**Call for submissions to the UN SRVAW thematic report on rape as a grave and systematic human rights violation and gender-based violence against women**

All submissions should be sent to vaw@ohchr.org by **20 May 2020**. Kindly indicate if you DO NOT wish your submission to be made public.

**Questionnaire on criminalization and prosecution of rape**

**Definition and scope of criminal law provisions**

1. Please provide information on criminal law provision/s on rape (or analogous forms of serious sexual violence for those jurisdictions that do not have a rape classification) by providing full translated transcripts of the relevant articles of the Criminal code and the Criminal procedure code.

**Sexual offence**

**Section ;295 Private indecency;**

1. Whoever in any place, not withstanding that it may be open to the public, commits an indecent act in the presence of any person of either sex and without his concent shall be punished with imprisonment for from 15(fifteen) days to 2(two) years or with fine of from CFAF 10.000(ten thousand) to CFAF 100.000(one hundred) or even both such imprisonment anf fine.
2. The punishment shall be doubled where the offence is accompanied by assault.

**Section 296; Rape**

Whoever by force or moral ascendency compels any person, whether above or below the age of puberty, have sexual intercourse with him shall be punished with imprisonment from 5(five0 to 10(ten) years

**Section 297: subsequent marriage**

Marriage freely consented between the offender and the victim even where she is over puberty at the of commission of the offence provided for in section 295 and 296 shall have no effect on the prosecution and conviction.

**Section; 298 Aggravation;** the penalties prescribed by section 294, 295,and 296 shall be doubled where the offender;

1. Has authority over the victim or custody of him by law or by custom or
2. Is a public servant or minister of religion or
3. Is helped by one or more others

**Section ; 302-1 sexual harassment ;** 1) whoever takes advantage of the authority conferred on him by his position to harass another using order threats, constraints or pressure in order to obtain sexual favours, shall be punished with imprisonment for from 6(six) months to 1 (one) year and with fine of from CFAF 100.000(one hundred) to CFAF 1.000.000(one million)

2)The penalty shall be imprisonment for from 3(three) Years where the victim is a minor

3) The penalty shall be imprisonment for from 3(three)-5(five) years where the offender is in charge of the education of the victim.

**Section338; assault on women;** whoever by force used against a woman with child or against being born causes intentionally or unintentional the death or permanent incapacity of the child shall be punished with imprisonment for from 5(five) to 10(ten)years and with the fine for from CFAF 1000.000(one hundred thousand) to CFAF 2.000.000(two million)

**Section;347 indecency to minor between 16 and 21**

1. **For any offence under section 295,296 and 347-1** of the penal code committed against a person over 16(sixteen) and under 21(twenty-one) years of age the penalty shall be doubled
2. Based on the wording of those provisions, is the provided definition of rape:
	1. Gender specific, covering women only. **YES**
	2. Gender neutral, covering all persons. **NO**
	3. Based on the lack of consent of victim. **YES**
	4. Based on the use of force or threat. **YES**
	5. Some combination of the above. YES .

 Please specify. **Section;347 indecency to minor between 16 and 21**

 **For any offence under section 295,296 and 347-1** of the penal code committed against a person over 16(sixteen) and under 21(twenty-one) years of age the penalty shall be doubled.

* 1. Does it cover only vaginal rape? **NO**
	2. Does it cover all forms of penetration? **YES**

Please specify. **Section 347-1** which states, whoever has sexual relations with a person of the same sex shall be punished with imprisonment for from six months to five years and a fine of from CFAF 20000 to CFAF 200000.” 9 It also states that the penalties shall be doubled if the prohibited acts are carried out with a minor of sixteen to twenty-one years of age.

