



LAW REFORM COMMISSION

Discussion Paper on “The introduction of public and street harassment provisions in the Criminal Code”

[LRC_ R&P 197, March 2026]

13th Floor, SICOM Building II
Reverend Jean Lebrun Street
Port Louis, Republic of Mauritius
Tel: (230) 212-3816/212-4102
Fax: (230) 212-2132
E-Mail: lrc@govmu.org
URL: <http://lrc.govmu.org>



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EXECUTIVE SUMMARY

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The phenomenon of street harassment - ranging from unsolicited remarks and gestures to invasive following or sexually suggestive behaviour in public spaces - has emerged as a pervasive form of gender-based violence (GBV) in Mauritius. Though often trivialised as “everyday” or “harmless”, such acts constitute a violation of the dignity and integrity of the person. They are not merely impolite behaviours but assaults on the fundamental right to move freely and without fear. Studies across jurisdictions have shown that victims of street harassment frequently experience anxiety, humiliation, trauma, and, in severe cases, symptoms consistent with post-traumatic stress disorder (PTSD).

Moreover, when an unsolicited remark or approach in public is ignored, the dynamic can shift rapidly from harassment to outright aggression. Research and comparative experience show that perpetrators often interpret silence or refusal as a challenge to their perceived entitlement, leading them to escalate their conduct. What begins as a comment or intrusive solicitation can, in a matter of seconds, transform into physical intimidation, assault, or even sexual aggression.

At present, Mauritian criminal law does not contain specific provisions addressing this phenomenon. While certain acts may fall under existing offences such as “insult”, “assault”, or “indecent acts”, the current framework fails to capture the continuum of gendered intimidation and its cumulative psychological impact. The absence of a clear legal definition undermines both the visibility of the offence and the capacity of law enforcement authorities to respond effectively.

This Discussion Paper proposes the insertion of a new provision in the Criminal Code to criminalise street harassment as a distinct offence. Drawing inspiration from Article R.625-8-3 of the French Penal Code, the proposed offence would consist in imposing on a person any remark or behaviour with a sexual or sexist connotation which either undermines their dignity by reason of its degrading or humiliating nature, or creates in respect of that person an intimidating, hostile, or offensive situation.

While in France, this behaviour is classified as a contravention, the Paper recommends that, in the Mauritian context, the offence be elevated to the level of a *délit*, reflecting the gravity of its social and moral consequences. Accordingly, the proposed penalty would include imprisonment and a fine, with the possibility of substituting or complementing the sentence with community service - an approach that combines deterrence with reparation and public education.

The recommendations further suggest the adoption of clear definitions and illustrative examples to guide law enforcement and judicial interpretation, the provision of specialised training for police officers to ensure gender-sensitive enforcement, the implementation of public awareness campaigns to encourage victims to report incidents, and the integration of the new offence within broader national strategies to combat gender-based violence, in full alignment with Mauritius’ international obligations under the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

In sum, this reform seeks to reaffirm that public space belongs to all and that dignity is not suspended when one steps into the street. The introduction of street harassment provisions in the Criminal Code will not only fill a legal lacuna but also send a powerful normative message: that humiliation, intimidation, and fear have no place in the everyday lives of citizens.

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INTRODUCTION

1. In Sir William Blackstone’s 18th century influential description of personal liberty, on the Laws of England, labelled as “*the power of locomotion*”, he describes the following:
- “*Next to personal security, the law of England regards, asserts, and preserves the personal liberty of individuals. This personal liberty consists in the power of locomotion, of changing situation, or removing one’s person to whatever place one’s own inclination may direct.*” Blackstone thus explicitly connects free movement or locomotion to “*personal liberty.*”¹ Indeed, the power of locomotion is one of the most basic civil rights.
2. However, when the law fails to safeguard women from street harassment, it deprives them of one of the basic goods for which government was ordained, leaving them in a Hobbesian wilderness, that is, a state of lawlessness and chaos that men do not share.²
3. Although “*street harassment*” does not yet have a universally recognised legal definition, it is generally understood to encompass any unwelcome, unsolicited, or offensive conduct whether verbal, non-verbal, or physical, directed at an individual in public spaces; such as streets, parks, public transport, or other communal areas.
4. Although commonly associated with streets in the literal sense, public and street harassment is not confined to open-air environments. It also occurs in semi-public or privately-owned spaces that are nonetheless open to the public and form part of everyday social life. These include shopping centres, cafés, bars, public transport hubs, and increasingly, places dedicated to health, leisure, and physical wellbeing, such as gyms and fitness centres. In such settings, victims are often subjected to intrusive staring, sexualised comments about their bodies, unsolicited “advice” masked as flirtation, persistent attempts at conversation despite clear discomfort, or following within enclosed premises. The fact that these spaces are enclosed, repetitive, and regularly frequented by the same users may in fact exacerbate the sense of vulnerability, transforming places

¹ Blackstone Commentaries at 130.

² T. Hobbes, Leviathan, pt. I, Ch. 13 (Michael Oakeshott ed., Collier Books 1962) (1651) at p. 100.

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meant for wellbeing into environments of anxiety and avoidance. The phenomenon of street harassment must therefore be understood not as geographically limited to the street itself, but as extending to all publicly accessible spaces where individuals are entitled to move, train, and exist without being objectified, intimidated, or reduced to their bodies.

5. It is most commonly experienced by women and non-binary individuals, making it a recognised form of sexual and gender-based violence. However, it is important to note that street harassment can affect people of all genders, ages, and backgrounds.³
6. Such conduct may take the form of disrespectful or threatening remarks, intrusive and persistent comments; such as continuing to engage someone in a conversation after they have asked to be left alone, repeatedly requesting their name, phone number, or personal details, or telling someone to “*smile*” against their will, unwanted gestures, persistent following and stalking; thus causing fear or discomfort, leering, or other behaviours that create intimidation, or anxiety.⁴
7. Importantly, these acts are often rooted in prejudice or bias and may target individuals on the basis of their actual or perceived characteristics, such as age, race, ethnicity, national origin, gender identity, gender expression, disability, sexual orientation, or other personal attributes or social status. By its nature, street harassment undermines personal dignity, restricts freedom of movement, and perpetuates feelings of insecurity in public environments.⁵
8. In 2019, the UK government formally recognised street harassment as a form of gender-based violence, marking an important policy acknowledgment of its seriousness and prevalence. Since then, several studies and campaigns have shed light on the extent of

³ “*What are harassment and street harassment?*” (University of St. Andrews). What are harassment and street harassment? - Report + Support - University of St Andrews

⁴ “*What is Public Sexual Harassment?*” (Our Streets Now) About Public Sexual Harassment — Our Streets Now

⁵ “*End street harassment*” (A New York City Resource Guide, 2023) End Street Harassment: A New York City Resource Guide p. 4.

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the problem.⁶ A survey and report commissioned by *Crimestoppers* in January 2023 revealed worrying patterns of harassment. More than one in three respondents (38%) reported being followed, while nearly a quarter (23%) stated they had witnessed incidents of flashing or genital exposure.⁷

9. In February 2022, the advocacy group Our Streets Now reported that 40% of students surveyed had experienced some form of street harassment, underscoring its impact on young people and on learning environments. Earlier, in 2016, the End Violence Against Women Coalition commissioned YouGov to conduct the first national poll on the subject. The findings were striking:⁸
 - 64% of women of all ages reported having experienced unwanted sexual harassment in public spaces.
 - 35% of women indicated they had been subjected to unwanted sexual touching.
 - Among young women aged 18–24, the figures were significantly higher, with 85% reporting harassment and 45% reporting unwanted sexual touching.
10. These statistics highlight not only the widespread nature of street harassment in the UK but also its disproportionate impact on younger women. They also emphasise the need for continued awareness, legal recognition, and preventative measures to ensure that public spaces are safe and inclusive for everyone.⁹
11. Additionally, a large-scale study involving 93,000 LGBTQ respondents across the European Union revealed significant levels of discrimination and social exclusion. The survey found that 47% of participants felt they had been personally discriminated against

⁶ “*Violence against women and girls report launch*” Violence against women and girls report launch | Crimestoppers

⁷ *Ibid.*

⁸ Dr. D. Maitra, Dr. K. Allen, Dr. M. Hermolle, Dr. O. Adisa, “*Sexual Harassment in Public Spaces: Communicating Harms and Challenging Perpetration*” (University of Suffolk, January 2023) Crimestoppers-REPORT.pdf p. 22-26.

