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Catcalling - A Social Problem in Need of a Legal Solution?

Criminalisation of Street Harassment from a Comparative European Perspective

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ABSTRACT

In this master thesis I will analyse the existing problems of the phenomenon of catcalling and its possible criminalisation from a legal and gender perspective. For this purpose, I will first describe the impact of street harassment in general and elaborate the problem of the lack of a uniform definition, which makes it difficult to capture the social problem of street harassment exactly and to analyse its damage fully.

My aim is then to show that most forms of street harassment are already regulated by existing criminal offences in the criminal laws of various European countries, which leaves only the phenomenon of catcalling open for a discussion about a possible criminalisation.

In this context, I will then look at already existing regulations regarding catcalling in different European countries in order to then address the question whether regulating catcalling in criminal law is an effective solution to the problem. Especially existing constitutional principles and possible practical hurdles have to be considered.

In the end, it can be stated that catcalling as a social problem does not bring with it the conditions for criminalisation in the light of recognized constitutional principles. A decisive role in this context is played by the function of criminal law and the principles of legal certainty, ultima ratio and proportionality.

This result, of course, concerns only the question of criminalisation, but leaving open other possibilities of regulation as an administrative offense or within the framework of civil law that need to be further investigated.

Keywords: catcalling, street harassment, public stranger harassment, criminalisation, gender

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I. INTRODUCTION

Sometimes it is just a ‘hey beautiful’, sometimes it is a ‘I will rape you, bitch’, sometimes an intensive staring, but it can also be a following home, pushing against the wall, touching certain body parts or even severe violence leading to rape. This kind of harassment that occurs in all forms in the public space is a problem many people experience a lot of times in their lives from a young age on already and which can lead to profound consequences.¹ Nevertheless, it is almost impossible for victims to avoid it or to do anything against it since it is recognised as a social phenomenon that is just mainly accepted in our society. Naturally, voices are therefore being raised among the population, which demand a solution in the form of some kind of regulation or even a criminal response to the problem. Campaigns in the last years like the video “10 Hours of Walking in NYC as a Women”², a petition for criminal liability in Germany³, or the documentary “Femme de la Rue”⁴ in Belgium⁴ tried to raise awareness to street harassment and started a great discussion of how to react to an obviously existing problem.

Countries like Belgium, Portugal and most recently also Spain responded to that kind of activism and the demand for a legal solution with the creation of criminal statues regulating the problem of street harassment. France also took on street harassment, but has opted for a different solution outside the criminal law. In contrast, countries such as Germany take a rather critical view on the criminalisation and regulation of street harassment and seem to consider a possible legal loophole in certain areas of social coexistence to be acceptable.⁵

Based on the different approaches in different European countries to deal with the problem, I would like to show in my master thesis the legal possibilities that exist to address the problem of street harassment and especially catcalling as a specific form of street harassment.

¹ Stop Street Harassment, ‘Unsafe and Harassed In Public Spaces: A National Street Harassment Report’ (Report 2014), 5-6.

² Hermsmeier, ‘Der ganz normale Sexismus in den USA - Video “10 Hours of Walking in NYC as a Women” ‘ (Der Tagesspiegel, 3 November 2014)
<<https://www.tagesspiegel.de/gesellschaft/panorama/video-10-hours-of-walking-in-nyc-as-a-woman-der-ganz-normale-sexismus-in-den-usa/10921316.html>> accessed 14 June 2022.

³ Bredow, (2020) ‘Initiative gegen “Catcalling“ - Sexuelle Belästigung geht nicht erst bei Körperkontakt los’ (Spiegel Panorama, 24 September 2020)
<<https://www.spiegel.de/panorama/gesellschaft/catcalling-petition-fordert-verbale-sexuelle-belaestigung-unter-strafe-zu-stellen-a-862bebe2-b22f-4a3b-9996-8c335dd23a76>> accessed 14 June 2022.

⁴ Volokh, E. ‘Belgium bans a wide range of sexist speech’ (The Washington Post, 21 March 2014)
<<https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/21/belgium-bans-a-wide-range-of-sexist-speech/>> accessed 30 May 2022.

⁵ Windsberger, A., ‘Strafbare Pfiffe?’ (Legal Tribune Online, 20 February 2021)
<<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

First of all, however, I will begin by describing the effects of street harassment, the difficulty of finding a uniform definition and the problems that come along with this.

In order to use criminal law as a solution, it is of course necessary to look at existing norms, which might already cover the problem of street harassment, in order to see which behaviour is really left in the end in the discussion about a possible criminalisation. I will address this in my second chapter by looking at existing criminal law provisions in different countries of the European Union.

In addition, in this chapter I will also look at how countries that have decided to cover street harassment in law have designed their regulations.

In order to then devote myself to the debate of the question whether criminalisation of at least some forms of street harassment is a good way to address the problem, I rely on fundamental constitutional principles that must be observed when creating a new criminal offence. Thereby, I am referring only to those principles that could possibly be violated here in the context of criminalisation. In addition, I discuss possible practical obstacles to the criminalisation of street harassment and in particular catcalling and briefly outline the purpose of criminal law in principle in this context to then come to a final conclusion.

II. THE PHENOMENON OF STREET HARASSMENT

1. Social Impact on Women

Street harassment is a social phenomenon with an impact on women's daily lives that should not be underestimated. It is not only happening very frequently, but can also have severe consequences for the emotional and physical health of the victim. The peculiarity of street harassment is its broad appearance: Almost all women⁶ experience it at some point in their lives and a lot of them more than once.⁷ In addition, it is a global problem affecting women all over the world and of every race, religion and sexual orientation.⁸ According to the Canadian Violence Against Women Survey, 85% of the more than 12.000 women participating stated that they experienced street harassment at some moment in their lives.⁹ A survey by ActionAid on street harassment in 2016 in a number of different countries shows that 79% of women living in India, 86% in Thailand, 89% in Brazil and 75% of women in London have been subjected to harassment or violence in public.¹⁰ A study from 2019 from the USA found that 81% of women and 43% of men experienced some form of sexual harassment and/or assault in their lifetime.¹¹ And also in Europe the problem of street harassment is very present: 85% of 818 women in Poland, and 99% of 500 women in Croatia stated that they experienced street harassment in some form, 100% of 600 women in France shared that they faced sexual harassment on the transit system and in the Netherlands 59% of 1000 women affirmed that they have been victims of some form of harassment on the streets.¹² The numbers themselves already show that street harassment is a problem that cannot be ignored since it affects so many women. But the effects of street harassment are not only far-reaching, but also include serious

⁶ Of course street harassment is not a phenomenon only experienced by women, but for better readability I refer to women in my thesis, as they make up the majority of the victims.

⁷ Kearn, 'Street harassment of women: It's a bigger problem than you think' (2011) *The Christian Science monitor* 1983, 1

⁸ Joseph, 'Gender-Based Street Harassment - An International Perspective' (2017) *Interpersonal Criminology - Revisiting Interpersonal Crimes and Victimization*, 4; Sweeny, 'Trapped in Public: The Regulation of Street Harassment and Cyber-Harassment Under the Captive Audience Doctrine' (2017), *17 Nev L.J.* 651, 652.

⁹ Fisher, Lindner and Ferguson, 'The Effects of Exposure to Catcalling on Women's State Self-Objectification and Body Image' (2019) *38 Current Psychology* 1495, 1496; Johnson and Sacco, 'Researching violence against women: Statistics Canada's national survey (1995), *Canadian Journal of Criminology*, 37, 281-304.

¹⁰ 'Statistics - The Prevalence of Street Harassment' (Stop Street Harassment) <<https://stopstreetharassment.org/resources/statistics/statistics-academic-studies/>> accessed 6 June 2022.

¹¹ 'National Studies' (Stop Street Harassment) <<https://stopstreetharassment.org/our-work/nationalstudy/>> accessed 6 June 2022.

¹² 'Statistics - The Prevalence of Street Harassment' (Stop Street Harassment) <<https://stopstreetharassment.org/resources/statistics/statistics-academic-studies/>> accessed 6 June 2022.

health consequences. Street harassment can cause plenty of psychological effects on women like poor body image, symptoms of anxiety and depression, lower levels of perceived safety and an increased fear of rape.¹³

By commenting women with “nice tits” or “nice ass”, women are only seen in terms of and reduced to their sexual parts.¹⁴ Street harassment contains this kind of sexual objectification of women whereby they are treated as objects, random strangers can look at, touch and comment on while rejecting by this behaviour their self-identification as human individuals.¹⁵ This behavior leads to higher chances of women also starting to self objectify themselves by only seeing themselves as sex objects which causes them body shame and is also correlated to depression and disordered eating.¹⁶

In addition, street harassment leads to a feeling of intrusion of privacy for a lot of women by men telling them for example to smile and stopping therefore the proceeding of processing and experience their own emotions in that moment.¹⁷ With men feeling free to comment on women’s bodies, making gestures or even follow and touch them at any time they are on the street, women’s right to privacy is not recognized there, but invaded by men.¹⁸

At the same time street harassment causes an increasing fear of rape.¹⁹ This fear is also not unsubstantiated, since street harassment is often used as a method by men to test how the victim

¹³ McCarty, Iannone and Kelly, ‘Stranger Danger: The Role of Perpetrator and Context in Moderating Reactions to Sexual Harassment’ (2014), *18 Sexuality & Culture*, 739, 741; Fisher, Lindner and Ferguson, ‘The’ Effects of Exposure to Catcalling on Women’s State Self- Objectification and Body Image’ (2019), *38 Current Psychology* 1495, 1496.

