks or on beaches, and includes behaviours ranging from verbal harassment, exhibition, following and groping to rape. Sexual harassment in the workplace or in a domestic environment differs from street harassment in terms of its perpetrators. The latter is mostly carried out by strangers in a public place, which also means less legal protection of victims (Kearl, 2014).

Heben (1994)⁵ derives from the abovementioned Bowman's (1993) definition of stranger harassment and, after considering the occurrence and severity of street harassment, divides it into three categories:

1. severe: a) sexually explicit reference to a woman's body or sexual activity; b) profanity directed against a woman because of her gender; c) any comment corresponding to those categories in combination with racial or ethnic slurs; d) any comment corresponding to any of the above categories in conjunction concerning possible female homosexuality; e) physical acts, such as following, throwing things at a person, tingling or poking;
2. moderate-severe: a) sexual allusion; b) references to the woman's gender or body, which are not sexually explicit;
3. least severe: a) staring; b) whistling; and c) all other unwanted remarks made to women by men.

2.4 Legal Aspects and Definitions of Sexual Harassment

Since most of the literature and research on sexual harassment derives from the American and British scientific environments, it is reasonable to present their legal regulation of sexual harassment, which refers mainly to the definition of this phenomenon in the context of the workplace. In the United States, sexual harassment represents a form of discrimination that constitutes a violation of the Civil Rights Act (The U.S. Equal Employment Opportunity Commission [EEOC], 1997). Sexual harassment involves unwanted sexual advances, requests for sexual favours, as well as other verbal or physical behaviours of sexual nature, when the submission of such actions constitutes an explicit or implicit condition for an individual's employment. Moreover, sexual harassment also occurs in cases where the adoption/submission of such conduct or its refusal is used as a basis for making employment decisions affecting the person subjected to such behaviours. Nevertheless, when the abovementioned conduct is aimed at provoking or has the effect of unfounded interference in the individual's execution of work or creates an intimidating, hostile or offensive environment, it also constitutes sexual harassment (Code of Federal Regulations, 2016; EEOC, 1997).

⁵ Heben (1994) relies on the study conducted by Terpstra and Baker (1987), referred to in page 261, to devise a definition of the severity of acts of sexual harassment.

From a legal point of view, sexual harassment is a form of sexual discrimination⁶ consisting of two types of behaviour: quid pro quo harassment (“a favour or advantage in return for something”)⁷ and a hostile working environment. Quid pro quo harassment involves sexual threats or bribery, which are presented as a condition for employment or are used as a basis for making employment decisions. The hostile environment, however, covers behaviours, such as sexual jokes, comments and touching, affecting the individual’s ability to do their job or creating an intimidating, hostile or offensive working environment (US EEOC 1980 in Welsh, 1999; United Nations Entity for Gender Equality and the Empowerment of Women [UN Women], n. d.).

The definition used in the United Kingdom is quite similar and derives from the Equality Act (2010), which includes a definition of harassment that distinguishes between gender harassment, where the undesirable behaviour of the person (A) is directed against the protected characteristic of another person (B), which, in addition to age, disability, religion, race, sexual definition and orientation, also includes gender, and has the purpose or effect of violating the dignity of B’s or creating an intimidating, hostile, degrading, humiliating or offensive environment for B. Paragraph 2, however, defines sexual harassment, which involves unwanted sexual conduct, the purpose or effect of which is defined in paragraph 1 (Equality Act, 2010; European Institute for Gender Equality [EIGE], 2016).

After examining the issue of sexual harassment from the perspective of legal regulation in Slovenia, it was found that that it was consistent with the EU employment regulations. Sexual harassment in the workplace is criminalised in Article 7 of the Employment Relationships Act (ZDR-1, 2013), which also prohibits sexual or other harassment in the workplace and defines such acts as discrimination in the workplace. Pursuant to the provisions of the Employment Relationships Act (2013), sexual harassment thus constitutes “any form of unwanted verbal, nonverbal or physical conduct or behaviour of a sexual nature with effect or intent to affect the dignity of a person, particularly when it comes to creating an intimidating, hostile, degrading, humiliating or offensive environment”. Harassment is any unwanted behaviour associated with any personal circumstance, the effect or purpose of which is affecting a person’s dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment. Furthermore, the area of sexual harassment in the workplace is also

6 Article 5 of Slovenia’s Equal Opportunities for Women and Men Act (*Zakon o enakih možnostih žensk in moških*, 2002) provides equal treatment of individuals regardless of their sex, which is reflected in the absence of direct and indirect discrimination on the grounds of sex. Direct discrimination on the grounds of sex can thus be observed in cases, in which a person has been or could have been treated less favourably in “equal or similar circumstances compared to a person of the opposite sex”. Indirect sex discrimination occurs “if the appearance of neutral provisions, criteria or conduct in identical or similar circumstances and conditions put individuals of one sex in a less favourable position, unless those provisions, criteria or conduct are appropriate, necessary and justified by objective facts not related to gender”.

