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“CUANDO UN VALENCIANO VA A MADRID ES TENIDO POR UN BANDOLERO”: MEMORIA Y MITIFICACIÓN DEL BANDOLERISMO DEL REINO DE VALENCIA (SS. XVII–XVIII)

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RESUMEN

Este artículo analiza la memoria y repercusión mediática del bandolerismo valenciano del XVII, un tema olvidado por la historiografía española. Tras el declive del bandidaje catalán y antes del auge andaluz, los malhechores valencianos ocuparon un lugar hegemónico en la cultura popular hispánica. A través de diarios, romances de ciegos, crónicas, documentos judiciales y relatos de viajes, se evidencia cómo estos bandidos influenciaron la opinión pública y desafiaron al Estado. La repercusión del fenómeno propició que los valencianos se ganaran la fama de personas sanguinarias y vengativas, un estereotipo que acabó consolidándose en la literatura popular impresa del Barroco y la Ilustración. Ejemplos notables son Pere Andrés y Mateu Vicent Benet, cuyas historias se difundieron ampliamente, manteniendo viva su memoria hasta el siglo XIX.

Palabras claves: Reino de Valencia, bandolerismo, historia cultural, opinión pública, cultura popular, criminalidad, pliegos de cordel

“QUANDO UN VALENCIANO VA A MADRID È CONSIDERATO UN BANDITER”: MEMORIA E MITIFICAZIONE DEL BANDITARIO DEL REGNO DI VALENCIA (SS. XVII–XVIII)

SINTESI

L'articolo analizza la memoria e la ripercussione mediatica del banditismo valenciano del XVII secolo, un tema dimenticato dalla storiografia spagnola. Dopo il declino del banditismo catalano e prima dell'ascesa del banditismo andaluso, i banditi valenciani occuparono un posto egemone nella cultura popolare ispanica. Attraverso diari, fogli volanti, cronache, documenti giudiziari e resoconti di viaggio, possiamo vedere come questi banditi influenzarono l'opinione pubblica e sfidarono lo Stato. Le ripercussioni di questo fenomeno portarono a vedere i valenciani come sanguinari e vendicativi, uno stereotipo che si consolidò in seguito nella letteratura popolare a stampa del Barocco e dell'Illuminismo. Esempi notevoli sono Pere Andrés e Mateu Vicent Benet, le cui storie circolarono ampiamente, mantenendo viva la loro memoria fino al XIX secolo.

Parole chiave: Regno di Valencia, banditismo, storia culturale, opinione pubblica, cultura popolare, criminalità, fogli volanti

INTRODUCCIÓN¹

En su obra *Gatherings from Spain* (1846), el viajero y dibujante inglés Richard Ford (1796–1858) hacía alarde de su fina ironía al afirmar que: “una olla sin tocino sería tan sosa como un volumen sobre España sin bandidos” (Ford, 1974, 202). A mediados del siglo XIX, el inglés era consciente que la mayoría de las cuestiones relativas a los bandidos eran simples leyendas divulgadas por la literatura y la rumorología, pero estas encontraban:

mucho público en Inglaterra, donde existe gran afición a estos relatos auténticos de España, que les dan las nuevas y mejor informadas noticias sobre ella y que tan bien casan con la idea que ellos tienen formada de antemano. De aquí que los más populares sean aquellos autores que ponen el amor propio de su lector en la mejor armonía de sus propios conocimientos. Y esto explica la frecuencia con que se habla en los apuntes peninsulares. (Ford, 1974, 204–205)

En la centuria decimonónica, todo buen viajero que se preciase tenía que incluir en su relato, a su paso por España, a los salteadores y contrabandistas, especialmente a los andaluces (Soler, 2006a; 2006b, 687–699). Igualmente, el escritor y poeta danés Hans Christian Andersen, en el diario sobre su paso por la Península Ibérica de 1862, también incide sobre esta cuestión. El viajero apunta que de camino a Madrid le acompañaron diferentes soldados armados para protegerle, pero que esta medida no era necesaria porque el país era totalmente seguro, tanto que “me invadió el deseo de ser testigo de un ligero encuentro con bandolero. Todo el país parece como si estuviera formado para ello [...]” (Andersen, 1870, 183).² En este sentido, Andersen señala que corría el rumor que otro célebre escritor moría de deseos por ser atacado por un salteador español y, por eso:

se dice que Alejandro Dumas envió a un conocido jefe de ladrones un cheque por valor de mil francos, solicitándole, a cambio, que organizase

*una emboscada a su comitiva sin mayor prejuicio ni pérdida. El malhechor respondió que había cerrado el negocio, pero adjuntó un justificante del recibo del talón.*³

Por lo tanto, la imagen de España durante el siglo XIX estuvo relacionada con la de los bandoleros, sobre todo en Andalucía, y estos personajes acabaron por pasar a formar parte de los mitos folclóricos del nacionalismo español. De esta manera, malhechores como Diego Corrientes, José María “El Tempranillo” o Los niños de Écija,⁴ entre otros, inspiraron novelas de autores románticos de la época y pasaron a la posteridad (Andreu, 2016, 223–235).⁵

Pero, antes de que apareciese el tipo decimonónico del bandolero andaluz, existieron otros adscritos a diferentes territorios de la geografía peninsular. En el Siglo de Oro de la literatura castellana, el bandolero catalán inspiró novelas y obras de teatro de autores como Cervantes, Lope de Vega o Tirso de Molina, entre otros (Cardinale, 2009). Por esta razón, a nivel mediático y cultural, aunque no se niega la existencia de bandolerismos en otras zonas de la monarquía española, se habla -tal y como hiciera Joan Fuster- de un bandolerismo catalán del Barroco y de un bandidaje andaluz del romanticismo (Fuster, 1963).

Por lo tanto, se tiende a considerar que el bandolerismo catalán, a nivel cultural, coparía el imaginario de todo el siglo XVI -hasta la ejecución de Serrallonga en 1634 o la Guerra dels Segadors (1640–1652)-, y desde finales del XVIII en adelante, cogería fuerza el bandidaje andaluz.⁶ Así pues, constatamos un vacío cronológico de unos 150 años en los que no se da ninguna explicación, como si el recuerdo del caso catalán hubiese continuado ocupando todas las obras de teatro, novelas o romances hasta el auge del andaluz.

En este estudio demostraremos que, al menos, desde la década de 1640 hasta mediados del siglo XVIII, el bandolerismo del Reino de Valencia tomó el relevo del catalán a nivel mediático en la Monarquía hispánica. En consecuencia, en este trabajo nos centraremos en lo que hemos llamado bandolerismo valenciano del Barroco, cogiendo el término que

1 Este trabajo se enmarca en el proyecto de investigación: “Las barricadas del recuerdo. Historia y memoria de la Era de las revoluciones en España e Hispanoamérica (1776–1848)” (PID2020-120048GB) financiado por el Ministerio de Economía y Competitividad del gobierno de España.

2 Todas las traducciones son nuestras. Original: “I was suddenly seized with a desire to witness a slight encounter with *banditti*. The whole country seems as if formed for it [...]”.

3 Original: “Alexander Dumas is said to have sent a well-known robber-chief a check for a thousand francs, requesting him, in return, to arrange an attack upon his party, in which, however, no loss was to be sustained, and no danger to be run. The robber wrote back that the house was done away with, the business was no longer pursued; but he inclosed an acknowledgment for the check” (Andersen, 1870, 183).

4 Muchos de los bandoleros del XIX que inspiraron obras románticas lucharon como guerrilleros en la Guerra del Francés (1808-1814) (López-Cordón, 1997, 7–22; Gómez Bravo, 2006, 665–685; Broers, 2010).

5 En el siglo XIX hay una identificación del sud de Europa, concretamente de España e Italia, con el bandolerismo y la violencia. Se forma un tipo de masculinidad “bárbara” e “incivilizada” vinculada a los habitantes de estos territorios a través de las reflexiones de eruditos y viajeros del centro y norte del continente (Andreu, 2023, 126–144).

6 La mitificación del bandolerismo andaluz es un proceso que se inicia antes del siglo XIX. Estamos preparando un trabajo sobre este tema.

Joan Reglà utilizó para el caso catalán (Reglà, 1962). Hablamos de un bandidaje que dominó el Reino de Valencia hasta la Guerra de Sucesión (1701–1715) y que se caracteriza por la conformación de bandos nobiliarios o familiares y en la *vendetta*, elementos muy comunes de la Europa mediterránea de los siglos XVI y XVII (Torres, 1999, 397–442; Pomara Saverino, 2015, 131–158; Povolo, 2015, 195–244; 2017, 21–56; 2022, 933–972; Carroll, 2023).⁷ El tema, a nivel sociopolítico, ha sido tratado por diferentes historiadores: a partir de los trabajos de Sebastián García Martínez (García, 1980; 1991) -que bebían de los estudios de su maestro Joan Reglà y los de Braudel (Braudel, 1953, I, 1–73; II, 40–60) y que diferenciaban entre bandolerismo popular, “los hijos de la miseria” y el aristócrata-, se han sucedido diversas investigaciones. Entre las más destacadas se tendrá que mencionar la de James Casey, incluida en su libro *The Kingdom of Valencia in the Seventeenth Century*, donde muestra el bandolerismo valenciano como una forma remota de *mafia* (Casey, 1981, 237). Después de García y Casey, Lluís Guia, Amparo Felipo, Carmen Margarita Vila, Jorge Català, Sergio Urzainqui, Vicent Garés o nosotros mismos, hemos profundizado en diferentes aspectos del fenómeno (Felipo Orts, 1990, 103–114; Guia Marín, 1994, 67–91; 2002, 287–315; Vila López, 1984; Català Sanz & Urzainqui Sánchez, 2016; Urzainqui Sánchez, 2016; Català Sanz, 1996, 155–172; Garés, 2022; 2023, 607–626; Llinares Planells, 2024a, 275–293).⁸

Con todo, y a pesar de que el tema del bandolerismo valenciano ha sido debidamente tratado por la historiografía, el apartado cultural, exceptuando algunas aportaciones puntuales,⁹ es un campo aún por explorar. Por lo cual, en este artículo, a partir de fuentes de diversa tipología como la literatura de viajes, crónicas, documentación judicial, diarios personales o romances de ciegos, trataremos diferentes cuestiones como la violencia cotidiana y normalizada en el País Valenciano, el estereotipo que se creó en la época -que afirmaba que todos los valencianos eran bandoleros o diestros con las armas-, la repercusión del bandidaje en la literatura o el recuerdo e importancia de grandes malhechores en los pliegos de cordel de los siglos XVII y XVIII.

UNA VIOLENCIA COTIDIANA Y NORMALIZADA

La relevancia del bandolerismo valenciano del Barroco ocasionó una violencia prácticamente cotidiana en zonas rurales y en las principales ciudades del reino. Por este motivo, la población sufrió directa o indirectamente las consecuencias de los bandidos y los bandos, teniendo dificultad para mantener una posición neutral. Ya fuese por lugar de residencia, familia o señorío, muchas personas tuvieron que lidiar entre dos poderes: el oficial, encarnado en el monarca o el virrey y las instituciones propias del territorio, y el que ejercían las bandas de forajidos y sus protectores poderosos. Por consiguiente, la justicia entendió que, si se quería acabar con estos bandidos, se tenía que atacar a las personas que los sustentaban y defendían, exiliándolos a Castilla y a otras partes de la monarquía.¹⁰

A pesar de las medidas represivas, los diferentes virreyes manifestaron a menudo la falta de medios económicos para acabar con los bandidos y las bandas (Arxiu de la Corona de Aragó [ACA], Consejo de Aragón, Leg. 570, núm. 40). De este modo, la situación del Reino de Valencia, en ciertos momentos del siglo XVI y sobre todo del XVII, llegó a ser crítica debido a que los robos, homicidios, extorsiones o asesinatos se apoderaron del territorio.

Es difícil acceder a los sentimientos y creencias de la población que vivió este ambiente de violencia prácticamente cada día. A pesar de eso, en el caso valenciano contamos con una rica literatura memorialística, es decir, diarios personales de diferentes personas de los siglos XVII y XVIII que nos pueden dar una idea (Escartí, 1998).¹¹ Así pues, el clérigo valenciano Joaquim Aierdi, se lamenta en su diario de que:

*encontrándose Valencia y su reino en un estado tan desdichado, por los bandoleros y las muertes que cada día se hacían por motivos banales, nadie osaba atreverse a reconocer en los portales a ninguna persona, ni a ningún coche, galera o cargas, ni hombre ni mujer, ni fraile ni cura, porque si esto pasaba, por la noche recibiría un carabinazo. Y así, cada persona miraba por su vida y procuraba no meterse en problemas, con lo que todo redundaba en perjuicio de la pobre ciudad.*¹²

7 Sobre el concepto de enemistad y monopolio de la violencia por parte del estado (Povolo, 2022, 933–972).

8 Para un estado de la cuestión sobre el bandolerismo en la Corona de Aragón (Casals, 2019, 581–603).

9 Estas se irán citando a lo largo del presente estudio. Para el caso italiano (Povolo, 2023, 613–640).

10 Por ejemplo, en 1662 se inició una importante operación contra los fautores de diferentes bandas de salteadores, intentando encarcelar a muchos caballeros y eclesiásticos “per receptadors de bandolers y fomentadors de bandos” (por receptadores de bandoleros y fomentadores de bandos). Se confeccionó un listado de 31 personas donde figuraban el señor de Carlet, el hijo del señor de Agres, el germano del Conde de Parcent, Don Vicent y Gaspar Vallterra y otras personalidades valencianas, a los que se les condenó al destierro fuera del Reino (Aierdi, 1999, 223), aunque, finalmente, no se llegó a consumar la pena.

11 Sobre las autobiografías populares en la España de la Edad Moderna véase (Amelang, 2002).

12 Original: “[...] trobant-se Valencia y son regne en lo estat tan desdichat com se trobava, en tants de bandolers y tantes morts com cada dia es feien per molt poca causa, ningú gosava atrevir-se a regonéixer als portals a ningú, ni a ningun coche ni galera ni càrrega, ni home ni dona, ni frare ni cappellà, perquè de contat era tenir, a la nit, una caravinada. Y així, cada hu procurava guardar la sua vida y no posar-se en qüentos, ab què tot redundava en perjuhi de la pobra ciutat [...]” (Aierdi, 1999, not. 646).

Otro eclesiástico, Vicent Torralba, afirmaba que no se podía vivir en Valencia a mediados del siglo XVII:

*pues los bandoleros se habían apoderado de todo el Reino y se atrevían a entrar en las ciudades e iban a la Almoina y sacaban a los presos; y no había quién se atreviera a decir nada ni tampoco a preguntar quién lo ha hecho. Todos padecían estos hechos, [...] no avía quién ejecutara a nadie, porque si se ordenaba ejecutar, le tiraban un escopetazo y tenía que dejar de capturar para que no lo matasen, y todos vivían atemorizados.*¹³ (Ferrando, 1995, 40)¹⁴

Todos los autores nos presentan un territorio oprimido por violencia y una población reservada y temerosa, ya que sus vidas estaban en juego prácticamente a diario. Los tiroteos, asesinatos o raptos fueron lo normal en ciudades como Valencia durante los siglos XVI y XVII. En este sentido, en otro diario personal, el clérigo Ignasi Benavent, al igual que Aierdi, se queja abiertamente de la falta de justicia en la ciudad. Se denuncia una clara complicidad de los ministros de la ley con las bandas de forajidos y sus protectores, afirmando que muchos crímenes se quedaban sin castigo, que muchos presos eran liberados por los propios carceleros o que algunos malhechores recibían indultos o premios innmerecidos (Llinares Planells, 2024b, 51–76). En consecuencia, algunos escritores son sumamente explícitos y se atreven a afirmar, en este tipo de escritos íntimos, que “lo poder estava de part dels delinqüents” [“el poder estaba de parte de los delincuentes”] (Aierdi, 1999, not. 914) o que “se hallava esta ciudad y reyno tan aniquilada y oprimida por falta de justicia que todo era robos y muertes. Tanto que, en ser de noche, no había quién, sin mucho peligro, se atreviere a salir de su casa” (Benavent, 2004, 40). Incluso, autores como Benavent llegan a decir que algunos virreyes, como el marqués de Camarasa (1659-1663) más que hacer valer la justicia del rey en el Reino de Valencia, favorecían a los bandoleros y a los nobles que los protegían (Benavent, 2004, 38).

A pesar de las críticas de estos autores a este tipo de crimen organizado y aunque la población seguramente vivía esta situación con temor, consideramos que este contexto acabó siendo normalizando, hasta cierto punto, por los valencianos de la época. De esta forma, el diario de Joaquim Aierdi relata, por ejemplo, que a los niños, que se dedican a reproducir lo que oyen o ven, les gustaba jugar a recrear las hazañas de los bandidos (Aierdi, 1999, not. 690). De hecho, los malhechores, amparados

bajo la protección de diferentes personalidades y familias poderosas, formaron parte de la vida social de los pueblos y ciudades valencianas (Aierdi, 1999, not. 229).

Como decíamos, el bandolerismo valenciano tuvo una presencia notable en las ciudades, desmintiendo así el tópico de los salteadores que solo actúan en montañas y zonas despobladas, y, de facto, supusieron un poder paralelo al del rey en el territorio. Los principales bandidos valencianos, a diferencia de los criminales comunes, no intentaron pasar desapercibidos: la mayoría de ellos eran conocidos por la población y estos sabían hacerse respetar. Además, también intentaron influir en la opinión pública. Si el rey o las instituciones oficiales del Reino de Valencia tuvieron a su servicio la propaganda política y sabían cómo controlar diferentes parcelas sociales, culturales y sociales, por su parte, los bandoleros, aunque más humildes, también tuvieron sus herramientas de contrapoder a nivel mediático (Chartier & Espejo, 2012; Llinares Planells, 2018a, 53–80). La justicia emitía bandos, cédulas o utilizaba el ritual punitivo de una ejecución pública para recordar a la vecindad quién tenía el poder y las consecuencias de transgredir las normas (Llinares Planells, 2017, 108–125; 2023a, 647–672). Pero de igual manera, cuando un reconocido bandolero realizaba un crimen, quería que se supiese su valentía y que sus vecinos le temiesen, respetasen y admirasen por ello. Por lo tanto, no era extraño que algunos salteadores, cuando asesinaban a alguien, colgaran el cadáver en un sitio bien visible con una nota reivindicando la autoría de la muerte. Eso es lo que pasó el mayo de 1662 con un francés que fue asesinado por los bandoleros Antoni Vinyes y frare Cotanda. Muerto el francés, al cadáver le cortaron la lengua, los genitales y le colgaron un cartel con un rótulo que informaba que ese crimen se había ejecutado para desafiar a un rival y hacerse respetar (Aierdi, 1999, not. 220).

Además de los carteles puestos en los cuerpos de los asesinados, muchos bandoleros escribieron y situaron en lugares públicos -como la plaza del Mercado-, pasquines amenazantes o reivindicando la autoría de algún crimen. De este modo, el fraile bandido Josep Serra, conocido como “Caragol”, colocó un pasquín en Valencia, en 1679, avisando a la justicia que no hacía falta que buscaran a los autores de dos asesinatos que ocurrieron semanas antes, pues Serra los reivindicaba como propios, ya que los fallecidos habían denunciado a uno de los suyos (Aierdi, 1999, not. 646). Asimismo, cuando una banda se enteraba de que la justicia tenía preso a un bandolero

13 Original: “pues los bandolers se avien apoderat del tot lo Reyne y se atrevien ha entrar en la ciutat y anaven a la Almoina y traïen los pressos; y no avia qui se’ls atrevís a dir paraula ni encara a preguntar qui hu a fet. Patíem grans treballs, [...] avia que executar a ningú, perquè, si enviava la execució, li tiraven una escopetada y avia de dexar de cobrar perquè no el matassen, y tots estaven atemorizats”.

14 Sobre las opiniones de los autores de los diarios personales de la época (Llinares Planells, 2024b, 51–76).

rival, también colocaba carteles en lugares públicos instando al virrey a que lo ejecutara y no tuviese piedad con él (Aierdi, 1999, not. 479).

Recurrir a la colocación de pasquines y carteles parece que no fue excepcional para el bandolerismo valenciano del siglo XVII, aunque tengamos pocos datos al respecto. Sabemos que, en septiembre de 1647, en plena revuelta napolitana (1647–1648) (Burke, 1983, 3–21) y catalana (1640–1652) (Simon i Tarrés, 2019), aparecieron colgados en algunas esquinas de la ciudad de Valencia varios pasquines invitando al pueblo valenciano a rebelarse, tal y como había hecho Nápoles ese mismo año (ACA, Consejo de Aragón, Leg. 660, n.º 63, s.f.):¹⁵

Cert que'm tens molt espantat, poble noble y valerós, de què, rabiant com un gos, no busques la llibertat.	Cierto que me tienes espantado, pueblo noble y valeroso, de què, rabiendo como un perro, no busques la libertad.
Gran plaga tens que curar: qui et governa, te atropella y si hui sofrices sella, demà et voldran albardar.	Gran plaga tienes que curar: quien te gobierna te atropella, y si hoy sufres silla, mañana te querrán albardar.
No boveches, poble orat, que, si busques bon govern, Nàpols, Messina y Parlem, bon exemple te an donat.	No bobeas, pueblo loco, que si buscas buen gobierno, Nápoles, Mesina y Palermo, buen exemplo te han dado. ¹⁵

Esta clase de carteles, en un contexto de revuelta en el norte y al otro lado del Mediterráneo, alteró enormemente al virrey de Valencia, que informó inmediatamente al Consejo de Aragón.¹⁶ Seguidamente, publicó y pregonó un bando donde se ofrecía una recompensa económica a quien diera información sobre los autores de este pasquín o sobre las personas que los había fijado en las calles. Ahora bien, el virrey considera que los autores o responsables eran los bandoleros o los bandos de la ciudad. Afirma que, a mediados del siglo XVII y después de aplicar sus medidas represivas, el Reino se encontraba más sosegado que nunca. Por este motivo, las parcialidades y sus redes clientelares, aprovechando el contexto cercano de revueltas, intentaron, en teoría, que el pueblo se sublevase contra el virrey para así poder recuperar sus parcelas de poder (ACA, Consejo de Aragón, leg. 660, n.º 63, s.f.). Suposición que nunca se pudo corroborar, pero que demuestra este clima de lucha entre la justicia, la parajusticia y los "espacios sin derecho" (Mantecón Movellán, 2002, 43–75).¹⁷

La "constelación valenciana" y el carácter impetuoso de los valencianos

El clima de violencia generalizada y el poder de las parcialidades en el País Valenciano hizo que los habitantes de estas tierras tuvieran fama de vengativos, coléricos y personas extremadamente diestras en el uso de las armas. Este prejuicio se intenta explicar por razones físicas, geográficas o naturales en algunos tratados o cartas oficiales. Por este motivo, el fraile dominico Francesc Gavalda, explica en el prólogo de su crónica sobre la peste de Valencia de 1647–1648 (Escartí, 2020), que, si bien la enfermedad causó muchas muertes por justo castigo divino, muchos más fueron:

*los heridos de la parcialidad y séquito de los bandos (y no pocos los que murieron sin sacramentos, a manos de la vengança), pues apenas se conocían algunos que por sí, por sus amigos o por la **constelación valenciana** que fácilmente cría y rebelve los humanos coléricos y sanguinos y enciende las voluntades, no necesitase de algún remedio: y los que libres se hallaban, no lo estaban del poder y amenazas de los infectos, que pretendían ser en todo dueños de las haciendas, árbitros de los tratos y contratos, señores absolutos de todo, castigando a los inobedientes con la muerte.* (Gavalda, 1651, prólogo)

Como vemos, Gavalda menciona una "constelación valenciana" que hace que sus habitantes se comporten de manera violenta. La fama de malhechores que se ganaron los valencianos circuló por toda la monarquía durante el siglo XVII. Algunos escritores mezclan o relacionan este supuesto carácter impulsivo y violento con el hecho de que los valencianos sean justicieros. Dicho de otro modo, que tendrían un gran sentido del honor y la honra tal y como se entendía hasta la Ilustración (Gascón, 2008, 635–648). Así pues, no es de extrañar que el historiador hispanoportugués Rodrigo Méndez de Silva, en su libro *Población general de España, sus trofeos y crónicas heróicas* (1645) defina a los vecinos del País Valenciano como "valientes y animosos, poco sufridores de injusticias" (Méndez Silva, 1645, 201). Estos estereotipos fueron recogidos y divulgados por los viajeros franceses que visitaron España durante el siglo XVII. El caballero Bartolomé Joly, entre 1603 y 1604, ya señaló que el carácter de los valencianos es considerado:

¹⁵ Transcribimos el original en catalán y la traducción que se hizo para el Consejo de Aragón en ese mismo año.

¹⁶ Algunos bandoleros valencianos fueron reclutados para luchar contra los rebeldes catalanes (Guia, 1980, 117–141).

¹⁷ Es difícil englobar el bandolerismo de esta época en una de estas categorías, ya que, incluso, se puede interpretar como "infrajusticia" (Lenman & Parker, 1980).

un poco ligero y menos remiso que los otros españoles. Son arrebatados, echando por poco mano a la espada y matan sin gran dificultad, con ventaja y a traición. Tan pronto como es de noche no se sale sin rondel y cota de malla, no habiendo ciudad en toda España donde se cometen más crímenes; todas las mañanas se encuentra algún muerto por la calle: con todo es, los otros españoles no los tienen como buenos soldados [...]. (Soler, 2006a, 45)

Por su parte, Des Essarts, apuntó, a su paso por el territorio valenciano en 1659, que ese reino está dividido en bandas enfrentadas entre ellas y que estas infunden temor y respeto, atreviéndose, incluso, a atentar contra los propios virreyes:

Hay aquí muchos bandoleros y todo este Reino generalmente está dividido en varias partidas [...] Son aquí muy severos para los que llevan armas de fuego; y a menos de que vayan en compañía más fuerte que la de los alguaciles, se ven sometidos a buenas multas. Los jefes de las partidas son de tal modo temidos, que entran a menudo en las ciudades y hacen en ellas lo que quieren. Han atentado a menudo contra las personas de los virreyes. (García Mercadal, 1952–1962, 690–691)

Pero, sin lugar a duda, el elemento de los valencianos que más llamó la atención de los trotamundos del Barroco es que estos fueron, utilizando la terminología actual, los “sicarios” por antonomasia de la Monarquía. Los bandidos, como hemos explicado, le hicieron el trabajo sucio a las parcialidades nobiliarias o familiares a lo largo del Reino de Valencia (Català Sanz, 2018, 343–355). Además, estos fueron contratados por otras personalidades de fuera de la capital del Turia para matar o extorsionar a alguien. De esta forma, la condena de Aulnoy, en su visita a España en 1679, se hace eco desde Madrid de la fama de los malhechores de Valencia, pues según dejó constancia en su diario:

Es ordinario en este país (España) asesinar valiéndose de varios individuos autorizados hasta por la costumbre, lo que no les acarrea graves perjuicios. Por ejemplo, cuando se prueba que un hombre ha dado una bofetada a otro o que le azotó en la cara con el sombrero, el pañuelo o el guante, o que le ha injuriado llamándole borracho o en términos que atacan a la virtud de su esposa, estas ofensas se vengán por el asesinato. [...] Generalmente, para esas malas acciones se hacen venir hombres de Valencia, ciudad española en la que el populacho es de lo más perdido. No hay crímenes a los que no se comprometan resueltamente por dinero. Llevan

verduguillos y armas que sacan sin hacer el menor ruido. [...] Con ellos hacen heridas mortales, porque profundizando mucho y no produciendo más que un agujero tan pequeño como el de un pinchazo de aguja, no sale sangre; apenas se puede ver el sitio en que se hizo la herida. Es imposible la cura y muere casi siempre quien recibió el pinchazo. (De l’Aulnoy, 1892, 173)

Sin embargo, los franceses no inventaron estos tópicos, pues estos estaban inspirados en una realidad demostrable. Los propios castellanos se encargaron también de divulgar la figura del bandolero valenciano que iban a la capital de la Monarquía a perpetrar un crimen a sueldo y después se volvía a su tierra, esperando a cobrar la parte acordada que aún le debían, como si se tratase de la misma Camorra napolitana o la Cosa Nostra siciliana. En este sentido, Álvarez de Colmenar, en *Délices de l’Espagne et du Portugal* (1715), explica perfectamente la visión que se tenía de los valencianos en Madrid a principios del siglo XVIII:

Los valencianos son de todos los pueblos de España los de mejor figura, pues mientras la mayoría de los españoles son pequeños, delgados y de color cetrino, ellos son altos, robustos, vigorosos, de buen color y agradable trato. Tienen inteligencia y no son tan holgazanes como los castellanos. Son buenos amigos, pero si se les ofende, se convierten en enemigos irreconciliables, por lo cual las muertes y asesinatos son tan frecuentes que cuando se oye un disparo se dice, Requiescat in pace, pues se supone que han matado a alguien. Hay entre ellos una clase de individuos a quien llaman guapos, los cuales conciertan la muerte de un hombre, a quien muchas veces no conocen, del mismo modo que si se tratase de un lote [...]. (Juderías, 1912, 100)

Esta imagen pervivió, al menos, hasta mediados del siglo XVIII, gracias a la literatura y el teatro pero también a la labor de obras como la *Enciclopedia* de Zedler (1732–1754). Este texto remarca que los habitantes de Valencia son alegres y valientes, de buena conversación, pero, asimismo:

tienen un extraordinario amor por su libertad. Pero por lo demás no se les alaba mucho, ya que incluso en Madrid se dice de ellos que no se encuentra ningún país en el mundo donde haya más ladrones, asesinos y sujetos semejantes; por eso, cuando un valenciano va a Madrid es tenido por un bandolero,¹⁸ es decir, por un bandido, ya que por dinero se prestan a toda clase de fechorías. Si alguien tiene algo contra alguien, se busca un tipo así. (Raposo Fernández, 2008, 94)

18 El subrayado es nuestro.

Obviamente, todos estos no dejan de ser generalizaciones y prejuicios sobre un territorio; tópicos regionales que calan en el imaginario colectivo, tal y como pasó con el bandolerismo catalán unas décadas antes (Llinares Planells, 2018a, 67–69). Aun así, estas ideas se fundamentan en hechos reales, pues sabemos que el bandolerismo valenciano fue muy activo tanto dentro de su reino como fuera, dado que tenemos constancia que numerosos salteadores de este territorio actuaron en diferentes lugares de Castilla, incluyendo en Madrid, incluso en parajes alejados como Granada, Sierra Morena o Extremadura, tal y como hizo el bandolero Josep Artús en 1666 (ACA, Consejo de Aragón, Leg. 0913, nº 042).

EL BANDOLERISMO VALENCIANO EN LA LITERATURA Y EL TEATRO POPULAR

Aunque la fuerza del bandolerismo valenciano en el siglo XVII es incuestionable –crónicas, escritores y viajeros de la época se encargaron de difundir aquella idea y, en cierta manera, mitificar al salteador de este territorio– la literatura y el teatro popular se ocuparon de que su recuerdo perdurase en la memoria colectiva. De esta manera, el poeta catalán Francesc de la Torre i Sebil (1625–1681), diputado de la Generalitat valenciana por el brazo eclesiástico a partir de 1660,¹⁹ escribió, en la segunda mitad del siglo XVII, un soneto hoy bastante desconocido, titulado *A Valencia en tiempos que en ella sucedían muchas muertes por los bandos* (De la Torre i Sebil, s. XVII, Biblioteca Nacional de España [BNE], Mss/8489). Este presenta una ciudad dominada por las armas, las muertes y la violencia de las parcialidades:

Tráxica o hidrópica o sedienta,
donde el matar tan propio se asegura
que es milagro vida la que dura,
y es muerte natural la que es violenta;
la rosa en tu campaña es más sangrienta;
de susto en el jasmín es la blancura,
y el sol, quando a la noche se apresura,
no de costumbre de temor se ausenta.
Puñales son las ojas que produces,
Peligrosas tus calles son casi [desy]ertas,
Noches inventas del día entre las luces.
Más ¿quién señalará tus desaciertos,
si falta ya lugar para las cruces
y cruces faltan ya para los muertos?
(De la Torre i Sebil, s. XVII, BNE, Mss/8489, 313–314)

A pesar de que este soneto podemos enmarcarlo en las corrientes de la poesía “culto” del Barroco,²⁰ con un lenguaje refinado y metafórico, representa

una excepción dentro de la norma. Es decir, el bandolerismo valenciano del Barroco no inspiró muchas obras de autores del momento, como sí lo hiciera el catalán, a través de las plumas de Cervantes (Aladro, 2013), Lope de Vega (García, 2012, 63–79) o Tirso de Molina (Jauralde, 1979, 243–251), o el andaluz del siglo XIX con las novelas románticas (Durán, 1995, 47–67). No obstante, los bandidos valencianos sí que llamaron la atención de otros anónimos y fueron recordados gracias a la literatura y al teatro popular.

Determinados pliegos de cordel –textos pensados para ser recitados en voz alta en lugares públicos, normalmente por los ciegos (Gomis, 2015; Iglesias, 2022)–, se inspiraron en diferentes malhechores valencianos que delinquieron a mediados del siglo XVII hasta las primeras décadas del siglo XVIII. Por lo tanto, el salteador valenciano encarnó, mejor que ningún otro, el prototipo de bandido conocido popularmente como “guapo”, “jaque” o “valentón”, es decir, un “perdonavidas”, tal y como los describían los viajeros en las crónicas de la época. Hablamos de auténticas biografías o “autobiografías” criminales que tratan de explicar toda la vida del protagonista en cuestión, mostrando un lenguaje ambiguo hacia sus protagonistas: por un lado, se alaba su valentía, arrogancia y arrojo, y, por otro, se acaba lanzando una reflexión moralizante al final del texto, condenando los actos delictivos del bandido e instando a la población a no reproducirlos (Wilson & Kish, 1984, 141–162; Gilard, 2009, 177–196). Estos documentos eran, en definitiva, una evolución o modificación, por una parte, de las jácara y obras como la *Carta del Escaramán a Meléndez* (1612) de Quevedo (Gomis & Bonet, 2022), y, por otra, de la literatura patibularia y propagandística que existía en lugares como Cataluña (Llinares Planells, 2017; 2018a, 53–80; 2023a, 647–672).

Los nombres de importantes bandidos como Pere Andrés, Miquel Escrivà, Mateu Vicent Benet, Jacint Rovira o Baltasar Llorca, entre otros, inundaron las calles de las principales ciudades y pueblos de España desde mediados del siglo XVII hasta principios del siglo XIX. Por ejemplo, al inicio de cada poema de guapos, se intenta captar la atención del lector u oyente, enumerando una serie de bandidos conocidos a los que el protagonista supera por valentía. Asimismo, esto también supone una estrategia comercial, pues la mayoría de los malhechores que se enumeran tenían un romance inspirado en su vida; y es muy probable que el impresor o ciego los tuviera en *stock* y los intentara vender en aquel mismo momento. Así pues, a lo largo de la segunda mitad del siglo XVII y del siglo XVIII, en estos listados de “bandoleros célebres” solían

19 Francesc de la Torre conocía la poética aragonesa y se movió en la órbita de los virreyes y personalidades relevantes de la política y la cultura valenciana de la época (Brown & Escartí, 1990, 59–117; Fasquel, 2005, 191–218).

20 Existen otras poesías, aunque escasas, en catalán, sobre este tema, que circularon manuscritas en la época. No las incorporamos por no desviarnos del tema, pero dedicaremos un estudio monográfico a este tipo de piezas.

aparecer personajes valencianos.²¹ Pongamos el caso de la *Relación y curioso romance, en que se declaran los arrojos y valentías de Don Miguel de Arenales, y el fin dichoso que tuvo*,²² un texto anónimo del siglo XVIII que habla sobre un bandido castellano donde, al inicio de este, aparece reflejado que:

¡Pedro Ponce fue un gallina,
el Pelado, fue vergüenza,
Matheo Benet, lo respeto,
Corrales se colorea,
Escobedo, es un menguado,
Pedro Gil atrás queda,
Piquer, fue muy corta pala,
Ganchet, en guapo no entra,
Domingo Ribas es bava,
Miguel Aguilar no llega,
Romero fue un matamoscas,
Juan de Lara fue una dueña,
Pedro Andrés no tuvo manos,
ni Chovi el de Bergelea;
Leandro Escales, fue un niño,
Pedro Roxas no se cuenta,
ni Don Agustín Florencio,
ni el guapo Francisco Estevan;
no vale Martín Muñoz,
mosén Senent, qué aprovecha,
Peñalver fue un probrezuelo,
lo mismo Juan de Vera,
Rovira, fue un poco guapo,
el Mellado ya flaquea,
[...]

En este fragmento de un poema del siglo XVIII, se cita a 25 bandoleros, muchos de ellos sobradamente conocidos y con romances muy famosos como Francisco Esteban o Martín Alonso. Figuran algunos salteadores aragoneses, castellanos y sobre todo andaluces y valencianos, pues, de este último reino aparecen un total de 11 bandoleros, más dos, Pedro Ponce y Martín Muñoz, que, aunque de origen castellano-murciano, desarrollaron una importante trayectoria delictiva en tierras valencianas. Hay criminales conocidos y que cuentan con poemas populares muy famosos en su época, como Mateu Benet, Pere Andrés, Rovira o Senent, pero de "Can- chet", "Pedro Gil", "Cholvi", "Leandro Escales", "Miguel Aguilar" o "Domingo Ribas" no hemos

podido localizar ningún pliego de cordel. Aun así, todos estos fueron importantes jefes de cuadrillas de bandidos, que delinquieron desde mediados hasta final del siglo XVII en el Reino de Valencia (Urzainqui Sánchez, 2016, 377-640). Esta casuística nos indica que, probablemente, la mayoría de los salteadores valencianos de esa época tuvieron un romance popular inspirado en sus vidas, pero, tal y como suele ser habitual en un material tan frágil y quebradizo como este, no han llegado copias hasta la actualidad.²³

Por otro lado, en diferentes impresos populares se recuerda al País Valenciano como la patria de los bandoleros de la Monarquía hispánica. En un poema sobre Don Francisco Alcañizes -un salteador sevillano ejecutado en Valladolid en 1716-, se cita a Alcamí, un malhechor que formó parte de la famosa gavilla de Macià Oltra en la década de 1680,²⁴ y del que se dice "que en el valenciano Reyno, / saben bien que sus pistolas, / escarmiento a todos dieron."²⁵ Igualmente, en una historia reimpressa y muy difundida durante todo el siglo XVIII y XIX, *Curioso y nuevo romance en que se refiere la historia de los vandidos que habitaron los montes de Toledo, ejecutando en ellos notables atrocidades; y los demás que verá el curioso lector*, S. XVIII, s.f, s.l. s.imp., se reproduce el mito de los malhechores valencianos que sobrepasan la frontera de su reino, cometiendo toda clase de fechorías sin temer a las posibles consecuencias derivadas de sus actos:

En los montes de Toledo,
dentro de sus tierras viven,
veinte vandidos que son
los verdugos de la muerte;
caballeros valencianos,
de aquestos que al rey no temen,
que andan robando y matando,
a cuantos van a prenderles.

Asimismo, los pliegos de cordel también difundieron lo que Colmenar o la condensa de Aulnoy afirmaban en sus escritos, es decir, aquellos bandidos valencianos que robaban en las inmediaciones de Madrid y que eran contratados por diferentes personalidades de la capital de la Monarquía para que mataran o extorsionaran a una tercera persona. Esto aparece en la *Curiosa Xácara, que haze relación de la vida, prisión y muerte y exemplar*

21 En el siglo XVIII también aparecen muchos andaluces, ya que, en la centuria ilustrada, empieza la mitificación del bandolero andaluz, antes de la transformación.

22 Si no se indica lo contrario, los pliegos de cordel aquí citados se pueden consultar en la *Cambridge Digital Library*.

23 Es posible que algunas de estas historias acaben apareciendo con el paso del tiempo por la catalogación y digitalizaciones de nuevos e importantes fondos de pliegos de cordel.

24 Puede referirse a "Francesc Alcamí" o "Vicent Alcamí", los dos de Sagunt y miembros de la cuadrilla de Oltra (Urzainqui Sánchez, 2016, 385).

25 *Nuevo romance, en que se declara la vida y pasmosos hechos de Don Francisco Alcañizes y Marcelo, pasmo de los valientes, rayo de los soberbios, y asombro de nuestros tiempos; al cual le degollaron por mandado de la Real Chancillería de Valladolid a 5 de Setiembre de este año 1716*. Juan Bellot, Granada, Joseph Diaz Cayuelas [1711-1738], s.f, Biblioteca Serrano Morales [BSM], R. 22.379.

castigo que se executó en esta Corte en Juan Ramírez y Juan de Santiago, que fueron ajusticiados...S.a, 1685, Zaragoza, s.impr.,²⁶ donde los protagonistas acometen diferentes crímenes con otros malhechores de origen valenciano. Por ejemplo, se señala que esta cuadrilla "tres hurtos considerables / en sola una noche hizieron, / estos y los valencianos, / de más de quatro mil pesos." Pero el que mejor encarnó el papel del bandolero "sicario" fue el eclesiástico Vicent Senent. Este sujeto perpetró diferentes crímenes en Madrid y en Valencia, siendo un caso bastante conocido cuando, a finales de la década de 1670, fue contratado por Tomás Chiberti, un rico mercader genovés, beneficiado de la catedral de Tortosa y residente en Valencia, para que fuese a Madrid y matase a un caballero de la Casa y Corte, con quien había discutido anteriormente (Aierdi, 1999, not. 1031).²⁷ Este hecho y otros son reproducidos en *Xàcara nueva de el valeroso mossén Senet, valenciano 1682-1700*, Zaragoza, Herederos de Diego Dormer impr.,²⁸ que fue reeditado a lo largo del siglo XVIII.

Perot y Benet: el recuerdo de dos bandoleros del Barroco

Seguramente, el primer bandolero mediático en la Valencia del Barroco fue Pere Andrés, conocido popularmente como "Perot", natural de Muro de Alcoi, y que delinquiró durante unos 24 años en diferentes lugares de Valencia y Castilla.²⁹ El virrey de Valencia, Fernando Álvarez de Toledo, conde de Oropesa (1645-1650), después de capturarlo en Ontinyent en 1646, afirmó que: "cuias crueldades y latrocinios an tenido en nombre en toda España, cuya quadrilla ha llegado a penetrar hasta el centro de Castilla, confines de Andalucía, haciendo después mansión en el condado de Cocentaina y marquesado de Guadaleste y amenaçada e inquitada la buena de Gandía" (ACA, Consejo de Aragón, Leg. 0724, nº 126).

Hablamos de uno de los criminales más requeridos por la justicia valenciana y castellana a mediados del siglo XVII. Pere Andrés fue un personaje reconocido y sus aventuras comenzaron a formar parte de la memoria colectiva de la población, tal y como recuerda el cronista castellano José Pellicer:

No se hablaba de otra cosa si no es un bandolero que con nombre de Pedro Andrés (que es de otro que ha andado entre Valencia y Murcia) anda por la Mancha, y aún cerca de Ocaña. [...] Unos dicen trae 30 hombres de a caballo con pistolas y una carabina, otros dicen que son 60 y otros los llegan a 80, cuentan de él cosas raras, y que no mata a nadie, sino quita

a los que encuentra parte del dinero, dejándoles lo bastante para donde dicen que es su viaje, que se aloja por lugares por su dinero, haciendo sus guardias y postas como en la guerra [...] Cada uno añade o inventa a estas cosas lo que le agrada. Pero el consejo ha determinado salga en su busca para prenderle el alcalde don Juan de Lazarraga [...]. (Pellicer, 1965, 223-224)

Finalmente, Perot, fue ejecutado en Valencia en 1646, siendo colgado, descuartizado "su cabeza colocada en el Portal de Quart, un cuarto en la plaza de Quart, otro cuarto en la villa de Muro, otro cuarto en la subida de Agres y otro cuarto en la Venta de Biar, en la raya de Castilla" (Pérez & Català, 1998, 234; Llinares Planells, 2017, 120). El propio rey Felipe IV (1621-1665) felicitó al virrey de Valencia por "el efecto de la prisión y castigo de muerte de Pedro Andrés, de que me dais quenta en misiva de 4 deste, viendo lo mucho que os desvelais en que se consiga la paz y extingan los bandos de ese reyno de que os doi las gracias y quedo muy servido [...]" (AHN, Consejos, Leg. 2422, f. 49v).

Por lo tanto, solo con los datos ofrecidos podemos calificar a Pere Andrés de un bandido de leyenda, de esos que perduran en la memoria colectiva. En esta línea, Miguel Ángel Melón apunta que:

La imagen del bandido que acrisola la mentalidad popular obedece a un estereotipo que inicia sus andanzas con un hecho, acaso fortuito, que lo sako del anonimato; a partir de ese instante, sus fechorías corren de boca en boca y son recogidas por viajeros, escritores y curiosos que las agigantan y plasman después en letra impresa, lo que desemboca en un proceso de mitificación que lo ubica en la frontera entre la historia y la leyenda. (Melón, 2023, 212)

Por este motivo, del proceso de mitificación y recuerdo de Perot, además las habladurías, se encargaron los romances que sobre su vida inundaron la geografía española durante el siglo XVII y XVIII. Poco después de su muerte ya se imprimió el poema patibulario *Nueva relación del exemplar castigo que se hizo en la persona de Pedro Andrés, capitán de vandoleros*, en que se declaran los delitos, prisión y muerte que se le dio en la ciudad de Valencia, en 27 de octubre deste presente año 1646, 1646, Madrid, Alonso de Paredes, que califica al protagonista de "el assombro de la Mancha [...] / y aquel que a Sierra Morena, / la corona de claveles." El mismo impresor estampó *El Padre nuestro glossado que dixo Pedro Andrés, estando en el árbol de la justicia para espirar. Con otros dos glossas muy importantes para*

26 Ejemplar de la Biblioteca Diocesana del Seminari de Girona.

27 Estamos finalizando un trabajo sobre la vida y delitos de este clérigo bandolero.

28 Ejemplar ubicado en la Biblioteca Diocesana del Seminari de Girona.

29 Estamos preparando un trabajo sobre este bandolero.

qualquiera pecador enmendar su vida 1647, Madrid, Asondo de Paredes imp., un texto donde se muestra a un reo arrepentido y reconciliado con Dios, que formaría parte de lo que en Reino Unido se conoce como *last dying speeches* (McIlvenna, 2022; Llinares Planells, 2023b, 39–63).³⁰

Seguramente, ambos textos se traten de impresos patibularios, que se difundieron cuando Pere Andrés expiró en la horca en 1646. A pesar de eso, el primer impreso, a nuestro entender, inició o consolidó el auge de los relatos de guapos que comentábamos anteriormente, marcando un modelo a seguir. El lenguaje ambiguo y el hecho de tratarse de una biografía completa del protagonista propició que circularan, a lo largo del siglo XVII y XVIII, diferentes historias sobre este bandolero. Una de ellas, la que seguramente se escribió en Valencia, se reimprimió hasta finales del siglo dieciocho, aunque con diferentes títulos, en Barcelona, Madrid, Sevilla o Zaragoza. Así pues, la memoria de Pere Andrés, más de un siglo después de su muerte, continuaba estando presente.

Por último, nos gustaría destacar el caso de Mateu Vicent Benet, que gracias a la literatura pasó a la posteridad como “el guapo de Benimaclet”, de donde era natural. Este valentón fue uno de los bandoleros más importantes del siglo XVII: enormemente sanguinario, relacionado con las altas esferas de la sociedad valenciana y muy conocido en el Reino. Parte de la vida de Benet la conocemos gracias los estudios de Lluís Guia Marín (Guia Marín, 2003, 87–106; 2012, 57–86), que nos explica que este entró en el mundo del bandidaje por un problema con un perro de caza que le robaron. Benet estuvo protegido por el clan de la familia Vallterra y el del duque de Segorbe, enfrentados con el almirante de Aragón y con los Barrionuevo respectivamente (Urzainqui Sánchez, 2016, 332–333). Se decía de este malhechor que era de los “más sangrientos y perjudiciales que ha havido en aquel Reyno, pues según está averiguado tiene perpetradas solo por su mano treinta y siete muertes [...]” (ACA, Consejo de Aragón, Leg. 0582, nº 030).

Las cosas se empezaron a torcer para Benet cuando, en 29 de diciembre de 1659, fue decapitado su mayor valedor, el noble valenciano don Josep Vallterra. Los testimonios sobre la ejecución de este personaje, acusado ser bandolero y proteger a Vicent Benet, ya presentan rasgos propios de las literaturas de bandoleros y patibularia, lo que demuestra el

arraigo de sus lugares comunes en la mentalidad de la época. Según cuenta Josep Benavent en su diario, este “hizo una acción muy digna de su alabanza, pues, así que entró en la plaza, fue de rodillas hasta el cadahalso. Y sin mostrar ningún temor ni flaqueza, murió con mucho exemplo y resignación” (Benavent, 2004, 39–40). Sobre esta ejecución y el posterior asesinato del hermano del reo se interesó el bibliófilo y genealogista valenciano Onofre Esquerdo (1635–1699), en el *Nobiliari de Valencia* (Esquerdo, s.XVII, Biblioteca Valenciana [BV]: ms. 243).³¹ En las primeras páginas de su obra compuso o recogió un soneto culto que recrea el tema bíblico del maltrato y venta de José por parte de sus hermanos en comparación con la muerte de Josep Vallterra:

Ultrajado, desnudo y aún herido,
se vio acullá Joseph de sus hermanos,
que a su vida ateniéndose tyranos
tuvo a piedad el ser dellos vendido:
llora Jacob mirando, enternecido,
lo que juzgó despojos inhumanos,
y a sus flancos los cielos más humanos
ventajoso le otorgan lo perdido.

Pero, como hemos visto, por encima de todo, los testimonios del momento destacan y recuerdan la ejecución de Vallterra por la templanza y serenidad con que el noble valenciano afrontó la subida al patíbulo, haciendo alarde y poniendo en práctica el *ars moriendi* (Rey Hazas, 2003). De esta forma, la última parte del soneto de Esquerdo está dedicado “a la paciencia con que fue al suplicio”:

Cuando el cuchillo a la garganta siente,
no le asusta el rigor de su tormento,
porque, a la culpa y no a la pena atento,
la vida siento, pero no la muerte.
La suerte del morir tuvo por suerte,
pues muriendo de su arrepentimiento,
quando llegó el roem violento
ya le halló muerto de dolor más fuerte.
Desgracia pareció lo que es ventura.
Thronó el suplicio y el pregón prohemia
de las glorias que empieza su fe pura.
Y pues le traxo el cielo a mejor gremio,
cesse el llanto, Señor, que tanto dura.
No os dé pena un castigo, que fue premio.
(Esquerdo, s.XVII, BV ms. 243, 2r)

30 Este texto fue reimpreso en Madrid en 1659, pero eliminando el nombre de “Pedro Andrés” del título: *El Padre Nuestro glossado que dixo un pecador estando en el árbol de la justicia para espirar : con otras dos glossas muy importantes para qualquiera pecador enmendar su vida*, 1659, Madrid, Andrés García de la Iglesia impr. Ambos ejemplares están disponible en la Biblioteca Digital Hispánica.

31 “Este cavallero fue don Joseph Vallterra, del hábito de Santiago, caudillo de bandos. Vivió como si no huviera Dios y murió degollado en la plaza de la Seo en el enero 1660, con muestras de grande arrepentimiento. A su hermano, don Phelipe Vallterra, que a caso se halló con unos bandidos, sin vivir en bandos, le [2v] mataron con dos caravinasos esos los bandidos contrarios de su hermano, asociados de los ministros de justicia, sin quererlo hazer. Y así murió desgraciadamente con Miquel Aguilar, frayle mercenario apóstata, y ordenado en sacrist[án], a 30 de enero 1662” (Esquerdo, s.XVII, 2r-2v). Agradecemos a Joan Mahiques Climent la información sobre este manuscrito.

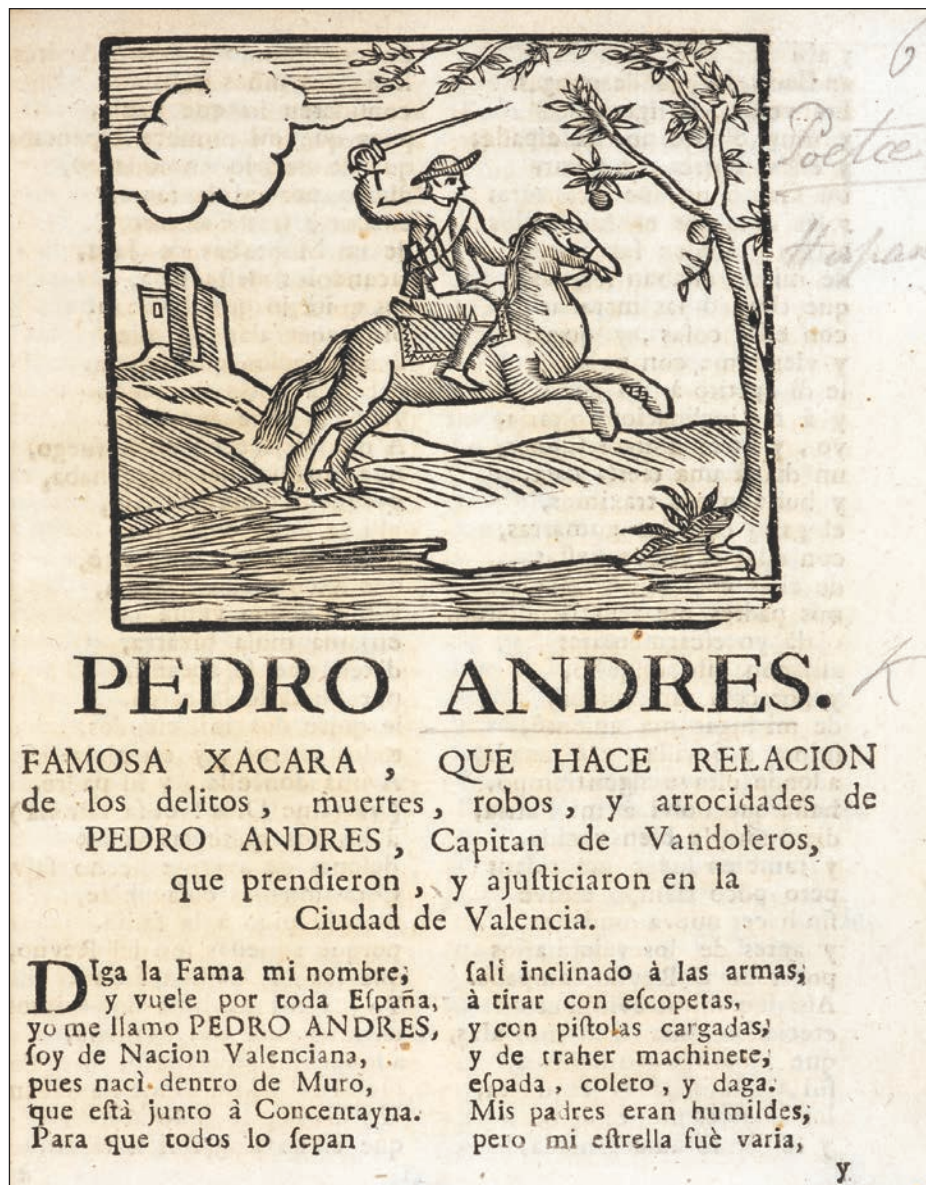


Figura 1: Pedro Andrés. Famosa Xàcara, que hace relación de los delitos, muertes, robos y atrocidades de Pedro Andrés, capitán de vandoleros, que prendieron y ajusticiaron en la ciudad de Valencia. Agustín Laborda impressor, 1743-1776 (Fuente: Cambridge Digital Library).