¹⁴ Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 150.

¹⁵ Fairchild and Rudman, ‘Everyday Stranger Harassment and Women’s Objectification’ (2008), *Soc Just Res* 21 (3), 338, 342; Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 150.

¹⁶ Fairchild and Rudman, ‘Everyday Stranger Harassment and Women’s Objectification’ (2008), *Soc Just Res* 21 (3) 338, 343.

¹⁷ Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 143.

¹⁸ Ibid., 144.

¹⁹ Grant Bowman, ‘Street Harassment and the Informal Ghettoization of Women’ (1993), *106 Harvard Law Review*, No.3, 517, 535.

responds, to pick on that basis their rape victims, a technique which is known as “rape-testing”.²⁰ Street harassment can therefore lead to worse behavior than just harassment with even more severe consequences for the victims like rape. Even if that is not the case, it can be a trigger for women that have been victims of sexual assault and rape and remind them of their past experiences.²¹ And also without these experiences, it causes women to constantly be reminded of their vulnerability, which makes them fear the possibility of rape.²² Because men normally do not face the same fear of rape as woman, since they are just not as often victims of it, they also experience street harassment in a very different way. It does not go along with the same serious and realistic fear women suffer, since men do not need to be constantly aware of possible violent consequences whereas women must consider every encounter with men as possible violent and dangerous for them.²³

The increased fear of rape that goes along with street harassment leads to women changing their normal behavior, which includes switching the routes they take home or to work, taking different transportation, and avoiding going out after certain hours or in certain geographic locations.²⁴ Women’s movement and their physical and geographical mobility is therefore indirectly restricted by the effects of street harassment.²⁵ It also leads women to rather not appear alone in public spaces.²⁶ With street harassment, men find themselves in the position of setting the boundaries for women’s participation in the streets and demonstrate their domination over them.²⁷ This is a more serious consequence than it seems in the first place since it affects women in their most fundamental

²⁰ Ibid., 336; Tran, ‘Combating Gender Privilege and Recognizing a Women’s Right to Privacy in Public Spaces: Arguments to Criminalize Catcalling and Creepshots’ (2015), *26 Hastings Women’s Law Journal* 2, 184, 188; Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 141.

²¹ Tran, ‘Combating Gender Privilege and Recognizing a Women’s Right to Privacy in Public Spaces: Arguments to Criminalize Catcalling and Creepshots’ (2015), *26 Hastings Women’s Law Journal* 2, 184, 188.

²² Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 141; Kissling and Kramarae, ‘Stranger Compliments: The Interpretation of Street Remarks (1991), *14 Women’s Stud. In Comm.* 75, 84 -85.

²³ Grant Bowman, ‘Street Harassment and the Informal Ghettoization of Women’ (1993), *106 Harvard Law Review, No.3*, 517, 554; Vera-Gray, ‘Men’s stranger intrusions: Rethinking Street Harassment’ (2016), *Women’s Studies International Forum* 58, 9, 14.

²⁴ Fisher, Lindner and Ferguson, ‘The Effects of Exposure to Catcalling on Women’s State Self-Objectification and Body Image’ (2019) *38 Current Psychology* 1495, 1496; Fairchild and Rudman, ‘Everyday Stranger Harassment and Women’s Objectification’ (2008), *Soc Just Res* 2008, 338, 349.

²⁵ Grant Bowman, ‘Street Harassment and the Informal Ghettoization of Women’ (1993), *106 Harvard Law Review, No.3*, 517, 520.

²⁶ Ibid.

²⁷ Deirdre, ‘The Harm That Has No Name: Street Harassment, Embodiment and African American Women’ (1994), *4 UCLA Women’s LJ* 133, 141.

right of liberty, which includes the freedom of individuals to freely choose where they want to go to in public and is strongly connected to equal participation in public life.²⁸ On this level, the consequences of street harassment also have a political element. It is harder for women to participate and be political active in public life if they do not feel safe there and cannot freely move around at any time of the day and in every area the same way men can, since this is a prerequisite for participation in public issues.²⁹ As a consequence women find themselves more often in the private sphere of their home.³⁰

Street harassment, even in its less severe forms of making objectifying comments, is problematic since it is used to keep up the group-based hierarchy of the patriarchal social system that can be found in almost all countries, ensuring that women maintain in lower-power position than men.³¹ Street harassment can therefore also be seen as a tool of social control and domination used systematically by men against women to keep their position of power through actual or implied violence.³² It emphasizes the already existing distribution of power since it perpetuates male supremacy and the subordination of females and therefore keeps up the gender hierarchy.³³ Since a characteristic of street harassment is that it happens in public places, women are likely to observe it happening to other women, which also affects them negatively.³⁴ Women that witness street harassment develop more negative emotions towards men in general and are more likely to experience a shift in their thinking from perceiving themselves as unique individuals to thinking about them as members of a big social group and therefore receiving males street harassment behavior as a threat against them as a group, which can strengthen their fear of violence by men in general.³⁵

²⁸ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review*, No.3, 517, 520-521.

²⁹ *Ibid.*, 521.

³⁰ *Ibid.*, 520.

³¹ Chaudoir, and Quinn, 'Bystander Sexism in the Intergroup Context: The Impact of Cat-calls on Women's Reactions Towards Men' (2010), *62 Sex Roles* 9, 623, 623.

³² Vera-Gray, 'Men's stranger intrusions: Rethinking Street Harassment' (2016), *Women's Studies International Forum* 58, 9, 14; Deirdre, 'The Harm That Has No Name: Street Harassment, Embodiment and African American Women' (1994), *4 UCLA Women's LJ* 133, 140.

³³ *Ibid.*, 142.

³⁴ Chaudoir, and Quinn, 'Bystander Sexism in the Intergroup Context: The Impact of Cat-calls on Women's Reactions Towards Men' (2010), *62 Sex Roles* 9, 623, 625.

³⁵ *Ibid.*, 632.

For homosexual women there is also an additional negative effect on them. Street harassment forces them in the position of being an object of male desire while they are not interested at all in being that and it can be seen as leading to the denial of their sexual identity.³⁶ In addition to that, lesbian women who appear by their look to fulfill the stereotype of a homosexual woman have to face a lot of times even more hostility and aggressiveness in the comments and actions they receive, including sexual comments that are linked to silencing lesbians and gay men.³⁷ The sexualised comments against lesbians therefore often come along with violence against homosexuals.³⁸ Street harassment may thus be even more likely to be accompanied by violence for homosexual women, leading to more fear on the streets.

Of course there are women that receive comments that include some form of sexual objectification in a positive way and take it as a compliment, since a lot of women grow up in a social and cultural context that values beauty and attractiveness in women as something important for them to become successful in life.³⁹ Women are therefore trained to take that form of behaviour as a compliment.⁴⁰ But even in this case, the sexualization that women experience in such situation of sexual street harassment is only a false form of empowerment since it is still linked to negative body image and disordered eating, which means that it might be taken as something positive but the long term effects are still negative.⁴¹

All this effects taken together show that not only a great number of people is affected by street harassment, but that it also potentially causes emotional and/or physical harm, restricts women's liberty and their public participation. It is a specific behavior predominantly applied by men to

³⁶ Tran, 'Combatting Gender Privilege and Recognizing a Women's Right to Privacy in Public Spaces: Arguments to Criminalize Catcalling and Creepshots' (2015), *26 Hastings Women's Law Journal* 2, 184, 187.

³⁷ Heben, 'A Radical Reshaping of the Law: Interpreting and Remediating Street Harassment' (1994), *4 S Cal Rev L & Women's Stud* 1, 183, 193.

³⁸ Ibid.

³⁹ Fisher, Lindner and Ferguson, 'The Effects of Exposure to Catcalling on Women's State Self-Objectification and Body Image' (2019), *38 Current Psychology* 1495, 1496.

⁴⁰ Deirdre, 'The Harm That Has No Name: Street Harassment, Embodiment and African American Women' (1994), *4 UCLA Women's LJ* 133, 149.

⁴¹ Fisher, Lindner and Ferguson, 'The Effects of Exposure to Catcalling on Women's State Self-Objectification and Body Image' (2019), *38 Current Psychology* 1495, 1496.

objectify women and at least subconsciously used as a tool to attack women as a group to strengthen the male power position in an already existing hierarchal patriarchal system.

But of course this patriarchal system goes far beyond street harassment, which constitutes only a small part of it. The question is therefore how many of the consequences described above can be attributed to street harassment alone or whether the effects of street harassment are only complementary to other situations of male violence and oppression. That alone would not change the fact that it is a problem society needs to deal with and also might need to regulate legally, nevertheless it is important to differentiate between the behaviours that actually causes severe consequences and those which might need to be accepted because they do not reach the limit of criminal behaviour. In this context, it is first important to have a look at the exact definition of street harassment. Street harassment is a term which includes different kind of behaviour in different contexts, which makes it extremely difficult to decide about a possible criminalization.⁴² Not all behaviours that fall under street harassment are equally serious in their effects and would therefore justify criminal liability. Moreover, certain forms of street harassment may already be covered by existing criminal law. This problem regarding street harassment and its criminalization is also reflected in the numbers of victims mentioned above. Of course the numbers show the extremely frequent occurrence of street harassment, but it is not clear what kind of behaviour exactly is depicted by them and how many of the women affected are actually affected by serious forms of street harassment. Without a clear definition it is also very difficult to have exact statistics and to demonstrate the concrete consequences of every type of street harassment. The impact of street harassment on women based on the numbers above must therefore be considered with caution when deciding whether criminalisation is necessary. It cannot be the main deciding factor as it cannot be clearly attributed to the particular forms of street harassment.