7 Subtle sexual harassment is not a legal term, however, it plays an important role in the emergence of serious forms of harassment, if the occurrence of such behaviours is not prevented in time. It is a type of harassment or unwanted sexual behaviour involving unwanted sexual comments, jokes, allusions and may, without a proper response, lead to the occurrence of quid pro quo harassment and/or create a hostile working environment for a harassed person (UN Women, n. d.).

defined in the Health and Safety at Work Act (Zakon o varnosti in zdravju pri delu, 2011), which provides, in Article 24, that employers must “take measures to prevent, eliminate and manage cases of violence, torture, harassment and other forms of psychosocial risk in workplaces that can endanger workers’ health”.

If sexual harassment escalates into more severe forms of sexual violence and constitutes an infringement of sexual inviolability, provisions of Chapter 19 of Slovenia’s Criminal Code (Kazenski zakonik (KZ-1-UPB2), 2012) apply. This Chapter contains provisions relevant to the understanding of severe forms of sexual harassment or sexual violence⁸. Cases, in which the perpetrator forces or threatens a person (victim) with “an imminent attack on life or limb” and thus forces them into “sexual intercourse or a similar sexual conduct”, are defined as rape (Article 170). Cases, in which a person is coerced, i.e. by the use of force or threat, to perform or submit to any sexual act, which is not defined in the Article 170, constitute an act of sexual violence (Article 171). Article 174 provides that an individual who “abuses his or her position to induce a person of the same or different sex, who is subordinate or dependent on him or her, to have sexual intercourse, or to perform or submit to any other sexual act” violates that person’s sexual integrity by abuse of position. Workplace mobbing is defined in Article 197, which provides for criminal sanctions of perpetrators, who degrades or frightens another person “at the workplace or in relation to work with sexual harassment, physical violence, ill-treatment or unequal treatment”. The offender is punished more severely if the abovementioned acts result in psychological, psychosomatic or physical illness and the reduction in work performance of the person subjected to such mobbing.

Street harassment represents a sui generis context, which is not addressed by most legal regulations (Sheley, 2018). At this point, it should be pointed out that sexual harassment in Slovenia, as presented in the above paragraph, is legally criminalised if it occurs in the workplace. However, when it happens outside the workplace, the process is not precisely defined. The abovementioned issue was highlighted in the European Parliament’s Resolution of 11 September 2018 on measures to prevent and combat mobbing and sexual harassment at the workplace, in public spaces, and political life in the EU (hereinafter: Resolution 2018/2055 (INI), 2018). The European Parliament called on the Member States to examine the introduction of specific legislation on harassment in public places, including intervention programmes, with an emphasis on the role of bystanders (witnesses). The Parliament also proposed the implementation of “research into the causes and consequences of sexual harassment in public places, including the impact that sexist and stereotyped advertisements may have on the incidence of violence and harassment”. Moreover, it stressed the importance of awareness-raising campaigns that promote zero tolerance of sexual harassment in public places (Resolution 2018/2055 (INI), 2018).

⁸ Apart from the aforementioned articles, Chapter 19 of the Criminal Code (KZ-1-UPB2), 2012) also contains provisions related to the sexual abuse of a defenceless person (Article 172), sexual assault on a person younger than fifteen (Article 173), recruitment of persons under fifteen for sexual purposes (Article 173), exploitation through prostitution (Article 175), and the presentation, manufacture, possession and distribution of pornographic material (Article 176).

Furthermore, the European Parliament noted that some measures taken by the Member States had been effective in reducing harassment in public places. It also listed examples of best practices, such as “formal surveillance (increasing the presence of police and/or transport staff on public transport), closed-circuit television system (CCTV) and natural surveillance (better visibility and improved lighting)” (Resolution 2018/2055 (INI), 2018). When talking about the legal definition of sexual harassment in public places, among European countries, Portugal, Belgium and France are often listed as role models. Sexual harassment of women in all settings, which, *inter alia*, includes suggestions of sexual nature and exhibition, is banned by the Portuguese Criminal Code and punished by a criminal sanction of up to one year of imprisonment. Due to the observed increase of sexual harassment outside the workplace in France, a legal act against sexual harassment, which considers public places, streets and public transport assets as potentially criminogenic areas and provides criminal sanctions for sexual harassment offenders, was drafted in 2018. In the first year after the acceptance of anti-sexual harassment law, more than 700 men were sanctioned with the fines up to 750 €. In cases of aggravating circumstances, e.g., minor victims, the fine could be up to 1,500 € (France fines more than 700 men during first year of the implementation of the anti-sexual harassment act, 2019). In order to penalise a broader spectrum of perpetrators of sexual offences, Belgium added a definition of sexism in its Criminal Code in 2014, which refers to gestures or acts, which violate the dignity of a person and are clearly intended to express contempt of individuals or the perception of an individual as inferior due to their gender. The abovementioned conduct is sanctioned both in the context of public and private places (Volkh, 2014). The tendency to criminalise sexual harassment in public places is also reflected outside the European borders. For example, the US State of Colorado banned any acts of sexual harassment that are intended to cause torment, disturbance or intimidation of another person (Criminal Code, 2016). In Peru, the legislator decided to introduce drastic sanctioning of street harassment, which carries a sentence of up to 12 years of imprisonment (Watson Peláez, 2016).

