



# SEXUAL ASSAULT CRISIS CENTER

10 Year Activity

The Situation in RA

**Yerevan 2019**

## Foreword

The World Health Organization defines sexual violence as “any sexual act, attempt to obtain a sexual act, unwanted sexual comments or advances, or acts to traffic, or otherwise directed, against a person’s sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work.”<sup>1</sup> Sexual violence is a serious threat to public health and is a type of a gender based violence. Sexual violence occurs when someone forces or manipulates another person into unwanted sexual activity without the latter’s consent.<sup>2</sup>

Despite the lack of fully comprehensive information about sexual violence, according to UN data, it is estimated that 35 percent of women worldwide have experienced either physical and/or sexual intimate partner violence or sexual violence by a non-partner at some point in their lives – not including sexual harassment.<sup>3</sup>

According to UNICEF, around 120 million girls under the age of 20 worldwide – or about 1 in 10 girls – have experienced forced intercourse or other forced sexual acts.<sup>4</sup>

In the Republic of Armenia sexual violence is identified with sexual crimes, i. e. it is equated with crimes against sexual freedom and bodily integrity. However, concepts of sexual freedom and bodily integrity are not stipulated in the laws of the Republic of Armenia and are mentioned only in theoretical discussions on criminal law.

---

1 See [https://www.who.int/violence\\_injury\\_prevention/violence/global\\_campaign/en/chap6.pdf](https://www.who.int/violence_injury_prevention/violence/global_campaign/en/chap6.pdf)

2 See [https://www.nsvrc.org/sites/default/files/Publications\\_NSVRC\\_Factsheet\\_What-is-sexual-violence\\_1.pdf](https://www.nsvrc.org/sites/default/files/Publications_NSVRC_Factsheet_What-is-sexual-violence_1.pdf)

3 See <http://www.unwomen.org/en/what-we-do/ending-violence-against-women/facts-and-figures>

4 See <https://www.unicef.org/mena/press-releases/nearly-one-in-four-adolescent-girls-experience-physical-violence>

For instance, the concept of sexual freedom is generally defined as the right of a mentally healthy person of 16 years of age to independently, without any coercion, decide with whom and how to satisfy his or her sexual desires.<sup>5</sup>

Bodily integrity, on the other hand, puts a moral and legal limit on committing any sexual act with those individuals that are not bestowed with sexual freedoms, as they are not capable of understanding the meaning and consequences of sexual acts undertaken in relation to them and are not capable of controlling their actions pertaining to sexual acts.<sup>6</sup> Bodily integrity is generally applied to people that are below the age of 16. Neither of these terms is defined by the legal code of the Republic of Armenia, but are instead generally understood both from theory and practical application.

Sexual violence mostly impacts women and girls; however, it can also happen to men and boys. All individuals that have been subjected to sexual violence should have access to justice and be protected both through the trial process and the reception of social services. Nonetheless, bearing in mind that violence against men and boys is an inadequately studied problem, which also remains poorly covered, as well as the specific experiences of the Sexual Assault Crisis Center NGO (SACC), which serve as the basis for the development of this report, this report will mostly examine sexual violence against women and girls as a distinct group. This report analyses cases that occurred during the period of 2016-2018, while the qualitative part covers the period from 2008-2018 and relies on cases of individuals who approached the SACC, as along with cases found on Data Lex, an Armenian legal database, along with internationally known cases.

---

5 Кудрявцев В.Н., Лунеев В.В. О криминологической классификации преступлений// Государство и право, 2005, №6, pp.

6 Israyelyan G. V., Sexual Crimes and their Prevention in Armenia, Yerevan, 2012, pp. 9-10

## Introduction

The equality of women and men and the elimination of all forms of discrimination against women is one of the main guarantees of any democracy. However, in several democratic countries of the world, women still face discrimination daily, including sexual discrimination.

There are a number of studies dedicated to the status of women and discrimination against them, which present and analyze various social and political issues stemming from gender inequality.<sup>7</sup> The existing discriminatory narrative that leads to women's rights violations, including criminal acts and other forms of violence, is often preconditioned on the granting of privileges to men in various spheres of life. Social behaviors and judgements that are based on patriarchal norms are widespread, and consequently, infringe on the rights of women.

According to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which Armenia ratified in 1993, member states are obligated to take all possible measures to address and fight against all forms of discriminatory attitudes, customs, and practices that stem from gender stereotypes.<sup>8</sup> In 2016, final observations directed at the Government of Armenia by CEDAW expressed concerns related to deeply rooted gender stereotypes and patriarchal attitudes, suggesting urgent measures and practical steps that would lead to reducing them.<sup>9</sup>

In 2016, a survey covering whole of Armenia found that 22.4 percent of women that had partners were subjected to physical violence and 45.9 percent were subjected to psychological violence.

---

<sup>7</sup> YSU Gender and Leadership Studies Center has conducted several thematic studies. For details visit: <http://www.yasu.am/gender/>

<sup>8</sup> CEDAW, Articles 2(f), 5(a) and 5(b)

<sup>9</sup> Concluding observations on the combined fifth and sixth periodic reports of Armenia, 2016 November, <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/28/PDF/N1640228.pdf?OpenElement>

In addition, 19.5 percent of women that had partners stated that their partner prohibited them from working or earning money in any way. In contrast, 7.6 percent of men surveyed admitted having forced a woman or a girl to have sexual intercourse with them.<sup>10</sup> Keeping in mind that this data point is based entirely on self-reported information, the real number is likely to be much higher – 7.6%, already a staggering number, is nonetheless only a fraction of those who have knowingly and intentionally perpetrated sexual violence.

All efforts to stop violence against women “contradict” the interests of men who hold greater power, as it is their privilege that allows, and sometimes even forces them, to resort to violence against their partners.<sup>11</sup>

The stereotypes circulated in society that encourage a woman to be “smart, obedient, wise, and chaste” put the responsibility of preventing violence on her shoulders. According to several women’s and human rights organizations, being subjected to violence within the family is still criticized by certain parts of society, and in the case of sexual violence the responsibility stays entirely with the woman rather than with the perpetrator. When it comes to sexual violence, the woman is always seen as the party that “provokes” and “incites” it. The woman “incites” sexual violence through her clothing, behavior, or even her hairstyle or make up. The legal system, as a rule, reproduces that same behavioral model, subjecting women who have undergone violence to double trauma. That retraumatization makes achieving justice an impossible process for many women in Armenia.<sup>12</sup>

---

10 Osipov V., Sargizova J., Men and Gender Equality, UNFPA, 2016, p. 105

11 Campbell, J. C., Webster, D., Koziol-McLain, J., Block, C., Campbell, D., Curry, M. A., ... Laughon, K. (2003). Risk factors for femicide in abusive relationships: results from a multisite case control study. *American journal of public health*, 93(7), pp. 347-352

12 Coalition to Stop Violence against Women. *Legalizing gender stereotypes: The Judiciary and gender discrimination in Domestic Violence Cases*. Yerevan, 2017, p. 42

The subordination of women, ingrained stereotypes, taboos surrounding sexuality, the fears that survivors have – that if they speak up, they will be criticized, ostracized, and labeled – holds many people back from voicing their cases of rape, sexual assault, and/or forced marriage, which leads to those crimes being unseen. Although ingrained stereotypes encourage survivors of rape keep silent, the consequences of sexual violence continue to haunt them throughout their lives. Within two weeks after their rape, 94 percent of survivor women exhibit stress related disorders.<sup>13</sup> Every third survivor (33 percent) starts having suicidal thoughts.<sup>14</sup> The consequences of sexual violence are on par with some of the other harshest violence one can experience. In fact, studies show that individuals that have taken active part in war and women that have been raped have almost the same psychological issues.<sup>15</sup>

In Armenia, violence against women and girls, and particularly, sexual violence, is the kind of problem that requires the combined forces of human rights and women’s rights groups along with the efforts of rights-conscious individuals to effectively combat it.

The SACC and the Investigative Committee of Armenia conducted a joint study which revealed that criminal cases investigating sexual assaults reported in 2015 mostly impacted women – i.e. of the total 142 survivors, 131 were women and girls (93.2 percent),<sup>16</sup> whereas in 2016 out of 162 survivors 151 were women and girls (93.2 percent).<sup>17</sup>

Consequently, despite existing in a state of latency, it becomes clear that sexual violence is a basic women’s issue in the Republic of Armenia.

---

13 D.S. Riggs, T. Murdock, W. Walsh, A prospective examination of post-traumatic stress disorder in rape victims. *Journal of Traumatic Stress*, 1992, pp. 455-475

14 DG Kilpatrick, CN Edumuds, AK Seymour. *Rape in America: A Report to the Nation*. Arlington, VA: National Victim Center and Medical University of South Carolina, 1992.

15 Department of Justice, Office of Justice Programs, Bureau of Justice Statistics, *Socio-emotional Impact of Violent Crime*, 2014.

16 2015-2016 crimes against sexual immunity and sexual freedom during and specificities of investigation, Yerevan, 2017, p. 14

17 *ibid*, p. 20

When we take into account that professional literature estimates that the latency of sexual violence reaches 70-80 percent, the aforementioned local statistics would then only reveal every fifth case.

## Report Structure

In Armenia, sexual violence is not sufficiently studied, researched, or discussed, and is mostly limited to a narrow circle of professionals. This report is the first of its kind that intends to raise this issue by targeting the public at large, discussing sexual violence against women and girls by uplifting the voices of survivors and showing the main issues they face in finding access to justice.

**The main objective of this report is to identify issues pertaining to sexual violence in Armenia, compare them with analyzed international experiences, and suggest possible practical solutions.**

This report is comprised of 3 main sections. The first and second sections cover issues in the judicial system that serve as impediments to accessing justice for women and girls subjected to sexual violence, present the psychological consequences of sexual violence, introduce a survivor-centric<sup>18</sup> approach for the social and judicial systems in place to alleviate those consequences, and analyze some of the legal specifications and gaps in judicial practice.

The third section describes the ten-year history of the SACC's practice and presents the cases and services delivered from 2008-2018.

---

<sup>18</sup> The original text uses victim-centric wording, however, since the glossary has evolved the translation has accommodated the more recent version of the definition, realistically considering victims as survivors of a crime, which also has an imbedded empowering message

The report concludes with practical suggestions to help solve the main issues identified make services and legislation more targeted and survivor-centric.

