

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 144 of the [Criminal Code CAP.154](#) (“Rape”):

“Any person who has unlawful carnal knowledge of a female, without her consent, or with her consent, if the consent is obtained by force or fear of bodily harm, or, in the case of a married woman, by impersonating her husband, is guilty of the felony termed rape.”

According to Section 145 of the Criminal Code CAP. 154 (“Sentence for rape”):

“Any person who commits the offence of rape is liable to imprisonment for life.”

According to Section 146 of the Criminal Code CAP. 154 (“Attempted rape”):

“Any person who attempts to commit rape is guilty of felony, and is liable to imprisonment for ten years.”

According to Section 153 of the Criminal Code CAP. 154 (“Defilement of girls under thirteen (13) years of age”):

“(1) Any person who unlawfully and carnally knows a female under the age of thirteen (13) years is guilty of a felony and is liable to imprisonment for life” and “(2) Any person who attempts to have unlawful carnal knowledge of a female under the age of thirteen (13) years is guilty of a misdemeanour and is liable to imprisonment for three years.”

2. Based on the wording of those provisions, is the provided definition of rape:
 - a. Gender specific, covering women only. **YES**
 - b. Gender neutral, covering all persons. **NO**
 - c. Based on the lack of consent of victim. **YES**
 - d. Based on the use of force or threat. **NO**
 - e. Some combination of the above. **YES**

Please specify:

A carnal knowledge of a female is considered unlawful, if it takes place (a) without her consent, or (b) with her consent, if the consent is obtained by force or fear of bodily harm.

- f. Does it cover only vaginal rape? **YES**

- g. Does it cover all forms of penetration? **NO**
 Other forms of “Indecent assault on females” are covered by Section 151 of the Criminal Codes, that states: “*Any person who unlawfully and indecently assaults any female is guilty of a misdemeanour*”.
 Please specify:
- h. Is marital rape in this provision explicitly included? **YES**
- i. Is the law silent on marital rape? **NO**
- j. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **Not applicable**
- k. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? **Not applicable**
3. 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.
 Cyprus Penal Code covers “rape” in any relationship and explicitly includes marital rape. At the same time, the general definition of “rape” does not exclude any unlawful carnal knowledge based on the relationship of the perpetrator and the victim.
4. What is the legal age for sexual consent?
 The age of 17
5. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.
 No
6. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.
Rape, including marital rape, is punishable by law with a maximum sentence of life in prison (Section 145) and for **attempted rape** 10 years in prison (Section 146).
Indecent assault on females is considered as a *misdemeanour* and according to Section 35 of the Penal Code, *any misdemeanour shall be punishable with imprisonment for a term not exceeding two years or with a fine not exceeding one hundred pounds (around 1700 euros) or with both such punishments.*
7. 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?

Article 15 of the Law on the Enactment of Minimum Standards related on the Rights, Support and Protection of Victims of Crime (L.51(I)/2016), provides that:

“(1) Without prejudice to any other judicial proceedings or damages provided for under the provisions of any other law or regulations, any person who is a victim pursuant to this law, shall have an actionable right to compensation in the course of the civil proceedings against an offender, for any criminal offence committed against

him/her, and the offender shall have a respective civil law responsibility to pay special or general compensation to the victim; while (2) in case of the death of the victim, actionable right to compensation shall have the family members of the victim”.

Compensation may be provided by the state in the form described in the [Law on Compensation of Victims of Violent Crimes \(Law 51\(I\)/97\)](#), to victims of violent crimes (including “rape”) or their dependants, if:

(a) The victim or his/her dependants are unable to obtain compensation from the offender for any reason, and

(b) No compensation is available from other sources or such compensation is smaller in amount than that provided for in the above Law:

Aggravating and mitigating circumstances

8. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they?
 - a. Is rape by more than one perpetrator an aggravating circumstance? **NO**
 - b. 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) **NO**
 - c. Is rape by spouse or intimate partner an aggravating circumstance?
NO, due to the fact that the [Penal Code](#) provides for the maximum punishment for the crime of “rape”. However, indecent assault by spouse or intimate partner is considered as an aggravating circumstance, in accordance with the [Violence in the Family Law L. 47\(I\)/1994](#).
9. Does the law foresee mitigating circumstances for the purposes of punishment? **NO**
If yes, please specify.
10. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? **NO** If so, at what stage and what are the consequences?
 - a. Regardless of the law, is reconciliation permitted in practice? **YES** and what is the practice in this regard?
Especially with regards to reported domestic violence cases, including cases of sexual violence, studies of the Police have shown that there the high level of ‘attrition’ in the course of investigations and prosecutions of such cases. In particular, a very high number of such cases do not develop into criminal investigations, of even if they are formally proceeded to court, are either suspended, interrupted withdrawn or rejected. According to the Police, this is mainly a result of victims changing their testimonies and/or returning to the violent relationship and the fact that the victim is often the only witness exacerbates the problem.
11. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? **NO** If yes, please specify.
 - a. if the perpetrator marries the victim of rape? **NO**

- b. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? **NO**

Prosecution

12. Is rape reported to the police prosecuted ex officio (public prosecution)? **YES**
13. Is rape reported to the police prosecuted ex parte (private prosecution)? **NO**
14. Is a plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **NO**
15. Is plea bargain or “friendly settlement” of a case allowed in cases of rape of children? **NO**
16. Please provide information on the statute of limitations for prosecuting rape. **Not any such limitations.**
17. What are the provisions allowing a child who was the victim of rape to report it after reaching adulthood, if any?
Even though there are no explicit provisions in the legislation, any child who has been the victim of rape may report it after reaching adulthood without any limitation.
18. Are there mandatory requirements for proof of rape, such as medical evidence or the need for witnesses? **NO** If yes, please specify.
19. To what extent are there rape shield provisions aimed at preventing judges and defence lawyers from exposing a woman’s sexual history during trial? **Not any**
20. What procedural criminal law provisions exist aimed to avoid re-victimizations during the prosecution and court hearings? Please specify.
The Penal Code does not provide for any safeguards aimed to avoid re-victimizations. However, the Law on the Enactment of Minimum Standards related on the Rights, Support and Protection of Victims of Crime (L.51(I)/2016), ensures that women victims of gender-based violence receive specialised support services. Furthermore, several other laws, including the Violence in the Family Law, the Law on Child Sexual Abuse and the Protection of witnesses Law, provide for measures of increased protection for such victims. Such measures include protection orders, video recording of statements, court witness intimidation measures (including giving evidence through CCTV) and structured /official information of their legal rights.

War and/or conflict

21. Is rape criminalized as a war crime or crime against humanity? **YES, indirectly by Law 23(III)/2006, which amends Law 8(III)/2002, on the Ratification of the Rome Statute of the International Criminal Law.**
22. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? **NO**
23. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **NO**
24. Has the Rome Statute of the International Criminal Court (ICC) been ratified? **YES, by Law 8(III)/2002**

Data

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

There are no available data, that have been made public by the Police or the Office of the Attorney General of the Republic of Cyprus.

Other

26. 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.

Nothing else to be added.