



HUMAN RIGHTS COUNCIL - 47th SESSION

Interactive dialogue with the Special Rapporteur on violence against women, its causes and consequences (28-29 June 2021)

Ms. Dubravka Simonovic, Special Rapporteur on violence against women, its causes and consequences

Ms. Simonovic attended the meeting in person and presented her last report ([A/HRC/47/26](#)), which focused on **rape as a grave, systematic and widespread human rights violation**, a crime and a manifestation of gender-based violence against women and girls, both in peacetime and during conflict, with a focus on States' responsibility to prevent it, to change the prevalent rape culture, culture of impunity for perpetrators and stigmatization and lack of access to justice for victims.

Her report is accompanied by the **Framework for Model Legislation on Rape** ([A/HRC/47/26/Add.1](#)) which is intended to serve as a **harmonization tool for aligning national laws** with international standards.

Based on the **questionnaire** on the criminalization of rape, the 206 submissions received revealed that, in many countries, **international standards on rape have not been fully or properly incorporated at the national level**. All of the submissions are on the mandates' webpage, covering 105 States. The **implementation of laws** is influenced by the surrounding general context of different forms of discrimination and gender-based violence against women, myths and gender-based stereotyping on rape by the media and the criminal justice system.

Key findings:

- In many States, provisions on rape cover only **women victims** and only vaginal penetration. Many states that still exempt **marital rape** from criminalization.
- Criminal law provisions in the majority of States define **rape only by the use of force or threats of violence**.
- In some States the **age of sexual consent** is very low, at 12 to 14 years old or even lower, or there is no legal age of sexual consent.
- While sentencing rapes, many States include **mitigating circumstances**.
- In many States, it is necessary to present **medical evidence of rape**, and in some, there must be **witnesses**, including in [Afghanistan](#), [Bangladesh](#), [Ghana](#), [Mauritius](#), [Morocco](#), [Nigeria](#), [Pakistan](#), [Sierra Leone](#) and [Yemen](#), where, without a confession from the perpetrator, a rape victim must provide four male witnesses.
- **Short statutes of limitation** like the three months in [Iraq](#), and one year in [Italy](#), [Nepal](#) and [Venezuela](#) prevent many victims from reporting their cases.

Key Recommendations:

- Criminal law provisions should **protect all persons, without discrimination**, including men, boys and gender-diverse persons; and cover all types of penetration. Criminalization of rape should include **rape between spouses** or intimate partners.
- Intercourse without consent should be criminalized as rape in all definitions.
- States must ensure **age appropriate education** and promote the understanding of lack of consent and promote affirmative consent.
- States should **abolish all mitigating circumstances** that are not in accordance with human rights standards, especially "*marry your rapist*" provisions.
- The crime of rape should be **prosecuted ex officio** and **without undue delay**.
- The **victim's testimony**, supported by a physical and psychological assessment of harm, should not require further corroboration to be considered as proof. States should enact **rape shield provisions** to exclude from evidence information about a victim's sexual history.
- There should be **no statutes of limitation** for initiating legal proceedings on rape, **whether they were committed during conflict or in peacetime**.
- States should also provide for **extraterritorial jurisdiction**, so that their courts can prosecute rape cases committed by their nationals outside their territory.

Interactive Dialogue

The majority of speakers agreed that ensuring **definitions of rape** were in line with international standards, i.e. based on lack of consent; and that **preventing, criminalising and prosecuting all forms of this crime**, including **marital rape**, was of utmost importance. **European Union** said that this should apply in times of peace as well as in times of the conflict. **France** condemned the use of rape as a **weapon of war**, and underlined the importance of a **survivor-based approach**, which was supported by the **Republic of Korea**. **Russian Federation**, however, said the clear distinction needed to be drawn between sexual violence, including rape, as a war crime and as a general crime under criminal laws provisions. **Liechtenstein** added that criminalising all forms of the rape **of men and boys** should also be an important step, **Switzerland** said that rape should be formulated in a gender-neutral way. The impact of **COVID-19** measures, which often led to the confinement of women and girls with their abusers, was raised by **Ecuador, Angola, South Africa**.

Netherlands (on behalf of the BENELUX countries) and **Greece** regretted that **Turkey withdrew from the Istanbul Convention**, and called the Member States to **accelerate the ratification** of this important Convention. **Turkey** said its withdrawal from the Convention should not be interpreted as a step back in fighting violence against women. **Ireland** said it regretted the recent criticism of the Convention and misinformation about its purpose. **Sweden**, on behalf of **Nordic-Baltic countries**, asked which concrete measures States could take in order to **promote a culture of consent**, including among **young persons**. In a joint statement, **Chile** on behalf of the **Group of Friends of the SOGI mandate** regretted the prevalent **stigma against transgender persons, especially women**. In a different joint statement, **Chile** also echoed the call of the SR for **harmonization** of national legislation. This was supported by a number of delegations. **Canada** said **rape was often used to threaten woman- and girl leaders** to discourage them from civic engagement, political office or working in media. **Brazil** said that any **model legislation** should be subject to extensive intergovernmental consultations. **Russian Federation** spoke against imposing of international standards and judicial practices over national criminal law provisions; and addressed the need to respect the generally accepted UN terminology.