The preparation of the report was conducted by engaging a multi-disciplinary professional team, the members of which conducted the psychological, legal, and social analyses of the issue at hand. The report features the anonymous statements of several survivors that received services from the center. Since most of the cases coming through the center are still under investigation and most of the closed cases were conducted in closed hearings – to protect the identity of the survivor – the details, particularly any identifying factors, of the cases are not presented in this report. In developing the report, the authors reviewed national legislation and common practices, documents from the UN, WHO, and the Council of Europe, and the experiences of other countries also trying to prevent sexual violence and protect survivors.

## **Section I. Particularities of psychological trauma for persons subjected to sexual violence and the survivor-centric approach in the justice system**

### **Sexual violence as a causal factor in triggering psychological trauma**

Sexual violence causes numerous consequences among survivors, impacting their psychological health, most particularly, a person subjected to sexual violence often changes their attitude with themselves, with their inner circle of people, their community, and with the past, present, and future. The consequences of sexual violence on psychological health can be grouped into 3 categories:

1. Short-term
2. Mid-term
3. Long-term

For instance, right after the incident, a month or months after, a person subjected to sexual violence may observe various psychological consequences, which in turn can reveal themselves on *behavioral, cognitive, and emotional levels*.<sup>19</sup>

In trying to reflect upon the particularities of psychological trauma, it is necessary to mention that events are considered traumatic when they exceed the body's natural capacity to adjust to them and carry the risk of negatively impacting a person's physical health and life. The most common causes of psychological trauma are unexpected attacks – rape, war, natural disasters, childhood sexual assaults, etc.<sup>20</sup>

As mentioned previously, consequences of sexual violence can reveal themselves on behavioral, cognitive, and emotional levels. For instance, the main emotional reactions of survivors of sexual violence are fear, anxiety, torment, depression, shame, guilt, and apathy. For a person subjected to sexual violence, the fears linked specifically to the assault itself are especially pronounced. The particular fear of the event reoccurring – or fear that arose when the survivor found themselves in situations that reminded them or were related to the incident, including persistent fear of pregnancy or STIs – was prevalent both in our review of the professional literature and also in our observations of the cases that have come through the SACC.

*I was always scared that all of it would repeat itself: in the mornings I would have a sharp sense of fear, especially around the time when the incident had happened and my fear even had a name: please let that hell not repeat itself.*

*D., 37 years old*

---

19 Josse E. They came with two guns': the consequences of sexual violence for the mental health of women in armed conflicts. *International Review of the Red Cross*, 2010, pp. 177-195

20 See [https://www.sagepub.com/sites/default/files/upm-binaries/11559\\_Chapter\\_1.pdf](https://www.sagepub.com/sites/default/files/upm-binaries/11559_Chapter_1.pdf)

Individuals subjected to sexual violence frequently experience physiological problems that have no discernable somatic links, for instance pains – particularly in the area of the stomach – muscle pains, headaches, fatigue, neuro-vegetative reactions, such as nausea, tachycardia, shortness of breath, excess sweating, sexual dysfunctions, such as an absence or decline in libido, or, on the other hand hyperactivated sexual desire, vaginismus, menstrual problems, such as absence of periods, menstruation accompanied with pain, irregular cycle, or conversion disorders, including immobility of the hand muscles, inability to speak, or blindness. Certain somatic disorders could be observed as well, such as gastro-intestinal disorders, cardio-vascular disorders, blood pressure fluctuations, stopped breathing, eczema, allergic skin reactions, diabetes, and problems with other organs.

*I have inexplicable headaches, nausea, and skin rashes and all of this has no somatic underlying cause. The doctors were unable to find the cause...  
G., 22 years old*

Returning to the issue of cognitive symptoms, it is important to separate repetition-compulsion from a survivor's impression of going through the incident over and over again, which manifests mostly through **flashbacks** (in the case of flashbacks, a person subjected to sexual violence exhibits feelings and behaviors as though the traumatic event is unraveling at that very moment) that are of a visual nature, but can also include smell, hearing and other sensations.<sup>21</sup> Repetition-compulsion, however, occurs in the form of repeated memories and intrusions, which is different from a flashback, since the person clearly realizes that what they are experiencing is a memory linked to the sexual assault – often with recurrent nightmares, or again, fears that the incident will repeat itself, especially, if factors linked to the initial assault occur, i. e. the opening and closing of a door, unexpected noise, etc.

---

21 Josse E. They came with two guns': the consequences of sexual violence for the mental health of women in armed conflicts. International Review of the Red Cross, 2010, pp. 177-195

People subjected to sexual violence frequently report issues linked to memory, such as traumatic amnesia, during which they cannot recall the details linked to the incident or only remember bits and pieces—or the reverse, traumatic hypermnesia has also been observed, when a person subjected to sexual violence remembers every detail of the attack with unusual clarity, but has problems with retaining new information.

*I have never had problems with my memory, but after the incident, especially when I was forcing myself to recall some details linked to it, I realized that there was a lot I could not bring back. I remember that we entered that space together. I remember, that he started touching me, which disgusted me. I remember finding him on top of me and I remember it myself outside. That entire period in between has been erased from my memory. But contrary to all of that, every time my boyfriend tries to touch me and I feel that same disgust, I lose touch with reality and start to shiver with my whole body.*

*S., 19 years old*

The other common symptom is *disassociation* (disassociation is used to describe the absence of communication or difficulties experienced when communicating as well as the chain of flaws that are generally linked to each other). It is a normal reaction to a traumatic event and, in the case of sexual violence, is associated with a psychological state of freezing, which most frequently manifests as *depersonalization* or distorted perceptions of self. Some survivors say they feel as if they are detached from their body, seeing themselves and the situations they are in from the outside. Another form is *derealization*, which is linked with experiencing problems in the perception of one's immediate environment, for example perceiving objects and people as foreign to them.

One of the most widespread symptoms is *confusion*, which is mostly revealed by a difficulty concentrating, difficulty with spatial perception, and difficulty to completing simple actions.

*Behavioral symptoms* among people subjected to sexual assault include *avoidance* from any trigger that could bring back traumatic memories, *over-anxiety* due to constant expectation of reoccurrence, *sleep and nutrition disorders*, *substance abuse*, such as alcohol and drugs, *changes toward hygiene*, such as compulsions to shower – or the opposite -- not paying attention to hygiene, *problems in interpersonal relationships*, *self-harm*, *suicide attempts*, and/or *unprovoked laughter or crying*, especially when telling stories associated with negative emotions, and *leaving one's own home and wandering in an unknown direction*.

*My whole life turned upside down after that the incident; I can't sleep, I have fears, unfounded suspicions towards everyone, I have started feeling disgust toward the opposite sex, I can't concentrate on my studies, my memory has deteriorated, and in the meantime, when there is a conversation about sexual violence, I almost don't feel it for myself – as though all of that never happened to me.*

*L., 25 years old*

It is important to note that these symptoms vary from one person to another, and most of them are also observed in people with post-traumatic stress disorder (PTSD).<sup>22</sup> Unfortunately, many studies and our analysis of international cases shows that 80 percent of individuals subjected to sexual violence have a risk of PTSD, compared to 24 percent of those who have experienced other traumas.<sup>23</sup>

---

22 According to DSM-5 PTSD has several indicators, such as availability of any traumatic experience, compulsive symptoms, avoidance of factors reminding the trauma, negative shifts in cognition and logic, hyper agitation, each of which has their symptoms and the repetition of any of those over a month period impact the adaptation of the person.

23 Salmona D. M. (January 19, 2018 ). TRAUMATIC AMNESIA a dissociative survival mechanism, pp. 6-7.

That risk reaches 87 percent if the sexual violence occurred during childhood.<sup>24</sup>

According to the WHO, people subjected to sexual violence are twice as likely to endure depression, substance abuse, suicide attempts compared to other individuals that have not been subjected to it.<sup>25</sup>

Sexual violence as a cause of psychological trauma also carries with it societal baggage and other particularities that can further negatively impact the psychological well-being of a survivor:

1. The survivor's existing negative attitudes towards sexual violence even before the assault leads them to have feelings of self-criticism, guilt, fear, shame, fear of being shunned by society, or low self-esteem.
2. Preconceived notions about the role of the "victim" and distortions of role identification by the person subjected to sexual violence, when the latter is unable to grasp that in that situation, they are innocent, that their clothing or previous relationship with the perpetrator are not reasons for rape.
3. The secondary victimization of persons subjected to sexual violence by society.<sup>26,27</sup>

Thus, the information provided above allows us to understand that sexual violence is a leading risk factor for psychological trauma and impacts the person subjected to it through behavioral, emotional, somatic, physiological symptoms and, unfortunately, also carries a high risk of PTSD.

---

24 Ibid, pp. 6-7:

25 World Health Organization, *Violence against women – Intimate partner and sexual violence against women*. Geneva, 2011.

26 A more detailed account of secondary victimization is provided in the next section of the report.

27 Yuan Nicole P, K. M. *The Psychological Consequences of Sexual Trauma*, 2004.

In the meantime, the person subjected to sexual violence is also criticized more by society, and it is also possible that before being subjected to sexual violence the person already had negative attitudes towards other survivors of such violence and sexual violence itself. Therefore, considering all of the above, it is necessary to pay much greater attention to the support provided to persons subjected to sexual violence, which should be delivered in a secure environment by professionals with appropriate training – without any criticism and without additional comments that increase the probability of double trauma among persons subjected to sexual violence.

### **Secondary Victimization: Main Idiosyncrasies and Consequences**

As mentioned, sexual violence greatly impacts the survivor both physically and psychologically. This means that a person subjected to sexual violence might approach different institutions, like healthcare, legal, or psychological centers to receive support. Unfortunately, in the world including in Armenia, the probability of re-traumatization for persons subjected to sexual violence by those same institutions is high.

Secondary victimization<sup>28</sup> is a subtype of trauma that is linked to the way institutions and individuals react to the incident and treat the survivor, rather than linked to the violence itself. International experience shows that secondary victimization is mostly linked to issues present in the judiciary system. From the moment the survivor turns to the police, they go through a lengthy and cumbersome process. Recounting the experience over and over again during both the investigation and the trial can lead to secondary victimization.

---

28 In professional literature it is also called “second rape” (Madigan&Gamble, 1991)

For example, they may be asked to recount the events during the examination of the crime scene, interrogation, cross-examination, as well as forensic expertise or other types of examinations, or many other instances that can directly lead to secondary victimization, if those actions are not taken from a perspective valuing and centering the psychological wellbeing of the survivor.

The publishing of the case in the media, the circulation of photos of the survivor, conversations with various professionals in the field and their references to forgiving and forgetting the perpetrator, or any other actions that look for ways to rationalize the rape and question the role of the survivor in bringing about their own assault can cause secondary victimization.