Así pues, después de la famosa ejecución de Vallterra, Benet ya no se sentía tranquilo y aceptó el indulto real para ir a servir tres años a los tercios de Nápoles. Aun así, volvería una vez más a la capital del Turia para intentar reclutar gente, haciendo una entrada en su pueblo natal, Benimaclet, digna de una personalidad respetada y admirada por sus vecinos: "Tiene gran séquito en esta ciudad. Bien se vio en el recibimiento que le hicieron, en el numeroso concurso que estos días le acompañó, paseando por ella en otro coche de semejante sujeto aquel día, y

en la demostración de haver tocado las campanas de Benimaclet, de donde es natural, quando entró en aquel lugar, por regosijo de su llegada" (ACA, Consejo de Aragón, Leg. 0582, nº 030).

Mateu Benet fue reconvertido de delincuente a servidor del rey, colaboró en empresas de persecución de bandidos y piratas en Nápoles e incluso fue designado gobernador de Reggio Calabria en 1686 y finalmente murió en 1688, en Nápoles, por causas naturales. (Guia Marín, 2012, 57-86; AHN, nobleza, Osuna, CT. 110, D. 12, s.f).

Este forajido, tal y como demuestra su entrada poco discreta en Benimaclet, fue famoso en su época. La documentación judicial, años después de su traslado a Nápoles, lo sigue mencionando con cierta asiduidad, afirmando que "bandos desde tiempo de Benet con quien se consultaba todo lo que se mataba en el Reyno [...]" (ACA, Consejo de Aragón, Leg. 0810, nº 031). Además, los diarios personales de la época nos proporcionan datos reveladores sobre el recuerdo y la importancia de Benet en la ciudad de Valencia. Ignasi Benavent, explica que el bandidaje valenciano tenía mucho poder porque el virrey, el marqués de Camarasa (1659-1663), lo favorecía: "En estos días reynavan las parciali[dades] de Vicente Benet y del Cabrero. Y este virrey se mostró m[u]y apasionado por los comisarios que ha[c]ían mil insolencia[s] [a] su favor. Y a Benet, que obrava como hombre de bien, le (abore)cía en extremo. Y al Cabrero no le pudo librar de la horc[a], [con to]do lo que le amava" (Benavent, 2004, 38).

De este modo, un contemporáneo de Benet afirma que este "obrava como hombre de bien." Además, el 1680, anota que azotaron a este bandolero por un robo, siendo muy poco probable que esta afirmación sea cierta, ya que por aquel entonces el malhechor ya se encontraba Nápoles sirviendo al rey (Benavent, 2004, 58).

Pero lo que hizo perdurar la memoria de Benet fueron, más allá de su fama en vida, los pliegos de cordel y el teatro. Seguramente, desde que Benet pasó definitivamente a tierras italianas para no volver nunca más a su patria valenciana, se empezaron a estampar romances de ciegos narrando sus aventuras.³² De este modo, en vida del protagonista ya se imprimió la *Relación verdadera de los hechos de Mateo Venet, natural de Valencia*, 1681 y 1683, Sevilla Juan Vejarano imp., siendo un pliego de guapos, pero el único donde se mencionan las parcialidades de Valencia, los protectores de Benet, y sus luchas contra el bando rival de los Barrionuevo (Llinares Planells, 2018b, 253).

Este último impreso tendría una segunda parte donde se describirían las aventuras del protagonista en Nápoles, pero no lo hemos podido localizar. A pesar de eso, a finales del siglo XVII, desde la imprenta zaragozana de los herederos de Diego Dormer se estampó la *Curiosa Xácara nueva que haze relación de la vida hechos, hazañas honradas del valiente Matheu Benet Vicente, natural de Benirraclete, lugar de la huerta valenciana... 1680-1700*, Zaragoza,

Herederos de Diego Dormer. En este texto se menciona al protagonista como un valiente bandolero que, por sus méritos, fue perdonado y enviado a Nápoles donde luchó contra antiguos compañeros de profesión y piratas con bastante acierto. El texto experimentó un notable éxito durante el siglo XVIII e impresores como Agustín Laborda llegaron a tener en stock, en la segunda mitad de la centuria ilustrada, tres romances diferentes sobre este personaje: los dos primeros relatos son reimpresiones de textos anteriores, y el tercero, uno donde se hace un resumen completo de su trayectoria criminal y después como servidor del monarca en Nápoles.³³ En los textos de finales del XVII y del XVIII se presenta a Benet como un auténtico héroe y justiciero, al estilo de los pliegos de guapos.³⁴ Se intenta dejar claro que el protagonista no es un vulgar ladrón: él es bandolero por razones de honor y venganza, no por un afán sanguinario o lucrativo.

Benet, a lo largo del siglo XVIII, se convirtió en un personaje habitual en los pliegos de cordel debido a que la población lo debía de reconocer con cierta asiduidad. Por esta razón, en el *Famoso romance en que se da cuenta de los delitos, muertes y atrocidades del valiente Martín Muñoz*, 1743-1774, Valencia, Agustín Laborda imp., se explica que el protagonista fue liberado de las garras de la justicia por Vicent Benet, pues este último fue contratado para esta empresa de rescate por un protector de Muñoz. Y, si no fuera poco con esto, sobre Benet se compuso una obra de teatro: *El bandido más honrado y que tuvo mejor fin*, Mateo Vicente Benet 1769, Valencia, Gabriel Suárez impr., escrita por un desconocido Gabriel Suárez e inspirada en los pliegos sueltos que ya corrían sobre su vida (Suréda, 1987, 517-553; 2004). Esta obra se estampó en lugares como Valencia, Zaragoza, Sevilla, Madrid o Barcelona, y se representó, al menos, en Alcalá de Henares, Madrid y Valencia. Esta comedia, solamente en la capital del Turia, se puso en escena 45 veces a lo largo de 12 temporadas teatrales, entre 1728 y 1777, vendiéndose un total de 18.624 entradas (Suréda, 1987, 518-521; 2004, 572).³⁵

Seguramente, la vida de Benet en Nápoles fue divulgada, después de su muerte, por un sobrino suyo, Vicent Martí, dado que este fue alférez de la compañía de su tío en Italia y, además, aparece referenciado en uno de los romances del siglo XVIII: "oy día su descendencia / de Benet es governante / (que muchos años lo sea) / de un sobrino que casó

32 Para una explicación detallada de los pliegos de Benet (Llinares Planells, 2018b, 243-267; 2021, 139-156).

33 *De Matheo Benet. Relación de las memorables hazañas de este animoso héroe, natural de Benimaclet, lugar en la huerta de Valencia: dase cuenta, como fue de Gobernador de Rífolá, en el Reyno de Nápoles, y el fin dichoso que tuvo 1743-1774*, Valencia, Agustín Laborda imp.

34 No nos referimos aquí a los bandoleros románticos del XIX.

35 Estamos realizando un estudio sobre las comedias de guapos en el siglo XVIII y su relación con los pliegos sueltos.



Figura 2: De Mateo Benet. Relación de las memorables hazañas de este animoso héroe, natural de Benimaclet, lugar de la huerta de Valencia: dase cuenta, como fue de Gobernador de Rífolà, en el Reyno de Nápoles, y el fin dichoso que tuvo, Valencia. Agustín Laborda impressor, 1743-1776 (Fuente: Cambridge Digital Library).

/ con una dama muy bella" (Guia Marín, 2012, 84; Llinares Planells, 2018b, 262). Toda esta fama en vida y después de muerto, hicieron que su recuerdo, y, por tanto, la del bandolerismo valenciano del Barroco, perdurasen en el imaginario colectivo de la población. Este hecho lo podemos rastrear en obras

populares valencianas del siglo XVIII y XIX. El escritor valenciano Carles Ros, en su obra *Rondalla de Rondalles a imitació del cuento de cuentos de don Francisco de Quevedo y de la historia de histories de Don Diego de Torres*, 1768, Valencia, Benet Monfort impr. afirma: "perquè la auela tenia més nom que



Figura 3: Suárez, Gabriel, *El bandido más honrado y que tuvo mejor fin*, Mateo Vicente Venet. Valencia, Josep Orga imp, 1769 (Fuente: Biblioteca Digital de la Comunidad de Madrid).

Mateu Benet y estava reputada en tot lo poble per l'arco ilis de les bregues" [porque la abuela tenía más nombre que Mateu Benet, y era tenida por el pueblo como el arco iris de las disputas] (Ros, 1769, 27). Por su parte, en 1809, el *Col·loqui trilingüe o col·loqui*

entreverat de valencià y castellà y uns cantonets en llatí, entre Macià el parlador y el mestre d'escola d'un poble de l'Horta de Valencia, 1809, Valencia, Imp. Oficina del Diari,³⁶ describe una conversación entre un maestro y un alumno, donde el docente le dice:

³⁶ Els *col·loquis* son un subgènere de la literatura popular impresa, típicament valenciana, escrits en catalán, en la variante de la comarca de l'Horta de Valencia, que tuvieron una gran popularidad en la segunda mitad del siglo XVIII y durante el siglo XIX.

Mestre:	Tu eres un animal, y és de bades predicar-te.	Maestro:	Tú eres un animal, y predicarte es en balde.
Macià:	Pos no·m predique: veja'm això que t'escrit, o lligga-u (sic) perquè la lletra de mà yo no l'antenc; yo no sé llegir més que algun romanç.	Macià:	Pues no me predique: míreme eso que te tengo escrito o lea, porque la letra hecha a mano yo no la entiendo; yo solo se leer algún romance.
Mestre:	...del guapo Mateu Benet. a fe que no llegiràs la doctrineta.	Maestro:	...del guapo Mateu Benet. Seguro que no leerás la doctrina.

Por una parte, el apunte de Ros nos indica que, probablemente, durante la segunda mitad del siglo XVIII y primera del XIX se continuaba citando a Benet en frases hechas o expresiones cotidianas para referirse a algo que tenía éxito o que era conocido por todos. Por otra parte, el *col·loqui* señala que, 121 años después de que Benet expirase en tierras napolitanas, los romances sobre su vida continuaban siendo consumidos. Igualmente, en el diario personal de Pablo Carsí, un ciudadano valenciano que relata la Valencia de mediados del siglo XIX, en el espacio que dedica a explicar las principales edificaciones de la ciudad, le resultó interesante anotar la ubicación de la alquería donde había residido el bandolero Benet, como si este se tratase de una persona ilustre: "[El bandolero Benet] A las espaldas de este combento, como unos dosientos pasos, está la alquería del famoso labrador Mateo Vicente Venet, de quien la historia cuenta tantas asañas y todas verdaderas" (Carsí, 2011, 65).

De este modo, más de un siglo después de la muerte de Benet y de la finalización de los bandos valencianos,³⁷ el personaje de los romances y del teatro había superado a la persona. Por esta razón, el mayor hito de figuras como la de Benet no fue perpetrar un número destacado de crímenes, contar con la protección de importantes casas nobiliarias o llegar a ser gobernador de Reggio Calabria, sino permanecer en la memoria colectiva de sus vecinos durante siglos.

Una mitificación, la de los bandidos valencianos, que se fue desvaneciendo durante el siglo XVIII, justamente cuando los contrabandistas y malhechores andaluces cogían más fuerza y el mundo de las parcialidades valencianas agonizaba. Aun así, habrá importantes malhechores valencianos del siglo dieciocho, que responden a una realidad

sociopolítica diferente a la de Andreu, Benet o Senent, pero que también fueron recordados: Jacint Rovira de Aiolo de Malferit; Baltasar Llorca, de la Vila Joiosa; Francisco Domingo, "el Pigetas"³⁸, de Benafer; o Manuel Manchón, "el Català", de Crevillent, entre otros (Llinares, 2025, en prensa).

CONCLUSIONES

En definitiva, el bandolerismo fue un fenómeno diverso, pero, que con sus diferencias y similitudes estuvo muy presente durante toda la Edad Moderna, ya fuesen salteadores de caminos, contrabandistas o bandidos contratados por las parcialidades nobiliarias o familiares. Pero, más allá de los pormenores del fenómeno, este tuvo un gran impacto en la cultura de ese momento histórico. En el presente estudio hemos abordado un tema bastante desconocido del bandolerismo valenciano y hemos demostrado que este tuvo una enorme incidencia en la cultura hispánica de los siglos XVII y XVIII. Después de que el bandidaje catalán vinculado a los bandos y las parcialidades de la época perdiera fuelle con la ejecución de Serrallonga y la Guerra dels Segadors, y antes de la gran eclosión del andaluz de mediados del XVIII, el valenciano ocupó un lugar destacado y, por qué no decirlo, hegemónico en la rumorología, los estereotipos, los romances de cordel y las obras de teatro desde 1640 hasta mediados del XVIII.

Por consiguiente, a través de los diarios personales, romances de ciegos, crónicas, documentación judicial o relatos de viajes hemos podido observar cómo el bandolerismo valenciano del Barroco hizo de los asesinatos, robos, extorsiones y tiroteos la norma. Todo esto llegó a suponer, en la práctica, un "contrapoder" para los intereses del Estado en su afán de monopolizar la violencia. Igualmente, los

37 Estos pervivieron con fuerza, al menos, hasta la Guerra de sucesión y poco después de esta (Català Sanz & Urzainqui Sánchez, 2011, 253–273).

38 Para este bandolero (Gomis, 2016, 9–33).

grandes malhechores vinculados a las parcialidades y los bandos del siglo XVII no buscaron pasar desapercibidos, intentaron influir en la opinión pública reivindicando los delitos o colocando pasquines o carteles en lugares públicos amenazando a sus rivales o el mismo virrey.

Este contexto propició que los valencianos se ganaran la fama de personajes sanguinarios, diestros con las armas y entregados a la venganza y al honor. No en balde, los relatos de viajeros que, siglos después, escribían sobre una Andalucía peligrosa y hostil a causa de la actividad de los salteadores, remarcan que los habitantes del Reino de Valencia eran famosos por ser auténticos "sicarios" dentro de su país y en diferentes lugares de Castilla, especialmente en la Casa y Corte de la Monarquía.

Asimismo, aunque el bandolerismo valenciano del Barroco no inspiró obras de autores de renombre como sí que pasó con el catalán, existen algunas composiciones poéticas cultas como la Francesc de la Torre i Sebil o la de Onofre Esquerdo sobre la muerte de Josep Vallterra. Pero donde realmente destacó este fenómeno valenciano fue en la literatura popular de la Edad Moderna, es decir, romances de ciegos pensados para cantarse y recitarse en voz alta en el espacio público. Muchos pliegos de cordel

difundieron la fama de los bandidos valencianos y algunos de ellos fueron muy populares, como el caso de Pere Andrés y Mateu Vicent Benet, dos malhechores muy famosos en vida y de los que se generó una serie de noticias y rumores no siempre confirmados. El primero inauguró -o, en su defecto, asentó- el formato de los romances de guapos y su historia se reimprimió hasta la segunda mitad del siglo XVIII. Por su parte, Mateu Benet, que acabó siendo gobernador de Reggio Calabria, inspiró diferentes impresos de cordel que narraban sus aventuras y desventuras, y una obra de teatro representada en los principales coliseos españoles. Como hemos demostrado, todo este material propició que su figura permaneciera en la memoria colectiva hasta mediados del siglo XIX.

Pero si el bandolerismo valenciano del siglo XVII tuvo tanto renombre y sus protagonistas permanecieron siglos después en el recuerdo de sus habitantes: ¿por qué no ha tenido la misma repercusión que el caso catalán o andaluz? Seguramente esta casuística sea el resultado del desinterés por esta temática por parte de los escritores decimonónicos valencianos, al contrario de lo que hizo el nacionalismo español y catalán, que sí acertaron a instrumentalizar a estos *outlaw*.³⁹ Pero esta cuestión ya formaría parte de otro trabajo.

39 Nos referimos a que el nacionalismo valenciano no incorporó la figura del bandido a su discurso. El caso de Jaume el Barbut, es el ejemplo más conocido de un bandido guerrillero de Crevillent del siglo XIX que fue instrumentalizado por el nacionalismo español y diferentes ideológicas decimonónicas.

»KO GRE VALENČAN V MADRID, GA IMAJO ZA BANDITA«: SPOMIN IN MITIFIKACIJA
BANDITIZMA V KRALJEVINI VALENCIJI (17.–18. STOLETJE)

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POVZETEK

Članek analizira pozabljeno temo v španskem zgodovinopisju: spomin in prenos valencijskega razbojništva v 17. stoletju. Gre za vrsto razbojništva, povezano z oligarhičnimi in družinskimi razbojniki, ki je bilo v tistem času zelo razširjeno v Sredozemlju in povezano z vendetami. Prvi del članka na podlagi sodnih virov in osebnih dnevnikov iz tega obdobja analizira nasilje v Kraljevini Valenciji, tako v mestih kot v vaseh, ki ga je povzročal banditizem, in kako je bila ta vrsta razbojništva protiutež kraljevi oblasti. Po drugi strani pa analizira stereotip, ki so si ga razbojniki prislužili pri prebivalcih tega območja, saj se v takratni potopisni literaturi pojavljajo kot pristni španski morilci. Drugi del članka obravnava, kako je bil ta pojav posredovan v pesmih ter nekaterih pesmih in igrah. Nazadnje pa obravnava medijski odmev in spomin na dva velika valencijska razbojnika tistega časa, Pere Andrés »Perot« in Mateu Vicent Benet. Slednjega je kralj pomilostil, potem ko je v Valencii ubil več kot 30 ljudi, postal je vojak v Neaplju in postal guverner Kalabrije.

Ključne besede: Kraljevina Valencija, banditizem, kulturna zgodovina, javno mnenje, kriminal

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PLIEGOS DE CORDEL Y OBRAS DE TEATRO

Anónimo (1646): El Padre nuestro glossado que dixo Pedro Andrés, estando en el árbol de la justicia para espirar. Con otros dos glossas muy importantes para qualquiera pecador enmendar su vida 1647. Madrid, Alonso de Paredes imp.

Anónimo (1646): Nueva relación del exemplar castigo que se hizo en la persona de Pedro Andrés, capitán de vandoleros, en que se declaran los delitos, prisión y muerte que se le dio en la ciudad de Valencia, en 27 de octubre deste presente año 1646. Madrid, Alonso de Paredes imp.

Anónimo (1809): Col·loqui trilingüe o col·loqui entreverat de valencià y castellà y uns cantonets en llatí, entre Macià el parlador y el mestre d'escola d'un poble de l'Horta de Valencia. Valencia, Oficina del Diari.

Anónimo (S.XVII): Relación verdadera de los hechos de Mateo Venet, natural de Valencia, 1681 y 1683. Sevilla, Juan Vejarano imp.

Anónimo (S.XVII): Xàcara nueva que haze relación de la vida hechos, hazañas honradas del valiente Matheu Benet Vicente, natural de Benirraclete, lugar de la huerta valenciana... Zaragoza, Herederos de Diego Dormer imp.

Anónimo (S.XVIII): Curioso y nuevo romance en que se refiere la historia de los vandidos que habitaron los montes de Toledo, ejecutando en ellos notables atrocidades; y los demás que verá el curioso lector. S.I, S.imp.

Anónimo (S.XVIII): De Mateo Benet. Relación de las memorables hazañas de este animoso héroe, natural de Benimaclet, lugar de la huerta de Valencia: dase cuenta, como fue de Gobernador de Rifola, en el Reyno de Nápoles, y el fin dichoso que tuvo. Valencia, Agustín Laborda imp.

Anónimo (S.XVIII): Famoso romance en que se da cuenta de los delitos, muertes y atrocidades del valiente Martín Muñoz. Valencia, Agustín Laborda imp.

Anónimo (S.XVIII): Relación y curioso romance, en que se declaran los arrojios y valentías de Don Miguel de Arenales, y el fin dichoso que tuvo. S.I, s.imp.

Bellot, Juan (S.XVIII): Nuevo romance, en que se declara la vida y pasmosos hechos de Don Francisco Alcañizes y Marcelo, pasmo de los valientes, rayo de los soberbios, y asombro de nuestros tiempos; al cual le degollaron por mandado de la Real Chancillería de Valladolid a 5 de Setiembre de este año 1716. Granada, Joseph Diaz Cayuelas imp.

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THE PORTRAYAL OF THE BALKANS IN THE SLOVENIAN TRANSLATIONS OF KARL MAY'S *ORIENTZYKLUS*

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ABSTRACT

This article discusses the depiction of the Balkans in two Slovenian translations of Karl May's Orientzyklus. This hexalogy was translated for the first time at a time when most of the Slovenian ethnic territory was part of the Kingdom of Yugoslavia, and it was later retranslated when Slovenia was a republic in the Socialist Federal Republic of Yugoslavia. A textual comparison of the originals and translations shows that in the first translations, numerous interventions were made to portray the Balkans in a more negative manner than in the originals, whereas in the retranslations, May's frequently negative depiction of the region was somewhat mitigated.

Keywords: Karl May, *Orientzyklus*, Balkans, literary translation, Orientalism, German literature

LA RAPPRESENTAZIONE DEI BALCANI NELLE TRADUZIONI SLOVENE DELL'*ORIENTZYKLUS* DI KARL MAY

SINTESI

*Il presente articolo affronta il modo in cui vengono descritti i Balcani in due traduzioni slovene dell'*Orientzyklus* di Karl May. L'esalogia fu tradotta per la prima volta quando la maggior parte del territorio etnico sloveno faceva parte del regno di Jugoslavia e fu poi tradotta nuovamente quando la Slovenia era una delle diverse repubbliche che facevano parte della Repubblica Socialista Federale di Jugoslavia. Il confronto dei testi originali e delle loro traduzioni ha evidenziato numerosi interventi nelle prime traduzioni, volti a rappresentare i Balcani in modo più negativo rispetto al testo originale mentre, nelle traduzioni successive, la descrizione spesso negativa della regione da parte dell'autore fu parzialmente attenuata.*

Parole chiave: Karl May, *Orientzyklus*, Balcani, traduzione letteraria, orientalismo, letteratura tedesca

INTRODUCTION

Numerous studies have shown a substantial ideological influence on Slovenian literary translation (Orel Kos, 2001; Ožbot, 2005; Svetina, 2009; Pokorn, 2012; Trupej, 2014; Snoj, 2020). The bulk of this research established that ideological interventions occurred most frequently in the translation of certain elements during the socialist period (1945–1991). However, an analysis of the representation of the Middle East in two Slovenian translations of the first three novels in the series collectively titled *Orientzyklus* (1892) showed that shifts¹ were far more frequent during the interwar period than during the socialist era (Trupej, 2023). The present study will focus on the second three novels of this best-selling hexalogy, while also discussing several relevant passages from the first part of the *Orientzyklus*. The aim of the article is to establish how the Balkans² were represented and constructed in the Slovenian translations and to describe the way in which contemporary political positions were reflected in them.

Karl May³ originally serialized the material for the second part of the *Orientzyklus* – consisting of the novels *In den Schluchten des Balkan* [Through the Gorges of the Balkans], *Durch das Land der Skipetaren* [Through the Land of the Skipetars], and *Der Schut* [The Yellow One] – from 1885 to 1888, i.e., in the years immediately after the establishment of the German Colonial Empire (1884). The novels *In den Schluchten des Balkan* and *Der Schut* were translated into Slovenian by Anton Jehart,⁴ while the translation of *Durch das Land der Skipetaren* is anonymous; there is a strong possibility that it was also translated by Jehart. These translations were published in 1931/1932 by the Catholic publishing house Tiskarna sv. Cirila. In 1971, Mladinska knjiga,

the largest Slovenian book publisher, published re-translations by Ludvik Mrzel.⁵ During both periods, most of the Slovenian ethnic territory was part of Yugoslavia – in the early 1930s of the Kingdom of Yugoslavia and in the early 1970s of the Socialist Federal Republic of Yugoslavia.

In the three novels that this study focuses on, the narrative primarily takes place in locations that are today in Albania, North Macedonia, Bulgaria and (European) Turkey, but were all part of the Ottoman Empire during the time in which the story is set. Some of the locations, i.e. those in Macedonia, eventually became part of the Kingdom of Serbs, Croats, and Slovenes, which was later officially renamed the Kingdom of Yugoslavia. Since the rest of the story also mostly takes place in the Balkan Peninsula, the primary purpose of the study is to establish whether the fact that the Slovenian ethnic territory was part of Yugoslavia, which was largely a Balkan country, affected the translation strategies, and how, particularly in comparison to those used for the representation of the Middle East in the *Orientzyklus*. In the first translations, the Middle East was portrayed in a more negative light than in the originals, while in the retranslations it was depicted more favourably (Trupej, 2023). Some aspects of the representation of the Balkans in the translations of the novel *In den Schluchten des Balkan* have already been examined (Birk, 2014, 317–322) and will be referred to in the relevant parts of the article; only examples from that novel not yet addressed will be included in the analysis presented here.

CORPUS SELECTION AND METHODOLOGY

There are several versions of May's *Orientzyklus* in the source culture. The first book editions (1892) will be cited in this article, but in an effort to establish

1 In the context of translation studies, shifts can be defined as “[a]ll that appears as new with respect to the original, or fails to appear where it might have been expected” (Popovič, 1970; quoted in Bakker et al., 2009, 271) or “changes which occur or may occur in the process of translating” (Bakker et al., 2009, 269).

2 While the Balkans are nowadays considered part of Europe, a century ago this region was widely regarded as part of the Near East (Sowards, 1996; Fleming, 2000, 1226–1228; Todorova, 2009, 28) and the ‘Orient’ (Bakić-Hayden & Hayden, 1992, 3–5; Bakić-Hayden, 1995, 920–922; Fleming, 2000, 1229). The inclusion of the three novels discussed here under the umbrella term *Orientzyklus* [Orient Cycle] also indicates that the European dominions of the Ottoman Empire – known as Rumelia – were considered part of the ‘Orient’. A historical overview of the definition of the term ‘Balkans’ and the areas included in it can be found in Slukan-Altić (2011).

3 Karl May (1842–1912) was a German writer, best known for his ‘travel tales’ set in the ‘Orient’ and the American Old West. He is one of the best-selling German authors of all time, with an estimated 200 million copies of his works sold worldwide. Many of his stories – including the *Orientzyklus* – have been adapted into commercially successful movies.

4 Anton Jehart (1881–1948) was a priest, theologian, writer and translator. He studied theology and after being ordained as a priest he worked in parishes in several Slovenian towns. He obtained a doctorate in theology from the University of Vienna in 1909, and in 1920, he became a professor at the Maribor Seminary, where he taught until his retirement in 1939. In the 1920s, he travelled to the Middle East and published accounts of his travels. He was a polyglot and translated literary works from several languages (Bračun, 2020).

5 Ludvik Mrzel (1904–1971) was a journalist, author and translator. During the interwar period, he worked as a journalist and published several literary works. He spent much of World War II in Italian and German prisons or concentration camps. At the Dachau trials held in socialist Yugoslavia after the war he was sentenced to 12 years in prison and was sent to the political prison Goli otok. After he was paroled in 1955, he struggled to find steady employment and supported himself as a freelance translator until his death (Čop, 2018).

whether a certain changed or added element was present in another version of a particular text, the following editions were additionally checked: the editions from May's posthumously published collected works (1913), the last published editions that were overseen by the author himself (1909), and the initially serialized stories in the magazine *Deutscher Hausschatz in Wort und Bild* (1881–1888). (The first Slovenian translations of the novels are stated as being authorized, thus it can be presumed that one of the aforementioned versions was used.) The compared passages are somewhat different with regard to orthography, but no changes in the representation of the Balkans were observed. A comprehensive list of the differences between the first book editions of the *Orientzyklus* and the editions from May's collected works can be found in Ilmer and Pielenz (1976, 6–15).⁶

A translation of the *Orientzyklus* was also serialized (1908–1910) in *Glas naroda*, the most widely read Slovenian American newspaper, and in 1910 it was published in book form by Slovenic Publishing Co. in New York. Since this translation was created in a different cultural environment, i.e. the USA, it is not included in this analysis, which focuses on the translations that were created during the time when the Slovenian ethnic territory was part of countries that also included Balkan nations.

According to Johan Heilbron (2010), in translations into languages with a peripheral position in the world system of translation, foreignizing⁷ translation strategies tend to be employed more frequently than in translations into central languages (cf. Zlatnar Moe et al., 2015, 122–123). The textual analysis will show to what extent foreignization was used in the translation and the retranslation of the *Orientzyklus* into Slovenian – a peripheral language. Another theory that will be tested is the *rettranslation hypothesis*, according to which the first translations of literary works tend to be more domesticating, while foreignizing strategies tend to be employed more frequently in later

translations (Berman, 1990; cf. Tahir Gürçağlar, 2009, 233–234).

The analysis was done following the approach proposed by Luc van Doorslaer (1995, 256): the whole texts of the originals and their translations were read independently from one another, and relevant elements (i.e., any negative discourse about the Balkans in general or particular ethnic groups in that region present in either the source or target text) were selected for comparison. After the analysis of the shifts on the textual level, the results are put into a *systemic context* (Lambert & van Gorp, 2006, 47), i.e. compared to the findings of other relevant research and considered in a wider historical context.

KARL MAY'S PORTRAYAL OF THE BALKANS

Karl May's *Orientzyklus* has had a substantial influence on the German perception of the Balkans (Kovačević, 1991, 222; Schmidt-Neke, 1994, 248; Previšić, 2016, 79–80; 2017, 112–113).⁸ The story is set sometime in the early to mid-1870s (Schmidt-Neke, 1994, 248; 2006, 162) and is narrated by a first-person re-teller, a German *deus ex machina* known under the alias Kara Ben Nems – a symbolic representation of the German nation (Hegedűs, 2010, 1232, 1237). In the second part of the narrative, this literary counterpart of the author is travelling through the Balkans hard on the heels of several members of a widespread criminal organization (whose leader is based in what is today Albania), undergoing various perilous adventures along the way and usually surviving them without so much as a scratch.⁹

Some scholars have expressed dissatisfaction with how May portrayed the Balkans; he frequently compared different aspects of the Balkans to Germany or Western Europe – the former constantly falling short (Kovačević, 1991, 230–232; Hegedűs, 2010, 1236–1237; Babka, 2015, 106–109). In this

6 According to Ilmer and Pielenz (1976, 3), changes that could be deemed 'interventions' were seldom made by May's estate in the posthumously published editions of his novels: these two scholars compared different editions of 24 novels and found fewer than a dozen such changes in a corpus comprising more than 14,000 printed pages.

7 Heilbron is referring to the terms *foreignization* and *domestication* as initially used by Lawrence Venuti: a foreignizing translation preserves elements from the source text that might appear foreign to the target readership, whereas a domesticating translation adapts the text in order for it to be in line with the norms and conventions of the target culture (Venuti, 1995). This scholar has since somewhat changed the definition of the terms: "The terms 'domesticating' and 'foreignizing' do not describe specific verbal choices or discursive strategies used in translation, but rather the ethical effects of translated texts that depend for their force and recognition on the receiving culture" (Venuti, 2017, xiii).

8 Considering May's great popularity in Slovenia until almost the end of the 20th century (Trupej, 2020), it can be presumed that – at least to some extent – the *Orientzyklus* also influenced the Slovenian perception of the Balkans (cf. Previšić, 2016, 79).

9 While in the *Orientzyklus* it is merely implied that the first-person re-teller is the author himself, May later explicitly stated that he experienced all the adventures that he wrote about in his books, for instance by connecting Kara Ben Nems / Old Shatterhand with Karl May in the novel *Satan und Ischariot*, which was originally serialized between 1893 and 1896 (Roussel, 2013, 75), as well as in a letter from 1897 (Roxin, 1974, 21). Furthermore, the supposed authenticity of May's experiences was affirmed in several meta-texts accompanying the serialized stories (Akyıldız, 2009, 130). At the turn of the 20th century, May's claim that he had experienced what he wrote about was debunked in the press, which – among other things – led to a scandal and eventually to several lawsuits (Kohlrausch, 2010; cf. Akyıldız, 2009, 137).



Figure 1: Karl May dressed as Kara Ben Nemsî in 1897
(Source: Wikimedia Commons).

context, Michael Schmidt-Neke (2006, 153) went so far as to refer to May as the “most successful propagator of Orientalism”,¹⁰ and, for instance, described his portrayal of the Albanian forces in Ottoman law enforcement as follows:

They terrorize the population simply of their own accord and allow themselves to be used by corrupt officials to plunder the populace. They are chained dogs in human form, who are sicced by their masters on both enemies and subjects alike but are almost impossible to keep under control. They do not even shy

away from cooperating with the criminals against whom they were actually supposed to be fighting. (Schmidt-Neke, 1994, 267)

Katalin Kovačević (1991, 229–230) observed that May portrayed Macedonia to be almost exclusively populated by Albanians, who are predominantly characterized in a negative manner. The same scholar remarked that May’s representation of Macedonia reveals a political agenda (Kovačević, 1991, 229). More precisely, “Karl May was not interested in objectively portraying the conditions in the Balkans, i.e., in Macedonia, but rather in one-sidedly highlighting the primitive characteristics of these areas; he was thereby in harmony with the prevailing political aims of his time” (Kovačević, 1991, 234; cf. Previšić, 2017, 119, 124). Similarly, Nina Berman (1996, 145; cf. Berman, 1996, 157–158) stated that in the *Orientzyklus*, “May produced a revealing mirror of the ideas about the peoples of the Orient that were dominant in his time. Ultimately, this representation of the Orient promoted the legitimacy of the economic intervention sought by the Wilhelmine Empire and expansion into the Balkan areas as well as into regions of the Ottoman Empire.” She concluded that May generally portrayed ‘Balkanites’ more negatively than other peoples in the ‘Orient’, which justified Kara Ben Nemsî’s more authoritarian *modus operandi* in those regions (Berman, 1996, 142–148). When discussing May’s portrayal of the Balkans, Anna Babka (2015, 111) made a similar observation, referring to the protagonist as a “cultural colonizer”. Schmidt-Neke (2006, 165–166) stated that according to May, the Ottoman Empire suffered because of incompetent bureaucrats and criminal organizations, and that by getting rid of several members of the latter, Kara Ben Nemsî did his part in healing it. The German Empire had substantial economic interests especially in the European part of the Ottoman Empire (Berman, 1996, 59–60), and it is therefore not surprising that May’s literary *alter ego* propagated the view that the German Empire could help the Turkish state, while at the same time he condemned the other great powers for trying to bring about its downfall (Schmidt-Neke, 2006, 163).¹¹ In accordance with this view, May generally characterized the freedom fighters in the Balkans – who were opposing the Ottoman overlords – as bandits (Kovačević, 1991, 232–233; cf. Schmidt-Neke, 2006, 177; Previšić, 2016, 83, 88; 2017, 116, 119, 121–122).

¹⁰ All quotations not originally in English were translated by the author of this article.

¹¹ Martin Roussel (2013, 74) points out that in his feuilleton *Deutsche Herzen – Deutsche Helden*, which was serialized between 1885 and 1888, May expressed negative opinions about nations who meddled in the affairs of the Ottoman Empire, i.e., the British, French and Russians – but not the Germans. By not setting his stories in any of the colonies where the German Empire was on its own *mission civilisatrice*, May was able to “adopt an oppositional stance in relation to imperialism without the need to criticize German colonial policy” (Ferens, 2008, 96).

ANALYSIS OF THE FIRST SLOVENIAN TRANSLATIONS

The Balkans are indirectly present in the narrative long before Kara Ben Nemsî reaches the Balkan Peninsula. Albanians are mentioned for the first time when the protagonist and his loyal servant Hadschi Halef Omar are staying in Mosul; the latter – using the Turkish ethnonym for Albanians – alleges how the *mutasarrif* [governor] of Mosul makes use of his Arnauts: „Er spricht zu seinen Arnauten: ‚Gehet, zerstört, mordet, aber bringt mir Geld!‘ Sie thun es, und er wird reicher als der Padischah”¹² (May, 1892a, 505). In the translation, the second sentence is expanded with the following statement: “In Arnauti smejo počenjati, kar hočejo, nihče ni varen pred njimi, pa zgodi se jim nič”¹³ (May, 1928–1930, 14). Kara Ben Nemsî eventually manages to get in the *mutasarrif*’s good graces and receives an escort of five Arnauts and five bashi-bazouks from him. While in the original, this is related with no accompanying value judgments (May, 1892a, 532), the translation is expanded with the following sentences:¹⁴ “Arnaut je turško ime za Albanca. Do zadnjega časa so bili bojoviti Albanci jedro turških vojsk. Bašibozuki – beseda pomeni pravzaprav norega, zdivjanega človeka – so redni turški vojaki. V vojski se nikdar niso dobro obnesli”¹⁵ (May, 1928–1930, 40). The additional information provided by the translator was somewhat inaccurate: bashi-bazouks were not regular but rather irregular soldiers. Although these were indeed frequently of Albanian origin, they were recruited from other ethnic groups as well (Edmonds, 2020); this statement thus does not necessarily reflect negatively on Albanians but rather on the Ottoman Army in general.

Later, when the protagonist reaches the Albanian ethnic territory in the Balkans, the narrator begins to use the term *Skipetar* (a variant of the Albanian endonym *Shqiptar*) instead of *Arnaut*. At a certain point in the narrative, the adjective *divjaški* [savage]

is added to the narrator’s description of Albanians in the Slovenian translation (May, 1892d, 82; 1932a, 88); sometime later, Albanians are characterized as *halbwild* [semi-savage] in the original but as *divjaki* [savages] in the translation (May, 1892e, 272; 1932b, 251). The narrator also observes the following about the nature of the Albanian people: “Der Skipetar rächt nur das, was ihm selbst und den Gliedern seiner Familie oder seines Stammes geschehen ist”¹⁶ (May, 1892e, 422). In the translation, Jehart expanded this statement to characterize this ethnic group as even more self-centred: “Škipetar nima razvitega čuta za splošno socialno pravičnost. Maščevalen je, pa maščeval bo krivice, ki so zadele njega osebno, njegove sorodnike ali pa njegov rod. Za tujca se ne bo potegnil, maščuje naj se sam”¹⁷ (May, 1932b, 372).

A different kind of shift occurs in the translation of the following sentence: “Es sollen viele Skipetaren dort sein, und die taugen nichts”¹⁸ (May, 1892d, 129). The translation reads: “Mnogo Škipetarjev živi v Skoplju. In Škipetarji niso ravno pobožni ljudje”¹⁹ (May, 1932a, 131).²⁰ This change of meaning in the translation (which is less damning than the statement in the original) indicates how much importance the translator ascribed to religiousness, while from an intervention made later, it is evident *which* was the ‘right’ religion; after Kara Ben Nemsî had disguised himself as a *sharif*, and kept the outfit on longer than needed, he – in the function of narrator – commented: “Ich hatte unterwegs gar nicht daran gedacht, meine Verkleidung abzulegen. In Mitte einer fanatischen Bevölkerung wäre das höchst gefährlich gewesen; hier aber hatte es nicht so viel zu bedeuten”²¹ (May, 1892d, 181). In the translation, two significant additions to the latter sentence can be found: “Med fanatičnim mohamedanskim prebivalstvom bi bilo nevarno, v Radoviču [sic] pa ni pomenilo mnogo, prebivalstvo je bilo po večini pravoslavno”²² (May, 1932a, 186). In the original, the meaning

12 He says to his Arnauts: “Go, destroy, murder, but bring me money!” They do it, and he is becoming richer than the padishah. (Throughout the analysis, gloss is provided by the author of this article.)

13 And the Arnauts can do what they want, no one is safe from them, but nothing happens to them.

14 Unless indicated otherwise, such additional information by the translator is provided in the main text, not in a footnote.

15 Arnaut is the Turkish name for an Albanian. Until recently, the pugnacious Albanians formed the core of Turkish armies. Bashî-bazouks – the word actually means a crazy, mad person – are regular Turkish soldiers. They never did well in the military.

16 The Skipetar only takes revenge for something that was done to himself and members of his family or tribe.

17 The Skipetar does not have a developed sense of general social justice. He is vindictive, but he will avenge the injustices that were done to him personally, his relatives or his tribe. He will not side with a stranger; let him take revenge himself.

18 It is said that many Skipetars live there, and they are no good.

19 Many Skipetars live in Skopje. And Skipetars are not exactly pious people.

20 It should be noted that in a footnote, the translator had previously stated that there were both Muslims and Christians (including Catholics) among Albanians (May, 1932a, 5).

21 While on the way, I had not even thought to take off my disguise. This would have been most dangerous amid a fanatical populace; but here it did not mean much.

22 This would have been dangerous among a fanatical Mohammedan population, but it did not mean much in Radoviš, where the population was mostly Orthodox.

is merely implied, whereas in the translation, the narrator explicitly claims that fanaticism is characteristic of Muslims and that the opposite is true for adherents of a Christian denomination in a town that lies in what is now North Macedonia – the religion of the inhabitants of Radoviš had not been mentioned before.

Another negative characteristic ascribed to the Islamic world can be found in the part of the narrative where Kara Ben Nemsí is in a blood feud with someone from the Albanian tribe Mirdita (May, 1892d, 289); the translator added the following statement by the narrator: “Krvna osveta obvladuje ves mohamedanski svet. Neizprosna, kruta je njena postava, nobenega usmiljenja ne pozna, ne za osvetnika ne za njegovo žrtev. Gorje njemu, ki si je krvno osveto nakopal, pa če je tudi brez lastne krivde in v silobranu preli kri, gorje tudi osvetniku, če ni maščeval krvi svojega sorodnika”²³ (May, 1932a, 297). Muslims are also denigrated when two negative characters spit in an accomplice’s face after witnessing him falsely swear by the Prophet Muhammad and the caliphs; the narrator makes the following remark: “Sie nahmen einen Mord mit Leichtigkeit auf ihr Gewissen, aber eine Lästerung des Propheten und seiner Nachfolger empörte ihr ganzes Wesen”²⁴ (May, 1892d, 510). In the translation, this sentence is prefaced with the following added statement: “Tak je mohamedan —”²⁵ (May, 1932a, 498). While in the original, merely the particular two characters are referred to, in the translation, this negative characteristic is thus ascribed to Muslims in general.

The Ottoman Empire in general is often also portrayed more negatively than in the source texts. For instance, an all-encompassing condemnation of the acquisitiveness of the Turkish officials can be found in the part of the narrative where Kara Ben Nemsí and his fellow travellers are staying in Istanbul, the capital of the Ottoman Empire. Soon after arriving in this metropolis, the protagonist comes upon a public house in which people are allegedly being robbed and murdered, and where spoils are divided. When Kara Ben Nemsí learns that high officials also frequent the establishment, he does not make any remark about this in the original

(May, 1892b, 490), while in the translation a long commentary is added – the Balkans are also mentioned:

*Po vseh deželah padišahovih, od Eufrata do Nila, od Bospora do Donave, po Orientu in po Balkanu je vladala povsod ista turška morala: padišah sam potrebuje denar, ti pa si vzemi plačo, kjer in kakor moreš! In od kadija do wezirja, od vaškega kjaje do mogočnega mutasarrifa, vse je ožemalo in izmozgavalo ubogo ljudstvo, da si »poišče svojo plačo«. Ni čuda, če je taka morala vzgojila zločince, uničila zmisel [sic] za pravičnost in red in rodila neštete krivice in zločine —.*²⁶ (May, 1930–1931, 469–470)

A similarly severe condemnation is added in the translation when relating Kara Ben Nemsí’s experience with the authorities in Ostromdscha (Strumica) (May, 1892d, 24) in what is today North Macedonia – the narrator describes what happens when Ottoman officials confiscate something: “Izgovarjajo se na postavo, zasežejo in zaplenijo prijetim zločincem, kar najdejo pri njih, — in živa duša ne vidi več zaplenjenega blaga. Vse izgine v žepih slabo plačanih padišahovih namestnikov in sodnikov”²⁷ (May, 1932a, 33). The Ottoman Empire’s law enforcement and/or justice system is criticized several more times during the protagonist’s travels across the Balkan Peninsula by means of various additions (May, 1892d, 69, 73, 295; 1932a, 74, 78, 305; 1892e, 2, 343–344; 1932b, 6, 309).

On numerous occasions, the narrator described certain negative characteristics of the locations he was travelling through and/or its people but did not claim that a particular characteristic applied to the whole region. However, this is quite often the case in the translations – the ‘Orient’ is depicted more negatively by short additions. For instance, when the narrator relates how Omar Ben Sadek, a member of the protagonist’s travelling party, and a doctor from Radowitsch (Radoviš) were insulting each other, he remarks that the latter seemed to be a cursing virtuoso (May, 1892d, 195), whereas in the translation the claim is added that ‘Orientals’ in general are experts in using profanity (May, 1932a, 201). A similar shift occurs when the

23 The blood feud dominates the whole Mohammedan world. Its law is relentless and cruel, it knows no mercy, neither for the avenger nor for his victim. Woe to him who incurred a blood feud, even if he shed blood through no fault of his own and in self-defence, and woe to the avenger if he did not avenge the blood of his relative.

24 They took murder upon their conscience with ease, but their entire being was repulsed by the blasphemy against the Prophet and his successors.

25 Mohammedans are like that.

26 The same Turkish morals existed in all the lands of the padishah, from the Euphrates to the Nile, from the Bosphorus to the Danube, in the Orient and the Balkans: the padishah needs the money, and you take your cut where and whichever way you can! And everyone from the qadi to the vizier, from the village muhtar to the mighty mutasarrif, sucked the poor people dry to “get their cut”. It is no wonder that such morals have brought up criminals, destroyed the sense of justice and order, and brought forth countless injustices and crimes.

27 They plead the law, seize and confiscate whatever they find with the arrested criminals – and no living soul sees the confiscated goods again. Everything disappears into the pockets of the padishah’s poorly paid deputies and judges.

narrator gives an account of how one of the women in Ostromdscha thanked him for being merciful with her – the original reads: “Ihren Dankesworten entzog ich mich, indem ich mich schnell entfernte”²⁸ (May, 1892d, 65). The translation is changed to make a negative pronouncement about the servility of ‘Orientals’ in general: “Odtegnil sem se njeni orientalski klečeplaznosti in naglo odšel”²⁹ (May, 1932a, 70). Similarly, while in the original the narrator states that people in a certain region in what is today North Macedonia are gullible (May, 1892e, 53), the supposed gullibility of the Orient as a whole is referred to in the translation (May, 1932b, 58).

Occasionally, the translations are rewritten to denigrate both the ‘Orient’ and the Balkans in one breath. For instance, when Kara Ben Nemsí and his companions are travelling through a region that is today in North Macedonia, they are transported across a river by a ferryman, who afterwards – in addition to the fee that he had already received – asks for baksheesh (May, 1892d, 568). The following statement is added in the translation: “Od Balkana do Sahare, povsod je orientalec [sic] isti —”³⁰ (May, 1932a, 550). When entering one of the bedrooms in a guest house in the village Dabila (Dabilje), also located in what is today North Macedonia, the narrator makes the following observation: “Betten gab es nicht”³¹ (May, 1892c, 447). Jehart transformed this statement, which referred only to a particular bedchamber, into the following generalization: “Postelje navadni ljudje v Orientu in tudi na Balkanu ne poznajo”³² (May, 1931–1932, 420). The narrator then comments on the lack of hygiene in ‘Oriental’ bedchambers (May, 1892c, 447–448), to which Jehart added the following statement: “Evropejec bo rajši spal na prostem ko pa v takih ‘spalnicah’”³³ (May, 1931–1932, 420). With the last two instances of rewriting, the translator indicated that he did not consider the ‘Orient’ and the Balkans quite one and the same, but also that he did not regard the part of the Balkans ruled by the Ottoman Turks as a part of Europe – despite the fact that the location in question was a part of Yugoslavia at the time that he was translating the novel.

Various other nouns and adjectives or full sentences are added in the translation to express negative opinions about that Balkans and/or its people (May, 1892b, 637; 1930–1931, 622; 1892c, 138; 1931–1932, 122; 1892d, 73–74, 97, 137,

220, 231, 333, 514; 1932a, 78, 80, 100, 140, 228, 240, 338, 501), etc. Occasionally, elements from the originals that portray the Balkans in a negative light are omitted. For instance, the following sentence that denigrates Islam: “Der wilde Araber ist nicht mehr der einzige Bekenner des Islams; darum ist der Islam jetzt für euch zur Zwangsjacke geworden, unter deren Druck ihr hilflos leidet” (May, 1892c, 279). This statement is not translated into Slovenian (May, 1931–1932, 266). There are several other similar omissions (May, 1892c, 145–146, 425–426, 541; 1931–1932, 127–128, 404, 514–515; 1892d, 150–151; 1932a, 150; 1892e, 344; 1932b, 313). However, this translation strategy is insignificant compared to the more than 40 alterations by means of which the Balkans are represented in a more negative light than in the originals (cf. Birk, 2014, 321).

ANALYSIS OF THE SLOVENIAN RETRANSLATIONS

Ludvik Mrzel did not make interventions in the texts as frequently as was the case in the first translations, and the ones he did make had the opposite effect of those of his predecessor(s). Sometimes the omitted elements were at the level of the phrase: for instance, while in the source text the designation “räuberische Skipetaren” [thieving Skipetars] (May, 1892e, 272) is used, in the target text, the reference to nationality is omitted, referring just to “roparji” [robbers] (May, 1971d, 216). A similar shift occurs when the narrator describes an antagonist’s evil scheme and concludes by exclaiming: “Das war ein echter Skipetarenstreich!”³⁴ (May, 1892e, 201). In this instance, the whole sentence was deleted in Mrzel’s translation (May, 1971d, 161).

The translator used the same strategy in relation to one of Kara Ben Nemsí’s travelling companions, a Montenegrin by the name of Osko. After the latter kills an adversary on whom he had sworn vengeance, the narrator makes the following generalization about the ‘Orient’: “Das ist der Orient: neben blendendem, trügerischem Licht ein desto tieferer, unheimlicher Schatten!”³⁵ (May, 1892e, 210). This sentence is absent in the translation (May, 1971d, 168).

Mrzel avoided disparaging Islam in the part of the narrative where Kara ben Nemsí is discussing religion with a Muslim man from Koschikawak

28 I evaded her words of thanks by quickly removing myself.

29 I avoided her Oriental servility and left quickly.

30 From the Balkans to the Sahara, Orientals are the same everywhere.

31 There were no beds.

32 Ordinary people in the Orient and also in the Balkans are not familiar with beds.

33 A European will rather sleep in the open air than in such ‘bedrooms’.

34 This was real Skipetar devilry!

35 This is the Orient: next to dazzling, deceptive light, an even deeper, more sinister shadow!

(Krumovgrad) in what is today Bulgaria. The latter remarks that the local Christians are not good people; the protagonist retorts with the following claim: “Nun, dann mußst du wissen, daß das Unkraut am allerbesten auf schlechtem Boden gedeiht. Du gibst damit dem Islam ein schlechtes Zeugnis, denn er würde dieser schlechte Boden sein”³⁶ (May, 1892c, 279). The translator deleted the latter sentence (May, 1971b, 222).

In the retranslations, interventions are most frequent in the part of the narrative taking place in what is today North Macedonia. One of them occurs when Kara Ben Nemsî is talking to the police force in a village named Sbiganzý (Žiganci) and makes the following patronizing proclamation: “Und ich bin aus einem Lande, in welchem ein Knabe klüger und unterrichteter ist als hier bei euch ein Mann, den ihr für klug und weise haltet”³⁷ (May, 1892d, 323). This statement is deleted in the Slovenian version (May, 1971c, 251). In the part of the narrative taking place in Kilissely (Sveti Nikole) one of the antagonists is forced to bastinado his accomplice; initially, he does not strike as hard as he could, but eventually he does, about which the narrator offers the following observation: “Es giebt eben Menschen, denen beim Anblick des Blutes erst die Blutgierde kommt. Wilde scheinen sogar berauscht davon zu werden”³⁸ (May, 1892d, 505). While in the original, the narrator seems to consider the person administering the punishment to be like the ‘savages’ referred to, neither sentence is included in the translation (May, 1971c, 388). A further shift occurs when Kara Ben Nemsî’s travelling party is on the way to Glogovik (Lakavica); the narrator makes the following remark about the journey: “Die Gegend war bergig, aber so wenig interessant, daß gar nichts über sie zu sagen ist. Erreichten wir ja einmal ein kleines Dorf, so widerte uns die Armseligkeit desselben so an, daß wir uns beeilten, hindurch zu kommen”³⁹ (May, 1892e, 57). Mrzel deleted the latter part of the first sentence and completely changed the meaning of the second sentence – the translation reads: “Pokrajina je bila zelo hribovita. Ježa iz doline Treske je našim konjem nalagala velike napore”⁴⁰ (May, 1971d, 50).

DIRECT COMPARISON OF THE SLOVENIAN TRANSLATIONS

The passages discussed below, for which different strategies were used in the translation and the retranslation, will shed light on the different approaches used in the two historical periods in question.

When the protagonist’s travelling party arrives in Adrianople (Edirne), a city in the southeast of the Balkan Peninsula, the narrator makes the following observation about this former capital of the Ottoman Empire: “Von weitem bot uns Adrianopel einen prächtigen Anblick dar; als wir es aber erreicht hatten und durch seine Straßen ritten, ging es wie mit allen andern Städten des Orientes: sie verlieren in der Nähe ihre Schönheit und erfüllen niemals das, was sie aus der Ferne versprechen”⁴¹ (May, 1892b, 552). In the first translation, the following description of ‘Oriental cities’ is added: “namesto lepote in slikovitosti vidiš nesnago, nered, zanemarjenost”⁴² (May, 1930–1931, 540). In the retranslation, the description of Adrianople is not changed, but instead of claiming that the negative characteristics can be attributed to cities in the ‘Orient’ *en masse*, the narrator refers merely to Turkish cities: “Iz dalje je pogled na Drinopolj v resnici čudovit, ko pa smo prišli do njega in zajahali na njegove ceste, je bilo z njim kakor pri vseh drugih mestih po Turčiji: od blizu izgubijo svojo lepoto”⁴³ (May, 1971a, 428). Similar shifts in both translations can be observed in the part of the narrative taking place in Ostromdscha, which is described as follows in the original:

Die Stadt bot – wenigstens so weit, wie wir sie jetzt erblickten – gar nichts Besonderes. Orientalische Häuser und Hütten, die ihre fensterlosen Mauern nach der Straße kehren. Armselige Bauwerke, dem Einsturz nahe. Wege, aus trockenem Schlamm bestehend, von welchem an heißen Tagen ein entsetzlicher Staub aufwirbelt, während man bei Regenwetter bis an die Kniee in den Kot einsinkt. Dazu eine zigeunerhafte Staffage, schmutzige

36 Well, then you must know that weeds thrive best in bad soil. You are thereby giving a bad testimony to Islam because it would be this bad soil.

37 And I am from a country where a boy is wiser and better educated than a man among you whom you think clever and wise.

38 There are simply people whose bloodthirstiness is only awakened at the sight of blood. Savages even seem to get intoxicated by it.

39 The region was mountainous, but so uninteresting that nothing can be said about it. Whenever we reached some small village, we were so disgusted by its wretchedness that we hastened through it.

40 The landscape was very hilly. The ride from the Treske valley put a great strain on our horses.

41 From afar, Adrianople offered us a splendid sight; but when we reached it and rode through its streets, it was like all other cities in the Orient: up close they lose their beauty and never fulfil what they promise from afar.

42 [I]nstead of beauty and picturesqueness, one sees filth, disorder, neglect.

43 From afar, Drinopolj looked really splendid; but when we reached it and rode through its streets, it was like all other cities across Turkey: up close they lose their beauty.

*Menschen und dürres Vieh. So gleicht hier eine Stadt der anderen.*⁴⁴ (May, 1892c, 550)

Jehart significantly expanded and changed the last two sentences of the description: "Capinsko oblečeni in umazani ljudje lenarijo po ulicah in pred hišami, kot bi na vsem svetu za nje ne bilo dela. Mršave buše, sloke koze so za ozadje. Balkansko mesto —!"⁴⁵ (May, 1931–1932, 524). In addition to a more negative description of the town's inhabitants, the last sentence claims that this is a typical Balkan town, whereas the statement in the original may refer to a narrower area. Mrzel used the opposite strategy: the reference to 'Oriental' houses is narrowed to Turkish houses, and the penultimate sentence of the source text is changed so as not to state anything negative about people or livestock, but merely observe that the pavement is neglected: "Po sredi ulice je potekal največkrat zanemarjen tlak iz mačjih glav. Tako je v teh krajih mesto podobno mestu"⁴⁶ (May, 1971b, 426).