2.5 Criminological View on Sexual Violence and Sexual Harassment

According to Cohen and Felson (1979), the routine activity theory assumes that the presence of a motivated perpetrator in a given time and place, the presence of an appropriate target and the absence of a competent guardian are key to the emergence of criminal offences. Initially, the theory was aimed at interpreting property offences. Still, according to Clodfelter et al. (2008), it may also be used to explain the victimisation of persons due to acts constituting sexual harassment. Mustaine and Tewksbury (1999) report that activities placing students in the proximity of perpetrators, and measures reducing their safety lead to an increased risk of victimisation due to stalking. When researching stalking among students, Fisher et al. (2002) found that factors, such as the existence of places where alcohol is present, the fact that students lived on their own, that they were in an intimate relationship, or subjected to prior victimisation were closely related to further victimisation. Other researchers (Felson & Burchfield, 2004; Gover, 2004; Wilson

et al., 2002) suggest that risky behaviour, involving drug and alcohol abuse, predicts sexual victimisation and dating violence. The consumption of substances may reduce the victim's safety, which, particularly when close to a motivated offender, increases the likelihood that an individual might become an appropriate target (Clodfelter et al., 2008). Alcohol consumption thus constitutes an essential factor that increases individuals' risk of victimisation due to sexual harassment (Abbey et al., 2001; Rothman & Silverman, 2007). The foregoing is also confirmed by Menard et al. (2003), who found that alcohol was an essential predictor of sexual harassment and violence committed by men, as well as sexual harassment by female perpetrators. From the perspective of the routine activity theory, the intoxication can reduce the ability of self-protection against victimisation and reduce the accuracy of hazard perception (Clodfelter et al., 2008).

Cohen and Felson (1979) note that a motivated offender must consider the victim (target) as appropriate, which may result from its proximity or the suitability of the target due to the lack of the victims' ability to protect themselves. Clodfelter et al. (2008) state that both of the abovementioned situations also occur in American university campuses, where male and female students share rooms (classrooms, bedrooms and cafes). Lessons are often held in the evenings, which means that students, sometimes by themselves, walk to their cars or houses in the dark, which increases their chances of victimisation. When it comes to stranger sexual harassment, the relationship between the environment, in terms of crowded public transport, dark areas in public parks, the noisy environment and the presence of alcohol in bars and clubs, on one hand and the opportunity for criminal offences on the other is crucial for understanding this phenomenon. In other words, sexual harassment in public places can be considered as a product of a motivated offender and a potential victim, who is undefended (absence of a guardian), at a particular time and place (Ceccato, 2014).

According to Gottfredson and Hirschi (1990), the general theory of crime on low self-control seeks to explain individual differences (gender, culture, age, and other personal circumstances) that influence the tendency to commit or not to commit crimes and other similar deviant acts. The aforementioned theory assumes that individuals with low self-control are exposed to higher risks of committing a crime and other related (analogue) acts, such as promiscuous sexual behaviour and alcohol intoxication, which are defined by the authors under the concept of criminality. Schreck (1999) states that the lack of self-control on an individual may give rise to situations, in which the individual is vulnerable and can be compromised by risky behaviour. However, it can be argued that if others are also involved in risky behaviour, the rate of victimisation, to which an individual may be exposed, increases. There is an overlap between the victim and the perpetrator, which is shown, for example, when students participate in socially acceptable actions, including risky behaviours and alcohol (Bradenburg, 1997, as cited in Clodfelter et al., 2008). This does not mean that the victim must be in any way linked to the perpetrator (Clodfelter et al., 2008). For instance, Gibson et al. (2004), explore the issue of binge drinking as the primary concern of student campuses, since individuals who are involved in this type of activity are at a higher risk

of victimisation due to lower self-control, which could potentially protect them. This does not indicate that victims are responsible for what happens to them but merely draws attention to the factors leading to an increased risk of victimisation.

