



Research Article

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The Crime of Sexual Harassment: A Comparative Study Between UAE & French Law

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Abstract

Sexual harassment, common in workplaces and in public, gives rise to psychological, social, and economic distress to victims, their families and society. The UAE legislator has criminalized this phenomenon in Article 413 of the Federal Penal Law (No. 31 of 2021). In France, the Sexual Harassment Law, first developed in 1992, focused on quid pro quo harassment. To gain familiarity with UAE and French laws regarding sexual harassment, this article elaborates on the concept, the basic elements of sexual harassment and the penalties stipulated for it. The article concludes with results and recommendations, most importantly that the UAE legislature should amend Article 359 by criminalizing harassment through information technology. It also describes that, according to the French law, sexual harassment is subjecting a person, repetitively to words and behaviours that humiliate and violate his dignity and character. This article recommends imposing more stringent punishments and penalties on those committing sexual harassment.

Keywords: UAE law, French law, crime, sexual harassment, material element, moral element, penalty

1. Introduction

The crime of sexual harassment was previously less severe and less common. However, it has become predominant in many areas of the world in recent years. Formerly, this crime was considered under the umbrella of crimes, such as sexual molestation and female degradation, as it violates her public honour. When offenders commit sexual harassment, they often escape punishment because their

deeds or words are not considered significant. What makes this study significant is the danger of sexual harassment crimes and the fact that their rates are increasing more than ever before manifesting themselves in various new forms.

These crimes affect all segments of society, including both men and women. This crime is unique in that no weapon is used. Instead, the offender can exist at any time and place until he has the opportunity to satisfy his desires and hidden instincts. In doing so, the offender escapes without any trace, but the pain in the victim's psyche.

In addition, the measure in question can help ease the limitations pertaining to extra-marital relationships, and it also includes a revision and amendment of various sections of legislation, such as criminal penalties for public disorder offenses and de-criminalizing a variety of behaviours.

Furthermore, this crime is not merely committed by a particular group of people or social category, but also by ordinary and influential figures who exploit their power. In this regard, penal policymakers should be familiarized with the uniqueness of such crimes in their attempt to confront and deal with all kinds of sexual harassment.

The crime of sexual harassment inflicts the victims' dignity, which is the most important thing they have. The most important point to consider is the difficulty of proving the crime and the penalty imposed. Thus, the lack of clear legal provisions has added much to the complexity of the problem. Moreover, numerous sexual harassment victims avoid reporting their cases to the authorities to protect their reputation, and that complicates the problem. Evidence will also be lost in this case, and the offender will escape the penalty as his crime cannot be proved. This article aims to address these problems.

In Article 413 of the Federal Law No. 31 of 2021, the UAE legislature addressed this phenomenon, amended by the Federal Decree No. 4 of 2019. This article offers an analysis of the implementation and effectiveness of sexual harassment laws in the UAE when compared to French sexual harassment laws as a means of showcasing the shortcomings of the former and new recommendations on how they can be improved.

Articles 222-233 of the French Criminal Code defined sexual harassment as imposing on a person in a repeated way, behaviours, or words or actions with a sexual connotation that undermine his dignity or creates an intimidating, hostile environment or offensive situation.

The reason why the French law was selected and compared to the UAE law is because it provides a well-put definition of what sexual harassment is by focusing on how the dignity and well-being of a person are affected by the actions of another. The definition of sexual harassment by French law features a heavy emphasis on the victim's feelings, which is why a victim's perception of the actions they suffer is taken into serious consideration in recognition of sexual harassment (AlKrisheh, Alhajaya, & AL-Tkhayneh, 2021). Offering such definitions regarding sexual harassment in France has helped ease the limitations pertaining to extra-marital relationships, and it also includes a revision and amendment of various sections of legislation, such as criminal penalties for public disorder offenses and de-criminalizing a variety of behaviors.