*Since I needed the counseling services of a psychiatrist, I visited a specialist and told them about the case there was a criminal case pending. The psychiatrist insisted that I withdraw the lawsuit, saying that it would only further complicates my existing problems—which had to do with my relationship with my husband. I felt incredibly tense after this conversation and started feeling guilty about whether or not I had done something wrong.*  
N., 37 years old

At the individual level, commentary from other people is again important for persons subjected to sexual violence -- from friends, family, coworkers, teachers, etc. For example, criticism or feedback related to the clothing the survivor was wearing can lead to secondary victimization.

The community can also contribute to secondary victimization and those triggering factors have a causal relationship with community's ethnic, racial, religious outlooks, or with other social conflicts and therefore, the preventative measures need to develop adequate strategies to cope with these issues.<sup>29</sup>

The studies show that there are three distinct causes of secondary victimization:

1. *Existing myths related to sexual violence*, more specifically considering the behavior and clothing of the person subjected to sexual violence as a justification or presuming that the person subjected to sexual violence triggered or provoked it. Other people's words, reactions, hints or questions aimed theoretical at "finding out the truth" can actually lead to secondary victimization and are not always productive. For example, "if you were going together to the hotel, didn't it cross your mind that he'd want to have sex? Instead of asking that, it is better to ask more general question, such as "why did you decide to go to the hotel?" However, if from the very beginning the objective of going to the hotel is clear, it is better to not ask at all – if no new information is gained, why ask?
2. The second cause is related to the *actions of other people* that are related to service delivery to the person subjected to sexual violence. For example, guidance in the process of receiving medical examination to avoid possible STIs or necessary steps in preventing pregnancy, etc.

---

29 Social Justice Research [sjr] pp683-sore-455501 November 19, 2. 1. (2002, November 19). Social Justice Research [sjr] pp683-sore-455501 November 19, 2002 16:37 Style file version June 4th, 2002SoSecondary Victimization of Crime Victims by Criminal Proceedings. Social Justice Research [sjr] pp683-sore-455501 November 19, 2002 16:37 Style file version June 4th, 2002SoSociSocial Justice Research Vol. 15, No. 4. Stop Violence Against Women. (2013, August). Retrieved 04 16, 2019, from [http://www.stopvaw.org/secondary\\_victimization](http://www.stopvaw.org/secondary_victimization)

3. The third reason is the *inefficiency of delivered services*, which frequently complicates the psychological state of persons subjected to sexual violence and is causally linked to the quality of their life and wellbeing.<sup>30</sup>

Studies show that each institution carries its own impact on the emotional state of the person subjected to sexual violence. For instance, the person subjected to sexual violence goes to the police to report the crime, which in its turn leads to a process during which the investigators reveal their own stereotypes of an “innocent victim” and “wicked victim”, and statistics show they are inclined to provide support to the “innocent victim” more. In this case a “innocent victim” is one that cries incessantly when recounting the incident has a messy appearance and is timid.<sup>31</sup>

Hence, during the investigation and trial, authorities must consider the emotional state of the person subjected to sexual violence and the impact of possible psychological trauma, especially that which can be caused, even unintentionally, by their own actions.

---

30 Social Justice Research [sjr] pp683-sore-455501 November 19, 2. 1. (2002, November 19). Social Justice Research [sjr] pp683-sore-455501 November 19, 2002 16:37 Style file version June 4th, 2002SoSecondary Victimization of Crime Victims by Criminal Proceedings. Social Justice Research [sjr] pp683-sore-455501 November 19, 2002 16:37 Style file version June 4th, 2002SoSociSocial Justice Research Vol. 15, No. 4. Stop Violence Against Women. (2013, August). Retrieved 04 16, 2019, from [http://www.stopvaw.org/secondary\\_victimization](http://www.stopvaw.org/secondary_victimization)

31 Rebecca Campbell, “The community response to rape victims’ experiences with legal, medical and mental health systems” American Journal of Community Psychology, Vol. 26, No 3, 1998.

## Specificities of “Survivor Centric” Approach in the Justice System

The “Survivor Centric” approach is a systemic method aimed at focusing on the needs and necessities of the person subjected to sexual violence, the goal of which is sensitive service delivery to the survivor in a nonjudgmental environment. As a result of our analysis of SACC cases, it becomes clear that persons subjected to violence are compelled to wait for extended times in the process of receiving health related services. The overloaded police and investigation officers overlook the needs of the person subjected to sexual violence and that turns into a negative experience for the person subjected to violence. According to the U.S. State of New Jersey’s standards on service delivery for persons subjected to sexual violence, the application of “survivor centric” approach the requests, security, and wellbeing of the survivor should take priority regardless of the causes and processes linked to the case.<sup>32</sup> The main principles of the “Survivor centric”<sup>33</sup> approach are to be organized based on the following principles, including during the investigation, interrogation, and during any processes that may arise during the trial:

- Any action, be it an interrogation or a health examination should be organized in a secluded area and if necessary, the person subjected to sexual violence should await it in a private room. The privacy of the person subjected to sexual violence must be ensured during interrogation, all the stages of examination, avoiding, for instance, the frequent ins and outs of other people (Istanbul protocol, provisions 83, 124),

---

32 Christine Todd Whitman, P. V. Standards For Providing Services To Survivors Of Sexual Assault. New Jersey, 1998:

33 When narrating the principles of “Survivor Centric” approach, the Istanbul protocols, New Jersey list of working standards with persons subjected to sexual violence, Baltimore principles of the works in survivor centric approach have been considered as the most modern practice

- All processes should ensure the safety and security of the person, i. e. the interrogation and examinations should be carried out in such conditions that the person subjected to sexual violence is safe and secure (Istanbul protocol, provisions 91, 93, 126, 239, 264),
- Any action or interrogation including the person subjected to sexual violence must be conducted in a trusted and safe environment (Istanbul protocol, provisions 129, 164),
- Informed consent should be received from the person subjected to sexual violence in relation to their participation in all investigative and fact-finding processes (Istanbul protocol, provisions 149, 165),
- No information or document can be published without the discussion and proper consent of the person subjected to sexual violence (see New Jersey list of working standards with persons subjected to sexual violence),
- Even if the person subjected to sexual violence states that has no injuries, proper examination is offered/advised (see New Jersey list of working standards with persons subjected to sexual violence),
- All the actions to be taken in relation to the person subjected to sexual violence should be being explained in detail and commented (see New Jersey list of working standards with persons subjected to sexual violence),
- The integrity and objectivity of the investigative process should not and does not exclude acting compassionately towards the person subjected to sexual violence and exhibiting sensitivity while asking interrogation questions (Istanbul protocol, provisions 162, 262, 263),

- All processes should be organized to minimize as much as possible the number of times the survivor is asked to recount their experiences. And the interrogation should be conducted in such a way as to minimize the number of questions, limiting the interrogator to questions necessary to understand the type of crime, the scope of medical examination needed, to record evidence, and to identify witnesses and possible perpetrators (Baltimore principles of the works in survivor centric approach),<sup>34</sup>
- During interrogation or any other action, individual signs of distress or exhaustion should be considered
- The person subjected to violence should be informed about the arrest or release of the perpetrator (see New Jersey list of working standards with persons subjected to sexual violence),
- Forensic examination is conducted involving specialists of both sexes,<sup>35</sup>
- A security plan should be discussed with the person subjected to sexual violence, in case the perpetrator was a family member or an acquaintance and additional provisions on shelter and security are needed (Baltimore principles of the works in survivor centric approach),
- The person subjected to sexual violence must be guided to appropriate facilities which will offer them professional support (Baltimore principles of the works in survivor centric approach):
- The application of survivor-centric approach must be applied regardless of the survivor's socio-economic status, and psychological or physical issues, etc.<sup>36</sup>

---

34 Baltimore Victim Center Approach at <https://victimsofcrime.org>

35 Alnutt, S. C. General principles of forensic report writing. Australian and New Zealand Journal of Psychiatry, 2000, pp. 980-987

36 Giffard, C. The torture reporting handbook: How to document and respond to allegations of torture within the international system for the. University of Essex. Human Rights Centre, 2000; Interview\_Ethical and Clinical Considerations. Psychological Evaluation, 2009, pp. 9-15

## State of Affairs in Armenia

For the survivor-centric approach to be implemented, the criminal justice system in question needs to have appropriate legal foundations and practices. Unfortunately, in the Republic of Armenia's system, criminal cases of sexual violence are not investigated using the survivor-centric approach,<sup>37</sup> which is being shown by the lack of legal regulations, the lack of professional delivery of social services, and lack of sensitive approach from police, investigators, prosecutors, and judges – the exception being investigation of cases that involve children, but only to a certain degree.

Examining the SACC's survivor's PTSD cases shows that many of them were subjected to secondary victimization by state bodies from their very first interactions. The investigative process for cases of sexual violence is in no meaningful way – like in the number of interrogations it includes, available sensitivity guidelines, or any other court procedure – different from the investigative process for any other crime. Sexual violence is treated functionally the same way as a property dispute for instance. Furthermore, many of the survivors' that investigators pointedly warned them of the consequences of false testimony, implying doubts about their testimony right from the start. Moreover, the persons subjected to sexual violence have been forced to recount the details of their incident during interrogations, cross-examination, and other procedural points – reaching even up to the dozens, a gruesome process which causes psychological distress and has no actual influence over the effectiveness of the investigation.

Over the course of numerous interrogations, investigators repeat the same question incessantly to ostensibly identify inaccuracies and inconsistencies in their testimony, theoretically to ensure that the latter tells the truth.