Sheley (2018) proposes to use the principles of the broken windows theory developed by Wilson and Kelling (1982) when dealing with and prosecuting street sexual harassment to help prosecutors and regulators in addressing the gap between the legal definition of sexual abuse and the actual situation of inequality, as well as the empowerment of victims. The key assumption of the broken windows theory is that the appearance created by minor offences (such as cracked windows) leads to disorder and may subsequently lead to an increase in serious crime. When it comes to sexual abuse, the application of that theory should produce two positive effects. Firstly, if the proponents of the theory are right, the criminalisation of a mild violation would reduce the incidence of serious crimes, which would mean that the punishment of street harassment should, in the long run, lead to the reduction of (severe) sexual attacks that are more difficult to detect and prove. Secondly, even if one presumes that the above assumption is incorrect and that the critics of that theory are right, that would, in a worst-case scenario, result in fewer “broken windows” (pp. 458). As the symbolic value of street harassment would increase, it would still be uniquely beneficial in the context of (severe) sexual attacks treatment. In this context, the disruption of cultural norms regarding men’s attitudes towards woman will occur. A positive consequence of such treatment of sexual violence, which show that the state cares about the prosecution about sexual violence, can be the encouragement of victims to report any forms of sexual violence. In sum, the effects of treatment sexual violence as proposed by broken windows theory should directly or indirectly lead to the reduction of sexual assault’s incidence. Sheley (2018, p. 510) pointed out that “prosecutors and courts need to think about the big-picture relationship between street harassment and sexual assault and enforce existing laws with an eye toward this connection”.

Situational action theory is a new general theory of moral action and criminality, which aims to incorporate individual and environmental explanatory perspectives to overcome some significant shortcomings of existing criminological theories, such as the poor integration of individual and environmental explanatory approaches (Wikström, 2006, 2014). One of the main factors that represent the criminogenic potential of nightlife areas involving bars, clubs, restaurants, etc., is the abuse of alcohol, both by the perpetrator and the victims. In addition, the culture of sexual harassment in nightlife areas is generally present, and there is a significant pressure on the victims to tolerate sexual harassment. When nightlife areas are considered in the context of the situational theory of action (Wikström, 2006), they may represent an environment, in which sexual harassment or sexual assault constitutes an acceptable behaviour. As a result, it is crucial for the public to be aware of the fact that sexual harassment is a criminal offence, which must be addressed with zero tolerance (Mellgren et al., 2017).

3 NIGHTLIFE AREAS IN URBAN ENVIRONMENTS AND THEIR CRIMINOGENIC POTENTIAL

The nightlife and entertainment areas, particularly in major cities, contribute to economic development, provide opportunities in tourism and offer additional job opportunities (Košir, 2013; Stuart & Hughes, n. d.), so it is not surprising that the planning of nightlife has become a fundamental element of interurban competition. The attractiveness of cities at night time has become an essential part of the urban policy (Mallet & Burger, 2015). Nightlife can be defined as a range of activities and/or entertainment, for example, in nightclubs, bistros, cabarets, cafes, clubs, guest houses, etc.) aimed at those looking for night-time entertainment (Merriam-Webster, n. d. a, n. d. b). Nightclubs or bars can be defined as places of fun that are open at night, serve food and alcoholic beverages, and provide music, space for dancing and entertainment programmes. Nightlife in cities includes entertainment and social activities, such as music, entertainment, dancing, as well as other activities that happen in the evenings in nightclubs, cinemas or theatres (Cambridge Academic Content Dictionary, n. d.; Collins English Dictionary, n. d.). An increasing range of activities are taking place at night, thus creating new areas of work and transforming individuals' leisure time. In a modern society characterised by a disturbance in the social division of time, individualisation of behaviour, changes in working rhythms and a new meaning of leisure, night-time does not constitute a barrier (Gwiazdzinski, 2015). The number of initiatives to promote urban nightlife is increasing annually, thus fostering the involvement of private stakeholders in public policies, including night-time policies. Changing the urban nightlife that tends to increase the expansion of activities in the urban night environments is thus a reflection of private dynamics and public policy that raises various debates. These new forms of development that promote entrepreneurship (transforming urban management and strengthening interurban competition) contribute to the reorganisation of urban geography and the use of urban areas (Mallet & Burger, 2015). When attempting to structure nightlife, one should not forget the role of media that shape time and, in particular, classify behaviour in the 24-hour cycle of day and night (Straw, 2015).

Grazian (2009) states that scientists involved in the urban environment and sociologists emphasise the contribution of nightlife (nightclubs, bars and music venues) to the public life of cities and social capital, which represents the total benefits gained through growth, intensity and diversity of interpersonal relations, as well as the links between the few and their social networks. Grazian (2009) expresses a sceptical attitude towards that, as many nightlife areas do not represent an area of entertainment and social inclusion. As a justification, he puts forward three generalisable empirical findings that justify his scepticism regarding the abovementioned positive contribution of nightlife areas. Firstly, racial and social factors may represent obstacles to the participation in urban nightlife. Secondly, he indicates the normalisation of gender gaps and the occurrence of daily, even routine harassment of women in these areas. He stresses that although women today have greater access to public nightlife areas, as well as more autonomy in them, the social creation of gender gaps still plays an important role in designing