⁹ *Ibid.*

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on the basis of their sexual orientation. The findings also highlight the extent to which discrimination influences daily behaviour and freedom of expression.¹⁰

12. Nearly half of respondents reported avoiding certain public places due to fear of hostility, while approximately two-thirds stated they refrained from holding hands with a same-sex partner in public, underscoring the pervasive sense of insecurity experienced in ordinary social interactions. Moreover, more than 80% of respondents indicated that they frequently hear casual jokes or derogatory remarks about the LGBTQ community. Although often dismissed as humour, such comments contribute to a hostile environment, reinforcing stigma and normalising discriminatory attitudes.¹¹
13. Between February and March 2022, the *Opinions and Lifestyle Survey* (OPN) gathered data on people’s perceptions of safety and their experiences of harassment within the preceding 12 months. The results revealed stark gender disparities in how public spaces are experienced. The survey found that 82% of women and 42% of men reported feeling fairly or very unsafe when walking alone in a park or open space after dark.¹² Feelings of vulnerability extended beyond parks:
 - 50% of women stated they felt unsafe even on a quiet street near their own home.
 - 48% of women expressed unease while using public transport.
 - 45% of women reported feeling unsafe in busy public areas, such as shopping districts or town centres.¹³
14. Street harassment is not an issue confined to foreign jurisdictions but it is also a reality in Mauritius, where many citizens, particularly women and vulnerable groups report feeling unsafe in public spaces. Despite its prevalence, street harassment is not expressly criminalised under the Mauritian Criminal Code. The absence of a clear legal definition

¹⁰ Dr. D. Maitra, Dr. K. Allen, Dr. M. Hermolle, Dr. O. Adisa, “*Sexual Harassment in Public Spaces: Communicating Harms and Challenging Perpetration*” (University of Suffolk, January 2023). Crimestoppers-REPORT.pdf p. 16-18

¹¹ *Ibid.*

¹² “*Understanding street harassment*” Understanding street harassment | Neighbourhood Watch Network

¹³ *Ibid.*

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and corresponding sanctions creates a significant gap in the country’s legal framework, leaving victims with limited avenues for protection or redress.

15. Recognising this loophole, the Law Reform Commission has undertaken efforts to address the matter. In response to growing public concern, the Commission has deemed it essential to draft a Discussion Paper examining the introduction of specific provisions on street harassment within the Criminal Code. Such reforms would aim to align Mauritius with international best practices, ensure greater protection of human rights, and reinforce the principle that public spaces should be safe and accessible for all members of society, free from intimidation, discrimination, and abuse.

PART I: IDENTIFICATION OF ISSUES ASSOCIATED WITH STREET HARASSMENT

16. The cumulative impact of repeated comments, gestures, and behaviours associated with street harassment can have serious psychological and social consequences for those targeted. Individuals who are subjected to such harassment often experience heightened levels of anxiety, stress, and hypervigilance, leaving them in a constant state of being “*on edge*.”¹⁴
17. This sense of vulnerability extends beyond immediate discomfort. For many, it results in a restriction of daily activities and freedom of movement. Victims may avoid leaving their homes, attending work, or going to school out of fear of encountering further harassment. Such avoidance not only limits access to opportunities and community life but also reinforces patterns of social exclusion and inequality.¹⁵
18. Survey data further illustrates this impact: 37% of women and 24% of men reported that they had stopped walking in quiet places, such as parks or open spaces, after dark because they felt unsafe. These figures demonstrate how harassment, even when not physically violent, undermines a person’s fundamental right to occupy and enjoy public spaces without fear.¹⁶
19. In response to the persistent threat of street harassment, many individuals feel compelled to alter their daily routines and modes of transport. A common strategy involves relying on private transportation options, such as ride-hailing apps or taxis, instead of more affordable alternatives like walking or using public transport. While these choices may

¹⁴ E. Dolan, “*Women’s experiences of stranger harassment linked to PTSD symptoms through shame, self-blame, and fear*” (21 May 2020). https://www.psytopost.org/womens-experiences-of-stranger-harassment-linked-to-ptsd-symptoms-through-shame-self-blame-and-fear/?utm_source

¹⁵ *Ibid.*

¹⁶ Fielding-Miller, R. et al. “*Association between sexual violence and depression is mediated by street harassment among female university students in Eswatini*” (2024). https://pmc.ncbi.nlm.nih.gov/articles/PMC11406860/?utm_source

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provide a greater sense of safety, they impose an additional financial burden, disproportionately affecting those with limited resources.¹⁷

20. For individuals unable to afford private transportation, the consequences are even more restrictive. Fear of harassment often dictates when, where, and how they are able to move about in public. This can result in avoiding night-time travel, bypassing certain neighbourhoods, or declining opportunities that require commuting. Over time, such limitations undermine equal access to employment, education, and social participation, reinforcing systemic inequalities.¹⁸
21. In this way, street harassment is not only a matter of personal safety but also a broader issue of economic justice and social mobility, as it creates tangible barriers to full participation in public and professional life. Street harassment has consequences that extend far beyond the individual; it undermines the cohesion and wellbeing of entire communities. By fostering an atmosphere of fear, intimidation, and distrust, it discourages people from fully engaging in public life.¹⁹
22. When individuals anticipate harassment, they are less likely to interact freely with strangers, participate in neighbourhood or civic activities, or make use of shared public spaces such as parks, markets, and transport facilities. This withdrawal erodes social trust and community bonds, leading to environments that feel fragmented and unsafe. Over time, the chilling effect of harassment reduces opportunities for collective participation, inclusivity, and mutual support, weakening the very fabric of community life. Street harassment is not only a violation of personal dignity but also a barrier to building safe, vibrant, and connected societies where all individuals can participate equally and without fear.²⁰

¹⁷ DelGreco, M. & Christensen, J. “*Effects of Street Harassment on Anxiety, Depression, and Sleep Quality of College Women*” (2019).

¹⁸ Herrera, J. et al. “*Street Harassment Interpretations: An Exploration of the Emotional Consequences among Women*” (2022). https://pmc.ncbi.nlm.nih.gov/articles/PMC9900418/?utm_source

¹⁹ *ibid.*

²⁰ “*Understanding street harassment*” <https://www.ourwatch.org.uk/streetharassment/understanding>

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23. Moreover, street harassment does not affect all groups equally. It disproportionately targets members of historically marginalised communities, compounding existing inequalities. Women and girls, transgender, gender non-conforming, non-binary, and intersex (TGNCNBI) individuals, lesbian, gay, bisexual, and queer (LGBQ) individuals, as well as Black, Latino, Asian, Muslim, and disabled individuals, are more frequently subjected to such harassment. For these groups, the experience is not only a matter of personal violation but also a reinforcement of systemic discrimination, deepening barriers to equality and inclusion. It operates as both a personal harm and a structural injustice, undermining the principles of safety, dignity, and equal access to public life.²¹

²¹ “*End street harassment*” (A New York City Resource Guide, 2023). End Street Harassment: A New York City Resource Guide p. 4-5.

PART II: CURRENT LEGAL FRAMEWORK IN MAURITIUS

24. In Mauritius, street harassment is not criminalised. Therefore, if someone is publicly harassed or stalked, the offender may not be punished. Instead, the Criminal Code caters for the offence of ‘*Indecent act in public*’ under section 248, and which provides as follows: -

“Any person who commits any grossly indecent act in public (outrage public à la pudeur) shall be liable to imprisonment for a term not exceeding 2 years and to a fine not exceeding 10,000 rupees.”

25. In *Police v C Kisten*,²² the accused was charged with the offence of “*Indecent act in public*”, for having wilfully and unlawfully committed a grossly indecent act in public, in 2020; by lowering his shorts and showing his private part to one lady, where both of them were on a public road. Upon hearing both the complainant’s and the accused’s version, the Magistrate held that the Prosecution was able to prove its case beyond reasonable doubt and found the accused to be guilty.