---

<sup>37</sup> Within the scope of this report crimes of sexual violence are considered the ones that are persecuted based on the articles 138-142 of the Criminal Code of the Republic of Armenia

However, due to the psychological trauma of reliving these events, survivors can often confuse simple sequences of events or have temporary loss of memory, as described earlier in this report. And so, **if investigators do not have the knowledge and skills to sensitively work with persons subjected to sexual violence, they can easily cause secondary victimization to the survivor, and actually impede the efficacy of their investigation or lead it.**

One of the SACC's PTSD patients was a married woman subjected to sexual violence by her co-worker, said:

*Our investigative system is appalling for these kinds of cases. . .*

*They look at sexual violence as men, not as experts. . .*

*The investigators negatively impact the person's psychological state the nerves -- they constantly said to me, "Nothing has happened; you are a grown up" ...*

*The investigator would call me for interrogation after working hours, for example at 20:00 or during weekends. During interrogations they would try to scare me. For example, when I would insist something happened as I experienced it, and not how the investigator was presenting it, he would suddenly say, "Don't make me turn the case against you," and I would get this fear and inexplicable feeling...*

*During the interrogation, the investigator would overtly show his bias and help the perpetrator, in the meantime deliberately pressuring me psychologically.*

*The worst is when the investigator tells you "What else do you want, your husband is next to you, the family is with you, go and get on with your life, what are you chasing after, you think we don't have enough to do -- we don't have time for this to take care of all of your cases that you come and report, what has happened?"*

*N., 34 years old*

During one interrogation of a SACC client, the latter's condition deteriorated to such an extent that the investigator was forced to call an ambulance. Survivors have also noted the presence of unrelated people in their interrogation rooms, while they were meant to be recounting traumatic and intimate events – for example, another investigator or someone else invited by that investigator waiting to be interrogated for a different crime altogether – obviously limited survivors' comfort and willingness to openly talk about their experience in front of so many people. The questions raised by investigators are frequently insensitive, sometimes unprofessional, or driven by personal interest. When examining the case of a married woman, one investigator actually checked with her husband if after the rape, he and his wife have had sexual intercourse.

Another SACC client was interrogated for longer than the set time with questions that were of an intimate nature and unrelated to the case. The investigator, for instance, asked the survivor if she liked having oral sex with the perpetrator.

From the perspective of psychological trauma, the most severe part of the process is the confrontation with the perpetrator during cross-examination. Recognizing that cross-examination is a crucial part of guaranteeing the perpetrator their right to a fair trial, nevertheless, from the perspective of balancing of the rights of the parties, legal practices define the justice system's obligation to neutralize trauma-inducing questions to survivors.

The European Court of Human Rights (ECHR), in the case of *S. N. v. Sweden* (July 2, 2002), in a precedent setting verdict mentioned that they had to consider the special features of criminal proceedings concerning sexual violence, namely that they can become ordeals for the survivors, particularly when they are forced to confront the defendant. This becomes even more significant in cases that deal with minors.

ECHR has ruled that the defendant's right to a fair trial in these cases must still include consideration for the plaintiff's right to personal and familial privacy. Therefore, the ECHR concluded that measures taken to protect the survivor from secondary trauma may be necessary and acceptable as long as they can be balanced with the rights of the defendant. In *S.N. v. Sweden* specifically, the ECHR stated that because of the impossibility of interrogating a minor in this instance – due in, in part, to Sweden's general practices of not cross-examining minors in court – videotapes of the original police interrogation, before which defense counsel was able to submit questions for the police to ask on their behalf, were an acceptable alternative and did not violate the rights of the defendant.<sup>38</sup>

In the case of *Y. v. Slovenia*, the ECHR ruled that direct confrontation can cause further traumatization to a plaintiff subjected to sexual violence, and that therefore, national courts should take all precautions in these cases when engaging in confrontation, i. e. the more sensitive the questions are, the more precautionary measures should be employed (*Y. v. Slovenia* § 106).

Meanwhile, many SACC clients mention that during the confrontation phase of the interrogation, they find themselves in a psychologically intimidated state, as traumatic or insulting questions from the perpetrator or his counsel are not even being withdrawn or neutralized by the investigators. One of the beneficiaries said:

*During the confrontation, the investigator and the perpetrator would smoke and talk together, during breaks they would discuss the prices of spare automobile parts. The most obnoxious part was that during their discussions, my male lawyer would join them. I felt horribly overpowered.*

---

<sup>38</sup> See <http://hudoc.echr.coe.int/eng?i=001-60564>

Similar questions are asked during the court's interrogation and the court does not react to their adequacy for the case. In the court hearing related to the rape case of Y., the details of which the survivor later revealed on their own, the survivor stated,<sup>39</sup>

*The defense counsel asked during the trial “Was Armen’s penis really hard enough to penetrate a vagina? If it wasn’t, he cannot be indicted of rape. “That’s what they asserted. .*

As such, it is crucial to take the following steps:

- Train the police, investigators, prosecutors, judges, and lawyers in the psychological specificities of individuals subjected to sexual violence to more effectively manage their effects in criminal cases;
- Introduce amendments to the Code of Criminal procedure to specifically regulate the procedures of investigation and court interrogation in cases of sexual violence;
- Strengthen the mechanisms of control for holding police officers and investigators responsible in case of violation of ethical rules.

---

<sup>39</sup> See <https://hetq.am/hy/article/105144>

## The Right to Privacy and the Exploitation of “Morality”

Numerous studies attest to the fact that rape is among, if not the most, least reported crimes.<sup>40</sup> Experts studying sexual violence indicate that during investigation and court interrogation the most frequently violated right in relation to it is privacy.<sup>41</sup>

Everyone has the right to privacy, however, for persons subjected to sexual violence it is even more a necessity than obvious. Considering the peculiarities of sexual violence, the protection of privacy of persons subjected to this type of violence is an important guarantee that should be ensured by the state, which also bolsters survivors’ trust in the legal system and, in turn, helps with a swift rehabilitation.

More specifically, this right is crucial in Armenia, Armenia due to the following reasons:

- Privacy and the protection of personal data is a challenge given the ease of identification in smaller communities;
- Themes related to sexuality and sex life are taboo for most of society, so any sex or sexuality-related discussion linked to women – or especially to girls – quickly turns into a discussion about morality.

---

40 Dean G. Kilpatrick, National Violence against Women Prevention Research Center, Medical University of South Carolina. [https://www.nsvrc.org/sites/default/files/publications\\_nsvrc\\_factsheet\\_media-packet\\_statistics-about-sexual-violence\\_0.pdf](https://www.nsvrc.org/sites/default/files/publications_nsvrc_factsheet_media-packet_statistics-about-sexual-violence_0.pdf)

41 *ibid*

## International Experience on the Provision of Additional Guarantees for the Protection of Privacy for Victims of Sexual Violence

The supervisory committee of the UN Convention on the Elimination of All Forms of Discrimination Against Women ratified by the Republic of Armenia states that one of the key guaranties for access to justice for women is the provision of impartiality and justice free from stereotypes and prejudices during the investigation (including trial) of crimes of sexual violence.<sup>42</sup>

The impermissibility of the use of past sexual relations and reference to past sexual behavior of the victim as a hard evidence is described in the European Convention on Preventing and Combating Violence against Women and Domestic Violence. According to Article 54 of the convention,<sup>43</sup> state parties shall take the necessary legislative or other measures to ensure that, in any civil or criminal proceedings, evidence relating to the sexual history and conduct of the victim shall be permitted only when it is relevant and necessary. Armenia has signed this convention and is preparing for the ratification, which entails legal amendments in this sphere.

Many European countries have revisited their investigation processes for crimes of sexual violence, to better align them with the survivor-centric approach. For example, the legislation of the United Kingdom as a rule prohibits the presentation of any evidence from the victim's past sexual life to the court, except as it relates to the offender.

---

<sup>42</sup> Views of the Committee on the Elimination of Discrimination against Women under article 7, paragraph 3, of the Optional Protocol in respect of communication No. 18/2008 adopted on 16 July 2010, para. 8.9

<sup>43</sup>

The law provides stipulated exceptions to this rule aimed at guaranteeing the right to a fair trial for the defendant.<sup>44</sup> This practice has not only been adopted in some form in European countries, but also in the United States of America, Australia, and Canada, where, for example, Rape Shield Laws operate to prohibit or limit the usage of past sexual relations during the investigation and trial. These regulations aim at the protection of the victim's privacy and avoid the presentation of evidence that could cause a bias against the survivor. Since adoption of the Violence Against Women Act in 1994, U.S. federal law has prohibited the presentation of evidence related to past sexual relationships that are not related to the case in both civil and criminal federal cases.

Rape shield legislation excludes any usage of arguments which include the following:

- Reputation of the victim,
- Collection of information regarding the past and present sexual contacts of the victim.<sup>45</sup>

This legislation also excludes the interrogation of ex-partners, as well as examination of their opinion in relation to the victim, except for those cases when that information could influence the disclosure of the case of sexual violence.<sup>46</sup>

---

44 Rape Trials and Sexual History Evidence: Reforming the Law on Third-Party Evidence, Clare McGlynn Durham Law School, Durham University, Durham, UK, *The Journal of Criminal Law* 2017, Vol. 81(5), pp. 367–392; <https://journals.sagepub.com/doi/pdf/10.1177/0022018317728824>

45 Handbook for Legislation on Violence against Women, The Division for the Advancement of Women in the Department of Economic and Social Affairs of the United Nations Secretariat// <https://www.un.org/womenwatch/daw/vaw/handbook/Handbook%20for%20legislation%20on%20violence%20against%20women.pdf>

46 See <https://www.legalmatch.com/law-library/article/rape-shield-laws.html>

The main objective of limiting the inclusion and examination of the sexual history of the victim is their protection. Studies show that the victim's past sexual life, as a rule, has no correlation to the case under consideration and its examination is only done to question the reputation and the trustworthiness of their recount, using the stereotypes that may be circulating in a given society. Moreover, the fear that the victim holds in relation to the revelation of past sexual relationships can hold them from reporting the crime in the first place, which contradicts the core objective of criminal justice.

### Situation in Armenia

The SACC's experience shows that the defense of suspects in sexual violence crimes in Armenia is mostly built on the violation of the principle of privacy for the victim and is conducted by revealing sensitive information and resorting to the exploitation of moral norms by bringing up details from the past relations. As previously stated, in many countries, this appalling practice is being confronted by their justice systems, which are more survivor-centric and based on the needs of the victims.<sup>47</sup> Whereas in Armenia, the justice system is not only blind to this harm, but is instead furthering it with its current practices.

The investigative body frequently undertakes actions to uncover details about the victim's past, like their number of past partners (boyfriends, fiancés, husbands, etc.), the nature of those relationships, past sexual experience or lack thereof, all sorts of facts that neither add value to the case under consideration nor uncover any details which could have effected it. Moreover, these details can bring forth biased or stereotypical attitudes among the investigators toward the victim, and at times hold survivors back from reporting the crimes committed against them.

---

<sup>47</sup> See <https://law.clark.edu/live/files/6471-confidentiality-and-sexual-violence-survivors-a>

It is an active practice among investigators to interrogate the victim's ex-partners, during which the partners are not only given the opportunity to openly share details about their relationships with the victim, but also learn of the intimate details of the case being investigated. Thus, not only is the exploitation of the victim's sex life not limited legally or judicially, it is actually a widespread and accepted practice in Armenia.