their experience in leisure entertainment activities (Grazian, 2009). Just like the female service staff, young women visiting nightlife areas are usually expected to be feminine, taking into account the “forced” sex norms, which include wearing tight trousers, deep-cut blouses and high heels (Grazian, 2008). After studying the reports of young women, Grazian (2008, p. 103) states that women need to “show some skin and be a little flirtatious” in order to enter popular places that are usually quite busy, which applies particularly to minor girls. This could be the reason why men often target both employees and visitors of nightlife areas, which are considered as the “targets” of their romantic advances and cheesy pickup attempts. To stop these kinds of advances, women use a variety of “cooling out” strategies, avoidance tactics or other defensive actions encompassing behaviours from friendly rejection, excuses, jokes, rudeness, avoidance, unresponsiveness and flight (Snow et al., 1991). Grazian (2007) states that students are harassing women in bars and clubs during their aggressive “girl hunting” endeavours, which represent a sort of a collective ritual or competition and are considered as bonding activity in a group of heterosexual men with the intention of achieving sexual intercourse. In bars and clubs, female students, apart from being the targets of the aforementioned “girl hunting”, are also often harassed by (married) middle-aged men (Grazian, 2008, p. 164 – 169). Gervais et al. (2014) indicate that there is a positive correlation between the frequency of alcohol consumption, the amount of alcohol, the evaluation of the body, sexual advances and sexual violence. Their survey thus shows that the overall effect of body evaluation and sexual advances is strongly linked to the amount of consumed alcohol and sexual violence. Also, body evaluation as such is strongly linked to the amount of alcohol consumed and sexual advances (Gervais et al., 2014). Thirdly, Grazian also highlights the lack of an inclusive local nightlife environment in urban neighbourhood communities. He notes that these arguments show that nightlife areas can work more effectively as an avenue of integration rather than bridging social capital (Grazian, 2009).

In recent decades, nightlife has been one of the essential leisure activities of young people in many Western countries. At the same time, such a form of leisure time represents one of the most critical ways that can lead to a wide range of health and social problems, including alcohol and drug consumption, antisocial behaviour and crime (Calafat et al., 2008; Košir, 2013; Stuart & Hughes, n. d.). Also, there are other risks involved in the participation in nightlife areas, such as noise, binge drinking on the streets and vandalism (Calafat, Juan et al., 2009). Violent behaviour associated with nightlife context is an issue that primarily affects younger populations. In a survey involving 1,363 young people from nine European cities, who often participate in nightlife activities, adolescents were asked to assess the three analysed forms of violent behaviour, i.e. carrying a weapon, being threatened or injured with a weapon, and being involved in a physical fight. Most adolescents, 11.4 percent of women and 28.4 percent of men (Calafat et al., 2011), reported they were involved in a physical fight. In a UK survey of 511 cases of violent acts, involving attacks and injuries carried out by unknown perpetrators, and 442 cases of violence among acquaintances, Allen et al. (2003) note that pubs or clubs are the most common places where violence among strangers occurs (38%). Violence between acquaintances predominantly occurs in

the streets (25%), as well as in pubs or clubs (23%). A glass or a bottle was most commonly used as a weapon in attacks involving strangers, (in 9%), which points to a link between the availability of objects found in the most common settings and the occurrence of such violence (Allen et al., 2003). In Cardiff, the capital city of Wales, a total of 4,792 incidents were analysed. More than half of all events were related to pubs or clubs, whereas 30 percent of incidents happened inside and 21 percent occurred outside or in their immediate vicinity. Most of the remaining incidents happened elsewhere in the streets (34%) (Maguire & Nettleton, 2003).

In many cities, the growth of the nightlife economy resulted in growing concerns about the related crime and disruption to the surrounding area, notably alcohol-related violence (Maguire & Nettleton, 2003). Calafat, Blay et al. (2009) conducted a survey on the use of means of transport to access nightlife areas among 1,363 regular visitors of nightlife areas in nine European cities. The results suggest that about half of all visitors to nightlife areas used some form of public transport (bus, train or taxi), around 40 percent travelled by car, while 10 percent came on foot. High behavioural risks were reported in relation to nightlife activities, particularly when individuals had driven other persons under the influence of drugs or alcohol, which happened in 37.21 percent of cases in the month before the survey (Calafat, Blay, et al., 2009).

4 INCIDENCE AND PREVALENCE OF SEXUAL HARASSMENT IN PUBLIC PLACES

Sexual harassment can take place through personal interactions, telephone, messages, social media or e-mail, by displaying materials or objects, or by unauthorised interference with one's own space and property (Burn, 2019). To demonstrate the complexity and "omnipresence" of sexual harassment, we decided to present individual research studies, which explore the dimensions of the phenomenon in question, with an emphasis on harassment in public areas.

The US national research study about past experiences with sexual harassment, which was carried out in 2019 and involved 1,182 women and 1,037 men over 18 years of age, shows that women most frequently (68%) reported sexual harassment in public places, such as streets, parks or shops. The shares of reported sexual harassment in the workplace (38%) or at school (38%) and in a nightlife area (37%) were rather similar. A slightly lower share of women reported harassment in a domestic environment (31%). Men were most often sexually harassed (23%) in public places. To the same extent (14-15%), they reported sexual harassment at school or in a domestic environment, as well as at the workplace or in someone else's residence. When combining all public places that were involved in the survey (i.e. public and common transport and nightlife areas), it can be observed that 71 percent of women and 28 percent of men experienced sexual harassment in public places, which could also be identified as street harassment. Nightlife venues involving bars, clubs and concert venues, were places, in which sexual harassment was experienced by 37 percent of women and 12 percent of men. In general, homosexual or bisexual women are more likely to report sexual

harassment. In light of the topic discussed, it is alarming that sexual harassment in public places was reported in 91 percent of all cases (UC San Diego Center on Gender Equity and Health, 2019).