In this context, the article will discuss and explain the concept of human rights, which has been recently expanding. Therefore, the concept of human rights will be presented along with the discussion of UAE and French law, including their similarities and differences, how they have promoted sexual harassment, and how they have built human rights positively and promoted their growth. This article will identify sexual harassment as the act of imposing on a person, repetitively, statements or behaviours of sexual connotation that violate his dignity and humiliates his character.

To answer these questions, this article will adopt the qualitative and analytical method to gain familiarity with the basic elements of the crime of sexual harassment and its punitive judgments. The article will also elaborate on the crime according to UAE and French law and its penalties.

2. The Concept of Sexual Harassment

Sexual harassment refers to any unwelcome sexual behaviour that is perceived as humiliating,

offensive, or intimidating, with its occurrence either being verbal, written, or physical. It is imperative to note that sexual harassment can happen in person or online. Sexual harassment can include requests for sexual favours, unwelcome sexual advances, and other physical or verbal harassment that is sexual in nature. However, sexual harassment does not always involve sexual behaviours or is aimed at a specific individual. For instance, negative comments regarding women as a group can be perceived as a form of sexual harassment.

In the amended form of Article 413 of Federal Law No.31 of 2021, the UAE legislature defined sexual harassment as 'any excessive attempt to disgrace another person by repetitive deeds, words or signs that may violate his or her honour and that aims to satisfy the sexual desire of the criminal himself or the other' (Al-Mahallawi, 2019).

The UAE legislator has recently considered the possibility of committing sexual harassment through modern technological means, which was addressed through new amendments that include sexual harassment through those means as well.

Legislation in the UAE was recently amended to include policies pertaining to sexual harassment that occurs online or via the use of technological means. The laws in question feature the addition of increased scrutiny of people's online presence and the inclusion of hefty penalties and fines for those who are found guilty of going against the rules. In the UAE, The Cybercrimes Law now imposes harsh penalties. Article 17 of the Cybercrimes law states that any person who produces, prepares, sends or saves materials that are of pornographic content or anything that may prejudice public morals for the purpose of exploitation, distribution or displaying for a third party through an Information Network shall be punished by imprisonment and a fine not less than AED 250.000 and not exceeding AED 500.000 or by either of these punishments. The penalties shall be more stringent if the pornographic materials subject individuals younger than eighteen years old (Al-Tamimi, Marni, & Shehab, 2020).

On the other hand, sexual harassment law in France was first passed by the French Parliament in 1992, following the recommendations of the Commission of November 27, 1991 on the protection of the dignity of men and women in the workplace, and focused on *quid pro quo* harassment. The offense of sexual harassment was then found in Articles 222-233 of the Penal Code, in a section devoted to assault. According to French Law, sexual harassment is defined as 'any act that occurs as a result of rigidity in exploiting authority by giving orders and threats, and by coercing to gain sexual benefits' (French Penal Code, 2005). Another definition for sexual harassment is 'any deed or word with sexual intent and meaning that is not desired and aims to gain sexual benefits, revenge, or exercise control over the victim' (Abdul Razaq, 2015).

3. Basic Elements of the Crime: The UAE Law

3.1 The Material Element

Article 413 of the UAE Federal Penal Code provides: 'Sexual harassment is any excessive attempt to disgrace another by repeating deeds, words or signs that may violate his or her honour and aim to satisfy the sexual desire of the criminal himself or the other' (Federal Penal Code, 2021).

The overt element is the active demeanour that does not lead to a specific result. In other words, sexual harassment has been criminalized for disgraceful or indecent conduct *per se*. Moreover, one element of the criminal behaviour in this crime is the excessiveness of teasing the other, as pointed out by the UAE legislature. The elements of the overt acts are explained below.

3.1.1 Excessiveness and Repetition

Excessiveness refers to indulgence, wasting, and exaggeration, namely overdoing a treatment and deed more than once. The UAE legislature did not settle for this meaning alone, but emphasized this point on several occasions. To illustrate, in the provision of the above Article of the Federal Penal

Code, it mentioned the word 'repeat' to define the crime of harassment (*i.e.*, any excessive attempt to disgrace another by repeating). Thus, the UAE legislature considered repeating a deed as a condition to be met to apply the penalty mentioned in the same Article. In other words, repeatedly teasing, performing acts, showing signs, and saying words that violate honour shall be present to apply the penalty.