Therefore, it is first important to define the term “street harassment” and to see which definition best reflects the phenomenon. In a second step, I will then work out which forms of street harassment are already legally regulated and covered by existing criminal law norms in European countries. Afterwards, it must be worked out which form of street harassment still remains in order to decide whether it should be criminalised.

⁴² Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018), *29 Hastings Women's Law Journal* 81, 82.

2. Legal Definition

There is neither a clear term used to describe the problem of women being harassed by stranger men in public nor a consistent definition.⁴³ Terms vary from ‘street harassment’, ‘public sexual harassment’ to ‘stranger harassment’ and many different definitions are used without having a universal one to resort to, which makes it difficult for the problem of street harassment to be regulated or to determine in practice when the requirements are met to establish a case.⁴⁴ A clear definition is not only necessary to decide about its criminalization, but also to name this form of behavior and to put emphasize on the problems it constitutes and the harm it causes.⁴⁵ Awareness can only be raised with a concrete termination, which would also make it possible to statistically record it. Nevertheless, every term and definition implicates a different focus, risking the inclusion or exclusion of specific behavior or certain groups as victims, with therefore varying consequences for a possible regulation.

An important characteristic of the behavior in question is that it is happening in public spaces in difference to sexual harassment at work for example.⁴⁶ The term ‘street harassment’ is generally to be understood as including more public spaces than just streets, but rather all public physical places, therefore a limitation of this term can be seen in the fact that it does not include online public spaces, which could be important to include since harassment, especially against women, becomes a more and more important problem in the online space too.⁴⁷

If we instead use the term sexual harassment, we face the problem that especially not all comments that are made to women in public by men are included, since some of them cannot be defined as directly sexual in nature or just get this denotation due to the accompanying conduct of the harasser, in this way the definition is therefore too narrow.⁴⁸ On the other hand, sexual harassment can also happen in other places and is not limited to public places. Sexual harassment is therefore at the same time too broad to capture the specific behavior here in question that should emphasize the daily experience of especially women in public spaces. The term ‘sexual harassment’ could also

⁴³ Vera-Gray, ‘Men’s stranger intrusions: Rethinking street harassment’ (2016), *Women’s Studies International Forum* 58, 9, 10.

⁴⁴ Arndt, ‘Street Harassment: The Need for Criminal Remedies’ (2018), *29 Hastings Women’s Law Journal* 81, 82.

⁴⁵ Vera-Gray, ‘Men’s stranger intrusions: Rethinking street harassment’ (2016), *Women’s Studies International Forum* 58, 9, 10.

⁴⁶ Ibid.

⁴⁷ Ibid., 11.

⁴⁸ Ibid.

imply that the hurdle of defining behavior as sexual has to be cleared, which gives the appearance that sexual harassment is something out of the ordinary and not just a regular expression of men's power.⁴⁹

The term stranger harassment has the advantage that it puts a specific focus on the fact that the perpetrator is normally not known by the victim.

A solution could therefore be to phrase the behavior, which is generally known as street harassment, in a legal context as public stranger harassment, to emphasize the characteristics of it happening in public, by perpetrators not being known by the victim without excluding online spaces.⁵⁰

Regarding the definition, the first difficulty lies in deciding exactly which conduct should be included. One form of street harassment, catcalling, is defined by Oxford Dictionaries as loud whistle or comment of a sexual nature made by a man to a passing woman.⁵¹ Catcalling is therefore a form of street harassment that is limited to verbal acts and does not go beyond that. Therefore touching a woman or following her is not included in the term catcalling. Since catcalling is a form of street harassment which is particularly common, it should be included in the general definition of public stranger harassment, but also acts that do not include the perpetrator speaking, like intense staring, following very closely or more severe acts like grabbing the victim. But the problem with a definition that includes a wide range of acts is that then all of them are put on the same level, which would mean that the same punishment is possible, ignoring the fact that those acts differ a lot in their intensity.⁵² Therefore it seems to be useful to integrate different gradations into the definition. Comments, gestures and noises could be the conduct that is included in the basic definition which is then complemented by aggravating circumstances, regulated in an additional paragraph of a possible statute that could include grabbing the victim and go along with a more severe penalty.

One possible definition, which is widely accepted, was established by Cynthia Bowman and she defines street harassment as the following behavior: *Street harassment occurs when one or more unfamiliar men accost one or more women in a public place, on one or more occasions, and intrude or attempt to intrude upon the woman's attention in a manner that is unwelcome to the woman, with language or action that is explicitly or implicitly sexual. Such language includes, but is not limited*

⁴⁹ Vera-Gray, 'Men's stranger intrusions: Rethinking street harassment' (2016), *Women's Studies International Forum* 58, 9, 11.

⁵⁰ Ibid.

⁵¹ Fisher, Linder and Ferguson, 'The Effects of Exposure to Catcalling on Women's State Self-Objectification and Body Image' (2017), *Curr Psychol* 38, 1495, 1495.

⁵² Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018), *29 Hastings Women's Law Journal* 81, 85.

*to, references to male or female genitalia or to female body parts or to sexual activities, solicitation of sex, or reference by word or action to the target of the harassment as the object of sexual desire, or similar words that by their very utterance inflict injury or naturally tend to provoke violent resentment, even if the woman did not herself react with violence.*⁵³

The problem here with this definition is that it directly refers to men and women and therefore does only take opposite sex interactions into account.⁵⁴ With focusing only on women as victims the definition ignores the fact that it is true that women are above average affected by street harassment, but also other minority groups like persons of color and members of LGBTQ are especially attacked by it and should therefore be included in the definition.⁵⁵ In addition, the principle of equality will be violated by expressively only including women in the definition.⁵⁶ On the other hand, with including all victims, the problem could be to lose the particularity of street harassment being a gender issue.

A solution for that could be to integrate into the definition that the behavior needs to be degrading or humiliating since that includes the power difference without directly using the term gender to include other minorities too and respect the principle of equality. Another possibility to phrase it could be that the conduct needs to intimidate a person based on gender, sexual orientation or race.

All in all, it is therefore important to rather refer to public stranger harassment in the definition than to street harassment to include online harassment as well. Catcalling in the sense of making noises, gestures or comments of a sexual nature could be the regulated behavior in a corresponding norm that addresses the problem, complemented by aggravating circumstances when more serious acts are involved. In addition, the behavior needs to be humiliating or degrading to emphasize the difference of power between the harasser and the victim without reducing it to a gender difference and therefore exclude other minorities.

As pointed out, it is necessary to differentiate between catcalling as the less severe form of public stranger harassment including only gestures and comments and public stranger harassment as all forms of harassment that happens in public places, also including physical contact and following a person. To decide about the necessity of criminalisation of catcalling and/or public stranger

⁵³ Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018), *29 Hastings Women's Law Journal* 81, 83; Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 524.

⁵⁴ Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018), *29 Hastings Women's Law Journal* 81, 83.

⁵⁵ Ibid.

⁵⁶ Ibid.

harassment, it is first essential to look at already existing legislation regarding the acts in question , in order to decide whether these acts are not already covered by them. I will therefore compare existing regulation from different European countries.

III. REGULATORY FRAMEWORK

1. Existing Regulation in the European Union

a. Sexual Assault or Sexual Harassment

In a lot of Countries general statues on sexual harassment or sexual assault can be found in the corresponding criminal codes, which might also cover public stranger harassment. A problem here is that a lot of those statues require some kind of body contact like for example in the German criminal law, § 184i StGB that states “whoever physically touches another person in a sexually determined manner and thereby harasses... [...]”. Another example is the Austrian criminal code with even stricter requirements in § 218 StGB that demands physical contact with sexual parts so that even touching a woman on the bottom would not be enough for a punishment under this article.⁵⁷ In Italy, there exist only a regulation against sexual violence in article 609 of the Penal Code, that again requires sexual acts with violence, threats or through the abuse of authority.⁵⁸ In the Spanish Criminal Code we can find the regulation of sexual aggression in Article 178 that also requires violence or intimidation.⁵⁹

All the statutes that exist regarding sexual assault or harassment cover therefore some forms of public stranger harassment, but they all require some kind of physical contact. Non-physical harassment like catcalling can therefore not be subsumed under the norms of sexual assault or sexual harassment.

b. Stalking

In addition, some specific forms of public stranger harassment could be covered by statutes regarding stalking that exist for example in Spain with Article 172 ter of the Spanish Criminal Code

⁵⁷ Kearn Holly, 'Stop Global Street Harassment: Growing Activism around the World' (2015),107.

⁵⁸ Article 609 bis Penal Code 1930 (Italy).