26. The notion behind an indecent act has been explained in the case of *Appanah v The State*²³ as follows: “ *Il importe donc peu que l’acte n’ait pas un caractère lubrique ou même ne soit pas intrinsèquement immoral : il suffit que, considéré objectivement, il soit impudique ou obscène*”.²⁴

27. The current provision on indecent act in public under the Mauritian Criminal Code falls short of adequately addressing the problem of street harassment. Judicial interpretation of this provision, as reflected in case laws above, demonstrates that the law is primarily applied to acts deemed grossly indecent; for instance, public exposure or overtly obscene behaviour.

²² *Police v C Kisten* [2025 SAV 112].

²³ *Appanah v The State* [2010 SCJ 73].

²⁴ Dalloz Pénal « *Attentat aux mœurs* » Tome I Note 13.

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28. Section 254 of the Mauritian Criminal Code, under the heading “Sexual Harassment”, is a provision that was designed to address a very specific and circumscribed form of abuse - namely, that which arises from an imbalance of power or authority. Its opening words - “by abuse of the authority conferred upon him by his functions” - already delimit its scope to situations where the offender occupies a position of institutional, professional, or hierarchical superiority over the victim. The offence, as it stands, thus presupposes an employment-like or institutional relationship: a superior and a subordinate, a teacher and a student, a guardian and a ward. It targets acts of coercion or intimidation undertaken in order to obtain favours of a sexual nature, that is, it penalises the instrumentalisation of power for sexual gain.
29. Street harassment, by contrast, belongs to an entirely different legal and social category. It does not emanate from an abuse of office, but rather from an abuse of presence—the misuse of public space to assert dominance, humiliation, or control over others. The typical perpetrator of street harassment is not an employer, manager, or public officer acting under colour of authority, but a passer-by, a commuter, or any individual who, often with complete anonymity, imposes upon another person unwanted remarks, gestures, or behaviours of a sexual or sexist connotation. The victim is not coerced to provide a sexual favour; rather, their dignity and security are violated through unsolicited conduct that demeans, intimidates, or objectifies them.
30. Legally, section 254’s requirement that the act be committed “by means of orders, threats or constraints” and “in order to obtain favours of a sexual nature” creates a *mens rea* and *actus reus* incompatible with the phenomenon of street harassment. The *mens rea* in street harassment is not that of obtaining a sexual favour, but rather that of dominating, humiliating, or intimidating. The *actus reus* consists of the very imposition of unwanted sexual or sexist communication, which may occur through words, gestures, following, whistling, or suggestive staring - none of which are covered under section 254’s coercive paradigm. The victim of street harassment is not being extorted or manipulated into sexual submission, but is instead being violated in their right to move freely and exist with dignity in public spaces.

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31. Moreover, section 254 is entirely silent on public space. Its architecture is built around professional or institutional dynamics, not street-level interactions. The legislature’s focus, when enacting section 254, was to address the phenomenon of quid pro quo harassment—sexual advances linked to authority, employment, or services. Street harassment, however, falls within the broader realm of gender-based violence (GBV), understood as acts “directed against a person on the basis of gender, which cause or are likely to cause physical, sexual, or psychological harm or suffering.” It is a form of everyday violence that targets, in particular, women and gender-diverse persons, and perpetuates the social subordination of those who are made to feel unsafe or degraded in shared spaces.
32. Mauritian law, however, remains anchored in the traditional notion that harassment presupposes a relation of power or dependence. To transpose the protective rationale of section 254 to public life, the law must evolve to address the horizontal dimension of harassment - the violence of strangers, the coercion of social norms, the everyday degradation of women and vulnerable persons in shared spaces.
33. Thus, section 254 does not and cannot address street harassment because it was drafted for a different harm, context, and logic. It punishes the corruption of authority, not the corruption of civility. A new provision such as the proposed section 254A is therefore indispensable to ensure that the dignity of every individual is protected beyond the walls of institutions, in the streets, on public transport, and in all spaces where equality and safety must prevail.
34. This narrow scope leaves significant gaps when it comes to dealing with more common forms of harassment, such as stalking, persistent whistling, unsolicited sexual remarks, or intrusive comments directed at individuals in public spaces. These behaviours, while harmful and intimidating, do not always meet the threshold of indecency required for prosecution under existing law.

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35. Finally, the offence of street harassment, as envisaged under the proposed Section 254A, is fundamentally distinct from the existing offence of insult (*injure*) under Section 296 of the Mauritian Criminal Code, both in nature, purpose, and moral gravity. While insult concerns the use of abusive or contemptuous language intended to offend, street harassment addresses a broader and more harmful pattern of sexualised or sexist behaviour that violates human dignity and creates an intimidating environment. The distinction lies not merely in the words used, but in the social meaning, context, and psychological impact of the act.
36. Under Section 296, an insult (*injure*) is defined as any injurious expression, term of contempt, or abusive language addressed to a person, with the intention to hurt or offend. It does not imply a factual allegation (which would fall under defamation), but an act of verbal aggression—such as calling someone “a pest” or “a fool.” Its harm lies in the affront to personal honour or reputation. The offence is linguistic and individualised: it consists in a verbal exchange - an emotional or rhetorical wound - rather than a broader social act of intimidation. Even when made in public, an insult remains an interpersonal offence of honour, akin to the Roman concept of *injuria*.
37. Street harassment, by contrast, operates on a different register of harm. It encompasses words, gestures, behaviours, or non-verbal communications of a sexual or sexist nature that go beyond personal insult to objectify, humiliate, or intimidate the victim in a public or publicly accessible space. It is not the subjective offensiveness of the words that matters, but their objective impact on the victim’s dignity and freedom of movement. Whereas the *injure* targets the individual’s self-esteem, street harassment violates the public dimension of dignity, transforming shared spaces into zones of domination and fear. The focus is not on the intention to offend, but on whether a reasonable person in the victim’s position would perceive the conduct as degrading, humiliating, or intimidating.
38. Furthermore, street harassment has a gendered and social dimension absent from the *injure*. It reflects patterns of gender-based violence, disproportionately affecting women

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and sexual minorities, and often motivated by power dynamics or social bias. It may involve silence, proximity, gestures, or non-verbal cues - acts that would escape the ambit of Section 296 because they are not “expressions” in the strict linguistic sense. The injure punishes words; street harassment punishes conduct, verbal or otherwise, that converts public space into a theatre of humiliation.

39. From a penological perspective, Section 296 classifies insult as a minor offence, punishable by fines, whereas the proposed Section 254A elevates street harassment to a *délit*, recognising its deeper social and psychological harm. Where insult defends the individual’s reputation, street harassment defends the right to dignity and security in public life. In short, insult wounds the ego; street harassment wounds the person. The latter is not a matter of courtesy or civility, but of human rights, marking the transition from the morality of manners to the ethics of equality.
40. The absence of an explicit provision criminalising street harassment therefore leaves a legal vacuum. Existing offences, such as “insult” (Section 296), “indecent act in public” (Section 248) or “assault” (Section 230), fail to capture the continuum of sexist behaviours that, taken individually, may appear minor, but collectively reproduce a culture of intimidation and gender inequality. The law, as it stands, recognises the dignity of the person in private and professional settings, but leaves that dignity unprotected in public space, where humiliation and intimidation are most visible and normalised.
41. Comparatively, the French *Code pénal*, through Article R.625-8-3, has expressly recognised this gap and criminalised the act of “imposing on a person any remark or behaviour with a sexual or sexist connotation that either undermines their dignity by reason of its degrading or humiliating nature, or creates an intimidating, hostile, or offensive situation.” France thereby acknowledges that harassment is not limited to the workplace or authority-based settings, but extends to public interactions that degrade human dignity.

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42. As a result, victims are left without sufficient legal protection and are often discouraged from reporting incidents, knowing that the law does not fully recognise their experiences. Meanwhile, perpetrators benefit from this loophole, continuing their conduct with little fear of accountability. This legal inadequacy not only enables recidivism but also fosters a climate of fear, pushing many, especially women and vulnerable groups, to restrict their public activities and movement, accordingly undermining their right to safely access and participate in community life. Therefore, reform of the Criminal Code to incorporate explicit provisions on street harassment is imperative.