A defect can be noticed in the legislator's use of the terms 'excessiveness' and 'repetition'. It should have been considered that even a single use of an impolite word and teasing is also sexual harassment towards others and makes them a victim. Such a demeanour violates the honour and rights of the victims to be free and to protect their private life. Therefore, the legislature should have used a more precise term that can enable the penalty for merely teasing or showing an overt vicious demeanour even for a single time. This should have also been done in order not to allow the criminal to exploit the word 'repeat' by violating someone's honour once and then doing so to someone else, in which case they can escape penalty, since they would insist that this happened only once without repetition.

Unlike the American law, where sexual harassment is categorized as a discrimination subset, sexual harassment in French law is defined as a variation of sexual violence, together with aggression and the crime of rape. The French penal code does not feature limitations to the workplace, given that it is also applicable in housing, education, medical services, as well as other places. According to the French legal system, a victim of sexual harassment is allowed to *porter Partie Civile* against the sole harasser, but the monetary damages that are usually involved are often so minor, where they are perceived as having a symbolic value (AlKrisheh, Alhajaya, & AL-Tkhayneh, 2021).

As a result, the violation is proved only if the offender forces the victim to encounter him and show sexual and licentious manifestations and implications. However, if the offender was in a relationship with the victim, the crime of sexual harassment is not proven. According to Article 358 of the UAE penal code, an individual who commits a disgraceful and indecent act will be subject to a punishment of a six-months imprisonment or more, with one year or more detention added on if the act in question is for a boy or girl that is less than 15 years old. Moreover, Article 359 details that an individual who tries to disgrace a woman via the use of words or actions in a public setting will be punished by being imprisoned for one year or suffer a fine of AED 10000. In addition, there is a possibility for a person to suffer both penalties mentioned above or just one of them. Furthermore, Article 359 under Article 2 of the Federal Decree-Law Number 15/2020 also defined sexual harassment as an increased annoyance of other people via the repetition of acts, signals, or words. According to the article in question, a person who is found guilty of a sexual harassment crime will be imprisoned for one year or less or incur a fine of AED 10000, or both (Al-Tamimi et al., 2020).

While, according to the French Law, the harassment of another person to obtain favours of a sexual nature is punished by one year of imprisonment and a fine of €15,000. Sexual harassment in the criminal code is a misdemeanour that can lead to one year of incarceration or a fine of €15,000. If there are aggravating circumstances, it can lead to 3 years of imprisonment and a fine of €45,000 (French Penal Code, 2005).

3.1.2 'The Other'

In Article 413, the UAE legislature defined sexual harassment as 'Any excessive attempt to disgrace another'. Therefore, the crime of sexual harassment is proved if teasing was against another. That is, the legislator does not consider harassment specific to women, nor does it consider the gender of the criminal or the victim. The legislature has done well using the word 'another' such that the provision can include both men and women concerning both the offender and the victim.

As shown thus far, there would be no difference if a woman conducted a sexual harassment crime against a woman or by a man against a man, though, at least in online sexual harassment, women experience a more severe emotional impact than men. They have significantly more sexual harassment experiences than men. Yet, in the past two decades, men have been reporting more

complaints about sexual harassment.

Moreover, the word 'another' considers the possibility that the victims may not protect their honour, such as a female prostitute, but the crime shall still be proved. Article 363 highlights that if a person coerces a boy or girl under the age of 18 years to engage in prostitution practices, they are liable to incur a penalty of a two-year detention term and a fine (Al-Tamimi et al., 2020). Such a victim has a sexual right that protects her and her modesty by imposing penalties on offenders. Thus, if the criminal commits a crime against the victim by showing sexual and licentious manifestations and implications, and if the other elements are present, the criminal shall be liable for the crime of sexual harassment. It should be noted that the legislature has not determined a condition for the age of the criminal or the victim.