⁵⁹ Penal Code 1995 (Spain).

since a reform of its Criminal Code in 2015.⁶⁰ Men following women on their way home for example as another type of public stranger harassment, can be punished after article 172 ter paragraph 1 of the Spanish Criminal Code that regulates the harassment of another person by watching her, pursuing her or seeking her physical proximity.⁶¹ In the same year Spain criminalised the act of stalking, Portugal introduced a similar statute with article 154-A of the Criminal Code that regulates persecution.⁶² Due to article 154-A of the Portuguese Criminal Code a person can be punished by imprisonment for up to 3 years or a fine if he or she “repeatedly persecutes or harasses another person, by any means, directly or indirectly, in a manner that is likely to cause him/her fear or disquiet or jeopardize his/her freedom of determination”⁶³ without the need for an actual injury of the victim’s freedom or the requirement that the victim needs to be afraid, restless or inhibited in his or her freedom of determination, since it is enough if the act had the potential to cause these consequences.⁶⁴ In theory with this statute there exist a regulation that could also cover some forms of public stranger harassment. Nevertheless, it is important to notice that the here regulated behaviour needs to happen repeatedly, therefore it is not very probable that a lot of forms of public stranger harassment can actually be subsumed under the Portuguese criminal law statute. A similar regulation also exist in German law with § 238 of the Criminal Code although the hurdle here is also higher than in the Spanish statute since a repeated commission is required that affects the persons way of life not only insignificantly.⁶⁵ Therefore the act of following a women once would not qualify already as an act that can be punished under § 238 of the Criminal Code. In addition, just verbal acts are again not covered by those kind of statues. But we can see that at least more severe forms of public stranger harassment can be covered by stalking statutes in at least some countries.

c. Defamation Offenses and Hate Speech

⁶⁰ FH., ‘El nuevo delito de acoso ilegítimo o stalking (art. 172 ter CP)’ (Noticias Jurídicas, 1 April 2016) <<https://noticias.juridicas.com/actualidad/noticias/10989-el-nuevo-delito-de-acoso-ilegitimo-o-stalking-art-172-ter-cp/>> accessed 15 June 2022.

⁶¹ Article 172 ter Penal Code 1995 (Spain).

⁶² Nunes Ferreira, ‘The Neo-Criminalisation of Stalking in the Portuguese Legal System’ (2018), *58 Journal of Forensic and Legal Medicine*, 199, 199.

⁶³ UN Women, ‘Violence against Women (A/RES/73/148)’, Implementation of UN resolution - Portugal (2019).

⁶⁴ Nunes Ferreira, ‘The Neo-Criminalisation of Stalking in the Portuguese Legal System’ (2018), *58 Journal of Forensic and Legal Medicine*, 199, 200.

⁶⁵ § 283 Criminal Code (Germany).

Another option is therefore to look at those statutes that contain a regulation regarding hate speech or degrading comments that prohibit the use of abusive language, since they could also challenge public stranger harassment.⁶⁶ An example for defamation offenses can be found in the German criminal law with § 185 of the German Criminal Code that prohibits insults. The first important problem here is that the remarks must be clearly derogatory after German law, which is not the case if the comments just constitute a violation of shame but do not violate the personal honor of the person.⁶⁷ If the comments just constitute a massive form of imposed sexuality, they are not understood to fulfill this requirement.⁶⁸ It would be necessary to assign the person concerned the role of a sexual object and thus diminish his or her claim to social respect.⁶⁹ Public harassment in the form of catcalling is therefore only in exceptional cases punishable under the requirements of § 185 of the German Criminal Code.⁷⁰ Another problem is the intent requirement which will most times not be fulfilled in the case of comments of public harassment, since the intention of these are often to make a compliment.⁷¹ In practice a lot of men will state that they only wanted to compliment the woman or make some fun but never had the intent to humiliate or harm her or actually believe they just expressed themselves in a complimentary way, even if that does not change the nature of the comment to a compliment.⁷² The intent requirement will therefore be hardly fulfilled. And statutes challenging hate speech are not able to cover all forms of public harassment, since public harassment exist in verbal but also non-verbal forms. Similar statutes with the same problems regarding public stranger harassment also exist in other European countries like in Belgium in Article 448 of its Criminal Code, in Portugal in Article 181 of its Criminal Code or in Bulgaria in Article 146 in its Criminal Code. The same problems can be noticed with the French law that criminalises in its Article 621-1 Code pénal specifically sexist hate speech and is therefore at

⁶⁶ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 558.

⁶⁷ BGH, NStZ-RR 2006, 338, 339.

⁶⁸ Deutscher Juristinnenbund, 'Catcalling - Rechtliche Regulierung verbaler sexueller Belästigung und anderer nicht körperlicher Formen von aufgedrängter Sexualität' (Policy Paper, 2021), 5.

⁶⁹ Ibid.

⁷⁰ Windsberger, A., 'Strafbare Pfiffe?' (Legal Tribune Online, 20 February 2021) <<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

⁷¹ Deutscher Juristinnenbund, 'Catcalling - Rechtliche Regulierung verbaler sexueller Belästigung und anderer nicht körperlicher Formen von aufgedrängter Sexualität' (Policy Paper, 2021), 5.

⁷² Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 552; Heben, 'A Radical Reshaping of the Law: Interpreting and Remediating Street Harassment' (1994), *4 S Cal Rev L & Women's Stud* 183, 215.

least a step ahead with acknowledging the existence of this specific type of hate speech.⁷³ Nevertheless, the comments also need to be degrading or humiliating or need to create an intimidating, hostile or offensive situation for that person. As stated before, it will be difficult for a lot of comments to be interpreted as degrading or humiliating or as creating one of the named situations if they have a complimentary character.

d. Preliminary Conclusion

After looking at existing criminal law norms, it can be noticed that a lot of forms of behaviour that are falling under the understanding of public stranger harassment are actually covered already by existing criminal norms. It is therefore not necessary to create an additional norm that covers all forms of public stranger harassment, which is a great advantage since it would have been difficult to create one norm that aims to address all different levels of severity of public stranger harassment. The only form of public stranger harassment that is at the moment not covered by any existing criminal law statute is catcalling due to the fact that it is limited to verbal acts and gestures, but does not include physical actions nor the specific behaviour that is required to be classified as stalking for example. Those statutes that challenge verbal acts, statutes that regulate defamation offenses or hate speech, have very high requirements regarding their derogatory character, which are in most cases not met by comments made in the context of public stranger harassment. The question is then of course if the majority of other acts of public stranger harassment is already covered by existing statutes and only catcalling not because the comments are not degrading enough, whether it is maybe a behaviour that should just not be integrated in the criminal law. At the same time, it can still cause harm and it is almost impossible for victims to prevent it or to adequately respond to it. Many scholars believe that no respond at all or rather passive behavior might give the harasser the feeling that it is okay to repeat his behavior while responding to it or saying something back comes with the risk of escalation that goes beyond verbal harassment.⁷⁴ There exist therefore not really a way of reacting to it as a victim right now which raises the question for a legal solution.

⁷³ Code pénal 1994 (France).

⁷⁴ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 570.

2. Possibilities of Regulating Catcalling

There are four possible solutions of dealing with the existing problem of catcalling. It is possible to criminalise it, regulate it as a summary offense as part of the administrative law, integrate a civil law statute or to refrain from regulation at all. To compare these options, it is possible to look at those European Countries that have already regulated catcalling and the ways in which it is regulated there.

a. *Regulation as a Crime*

i. **Belgium**

Belgium passed a law in March 2014 combatting different forms of sexual harassment, among others also catcalling with regulating it as a criminal offense punishable by fines up to 1.000€ or imprisonment of up to one year.⁷⁵ The Belgian law criminalises in its law "a gesture or statement that is clearly intended to express contempt for one or more people of a different gender on the basis of their gender or to make them appear inferior or reduce them to their sexual dimension in a way that constitutes a serious attack on their dignity".⁷⁶ The particularity of the Belgian law is that it does not only cover face to face interventions, but also challenges harassing comments in print or other forms of mass communication like social media.⁷⁷ Criticism raised against the law in Belgium challenges the law for being too vague and unclear regarding the sort of acts that will be covered by it.⁷⁸ A problem of the Belgium law is also its actual application in practice, since it is complicated to catch the perpetrator after reporting the crime, which constitutes a barrier and leads victims to not come forward with reporting harassment, since victims notice that it is almost impossible to find the perpetrator later and actually punish him.⁷⁹ Another problem with the law itself is that the burden of

⁷⁵ Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018), 29 *Hastings Women's Law Journal* 81, 89; Roenius Amanda, 'My Name Is Not "Beautiful," And No, I Do Not Want to Smile: Paving The Path For Street Harassment Legislation In Illinois' (2016), 65 *DEPAUL L. REV.* 831, 840.

⁷⁶ Blyth, 'New Belgian law makes sexual harassment illegal' (The Bulletin, 14 March 2014) <<https://www.thebulletin.be/new-belgian-law-makes-sexual-harassment-illegal>> accessed 31 May 2022.

⁷⁷ Volokh, 'Belgium bans a wide range of sexist speech' (The Washington Post, 21 March 2014) <<https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/21/belgium-bans-a-wide-range-of-sexist-speech/>> accessed 30 May 2022.

⁷⁸ Blyth, 'New Belgian law makes sexual harassment illegal' (The Bulletin, 14 March 2014) <<https://www.thebulletin.be/new-belgian-law-makes-sexual-harassment-illegal>> accessed 31 May 2022.

