



CASE CLOSED

RAPE AND HUMAN RIGHTS
IN THE NORDIC COUNTRIES
SUMMARY REPORT

STOP VIOLENCE
AGAINST WOMEN

AMNESTY
INTERNATIONAL



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Cover photo: Amnesty International Finland has organized a campaign calling on the authorities to set up a comprehensive action plan aimed at eliminating violence against women in Finland. A petition with more than 22,000 signatures was delivered in 2005. In December 2009, the government finally started working on the action plan.

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CONTENTS

1/INTRODUCTION	1
STATE OBLIGATIONS	1
2/RAPE IN THE NORDIC COUNTRIES	3
MOST STORIES OF RAPE ARE NEVER TOLD	3
REPORTED RAPES	4
CASES NEVER COME TO COURT – THE ATTRITION PROCESS	5
THE WOMEN BEHIND THE STATISTICS	5
YOUNG WOMEN	6
RAPE IN INTIMATE RELATIONSHIPS	6
ACQUAINTANCE RAPE AND ‘DATE RAPE’	7
RAPE BY STRANGERS	7
MULTIPLE PERPETRATORS	7
3/LEGAL FRAMEWORK	8
DOES LEGISLATION MEET CURRENT HUMAN RIGHTS STANDARDS?	8
RAPE DEFINITIONS	9
DENMARK: RAPE AND SEXUAL ABUSE WITHIN MARRIAGE	9
FINLAND: RAPE CATEGORIZATION	11

FINLAND: PROSECUTION IS THE DUTY OF THE STATE, NOT THE VICTIM	11
NARROW DEFINITIONS OF RAPE	12
4/THE LEGAL JOURNEY	14
PRINCIPLES IN THE LEGAL SYSTEM	14
PUBLIC PROSECUTION OR COMPLAINANT'S OFFENCE	14
CRIMINAL INTENT	14
RULE OF LAW	15
STATE OF THE EVIDENCE	15
ATTRITION IN RAPE CASES: INVESTIGATION QUALITY VITAL	15
LACK OF EFFICIENT AND THOROUGH INVESTIGATION OF RAPE CRIMES	16
ATTITUDES TOWARDS AND TREATMENT OF RAPE VICTIMS	17
THE 'IDEAL VICTIM'	17
STEREOTYPES INTERFERE WITH JUSTICE	18
INADEQUATE USE OF FORENSIC EVIDENCE	18
LACK OF TRANSPARENCY	19
5/SUPPORT FOR VICTIMS OF RAPE	21
SUPPORT SYSTEMS IN THE NORDIC COUNTRIES	21
SEXUAL ASSAULT CENTRES IN DENMARK AND NORWAY	21
INADEQUATE SUPPORT FOR VICTIMS OF RAPE IN FINLAND	21
NEED FOR LONG-TERM REHABILITATION SERVICES IN SWEDEN	22
LEGAL COUNSEL FOR VICTIMS OF SEXUAL VIOLENCE	22
6/POLITICAL LEADERSHIP	23
NATIONAL ACTION PLANS	23
EMPTY PROMISES?	23
POLITICAL LEADERSHIP NEEDED FOR CHANGE	24
7/RECOMMENDATIONS TO THE NORDIC GOVERNMENT	25
ENDNOTES	27

1/INTRODUCTION

Sexual violence against women and girls is a worldwide phenomenon. There are no countries where women live free of the threat of such violence and no class or group of women is exempt from its destructive effects. Rape and other sexual violence harm not only the victims, but communities and societies as a whole.

Rape and other sexual crimes are a grave attack on the physical and mental integrity and sexual autonomy of the victim. These crimes are violations of human rights in themselves and they also impair the victim's enjoyment of a range of other human rights such as the rights to physical and mental health, personal security, equality within the family and equal protection for men and women under the law.

This report is a summary of a comprehensive report published by Amnesty International in Denmark, Finland, Norway and Sweden in 2008: *Case Closed – Rape and human rights in the Nordic countries*.¹

Children, women, and sometimes also men, are subjected to rape and other forms of sexual violence in countries all over the world. While acknowledging that all sexual violence, regardless of the identity of the victim, is important as a human rights issue, this report focuses on one form of sexual violence, namely rape of women in the Nordic countries: Denmark, Finland, Norway and Sweden. In almost all reported rapes in the Nordic countries of people aged 15 years or older the victim of the crime is female, and the perpetrator is a man.² Women are raped by men they are close to or acquainted with as well as by men completely unknown to them.

STATE OBLIGATIONS

In all societies worldwide, the unequal power balance between men and women generates and reinforces tolerance of men's violence against women. Frequently states fail to take adequate action to combat domestic violence, rape and other forms of violence against women. Men's violence in intimate relationships, including marital rape, is often considered a "private" matter. In the majority of cases, such crimes are not properly investigated and the perpetrators are rarely punished. Often governments fail to acknowledge that violence against women is both a human rights violation and a societal problem. Even in states where laws have been adopted to safeguard the right of women to live a life free of such violence, the laws are not effectively implemented. As a result, many states fail to ensure gender equality in general and to deal effectively with gender-based violence in particular.