Paraguay, Luxembourg, Senegal, United Arab Emirates, Morocco, Egypt, Nepal, Malaysia, Italy, United Kingdom, Mauritania, Guyana, Marshall Islands, Turkey, Bangladesh, Cyprus, Ukraine addressed the positive **changes in their national legislation**. **Liechtenstein** has just **ratified Istanbul Convention**. **Canada** said it supported the movement to end violence against missing and murdered Indigenous women, girls, and gender-diverse people. **Ecuador, Indonesia, Cuba, Malta, Venezuela, Greece, Turkey** referred to their **National Plans and Programmes** which aim to ensure better protection for women. A number of countries, including **Brazil, Spain, Fiji, Armenia, Burkina Faso, India, Maldives, Algeria, United States, Saudi Arabia, Namibia, South Africa, Austria, Mauritius, Peru, Nigeria, Timor-Leste, Thailand, Philippines, Panama, Tunisia, North Macedonia, Gabon, Denmark, Bolivia, Iran, Cambodia** also brought up their **national efforts**.

Iraq said that the Iraqi Council of Representatives adopted the Law on Yazidi Female Survivors. **Israel** said it had strong to eliminate a pervasive, sexist subculture that objectifies women. **Australia** said it prioritises ending violence against women and girls nationally, through significant investment in women's safety, and overseas, through its development program. A youth delegate from **Denmark** said that more **young women** needed to have a seat at the table, and victims of sexual violence deserved a voice. The **Order of Malta** said that through its global humanitarian agency Malteser International, it provides assistance to women and girls victims in countries such as Nigeria, Bangladesh and Colombia. The **Republic of Korea** said it was committed to support the so-called "comfort women" victims of World War II. **Georgia** said that, due to the Russia's ongoing occupation of Abkhazia and the Tskhinvali regions, the country was deprived of the opportunity to effectively implement the policies. **Afghanistan** said that without equal participation of women in the peace process in all sides, the country would not reach a durable peace. **Holy See** reaffirmed the rights and dignity of children conceived as a result of sexual violence, beginning with their right to life.

Pakistan (on behalf of the OIC) said that **in Islam** rape was considered a serious sexual crime with severe punishment. The SR's interpretation of the international human rights law in terms of framing rape as a human rights violation **excluded Islamic perspective**. **Egypt**, on behalf of the **Arab Group**, addressed the



need to **confront terrorism** which would contribute strongly to combating violations against women. **China** said Japan denied and beautified the history of aggression and omitted past crimes of mass rape and the recruitment of comfort women. **DPRK** also said that Japan did not take responsibility for heinous crimes, including the abduction of women, committed in the past. **Libya** said that kidnappings and killings of women activists had occurred in Libya. **Yemen** said that the Houthi group practiced kidnaps and arrests of human rights activists and women and girls opponents of its policy, and torture and rape was reported in this context. **Sudan** brought up the violence against women in various conflict areas around the world, including in Sudan.

United States said it had sponsored the first Security Council Resolution, UNSCR 1820, to address sexual violence as a tactic of war, which continues to be used in areas like Ethiopia's Tigray region. United States has resumed U.S. humanitarian funding for UNFPA, including support for the Rohingya refugee crisis, Afghanistan, and those fleeing the Tigray region into Sudan. **Canada** once again will be leading its biennial HRC resolution on GBV, focusing this year on women and girls with disabilities. **Albania** said the Women, Peace and Security Agenda will be a high priority of Albania's membership to the UNSC in 2022-2023. In order to prevent sexual violence in conflict, **Japan** has contributed to strengthening judicial systems—mainly in the Democratic Republic of the Congo, Somalia, the Central African Republic, and Iraq—through the Office of the Special Representative of the Secretary-General on Sexual Violence in Conflict.

Delegations that took the floor during the Interactive Dialogue (84 country statements):

Joints statements: **European Union, Netherlands** (on behalf of the BENELUX countries), **Sweden** (on behalf of the Nordic and Baltic countries – Denmark, Estonia, Finland, Iceland, Latvia, Lithuania, Norway, Sweden), **Pakistan** (on behalf of Organization of Islamic Cooperation), **Chile** (on behalf of the Group of Friends of the SOGI mandate: Argentina, Chile, Uruguay, Australia, Austria, Belgium, Canada, Costa Rica, Denmark, Greece, Finland, Germany, Iceland, Israel, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Mexico, Norway, Netherlands, Portugal, United Kingdom, United States, Sweden, Switzerland), **Egypt** (on behalf of the Group of Arab States), **Chile** (on behalf of Argentina, Brazil, Colombia, Costa Rica, Ecuador, Guatemala, Honduras, Mexico, Paraguay, Peru, Uruguay and Chile).