PART III: OVERVIEW OF LAWS CRIMINALISING STREET HARASSMENT IN OTHER COUNTRIES

i. FRANCE

43. In France, street harassment may fall within the scope of criminal liability under the French Penal Code. Specifically, Book VI, Title II, Chapter V, Section 4, addresses « *De l’outrage sexiste et sexuel* » and provides as follows:

« Est puni de l’amende prévue pour les contraventions de la 5e classe le fait, hors les cas prévus aux articles 222-13, 222-32, 222-33, 222-33-1-1, 222-33-2-2 et 222-33-2-3, d’imposer à une personne tout propos ou comportement à connotation sexuelle ou sexiste qui soit porte atteinte à sa dignité en raison de son caractère dégradant ou humiliant, soit créé à son encontre une situation intimidante, hostile ou offensante.

Les personnes coupables de la contravention prévue au présent article encourrent également les peines complémentaires suivantes :

1° La peine de stage prévue aux 1°, 4°, 5° ou 7° de l’article 131-5-1 ;

2° Un travail d’intérêt général pour une durée de vingt à cent vingt heures²⁵ ».

44. Therefore, from the aforementioned paragraph, it is unlawful to subject a person to any remark or behaviour of a sexual or sexist nature that either undermines their dignity because of its degrading or humiliating nature, or creates an intimidating, hostile or offensive environment for them, and which is a Class 5 offence; being the most serious type of offence, punishable with a fine of up to € 1,500. The latter amount may be increased to € 3,000 in the event of recidivism, where the regulations so provide, except in cases where the law provides that a repeat offence constitutes a criminal offence.

²⁵ Code Pénal français, Liv VI, Tit II, Ch. V, S. 4, art. R625-8-3.

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45. Furthermore, additional penalties may be imposed upon those found guilty of subjecting another person to any such remark or behaviour of a sexual or sexist nature. Where an offence is punishable by imprisonment, the court may, instead of or in addition to imprisonment, order the convicted person to complete, for a period not exceeding one month, a training course, the nature, terms and content of which shall be specified by the court, taking into account the nature of the offence and the circumstances in which it was committed as well as community service for a period of twenty to one hundred and twenty hours.
46. The following courses are offered: the citizenship course, aimed at teaching the values of the Republic and the duties of citizenship;²⁶ the training course on accountability in the prevention and combating of domestic and gender-based violence;²⁷ the awareness training course on combating the purchase of sexual acts²⁸ and the training course on combating sexism and raising awareness of gender equality.²⁹
47. Nevertheless, there are certain aggravating circumstances where penalties are more severe, such as: violence resulting in incapacity for work of less than or equal to eight days, or resulting in no incapacity for work, is punishable by three years’ imprisonment and a fine of € 45,000 when committed upon a list of such individuals or institutions as mentioned under article 222-13 of the French Penal Code.³⁰
48. Sexual exhibitionism imposed on others in a place accessible to public view is punishable by one year’s imprisonment and a fine of € 15,000. Even in the absence of exposure of a naked part of the body, sexual exhibitionism is constituted if the explicit commission of a sexual act, real or simulated, is imposed on the view of others in a place accessible to public view.³¹ When the acts are committed to the detriment of a minor under the age of fifteen, the penalties are increased to two years’ imprisonment and a fine of € 30,000.

²⁶ Code Pénal français, Liv I^{er}, Tit III, Ch. I^{er}, S. 1, ss. 2, art. 131-5-1, 1^o.

²⁷ Code Pénal français, Liv I^{er}, Tit III, Ch. I^{er}, S. 1, ss. 2, art. 131-5-1, 4^o.

²⁸ Code Pénal français, Liv I^{er}, Tit III, Ch. I^{er}, S. 1, ss. 2, art. 131-5-1, 5^o.

²⁹ Code Pénal français, Liv I^{er}, Tit III, Ch. I^{er}, S. 1, ss. 2, art. 131-5-1, 7^o.

³⁰ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 2, art. 222-13.

³¹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-32.

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49. Furthermore, sexual harassment is the act of repeatedly subjecting a person to comments or behaviour of a sexual or sexist nature that either undermine their dignity due to their degrading or humiliating nature, or create an intimidating, hostile or offensive environment for them.³² The offence is also constituted:
- When such comments or behaviour are imposed on the same victim by several persons, in a conspiratorial manner or at the instigation of one of them, even if each of these persons has not acted repeatedly;³³ and
 - When such comments or behaviour are imposed on the same victim, successively, by several persons who, even in the absence of collusion, know that such comments or behaviour constitute repetition.³⁴
50. The act of using any form of serious pressure, even if not repeated, with the real or apparent aim of obtaining an act of a sexual nature, whether for the benefit of the perpetrator or a third party, is considered sexual harassment.³⁵ The acts as aforementioned in the previous paragraph, are punishable by two years’ imprisonment and a fine of € 30,000.³⁶
51. These penalties are increased to three years’ imprisonment and a fine of € 45,000 when the acts are committed:
- By a person who abuses the authority conferred upon them by their position;
 - Against a minor under the age of fifteen;³⁷

³² Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, I.

³³ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, I, 1^o.

³⁴ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, I, 2^o.

³⁵ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, II.

³⁶ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III.

³⁷ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 1^o.

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- Against a person whose particular vulnerability, due to their age, illness, infirmity, physical or mental disability or pregnancy, is apparent or known to the perpetrator;³⁸
 - Against a person whose particular vulnerability or dependence resulting from their precarious economic or social situation is apparent or known to the perpetrator;³⁹
 - By several persons acting as perpetrators or accomplices;⁴⁰
 - Through the use of an online public communication service or via a digital or electronic medium;⁴¹
 - While a minor was present and witnessed the act;⁴²
 - By an ascendant or any other person having legal or de facto authority over the victim.⁴³
52. Additionally, a fine of € 3,750 shall be imposed on any person who makes any remark or engages in any behaviour of a sexual or sexist nature that either undermines their dignity due to its degrading or humiliating nature, or creates an intimidating, hostile or offensive environment for them, when this act is committed:⁴⁴
- By a person who abuses the authority conferred on them by their position;⁴⁵
 - Against a minor;⁴⁶
 - Against a person whose particular vulnerability due to their age, illness, infirmity, physical or mental disability or pregnancy is apparent or known to the perpetrator;⁴⁷
 - Against a person whose particular vulnerability or dependence resulting from their precarious economic or social situation is apparent or known to the perpetrator;⁴⁸
 - By several persons acting as perpetrators or accomplices;⁴⁹

³⁸ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 2°.

³⁹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 3°.

⁴⁰ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 4°.

⁴¹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 5°.

⁴² Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 6°.

⁴³ Code Pénal français, Liv II, Tit. II, Ch. II, s. 1, para. 4, art. 222-33, III, 7°.

⁴⁴ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I.

⁴⁵ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 1°.

⁴⁶ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 2°.

⁴⁷ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 3°.

⁴⁸ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 4°.

⁴⁹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 5°.

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- In a vehicle used for public passenger transport or private public transport or in a place intended for access to public passenger transport;⁵⁰
 - Because of the victim’s real or supposed sexual orientation or gender identity;⁵¹
 - By a person already convicted of the offence of sexist and sexual abuse and who commits the same offence as a repeat offender⁵² under the conditions provided for in the second paragraph of Article 132-11.⁵³
53. Harassing a person through repeated comments or behaviour intended to or resulting in a deterioration of their living conditions, leading to an impairment of their physical or mental health, is punishable by one year’s imprisonment and a fine of € 15,000 where such acts have caused total incapacity for work for a period of eight days or less, or have not resulted in any incapacity for work.⁵⁴
54. The offence is also constituted:
- When such remarks or behaviour are imposed on the same victim by several persons, in a concerted manner or at the instigation of one of them, even if each of these persons has not acted repeatedly;⁵⁵
 - When such remarks or behaviour are imposed on the same victim, successively, by several persons who, even in the absence of concerted action, know that such remarks or behaviour constitute repetition.⁵⁶
55. The aforementioned acts are punishable by two years’ imprisonment and a fine of € 30,000:

⁵⁰ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 6°.

⁵¹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 7°.

⁵² Code Pénal français, Liv II, Tit. II, Ch. II, s. 4, art. 222-33-1-1, I, 8°.

⁵³ D’après le Code Pénal français, Liv II, Tit. III, art. 132-11, alinéa 2, « *Dans les cas où la loi prévoit que la récidive d’une contravention de la 5e classe constitue un délit, la récidive est constituée si les faits sont commis dans le délai de trois ans à compter de l’expiration ou de la prescription de la précédente peine.* »

⁵⁴ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2.