Survivors also come across other violations of privacy, such as the leaking of identifying factors and information to the mass media and consequently, the transformation of their personal life into fodder for public debate and criticism. One of the survivors, who later publicly revealed the details of their assault, mentions that just days after she reported to the police, one widely read online media outlet published her name, age, work, and home addresses, after which, she was frequently recognized and disturbed.<sup>48</sup>

It is vital to note, that regardless of any existing legislation on the protection of personal data and privacy, the official database of legal information has records of all public trials, which are accessible to the public without the redaction of personal data. Reading those, one can not only ascertain the victim's name, surname, address, and case details, but also details included in the ruling related to the victim's intimate life, such as their past sexual experiences, the status of their hymen, etc. All of this gravely violates the survivor's right to privacy.

---

<sup>48</sup> See <https://hetq.am/hy/article/105144>

## Recommendations

The SACC, based on the above information and referring to international practice, suggests the following:

1. Legally limiting the presentation of the victim's past sexual history as evidence during the investigation of a criminal case (and although it has not been discussed in this report, it is also logical to limit it during civilcases),
2. Introducing survivor-centric and gender sensitive approaches in the investigatory guides prepared for investigative bodies and prosecutors,
3. Conducting regular trainings for police officers, investigators, prosecutors and judges to increase their gender sensitivity and introduce them to the application of survivor-centric approaches, which exclude the possibility of revealing the victim's personal details and sexual information,
4. The justice department must review the rules of utilization of the legal Management Information System (MIS) website to stop the disclosure of victim's personal data

## The Negative Impact of VirginitY Tests

An analysis of ancient and medieval history shows that at the time, sexual violence was seen as an infringement against the property, more specifically, the robbing of one's honor, the latter belonging not to the woman, but to her family. In the cases where the sexual assault was shown to be met with the woman's resistance, the family also received monetary compensation; the marriage of the perpetrator and the victim was also considered a possible solution. A rape which resulted in the loss of woman's virginity had harsher consequences than one perpetrated against a woman who had already been sexually active. Right after the assault, the doctor would examine the woman to attest the loss of her virginity, and the entire rest of the trial process, including punishment, was built according to that conclusion. In the last century, virginity tests still carried religious and moral significance and predetermined the survivor's future.<sup>49</sup>

Virginity tests are gynecological examinations that look at sexual organs of a woman or a girl and identify if she has had intercourse through penetration.<sup>50</sup> In some countries, it is conducted by forensic doctors when investigating crimes of sexual violence under the guidance of investigative bodies or the police, and the received results are attached to the criminal case. India, Pakistan, Bangladesh, Russia, Kazakhstan, Belorussia, Ukraine, Armenia and others are among those countries.

---

49 Susan Brownmiller. *Against our will: men, women and rape*, London: Secker & Warburg Harmondsworth: Penguin, 1976, p. 22

50 See <https://apps.who.int/iris/bitstream/handle/10665/275451/WHO-RHR-18.15-eng.pdf?ua=1>

According to provision 6 of the **Order No. 87-N of the Minister of Health that relates to state standards for the organization of forensic medical examinations within state guaranteed, free-of-charge medical support and service provisions**, the initial examinations of live individuals people is conducted, including the identification of sexual condition, **sexual integrity, whether or not the person is a virgin.**<sup>51</sup> However, as mentioned at the beginning of this report, bodily integrity is not linked to virginity, but rather related to age. According to Armenian legislation, people below the age of 16 are bequeathed with bodily integrity regardless of their virginity, and so virginity tests are even legally inconsistent.

Moreover, according to a 2018 declaration from the World Health Organization,<sup>52</sup> examining virginity, including after rape:

1. Has no scientific grounding;
2. Is a violation of human rights and is a subtype of gender discrimination;
3. Is frequently conducted to check the trustworthiness of the account of women subjected to rape (as opposed to providing evidence on the rape itself).

Referring to the same declaration, many UN agencies are calling upon state parties to prohibit virginity tests under any circumstances. It is well known that virginity tests are neither scientifically backed nor clinically effective. Nevertheless, in certain countries, law enforcement officers and doctors continue applying them to identify if a rape has occurred or not.

---

51 See <https://www.arlis.am/DocumentView.aspx?DocID=89056>

52 See <https://www.who.int/reproductivehealth/virginity-testing-elimination/en/>

From this perspective, medical examination can also cause physical pain or psychological suffering, which in turn can lead to the secondary victimization of the person subjected to sexual violence.<sup>53</sup> This ineffective testing also violates several ethical standards of doctors, more specifically the oath to “do no harm.”<sup>54</sup> Besides, in certain cases the person subjected to sexual violence is not even informed that the doctor is going to check her virginity, and thus, the latter is not given the opportunity to provide informed consent, which is also a form of secondary victimization.<sup>55</sup>

**Virginity test do not provide any proof of rape and do not anticipate the depth of trauma for the person subjected to sexual violence.<sup>56</sup> The existence or intactness of the hymen are not a reliable measure of the presence or absence of intercourse, and there is no research that that it can indicate either the frequency or time of vaginal sex.<sup>57</sup> Additionally, these effects of these examinations actually impact many women’s right to access justice by creating a biased attitude among law enforcement in all those cases, when it is posited that the woman has lost her virginity before the instance she was reporting. <sup>58</sup>**

---

53 Shalhoub-Kevorkian N. Imposition of virginity testing: a life-saver or a license to kill? *Soc Sci Med*. 2005.

54 Behrens K. Why physicians ought not to perform virginity tests. *Ethics*. 2015; pp. 691–5.

55 Forced gynecological exams as sexual harassment and human rights violation. Kabul: Afghanistan Independent Human Rights Commission; 2002, pp.

<https://www.aihrc.org.af/media/files/Forced%20Gynecological%20Exams%20-Egnlish.pdf>

56 Joint general recommendation/general comment no. 31 of the Committee on the Elimination of Discrimination against Women/ general comment No. 18 of the Committee on the Rights of the Child on harmful practices.

<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N14/627/78/PDF/N1462778.pdf?OpenElement>

57 Olson R, García-Moreno C. Virginity testing: a systematic review. *Reproductive Health*. 2017; 14(1):61. doi:10.1186/s12978-017-0319-0.

Amnesty International. *It’s in our hands. Stop violence against women*. London: Amnesty International Publications; 2004

58 Amnesty International. *It’s in our hands. Stop violence against women*. London: Amnesty International Publications; 2004

zThe SACC's experience has shown that virginity tests for cases of rape are conducted even months after the incident, while even two weeks are too long to identify the intactness of the hymen. Several international organizations have stipulated that certain forms of this medical examination are harmful for the health of women., and virginity test are also recognized as a harmful practice by several human rights organizations.<sup>59</sup>

To provide more survivor centric services to persons subjected to sexual violence, several countries have developed standards for forensic and medical services that would be less harmful for persons subjected to sexual violence.<sup>60</sup> According to World Health Organization standards, forensic and medical services delivered to persons subjected to sexual violence ought to maintain respect for dignity.<sup>61</sup>

For example, in the United States, the "Rape Kit" was introduced to serve as the basis for the primary physical evidence for investigation. Studies show that cases with forensic evidence were 24 times more likely to result in an arrest than cases without, and rape kits simplify the process of collecting that evidence.<sup>62</sup> The uniqueness of the Rape Kit process is the opportunity it gives to victims that do not want to report immediately, to still keep the evidence in the kit on record and if they change their mind and choose to legally pursue the perpetrator later, the key evidence is not destroyed and still available.<sup>63</sup>

---

59 UN Committee on Women, Committee on Child Rights, the special rapporteur on VAWG has referred to virginity tests and stated that it is a harmful experience for women and girls

60 Full list is at <https://apps.who.int/iris/bitstream/handle/10665/42788/924154628X.pdf?sequence=1>

61 *ibid*

62 Sommers, Ira; Baskin, Deborah (2011). "The Influence of Forensic Evidence on the Case Outcomes of Rape Incidents". *The Justice System Journal*. 32(3): 328

63 See <https://www.rainn.org/articles/rape-kit>

Introducing mandatory DNA testing is a crucial point in the investigation of rape cases. An analysis of U.S. experience shows that before the introduction of DNA testing many people were convicted of rape without any evidence.

As such, the Investigative Committee, when investigating cases of sexual violence accepts the conclusions of the forensic and medical examination, specifically its virginity tests, as fact, tests which not only should have no weight from an evidentiary standpoint, but also frequently causes direct harm in the form of secondary victimization to women and girls who have been sexually assaulted. In many criminal cases, it was revealed that even when the women in question had already delivered children, the forensic-medical examiners have performed virginity tests. Criminal cases that have been on the SACC's radar, all of them, had detailed descriptions of women's/girl's hymens, vaginas, labia, the hair around their sexual organs – descriptions which were also given to the defendant, investigating officer, prosecutor, judge, and lawyers. This highly intimate information was treated with little, if any, care, abrogating the dignity of the survivor.

Considering all of the above, as along with advanced international practice, the prohibition of the virginity test must be prioritized or at the very least limited only to those criminal cases, when the application of the test is justified by the investigator. It is also important to make the DNA test a mandatory one, when investigating crimes against sexual freedom and bodily integrity. As a measure of reform of this sphere, the introduction of the Rape Kit should be seriously considered, which is also a very important guarantee of the right of access to justice for women.

## Section II. Legal Regulations and Types of Sexual Violence, Sexual Consent

### The International Legal Experience related to Sexual Relationships

Progressive international experience and legal developments attest that the effectiveness of solving criminal cases is greatly improved when the Criminal Code includes definitions of “consent” and “will” as related to sexual relationships.

Historically, the presence of “consent” was not considered in the identification of rape. Instead, the main criteria for identification of rape was the presence of violence, used by perpetrator against the victim to overcome their resistance. Accordingly, for a long time the only accepted manifestation of victim’s unwillingness was physical resistance, the evidence of which would be visible in the traces of that same violent struggle.

However, from modern scientific advancements resulting from extensive behavioral research of persons subjected to sexual violence, as well as insight into the peculiarities of trauma, it has become clear that physical resistance is not the only and or even the most widespread response showing unwillingness during rape and other forms of sexual violence.<sup>64</sup>

In the context of human rights and for the protection of the bodily and psychological integrity of persons subjected to sexual violence, it is important to consider all the ways in which one can express both consent and unwillingness. Moreover, international law considers rape a type of an inhuman treatment,<sup>65</sup> the protection from which is an absolute right of the person and one of the main responsibilities of the state.