When Kara Ben Nemsi asks the public prosecutor in Ostromdscha where two notorious Albanian highwaymen – brothers known by the collective *nom de guerre* Aladschy – were from, the latter offers the following information: "Man sagt, sie seien oben von Kakandelen [sic] her, von den Bergen des Schar Dagħ herab, wo die eingefleischten Skipetaren wohnen"⁴⁷ (May, 1892d, 60–61). In the first translation, Albanians are described as wild: "Pravijo, da sta iz Tetova, s Šar planine. Tam živijo najdivjejši Škipetarji"⁴⁸ (May, 1932a, 66). In the retranslation, no adjective is used: "Pravijo, da sta menda gori iz Kakandelen [sic], iz hribov Šardaga, kjer živijo Albanci"⁴⁹ (May, 1971c, 52). In a lengthy passage in the source text, Kara Ben Nemsi talks about the lack of protection from robbers like the Aladschy that Ottoman law provides to people (May, 1892d, 222); the following statement is added in the first translation: "Pri vas pa se za postavo nihče ne zmeni,

žal pogosto niti oblasti ne. Saj so celo vaši politični uradniki in policijski predstojniki zavezniki roparjev in zločincev, kakor sem prav v Strumici doživel"⁵⁰ (May, 1932a, 230). In the retranslation, the passage from the original is omitted altogether (May, 1971c, 175). The narrator had previously made the following pronouncement about the Albanian people and the lands they inhabit:

*Die türkische Rechtspflege hat bekanntlich ihre Eigentümlichkeiten, sagen wir geradezu ihre Schattenseiten, die um so deutlicher hervortreten, je entlegener die Gegend ist, um die es sich handelt. Unter den dortigen Verhältnissen ist es nicht zu verwundern, daß da, wo die verschiedenen zuchtlosen, sich ewig befehlenden Stämme der Arnauten ihre Wohnsitze haben, von einem wirklichen ‚Rechte‘ fast gar nicht gesprochen werden kann. [/] Bei Ostromdscha beginnt das Gebiet dieser Skipetaren, welche nur das eine Gesetz kennen, daß der Schwächere dem Stärkeren zu weichen hat.*⁵¹ (May, 1892d, 1)⁵²

In the first translation, the passage is rewritten to paint an even somewhat more negative picture of both the Albanians and the Ottoman authorities:

Dežela Škipetarjev se začneja pri Strumici in sega čez Vardarsko dolino in Šar planino v Albanijo. Domovina Škipetarjev je gorata, težko dostopna, Škipetarji sami so bojevita plemena in so si neprestano v laseh. Krvna osveta je pri njih stroga verska dolžnost, roparski pohodi, napadi na sosede in na tujce veljajo za junaške čine. Politično spada njihova dežela sicer pod Turčijo, pa podložni so padišahu le po imenu, za turške oblasti se ne zmenijo, te pa jih pustijo pri miru, ker jim v njihovih gorskih gnezdih ne morejo do živenga in ker se

44 The town – at least what we saw of it now – offered nothing special. Oriental houses and huts with their windowless walls facing the street. Miserable buildings, close to collapsing. Paths of dry mud, from which terrible dust whirls up on hot days, while on rainy days one sinks knee-deep in mud. In addition to that, a gypsy-like staffage, dirty people and skinny cattle. One town is like another here.

45 Ragged and dirty people laze on the streets and in front of houses, as if there were no work for them in the whole world. Meagre cows and slimmish goats as staffage. A Balkan town!

46 The middle of the street was paved with mostly neglected cat's head cobbles. Thus, in these parts, one town is like another.

47 It is said that they are from up in Kalkandelen, below the Sharr Mountains, where deep-rooted Skipetars dwell.

48 It is said that they are from Tetovo, from the Sharr Mountains. The wildest Skipetars live there.

49 It is said that they are supposedly from Kalkandelen, from the Sharr Mountains, where Albanians live.

50 In your country, no one cares about the law, often not even the authorities, unfortunately. Even your political officials and police chiefs are allied with robbers and criminals, as I experienced in Strumica.

51 It is commonly known that the Turkish administration of justice has its peculiarities, let us put it bluntly, its downsides, which become all the more apparent the more remote the area in question is. Under the conditions there, it is not surprising that in the parts where the various insubordinate, constantly warring Arnaut tribes have their abodes, one can hardly speak of any actual "law". [/] The territory of these Skipetars, who only know the law that the weaker has to give way to the stronger, begins near Ostromdscha.

52 The slash sign [/] represents the end of a paragraph.

*jih bojijo. Po nekod so še celo v zvezi z njimi. Le eno oblast poznajo Škipetarji, oblast pesti, slabejši se mora umakniti močnejšemu.*⁵³ (May, 1932a, 5)

Mrzel translated the first sentence of the original, while the other quoted sentences from the source text are not to be found in the target text and are replaced by merely one sentence: "Turški pravni red ima, kakor je znano, svoje posebnosti ali – povejmo kar naravnost – svoje senčne strani, ki so toliko razločnejše vidne, kolikor bolj odmaknjeni so kraji, ki zanje gre. To smo bili že popoldne izkusili in zdaj smo trdno sklenili, da bomo na razpravi, na katero smo bili namenjeni, nastopili odločno"⁵⁴ (May, 1971c, 5).

Further shifts regarding the Albanian people occur in the part of the narrative where the protagonist's travelling party is approaching the Albanian ethnic territory. The narrator states the following in the original: "Und grad jetzt näherten wir uns dem gefährlichen Bereich der Skipetaren"⁵⁵ (May, 1892c, 518). Jehart translated this sentence as follows: "[B]ližali smo se krajem, kjer so neomejeno gospodovali hajduki in kačaki"⁵⁶ (May, 1931–1932, 494). Although both hajduks and kachaks were often associated with resistance movements, in *Slovar slovenskega knjižnega jezika* [Dictionary of Standard Slovenian Language], the term *hajduk* is defined as either a highwayman or a rebel fighting against the Turkish occupiers, whereas the term *kačak* is only defined as (usually) an Albanian robber living in the mountains. While hajduks and kachaks were not present in the Slovenian ethnic territory, and the historical meaning of these two terms may not be well-known to the contemporary Slovenian general public, it can be presumed that in the early 1930s, many Slovenians were aware of them due to their activities in the wider region in the previous centuries and decades – some as recent as the Kachak Movement in Kosovo in the 1920s (Kryeziu & Dugolli, 2022) – and perceived them as menacing people. In the first translation, the area in question is thus described as a greater danger zone than in the original. The retranslation differs substantially: "In

ravno zdaj smo se bližali nevarnemu področju, na katerem delujejo zavezniki Žutega"⁵⁷ (May, 1971b, 401) – instead of referring to Albanians in general (as May did) or dangerous groups of people in the Balkans that could also be found among Albanians (as Jehart did), Mrzel thus merely mentioned a specific criminal gang.

CONCLUSION

The analysis of the first Slovenian translation of the *Orientzyklus* showed that not only were almost all negative descriptions of the Balkans preserved, but that numerous interventions were made to paint an even more bleak picture of the region – either by means of additions on the sentence level, by adding sentences and whole passages, or by rewriting. The translation strategies were influenced by a variety of factors.

The Ottoman Empire, which at the time of publication of the source texts still ruled over a large part of the Balkans, is frequently criticized more harshly in the first Slovenian translations than in the originals (cf. Birk, 2014, 318–319) – in particular, the lack of the *Rechtsstaat* in the Balkans is pointed out a number of times in the translations. This is in line with the traditionally negative perception of the Turkish people among Slovenians (Bartulović, 2010; Hladnik, 2011; Pokorn, 2013; Žigon, 2013; Voje, 2014, 14–43). Not only did the Slovenian ethnic territory suffer from frequent Turkish raids in the 15th and 16th centuries, some of the territory that formed Yugoslavia had been under Ottoman rule as recently as before the First Balkan War, i.e. about two decades before the *Orientzyklus* was translated. It is plausible that this influenced the ideological interventions with regard to Ottoman presence in the Balkans. Emphasizing the lawlessness of days past suggested that the territory in question was better off freed from the *Osmanlı* overlords.

The Albanian people are repeatedly portrayed more negatively than in the originals, which may have been partly influenced by the less-than-stellar relations between Yugoslavia and Albania for much of the 1920s (Jovanović, 2014; cf. Steiner, 2005, 99, 267).

53 The land of the Skipetars begins at Strumica and extends through the Vardar valley and Sharr Mountains into Albania. The homeland of the Skipetars is mountainous and difficult to access, the Skipetars are warlike tribes and are constantly at daggers drawn with one another. The blood feud is a strict religious duty for them, plundering expeditions and attacks on neighbours and foreigners are considered heroic deeds. Politically, their land is part of Turkey, but they are subjects of the padishah only in name, they care little for the Turkish authorities, and these leave them be because they cannot get to them in their mountain nests and because they are afraid of them. In some places, the authorities are even allied with them. The Skipetars only know one authority, the rule of the fist; the weaker must give way to the stronger.

54 The Turkish administration of justice is known to have its peculiarities or – let us put it bluntly – its downsides, which become all the more apparent the more remote the area in question is. We had already experienced this in the afternoon, and now we firmly decided that we would act resolutely at the hearing we were about to attend.

55 And just now we were approaching the dangerous realm of the Skipetars.

56 We were approaching places where hajduks and kachaks ruled unfettered.

57 And just now we were approaching the dangerous area in which the allies of the Yellow One operated.

Anton Jehart (who translated two of the three novels that this study is primarily concerned with and was perhaps also responsible for the uncredited translation) was a Catholic priest, and denigrated the religion of Islam more often than is the case in the source texts; therefore, the fact that the Albanians were predominantly Muslim in all likelihood also influenced the portrayal of this nation in the translations. On the other hand, the mainly Orthodox Bulgarians – who are also prominently featured in the second part of the *Orientzyklus* and are frequently portrayed in a less than flattering light (Udolph, 2011, 36–38) – are never explicitly characterized more negatively than in the originals. Considering that Bulgaria had been an adversary of the Kingdom of Serbia and the Kingdom of Montenegro (i.e., two countries that later became part of Yugoslavia) in both the Second Balkan War and World War I, and that during the interwar period, there were tensions between Yugoslavia and Bulgaria regarding the territory that is today North Macedonia (Steiner, 2005, 270–271), a reasonable assumption is that the translation strategy was influenced by the circumstance that Bulgarians were Christians.

Both the 'Orient' as a whole and the Balkans in particular are also disparaged more frequently than in the originals, usually by ascribing a certain negative characteristic of a particular place or person from the source text to the wider region or its population in general in the target text. Perhaps this was done to make an even clearer distinction between Us and Them in the region (cf. Birk, 2014, 321). At the very least, the part of the Balkans once ruled by the *High Porte* was not considered part of Europe by the translator(s). This translation strategy also suggests that the translator(s) did not consider the Slovenian ethnic territory to be part of the Balkans, since otherwise, the intensified negative portrayal of the region would have reflected negatively on the Slovenian readership of the *Orientzyklus*. As Jože Pirjevec (2020, 408) notes, even about half a century before Slovenia gained independence, Slovenians already had considerable reservations about being in the same country with some of their neighbours to the south, and the way that the Balkans were presented in this translation of the *Orientzyklus* is a case in point.

Ludvik Mrzel undertook more than a dozen ideological interventions regarding various negative aspects of the Balkans that were present in the originals, but in the opposite direction than his predecessor(s): he softened the negative discourse – although he *did* preserve a substantial amount of it.

Mrzel sometimes omitted elements that portrayed Albanians in a negative way, and on one occasion also altered a passage that reflected badly upon a Montenegrin character. Since the Montenegrin people were considered one of the constituent nations of socialist Yugoslavia, and Albanians were recognized as one of the national minorities (they formed the majority in the Socialist Autonomous Province of Kosovo), Mrzel's interventions can be understood as acting in accordance with Yugoslavia's slogan of *brotherhood and unity*. On the other hand, while Mrzel did not intensify the frequent negative portrayal of Bulgarians, he also did not soften it – this strategy is in line with the strained relations between the two countries for much of the post-World War II period (Stamova, 2014; cf. Roudometof, 2002; quoted in Previšić, 2016, 84).

Shifts with regard to religion also occurred in Mrzel's translations. Most prominently, the translator omitted passages that champion Christianity (Birk, 2014, 319), but he also changed a passage that reflected badly upon Islam. In addition to the majority of Albanians being adherents of this religion, the translations were published in 1971, i.e., the year that Muslims (present-day Bosniaks) were officially recognized as one of Yugoslavia's constituent nations (Christia, 2008, 476). It is therefore not surprising that the translator softened the negative sentiment about the religion of a substantial part of the country's population.

Furthermore, Mrzel occasionally avoided describing the Balkans as a whole or a certain region of it in a negative manner. The biggest share of these shifts occurred in the part of the narrative taking place in Macedonia, one of the six republics of socialist Yugoslavia. This translation strategy might have been different if the novels had been translated decades later, i.e. when Yugoslavia was disintegrating or when the newly established Republic of Slovenia was attempting to disassociate itself from the Balkan region.⁵⁸

58 Around the time that Yugoslavia was breaking up, Bakić-Hayden and Hayden (1992, 13) wrote the following regarding Slovenia's and Croatia's efforts to distance themselves from the rest of the country: "The parts of Yugoslavia that are not physically in the Balkans have been attempting to 'balkanize' the country (i.e., 'divide it into small, mutually hostile segments'), while blaming this development on the putative 'Balkan mentality' of those whom they wish to exclude" (Bakić-Hayden & Hayden, 1992, 5). By the early 2000s, Slovenia largely succeeded in distancing itself from the Balkans (Lindstrom, 2003, 316). For instance, Maria Todorova's influential book, *Imagining the Balkans* (2009 [1997]), does not include Slovenia as part of the Balkans, but it does include Croatia – another country that had tried to disassociate itself from the region (cf. Lindstrom, 2003, 316). However, after Slovenia acceded to the European Union and NATO, the country began to show interest in exerting more influence in the Western Balkans (Udovič & Bučar, 2016, 1064–1066).

It can be concluded that the translation strategies for the second part of the *Orientzyklus* were similar to those used for the translation of the first part of the series, which was not set in the Balkans (Trupej, 2023): negative discourse about the Other was softened in the retranslations of the novels, whereas in the first translations, the fact that some of the nations considered the Other by the translator(s) were located in regions that were part of Yugoslavia at the time of translating did not lead to substantially less xenophobic textual interventions. The results of this case study support the retranslation hypothesis, since in the more recent translations there were fewer shifts than in the older ones. However, as

Pekka Kujamäki (2001, 65) notes, the reason for a certain literary work being retranslated is not necessarily a desire to have a more 'faithful' translation; rather, the reason is that norms in the target culture have changed. The Slovenian retranslation of the *Orientzyklus* is an example of this. Neither translation of the series supports the theory that foreignization tends to be used when translating into peripheral languages, since numerous ideological interventions were found in both sets of target texts. The fact that these were more frequent in the first translation of the *Orientzyklus* can perhaps serve as an incentive for further research on the influence of ideology on literary translation in interwar Slovenia.

UPODOBITEV BALKANA V SLOVENSKIH PREVODIH SERIJE
ORIENTZYKLUS KARLA MAYA

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POVZETEK

Podoba Balkana v dveh slovenskih prevodih serije Orientzyklus je dokaj različna. V prevodih romanov, ki so pri katoliško usmerjeni založbi Tiskarna sv. Cirila izšli med obema vojnoma, negativen prikaz različnih vidikov Balkana ni zgolj ohranjen, temveč nemalokrat celo intenziviran. S spremembami besedila oz. dodanim besedilom je večkrat poudarjeno predvsem to, da naj bi bil Balkan pod Osmanskim cesarstvom območje brezvladja. Albanski narod je prav tako prikazan v precej bolj negativni luči kot v izvirnikih, kar je bilo v skladu z razmeroma napetimi odnosi med Jugoslavijo in Albanijo v drugem desetletju 20. stoletja. Na negativen prikaz je verjetno vplivalo tudi dejstvo, da so Albanci večinsko muslimanske veroizpovedi; pravoslavni Bolgari denimo nikdar niso bili upodobljeni bolj negativno kot v izvirnih besedilih, čeprav so bili jugoslovanski odnosi z Bolgarijo v zadevnem obdobju prav tako dokaj problematični. Tudi islam je nekajkrat prikazan v bolj negativni luči kot v izvirnikih, še pogosteje pa to velja za Balkan kot celoto, kar bi utegnilo odražati slovenski odnos do te regije v obdobju med obema vojnoma. V ponovnih prevodih, ki so na začetku 70. let prejšnjega stoletja izšli pri Mladinski knjigi, so bili prevajalski posegi manj pogosti, kadar so bili izvedeni, pa so bili diametralno nasprotni tistim v prvih prevodih. Negativna podoba Balkana je bila do neke mere omiljena, pri čemer so bili posegi v besedilo pogosti predvsem v delih zgodbe, ki se odvija na ozemlju današnje Severne Makedonije, saj je bilo to ozemlje za časa nastanka prevodov del Jugoslavije. V nekoliko bolj pozitivni luči je prikazan tudi albanski narod, ki je bil v Jugoslaviji številčno zastopan.

Ključne besede: Karl May, *Orientzyklus*, Balkan, književno prevajanje, orientalizem, nemška književnost

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WHY SO SLOW? ANALYSING THE SYSTEMIC REGULATION OF SEXUAL HARASSMENT AND VIOLENCE IN THE SLOVENIAN ACADEMIC FIELD

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ABSTRACT

Research on sexual harassment and gender-based violence in academia shows that these issues are widespread and complex and that victims face significant barriers, often resulting in under-reporting and cases remaining unresolved. In Slovenia, these issues have received less attention compared to other forms of gender-based violence, resulting in a lack of research, public debate and systematic regulation. A research project funded by the Ministry of Education and the Slovenian Research Agency aimed to investigate how Slovenian academic institutions deal with sexual violence and harassment. The project found a general lack of comprehensive policies and highlighted the need for more proactive measures to effectively address these issues. The results of the project, which are presented in this article, provide insights into the prevalence, regulation and institutional responses to sexual violence and harassment in Slovenian higher education.

Keywords: sexual harassment, sexual violence, gender regime, academic field, legal documents, content analysis, Slovenia

PERCHÉ COSÌ PIANO? ANALISI DELLA REGOLAMENTAZIONE SISTEMICA DELLE MOLESTIE E DELLA VIOLENZA SESSUALE NEL SETTORE ACCADEMICO SLOVENO

SINTESI

Le ricerche sulle molestie sessuali e sulla violenza di genere condotte in ambito accademico dimostrano che si tratta di problematiche diffuse e complesse e che le vittime devono affrontare ostacoli significativi, che spesso si traducono in mancate denunce e casi irrisolti. In Slovenia, poca attenzione è stata prestata a questi problemi rispetto ad altre forme di violenza di genere, con conseguente mancanza di ricerca, dibattito pubblico e regolamentazione sistematica. Il progetto di ricerca finanziato dal Ministero dell'Istruzione e dall'Agenzia di Ricerca Slovena mirava a indagare come le istituzioni accademiche slovene affrontano la violenza sessuale e le molestie. Il progetto ha rilevato una generale mancanza di politiche complete e ha evidenziato la necessità di misure più proattive per affrontare efficacemente questi problemi. I risultati del progetto, presentati in questo articolo, forniscono indicazioni sulla diffusione, la regolamentazione e le risposte istituzionali alla violenza sessuale e alle molestie nell'istruzione superiore slovena.

Parole chiave: molestie sessuali, violenza sessuale, regime di genere, campo accademico, documenti legali, analisi del contenuto, Slovenia

INTRODUCTION¹

Research on sexual harassment and other forms of gender-based violence in the academic landscape has shown that it is a widespread, complex and still largely hidden social problem that has only recently begun to receive more attention (List, 2013; FRA, 2014; Bull & Rye, 2018; Johnson et al., 2018; Klein & Martin, 2019; Sivertsen et al., 2019; Bondestam & Lundqvist, 2020; Lipinsky et al., 2022). These studies have also revealed the barriers and fears faced by individuals, particularly women and members of vulnerable groups, who have experienced such violence. This often results in a significant proportion of cases remaining unreported, hidden and unresolved (Bondestam & Lundqvist, 2020; Lipinsky et al., 2022).

Nevertheless, the issues of sexual harassment and violence are not new to public discourse, not even in Slovenia. However, the relative lack of attention these issues have received compared to other forms of gender-based violence (such as domestic violence and intimate partner violence) is reflected in the serious lack of research in this area, the lack of appropriate professionally and scientifically supported public debates and the lack of appropriate systematic regulation in this area. Recently, there has been a shift towards more actively problematizing and addressing sexual harassment, particularly in the context of paid work and the employment of women, but it is limited to certain professional groups. The academic field in Slovenia has generally been either excluded from or only partially included in these discussions.

The longstanding concealment and (deliberate) oversight of this issue in the academic environment can also be attributed to the specific organizational structure of this environment, characterized by intertwined power relations rooted in an androcentric institutional academic cultural environment (Husu, 2001; Jogan, 2007; Schiebinger, 2008; Antić Gaber, 2018; Górska, 2023). Influenced by powerful academic feminist movements in academia, student initiatives and the entry of new generations into these environments, which have significantly challenged traditional power relations in academia, this issue is now being addressed more actively and vocally, with public discourse around it increasing. The public disclosure of sexual violence

and harassment in academia has also been greatly facilitated by testimonies within movements such as #MeToo, #Nisamtražila,² and #Nisemprijavila,³ which have brought to light numerous reports of sexual violence and harassment in academic circles. Thanks to these movements and initiatives, the problem of sexual violence and harassment has gained broader recognition and acknowledgment in society, leading to calls for more proactive systemic solutions and approaches to the problem.

The academic environment also plays an important role in shaping societal attitudes towards sexual and other harassment and violence. It is therefore important to examine how academia is addressing this issue, the measures institutions have implemented and where significant gaps remain in tackling the problem effectively. This was also the focus of the targeted research project titled “Institutional, legal and awareness-raising solutions and activities to address sexual harassment and other forms of sexual violence in higher education and research organisations in Slovenia” (No. V5-2112) funded by the Ministry of Education, Science and Sport and the Slovenian Research Agency. The principle findings of this project are presented in this article. As specific areas of the project are covered in separate articles within the thematic issue, this article aims to provide a general overview of the situation and answer the main research question: How is the issue of sexual violence and harassment regulated in Slovenian academia, and how do academic institutions deal with these issues at the institutional level?

The first part of the article lays the theoretical groundwork for understanding the definitions of violence, harassment and, in particular, sexual violence and harassment. It proceeds to discuss research findings on the prevalence, specificities and regulation of this issue in both international and Slovenian contexts. This section also offers conceptual reflections on the specificities of the academic environment that contribute to the prevalence of this problem and its still inadequate systemic regulation. The second part of the article provides a comprehensive overview of the first phase of the above-mentioned project. This phase focused on the organization of systems for the prevention and sanctioning of sexual harassment and other forms

1 This article has been published with financial support from the Ministry of Education, Science and Sport and the Slovenian Research Agency through the program “Institutional, legislative and awareness-raising solutions and activities to address sexual harassment and other forms of sexual violence in higher education and research organisations in Slovenia” (No. V5-2112), and the program “Liminal spaces: areas of cultural and societal cohabitation in the age of risk and vulnerability” (No. P6-0279).

2 The “Nisam tražila” initiative ([‘I didn’t ask for it’]) began with four art students’ reactions to rape cases in Serbia: Mateja Mavrak, Asja Kršmanović, Ana Tikvić, and Nadina Mičić (NISAMTRAŽILA, 2024).

3 On December 25, Serbian activist Nina Stojaković tweeted accusations of systematic violence by her sister’s ex-boyfriend, a well-known Serbian rapper. Thousands of girls responded with their own stories about why it is difficult or impossible to report intimate partner violence, the fears they have and how state institutions do not respond to requests. Thousands of women and girls in Serbia then shared their experiences of sexual and physical violence by their partners on Twitter under the hashtag #NisamPrijavila ([‘I did not report’]), with tens of thousands of tweets coming together.

of sexual violence in (public and private) higher education institutions and public research institutions in Slovenia. It examined the extent to which this issue is addressed and regulated in Slovenian academic institutions, evaluating the content and adequacy of these regulations and their compliance with international recommendations, foreign research findings and best practices from abroad.

NAMING A PROBLEM MEANS SEEING A PROBLEM: THEORETICAL CONSIDERATIONS ON THE DEFINITION OF SEXUAL HARASSMENT AND VIOLENCE

As mentioned in the introduction, sexual harassment and violence are issues that have only recently begun to receive significant attention, especially in academia, but this does not imply that these are new phenomena or that they did not previously exist. As Jogan (2001, 148) emphasizes, sexual harassment is a phenomenon that became visible in society only when it became part of the public discourse. In Slovenia, this shift began in the mid-1990s. One of the greatest achievements of the second feminist wave was the introduction of a legal definition that recognized sexual harassment as a social problem, thus promoting its visibility and providing mechanisms and tools for its prevention (Vohlídalová, 2011, 1125). Some experts (Russell & Harnes, 2001; Romito, 2005) argue that the act of naming newly identified forms of oppression of women is key to their elimination and prevention; a problem cannot exist if it does not have a name. For example, the introduction of terms for certain forms of harassment and violence, such as “sexual harassment”, has made these problems visible and recognizable in broader society. Diana Russell elucidates this point: “Until feminists coined the term ‘sexual harassment of women’ to describe exploitative harassment in the workplace, this problem was ignored by almost everyone – including feminists” (Russell & Harnes, 2001, 7). Language serves not only as an instrument that enables communication and social interaction but also as a means to codify and conceptualize the world. The names we assign to phenomena and behaviours, or those assigned to us by others, shape our perceptions and reactions to them.

Understanding sexual harassment and sexual violence through defining the key concepts

When discussing violence and harassment, we must first acknowledge that these terms are very difficult to define, precisely because, as Jeff Hearn points out, violence is a set of human life experiences and is discursive and material in nature, not merely an object or a term (Hearn, 1998). Bearing

this complexity in mind, rather than seeking a definitive definition of violence and harassment, it is suggested that violence should be understood as an overarching concept in its context. Violence can be broadly defined as acts in which a person or group of people exploit their position of power and control over others. It can manifest as either a deliberate, controlled and premeditated single or repeated act, or as abuse of existing power and control as a consequence of actions, regardless of the perpetrator’s aspirations or intentions. Such acts usually manifest through various forms of violent, harassing and manipulative behaviour, such as psychological, physical, sexual and economic violence, as well as stalking and mobbing. For the purposes of this article, the definitions of sexual violence, sexual harassment and gender-based violence, which were also the basic concepts of the entire project and are also essential for this article, are briefly presented. These forms of violence and harassment are also the least studied and most overlooked in research and society at large.

When discussing violence and harassment, especially sexual harassment, it is important to point out the theoretical and legal distinctions between these two categories. Although harassment and violence are interlinked concepts that are equally unacceptable, there is often no clear boundary between them. Harassment is a sub-concept of violence or one of its forms. The key distinction lies in how they are treated separately in both theoretical discussions and legal frameworks. Therefore, we present the theoretical and legal definitions of violence and harassment below. Understanding the differences between them is essential when addressing this problem in the context of systemic regulation.

In a theoretical sense, *sexual violence* is defined as any act related to sexuality that occurs in the context of non-consensual relationships and is perceived by a person as coercive. It encompasses any behaviour that a person experiences as an invasion of their bodily integrity, restricts their right to make decisions about their own body, and violates personal boundaries. It is important to recognize that coercion can encompass a broad spectrum of levels of violence. Beyond physical violence, it may involve psychological intimidation, blackmail or other threats – such as the risk of physical harm, loss of employment or limitations on obtaining desired employment positions (Jansen, 2016). This also extends to scenarios affecting academic advancement, including withholding benefits and promotions. Moreover, sexual violence can also occur when the assaulted individual is unable to give consent, for example, due to intoxication, being asleep or lacking the mental capacity to comprehend the situation (Jansen, 2016).

Sexual violence is in most cases considered one of the forms of *gender-based violence*, which is defined as any violent act that is directed against a person on the basis of their gender, gender identity or gender expression, or that disproportionately affects persons of a particular gender (EIGE, 2020). This encompasses severe forms of harassment, bullying, intimidation and similar behaviours. The European Victims' Rights Directive defines gender-based violence as a violation of the victim's fundamental freedoms and includes sexual violence (e.g. rape, sexual assault and sexual harassment) among other types of violence (Direktiva 2012/29/EU, 2021). The classification of sexual violence under the umbrella of gender-based violence is supported by data indicating that up to 90% of all victims of the above-mentioned forms of harassment and violence are women (FRA, 2014). In addition, individuals from the LGBTIQ+ community are often targets of gender-based violence due to their sexual orientation, gender identity or sexual expression (Godzisz & Viggiani, 2019; Koletnik, 2019; Lipinsky et al., 2022).

On the other hand, Robnik (2009) describes *harassment* as a form of discrimination in which a person is subjected to intrusive behaviour based on their gender, sexual orientation, nationality, ethnicity, national origin, social background, skin colour, religious beliefs, etc. *Sexual harassment* is any form of unwanted verbal, non-verbal or physical conduct of a sexual nature that aims to or effectively violates a person's dignity, particularly when it creates an intimidating, hostile, degrading, humiliating or offensive environment. The concept of gender-based harassment in the workplace refers to ridicule, humiliation, intimidation, physical aggression, insults, lies and rumours about a person's sex life, as well as sexist jokes based on a person's gender (Robnik, 2009) or sexual orientation or expression (Konik & Cortina, 2008; Siebler et al., 2008; Leskinen et al., 2015; Fitzgerald & Cortina, 2017). Sexual harassment and gender-based harassment are broad terms that do not necessarily refer to sexual behaviour or target a specific person. Such behaviours can also include publicly expressed negative or sexual comments about women or men as a social group (Kelly, 1988; Fitzgerald et al., 1995; Robnik, 2009; Johnson et al., 2018). Johnson, Widnall and Fraizer (2018) explain that sexual harassment is a form of discrimination that consists of at least three main types of harassing behaviour: **gender-based harassment** (verbal and nonverbal behaviour that expresses hostility, objectification, exclusion or second-class status toward members of one gender), **unwanted sexual**

attention (unwanted verbal or physical contact that can lead to sexual assault) and **conditioning through sexual coercion** (when professional or academic success is made contingent on gender-based requirements).

Sexual harassment can manifest directly (oriented towards an individual) or as part of an institutional culture. The latter scenario refers to environments where sexual harassment is pervasive within certain institutions, yet the necessary sanctions are absent, and the harassment is not recognized as a problem by the authorities. These practises are extremely harmful and create a hostile work environment that negatively affects employment conditions, impairs work performance or hinders the ability to study and learn (Johnson et al., 2018). However, as experts in the field (Kelly, 1988; Fitzgerald et al., 1995; Jogan, 2002; 2006; Robnik, 2006; 2009; 2013; Cook et al., 2018; Johnson et al., 2018) point out, a clear definition of sexual harassment is difficult, as the above-mentioned behaviours represent only some of the existing forms of sexual harassment. Therefore, one of the most important criteria for identifying whether someone is a victim of sexual harassment is the individual's self-assessment of their position within the group and in relation to others.

In addition to the theoretical distinctions, it is also important to point out the legal distinction between the understanding and treatment of violence and harassment. With respect to the legal difference, various forms of harassment generally refer to infringements on the right to work and education without serious sexual or other assaults on another person, thus constituting a violation of the Employment Relations Act (ZDR-1, 2013)⁴ for employees or the Higher Education Act (ZViS-A, 2022) for students. These laws expressly forbid sexual and other forms of harassment, including mobbing, in the workplace and educational settings. While sexual and other forms of harassment are often not classified as criminal offenses, the Slovenian Criminal Code (2008) does define various forms of sexual assault or physical assault and violence as criminal offenses.

The legal categorization of certain behaviours influences the type of proceedings that are initiated. When conduct does not meet the criteria of a criminal offense, reports of violence or harassment are typically directed to the institution where the individual is employed or studying. Given that most acts of sexual harassment are not usually classified as criminal offenses, yet are more prevalent than other, "more 'serious'" forms of sexual violence, it is crucial for institutions to have mechanisms in place to address this issue successfully and systematically.

4 In addition, sexual harassment and all other forms of harassment are prohibited by the Protection Against Discrimination Act, the Health and Safety at Work Act and the Public Employees Act. Moreover, any discrimination on the grounds of sex is a violation of fundamental rights and freedoms as determined by the Constitution of the Republic of Slovenia. Article 14 of this document ensures the equality of all citizens, regardless of personal circumstances (URS, 1991).

It should be noted that the substantive/theoretical and legal definitions of harassment and violence do not necessarily coincide in categorizing their severity. Certain behaviours, even if not recognized as criminal and therefore perceived as “less serious” or “less harmful”, can have a destructive effect on the victim’s life.⁵ The fundamental distinction that identifies harassment as a specific form of violence is based on the nature of the behaviour and the level of threat it poses to the victim. This threat is not limited to physical danger but extends to the overall well-being and integrity of the individual.

SEXUAL VIOLENCE AND HARASSMENT IN ACADEMIA: A WIDESPREAD BUT STILL HIDDEN SOCIAL PROBLEM

According to the data, sexual violence and harassment in academia is a widespread yet concealed social problem that mainly affects women (Fitzgerald et al., 1995; Johnson et al., 2018; Lipinsky et al., 2022; Rudolfsson et al., 2022; Hagerlid et al., 2023). Research by Hagerlid et al. (2023) indicates that a significant proportion of undergraduate, graduate and doctoral students have experienced sexual harassment in the academic environment, with women constituting the majority of the victims.

A 2022 study across fifteen European countries revealed high rates of gender-based violence, with 62% of respondents experiencing some form of it since joining their institution. Psychological violence was most common (57%), followed by sexual harassment (31%), physical violence (6%), and sexual violence (3%). LGBTQ+ individuals (68%), people with disabilities or chronic illnesses (72%), and ethnic minorities (69%) were more likely to be affected, with women predominantly facing sexual violence and harassment. Despite the prevalence, only 13% of victims reported incidents, often due to doubts about the severity (47%) and failure to recognize the behavior as violence (31%) (Lipinsky et al., 2022). These findings are consistent with previous research (Rabelo & Cortina, 2014; Rosenthal et al., 2016; Fitzgerald & Cortina, 2017; Coulter et al., 2017; Sivertsen et al., 2019; Wood et al., 2021), which also shed light on the breadth of the problem and its gender and intersectional specificity.

Some studies also suggest that certain groups of women are at higher risk of falling victim to such violence. In particular, lesbian or bisexual women

(Konik & Cortina, 2008), women who openly support gender equality (Siebler et al., 2008) and women who challenge stereotypical roles in appearance and behaviour, often appearing more masculine (Leskinen et al., 2015), are more likely to be targeted. Among men, those most vulnerable to such violence are gay men, transgender men and men who are perceived as “not masculine enough” (Rabelo & Cortina, 2014; Fitzgerald & Cortina, 2017).

In Slovenia, there is no representative study specifically analysing the problem of sexual violence and harassment in the academic environment. The majority of research conducted in recent years in Slovenia has focused on sexual and other forms of harassment within specific professional fields (Institute of Occupational Health, 2008; Robnik, 2013; Pilinger, 2017), with only a handful of studies addressing the issue on a broader national scale (Jogan, 2000; DELO, 2007).

The data from the Rezistenca⁶ research group offers stark insights into sexual harassment and violence against students within Slovenian academia. This data was gathered as part of an anonymous survey on sexual violence against female students at faculties and higher education institutions between 2020 and 2022 and reveals how widespread sexual violence is in academia. Just over 1600 students took part in the survey. The results showed that almost half of all respondents, mostly women, had experienced some form of sexual violence and harassment. The most frequently reported forms of violence were verbal in nature and included comments about appearance, dress, steering conversations toward sexuality without cause and similar behaviours. Fourteen percent of respondents also reported unwanted physical touching. The percentages were higher for students with special status when asked the same questions. Among those who reported experiencing sexual violence on campus, the alleged perpetrators were overwhelmingly male (90%), with full professors being the most frequently identified (48%), followed by associate professors (20%). Despite these numbers, only 4% of victims (three individuals) reported the incidents to their faculties, and a mere 3% (two individuals) took their cases to the police (Rezistenca, 2022).

The studies mentioned consistently highlight the pressing issue of underreporting in cases of sexual violence and harassment. The data suggests that a remarkably small proportion of victims decide to report these forms of violence (Lipinsky et al.,

5 My focus is on the various forms of psychological bullying and harassment, which, despite being more challenging to identify or substantiate as criminal acts, can inflict greater harm on the victim than physical assault. The European Parliament’s special report “On measures to prevent and combat harassment and sexual harassment in the workplace, in public places and political life in the EU (2018/2055 (INI))” highlights that workplace violence is often inadequately addressed, precisely because it often focuses on more visible forms such as physical violence (Picierno, 2018). However, it is crucial to acknowledge that sexual and psychological harassment can have even more devastating consequences for individuals. Sexual harassment and gender-based violence in professional settings can lead to the victim’s exclusion from the workplace or academic pursuits, adversely affecting their economic independence and family income (Picierno, 2018).

6 Rezistenca is a research collective formed by students from the University of Ljubljana, dedicated to conducting research on the topic of sexual violence experienced by students at the hands of teaching staff across faculties, academies and colleges.

2022). As a result, the majority of victims receive no support or protection, and the vast majority of perpetrators usually go unpunished. This widespread lack of accountability is primarily due to the inadequate or non-existent regulatory frameworks within many academic institutions. These findings therefore underscore the urgent need for comprehensive measures to address and prevent gender-based violence in academia. This requires action not only at the systemic level but also culturally, alongside improvements in reporting mechanisms and enhanced support for victims.

REGULATION OF SEXUAL HARASSMENT AND VIOLENCE IN THE SLOVENIAN ACADEMIC FIELD

The prevailing conditions highlight a conspicuous absence of institutional strategies and solutions for effectively detecting, addressing and preventing sexual harassment and violence in the Slovenian academic landscape. A critical consideration is how higher education institutions should shoulder their own institutional responsibility in establishing mechanisms and prevention practices in this area. Of particular significance is the extent to which academic institutions have been able to implement solutions that safeguard students as well as employees, especially considering that, until recently, students in Slovenia lacked specific legal protection against these issues. It was only in 2022 that Article 7b was included in the Higher Education Act, expressly prohibiting sexual and other forms of harassment and bullying in educational settings (ZViS-A, 2022).

These questions also directed the focus of the targeted research project, which examined institutional, legal and awareness-raising measures aimed at addressing sexual harassment and other forms of sexual violence within both public and private higher education and research institutions in Slovenia. The overarching findings of this project are detailed in the following subsections.

Material Methods for Data Collection and Analysis

To explore the systemic treatment of sexual harassment and violence in Slovenian academia, we focused on institutional policies and internal documents (regulations, protocols, guidelines, codes, etc.) that address and regulate this issue at Slovenian public and private universities, public research institutions, and public and private higher vocational schools. We requested these internal documents from all relevant institutions and additionally reviewed their availability on the official websites of the institutions to assess the status of normative and other documents concerning the academic environment in Slovenia.⁷

We sent requests to a total of 69 institutions and received 30 responses, representing a response rate of nearly 50%. The breakdown of requests is as follows:

- 3 public universities and 31 members of these universities (yielding 17 responses);
- 16 private higher education institutions (universities and post-secondary education institutions, yielding 7 responses);
- 3 public short-cycle vocational education institutions (yielding 2 responses);
- 16 public research institutes (yielding 4 responses).

In total, we received 20 documents.⁸ All of these documents were included in the analysis, with the exception of the SFU Ethical code (n.d.) and UM Ethical Code (2021), as they do not define sexual harassment and other forms of sexual violence. Thus, the total number of documents analysed amounted to 18.

Based on the type of document, we received 15 regulations,⁹ 2 guidelines¹⁰ and 3 ethical codes.¹¹ Based on the type of institution, we obtained 11 documents from public higher education institutions,¹² 5 documents from private higher education institutions¹³ and 4 documents from public research institutes.¹⁴

7 The list of higher education institutions (public and private) was obtained from the website of the National Agency of the Republic of Slovenia for Quality in Higher Education (NAKVIS, 2023). The list of public research institutions was obtained from the website of the Ministry of Education, Science and Sport (GOV.SI, 2023).

8 The difference between the number of responses and the overall number of documents received is primarily attributable to members of the University of Ljubljana, who mostly adhere to UL Regulations (2022).

9 The regulations were sent by DOBA Business School (DOBA), Environmental Protection College (EPC), Faculty of Natural Sciences and Engineering (NTF), Faculty of Polymer Technology (FTPO), Institute of Contemporary History (INZ), International School for Social and Business Studies (ISSBS), National Institute of Biology (NIB), New University (NU), Regional Study Centre (RSC), School of Advanced Social Studies (SASS), Jožef Stefan Institute (JSI), University of Ljubljana (UL), University of Maribor (UM), University of Novo mesto (UNM) and University of Primorska (UPR).

10 The guidelines were sent by the Faculty of Arts (FA UL) and Sigmund Freud University Vienna – Ljubljana branch (SFU).

11 The ethical codes were sent by SFU, The Science and Research Centre Koper (ZRS Koper), and UM.

12 EPC Regulations (2013); FA UL Guidelines (2021); NTF Regulations (2012); NU Regulations (2012); RSC Regulations (2013); SASS Regulations (2013); UL Regulations (2022); UM Ethical Code (2021); UM Regulations (2015); UNM Regulations (2021); UPR Regulations (2009).

13 DOBA Regulations (2012); FTPO Regulations (2016); ISSBS Regulations (2013); SFU Ethical code (n.d.); SFU Guidelines and Protocol (n.d.)

14 INZ Regulations (2018); JSI Regulations (2021); NIB Regulations (2012); ZRS Koper Ethical code (2020).

On the basis of the documents received, we evaluated the extent to which institutions in Slovenia have internal policies addressing the issue. Using the content analysis method (Krippendorff, 1980; Howard & Berg, 2017), we analysed the documents for their content, relevance and compliance with recommendations from European institutions, foreign research and best practices abroad. These documents were analysed “page-by-page” (Howard & Berg, 2017) to identify content-related structures.

The analysis of the documentation was divided into two overarching thematic areas: **general aspects** and **legal aspects**. Within the **general aspects**, the analysis was further divided into **11 subcategories**: 1) General organization of the area in internal documents; 2) Clarity and pragmatism of the documents; 3) Accessibility of the documents; 4) Definitions of key terms and approaches to the issue; 5) Interim measures to protect the parties involved prior to the formal closure of the procedure; 6) Remedial measures; 7) Support mechanisms and assistance outside the overseeing institutions; 8) Treatment of vulnerable social groups; 9) Verification of status at the time of reporting, during the procedure and at the conclusion of the procedure or report; 10) Protection of personal data and assurance of anonymity; 11) Ethical obligations and preventive measures.

Within the **legal aspects**, the analysis was divided into six broader subcategories, some of which were further subdivided internally: 1) reporting and duration of proceedings; 2) reporting of criminal offenses; 3) reporting of offenses not classified as crimes (including who can report violations, anonymous reporting, initiation of proceedings without formal reporting, false reporting); 4) conduct of proceedings; 5) procedural specifics (confrontation of victim and alleged offender, person of trust, opportunity for the offender to make a verbal or written statement); and 6) measures against the perpetrator after a crime is discovered.

The general results of the project are presented below, based on the analysis of the first three general subcategories or research questions:

Q1: How many institutions have internal documents regulating sexual harassment and violence, what types of documents exist and what is the (legal) status of these?

Q2: How clear and practical are the documents?

Q3: How accessible are the documents – are they publicly available on websites or are they difficult to find?

The answers to these first three questions reveal the general state of affairs in this area, which is also the aim of this text. Other specific subcategories are discussed in separate chapters of this edition.

RESULTS

General organization of the area in internal documents and the clarity of their content

As part of the general review of the documentation, we were interested in how many institutions have some form of internal act addressing the area under consideration and the types of documents available. Our interest extended to whether, in addition to the formal regulations, there were accompanying documents, such as guidelines, protocols, codes of ethics or similar, that are of additional help to staff and students. We were also interested in who these documents are aimed at. In the case of higher education institutions in particular, we were interested in whether students and employees are equally addressed by these documents.

The analysis of the obtained documents reveals a remarkable absence of internal legal acts and regulations concerning sexual and other forms of harassment and violence across the Slovenian academic landscape. The majority of internal documents were obtained from public universities and their affiliated institutions (faculties), which demonstrated a high response rate. Conversely, public post-secondary educational institutions, private higher education institutions and public research institutes responded particularly poorly to requests for documents, with many lacking any form of regulation in this area.

Among the institutions that did provide documents, most possess legally binding regulations. However, only a few also have additional accompanying documents such as protocols, guidelines or other documents that present the legal and other provisions in this area in a more detailed and systematic way. Notably, only two institutions (the Faculty of Arts, UL (a public faculty) and Sigmund Freud University (a private higher education institution) provided guidelines in addition to the regulations.

A concerning observation from our analysis is the scarce reference to students in the regulations and other documents from higher education institutions. Among the documents received, only one of the regulations (UL Regulation, 2022) and only one accompanying document (FA UL Guidelines, 2021) explicitly address both employees and students.

In the case of public universities and public short-cycle vocational education institutions, it is noteworthy that all three public universities in Slovenia (the University of Ljubljana, the University of Maribor and the University of Primorska) have drawn up such regulations, which also apply to the activities of their faculty members. However, only the University of Ljubljana includes students in its regulations. The University of Maribor supplements its regulations with a code of ethics covering this topic. Inquiries about whether faculties possess additional documents revealed that

most adhere to their respective university's regulations without having specific internal documents such as guidelines or other accompanying documents explaining the applicable legal acts. The Faculty of Arts of the University of Ljubljana is an exception, having provided the above-mentioned guidelines entitled "Professional Guidelines: Prevention of Sexual and Other Harassment, Mobbing and Violence". In addition to the three public universities and their faculty members, three other public institutions have also issued regulations on harassment and violence: the Higher School for Environmental Protection in Velenje, the Regional Study Centre in Celje and the Faculty of Science and Technology. The latter is part of the University of Ljubljana and not an independent legal entity, and thus it is bound by the regulations of the University of Ljubljana, raising legal questions about its ability to independently regulate procedures.

Among private higher education institutions, only seven responded to our appeal, with six providing regulations and one supplying guidelines. The response from short vocational schools was extremely poor, with only two schools and the community of higher vocational schools replying, all indicating the absence of specific regulations or other documents in this area.

The response from public research institutes was also poor, with only four institutions responding to our request for documents. Three research institutes submitted regulations, and one submitted a code of ethics that addressed sexual harassment among other topics.

Clarity and pragmatism of documents

We evaluated the documents for their readability, user-friendliness and whether they provide individuals with a clear overview of their rights in this area. Specifically, our analysis aimed to assess the clarity of the procedures for resolving issues and the detail provided in this regard. Of particular interest was whether the documents specifically address and separately regulate sexual violence and harassment.

On the basis of the documents received, we found that the majority are regulations that are generally concise, pragmatic and relatively well structured. Only one institution lacked a dedicated document on this issue; sexual harassment is addressed in the institution's code of ethics instead.

The vast majority of the documentation (16 out of 18 documents) addresses various forms of violence and includes sexual harassment and violence as a separate category. However, two regulations exclusively focus on mobbing. Despite the pragmatism and clarity of the documents, particularly the regulations, they are notably brief and contain only a concise definition of forms of violence and harassment, rights, legal solutions, formal options and procedures. This brevity, while potentially beneficial for simplicity,

may inadvertently result in insufficient guidance for individuals, complicating their ability to navigate the procedures effectively.

Among the documents received from the public higher education institutions, five regulations were characterized by their brevity, adhering to a logic of concise, yet sometimes oversimplified descriptions, both in terms of definitions and articles on procedures and other issues. A standout among the more advanced and comprehensive regulations is the updated regulation of the University of Ljubljana, which divides definitions and other articles systematically and precisely, giving users a better insight into their options, solutions and rights in this area. The section dealing with procedures is particularly noteworthy for its detailed presentation, providing a quick and relatively clear overview of the options available to potential victims and institutions when violations are detected (UL Regulations, 2022).

Among the documents received from *public higher education institutions* are the guidelines of the Faculty of Arts, University of Ljubljana (FF UL). This document is over 30 pages long and provides a relatively detailed examination of various aspects of this topic – from definitions of terms and the faculty's ethical commitments to support mechanisms within and outside the institution, procedures, etc. While the guidance is quite lengthy, it is a comprehensive document that may be of significant assistance to users seeking further clarification in these areas. The guidelines are not a legal document in their own right and do not regulate formal procedures (FA UL Guidelines, 2021). In this respect, the FF UL, like all other members of the University of Ljubljana (UL), is obliged to comply with UL regulations.

All received regulations from *private higher education institutions* are relatively concise and pragmatic documents that do not contain in-depth explanations of individual articles. Five of the six regulations deal with various forms of violence, including sexual harassment and violence, while one only covers mobbing. One of the institutions provided guidelines entitled "Guidelines and Protocol for Sexual Integrity in the Context of an Educational Institution" (SFU Guidelines and Protocol, n.d.), which are also quite short and pragmatic, providing only a brief overview of definitions and possible solutions in this area.

For public research institutions, there appears to be a significant gap in regulation. Two of the three regulations received address all forms of violence and harassment, including sexual harassment, and are relatively well structured despite their brevity, offering clear initial guidance. One of the regulations focuses exclusively on harassment; it is brief but sufficiently clear and pragmatic for wider application. However, one institution lacks a specific regulation or document dealing specifically with the area of sexual and other

harassment and violence, addressing the issue within its code of ethics instead. While the code is clear, it only briefly addresses sexual and other harassment and violence in a single section.

While there is an acknowledgement of the importance of addressing sexual violence and harassment as distinct issues within internal policies, it is striking that most institutions have not yet fully internalized this understanding. The debate over whether these forms of violence should be separately addressed continues to permeate discussions on systemic regulation. International research and recommendations on sexual harassment and violence consistently advise (Lipinsky et al., 2022; Hagerlid et al., 2023) that institutions should enact internal policies dedicated to specifically managing these issues. This approach is essential for effectively preventing, intervening in and prosecuting cases of sexual violence and harassment. Given the specific and complex nature of these behaviours, which are challenging to prosecute, detect and expose, it is crucial for institutions to establish clear, dedicated policies. Such policies not only aim to prevent and punish these acts but also contribute to fostering an institutional culture that unequivocally condemns all forms of violence and harassment.

Accessibility of documents

Our focus on document accessibility centred on public availability, ease of access and whether the institutions also have special (internal) websites on these topics. Accessibility is crucial, as it enables potential victims or witnesses to independently find necessary and pertinent information without having to directly contact institution management or specific services.

We observed that not all documents are publicly accessible; some can only be obtained through specific requests to the responsible individuals at the institution. Public higher education institutions demonstrate better accessibility, with six out of seven of the documents received being available on their official websites. Conversely, among private HE institutions, only one out of seven has publicly accessible policies. Accessibility is similarly poor among research institutions, with just one in four policies publicly available online.

The inaccessibility of documentation complicates the process of reporting violence and responding to such reports. Individuals who experience any form of violence or harassment often struggle to discuss their experiences or seek guidance. This is particularly true for those at the bottom of the employment hierarchy and students, who may be reluctant to approach superiors. Many are unaware of their rights and unsure of whom to consult. Thus, having publicly accessible information allows them to inform

themselves anonymously and without obligation, significantly easing the initial steps towards recognizing the problem and seeking help.

The public accessibility of documentation is crucial not only for potential victims but also for the broader community, which might witness incidents or be confided in but may not know the appropriate steps to take. Therefore, it is beneficial for everyone within the community to be informed about these issues, enabling them to address inappropriate behaviour directly or guide someone seeking help.

DISCUSSION: THE IMPORTANCE OF SYSTEMATIC REGULATION OF SEXUAL HARASSMENT AND VIOLENCE

Sexual harassment and violence in academia remains a significant challenge that requires ongoing efforts to raise awareness, change cultural norms, implement robust policies and procedures, and hold perpetrators accountable. It is vital for academic institutions to prioritize the safety, well-being and dignity of all people in their communities and strive towards creating an environment that is free from harassment and violence.

The persistence of sexual violence and harassment in academia can be attributed to several key factors: 1) **Power dynamics**: the hierarchical nature of academia, where professors, advisors or senior researchers have significant power over students or junior colleagues, can create opportunities for abuse. The power disparity often deters victims from reporting or confronting such incidents (Jogan, 2007; Johnson et al., 2018). 2) **Gender imbalance**: The historical male dominance within academia persists in many disciplines and at various levels of academia (Husu, 2001; Jogan, 2007; Schiebinger, 2008; Antić Gaber, 2018; Górska, 2023), contributing to a culture that excludes or disempowers women and other marginalized groups, making them more vulnerable to harassment and violence. 3) **Uncertain work environment**: Precarious working conditions, hierarchical organizations, specific academic power dynamics and a culture of silence that is an integral part of academic culture can significantly influence the conditions for external violence and harassment (Bondestam & Lundqvist, 2020). 4) **Normalization of behaviour**: In some academic environments, harassment and violence may be normalized or dismissed as “part of the culture” (Johnson et al., 2018), complicating recognition and reporting by victims and hindering institutional response. 5) **Lack of accountability**: Academic institutions may fail to hold perpetrators accountable for their actions, whether due to inadequate policies and procedures, insufficient training on how to handle complaints or concerns over tarnishing

the institution's reputation (Lipinsky et al., 2022). This lack of accountability can perpetuate a culture of impunity and allow harassment and violence to continue unchecked. 6) **Underreporting**: Fear of retaliation, stigmatization or adverse career impacts deter many victims from reporting their experiences (Jogan, 2000; Robnik, 2013; Lipinsky et al., 2022; Hagerlid et al., 2023; Rezistenca, 2022), making it challenging for institutions to fully grasp the extent of the problem and take effective action to combat it. 7) **Career impact**: Victims often suffer academically and professionally, experiencing diminished productivity, job dissatisfaction and in some cases, termination of their academic or professional pursuits (Johnson et al., 2018). 8) **Intersectionality**: Gender-based violence in academia intersects with other forms of discrimination and marginalization, including race, ethnicity, sexual orientation, disability and socioeconomic status, resulting in increased vulnerability of certain groups (Rabelo & Cortina, 2014; Rosenthal et al., 2016; Fitzgerald & Cortina, 2017; Coulter et al., 2017; Sivertsen et al., 2019; Wood et al., 2021; Lipinsky et al., 2022).

In light of all this, it is very important to draw attention to the inadequate treatment of this problem in academia. While issues of harassment and violence fall under national labour and criminal law, the vast majority of higher education institutions appear to either neglect or display indifference towards their institutional responsibility for establishing mechanisms and prevention practices. Despite some universities making significant strides recently, there remains a lack of specific institutional measures that systematically and comprehensively address these forms of harassment and violence (Lipinsky et al., 2022; Hagerlid et al., 2023).

The urgency of addressing sexual harassment and violence as well as harassment and gender-based violence in Slovenia has been highlighted by organized student groups, several higher education unions and political parties. These groups have demanded clearer measures and practises to ensure the safety of all students and staff at higher education institutions. Many accuse universities and higher education institutions of being passive and indifferent towards this issue (DELO, 2020; 2021; VEČER, 2021; MMC RTV SLO, 2021a; 2021b). Researchers from the Institute of Criminology at the Faculty of Law in Ljubljana have also highlighted the need for more effective regulation of sexual harassment and violence in academia. They point out a gap in the legal framework and normative standards, especially as many acts of sexual harassment fall outside the purview of criminal law due to inadequate consideration of interference with sexual self-determination, despite its profound and lasting impact on victims. Such deficiencies are

unacceptable in the academic field. Beyond the enactment of criminal laws, it is crucial to establish clear internal guidelines for acceptable and unacceptable behaviour in the academic environment. Mere moral condemnation of abuse is insufficient; instead, a more principled and systematic approach is needed to effectively address these unacceptable behaviours (Plesničar & Ambrož, 2021).