International human rights law requires states as part of their efforts to eradicate gender discrimination to take action to prevent and protect women from gender-based violence, and to investigate and punish all acts of such violence. Women who have been subjected to rape are entitled to the same legal protection as victims of any other type of crime. If a state fails to ensure that women who are victims of rape have adequate legal protection, such discriminatory treatment on the basis of gender violates the right to equal protection before the law.

International human rights law also require states to provide survivors with full reparations. This includes the obligation to establish state institutions or to support other organizations that provide for the protection, support and assistance of victims of domestic violence, rape, sexual assault and other forms of gender-based violence.

A prerequisite for the participation of a victim of sexual violence in the legal process is access to various forms of support, including, for example, legal aid, medical care and psychosocial support.

States are obliged under international human rights law to take all appropriate measures to change social attitudes and cultural patterns that underpin prejudices and discrimination against women, as well as stereotyped gender roles for men and women. Preventive work at all levels of society is vital if profound and sustainable change is to be brought about, and to ensure women's right to a life free from gender-based violence, including rape and other sexual abuse.

Amnesty International believes that the failures to prevent and to protect women and girls from rape and other forms of sexual violence, and to ensure justice for all rape victims, are among the most serious challenges to the human rights of women in the Nordic countries. Concrete measures targeted at the legal system are necessary to improve the quality of investigations so that they form a solid basis for prosecution and trial, and to improve the judicial handling of rape cases. The Nordic governments must ensure that legal procedures in rape cases are impartial and fair, and are not affected by gender stereotypes about sexuality or by prejudices towards certain groups of girls and women. To achieve this, a wide range of measures is needed, including training and education to change discriminatory attitudes towards women. This challenge must be dealt with as a matter of urgency through firm action by the Nordic governments.

2/RAPE IN THE NORDIC COUNTRIES

The Nordic countries – Denmark, Finland, Norway and Sweden – are often singled out for praise when it comes to gender equality. The demands of women’s movements have paved the way for women’s participation in all sectors of society. The governments in these countries have long focused attention on equal opportunities for women and men in public life, work, education, political participation, representation and leadership. Even so, continuing violence against women is evidence of the unequal power relations between men and women that still prevail in all the Nordic countries.

This insight has, to various extents, influenced the political agenda in the Nordic countries during the past two or three decades, and measures to combat men’s violence against women form part of the governments’ policies to bring about gender equality.

The UN Special Rapporteur on violence against women has, in the case of Sweden, pointed out that, while an impressive level of gender equality has been achieved in the so-called public spheres of work, education and political participation, these achievements seem to have halted at the doorsteps of private homes. The unequal power relations between men and women continue to be fuelled by deeply rooted patriarchal gender norms that are reproduced within the so-called private spheres of family life and sexual relationships.³ Accordingly, the equal opportunities agenda is a necessary but insufficient strategy for achieving full gender equality and ensuring women’s right to a life free from violence.

Gender-based violence is the subject of public debate and discussion in the Nordic countries. Governments, politicians and justice systems all claim that combating gender-based violence is a high priority. Various measures have been adopted, including legislative changes, training of police and prosecutors, enhanced support for victims of sexual violence and the adoption of national action plans to combat gender-based violence against women. However, rape and other forms of sexual violence remain an alarming reality that affects the lives of many thousands of girls and women every year in all Nordic countries.

MOST STORIES OF RAPE ARE NEVER TOLD

Official crime statistics are available and made public in all Nordic countries. In addition, prevalence studies and population-based surveys have been conducted, for example in

Denmark, Finland and Sweden. These studies show that the countries' crime statistics only include a small proportion of the rapes actually committed. The number of unreported cases seems to be particularly high in Finland: an estimated 2–10 per cent of all rapes are reported, compared to around 25 per cent in Denmark.

For various reasons, the vast majority of the victims will never report the crimes to the police. Women may feel ashamed, or even blame themselves, for being raped. Many women fear that reporting will have negative consequences. Others may lack sufficient support and encounter distrust and negative attitudes from people around them.

At the same time, thousands of women **do** take the decision to report the crimes they have been subjected to, but their claims for justice and reparation are rarely met. Their right to justice is still hampered in practice, despite state obligations to investigate all cases of rape and hold the perpetrators accountable.