In the event that the perpetrator is a group and has a weapon, or possesses authority, be it educative, familiar, or functional, over the victim, then the penalty is a two-year prison term, or an AED 50000 fine, or both. If the offender is a foreigner, the penalties detailed above will be applied before the individual in question is deported back to their home country. Article 361 states that an individual who seduces another person in public will incur a penalty of six-month detention, accompanied by an AED 5000 fine.

Another way of harassment is through words, which refers to the offender's actual or recorded verbal expression. It does not matter whether the expression was made loudly or whispered, provided that the other conditions are met. Harassment through verbal expressions is one form of indirect invasion. In fact, there are different forms of harassment, such as verbal harassment, in which offensive comments are made that violate the woman's honour and virtue. Another form concerns physical implications and meeting requests, among others, in which case invasion takes a specific form (Al-Ruba'i, 2020).

Regardless of the nature and form of invasion, it must have a sexual and licentious manifestation and implication; otherwise, the act is not a crime.

Based on what has been mentioned thus far, if we apply the general rules to the crime of sexual harassment, we can find that this crime is formative. In other words, this is a crime that does not require the provision of a criminal result. As a formal crime, it only requires the provision of criminal behaviour or activity to be criminal. The legislature criminalized the act, whether the desired results were achieved or not. That is to say, it does not require a specific result, but only requires the behaviour. The legislature considered this crime formal and aimed to provide more protection for sexual freedom (Al-Mahallawi, 2019).

The new and updated Federal Crime and Punishment Law (UAE Penal Code) in the UAE stated that an individual, who is found guilty of the crime of rape or non-consensual sex, should be imprisoned for life. According to the law in question, the punishment can be upgraded to capital punishment if the victim of the crime is not yet 18, disabled, or otherwise reduced to a state where one cannot offer resistance. It is imperative to note that the new laws provide improved protections for many individuals, including women and domestic servants, while also strengthening security provisions and public safety (Al-Nasrawi, 2021). In addition, the laws in question help ease limitations pertaining to extra-marital relationships, and it also includes a revision and amendment of various sections of legislation, such as criminal penalties for public disorder offenses and de-criminalizing a variety of behaviours.

For the material element of the crime to be intact, the presence of criminal conduct and the result alone is not enough. Instead, there should exist, in addition to that, a causal relationship between the conduct and the result. In other words, the behaviour shall be the actual cause of the criminal result (Shawqi, 1989).

The causal relationship is defined as the relationship between the behaviour and the result in a cause-and-effect form, such that we can argue that the behaviour yields the result. Therefore, the causal relationship relates to two facts: the criminal conduct, which is the cause, and the other is the criminal result, which is the effect of that cause. Moreover, the causal relationship ensures the relationship between the criminal activity and the change in the external world. Once this

relationship is proved, the law can confirm this legal result, which may be the invasion to the protected benefit.

The legal significance of the causal relationship is limited to crimes known as material crimes, excluding other crimes that lack legal result, namely formal crimes (Al-Mahallawi, 2019).

3.2 *The Mental Element*

3.2.1 *General Intent of the Crime*

The intent of the crime is defined as 'the will behind behaviour and the resulting effect'. It is required to have knowledge about the elements of the crime, as per the criminal code (Al-Gharib, 1994). If we apply this definition to the crime of sexual harassment, we will find that the offender's intent must be directed toward words, signs, or actions that disgrace another. Moreover, their intent must be evidently free. Thus, in case the person is insane and does not perceive what they say, the crime shall be resolved because the element of intent is absent. In other words, the offender's intent must be towards sexual and licentious suggestions and implications that aim at gaining benefits with a sexual nature. At the same time, the motive to commit a crime shall be immaterial, whether the motive is to damage another through molestation or is merely for entertainment and satire. In this respect, Article 41 of the UAE Federal Penal Law provides: 'A motive to commit a crime shall be immaterial unless the law provides otherwise'. However, if the culprit's intent is not towards obtaining a benefit, the crime of sexual harassment shall be absent. That is, the intent of crime will be absent should the offender's intent is not toward committing the crime.