Addressing sexual harassment and violence in academia is therefore crucial for several reasons. Foremost, it allows for the general protection of individuals. Guaranteeing the safety and well-being of students, faculty and staff in academic institutions is paramount. No one should have to endure harassment or violence in any form while pursuing their education or professional goals. Additionally, combating sexual harassment and violence is integral to promoting equality. Sexual harassment and violence perpetuate power imbalances and reinforce unequal treatment based on gender or other factors. By addressing these issues, academia can strive towards creating a more equitable environment in which everyone has the opportunity to thrive, regardless of their gender or background. Furthermore, addressing harassment and violence is vital for upholding academic integrity. Such behaviours can create a toxic working or learning environment that undermines the pursuit of knowledge and academic excellence. Ensuring a safe and respectful atmosphere is essential to maintaining academic integrity and fostering productive scholarship.

Dealing with these issues systematically and appropriately also serves to prevent harm to individuals who are part of this community. Sexual harassment and violence can inflict serious and lasting damage on victims' mental and physical health, as well as their academic and professional aspirations. Through proactive measures, universities can prevent harm and offer support to those affected. Moreover, academic institutions bear the responsibility to uphold legal and ethical standards regarding harassment and violence. Failure to address these issues not only violates laws and regulations but also the principles of fairness, justice and respect.

In summary, addressing sexual harassment and violence in academia is essential for creating a safe, inclusive and supportive environment conducive to learning, research and professional development.

CONCLUDING REMARKS AND FUTURE DIRECTIONS

Sexual violence and harassment in academia is a widespread but still hidden social problem that is insufficiently addressed in most academic institutions across Europe (List, 2013; FRA, 2014; Bull & Rye, 2018; Johnson et al., 2018; Klein & Martin, 2019; Sivertsen et al., 2019; Bondestam &

Lundqvist, 2020). Slovenia is no exception, as our analysis reveals a significant gap in the internal policies of Slovenian academic institutions concerning sexual and other forms of harassment and violence. Despite recent advancements, the effort remains fragmented and largely confined to specific institutions.

Public universities have shown the most progress, with all three public universities in Slovenia (Ljubljana, Maribor and Primorska) developing specific regulations that also apply to the work of their faculty members. However, the situation is least regulated at public and private higher vocational schools, as there are no documents dealing specifically with this problem.

The majority of institutions that responded to our inquiry have legally binding regulations in place. However, additional supporting documents such as protocols, guidelines or other documents that would provide a more detailed account of the legal and other provisions in this area are rare. It is concerning that only one of the regulations (UL Regulations, 2022) and only one accompanying document (FA UL Guidelines, 2021) are also aimed at students.

This situation underscores a critical need for robust, binding guidelines to address the deficiencies within the Slovenian academic landscape. Systemic solutions represent a crucial first step towards acknowledging and actively combating the issue. Without such frameworks, individuals within these institutions remain vulnerable and reliant on ad hoc solutions, which is unacceptable.

To this end, the results and recommendations of the project are summarised in the handbook “No entry for sexual violence and harassment!” (Antić Gaber et al., 2023). Based on these recommendations, the Ministry of Education prepared a comprehensive national regulation that require all private and public universities and faculties to either revise or introduce necessary regulations.

Finally, it is critical to emphasize that while implementing solutions is paramount, simply changing regulations and laws is insufficient. The pivotal challenge lies in transforming the institutional culture to become more receptive to the more subtle forms of harassment and violence. This transformation should empower individuals, particularly younger people such as students, young researchers and those in precarious or vulnerable positions, to confidently report incidents of violence. The prevailing fear among members of academia to speak out and report such incidents necessitates a strategic approach to changing these circumstances.

Therefore, raising awareness is essential, enabling individuals to promptly identify and address inappropriate behaviour. This initiative should be coupled with the cultivation of an institutional culture that explicitly defines what behaviour is acceptable and what is not, what is ethical and what is not, and what belongs in a work-study environment and what does not. Acknowledging that amending laws and regulations constitutes merely the initial step towards resolution is crucial. Addressing this issue demands ongoing and relentless effort to foster a safe and supportive academic environment.

ZAKAJ TAKO POČASI? ANALIZA SISTEMSKE UREDITVE SPOLNEGA NADLEGOVANJA IN NASILJA V SLOVENSKEM AKADEMSKEM SEKTORJU

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POVZETEK

Spolno nasilje in nadlegovanje v akademskem okolju predstavljata široko razširjen, a še vedno skrit družbeni problem, ki je pomanjkljivo naslovljen v večini akademskih institucij po Evropi. Slovenija pri tem ni izjema, saj analiza internih aktov akademskih institucij v Sloveniji kaže, da je vprašanje spolnega nasilja in nadlegovanja v akademskem okolju sistemsko slabo in pomanjkljivo urejeno. Šele v zadnjem času je mogoče opaziti nekatere premike na tem področju, vendar zgolj pri nekaterih institucijah. Analiza obstoječe dokumentacije pokaže, da splošna slika prikazuje pomanjkanje internih aktov in pravilnikov v akademskem okolju v Sloveniji pri obravnavi spolnega ter drugega nadlegovanja in nasilja. Obenem pa pokaže, da so nekatere institucije naredile vidnejše korake od drugih, nekatere si to še prizadevajo, pri veliki večini pa na tem področju še vedno zija velika sistemska praznina. Največ premikov na tem področju je možno zaslediti na javnih univerzah in njihovih članicah. Zelo šibka ureditev področja pa se kaže pri javnih in zasebnih visokih strokovnih šolah ter javnih raziskovalnih inštitutih. Kot posebej zaskrbljujoča se kaže ugotovitev, da samo dva dokumenta zajeta v analizo, poleg zaposlenih zajemata tudi študentsko populacijo. Sistemske rešitve se na tem področju v slovenskem akademskem prostoru torej kažejo kot nujne, saj so prvi korak k prepoznavanju problema in aktivnemu spopadanju z njimi. Brez njih so osebe, ki so del takšnih institucij, v celoti nezaščitene in prepuščene stihijskemu reševanju problemov, kar je nedopustno.

Ključne besede: spolno nadlegovanje, spolno nasilje, spolni režim, akademsko področje, pravni dokumenti, vsebinska analiza, Slovenija

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GENDER REGIMES IN SLOVENIAN ACADEMIC FIELD: DEFINING SEXUAL HARASSMENT AND VIOLENCE IN INTERNAL REGULATIONS

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ABSTRACT

Sexual harassment and other forms of sexual violence are widespread social phenomena, and thus also present in academic field. To examine how the gender regimes of Slovenian academic institutions are reflected in their internal regulations regarding sexual harassment and other forms of sexual violence, we analyse them in this paper. We find that public higher education institutions, notably the University of Ljubljana and its Faculty of Arts, regulate this area more comprehensively than private higher education institutions and public research institutes. In general, our analysis reveals that while some Slovenian academic institutions maintain a male-dominated gender regime, others actively work to deconstruct it.

Keywords: sexual harassment, sexual violence, gender regime, academic field, internal regulations, content analysis, Slovenia

REGIMI DI GENERE NEL CAMPO ACCADEMICO SLOVENO: DEFINIRE LE MOLESTIE SESSUALI E LA VIOLENZA NEI REGOLAMENTI INTERNI

SINTESI

Le molestie sessuali e altre forme di violenza sessuale sono fenomeni sociali diffusi, e quindi presenti anche in ambito accademico. Per esaminare come i regimi di genere delle istituzioni accademiche slovene si riflettono nei loro regolamenti interni in materia di molestie sessuali e altre forme di violenza sessuale, li analizziamo in questo articolo. Risulta che le istituzioni pubbliche di istruzione superiore, in particolare l'Università di Lubiana e la sua Facoltà di Lettere, regolano questo settore in modo più completo rispetto alle istituzioni private di istruzione superiore e agli istituti di ricerca pubblici. In generale, la nostra analisi rivela che mentre alcune istituzioni accademiche slovene mantengono un regime di genere dominato dagli uomini, altre lavorano attivamente per decostruirlo.

Parole chiave: molestie sessuali, violenza sessuale, regime di genere, campo accademico, regolamenti interni, analisi del contenuto, Slovenia

INTRODUCTION¹

Sexual harassment and other forms of sexual violence are a pervasive and concerning social phenomenon (FRA, 2014). They are encountered in numerous professions and work environments, including academic field (e.g., Bizjak *et al.*, 2020; Bondestam & Lundqvist, 2020; Brook, 2019; Johnson *et al.*, 2018; Revolt Sexual Assault, 2018; Rosenthal *et al.*, 2016). In academic field, both formal and informal social norms reflect and reinforce the existing gender order, social power structures, and gender socialization (Antić Gaber, 2018; Coate & Kandiko Howson, 2016; Fotaki, 2013), and thus as a result of the prevailing male-dominated nature of society, there are notably unequal gender relations and a predominance of men in positions of power (Antić Gaber, 2018; Jogan, 2007; Kruse, 2022; O'Connor, 2018; Podreka, 2019). Due to these prevalent male-dominated structures, sexual harassment and other forms of sexual violence in academic field, as in other areas of society, disproportionately harm women (Bondestam & Lundqvist, 2020; Hoebel, 2022; Podreka & Antić Gaber, 2019). This, however, does not imply that women never commit acts of violence. Nor does it imply that men are never victims. It does however indicate that the vast majority of perpetrators are men, and particularly men in positions of social power and influence, and that the majority of victims are women (Morgan & Long, 2018; Price, 2005).

The extent to which sexual harassment and other forms of sexual violence are accepted and even supported within academic field, or conversely, seen as a pressing societal issue necessitating sanctions and zero tolerance, is predominantly contingent upon the prevailing institutional culture. This culture, which reflects both the formal legal norms enshrined in the internal regulations² of academic institutions, and informal social norms, can either tolerate sexual harassment and other forms of sexual violence or foster a vigorous opposition to it. In other words, attitudes towards these issues and the institution's perception of their gravity have a direct impact on the treatment and protection of victims, as well as the efficacy of efforts to prevent these forms of violence (Gialopsos, 2017; Johnson *et al.*, 2018). Specifically, institutions that perceive violence as undesirable, unacceptable, and reprehensible behaviour tend to have lower occurrences of sexual harassment and other forms of sexual violence (Moore & Mennicke, 2019).

Examining the characteristics of sexual harassment and other forms of sexual violence is particularly important in the context of the related policies of academic institutions, as accurate definitions of these play a pivotal role in fostering a secure environment in academic and research institutions. This is because clear definitions enable the identification and prevention of acts of violence, thereby protecting students, professors, staff, and researchers from physical, psychological, and emotional harm (Bull & Rye, 2018).

Given the significant differences in the structural organization of higher education across national contexts, it is more appropriate to examine the definitions of sexual harassment and other forms of sexual violence in the internal regulations that apply in each national context separately (Bondestam & Lundqvist, 2020; Joseph, 2015). The focal context of the current work is Slovenia, where the academic world is characterized by, on the one hand, the persistence of male-dominated structures (Jogan, 2007; Antić Gaber, 2018) and, on the other hand, by significant institutional shifts that are challenging these (cf. FA UL Guidelines, 2021). Due to these dynamics, we consider it a pertinent and interesting subject of analysis, which is why we devote our attention to it in this article. Specifically, we are interested in how sexual harassment and other forms of sexual violence are defined in the internal regulations (e.g., regulations, protocols, guidelines) of Slovenian public and private higher education institutions and public research institutes.

To answer this question, we will first introduce the concept of "gender regime" (Connell, 1995) as the fundamental theoretical framework that will underpin our examination of definitions of sexual harassment and other forms of sexual violence in the internal regulations of Slovenian academic institutions. We will also consider sociological definitions of sexual harassment and other forms of sexual violence in order to assess their alignment with the legal definitions found in the related documents of Slovenian academic institutions. The research questions, sample, and methods of data collection and analysis upon which the main body of the article's analysis are based are then explained. Finally, the discussion section of the article reflects on the main findings of our study.

1 The article was produced as part of the targeted research project "Institutional, legislative and awareness-raising solutions and activities in addressing sexual harassment and other forms of sexual violence in higher education and research organisations in Slovenia" (V5-2112, 2021–2023), funded by the Slovenian Research Agency and Ministry of Education, Science, and Sports, and as part of the research programme "Problems of Autonomy and Identities at the Time of Globalisation" (P6-0194, 2019–2027), funded by the Slovenian Research Agency. Moreover, one of the authors of this paper contributed to the FA UL Guidelines (2021). However, this prior involvement did not influence the objective and unbiased analysis of the internal regulations examined in this article.

2 In our text, we refer to "internal regulations" as encompassing all "official" documents (e.g., regulations, protocols) adopted by the institution and grounded in legal provisions. Furthermore, this term includes other documents used within academic institutions that are not legally binding, such as "guidelines", which serve as supplementary documents to the "official" ones.

ACADEMIC INSTITUTIONS' GENDER REGIMES IN A MALE-DOMINATED SOCIETY

In building the theoretical framework for analysing the definitions of sexual harassment and other forms of sexual violence in Slovenian academic institutions' policies, it is essential to consider that our focus is on institutions that are characterized by "male dominance" (Bourdieu, 2001). In other words, institutions in society, including academic institutions, establish their own gender regimes that are consistent with the societal gender order. If society has a male-dominated gender order, it is likely that the gender regimes of the institutions in that society are also distinctly male-dominated (Connell, 1995). The institutions in society are thus not isolated entities, and do not operate independently, but are embedded in the prevailing social relations (Douglas, 1986).

In general, the concept of gender regime refers to the social, cultural, legal, and institutional structures that determine the established understanding of gender roles. It affects various aspects of individuals' lives, including access to opportunities, rights, and resources. It also encompasses the ways in which institutions either uphold traditional hierarchies and gender stereotypes or challenge them (Aaltio & Mills, 2002; Antić Gaber, 2012; Connell, 1995; Maharaj, 1995).

The gender regime present within a particular institution is reflected at both at the organizational level (who holds certain roles within the institution) and at the institutional culture level. The latter is determined by formal and informal social norms that influence communication patterns, decision-making processes, and the behaviours of individuals within a particular institution (Berger & Luckmann, 1991). Formal social norms are written rules established by institutions to govern behaviour. They usually have a legal basis and exist within a larger legal and policy framework. Informal social norms, on the other hand, are unwritten, implicit, and often unspoken rules. They evolve over time through interpersonal interactions and observations of how individuals conduct themselves in particular situations. Although informal social norms are not supported by explicitly written rules and regulations, they have a significant impact on behaviour because they reflect the shared values, beliefs, and customs of the people within a particular institution. Consequently, formal social norms can serve as the foundation for the development of informal social norms. When institutions establish formal rules and regulations, they also set informal expectations regarding behaviour and conduct within those institutions. Over time, these informal expectations can become embedded in institutional culture (Fiori, 2018). For instance, if an academic institution adopts a document to prevent sexual harassment and other forms of sexual violence, actively promotes a zero-tolerance policy, and takes appropriate preventive measures, its employees are also more likely to recognize, respond to, and prevent these

forms of violence at the informal level (Joubert *et al.*, 2011; Schulze & Budd, 2020; Suhovršnik, 2022).

The dynamics between formal and informal social norms within a social institution should be understood in the context of the gender regime present in that institution. We thus believe it is essential to grasp the relationship between formal and informal norms through Acker's theory of gendered institutions (1990; 1992), which highlights not only the institutional dimensions and structures but also the role of individuals in maintaining these gender norms. Gender is inherent to individuals, and through gender, power relations are established at the institutional level.

Moreover, due to the significant impact that formal social norms have on the informal relational dynamics between individuals within a certain institution, it is crucial to examine internal regulations that reflect these formal norms. By analysing the documents which reflect these policies, we gain direct insight into the institutional culture and can ascertain the institution's gender regime's unique characteristics. In our case, the way that sexual harassment and other forms of sexual violence are formally defined in particular academic institutions' documents reveals not only the formal stance, on these issues but also implies an informal understanding of these phenomena as well as gender power dynamics within this institution. As such, our assumption in this case is: if a particular academic institution addresses sexual harassment and other forms of sexual violence with special concern, comprehensively, and in accordance with existing sociological knowledge, we can presuppose that the institution is devoted to this area and approaches it seriously. Consequently, it can be assumed that the institution's male-dominated gender regime is being challenged, as addressing sexual harassment and violence invariably challenges unequal gender power relations, entrenched hierarchies, and power imbalances. In contrast, institutional blindness, neglect, inadequate regulation, and the presence of documents with incomplete and undeveloped definitions suggest that sexual harassment and violence are either not acknowledged or not recognized by decision-makers as significant problems. In this case, we can assume that male-dominated structures persist and remain unchallenged because reflection on unequal gender power relations and the problematization of male-centric structures are either absent, not prioritized, or applied inadequately.

To avoid potential conceptual misunderstandings, we emphasize that internal regulations related to sexual harassment and violence are just one of many dimensions reflecting the structure of gender regimes in academic institutions. We do not claim that these definitions alone constitute the gender regimes, as gender equality regimes are influenced by numerous factors. More specifically, the concept of a gender regime encompasses the entirety of gender structures, gender relations, and gender-defined institutions, representing a broad framework. Nevertheless, in this article we assert that examining the definitions of sexual harassment and violence is a significant indicator

of the structure of a given institution's gender regime, as addressing sexual harassment and violence invariably involves considering broader issues of unequal gender power relations. Whenever institutions define sexual harassment and violence or address this topic, they inevitably confront these broader gender power dynamics. Therefore, following the broader conceptual framework of a "gender regime" makes sense when addressing narrower issues such as the definitions of sexual harassment and violence in academic institutions' documents. As demonstrated in this study and many others, the scope and adequacy of these definitions have broader implications for the entire gender regime of a particular institution.

Moreover, when examining academic institutions' gender regimes, it is essential to consider that gender regimes and gender order are not static entities. As previously explained by Acker (1990; 1992), these continuously evolve and change as a result of the individuals' agency in both maintaining and challenging male-dominated social structures. In this concrete situation it should be noted that these institutions were for centuries male dominated, as it was men who established them, structured them, and provided their internal legislation, which thus primarily served men, their interests and expectations. These institutions naturally evolved over time, although even after the development of mass education and women's greater presence in academic field their internal (power) structures and regulations were slow to change. As such, although the proportion of women in academic field has increased over time and women have overcome numerous challenges and broken through the "glass ceiling" to gain access to crucial positions in many institutions, the majority of these powerful roles continue to be occupied by men (Kruse, 2022; O'Connor, 2018).

It is important to highlight in this context that the individual's position in society (and in a particular institution) is undeniably determined by the prevailing social structures. However, an individual (or group of individuals) is not merely a passive entity within these structures, but can also be an active agent with the capacity to influence these structures through social activism. Therefore, particularly significant changes in gender regimes and gender orders have taken place as a result of social struggles aimed at gender equality and the dismantling of male-dominated structures (Antić Gaber, 2012; 2018). Notwithstanding the strength and rigidity of these institutions, and thus how slow such changes can be, we must not underestimate the potential and power of the agents of change that exist both inside and outside them. Accordingly, Connell (1995) emphasizes the significance of efforts to alter institutions' male-dominated structures. When one institution undergoes change, it can potentially disrupt the gender regime not only within that institution but also in others, especially when these institutions shape the same social field, such as academic field. And this is especially the case in terms of relatively newly recognized social phenomena, such as sexual harassment and sexual violence.

Finally, it is essential to recognize that academic institutions are not organizationally and operationally uniform when studying their gender regimes through the policies regulating sexual harassment and violence. They vary based on whether they are higher education institutions or research institutes, and whether they are public or private. These specifics must be considered when examining how sexual harassment and violence are defined in the documents of academic institutions, as each type has its own unique characteristics and operational frameworks. For instance, higher education institutions often encompass a diverse population, including undergraduate and graduate students, faculty, and administrative staff. This diversity can create complex power dynamics and varied experiences with regard to sexual harassment and violence. Therefore, policies in these institutions need to address the vulnerabilities and interactions among students and staff, requiring comprehensive and specific regulations. Conversely, research institutes are primarily composed of professional researchers and support staff, which can result in peer-to-peer sexual harassment and violence. Moreover, public institutions, whether higher education or research institutes, operate under governmental regulations and public scrutiny, influencing the development and implementation of their policies. Due to regulatory requirements and public accountability, they may have more robust policies. In contrast, private institutions might have greater flexibility in policy-making but could face different pressures, such as financial constraints or organizational culture, impacting their approach to addressing sexual harassment and violence. Additionally, they are less subject to public scrutiny in Slovenia. Given these differences, we are convinced that the type of academic institution significantly affects the nature of its internal regulations on sexual harassment and violence. Therefore, we have considered the organizational specifics of academic institutions in both data collection, as outlined in the methodological section, and in the presentation of results, which we have categorized according to the type of institution.

SOCIOLOGICAL DEFINITIONS OF SEXUAL HARASSMENT AND OTHER FORMS OF SEXUAL VIOLENCE IN ACADEMIC FIELD

To conduct a comprehensive analysis of internal regulations addressing sexual harassment and other forms of sexual violence, it is essential to establish adequate sociological definitions of these phenomena. Therefore, in this section we introduce the concepts of "sexual violence" and "sexual harassment". We consider them in the context of the workplace, not only in terms of the relationships between the employees of academic institutions, but also with respect to students, who constitute a substantial share of those present at such organizations. In addition to "sexual violence" and "sexual harassment", we also explain the more general terms of "violence" and "harassment", as well as more specific concepts like "gender-based violence" and "gender-based harassment".

Before turning to a comprehensive account of these concepts, let us first clarify the relationship between “harassment” and “violence” in legal terms. Harassment is generally defined as a non-criminal form of violence, as it is included in the Slovenian Criminal Code (2008) under offences against sexual integrity. However, even though harassment is considered in the Criminal Code (2008) as less “serious” in terms of legal offences, it can be equally detrimental to the victim’s well-being. In our study, we comprehend all forms of violence and harassment as problematic and acknowledge that they can have devastating consequences for individuals. Moreover, since perpetrators and victims may occupy unequal social positions, we also emphasize that all forms of violence entail the power abuse. Due to highly hierarchical academic field, it is of paramount importance to consider unequal social relations when examining sexual harassment and other forms of sexual violence (Antić Gaber, 2018; Podreka, 2017).

Drawing from these two sociological assumptions, we proceed to expound upon the notions of “violence”, “sexual violence”, “gender-based violence”, “harassment”, “sexual harassment”, and “gender-based harassment”.

“Violence”, “Sexual Violence”, and “Gender-Based Violence”

“Violence” encompasses one-time or repeated, deliberate, controlled, and premeditated acts that typically manifest as multiple forms of aggressive and manipulative behaviour, such as psychological, physical, sexual, economic, and other forms of abuse or harassment that are frequently intertwined. Additionally, violence embraces the propensity of an individual or group to abuse their position of power and control over others (Podreka, 2017).

“Sexual violence” is defined as any non-consensual sexual act perceived as coercive within a relationship, encompassing behaviors that interfere with an individual’s bodily integrity or restrict their autonomy over their own body. Coercion may include not only physical violence, but also psychological intimidation, blackmail, and other threats such as threats of physical injury, job loss, or restriction of desired employment. It can also occur when the victim or threatened individual is incapable of consenting, such as when they are under the influence of alcohol or narcotics, asleep, or mentally unable to comprehend the situation (Jansen, 2016; Podreka, 2017; Lesjak & Štirn, 2021). “Sexual violence” typically occurs in private and is frequently concealed and “invisible”, with just the perpetrator and victim present (Podreka, 2018).

The term “gender-based violence” refers to any violence directed at a person on the basis of their gender, gender identity, or gender expression (e.g., LGBTIQ+ individuals), or violence that disproportionately affects

persons of a particular gender and manifests in severe forms of harassment, torment, intimidation, and similar negative behaviours (EIGE, 2020; Leskinen *et al.*, 2015).

“Harassment”, “Sexual Harassment”, and “Gender-Based Harassment”

“Harassment” is a form of discrimination in which an individual is subjected to intrusive conduct because of their gender, sexual orientation, nationality, ethnicity, national origin, social background, skin colour, religious beliefs, etc. (Robnik *et al.*, 2019).

“Sexual harassment” is a specific form of violence that comprises at least three types of harassing behaviour: “gender-based harassment” (verbal and nonverbal behaviour that expresses hostility, objectification, exclusion, or second-class status based on gender, gender identity, or gender expression), “unwanted sexual attention” (unwanted verbal or physical advances that may include sexual assault), and “sexual coercion conditioning” (when job or academic performance is made contingent on gender-based demands) (Johnson *et al.*, 2018). A self-assessment of one’s position is one of the most essential criteria for determining whether a person is a victim of sexual harassment. Unwantedness is thus a crucial factor in determining whether certain conduct constitutes sexual harassment and where the line between acceptable and unacceptable behaviour is individually defined (Jogan, 2001). “Sexual harassment” and “gender-based harassment” involve not only sexual conduct directed at an individual, but also publicly expressed negative remarks about women (or men) as a social group (Robnik *et al.*, 2019).

METHODS FOR DATA COLLECTION AND ANALYSIS

Based on the theoretical foundations detailed in the preceding sections, our analysis of Slovenian academic institutions’ policies aims to answer the following two research questions:

RQ1: Which forms of sexual harassment and other forms of sexual violence are addressed in these documents?

RQ2: How do these documents define sexual harassment and other forms of sexual violence?

To address these research questions, we reached out to Slovenian public and private higher education institutions, public and private post-secondary tertiary education institutions, and public research institutes, requesting their internal regulations on the focal topic.³ We also checked the accessibility of the documents on the official websites of these institutions.

³ The list of public and private higher education institutions and public and private post-secondary education institutions was obtained from the website of the Slovenian Quality Assurance Agency for Higher Education (SQAA, 2021). The list of public research institutes was obtained from the website of the Ministry of Education, Science, and Sports (GOV.SI, 2021).

On October 21, 2021, we sent an email request for documents to the email addresses of 69 Slovenian academic institutions, allowing a two-week deadline for submission. After the initial two weeks, we resent the same request to those institutions that had not yet responded. As our analysis commenced at the beginning of the 2022 calendar year, we accepted additional submissions that arrived later. Ultimately, we received a total of 30 responses, representing nearly 50 percent response rate. We requested documents from: three public universities and 31 members of these universities (with 17 responses), 16 private higher education institutions (universities and post-secondary education institutions, with seven responses), three public short-cycle vocational education institutions (with two responses), and 16 public research institutes (with 4 responses). In total, we received 20 documents.⁴ Based on the type of document, we received 15 regulations,⁵ two guidelines,⁶ and three ethical codes.⁷ Based on the type of institution, we obtained 11 documents from public higher education institutions,⁸ five documents from private higher education institutions,⁹ and four documents from public research institutes.¹⁰ All documents collected were included in the analysis, with the exception of the SFU Ethical Code (n.d.) and UM Ethical Code (2021), as they do not define sexual harassment and other forms of sexual violence. The total number of documents analysed was thus 18.¹¹

The collected documents were analysed using content analysis (Krippendorff, 1980), an established method for systematically examining the content of different types of texts, including internal regulations. The primary objective of content analysis is to obtain insight into the construction of meaning in the texts being analysed.

Following our two research questions, the analysis of the academic institutions' policies was conducted in two stages. First, we examined which forms of violence and harassment appear in the analysed documents. The purpose of this level of analysis was to determine which forms of violence and harassment are prevalent and which are underrepresented and/or absent. Second, we examined in greater depth the definitions of identified forms of sexual harassment and sexual violence. In doing so, we were interested in how clearly the definitions were stated, as well as how narrowly

or widely they were specified. As explained above, we are interested in analysing the definitions of sexual harassment and other forms of sexual violence because if an academic institution addresses these issues comprehensively then we can assume that it is concerned about and approaches them seriously. Consequently, it can be assumed that addressing sexual harassment and violence challenges the institution's male-dominated gender regime by questioning unequal power relations and entrenched hierarchies. In contrast, institutional blindness, neglect, inadequate regulation, and incomplete documents suggest that sexual harassment and violence are not acknowledged or recognized as significant problems. As such, we can assume that male-dominated structures persist and remain unchallenged due to a lack of priority or inadequate reflection on unequal gender power relations.

The subsequent section presents the results of the analysis, categorized into two parts. Within each part, the findings are presented based on the institution type (public higher education institutions, private higher education institutions, public research institutes). We collected documents and present the analysis results by institution type, rather than by different definitions of key concepts or organizational methods (e.g., specific to sexual harassment or covering a range of issues such as ethical codes), because we are primarily interested in differences by institution type. As explained in the second section, distinctions between public vs. private and higher education institutions vs. research institutes suggest differences in funding, organization, and operational logic, which can influence their approach to sexual harassment and violence. Therefore, we present the results based on the type of institution and interpret the findings in the discussion with this context in mind.

RESULTS OF ANALYSIS

Occurrence of Sexual Harassment and Other Forms of Sexual Violence in Documents

All 11 documents obtained from public higher education institutions incorporate the terminologies "harassment",

4 The difference between the number of responses and the overall number of documents received is primarily attributable to members of the University of Ljubljana, who mostly use the UL Regulations (2022).

5 The regulations were sent by DOBA Business School (DOBA), Environmental Protection College (EPC), Faculty of Natural Sciences and Engineering (NTF), Faculty of Polymer Technology (FTPO), Institute of Contemporary History (INZ), International School for Social and Business Studies (ISSBS), National Institute of Biology (NIB), New University (NU), Regional Study Centre (RSC), School of Advanced Social Studies (SASS), Jožef Stefan Institute (JSI), University of Ljubljana (UL), University of Maribor (UM), University of Novo mesto (UNM), and University of Primorska (UPR).

6 The guidelines were sent by the Faculty of Arts (FA UL) and Sigmund Freud University Vienna – Ljubljana branch (SFU).

7 The ethical codes were sent by SFU, the Science and Research Centre Koper (ZRS Koper), and UM.

8 EPC Regulations (2013); FA UL Guidelines (2021); NTF Regulations (2012); NU Regulations (2012); RSC Regulations (2013); SASS Regulations (2013); UL Regulations (2022); UM Ethical Code (2021); UM Regulations (2015); UNM Regulations (2021); UPR Regulations (2009).

9 DOBA Regulations (2012); FTPO Regulations (2016); ISSBS Regulations (2013); SFU Ethical code (n.d.); SFU Guidelines and Protocol (n.d.).

10 INZ Regulations (2018); JSI Regulations (2021); NIB Regulations (2012); ZRS Koper Ethical Code (2020).

11 The data collection method and sample description are summarized on the research report by Antić Gaber *et al.* (2023), which provides a comprehensive analysis of various aspects of internal regulations of academic institutions on the topic of sexual harassment and other forms of sexual violence.

“sexual harassment”, and “mobbing”.¹² Notably, four of the 10 documents (EPC Regulations, 2013; FA UL Guidelines, 2021; SASS Regulations, 2013; UL Regulations, 2022) also include the term “violence”, while only the FA UL Guidelines (2021) define “sexual violence”. The UL Regulations (2022) additionally mention “discrimination”. Of these documents, the FA UL Guidelines (2021) encompass the most extensive range of violence-related terms, including “sexual violence”, “gender-based harassment”, “gender-based violence”, and “violence and harassment based on other identity characteristics”, in addition to the previously mentioned forms of violence. In contrast, the UM Regulations (2015) use the term “conflict situation” to cover various forms of violence and harassment, such as “sexual harassment”, “harassment”, “workplace harassment”, and “discrimination”.

In the context of private higher education institutions, “harassment” and “sexual harassment” are mentioned in two of the four documents (DOBA Regulations, 2012; ISSBS Regulations, 2013). The SFU Guidelines and Protocol (n.d.) address “harassment” and “sexual harassment” within the broader framework of “sexual integrity” rather than as separate issues. “Mobbing” is referenced in three out of four documents (DOBA Regulations, 2012; FTPO Regulations, 2016; ISSBS Regulations, 2013), while the terms “violence” and “sexual violence” are absent from all four documents of private higher education institutions.

Regarding public research institutes, “harassment” and “sexual harassment” appear in three of the four documents (INZ Regulations, 2018; JSI Regulations, 2021; ZRS Koper Ethical code, 2020). All four documents mention “mobbing”. Furthermore, the JSI Regulations (2021) highlight “third-party violence”, defined as workplace violence perpetrated by individuals other than co-workers. As with the documents from private higher education institutions, the terms “violence” and “sexual violence” are not found in those from public research institutes.

Exploring Definitions of Sexual Harassment and Other Forms of Sexual Violence in Documents

Public Higher Education Institutions

Public higher education institution documents typically define “harassment” as any recurring or systematic unwanted conduct based on various identity characteristics (e.g., gender, nationality, race, ethnicity, religion, disability, age, sexual orientation) that violates a person’s dignity or creates a hostile, intimidating, humiliating and/or offensive environment. Among these documents, the UL Regulations (2022) are particularly notable for their precise definition of “harassment” as “any unwanted intrusion into another person’s personal space without the use of force”

(2–3). Several documents also provide specific examples of “harassment”, including ridicule, humiliation, intimidation, slander, and blackmail, among other things (e.g., EPC Regulations, 2013; FA UL Guidelines, 2021; NTF Regulations, 2012; RSC Regulations, 2013; SASS Regulations, 2013; UL Regulations, 2022; UPR Regulations, 2009).

“Sexual harassment” is generally defined in public higher education institution documents as any unwanted verbal, nonverbal, or physical conduct or behaviour of a sexual nature that violates a person’s dignity, particularly when it involves the creation of an intimidating, hostile, degrading, humiliating, embarrassing, or offensive environment. The same public higher education institution documents that provide examples of “harassment” also include instances of “sexual harassment”, such as groping, unnecessary touching or shaking, rubbing against a person’s body, touching a person’s garments, hair, and so on. Moreover, FA UL Guidelines (2021) define “gender-based harassment” as the public expression of negative remarks about women or men as a social group.

In addition to “harassment” and “sexual harassment”, certain public higher education institution documents also define “violence” (EPC Regulations, 2013; FA UL Guidelines, 2021; SASS Regulations, 2013; UL Regulations, 2022) and “sexual violence” (FA UL Guidelines, 2021). The EPC Regulations (2013) and SASS Regulations (2013) define “violence” in broad terms, encompassing physical, sexual, psychological, and economic forms. In contrast to these two documents, the UL Regulations (2022) provide a more specific definition of “violence”, characterizing it as “any unacceptable intrusion upon the integrity of another through the use of physical or psychological force” (2). The UL Regulations (2022) define “violence” as the use of force, whereas “harassment” is the undesirable intrusion into the personal space of another person without the use of force. The latter document differentiates between sexual intercourse and other sexual acts involving coercion (and thus falling under the category “violence”) and sexual intercourse and other sexual acts involving neither coercion nor consent. In this manner, the UL Regulations (2022) reflect the “yes means yes” model, which is based on the principle that sexual intercourse and other sexual acts are only permissible with consent. However, the division of sexual acts into coercive acts and acts without consent, as outlined in the UL Regulations (2022), has no effect on the sanctioning of such acts, as they are treated according to their severity regardless of whether they were committed forcibly and/or without consent. The “yes means yes” model is also reflected in the NTF Regulations (2012), which states that the absence of consent is crucial for determining whether sexual harassment has occurred or not.

In contrast to the three aforementioned documents, the FA UL Guidelines (2021) define “violence” through the

12 As we are interested in various forms of violence and harassment, “mobbing” is also mentioned at this stage. As we are specifically concerned with sexual harassment and other forms of sexual violence, the next stage of our analysis does not include workplace mobbing. The same applies to the term “discrimination”, which refers to exclusion based on identity characteristics (such as gender, race, ethnicity, religion, nationality) and is not limited solely to sexual harassment and other forms of sexual violence.

sociological lens of the abuse of power: “We speak of violence when there is a conscious intention of an individual or group to abuse established power and control over others, involving deliberate, controlled, and premeditated acts, as well as when the abuse of established power and control is the outcome of actions, regardless of intentions or motives” (FA UL Guidelines, 2021, 6). Furthermore, the FA UL Guidelines (2021) define “sexual violence” as “different forms of sexual behaviour or practices to which a person is compelled against their will through the use of physical force, threats, coercion, or psychological manipulation” (FA UL Guidelines, 2021, 8).

The FA UL Guidelines (2021) stand out in the analysis of public higher education institution documents not only due to their comprehensive coverage of various forms of sexual violence and harassment in comparison to the other documents, but also by explicitly stating that instances of sexual harassment are generally not classified as criminal offences, whereas different forms of sexual assault, physical assault, and violence are indeed classified as criminal offences. In addition, the NTF Regulations (2012) are the sole internal regulation among UL members, while the rest refer to the UL Regulations (2022), underscoring NTF UL’s recognition of the importance of addressing this area with its own distinct set of regulations.

Private Higher Education Institutions

The definitions of “harassment” and “sexual harassment” in the DOBA Regulations (2012) and ISSBS Regulations (2013) align with the standard definitions that are found in public higher education institution documents. Both documents also provide specific instances exemplifying these forms of violence. Moreover, in SFU Guidelines and Protocol (n.d.) “sexual harassment” is defined within the broader context of the criminal offences of “sexual integrity”, which involve acts of sexual, physical, and/or psychological violence and “encompass various forms of unwanted verbal, non-verbal, and physical attention with sexual content, such as unwanted sexual innuendo, persuasion for sexual activities, demands for sexual services, and all other forms of verbal, non-verbal, or physical harassment with sexual content” (SFU Guidelines and Protocol, n.d., 2). Specific examples of sexual harassment are also highlighted, including sending messages, photographs and videos with sexual content, coercing or forcibly engaging in sexual activity, demanding sexual services, and so on. In contrast, the FTPO Regulations (2016) solely address the issue of “mobbing”, and consequently do not provide an analysis of sexual harassment or violence.

Public Research Institutes

Similar to private higher education institutions, the definitions of “harassment” and “sexual harassment” in the INZ Regulations (2018), JSI Regulations (2021), and ZRS Koper Ethical Code (2020) align with those found in public

higher education institution documents. Notably, none of these documents explicitly refer to specific instances of “harassment” or “sexual harassment”. As with the FTPO Regulations (2016), the analysis of the NIB Regulations (2012) was not conducted, as it solely addresses the issue of “mobbing”.

Among the documents pertaining to private higher education institutions, the INZ Regulations (2018) and JSI Regulations (2021) are particularly noteworthy. The INZ Regulations (2018) uniquely state that in the case of “sexual harassment” it is up to the individual to determine whether the act is offensive and constitutes sexual or other harassment or mistreatment in the workplace. The key factor is the individual’s perception of the behaviour as undesirable and unacceptable.

In addition to “harassment”, “sexual harassment”, and “mobbing”, the JSI Regulations (2021) include the category of “third-party violence”. This document is distinct in its inclusion of this form of violence, defined in the document as “any type of action against an employee that creates a hostile or threatening work environment and negatively affects the employee, either physically or psychologically. Perpetrators of violence can include visitors, clients, guests, and others, as well as external collaborators” (JSI Regulations, 2021, 5). This category encompasses both psychological and physical violence, as well as sexual violence.

DISCUSSION

For the first research question (RQ 1), we investigated the forms of sexual harassment and other sexual violence addressed in the internal regulations of academic institutions in Slovenia. Our analysis revealed that all public higher education institution documents address “harassment” and “sexual harassment”, but this is not the case for “violence” and “sexual violence”. The terms “harassment” and “sexual harassment” also appear in the documents of certain private higher education institutions and public research institutes; however, the terms “violence” and “sexual violence” are not explicitly defined as separate categories in these documents. Notably, the FA UL Guidelines (2021) stand out as encompassing the most comprehensive range of forms of sexual harassment and other forms of sexual violence among the documents analysed.

The second research question (RQ 2) focused on the definitions of sexual harassment and other forms of sexual violence in documents. In the majority of the documents analysed, “harassment” and “sexual harassment” are defined as repeated or systematic unwanted verbal, non-verbal, or physical behaviours, based on different identity characteristics, with the intent to violate a person’s dignity and create a hostile environment. Among the internal regulations analysed, the UL Regulations (2022) and FA UL Guidelines (2021) stand out for providing broader and more precise definitions of terms related to sexual harassment and other forms of sexual violence.

Comparing the definitions of sexual harassment and other forms of sexual violence with the sociological definitions presented in the third section of this article, we first observe that public higher education institution documents include both “violence” and “harassment”, indicating an awareness that all forms of violence are problematic. However, this distinction is not present in the case of documents from private higher education institutions and public research institutes. Notably, the FA UL Guidelines (2021) stand out among the examined documents for their exhaustive coverage of various forms of sexual violence and harassment, for instance “sexual violence”, “gender-based harassment”, “gender-based violence”, and “violence and harassment based on other identity characteristics”. In addition to these forms of harassment and violence, the documents analysed include terms such as “sexual integrity”, (SFU Guidelines and Protocol, n.d.) “third-party violence”, (JSI Regulations, 2021) and an emphasis on individual’s judgement in determining whether or not a particular act constitutes a sexual harassment (INZ Regulations, 2018).

In addition to providing comprehensive definitions of sexual harassment and other forms of sexual violence, it is crucial to offer additional explanations and examples of these acts to facilitate their identification. Furthermore, by having sufficient knowledge about these behaviours individuals are able to openly discuss their personal experiences with sexual violence or harassment, and to promptly report or respond appropriately upon witnessing such incidents (Podreka, 2017; Robnik, 2009). Some public and private higher education institution documents adopt this approach by providing specific examples of “harassment” and “sexual harassment” to illustrate these phenomena more vividly. In contrast, the regulations of public research institutes do not include such examples.

For a comprehensive understanding of sexual harassment and other forms of sexual violence, it is essential to consider the unequal power relations between the perpetrators and victims of such acts. In this context, the FA UL Guidelines (2021) are notable, as they explicitly acknowledge such unequal power dynamics, unlike many of the other documents analysed in this study. Conversely, some documents employ terms that overlook these power imbalances entirely. For instance, the UM Regulations (2015) use the term “conflict situation” to refer to all forms of violence and harassment, a categorization that deviates from sociological accuracy, as conflict can involve two individuals occupying equal social positions, whereas violence and harassment entail an imbalance of power. Consequently, the resolution of situations involving sexual harassment and other forms of sexual violence necessitates approaches that differ from those typically employed in regular conflict situations (such as mediation, compromise, and assertive communication).

The sociological definition of sexual violence and harassment also emphasizes the importance of the individual’s assessment of whether a particular behaviour constitutes sexual harassment (Jogan, 2001). Among the documents

examined, only the INZ Regulations (2018) adhere to this sociological assumption.

The area of sexual harassment and other forms of sexual violence is most comprehensively regulated in public higher education institutions, particularly the UL and one of its members, the FA, which together define the most forms of sexual violence and harassment compared to any of the other Slovenian academic institutions that provided us with their internal regulations. They also offer the most precise definitions of these phenomena. In contrast, the documents from other academic institutions, particularly private higher education institutions and public research institutes, are less well regulated and less comprehensive in this area. They address fewer forms of sexual harassment and violence, and their definitions are not as comprehensive as those in the documents of public higher education institutions, indicating that less importance is attached to this issue.

What do the results of our analysis of internal regulations reveal about the gender regimes of Slovenian academic institutions? Overall, they suggest that certain academic institutions in Slovenia have made progress in addressing the issue of sexual harassment and other forms of sexual violence, challenging the male-dominated gender regimes that may have previously been indifferent to or paid little attention to this issue. On the other hand, there are still many Slovenian institutions in academic field where a male-dominated gender regime persists, as evident in the inadequate regulation in this area or the absence of specific documents addressing this issue. The persistence of a male-centric gender regime in Slovenian academic institutions is also reflected in the fact that only half of the institutions to which we sent requests for the documents for our analysis responded to our research initiative, with an especially low response rate from the public research institutes. Regardless of whether the institutions ignored our request due to a lack of relevant documents on this topic, missed our email request, or perceived our request and project as “left-wing” (which may particularly apply to some private higher education institutions known for openly supporting right-wing political positions in Slovenia, and thus likely to view this project as part of the “leftist agenda”), the non-response indicates the potential persistence of a male-dominated gender regime in these institutions that do not prioritize this issue.

The findings from our analysis prompt an exploration into the reasons behind the notable differences in the regulation of sexual harassment between public and private higher education institutions in Slovenia. Presumably, public higher education institutions in Slovenia are subject to greater public scrutiny compared to private higher education institutions. Consequently, private higher education institutions may feel less compelled to address and control issues related to sexual harassment and violence. Furthermore, private higher education institutions might lack the same level of professional staff equipped with expertise in handling cases

of sexual harassment and violence compared to public higher education institutions. This staffing difference could contribute to a potential gap in comprehensively addressing and regulating incidents of sexual violence and harassment in private higher education institutions. Additionally, the size of the student body could play a role, with public higher education institutions typically having larger student populations compared to private institutions, which may offer fewer degree courses and consequently enrol fewer students. This could impact the awareness and prioritization of addressing sexual harassment and violence in private higher education institutions. Another important reason why internal regulations are more comprehensively regulated at public higher education institutions, particularly at the University of Ljubljana, is the disclosure of several high-profile cases of sexual harassment. These cases, which received significant media attention in the first half of 2021, likely created pressure to address and regulate this area in a more serious manner. However, it is essential to note that these considerations are preliminary and speculative. Further research, such as conducting interviews with representatives, students and staff of private higher education institutions, is crucial to validate these potential reasons.

Last but not least, when interpreting our findings, it is crucial to consider several significant limitations. The first is the non-representative sample, as only half of the institutions responded to our request. Consequently, we must exercise caution when comparing findings between different types of academic institutions. For example, we collected more regulations from public higher education institutions than from research institutes, which must be considered when comparing these two types of organizations. Furthermore, we cannot generalize the findings for each type of institution due to the non-representative sample. For instance, we obtained only four regulations from the 16 public research institutes, meaning these findings apply only to the collected regulations and do not represent the overall situation for public research institutes, and this must be considered when discussing the findings in the context of public research institutes.

Another important limitation is that, given the current urgency of regulating sexual harassment, many institutions are likely in the process of revising these documents, a process that is also being undertaken as part of the activities related to the Gender Equality Plan (GEP) activities. Therefore, it should be acknowledged that since the data was collected for this study some of the internal regulations may have been changed, substituted, or reformed due to both internal pressure as well as that from the public and media. As such, in

order to further confirm the validity of our findings and their interpretation, it would be necessary to conduct an analysis of a representative sample of the institutions' current internal regulations, possibly acquired through other means (e.g., by visiting the institution's headquarters in person, applying qualitative methods, etc.).

In the light of the recent encouragement for the development of such internal regulations, it would be advisable to request these documents again for further research. Moreover, given the dynamic and evolving nature of gender regimes, as well as the potential for changes in one institution's gender regime to influence changes in the others, it would be interesting to investigate whether changes at the University of Ljubljana, specifically at its Faculty of Arts, might trigger a "chain reaction", resulting in gender regime transformations across other academic institutions in Slovenia, both public and private. As such, it would be prudent to conduct periodic checks on the ongoing updates and revisions to the policies of these institutions.

CONCLUDING REMARKS

In this article, we sought to examine the definitions of sexual harassment and other forms of sexual violence within the internal regulations of higher education and research institutions in Slovenia. Based on our content analysis of these documents, we found that public higher education institutions, notably the University of Ljubljana and its Faculty of Arts, regulate this area more comprehensively than private higher education institutions and public research institutes. In general, our analysis reveals that while some Slovenian academic institutions maintain a male-dominated gender regime, others are actively working to deconstruct it.

In further research on this subject, we recommend addressing the methodological shortcomings highlighted in the discussion. Moreover, it would be beneficial to employ other research methods, such as conducting interviews with representatives, students and staff of Slovenian academic institutions, to expand the scope of the analysis and gain a more in-depth understanding of the current state of affairs. While content analysis of internal regulations reveals formal social norms regarding sexual harassment and other forms of sexual violence, interviews with key stakeholders within academic institutions could provide additional "informal" insights into their views on the issues at hand. By utilizing both research methods, we could simultaneously get insights into both the formal and informal elements of institutional culture that shape the gender regimes of Slovenian academic institutions.

SPOLNI REŽIMI V SLOVENSKEM AKADEMSKEM POLJU: OPREDELITEV SPOLNEGA
NADLEGOVANJA IN NASILJA V INTERNIH AKTIH

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POVZETEK

Spolno nadlegovanje in druge oblike spolnega nasilja predstavljajo razširjen in zaskrbljujoč in družbeni pojav. Prisoten je v številnih poklicih in delovnih okoljih, med katere sodi tudi akademsko polje. Z namenom, da preverimo, kako se obstoječi spolni režimi slovenskih akademskih institucij odražajo v odnosu do problematike spolnega nadlegovanja in drugih oblik spolnega nasilja, se v prispevku posvetimo analizi internih aktov, ki urejajo to področje. Še posebej nas zanima, katere oblike spolnega nadlegovanja in nasilja so zajete v dokumentih akademskih institucij in kako obravnavajo ta pojav. Na podlagi analize vsebine dokumentov ugotavljamo, da vsi analizirani dokumenti javnih visokošolskih institucij tematizirajo »nadlegovanje« in »spolno nadlegovanje«, medtem ko se »nasilje« in »spolno nasilje« pojavita v manj dokumentih. Opredeljevanje »nadlegovanja« in »spolnega nadlegovanja« se pojavi tudi v nekaterih dokumentih zasebnih visokošolskih institucij in javnih raziskovalnih zavodov, medtem ko »nasilje« in »spolno nasilje« v teh dokumentih nista eksplicitno opredeljeni kot samostojni kategoriji. V analizi izstopata dokumenta Univerze v Ljubljani in njene članice Filozofske fakultete, ki v primerjavi z ostalimi proučevanimi dokumenti podajata širše in natančnejše opredelitve pojmov, povezanih s spolnim nadlegovanjem in drugimi oblikami spolnega nasilja. Ugotovitve naše analize kažejo, da so nekatere akademske institucije naredile premike na področju urejanja problematike spolnega nadlegovanja in drugih oblik spolnega nasilja ter tako zamajale moškocentrične strukture spolnih režimov v svojih okoljih. Na drugi strani pa je v nekaterih drugih slovenskih akademskih institucijah to področje slabše urejeno, iz česar sklepamo, da v njih še vedno vztrajajo moškocentrični spolni režimi.

Ključne besede: spolno nadlegovanje, spolno nasilje, spolni režim, akademsko polje, interni akti, analiza vsebine, Slovenija

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OVERLOOKED INTERSECTION OF GENDER AND RACIAL/ETHNIC DIMENSIONS IN SLOVENIAN ACADEMIC SEXUAL HARASSMENT & VIOLENCE POLICIES

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ABSTRACT

This article addresses the need to adopt an intersectional perspective when discussing sexual harassment and violence in academia. The introduction of an intersectional perspective is important since sexual harassment and violence in relation to racial and ethnic minorities seldom revolve exclusively around gender. Recognising the intersectional nature of sexual assault and harassment means also recognising the coexistence of racism and nationalism, the perpetuation of ethnic/racial stereotypes, the multifaceted manifestations of discrimination, and a matrix of domination that exists in our society and educational and research institutions as well. In this article, we analysed official documents of Slovenian higher education and research institutions (public and private ones) with an aim to examine whether and how they address intersectionality and racial/ethnic minorities in their policies combating sexual harassment and violence. The results revealed a significant ignorance towards intersectionality of gender and ethnicity, but also issues arising from accessibility of these policies.

Keywords: sexual harassment and violence, intersectionality, gender, "race", ethnicity, university, research institutions

INTERSEZIONE TRASCURATA TRA GENERE E DIMENSIONI RAZZIALI/ETNICHE NELLE POLITICHE ACCADEMICHE SLOVENE SULLE MOLESTIE E VIOLENZE SESSUALI

SINTESI

Questo articolo affronta la necessità di adottare una prospettiva intersezionale quando si parla di molestie sessuali e violenza nel mondo accademico. L'introduzione di una prospettiva intersezionale è importante poiché le molestie sessuali e la violenza in relazione alle minoranze razziali ed etniche raramente ruotano esclusivamente attorno al genere. Riconoscere la natura intersezionale delle aggressioni e delle molestie sessuali significa anche riconoscere la coesistenza di razzismo e nazionalismo, la perpetuazione di stereotipi etnico/razziali, le molteplici manifestazioni di discriminazione e una matrice di dominio che esiste nella nostra società e anche nelle istituzioni educative e di ricerca. In questo articolo, abbiamo analizzato i documenti ufficiali degli istituti sloveni di istruzione superiore e di ricerca (pubblici e privati) con l'obiettivo di esaminare se e come affrontano l'intersezionalità e le minoranze razziali/etiche nelle loro politiche di lotta alle molestie sessuali e alla violenza. I risultati hanno rivelato una significativa ignoranza nei confronti dell'intersezionalità fra genere e etnicità ma anche problemi derivanti dall'accessibilità di queste politiche.

Parole chiavi: Molestie e violenze sessuali, intersezionalità, genere, "razza", etnia, università, istituti di ricerca

INTRODUCTION¹

For various reasons such as global interconnectedness, increased international migration, democratisation of education, etc., the academic sphere in both Europe and Slovenia is undergoing a process of intense diversification in terms of language, culture, religion, and “race”.² This ethnic and “racial” diversity should be recognised and adequately addressed by academic institutions across all formal and informal domains that affect students and employees within universities and research institutions. This imperative extends to academic policies concerning matters of sexual harassment and violence.

Although the problem of sexual harassment and violence in academia has been recognised as important in recent decades (in large part due to activists and women’s movements) and should be seriously considered by university and research institution policies, in practice, the phenomenon of sexual harassment and violence has been addressed in a very one-sided way. It has been recognised that female students and female university staff, along with other minority groups, such as people with disabilities, LGBTQ+ community etc., are specific groups who are potential and frequent victims and should be additionally protected. Such one-sided approach to sexual harassment and violence erases all internal differences and blurs the fact that not all women hold the same position of power or agency and that not all women are equally empowered. Moreover, such a “racially”, ethnically, class, etc., blind approach denies the existence and interconnectedness of multiple personal characteristics and factors, such as “race”, ethnicity, religion, age, or class that lead to multiple discriminations and vulnerabilities (Kuhar & Pajnik, 2022). An ethnically/“racially” blind approach that does not acknowledge ethnic and “racial” elements within social interactions is also ethnocentric/Eurocentric and perpetuates existing power relations.

This article addresses the need to adopt an intersectional perspective when discussing sexual harassment and violence in academia, more concretely and for the purpose of this paper, to also consider “race” and ethnicity in interaction with gender when discussing academic policies that address sexual harassment and violence. The introduction of an intersectional perspective is important because sexual

harassment and violence in relation to “racial” and ethnic minorities is rarely just about gender. Recognising the intersectional nature of sexual assault and harassment means recognising the existence of racism and nationalism, ethnic/“racial” stereotypes, discriminations, and a matrix of domination that exists in our societies and within educational and research institutions. Moreover, this perspective sheds light on a complexity of sexual domination, violence, and harassment.

In this article, we analyse the official documents that Slovenian higher education and research institutions have developed to combat sexual harassment and violence. Employing a qualitative research approach, we conducted a “page by page” analysis (Collado & Atxurra, 2006) to determine whether the documents have developed tailored policies, prevention measures, and support mechanisms for specific subgroups, and whether they take intersectional dimensions into account, concretely, “race” and ethnicity.