⁵⁵ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, a).

⁵⁶ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, b).

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- When they have caused total incapacity for work for more than eight days;⁵⁷
- When they have been committed against a minor;⁵⁸
- When they have been committed against a person whose particular vulnerability, due to their age, illness, infirmity, physical or mental disability or pregnancy, is apparent or known to the perpetrator;⁵⁹
- When they were committed using an online public communication service or via a digital or electronic medium;⁶⁰
- When they were committed against the holder of an elected office;⁶¹
- When a minor was present and witnessed the act.⁶²

56. The acts referred to in paragraph 44 are punishable by three years’ imprisonment and a fine of € 45,000 when committed in two of the six circumstances referred to above.⁶³
57. The French Criminal Code also criminalises bullying as it constitutes harassment when it is defined in the first four paragraphs of Article 222-33-2-2 and is committed against a pupil by any person studying or working at the same educational establishment.⁶⁴ Bullying is punishable by three years’ imprisonment and a fine of € 45,000 when it has caused total incapacity for work for eight days or less or has not resulted in any incapacity for work.⁶⁵
58. The penalties are increased to five years’ imprisonment and a fine of € 75,000 when the acts have caused total incapacity for work for more than eight days.⁶⁶ The penalties are increased to ten years’ imprisonment and a fine of € 150,000 when the acts have led the victim to commit suicide or attempt suicide.⁶⁷ This article also applies when the acts

⁵⁷ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 1°.

⁵⁸ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 2°.

⁵⁹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 3°.

⁶⁰ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 4°.

⁶¹ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 4° bis.

⁶² Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, 5°.

⁶³ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-2, *alinéa* 6.

⁶⁴ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-3, *alinéa* 1.

⁶⁵ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-3, *alinéa* 2.

⁶⁶ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-3, *alinéa* 3.

⁶⁷ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-3, *alinéa* 4.

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mentioned in the first paragraph of this article continue to be committed even though the perpetrator or victim is no longer studying or working at the institution.⁶⁸

ii. UNITED KINGDOM

59. The Protection from Sex-based Harassment in Public Act 2023 received the Royal Assent on 18 September 2023 and was enacted in order to make provision about causing intentional harassment, alarm or distress to a person in public where the behaviour is done because of that person’s sex.
60. The aforementioned Act would amend the Public Order Act 1986 (*‘The Act’*), such that a new section 4B, entitled *‘Intentional harassment, alarm or distress on account of sex’* would be inserted after section 4A. Nonetheless, secondary legislation is yet to be amended and therefore the provisions of the Act are not in force in the United Kingdom for the time being. Thus, the Protection from Sex-Based Harassment Act 2023 merely contains provisions that are prospective. Nonetheless, such provisions could be used as guidance to how ‘street harassment’ could potentially be criminalised in the United Kingdom.
61. Principally, section 4A of the Act⁶⁹ makes it an offence, if with the intention of causing a person harassment, alarm or distress, he uses threatening, abusive, or insulting words or behaviour, or disorderly behaviour, or displays any writing, sign or other visible representation which is threatening, abusive or insulting, thereby causing that or another person harassment, alarm or distress.
62. As mentioned in section 1 of the Protection from Sex-based Harassment in Public Act 2023, section 4B of the Act would prospectively criminalise the act a person (A) of intentionally harassing, alarming or distressing on account of sex, if A commits the

⁶⁸ Code Pénal français, Liv II, Tit. II, Ch. II, s. 5, art. 222-33-2-3, *alinéa 5*.

⁶⁹ Public Order Act 1986 (United Kingdom), Pt. I, s. 4A.

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offence as depicted in the aforementioned paragraph, and carried out such conduct because of the relevant person’s⁷⁰ sex or presumed⁷¹ sex.

63. A person who would be found guilty of an offence under the prospective section 4B of the Act, would be liable, on summary conviction, to imprisonment for a term not exceeding 1 year,⁷² or a fine or both;⁷³ on conviction on indictment for a term not exceeding 2 years or a fine or both.⁷⁴

iii. PORTUGAL

64. Street harassment is considered a crime under article 170^o of the Portuguese Criminal Code. The relevant article deals with ‘Sexual Harassment’, was amended to include ‘Verbal Sexual Abuse’ and which states the following: -

“Whoever harasses another person by performing acts of an exhibitionist nature in their presence, making sexually-themed proposals, or coercing them into sexual contact, shall be punished with imprisonment of up to 1 year or with a fine of up to 120 euros, unless a more serious penalty applies under another legal provision.”⁷⁵

65. Portugal’s Social Democratic Party has criminalised verbal sexual abuse, introducing penalties of up to one year in prison or fines of up to € 120. While these provisions are not limited to street harassment, they extend to situations such as being followed or verbally abused in public spaces. The Portuguese legislation goes further, however, by

⁷⁰ According to section 1 of the Protection from Sex-based Harassment in Public Act 2023, the prospective section 4B (2) of the Public Order Act 1986, “*the relevant person*” ought to be defined as ‘*the person to whom A intended to cause harassment, alarm or distress.*’

⁷¹ According to section 1 of the Protection from Sex-based Harassment in Public Act 2023, the prospective section 4B (2) of the Public Order Act 1986, “*presumed*” ought to be defined as ‘*presumed by A.*’

⁷² According to the Criminal Justice Act 2003 (United Kingdom), Pt. 12, Ch. 1, s. 154 (1), ‘*A magistrates’ court does not have power to impose imprisonment for more than 12 months in respect of any one offence.*’

⁷³ Public Order Act 1986, prospective section 4B (4)(a).

⁷⁴ Public Order Act 1986, prospective section 4B (4)(b).

⁷⁵ Criminal Code 1999 (Portugal), art. 170^o.

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explicitly addressing verbal harassment and unwanted advances, including the specific offence of “formulating proposals of a sexual nature.”⁷⁶

66. In Porto, Portugal’s second-largest city, many women report experiencing harassment on the streets. Examples of comments directed at women by strangers in the street include the following: -

- “Come for a ride with us”, said one young woman.
- “You’re hot! You can’t imagine what I could do to you”.
- “Come here! You’re hot! Join me!” complained another.⁷⁷

67. An expert in Criminal Law, Professor André Lamas Leite, was asked how could verbal abuse be proved and therefore, the new law enforced.

“We will have to prove, in order to get a conviction with this crime, that, firstly, the victim was affected by that offer proposal. Secondly, that there was a proposal with sexual content. If someone says that a woman is pretty or makes a compliment about any part of the body of that woman, that is not formulation of a proposal with sexual content,” said Professor André Lamas Leite.⁷⁸

68. The Table below displays the total number of complaints regarding street harassment received by the *Associação Portuguesa de Apoio à Vítima* (APAV)⁷⁹ for the years 2016

⁷⁶ L. Bates, “Portugal has made street harassment a crime – why hasn’t the UK?” (25 February 2016) <https://www.theguardian.com/lifeandstyle/womens-blog/2016/feb/25/portugal-has-made-street-harassment-a-why-hasnt-the-uk>

⁷⁷ ‘Sexual harassment on the streets of Portugal’ (Euronews, 29.07.2016) <https://www.euronews.com/my-europe/2016/07/29/sexual-harassment-on-the-streets-of-portugal>

⁷⁸ *Ibid.*

⁷⁹ ‘APAV’ is a non-profit organisation that aims to contribute to the information, protection, and support of citizens who are victims of criminal offences. Every year it produces a report showing the numbers of received complaints by type of crime team, by type of victim, and by type of offender.

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to 2020.⁸⁰ Although it depicts a mere approximation of street harassment’s annual occurrences, it is clear that street harassment has a substantial presence in Portugal.⁸¹

Table 1: Street harassment’s complaints received by the *Associação Portuguesa de Apoio à Vítima* (APAV) from 2016 – 2020.