Moreover, knowledge about an occurrence is part of the intent, as it is also one of the two elements of the intent of the crime (Hasani, 1988).

Therefore, the intent of crime per se is not enough, but it is also inevitable that the offender has prior knowledge about the elements of the crime. This knowledge precedes the intent, since they determine the tendency and limit of the intent.

By the elements of the crime, we mean those elements that a legislature needs to know to legally explain the crime and distinguish it from other crimes and legitimate acts.

For the intent of the crime to be intact, the offender must know that he will be prosecuted for his acts. The offender should also know that his act is a violation of a right protected by law, and there is a causal relationship between his act and the violation of that right. In other words, the offender must know that his act, and not another factor, was the cause of this violation. In addition, we should not ignore the offender's knowledge about the time and place in which the crime occurred, in case these two factors have a major role in the occurrence of crime. Whether or not the crime was committed deliberately is also important. Therefore, the offender must know all the main and basic elements of an intentional crime to be accused of having general intent (Al-Mahallawi, 2019).

Thus, the intent of crime cannot be based on the presence of knowledge or intent per se. Instead, knowledge of the elements of the criminal act is also mandatory. In addition, the intent must be towards bringing about these elements, including the result. Hence, if there is no sufficient prior knowledge of all the elements of the crime, the intent is not criminal. Moreover, the intent also determines whether the offender wanted what he knew about. Once these two elements are present, the intent shall be regarded as intact.

3.2.2 *Specific Intent of the Crime*

As discussed, the general intent of crime refers to the case in which the offender is willing and informed of causing the event provided by law. This criminal event consists of two elements, the behaviour and the result. On the other hand, the specific intent of crime refers to the case in which the offender commits a crime for a particular motive and purpose that he has inside. In other words, the general intent is about a common criminal purpose. In contrast, the specific intent is about a

particular intention which comprises the motive and the purpose, two elements that lead the offender to commit the criminal behaviour (Hasani, 1988).

This rule can be applied to the crime of sexual harassment. To illustrate, Article 413 of the UAE Federal Penal Law requires a specific intent to satisfy the offender's sexual desire. Therefore, if these behaviours were not to satisfy sexual desire, there would be no crime of sexual harassment. Instead, to prove the crime, specific intent is required, such that the behaviour be considered separately from the intent. This intent is a primary condition to prove the intent of crime, where the disconfirmation of the intent shall result in the dissolution of the crime. On the other hand, a court may prove the crime should the judge decide that the behaviour with this intent was a source of danger.

Thus, should there be no specific intent (*i.e.*, the satisfaction of sexual desires) provided in Article 413 of the UAE Federal Penal Law, the intended crime shall be regarded as a different crime, namely an invasion of a female, in case all the basic elements of the crime that have been mentioned in Article 412 bis are provided.

3.3 Basic Elements of the Crime: The French Law

The law should take care of the essential elements of sexual harassment. According to French Law, these elements show the intent of a person, including unwelcome behaviour of a person, of a sexual nature, and involving a person who was harassed and would be offended or intimidated.

Articles 222-233 of the French Criminal Code define sexual harassment as the means of imposing on a person in a repeated way, behaviour, or words or actions with a sexual connotation that either undermine the person's dignity or are humiliating, or create an intimidating, hostile or offensive situation.

Article 1153-1 of the Labour Code gives a broader assessment by adding to the previous definition the facts that can be condemned for their similarity to sexual harassment. These facts consist of any form of serious pressure, even not repeated, exerted towards the actual or apparent goal of obtaining an act of a sexual nature, whether sought for the perpetrator's benefit or the benefit of a third party.

Sexual harassment, from a strictly legal point of view, is characterized by actions, words, or behaviours, repeated or unique, with a sexual or sexist connotation that harms victims or creates a hostile environment for them. Harassment, whether moral or sexual, is voluntarily defined very broadly (except in the Criminal Code for the reason stated above) to include harassment in all manifestations of it and all possible sources.