REPORTED RAPES

Numbers of reported rapes, including attempted rapes, vary considerably between the four countries:

- Denmark is the only country where the number of reported rapes seems to have been stable over a period of time, with around 500 rapes reported in each of the past five years. According to research the number of women being raped in Denmark seems to have declined over the longer term. This is explained by changes in social norms that have led people to view rape as a more serious crime.⁴
- In Finland, the number of reported rapes has increased over the last decade, reaching more than 900 in 2008.⁵
- In Norway, the number of reported rapes increased by 30 per cent from 731 in 2003 to 949 in 2008.
- In Sweden, according to official crime statistics, the number of reported rapes has quadrupled during the past 20 years. In 2008, just over 4,000 rapes of people over 15, the great majority of them girls and women, were reported.⁶

The countries' criminal statistics are not comparable. Apart from the differences in the size of their populations, there are also different modes of recording rapes that are reported to the police. In Denmark and Norway the statistics record **cases** (generally one case for one victim), while in Sweden the statistics record reported **acts** of rape. If, for example, a woman is repeatedly raped by the same man during the course of one day, each rape will be registered as a separate offence. This is also true for cases where a woman is raped by a group of men. Hence, crime statistics in Denmark and Norway show how many people have reported rape, while the Swedish statistics show how many acts of rape have been reported.

Gradual reforms that have expanded legal definitions of rape can explain some of the increase in the number of reported rapes in Norway and Sweden. In addition, there seems to be an increased willingness to report rape crimes. But it is not possible to exclude the

possibility that the increase in reporting may reflect an actual increase in the number of rapes in Finland, Norway and Sweden.

CASES NEVER COME TO COURT – THE ATTRITION PROCESS

The pattern in Finland, Norway and Sweden follows that of several other European countries: a continuous and strong increase in the number of reported rapes in recent decades, whereas the number of prosecutions and convictions has remained fairly static. Attrition describes the filtering process whereby alleged offences never come to the attention of the criminal justice system, either because they are never reported, or because cases are dropped at various stages of the legal process.

Women who report rape to the police in the Nordic countries have only a small chance of having their cases tried by a court of law. The result is that many perpetrators are never held to account for their crimes.

- In Denmark, on average 20 per cent of reported rapes lead to a conviction in court. 60 per cent of rape cases where a suspect has been identified and charged by the police are closed by the prosecution and never brought to trial.

- In Finland, approximately 16 per cent of reported rapes go to court. The acquittal rate in district courts between 1997 and 2007 was 19 per cent. Approximately 13 per cent of reported rapes lead to a conviction.

- In Norway, approximately 16 per cent of reported rapes go to court. The acquittal rate for rape cases in court is 36 per cent. Only 12 per cent of reported rapes end with a conviction.

- In Sweden, 20 per cent of the reported acts of rape resulted in a court trial in 2008,⁷ a marked increase from the previous two years when less than 15 per cent of cases were tried by a court. There are no available statistics on how many reported rapes end with conviction, as official statistics report how many people are convicted. In 2008, 262 persons were convicted of rape.

A number of cases are closed because the perpetrator is never identified, but the majority of cases are closed because of the “state of the evidence” or because “it cannot be proved that a crime has been committed”. Even if cases do go to trial, the acquittal rate is very high. There is therefore a common cause for concern about the lack of legal protection for victims of rape in the Nordic countries.

THE WOMEN BEHIND THE STATISTICS

Rape is always a crime and a violation of fundamental human rights, no matter who the victim is and regardless of the relationship between the victim and the perpetrator. Nevertheless, it is important to identify situations where different types of rape occur. It is also important to develop knowledge about who is targeted for rape and sexual assault and which survivors are treated as “ideal victims” by society. Such knowledge can help understand and undermine stereotyped ideas of “real rape” and “ideal victims”. This is crucial in order to formulate effective preventive strategies and measures,

increase prosecution rates, and offer adequate treatment and support to victims/survivors.

YOUNG WOMEN

A significant proportion of rape victims/survivors in the Nordic countries are girls under 18 and young women.

- In Denmark, 56 per cent of the victims who reported rape in 2007 were less than 20 years old.
- In Finland, more than 70 per cent of the victims were under the age of 30.
- In Norway 45 per cent of rapes reported to the police in 2006 involved a victim under 20 years of age.
- In Sweden, close to 25 per cent of the victims who reported rape in 2008 were between 15 and 17 years old and in 98 per cent of these cases the victim was female.

This relatively high proportion of girls within the total number of victims indicates that the Nordic states should take particular care to research the experiences of girls, particularly the identity of perpetrators, the situations in which rapes take place, and the victims' special need for medical and psychosocial assistance due to their age and status as children under the Convention on the Rights of the Child.

RAPE IN INTIMATE RELATIONSHIPS

Rape within intimate relationships, like any other form of gender-based violence by a partner, is an abuse of trust. In general, rapes in intimate relationships are under-represented in the crime statistics.