The previous US survey (Kearl, 2014), which included 2,000 individuals over 18 years of age, which were roughly equally divided by sex, notes that the issue of street harassment in the US is a burning issue. 65 percent of women stated they were victims of at least one form of street sexual harassment, of which more than half (57%) were exposed to verbal harassment, 41 percent suffered aggressive physical forms of harassment involving sexual touching (23%), stalking (20%) and exhibition (14%). In comparison, 9 percent of them reported they were forced to do something sexual. Men were exposed to street sexual harassment in 25 percent of cases, 18 percent of which had the form of verbal harassment, while 16 percent were cases of physical sexual harassment. Sexual harassment was predominately reported by men who identified themselves as LGBT⁹.

The results of a research study of the European Union Agency for Fundamental Rights (FRA, 2013) about personal experiences of 93,079 LGBT individuals with discrimination and gender-related acts indicate a (still) strong presence of discrimination against otherwise oriented individuals. Almost half (47%) of all respondents felt personally discriminated against or harassed due to their sexual orientation in the past. One in five (18%) respondents, who visited a café, a restaurant, a bar or a nightclub in the year before the survey, felt personally discriminated against due to their sexual orientation. A quarter (26%) of LGBT respondents were attacked or threatened with violence in the past five years. Only less than 17 percent of hate violence were reported to the police.

Hoel and Varita (2018) state that comparative studies on sexual harassment in public places at the European Union level are not available. They believe that the 2014 survey on violence against women carried out by the European Union's Agency for Fundamental Rights, which examined the experience of sexual harassment in general, to be the best approximation. On average, 21 percent of respondents reported they experienced some form of sexual harassment in the past 12 months, which corresponds to between 24 and 39 million women in the 28 EU Member States. More than one in three women aged between 18 and 39 experienced at least one form of sexual harassment in the year before the study. In restaurants, clubs or cafes, physical violence, which was not intimate partner violence, was experienced by 10 percent of women, out of which 4 percent of women were exposed to sexual violence. In total, the violence of persons, who were not in an intimate partner relationship with the victim, was experienced by 8 percent of women in restaurants, clubs, bars and cafes (FRA, 2014).

A recent Swedish study about female students' experience (n = 1,941) in universities found that one in four students experienced one or more sexual harassment incidents in the previous year, which mostly took place in clubs in restaurants (Mellgren et al., 2017). Furthermore, a quarter of all students (22.7%) involved in study conducted by Clodfelter et al. (2008; n = 750) reported suffering one of the forms of verbal, non-verbal or physical harassment in the previous

9 The term LGBT refers to lesbians, gays, bisexual and transsexuals.

academic year, which suggested that in the current academic year, 2,270 students within the student campus population, which includes 10,000 students, may become victims of sexual harassment. In addition, Fairchild and Rudman (2008, p. 353) indicate that approximately 41 percent of all female students ($n = 228$) reported unwanted sexual attention from strangers, which had happened at least once a month and included sexist comments or enticement. A third of all victims reported being whistled or stared at, and 31 percent of them stated they had been exposed to whistles and staring every few days. A quarter of all respondents experienced sexual coercion or assault (e.g. heavy grabbing) at least once a month. These data support the need to address sexual harassment perpetrated by strangers as a significant form of humiliation and insult of women, which affects the quality of their lives. Sexual harassment carried out by strangers changes public places into everyday hostile environments for women.

Madan and Nalla (2016) discuss the findings of a survey, which saw the participation of 1,387 individuals, of which 621 were men and 766 were women. More than half of all participants (55%) perceived public places, including public transport and stops, streets and public parks, as risky places for the occurrence of sexual harassment. 93 percent of respondents stated they heard about the occurrence of sexual harassment in public places. In comparison, victimisation was experienced by 58 percent of women, while only 4 percent of men claimed that they were sexually harassed. While it is possible, to some extent, to protect or take precautionary measures against attacks in certain public places, e.g. by visiting certain areas in someone's company or by avoiding these areas in certain periods. A great deal of sexual harassment in public places happens when people still have to travel, for reasons of urgency, by public transport. Therefore, previous victimisation does not necessarily have an effect of protection against future attacks, as individuals (particularly women) still have to go outside for work, to buy groceries and pick up children from school (Hoel & Varita, 2018; Madan & Nalla, 2016).