---

64 See <https://obgyn.onlinelibrary.wiley.com/doi/full/10.1111/aogs.13174>

65 *Pauline Muzonzo Paku Kisoki v. Sweden*, Communication No. 41/1996, 8 May 1996, UN Doc. CAT/C/16/D/41/1996 (1996), *Aydin v. Turkey*, URL: <http://hudoc.echr.coe.int/eng?i=001-58371>

The Court of Cassation of France, in the 2002 publication on legal precedent, states that words “violence, force, threat, and shock” should be subjected to broader interpretation. For example, in a 1973 ruling, the Court of Cassation of France stated that the fact that the victim had asked the perpetrator to stop, without showing any further physical resistance was enough to confirm the rape., This was regardless of the fact that the victim had kissed the perpetrator and sat with him in his car shortly before.<sup>66</sup>

In the 2003 case, *M.C v. Bulgaria*,<sup>67</sup> the ECHR ruled that because of the positive responsibility stipulated by the European Convention on Human Rights, it is the obligation of the state to **criminalize and effectively investigate any case of sexual violence, which has occurred in the absence of a consent**, including also those cases, when there is no physical resistance on the part of the victim. This requirement is to be executed by the state to uphold the rights of persons to be protected from torture and other inhumane treatment, as well as the inviolability of an individual’s personal life, as stipulated in articles 3 and 8 of the European Convention on Human Rights.

Per the above stated case, the ECHR also ruled that even though in certain cases it would be hard to practically prove the absence of consent, when other indirect evidence of rape, such as traces of violence and eye witnesses, are absent, nevertheless, the authorities ought to examine all the facts and reach a decision upon the careful examination of all circumstances. **The initial investigation and its conclusions should be built around the issue of the absence of the consent.**<sup>68</sup>

---

66 Cass. crim., 10 juillet 1973, Bull. crim. no 322; Revue de science criminelle, 1974, p. 594

67 M.C vs Bulgaria, p. 153, URL: <http://hudoc.echr.coe.int/eng?i=001-61521>

68 M.C vs Bulgaria, p. 181. <http://hudoc.echr.coe.int/eng?i=001-61521>

A similar approach has been adopted by the Council of Europe Convention on Preventing and Combating Violence<sup>69</sup> against Women and Domestic Violence, which was signed by the Republic of Armenia in 2018.

The CEDAW committee, in the case of *Karen Tayag Vertido v. Philippines*,<sup>70</sup> based on standards set by international courts, has **suggested removing the criteria of violence from the definition of rape and instead adopting a definition that:**

1. Requires “unequivocal and willful consent” and requires justifications of steps on the side of defendant in terms of attempting to convince or that the victim agrees or,
2. Requires that the deed happens under forced circumstances and includes an extended list of items related to forced instances.

Concurrently to this approach, for example, the U.K. Act on Sexual Crimes<sup>71</sup> defines that for hard evidence of violent acts of a sexual type it is a mandatory that

1. The deed be intentional,
2. The victim not give consent to the sexual act and,
3. The subject of the crime (perpetrator) not have any sound conviction of available consent from the victim.

The soundness of the conviction is assessed by considering all the circumstances of the case, including those steps that the perpetrator took to be sure that the victim consents. Similar legal regulations exist in Belgium, Norway, and Denmark, whereas the approach of extending the interpretation of “violence” is shared by the USA, Canada, and the courts of several other countries.

---

69 Article 36 of the Council of Europe on Preventing and Combating Violence against Women and Domestic Violence, URL: <https://rm.coe.int/168046246d>

70 See [http://www.worldcourts.com/cedaw/eng/decisions/2010.07.16\\_Tayag\\_Vertido\\_v\\_Philippines.pdf](http://www.worldcourts.com/cedaw/eng/decisions/2010.07.16_Tayag_Vertido_v_Philippines.pdf)

71 The UK Act on Sexual Crimes, URL: [https://www.legislation.gov.uk/ukpga/2003/42/pdfs/ukpga\\_20030042\\_en.pdf](https://www.legislation.gov.uk/ukpga/2003/42/pdfs/ukpga_20030042_en.pdf)

## Laws and Legal Positions of Courts in Armenia

According to the first section of article 138 of the Criminal Code of RA, rape is a sexual act by a man against a woman committed against her will by perpetrating or threatening violence against her or a third party or by taking advantage of her the helpless state.

According to the first section of article 139, the evidence of violence of a sexual nature (including homosexual acts of against the will of the victim) by perpetrating or threatening violence against the victim or a third party or by using the unaided state of the victim. In both cases, the act is being described by a sexual act against the victim that is

- Against the will of the latter
- Perpetrating violence against the victim or the third party or threatening to perpetrate violence
- Using the unaided state of the victim.

It is evident that Armenian legislation envisages a limited scope of forced circumstances, i. e. perpetration of violence or the threat of violence or a helpless condition. In the meantime, the phrase “against one’s will” does not fully express the concept of “unequivocal and willful consent”, which becomes obvious per the following examples.

The Court of Appeals of Armenia is the highest court for the unified application of law, but it has no ruling that interprets or clarifies the definition of “against the will” stipulated in articles 138 and 139 on the Criminal Code and its correlation with the other circumstances of the crime. In the meantime, the concepts of “will” and “consent” are central to correctly perceiving these crimes. It is not no coincidence that an amendment proposed on October 24, 2017 to the Criminal Code suggested the addition of the phrase “or by ignoring her/his will” to the article on violent acts of a sexual nature.<sup>72</sup>

Although article 81 of the Constitution of RA and section 2 of article 6 of the Judicial Code of RA require considering practices of bodies that operate based on the international treaties on human rights ratified by the Republic of Armenia, Armenian courts do not always follow the rulings or parameters these bodies set up, including the ECHR.

A very vivid case of a limited interpretation of the definition of “against one’s will” and divergence from the opinions of bodies operating based on the international treaties on human rights is the ruling reached under the criminal case of the Court of Appeals of RA numbered AVD2/0055/01/17.<sup>73</sup> The Court of Criminal Appeals stated that, *“the crime of rape can only exist when prior to the forced acts the behavior of a woman attests to the fact that she did not have any inclination to have sexual relationships with the perpetrator and that the act of violence to be taken is then a confirmation of a necessary means to overcome the anticipated or existing physical resistance of the woman. It is characteristic for this type of crime, that the act of violence perpetrated on the side of the violator pursues a concrete objective to enter into sexual relations with the victim.”*

---

72 <https://www.e-draft.am/projects/496/about>

73

The facts of this specific case were the following:

- The ex-husband and his friends threatened his ex-wife with a gun, kidnapped her into the trunk of his car, took her to a hotel and had forced sex with her.
- In the morning, the woman managed to escape and report the crime to the police, and spoke about the rape in her later testimony as well.
- The perpetrator was held guilty under provisions 1, 2, and 3 of section 2 of article 131 of the Criminal Code (kidnapping of a person by an organized group under the threat of violence using guns or similar objects to perpetrate or threaten violence) and had been sentenced. However, he was found not guilty of rape under section 1 article 138 of Criminal Code based on the following justification.

*Victim S. said in her testimony that before the sexual act V. did not hit her, did not cause any physical harm throughout the process, did not threaten her, and did not tear her cloths. Being afraid that V. would forcibly take off her shirt, she did it herself and lay down with him in the same bed, telling him that she is nonetheless not ready to have a sex with him.*

*The Court of First Instance, based on the above stated, has reached a logical conclusion that facts provided in the testimony of the victim show that before engaging into sexual act the perpetrator V. has not engaged in such acts as to overcome the resistance of the victim that could suggest applying violence, as before the sexual act, the behavior of victim S., specifically agreeing to lie in the same bed and willfully taking off her shirt do not suggest that there was an absence of willingness to engage in a sexual act with V.*

*Excerpt from the ruling of the Court of Criminal Appeals of RA*

In the example provided above, the court found the victim untrustworthy on the grounds that the victim had not reported the rape to the hotel staff and did not initially speak about it when she first reported the kidnapping.

Not being acquainted with the other circumstances and details of the case, nevertheless, from the ruling of the court, it is obvious that the Court of Criminal Appeal has found logical that a woman kidnapped at gunpoint, who had been avoiding her ex-husband for many years, found herself in a hotel room against her own will, somehow engaged in a willful and consensual sexual act with him. It then follows that being violently kidnapped and locked in with her ex-husband was not been assessed by the court as a forced act which could have impacted the woman's ability to consent or the free expression of her will. In the meantime, "lying in the same bed" was sufficient evidence for expressing her actual will.

The following testimony completes the picture of societal perceptions related to will and consent:

*N. S. (waiter) simultaneously informed us that they "...brought coffee in the morning to the room and saw S. and she did not leave the impression of someone who has been raped."*

*Excerpt from the ruling of the Court of Criminal Appeals of RA*

Similar approaches and perceptions are observed in almost all the cases of SACC beneficiaries. The observations show that there is a need to improve the legislation, awareness, and legal literacy related to "will" and "consent" in the society.

Therefore, it is suggested:

1. While upholding the principle of legal certainty, the Criminal Code of the RA should include criminal punishment for all sexual crimes committed without the consent of the victim.;<sup>74</sup>
2. An information campaign to inform the general public about the concept of “consent” and need to respect the other party in sexual relationships. Educational and televised programming informing the viewers very concretely than any sexual relationship without consent is a crime.;
3. Special in-depth and mandatory trainings for those representatives of the judiciary that engage in investigating crimes committed against sexual freedom and bodily integrity.

---

<sup>74</sup> Since it may take some time for the full understanding of the consent by the society, as well as by the judiciary, it is suggested to adopt amendments stating that those will enter full force within one or two years, whereas use that time to conduct widespread communication to educate the public.

## The Definition of “Sexual Consent” from a Psychological Perspective and the Main Specificities of its Expression

In different countries and situations, the definition of “consent” is explained differently, which makes it quite difficult to digest and frequently, it is seen as only a legal definition. In the meantime, it is important to highlight that to understand consent, no legal education is required. Education serves as the primary method in the process of shifting attitudes of the society.

In order to understand consent, university students in some U.S. states are taught about it when beginning school and the requirement to get conscious consent is outlined in internal school policies.