YEAR	COMPLAINTS (N)	COMPLAINTS (%)
2016	53	11.2
2017	81	13
2018	126	14.8
2019	161	10.2
2020	81	10.2

iv. SPAIN

69. In Spain, nearly eight out of ten women aged 15 to 25 in Barcelona, Madrid, and Seville had experienced street harassment.⁸² In terms of the current legal framework, on 25 August 2022 the Spanish Parliament approved a law designed to comprehensively safeguard sexual freedom.
70. The new legislation, *Ley Orgánica 10/2022, de 6 de septiembre, de garantía integral de la libertad sexual*, on the comprehensive guarantee of sexual freedom and commonly referred to as the “Only Yes Means Yes” law, is presented as a landmark achievement of the feminist movement. The law’s stated purpose is to comply with international obligations arising from the Istanbul Convention and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW),⁸³ accordingly safeguarding women’s human right to live free from sexual violence.

⁸⁰ With the exception of 2019, year to which there are no available data for street harassment.

⁸¹ B. Ribeiro, “*Will Boys Always Be Boys? The Criminalization of Street Harassment in Portugal*” (Faculty of Social Sciences and Humanities, Nova University of Lisbon, Lisbon, Portugal, May 2024).

⁸² ‘*Safer Cities for Girls study*’ (Plan International, 2021) p. 4.

⁸³ Ratified by Spain in 2014, the Council of Europe Convention on preventing and combating violence against women and domestic violence, widely known as Istanbul Convention, recalling CEDAW among other

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71. Article 173 of the Spanish Criminal Code states the following: -

“Whoever inflicts a degrading treatment on another person, seriously damaging his moral integrity, shall be punished with a sentence of imprisonment of six months to two years.

The same punishment shall be imposed on those who, within the setting of any labour relation or the civil service, availing themselves of their superior status, repeatedly perpetrate hostile or humiliating acts against another that, while not reaching the status of degrading treatment, amount to serious harassment of the victim.

The same punishment shall also be imposed on those who repeatedly perpetrate hostile or humiliating acts that, while not reaching the statement of degrading treatment, are aimed at preventing lawful enjoyment of a dwelling.”⁸⁴

72. The Spanish legislation broadens the scope of criminalisation of sexual harassment, which was previously limited to contexts such as employment, education, or service provision; as aforementioned. Following the amendment by LO 10/2022, sexually motivated conduct or behaviour no longer needs to occur within a defined relationship or setting; it may take place in any public space, such as the street, or in a private space, and still constitute a criminal offence.

international legal documents on human rights, asserts “women and girls are often exposed to serious forms of violence such as domestic violence, sexual harassment, rape, forced marriage (...) which constitute a serious violation of the human rights of women and girls” (preamble).

⁸⁴ Criminal Code (Spain) art. 173 (1).

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PART IV : RECOMMENDATIONS

73. Upon carefully analysing how ‘*street harassment*’ is criminalised in other jurisdictions, the Law Reform Commission has deemed it necessary that the Mauritian Criminal Code be reformed such that new provisions concerning the former are introduced.

Insertion of a new Section 254A

74. Therefore, the Commission proposes that a new section 254A be inserted into the Criminal Code, immediately after section 254, dealing with “Sexual harassment”, such that the new section would be entitled “*Public and street harassment*” and which could be drafted as follows: -

“(1) *Any person who, in a public place or in any place open to the public, imposes on another person any remark or behaviour with a sexual or sexist connotation which either –*

- (a) undermines the dignity of that person by reason of its degrading or humiliating nature; or*
- (b) creates an intimidating, hostile or offensive situation for that person,*

shall commit an offence.

(2) *For the purposes of subsection (1), “remark or behaviour” includes but is not limited to –*

- (a) words, gestures, noises, or any other form of verbal or non-verbal communication of a sexual or sexist nature;*
- (b) actions that involve following, obstructing, or making unwanted advances toward a person in a public space;*

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- (c) *displaying or sending messages, images, or signals of a sexual or sexist character directed at a person in such circumstances.*
- (2A) *For the purposes of subsection (1) –*
- (a) *“public place” includes any road, street, lane, alley, footpath, square, park, garden, beach, public transport facility, or any other place to which the public has access, whether conditionally or otherwise;*
- (b) *“place open to the public” includes -*
- (i) *any building, premises, or enclosure used for commercial, educational, cultural, recreational, or religious purposes, to which members of the public are permitted access, whether on payment or otherwise, such as gyms, shopping malls, restaurants, workplaces open to customers, hotels, and entertainment venues;*
- (ii) *any place accessible through digital or electronic communication platforms, including publicly accessible online forums, chatrooms, or social networks, where a person may be targeted by remarks or behaviour of a sexual or sexist connotation; and*
- (iii) *any vehicle, aircraft, or vessel used for the transport of passengers, whether public or private.*
- (3) *A person who commits the offence under subsection (1) shall, on conviction, be liable to imprisonment for a term not exceeding one year and a fine not exceeding 100,000 rupees.*
- (4) *The Court may, having regard to the circumstances of the offence and the character of the offender, order that the offender perform community service in lieu of or in addition to any other sentence imposed under subsection (3).*
- (5) *It shall not be a defence to a charge under this section that the accused did not intend to offend or intimidate the victim, where a reasonable person in the victim’s*

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position would have perceived the conduct as degrading, humiliating, intimidating, hostile, or offensive.

- (6) *The penalty provided under subsection (3) shall be increased to imprisonment for a term not exceeding two years and a fine not exceeding 200,000 rupees where the offence is committed in any of the following aggravating circumstances –*
- (a) *where the victim is a minor;*
 - (b) *where the offence is committed against a person whose particular vulnerability, due to age, illness, infirmity, physical or mental disability, or pregnancy, is apparent or known to the offender;*
 - (c) *where the offence is committed against a person whose vulnerability or dependency resulting from economic or social precarity is apparent or known to the offender;*
 - (d) *where the offence is committed by several persons acting as principal offenders or accomplices;*
 - (e) *where the offence is committed in a vehicle used for public or collective transport of passengers, or in any place intended for access to such transport; or*
 - (f) *where the offence is committed on account of the victim’s real or supposed sexual orientation or gender identity.”*

Origins and comparative inspiration

75. The proposed Section 254A of the Mauritian Criminal Code draws inspiration from contemporary European legislative developments, particularly the French offence of “*outrage sexiste*”, introduced by Law No. 2018-703 of 3 August 2018, which strengthened the fight against sexual and sexist violence. This reform, born from the recognition that traditional criminal categories (such as assault or public insult) were

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inadequate to capture the reality of *harcèlement de rue*, or street harassment, provides a compelling model for Mauritius.⁸⁵

76. Section 254A transposes this rationale into the Mauritian legal system, tailoring it to the local socio-legal context. The provision criminalises the act of imposing upon another person any remark or behaviour of a sexual or sexist connotation that either (a) undermines the person’s dignity by reason of its degrading or humiliating nature, or (b) creates an intimidating, hostile, or offensive situation. This dual criterion - degradation of dignity or creation of intimidation - reflects the French model while extending its protective reach. The offence covers both verbal and non-verbal manifestations: words, gestures, noises, following, blocking passage, or transmitting sexualised images or messages in public places. The scope of the Section expressly includes streets, parks, public transport, and all areas accessible to the public, thereby addressing a gap left by Section 254 of the current Code, which applies only to hierarchical or professional relationships involving abuse of authority.

Recognition of public and street harassment as gender-based violence

77. In conceptual terms, the new section acknowledges that street harassment constitutes a form of gender-based violence (GBV) - a continuum of behaviour that objectifies and intimidates individuals, particularly women and gender-diverse persons. It reframes these acts not as mere incivilities but as offences against human dignity, aligning with international norms such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) and the Istanbul Convention, both of which urge States to combat sexist violence in all spheres of life. The French experience demonstrates that even minor acts of verbal aggression can cumulatively engender trauma, anxiety, and a sense of exclusion from public life. By recognising this harm, Section 254A places Mauritius among the jurisdictions that refuse to trivialise humiliation in the public sphere.

⁸⁵ In France, the *outrage sexiste* aims to sanction behaviour that expresses contempt or domination in public spaces - whistles, obscene gestures, remarks on physical appearance, or unwanted sexualised advances - acts that, while not rising to the level of assault, nonetheless constitute violations of dignity and freedom of movement.

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78. From a procedural and punitive standpoint, Section 254A proposes a graduated sanction, imprisonment for up to one year and a fine not exceeding 100,000 rupees, with the possibility of community service in lieu of or in addition to punishment. This balance between retribution and rehabilitation is intended to deter offenders while fostering civic education and accountability. The inclusion of community service, for example, may allow offenders to participate in programmes promoting gender equality or anti-violence awareness, transforming punishment into a tool of social reintegration.