- Studies in Denmark show that the majority of sexual assaults are committed by former or current partners, who are responsible for more than three out of four cases of enforced sexual intercourse experienced by women after the age of 16.⁸
- Research from 2004 revealed that in Finland, rape in intimate or family relations accounted for 13 per cent of rape cases.
- In Sweden, the proportion of reported "intra-relationship" rapes almost halved over a 10-year period and accounted for 17 per cent of all reported rapes in 2006. However, the actual number of rapes in intimate relationships reported to the police increased by 24 per cent over the same period.⁹

Studies in Sweden show that in more than half of the cases other crimes were reported in conjunction with rape in intimate relationships, such as physical assault, unlawful threats or gross violations of the woman's integrity.¹⁰ This shows that rape is often an integral part of a broader pattern of violence against women in intimate relationships. In recent years, however, more rapes have been reported that were not accompanied by the use of violence which may

indicate that victims are more prepared to report rape in intimate relationships, even if it does not result in physical injuries.

ACQUAINTANCE RAPE AND 'DATE RAPE'

In Denmark, 46.5 per cent of the women who in 2006 contacted the Centre for Victims of Sexual Assault, in Copenhagen, said they had been raped by an acquaintance (a man whom the woman has just met or knows superficially).

In Finland, rapes where the victim and the offender knew each other accounted for the majority of reported cases. Often, the crime scene was the home of either the victim or the offender. Close to half the rape cases reported to the police occurred among acquaintances or in situations corresponding to date rapes.

In Sweden, rape committed by a superficial acquaintance accounts for approximately 40 per cent of all reported cases. In addition, rapes in situations where the victim and perpetrator have just met, for example in restaurants, bars or clubs, have increased in Sweden.

RAPE IN SUDDEN ASSAULTS BY STRANGERS

Rape by a total stranger who suddenly attacks (also known as "blitz rape") is often referred to as "real", "easy", "classic" or "uncomplicated" by the police. This kind of rape is seen as comparatively easy to tackle for investigative purposes, because the credibility of the victim may not be questioned in the same way as it is in acquaintance rapes. However, referring to certain types of rape as "real" carries the implication that other types of rape are not real. Such rapes have decreased in both Denmark and Sweden over the last decade. In Finland, 25 per cent of reported rapes are perpetrated by a stranger.

MULTIPLE PERPETRATORS

A recent study in Denmark shows that 29 per cent of all consummated rapes by strangers reported to the police were gang rapes, involving several perpetrators.

Gang rapes have markedly increased during the last decade in Sweden. They accounted for 18 per cent of all reported rapes in 2006. A common scenario involved repeated rapes or attempted rapes of one victim by different perpetrators acting separately during the course of one night, for example at a private party. In 80 per cent of cases the perpetrators were known to the victim.

3/LEGAL FRAMEWORK

Rape has been punishable in the Nordic countries for many centuries. Historically, the criminal laws in the Nordic countries emphasized the “honour” or “worthiness” of the victim in rape cases. Marital status and virginity played a crucial role in determining whether rape was considered a crime and what was seen as an appropriate penalty. The law was intended to protect women’s honour and their value as the property of fathers and husbands, rather than the women’s physical and mental safety.

As views on women’s role in society have changed over time, so has the understanding of the nature of rape. These changes are reflected in current legislation in Denmark, Finland, Norway and Sweden. However, the national laws have not developed identically, nor have the legal developments been simultaneous.

Compared to the other Nordic countries, it is clear that Finland has been slower to reform its legislation on violence against women and rape. For example, Sweden was one of the first countries in the world to declare rape within marriage a crime, while Finland was among the last in Europe to criminalize marital rape.

DOES LEGISLATION MEET CURRENT HUMAN RIGHTS STANDARDS?

The human rights standards of the current millennium state that protection of the right to sexual integrity and autonomy of each individual, regardless of gender or marital status, should be the basis of any criminal law regarding rape and other sexual violence. Violence or threats of violence should not define the seriousness of the crime against sexual autonomy. Instead, international criminal law recognizes that coercion, force, or threat of force ensures that genuine consent is not possible: this is the defining element of rape.

This approach is evident in the European Court of Human Rights ruling in the case of *MC v. Bulgaria*.¹¹ According to the Court’s judgment, states are obliged to punish and prosecute all non-consensual sexual acts, even in the absence of physical resistance on the part of the victim. The Court also noted developments towards recognizing rape as a violation of sexual autonomy. This approach has also been adopted by the International Criminal Tribunals for the former Yugoslavia and Rwanda, and in the Elements of Crimes of the International Criminal Court.

RAPE DEFINITIONS

Amnesty International calls for rape and other forms of sexual violence to be defined as sexual conduct in any instance in which the consent of the woman or girl involved is not truly and freely given.¹² There should be no assumption in law or in practice that a girl or woman gives her consent because she has not physically resisted the unwanted sexual conduct regardless of whether the perpetrator threatened to use or used physical violence.