*How can consent be defined in general?*

**Consent is a conscious agreement between the partners to engage in a willful sexual act.**

***It is important to know that:***

1. Once given, consent to one sexual act does not mean that the partner has agreed to have sexual intercourse or engage in any other sexual act. For example, the consent to kiss does not allow the other party to take off their partners clothes. Alternatively, having had a sexual relationship in the past does not mean that there is consent for future acts as well.
2. The partner can withdraw consent if she or he feels uncomfortable at any time.
3. Forced agreement is not the same thing as consent, for example agreeing to have sex after being threatened.
4. Sex without consent is forced sex.
5. Silence should not be taken as a sign of consent.<sup>75</sup>

---

<sup>75</sup> RAINN. (n.d.). Retrieved from Rainn web site: <https://www.rainn.org/articles/what-is-consent>

There are people, who cannot consent to sexual relationships based on their emotional state, limited abilities, being under the influence of alcohol, drugs or other substances, based on their age specificities, etc. In those cases, the discussion must evolve around the element of taking advantage of their condition to engage in a sexual relationship.

One can often hear stories when a person subjected to sexual violence has done so due to fear or has found themselves under clear threats: these cannot be considered forms of consent. Consent does not necessarily have to be verbal, but most important is the free expression of one's will, without any pressure or impact on it. **There must be a consent for each separate sexual act.**<sup>76</sup>

*How does the process of consent happen?*

To develop healthy relationships, it is important to speak with one's partner about personal limits and discuss the limits of possible sexual activities or desires and limitations. For example, the process of acquiring consent could be whether or not they enjoy certain sexual activities and whether or not they feel fine with they are doing now.<sup>77</sup> Frequently, the absence of consent can be expressed through body language instead of words or by being passive or not showing clear signs of participation in that the activity. Therefore, it is important to be attentive and respect your, as well as others limits and give importance to consent during any given sexual activity.<sup>78</sup>

Based on the cases and observations of SACC it can be concluded that from the perspective of sexual violence, in Armenia the difficulties linked to understanding and accepting consent are closely related to the widespread perception of the traditional scenario of sexual relationships, according to which one partner – based on cultural norms – is the initiator of the sex, whereas the other partner responds to it by giving consent or resisting it.

---

<sup>76</sup> *Kinsey confidential*. (n.d.). Retrieved from Kinsey confidential Web site: <https://kinseyconfidential.org>

<sup>77</sup> *SAPAC*. (n.d.). Retrieved from SAPAC web site: <https://sapac.umich.edu/article/49>

<sup>78</sup> *Sexual Trauma Services*. (n.d.). Retrieved from Sexual Trauma Services Web Site: <https://www.stsm.org>

This approach is ineffective and does not resonate with issues related to the definition of the consent. From this perspective, it is more inclusive to consider the communication scenario, which allows to consider both partners as “active and initiating,” as well as letting them view consent as more than just the absence of resistance.<sup>79</sup>

### The Incomplete Reflection of Sexual Crimes in the Legislation of Armenia

The following sex crimes are recognized by the legislation of Armenia:

- **Rape**, which is the sexual relationship of the man with a woman against the will of the latter via application or threat of force towards the woman or a third party or using the helpless condition of the woman (Article 138 of Criminal Code),
- **Violent acts of sexual nature**, are of sexual nature, including that of homosexual type, that are applied against the will of the victim via application or threat of force towards him/her or a third party or using the helpless condition of the victim (Article 139 of Criminal Code),
- **Forced sexual relationship or forced acts of sexual nature**, are the ones that occur via blackmailing, destroying, or threatening to destroy the assets or using other dependencies of the victim (Article 140 of Criminal Code),
- **A sexual relationship or an act of sexual nature initiated by a person of 18 years of age or older towards a person of obviously below the age of 16** (Article 141 of Criminal Code),
- **Lecherous acts** by a person of 18 years of age towards a person of obviously below the age of 16 (Article 142 of Criminal Code).

---

<sup>79</sup> Mauck, S.E. (2016). Perceiving Sexual consent: The Effects of Gender and Alcohol Use on Perceptions of Sexual Consent. University of Tennessee.

**Special cases of sexual violence are the crimes of sexual exploitation and acts related to them that prompt the following penalties:**

- **Human trafficking or exploitation** that include forms of sexual exploitation (Article 132 of Criminal Code),
- **Trafficking or exploitation of a child or a person that is disadvantaged to judge his/her actions or control them due to mental dysfunction** (Article 132.2 of Criminal Code),
- **Receiving services of a person under exploitation** (Article 132.3 of Criminal Code),
- **Engaging a child in prostitution or the acts or object preparation activities linked to pornography** (Article 166 of Criminal Code).

The RA Code of Administrative Offences encompasses administrative penalties for pornographic literature and video materials that depict persons under the age of 18 or engage them in the process of selling them. However, there are certain types of sexual violence that due to their peculiarities need special regulations but are not yet reflected in legislation.

## Marital Rape

The definition of rape in Armenian legislation fully includes marital rape, however, the rape prompted by the husband is viewed by the judiciary, the rape victim, as well as society as part of “marital duties.” That perception is greatly linked with the understanding of consent, as previously described. To shift these perceptions, widespread educational programs targeting society and representatives of the law enforcement system need to be devised. Apart from awareness raising, international human rights bodies also suggest legal amendments. UN CEDAW Committee, for instance, suggests defining a separate clause for marital rape as a distinct type of crime. A similar recommendation has been put forward by the Committee in response to the fifth and sixth regular reports to the convention provided by the country.<sup>80</sup> The Istanbul Convention of the Council of Europe requires that for certain crimes, including for sexual violence, committed against the ex-partner carry an aggravating circumstance per national legislation if that circumstance does not already impact the type of crime (Article 46 provision “a”).<sup>81</sup>

The issue of marital rape is greatly correlated with domestic violence. According data provided by the Women’s Support Center,<sup>82</sup> every fourth woman subjected to domestic violence has been also subjected to sexual violence. Marital rape, similar to other forms of domestic violence, is often recurrent and requires the application of special protection mechanisms.

According to article 3 of the Law on Prevention of Violence, Protection of Persons Subjected to Violence and Reconciliation in the Family of the Republic of Armenia, sexual violence is also considered a form of domestic violence.

---

<sup>80</sup> The final recommendations to the fifth and sixth regular reports to CEDAW, clause 17a, URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/28/PDF/N1640228.pdf?OpenElement>

<sup>81</sup> Council of Europe on Preventing and Combating Violence against Women and Domestic Violence in Armenian <https://rm.coe.int/168046246d>

<sup>82</sup> Interview with the representative of the organization

Therefore, marital rape as a form of sexual violence within the family, can serve as the basis for the issuance of a restraining order or an emergency intervention to the person subjected to sexual violence.

According to the data provided by the Women's Support Center,<sup>83</sup> when requesting restraining orders or emergency interventions, some of their beneficiaries have reported sexual violence and have even received restraining orders, however, relaying this information to the police has not been enough for them to open criminal cases. This also speaks about the lack of adequate perception of marital rape among representatives of the legal system.

International human rights bodies suggest the following:

- Define marital rape as a separate type of crime, which will improve the visibility of the evidence and will contribute to the correct perception among law enforcement officers and the society,
- Stipulate marital rape as either an aggravating circumstance or qualified evidence.

**Henceforth, the amendment of the Criminal Code with the suggested addition of marital rape or committing acts of sexual violence by husband, ex-husband, partner or ex-partner as an aggravating circumstance is an imperative.**

### Early Marriage

UNICEF, World Health Organization, CEDAW, CRC in their numerous recommendations declare that marriage before the age of 18 is a violation of fundamental freedoms.<sup>84</sup> Studies show that child marriage stops the development of a girl child leading to early pregnancy<sup>85</sup> and social isolation, interrupting her education and limiting future career choices, as well as heightening the risk of domestic violence.

<sup>83</sup> Interview with the representative of the organization

<sup>84</sup> See <https://data.unicef.org/topic/child-protection/child-marriage/>

<sup>85</sup> See <http://www.who.int/mediacentre/factsheets/fs364/en/>

The 2015-2016 Demographic and Health Survey conducted jointly by the State Statistical Service and the Ministry of Health shows that 5.2 percent of women ages 20-24 have married before the age of 18.<sup>86</sup>

The laws do not outline any clause for parents that in full conscience, willfully and knowingly give their children away for marriage before the age of marriage. Moreover, even though article 10 of the Family Code sets the age of marriage at 18, nevertheless, the legislation also states that in the case of the agreement of parents, foster parents or guardians, a person can enter matrimonial relationships at the age of 16 as well, given that the other person entering marriage is at least 18 years old.<sup>87</sup> CEDAW has recommended the state party to eliminate this clause in response to the fifth and sixth regular reports provided by the Republic of Armenia.<sup>88</sup>

A joint study conducted by the Investigative Committee and SACC, in 2017, examining criminal cases related to crimes against sexual immunity and sexual freedom during the period of 2015-2016<sup>89</sup> showed that crimes investigated under the article 141 of the Criminal Code, where one party was a minor of ages 12-16, parents or legal representatives knew of their child's relationship with a person of the ages of 18 and older and had given their conscious consent for the marital relationship, frequently also hid the actual age of the marrying party. In those criminal cases, the parents or the legal representatives have not been indicted.

One the SACC's cases included a fifteen-year-old girl who was forced by her parents to marry her rapist after it became known that she was pregnant.

---

86 See <https://dhsprogram.com/what-we-do/survey/survey-display-492.cfm>

87 This issue is currently being discussed as to introduce the prohibition of the marriage before the age of 18 per the Family Code.

88 Clause 47 of concluding recommendations of CEDAW to the fifth and sixth regular reports provided by RA, URL: <https://documents-dds-ny.un.org/doc/UNDOC/GEN/N16/402/28/PDF/N1640228.pdf?OpenElement>

89 See <http://saccarmenia.org/hy/news/news/research/12/>

However, days after the marriage the family of the husband forced her to undergo an abortion and returned her to her parents, who then reported the incident to the police.

UNICEF has put forward several recommendations for the legislature, after studying child marriage, to combat it by stipulating strict criminal punishment for all those who would assist child marriage, including the parents of the bride and the groom.<sup>90</sup> These types of regulations are already functioning in India, Bangladesh and several other countries. Moreover, in the Criminal Codes of Kyrgyzstan, Tajikistan and San Marino a clause on criminal punishment is provided to a parent, who has married a child that has not reached the age of marriage.<sup>91</sup>

**Henceforth, it is needed to define criminal punishment for those parents that in full consciousness marry off children that have not reached the age of marriage. It is also necessary to drop the clauses of the Family Code that allow parents to consent to their child's marriage before the age of 18, as those stipulations factually legitimize child marriage, as well as, at times, become means for concealing child rapes.**

## Sexual Harassment

The Law of RA on Ensuring Equal Rights and Equal Opportunities of Women and Men defines sexual harassment as a direct type of gender discrimination, however, there are no legal mechanisms to combat it and there is no defined punishment for a person engaging in sexual harassment.