Scope of application: from physical to digital public spaces

79. Subsection (2A) reflects the functional reality of modern harassment, which occurs not only in traditional streets but also in quasi-public or hybrid spaces - shopping centres, cafés, and privately-owned workplaces open to clientele. It mirrors the interpretive approach taken by courts in the United Kingdom, where “public place” extends to any area “to which the public has access, whether as of right or by permission.” The clause expressly covers online public forums and social media platforms, recognising that street harassment’s social harm can be replicated in virtual public spaces. By doing so, the provision anticipates the convergence between physical and digital environments, preventing interpretive lacunae.

80. Notably, the provision adopts an objective standard of perception: it shall not be a defence that the offender did not intend to offend or intimidate the victim if a reasonable person in the victim’s position would have perceived the conduct as degrading or humiliating. This clause reflects a modern victim-centred approach consistent with human rights jurisprudence, acknowledging that the harm lies not in the perpetrator’s intention but in the victim’s experience of violation. It also provides clarity to enforcement authorities and the judiciary by establishing a clear evidentiary threshold.

Protection of vulnerable groups and aggravating circumstances

81. Moreover, the new subsection reflects the aggravating factors recognised under French law (*Code pénal*, art. 222-33-1-1, I, 2^o–7^o) and modern European practice, reinforcing protection for the most vulnerable groups and for situations that heighten the gravity or public danger of the offence. The proposed scaling of penalties recognises that harassment against minors, pregnant persons, individuals with disabilities, or persons targeted because of their sexual orientation or gender identity, inflicts deeper psychological harm and aggravates the moral culpability of the offender. Likewise, acts committed by multiple perpetrators or within public transport systems warrant heightened sanctions, given their impact on collective security and the public’s sense of safety.
82. The decision to double the penalty uniformly for all aggravating factors rests on a philosophy of moral equality and legal clarity. Each aggravating circumstance - whether the victim is a minor, a pregnant person, someone with a visible disability, in a situation of economic precarity, or targeted for their sexual orientation or gender identity - intensifies the same underlying harm: the violation of human dignity. Though the contexts differ, they share an equivalent moral gravity, for all transform harassment into a deeper act of domination and humiliation. Treating them uniformly therefore avoids creating a hierarchy of suffering or vulnerability. It expresses the principle that every form of aggravated harassment strikes at the same legal and ethical core - the right of all persons to move freely and safely in public without fear or degradation.⁸⁶

⁸⁶ From a practical standpoint, a uniform aggravation scheme ensures judicial predictability and deterrent force while remaining simple to administer. Complex penalty gradations, as found in some continental systems, tend to fragment enforcement and obscure the message of censure. By contrast, the Mauritian approach speaks with one clear voice: where harassment exploits vulnerability, collective strength, or bias, society responds with doubled severity. The measure thus harmonises with existing Mauritian penal drafting practice and upholds the constitutional value of equal dignity, ensuring that the protection of the vulnerable is both principled and intelligible to all.

A preventive and educational legal philosophy

83. The Commission’s proposal situates itself within a broader legislative philosophy of prevention, deterrence, and education. Like the French *outrage sexiste*, which carries an immediate fine and allows for on-the-spot sanctions, the Mauritian model seeks to render the law visible and enforceable in everyday life. However, by classifying street harassment as a *délit* rather than a contravention, Mauritius underscores the moral gravity and social unacceptability of such behaviour.⁸⁷ The law’s ambition is thus twofold: to protect individuals against degrading public conduct, and to reshape collective norms so that respect, equality, and civility become the shared language of public interaction.

Reaffirming dignity in public life

84. The proposed introduction of section 254A expressly allows public and street harassment to be addressed in all places open to the public, irrespective of whether such spaces are open-air, enclosed, or privately owned. By defining the offence by reference to public accessibility rather than physical configuration or ownership, the new provision encompasses conduct occurring in environments such as gyms and fitness centres, where individuals are entitled to pursue health and wellbeing activities without being subjected to intrusive, sexualised, or intimidating behaviour. The new framework thus ensures that protection of dignity extends to all publicly accessible spaces forming part of ordinary social and recreational life.

85. In essence, the proposed Section 254A embodies a cultural and legal re-education of public space. It affirms that liberty and equality do not end at one’s doorstep, they must

⁸⁷ The classification of street harassment as a *délit*, rather than a mere contravention, is justified both by its moral gravity and its social consequences. Unlike minor infractions that disturb public order, street harassment constitutes a direct affront to human dignity and a form of gender-based violence, capable of causing serious and lasting psychological harm, including anxiety, trauma, and social withdrawal. Its effects are not fleeting but structural—they restrict freedom of movement and participation in public life, especially for women and vulnerable groups. In the Mauritian context, where the absence of an administrative fine system limits the deterrent effect of minor sanctions, imprisonment remains the most effective means of expressing collective condemnation and ensuring meaningful accountability. Elevating the offence to a *délit* also symbolically aligns the Criminal Code with international human rights standards, affirming that public humiliation and intimidation are not mere incivilities but violations of equality and personal security, deserving the full moral weight of criminal law.

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extend to the streets, buses, and sidewalks that constitute the common stage of social life. By legislating on street harassment, Mauritius not only closes a legal lacuna but also reaffirms its commitment to the principle that public space belongs to all - free from intimidation, prejudice, and fear.

The issue of proof

86. The evidentiary challenge in establishing street harassment lies in the fleeting and often unrecorded nature of the conduct, which may occur in public or online spaces without witnesses. Yet, this difficulty is inherent in all offences involving verbal or behavioural harm. The proposed section 254A addresses it by adopting an objective test - whether a reasonable person in the victim’s position would perceive the act as degrading or intimidating - thus avoiding reliance on subjective interpretation. Proof may derive from contextual elements such as CCTV footage, witness accounts, or digital traces. Experience from other jurisdictions, including France, demonstrates that even modest enforcement exerts a strong preventive effect, as the very existence of the law signals social intolerance toward such behaviour and strengthens victims’ confidence to report it.

Absence of reiteration requirement

87. The provision intentionally refrains from requiring repetition, recognising that street harassment - unlike workplace harassment - most often manifests as a single intrusive act rather than a pattern of conduct. A solitary incident, such as a sexualised remark, gesture, or act of following, can in itself violate dignity and create intimidation. Conditioning liability on repetition would deny legal protection in the most common and damaging scenarios. The legislative focus is therefore rightly placed on the impact of the act rather than its frequency: a single gesture can destroy a sense of safety as surely as persistent abuse.⁸⁸

⁸⁸ Comparative practice confirms this approach; the French *outrage sexiste* and Spanish *acoso en la vía pública* both treat a single act as sufficient when it objectively expresses humiliation or domination.

Flirtation and social interaction

88. The new section preserves the freedom to express attraction or courtesy so long as it is mutual and respectful. The offence concerns not communication but imposition - words, gestures, or behaviours that degrade or intimidate, depriving the other person of choice. The decisive element is the absence of consent and reciprocity: a compliment offered with respect and received as such is legitimate, whereas persistence after refusal or obscene expression is not. The law thus draws a clear boundary between seduction and intimidation, between the freedom to engage and the abuse of another’s liberty.⁸⁹

Breadth and clarity of terms

89. Although the law employs open-ended terms - “degrading,” “humiliating,” “offensive” - these are standardised international concepts used in the EU, Council of Europe, and UN definitions of harassment. Mauritian courts already apply similar language in offences concerning “insulting behaviour” and “indecent acts,” guided by the reasonable person test. Such elasticity is not a weakness but a safeguard, enabling judges to adapt the law to social context and evolving norms of civility while excluding moralistic excess. The provision’s breadth ensures that dignity remains protected across the shifting boundaries of public and digital space without transforming the law into an instrument of prudery.

Sensitisation and public education: ensuring effective enforcement and cultural change

90. The successful implementation of section 254A will depend not only on its enactment but equally on a broad process of sensitisation directed at both the police force and the general public. The law must be accompanied by a cultural shift, ensuring that those responsible for its enforcement understand its rationale and limits, and that citizens recognise the distinction between acceptable social interaction and conduct amounting to

⁸⁹ As the French legislator aptly stated, “*Il ne s’agit pas d’interdire la séduction, mais l’intimidation.*” Section 254A therefore does not chill sociability; it restores to it the moral conditions of equality and respect.