The laws governing rape in the Nordic countries have many similarities. For example, use of violence or threats of violence define the “seriousness” of rape in all four Nordic countries. Also criminal liability is linked to the ability to prove that the sexual act involved the use of, or threat of, violence. This is an indication that in spite of all the progress towards equality between women and men in many fields in the Nordic societies, when it comes to rape the legal measures are still not adequate to protect the sexual autonomy of rape victims, of whom the vast majority are women and girls.

In Norway and Sweden, the letter of the law allows even slight use of force to be interpreted as constituting rape: it may be sufficient for the perpetrator to “impede the victim’s movements” for example by holding the victim’s arms to pin her/him down, by applying body weight or by forcing the victim’s legs apart. Further, in Norway and Sweden, provisions covering rape specifically include situations where the victim is unable to resist because of her helpless state.

From a human rights perspective, it is important that acts which do not include any kind of penetration or intercourse are criminalized when the act seriously infringes the sexual autonomy and integrity of the victim. This is the case in most of the Nordic countries. In Denmark, Norway and Sweden, in addition to oral, vaginal or anal penetration with body parts or objects, rape definitions also include comparable forced sexual acts that do not require any kind of penetration: such as touching of genitals or masturbation.

Finland differs in many ways from the other Nordic countries in regard to the definition of rape. In Finland, the definition of rape is built around the definition of sexual intercourse. Sexual intercourse, by definition in the Finnish Penal Code, means sexual penetration, by a sex organ or directed at a sex organ.

DENMARK: RAPE AND SEXUAL ABUSE WITHIN MARRIAGE

International law and standards require that rape and sexual violence are not considered as crimes against morality or honour but as crimes against the sexual integrity and autonomy of the individual. However, the Danish Penal Code includes provisions on rape in the chapter dealing with vice crimes, implying that the focus of the law is the protection of morality and honour.

Even more disturbing is the fact that Danish law does not ensure equal protection for married women against sexual offences. Non-consensual sex with a victim in a helpless state is not defined as rape in the Danish Penal Code but as sexual abuse, and it is not punishable within marriage. Furthermore, there are no penalties for obtaining non-consensual sex by taking advantage of a victim’s dependence or mental illness if the victim and the perpetrator are married. The Danish Penal Code also provides that if the perpetrator enters into or continues a marriage or registered partnership with the victim after the rape, it gives grounds for reducing

or remitting punishment. Rape and sexual violence are serious violations of a woman's right of sexual self-determination and integrity – marriage with the perpetrator does not change this fact.

The Minister of Justice in Denmark has argued that non-consensual sex with a victim in a helpless state should not be included in the provision against rape in the Danish Penal Code. In a written statement the Minister stated:¹³ *"It is not natural to call it 'rape', if the perpetrator has not used physical coercion or has not threatened the victim or placed the victim in a state where that person is unable to resist"*. The Minister of Justice has also argued that Article 227 (reduction or remittance of penalty if the perpetrator enters into or continues marriage with the victim) should stay in the Danish Penal Code:¹⁴ *"It is the view of the Ministry of Justice that the provision states values that are still relevant, namely the concern not to disturb the marriage etc. and the recognition that the society in such a situation should respect the victim's ability and will to reconciliation and forgiveness"*.

Nevertheless, in November 2009 the Minister of Justice asked the permanent committee dealing with revisions of the Penal Code to look into the provisions regarding rape and sexual abuse in the Penal Code, including the exemptions of penalties within marriage and the level of sanctions in different categories of rape (rape by strangers, acquaintance rape, partner rape).¹⁵ Amnesty International welcomed this initiative.

DEFINITIONS OF RAPE IN INTERNATIONAL LAW

The definition of rape used by the International Criminal Court in its Elements of Crimes is an example for states to follow:

1. The perpetrator invaded the body of a person by conduct resulting in penetration, however slight, of any part of the body of the victim or of the perpetrator with a sexual organ, or of the anal or genital opening of the victim with any object or any other part of the body.
2. The invasion was committed by force, or by threat of force or coercion, such as that caused by fear of violence, duress, detention, psychological oppression or abuse of power, against such person or another person, or by taking advantage of a coercive environment, or the invasion was committed against a person incapable of giving genuine consent."

Consent according to Rule 70 of the Rules of Procedure and Evidence of the International Criminal Court:

- Consent cannot be inferred by reason of any words or conduct of a victim where force, threat of force, coercion or by taking advantage of a coercive environment undermined the victim's ability to give voluntary and free consent
- Consent cannot be inferred by reason of any words or conduct of a victim where the victim is incapable of giving genuine consent¹⁶
- Consent cannot be inferred by reason of the silence of, or lack of resistance by, a victim to the alleged sexual violence.

Amnesty International calls on states to incorporate these developments into their own domestic criminal laws.