⁷⁹ Walker, 'Tackling sexual harassment in Belgium is 'joint responsibility', police says' (The Brussels Times, 16 September 2021) <<https://www.brusselstimes.com/179944/tackling-sexual-harassment-in-belgium-is-joint-responsibility-police-says>> accessed 30 May 2022.

proving evidence lies on the victim and it is left to the judge to evaluate the seriousness of the acts, which does not make it work as well as it was expected.⁸⁰ The law also only focuses on gender, but does not take other minority groups into account.⁸¹

In addition to that, in 2013 a law in Brussels was enacted that regulates the possibility of fining persons to up to 250€ for making sexist, racist or homophobic insults, which led to 69 fines in the first three months after imposing after enacting it.⁸² Nevertheless, no further consequences happen even since the law exist due to practical obstacles: The police in Brussels stated that they write an average of tow fines per day for verbal abuse addressed to women and LGBTQ-identified individuals, but the perpetrators often do not receive a punishment because of missing evidence.⁸³ A direct fining is only possible for the police officers if they directly overhear or see an act of public harassment, which only happens in the minority of cases.⁸⁴

ii. Portugal

In Portugal, verbal sexual abuse is a crime with possible fines up to 120€, a year in prison or even up to three years if the victim of harassment is younger than 14 years old.⁸⁵ After already regulating that sexual harassment was illegal at the work place, Portugal amended article 170 of the Portuguese Penal Code, which regulates sexual harassment and already punished practicing exhibitionist acts and forcing a contact of a sexual nature, to also include different forms of street harassment with criminalising from then on also verbalizing proposals of sexual nature.⁸⁶ The

⁸⁰ Walker, 'Tackling sexual harassment in Belgium is 'joint responsibility', police says' (The Brussels Times, 16 September 2021)
<<https://www.brusselstimes.com/179944/tackling-sexual-harassment-in-belgium-is-joint-responsibility-police-says>> accessed 30 May 2022.

⁸¹ Volokh, 'Belgium bans a wide range of sexist speech' (The Washington Post, 21 March 2014)
<<https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/21/belgium-bans-a-wide-range-of-sexist-speech/>> accessed 30 May 2022.

⁸² Kearl, 'Stop Global Street Harassment: Growing Activism around the World' (Praeger, 2015, Santa Barbara, California), 105.

⁸³ Ibid., 107.

⁸⁴ Ibid.

⁸⁵ Bates, 'Portugal has made street harassment a crime - why hasn't the UK?' (The Guardian, 25 February 2016)
<<https://www.theguardian.com/lifeandstyle/womens-blog/2016/feb/25/portugal-has-made-street-harassment-a-why-hasnt-the-uk>> accessed 30 May 2022;

King, E., '6 countries that are fighting back against catcalling' (COMPLEX, 28 January 2016)
<<https://www.complex.com/life/2016/01/international-catcalling-policies/>> accessed 30 May 2022.

⁸⁶ Euronews, 'Sexual harassment on the streets of Portugal' (euronews, 29 July 2016)
<<https://www.euronews.com/my-europe/2016/07/29/sexual-harassment-on-the-streets-of-portugal>> accessed 30 May 2022.; Basilio Somões R. and João Silveirinha M., 'Framing street harassment: Legal developments and popular misogyny in social media' (2019), *Feminist Media Studies*, 1.

trigger for that development was the ratification in February 2013 of the Convention on preventing and combating violence against women and domestic violence (“Istanbul Convention”) that prohibits in its article 40 among others verbal sexual harassment.⁸⁷ On the basis of the Istanbul Convention, the Assembly of the Republic of Portugal approved in June 2015 a reform to harmonize its law with the Convention.⁸⁸ The problem with the Portuguese law is that it punishes only comments that include sexual content.⁸⁹ In addition, it is necessary to show that the victim was affected by the comment.⁹⁰ Doubts about its effectiveness are expressed regarding actual convictions under the law because of the need for the victims to come forward with the complaint by themselves and the fact that a lot of people are not aware that these kind of comments are criminalised.⁹¹

iii. Spain

In response to the case “La Manada”, Spain published in July 2021 the draft of the Organic Law on Integral Guarantee of Sexual Freedom (el Proyecto de Ley Orgánica de Garantía de la Libertad Sexual), which was approved by Congress in May 2022.⁹² This law reforms the first and fourth paragraph of Article 173 of the Spanish criminal code and includes a regulation on sexual street harassment as a minor offense.⁹³ Article 173.4 CP states from now on that someone is a perpetrator of street harassment if that person "addresses another person with expressions, behaviour or propositions of a sexual nature that create an objectively humiliating, hostile or intimidating situation for the victim, without constituting other more serious offenses".⁹⁴ The Spanish law

⁸⁷ ONU Mujeres, ‘Análisis Comparado Internacional de la Legislación Contra el Acoso Sexual en Espacios Públicos’ (Investigación Técnica, 2019)

⁸⁸ Ibid.

⁸⁹ Euronews, ‘Sexual harassment on the streets of Portugal’ (euronews, 29 July 2016) <<https://www.euronews.com/my-europe/2016/07/29/sexual-harassment-on-the-streets-of-portugal>> accessed 30 May 2022.

⁹⁰ Ibid.

⁹¹ Ibid.

⁹² Congreso de los Diputados, ‘Informe de la Ponencia’ (2022).

⁹³ Gijón, ‘#EsAcosoFM ¿Cómo está legislado el acoso sexual callejero en España y en el mundo?’ (Observatorio Violencia, 15 April 2022) <<https://observatorioviolencia.org/esacosofm-como-esta-legislado-el-acoso-sexual-callejero-en-espana-y-en-el-mundo/>> accessed 31 March 2022.

⁹⁴ Ibid.

provides for three different penalties: five to 30 days of permanent localisation, community service for the same period or a fine of one to four months.⁹⁵

b. Regulation as an Administrative Offence

France already passed a law against verbal sexual harassment in 2018. The regulation in France does not constitute a crime, but it is regulated as a contravention, which makes it possible for law enforcement officers to fine a person engaging in the stated behaviour on the spot.⁹⁶ The fines can be up to 750€, in aggravating circumstances even up to 1500€.⁹⁷ The advantage is here that therefore nor investigation is necessary, neither calling the police first and it is not even necessary for the victim herself to come forward, since the law enforcement officer can fine directly when they observe the corresponding behaviour.⁹⁸ In comparison to the Belgium system, it works very efficiently in France and it is a time saving system since the process of fining is very fast and non-bureaucratic.⁹⁹ In the first year after the introduction of the law, such fine was issued more than 700 times, showing that it is actually applied in practice.¹⁰⁰ Even if the number of fines does not correspond to the actual number of cases, it raises awareness in society for the problem of catcalling and shows that it is not supported in France and its legal system.¹⁰¹

⁹⁵ Ibid.

⁹⁶ Fillion, '2 Years Later, What We Can Learn From France's Anti-Catcalling Law' (Forbes, 26 January 2021) <<https://www.forbes.com/sites/stephaniefillion/2021/01/26/2-years-later-what-we-can-learn-from-frances-anti-catcalling-law/?sh=2a030c5375dc>> accessed 4 June 2022.

⁹⁷ Bredow, 'Sexuelle Belästigung geht nicht erst bei Körperkontakt los' (SPIEGEL, 24 September 2020) <<https://www.spiegel.de/panorama/gesellschaft/catcalling-petition-fordert-verbale-sexuelle-belaestigung-unter-strafe-zu-stellen-a-862bebe2-b22f-4a3b-9996-8c335dd23a76>> accessed 6 June 2022.

⁹⁸ Fillion, '2 Years Later, What We Can Learn From France's Anti-Catcalling Law' (Forbes, 26 January 2021) <<https://www.forbes.com/sites/stephaniefillion/2021/01/26/2-years-later-what-we-can-learn-from-frances-anti-catcalling-law/?sh=2a030c5375dc>> accessed 4 June 2022.

⁹⁹ Ibid.

¹⁰⁰ Bredow, 'Sexuelle Belästigung geht nicht erst bei Körperkontakt los' (SPIEGEL, 24 September 2020) <<https://www.spiegel.de/panorama/gesellschaft/catcalling-petition-fordert-verbale-sexuelle-belaestigung-unter-strafe-zu-stellen-a-862bebe2-b22f-4a3b-9996-8c335dd23a76>> accessed 6 June 2022.

¹⁰¹ Ibid.

c. *Civil Law Regulation*

There is no European Country that has a specific civil law regulation against catcalling, but in theory it would be possible to regulate catcalling in tort law as part of a tort suit for intentional infliction of emotional distress or tort of invasion of privacy.¹⁰²

d. *No Regulation*

An example for no regulation at all is Germany. There exist criminal law norms regarding sexual coercion, sexual assault, rape, threats, stalking, exhibitionism and sexual harassment, but none of this statutes covers purely verbal statements with sexist connotations.¹⁰³ Acts that are covered by the German Criminal Code are sexual offenses in §§ 177 ff. ff the Criminal Code (StGB), but they require sexual acts of a certain materiality and therefore physical contact.¹⁰⁴ Below this level of materiality, §§ 184i and 184j StGB might apply that were introduced in 2016 and address sexual harassment, but also require physical contact. The only way to challenge sexual remarks that do not go along with any physical contact is under § 185 StGB if they are considered (sexual) insults.¹⁰⁵ But this statute will in most cases not apply, since the statement must also contain a degrading assessment of the victim and the Federal Supreme Court (BGH) recently stated that this is only the case in the connection of sexually motivated statements, if the perpetrator expresses an defect in this respect regarding the victim, which diminishes his or her honour.¹⁰⁶ Therefore catcalling is only exceptionally punishable as an insult and it can therefore not be denied that there exist a loophole in the German law at least regarding catcalling as one of the forms of public stranger harassment.

IV. LEGITIMACY OF CRIMINALISING CATCALLING

After seeing all four possibilities of dealing with the phenomenon of catcalling, I will now due to the limited space in my thesis only focus on the question whether catcalling should be criminalised

¹⁰² Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review Vol 3*, 517, 563-569.