In the article, we presented mostly studies made abroad (e.g., US, Sweden) due to the lack of research in the field of sexual harassment in nightlife entertainment spots in Slovenia. It is essential to point out that caution is needed when generalizing foreign research findings, as the results can only apply to a specific cultural environment. Therefore, the conclusions of foreign authors may not generally apply to the Slovenian environment and must be considered and interpreted with caution.

4.1 Victimisation Due to Sexual Harassment and Its Implications

Sexual harassment leaves physical and psychological consequences on individuals subjected to harassment (Fitzgerald et al., 1997). In a work environment, these may be reflected in a negative mood related to work, which may cause higher employee turnover. Sexual harassment may also cause psychosomatic problems, such as headaches, sleeping difficulties, stomach problems, upper respiratory infections (Barling et al., 1996), anxiety or depression (Fitzgerald et al., 1997), posttraumatic stress disorder (Fitzgerald et al., 2013), eating disorders (Harned

& Fitzgerald, 2002), and, in extreme cases, even suicidal tendencies (Griffith, 2019). Victims may experience anger, fear and shame (Langer, 2017) due to sexual harassment. Livingston et al. (2015), indicate that as a result of harassment, 72 percent of women felt anger, while 79 percent reported anxiety. Sexual harassment can constitute a risk factor for the occurrence of weight and shape concerns, eating disorders and negative self-image (Buchanan et al., 2013). Finally, it can also cause a reduced sense of safety in individuals (Donnelly & Calogero, 2017).

Apart from the aforementioned effects of sexual harassment, which mostly apply to the academic and work environments, Fairchild and Rudman (2008) indicate certain consequences of sexual harassment in public places, which cannot be fully explored due to the lack of empirical evidence, particularly in terms of psychological effects caused by sexual harassment. Nevertheless, fear and a reduced sense of safety represent one of the main consequences of stranger sexual harassment. To avoid the risk of sexual harassment and potentially threatening situations, women, in particular, voluntarily restrict or alter their movements and daily routines, change the paths they walk, the type of transport they use, and the way they dress, which is not always possible either because alternative solutions are inexistent or time-consuming. For many victims, sexual harassment is often humiliating and harms the quality of their lives. Victims can react to sexual harassment by attributing the blame to themselves and by questioning their behaviour and actions (Hoel & Varita, 2018). Fairchild and Rudman (2008) stress that the principal aspect of sexual harassment is related to the treatment of women as sexual objects rather than as intelligent beings. Such sexual objectification is promoted and shaped on the basis of pornography and advertising. Self-objectification derives from repeated objectification, which causes the victim to be perceived as a sexual object, making them ashamed of their body, and continuously checking their physical appearance. Moreover, they argue that women who respond to strangers' sexual harassment by employing active strategies, such as confronting the harasser or reporting the incident to the authorities, are less likely to be exposed to self-objectification when compared to those, who face it passively, for example by ignoring and disregarding the event.

5 CONCLUSION

This paper aimed at emphasising the importance of discussions on sexual harassment, which constitutes sexual violence, but is often neglected and overlooked. According to Ahmed et al. (2014), research studies on street sexual harassment were, when compared to the studies into the more severe forms of sexual violence (Ceccato, 2014), given less media attention and research focus. They stressed that sexual harassment has potentially significant effects at the community level, since it may be used as a reason to limit or deter access to public spaces, as an additional mechanism aimed at the oppression of women's public participation. Furthermore, they noted that long-term and overall effects of street harassment might also be detrimental to women's safety, freedom and participation in public life (Ahmed et al., 2014), which was also highlighted by Fairchild and Rudman (2008). The psychological implications of sexual harassment in nightlife

areas for victims are not (yet) supported by tangible empirical evidence (Fairchild & Rudman, 2008). Sexual harassment perpetrated by strangers creates a sense of fear. It has an impact on reducing the sense of safety, particularly among women, whose social participation is limited due to fact that they choose to avoid potential situations or perpetrators of sexual harassment. Consequently, the quality of their lives is reduced (Hoel & Varita, 2018). It is essential to highlight that people's perception of and response to specific actions differ. According to Grossman (2008), because of their specific perception of certain acts, individuals may understand a particular act of sexual nature as an invasion of their personal space. Alternatively, the attention they receive from another person may suit them. This coincides with the concept that women, who were taught to seek self-approval in others, are inclined to interpret men's attention as flattering, which in turn means that unwanted attention is not defined as harassment (Bardwick, 1971, as cited in Tangri et al., 1982). Victims are thus facing sexual harassment passively or actively, albeit the first response, which involves confronting the harasser or reporting them to the authorities, is less common. The latter way of responding to sexual harassment manifests itself in the way the victim tries to ignore the event or disregard it (Fairchild & Rudman, 2008). Thus, sexual harassment can lead to the occurrence of a victim's self-blame and doubts about their behaviour and actions (Hoel & Varita, 2018), as well as in the fact that victims perceive themselves as sexual objects (self-objectification) and are ashamed of their physical appearance (Fairchild & Rudman, 2008).