FINLAND: RAPE CATEGORIZATION

In the Finnish Penal Code there are three categories of rape which are determined according to the severity of the physical violence used by the perpetrator: rape, aggravated rape and coercion into sexual intercourse. According to law, a rape constitutes coercion into sexual intercourse (also known as “lesser degree rape”) if the violence or threats used were slight, and if there were mitigating circumstances when the act is assessed as a whole.

‘VIOLENCE USED DOES NOT MEET THE CRITERIA FOR RAPE’

A district court in Finland ruled in the case of a man in his thirties who forced a woman to have sexual intercourse in the disabled toilets of a restaurant by banging her head against the wall and twisting her arm behind her back. She could not scream for help as the man had covered her mouth with his hand. In the prosecutor’s opinion, this was not a rape as the violence used was of a slight degree and the offence had been committed under mitigating circumstances. The man was convicted of coercion into sexual intercourse and sentenced to a conditional (suspended) seven-month prison term.

By comparison: refusal to undertake compulsory military service, including civilian service, in Finland results in a prison sentence of at least six months.

Court decisions show that 50 per cent of those convicted of rape were sentenced to imprisonment, while for those convicted of coercion into sexual intercourse the corresponding proportion was only about 10 per cent. In 2007-2008, when the offence was sexual intercourse by coercion, 91 per cent of sentences upon conviction were conditional (the sentence was suspended), and the average sentence was seven months.¹⁷

Finnish prosecutors and courts have in many cases considered a rape to constitute coercion into sexual intercourse even when it has resulted in clear physical injury. For example, the crime in a case where a woman was held captive for several days, raped repeatedly and denied her medication was considered to be coercion into sexual intercourse.

FINLAND: PROSECUTION IS THE DUTY OF THE STATE, NOT THE VICTIM

Finland is the only Nordic country where coercion into sexual intercourse, also known as “lesser degree rape”, and certain forms of sexual abuse, are complainant offences. This means that the police will start a preliminary investigation only if the victim demands that the perpetrator be punished. One obvious consequence is that cases of coercion into sexual intercourse are taken to court much less frequently than rapes.

In Finland, a victim of rape or sexual abuse can exercise her “free will” and ask the prosecutor not to prosecute. This opens up the possibility for the perpetrator or others to pressurize the victim to withdraw the charges, with the prosecutor having no means of assessing whether the victim is in fact acting of her own “free will”.

This sends a signal that it is up to the victim to decide whether a crime has been committed. From a human rights perspective, it is a duty of the state to prosecute effectively all crimes against

women, according to UN General Assembly Resolution 52/86. The European Court of Human Rights case of *Opuz v. Turkey*¹⁸ also referred to the public interest involved in the state taking action to prosecute acts of violence against women, irrespective of the complaint of the victim.

NARROW DEFINITIONS OF RAPE

In Denmark and in Finland if a woman cannot defend herself because of sleep, self-imposed intoxication, unconsciousness or illness, the crime is not defined as rape but as sexual abuse.

From a human rights perspective, this narrow definition of rape is a cause of serious concern. When emphasis is put on whether the victim is able to resist and whether her state of helplessness is self-inflicted, the actions of the victim, not the perpetrator, become critical in deciding whether a rape has taken place. This approach is clearly in contradiction with the International Criminal Court definition of rape and the ruling of the European Court of Human Rights.

From a human rights perspective the right to sexual autonomy and integrity does not diminish if an individual is in a helpless state, regardless of whether the helpless state is imposed by the victim herself or the perpetrator. The current situation in Denmark and Finland, where whether or not a woman has rendered herself helpless determines whether a rape has happened, sends out a message that raping a person who is unable to give her free agreement is a less serious crime than raping a person who is able to resist.

The legal system categorizes women who are helpless or unconscious because of their own action as less worthy of protection than other women. This seems to rest on discriminatory gender stereotypes where a “proper”, “honourable” woman is expected to control her own behaviour and does not end up helpless. As a result women who are able to defend themselves deserve more extensive protection and crimes against them are regarded as more serious.

When the crime in question is not identified as a rape but rather seen as a lesser crime of sexual abuse this reduces significantly the penalties given. Amnesty International believes that sentences both in law and in practice should be proportionate to the crime. If the sentences given are extremely lenient, this signals to society at large that raping a person in a helpless state is not a serious crime.

In Denmark, the maximum punishment for non-consensual sex with a victim in a helpless state is half the maximum penalty for rape.¹⁹ In Finland, the use of fines as the sole punishment for sexual abuse is common.