¹⁰³ Windsberger, 'Strafbare Pfiffe?' (Legal Tribune Online, 20 February 2021) <<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

¹⁰⁴ Ibid.

¹⁰⁵ Ibid.

¹⁰⁶ Ibid.; Wissenschaftliche Dienste des deutschen Bundestags, 'Catcalling als strafrechtlich relevante Beleidigung' (2020), WD 7- 3000-115/20, 5.

or not. Not criminalising it would still leave the option open to regulate it as an administrative offence or to create a civil law norm that challenges the problem of catcalling. The great advantage of criminalising catcalling is, that the responsibility for combatting it would then not solely lie on the victim, but it would constitute an offence against the community as a whole, which would implicate measures taken by the state to protect victims and to react to it.¹⁰⁷ On the other hand, criminalising certain behaviour is the strongest means a state has available and should therefore be the last resort when no other effective methods for regulation are available and the problem is serious enough to request a criminal law solution, which might be questionable regarding the behavior of catcalling.¹⁰⁸ Under this aspect it is to discuss if the criminalisation of catcalling is legitimate and can be justified in the framework of existing constitutional principles that can be found in all constitutions of democratic state systems and that must be respected when deciding on criminalisation.¹⁰⁹ In this discussion it also has to be taken into account which are the possible practical problems that come along with a criminalisation and which could therefore affect its effectiveness.

1. Criminalisation in the Light of Basic Constitutional Principles

a. *Principle of Legal Certainty*

A problem with the criminalisation of catcalling could be the compliance with the principle of legal certainty.¹¹⁰ The principle of legal certainty is based on the citizens trust in the legal system and its legality and consists of the principles of definiteness, publicity, legal clarity and prohibition of retroactivity.¹¹¹ Especially interesting in the context of criminalisation of catcalling is the aspect of legal clarity which needs to be observed by the legislator since it is a constitutional requirement under the rule of law and means that a law cannot contain ambiguous or contradictory clauses or

¹⁰⁷ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 571.

¹⁰⁸ Ashworth and Zedner, 'Prevention and Criminalization: Justifications and Limits' (2012), *15 New Criminal Law Review* 4, 542, 552.

¹⁰⁹ Windsberger, 'Strafbare Pfiffe?' (Legal Tribune Online, 20 February 2021) <<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

¹¹⁰ 'Catcalling-Belästigung oder bloße Tändelei' (Der Jurist - Der Blog) <<https://derjurist-derblog.de/2021/02/14/catcalling-blosse-tadelei/>> accessed 12 June 2022.

¹¹¹ 'Rechtssicherheit - Definition, Bedeutung, Kriterien und Gebote' (Jura Forum) <<https://www.juraforum.de/lexikon/rechtssicherheit/>> accessed 15 June 2022.

legal terms.¹¹² In the moment of its interpretation it must be clear for the citizens what exactly is regulated in that specific law.¹¹³ The problem regarding catcalling is first of all, as stated before, that there exist so far no clear definition. In practice, it is extremely difficult to decide which behaviour actually constitutes a compliment and which instead already falls into the category of catcalling, which would lead to legal uncertainty. Also looking at the already existing laws in Belgium and Portugal, as well as the planned text of the law in Spain, it is difficult to see where the line should run between the allowed behaviour of flirting and punishable catcalling, since the phrasing is vague. In Portugal for example, as shown before, the criminal conduct is ‘verbalising proposals with a sexual nature’ that affects the victim. It therefore depends on how the victim receives a certain comment to classify it as catcalling and therefore a criminal conduct or not. As highlighted in a study on the differentiation of catcalling from compliments, both behaviors have 15 similar characteristics that lead to an ambiguity of in the comments and also to them being understood in different ways based on gender.¹¹⁴ Due to this result, it is extremely important to define a criminal offence very precisely in order to comply with the principle of legal certainty. Against this background, it is questionable whether the phrasing of the here presented criminal law legal texts of Portugal, Spain and Belgium meet these requirements and allow citizens to clearly recognize which behaviour is punishable and which is not, and whether there would even be a possibility to formulate a corresponding criminal offence for catcalling that goes along with the principle of legal certainty.

b. Principle of Ultima Ratio and Proportionality

One of the most important principles in the framework of criminal law is the principle of subsidiarity or ‘ultimo ratio’. It basically refers to the fact that criminal law is the last resort of a state and the strongest remedy states have to restrict certain behaviour. Therefore the legislator has to make use of the tool of criminal law in a very restrictive way, only when it is necessary and when no milder remedy is available to deal with a problem.¹¹⁵ According to the ultima ratio principle, not every interference in social coexistence gives rise to a criminal law regulation, neither all legal

¹¹² Ibid.

¹¹³ Ibid.

¹¹⁴ Gräber and Horten, ‘Sexuelle Belästigung ohne Körperkontakt (“catcalling”) - zukünftig ein Straftatbestand?’ (2021), *Forensische Psychiatrie, Psychologische Kriminologie* 15, 205, 206; Di Gennaro and Ritschel, ‘Blurred lines: The relationship between catcalls and compliments’ (2019), *75 Women’s Studies International Forum*, 5.

¹¹⁵ Gräber and Horten, ‘Sexuelle Belästigung ohne Körperkontakt (“catcalling”) - zukünftig ein Straftatbestand?’ (2021), *Forensische Psychiatrie, Psychologische Kriminologie* 15, 205, 207.

interests are protected nor all types of attack are prohibited.¹¹⁶ Sanctioning certain behaviour must always be in accordance with the principle of proportionality in order to comply with the principle of subsidiarity.¹¹⁷ Every regulation of a new criminal offence is accompanied by the restriction of fundamental rights, this can only be justified within the framework of the principle of proportionality if there is a legitimate purpose for it and the restriction of fundamental rights is suitable, necessary and appropriate.¹¹⁸ In relation to criminal law, there must be at least a social harmfulness of the conduct to be restricted, so that a criminal liability for it can be justified within the framework of the principle of proportionality.¹¹⁹ It is therefore necessary to prove a social harm through the behaviour of catcalling and to show which legal interests would be protected through a law against catcalling in order to relate these to the legal interests which, on the other hand, would be restricted by a criminal statute.¹²⁰ Regarding the harm caused by catcalling, in principle reference should be made to the effects described above in the section about the impact on women. Therefore a law against catcalling is on the one hand directed towards the protection of privacy and the protection against psychological and physical harm and on the other hand also towards the protection of the right to sexual self-determination. The problem here is, as pointed out before, that it is not very clear how much those legal interests are actually affected by the behaviour of catcalling without taking into account other forms of public stranger harassment, since most available statistics do not differentiate between the existing forms of public stranger harassment. It is therefore difficult to determine how much harm is actually caused. Another problem regarding the harm is that one comment alone might not cause any physical or mental problem for the victim, but catcalling is a phenomenon that happens so frequently that because of the amount of attacks victims experience, more severe consequences occur and this cumulative harm resulting of all experiences taken together is the more profound problem.¹²¹ The existence of great harm because of

¹¹⁶ Windsberger, 'Strafbare Pfiffe?' (Legal Tribune Online, 20 February 2021) <<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

¹¹⁷ Dechering, 'Catcalling als Grenzfall zwischen sozialadäquatem Flirt und sozialschädlichem Verhalten - Was sollte der Gesetzgeber tun?' (2021), *Kriminalpolitische Zeitschrift* 2021, 122, 129.

¹¹⁸ Ibid.

¹¹⁹ Ibid.; Windsberger, 'Strafbare Pfiffe?' (Legal Tribune Online, 20 February 2021) <<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

¹²⁰ Dechering, 'Catcalling als Grenzfall zwischen sozialadäquatem Flirt und sozialschädlichem Verhalten - Was sollte der Gesetzgeber tun?' (2021), *Kriminalpolitische Zeitschrift* 2021, 122, 129.

¹²¹ Heben, 'A Radical Reshaping of the Law: Interpreting and Remediating Street Harassment' (1994), *4 S Cal Rev L & Women's Stud* 1, 183, 204.

public stranger harassment and also catcalling cannot be denied, but it is difficult to show that individual catcalling acts are responsible for it and must therefore be punishable in respect of the principle of proportionality. With regard to necessity within the framework of the principle of proportionality it is questionable whether a milder means would not be just as suitable in this case, so that the necessity for criminalisation would no longer apply. A civil law norm or a regulation as an administrative offence could achieve the same result and are less intrusive. That this is the case can be seen on the basis of the example of France. 700 fines were issued there in the first year after introducing the administrative offence against catcalling, whereas no numbers exist regarding convictions under Belgian or Portuguese law. A similarly high degree of effectiveness is therefore very possible.

Finally the rights restricted by the criminalisation of certain behaviour have to be taken into account in the framework of the principle of proportionality. First it is important to notice that the criminalisation of a certain behaviour always affects individual freedom and in the case of catcalling also the right to free speech.¹²² The affect on the individual freedom becomes even more severe if the scope of the criminal statute is very wide and leaves therefore a big margin of interpretation which could lead to legal uncertainty and an “over-interpretation“ of harmless behavior.¹²³ As previously stated, the problem of legal uncertainty is very present in the case of a criminalisation of catcalling due to a vague wording of the offence, which is difficult to avoid.