* 1. Is marital rape in this provision explicitly included? **NO**
	2. Is the law silent on marital rape? **YES**
	3. Is marital rape covered in the general provisions or by legal precedent even if it is not explicitly included? **YES**
	4. Is marital rape excluded in the provisions, or is marital rape not considered as a crime? **NO**
1. To what extent legislation in your country excludes criminalization of the perpetrator if the victim and alleged perpetrator live together in a sexual relationship/have a sexual relationship/had a sexual relationship? If so, please submit relevant articles with corresponding translations.

**Ans;** Domestic violence is not recognised as a specific crime in Cameroon and we don't have a legal definition of domestic violence.

Cameroon’s Penal Code does not specifically criminalize domestic violence. Victims are thus left to rely on the general assault provisions in the Penal Code, which address murder (Articles 275 and 276), grievous harm (Article 277), assault causing death (Article 278), assault causing grievous harm (Article 279), simple harm (Article 280), failure to assist women abandoned by their husbands (Article 282), and assault of a pregnant woman (Article 338)

spousal rape is not criminalized, it is "generally" not considered an offence under customary law( another Law in Cameroon); it is rather understood that a married woman "consents to sexual intercourse with her husband at any time" the Cameroon Government asserts that domestic violence and spousal abuse will be “better expressed in the penal code currently under revision” and in the meantime, such crimes can be punished through “various classifications of injuries” under the existing legal framework, described above. But the process to prosecute these “injuries” under the current code is anything but clear in the context of domestic abuse. Cameroon asserted in its National Report that: “…with regard to punishment for spousal rape, ‘any man who uses physical or moral violence to have sexual relations with a woman shall be punished by imprisonment for a term of five to 10 years’ (art. 296 of the Penal Code).” The formulation of this punishment does not say marital status should be an excuse

Despite these laws, few perpetrators of rape are ever prosecuted in Cameroon.

4. What is the legal age for sexual consent?
The Age of Sexual Consent in Cameroon is **16 years old**. The age of consent is the minimum age at which an individual is considered legally old enough to consent to participation in sexual activity. Individuals aged 15 or younger in Cameroon are not legally able to consent to sexual activity, and such activity may result in prosecution for **statutory rape** or the equivalent local law.

1. Are there provisions that differentiate for sexual activity between peers? If so, please provide them.

 The Penal Code’s criminalization of sexual assault is not gender neutral and imposes harsher penalties if the perpetrator and adolescent victim are of the same sex. Under Article 347, if sexual assault (“private indecency”), rape, or homosexuality “committed against a minor of 16 to 21 years, the penalties provided for under the [relevant] articles [(295, 296, and 347 -1 (bis), respectively)] are doubled.”Coupled with the criminalization of homosexuality, the result of this law is that “consensual sexual intercourse between an adult and a person of the opposite sex between 16 and 21 years is permissible . . . but consensual sexual intercourse between an adult and a person of the same sex between 16 and 21 years is criminalized on two levels.”This inconsistency “affords[s] differential treatment on the basis of whether or not the perpetrator and the victim are the same gender “and furthers discrimination against same-sex couples and LGBTI individuals.

1. Provide information on criminal sanctions prescribed and length/duration of such criminal sanctions for criminalized forms of rape.

 Section 296; Rape

Whoever by force or moral ascendency compels any person, whether above or below the age of puberty, have sexual intercourse with him shall be punished with imprisonment from 5(five) to 10(ten) years, if the victim is a minor the sanction will be doubled

1. What does the legislation in your country provide in terms of reparation to the victim of rape and/or sexual violence after conviction of the perpetrator?