In Finnish district courts in 2007-2008, there were almost as many cases of sexual abuse as those of rape. Raping a victim in a helpless state rarely results in a prison sentence. Two thirds of the sentences for sexual abuse were conditional. The average length of sentence was seven months. In 20 per cent of cases, the perpetrator was sentenced to a fine. Somewhat more than 25 per cent of claims were rejected.²⁰



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An Amnesty International activist in Norway holds a placard that says: 'Is it violence if you hit your girlfriend with an open hand?' In order to mobilize men against violence, Amnesty International Norway and Reform – Resource Centre for Men published a report in 2007 based on a national survey on men's attitudes to violence against women.

'RAPE OR SEXUAL ABUSE?' – TWO FINNISH DISTRICT COURT RULINGS

On a ferry from Finland to Sweden, a man took a drunk woman to his cabin and had intercourse with her. She woke up during intercourse, started to scream for help and tried to push the man away. Her female friend heard her screams and entered the cabin to help her out. The court considered that the woman's testimony of being drunk and suffering memory loss was credible. It was supported by the female friend's testimony of the amount of alcohol drunk, the ferry guard's report of the woman bumping into tables and doors and the consequent injuries. According to the court, the man's testimony of meeting her at the restaurant, dancing and having consensual intercourse was not credible and was also partly self-contradictory. The man was convicted of sexual abuse and sentenced to eight months' conditional imprisonment. If the crime had happened on a ferry that sailed under the Swedish flag, the crime would have been identified as a rape.

A 17-year-old boy admitted having intercourse with his 16-year-old classmate after a house party. The girl was sleeping as she had passed out due to drinking alcohol. The boy was sentenced to pay 40 day fines, that is the offence was estimated to be approximately as bad as speeding.

4/THE LEGAL JOURNEY

Amnesty International has identified the steps that women and girls should be able to take to report and seek redress for sexual violence through the criminal justice system. These include:

- Reporting of sexual violence to the police must be safe and accessible.
- Investigations must explore all relevant evidence.
- Collection and processing of forensic evidence must be accessible and effective.
- Prosecutors must initiate criminal proceedings against suspects where probable cause exists.

Although the Nordic countries have come a long way towards fulfilling these standards, the reality is that only a small proportion of reported rapes result in prosecution and conviction. Instead the majority of cases are closed. This means that few of the women who report rape to the police will have their case tried by a court of law. Even fewer will see the alleged perpetrator convicted in court.

PRINCIPLES IN THE LEGAL SYSTEM

PUBLIC PROSECUTION OR COMPLAINANT'S OFFENCE

In Denmark, Norway and Sweden the police are obliged to investigate any suspicion of rape, even when the victim no longer wishes to participate in or objects to further investigation. People other than the victim can report a rape. A prosecution is carried out by the public prosecutor on behalf of society. The prosecutor has an absolute duty to institute legal proceedings if she/he makes the assessment that the evidence is sufficient. In Finland, only two of the three categories of rape – rape and aggravated rape – are subject to public prosecution. The so-called “lesser degree of rape”, coercion into sexual intercourse, is a complainant offence, which means in practice that the victim herself has to demand prosecution, and only then will the police start an investigation.

CRIMINAL INTENT

To convict a person of a rape crime, it has to be proved beyond reasonable doubt that the sexual interaction was a result of coercion, and it has to be proved that the perpetrator was

in fact aware of the forced or coercive nature of the sexual act and acted with criminal intent. In Norway the amendment to the Sexual Offences Provisions in the Penal Code in 2000 criminalized rape by gross negligence. This provision opens up the possibility of convicting a person of rape despite a lack of criminal intent. Thus, if a person due to gross negligence fails to understand that a woman's involvement in a sexual act is of a forced or coercive nature, he can be convicted of rape by gross negligence.

RULE OF LAW

The rule of law rests on two fundamental and equally important principles. The right to legal certainty and equality before the law obliges states to ensure that no person is sentenced without a full and fair trial and that equal cases are treated equally. The police and prosecutor must conduct an impartial investigation. To obtain a conviction the court must find "beyond reasonable doubt" that the accused committed the crime. The right to fair trial and equality before the law is a human rights safeguard whereby innocence is presumed until guilt is proven.

At the same time, states must protect their citizens from crime and punish those who commit crimes, in order to ensure legal security and protection of the legal rights of the victim.

STATE OF THE EVIDENCE

Before taking a case to court the prosecutor assesses whether there is sufficient evidence in the case to reasonably expect that the court will find the accused guilty. If the prosecutor finds that a conviction is unlikely to happen, the case will be closed because of "the state of the evidence". In the Nordic countries, in comparison with other types of violent crimes, a significantly higher percentage of rape cases are closed before reaching court

ATTRITION IN RAPE CASES: INVESTIGATION QUALITY VITAL

National and international studies conclude that the police investigation and the handling of the investigation by the prosecutor play a crucial role if the attrition rates in rape cases are to be reduced.

In Denmark, Finland and Norway the police are in charge of the investigation of rape cases. In Sweden the prosecutor normally leads the investigation of serious crimes such as rape, giving directives to the investigating police. The decision to indict an alleged perpetrator in court lies with the prosecution authorities in all four countries.