The provision of safe nightlife areas is a growing priority across Europe. City authorities must manage habits, not only recreational habits of domestic youth, but, due to the increasing international tourism, also the habits of young people from other countries (Stuart & Hughes, n. d.). The reduction of alcohol-related harm, particularly among young people, which occurs due to the increased alcohol consumption in public places, is a major priority in Europe. According to the routine activity theory, alcohol consumption or intoxication affects and reduces the ability of the individuals to protect themselves, which, mainly in the presence of a motivated offender, increases the likelihood of them becoming appropriate targets (Clodfelter et al., 2008). Alcohol consumption is associated with the emergence of sexual harassment in nightlife areas where victims, particularly women, are expected to tolerate sexual harassment due to a generally prevalent culture of acceptance of such behaviours (Mellgren et al., 2017). Due to the existence of certain "gender norms" in nightlife areas, the social participation, particularly of young women, is also conditioned by the fact that their entry into popular places is easier if they are flirtatious and dressed "attractively" (Grazian, 2008). When combined with the premises of the routine activity theory, these social norms actually point to the element of target suitability. According to Watts and Zimmerman (2002), the fact that society blames the victim instead of the perpetrator, either because of their dress or behaviour, is typical of sexual violence. Consequently, many nightlife areas no longer represent areas of entertainment and social inclusion (Grazian, 2009).

Welsh et al. (2006) observe that existing data on the number of sexual harassment incidents represent only the tip of the iceberg. Victims do not

officially report sexual harassment incidents because of the fear of surrounding condemnation provoked by harassment or by the fact that they lodged a complaint against the harasser. Unreported and undiscovered crimes lead to the occurrence of a dark field of criminality. This represents an obstacle for the research of sexual harassment, particularly of its incidence. Another research impediment also arises from the fact that reports filed by women indicate that they are faced with unwanted sexual attention, but do not characterise such acts as sexual harassment. Consequently, they are not formally reported to the authorities (Firestone & Harris, 1999). Inequality and discrimination, which are, *inter alia*, associated with sexual harassment, are thus still the cornerstone in the continuum of violence against women and girls. To achieve lasting and substantial changes, the root causes of gender inequality and discrimination, such as stereotypes, beliefs, behaviours and relationships that justify sexual harassment, must be addressed and eliminated first. Comprehensive policies and guidelines based on gender equality should also be developed (Mlambo-Ngcuka, 2019), as everyone, regardless of factors, such as race, age, gender, disability, sexual orientation or gender expression, should be treated with respect, dignity and empathy. Therefore, no form of discrimination may be admissible under any circumstances (Stop Street Harassment, n. d.). We strongly agree with the comment made by Hoel and Varita (2018), which requires a reconsideration of the issue of stranger sexual harassment by individuals, who hold an established opinion that the form of attention caused to victims of street sexual harassment is irrelevant or that it even constitutes a form of flattery to women. In this regard, we believe that, firstly, it is imperative for the public to identify acts of sexual harassment, perceive them as prohibited and unacceptable acts, and, as stated by Mellgren et al. (2017), start responding to them with zero tolerance.

According to Sheley (2018), street harassment violates existing norms of criminal law already by the perpetrator's intention to touch a victim or to put the victim in a position of immediate threat of unwanted touching. As mentioned above, some countries have already criminalised sexual harassment outside the workplace, particularly the verbal forms thereof, which include whistling and unwanted advances. They have thus surpassed the mostly "classical" definitions of criminalising sexual harassment behaviour (such as physical harassment and exhibition (Spratt, 2016)). According to Sheley (2018), potential concerns that any additional legal regulation of verbal sexual harassment in public places would preclude the freedom of speech are redundant, because by establishing links between verbal sexual harassment and threats of physical harassment, the freedom of speech no longer constitutes a legally protected right.

There are substantial potentials for further discussion and exploration of sexual harassment. In our opinion, it would be necessary to research the emergence of sexual harassment in Slovenia and to explore the occurrence of sexual harassment in public places, including in the least studied areas, such as nightlife areas, in order to obtain a better insight into its actual state and prevalence. At the beginning of March 2020, we began with an empirical study of this issue in the Municipality of Ljubljana, which is being conducted as part of the European Commission project entitled SHINE – Sexual Harassment in Nightlife Entertainment Spots:

Control and Prevention, based on the education of employees' in the nightlife entertainment spots. After outlining the incidence of sexual harassment in those areas, it would also be meaningful to explore an additional aspect of restriction and prevention. The potential is primarily seen in the application of situational crime prevention theories to nightlife areas, with an emphasis on the role of sexual harassment eyewitnesses, who may have a significant impact on the prevention of sexual harassment (Banyard, 2008; Burn, 2009). Nevertheless, with the exception of some criminological publications, sexual harassment in public places or its occurrence in a crowd of people has been, as stated by Hoel and Varita (2018), relatively neglected and under-researched. Therefore, it would make sense to fill this gap with research studies focusing on areas characterised by the gathering of larger crowds, such as city centres or nightlife areas.

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