All in all, it is difficult to justify the criminalisation of catcalling under the aspect of the principles of ultima ratio and proportionality. It is clear that catcalling can have severe consequences but these depend on how many times a victim suffers catcalling and it cannot be proven that one act of catcalling and every form of it causes a sufficient level of harm, but it is more likely that serious consequences will only occur in connection with other forms of street harassment. At the same time the criminalisation of catcalling means a profound restriction regarding the right of freedom of speech and the individual freedom, especially because of the risk of legal uncertainty. Finally, there exist other means like forms of regulation as administrative offences which appear equally effective.

¹²² Böse, ‘The Principle of Proportionality and the Protection of Legal Interests (Verhältnismäßigkeit und Rechtsgüterschutz)’ (2022), *EuCLR*, 35, 40.

¹²³ *Ibid.*

2. Practical Problems and the Effectiveness of a Catcalling Law

a. *The Risk of Increasing Racism*

One of the possible problems of a criminal law statute against public harassment is the fear of being used mostly against men of color due to different reasons.¹²⁴ First, they might have the additional motivation to public harass because of their marginalized position in society and try to reclaim their own sense of power with this kind of behaviour, whereas white men have their power position established and therefore harass women for other reasons like for sexual satisfaction or to protect “male” environment, which therefore happens more at bars or parties and not as much on the streets and might therefore be less obvious.¹²⁵ Second, harassing comments from white men from higher social classes are more likely interpreted as a compliment than the same comment from a person of colour.¹²⁶ Therefore criminalising public stranger harassment could lead to especially target people of colour. Nevertheless, this is a general problem that exist in legal systems and has no connection to the criminalisation of especially public stranger harassment. The same problem occurs regarding other crimes, since men of colour are also more often accused of drug possessions for example or are more often stopped in traffic controls. This alone is therefore no reason against a criminalisation of public harassment.

b. *Law Enforcement and Application*

Another concern of the criminalisation of public harassment, which is often raised is the inability of the court system to handle it due to it being a too widespread, frequent and generally accepted phenomena.¹²⁷ With the additional problem of an extremely difficult provability, it can be assumed that many cases will be dropped due to a lack of evidence and not enough resources in the legal system.¹²⁸ Since catcalling happens very fast and in most cases just between two people whereas the

¹²⁴ Tran, 'Combatting Gender Privilege and Recognizing a Women's Right to Privacy in Public Spaces: Arguments to Criminalize Catcalling and Creepshots' (2015), *26 Hastings Women's Law Journal* 2, 193.

¹²⁵ Ibid.; Olatokunbo Olukemi Laniya, 'Street Smut: Gender, Media, and the Legal Power Dynamics of Street Harassment, or Hey Sexy and Other Verbal Ejaculations' (2005), *14 Colum J Gender & Law* 91, 108-109.

¹²⁶ Arndt, 'Street Harassment: The Need for Criminal Remedies' (2018) *29 Hastings Women's Law Journal* 81, 98; Heben Tiffanie, 'A Radical Reshaping of the Law: Interpreting and Remediating Street Harassment' (1994), *4 S Cal Rev L & Women's Stud* 183, 192.

¹²⁷ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 558;

¹²⁸ Gräber and Horten, 'Sexuelle Belästigung ohne Körperkontakt ("catcalling") - zukünftig ein Straftatbestand?' (2021), *Forensische Psychiatrie, Psychologische Kriminologie* 15, 205, 207.

perpetrator is normally also unknown to the victim, there is almost no way for the victim to report the incident, find the actual perpetrator and have evidence that the catcall just happened, since it is easy for the perpetrator to deny it. In addition, the victim herself will in most instances not be able to stop the perpetrator or puts herself in an even more dangerous situation if she tries, to hold the perpetrator accountable. Since it is a conduct that happens in public between strangers, it is very easy for the person committing the catcall to disappear.

Due to the fact that chances are so low to actually convict someone and hold the perpetrator legally responsible, Courts and the public prosecutor's office will be inclined to discontinue proceedings as quickly as possible. But even that requires a high bureaucratic effort without a correspondingly high success rate. This can lead on the other hand question of how often catcalling would be reported at all, as many victims see the chances of success as rather low and would therefore probably refrain from it.¹²⁹ The chance of catcalling cases actually getting to court are therefore also very low.

Another problem of a criminal law statute challenging catcalling in practice will be the requirement of proving that the perpetrator acted with some kind of intent. As mentioned before already, most men will state that they just wanted to make a compliment and especially in court it is even less likely that a perpetrator admits that his intention was actually to cause humiliation for the victim.¹³⁰ Regarding this aspect of the requirement of intent, especially the legal text of the Belgium law is problematic, stating that a statement is necessary that "clearly intended to express contempt for one or more people of a different gender" as mentioned above already.

Finally, another aspect that can inhibit the effectiveness of a criminal law statute regarding catcalling is the presence of sexism in the criminal justice system itself which also makes it hard for women to come forward. Since catcalling is such a present phenomenon and is widely socially accepted, it is of course something that is not automatically seen as a harm causing problem inside of the criminal justice system itself. Women will therefore be much more in the position of having to justify why they are coming forward with claims against catcalling or they need to experience "victim blaming", which especially happens in the area of sexual criminal law and can therefore

¹²⁹ Wippermann, 'Sexismus im Alltag - Wahrnehmung und Haltungen der deutschen Bevölkerung' (2020), BMFSFJ, 44-45.

¹³⁰ Grant Bowman, 'Street Harassment and the Informal Ghettoization of Women' (1993), *106 Harvard Law Review* 3, 517, 552;

also be a problem regarding catcalling.¹³¹ This problem could also stop women from actually report incidents of catcalling

All in all, it seems therefore rather doubtful that a criminal law statue against catcalling will be effective in practice and actually lead to convictions.

V. CONCLUSION

To conclude, it is first important to notice that public stranger harassment is a problem that causes a lot of harm for many people and should therefore not be ignored. Catcalling as one form of it is also problematic and can lead to severe consequences especially due to the frequency of its occurrence and in connection with other forms of public stranger harassment. Nevertheless, if we look closely, many forms of public stranger harassment are already covered by criminal law in one way or another. And even catcalling can be covered by defamation offences if the comments reach the level of being derogatory. So there is only a very small amount of unpunished behaviour left in the framework of public stranger harassment, which is not criminalised. Regarding the question if catcalling in all of its forms should be criminalised, I believe the answer has to be no since a criminalisation cannot be seen as legitimate and justified under the principles of legal certainty, ultima ratio and proportionality. It is therefore not very likely that a criminal law statute will actually be effective in practice due to the nature of the conduct of catcalling and the realities of the criminal justice system. The only legitimate reason therefore to have a criminal law statute prohibiting catcalling will be to raise awareness for the social problem of catcalling and the possible positive effect of a decreased occurrence of catcalling. But regarding this aspect it is important to notice the nature of criminal law as the last resort of the state, which prohibits the use of criminal law for the purpose of teaching social values to the society. If criminal law could be used to teach values, behaviour that is actually worthy of punishment would no longer be seen as serious as it should be. Moreover, the penalties, especially custodial sentences, which involve a considerable encroachment on fundamental rights, would then be absolutely disproportionate to the behaviour that has been committed. These considerations also apply to the conduct of catcalling. A lot of the

¹³¹ Wippermann, 'Sexismus im Alltag - Wahrnehmung und Haltungen der deutschen Bevölkerung' (2020), BMFSFJ, 44-45.

comments and gestures that can be defined as catcalling are very annoying, but do not reach the limit of criminal behaviour.

That the possibility of raising awareness for the social problem of catcalling also exists outside of the criminal law framework can be seen on the basis of the French example of regulation. Just because criminalisation is not an adequate and legitimate solution does not mean that catcalling should not be regulated at all. The possibilities of a civil law solution or a regulation as an administrative offence still exist and should also be used to effectively tackle the problem of catcalling. Furthermore, it is possible to improve defamation offenses so that verbal sexual harassment that degrades a person to a sexual object is in any case covered by them through a corresponding amendment that makes this aspect clear. There exist therefore other possibilities for the legislature to address the problem of catcalling and to reach the goal of raising awareness for the problem it constitutes. Only criminalisation does not constitute an adequate and legitimate remedy to challenge it.

VI. BIBLIOGRAPHY

Books

Kearl, H., 'Stop Global Street Harassment: Growing Activism around the World' (Preager, 2015, Santa Barbara, California).

Journal Articles

Arndt, S., 'Street Harassment: The Need for Criminal Remedies' (2018,) 29 Hastings Women's Law Journal, 81.

Ashworth, A. and Zedner, L., 'Prevention and Criminalization: Justifications and Limits' (2012), 15 New Criminal Law Review 4, 542.

Basílio Somões R. and João Silveirinha M., 'Framing street harassment: Legal developments and popular misogyny in social media' (2019), Feminist Media Studies.

Böse, 'The Principle of Proportionality and the Protection of Legal Interests (Verhältnismäßigkeit und Rechtsgüterschutz)' (2022), European Criminal Law Review - Nomos, 35.

Chaudoir, Stephenie R. and Quinn, Diane M., 'Bystander Sexism in the Intergroup Context: The Impact of Cat-calls on Women's Reactions Towards Men' (2010), Sex Roles 2010 62 (9), 623.

Dechering, C., 'Catcalling als Grenzfall zwischen sozialadäquatem Flirt und sozialschädlichem Verhalten - Was sollte der Gesetzgeber tun?' (2021), Kriminalpolitische Zeitschrift 2021, 122.