First, this article presents theoretical reflections on the intersections between sexual harassment and violence and “race”/ethnicity. In this section, we discuss the need for a more intersectional approach to addressing sexual harassment and violence in academic policies, while also providing an overview of research findings on this topic. Secondly, we present the Slovenian case study, analysing Slovenian higher education and research policies that regulate sexual violence and harassment. Our research revolves around the following questions, including whether these documents address specific subgroups, which specific subgroups are the focus of these documents, whether the documents incorporate targeted and/or adapted measures, and the accessibility of these documents to relevant individuals and groups. Special interest was given to the presence, inclusion, and treatment of ethnic and “racial” minorities. The analysis of the data is followed by a discussion and conclusion, where we recognise the need for the adoption of an intersectional approach, focused on “race” and ethnicity, to prevent and address instances of sexual harassment and violence in academia.

This article brings a rare theoretical reflection that attempts to address the importance of the intersection of gender and ethnicity/ “race” in sexual harassment and violence policies within the Slovenian academic context.

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2 We acknowledge that the term “race” (Balibar, 1991) is controversial and that by using it, we are inadvertently perpetuating racial ideology we unequivocally oppose. However, we have opted to incorporate it in this article due to its prevailing utilisation within Anglo-Saxon academic literature and references, as well as for the explanatory purpose.

THEORETICAL REFLECTION ON SEXUAL HARASSMENT AND VIOLENCE IN INTERSECTION WITH "RACE" AND ETHNICITY

If we want to understand phenomenon of sexual harassment and violence in relation to racial and ethnic minorities, it is crucial to consider two theoretical frameworks: the theory of intersectionality and the theory of "racial"/ethnic stereotyping. Moreover, we must consider the matrix of domination along the axes of gender and "racial"/ethnic classification and hierarchisation. Understanding the intersectional nature of sexual harassment and violence means recognising that when discussing sexual harassment and violence in the context of ethnic/"racial" minority groups, the problem is rarely limited solely to "gender" or "sex"; as it is also the case for other intersectionalities.

Consideration of intersection of gender and "race"/ethnicity began in countries with histories of colonialism, racism, slavery, and both legally and informally accepted hierarchisation of "racial" and ethnic groups. Therefore, much of the attention and research, including intersection of gender and "race"/ethnicity, comes from Anglo-Saxon scholars. The concept of intersectionality was first introduced by Kimberlé Crenshaw in 1991, emphasising the specific challenges faced by women of colour resulting from the intersection of their "race" and gender. Crenshaw's (1991) discussions on intersectionality were first published in legal journals, which, as Kuhar and Pajnik (2022) noted, is not surprising as it was an analysis of legal practice that showed the unenviable position of victims of intersectional discrimination, who were forced by the courts to explain their experiences of discrimination through a one-dimensional perspective (either through gender or "race"/ethnicity). A critical reading of court files, which referred to cases of discrimination based on personal circumstances of "race" and gender showed that the American judicial system, due to its one-dimensional understanding of discrimination, excludes the true experiences of discriminated persons. Namely, people may experience discrimination as a result of the interaction of more than one direct factor (Kuhar & Pajnik, 2022). This circumstance exposes the systemic problem of many legal systems that legally treat discrimination monodimensionally. Black women who are victims of discrimination and sexual harassment and violence could sue the perpetrator either for discrimination on the basis of gender or for discrimination based on "race", but not both at the same time (Crenshaw, 1991).

Crenshaw understands intersectionality as a way to understand how multiple forms of inequality or disadvantage sometimes compound and create obstacles that are not understood through conventional perspectives

(Crenshaw, 1991). Intersectional research on sexual harassment and violence in relation to "race"/ethnicity within academic environments (universities, colleges, and research institutions) is crucial; however, such studies are rare (cf. Coulter *et al.*, 2017; Harris, 2020; Wood *et al.*, 2021). This scarcity is confirmed by an international research review on sexual harassment in academia that analysed publications from 1966 to 2018 (Bondesta & Lundqvist, 2018, 7). The review highlights limited research on intersectional dimensions in relation to sexual harassment and violence in academia. Researchers found that only a few studies focused on sexual harassment and violence among minority groups of students, and those studies indicated a higher degree of exposure to sexual assaults among non-white students.

Existing studies that approach this issue from an intersectional perspective have been conducted mainly in the USA. In their study on sexual and racial harassment of students, Buchanan *et al.* (2009) analysed the intersections between gender and "race" within both types of harassment, while also exploring the joint effects of multiple forms of harassment. The authors found that gender, ethnicity/"race", and their interaction had a significant impact on predicting sexual and racial/ethnic harassment. For example, ethnic minority students reported higher rates of sexual harassment in comparison to white students. Similar results can be observed in the study by Mohler-Kuo *et al.* (2004) where female students from "racial" and ethnic minorities were more likely to experience sexual assault than white women. While the results of the study by Wood *et al.* (2021) show the opposite, meaning that fewer cases are reported by Latino and non-white ethnic students, they also demonstrate that those who report sexual harassment experience higher rates of harassment compared to other students.

Within the European context, the intersections of "race"/ethnicity and sexual harassment and violence in academia have been rarely addressed (cf., for example, Bourabain (2021) for Belgium; Heikkinen (2012) for Finland; Muhonen (2016) for Sweden). One contributing factor to this gap in research is that in most European Union countries, collecting data based on "race" and ethnicity is prohibited (Bourabain, 2021). Nevertheless, to a certain extent, we can rely upon the preliminary results from the recent UniSAFE study conducted by Lipinsky *et al.* (2022). This study was implemented in 46 universities from 15 European countries, aiming to collect empirical evidence on prevalence of gender-based violence in academia. This research indicates that the respondents from minority groups, including those based on ethnicity, more often reported instances of gender-based violence.³

3 Within the project, gender-based violence consist of physical violence, psychological violence, economic violence, sexual violence, sexual harassment, and online violence.

Existing literature emphasises that women of colour are treated more harshly than white women in cases of sexual harassment and violence, and that white women tend to be viewed as (more) legitimate victims (Dorr, 2004). Crenshaw (1991) claims that at universities in the USA, women of colour are subjected to gendered and “racialised” sexual violence, especially because (university) policies are not considering their intersectional identities. Buchanan & Ormerod (2002) explain why it is important to consider both dimensions, gender, and “race”/ethnicity: “Sexual and racial harassment may be combined in unique ways for African American women. Specifically, the cultural and historical contexts of slavery and sexualized stereotypes of African American women result in sexual harassment that is perceived as racially motivated” (Buchanan & Ormerod, 2002, 111). “Racialisation” of sexual harassment and violence should be understood in terms of omnipresent stereotypes of women of colour as “sexual commodities” originating from the history of slavery and “racial” ideology (Hernandez, 2000), which are embodied in “racial” (but also gender) stereotypes. In her study on Asian women, Cho (1997) analyses how “racial” and gender stereotypes operate and convert into “racialised” sexual harassment and violence. To understand the risk that sexualised “racial” stereotypes and “racialised” gender stereotypes pose to Asian women in the USA, she claims one must understand the socio-cultural construction of Asian women in the USA. Within the imaginaries of average American men (and women), Asian women are constructed around several “racial” and gender stereotypes that portray them as passive, submissive, ready to please the desires of men, feminine, gentle etc. These stereotypes are further produced and reproduced by mass media and pop culture presentations. Finally, “racialised” sexual harassment and violence is, similarly as racism, normalised in wider society.

As university in the USA, and elsewhere, has traditionally been a place of white men (major ethnic and “racial” group), it is important to consider the matrix of power domination as well (Calafell, 2014). University living is “male living on male terms”. Women, and especially coloured women and other minority group women, are even more likely to be seen as “intruders” in academia (Calafell, 2014). On the other hand, Kelly Pinter’s campus research (2015) shows that campus email alerts frequently depict sexual assault offenders as men of colour or minority men. In addition, men of colour are disproportionately sentenced in comparison to their white colleagues on campus. Pinter’s findings support the statement that students experience vastly different realities on campuses based on the intersection of “race” and ethnicity in their lives. Furthermore, the campus environment is often unwelcoming for “racial” minorities, who encounter “racial” jokes, racism, prejudice, and discrimination (Morrison, 2010).

The importance of an intersectional approach is further explained by Calafell (2014), who observes that feminist and anti-racist policies have, paradoxically, often helped to marginalise women of colour. Current construction of sexual harassment law in the USA presumes that sexual harassment and violence occur solely because of gender, without considering the influence of the victim’s “race” or ethnicity (Calafell, 2014). Only gender-directed behaviour is considered in assessing the severity level, while “racial” components are generally dismissed. Finally, Calafell (2014) shares her personal experience as a university professor and a victim of “racially” motivated sexual harassment in the academia. She reveals her inability to report the racism intertwined with the sexual harassment she endured, as the university sexual harassment policy did not incorporate the “racist” element. Similarly, the inadequacy of harassment policies in the USA academia is criticised by Cho (1997, 209): “The law’s current dichotomous categorization of racial discrimination and sexual harassment as separate spheres of injury is an inadequate response to racialized sexual harassment.” Consequently, reports are usually made separately - one for sexual harassment and another for racial discrimination (Calafell, 2014). This separation may help explain findings by Spencer et al. (2020) regarding factors associated with the reporting of sexual assault on campuses, specifically the lower propensity of individuals from “racial” or ethnic minorities to engage in formal reporting or informal disclosure of such assault.

As Cantalupo (2019, 80) notes, while anti-harassment activism in the USA began on university campuses, predating the 2017 *Women’s March*, *#MeToo*, and many other “*capital-R Resistance efforts*”, public narratives excluded women of colour from the public image of harassment. Such “anti-intersectional narratives”, as Cantalupo (2019) calls them, might imply that there is less sexual harassment towards women based on “race” or ethnicity, when in fact, the evidence shows the opposite, pointing to increased vulnerability of this group. Cantalupo emphasises the particular importance of an intersectional perspective, as sexual harassment can multiply the disadvantages that some women of colour already face, including pre-existing educational inequalities related to ethnicity, “race”, gender, age, religion etc. In addition to trauma, sexual harassment and violence can have long-term impacts on mental health (e.g., post-traumatic stress disorder, depression, suicidal thoughts), academic performance, with severe financial consequences not excluded. Pinter (2015) highlights that young women who drop out of educational institutions due to sexual or gender-based harassment and violence and do not return to academia suffer long-lasting economic impacts, earn lower wages, and have fewer safety nets to rely on later in their lives. If aiming towards gender and “racial” justice, it is thus important to address the dominant discourses from more intersectional perspective.

In addition to using an intersectional lens in addressing dominant narratives, research at the institutional level could particularly benefit from an intersectional approach. Research focusing on the university context or the educational environment in general could provide more complex insights by bringing together ethnicity/ "race", gender, class, and other relevant categories (Lundy-Wagner & Winke-Wagner, 2013). Looking at research on sexual harassment and violence and campus "racial" climate, Lundy-Wagner and Winke-Wagner (2013) note that both works to improve educational environments from different perspectives. While for example, research on sexual harassment and violence tends to focus on individual-level responses, campus "racial" climate research focuses on the institutional level. However, the intersection of both approaches – sexual harassment and violence and ethnic/"racial" discrimination – in educational research could provide better strategies for promoting a positive educational climate. Similarly, Bondestam & Lundqvist (2018) advocate for more intersectional perspectives that include the experiences of minority groups, including those based on ethnicity and "race". They highlight that more attention should be paid to: "ensuring that selection for studies of sexual harassment and sexual violence corresponds to the diversity that exists within the higher education institutions today" (Bondestam & Lundqvist, 2018, 33), thus paying attention also to methodology and sampling in research.

To summarise, there is an urgent need for screening, protocols, and policies for addressing interpersonal sexual harassment and violence in academia and the general research community that will consider the intersections between gender and "race"/ethnicity (Bondestam & Lundqvist, 2018; Ong, 2005; Wood et al., 2021).

A CASE STUDY OF SLOVENIAN UNIVERSITY AND RESEARCH AREA

Research design and method

The data for this study were collected as part of the national project entitled *"Institutional, legislative and awareness-raising solutions and activities to address sexual harassment and other forms of sexual violence in higher education and research organisations in Slovenia"*. The project was financed by the Slovenian Research and Innovation Agency and the Ministry of Higher Education, Science and Innovation. Data collection took place between September 2021 and March 2022. During this period, we collected and analysed the content of institutional policies, acts, guidelines, regulations, protocols, and

similar documents from public universities and faculties, public higher education institutions, private higher education institutions, and public research institutions.⁴ The aim was to determine how these documents address and regulate the field of sexual harassment and violence.

Two main approaches were used during the data collection process: i) researchers examined institutional official websites to check whether relevant documents were publicly available, and ii) they contacted institutional representatives to collect additional or initial materials. After the first round of contact and a follow-up after 14 days, unresponsive institutions were contacted again. Overall, 69 institutions were requested to send documents, the response rate was 43.5% (30 institutions). Institutions that did not respond to our inquiries or had not yet developed relevant materials were excluded from the research.

In 2024, during the preparation of this article, we conducted another round of analysis by checking institutional websites to see if any changes had been made. Some general improvements were achieved, primarily due to the European Commission's decision that developing a gender equality plan becomes a prerequisite for participation in calls under the Horizon Europe research and innovation programme. From 2022, partners of successful consortia in the call must demonstrate that they have a gender equality plan when signing the grant agreement. These plans usually contain a special chapter on measures to combat sexual harassment and violence. However, these measures are often broad and unspecified (e.g. creating channels for anonymous reporting, organising workshops on sexual harassment in the workplace, updating the institutionalised anti-harassment policy), and, more importantly, do not address groups that are the focus of this article.

Nevertheless, the additional follow-up analysis resulted in an extended sample. Our final sample consists of 37 documents⁵ subjected to thorough page-by-page analysis: 19 regulations, 13 codes of ethics, 3 guidelines, 1 rule of procedure, and 1 instruction document. More details about the sample can be found in Table 1.

Our main objective was to determine the extent to which the issue of sexual violence and harassment in academic institutions in Slovenia is already addressed and regulated, particularly concerning specific subgroups. Additionally, we analysed the content and relevance of these documents, as well as their availability on official institutional websites. Availability is crucial, as it enables victims (and witnesses) to access relevant information without needing to contact managerial or other services, which is vital during the process. Lastly, we aimed to

4 The list of public and private educational institutions was accessed through the webpage of the Slovenian Quality Assurance Agency for Higher Education (SQAA, 2024), while the list of public research institutions was accessed through the webpage of Ministry of Higher Education, Science and Innovation (GOV.SI, 2024).

5 Number of the institution and number of documents can differ because many faculties use the same documents as their universities.

Table 1: Sample.

Type of institution	Total sample	Our sample
Public university / public faculty	3 / 49	3 / 49 ⁶
Public higher education institution	3	2
Private university / private higher education institution	5 / 33	5 / 13
Public research institution	16	6

identify whether the institutional policies contain any references to the intersection of ethnicity/"race" and/or references to ethnic/"racial" minority groups.

The analysis was guided by three general questions. The first question aimed to identify the content and was worded as, "Does the regulation document address specific groups?". Depending on the answer, documents were either selected for further analysis or excluded. The second question focused on specific groups and was worded as "Which specific groups the document addresses?". Our last question was "Does the regulation document contain specific and/or adjusted measures?"

In line with these guiding points, we analysed the existing institutional policies, documents, and acts (regulations, protocols, guidelines, etc.) developed for the prevention and sanctioning of sexual harassment and other forms of sexual violence in public and private higher education institutions and public research institutions in Slovenia. This analysis was conducted with a focus on ethnic/racial groups/minorities, thereby considering an intersectional perspective. The documents were examined 'page-by-page' (Collado & Atxurra, 2006) to identify content-related structures.

RESULTS

Following our research questions, the analysis of selected documents revealed that the majority of materials recognise the importance of addressing different groups and the need for particular attention to these groups. Of the 37 documents that were part of our analysis, 15 differentiate between various

groups at higher risk of sexual harassment and violence (e.g., women, LGBTQ+ community, people from different cultural and ethnic backgrounds, persons with disabilities, students). However, only a few documents discuss tailored and specific measures for these groups, and even fewer recognise the intersectional dimensions that influence their position. Specific groups were defined in all public higher education institutions included in our sample, in seven private education institutions, and in two public research institutions.

The analysed documents perceive that specific groups more at risk consist of women, the LGBTQ+ community, persons with disabilities, people from various cultural, religious, "racial", and ethnic communities, as well as individuals based on age, political views, union membership, family status, nationality, or educational level. It should be highlighted that the "*Protection Against Discrimination Act*", a state law from 2016 that is above institutional regulations, already prohibits any form of discrimination or unequal treatment based on personal circumstances. These circumstances are defined as gender, nationality, "race" or ethnicity, language, religion or belief, disability, age, sexual orientation, sexual identity and gender expression, social position, financial situation, education, or any other personal circumstance. In this regard, the groups identified by most institutions align with those already protected by the state law.

Alarmingly, most documents primarily address only full-time employees, overlooking the student population and individuals with specific contracts or forms of cooperation with the institution (e.g., high school students, people without student status). Regarding this, only four documents emphasise power relations as a potential factor of vulnerability, such as the dynamic between students and academic staff or part time contract workers *versus* full time employees. These documents came from University of Ljubljana, University of Maribor, ERUDIO and International School for Social and Business Studies.

The only document that (more) systematically approaches specific groups is the "*Professional guidelines: Preventing sexual and other harassment and violence*" by Podreka *et al.* (2021), developed at the Faculty of Arts University of Ljubljana.⁷ This document highlights women as the group that is most often subject of sexual violence and harassment due to the

6 Considering that faculties under University of Ljubljana, University of Maribor, and University of Primorska are not independent legal entities and are therefore bound by the regulations of the universities, we indicated there "a perfect response rate". However, in case internal documents of particular faculties exist and their content is relevant for this article, this is indicated. Additionally, the number differs because some institutions have more than one relevant document.

7 It can be assumed that the more developed documents are the result of the research expertise of several employees (especially researchers and professors Dr Milica Antić Gaber, Dr Jasna Podreka and Dr Roman Kuhar). This leads us to conclude that these topics are not systemically addresses, but as frequently occurs, the successful regulation of sexual harassment and violence often depends on individual initiative and engagement.

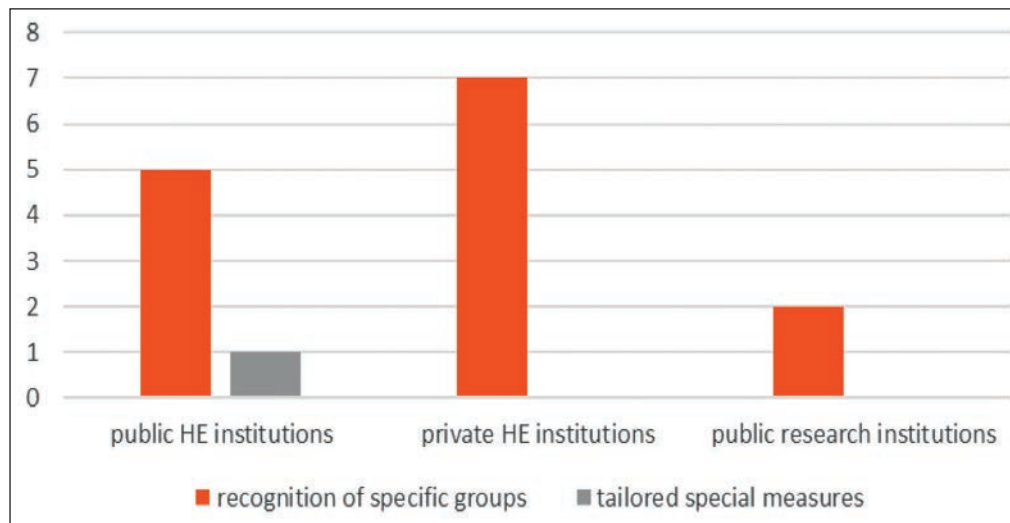


Chart 1: Prevalence of specific groups and tailored measures in documents.

objectification of women's bodies and traditional perceptions of women in relation to men. Additionally, the guidelines identify members of the LGBTQ+ community as another group requiring additional attention, as they can become victims of sexual violence and harassment due to their sexual identity and gender expression. Another mentioned category includes people from various cultural and social backgrounds, who can become victims because of their specific circumstances. Although these circumstances are not defined thoroughly, it can be assumed that factors such as language barriers, as well as other cultural differences, physical characteristics, and weak social networks can undermine their position and make them easy targets for sexual harassment and violence. The last described category are persons with disabilities, who can become target of sexual harassment and violence due to physical, sensory and communication barriers.

Regarding public educational institutions, all documents address specific groups in accordance with the *Protection Against Discrimination Act* (2016). However, actions that should be in place considering the broader circumstances of members of these groups were mostly absent. The only document highlighting specific measures was the aforementioned guidelines developed by the Faculty of Arts, University of Ljubljana. The institution recognises that it can be especially difficult to report incidents of sexual violence and harassment for people from the cultural and social environments where reporting is frowned upon. Thus, the Faculty of Arts commits to providing relevant support and help, for example, by providing a translator during the process. For other groups, the support and help systems are described more generally and vaguely,

with commitments to provide support, recognise and consider specific circumstances, and address individual needs.

The same set of questions was used for the analysis of private educational institutions. Among 18 institutions, 5 addressed specific groups. Similar to public institutions, their approach was rather general, without further details or measures, and in line with state law, thereby covering "racial" and ethnic dimensions as well. The document from the International School for Social and Business Studies emphasised differences in power relations among everyone involved in the educational process, regardless of their position.

The last analysed group focused on public research institutions. In this subsample, documents from 8 institutions were analysed. In six cases, specific groups were not addressed, while in two cases (National Institute of Biology and Science and Research Center Koper), these subgroups were addressed in a very general manner and in accordance with the *Protection Against Discrimination Act* (2016). None of these documents suggested any tailored measures to address the needs of the previously mentioned groups or specifically the ethnic/ "racial" minority groups.

Regarding availability, our analysis shows that not all documents are publicly accessible through official institutional websites. To analyse these documents, we had to contact representatives directly, which could present an important barrier for victims of sexual harassment and violence. In terms of accessibility, documents from public and private universities were most available, while accessibility was significantly lower in private higher educational institutions and public research institutions,

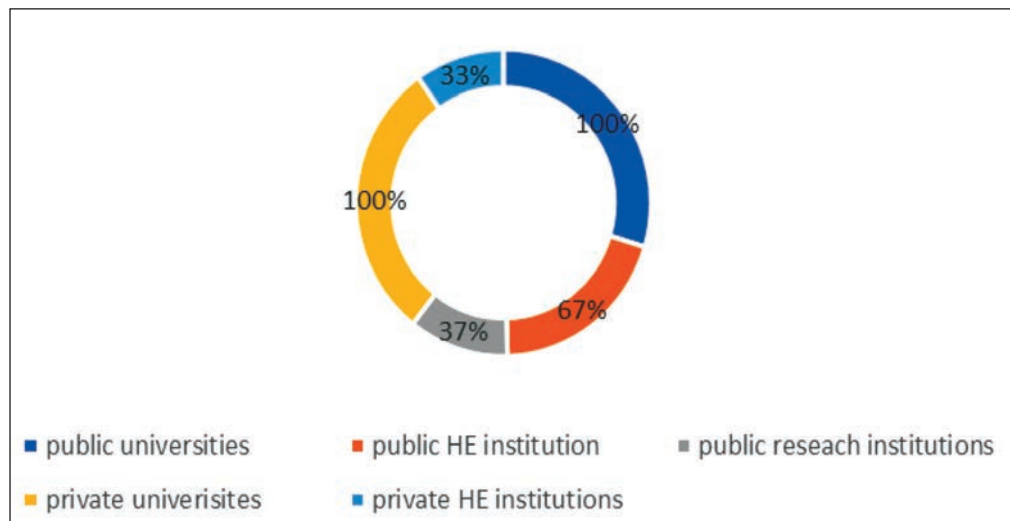


Chart 2: Share of institutions that have publicly accessible documents.

as shown below. Generally, public institutions have implemented legally binding regulations, but additional resources (e.g., protocols, guidelines) are missing.

DISCUSSION

For a long time, studies on sexual harassment and violence, including those in the academic sector, considered only a one-dimensional perspective of sexual harassment, i.e. gender. However, if we only look at gender-based violence from a one-dimensional perspective, as outlined by Kuhar & Pajnik (2022), we lose insight into how gender is influenced by or interacts with other circumstances such as age, ethnicity, religion, etc. Therefore, any policy based only on a one-dimensional understanding of gender is fundamentally doomed to fail. Such policies will be unable to articulate and adequately address gender equality or ensure equal opportunities for all, regardless of personal circumstances and identity characteristics (Kuhar & Pajnik, 2022).

It is important that academic and research institutions recognise the importance of the multilayered situations that shape the realities of individuals and the complex inequalities that require different forms of treatment and protection. People may find themselves in numerous dangerous situations due to their specific circumstances or multiple personal factors. Moreover, they are differently equipped to cope with certain situations and to understand their rights and possibilities or the situations they encounter. This is particularly true in settings where power inequalities are institutionalised, let alone when individual position is burdened by one or more risk factors, such as gender, sexual orientation, “race”, nationality, ethnicity, or social background.

Most documents covering and regulating areas of sexual harassment and violence in academia that were part of our analysis address groups at higher risk of being subjected to sexual harassment in a very general way, relying on the *Protection Against Discrimination Act* (2016) to prevent discrimination or any other harmful behaviour. Most regulations do not predict specific procedures designed to support ethnic or “racial” minorities, let alone consider any dimension of intersectionality. This is partly due to institutional dependence on rules of procedure, which are legally binding acts, but lack additional supporting documents, such as protocols, guidelines, or other materials that provide a more in-depth and systematic presentation of legal and other provisions in this area. This issue was also observed in other studies (e.g., Harris, 2020) presented in the theoretical part of the paper, where authors explicitly problematise the division between regulations covering sexual harassment and violence and those addressing racism and discrimination based on ethnicity/“race”.

The only exception was the document developed by the Faculty of Arts from University of Ljubljana, which differentiates among four specific groups (women, LGBTQ+ community, persons with disabilities, and people from various cultural and social backgrounds). Moreover, this was also the only document that touches upon intersectionality; however, it does not delve into these complex relations or provide in-depth, concrete, systemic, and systematic steps to prevent and treat sexual harassment and violence or to support survivors from these groups.

Our study shows that sexual harassment and violence targeting groups at higher risk remain ill-addressed and unregulated field in the Slovenian academic field and state policy. The topic is

heavily neglected, and policies are ignorant of the intersectional dimension that importantly affects the position of students and employees belonging to “racial” and ethnic minorities. Weak responses and low attention by public and private higher educational institutions was accompanied by even worse response from public research institutions, indicating a considerable lack of engagement in addressing such critical issues.

The analysis revealed that public universities and faculties tend to have more established regulations, although these often lack detailed protocols and guidelines. In contrast, private higher education institutions and public research institutions showed even lower response rates and a general absence of comprehensive policies. This lack of regulation is problematic as it leaves significant gaps in the protection and support of specific groups, including “racial” and ethnic minorities.

Generally, institutions do not prioritize the issue of sexual violence and harassment, particularly the intersectional dimensions that affect “racial” and ethnic minorities. One potential reason could be that some academic institutions may have an entrenched culture that resists change or fails to recognise the importance of addressing sexual violence and harassment. This can lead to a lack of institutional will to develop and enforce appropriate policies. In addition, Slovenian academic institutions lack the expertise needed to develop intersectional policies. Developing, implementing, and maintaining comprehensive policies require resources, time, money, and personnel, therefore, institutions might struggle to prioritise these initiatives over other pressing needs. Lastly, addressing sexual violence and harassment through an intersectional lens requires acknowledging and tackling multiple forms of discrimination simultaneously. It is possible that institutions find this approach challenging and may be resistant to adopting such strategies. However, public universities and faculties, especially those focusing on social sciences, have in this sense a crucial role since they are most equipped for developing and confirming guidelines that consider complexities of intersectionality and can lead the way forward.

Drawing from international research (e.g., Bondestam & Lundqvist, 2018; Bourabain, 2021; Calafell, 2014; Coulter et al., 2017; Pinter, 2015), which indicates that sexual assault disproportionately affects certain “racial” and ethnic subgroups (as well as certain sexual and gender identities), we recognise the importance of interventions that address intersectional dimensions. This is important for tailoring more effective prevention and treatment programs. In the following lines, we present several practices, suggestions, and measures, with the aim and hope that these can support the Slovenian

academic community in developing more adequate strategies and programs that will address the needs of “racial” and ethnic communities.

Dills et al. (2016) published *Sexual Violence on Campus: Strategies for Prevention*, where they emphasise that prevention activities and strategies should consider individual, relationship, community, and societal levels. Different activities should complement and reinforce each other. For example, members of ethnic and “racial” minorities should have access to attend trainings related to their rights, protection measures, reporting procedures, and counselling systems. These activities should be supported by policies requiring all freshman and new employees to complete training on sexual assault prevention resources, with an emphasis on combating discriminatory and sexist stereotypes and prejudices based on gender and “race”/ethnicity. As *Strategies for Prevention* (2016) suggest, the content of workshops and similar activities should be intersectional to disrupt multiple systems of oppression. These programs should include individuals who identify across different groups (based on gender, sexual orientation, “race”, ethnicity, etc.) and share their stories, so that people from various backgrounds can relate more easily to those from similar groups.

Moreover, studies show that employing representatives from ethnic and “racial” minorities in support services can enhance victims’ propensity to report sexual assaults. This measure aligns with Calafell’s experience (2014) and supports findings from Harris (2020) that counselling and psychiatric services must hire culturally competent counsellors. Similarly, securing permanent staff positions is crucial to ensure that prevention programs for ethnic and “racial” minorities are sustained and supported. Furthermore, members of “racial” and ethnic minorities should be part of the planning, implementation, and evaluation groups that design prevention activities in campuses and research institutions. As mentioned in the Indian document *Measures for Ensuring the Safety of Women and Programmes for Gender Sensitization on Campuses* (2013), “racial” and ethnic minorities need to have their representatives in relevant committees to ensure sensitivity and inclusivity. The *American Association of University Professor’s Council*, among other potential measures, recommends partnering with community organisations that serve ethnic minorities, migrant communities, the LGBTQ+ community, and others. This can be beneficial in providing legal aid, health services, shelter, and support. Given that incidents of campus sexual assault may be reported to outside authorities, it is recommended that campuses organise a relevant network to facilitate coordination and activities such as counselling, treatment, referral, investigation, etc. (American Association of University Professors, 2012).

Prevention strategies can address sexual harassment and violence from an intersectional approach by including topics related to racism, diversity, and inclusion into policy and procedures. This proposal is supported by the study of Coulter & Rankin (2017), which found that campuses perceived as more inclusive had lower prevalence rates of sexual assault among students belonging to these groups. Additionally, educational and research institutions can combat potential sexual harassments and assaults with prevention and intervention programs that consider cultural norms, beliefs, and values, while also raising awareness about racism, racial stereotypes, discriminatory behaviour, and their association with sexual violence and harassment. In this regard, both formal and informal spaces are equally important. The process of unlearning is critical to challenge cultural imagery that devalues the bodies of women of colour, foster sex positivity, and build inter- and intra-“racial” coalitions that empower minority students (Harris, 2020). Ethnic and “racial” communities must see themselves positively represented in campus events and initiatives that educate on healthy relationships and sexual health.

On a more general note, considering that many Slovenian educational and research institutions already use evaluation surveys (at the end of the semester, exam period, or academic year), it would be beneficial to start collecting data about potential sexual harassment and violence, needs assessments, perceived safety, knowledge of services, and similar factors across different groups. This data could be used to tailor activities specific for various groups that differ in their cultural and social background, thereby making these activities more impactful. Addressing and regulating sexual violence and harassment in academic and research institutions in Slovenia requires a comprehensive and multi-stakeholder approach. Key stakeholders include the Ministry of Higher Education, Science, and Innovation, as well as the Slovenian Research and Innovation Agency, both of which play pivotal roles in policy development, implementation, and evaluation. The Ministry could encourage nationwide initiatives to standardise policies across institutions, ensuring that regulations are inclusive and consider the intersectional nature of sexual violence and harassment, particularly involving ethnic and “racial” minorities. Similarly, the Slovenian Research and Innovation Agency, through its funding and evaluation mechanisms, can support academic institutions in adopting best practices and robust frameworks for preventing and addressing sexual violence and harassment. The Agency can also mandate the institutions seeking research grants demonstrate compliance with these policies.

One potential step is also implementation of good practices from other countries, such as employing culturally competent counsellors and establishing accessible and clear reporting mechanisms, which can enhance the effectiveness of these measurements. Nevertheless, collaboration with community institutions associated with ethnic minorities can ensure that interventions are culturally sensitive and effective. Such a multi-layered strategy not only enhances protective and supportive measures but also promotes an inclusive and safe research environment.

CONCLUSION

Our paper utilised an intersectionality framework (Crenshaw, 1991) to examine how marginalised identities intersect with sexual harassment and violence. Intersectionality posits that stigma and discrimination (for example racism, ethnocentrism, sexism, heterosexism) functioning at multiple levels disproportionately affect populations from social margins. When combating sexual assault, an intersectional approach can help identify whether and how specific groups are more at risk of sexual harassment and violence. As the intersection of different forms of oppression may cultivate unsafe environments for ethnic and “racial” minorities, placing them at greater risk of sexual assault, it is important to understand whether and how educational and research institutions address the needs of these minorities within their official documents aimed at preventing and combating sexual harassment and violence.

We analysed 37 official documents, guidelines, acts, and strategies collected from Slovenian public and private academic and research institutions. Our aim was to explore whether and how groups at higher risk of being sexually harassed are addressed in these documents, what measures to protect and support these groups have been developed at the institutional level, and whether institutions recognise the importance of intersectionality (with an emphasis on “race” and ethnicity) in their regulations, approaches, measures, and strategies that were developed to combat sexual harassment and violence.

Our results indicated that, apart from one institution (Faculty of Arts, University of Ljubljana), an intersectional approach is severely disregarded in academic documents addressing sexual harassment and violence. Institutions rely heavily on state law from 2016 (*Protection Against Discrimination Act*), which prohibits discriminatory and harmful behaviour based on personal circumstances, including ethnic and “racial” dimensions. However, beyond referencing the law, the collected material does not suggest, contemplate, provide, or develop any

measures to protect and support groups that, due to the intersectional nature of their circumstances (ethnicity or “race”, gender, social background, sexual orientation etc.), may be targeted for sexual harassment or violence. The Faculty of Arts at the University of Ljubljana is the only institution that recognises how four specific groups (e.g., women, LGBTQ+ community, people from various social and cultural settings, and people with disabilities) can be at additional risk due to their specific circumstances and that these circumstances require particular attention and measures. Unfortunately, their guidelines only lightly touch upon the necessity of having adjusted protocols (e.g., having a translator or cultural mediator), lacking depth, detailed approach, and concrete measures.

Furthermore, especially private higher educational institutions and public research institutions should reconsider their policy of keeping documents private and make them publicly available (or at least more accessible and visible for their students and employees). As Spencer *et al.* (2020) pointed out, transparent procedures encourage reporting rates. Transparency ensures accountability of institutions, making them subject to external and internal scrutiny, and obliging them to act in accordance with their protocols. This accountability is crucial for building trust within the academic community, as individuals are more likely to report incidents of harassment and violence if they believe the institution will handle their reports properly. Therefore, the visibility of these protocols is not just beneficial but perhaps essential for encouraging reporting and

ensuring that protective measures are effectively implemented.

Among the limitations of our study, the relatively low response rate from institutions should be highlighted. Furthermore, our analysis was constrained by the availability and accessibility of relevant documents, as many institutions did not have their policies publicly available which necessitated direct contact with institutional representatives. This could have resulted in incomplete data, as some institutions may have policies that were not shared with us. Another significant limitation is the generality of the available documents, which often adhered strictly to the *Protection Against Discrimination Act* (2016) without providing specific measures tailored to various groups or considering intersectional dimensions. This lack of specificity hinders the ability to thoroughly assess the effectiveness of existing policies. Future research would benefit from a more comprehensive sample, including both quantitative and qualitative data on the experiences of those affected by sexual harassment and violence in academia.

Regarding the general absence of adequate policies and measures addressing sexual violence and harassment at Slovenian academic institutions, and considering the increased migration processes alongside attempts by Slovenian academia to become an internationally attractive research and study destination, the academic field in Slovenia still has work to do in terms of adequately addressing sexual harassment and violence, particularly in relation to racial and ethnic minorities.

PREZRTA INTERSEKCIONALNOST SPOLNIH IN RASNO-ETNIČNIH DIMENZIJ V POLITIKAH PROTI SPOLNEMU NADLEGOVANJU IN NASILJU V SLOVENSKEM AKADEMSKEM PROSTORU

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POVZETEK

V članku obravnavamo potrebo po uvedbi presečne perspektive pri obravnavi spolnega nadlegovanja in nasilja na univerzah in raziskovalnih ustanovah. Uvedba intersekcionalne perspektive je pomembna, saj se spolno nadlegovanje in nasilje v odnosu do pripadnic rasnih in etničnih manjšin le redko osredotoča zgolj na spol (in spolnost). Prepoznavanje presečne narave spolnega nadlegovanja pomeni prepoznavanje soobstoja rasizmov in nacionalizmov, ohranjanje etničnih/rasnih stereotipov, večplastnih manifestacij diskriminacije in matrike dominacije, ki obstaja tako v širši družbi kot tudi v izobraževalnih in raziskovalnih ustanovah. Ker lahko intersekcija različnih oblik zatiranj ustvari okolje, ki je še posebej nevarno za etnične in rasne manjšine, zaradi česar so izpostavljene večjemu tveganju spolnega napada, je pomembno vedeti, ali in kako izobraževalne in raziskovalne ustanove v Sloveniji obravnavajo posebne potrebe in zaščito etničnih in rasnih manjšin v uradnih dokumentih, ki so bili razviti z namenom preprečevanja in boja proti spolnemu nadlegovanju in nasilju. Rezultati analize obstoječih dokumentov in politik so pokazali, da je, razen v primeru Filozofske fakultete Univerze v Ljubljani, intersekcijski pristop v akademskih dokumentih, namenjenih boju proti spolnemu nadlegovanju in nasilju, spregledan. Razen sklicevanja na obstoječo protidiskriminatorno zakonodajo pregledani dokumenti ne obravnavajo rasnih in etničnih manjšin kot posebej ranljivih skupin in ne zagotavljajo ukrepov za njihovo zaščito ali podporo v primeru spolnega nadlegovanja in nasilja.

Ključne besede: spolno nadlegovanje in nasilje, intersekcionalnost, spol, »rasa«, etničnost, univerza, raziskovalne institucije

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REGULATION OF SEXUAL HARASSMENT IN THE ACADEMIC ENVIRONMENT – BETWEEN LEGAL REGULATIONS AND ETHICAL CODES

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ABSTRACT

This article analyses the regulation of sexual harassment within the academic environment. It highlights that sexual harassment is addressed not only by legal regulations but also through codes of ethics. It demonstrates that sexual harassment is recognised as a violation of ethical norms and public ethics in the codes of many professional associations, yet it is also regulated by statutory laws, bylaws, and other general acts. The article examines the distinctions between the regulation of sexual harassment by codes of ethics and legal acts, and identifies the challenges in defining sexual harassment in accordance with the fundamental principles of criminal law. It further explores various forms of accountability relevant to members of the academic community. Finally, it discusses the role of internal regulations, providing insights into their structure and the regulation of sexual harassment within Slovenian higher education organisations.

Keywords: sexual harassment, codes of ethics, academia, criminal liability, liability under employment law, disciplinary liability, internal regulations

REGOLAMENTAZIONE DELLE MOLESTIE SESSUALI NELL'AMBIENTE ACCADEMICO – TRA NORME GIURIDICHE E CODICI ETICI

SINTESI

L'articolo analizza la regolamentazione delle molestie sessuali nell'ambiente accademico. Sottolinea che le molestie sessuali non vengono affrontate solo attraverso norme giuridiche, ma anche con codici etici. Evidenzia che le molestie sessuali sono riconosciute come violazioni delle norme etiche e dell'etica pubblica nei codici di molte associazioni professionali, ed è inoltre regolamentato giuridicamente – sia tramite leggi e regolamenti, sia attraverso altri atti generali. L'articolo discute le differenze tra la regolamentazione tramite codici etici e atti giuridici, e sottolinea le sfide nella definizione delle molestie sessuali dalla prospettiva dei principi fondamentali del diritto penale, esplorando varie forme di responsabilità rilevanti per i membri della comunità accademica. Concludendo con un'analisi del ruolo dei regolamenti interni, offre un'idea della loro struttura e della regolamentazione delle molestie sessuali nelle organizzazioni universitarie slovene.

Parole chiave: molestie sessuali, codici etici, ambiente accademico, responsabilità penale, responsabilità lavorativa, responsabilità disciplinare, regolamenti interni

INTRODUCTION TO SEXUAL HARASSMENT AS A VIOLATION OF ETHICAL CODES AND LEGAL NORMS

Sexual harassment, considered a less invasive form of unwanted sexual behaviour compared to rape and sexual violence (which are more serious infringements of sexual self-determination) and as a more serious form of sex-based discrimination, has only recently been incorporated into legal regulations.¹ Prior to states and supranational bodies legally prohibiting sexual harassment, this form of sex discrimination was considered morally undesirable. It was recognised as a violation of the ethical commitments adopted by professional associations and private organisations, thus constituting a breach of so-called public ethics (cf. Pribac, 2012).² It is not surprising, therefore, that the legal regulation of sexual harassment has been significantly influenced by the moral evaluation of this phenomenon. Sexual harassment is addressed not only by legal regulations (laws, bylaws, other general legal instruments, and internal regulations), but also by non-legally binding documents such as ethical codes, recommendations, guidelines, and commitments.

This article first briefly explains the relationship between morality and law. It then illustrates the relationship between ethical codes and legal regulations, using sexual harassment as an example. It demonstrates that while broad definitions of unwanted behaviour, framed with open-ended terms, are acceptable in ethical codes and activist texts, they require precise delineation in legal regulations to prevent arbitrary interpretations. This necessity is especially pronounced in the field of criminal law, where the (constitutional) principle of legality, which includes the requirement for certainty in criminal law norms, must be strictly respected (Ambrož, 2007, 42–47). The article then outlines the various forms of liability for sexual harassment (and other violations of sexual self-determination) among members of the academic community. Finally, the article analyses the role of internal regulations in addressing sexual harassment within the academic environment.

In this text, the term 'ethics' is used synonymously with 'moral philosophy' and is distinguished from 'morality'. Unlike morality, which comprises a

largely comprehensive and internally consistent set of unwritten rules of behaviour and conduct that govern the life of a community over time, ethics is a philosophical discipline centred around the question 'what should I do?'. Its primary task is to reflect on morality. Ethical reflection, therefore, is not concerned with identifying and justifying what is acceptable and desirable in a given society or community, but rather with reflecting on such rules and prohibitions and attempting to construct universal, universally valid, and unchanging standards. The distinction between morality and ethics lies in morality's dogmatic, unreflective, and uncritical dimension, which demands obedience from its subjects and prevents or at least discourages the initiation of thought processes aimed at verifying the validity of the accepted morality, problematising it or (re)justifying it in any way (Pribac, 2012). This distinction is crucial because we argue that the substance of any code of ethics—contrary to its name—is moral, not ethical. Indeed, codes canonise moral precepts that have become sufficiently established within a professional association or organisation to demand compliance from all members of that group. In this sense, the term 'moral codes' appears more appropriate.

Law and Morality

The question of the relationship between morality and law is one of the fundamental problems in legal philosophy (Novak, 2008, 44–50). The sheer number of debates attempting to clarify their relationship underscore the complexity of the issue. Legal philosophy explores not the historical development of law in relation to morality³ but also debates whether law should act as a means to reinforce morality, the appropriateness of moral approaches and sanctions over legal procedures and penalties, and the status of legislation that contradicts moral principles. We can argue that law and morality are two co-existing systems that function effectively only when they support each other; however, the differences between them as pronounced as their similarities. Unlike law, morality is not uniform but

1 In Slovenia, the prohibition of sexual harassment was introduced in the Labour Relations Act (ZDR, Official Gazette of the Republic of Slovenia, No. 42/02, as amended) in 2007. In 2008, it became an enforceable offence under Article 197 of the Criminal Code (KZ-1, Official Gazette of the Republic of Slovenia, No. 50/12, as amended), and as of 2022, it is also a matter of the Higher Education Act (ZViS, Official Gazette of the Republic of Slovenia, No. 67/93, as amended).

2 This is also the case with sexual harassment in academia, which was first brought to the attention of various professional organisations and victims of sexual harassment. The response was the legal regulation of sexual harassment. In 2015, the Association of American Universities conducted a survey of more than 150,000 students (Cantor et al., 2015), and in 2017, the American Academy of Science, Engineering and Medicine published a report on the impact of sexual harassment in higher education institutions (Tenbrunsel et al., 2019). Later that same year, as part of the broader #MeToo social movement, a survey appeared online, accompanied by the hashtag #MeTooPhd, which sought to explore the prevalence of sexual harassment in academia. In one month, this survey collected over 2000 testimonies from victims of sexual harassment in higher education and research institutions (Kelsky, 2017).

3 Theorists seem to agree in this sense; they acknowledge that the law, as a normative system, developed under the influence of religious and moral normative beliefs (Cerar, 2001, 129).

socially dispersed, arises not through formalised, predetermined procedures but spontaneously, and is characterised by its flexibility, variability, and somewhat elusive nature. A fundamental distinction between moral and legal norms is also that only the latter are backed by the possibility of legal sanction as a secondary legal consequence (Pavčnik, 2013, 108). Thus, the law can be defined as a normative system, endowed with such social validity and support that violations of this system result in legal (formal) sanctions. The consequences of violating moral norms vary; although legal theorists emphasise that moral sanctions are primarily psychological, they also encompass a range of social responses to morally undesirable behaviour. However, unlike legal sanctions, moral sanctions are not strictly formalised and, though usually predictable, are not clearly defined in advance (Novak, 2001, 1087).

Despite the challenges in defining morality and its role in the formation of law, it is evident that law must be underpinned by social morality to ensure compliance by its addressees (Pavčnik, 2013, 256–260). For addressees of the law to autonomously accept and internalise legal rules, these rules must also hold moral value. A law devoid of moral support risks losing its legitimacy, becoming increasingly reliant on coercion and force. Law can only serve its mission if its target is essentially morality (Novak, 2008, 45).⁴

The central issue addresses in this text is not the relationship between morality and law *per se*, but rather the interplay between codified morality (ethical codes) and legal rules. While the relationship between law and morality has been extensively examined, the interaction between legal rules and ethical codes remains relatively underexplored. The scarcity of discussion on this topic might imply that the role of ethical codes within the legal system is negligible, despite the potential benefits of such regulations in specific social domains.⁵ However, given that ethical codes frequently regulate social relationships that are also subject to legal rules, it is crucial to explore the differences and similarities between these two distinct normative systems. This exploration should consider where their boundaries are delineated and why some approaches may be permissible within ethical codes but not within legal rules.

Ethical Codes and Legal Regulation

The legal lexicon defines ethical codes as “codes adopted by individual professional associations, some of which go beyond legal rules and

intersect with the morality of the specific profession” (Bavcon et al., 2020, 84). The content of these ethical codes can be viewed as codified morality that has either already been established within a particular professional group over a prolonged period and hence may be incorporated into the code, or is aimed at becoming the prevailing morality within a particular social or professional group. These codes establish standards of behaviour and conduct that are expected of members of a particular social subsystem and concurrently inform the public about the standards they can anticipate from these individuals.⁶

Since ethical codes are not legal statutes, they reflect the specific morality of a particular, narrower social group—often termed ‘partial’ social morality (cf. Novak, 2001). Their validity and application are confined to the scope of the specific profession they govern. The non-legal nature of these codes is advantageous because it maintains the flexibility and conceptual openness of morality, which can sometimes regulate certain social relationships more effectively than rigid legal rules and procedures. However, a significant drawback is that ethical codes lack the authority to enforce binding legal norms or legally sanction violators, casting doubt on their practical value. Consequently, it is not surprising that many ethical codes are beginning to increasingly resemble legal rules (Novak, 2001, 1087–1089), both in substance and form. As they do so, they systematise moral guidelines into a coherent structure and establish mechanisms to address. This shift causes ethical codes to lose their distinctiveness and added value, even when they potentially gain relevance and begin to parallel legal statutes in their hierarchy.

However, because they are not legal rules, the approaches and procedures that are permissible in ethical codes may not be acceptable in legal acts. Ethical codes may prohibit or restrict certain behaviours that cannot be regulated by (criminal) law, where excessive moralism and paternalism are deemed undesirable. Moreover, even for legally regulated forms of behaviour, it is acceptable to use more open and less precise definitions and descriptions within ethical codes. In the context of an ethical code, a conceptually open and controversial regulation of relationships is expected and, to some extent, even desirable. The problem arises when conceptually undefined definitions from codes are used to fill in legal rules. Some authors recognise the added value of codes in helping to interpret legal rules (Brumec, 2010, 141–142); however, it is

⁴ The relationship between morality and law has many more dimensions than are covered in this article. This article is not intended to be a comprehensive analysis of this complex relationship, about which there are many conflicting interpretations (cf., for example, Fuller, 2015; Hart, 2018). We limit ourselves to a few aspects that are particularly relevant to the topic at hand.

⁵ For a discussion on how codes of ethics are completely marginalised in the legal profession, cf. Novak (2001, 1089).

⁶ The purpose of the Code is taken from the European Code of Conduct for the Political Integrity of Local and Regional Elected Representatives adopted by the Council of Europe in 1999.

important to note that legal rules must be formulated such that the addressee of the rights and obligations can relatively easily understand how to, or how not to, behave (Pavčnik, 2013, 96). The law requires that legal sanctions be linked to predefined behaviour, as predictability of behaviour and conduct is one of the essential elements of the rule of law. It also seems contrary to fundamental legal principles for a subordinate regulation to become the primary means of interpreting a law. This does not mean, however, that the morality canonised in codes does not flow into public ethics on the one hand and legal regulation on the other.

The regulation of sexual harassment illustrates that definitions in legal acts must differ from those in ethical codes, guidelines, and recommendations, and highlights the potential dangers of incorporating open definitions from codes into legal regulations. Sexual harassment, recognised as a form of discrimination based on sex, initially emerged as a moral issue closely associated with the workplace or educational settings. Consequently, the first documents defining sexual harassment as unacceptable were professional codes or guidelines.⁷ These definitions were conceptually broad and open-ended, inspired by activist language (Crosthwaite & Priest, 2006), which poses no legal issues as they are not statutory. We will explore how these definitions were integrated into legal regulations and examine whether fundamental legal principles were upheld in this process. The definition of sexual harassment is an intriguing and under-researched dimension of this topic.

DIFFICULTY IN DEFINING SEXUAL HARASSMENT (HOW TO UNDERSTAND 'UNWANTED CONDUCT'?)

Definition of Sexual Harassment in Activist Movements

An important role of civil society⁸ is to highlight phenomena that are overlooked or inadequately addressed. In a democratic society, this stimulates public debate on particular issues and encourages the state or individual institutions to respond more appropriately. To achieve this goal, activism⁹ uses general definitions of a phenomenon, often emphasising only its basic characteristics, since considering more precise (narrower) definitions could relativise the criticised phenomenon and reduce the chances of achieving the desired changes. However, the state cannot directly translate such general definitions into legal regulations, as this would misunderstand their purpose. The dilemma, however, is that the general public, especially if these definitions are frequently repeated, may not distinguish them from legal definitions, or may

perceive narrower legal definitions as unrealistic. This can be illustrated by awareness-raising campaigns on sexual violence and harassment in the Slovenian academic environment.

As part of the 'Stop Sexual Violence' campaign, posters displayed in early 2021 at the University of Ljubljana's faculties stated, "Sexual violence is any behaviour that a person experiences as an invasion of his or her physical integrity and that limits his or her right to decide about his or her own body". This message was also shared on the Facebook page of the Faculty of Arts student organisation (Študentska organizacija Filozofske fakultete UL, 2024). This definition underscores the subjectivity of experiencing violence: "Violence is what I experience as violence". This perspective is understandable in efforts to ensure safety and well-being in the academic environment, to raise awareness of the importance of privacy, and to remind us to consider the impact of our actions on others. However, it would be inappropriate to demand decisive (legal) action from the institution based on such a definition: "The institution must protect me with effective and concrete measures whenever I am subjected to unwanted behaviour!" Such expectations are unrealistic and unreasonable. Legal rules requiring the institution to take specific action against violators cannot base the definition of violations on the subjective experiences of individuals. The dilemma of 'undesirability' as a potential part of the legal definition lies in the practical difficulty of distinguishing between desired and undesired behaviour, especially because the distinction between desired and undesired sexual behaviour cannot rely on solid objective criteria; the desirability of behaviour and the existence of sexual harassment depend on the subjective judgement of the parties involved. This is particularly problematic in cases where "what is a compliment to one person is hate speech to another" (Zaviršek, 1998, 37). The vagueness of the "undesirability of conduct" criterion makes it impossible to determine in advance what conduct is inappropriate and therefore legally impermissible, which is contrary to the principle of legal certainty as the foundation of the rule of law. We will now explore how the undesirability of behaviour, as an essential element of activist efforts against sexual harassment, has been incorporated into the legal definition of sexual harassment, with reference to the definition from the Employment Relationships Act (ZDR-1, Official Gazette of the RS, No. 21/13, as amended). The problematic definition of sexual harassment in criminal law is more complex than just the question of the undesirability of the behaviour and will be addressed separately.

7 In the United States, the first significant document addressing sexual harassment was the Guidelines on Sexual Harassment adopted by the Equal Employment Opportunity Commission in 1980.

8 Civil society is "a group of like-minded people who, in opposition to the authorities and political parties, publicly represent their interests, proposals and ideas. They make demands in opposition to the state and are autonomous from it. They represent the common consciousness of a narrower or broader group of people" (Kokalj Kampuš, 2015, 24).

9 "Activism means being active in society. Activists use their knowledge to address social problems and strive for social action through various strategies" (Senčar Mrdaković et al., 2019).

Legal Definition of Sexual Harassment

ZDR-1 prohibits sexual harassment in the workplace. Article 7 states: “Sexual harassment is any form of unwanted verbal, non-verbal or physical conduct or behaviour of a sexual nature which has the effect or purpose of violating the dignity of a person, in particular when it creates an intimidating, hostile, degrading, humiliating or offensive environment”. In this legal definition, the term ‘unwanted’ is essential, complemented by the impact of the conduct on the victim; primarily, the unwanted nature of the behaviour is manifested mainly (but not exclusively) in the creation of an “intimidating, hostile, degrading, humiliating, or offensive environment”. Establishing such an environment is essential for the behaviour to be deemed unwelcome. This same definition of sexual harassment is echoed in the Higher Education Act (ZVis, Official Gazette of the Republic of Slovenia, No. 32/12, as amended) in Article 7b, which seeks to protect students from sexual harassment. The central question is how to translate the subjective assessment of the undesirability of behaviour (as advocated by activist movements) into an objective criterion that adheres to the principle of legal certainty, and to examine the challenges that the law encounters in this process.

Slovenian academic literature highlights a viewpoint that prioritises the victim’s perspective, which must be known to the perpetrator. According to Robnik (2007, 14), behaviours are “sexual harassment if they are repeated when the victim has already indicated that they do not want such behaviour.” Similarly, Kanduč (1998, 17) defines sexual harassment as sexually connoted behaviour that is uncomfortable for the victim but adds that in cases of sexual harassment “the decisive factor is the man’s [perpetrator’s] reaction to the woman’s [victim’s] expressed disapproval of the initial act”. Kanduč thus emphasises that an act “by which a person initiates an interactive process of courtship” is unproblematic as long as it does not continue despite the recipient’s expressed disapproval (Kanduč, 1998, 17).¹⁰ This definition of sexual harassment, while still relying on the subjective marker of ‘unpleasantness’, is significantly more restrictive and legally implies that behaviour known by the perpetrator to be unwanted is legally impermissible.¹¹ The challenge

remains, however, in legally assessing behaviour before the other person’s attitude has been clearly expressed.