The definition of sexual harassment in the above Article emphasizes taking into account the victim's feelings, which demonstrates the psychological impact it has on him/her. Therefore, the victim's perception of the acts committed against them him/her seems very important in recognizing harassment.

In 1998, the crime of sexual harassment was codified. Since the law relating to the prevention and punishment of sexual offenses, amending Articles 222-233 of the Penal Code with Article 11, sexual harassment can be constituted by the exercise of pressure. Until January 17, 2002, Articles 222-233 of the Penal Code stated: 'The fact of harassing others by giving orders, uttering threats, imposing constraints or exerting serious pressure to obtain favours from sexual nature, by a person abusing the authority conferred on him by his functions, is punished by one year of imprisonment and a fine of €15,000'.

The law of January 17, 2002 amended this Article to widen the scope of sexual harassment by removing certain elements that allowed it to be qualified. The Article after the amendment stated: 'The fact of harassing others to obtain favours of a sexual nature is punishable by one year of imprisonment and a fine of €15,000'. Thanks to this law, sexual harassment was dissociated from the abuse of authority. Therefore, it can be constituted in the absence of such abuse. This also means that sexual harassment is not necessarily committed by a person of authority (such as parent, ascendant, hierarchical superior). It was also a desire of the legislature to harmonize the definitions of sexual and moral harassment.

In cases brought before a court or an examining judge, the difficulty was for the complainant to provide a body of evidence in a case of the 'neither seen nor known' type, which takes place without witnesses, elements relating to both the reality of facts or words. This is where the concrete legal problem is due to the lack of material evidence and the possibility of misunderstandings and misinterpretation of ambiguous words.

However, since 2003, victims no longer had to establish their lack of consent to these practices. The alleged harassers had to provide objective elements justifying their behaviour. A decision rendered on 23 May 2007 by the Court of Cassation in France recognized that the use of an SMS was likely to establish the reality of the facts, in this case, a message sent by the harasser.

According to Law No. 994/2015 of August 17, 2015, known as *Rebsamen*, related to social dialogue and employment, sexist acts are prohibited and defined in the Labour Code, which states: 'No one should be subjected to sexist acts, defined as any act related to the sex of a person, the object or effect of which is to undermine their dignity or to create an intimidating, hostile, degrading, humiliating or offensive environment'.

Law No. 1088/2016 of August 8, 2016 obliges employers to integrate questions of sexual harassment and sexist acts into prevention measures. The provisions relating to sexual harassment are part of the mandatory clauses of internal regulations.

Through Law No. 771/2018 of August 3, 2018, which strengthened the fight against sexual and gender-based violence, and Law No. 771/2018 of September 5, 2018 for the freedom to choose one's professional future, the repression of sexual harassment was broadened. Sexist outrage was created, and it is also possible to strengthen the employer's obligations in terms of information, prevention, and treatment of the facts characterizing sexual harassment.

4. The Penalty of Sexual Harassment

4.1 Penalties in UAE Law

The penalties in the UAE law is divided into minor and severe one as follows.

4.1.1 Minor Penalty

Article 413 provides: 'Whoever commits the crime of sexual harassment shall be punished by detention for a period no less than 1 year and by a fine no less than 10,000 dirhams, where sexual harassment refers to any excessive attempt to disgrace the other by repeating acts, words, or signs that may violate his or her honour and aim to satisfy the sexual desire of the criminal himself or the other'. As can be noticed, the crime of sexual harassment in its minor form is considered a misdemeanour by the UAE legislature. For this misdemeanour, it stipulated the penalty of detention for no less than 1 year and a fine of no less than 10,000 dirhams or one of the two.

The UAE legislator has done well by stipulating a minimum but not a maximum penalty, whether concerning the detention or fine, for the crime of sexual harassment. This is because it allows the judge total freedom to determine the penalty and does not force him to select a penalty that does not exceed a certain threshold. Moreover, this way, allowed the judge significant discretionary power, such that it entitled the judge to consider both penalties, namely detention or fine, and either of them.