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harassment. Police officers must be trained to identify the subtle manifestations of street harassment - verbal, non-verbal, or digital - while treating victims with empathy and professionalism, so that complaints are neither minimised nor dismissed as trivial. Simultaneously, public awareness campaigns, particularly in schools, workplaces, and on social media, should promote the message that public space belongs equally to all and that respect is the condition of co-existence.⁹⁰

Balance between protection and liberty

91. Section 254A represents a measured equilibrium between individual freedom and collective security. It does not moralise or censor desire, it civilises its expression. By protecting the right of every person to exist in public without intimidation, it strengthens rather than limits personal liberty. The provision reaffirms that freedom of expression and freedom of movement are reciprocal and co-exist only under mutual respect. It converts the unwritten ethics of civility into a legal guarantee of dignity, establishing that the right to approach another person ends where the right to be left in peace begins.

⁹⁰ The purpose of such sensitization is not to instill fear of punishment, but to foster a culture of civility, mutual respect, and shared responsibility, where the dignity and freedom of movement of every individual are recognised as integral to the collective security of society.

CONCLUSION

92. In its 2012 UN Gender Country Profile for the Republic of Mauritius, the United Nations highlighted a critical legislative and social gap concerning the protection of women and girls from street harassment.⁹¹ While existing Mauritian legislation criminalises sexual harassment in workplaces, educational settings, and service-provision contexts, the Report underscores that no legal provision currently addresses harassment occurring in public spaces. Drawing on empirical research, the Profile notes that street harassment (verbal, gestural, and physical) remains deeply rooted in cultural norms and patriarchal attitudes, with perpetrators spanning all social groups, including, worryingly, some law-enforcement officials. This phenomenon significantly restricts women’s and girls’ freedom of movement, sense of security, bodily autonomy, and equal participation in public life, often compelling them to alter their behaviour, routes, and opportunities out of fear. The psychological consequences, including humiliation, anxiety, and emotional distress, are substantial, and the unchecked frequency of such conduct risks normalising systemic gender-based violence. The UN Report further references France’s subsequent legislative model, the *Loi Schiappa*, as a potential inspiration, illustrating how targeted public-space harassment laws can both deter misconduct and foster cultural change. Importantly, the Office of the Director of Public Prosecutions in Mauritius has also recognised this lacuna and called for legal reform. Against this backdrop, the introduction of a specific offence criminalising street harassment in Mauritius appears not only justified but indispensable to safeguarding dignity, gender equality, and the full citizenship of women and girls in public spaces.
93. Following a comparative analysis of the treatment of street harassment in a range of European jurisdictions, the Law Reform Commission has reached the reasoned conclusion that the Mauritian legal framework, in its present form, remains manifestly inadequate to address this evolving social harm. The comparative inquiry - encompassing jurisdictions such as France, Spain, Portugal, and the United Kingdom - reveals a clear and deliberate legislative trend towards the explicit criminalisation of verbal, non-verbal,

⁹¹ *Vide* page 48 of the Report.

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and physical manifestations of harassment in public spaces. These legal systems have moved beyond general prohibitions of indecency or assault, recognising instead the specificity and gravity of street harassment as an affront to human dignity, equality, and personal security.⁹²

94. The introduction of a dedicated offence of street harassment would thus fill a conspicuous void in Mauritian law. A specific legislative framework provides clarity and precision, capturing conduct that has long thrived in the shadow of ambiguity-behaviour that has too often been minimised or excused as trivial. By defining and proscribing acts such as unsolicited comments, gestures, following, and intimidation, the law would directly confront the patterns of public abuse disproportionately suffered by women, persons of colour, and members of the LGBTQ+ community. The explicit recognition of such acts as criminal offences does more than offer protection: it confers symbolic legitimacy upon victims’ experiences, assuring them that their grievances are neither private burdens nor social exaggerations, but matters of public concern. A legal category properly constructed signals that the State acknowledges the injury done, thereby emboldening victims to report incidents and affirming that their dignity is not negotiable.
95. Beyond its protective dimension, legislation on street harassment serves a transformative and pedagogical function. The normalisation of everyday humiliation, the shrugging-off of lewd comments, and the indulgent tolerance of harassment as “banter” or “flirtation” have perpetuated a culture of silent endurance. This culture must now be disrupted by the normative power of the law. The evidence is unequivocal: street harassment is not a passing inconvenience but a source of enduring harm. It compels individuals - most often women - to alter their daily routines, to avoid particular streets, neighbourhoods, or public transports, and to curtail their social, professional, and recreational lives. It installs, within the ordinary fabric of life, a geography of fear. In its more pernicious forms, it constitutes the prelude to graver offences-physical assault, sexual aggression, and, in

⁹² Such reforms are founded on the acknowledgment that the cumulative effect of persistent, unsolicited sexualised or sexist conduct extends far beyond discomfort: it undermines the very notion of freedom of movement and erodes the sense of belonging within the public sphere.

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extreme cases, homicide. To legislate against street harassment is therefore not to moralise behaviour but to reclaim public space as a domain of equal citizenship.

96. By codifying street harassment as a distinct and autonomous offence, the law would operate on two complementary levels: as a protective mechanism for the individual and as a normative pronouncement by the State. It would articulate, in juridical terms, that degrading or intimidating behaviour in public spaces is incompatible with the constitutional values of respect, equality, and freedom.⁹³
97. In light of the foregoing considerations, and following its comparative and doctrinal analysis, the Law Reform Commission proposes the insertion of a new section 254A into the Mauritian Criminal Code, immediately after section 254 which currently addresses sexual harassment. The new provision, to be entitled “Street and Public Harassment”, would establish a clearly defined statutory offence capturing conduct of a sexual or sexist connotation occurring in public or publicly accessible spaces. Under the proposed formulation, any person who, by words, gestures, noises, or any other form of verbal or non-verbal communication, imposes upon another person behaviour that either undermines their dignity through its degrading or humiliating nature, or creates an intimidating, hostile, or offensive situation, would be guilty of the offence of street harassment. The definition is deliberately broad and inclusive, encompassing acts such as following, obstructing, making unwanted advances, or transmitting sexualised messages or images in public settings. The proposed penalties - imprisonment not exceeding one year and a fine up to 100,000 rupees, with the possibility of community service as an alternative or complementary sanction - reflect a balanced approach between deterrence and rehabilitation.⁹⁴

⁹³ Law, in this context, performs its most civilising function- it draws the moral boundaries of coexistence. Such a reform would thus constitute not merely a penal innovation but a reaffirmation of a social contract: that one’s presence in public life must never come at the cost of another’s dignity or safety.

⁹⁴ Crucially, the draft provision stipulates that the absence of intent to offend shall not constitute a defence where a reasonable person in the victim’s position would have perceived the conduct as degrading or intimidating. By introducing section 254A, the Commission thus seeks to provide a coherent and enforceable legal instrument that directly addresses the social reality of street harassment, affirming the right of every individual to dignity and security in public life.

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98. Ultimately, the new provision must be understood as an attempt to draw a civil boundary between legitimate personal expression and the abuse of public freedom. It does not moralise desire, it civilises its expression. The offence of street harassment is thus not a rejection of flirtation or sociability but a legal reassertion of the principle of consent in public life. It proclaims that human contact - verbal, gestural, or digital - remains free so long as it is mutual, respectful, and non-coercive, but once it crosses into degradation or intimidation, it ceases to be communication and becomes violence.
99. This reform would ensure that Mauritius aligns itself with international best practices and honours its obligations under international human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Universal Declaration of Human Rights, and the Sustainable Development Goals, which commit States to ensuring safe and inclusive public environments. By closing the existing normative gap, the law would reaffirm the right of every individual to occupy public space free from harassment, intimidation, or fear, while ensuring that perpetrators are held accountable through proportionate sanctions and rehabilitative measures such as community service. In doing so, Mauritius would not merely criminalise an offence. It would affirm a principle: that liberty, equality, and dignity extend beyond the private sphere into the shared spaces where civic life unfolds.