There is no definitive guidance in the decisions of Slovenian courts¹² regarding the criterion of undesirability of behaviour in the context of sexual harassment. However, drawing from case law related to workplace bullying, it appears that courts consider a social consensus on the unacceptability (and thus undesirability) of behaviour as an objective criterion. An individual’s subjective perception may differ from the prevailing understanding of the unacceptability of certain behaviours. Consequently, relying solely on subjective perception as the primary criterion for determining the unacceptability of behaviour would violate the principle of legal certainty, leaving individuals uncertain about what behaviour is prohibited. The Supreme Court of the Republic of Slovenia, in its judgments and decisions VIII Ips 198/2015 and VIII Ips 271/2015 of 21 June 2016, emphasised that while the subjective criterion cannot be entirely disregarded, it should assume a secondary role:

*The assessment of when conduct or behaviour is reprehensible or manifestly negative and offensive is primarily objective and is determined on the basis of what is considered as such behaviour by general social standards. Secondly, the perception of the affected person, who must subjectively experience the behaviour in the same way, is also assessed, otherwise he or she cannot be considered to have been subjected to harassment.*¹³

It should be noted that the position of the Supreme Court of the Republic of Slovenia relates to the interpretation of harassment under the ZDR-1. This definition does not explicitly include undesirability but introduces it indirectly through the requirement that the behaviour must be “reprehensible or manifestly negative and offensive”. The perception of such behaviour also hinges on the subjective assessment of its undesirability. Therefore, we can deduce that the requirement to apply an objective criterion when assessing offensive behaviour implies the need for an objective criterion to gauge the undesirability of sexual behaviour within the context of sexual harassment. However, a shortcoming of this position, from the

10 Slovenian sociologist Jasna Podreka expressed a similar view in an interview with Slovenian weekly Mladina: “I am often asked if every remark is sexual harassment nowadays. Of course, it is not, if it is said once and if the person who says it knows how to respect the boundaries set for him and from then on treats me as an equal and agrees to a collegial relationship. However, if he does not stop and continues with ‘compliments’ or even touches me against my will and makes me feel uncomfortable, we can already speak of sexual harassment” (translated by authors) (Jager, 2018).

11 Let us compare with the current definition of the core form of rape, which essentially consists of sexual intercourse without the consent of the other person (Article 170 of the Criminal Code). This means that the “yes means yes” model (consent to sexual intercourse must be given explicitly or at least implicitly) was adopted in the legislation, instead of the “no means no” model (it is rape if the victim explicitly or implicitly expresses her disagreement with sexual intercourse).

12 The analysis of case law is based on decisions of the labour and social courts dealing with sexual harassment in the workplace, where an employee who has been subjected to such behaviour seeks compensation from the employer (Article 47 of the Employment Relationships Act) or where a person who has been subjected to certain measures (such as termination of the employment contract) as a result of sexual harassment seeks judicial protection.

13 Translation by authors.

perspective of clarity and predictability, is that it leaves unanswered the question of how to substantively fill the standard of 'general social standards' regarding a particular phenomenon.

Let us examine the positions formed on this issue abroad. For instance, in the 1980s, U.S. courts established the 'reasonable woman' standard to recognise a hostile environment created by sexual harassment.¹⁴ This was based on data indicating that the majority of sexual harassment victims are women, with most perpetrators being men. Consequently, they considered the perspective of women relevant to recognising a hostile environment resulting from unwanted behaviours. This standard has been controversial since its inception. Among the arguments supporting the reasonable woman standard is the belief that men and women perceive interpersonal relationships or behaviours differently; men may see some behaviours as harmless or even complimentary, whereas women may view the same behaviours as offensive. Even minor intrusions into their sexual inviolability can cause fear that such behaviour will escalate to sexual assault. Opponents of the reasonable woman standard argue that the standard should be gender-neutral and based on a societal consensus regarding specific behaviours; hence, they advocate for the 'reasonable person' standard. Some feminists also oppose the reasonable woman standard because it implies that women are a homogeneous group and reinforces stereotypes about women being more sensitive and vulnerable, rather than promoting gender equality. They believe that this approach forces women to conform (Newman, 2007; Perry et al., 2004; Adler & Peirce, 1993; Cahn, 1992). Consequently, Hoffmann (2004) advocates for the 'reasonable victim' standard.

LIABILITY FOR SEXUAL HARASSMENT IN THE ACADEMIC ENVIRONMENT

For the purposes of this discussion, we define the academic environment as one consisting of employees and students in higher education institutions. We will explore various forms of responsibility for sexual harassment and other intrusions into sexual self-determination within the academic community. The emphasis will be on the premise that, according to criminal and labour legislation, subjective (culpable) responsibility of an individual is required. It would contravene fundamental

legal principles to rely solely on objective responsibility, where an individual could be held accountable for the consequences of their actions without any proof of intent or were at least negligence in foreseeing those consequences. Therefore, the perpetrator's responsibility cannot be based solely on the victim's subjective perception that their sexual self-determination is being violated.

Criminal Liability

As already emphasised, criminal law adheres to the principle of legality, which mandates several conditions for criminal repression, including the prohibition of defining offences and penalties using vague, indeterminate, or unclear concepts, encapsulated in the Latin phrase: *lex certa*.¹⁵ This principle is particularly important in relation to sexual offences, where descriptions often include acts not explicitly defined by the law, such as sexual intercourse, equivalent sexual acts, other sexual acts, and sexual harassment. The principle of *lex certa* does permit the use of indeterminate concepts in exceptional cases, but these must at least be determinable by established methods of interpretation. "The question is whether an average addressee of the norm can be expected to know what behaviour is expected of him"¹⁶ (Constitutional Court of the Republic of Slovenia, 2021). This means that the judiciary must develop clear interpretations of these concepts.

The Criminal Code of Republic of Slovenia (hereinafter referred to as 'KZ-1'; Official Gazette of the Republic of Slovenia, No. 50/12 with amendments) enumerates several so-called sexual offences that constitute interference with the sexual self-determination of individuals. In this discussion, we will focus on those offences that are more likely to occur within an academic environment and outline their basic characteristics.

Liability for Offences Protecting the Sexual Self-determination of Employees and Students

The fundamental sexual offences are rape (Article 170 of KZ-1) and sexual violence (Article 171 of KZ-1). Traditionally, sexual criminal law has based these offences on coercion; the perpetrator has interfered with another person's sexual self-determination by using physical force or the threat thereof. This approach followed the so-called

14 In the US, sexual harassment is recognised in two forms: (1) *quid pro quo* sexual harassment in exchange for some benefit (in an academic setting, an example of *quid pro quo* sexual harassment is when a professor offers a student a higher grade on an exam in exchange for sexual intercourse); and (2) the creation of a hostile environment that prevents the victim from fully participating in work activities (in an academic setting, this would mean, for example, that a professor's repeated sending of sexually explicit messages reduces a student's ability to participate in her studies) (Klein & Martin, 2021).

15 Constitutional Court of the Republic of Slovenia, decision U-I-335/02 of 24 March 2005:
The principle of legality establishes several conditions for the application of criminal repression, namely:
– the prohibition of determining offences and penalties by means of statutes or customary law;
– the prohibition of analogy in determining the existence of offences and imposing penalties;
– The prohibition of defining offences and penalties in terms that are empty, indefinite or vague;
– Prohibition of retroactive application of provisions defining offences and penalties.

16 Translation by authors.

coercion model. Influenced by developments in some other countries and largely due to pressure from civil society,¹⁷ both offences underwent significant changes in 2021 (KZ-1H; Official Gazette of the Republic of Slovenia, No 95/21). The coercion model was replaced by the consent model, where rape and sexual violence are now offences if the perpetrator acts without the victim's consent, with the use of force or threats no longer being essential elements. This model has been publicly termed "only yes means yes". Linking this to earlier discussion of the undesirability of actions, we can conclude that the absence of consent is synonymous with the undesirability of actions. All of the above dilemmas are exacerbated in criminal law, where meeting the substantive requirements of an offence results in punishment as an expression of state repression against an individual. Activist efforts to incorporate consent (the desirability of actions) into the legal definition of an offence have ignored fundamental questions crucial to the clarity of the description of the offence, such as: What constitutes consent? What kind of consent is legally valid? When is consent freely given? These questions must be addressed by legal theory and case law, which poses challenges for legal certainty. Case law on this matter remains scarce, and theoretical discussions are also limited (cf., for example, Korošec et al., 2023, 1018; Korošec, 2021a; 2021b).

While presenting the common characteristic of both offences, we emphasise the fundamental difference between them, which lies in the different acts constituting the offences. Rape, under Article 170 of KZ-1, requires sexual intercourse or equivalent sexual acts, whereas sexual violence under Article 171 of KZ-1 can be constituted by other sexual acts. Acts qualifying as rape are known to be sexual in nature, while what constitutes a sexual act under Article 171 of KZ-1 raises the question of when an act is of a sexual nature. This determination depends on the context, and it is crucial to consider the perspective of an objective observer, i.e. "an average member of the cultural circle in which the disputed behaviour occurs". These are acts that are objectively sexual in nature. The motive of the perpetrator is irrelevant.¹⁸ Acts that are not objectively sexual (sexually neutral acts) do not become sexual even if the perpetrator has a subjective interest in sexual arousal or gratification. For example, physical contact during a common greeting (hug, kiss) is not considered a sexual act, regardless of the perpetrator's motive. In addition, criminal law theory holds that sexual acts require physicality; only acts involving the bodies of the perpetrator or the victim and involving touching are considered. Therefore, even highly obscene language, showing pornographic images or exposing one's naked

body are not deemed sexual acts under Article 171 of the Criminal Code (Korošec et al., 2023, 1110–1112; Deisinger, 2002, 244).

If the perpetrator exploits their superior position to coerce a victim into consenting to sexual acts (as described under Articles 170 and 171 of KZ-1) and the victim is dependent on the perpetrator, i.e. the victim agrees to sexual intercourse or a sexual act out of fear of the consequences of refusal (Deisinger, 2002), a special offence is committed. This is classified as a violation of sexual integrity by abuse of position under Article 174 of KZ-1. In an academic context, this could manifest as a mentor demanding or proposing a sexual relationship with a young researcher, or a professor doing the same with a student. This includes relationships of superiority between employees in the academic environment as well as the relationship of superiority of employees over students. Imagining such a relationship of superiority between students, where one student is subordinate to another, or a student holds a superior position over an employee, might be challenging but it is not inconceivable. However, the mutual relationship between the perpetrator and the victim is a factual issue that needs to be determined in each specific case, taking into account all circumstances.

Liability for Offences Protecting the Sexual Self-determination of Employees (and not Students)

In 2008, Slovenia introduced a specific offence of workplace bullying into its Criminal Code as Article 197 of KZ-1. This provision encompasses various overt conducts, including psychological violence, bullying, unequal treatment, and notably, sexual harassment. These acts are designed so that the perpetrator must either humiliate or intimidate another employee. KZ-1 does not provide a definition of sexual harassment. Before 2008, the Criminal Code did not recognise this concept. Legal theorists in Slovenia, such as Korošec (2008, 356), had previously highlighted the need for case law to clarify what constitutes sexual harassment within criminal law. They also raised concerns about the broad and ambiguous nature of the term 'humiliation' in this context.

If a statutory element of a criminal offence is not defined in KZ-1 but in another regulation, the judiciary may use this definition to interpret the concept. In the case of sexual harassment as an act constituting the offence under Article 197 of KZ-1, the definition provided in Article 7 of the Employment Relationships Act (ZDR-1) may be used. However, this serves only as an aid in interpreting sexual harassment under Article 197 of KZ-1. The

17 The change of the definition of rape is the result of a civil initiative that started with a petition by the 8th of March Institute in January 2019 with more than 6,000 signatures.

18 The older theory of criminal law, now considered obsolete, required for these crimes that the perpetrator act to satisfy their sexual needs or arousal (Deisinger, 2002, 244). Today, however, the prevailing view is that the perpetrator's eventual awareness of the sexual nature of the act is sufficient, and the underlying motive may vary, for example, it may be hatred of the victim (Korošec et al., 2023, 1018). The perpetrator's perception of the sexual nature of the act is not sufficient.

principle of legality also mandates that criminal offences be clearly distinguished from one another (the principle of distinctness).¹⁹ The problem arises here; sexual harassment must be differentiated from other sexual offences, and the definition in ZDR-1 does not aid in this distinction. This is particularly important because different sexual offences are subject to different penalties.²⁰

Jurisprudence thus faces the difficult task of defining 'sexual harassment'. In the explanatory memorandum to the proposal for KZ-1, the Ministry of Justice, as the proposer of the law, took a seemingly clear position: "Sexual harassment is distinguished from rape, sexual violence, sexual abuse, and other sexual offences based on the lower intensity of the acts". Employing the method of exclusion, we arrive at the following conclusions: sexual harassment does not involve sexual intercourse or equivalent behaviour (as covered by Article 170 of KZ-1), nor does it include sexual acts involving physical contact (as covered by Article 171 of KZ-1). Therefore, under Article 197 of KZ-1, sexual harassment encompasses the following sexual behaviours (Filipčič & Tičar 2023):

- Non-contact physical acts that do not require contact between the perpetrator and the victim, involving manipulation of the body (e.g., masturbating or undressing in front of another person or forcing the victim to do so in front of the perpetrator, and miming a kiss).
- Non-contact acts that are not physical (e.g., soliciting sexual relations, sending electronic messages with sexual content, describing dreams with sexual content, using obscene language, telling jokes with sexual content, and displaying pornographic images).
- Contact acts that do not reach the intensity of interference required to impact sexual self-determination as defined in offences against sexual integrity.

We revisit the aforementioned position on what constitutes sexual behaviour. This question can be particularly challenging, especially in cases involving less serious violations of sexual integrity.

From the perspective of sexual harassment in an academic environment, it is important to emphasise that this offence aims to protect dignity at work by safeguarding employees from inappropriate behaviour by

their colleagues. Here, 'employees' are defined as those who are bound by an employment contract, excluding those who work under other types of contracts, such as copyright contracts, contracts for services, or student work contracts (Filipčič & Tičar, 2023). To comply with the principle of legality, it is not permissible to extend the definition of perpetrator and victim to these groups, and certainly not to students involved in, but not employed by, the academic environment. This would be contrary to the principle of legality and therefore a violation of the Constitution. For example, if a professor undresses in front of their assistant (employed by the faculty), they have committed an offence under Article 197 of KZ-1. If they do so in front of a student, they do not commit this or any other sexual offence, because the act does not sufficiently violate sexual self-determination.

Liability under Labour Law

The explicit prohibition of sexual, other forms of harassment, and bullying in the workplace was introduced into Slovenian legislation in 2007 through Article 7 of ZDR-1,²¹ and this provision remains unchanged to this day. It is also important to mention that the law considers sexual harassment as a form of discrimination.²²

The legal definition of sexual harassment as outlined in the ZDR-1 was previously discussed. Although a linguistic interpretation of the provision suggests that only employees are protected from sexual harassment, aimed primarily at safeguarding dignity at work, the European Committee of Social Rights advocates for a broader understanding. According to their interpretation, protected persons should also include those individuals working under different legal arrangements with the employer, such as copyright contracts or student work contracts, as well as clients and visitors, if they are harassed by an employee (Council of Europe, 2008, 157). Given that the principle of legality in labour law is not as strictly understood as in criminal law, such an interpretation is permissible. In an academic context, the prohibition of sexual harassment under the ZDR-1 should therefore be understood to extend not only to university employees harassed by colleagues but also as to all those engaged with higher education institutions on various legal bases, including students, provided the harassment originates from an employee.

19 Judgement of the Slovenian Constitutional Court U-I-88/07 of 8 January 2009: "If, in addition to a legal rule which otherwise has a clear and definite content, there is another legal rule in the legal system which has the same or very similar content, the definiteness of both the legal rule and the other legal rule is lost. The existence of two such legal rules leads to confusion as to which legal rule is to be applied. [...] The principle of certainty, therefore, requires that rules of law be mutually separable. To do otherwise would create legal uncertainty and allow arbitrary or capricious application of the law" (Translated by authors).

20 The offence of rape under Article 170 of the Criminal Code is punishable by imprisonment from six months to 15 years, the offence of sexual violence under Article 171 is punishable by imprisonment from 30 days to 15 years, and the offence of workplace bullying under Article 197 is punishable by imprisonment from 30 days to three years (depending on the form of the offence).

21 Act amending and supplementing the Employment Relationships Act (ZDR-A), Official Gazette, No. 103/07.

22 The European Committee of Social Rights has not yet adopted a definitive interpretative principle on whether all sexual harassment can in fact be considered discrimination (Končar, 2017a).

The next section will examine how labour law holds employers and employees responsible for sexual harassment. Particular attention will be paid to the aspect of the definition of sexual harassment that describes it as conduct “with the effect or intent of harming the dignity of a person.” We will explore the implications of responsibility when the perpetrator may not intend to harm the dignity of a person—possibly due to unawareness that the conduct is undesirable—yet still achieves such an effect.

Employer Responsibility

The responsibility of the employer for protecting employees against sexual harassment is addressed in Article 47 of ZDR-1:

*The employer shall be obliged to create a working environment in which no worker is subjected to sexual or other forms of harassment or bullying by the employer, superiors, or colleagues. To fulfil this obligation, the employer must implement appropriate measures to protect workers from sexual and other harassment or bullying in the workplace.*²³

The adoption of appropriate measures to protect workers from sexual harassment is considered “a central element of the employer’s duty” (Končar, 2017b). The specific nature of these measures is not defined by the law, thus leaving their content at the discretion of the employer. According to Končar (2017b), these measures should be both preventive and responsive in cases where sexual harassment has already occurred. If sexual harassment does occur, it signifies that the employer has failed to provide a safe working environment, and the victim may claim damages from the employer in court. In disputes over the payment of damages, the decision does not concern the perpetrator’s liability for damages, but rather the employer’s liability for damages. Therefore, it is irrelevant whether the perpetrator was aware of the unlawfulness of their actions or the nature of the fault with which they acted (whether the act was intentional or not) (Vuković, 2020). In the European continental context, the primary purpose of compensation under non-contractual liability law is to reimburse the damage incurred, aiming to satisfy or compensate the injured party (Mežnar, 2010). In contrast, American law extends the purpose of compensation to include punishing the perpetrator, reflected in substantial punitive damages. In the continental systems, punishment is relegated to criminal law, strictly adhering to the principle of legality. The accused is afforded numerous rights throughout the process, which serve to protect their position (Možina, 2016). ZDR-1 adopts

a different concept of compensation in cases of sexual harassment as a form of discrimination. The law stipulates that compensation should be awarded in such a way as to deter the employer from committing further violations (Article 8 (1) of ZDR-1). This provision aims to deter the specific employer from future violations and to exert a general preventive effect, encouraging all employers to respect their obligations under ZDR-1.

Liability of the Employee Who Commits Sexual Harassment

In accordance with relevant labour legislation, employees who engage in sexual harassment may face various disciplinary measures, the most severe of which is the termination of the employment contract. In instances where the employer determines that cooperation with the employee is still possible despite the harassment, they may impose a disciplinary sanction.

- Termination of an employment contract

An employee who commits sexual harassment violates their employment obligations, as set out in Article 8 of ZDR-1, which explicitly prohibits such conduct. This can be grounds for an employer to terminate the employment contract (if other legal conditions are met). The termination can be either ordinary or extraordinary. The main difference is that ordinary termination requires adherence to a notice period, whereas extraordinary termination allows for immediate dismissal. This section elaborates on the legal justifications for terminating an employment contract in cases of sexual harassment.

1). Termination of Employment Contract if Sexual Harassment Meets All Statutory Elements of a Criminal Offence (Article 110 (1) (1) of ZDR-1 for Extraordinary Termination and Article 89 (1) (3) of ZDR-1 for Ordinary Termination).

Terminating a contract on the grounds set out above requires the employer to establish, through an internal procedure, the existence of one of the criminal offences discussed previously. This task is challenging for the employer,²⁴ as it involves determining the perpetrator’s subjective relationship, i.e., the form of culpability in the criminal sense, given that the Criminal Code (KZ-1) requires intent for all sexual offences (including sexual harassment under the criminal offence of workplace bullying under Article 197 of KZ-1).

If a criminal proceeding has been conducted and results in a conviction for the employee, the employer may terminate the employment contract based on the

²³ Translation by authors.

²⁴ The interplay between labour and criminal law is recognised by the academics as problematic, particularly in the case of sexual harassment. Consequently, it is proposed that this ground for extraordinary termination of the employment contract be removed from ZDR-1 (Janko, 2010; Filipčič, 2021).

provisions of ZDR-1. In such instances, there is no need for the employer to independently establish the harassment through an internal procedure.

2). Extraordinary termination of the employment contract if the employee intentionally or with gross negligence seriously violates contractual or other obligations from the employment relationship (Article 110 (1) (2) of ZDR-1) or ordinary termination for breach of obligations from the employment relationship (Article 89 (1) (3) of ZDR-1).

Unlike the aforementioned reason for terminating the employment contract, the employer does not need to determine in an internal procedure that the sexual harassment constitutes a criminal offence. Instead, the employer must establish that the sexual harassment, as defined in ZDR-1, constitutes a serious violation of the employee's obligations, rendering further cooperation impossible. Additionally, the employer must ascertain the subjective relationship of the perpetrator to the act, specifically whether it involves intent or gross negligence. As previously stated, intent must be established for sexual harassment as a criminal offence. However, gross negligence, judged against the standard of an ordinarily careful worker, is sufficient in this context.²⁵ Thus, the subjective relationship to sexual harassment is broader and, from a liability perspective, constitutes stricter liability compared to liability for sexual harassment as a criminal offence, since gross negligence suffices. It is more common for employers to terminate the employment contract in cases of criminal offences, despite the longer internal procedures required. This is because ZDR-1 prescribes significantly longer deadlines for termination in such cases.

Returning to the definition of sexual harassment as conduct "with the effect or intent of harming the dignity of a person", we find that the perpetrator's liability can be established by demonstrating gross negligence regarding the impact of their actions. The manner in which this is understood in cases of sexual harassment, particularly concerning the requirement that such actions be undesirable, is not evident from available court decisions, as the courts have not directly addressed this issue.²⁶

• Disciplinary Liability

It is not always the case that sexual harassment constitutes a serious violation of work obligations, thus justifying the termination of an employment contract. A spectrum of behaviours, representing varying degrees of intrusion on sexual self-determination, can be observed.

Consequently, in certain instances, it may be sufficient for the perpetrator of sexual harassment to be held accountable in accordance with Article 172 of ZDR-1.

ZDR-1 prescribes only a warning as a disciplinary sanction. Other sanctions, such as a monetary fine or withdrawal of benefits, are presented merely as examples and are contingent upon their inclusion in a collective agreement at the industry level. In the context of higher education, the relevant collective agreement is the Collective Agreement for the Education Sector of the Republic of Slovenia (Official Gazette of the RS, No. 52/94 with amendments), which does not specify disciplinary sanctions. Consequently, employees at higher education institutions who engage in sexual harassment may only be subject to a warning.

The legislation does not stipulate that the employee's culpability is a prerequisite for disciplinary responsibility. However, it can be deduced from the general principles of law that disciplinary responsibility can only be based on culpability. For an employee to be held responsible, there must be a culpable relationship between the employee and the conduct in question, as well as its consequences. This raises a challenging question regarding the subjective relationship between the perpetrator and the victim's perception of the undesirability of their actions, taking into account the aforementioned difficulties.

THE ROLE OF INTERNAL REGULATIONS

Institutions implement a range of internal policies and procedures pertaining to sexual harassment, including ethical codes, guidelines, protocols, and regulations. The inclusion of sexual harassment in internal acts indicates that the institution recognises the significance and potential harm of normalising such behaviour. It aims to highlight its unacceptability and obligates those responsible to address and sanction offenders through more detailed commitments, both ethical and legal. Analyses have demonstrated that the implementation of anti-sexual harassment policies—measures for prevention and handling—is associated with a reduction in sexual harassment (Mani, 2004).

The following section will focus on regulations as internal legal acts. Internal regulations must comply with statutory provisions. They cannot deviate from statutory obligations, nor can they infringe upon the statutory rights of the employees. In the context of handling sexual harassment, this implies that such regulations cannot set longer deadlines for the termination of employment contracts or the imposition of disciplinary sanctions than those set forth in ZDR-1. Furthermore, they cannot stipulate that instances of sexual harassment meeting the

²⁵ In the Judgment of the Higher Labour and Social Court Pdp 998/2004 of 1 December 2005, it was determined that: "The legal definition of 'gross negligence' is not explicitly delineated in the relevant legislation. However, the case law has established that gross negligence occurs when a person fails to act with the same degree of care as an ordinary person" (Translation by authors).

²⁶ It is only in the event that the dismissed worker seeks judicial redress that the courts will review the appropriateness of the termination of the employment contract. To conduct our analysis, we consulted publicly available court decisions on the website www.sodnapraksa.si.

criteria for criminal offences should not be reported to the police, even if the victim objects.²⁷ With regard to the legal consequences for offenders, such as termination of employment contracts and disciplinary sanctions, higher education institutions are bound by statutory provisions. Should they stipulate disciplinary sanctions in internal regulations, they are obliged to adhere to the regulations pertaining to disciplinary responsibility, including the stipulation of culpable responsibility for sexual harassment. Here, the subjective experience of undesirability is of limited relevance, as previously outlined. This does not imply that institutions are unable to implement measures that are not sanctions but which significantly contribute to the prevention of sexual harassment or the protection of victims. Such could include changing a student's mentorship, rearranging the timetable, or relocating the perpetrator to another office. Furthermore, institutions may define a more detailed procedure for handling sexual harassment cases in their internal acts, as the relevant legislation does not currently specify this. Establishing clear procedural rules facilitates the decision of victims to report, particularly if the procedure is designed to minimise the risk of secondary victimisation.

In our study on sexual harassment in the Slovenian academic environment,²⁸ we analysed regulations addressing sexual harassment at five public and six private higher education institutions. The analysis highlighted that nine out of 11 higher education institutions have specific regulations to protect against various forms of harassment, yet these protections extend only to employees and not students. This oversight is clearly inadequate. A significant development occurred in 2022 with the amendment of the Higher Education Act (ZVIZ), which added Article 7b titled "Prohibition of Sexual and Other Harassment and Bullying in the Study Environment." This article represents a novel development in Slovenian legislation by enshrining students' right to a safe study environment. It defines sexual harassment in accordance with the definition set out in Article 7 of ZDR-1. The Minister responsible for higher education is required to adopt a regulation that defines the procedure for handling sexual harassment and other forms of harassment and bullying. The legislative framework for protecting students from sexual harassment in the academic environment is therefore inadequate. Furthermore, it is inappropriate for the regulation of this area to be contingent on the policies of individual institutions. The Minister will adopt a regulation based on the aforementioned provision of ZVIZ, which will apply to all higher education institutions. Although this regulation has not yet been

adopted, its content will be crucial in determining whether it comprehensively addresses all significant issues or leaves some aspects to be regulated internally. The legislative changes represent a significant shift in the legal protection of students from sexual harassment in the academic environment, regardless of the scope of the forthcoming regulation.

CONCLUSION

The analysis of sexual harassment regulation reveals that it is addressed not only by legal instruments, but also by non-legally binding documents such as ethical codes, recommendations, and guidelines. The initial definitions of sexual harassment were established within these non-binding documents, which subsequently influenced the formulation of legal statutes. While it is acceptable to define sexual harassment in a conceptually open manner within non-binding documents, this approach is unsuitable for legal regulations that determine legal consequences for offenders.

The review of legal definitions of sexual harassment in Slovenian legislation reveals the problematic nature of the criterion "(un)desirability of behaviour". It is universally acknowledged that behaviours repeatedly perceived as undesirable by the victim constitute sexual harassment. However, defining initial behaviours that may straddle the boundary between desirability and undesirability presents challenges. Furthermore, their acceptability should not rely solely on subjective criteria. Implementing legal regulations based on such a criterion of prohibited behaviour could potentially breach the principle of legal certainty, which underpins the rule of law.

A review of the internal regulations at Slovenian higher education and research institutions revealed that most do not have specific regulations to protect students from various forms of harassment. Instead, they focus on safeguarding the dignity of employees. A significant shift occurred in 2022 with the amendment of the Higher Education Act (ZVIZ), which added Article 7b. This article stipulates students' right to a safe study environment. This represents a significant shift in the legal protection of students from sexual harassment within the academic environment. It is the responsibility of the Minister for Higher Education to adopt a regulation defining the procedure for handling sexual harassment and other forms of harassment and bullying. This regulation will address the legislative voids in student protection within the academic environment and ensure their equal protection across all higher education institutions.

27 Article 281 of KZ-1 makes failure to report a criminal offence a specific offence; officials must report criminal offences punishable by imprisonment for three years or more.

28 The research project "Institutional, legislative and awareness-raising solutions and activities to address sexual harassment and other forms of sexual violence in higher education and research organisations in Slovenia" was led by the Faculty of Arts in the period 2021–2023. The other participating organisations were: The Institute of Criminology at the Faculty of Law in Ljubljana, the Faculty of Arts at the University of Maribor and the Koper Science and Research Centre.

REGULACIJA SPOLNEGA NADLEGOVANJA V AKADEMskem OKOLJU – MED PRAVNIMI PREDPISI IN ETIČNIMI KODEKSI

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POVZETEK

Članek analizira regulacijo spolnega nadlegovanja – kot oblike nezaželenega, vendar manj invazivnega spolnega vedenja (v primerjavi s posilstvom in spolnim nasiljem kot težjim posegom v spolno samoodločbo), hkrati pa kot težje oblike diskriminacije na podlagi spola – v akademskem okolju. Poudari, da se spolno nadlegovanje ne naslavlja zgolj s pravnimi predpisi, ampak tudi z etičnimi kodeksi. Prikaže, da je spolno nadlegovanje priznано kot kršitev etičnih norm in javne etike v kodeksih številnih stanovskih združenj, obenem pa je tudi pravno regulirano – tako z zakonskimi in podzakonskimi predpisi kot z drugimi splošnimi akti. Članek obravnava razlike med regulacijo z etičnimi kodeksi in pravnimi predpisi (ki so oprte na razlikovanje med moralo in pravom), ter opozarja na izzive opredelitve spolnega nadlegovanja iz perspektive temeljnih načel kazenskega prava. Članek obenem raziskuje različne oblike odgovornosti, ki so relevantne za člane akademske skupnosti. S sklepno obravnavo vloge internih pravilnikov ponudi vpogled v njihovo strukturo in regulacijo spolnega nadlegovanja v slovenskih visokošolskih organizacijah.

Ključne besede: spolno nadlegovanje, etični kodeksi, akademsko okolje, kazenska odgovornost, odgovornost po delovnem pravu, disciplinska odgovornost, interni pravilniki

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THE STRUGGLES AGAINST GENDER VIOLENCE IN SPANISH UNIVERSITIES AND HOW THEY CONTRIBUTED TO CHANGING LEGISLATION

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ABSTRACT

This article examines the transformation process of Spanish universities in the prevention and action against sexual harassment, drawing on the lessons learned from the #MeToo University Movement. Three pivotal aspects are explored: Spain's pioneering contributions, particularly in co-creation and global impact; the successful inclusion of groundbreaking concepts into legislation and ethical codes; and the societal impact towards ending sexual harassment. Despite the significant social progress, Spain faces criticism from those unwilling to break the silence around harassment, underscoring the ongoing need for change in academia.

Keywords: sexual harassment, universities, Spain, struggles, legislation, #MeToo

LE LOTTE CONTRO LA VIOLENZA DI GENERE NELLE UNIVERSITÀ SPAGNOLE E COME HANNO CONTRIBUITO A CAMBIARE LA LEGISLAZIONE

SINTESI

Questo articolo esamina il processo di trasformazione delle università spagnole nella prevenzione e nella lotta contro le molestie sessuali, attingendo alle lezioni apprese dal Movimento Universitario #MeToo. Vengono esplorati tre aspetti cruciali: i contributi pionieristici della Spagna, in particolare nella co-creazione e nell'impatto globale; il successo dell'inclusione di concetti innovativi nella legislazione e nei codici etici; e l'impatto sociale verso la fine delle molestie sessuali. Nonostante i significativi progressi sociali, la Spagna deve far fronte alle critiche di coloro che non sono disposti a rompere il silenzio sulle molestie, sottolineando la continua necessità di cambiamento nel mondo accademico.

Parole chiave: molestie sessuali, università, Spagna, lotte, legislazione, #MeToo

HISTORICAL BACKGROUND

To understand such a context of barriers and resistance, a brief history of the Spanish struggles to overcome sexual harassment in academia is essential.

In September 1991, the foundation of the Community of Research on Excellence for All (CREA) marked a pivotal moment (Joanpere et al., 2022). According to its founders, there was an imperative need for a transformative shift away from entrenched feudalism within Spanish academia. This shift aimed at enhancing the scientific contributions of Spanish universities and addressing pervasive issues such as racism, sexism, as well as a code of silence – or *omertà* – concerning sexual harassment (Diario Feminista, 2021).

At that time, the process of choosing research groups was pyramidal, from the top down, with a very strong hierarchical structure. Professors would often declare, “this student is mine, and this is yours,” reflecting a mentality where students beginning their careers were considered the property of certain professors. Those entering the university quickly became dependent on the favours of professors in the most powerful positions. This structure made it more difficult for victims to report cases and seek solutions. Professors were confined to conducting research within their own departments, prohibited from establishing interdisciplinary research groups across different departments. Those who held power in each department could ensure the subjugation of their members, as they could not control professors from other departments whose promotions depended on different committees.

The new horizontal way of working broke away from this oppressive structure, fostering an environment where interdisciplinary collaboration and equality could thrive. CREA initiated an interdisciplinary research center, supported by the European Commission’s Research Programs, setting an example that other professors then emulated. In 1995, the University of Barcelona, acknowledging this shift, approved a regulation facilitating the formation of interdisciplinary research centers (Soler-Gallart, 2017).

The same year, in 1995, the new landscape empowered Professor Ramón Flecha to lodge the first official complaint against a professor for repeated sexual harassment of several female students (Joanpere et al., 2022). Most professors in the harasser’s environment were aware of what was happening and often joked about the matter. It was well-known that every year he would tell a student that to earn the highest grade, she should strengthen her self-confidence, easily achievable through intimate relationships (Wright Dziech & Weiner, 1990). Against such a normalization, Flecha submitted this complaint at the request of then-student Lúdia Puigvert, incorporating not only the analysis of the problem but also proposing

a solution through the creation of protocols, an equality committee, and a student-based organization. There was never an official response (Diario Feminista, 2022, cf. Omerta 113). However, despite no official response being received from the university presidency, they have met informally on various occasions with supporters of the victims. During these meetings, the presidency clearly stated that: a) gender violence did not exist in universities because the students were of legal age and freely made their own decisions, b) this false claim was unfairly tarnishing the reputation of Spanish universities, and c) if he or anyone from his research group did not remain silent, they would be expelled from the university.

In December 1994, Flecha had delivered his first lecture at Harvard and already had the support of relevant scholars from that and other top-ranked universities globally, as well as from the international feminist movement. Far from heeding the threats, Flecha, Puigvert, and a third researcher, Jesús Gómez, focused on how to conduct scientific research on this undeniable reality and how to make complaints with such a force that they could not be ignored (Diario Feminista, 2022, cf. Omerta 113). Ending impunity and breaking the silence, however, took many more years, which they achieved in 2003 when they started to prepare the bid for the first scientific research project addressing gender violence in Spanish universities (Valls, 2005–2008).

In parallel, civil society was then getting organized to end with gender-based violence in society. In 2003, numerous organizations, including CREA’s Women group Sappho, joined efforts to create the “Unitarian Platform Against Gender Violence” in Catalonia. That same year, the platform organized the conference ‘Against Harassment, Zero Tolerance’ and CREA-Sappho, as the sole university-based organization involved, took on the challenging task of dismantling the silence within academia. Concurrently, CREA amended its ethical guidelines, and made a public statement to zero tolerance for mistreatment. This included a steadfast commitment to supporting victims and collaborating with them to expose and denounce cases of abuse, both nearby and distant, with the overarching goal of enhancing the quality of life for all, especially women victims of abuse (Diario Feminista, 2021, cf. Omerta 14, Omerta 15, Omerta 53).

Between 2004 and 2006, CREA faced an *isolating gender violence*¹ visceral backlash, following its reporting about sexual harassment within the University of Barcelona (Vidu et al., 2021b; Flecha, 2021; Madrid et al., 2020). Despite institutional resistance and attacks, the center garnered international support from institutions like Harvard University and the European Women’s Lobby. Additionally, CREA’s research, funded by the Spanish National Scientific Program, led to a paradigm shift in academia.

1 Isolating Gender Violence (IGV) is any kind of violence against those who advocate for gender violence victims. The objective of such violence is to isolate gender violence victims and discourage reporting or receiving support, in order to maintain the impunity of gender violence (Vidu et al., 2021b).

The first study about gender violence in Spanish universities (Valls, 2005–2008) unveiled clear data about the prevalence of this problem in academic contexts. The study included a representative survey across diverse Spanish universities, inspired by previous international surveys on this issue, targeting students from different faculties and disciplines. Key figures such as that 62% students have suffered or know about a situation of sexual harassment, or that 92% students do not know whether their universities have any type of service to support them (Valls et al., 2016) was alarming and caught the attention of the media and society. The study also portrayed a rigorous analysis of successful actions in the international arena in the prevention and reaction to gender violence that could be recreated in the Spanish context.

The Spanish Parliament, influenced by these scientific findings, recognized the prevalence of sexual harassment in universities and approved the modification of the University Act in 2007, which included the obligation to have Equality Units and protocols to prevent sexual harassment (Agencia Estatal Boletín Oficial del Estado, 2007; 2011). Furthermore, the researchers who struggled against gender violence in academia had been also struggling to change the power-based structure of academic promotion into a merit-based system that would not push women to subsume to certain male professors. That same year, later in 2007, the National Agency for Quality Evaluation in Spain was created following feminist researchers' claim (Bordanoba Gallego et al., 2023). This prompted a meritocratic transformation, replacing arbitrary professor selection with a system favoring publications in reputable journals.

Notwithstanding the great success of all these efforts in the long term, the academics who broke the silence and led these transformations had to face terrible backlash situations in the process, and still today university institutions are trying to make them invisible in equity units and committees, as a reminiscence of old power-based dynamics.

METHODS

This study has been meticulously crafted through a multifaceted approach, delving into the historical evolution of Spanish universities. Firstly, it analyzes historical data, providing a comprehensive overview of the entire journey these institutions have undergone. By scrutinizing the intricate details of this evolutionary process, the study aims to unearth patterns, challenges, and transformative moments that have shaped the landscape of Spanish academia.

Moreover, this study includes the analysis of media press and current legislation, integrating the voices of the victims and the victims of IGV. The authors of the paper have been involved in this struggle since its inception. The research also focuses on dissecting the primary contributions from the Spanish experience in reshaping the educational milieu. These contributions, which range

from legislative interventions to grassroots movements, have played a pivotal role in the narrative created about gender violence within university settings. A meticulous examination of these contributions unveils the nuanced strategies, successes, and setbacks that have marked Spain's trajectory in addressing and transforming the contextual challenges prevalent in higher education.

The impact of the struggle against gender violence in Spanish universities has been analyzed in terms of several key areas: 1) Transformation of Prevention Measures: The study examines how prevention measures within universities have evolved. This includes the implementation of comprehensive policies, and pioneer training programs for staff and students in Spain, 2) Increasing Number of Denouncements: The research analyzes trends in the reporting of gender violence cases. It looks at the increasing number of denouncements over the years, highlighting how awareness and support systems have empowered more victims to come forward. 3) Decrease of Impunity: The study investigates the decrease in impunity for perpetrators of gender violence. This involves examining the outcomes of reported cases, the effectiveness of disciplinary actions, and the overall reduction in tolerance for such behavior within academic institutions. 4) Legislation Changes: The analysis covers changes in legislation that have been influenced by the struggle against gender violence. This includes the introduction of new laws, amendments to existing laws, and the impact of these changes on university policies and practices.

By integrating these aspects, the study provides a comprehensive assessment of how the struggle against gender violence has transformed Spanish universities, contributing to a safer and more equitable academic environment. Additionally, the study engages with contemporary debates, providing a dynamic lens through which to analyze the current state of Spanish universities. By intertwining these discussions with historical achievements, the research constructs a rich and nuanced perspective. This approach enables a more profound understanding of the present context by contextualizing it within the achievements and challenges that have transpired over time. The study, thus, serves as a comprehensive exploration of the Spanish university system, utilizing a historical lens to not only chronicle its evolution but also to critically assess the current debates and achievements that shape its contemporary landscape.

THE PERVASIVE INVISIBILITY OF GENDER SCIENTISTS: DETERRING PROGRESS IN ADDRESSING GENDER VIOLENCE

The invisibility of gender scientists represents a terrible barrier to substantial progress in effectively addressing gender violence. Despite significant strides toward gender equality, the persistent absence of recognition for scholars actively engaged in gender-related research hampers the advancement of nuanced solutions to

combat gender violence. This invisibility extends beyond academia, permeating societal perceptions and public discourse (Flecha, 2021; Madrid et al., 2020).

Gender scientists, through their rigorous research and scholarship, contribute invaluable insights crucial to comprehending the intricacies of gender violence. However, their work sometimes remains eclipsed within institutions and power-based structures which seek for the reproduction of the status quo and rooted forms of domination and abuse (Bordanoba Gallego et al., 2023; Flecha, 2021). Through lack of acknowledgement and intentional dismissal, they obstruct the dissemination of vital knowledge and impede the formulation of evidence-based policies, ultimately undermining the collective endeavor to eradicate gender violence.

There are four researchers from Spanish universities among the top ten academics worldwide on gender violence, according to Google Scholar. Among them, the professor who made the first complaint about sexual harassment in our academia and the principal investigator of the first research about gender violence in Spanish universities. And yet, they are marginalized in their own universities (they have been even dismissed from Equality Committees in different Faculties) and their work is ignored by university officials, governments and media (Diario Feminista, 2022, cf. Omerta 97). Is their scientific knowledge and ethical commitment threatening the institutions, or maybe it is threatening some power positions, and therefore damaging the institutions?

The marginalization of gender scientists perpetuates a cycle of ignorance, reinforcing societal misconceptions about the multifaceted nature of gender violence. In order to cultivate a society that is genuinely equipped to address this pervasive issue, it is imperative to dismantle the barriers that relegate gender scientists to the periphery. Acknowledging and amplifying contributions which have been published and recognized internationally by top-ranked journals on gender is essential not only for academic equity but for the substantive progress required to foster an environment intolerant to gender violence (El Periódico, 2022; Valls et al., 2016; Schubert, 2015). The invisible status of gender scientists represents an institutional and societal shortcoming that demands rectification for the comprehensive understanding and eradication of gender violence.

In Spain, the invisibilization and consistent overlooking of international scientific contributions in the prevention of gender violence, echoed broad issues of our academic context. Today it is very easy to access and identify preeminent gender scientists by going to international rankings, or even consulting international platforms which discern evidence from misinformation. However, despite these resources, so often the media, policy actions and institutions rely on so-called “experts”, while neglecting the scientific contributions of these gender scientists (Bordanoba Gallego et al., 2023). Relying on such “experts”, universities have promoted non-scientific

publications and endorsed misguided directives that have negatively contributed to heightened violence rather than fostering its resolution. Furthermore, in university equality units and decision-making positions on gender violence issues, prominence is often given to individuals who have no scientific publications on the specific topic nor a demonstrated track record of supporting victims and those who advocate for them. Instead of giving voice to individuals who not only understand the scientific evidence on social impact but also stand alongside the victims, universities continue to marginalize the contributions of genuine gender scholars.

PIONEER CONTRIBUTIONS ON SOCIAL IMPACT AND CO-CREATION: LEADING THE UNIVERSITIES TRANSFORMATION

The evolving environment gradually empowered individuals to speak up about instances of sexual harassment, marking significant milestones that set precedents. In 2009, Lidia Puigvert, a tenured professor then, lodged an official complaint, shedding light on structural issues within specific academic programs that left students vulnerable to harassment. Her complaint catalyzed the reporting of a groundbreaking case against a prominent professor at the University of Barcelona, a figure of considerable influence in Spain. That same year, in 2009, CREA invited the Director of the Harvard Office of Sexual Assault Prevention and Response to deliver a lecture at the University of Barcelona. During this address, she acknowledged the importance of our struggle, foreseeing its positive impact on future generations (Vidu, 2017; Schubert, 2015). These courageous acts paved the way for other victims to feel encouraged to speak up and triggered the subsequent reporting of a groundbreaking case against that prominent professor whose harassing actions had been known and silenced for years. Ana Vidu, sought support in 2011, when she was a master student, after receiving harassing emails from this same case. Despite initial setbacks, Prof Flecha’s perseverance in support of victims prompted the recently created Equality Committee of his Faculty to take action. However, the Committee’s initial reluctance exposed structural flaws in Equality Committees, often controlled by Rectors with arbitrary designations, perpetuating a culture of silence (Pulido et al., 2021; Vidu, 2017).

By 2012, Ana Vidu and 13 victims collaborated, submitting witness accounts and emails to the University. However, the institution claimed an inability to act and redirected the report to the Prosecutor’s Office, sidelining the only Equality Committee member consistently supporting Vidu (Joanpere et al., 2022; Vidu, 2017). CREA’s journey demonstrates resilience against isolating gender violence, resulting in institutional change and fostering an environment where victims feel empowered to speak out. This struggle transcends gender, necessitating structural transformations and challenging entrenched power dynamics. These transformative actions created the ideal

context for the establishment of the world's first Solidarity Network of Victims of Gender Violence in Universities, where an empowered environment encouraged individuals to report instances of sexual harassment, setting significant precedents.

The Solidarity Network of Victims of Gender Violence in Universities (today known as *MeToo University*) was created in 2013 in Spain in parallel to the formation of EROC (End Rape On Campus) in the United States, setting in motion a transformative journey (AAU, 2019; Clark & Pino, 2016). Overcoming initial challenges, this network emerged as a pivotal force, challenging the entrenched culture of silence surrounding gender violence within academic institutions (Pulido et al., 2021). The culmination of their pioneering efforts materialized in 2014 when the University of Barcelona took decisive action against a male student accused of sexual harassment, signaling a seismic shift in dismantling impunity for such offenses. The supportive environment for victims facilitated achieving the first case in Spanish universities in which a victim won a case of reported sexual harassment. The victory in this case not only brought justice to the victims involved but also served as a landmark moment in the ongoing fight against sexual harassment in academia. It demonstrated the tangible impact of collective advocacy and empowerment in challenging entrenched power dynamics and holding perpetrators accountable for their actions.

On June 13, 2016, the major TV and radio media in Catalonia launched a devastating campaign, airing defamatory news from the early morning and continuing throughout the day. This campaign, orchestrated in collaboration with a lobby of harassers, aimed to discredit those reporting gender-based violence cases in universities. The news spread quickly, reaching the schools of the children of these professors, their families, and colleagues. Personal lives of professors and their families were defamed without any evidence.

This collective movement, initiated concurrently in Spain and the US, became a rallying point for victims and survivors of gender-based violence on university campuses. Acknowledged by the National Gender Violence Observatory as a Good Practice in the prevention of gender-based violence, the movement swiftly gained momentum, spreading throughout universities across the country (Joanpere et al., 2022). The steps taken forward to combat sexual harassment in universities faced a significant backlash in June 2016 from the lobby of harassers, who launched a massive campaign against CREA and primarily targeted Ramon Flecha, the initiator of this transformation (Madrid et al., 2020).

As progress was made in raising awareness, empowering victims, and holding perpetrators accountable, those vested in maintaining the status quo of impunity for harassers mobilized to undermine these efforts. Confronting resistance from university authorities and a pervasive lobby, the network encountered a huge barrier in the form of a damaging and isolating gender violence campaign

launched in 2016 against the scholars who supported the victims from the network (Madrid et al., 2020).

This smear campaign had a severe impact on the lives of those supporting victims and the victims themselves, both academically and in terms of their families, social circles, and health (Nazareno et al., 2022; Aubert & Flecha, 2021; Melgar et al., 2021; Puigvert et al., 2021). Despite an initial success in halting mobilization, the campaign ultimately boomeranged with serious consequences for the victims and their supporters.

However, by collaborating with existing networks and organizations, the movement leveraged collective resources and expertise to amplify its message and effect change on a larger scale. From academia, solidarity with other social movements strengthened the movement's legitimacy and mobilized additional support from allies across different sectors of society. Furthermore, due to international solidarity and recognition of the struggle, as well as science-based analysis of the whole process, the victims – instead of facing revictimization and abandoning academia – saw their scientific prestige soar on an international scale. Overall, the movement against gender-based violence in universities achieved enormous social impact by fostering global solidarity, embracing co-creation, engaging in dialogue with institutions, and aligning with broader social movements (Soler, 2017). Through these concerted efforts, the movement not only raised awareness of the issue but also catalyzed tangible reforms and contributed to the creation of safer and more inclusive academic environments for all. For example, in collaboration with the Unitary Platform against Gender Violence, the Solidarity Network initiated an impactful campaign under the motto “Our Daughters Have the Right to a Violence Free University” addressing civil society organizations and citizens at large, highlighting their commitment to social impact and co-creation. At the same time, in 2016 and within the academic context, CREA organized the First Conference on Isolating Gender Violence (IGV), which convened diverse speakers who expressed shock at the cruelty of the IGV backlash, while applauding the victims and supporters for their resilience and intelligence (Vidu et al., 2017).

This transformative journey is not coincidental; it emanates from the same context where the pioneering scientific debate on the social impact of research and co-creation of knowledge and solutions between academia and society began. Theoretical and scientific contributions about the Dialogic Society (Flecha, 2022) have created a context in which the emergence of social movements alongside academia achieves greater resonance. The Solidarity Network has transformed the context through ongoing dialogues and co-creation efforts with social movements, citizens supporting victims, and politicians. This collaborative approach has created a more preventive environment where impunity is not tolerated, and an increasing number of victims feel empowered to report cases, supported by fellow victims

and professors. In just one year, the network received over a hundred reports from victims seeking help in 2022, demonstrating the significant impact of the movement. The Solidarity Network's persistent efforts in dismantling the *omertà* surrounding gender violence. Also influencing the criteria of social impact and co-creation in scientific research, paving the way for a more inclusive and safer academic environment.

BEYOND BOUNDARIES: COCREATION IN SPANISH ACADEMIA AND ITS PROFOUND SOCIAL IMPACT ON GENDER VIOLENCE ADVOCACY

The emergence of the global MeToo Movement in 2017 resonated with movements worldwide, providing support and inspiration. In Spain, this movement took a distinctive form, giving rise to “MeToo University”, previously known as the Solidarity Network of Victims of Gender Violence in Universities. Grounded in the Spanish context, this unique movement stands out for its co-creation with both activists and academics, merging scientific rigor with social activism.

One of the most important achievements of the MeToo University's movement was the coverage on the front page of a major Spanish newspaper of a journalistic report unveiling cases and the struggle. On this front page, the featured “U” symbolizing university context, showcased images of 25 women who had experienced sexual harassment and isolating gender violence in academic settings (El Periódico, 2022). A comprehensive report, crafted over six months by dedicated female journalists, highlighted the pervasive fear within academic institutions where powerful harassers maintain control, sparking widespread discussions across various media platforms.

The movement's successes are rooted in the profound scientific, policy, and social impact of its studies and initiatives. Notably, MeToo University's policy impact resulted in groundbreaking legislation against Isolating Gender Violence. The Parliament of Catalonia unanimously incorporated this concept in the law on December 22, 2020 (Law 17/2020), making it a global pioneer. The Parliament of the Basque Country followed suit on March 17, 2022, incorporating IGV into its legislation on the Equality of Women and Men. This legislative momentum has triggered similar processes in other Spanish and international parliaments, along with diverse organizations and businesses responding to MeToo University's advocacy. The groundbreaking legislation enacted by the Parliament of Catalonia in 2020 marked a historic moment, solidifying Spain's position as a trailblazer in addressing gender violence within academic settings and beyond (Vidu et al., 2021a).

Esteemed organizations like the European Sociological Association have recognized the co-creation model, further reinforcing its influence (Joanpere et al., 2022). MeToo University members actively engage in training professionals across various fields, contributing to the

movement's political impact, catalyzing societal change, and reducing gender violence cases in different settings.

The coalescence of policy and social impact is underpinned by scientific rigor in MeToo University's studies, published in top-ranked scientific journals. These studies explore diverse dimensions of gender violence in Spanish universities, the concept of Isolating Gender Violence, its consequences on supporters' health, victim typologies, and the legislative impact.

In essence, the co-creation of knowledge within MeToo University, interweaving activism and academia, has generated a movement with far-reaching social, policy, and scientific impact. Rooted in the Spanish context, this distinctive approach underscores the importance of tailored solutions and collaborative efforts in addressing gender violence in academic settings. Within Spanish universities, pioneering contributions in critical areas, including Isolating Gender Violence (Flecha, 2021), preventive socialization (Melgar-Alcantud et al., 2021; Puigvert, 2014), the language of desire (Puigvert, 2014), and the discourse on objectivity and overcoming sexual harassment (Bordanoba Gallego et al., 2023), have positioned scholars like Lidia Puigvert in top-ranked positions. Their influence emanates from the transformative co-creation of knowledge, leading to concepts that resonate and generate tangible social impact, ultimately improving individuals' lives.

Preventive socialization is another crucial dimension where Spanish universities, with scholars like Lidia Puigvert at the forefront, make pioneering contributions (Puigvert, 2014). Actively engaging in training professionals across various sectors, including judges and prosecutors, the movement fosters societal change and reduces gender violence cases, reflecting a proactive approach to ensuring a safer, more inclusive academic environment.

The exploration of the language of desire, led by scholars within Spanish universities, challenges traditional narratives surrounding desire and power dynamics (Melgar-Alcantud et al., 2021; Puigvert, 2014). This interdisciplinary approach, co-created by academics and society, aims to reshape societal norms and promote healthier, more respectful interactions, particularly within academic spaces.

One of the most contentious topics addressed by scholars is the examination of objectivity and strategies to overcome sexual harassment within academia (Bordanoba Gallego et al., 2023). By delving into the complexities of power dynamics and institutional structures, the co-creation of knowledge has spurred discussions challenging entrenched norms and paving the way for a more inclusive and equitable academic landscape. The “*Omertà*” section of the newspaper *El Diario Feminista* includes numerous cases where universities have failed to act based on objective criteria, favoring the perpetuation of sexual harassment. Among them we find the case of a female assistant professor who had a scientifically brilliant career in a Spanish university. She had taken a public stance in support of victims of gender-based violence at the university.

Her vitae indicated that she would clearly win the tenured faculty position that had been advertised at her university, especially considering the scientifically meritocratic criteria adopted by Spanish evaluation agencies and universities. Nevertheless, she was not promoted, rather expelled from that university (*Diario Feminista*, 2021). Thanks to the MeToo movement today she is tenured professor in a different university, therefore transitioning from a victim of isolating gender violence to a survivor. The university decision to remove her showcased the feudal structures still remaining in our academia, despite current legislations, and the need for co-creation between researchers, social movements and citizens, to build a better, more scientific and humane university.

LESSONS LEARNED FROM THE PROCESS

Central to the transformative journey illuminated by MeToo University is the profound social impact it has engendered, transcending traditional boundaries and fostering a collaborative paradigm marked by co-creation. The movement's success lies not only in its legal and policy victories but equally in its ability to galvanize societal shifts, dismantling the veils of isolating gender violence and fostering an environment where survivors are supported and empowered.