Nevertheless, we believe the minor penalty has some drawbacks, even though there is no maximum threshold. For example, the minimum threshold must be more severe, even if the crime was done for the first time. Thus, the legislature should intensify the penalty to deter anyone who has cravings to perform those deeds and to cause damage and harm to the victim. Furthermore, the legislature should conclude that this crime is not a minor phenomenon but has become more severe and significant. They should also consider the technological development that can be easily employed to actively commit this crime.

4.1.2 Severe Penalty

Article 413of the UAE Federal Penal Code provides: 'If there is more than one criminal, if the criminal carries a weapon, or if the offender has an employment, familial or educational authority over the victim, the penalty shall be detention for no less than 2 years and a fine of no less than 50,000 dirhams, or either of the two penalties'. As can be seen, the legislator has heightened the penalty for the crime of sexual harassment, should the following conditions be met:

1. *number of offenders (the commission of a crime by two persons or more)*: This means the crime of sexual harassment was committed by two or more persons or by one person with the help of others;
2. *carrying a weapon*: This condition means the crime of sexual harassment was committed by persons, where at least one of them was carrying a weapon, regardless of its kind;
3. *Offender's authority over the victim*: This condition is about the offender's authority over the victim. Authority refers to 'the influence some people have on those dependent on them'. Moreover, 'persons having authority over the victim' refer to those who take the responsibility of educating and caring for the victim, therefore truly having authority over them. The source of this authority may be legal, financial, or otherwise, regardless of whether the authority is temporary or permanent, legitimate or illegitimate. This severe penalty can be applied to a factory boss having actual authority over his workers; and
4. *Offender's responsibility for educating or caring for the victim*: If the offender was responsible for educating or caring for the victim, the penalty would be more severe. The offender might have been recruited to supervise the victim, and both may be relatives or not. Moreover, this supervision may have a religious, legal, or voluntary cause. Take a teacher who molests the children he teaches. In this case, the severe penalty shall apply, whether he teaches in a private or public institute or possess a qualification that allows him to teach or work without qualification.

Therefore, if any of the conditions mentioned above is met, the judge will sentence the offender to detention for no less than 2 years and a fine of no less than 50,000 dirhams, or one of the two penalties. In other words, the judge may either sentence the two penalties together or one of them. Thus, the UAE legislature has granted the judge discretionary power to choose one of the two penalties, as is also the case in relation to the minor penalty.

Granting discretionary power to the judge in determining the severe penalty is a flaw from the UAE legislature. Moreover, it is not acceptable that the penalty for the crime of sexual harassment, if the severe conditions are met, be detention for no less than 2 years or a fine of no less than 50,000 dirhams. Rather, the UAE legislature should have made the penalty more severe to deter anyone who has desires to commit the crime of sexual harassment. It would also be more appropriate for the UAE legislature to make a provision for the crime of sexual harassment through modern technological means such as social networks.

4.2 Penalties in French Law

The third paragraph of Article 222-33 of the French Penal Code states: "The harassment of another person to obtain favours of a sexual nature is punished by one year of imprisonment and a fine of €15,000". Sexual harassment in the criminal code is a misdemeanour that can lead to one year of incarceration or a fine of €15,000. If there are aggravating circumstances, it can lead to 3 years of imprisonment and a fine of €45,000. Following a law issued in 2016, the employer must consider any sexist acts within the realm of professional risks covered in the prevention policies that they must implement and include them in the company's code of conduct.

The aggravating circumstances that can increase the prison sentence to 3 years and a fine of up to €45,000 are the following:

1. when the crime is committed by a person who abuses the authority conferred on him by his

- position;
2. when it is committed against a minor under the age of 15 years;
 3. when committed against a person who has a vulnerability, due to his age, an illness, infirmity, physical or psychological deficiency, or pregnancy, when that is apparent or known to the perpetrator;
 4. when committed against a person whose particular vulnerability or dependence resulting from the precariousness of their economic or social situation is apparent or known to the perpetrator;
 5. when committed by several people acting as perpetrators or accomplices;
 6. when using an online public communication service, digital or electronic medium;
 7. when committed while a minor was present and attended; and
 8. When committed by an ascendant or by any other person having legal or *de facto* authority over the victim.

