All submissions should be sent to [vaw@ohchr.org](mailto:vaw@ohchr.org) by**20 May 2020**. You are kindly requested to indicate if you DO NOT wish your submission to be made public.

Please indicate who is providing the response, along with contact details.

**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.

Turkish Criminal Code

ARTICLE 102- (1) Any person who attempts to violate sexual immunity of a person, is sentenced to imprisonment from two years to seven years upon compliant of the victim.

(2) In case of commission of offense by inserting an organ or instrument into a body, the offender is punished with imprisonment from seven years to twelve years. In case of commission of this offense against a spouse, commencement of investigation or prosecution is bound to complaint of the victim.

(3) If the offense is committed; a) Against a person who cannot protect himself because of corporal or spiritual disability,

b) By undue influence based on public office,

c) Against a person with whom he has third degree blood relation or kinship,

d) By using arms or participation of more than one person in the offense, the punishments imposed according to above subsections are increased by one half.

(4) In case of use of force during the commission of offense in such a way to break down victim’s resistance, the offender is additionally punished for felonious injury.

(5) In case of deterioration of corporal and spiritual health of the victim as a result of the offense, the offender is sentenced to imprisonment not less than ten years.

(6) In case of death of vegetal existence of a person as result of the offense, the offender is sentenced to heavy life imprisonment.

Child molestation

ARTICLE 103-(1) Any person who abuses a child sexually is sentenced to imprisonment from three years to eight years. Sexual molestation covers the following acts; a) All kinds of sexual attempt against children who are under the age of fifteen or against those attained the age of fifteen but lack of ability to understand the legal consequences of such act, b) Abuse of other children sexually by force, threat or fraud.

(2) In case of performance of sexual abuse by inserting an organ or instrument into a body, the offender is sentenced to imprisonment from eight years to fifteen years.

(3) In case of performance of sexual abuse by antecedents, second or third degree blood relations, step father, guardian, educator, trainer, nurse and other persons rendering health services and responsible from protection and observation of the child, or by undue influence based on public office, the punishment to be imposed according to the above subsections is increased by one half.

(4) In case of execution of sexual abuse against the children listed in paragraph (a) of first subsection by use of force or threat, the punishment to be imposed is increased by one half.

(5) The provisions relating to felonious injury are additionally applied in case the acts of force and violence cause severe injury to the person subject to sexual abuse.

(6) In case of deterioration of corporal and spiritual health of the victim as a result of offense, the offender is sentenced to imprisonment not less than fifteen years.

(7) In case the offense results with death or vegetal existence of the victim, the offender is punished with heavy life imprisonment.

1. Based on the wording of those provisions, is the provided definition of rape:
   1. Gender specific, covering women only NO
   2. Gender neutral, covering  all persons   YES
   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.  NO
   6. Does it cover only vaginal rape?  NO
   7. Does it cover all forms of penetration? NO. If yes, please specify.
   8. Is marital rape in this provision explicitly included? YES
   9. Is the law silent on marital rape? NO
   10. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? NO
   11. Is marital rape excluded in the provisions, or is marital rape not considered as a crime?   NO

1. Are there any provisions excluding 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 it.

NO

1. What is the legal age for sexual consent?

COMPLETED THE AGE OF15

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.

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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?

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**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? YES If so, what are they?
   1. Is rape by more than one perpetrator an aggravating circumstance?

YES

* 1. 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

* 1. Is rape by spouse or intimate partner an aggravating circumstance?

NO

1. Does the law foresee mitigating circumstances for the purposes of punishment? YES/NO If yes, please specify.

NO

10. 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?

NO

* 1. Regardless of the law, is reconciliation permitted in practice? YES/NO and what is the practice in this regard?

Yes, sometimes officiers (police or prosecutor ) do not necessary legal things for the complaint (such as not to take complaint or not start criminal prosecution).

1. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator?

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

1. Is rape reported to the police prosecuted ex parte (private prosecution)? YES

1. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of women? LEGALLY NO

1. Are plea bargain or “friendly settlement” of a case allowed in cases of rape of children? LEGALLY NO

1. Please provide information on the statute of limitations for prosecuting rape.

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1. Are there provisions allowing a child who was the victim of rape and to report it after reaching adulthood?   NO

1. Are there mandatory requirements for proof of rape, such a medical evidence or the need for witnesses?

In practice, yes such as medical evidence and the other evidence

1. Are there rape shield provisions aimed at preventing judges and defense lawyers from exposing a woman’s sexual history during trial? NO (except Istanbul Convention)

1. Are there procedural criminal law provisions aimed to avoid re-victimizations during the prosecution and court hearings? NO. (except Istanbul Convention)

If yes, please specify.

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity?

NO (except International Conventions)

Is there a statute of limitations for prosecuting rape in war or in conflict contexts? NO (except International Conventions)

Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? NO (except International Conventions)

1. Has the Rome Statute of the International Criminal Court (ICC) been ratified? 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.

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**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.

Social Barriers, Customs, Biases, Prejudicies and Gendered judicial system.