The Penal Code perpetuates impunity for rape by foreclosing prosecution if the rapist marries his victim: Section 297 specifically stops prosecution for rape when the parties “freely consent” to be married (and are so married), as long as the female victim was above the age of puberty at the time of the sexual assault. , there are also fines that the offender pays

**Aggravating and mitigating circumstances**

1. Does the law foresee aggravating circumstances when sentencing rape cases? If so, what are they?
	1. Is rape by more than one perpetrator an aggravating circumstance? **YES**
	2. Is rape of a particularly vulnerable individual an aggravating circumstance, or the imbalance of power between alleged perpetrator and victims? (for example, doctor/patient; teacher/student; age difference) **YES**
	3. Is rape by spouse or intimate partner an aggravating circumstance? **NO**
2. Does the law foresee mitigating circumstances for the purposes of punishment? **YES** If yes, please specify. **Section; 298 Aggravation;**
3. Is reconciliation between the victim and the perpetrator allowed as part of a legal response? YES If so, at what stage and what are the consequences?
	1. Regardless of the law, is reconciliation permitted in practice? **YES** and what is the practice in this regard? Section 297Subsequent marriage of the victim by the offender
4. Is there any provision in the criminal code that allows for the non-prosecution of perpetrator? **NO** If yes, please specify.
	1. if the perpetrator marries the victim of rape? **NO**
	2. if the perpetrator loses his “socially dangerous” character or reconciles with the victim? NO

**Prosecution**

1. Is rape reported to the police prosecuted ex officio (public prosecution)? YES
2. Is rape reported to the police prosecuted ex parte (private prosecution)? NO
3. Is a plea bargain or “friendly settlement” of a case allowed in cases of rape of women? **YES**
4. Is plea bargain or “friendly settlement” of a case allowed in cases of rape of children? **NO**
5. Please provide information on the statute of limitations for prosecuting rape.

Article 297 of the Penal Code deals with subsequent marriage and provides that “Marriage freely consented between the offender and the victim if over puberty at the time of commission shall have on any offence under either of the two last forgoing sections the effect of section 73 (1) to (4) of this Code”. Article 73(1) to (4) of the Penal Code deals with amnesty; in other words, the rapist will be exonerated when he marries the rape victim.

1. What are the provisions allowing a child who was the victim of rape to report it after reaching adulthood, if any? None
2. Are there mandatory requirements for proof of rape, such as medical evidence or the need for witnesses? **NO** If yes, please specify.
3. To what extent are there rape shield provisions aimed at preventing judges and defence lawyers from exposing a woman’s sexual history during trial? **There are no rape shield provisions available.**
4. What procedural criminal law provisions exist aimed to avoid re-victimizations during the prosecution and court hearings? Please specify.

**War and/or conflict**

1. Is rape criminalized as a war crime or crime against humanity? **YES**
2. Is there a statute of limitations for prosecuting rape in war or in conflict contexts? **NO**
3. Is there explicit provisions excluding statutes of limitation for rape committed during war and armed conflict? **NO**
4. Has the Rome Statute of the International Criminal Court (ICC) been ratified? NO

**Data**

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

The crackdown on perpetrators of violence against women and girls resulted in investigations and prosecutions in cases of denunciations, while those found guilty were sanctioned.

- Statistics collected from the courts between 2014 and 2015 reveal that 510 cases of rape were prosecuted. In 2016, the number of sentences was 160 for 294 prosecutions compared to215 for 430 prosecutions in 2017.

 - In 2015, approximately 35 women were victims of grievous harm, 252 of simple harm and 492 of slight harm, while in 2016, the following offences were reported with female victims: capital murder (39 women); assault occasioning death (22 women and 6 girls), grievous harm (46 )

**Other**

1. Please explain any particular and additional barriers to the reporting and prosecution of rape and to the accountability of perpetrators in your legal and social context not covered by the above.

However, one of the major challenges in combating violence is the socio-cultural burden and the silence of victims who are very reluctant to report cases of violence. This situation is a hindrance to judicial response. Moreover some forms of violence concern the victim's intimate life and are therefore not always reported, which makes it difficult to compile statistical information.

 Given the stigmatization that rape victims may face in their communities, they may have very little choice but to “consent” to marrying their rapist. Since the victim’s family often knows the rapist, it is not uncommon for family members to informally negotiate compensation or marriage as settlement. Provisions such as these, which absolve perpetrators of rape, prevent offender accountability and fail to protect rape victims.