MeToo University's approach exemplifies co-creation—a collective effort where survivors, activists, and academics collaborate to reshape the narrative surrounding gender violence. By intertwining academic research with lived experiences, the movement forges a dynamic synergy that not only informs policies but resonates with society, offering a multifaceted understanding of the pervasive issue.

The process also serves as a poignant lesson in overcoming isolating gender violence, as MeToo University's initiatives extend beyond legal frameworks. The movement propels societal discourse, challenging preconceptions and fostering a culture of accountability. Through education and advocacy, it promotes a collective responsibility to confront and eradicate gender violence, transcending the isolation often imposed on victims.

The social impact is notably evident in legislative accomplishments against isolating gender violence, a testament to the movement's ability to shape broader societal values. By obtaining endorsements from entities like the European Sociological Association, MeToo University amplifies its reach, creating a ripple effect that extends beyond national borders.

In essence, MeToo University's trajectory underscores the indispensable role of social impact and co-creation in addressing isolating gender violence. By fostering collaboration, breaking down societal barriers, and influencing legislative change, the movement not only charts a course towards justice but also redefines societal norms, offering a beacon of hope for a future free from the shackles of gender violence.

CONCLUSIONS

In conclusion, the narrative of MeToo University and all the process in Spain is not merely a chronicle of legal victories but an intricate tapestry of profound societal transformation and impactful co-creation. The movement, with strong international connections, has not only catalyzed legislative changes but has been a harbinger of unprecedented social shifts, dismantling the isolating gender violence prevalent in universities.

One of the pivotal takeaways from MeToo University's journey is the tangible social impact it has had on universities and society at large. The movement's tireless advocacy has led to legislative milestones, such as the incorporation of isolating gender violence in the legislation of Catalonia and the Basque Country. These legal triumphs are not just abstract victories; they signal a seismic shift in societal consciousness, challenging the entrenched norms that perpetuate gender violence (Vidu et al., 2021a).

Co-creation stands out as a cornerstone of MeToo University's methodology, encapsulating a collaborative spirit that bridges the gap between academic research and the lived experiences of survivors. The movement's commitment to co-creation is evident in its partnerships with diverse organizations, including the European Sociological Association, illustrating a collective commitment to address gender violence comprehensively. This inclusive approach has not only enriched academic discourse but has resonated with wider audiences, fostering a shared understanding of the multifaceted nature of the issue.

The struggle against isolating gender violence also unveils itself as an ongoing conversation that spans both historical achievements and contemporary debates. By meticulously analyzing historical data, the movement has drawn critical lessons from the evolution of Spanish universities, uncovering the pervasive invisibility of gender scientists and recognizing the barriers that impede progress. These insights serve as guideposts for future endeavors, emphasizing the importance of continuous reflection on the journey toward gender equality.

Lessons learned from this process are multifaceted, encompassing the need for systemic changes, the power of collective voices, and the vital role of education in dismantling societal prejudices. The movement's resilience in the face of a vicious campaign of Isolating Gender Violence serves as a testament to the strength inherent in solidarity, challenging not only the perpetrators of harassment but also the complicit structures that perpetuate it.

Ultimately, all the Spanish process emerges as a beacon of hope, illuminating a path toward a future where universities are free from gender violence. Its narrative resounds as a call for collective action, urging societies to confront uncomfortable truths, challenge prevailing norms, and actively participate in co-creating a world where the isolating shackles of gender violence are unequivocally dismantled.

BOJ PROTI SPOLNEMU NASILJU NA ŠPANSKIH UNIVERZAH IN NJEGOV PRISPEVEK K SPREMINJANJU ZAKONODAJE

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POVZETEK

Ta študija se s podrobno analizo zgodovinskih podatkov poglobi v transformacijo španskih univerz, s ciljem razkriti izzive, vzorce in prelome, ki so oblikovali akademski svet. Natančno prouči pomembne prispevke Španije, od zakonodajnih posegov do množičnih gibanj, ki so imeli ključno vlogo pri oblikovanju narativov o spolnem nasilju v univerzitetnem okolju. Študija s prepletanjem sodobnih razprav z zgodovinskimi dosežki vzpostavi niansirano perspektivo, ki nudi vpogled v obravnavo izzivov v španskem visokem šolstvu. V osnovi služi kot zgodovinska leča, ki opisuje razvoj španskega univerzitetnega sistema, hkrati pa kritično ocenjuje trenutne razprave in dosežke. Prav tako poudarja nevidnost znanstvenikov, ki se ukvarjajo s problematiko spolnega nasilja. Kljub napredku na področju enakosti spolov, uravnotežene rešitve namreč ovira pomankanje upoštevanja znanstvenikov, ki se ukvarjajo z raziskavami, povezanimi s spolom. Ta nevidnost sega onkraj akademskega kroga in vpliva na družbeno dojemanje. Prispevke znanstvenikov s področja enakosti spolov pogosto zasenči pristranskost, kar ovira razširjanje ključnega znanja in oblikovanje politike, ki temelji na dokazih. Študija ugotavlja, da je ponovna vzpostavitev »nevidnosti« znanstvenikov s področja spola nujna za celovito razumevanje in izkoreninjenje spolnega nasilja, pri čemer poudarja potrebo po priznavanju in vključevanju njihovih prispevkov v javni diskurz in oblikovanje politik.

Ključne besede: spolno nadlegovanje, univerze, Španija, težave, zakonodaja, #MeToo

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TIHA PANDEMIJA: SPOLNO NASILJE MED SREDNJEŠOLCI IN SREDNJEŠOLKAMI V SLOVENIJI

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IZVLEČEK

V prispevku podrobneje predstavljamo področje medvrstniškega spolnega nasilja med slovenskimi srednješolci in srednješolkami. V raziskavi smo ugotavljali, v kolikšni meri dijaki prepoznajo spolno nasilje in ali so seznanjeni z nekaterimi vidiki nasilja in ustreznim ukrepanjem ob zaznavi le-tega. Spoznanja kažejo, da dijaki prepoznajo spolno nasilje, večina jih v času šolanja ni bila izpostavljena spolnemu nasilju, spolno nasilje med srednješolci pa se dogaja v času po pouku in predvsem izven šolskega okoliša. Dijaki obmejnega prostora navajajo skrb v povezavi z večjim številom tujih vrstnikov, ki pogosteje izvajajo spolno nasilje izven šolskih prostorov, predvsem nad dekleti. Čeprav ne gre za izrazito medvrstniško spolno nasilje, je pomembno, da ga naslovimo, saj gre za resen družbeni pojav.

Ključne besede: spolno nasilje, medvrstniško nasilje, dijaki, obmejni prostor, srednja šola

PANDEMIA SILENZIOSA: VIOLENZA SESSUALE TRA GLI STUDENTI E STUDENTESSE DELLE SCUOLE SUPERIORI SLOVENE

SINTESI

L'articolo si concentra in una maniera approfondita sul tema della violenza sessuale tra coetanei. Ai fini della ricerca è stata condotta una ricerca quantitativa tra gli studenti delle scuole superiori dell'Istria slovene e altresì una ricerca di tipo qualitativo sul riconoscimento della violenza sessuale nelle scuole superiori. Nella ricerca abbiamo cercato di constatare in quale misura gli studenti riconoscono la violenza sessuale, se conoscono determinati aspetti della violenza sessuale e se sono a conoscenza di azioni appropriate da intraprendere qualora si presentasse. I risultati della ricerca hanno evidenziato che gli studenti sottoposti alla ricerca sanno riconoscere questo tipo di violenza; la maggior parte degli intervistati non è stata esposta alla violenza sessuale nell'ambito scolastico – ne sono esposti invece dopo le lezioni, all'esterno della scuola, quindi all'infuori dell'ambiente scolastico. Gli studenti della regione di confine hanno esposto la loro preoccupazione per il maggior numero di stranieri, spesso incolpati delle violenze sessuali al di fuori delle scuole, soprattutto sulle ragazze. Sebbene non si tratti di una violenza sessuale tra pari, è importante affrontarla poiché è un fenomeno sociale grave.

Parole chiave: violenza sessuale, violenza tra pari, studenti, zona di frontiera, scuola superiore

UVOD

Spolno nasilje med srednješolci¹ se lahko pojavlja v različnih oblikah, vključno z verbalnim nadlegovanjem, neprimernim dotikanjem, prisilnimi dejanji ali celo posilstvom. Pogosto je povezano z močjo, nadzorom in neenakostjo med spoloma.

Čeprav je spolno nasilje med mladimi izredno pomembna tematika, raziskovalno še ni bila obravnavana v obliki sistematične in poglobljene nacionalne študije. Spolno nasilje se je v Sloveniji raziskovalno obravnavalo predvsem v kontekstu spolnega nasilja nad odraslimi ženskami (Aničić et al., 2002; 2015; Bašič, 2014; Domiter Protner, 2014; Frangež & Dvoršek, 2013; Leskošek et al., 2014; Veselič et al., 2014). Ostale sodobnejše empirične študije pa so usmerjene predvsem na področje trpinčenja in drugih oblik medvrstniškega nasilja (cf. Aničić et al., 2015; Cvek & Pšunder, 2023; Košir, 2013; Lešnik Mugnaioni et al., 2009; 2016; Lešnik Mugnaioni, 2012; Lešnik Mugnaioni & Klemenčič, 2014; Muršič et al., 2016; Pečjak, 2014; Pečjak et al., 2021; Šterman Ivančič, 2015; Šulc & Ručman Bučar, 2019).

V prispevku razkrivamo precej tabuizirano tematiko medvrstniškega spolnega nasilja, ki jo predstavljamo na podlagi opravljene kvalitativne in kvantitativne raziskave ter analize tujih in domačih empiričnih dognanj. Slednja ne poudarja zgolj težave medvrstniškega nasilja med dijaki, temveč tudi spolnega nasilja s strani drugih, ki jih dijaki srečujejo v svojem okolju.

Medvrstniško spolno nasilje

Nasilje nad vrstniki oziroma medvrstniško nasilje je danes vse bolj pogosto, o tem pojavu pa govorimo takrat, ko je oseba v daljšem časovnem obdobju večkrat izpostavljena agresivnemu vedenju, ki ga je povzročil vrstnik ali skupina vrstnikov (Muršič, 2004; Muršič et al., 2010; Olweus, 1993).

Spolno nasilje je vsako ravnanje s spolno vsebino, v katero žrtev ne privoli, je vanj prisiljena ali zaradi svoje stopnje razvoja ne razume njegovega pomena, grožnje z uporabo spolnega nasilja ter javna objava spolnih vsebin o žrtvi (Zakon o preprečevanju nasilja v družini, 2008). O spolnem nasilju oz. spolni zlorabi otroka govorimo, ko odrasla oseba ali nekdo, ki je starejši od otroka, uporabi svojo moč in vpliv nad otrokom ter izrabi njegovo zaupanje in spoštovanje, da ga zavede v spolno dejavnost. Spolno nasilje vključuje neželjeno spolno vedenje, ki lahko obsega verbalno, fizično ali drugo obliko spolnega nasilja in je med mladimi (učenci in dijaki) resen problem, saj ima lahko hude doživljenjske posledice za žrtve. Pomembno je razumeti, da se spolno nasilje lahko zgodi komur koli ne glede na spol, starost, družbeni položaj ali druge

dejavnike. Šola je tako najpogostejša lokacija spolnega nasilja med vrstniki (Fisher et al., 2003; Habbe, 2000; Hollander, 2014; Smith & Freyd, 2014).

Williams (1994) opredeljuje medvrstniško spolno nasilje mladostnikov kot neprostoovoljni spolni stik, ki vključuje silo ali prisilo osebe. Spolno nasilje je vsako dejanje, ko oseba z zlorabo svojega privilegiranega položaja, moči in vpliva, mladostnika prisili ali zavede v spolnost z namenom zadovoljitve lastnih potreb po nadzoru in moči, lahko pa tudi z namenom zadovoljitve svojih spolnih potreb. Z vsakim spolnim nasiljem nad otrokom oz. mladostnikom kršimo etične, moralne in socialne norme ter tudi zakonodajo (Čobec et al., 2016; Turvey, 2002). Darke (1990) opredeljuje spolno nasilje kot obliko moči, s katero ima storilec sposobnost nadzora nad žrtvijo. Storilec pa nima moči le nad telesom žrtve, ampak tudi nad njenimi čustvi in dojemanjem.

Glede na raziskave Nacionalnega centra za statistiko izobraževanja je bilo v letu 2018 kar 41 % posameznikov v ZDA v starosti od 18 do 22 let žrtev medvrstniškega spolnega nasilja (Molstad et al., 2021). Posamezniki, stari od 15 do 25 let, so tako najbolj izpostavljeni spolnemu napadu v primerjavi s katero koli drugo starostno skupino, pri čemer je starostni razpon od 18 do 24 let še posebej izpostavljen tveganju za doživljanje različne vrste spolnih napadov (Sinozich & Langton, 2014; Walters et al., 2013). Druge tuje raziskave kažejo, da je stopnja spolnih napadov s strani vrstnikov visoka, saj je bilo spolno zlorabljenih 26 % srednješolcev in 51 % srednješolk (Young et al., 2009). Rennison (2002) prikazuje podatke o spolnih napadih, prijavljenih organom pregona v ZDA, kjer je razvidno, da je spolni napad najbolj razširjen med mladostniki v primerjavi s katero koli drugo starostno skupino, saj je 33 % vseh žrtev starih od 13 do 17 let. V raziskavi Fedina et al. (2016) ugotavljajo, da je bilo kar 96 % vseh storilcev spolnega napada moških, 91 % vseh žrtev pa je bilo žensk. Od tega je le polovica vseh mladostniških žrtev povedala o incidentu. Zato ni presenetljivo, da je spolno nasilje vseprisotna težava na področju srednješolskega in tudi visokošolskega izobraževanja (Fedina et al., 2016). Spolno nasilje je splošno razširjena in pogosta izkušnja številnih žensk v Evropski uniji – vsaka peta ženska od 15. leta starosti dalje se je namreč že srečala z nezaželenim dotikanjem, objemanjem ali poljubljanjem, 6 % vseh žensk pa je od 15. leta starosti tovrstno nadlegovanje izkusilo najmanj šestkrat (Nasilje nad ženskami: vseevropska raziskava, 2014).

Podatki o razširjenosti spolnih zlorab v otroštvu v Sloveniji študije OIO iz leta 2019 (9,5 % za deklice in 2,6 % za fante, cf. Kuhar & Zaviršek, 2023), so

¹ Izrazi, ki se nanašajo na osebe in so zapisani v moški slovnični obliki, so uporabljeni kot nevtralni za ženski in moški spol.

nižji od podatka, ki ga navaja Svetovna zdravstvena organizacija (WHO, 2020; približno 20 % za deklice in 8 % za fante, cf. Kuhar & Zaviršek, 2023). Glede na razpoložljive raziskave lahko v Sloveniji govorimo o slabem prepoznavanju spolnega nasilja nad otroki in mladostniki, redkem prijavljanju, pogostem ovrženju sumov spolnih zlorab v preiskovalnem postopku, pomanjkanju otroku prilagojenih pristopov na sodišču in pomanjkanju podpore za žrtvi. Tudi mednarodne raziskave opozarjajo, da so le najhujši primeri prijavljeni policiji (Manly, 2005). Za slovenski kontekst domnevamo, da se bo z ozaveščanjem in profesionalizacijo postopkov število prijav spolnega nasilja (medvrstniškega, družinskega idr.) v prihodnosti povečalo.

Lešnik Mugnaioni et al. (2009) opozarjajo na sočasno pogosto pojavnost različnih vrst nasilja na slovenskih osnovnih in srednjih šolah (fizično, psihološko, verbalno, ekonomsko, socialno izločanje in spolno nasilje). Avtorji ugotavljajo, da fizično nasilje pogosto doživlja 14,6 % učencev, pojavnost spolnega nasilja pa je med učenci najvišja (20 %). Za razliko od spolnega nasilja med odraslimi, kjer se veliko nasilja zgodi v intimnih ali formaliziranih odnosih, se spolno nasilje med mladostniki lahko pojavi v razmerjih, ki so prehodna (Krauss et al., 2005), in med vrstniki ter sošolci, ki so relativni tuji in ne sorodniki. Mrkun (2020) je v raziskavi med slovenskim mladimi ugotovila, da je skoraj eden od petih prebivalcev Slovenije do 18. leta starosti imel izkušnjo ene od oblik spolnega nasilja v otroštvu, kar je 18 odstotkov populacije (Mrkun, 2020). Spolno nasilje je bila najpogostejše enkratno dejanje; med vrstami zlorab so bili največkrat navedeni neprimerno dotikanje, spolno nadlegovanje in poskusi posilstva. Poročilo slovenske policije za leto 2022 razkriva število prijavljenih in odkritih kaznivih dejanj zoper spolno nedotakljivost. Obravnavali so jih 479, kar je največ v zadnjih petih letih. Policisti so obravnavali tudi 145 spolnih napadov na osebo, mlajšo od 15 let. V letu 2022 je bil delež mladoletniške kriminalitete med obravnavano kriminaliteto 2,4 %, in sicer je policija obravnavala 1.178 primerov. Med mladoletniškimi kaznivimi dejanji pa je treba opozoriti predvsem na nasilništvo (Ministrstvo za notranje zadeve Republike Slovenije, 2023).

Spolno nasilje je torej prevladujoča problematika, ki globalno prizadene milijone mladih (Benoit et al., 2015; Walters et al., 2013). Učenci in dijaki, ki so doživeli spolno nasilje, poročajo o: višjih stopnjah čustvenih in vedenjskih težav, vključno z vzorci neprimernega spolnega vedenja (Berliner & Elliott, 2002; Putnam, 2003); socialnih umikov, izolacijo in disociacijo (Macdonald, 2001); namernim samopoškodovanjem in poskusi samomora (Kendall-Tackett et al., 1993) ter slabi učni uspešnosti (Paolucci

et al., 2001).

Učinki na zdravje lahko vključujejo telesne poškodbe, najstniško nosečnost in spolno prenosljive okužbe (Kendall-Tackett et al., 1993). V odrasli dobi so očitne težave pri prilagajanju, vključno s tveganim spolnim vedenjem in ponovno spolno viktimizacijo (Andrews et al., 2004; Van Roode et al., 2009); zlorabo prepovedanih snovi (Kendall-Tackett, 2002) in težav z duševnim zdravjem, kot so depresija (Briere & Runtz, 1993), anksioznost in fobije, posttravmatska stresna motnja, disociacija in samomorilno vedenje (Berliner & Elliot, 2002). Obstajajo tudi dolgoročni učinki na telesno počutje odraslih, vključno s povečano stopnjo srčnih bolezni, artritisa, kronične bolečine (Scott et al., 2011) in težav z zdravjem prebavil ter reproduktivnim zdravjem (Irish et al., 2010).

Medvrstniško spolno nasilje v šolskem okolju

Jasno je, da se mladi v šoli in na poti v šolo redno srečujejo z zbadanji, nespoštljivimi opazkami ali nezaželenimi dotiki, ki so spolne narave (AAUW, 2001; Stein et al., 1993). Pogosto so storilci njihovi sošolci, drugi učenci, redkeje šolsko osebje, vozniki avtobusov in drugi odrasli, povezani s šolo (AAUW, 2001). Presenetljivo pogosto se dogodki zgodijo znotraj in med spoloma, vendar najpogostejše vključujejo moškega storilca in žensko žrtev (Rickert et al., 2004). Spolno nasilje, ki je tretirano kot namigovanje na spolnost in zajema telesne dotike, opolzko govorjenje in vsako drugo dejanje, ki je povezano s spolnostjo, a ne vključuje spolnega odnosa, pri nas ni niti novost in niti redkost (Habbe, 2000). Spolno nasilje lahko poteka med dijaki ali med dijaki in odraslimi. Med dijaki samimi lahko zasledimo celo vrsto spolnega nadlegovanja, od besednega do telesnega, ki pa lahko v skrajnih primerih preraste tudi v posilstvo (Aničić et al., 2002).

Spolno nasilje se v šolskem prostoru lahko dogaja povsod. Po izsledkih raziskav v tujini so v šolah pogosto spolno nasilne tudi istospolno usmerjene osebe (Habbe, 2000). Čeprav je sicer v našem prostoru malo znanega o spolnem nasilju mladostnikov, ki se dogajajo v šolah, poročilo AAUW (2001) in številne druge študije (cf. Fedina et al., 2016; Fisher et al., 2003; Habbe, 2000; Hollander, 2014; Molstad et al., 2021; Nasilje nad ženskami, 2014; Smith, 2009; Smith & Freyd, 2014) kažejo, da je spolna agresija vrstnikov v šolah običajna. Spolno nasilje v šoli je običajno opredeljeno kot fizični in nefizični spolni stik, vključno s spolnimi pripombami, šalami, kretnjami, pogledi, prikazovanjem slikovnega gradiva s spolno vsebino, sporočil ali zapiskov ter širjenjem govoric, povezanih s spolnostjo. Ocene števila srednješolcev, ki poročajo o spolnem nadlegovanju v šoli, se gibljejo med 83–92 % za dekleta in 57–79 % za dečke (AAUW, 2001; Fe-

lix & McMahon, 2006; Fineran & Bennett, 1998; Lee et al., 1996). Poleg tega je spolno nadlegovanje v šoli povezano z različnimi negativnimi posledicami med žrtvami, vključno s šolsko odsotnostjo, slabšim učnim uspehom, izgubo prijateljev, izostajanjem od pouka ter internalizacijo in eksternalizacijo psiholoških simptomov (AAUW, 2001; Lee et al., 1996; Molstad et al., 2021; PCSW, 1995; Stein et al., 1993).

METODOLOGIJA

Raziskovalni problem, namen in cilji

Glavni namen prispevka je prikazati odnos mladih do spolnega nasilja. Cilji raziskave se nanašajo na: (i) raziskati, v kolikšni meri dijaki (pre)poznajo spolno nasilje; (ii) ugotoviti, kako pogosto se spolno nasilje pojavlja med dijaki srednjih šol in (iii) preučiti, v kolikšni meri srednja šola kot izobraževalna ustanova ozavešča svoje dijake o spolnem nasilju (s preventivnimi in kurativnimi dejavnostmi).

Hipoteze in raziskovalna vprašanja so naslednja: (H1) Obstajajo statistično značilne razlike med spoloma v prepoznavanju spolnega nasilja, saj ga dijakinje prepoznavajo bolje v primerjavi z dijaki; (H2) Večina dijakov meni, da se spolno nasilje v srednjih šolah pojavlja pogosto; (H3) Večina dijakov pravi, da jih srednja šola pogosto ozavešča o spolnem nasilju; (RV1): Kakšen je obseg in narava spolnega nasilja med dijaki v obmejnem prostoru (Slovenske Istre) in kakšni so dejavniki, ki vplivajo na to pojavljanje?

Raziskovalne metode, vzorec in pripomočki

Uporabili smo kombiniran raziskovalni pristop, osnovni raziskovalni metodi pa sta deskriptivna in kavzalna neeksperimentalna metoda raziskovanja. Raziskovalni vzorec je neslučajnostni in namenski. Kvantitativna raziskava zajema dijake srednjih šol v Ljubljani, Celju, Mariboru, kvalitativna pa dijake obmejnih srednjih šol (Slovenske Istre), s katerimi je bil opravljen ločen intervju.

Tako kvantitativno (anketiranje) kot kvalitativno (intervju) zbiranje podatkov je bilo z dijaki opravljeni osebno.

V kvantitativni raziskavi je sodelovalo skupno 203 dijakov, 158 ženskega spola (78 %) in 44 moškega spola (22 %), v kvalitativni raziskavi pa je sodelovalo 20 dijakov (10 ženskega in 10 moškega spola). Skupaj je v raziskavi sodelovalo 223 dijakov (168 ženskega spola in 54 moškega). Spolno se ni opredelil 1 dijak/inja. Starostna struktura respondentov se giblje od 14–19 let. V kvantitativni raziskavi je starostna struktura sodelujočih naslednja: 14 let (1,5 %), 15 let (11,8 %), 16 let (16,3 %), 17 let (17,7 %), 18 let (22,7 %), 19 let (30 %).

Vzorec kvalitativne raziskave je zajemal dijake vseh štirih letnikov srednje šole. Sodelovalo je 5 dijakov v starosti od 14–15 let (25,0 %) prvih letnikov, 5 dijakov v starosti od 16–17 let (25,0 %) drugih letnikov, 5 dijakov v starosti od 17–18 let (25,0 %) tretjih letnikov in 5 dijakov v starosti od 18–19 let (25,0 %) četrtih letnikov. Kvantitativni del raziskave je bil opravljen v šolskem letu 2021/22, kvalitativni del pa od oktobra do decembra 2023.

Uporabili smo vprašalnik z lestvicami stališč in ocenjevalnimi lestvicami. Za zagotavljanje zanesljivosti vprašalnika smo uporabili Cronbachov koeficient zanesljivosti (Cronbach' $\alpha = 0,84$).

Postopek zbiranja in obdelave podatkov

Za statistično obdelavo smo uporabili naslednje statistične postopke: deskriptivna statistika atributnih spremenljivk (frekvenčna in strukturna porazdelitev); deskriptivna statistika ordinalnih spremenljivk; Pearsonov hi-kvadrat preizkus in Spearmanov korelacijski koeficient. Za vsak intervju je bil narejen stenogram, analiza pa je potekala po principu kodiranja glede na zastavljena raziskovalna vprašanja. Izdvojene so bile tri kategorije, združene v dve temi: (i) obseg in narava spolnega nasilja med dijaki v obmejnem prostoru; (ii) dejavniki, ki vplivajo na pojavljanje spolnega nasilja v obmejnem prostoru.

REZULTATI Z RAZPRAVO

Analiza vprašanja o tem, katere situacije anketirani dojemajo kot spolno nasilje med vrstniki, je pokazala, da velika večina srednješolcev kot spolno nasilje dojemajo poskus posilstva (97,5 %) in otipavanje po telesu, ko si druga oseba tega ne želi (95,5 %). Sklepamo, da največ srednješolcev kot spolno nasilje razume navedeni situaciji ravno zaradi fizičnega stika med storilcem in žrtvijo. Kot spolno nasilje pa srednješolci prav tako v velikem številu prepoznavajo drgnjenje spolnega organa ob golo telo (91,5 %). Med najpogostejše situacije, kjer gre za spolno nasilje, sta se uvrstili tudi razkazovanje genitalij (84,1 %) in nepotrebno dotikanje (82,1 %). Rezultati kažejo, da situaciji, ko gre za neprimerno spogledovanje (6 %) in žvižganje za osebo (15,9 %), srednješolci zelo redko dojemajo kot spolno nasilje, saj so ju kot situaciji spolnega nasilja izbrali v veliko manjšem številu.

Testiranje s hi-kvadrat preizkusom je razkrilo statistično značilne povezave po spolu pri izsiljenem poljub (p = 0,018), nepotrebem dotikanju (p = 0,001) in opazovanju pri slačenju (p = 0,047). V vseh omenjenih situacijah so dejanje kot nasilno pogostejše razumele dijakinje, največja razlika med odgovori moških in žensk pa je evidentna pri nepotrebem dotikanju, kjer je dejanje kot nasilno razumelo 86,6 % žensk in 65,1 % moških. Pri ostalih situacijah ni bilo bistvenih oz. statistično značilnih razlik v odgovorih glede na spol (p > 0,05).

Tabela 1: Razumevanje in (pre)poznavanje spolnega nasilja s strani dijakov in dijakinj.

Analiza povezanosti med razumevanjem situacij kot nasilnih in spolom							
			Spol			Pearsonov hi-kvadrat preizkus	
			Moški	Ženska	I ²	df	p
Izsiljen poljub	Da	N	25	120	5,638	1	0,018
		% znotraj spola	58,1 %	76,4 %			
	Ne	N	18	37			
		% znotraj spola	41,9 %	23,6 %			
Otipavanje po telesu, ko si druga oseba tega ne želi	Da	N	42	149	0,600	1	0,439
		% znotraj spola	97,7 %	94,9 %			
	Ne	N	1	8			
		% znotraj spola	2,3 %	5,1 %			
Žvižganje za vami, ko greste mimo	Da	N	4	28	1,819	1	0,177
		% znotraj spola	9,3 %	17,8 %			
	Ne	N	39	129			
		% znotraj spola	90,7 %	82,2 %			
Kazanje fotografij s spolno vsebino	Da	N	26	106	0,744	1	0,388
		% znotraj spola	60,5 %	67,5 %			
	Ne	N	17	51			
		% znotraj spola	39,5 %	32,5 %			
Nepotrebno dotikanje	Da	N	28	136	10,526	1	0,001
		% znotraj spola	65,1 %	86,6 %			
	Ne	N	15	21			
		% znotraj spola	34,9 %	13,4 %			
Spogledovanje	Da	N	2	10	0,176	1	0,675
		% znotraj spola	4,7 %	6,4 %			
	Ne	N	41	147			
		% znotraj spola	95,3 %	93,6 %			
Poskus posilstva	Da	N	43	152	1,398	1	0,237
		% znotraj spola	100 %	96,8 %			
	Ne	N	0	5			
		% znotraj spola	0 %	3,2 %			
Ščipanje po telesu	Da	N	20	78	0,056	1	0,813
		% znotraj spola	47,6 %	49,7 %			
	Ne	N	22	79			
		% znotraj spola	52,4 %	50,3 %			
Razširjanje govoric s spolno vsebino o posamezniku	Da	N	30	127	2,462	1	0,117
		% znotraj spola	69,8 %	80,9 %			
	Ne	N	13	30			
		% znotraj spola	30,2 %	19,1 %			
Razkazovanje genitalij	Da	N	33	135	2,135	1	0,144
		% znotraj spola	76,7 %	86 %			
	Ne	N	10	22			
		% znotraj spola	23,3 %	14 %			
Neprimerni in nesramni komentarji	Da	N	19	74	0,117	1	0,732
		% znotraj spola	44,2 %	41,1 %			
	Ne	N	24	83			
		% znotraj spola	55,8 %	52,9 %			
Nagovarjanje k spolnemu odnosu	Da	N	31	128	1,835	1	0,176
		% znotraj spola	72,1 %	81,5 %			
	Ne	N	12	29			
		% znotraj spola	27,9 %	18,5 %			
Opazovanje pri slačenju	Da	N	27	122	3,934	1	0,047
		% znotraj spola	62,8 %	77,7 %			
	Ne	N	16	35			
		% znotraj spola	37,2 %	22,3 %			
Drgnjenje spolnega organa ob golo telo	Da	N	37	146	2,084	1	0,149
		% znotraj spola	86 %	93 %			
	Ne	N	6	11			
		% znotraj spola	14 %	7 %			
Ko ste dalj časa izpostavljeni nenamernemu opazovanju s strani vašega vrstnika	Da	N	15	62	0,301	1	0,583
		% znotraj spola	34,9 %	39,5 %			
	Ne	N	28	95			
		% znotraj spola	65,1 %	60,5 %			

Legenda: χ^2 – hi-kvadrat statistika; df – stopnje prostosti; p – statistična značilnost.

Tabela 2: Osnovne statistike pogostosti izpostavljanja situacijam spolnega nasilja v času srednješolskega izobraževanja.

Kako pogosto ste oz. ste bili izpostavljeni opisanim situacijam v času srednješolskega izobraževanja? (ocena 1 pomeni – nikoli, 2 – zelo redko (do največ 4x), ocena 3 – občasno (5–7x), ocena 4 – pogosto (8–10x) in ocena 5 – zelo pogosto (več kot 11x))						
	N	Min.	Max.	AS	M0	SO
Izsiljen poljub s strani vrstnika	201	1	5	1,26	1	0,697
Otipavanje po telesu s strani starejše osebe	200	1	4	1,2	1	0,518
Otipavanje po telesu s strani vrstnika	201	1	5	1,55	1	0,830
Pohotni pogledi s strani vrstnika	201	1	5	1,77	1	1,019
Žvižganje za vami	201	1	5	1,96	1	1,026
Kazanje fotografij s spolno vsebino	201	1	5	1,42	1	0,797
Nezaželeno dotikanje	201	1	5	1,46	1	0,721
Spogledovanje	201	1	5	2,36	2	1,159
Poskus posilstva	201	1	2	1,03	1	0,171
Razkazovanje genitalij	201	1	3	1,1	1	0,352
Neprimerni in nesramni komentarji s spolno vsebino	201	1	5	1,58	1	0,803
Nagovarjanje k spolnemu odnosu	201	1	5	1,42	1	0,869
Opazovanje pri slačenju	201	1	5	1,3	1	0,673

Legenda: n - število enot; Min – minimalna ocena; Max – maksimalna ocena; AS - aritmetična sredina; M0- modus; SO - standardni odklon.

Mnenje dijakov o pogostosti izpostavljanja spolnemu nasilju

Glede na povprečne vrednosti, ki se gibljejo od $AS = 1,03 \pm 0,17$ do $AS = 2,36 \pm 1,16$, sklepamo, da anketirani dijaki na srednjih šolah spolnemu nasilju niso bili izpostavljeni oziroma so mu bili izpostavljeni zelo redko. Aritmetična sredina prikazuje, da se srednješolci v največji meri soočajo s situacijami »spogledovanja« ($AS = 2,36 \pm 1,16$), »žvižganja« ($AS = 1,96 \pm 1,03$) in s »pohotnimi pogledi s strani njihovih vrstnikov« ($AS = 1,77 \pm 1,02$). Pri teh odgovorih smo opazili tudi največjo razpršenost podatkov, saj so bili odgovori anketirancev najbolj raznoliki. Udeleženci so bili najbolj enotni pri odgovarjanju glede »poskusa posilstva«, ki je situacija, ki so jo doživeli najmanj pogosto (oz. je še niso doživeli) in kjer je bil standardni odklon najmanjši ($AS = 1,03$, $SO = 0,17$).

V nadaljevanju smo preverili, ali prihaja do povezanosti med letnikom šolanja in pogostostjo

izpostavljenosti različnim nasilnim situacijam, pri čemer smo uporabili Spearmanov koeficient korelacije. Rezultati so pokazali statistično značilno korelacijo med letnikom šolanja in spolnim nasiljem, kjer gre za »otipavanje po telesu s strani vrstnika« ($\rho = 0,201$, $p = 0,004$).

Smer korelacije je pozitivna, kar pomeni, da višji, kot je letnik srednješolskega izobraževanja pri posamezniku, bolj pogosto je ta izpostavljen situacijam otipavanja s strani vrstnika (op. jakost korelacije je šibka). Nadalje, pokazala se je tudi šibka statistično značilna povezanost med letnikom šolanja in situacijo »žvižganja za osebo« ($\rho = 0,211$, $p = 0,003$). Tudi v tem primeru je smer korelacije pozitivna, kar pomeni, da v višjih letnikih posamezniki večkrat oziroma bolj pogosto doživijo situacijo žvižganja za osebo. Iz rezultatov lahko vidimo, da so vse korelacije med letnikom šolanja in posameznimi spolno nasilnimi dejanji pozitivne.

Statistično značilne korelacije ($p < 0,05$) smo zaznali še pri naslednjih situacijah: (i) izsiljen

poljub s strani vrstnika ($\rho = 0,169$, $p = 0,019$), (ii) pohotni pogledi s strani vrstnika ($\rho = 0,154$, $p = 0,029$), (iii) spogledovanje ($\rho = 0,164$, $p = 0,020$), (iv) neprimerni in nesramni komentarji s spolno vsebino ($\rho = 0,156$, $p = 0,027$) ter pri (vii) nagovarjanje k spolnemu odnosu ($\rho = 0,178$, $p = 0,012$). Za vse povezave med letnikom šolanja in pogostostjo situacij spolno nasilnih dejanj, za katere smo ugotovili, da so statistično značilne ($p < 0,05$), velja da so po jakosti šibke in pozitivne. Torej za vsa omenjena dejanja spolnega nasilja velja, da so jih bolj pogosto doživeli posamezniki višjih letnikov, kjer lahko (ob določenem tveganju) trdimo, da ugotovljena korelacija na vzorcu velja oz. obstaja tudi na celotni populaciji.

Ugotovili smo, da se spolno nasilje najpogosteje dogaja izven šolskega okoliša (46,7 %), kar je bil najpogostejši odgovor na vprašanje, kje se je spolno nasilje zgodilo. To lahko podkrepimo tudi z dejstvom, da ta okoliš ni več pod nadzorom učiteljev ter drugih vrst ali oblik nadzora, zato so dejanja, ki se na teh krajih dogajajo in njihova pogostost, vedno bolj zaskrbljujoča. Respondenti navajajo, da se spolno nasilje ne dogaja na šolskem stranišču (0,0 %) ter da se redko pripeti v šolskih garderobah (13,3 %) ali v razredu (20,0 %). Izračun s hi-kvadrat preizkusom hipoteze enake verjetnosti je pokazal, da se največ odgovorov dijakov uvrsti v kategorijo, da se spolno nasilje najpogosteje dogaja izven šolskega okoliša (11,800, $df = 5$, $p = 0,038$).

Mnenje dijakov in dijakinj o pogostosti ozaveščanja o spolnem nasilju

Iz preglednice 3 je razvidno, da so srednješolci tematiko spolnega nasilja in ustreznega ukrepanja ob njegovem pojavu v času šolanja pri pouku zelo redko obravnavali. To nam potrjujejo podatki, saj se kar 51,7 % srednješolcev v srednji šoli še nikoli ni pogovarjalo o spolnem nasilju, 30,8 % srednješolcev pa zelo redko (111,299, $df = 3$, $p < 0,001$).

Druga spoznanja raziskave kažejo naslednje:

Dijaki, ki so bili žrtve spolnega nasilja, so najpogosteje posledice čutili v občutkih tesnobe, strahu in stresa, pri premagovanju težav in travm pa so se zatekli k zlorabi drog in alkohola. Zapadli so v depresijo, se spopadali z motnjami hranjenja in se zaprli vase. Kot storilca spolnega dejanja so udeleženci najpogosteje navedli sošolca (41,7 %), prijatelja (41,7 %) in vrstnika (33,3 %). Pri odgovarjanju na vprašanje, katerega spola je bil storilec spolnega nasilja, so v večini vsi udeleženci navedli, da je bil storilec spolnega nasilja nasprotnega spola (91,7 %).

Ugotovili smo tudi, da udeleženci ne poznajo veliko svojih sošolcev, ki so bili ali so žrtve spolnega nasilja. Podatki kažejo, da večina udeležencev ni poznala sošolca, ki bi bil žrtev medvrstniškega

Tabela 3: Osnovne statistike o pogostosti obravnavanja tematike spolnega nasilja v šoli.

Ste v času šolanja na srednji šoli kdaj pri pouku obravnavali tematiko spolnega nasilja in kako ustrezno ukrepati, če pride do njega?		
	N	%
Nikoli.	104	51,7 %
Zelo redko (do 2-krat).	62	30,8 %
Občasno (od 2-krat do 4-krat).	32	15,9 %
Pogosto (od 5-krat do 10-krat).	3	1,5 %
Skupaj	201	100 %

spolnega nasilja oz. je bilo to redko. Upoštevati moramo tudi vidik, da mora žrtev za priznanje spolnega nasilja zbrati veliko poguma ter zaupati osebi, s katero se pogovori o zlorabi. Zaradi tega pa je verjetno, da je sošolcev, ki so bili žrtve, veliko več. Najpogostejši odgovor, kje se spolno nasilje najpogosteje dogaja, so udeleženci navedli izven šolskega okoliša (58,3 %) in v razredu (20 %).

Intervju z dijaki, ki živijo in obiskujejo srednjo šolo v Slovenski Istri

Pri kvalitativni raziskavi smo opravili polstrukturiran intervju z dvajsetimi dijaki obmejnega območja. Intervjuji so se izvajali od oktobra do decembra 2023. V nadaljevanju so rezultati kvalitativne analize predstavljeni po tematskih sklopih. Zapisji so dobesedni.

(i) obseg in narava spolnega nasilja med dijaki v obmejnem prostoru

Večina srednješolcev navaja, da se na obalnih šolah spolno nasilje ne pojavlja tako pogosto. Najpogostejše oblike, ki jih prepoznajo so npr. »... otipavanje, neprimerno izražanje s spolno eksplicitno vsebino, spogledovanje [...]«. O takšnih oblikah spolnega nasilja dijaki ne poročajo razredniku oz. drugim profesorjem, pogovarjajo se zgolj med vrstniki. Ugotavljajo namreč, da »se nič ne bi zgodilo, vedno te označijo za lažnivca ali da iščeš pozornost [...]«, »sankcij ni, ker ni dokazljivo.«

Fantje pravijo, da je punca »iskala ali da je lahkoživka [...]«. Spolnemu nasilju v šolskih prostorih je bilo podvrženih 90 % dijakinj in 20 % dijakov. Dijakinja pove, da »zdi se mi, da je več otipavanja in neprimerne vedenja v dijaškem domu, vsaj tako mi je povedala sošolka [...]«.

Drugače pa je v izvenšolskih prostorih oz. ob koncih tedna, kjer so si vsi respondenti enotni, da je spolnega in drugega nasilja veliko, in

sicer »pogosto se zvečer vračam s treninga in me je v Kopru strah. Veliko je mladih Šiptarjev [op. Albancev], ki za mano kričijo, kako sem seksi, kam grem, če gredo lahko z mano, če imam naravne [...]«.«

Vrstnica navaja, da se najbolj boji, »ko gremo v soboto zvečer s prijateljicami ven. Najslabše je v Izoli, zato gremo raje kam drugam. Pogosto prosim starejšega brata in njegove prijatelje, da nas spremljajo, ker se vse punce bojimo. V barih je veliko otipavanja, moji prijateljski je en tip izsilil poljub in jo šlatal, kar naprej nekaj nadlegujejo. Občutek ti dajo, da same izzivamo, ker smo lepe, morda bolj izzivalno oblečene [...]«.« Respondentke navajajo, da ne gre za starejše predstavnike moškega spola, temveč za vrstnike oz. fante, ki so leto ali največ dve leti starejši.

Najbolj se bojim, če sem sama zvečer, npr. na parkirišču ali kakšni ulici ali ko grem pozno na avtobus [...], v šoli me ni strah, nikoli.

Včasih razmišljam o bližini državne meje. Kaj, če pride do kaznivega dejanja [op. posilstva ali, če me kdo ugrabil, meja je preveč blizu, hitro se lahko zgodi, da storilca ne najdejo več [...].

[...] zvečer se bojim sama po mestu, izogibam se skupinam fantov, predvsem, če slišim, da ne govorijo slovensko [...].

[...] ko se zvečer vračam s treninga plesa, sem vedno na telefonu s fantom, ker se bojim sama po ulici do avtobusne postaje.

Fantje v veliki večini navajajo, da »gre za iskanje pozornosti, ne vem, če bi res kaj naredili puncam [...]«, drug dijak navaja »če so mladi v skupinah, radi verbalno izzivajo, samo mimo moraš [...]«.«

(ii) dejavniki, ki vplivajo na pojavljanje spolnega nasilja

Med respondenti smo ugotavljali, kateri so po njihovem mnenju ključni dejavniki za pojavljanje spolnega nasilja v obmejnem prostoru. V večini menijo, da »se obmejni prostor ne razlikuje od večjih slovenskih mest«, Obalo izpostavijo zaradi pristanišča in bližine meje, ker je tukaj več dnevnih migracij in predvsem tujih državljanov, ki so zaposleni v gospodarstvu, njihovi otroci pa tukaj obiskujejo šole. Dijaki precej enotno navajajo, da »gre pri povečanem spolnem nasilju predvsem za kulturne razlike, ki vodijo do neprimernega obnašanja in nasilja, težave v družbi, ki jih morda ne sprejme in neupoštevanje naših pravil, vrednost [op. enakost spolov, ženska nedotakljivost] [...]«.« Izpostavijo tudi digitalno tehnologijo, »fantje smo na socialnih omrežjih, kjer je veliko pogovorov o puncah, katera je seksi, katero bi imeli, pogumnejši

tudi nadlegujejo punce s kakšnimi neprimernimi komentarji, fotografijami [...]«.« Nekateri navajajo tudi merjenje moči oz. tekmovalnost med fanti.

Dekleta pa navajajo naslednje: »To so samo izgovori, če prideš v tujo državo in družbo, moraš sprejeti našo kulturo in zakonodajo [...]«, druga dijakinja navaja, da »gre predvsem za spolno neenakost. Obravnavajo nas, kot da smo manj vredne, žalijo, nagovarjajo k seksu, otipavajo, ker je to njim normalno. Pa ni!«

Sledi »fantje se združujejo v skupinah, nikoli ni en sam. Takrat pridobijo na moči in veljavi in so še posebej nadležni. Zdi se mi, da svoje naredi tudi alkohol, pa droge [...]«.« »Ko grem s prijateljicami zvečer ven, imam vedno solzivec v torbici [...]«.«

Skorajda vsa dekleta in fantje navajajo, da nimajo težav z Italijani, največ jih imajo z državljani bivše Jugoslavije, migrantov iz drugih držav pa ne srečujejo pogosto. Polnoletna dijakinja pove, »[...] šla sem na majhno stranišče v baru in za mano je prišel državljani Albanije ali Kosova, me stisnil v kot in porinil svoj jezik v moja usta, za njim je stal njegov prijatelj in se smejal. Od takrat ne hodim več sama na stranišče [...]«.«

Druga pove: »zvečer sem šla po Kidričevi ulici (op. center Kopra) v pekarno, pred mano so stopili štiri fantje, ki so govorili meni neznan jezik (op. respondentka meni, da je šlo za albanščino), obkolili so me, me otipavali in me niso spustili dalje. Temu so se smejali, jaz pa sem doživljala neizmeren strah [...]«.«

Dijaki enotno povedo, da jih jezi dejstvo, da je v Slovenski Istri kot tudi drugje v Sloveniji povsem »normalno, da moški žvižgajo za žensko, ji dajejo neokusne opazke, slačijo s pogledom, jo otipavajo [...]«.«

Mnenje dijakov Slovenske Istre o spolnem nasilju s strani vrstnikov tujcev lahko variira glede na njihove izkušnje, izobrazbo, kulturno ozadje in druge dejavnike. Ugotovili smo, da so mnenja raznolika, saj se nekateri dijaki morda zavedajo kulturnih razlik, ki lahko vplivajo na razumevanje soglasja in meje v medosebnih odnosih, medtem ko drugi vztrajajo pri univerzalnosti spoštovanja in soglasja (kar je opazno predvsem pri dekletih). Nekateri respondenti se prav tako zavedajo stereotipov in predsodkov, povezanih s spolom in tujimi kulturami, ki lahko vplivajo na dožemanje spolnega nasilja. Vsa dekleta so odgovorila, da se zvečer (op. in pozno popoldan, ko se stemni) bojijo same na sprehod po mestu, na avtobusno postajo, do tržnice ipd. Bojijo se predvsem fantov, ki se zbirajo v skupinah in ne govorijo slovenskega jezika, nekaj pa jih navaja, da se bojijo vseh moških ne glede na jezik in kulturno pripadnost. Dijakinje navajajo, da je »veliko več spolnega nasilja s strani tujih

državljanov v primerjavi s slovenskimi«, dijaki pa menijo, da »znajo biti nadležni in izzivalni oboji, čeprav je takih iz bivše Juge več.«

SKLEPNE UGOTOVITVE

Medvrstniško spolno nasilje je kompleksen pojav, ki vključuje neželjeno spolno vedenje med posamezniki enake starosti ali v enakem socialnem kontekstu. S pomočjo kvalitativne in kvantitativne raziskave smo ugotavljali poznavanje spolnega nasilja, pogostost in dejavnike pojavnosti ter preventivne (vzgojno-izobraževalne) pristope, ki delujejo v smislu preventive in kurative ob znakih spolnega nasilja med srednješolci. Izpostavili smo tudi dijake, ki se šolajo in živijo v obmejnem prostoru Slovenske Istre, saj nas je zanimalo mnenje o pojavnosti medvrstniškega spolnega nasilja na tem območju.

Rezultati kažejo, da srednješolci zelo dobro (pre)poznajo situacije spolnega nasilja. Večina srednješolcev kot spolno nasilje dojema poskus posilstva (97,5 %) in otipavanje po telesu, ko si druga oseba tega ne želi (95,5 %). Kot spolno nasilje pa srednješolci prav tako v velikem številu prepoznajo drgnjenje spolnega organa ob telo druge osebe (91,5 %).

Glede na predhodno zastavljene hipoteze ugotavljamo naslednje:

(Ad H1) Statistično značilne povezave po spolu se pojavljajo pri izsiljenem poljubu ($p = 0,018$), nepotrebnem dotikanju ($p = 0,001$) in opazovanju pri slačenju ($p = 0,047$). V vseh omenjenih situacijah so dejanje kot nasilno pogostejše razumele dijakinje. Največja razlika med odgovori moških in žensk je evidentna pri nepotrebnem dotikanju, kjer je dejanje kot nasilno razumelo 86,6 % žensk in 65,1 % moških. Pri ostalih situacijah ni bilo bistvenih oz. statistično značilnih razlik v odgovorih glede na spol ($p > 0,05$);

(Ad H2) Ugotovili smo, da se spolno nasilje redkeje dogaja med zidovi srednjih šol in pogostejše izven šolskega okoliša. V največji meri se srednješolci soočajo s situacijami »spogledovanja, »žvižganja« in s »pohotnimi pogledi s strani njihovih vrstnikov«. Glede na povprečne vrednosti, ki se gibljejo od $AS = 1,03 \pm 0,17$ do $AS = 2,36 \pm 1,16$, sklepamo, da anketirani dijaki na srednjih šolah spolnemu nasilju niso bili izpostavljeni oziroma so mu bili izpostavljeni zelo redko;

(Ad H3) Srednješolci so tematiko spolnega nasilja in ustreznega ukrepanja ob njegovem pojavu v času šolanja pri pouku zelo redko obravnavali.

Spolno nasilje je dejanje, ki na žrtvi zagotovo pusti travme in posledice za celo življenje. Na vprašanje, komu so žrtve spolnega nasilja zaupale svojo osebno zgodbo, je najpogostejši odgovor

prijatelju/ici (58,3 %). O tem, da bi se žrtev zaupala komu od strokovnih delavcev ali šolskemu osebju, ni bila podana nobena izbira. To nam daje potrditev, da srednje šole premalo delujejo na področju spolnega nasilja in zlorab. Na vprašanje, zakaj so dogodek obdržale le zase, pa žrtve spolnega nasilja odgovarjajo, da so o svojih doživetjih molčale zaradi strahu in sramu. Fantje so prav tako redkeje poročali o spolnem nasilju v primerjavi z dekleti, kar je ugotovila že predhodna raziskava (Kuhar & Zaviršek, 2023), kjer naj bi šlo morda za t. i. »višji prag tolerance do nasilnih dejanj s spolno vsebino«, kar je morda povezano s patriarhalno definicijo moškosti.

(Ad RV1): Glede na analizo kvalitativnega dela raziskave je moč ugotoviti, da je medvrstniško spolno nasilje med mladimi v Slovenski Istri v porastu. Spolno nasilje med dijaki je kompleksen in občutljiv problem, ki ga je težko kvantitativno opredeliti, saj mnogi primeri ostanejo neprijavljeni. Dijaki Slovenske Istre opozarjajo na nasilje, ki se dogaja izven šolskih prostorov, povzročitelji pa so predvsem vrstniki, ki niso slovenske narodnosti. Dejavniki, ki lahko vplivajo na pojavljanje spolnega nasilja med mladimi v Slovenski Istri, so glede na opravljeno študijo lahko raznoliki in vključujejo: družbeno, kulturno in socialno-ekonomsko ozadje povzročiteljev; izobrazbo in ozaveščenost o mehanizmih za preprečevanje in obravnavanje nasilja; zlorabo moči in patriarhalno definicijo moškosti; družinsko ozadje povzročiteljev idr.

Ugotovitve kvalitativne in kvantitativne raziskave pričajo predvsem o tem, da obstajajo številni vzroki in dejavniki, ki lahko prispevajo k pojavu medvrstniškega spolnega nasilja, kjer izpostavljamo predvsem: (i) spolno neenakost, ki lahko pripomore k močnemu neravnovesju v odnosih; (ii) pomanjkanje preventivnih dejavnosti in izobraževanja o spolnih pravicah, meji soglasja in spoštovanju drugih; (iii) vse večji socialni pritiski in pričakovanja, kjer gre za izražanje spolnega nasilja kot sredstva moči ali nadzora; (iv) tekmovalnost med mladimi za pridobivanje socialne moči ali statusa; (v) zloraba alkohola in drog, ki povečuje tveganje za nasilje in otežuje prepoznavanje neprimernega vedenja; (vi) pomanjkanje nadzora in vzgoje; (vii) nezadovoljiva zakonodaja in pomanjkanje pravnih posledic za medvrstniško spolno nasilje; (viii) vpliv medijev in digitalne tehnologije, ki normalizirajo spolno nasilje ali prikazujejo nerealne in škodljive odnose.

Raziskave o spolnem nasilju med mladimi so ključne za razumevanje in preprečevanje tega pogostega pojava. Posledice spolnega nasilja med mladimi so lahko dolgoročne in vplivajo na njihovo telesno in duševno zdravje, socialne odnose ter akademsko in poklicno uspešnost. Zato je pomembno, da se izvajajo učinkoviti programi za preprečevanje

medvrstniškega spolnega nasilja, ki vključujejo izobraževanje o soglasju, ozaveščanje o posledicah spolnega nasilja, spodbujanje enakopravnih odnosov ter zagotavljanje podpore žrtvam.

Študija opozarja na pomembnost razumevanja dinamike medvrstniškega spolnega nasilja ter razvoja učinkovitejših strategij za preprečevanje in obravnavo tega problema med slovensko mladino.

Omejitve raziskave se nanašajo predvsem na pomanjkljivosti vzorca, saj je reprezentativnost vzorca v primerjavi z verjetnostnimi naključnimi vzorci manjša, zato je posploševanje oteženo. Raziskava se nanaša zgolj na srednješolce, ki živijo v urbanih območjih (vključili smo zgolj večja

mesta). Študijo bi bilo smiselno ponoviti na večjem vzorcu, ki ne bo regijsko omejen, da bodo rezultati bolj relevantni. Pomemben je tudi vzorčni okvir ter način izbiranja kandidatov za raziskavo v vzorec (op. verjetnostno ali neverjetnostno vzorčenje). Ker gre za zelo občutljivo tematiko, moramo upoštevati tudi to, da odgovori določenih anketirancev niso bili iskreni in so rezultati pojavnosti nasilja do določene mere podcenjeni. V raziskavi smo se omejili le na prepoznavanje in informiranost o spolnem nasilju, nismo pa preverjali odnosa mladih oz. njihovega doživljanja tovrstnih dejanj, kar bi bila lahko dodatna usmeritev ob ponovitvi tovrstne raziskave na večjem vzorcu.

SILENT PANDEMIC: SEXUAL VIOLENCE AMONG SLOVENIAN HIGH SCHOOL STUDENTS

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SUMMARY

Peer sexual violence is a complex phenomenon that encompasses unwanted sexual behaviour between individuals of the same age or in the same social environment. Using qualitative and quantitative research, we found out what is known about sexual violence, the frequency and factors of occurrence, and preventive (educational) approaches to prevent and cure signs of sexual violence among high school students. We also interviewed students who go to school and live in the vast area of Slovenian Istria, as we are interested in their opinion about the occurrence of sexual violence among their peers in this area. The results show that high school students (re)recognize situations of sexual violence very well. The majority of high school students perceive attempted rape (97.5%) and touching the body when the other person does not want it (95.5%) as sexual violence. A large number of high school students also recognize rubbing the genitals against the naked body as sexual violence (91.5%). We found that sexual violence occurs both inside and outside the school walls. High school students are most frequently confronted with situations in which they are flirted with, whistled at and receive lecherous looks from their peers. Students who were victims of sexual violence most often felt the consequences in the form of anxiety, fear and stress. To overcome problems and trauma, they turned to drugs and alcohol. They fell into depression, struggled with eating disorders and withdrew. The participants most frequently named a classmate (41.7%), a friend (41.7%) and a peer (33.3%) as the perpetrator of the sexual act. After analysing the qualitative part of the study, it can be concluded that sexual violence among young people in Slovenian Istria is on the rise. Sexual violence among schoolchildren is a complex and sensitive problem that is difficult to define quantitatively, as many cases go unreported.