---

90 See [https://www.unicef.org/policyanalysis/files/Child\\_Marriage\\_and\\_the\\_Law\(1\).pdf](https://www.unicef.org/policyanalysis/files/Child_Marriage_and_the_Law(1).pdf)

91 See [http://www.wipo.int/wipolex/ru/text.jsp?file\\_id=237375](http://www.wipo.int/wipolex/ru/text.jsp?file_id=237375)

According to clause 21 of article 3 of the same law, sexual harassment is a form of gender discrimination that is a verbal or physical conduct of a sexual nature with the purpose or effect of violating the dignity of a person, when creating an intimidating, hostile, degrading, humiliating or offensive environment.<sup>92</sup>

Article 140 of Criminal Code criminalizes some of the *quid pro quo* sexual harassment acts, according to which forcing a person to enter sexual relationships (including of homosexual type) via blackmailing, destroying, or threatening to destroy the assets or using addiction or material dependency of the victim are punishable acts, if attributes of trafficking stipulated under articles 132 and 132.2 are not found. However, this norm needs further amendment.

Henceforth, to ensure protection from all forms of sexual violence, as well as to fulfil international commitments, Armenia must adopt a comprehensive law that regulates sexual harassment, stipulating a straightforward punishment for sexual harassment and defining mechanisms for the real and effective application of those punishments.

## Conclusion

This report presents issues from a survivor centric perspective to help ensure an adequate response to cases of sexual violence by the judiciary and law enforcement system. Individuals subjected to sexual violence not only have physical, but also psychological traumas, which are frequently overlooked not only in legislation, but also in legal practice.

---

92 2017 recommendations provided to Armenia by ILO, accessible in English at [https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3300897:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3300897:NO)

Summing up the above, the following conclusions could be reached:

- The psychological trauma of the person subjected to sexual violence (traumatic are those which exceed the adaptive capacities of the body and include threats to life and physical integrity) has several peculiarities, which are important to consider when planning each legal step as to avoid secondary victimization. For example, a person subjected to sexual violence can have lapses of memory, not recall details linked to the incident and repeatedly interrogating that person could increase their sense of guilt in their own victimization or increase the risk of secondary victimization.
- The law enforcement system, as well as society are not well informed about the specificities of psychological trauma of a person subjected to sexual violence.
- The absence of the concept of consent and the complexity of mechanisms that check in on the will or desire of someone to have sex greatly impact the effectiveness and identification of rape (crimes of a sexual nature) cases.
- Not all forms of sexual violence are criminalized. Sexual harassment, so far, remains unregulated.
- The Criminal Code of RA does not define specificities for the investigation of criminal cases dealing with sexual violence, because of which the interrogation of victims, the face to face confrontation with the suspect, examinations with their participation, the process of collecting evidence and several other investigative and judicial practices lead to secondary victimization of survivors, which impacts the effectiveness of the investigation.

- During the investigation of criminal cases of sexual violence, the two privacy of the survivor is not upheld, the protection of personal data is not carried out accordingly by law enforcement representatives, but also by other participants in the judiciary system.
- In Armenia, there is no multi-sectoral service provision to persons subjected to sexual violence. The main services are so far delivered by the SACC.

## Recommendations

The Legal practice in Armenia does not incorporate the specificities of psychological trauma of persons subjected to sexual violence, which leads to the retraumatizing of persons subjected to sexual violence and impedes the access to justice, diminishing the effectiveness of investigating of those cases.

Upon the completion of an analysis of the state of affairs and comparing it with international best practices, the report presents, several **legal, procedural, and awareness related recommendations.**

### Recommendations related to Legal Reforms:

- Introduce amendments to the Criminal Code of RA and define specificities of investigation and trial for cases of sexual violence;
- While upholding principle of legal certainty in the Criminal Code of RA, introduce criminal punishment for all the acts of sexual nature committed without the consent of the victim or regardless of the existence of resistance on the side of the victim;
- Outline criminal punishment for those parents that in any way support, assist or induce their child to marry before reaching the age of marriage;

- Consider adding an aggravating circumstance to the Criminal Code of RA for the crimes of sexual violence committed by husbands, ex-husbands, partners, and ex-partners;
- Adopt comprehensive legislation on sexual harassment, which will define clear punishment for crimes of sexual harassment and will define mechanisms for making those measures applicable and effective;
- Legally limit the disclosure of details (not only in criminal cases, but in civil ones as well) of the sexual life of a person by investigative bodies, as well as their use as evidence during the trial;
- Revisit the rules of operation of online legal databases, not disclosing the personal details of victims and information that could endanger the privacy of the family;
- Revisit the ministerial order No. 87-N of the Ministry of Health, limiting the usage of virginity tests only to those cases, when it is justified by the investigator for shedding light on the case only;
- Legally stipulate a new mechanism for collecting a comprehensive evidence base through medical examination in health facilities for cases of rape (like the Rape kit used in the U.S. practice);
- Ratify the Convention on Preventing and Combatting Violence against Women and Domestic Violence, as well as the Convention on Protection of Children from Sexual Exploitation and Sexual Violence;
- Legally prohibit the marriage registration of persons below the age of 18;
- Legally stipulate the right for free legal counseling to survivors of sexual violence.

## Recommendations related to procedural changes:

- Discuss the addition of a special mechanism for collecting evidence through healthcare facilities like the American practice of rape kits, introduce that mechanism and if required, stipulate its offering to the survivors via legal amendments;
- Introduce guidelines for prosecutors, investigative bodies for leading cases of sexual violence, simultaneously integrating the survivor centric gender sensitive approaches, substantiating specificities of psychological trauma of persons subjected to sexual violence;
- Tighten the mechanism for holding responsible those prosecutors and law enforcement representatives that violate the Ethics Code;
- Introduce state support programs for persons subjected to sexual violence;
- Introduce a unified information database for cases of sexual violence;
- Add a number of female investigators to the law enforcement system and include them in the management of cases of sexual violence.

### Recommendations related to awareness raising:

- Train police officers, investigators, prosecutors, judges and lawyers in the specificities of psychological trauma among persons subjected to sexual violence to further improve the effectiveness of the management of criminal cases of sexual violence;
- Within educational content on sex education, as well as through public service announcements and televised programs inform the society about the need to receive the consent in sexual relationships and the respect towards the other party;
- Increase the awareness of the society related to issues of sexual violence, as well as specificities related to psychological trauma of the person subjected to sexual violence to prevent the attempts to judge the victim.

## Summary Sheet of Quantitative Data

Starting from 2008, SACC delivers services to persons subjected to sexual violence, providing multi-professional support both to adults and minors.

- From 2008-2018, the organization has worked with **87 cases** which had **88 survivors**.<sup>93</sup>
- The majority (**94 percent**) of persons that have approached the organization **are females** and **6 percent are males**.
- During 2016-2018, **54 percent of persons** that have benefited from the services of the center were adults and 46 percent were minors. It is noteworthy to state that the age of the youngest beneficiary that has received services from the center was 5 years old and the eldest was a woman of 50 years old. In the case of minors, sexual violence had occurred within the age range of 14-16 years old.
- Within the cases of sexual violence most of the cases related to rape and the next most common was sexual harassment in public places.
- Most of the beneficiaries (80 percent) that have received services from the center during the period of 2016-2018 were citizens of the Republic of Armenia.
- Among the adults that have approached the center most (58 percent) were singles with only 35 percent being married.
- Although cases registered at the center cover all the regions, the majority of those come from Yerevan (70 percent) and Armavir (16 percent) regions.

---

93 In 2016, 14 cases have been registered and the number of survivors stood at 15.

- In case of adults, sexual violence has been perpetrated both by strangers, as well as people whom the survivors knew. For instance, **22 percent of cases involved a stranger and 19 present a familiar person.** In case of minors, sexual violence has been only perpetrated by people familiar to the survivor, who has abused the trust of the child and has subjected her(him) to sexual violence. For instance, the more more widespread cases of sexual violence against minors engage **neighbors in 11 percent of cases, partner of the mother in 8 percent of the cases.**
- In **41 percent of cases** registered with SACC, **sexual violence was of recurrent nature and in 59 percent of cases, it happened once.** The recurrent cases of violence are mostly linked to marital rape and sexual violence against minors.
- Out of all registered cases **42 percent of violence has been perpetrated in the home** of the survivor, the next most frequent cases occur in the car or the yard with the over all number covering 11 percent of cases.
- **In 61 percent of cases the survivors had reported to the police** about the crime. **In the other 39 percent of cases, the survivors have refused** to report to the law enforcement bodies about the crime due to the applicable time limit of **expiry** before **criminal** proceedings begin, lack of sufficient evidence, fears towards the perpetrator, fears of being labeled by law enforcement representatives, as well as the cumbersome nature of reporting the crime and opening a criminal case.

- During 2016-2018, 19 out of 37 persons that had approached SACC (**51 percent of cases of sexual violence**) experienced health related problems due to the committed or attempted rape.
- **During 2016-2018, 40 percent of persons that have received services from SACC had psychological problems, including PTSD.**
- **During 2016-2018, 37 cases treated by SACC had identified 40 rapists (perpetrators of violence).**
- Perpetrators of violence had a wide age range with the highest incidence being found in the age range of 31-35 at around 30 percent of cases. The youngest perpetrator was 11 years old and the eldest was 65.
- During 2016-2018 all the cases registered in SACC received social support, including anonymous counseling. For 21 cases lawyers have been engaged and in 25 of cases a psychologist was invited.
- **During 2016-2018, for 11 cases medical support has been sought and placement in the shelter was organized.**
- During 2016-2018, persons subjected to sexual violence have received information about the center from their **acquaintances, in 33 percent of cases.** It is noteworthy that within the last two years the state and most **particularly investigators and prosecutors**, have started collaborating with the center, directing persons subjected to sexual violence to SACC in **14 percent of cases.** Most of the cases were related to minors.

Data received from the Investigative Committee and the Police of RA show that

- In 2017, under the articles 138-142 of the Criminal Code **102 criminal cases** have been registered, whereas Investigative Committee has **registered 161 cases** under the same articles and within the same period.
- In 2018, under the articles of 138-142 of the Criminal Code the **Police has registered 84 cases** of sexual violence out of which 80 have been perpetrated against females. The Investigative Committee has not provided the data for the comparable crimes registered during the same period.



