**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.

According to **Section 130 of the Tanzania Penal Code Act** it provides that; *Any person who has unlawful carnal knowledge of a* ***woman*** *or* ***girl****, without her consent, or with her consent, if the consent is obtained by force or by means of threats* *or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in the case of a married woman, by personating her husband, is guilty of the felonytermed "rape"*

*As it is repressed by* ***Section 5*** *of* ***(SOSPA) 1998***

1. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only. **YES**
	2. Gender neutral, covering all persons. NO
	3. Based on the lack of consent of victim. NO
	4. Based on the use of force or threat.  **YES**
	5. Some combination of the above. **YES**.

**Please specify.**

*or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in the case of a married woman, by personating her husband.*

* 1. Does it cover only vaginal rape? NO
	2. Does it cover all forms of penetration? YES

**Please specify.**

*It provides for Carnal Knowledge in general*

* 1. Is marital rape in this provision explicitly included? YES

*in the case of a married woman, by personating her husband, is guilty of the felony termed "rape" Section 130 of the Tanzania Penal Code Act*

* 1. Is the law silent on marital rape? NO
	2. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? YES
	3. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? 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.
2. What is the legal age for sexual consent?

The age of consent that provided by several Tanzania Laws is 18 years old, as it is the age of majority. The legal age for sexual concert is 18 yeas old as it provided by the Penal Code.

1. Are there provisions that differentiate for sexual activity between peers? If so, please provide them. **NO**
2. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

According to **Section 6 of Sexual Offences Provisions (SOSPA) 1998** the Section replaced **Section 131 of the penal code it provides that;** *Any person who commits rape is liable to be published with imprisonment of not less than thirty years with corporal punishment, and with fine, and shall in addition to ordered to pay compensation of amount determined by the court, to the person in respect of whom the offence was committed for the injuries caused to such person.*

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?

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they?
	1. Is rape by more than one perpetrator an aggravating circumstance? YES
	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
	3. Is rape by spouse or intimate partner an aggravating circumstance? NO
2. Does the law foresee mitigating circumstances for the purposes of punishment? NO If yes, please specify.
3. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? NO
	1. Regardless of the law, is reconciliation permitted in practice? NO
4. 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
2. Is rape reported to the police prosecuted ex parte (private prosecution)? NO
3. Is a plea bargain or “friendly settlement” of a case allowed in cases of rape of women? NO
4. Is plea bargain or “friendly settlement” of a case allowed in cases of rape of children? NO
5. Please provide information on the statute of limitations for prosecuting rape.
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? NO Evidence has to come from the Victim
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? The code of Judicial Ethics directs the Judicial officers to not disclose the rape victim
9. What procedural criminal law provisions exist aimed to avoid re-victimizations during the prosecution and court hearings? Please specify.

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? YES
2. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? Not sure
3. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? Not sure
4. Has the Rome Statute of the International Criminal Court (ICC) been ratified? YES it has been ratified by the Tanzania Parliament on 2nd August 2002

**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.

Accurate data on number of rape cases are limited based on judicial law reports.

**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.