Keywords: sexual violence, peer violence, students, border area, high school

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EVROPA ZDAJ! (ALI VSAJ DO 92'): JUGOSLOVANSKA ZGODOVINA SLOVENSKEGA PRIBLIŽEVANJA EVROPSKIM INTEGRACIJAM

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IZVLEČEK

Na osnovi ustaljenih tesnih odnosov med Evropsko gospodarsko skupnostjo in Jugoslavijo se je Beograd konec osemdesetih let obotavljivo spustil v poglobljanje vezi z Brusljem, ki bi na koncu morda celo pripeljala do pridruženega ali celo polnopravnega članstva. V kolikor so geopolitične spremembe v Evropi po padcu berlinskega zidu in večja pozornost Bruslja na zapletene jugoslovanske notranje razmere delali te načrte nerealne, je socialistični establishment v Sloveniji ubral svojo pot približevanja nastajajoči Evropski uniji. Z analizo imaginarija evropskosti in tehnokratskih strategij harmonizacije z evropskimi predpisi članek pokaže na zavzetost zadnje slovenske socialistične vlade in reformirane Zveze komunistov Slovenije, ki pa se vseeno ni izključevala z vizijo evropske integracije Slovenije v okviru Jugoslavije.

Ključne besede: Jugoslavija, EGS, Enotni evropski akt, Zveza komunistov Slovenije, Bela knjiga 1990

EUROPA ADESSO! (O ALMENO ENTRO IL 1992): LA STORIA JUGOSLAVA DELL'AVVICINAMENTO SLOVENO ALLE INTEGRAZIONI EUROPEE

SINTESI

Verso la fine degli anni '80, incoraggiato dalle relazioni strette e consolidate tra la Comunità economica europea e la Jugoslavia, Belgrado intraprese con prudenza un approfondimento dei legami con Bruxelles che, auspicabilmente, avrebbe portato all'adesione della Jugoslavia a detta integrazione come membro associato o addirittura a pieno titolo. I cambiamenti geopolitici in Europa seguenti alla caduta del muro di Berlino e un'accresciuta attenzione di Bruxelles per la complicata situazione interna in Jugoslavia, invece, resero tali aspettative poco realistiche e spinsero l'establishment socialista in Slovenia a incamminarsi per la propria strada verso l'emergente Unione europea. Analizzando l'immaginario dell'europeismo e le strategie tecnocratiche di armonizzazione con le norme europee, l'articolo espone l'impegno dell'ultimo governo socialista sloveno e della riformata Lega dei comunisti della Slovenia, il quale, tuttavia, non precludeva la visione dell'integrazione europea della Slovenia nell'ambito della Jugoslavia.

Parole chiave: Jugoslavia, Comunità economica europea, Atto unico europeo, Lega dei comunisti della Slovenia, Libro bianco del 1990

UVOD¹

S svojim fokusom na obdobju med letoma 1988 in 1990, torej na času intenzivnih, čeravno še ne dokončnih političnih premikov tako v srednji in vzhodni Evropi kot tudi znotraj Jugoslavije, se pričujoči članek posveča debatom v zvezi z odnosom do procesa evropskega integriranja, ki so se v miljeu slovenskega poznosocialističnega establishmenta porajale v kontekstu razmišljanj o zunanji politiki, pa tudi v bolj imaginarnih kontekstih kulturnega samoumeščanja. Kot dopolnilo k obstoječim študijam, ki gradijo svoje argumente zlasti na virih, ustvarjenih s strani Evropske gospodarske skupnosti (EGS) (Radeljič, 2012; Zaccaria, 2016; 2021), se moja analiza naslanja na vzporedno branje dokumentov, ki so jih ob koncu osemdesetih let zapustili organi, ki so se tako na nivoju federacije kot na nivoju do EGS najbolj izpostavljene jugoslovanske republike Slovenije ukvarjali z mednarodnimi odnosi. Pogled zveznih organov za zunanje zadeve je v tej visoko federalizirani državi vredno dopolniti z republiškim iz dveh razlogov. Prvič, ker zaradi vitalnega interesa slovenskega gospodarstva in družbe, s tem pa tudi politike, razkriva dimenzije odnosov med Jugoslavijo in EGS, ki jih na osnovi beograjskih arhivov ne moremo v celoti rekonstruirati, kot so to nazorno pokazali že nekateri drugi avtorji (Udovič, 2017; 2022; Udovič & Vojinović Jačimović, 2019; Nečak, 2014; Režek, 2017). Drugič, ker analiza republiških strategij za približevanje evropskim integracijam, nastalih še v času zadnjega socialističnega izvršnega sveta pod vodstvom Dušana Šinigoja, kaže na sicer samoiniciativno, a še vedno v jugoslovanski okvir vpeto namero za odpravljanje ovir k tesnejšemu sodelovanju z EGS, kar lahko razumemo kot nov kamenček v razumevanju mozaika pogledov na prihodnost Slovenije v Jugoslaviji, ki so ostajali nedorečeni tudi še v začetku leta 1990 (Pirjevec, 2016; Repe, 2017; Gonzáles Villa, 2017). Slednje je tudi razlog uporabe označbe »jugoslovanska« zgodovina v naslovu pričujočega članka, s čimer želim poudariti zmotnost vse do danes ohranjene interpretacije gesla »Evropa zdaj!«, ki simbolizira omenjene programske usmeritve zadnje generacije slovenskega socialističnega establishmenta, kot separatističnega poziva.

Pazljivo sledenje dokumentom organov, ki so se ukvarjali z mednarodnimi odnosi na nivoju federacije in republike: zvezni sekretariat za zunanje zadeve,

zvezno predsedstvo, zvezni izvršni svet (vlada), republiški komite za mednarodne odnose in republiško predsedstvo omogoča, da se v tem članku osvetli nejasnost položaja Jugoslavije v zadnjih letih njenega obstoja v odnosu do procesa evropskega integriranja, o čemer med raziskovalci ne obstaja enotno mnenje (Radeljič, 2012, 70). Upoštevajoč spreminjajoč se mednarodni kontekst (zlasti padec režimov državnega socializma v srednji in vzhodni Evropi) bo ta članek pokazal na padajočo vrednost jugoslovanskih političnih delnic med bruseljskimi odločevalskimi krogi in na nerealnost priključitve Jugoslavije k EGS, o čemer se je špekuliralo v začetku devetdesetih let. V zvezi s Slovenijo diskusija o evropskih integracijah ali kar na splošno o ezoteričnem pojmu »evropskosti« kaže na pluralno predstavo o bodočnosti republike znotraj socialističnih oblastnih krogov, ki je za razliko od stališča opozicije in kasnejše Demosove vlade, da pot do Bruslja nikakor ne vodi skozi Beograd (Bučar & Udovič, 2023, 391), tudi ob sestopu z oblasti leta 1990 ni izključevala približevanja k EGS v okviru Jugoslavije. Hkrati pa to nedefinirano stališče ni odvrčalo republiškega vodstva od snovanja lastnih strateških načrtov za harmonizacijo slovenske gospodarske, socialne, kulturne in znanstveno-izobraževalne sfere z zahtevami ambicioznega programa »Evropa 92'«.

Slovensko razmišljanje o Evropi ob koncu osemdesetih let se nam ob zaključku pričujoče razprave kaže kot odlična ilustracija teze, s katero so nedavno nastopili avtorji knjige *1989: A Global History of Eastern Europe*, namreč da gre pri tem letu bolj kot za prelom za proces dolgotrajnejšega oblikovanja skupin, ki so po letu 1989 izoblikovale v »tranzicijske elite« (Mark et al., 2019, 12). Morda še bolj izrazito kot druge vzhodnoevropske elite in politična vodstva v ostalih delih Jugoslavije, je slovenski poznosocialistični partijski establishment s svojimi potezami kazal na opustitev kakršnihkoli resnih možnosti za alternativno (socialistično) modernost, pot k zahodnim gospodarskim in socialnim, nekoliko manj pa političnim tokovom, pa kot del nove normalnosti. O tem pričajo tudi koncizni načrti za prevzemanje pravnega reda in standardov EGS, ki ga je zadnji slovenski socialistični izvršni svet pustil kot testament ob predaji oblasti, odmevi tega dolgoročnega pristopa pa so postali očitni zlasti v naslednjem desetletju, ko se je Slovenija kot prva od držav naslednic Jugoslavije s pospešenimi koraki približevala Evropski uniji.

¹ Članek je nastal v sklopu projekta »Cold War Europe Beyond Borders. A Transnational History of Cross-Border Practices in the Alps-Adriatic area from World War II to the present«. Projekt financira Evropski raziskovalni svet (ERC) po pogodbi št. 101054963 in se izvaja na Znanstveno-raziskovalnem središču Koper. Stališča in mnenja, izražena v tem dokumentu, so izključno avtorjeva in ne odražajo nujno stališč Evropske unije ali izvršne agencije Evropskega raziskovalnega sveta. Evropska unija niti organ za podeljevanje sredstev ne moreta biti odgovorna zanj. Članek predstavlja tudi raziskave, opravljene v okviru projekta N6-0304 *Vzpostavljane drugačne globalizacije* in programa P6-0272 *Sredozemlje in Slovenija*, ki ju financira Javna agencija za znanstvenoraziskovalno in inovacijsko dejavnost Republike Slovenije (ARIS) ter projekta »Auf der Suche nach der verlorenen Zeit« – Jugoslawien und die europäische Integration, ki ga je financirala Nemška akademska služba za izmenjavo (DAAD).

JUGOSLAVIJA IN EGS: VPRAŠANJE POLITIČNE IDENTITETE OB KONCU HLADNE VOJNE

Tako kot pri marsičem drugem, je hladnovojna geografska in geopolitična vmesnost Jugoslavije kot socialistične države izven sovjetskega bloka in kot evropskega člana koalicije svetovnega Juga bistveno pogojevala tudi medsebojni odnos Titove države z leta 1957 nastalo EGS. Upoštevajoč to edinstvenost in nihajoč med političnimi in gospodarskimi interesi, so predstavniki obeh strani, ki so začeli z neformalnimi stiki že konec petdesetih let, iskali ustrezno formulo za sodelovanje, ki bi lahko imela samo izvirni značaj onkraj tedaj poznanih vzorcev (članstvo ali pridruženo članstvo) (Zaccaria, 2016, 19). Vzpodbujena s sovjetsko invazijo na Češkoslovaško in v znak simbolične podpore reformsko usmerjenim liberalnim vodstvom v Beogradu, Zagrebu in Ljubljani, je Evropska komisija sklenila prvi trgovinski sporazum z Jugoslavijo leta 1970. Brez da bi ogrožal tedaj že dobro učvrščeno pozicijo Jugoslavije med obema blokoma oz. znotraj gibanja neuvrščeni, je bil ta sporazum viden kot najboljši kompromis za razvijanje nadaljnjih odnosov, pa tudi kot popotnica za vzdrževanje jugoslovanskega procesa ekonomske liberalizacije (Zaccaria, 2016, 46). Odnosi med Jugoslavijo in EGS v sedemdesetih letih so potekali v ozračju pretresov v Sredozemlju, kjer je slednja leta 1972 sprožila svojo splošno sredozemsko politiko (Global Mediterranean Policy) in sklenila vrsto sporazumov z državami ob njegovih obalah. Novi sporazum med Jugoslavijo in EGS iz leta 1980 pa je izstopal iz tega konteksta in bil označen kot *sui generis*, kot nekaj, kar so obe strani po tihem sprejeli kot najtesnejšo obliko sodelovanja z EGS, ki jo še dopuščajo jugoslovanska načela neuvrčenosti (Zaccaria, 2016, 182). Evropska komisija je tako sprejela, kot se je izrazil njen takratni predsednik Roy Jenkins, Jugoslavijo kot državo v razvoju, umeščeno v Evropo oz. natančneje v Sredozemlje (Radeljić, 2020, 321).

Status neuvrščene evropske države v razvoju je bilo izhodišče pri katerem je Jugoslavija vztrajala vse do konca osemdesetih let ne le v odnosu do evropske šesterice, ki je medtem postala evropska dvanajsterica, ampak tudi širše v odnosu do svojih ekonomskih partnerjev iz kapitalističnih držav. S 70 odstotnim deležem pri celoti njenih ekonomskih odnosov s svetom (upoštevajoč izvoz-uvoz, tranzit, turizem, nakazila jugoslovanskih delavcev, skupna vlaganja) je EGS brez dvoma predstavljala najpomembnejšega jugoslovanskega

zunanjega partnerja. V kolikor je Jugoslaviji na osnovi prej omenjenega sporazuma iz leta 1980 bil omogočen brezcarinski izvoz velikega dela njenih industrijskih izdelkov – konec osemdesetih let več kot 9/10 – je bila situacija glede izvoza kmetijskih izdelkov zaradi notranjih protekcionističnih ukrepov EGS bistveno drugačna.² Restriktivni ukrepi pri uvozu kmetijskih proizvodov in izdelkov črne metalurgije (zaradi protidampinških ukrepov) pa niso bili edina težava, ki jo je jugoslovanska stran v drugi polovici osemdesetih let dojemala kot odmik od dogovorjenih načel. Izpostavljali so denimo tudi zavračanje sodelovanja pri evropski raziskovalni iniciativi EUREKA. Soočeni z obveznostjo vračanja dolgov, je jugoslovansko vodstvo začelo gojiti znatna pričakovanja do udeležbe EGS pri strukturni transformaciji jugoslovanske ekonomije. Pri enem od srečanj v Bruslju (namestnika zveznega sekretarja za zunanje zadeve Budimirja Lončarja s komisarjem za sredozemsko politiko in odnose Sever-Jug Claudom Cheyssonom in predsednikom Evropske komisije Jacquesom Delorsom) je beseda tekla tudi ovlaganju v gradnjo in vzdrževanju tranzitne infrastrukture na jugoslovanskih tleh, ki so predstavljala tako kopensko povezavo z Grčijo kot kopensko vstopno točko za pomorsko blago, namenjeno v EGS.³ Tovrstne zahteve so se še okrepile po nastopu vlade Anteja Markovića, ki je sklicujoč se na uspehe svojih ekonomskih reform v posebnem memorandumu, naslovljenem na J. Delorsa izrazil pričakovanje po 1 milijardi ameriških dolarjev ugodnih posojil za nadaljnjo konsolidacijo jugoslovanskega bančnega in industrijskega sektorja, bodisi prek Evropske investicijske banke bodisi neposredno iz proračuna EGS.⁴

EGS vse do konca osemdesetih let ni bila v središču javne razprave v Jugoslaviji. Spreminjajoča se vloga te vse tesneje povezane skupnosti v svetu je bila sicer predmet določenih sočasnih akademskih analiz (Adamović, 1988), jugoslovanske državne oblasti pa so odnose z Brusljem obravnavale kot tehnično vprašanje in ga razvijale zgolj na medvladni ravni (Zaccaria, 2021, 255). Ko so konec osemdesetih let državne oblasti vendarle začele razmišljati o poglobitvi sodelovanja in vključevanju v določene programe EGS, so najprej ugotavljali, da je poznavanje institucionalnega ustroja te povezave med jugoslovanskimi državljani zelo pomanjkljivo, kar jih je pripeljalo do predloga o posebnih informativnih televizijskih oddajah na to temo, o realizaciji katerih pa ni dokazov.⁵ Občasne pozive o pridružitvi, ki so se konec osemdesetih let že pojavljali v tisku, je jugoslovanski veleposlanik pri EGS označil kot neresne in o njih leta 1988 niti ni želel

2 DAMSP, PA, 1988, 95, 435323, 6. 9. 1988.

3 DAMSP, PA, 1987, 117, 44905, 14. 3. 1987.

4 DAMSP, PA, 1989, 124, 443628, 27. 10. 1989.

5 DAMSP, PA, 1988, 95, 435323, 6. 9. 1988.

izgubljati besed,⁶ je pa konec tega leta s stališčem, da Jugoslavija »nekega dne« zaprosi za članstvo v EGS na seji zveznega predsedstva, presenetil slovenski predstavnik v predsedstvu CK Zveze komunistov Jugoslavije Štefan Korošec (Jakovina, 2020, 451), čemur so se v začetku leta 1989 začeli pridruževati tudi nekateri drugi glasovi jugoslovanskih visokih političnih predstavnikov (Zaccaria, 2021, 255).

Kljub poročilom o intenzivnosti procesa integriranja evropske dvanajsterice (in njihovi zadržanosti do sprejema novih članic), ki so jih pošiljali jugoslovanski diplomati iz Bruslja in od drugod, pa do globlje redefinicije pogleda na prihodnost odnosa med Beogradom in EGS vse do konca osemdesetih let ni prišlo. Glavni steber jugoslovanskega globalnega umeščanja je bila in ostala politika neuvrščenosti (septembra 1989 je v Beogradu zopet potekal vrh gibanja). Zvezni sekretar za zunanje zadeve Budimir Lončar je konec leta 1988 v Bruslju pojasnjeval namestniku grškega zunanjega ministra Theodorosu Pangalos, da je pogoj za jugoslovansko vključevanje v vse vrste procesov evropskega sodelovanja in integriranja nadaljnja neodvisna in neuvrščena drža njegove države.⁷ Kot kažejo Lončarjevi pogajalski uspehi pri pogovorih z evropskimi partnerji, je Jugoslavija lahko s precej uspeha vse do zrušitve berlinskega zidu igrala na adut svoje neuvrščenosti; omenjal se je tudi specialni tip odnosa Beograda in Bruslja kot nekakšen most med EGS in gibanjem neuvrščenih (Jakovina, 2020, 451). Glede konkretnije oblike zbliževanja med Jugoslavijo in EGS pa so ostajale zadeve skoraj povsem nedorečene. Perspektiva vključevanja v »enotni evropski ekonomski prostor« je bila razumljena predvsem kot zunanja podpora silam, ki so se doma zavzemale za tržno naravnano reformo, konkretne modalitete pa so ostale nedefinirane.⁸ Ugodna atmosfera, v kateri so se odvijala srečanja na najvišji ravni med predstavniki Jugoslavije na eni strani in predstavniki Evropske komisije in voditelji njenih največjih članic na drugi strani, ni prinesla nobene otipljive spremembe pri jugoslovanskem približevanju EGS. Politične izjave v zvezi s tem so tudi pri najbolj proevropsko usmerjenih jugoslovanskih politikih, kot je bil Ante Marković, ostale ohlapne, še manj pa je bilo govora o konkretnem scenosledu in časovnih okvirih pristopanja (Zaccaria, 2021, 261–262).

Vsled interne analize, opravljene s strani zveznega sekretariata za zunanje zadeve v začetku leta 1989 pa polnopravno članstvo v tej povezavi v tistem trenutku v vsakem primeru za Jugoslavijo ni prišlo v poštev, saj je v očeh Bruslja izpolnjevala le eno zahtevo – da je evropska država. Glede kompatibilnosti političnega in družbenega sistema, pa tudi zunanje politike in stopnje ekonomske

razvitosti pa so tedaj obstajale tolikšne razlike, da se naj bi o članstvu ne kazalo pogovarjati niti v večletnem okviru. Ker bi zahtevala polno reciprociteto do držav članic EGS, je bila v tistem trenutku označena kot nesprejemljiva tudi opcija sporazuma o pridružitvi po 238. členu Rimske pogodbe, tako da se je kot edini realni model ponujal t. i. proximity agreement, po katerem bi s ciljem poglobljene ekonomske integracije zaživel mehanizmi sodelovanja v okviru posameznih, točno opredeljenih sektorjev.⁹ V tem času je vsaj na formalni ravni kot prvo določilo jugoslovanske zunanje politike še vedno veljala neuvrščenost, ki je narekovala tudi uradna stališča v zvezi z morebitnim pridruževanjem EGS, zato je v tem oziru presenetil predsednik jugoslovanskega predsedstva Janez Drnovšek, ko je na 9. vrhu gibanja neuvrščenih v Beogradu septembra 1989 podal izjavo, da članstvo v eni povezavi ne izključuje članstva v drugi, denimo v EGS (Radeljič, 2020, 324–327). Drnovšek je v času pred padcem berlinskega zidu predstavljal še osamljen glas znotraj jugoslovanskega državnega vrha, a že kmalu za tem, ob koncu leta 1989, je za uradni Beograd postal sprejemljiv tudi status asociacije, podoben tistemu, ki so ga z EGS podpisale Turčija in drugi dve evropski članici gibanja neuvrščenih, Ciper in Malta, a le pod pogojem, da se iz njega umakne klavzula o bodočem članstvu v skupnosti.¹⁰

Do bistvenega premika v odnosu do EGS je na jugoslovanski strani prišlo januarja 1990, ko je bila v zvezni skupščini sprejeta deklaracija, v kateri so bile evropske integracije opredeljene kot zunanjepolitična prioriteta države, zvezni sekretar za zunanje zadeve Budimir Lončar pa je nato naslednji mesec s posebnim pismom obvestil Bruselj, da namerava Jugoslavija z EGS vzpostaviti »posebne in tesne« odnose (Jakovina, 2020, 453). Kot je izhajalo iz omenjenega pisma, si je jugoslovanska stran v prvi fazi zamislila razgovore, na katerih bi ugotovili izhodiščne zahteve obeh partnerjev, nato pa bi prešli k sklepanju sporazuma o pridruževanju, kar pa še zdaleč ni pomenilo, da so bile jugoslovanske notranje razmere zrele za tovrsten korak. To lahko ugotovimo tako v zvezi z nedokončnostjo politične in gospodarske reforme in s tem povezane vzpostavitve institucionalnega okolja, ki bi omogočalo nadaljnje približevanje, kot tudi glede nejasne odločitve o naravi bodočega odnosa Jugoslavije z EGS. Kot je po obisku Anteja Markovića pri Jacquesu Delorsu marca 1990 poudaril eden izmed razpravljalcev na seji komisije zveznega izvršnega sveta za odnose s tujino, naj bi bilo v teoriji jasno: integracija pomeni carinsko unijo, asociacija pa bodoče polnopravno članstvo; v jugoslovanski praksi pa medtem očitno še ni bilo dokončno opredeljeno, kateremu od teh dveh ciljev sledi.¹¹ Dodaten

6 DAMSP, PA, 1988, 95, 435323, 6. 9. 1988.

7 DAMSP, PA, 1989, 123, 4351, 29. 12. 1988.

8 DAMSP, PA, 1989, 123, 4351, 29. 12. 1988.

9 DAMSP, PA, 1989, 123, 42956, 2. 2. 1989.

10 DAMSP, PA, 1989, 125, 445433, 17. 11. 1989.

11 AJ 130, 10167, Magnetofonski snimak sa 51. sednice Komisije Saveznog izvršnog veća za odnose sa inostranstvom, 30. 5. 1990, 4/4.



Slika 1: Rokovanje med Budimirjem Lončarjem na desni strani in Jacquesom Delorsom, Bruselj, 8. marec 1990. V ozadju tedanji predsednik Vlade SFRJ Ante Marković (Vir: *Evropske skupnosti*, 1990).

element nejasnosti je bila tudi spremenjena geopolitična situacija v srednji in vzhodni Evropi, ki jo je za sabo pustilo leto 1989. Za Jugoslavijo se tako v Bruslju ni več vedelo, ali bi se jo umestilo v sredozemsko soseščino EGS ali v skupino nekdanjih evropskih socialističnih držav, h katerim se je obračal bruseljski fokus in za katere so se že pripravljali obsežni finančni aranžmaji. Ne da bi razpolagali s konkretnimi informacijami, so se ugotovitve, da je Jugoslavija zdrsnila na lestvici prioritet EGS zavedali tudi v Beogradu, kjer je na seji omenjene komisije zveznega izvršnega sveta bilo tudi ugotovljeno, da še zdaleč ni več jasno, v katerem od koncentričnih krogov, sestavljenem iz nečlanic okrog jedra EGS, naj bi se po novem znašla Jugoslavija: najbrž »nekje med tretjim in četrtem«.

SLOVENSKA BELA KNJIGA

Sprejemanje za proces tesnejšega evropskega povezovanja ključnih dokumentov Evropske komisije oz. Evropskega parlamenta kot so bili *Vzpostavitev notranjega trga* (Completing the Internal Market) iz leta 1985 in *Enotni evropski akt* (Single European Act) iz leta 1986 ni šlo mimo pozornosti jugoslovanskih diplomatov v Bruslju, ki so o njihovem dolgoročnem vplivu poročali v svojih predhodno omenjenih depešah, s čimer pa niso sprožili širših odzivov znotraj zvezne administracije. Za razliko od medlega odziva v Beogradu, pa je proces evropskega integriranja v ekonomsko najbolj razviti republikli Sloveniji, meječi z ustanovno članico EGS

Italijo in Avstrijo, ki se je v drugi polovici osemdesetih let prav tako z naglimi koraki približevala tej povezavi, sprožil širši občutek nujnosti prilagajanja nastajajoči največji globalni ekonomski povezavi, hkrati pa tudi dvom v možnost nadaljevanja samoupravnega socialističnega modela gospodarskega razvoja. V okviru pristojnosti, ki jih pri razvijanju mednarodnih odnosov jugoslovanska zvezna ustava dopuščala posameznim republikam, je bila Slovenija že od konca sedemdesetih let vpeta v delovanje evropskih regionalnih povezav, zlasti Delovne skupnosti Alpe-Jadran, obenem pa je republiško vodstvo gojilo še posebno intenzivne stike z za slovensko gospodarstvo pomembnimi regijami iz zahodnoevropskih držav (Ramšak, 2014). Delež Slovenije je bil tako pri uvozu kot izvozu iz EGS znatno večji od jugoslovanskega povprečja: leta 1985 je šlo na trge EGS 24,4 % vsega jugoslovanskega in 40 % slovenskega izvoza; slovenski izvoz in uvoz iz EGS pa je do konca osemdesetih predstavljal več kot polovico njene zunanjetrgovinske menjave.¹² Dejstvo, da ima severni, obmejni del Jugoslavije še posebno vez z EGS in bi lahko predstavljal celo poskusno območje za preizkušanje norm sodelovanja med Skupnostjo in njeno veliko sosedo, so prepoznavali tudi nekateri evropski politiki, kot je bil italijanski novinar, pisatelj in član evropskega parlamenta Enzo Bettiza, ki je območje med Trstom, Gorico, Reko in Ljubljano predlagal kot inkubator za razvoj novih tehničnih mehanizmov zunanje angažmaja EGS (Radelić, 2012, 69).

¹² ARS 1165, 1755, 133, Struktura blagovne menjave SFR Jugoslavije in SR Slovenije, 17. 3. 1989.

Slovenski gospodarstveniki, zlasti tisti izvozno uspešni, so bili tudi v ozadju iniciative za prilagajanje evropskim integracijskim procesom, s katero se je v zadnjem letu svojega mandata intenzivno ukvarjala zadnja republiška socialistična vlada pod vodstvom Dušana Šinigoja in jo tik pred nastopom nove, Demosove, vlade, opredelila v t. i. Beli knjigi (*Usmeritve Izvršnega sveta Skupščine republike Slovenije pri prilaganju evropskim integracijskim procesom*, 20. april 1990). Poudariti velja razliko med tem dokumentom in t. i. projektom konfederalnega koncepta, prav tako izdelanim ob koncu Šinigojevega mandata, za katerega se tudi uporablja izraz »Bela knjiga«, čigar proces snovanja pa se je začel šele spomladi 1990, medtem ko je snovanje strategije prilagajanja evropskim integracijam steklo že več kot leto dni prej, ko še ni bilo govora o »asimetrični federaciji« (Repe, 2003, 71). Osnovo za pripravo tovrstne strategije so predstavljali sklepi skupščine Socialistične republike Slovenije iz maja 1989, v katerih so bili kot dolgoročni cilji, h katerim mora stremeti celotna Jugoslavija, opredeljeni polnopravno članstvo v EGS, EFTI in OECD.¹³ Čeravno je šlo za dokument tehničnega značaja, nekakšen priročnik za harmonizacijo s predpisi, ki si jih je do konca leta 1992 zadala udejanjiti EGS, je bila *Bela knjiga* tudi izraz med tedanjim slovenskim reformskim establishmentom že močno prisotnih stremeljenj k »prevrednotenju dosedanjega koncepta družbenega razvoja« (str. 6). V tem smislu je bila strategija ne le izraz potrebe po prilagajanju tehničnim zahtevam nastajajočega evropskega skupnega trga, ampak tudi poziv k »celoviti evropski politiki in vseh področjih«, kot priložnost »za postopen prehod na nivo razvoja družbe, ki ustreza razviti zahodni Evropi« (str. 4). To bi pomenilo tudi pridruževanje programom EGS, ki so si na različnih področjih (znanost, izobraževanje, varstvo okolja, varstvo potrošnikov, turizem, socialno varstvo, podjetništvo) zadali za cilj povečanje na eni strani notranje socialne kohezivnosti in na drugi globalne konkurenčnosti (str. 7). Podrobnosti sočasnih debat v zvezi z dilemo, kako naj EGS odgovori na razmere po dveh naftnih krizah in »šoku globalnega«, pa naj si bodo to neoliberalne strategije prilagajanja globalnim trgom (Warloutet, 2018; Ventresca, 2022) ali Delorove personalistične zamisli o tretji poti (Zaccaria, 2023), takratnim slovenskim političnim in gospodarskim elitam niso bile podrobno poznane. Čeravno so se v tistih letih tudi zahodnoevropske države soočale z visoko brezposelnostjo, zadolženostjo in še nekaterimi neugodnimi makroekonomskimi kazalci, je v kontekstu še veliko globlje jugoslovanske krize ideja »vrnitve v Evropo« hitro dobivala na veljavi ne le med opozicijsko naravnanimi intelektualnimi krogi, ampak tudi v širši javnosti (Zajc, 2017).

Slovenska »Bela knjiga« se je umeščala tudi v kontekst poglobljanja čezmejnega sodelovanja in razvijanja

mednarodnih odnosov na nivoju republike, katerega nosilec ni bil le republiški komite za mednarodno sodelovanje, ampak tudi številne institucije in posamezniki iz akademskega sveta in civilnih združenj, npr. naravovarstveniki (Ramšak, 2014). Pomembna perspektiva se je odpirala zlasti skozi aktivno udeležbo slovenskih predstavnikov v Delovni skupnosti Alpe-Jadran, pa tudi v Skupščini evropskih regij in Delovni skupnosti evropskih obmejnih regij (Bela knjiga, 1990, 12). Skozi te oblike mednarodnega multilateralnega sodelovanja so se tudi slovenske politične in intelektualne elite vključevale v (zahodno)evropski trend regionalizma, skozi katerega se je krhalo ustaljeno razmerje med centrom in periferijo in se izkazovalo, da je možno zadeve skupnega interesa urejati tudi kot dopolnilo institucionalnemu delovanju centralne države (Klabjan, 2013, 410).

Slovenski gospodarstveniki, zbrani v *Odboru 92* znotraj Gospodarske zbornice Slovenije se že v izhodišču opredelili za celovite sistemske spremembe, ki bi preprečile »oddaljevanje od razvitega sveta« in »prepuščenost samemu sebi« pri vprašanju družbeno-ekonomskega razvoja. Prilagoditev jugoslovanskega ekonomskega sistema pogojem, ki so veljali na tržišču EGS, sprememba ustave, nov zakon o podjetjih in tujih vlaganjih in vsesplošna deregulacija in liberalizacija so bili razumljeni kot edina možna pot za ohranjanje vitalnih tehnoloških in kapitalskih povezav z Evropo. Določena odstopanja od norm, ki so veljale v kapitalističnih evropskih državah, so v začetku leta 1989 dopuščali le še v pogledu ohranjanja socialističnega samoupravljanja, čeprav brez podrobnejših opredelitev o bodočem delovanju te hibridnosti.¹⁴ Nujnost spremembe jugoslovanske zakonodaje so videli zlasti na področju tehničnih standardov, tretmaja industrijske lastnine in blagovnih znamk, statistične metodologije, predpisov v zvezi s pretokom blaga, uslug in oseb, kot nujen pa se je izpostavil stabilen informacijski pretok. Za učinkovito vodenje kompleksnih procesov organizacije, tako na strani države kot podjetij, je bilo predvideno tudi izobraževanje menedžerskih kadrov in vzpostavitev ekspertnega sistema v okviru specializiranih centrov (Bela knjiga, 1990, 4, 11).

Koordinacijska komisija za Evropo po letu 1992, ki jo je pri slovenskem izvršnem svetu vodil njen podpredsednik Janez Bohorič, in *Podkomisija za Evropo po letu 1992*, ki jo je pri republiškem komiteju za mednarodno sodelovanje vodila predsednica tega organa Cvetka Selšek, sta večino svojih naporov posvečali sistematični pripravi nabora ukrepov, ki bi jih za uskladitev z veljavnimi oz. nastajajočimi normativi EGS bilo potrebno (na republiški in zvezni ravni) sprejeti na tako rekoč vseh področjih družbenega in gospodarskega življenja. Najbolj kritične vidike oz. ovire sodelovanja z EGS so imeli pred očmi tudi v Beogradu, ki so ga ljubljanske

13 ARS 1271, 17, 151, Poudarki iz razprave 70. seje koordinacijskega odbora RSMO, 24. 10. 1989; ARS 1944, 59, 670, *Usmeritve Izvršnega sveta Skupščine republike Slovenije pri prilaganju evropskim integracijskim procesom*, 20. 4. 1990, 12.

14 ARS 1165, 1755, 133, Slovensko gospodarstvo in Evropa 1992, 17. 3. 1989, 2.

oblasti natančno seznanile s svojo Belo knjigo, a do izdelave njene vzporednice na zvezni ravni ni prišlo.¹⁵ Medtem so se slovenska analiza in predlogi na osnovi proučevanja obstoječega pravnega stanja v Jugoslaviji in novih norm EGS dotaknili zaščitne politike trga, standardizacije in medsebojnega priznavanja atestov, kmetijstva, zdravstva, varstva okolja, prometa, prostega gibanja oseb, monetarnega in finančnega sistema, zavarovalništva, fiskalnega sistema, industrijske in intelektualne lastnine, informacijskih storitev, turizma, varstva potrošnikov, znanstvenega raziskovanja, izobraževanja, kulture, statistike, prava gospodarskih družb, pretoka delovne sile, javnega sektorja in energetike. Verjetno ni naključje, da so se nekatera imena ekspertov, ki so sodelovala pri pripravi Bele knjige v letih 1989–1990, pojavljala tudi v kasnejših pogajanjih pri pridružitvenem procesu samostojne Slovenije k Evropski uniji (Iztok Jarc, Jelka Pfeifer, Biserka Videtič idr.).

EVROPA ZDAJ! – Z JUGOSLAVIJO K EVROPI

Značilnost naracije avtorjev Bele knjige je bila dosledno vzporedno omenjanje Slovenije in Jugoslavije kot prostora, kjer se morajo odvijati zahtevane reforme in prilagoditve, ki bodo vodile k približevanju EGS. V besedilu je bilo sicer jasno nakazano, da se je slovensko okolje začelo zavedati tega procesa dosti pred drugimi jugoslovanskimi sredinami, izpostavljena pa so bila tudi nekatera konceptualna razhajanja. Ta so se nanašala predvsem na predolgo vztrajanje pri obstoječih dogovorih med EGS in Jugoslavijo, ki so slednji omogočali preferencialni status, kar je po mnenju slovenskih izvedencev na dolgi rok prineslo le škodo. Za razliko od nekaterih, ki so še naprej iskali zaslombo v statusu Jugoslavije kot države v razvoju, je bilo slovensko stališče, da je potrebno čimprej pristopiti k t. i. evolutivni klavzuli iz sporazuma iz leta 1980, ki je predvidevala recipročnost trgovanja med obema partnerjema, kar bi pomenilo prvi korak k vključevanju v evropski ekonomski prostor.¹⁶ Gledano v celoti, pa pogledov slovenskih gospodarskih in političnih elit niso prevečali pogledi o nezmožnosti prilagoditve jugoslovanske federacije kot celote evropskemu integracijskemu trendu, še zlasti potem, ko je za krmilo Jugoslavije stopil pro-tržno orientiran Ante Marković.

V začetku leta 1989 se je v Evropskem parlamentu pojavila pobuda politične skupine radikalcev za vključitev Jugoslavije v EGS, o evropski usmeritvi pa je pred zavzetjem stališča svoje politične skupine prišel tedaj v Ljubljano poizvedovati tudi poslanec komunistov Giorgio

Rossetti. Prvak Zveze komunistov Slovenije Milan Kučan mu je v zvezi s tem povedal, da bi se korakov v tej smeri kazalo lotiti po opravljeni temeljiti študiji, ko bi se še lahko v sodelovanju obeh strani začelo iskati modalitete integracije, vendar z upoštevanjem dejstva, »da bo Jugoslavija ostala socialistična in neuvrščena država«. V tistem trenutku je bilo po Kučanu ključno predvsem, da Evropa v sozvočju z jugoslovanskimi notranjimi reformami deluje kot spodbujevalec zmanjševanja njenega razvojnega zastanka, z največjim poudarkom na omogočanju prodora jugoslovanskih gospodarskih subjektov na evropski trg (Repe, 2015, 141–142).

Slovensko snovanje Bele knjige se je že konec leta 1988 pravzaprav pričelo s pozivom raznim zveznim organom, da se vključijo v razpravo in jih pozvalo k medresorsko usklajenemu programu prilagoditve zahtevam evropskega skupnega trga. V ta namen je slovenska stran predlagala oblikovanje skupine ekspertov na zveznem nivoju, nad celotno strategijo pa bi morala bdeti zvezna vlada in jo nato tudi predlagati v potrditev zvezni skupščini. Posebej je bila izpostavljena potreba, da si Jugoslavija nemudoma zagotovi ustrezno mesto pri EGS, ki ji bo omogočalo spremljanje njenih novih standardov in predpisov oz. celo sodelovanje pri postopkih sprejemanja. Kot izhodišče za oblikovanje jedra kompetentnih jugoslovanskih sogovornikov evropskim institucijam je bil predviden program usposabljanja kadrov iz celotne države pri različnih organih EGS. Jugoslovanski diplomatski službi pa naj bi se naložilo intenzivno spremljanje izkušenj ne-članic EGS kot so bile Avstrija, Švica in Madžarska pri prilagajanju programu Evropa 92'.¹⁷ Slovenski republiški komite za mednarodno sodelovanje je bil tudi pobudnik iniciative, da se v načrtovano koordinacijsko telo za sodelovanje SFRJ-EGS pri zveznem sekretariatu za zunanje zadeve ali pri zveznem sekretariatu za ekonomske odnose s tujino oz. kar neposredno pri zvezni vladi vključijo tudi predstavniki republik in pokrajin, kar je bilo v Beogradu sprejeto z odobranjem.¹⁸ Morda ne s takšno vnemo kot bi si želele republiške, a zvezne oblasti so pri svojih stikih z EGS vendarle vlagale napore v doseganje vsaj nekaterih ciljev, ki so jih celovito opredelili v slovenski Beli knjigi. V letih 1988–1989 so bili tako doseženi določeni dogovori o standardih glede zaščite okolja, energetske oskrbi, veterinarskem in fitopatološkem nadzoru, zatikalo pa se je pri pristopu k Evropskemu svetu za standardizacijo in pri uporabi enotnega administrativnega dokumenta v zvezi s carinskimi postopki.¹⁹

15 AJ 130, 9715, 336-1/89, Prvo poročilo o pripravi SR Slovenije in SFR Jugoslavije na Evropo po letu 1992, 27. 7. 1989.

16 ARS 1944, 59, 670, Usmeritve Izvršnega sveta Skupščine republike Slovenije pri prilaganju evropskim integracijskim procesom, 20. 4. 1990, 13.

17 DAMSP, PA, 1989, 123, 4582, 18. 1. 1989.

18 DAMSP, PA, 1989, 123, 417425, 21. 4. 1989.

19 AJ 130, 9905, Magnetofonski snimak sa 21. sednice Komisije Saveznog izvršnog veća za odnose sa inostranstvom, održane 20. septembra 1989, 10/1; DAMSP, PA, 1989, 123, 4351, 29. 12. 1988; 42956, 2. 2. 1989.



Slika 2: »Plakat Evropa zdaj!«: 11. kongres Zveze komunistov Slovenije, Ljubljana, 22.–23. 12. 1989 (Vir: Jani Bavčer).

V politično pregretem letu 1989, ki ga je poleg kosovske krize zaznamovalo tudi vse globlje razhajanje med slovenskim in srbskim političnim vodstvom (Ramšak, 2021), je marsikdo spregledal drugi del slogana »Evropa zdaj!«, pod katerim je decembra tega leta potekal zadnji, 11. kongres Zveze komunistov Slovenije. Podnaslov te parole, ki so jo v drugih delih Jugoslavije kratkoma razumeli kot poziv k takojšnji priključitvi Slovenije k EGS, se je namreč glasil »Z Jugoslavijo k Evropi« in kot tak odražal prej pojasnjeno

razumevanje »evropskosti« pri slovenskem partijskem vodstvu. Šlo je za poziv k doseganju »evropske kakovosti življenja« tako na političnem kot na gospodarskem, kulturnem, izobraževalnem in znanstvenem področju, ki pa ga je bilo po prepričanju slovenskih reformskih komunistov še vedno mogoče doseči tudi znotraj prenovljene Jugoslavije (Čepič, 2008, 445). »Evropska kakovost življenja« je v tedanjem kontekstu frustracije nad ekonomsko in vse bolj tudi politično krizo, ki slovenskega okolja sicer ni zajela tako močno

kot preostanka Jugoslavije (Borak, 2002, 171–189), pomenila eklektični imaginarij družbe, ki nima ni več skupnega z neučinkovitostjo zatečenega sistema:

[P]redvsem mir v svetu in doma, spoštovanje človekovega dostojanstva z varstvom njegovih pravic in svoboščin, pravni red, ki utrjuje in zagotavlja svobodo in varnost ljudi, višji družbeni in življenjski standard z zaslužkom, ki v drugi polovici devetdesetih let ne bo bistveno zaostajal za zaslužki sosedov, manj prisilno, manj škodljivo in izčrpavajoče ter hkrati bolj svobodno in ustvarjalno delo na sodobnih, neizkoriščevalskih tehnologijah, z večjim učinkom in boljšim rezultatom, prijazno in uravnovešeno družbeno okolje za življenje ljudi ter takojšnje reševanje najbolj žgočih ekoloških problemov, visoko produktivnost zaposlenih, skrb za prvo zaposlitev in zadostno solidarnost za delovno nezmožne ter za delavce, ki jih je treba prezaposlovati zaradi strukturnega prilagajanja gospodarstva in družbe v celoti, kulturo zdravega življenja in dejavno demografsko politiko, kulturni razcvet in identiteto Slovenije v pestri Jugoslaviji in Evropi, visoko raven splošnega in kvaliteten prodor specializiranih znanj, sodelovanje zaposlenih pri vodenju in upravljanju podjetij, samoupravljanje v družbenih podjetjih, družbeni, nazorski in politični pluralizem, konkurenco, življenje v SFR Jugoslaviji po meri interesov in odgovornosti enakopravnih narodov in narodnosti ter njihovih republik, vstop v evropske integracije in varovanje narodne samobitnosti ter državne suverenosti. (Repe, 2015, 142–143)

S podobnim diskurzom »evropskosti« je bil zaznamovan tudi programski dokument ZKS – Stranke demokratične prenove »Evropa zdaj!«, s katerim se je ta podala na aprilske volitve leta 1990; o vključevanju v EGS je govoril kot o Strankini programski opredelitvi, ki terja vsestranske priprave, od same EGS pa pričakoval, da »v primernem roku« omogoči polnopravno vključitev Jugoslavije v njene vrste (Repe, 2003, 115, 132). Podobno so se izrekale tudi ostale stranke, ki so izšle iz nekdanjih socialističnih družbenopolitičnih organizacij (Socialistična zveza Slovenije – zveza socialistov in Zveza socialistične mladine Slovenije – liberalna

stranka), le da je slednja »Evropo« in »evropskost« opredeljevala tudi kot »točko identifikacije« njenih članov in simpatizerjev (Repe, 2003, 167, 181).

Tako kot »evropskost«, se je tudi jugoslovanski moment pojavljal v nadvse posplošenem kontekstu, a je bil vendarle še vedno prisoten. Istočasno so bile izjave slovenskih politikov v prid evropske integracije Jugoslavije kot celote bolj nedvoumne. Proti njeni dezintegraciji in samostojnemu vstopu posameznih republik v EGS kot načinu reševanja lastnih problemov se je tako jasno opredelil Janez Drnovšek, ko se je kot predsednik zveznega Predsedstva aprila 1990 pogovarjal z avstrijskim kanclerjem Franzem Vranitzkyjem in pri tem poudaril pomen evropske perspektive za jugoslovansko federacijo zlasti kot odgovor na določene separatistične klice iz Slovenije.²⁰ S podobnim stališčem o nujnosti vključitve Jugoslavije kot celote v integrirano Evropo je Drnovšek nastopil tudi ob srečanju z vplivnim ameriškim podjetnikom Georgeom Sorosem.²¹ Janezu Janši kot vidnejšemu predstavniku nastajajoče slovenske opozicije se medtem ni zdela realna pot Slovenije do EGS niti v sklopu enotne Jugoslavije (z »državljansko vojno na Kosovu«) niti samostojno, saj bi to v nasprotju (s tedanjimi) interesi slovenske partije zahtevalo spremembo državnih meja.²² Vtis, da so bili slovenski pozivi k neodvisnosti bolj izraz trenutnega razpoloženja kot pa realne politične opcije si je spomladi 1990 ustvaril tudi vodja delegacije EGS v Beogradu Marc Janssen. Slika o Jugoslaviji kot razkrajajoče se federacije, razdeljene med »progresivni sever in avtoritarno ter dogmatično Srbijo« pa se je v Bruslju začela konsolidirati šele po prvih večstrankarskih volitvah v Sloveniji in na Hrvaškem (Zaccaria, 2021, 261–262).

Problematična situacija glede spoštovanja človekovih pravic, kakor tudi obotljivost oblasti v nekaterih jugoslovanskih republikah pri uvajanju načel političnega pluralizma so se v zadnjem obdobju obstoja države kazali kot največja ovira približevanju EGS. Za razliko od predhodnih stikov in ohlapnih dogovorov med obema stranema v času vrhunca hladne vojne, ko se o jugoslovanskem notranjepolitičnem sistemu in stanju človekovih pravic ni razpravljalo, je bila sedaj dosledna demokratizacija političnega sistema skupaj s povsem na novo postavljenim ekonomskim sistemom predstavljena kot pogoj za kakršnekoli nadaljnje korake.²³ Vladavina pravne države, spoštovanje človekovih pravic, večstrankarski parlamentarni sistem in

20 AJ 803, 1030, 107, Zabeleška o razgovoru predsednika Predsedništva SFRJ dr. Janeza Drnovškega sa avstrijskim saveznim kancelarom Francom Vranitzkyjem, održanom 6. aprila 1990 u Belom Dvoru, 3.

21 AJ 803, 1030, 115, Zabeleška o razgovoru predsednika Predsedništva SFRJ dr. Janeza Drnovškega sa ameriškim biznismenom Georgeom Sorosom, 17. 4. 1990, 5.

22 DAMSP, PA, 1989, 6, 445300, 11. 11. 1989.

23 ARS 1271, 17, 151, Magnetogramski zapis 70. seje Koordinacijskega odbora Republiškega družbenega sveta za mednarodne odnose, ki je bila dne 24. 10. 1989 v Ljubljani na temo – Medsebojno informiranje in ocena problemov v zvezi z vključevanjem Slovenije in Jugoslavije v evropske integracijske procese, 21.

izpeljava svobodnih volitev so bile vse postavke, s katerimi slovenski reformski komunisti do konca leta 1989 niso več imeli težav in so jih skupaj z zahtevo po vstopu v Svet Evrope zapisali tudi v slovenski Beli knjigi.²⁴ Je pa na ta deficit zato toliko bolj jasno zlasti v zvezi s Kosovom pokazal evropski komisar za Sredozemlje in Latinsko Ameriko, španski konservativni politik Abel Matutes, ko je od Janeza Drnovška zahteval naj se državno vodstvo najprej opredeli za reševanje nastale situacije po demokratični poti in ob spoštovanju načel človekovih pravic, šele nato pa lahko računa na podporo EGS. Iz Matutesovih besed je bilo jasno, da v Bruslju po koncu hladne vojne Jugoslaviji glede njene notranje situacije ne bodo več gledali skozi prste.²⁵

SKLEPNA RAZPRAVA

Dejstvo, da je bil ravno v dneh razglasanja deklaracij o samostojnosti Slovenije in Hrvaške konec junija 1991 v Bruslju podpisan tretji finančni protokol med Jugoslavijo in EGS (ki sicer potem ni bil poslan Evropskemu parlamentu v potrditev), kaže na to, da dialog o stabilizaciji in pridruževanju med obema stranema ni zamrl vse do izbruha oboroženih spopadov v Jugoslaviji (Radeljič, 2012, 87). Pri teh naporih uradni Beograd seveda ni mogel več računati na podporo Demosove vlade v Ljubljani niti ne na reformirane slovenske komuniste, ki so se z odhodom s 14. kongresa Zveze komunistov Jugoslavije januarja 1990 na simbolični ravni, nato pa še mesec dni kasneje na deklarativni ravni (Repe, 2003, 101) prav tako opredelili za slovensko samostojnost. Ne tako dolgo pred tem, kot je pokazala naša diskusija, pa so bile opcije slovenskega in jugoslovanskega približevanja EGS še povsem odprte. Še več, sledeč vitalnim interesom slovenskega gospodarstva in drugih vplivnih segmentov družbe, je slovensko republiško vodstvo iskalo načine, kako svoje odločno stališče o nujnosti priključitve toku evropskega povezovanja, približati celotni jugoslovanski politični skupnosti. Tako na nivoju Slovenije kot Jugoslavije je bila obljuba evropske integracije razumljena kot nekaj, kar lahko bistveno pripomore k doseganju notranje reforme, stabilnosti in prosperitete, verjetno celo ustavno prenovljene Jugoslavije v celoti. Dvojni pomen »Evrope« za Slovenijo in Jugoslavijo je v uvodniku samo kratek čas izhajajoče revije, poimenovane enako kot je bilo geslo 11. kongresa Zveze komunistov Slovenije, »Evropa zdaj! Z Jugoslavijo k Evropi«, verjetno najbolje zajel Ciril Ribičič, ko je zapisal:

Ne gre le za naš vstop v Evropo, ampak za to, da začnemo po najbolj zahtevnih evropskih merilih živeti in delati doma. Takšen cilj in merilo nista mišljena kot nekaj Sloveniji in Jugoslaviji tujega in ne pomenita idealiziranja tujih dosežkov: pomenita večjo odprtost za izkušnje najbolj uspešnih držav v Evropi in svetu, pa tudi kritičen odnos, prevrednotenje in aktivno soustvarjanje evropskih vrednot. Evropa ima različne izkušnje, tudi izkušnje Slovencev z njo so različne. Ni nam torej vseeno, kakšen položaj bo imela Slovenija v Jugoslaviji in kakšnega Jugoslavija v Evropi. (Ribičič, 1989, 3)

Nekaj povsem drugega pa je bilo vprašanje, kako najti modalitete pridruževanja Jugoslavije k EGS v ozračju, ko se je korenito spreminjala geopolitična slika v Evropi in svetu, strateški interes EGS za ohranjanje Jugoslavije kot dejavnika stabilnosti tako v konstelaciji Vzhod-Zahod kot Sever-Jug pa je bistveno upadel. Zvezno vodstvo, vključno s slovenskimi predstavniki v njem, je v tem oziru podobno kot ostale evropske članice gibanja neuvrščene iskalo pragmatične rešitve, ki ne bi izključevale članstva v eni skupini držav s članstvom v drugi. Še kot večji problem pa so se izkazovale politične napetosti in demokratični deficit v nekaterih delih Jugoslavije, v zvezi s čimer EGS ni bila več pripravljena na kompromise.

V kolikor je bila Markovičeva reforma gospodarskega sistema osnova, s katero slovenski reformirani komunisti, vse bolj približujoči se evropski socialdemokraciji, niso imeli težav in so jo videli kot ustrezen korak k doseganju pogojev za evropsko integracijo, je bila dinamika tega procesa razlog za nezadovoljstvo, ki je vodila v oblikovanje lastnega programa. A čeprav je iz teh koncizno in strateško zastavljenih besedil vela tudi frustriranost nad nerazumevanjem in ovirami iz določenih delov Jugoslavije, »evropskost« pa je v političnem diskurzu nastopala kot imaginarni kontrapunkt vsemu tistemu, kar je šlo v federaciji narobe, Jugoslavija tudi na tej stopnji še ni bila odpisana. Zdi se, da je bila prisotna celo bolj kot je bil element samoupravnega socializma, ki ga je tehnokratska elita v tistem trenutku ohranjala le še na papirju. Verjetno bodo nadaljnje analize pokazale, da slovenska fascinacija z »evropskostjo«, ki ni avtomatsko pomenila tudi zahteve za takojšnjo pridružitve republike k EGS, ni bila povsem edinstven fenomen znotraj Jugoslavije v zadnjih letih njenega obstoja. Ob prevladi logike nacionalnega urejanja zadev pa je tudi element evropskega integriranja postal nekaj, o čemer je bilo možno razpravljati samo še v okviru samostojnega oziranja republiških prestolnic proti Bruslju.

24 ARS 1944, 59, 670, Usmeritve Izvršnega sveta Skupščine republike Slovenije pri prilaganju evropskim integracijskim procesom, 20. 4. 1990, 14.

25 AJ 803, 1030, 108, Beleška o razgovoru predsednika Predsedništva SFRJ dr. Janeza Drnovškega sa visokim komesarom i članom Komisije Evropske zajednice Abel Matutes-om, 5. 4. 1990.

EUROPE NOW! (OR AT LEAST BY 1992): THE YUGOSLAV HISTORY OF SLOVENIA
MOVING TOWARDS EUROPEAN INTEGRATIONS

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SUMMARY

While particularly during the 1970s and 1980s, socialist Yugoslavia maintained close contact with the neighbouring European Economic Community, its most important foreign trade partner at the time, this did not preclude Yugoslavia's non-aligned foreign policy. Based on newly accessible documents from the federal foreign affairs authorities, the first part of the paper analyses Belgrade's official position vis-à-vis Brussels in the late 1980s and early 1990s. Namely, with the fall of the Berlin Wall, which reduced Yugoslavia's geopolitical relevance, and the growing wariness of the European commissioners with regard to its complicated internal affairs situation, the prospect of Yugoslavia attaining associate or even full membership in the European Economic Community – aspirations particularly promoted by the reform government of Ante Marković – proved unrealistic. In the northernmost Yugoslav republic, which was also most actively engaged in an economic exchange with the European Economic Community, frustration over sluggish negotiations on the part of federal authorities with Brussels and especially the comprehensive integration process introduced in the European Economic Community by the Single European Act prompted an autonomous search for new paths to the emerging largest global economic bloc. The second part of the article draws on materials of republican provenance to provide an analysis of the imaginary of Europeanism, as well as of the technocratic strategies adopted to approximate the Slovenian/Yugoslav legislation and standards (the so-called 1990 White Paper), which was a major focus of the last Slovenian socialist government and the reforming League of Communists. Although the catchphrase of the time, "Europe Now!", was interpreted in some parts of Yugoslavia as a call for Slovenia to immediately and independently join the European Economic Community, the Slovenian late-socialist establishment still allowed for the possibility of Slovenia integrating into Europe within the framework of Yugoslavia.

Keywords: Yugoslavia, European Economic Community, Single European Act, League of Communists of Slovenia, 1990 White Paper

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