

**International Day on the Elimination of Violence against Women**  
**25 November 2019**

**Absence of consent must become the global standard for definition of rape**

*Joint call the by the Platform of independent United Nations and regional expert mechanisms on violence against women and women's rights to act against rape and to ensure that the absence of consent is central to the definition of rape.*

GENEVA (22 November 2019) – Ahead of the **International Day for the Elimination of Violence against Women, the Platform of 7 independent United Nations and regional expert mechanisms on violence against women and women's rights\*** jointly call upon all States and relevant stakeholders worldwide to act against rape as a form of gender based violence and a human rights violation, and, to ensure that the definition of rape is based on the absence of consent, in line with international standards. More efforts must also be made to ensure prosecution of rape in times of peace and in conflict.

Rape is a form of gender-based violence that may, in the face of widespread impunity for perpetrators, constitute a human rights violation against women and girls prohibited by international human rights law. It can amount to torture and cruel, inhuman or degrading treatment, as well as to a war crime or genocide, in the case of mass rape.

**The platform of independent United Nations and regional expert mechanisms on violence against women and women's rights**, which monitors implementation of the aforementioned international instruments, notes that rape is one of the most underreported crimes, and even when it is reported it is rarely prosecuted. This is due to a number of factors including gender based stereotypes, as well as criminal justice systems which define rape based on the use of force. These present the key obstacles for needed change.

The persistence of widespread and systematic rape and other form of sexual violence against women and girls, even in States that have proclaimed zero tolerance on violence against women, demonstrates that sexual violence is deeply entrenched in our still predominantly patriarchal societies. Power and control continue to create a social environment whereby such violence is normalized, and gender-based stereotypes on the role of women in society undermine and devalue women. These factors contribute to the unacceptable tolerance of rape, including within criminal justice systems, often resulting in impunity for perpetrators. Moreover, criminal justice systems that adopt force-based definitions of rape often require evidence that the perpetrator used coercion and that the victim failed to fight back. As such, the burden is placed on the woman to prove that she resisted. If unable to do so, the perpetrator would walk free while the victim is left stigmatized.

Next year will mark another milestone in ending violence against women and girls, with 20 years of the United Nations Council Resolution 1325 on women, peace, and security and 25 years of the Beijing Platform for Action. Both address violence against women in times of

war and in peace. Rape as a form of gender-based violence is recognized as a tool of war during conflict, but it is also widespread during times of peace as a means of oppression. If rape is tolerated and not prohibited and prosecuted in times of peace, it will also not be prevented during conflict.

In recent years, through campaigns such as #MeToo, #TimesUp, #Niunamenos, #NotOneMore, and others, the voices of rape survivors, both in times of war and in peace, have placed the spotlight on this issue and have reached an upsurge that can no longer be silenced or ignored.

As we look to the future, and in order to address the chilling impact that rape and sexual violence against women has on the human rights of women, urgent action must be taken by States, but also by non-State actors, as well as international organisations and independent monitoring mechanisms, civil society organisations and women's rights movements. We must strive to prevent and combat rape and sexual violence, to challenge the gender stereotypes and the negative attitudes and behaviours that underlie and perpetuate such violence, and to support and provide redress to women who are willing to speak up.

In this regard, we call upon States to close the gap between international and national laws on rape and sexual violence, and more specifically, to:

- Revise Criminal/Penal codes and ensure that the definition of rape is based on the absence of consent, and that it is in line with international standards, as provided for by: the CEDAW Committee's General Recommendation No. 35; the CEDAW Committee's jurisprudence in the case of *Vertido v Philippines*<sup>1</sup>; the Council of Europe Convention on preventing and combating violence against women and domestic violence; the International Criminal Court; the European Convention on Human Rights, as interpreted by the European Court of Human Rights in its case-law; the Inter-American Court on Human Rights decisions; the International Criminal Tribunal for Rwanda (ICTR), and its definition of rape in the *Jean- Paul Akayesu Case*<sup>2</sup>; the International Criminal Tribunal for the former Yugoslavia (ICTY), and its landmark case law on wartime sexual violence; and the Committee of Experts of the MESECVI Hemispheric Report on Sexual Violence and Child Pregnancy in the States Party to the Belém do Pará Convention.
- Explicitly criminalize rape and sexual violence within marriage;
- Eradicate harmful and discriminatory gender stereotypes around sexual violence, including from within criminal justice systems that have often resulted in impunity for perpetrators, and collect data on rape prosecution.
- Ensure the availability of accountability mechanisms to address impunity;

---

<sup>1</sup> CEDAW Committee Communication No. 34/2011, *R. P. B. v. the Philippines*

<sup>2</sup> *The Prosecutor v. Jean-Paul Akayesu*, ICTR-96-4-T, Trial Chamber 1, 2 September 1998

- Ensure that investigations into, or prosecution of rape offences, shall not be wholly dependent upon a report or complaint filed by a victim, and that the proceedings may be carried out even if the victim withdraws the complaint.
- Ensure effective victim protection during the legal process, through free legal aid and support in court, not having to meet the defendant when appearing in court, *in camera* proceedings, testifying through video link and prohibition of introducing survivors' sexual history into proceedings;
- Ensure wide availability of specialist support services providing forensic examinations, counselling, trauma support, and access to health services and other forms of support for victims of sexual violence;
- Ensure adequate and comprehensive reparations are provided, to women and girls victims of sexual violence, both in times of war and peace, in line with international standards

ENDS

(\*)**Dubravka Šimonovic**, *Special Rapporteur on violence against women, its causes and consequences*; **Hilary Gbedemah** *Chairperson of the UN Committee on the Elimination of Discrimination against Women*; **Meskerem Geset Techane**, *Chair of the UN Working Group on the issue of discrimination against women in law and in practice*; **Marceline Naudi**, *President of the Group of Experts on Action against Violence against Women and Domestic Violence of the Council of Europe (GREVIO)*; **Margarette May Macaulay**, *Inter-American Commission on Human Rights Rapporteur for Women's Rights*; **Lucy Asuagbor**, *Special Rapporteur on Rights of Women in Africa*; and **Sylvia Mesa**, *President of the Committee of Experts of the Follow-up Mechanism to the Belém do Pará Convention*.