

FATTA!

THE WORD "FATTA!" MEANS "GET IT"

THAT EVERYBODY MUST *GET IT* THAT CONSENT IS NEEDED FOR SEX, OTHERWISE IT IS RAPE

AGAINST SEXUAL VIOLENCE

FOR CONSENT-BASED LAW AND CULTURE



From reaction to law

Before 2013 -

2013, FATTA! reaction

2014, Parliamentary Committee

2016, Proposal of a consent-based law

2017/18, the Government's proposal

2018, Sweden have a new law!



A sexual offense legislation built on consent

- The Swedish Penal Code (Brottsbalk, BrB), chapter 6.

Before:

- If someone **forces** anyone by violence or threats *or improperly exploits* the fact that the person is in a **particularly vulnerable situation** (6 chap. 1 § *rape* & 6 chap. 2 § *sexual assault*)
- Only *intentional rape* was included.

Today:

- If someone performs sexual intercourse (or some other sexual act that in view of the seriousness of the violation is comparable to sexual intercourse) with a person who is **not participating voluntarily**.
- Situations when someone never could be seen participating voluntarily
 1. their participation is a result of violence or threat
 2. if the perpetrator improperly exploits a person's particularly vulnerable situation
 3. abuses the person's position of dependence.
- Also responsibility for *negligent rape* (6 chap. 1 a § *negligent rape* & 6 chap. 2 § *negligent sexual assault*)

Intentional or negligent rape

- Intentional rape: knowing when someone is having sexual intercourse with someone not participating voluntarily, and are doing this by either
 - 1) by intention
 - 2) by knowing
 - 3) by suspecting a risk and being nonchalant towards that risk
- Negligent rape:
 - **Type 1** (included in the law today): meaning that the perpetrator has had a *suspicion* but was not nonchalant in relation to that suspicion
 - **Type 2**: There is no need for the person to *actually* have suspected being a risk of no-consent, but that you *should* have known.

If we include both these types of negligence - more situations of rape and sexual violence, and it would contribute to a more normative effect, where the law clearly states that it is your responsibility to make sure that the other person wants to have sex

Our findings...

- The Swedish National Council for Crime Prevention – report the 15th of June.
- Not participating voluntarily *or* consent? The concept “consent” is something that already exists in the Swedish criminal system, as a word on that you agree to something. But for us, consent in the area of sexual intercourse, is not an agreement. Consent is about free will and respect, and it is something that could change during sex - from one second to another. It is nothing you can promise; consent is about communication.
- Consent-based legislation needs both: if *someone not participating voluntarily* and the introduction of negligent rape.
 - These are the two main qualifications and important parts for a consent-based legislation: the fact that the difference between sex and rape is simply whether someone wants to have sex or not, and the fact that the responsibility is not for a person to say no, but for the other person to listen for a yes.
- By studying cases: the definitions are clear, and the shifting of focus has been done. Although, some adjustments may be needed in relation to the negligent rape offence (se previous page)
- Consent-based legislation’s normative effect – In Sweden the discussions and the movement connected to the law have made people knowing about consent for sex. We have, thanks to this, already start getting people to think more about consent in relations to others.
- Sex buyer found guilty of rape, when the woman also was a victim of human trafficking. Huge debate ongoing in Sweden!

Our additional thoughts...

- Protecting the right of bodily autonomy and sexual integrity: instead of saying 'no is a no' the law should state that '**everything else than a yes is a no**'.
- Education towards judges, prosecutors, the police etc., and get rid of prejudices – Media and the society also being a part on eliminating prejudices.
- The Police has to start prioritizing rape cases. There are also usually a lot more evidence than what one would initially think. The **victim's story itself** is usually the most important evidence in Swedish rape-cases.
- Victim's lawyers: in Sweden all the victims of rape get the right of having an **own lawyer without any costs**, to support and help. It has been shown that this is the most important part of the process, for a case to go all the way to conviction.
- **Consent-based culture!** In order to prevent and to stop people (mostly men) for even committing rape or sexual assaults in the first place, we need them to think, know and practice consent in everyday life. We need education on **consent in schools, programs for workplaces** and for everybody talking about and **practicing consent in everyday life**. FATTA has a lot of well worked out material for this called "Let's talk about consent, six steps to a consent-based culture". (We are now in the process of translating all these into other languages as well, but for now please visit <http://samtyckeskultur.nu> for the version in Swedish)

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