Country statements: Liechtenstein, Paraguay, Costa Rica, Canada, France, Ecuador, Israel, Indonesia, Libya, Australia, Sovereign Order of Malta, Brazil, Luxembourg, Switzerland, Cuba, Republic of Korea, Spain, Angola, Senegal, Fiji, Iraq, United Arab Emirates, Armenia, Burkina Faso, China, Malta, India, Mexico, Maldives, Morocco, Algeria, Venezuela, United States of America, Egypt, Greece, Nepal, Saudi Arabia, Namibia, Malaysia, South Africa, Austria, Mauritius, Sudan, Ireland, Peru, Nigeria, Italy, Timor-Leste, Georgia, United Kingdom, Croatia, Afghanistan, Mauritania, Guyana, Thailand, UN Women, Holy See, Russian Federation, Philippines, Marshall Islands, Turkey, Panama, Tunisia, Bangladesh, North Macedonia, Gabon, Republic of Moldova, Albania, Malawi, Denmark, Japan, Bahamas, Cyprus, Bolivia, Yemen, Djibouti, Iran, Democratic People's Republic of Korea, Cambodia, Ukraine

NHRIs: National Human Rights Council of Morocco, Afghan Independent Human Rights Commission

Other observers: **UN Women:** the **absence of consent** must be central to the **definition** of the criminalized acts of sexual violence and abuse. Through the **UN Joint Global Programme on Essential Services**, **UN Women** provides the support services to survivors in over 60 countries. States must ensure that women and girls can fully **participate in all crisis response** and recovery plans, particularly in the justice sector.

Non-Governmental Organizations (NGOs) that took the floor during the Interactive Dialogue (10):

Advocates for Human Rights, Society for Threatened Peoples, International Lesbian and Gay Association, Federatie van Nederlandse Verenigingen tot Integratie Van Homoseksualiteit - COC Nederland, Rutgers, Colombian Commission of Jurists, Action Canada for Population and Development (on behalf of the Sexual Rights Initiative, the Global Network of Sex Work Projects, IWRAW Asia-Pacific and CREA), International Commission of Jurists (ICJ), Human Rights Now, Right Livelihood Award Foundation.



Advocates for Human Rights said they welcomed the recommendation to criminalize rape that explicitly excludes the **lack of consent**. *Action Canada*, in a joint statement, welcomed the report, but also said that the report did not take an **intersectional approach** and consequently, did not address the harms of approaches that rely on **protectionism, criminalization, punishment, and incarceration**. Colombian Commission of Jurists called for the Human Rights Council to urge **Colombia to thoroughly reform the National Police** so that it effectively prevents, rejects and confronts violence against women. *International Lesbian and Gay Association* said that most countries did not recognize sexual violence and **rape of LGBTI women as a hate crime**. *Rutgers* asked States to roll-out campaigns about **myths and gender-based stereotyping of rape**. *The ICJ* concurred that the most advanced legal framework to prosecute rape was enshrined in the Council of Europe Istanbul Convention, and encouraged all States to accede to it. *The ICJ* was equally concerned of the ongoing high rates of **Gender Based Violence in South Africa**. One NGO representative also spoke on **the rights of intersex people**, such as the right to live with bodily integrity, to respect their informed consent, and to legally and in practice be protected from sexual violence. Another NGO expressed their strong concern about the reports of sexual abuse and GBV, including rape against **Uighurs**. One speaker also said that, **in Egypt**, rape fell short of being clearly defined and of including a comprehensive range of non-consensual sexual acts.

Key remarks made by the Special Rapporteur during the discussion:

The Special Rapporteur called for a human rights based approach to the prevention of **rape during conflict**, and said that the roadmap to eliminate rapes during the conflict starts at **home during the peace**.

There is a **lack of comparable data on rapes**. States should collect data on prosecution, sentencing and attrition rates, and establish rape prevention watches or observatories as part of observatories on violence against women.

The Special Rapporteur recalled that she had submitted a report to the General Assembly that dealt specifically with **COVID-19 and gender-based violence**. She agreed that the pandemic had made pre-existing shortcomings more evident. Regarding objections to her use of the **notion of consent**, she noted that it was included in General Comment No. 35 of the CEDAW. She also said that there had been precedents in the past when the mandate holders suggested **Model Laws** on other issues.

The Special Rapporteur suggested that the development of an **Optional Protocol** to the CEDAW that dealt with **violence against women** should be considered.

The Special Rapporteur also referred to **pushbacks** against gender, gender-based violence and women rights in general, and said that better use of international instruments on women's rights was needed.

During her 6-year tenure, the Special Rapporteur prepared **12 thematic reports** and **11 country reports on South Africa, Georgia, Israel, the Occupied Palestinian Territory / State of Palestine, Argentina, Australia, Bahamas, Canada, Nepal, Bulgaria, and Ecuador**.

She also started two long-term initiatives: **femicide watch** and the **EDVAW Platform**.

To watch full ID with the SR on violence against women, its causes and consequences,
refer to UN Web TV [part 1](#), [part 2](#)