On November 25, 2017, the French Government committed that equality between women and men would be one of the country's major national causes with three priorities: cultural education and battle for equality, extensive support for victims, and reinforcement of criminal sanctions concerning sexual violence. As a result, the Minister of Justice and the Minister in charge of equality between women and men introduced a bill on March 21, 2018 to reinforce the struggle against sexual and sexist violence. This extended the statute of limitations in cases of sexual crimes against minors from 20 to 30 years. It also set the age of sexual consent at 15 years, and extended the definition of sexual harassment to cover single, non-repeated verbal or nonverbal intentional acts committed by several individuals against a single victim, which, as a result, covered cyber sexual violence. This created a new violation for street harassment, which is the act of imposing a verbal or nonverbal act with a sexual or sexist connotation that affects the person's dignity because of its degrading and humiliating nature, or creates an intimidating, hostile, or offensive situation. This can result in fines from €750 up to €3000 or require rehabilitation training.

4.3 Key Differences between UAE and French Law

UAE law is based on Islamic Shari'ah which guides the UAE towards their roles and activities. On the other hand, French law is the legal official system that the French republic depends upon, where the government has specific sexual harassment statutes.

The UAE legislature mentioned the ways employed to commit sexual harassment, according to Article 413, but has dismissed very important ways that have a considerable effect and are no less important than the aforesaid traditional ways, namely the wired and wireless modern communication means. This defect in UAE law dismisses modern technological means, since they are prominent in our societies and significantly impact such crimes. For this reason, such means are the best for criminals to satisfy their sexual desire. The UAE legislature should try to include a provision on the modern technological means as they can be used for sexual harassment.

On the other hand, according to French legislation, cyber-harassment, whether sexual or moral, is a criminal offense according to Law No. 771-2018. The law recognizes cyber-harassment as a criminal offense when a group of people act, whether together as a group or at the instigation of a person from the group, against a victim. Additionally, cyber-harassment is considered as an aggravating circumstance for harassment when taking place on the internet or any other digital devices and leads to a penalty of 3 years of imprisonment or a fine of €45,000.

5. Conclusion

Sexual harassment is a crime that can affect both men and women as victims. It is considered as a formal crime in which the offender's conduct is considered criminal, rather than a specific criminal result being required. This provides more protection for individuals' sexual freedom. In order for the

crime of sexual harassment to be proved, the offender's intent must be to gain a sexual benefit. In the UAE, the legislature has classified sexual harassment as a misdemeanour, and the penalties for conviction can include detention for at least one year and a fine of at least 10,000 dirhams, or one of the two penalties. If the crime is committed under aggravating circumstances, the penalty may be increased to detention for at least two years and a fine of at least 50,000 dirhams, or one of the two penalties.

In France, sexual harassment is considered as a misdemeanour and can result in a penalty of 1 year of imprisonment and a fine of €15,000. If there are aggravating circumstances, the prison sentence can be increased to 3 years and the fine can be increased to €45,000. Additionally, cyber-harassment, including both sexual and moral harassment, is a criminal offense under Law No. 771-2018. Similarly, in the UAE, recent amendments to the UAE Cybercrimes law address the issue of sexual harassment through modern technological means.

6. Recommendations

The article suggests that the UAE and French legislatures should take action to confront the issue of sexual harassment by intensifying penalties for offenders and revising legislation related to public disorder and indecent acts.

Also, we believe that the minor penalty has some drawbacks, even though there is no maximum threshold. For example, the minimum threshold must be more severe, even if the crime was committed for the first time. Thus, the legislature should intensify the penalty to deter anyone who has cravings to perform those deeds and to cause damage and harm to the victim. Furthermore, the legislature should conclude that this crime is not a minor phenomenon, but has become more severe and significant. They should also consider the technological development that can be easily employed to actively commit this crime.

It would also be more appropriate for the UAE legislature to make a provision for the crime of sexual harassment through modern technological means, such as social networks.

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