



Resolution 1691 (2009)¹

Rape of women, including marital rape

Parliamentary Assembly

1. Every year, millions of women are raped: by their husbands, partners or ex-partners, male relatives or acquaintances, or complete strangers. However, most of these rapes are not reported and the perpetrators go unpunished.
2. Rape is a serious violation both of women's physical and psychological integrity and also of the right to freedom, safety and dignity enjoyed by all human beings.
3. Unfortunately, the extremely low level of reporting of rape is matched by a very high rate of attrition and an extremely low level of conviction – especially, but not only, for marital rape. This is due to several factors, including:
 - 3.1. widespread attitudes to rape and sexual assault which tend to shift the blame from the attacker to the victim and undermine victims' credibility (attitudes widespread also amongst the members of the police, the legal profession, public prosecutors and the judiciary);
 - 3.2. unreformed rape legislation which requires a victim to physically resist the attacker, to initiate proceedings, and/or makes it possible for the most intimate details of victims' private lives to be exposed in court;
 - 3.3. a lack of support, assistance and protection for victims.
4. It needs to be made clear that any woman can be raped, but no woman deserves to be raped, and that consent is necessary for sexual intercourse every time, whatever the relationship of the victim with the rapist. Only then will more rapes be reported to the authorities, and will more rapists actually be convicted of their crimes. There is no excuse for rape; lesbian, bisexual and transgender women need particular protection in this regard as they face sexual violence on both accounts.
5. The Parliamentary Assembly thus recommends that Council of Europe member states:
 - 5.1. fully implement the recommendations on sexual violence and rape contained in Recommendation (2002)5 of the Committee of Ministers on the protection of women against violence, as well as the recommendations contained in Assembly Recommendation 1777 (2007) on sexual assaults linked to "date-rape drugs", and in Assembly Resolution 1670 (2009) and Recommendation 1873 (2009) on sexual violence against women in armed conflict;
 - 5.2. ensure that their legislation on rape and sexual violence reaches the highest possible standard, ensuring that rape is defined in essence by the absence of consent or the absence of the choice to consent by the victim, and avoiding a re-victimisation of the victim by the criminal justice system; legislation should thus, as a minimum:
 - 5.2.1. make rape (including marital rape) an ex officio crime;
 - 5.2.2. define consent as agreement by choice when having the freedom and capacity to make that choice;

1. *Assembly debate* on 2 October 2009 (35th Sitting) (see [Doc. 12013](#), report of the Committee on Equal Opportunities for Women and Men, rapporteur: Mrs Rupprecht). *Text adopted by the Assembly* on 2 October 2009 (35th Sitting). See also [Recommendation 1887](#) (2009).



- 5.2.3. not require that a victim physically resist the attacker;
- 5.2.4. have prosecutors make all discontinuance decisions and give the victim the right to challenge such decisions;
- 5.2.5. protect victims' private lives, especially in court;
- 5.2.6. allow evidence gathered in pre-trial proceedings to be used when the victim avails herself of her right to refuse to testify once in court;
- 5.2.7. establish procedures to ensure victim and witness safety, where the victim or witness is facing threats or intimidation;
- 5.2.8. give victims a legal right to advice and support throughout the process;
- 5.3. establish marital rape as a separate offence under their domestic law so as to avoid any hindrance of legal proceedings, if they have not already done so;
- 5.4. penalise sexual violence and rape between spouses, cohabitant partners and ex-partners, if they have not already done so, and consider whether the attacker's current or former close relationship with the victim should be an aggravating circumstance;
- 5.5. consider instituting compensation for the victim, if they have not already done so;
- 5.6. develop a comprehensive strategy which should comprise measures to prevent rape in the first place, by empowering girls and women not to be victims and teaching boys and men to respect women, as well as to ensure (securely-funded) protection of and assistance to rape victims at every step of the proceedings;
- 5.7. develop compulsory training programmes for police officers, judicial, medical and forensic personnel, social workers and teachers so as to enable them to identify cases of rape and sexual violence, and, in particular, of marital rape, and to enable them to advise and assist the victims more effectively and consistently.