Deirdre, D., 'The Harm That Has No Name: Street Harassment, Embodiment and African American Women' (1994), 4 UCLA Women's Law Journal 133.

Di Gennaro and Ritschel, 'Blurred lines: The relationship between catcalls and compliments' (2019), 75 Women's Studies International Forum

Fairchild, K. and Rudman, L. A., 'Everyday Stranger Harassment and Women's Objectification' (2008), *Social Justice Research* 21 (3), 338.

Fisher, S., Linder, D. and Ferguson, C. J., 'The Effects of Exposure to Catcalling on Women's State Self-Objectification and Body Image' (2017), *Current Psychology: A Journal for Diverse Perspectives on Diverse Psychological Issues* 38 (6), 1495.

Gräber, M. and Horten, B., 'Sexuelle Belästigung ohne Körperkontakt ("catcalling") - zukünftig ein Straftatbestand?' (2021), *Forensische Psychiatrie, Psychologische Kriminologie* 15, 205.

Grant Bowman, C., 'Street Harassment and the Informal Ghettoization of Women' (1993), 106 *Harvard Law Review*, No. 3, 517.

Heben, T., 'A Radical Reshaping of the Law: Interpreting and Remediating Street Harassment' (1994), 4 *Southern California Review of Law and Women's Studies* 1, 183.

Johnson, H. and Sacco, V. F., 'Researching violence against women: Statistics Canada's national survey' (1995), 3 *Canadian Journal of Criminology* 37, 281.

Joseph J., 'Gender-Based Street Harassment - An International Perspective' (2017), *Interpersonal Criminology - Revisiting Interpersonal Crimes and Victimization*.

Kearl, H., 'Street harassment of women: It's a bigger problem than you think' (2011), *The Christian Science monitor* 1983.

Kissling, A. E. and Kramarae, C., 'Stranger Compliments: The Interpretation of Street Remarks' (1991), 14 *Women's Studies in Communication* 75.

McCarty M. K., Iannone N. E. and Kelly J. R., 'Stranger Danger: The Role of Perpetrator and Context in Moderating Reactions to Sexual Harassment' (2014), 18 *Sexuality & Culture*, 739.

Nunes Ferreira, D. M., 'The Neo-Criminalisation of Stalking in the Portuguese Legal System' (2018), 58 Journal of Forensic and Legal Medicine, 199.

Olatokunbo Olukemi L., 'Street Smut: Gender, Media and the Legal Power Dynamics of Street Harassment, or Hey Sexy and Other Verbal Ejaculations' (2005), 14 Columbia Journal of Gender and Law, 91.

Roenius, A., 'My Name Is Not "Beautiful," And No, I Do Not Want to Smile: Paving The Path For Street Harassment Legislation In Illinois' (2016), 65 DePaul Law Review. 83.

Sweeny, J., 'Trapped in Public: The Regulation of Street Harassment and Cyber-Harassment Under the Captive Audience Doctrine' (2017), 17 Nevada Law Journal 651.

Tran, M., 'Combatting Gender Privilege and Recognizing a Women's Right to Privacy in Public Spaces: Arguments to Criminalize Catcalling and Creepshots' (2015), 26 Hastings Women's Law Journal 2, 184.

Vera-Gray, F., 'Men's stranger intrusions: Rethinking street harassment' (2016), Women's Studies International Forum 58, 9

Wippermann Prof. Dr. C, 'Sexismus im Alltag - Wahrnehmung und Haltungen der deutschen Bevölkerung' (2020), Bundesministerium für Familie, Senioren, Frauen und Jugend.

News Articles

Bates, L., 'Portugal has made street harassment a crime - why hasn't the UK?' (The Guardian, 25 February 2016)

<<https://www.theguardian.com/lifeandstyle/womens-blog/2016/feb/25/portugal-has-made-street-harassment-a-why-hasnt-the-uk>> accessed 30 May 2022.

Blyth, D., 'New Belgian law makes sexual harassment illegal' (The Bulletin, 14 March 2014)

<<https://www.thebulletin.be/new-belgian-law-makes-sexual-harassment-illegal>> accessed 31 May 2022.

Bredow, B., 'Sexuelle Belästigung geht nicht erst bei Körperkontakt los' (SPIEGEL Panorama, 24 September 2020)

<<https://www.spiegel.de/panorama/gesellschaft/catcalling-petition-fordert-verbale-sexuelle-belaestigung-unter-straefe-zu-stellen-a-862bebe2-b22f-4a3b-9996-8c335dd23a76>> accessed 14 June 2022.

Euronews, 'Sexual harassment on the streets of Portugal' (euronews, 29 July 2016)

<<https://www.euronews.com/my-europe/2016/07/29/sexual-harassment-on-the-streets-of-portugal>> accessed 30 May 2022.

FH, C., 'El nuevo delito de acoso ilegítimo o stalking (art. 172 ter CP)' (Noticias Jurídicas, 1 April 2016)

<<https://noticias.juridicas.com/actualidad/noticias/10989-el-nuevo-delito-de-acoso-ilegitimo-o-stalking-art-172-ter-cp/>> accessed 15 June 2022.

Fillion, S., '2 Years Later, What We Can Learn From France's Anti-Catcalling Law' (Forbes, 26 January 2021)

<<https://www.forbes.com/sites/stephaniefillion/2021/01/26/2-years-later-what-we-can-learn-from-frances-anti-catcalling-law/?sh=2a030c5375dc>> accessed 4 June 2022.

Gijón, M., '#EsAcosoFM ¿Cómo está legislado el acoso sexual callejero en España y en el mundo?' (Observatorio Violencia, 15 April 2022)

<<https://observatorioviolencia.org/esacosofm-como-esta-legislado-el-acoso-sexual-callejero-en-espana-y-en-el-mundo/>> accessed 31 March 2022.

Hermesmeier, L., 'Der ganz normale Sexismus in den USA - Video "10 Hours of Walking in NYC as a Women"' (Der Tagesspiegel, 3 November 2014)

<<https://www.tagesspiegel.de/gesellschaft/panorama/video-10-hours-of-walking-in-nyc-as-a-woman-der-ganz-normale-sexismus-in-den-usa/10921316.html>> accessed 14 June 2022.

King, E., '6 countries that are fighting back against catcalling' (COMPLEX, 28 January 2016)

<<https://www.complex.com/life/2016/01/international-catcalling-policies/>> accessed 30 May 2022.

Volokh, E. ‘Belgium bans a wide range of sexist speech’ (The Washington Post, 21 March 2014)
<<https://www.washingtonpost.com/news/volokh-conspiracy/wp/2014/03/21/belgium-bans-a-wide-range-of-sexist-speech/>> accessed 30 May 2022.

Walker, L, ‘Tackling sexual harassment in Belgium is ‘joint responsibility’, police says’ (The Brussels Times, 16 September 2021)
<<https://www.brusselstimes.com/179944/tackling-sexual-harassment-in-belgium-is-joint-responsibility-police-says>> accessed 30 May 2022.

Windsberger, A., ‘Strafbare Pfiffe?’ (Legal Tribune Online, 20 February 2021)
<<https://www.lto.de/recht/hintergruende/h/catcalling-stgb-strafrecht-sexismus-petition-bgh-ordnungswidrigkeit-frankreich/>> accessed 07 June 2022.

Reports

Congreso de los Diputados, ‘Informe de la Ponencia’ (2022).

Deutscher Juristinnenbund, ‘Catcalling - Rechtliche Regulierung verbaler sexueller Belästigung und anderer nicht körperlicher Formen von aufgedrängter Sexualität’ (Policy Paper, 2021).

ONU Mujeres, ‘Análisis Comparado Internacional de la Legislación Contra el Acoso Sexual en Espacios Públicos’ (Investigación Técnica, 2019).

Stop Street Harassment, ‘Unsafe and Harassed In Public Spaces: A National Street Harassment Report’ (Report 2014).

UN Women, ‘Violence against Women (A/RES/73/148)’, Implementation of UN resolution - Portugal (2019).

Wippermann, C., ‘Sexismus im Alltag - Wahrnehmung und Haltungen der deutschen Bevölkerung’ (Pilotstudie 2020), Bundesministerium für Familie, Senioren, Frauen und Jugend.

Wissenschaftliche Dienste des deutschen Bundestags, 'Catcalling als strafrechtlich relevante Beleidigung' (2020), WD 7- 3000-115/20.

Websites Consulted

Der Jurist - Der Blog, Catcalling - Belästigung oder bloße Tändelei

<<https://derjurist-derblog.de/2021/02/14/catcalling-blosse-tadelei/>> accessed 12 June 2022.

Jura Forum - Lexikon - Rechtssicherheit - Definition, Bedeutung, Kriterien und Gebote

<<https://www.juraforum.de/lexikon/rechtssicherheit>> accessed 15 June 2022.

Stop Street Harassment, Statistics - The Prevalence of Street Harassment

<<https://stopstreetharassment.org/resources/statistics/statistics-academic-studies/>> accessed 6 June 2022.

Stop Street Harassment, National Studies

<<https://stopstreetharassment.org/our-work/nationalstudy/>> accessed 6 June 2022.

International Treaties

Council of Europe, Convention on Preventing and Combating Violence against Women and Domestic Violence, 11 May 2011, Council of Europe Treaty Series No. 210.

Legislation

French Code pénal 1994

German Criminal Code (Strafgesetzbuch)

Italian Penal Code 1930.

Spanish Penal Code 1995.