**Call for submissions to the UN SRVAW thematic report on rape as a grave and systematic human rights violation and gender-based violence against women**

All submissions should be sent to vaw@ohchr.org by **20 May 2020**. Kindly indicate if you DO NOT wish your submission to be made public.

**Questionnaire on criminalization and prosecution of rape**

**Definition and scope of criminal law provisions**

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.
2. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only. YES/NO
	2. Gender neutral, covering all persons. YES/NO
	3. Based on the lack of consent of victim. YES/ NO
	4. Based on the use of force or threat. YES/ NO
	5. Some combination of the above. YES / NO. Please specify.
	6. Does it cover only vaginal rape? YES /NO
	7. Does it cover all forms of penetration? YES/NO please specify.

The article no. 267 limits its definition of rape to be the penetration of male organ into vagina and does not include rape by fingers, sharp tools or machines and also does not include oral or anal rape.

* 1. Is marital rape in this provision explicitly included? YES / NO
	2. Is the law silent on marital rape? YES/NO
	3. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? YES/NO
	4. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? YES /NO
1. To what extent legislation in your country excludes criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit relevant articles with corresponding translations.

Article no. 267 of the penal code punishes rape in its simple form with life or aggravated imprisonment if the perpetrator is one of the victim’s relatives or one of the persons responsible for her or have authority over her or if he is a servant for her then the penalty is life imprisonment.

1. What is the legal age for sexual consent?

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1. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.

No

1. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

Article no. 267 of the penal code punishes rape in its simple form with life or aggravated imprisonment if the perpetrator is one of the victim’s relatives or one of the persons responsible for her or have authority over her or if he is a servant for her then the penalty is life imprisonment.

1. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

The compensation is a civil one in front of civil courts.

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they?

Article no. 267 of the penal code punishes rape in its simple form with life or aggravated imprisonment if the perpetrator is one of the victim’s relatives or one of the persons responsible for her or have authority over her or if he is a servant for her then the penalty is life imprisonment and in case of having weapon then it is aggravating circumstance.

If a female is kidnapped through fraud or coercion the penalty will be life imprisonment, the perpetrator shall be sentenced if the kidnapping is combined with kidnapping positions without her consent then the punishment is death penalty according to article no. 290 in penal code.

* 1. Is rape by more than one perpetrator an aggravating circumstance? YES/NO
	2. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; teacher/student; age difference) YES/NO
	3. Is rape by spouse or intimate partner an aggravating circumstance? YES/NO
1. Does the law foresee mitigating circumstances for the purposes of punishment? YES/NO If yes, please specify.

Domestic violence against women is widely accepted and till now the government has not exert any effort to combat domestic violence. Yet many articles of penal code can be used to underestimate domestic violence or even to justify it. For example, article no. 17 allows mitigating the punishment as form of “mercy” in cases of rape in what is called honor crimes. In addition, article no. 60 provides immunity against punishment in cases of domestic violence since the perpetrator is granted “mercy” when it is proved that he committed the act with “good intent”. So this article can be used to justify domestic violence as it is the husband’s right to discipline his wife and to justify honor crimes. Also marital rape is not recognized by penal code.

1. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? YES/NO If so, at what stage and what are the consequences?
	1. Regardless of the law, is reconciliation permitted in practice? YES/NO and what is the practice in this regard?
2. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? YES/NO If yes, please specify.
	1. if the perpetrator marries the victim of rape? YES/NO
	2. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? YES/NO

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? YES/NO
2. Is rape reported to the police prosecuted ex parte (private prosecution)? YES/NO
3. Is a plea bargain or “friendly settlement” of a case allowed in cases of rape of women? YES/NO
4. Is plea bargain or “friendly settlement” of a case allowed in cases of rape of children? YES/NO
5. Please provide information on the statute of limitations for prosecuting rape. Normal statute of limitation in front of criminal court
6. What are the provisions allowing a child who was the victim of rape to report it after reaching adulthood, if any? NO
7. Are there mandatory requirements for proof of rape, such as medical evidence or the need for witnesses? YES/NO If yes, please specify. Forensic report
8. To what extent are there rape shield provisions aimed at preventing judges and defence lawyers from exposing a woman’s sexual history during trial? N/A
9. What procedural criminal law provisions exist aimed to avoid re-victimizations during the prosecution and court hearings? Please specify. N/A

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? YES/NO
2. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? YES/NO
3. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? YES/NO
4. Has the Rome Statute of the International Criminal Court (ICC) been ratified? YES/NO

**Data**

1. Please provide data on the number of cases of rape that were reported, prosecuted and sanctioned, for the past two to five years.

**Other**

1. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.