Women's chances of obtaining justice and redress in rape cases are largely dependent on the quality of the investigation, as the material and evidence gathered form the basis for the public prosecutor's decision on whether to prosecute or whether to close the case, as well as serving as evidence in the main court hearing.

Different types of rape give rise to different problems in terms of the investigation and evidence. If the rape has been committed by an unknown perpetrator, the investigations need to include a search for a perpetrator. When the woman has been raped by someone she can

identify, the focus of the investigation will be on the criminal act itself. In many rape cases the alleged perpetrator and victim agree that a sexual act has taken place, but the complainant claims that she was forced or coerced into having sex and the alleged perpetrator claims that the sexual act was consensual. Often the case is treated as a question of “his word against hers” and the assessment of credibility thus plays a critical role in determining the outcome. The initial phase of a rape investigation, including crime scene and forensic investigations, is crucial, regardless of whether the rape was reported immediately or some time after it happened. Studies from the Nordic countries have shown that the evaluation and analysis of rape cases are largely dependent on the motivation, knowledge and attitude of the investigators.

LACK OF EFFICIENT AND THOROUGH INVESTIGATION OF RAPE CRIMES

No in-depth research has been carried out into the quality of police investigations of sexual offences in Denmark and Finland. This in itself is a cause of concern.

According to several studies in Norway, police investigations of sexual offences including rape are not given the priority and attention their severity requires. Interrogations of the accused are undertaken too infrequently and are not sufficiently thorough. The initial interrogation of the accused is often poorly planned, with confrontational questions often being left for subsequent interrogations. A survey conducted by the Director of Public Prosecutions found that crime scene investigations had been carried out in only about half of the cases reviewed, mostly when the rape was reported relatively quickly.²¹ In many cases where the accused claimed that the sexual contact was consensual, the crime scene was not investigated at all.

In Sweden a number of flaws in police investigations have been identified. Interrogations with suspects are sometimes delayed, although it is imperative for such interrogations to be carried out immediately. Investigations are sometimes closed without an identified alleged perpetrator being interrogated at all. The police appear to assume that the alleged perpetrator will invoke consent and this sometimes results in the investigation being closed without an interrogation. The suspect’s version of the events is not always adequately challenged, few follow-up questions are asked and the suspect is not always confronted with the information provided by the complainant. It may also be necessary to interrogate the suspect several times, which is usually not done. Available technology to document interrogations is poorly used.

The fact that rape cases are perceived to be hard to investigate and so rarely go to court might also discourage police officers from taking on investigations with the necessary determination. This can turn into a vicious cycle of lack of motivation, questionable investigation quality and closure of cases.

Amnesty International is concerned about information that the quality of police investigations in both Norway and Sweden varies between different investigators and districts. The victim’s chance to see the perpetrator convicted should not depend on where in the country the rape takes place, or on who happens to be on duty that day in the police office. There is room for improvement if best practices are shared and implemented.

Amnesty International is concerned that a lack of prioritization and a lack of knowledge and training on how to interrogate witnesses and suspects, and how to secure the necessary evidence, may harm the quality of the investigation.

ATTITUDES TOWARDS AND TREATMENT OF RAPE VICTIMS

Some victims describe their treatment by the judicial system as respectful, while others describe it as being characterized by a feeling of not being believed or as a “legal lottery”. Good, professional treatment of the victim may be of decisive importance for the continuation and outcome of the investigation, as it will affect her ability to describe what has happened in the greatest possible detail and her willingness to continue her participation in the investigation.

For example, in Denmark there have been reports of women being asked about their sexual preferences, infidelity, clothing and sexual behaviour and of police officers commenting on the woman’s behaviour prior to the rape, blaming her for the course of events. Some women have been questioned without the necessary privacy, for example with the door to the police office left open.

“The worst thing was that they [the police] indicated that they didn’t believe me... The way they presented my story, as if I was in doubt about what happened. It was as if they tried to pressurize me several times and questioned whether I was sure that I reported what I really wanted to report. If it really was the truth that it happened the way I told. I had that feeling all the time and I felt very uncomfortable. I think it is fair enough that they inform me that they have to look objectively on things, but I think it is unfair that I had to be subjected to such mistrust and scepticism”.

Interview with a woman about her experience with reporting rape to the Danish police²²

THE ‘IDEAL VICTIM’

Several studies show that assessment of the credibility of the victim’s version of events is often influenced by clichés and stereotypes. These assessments include the impression of the woman’s behaviour at the time of filing the complaint. Does she appear to be upset by the situation, is she crying, is she afraid, is she drunk? The first impression is recorded in the case file and stays there as the case progresses. It thereby becomes part of the basis for the prosecutor’s assessment when he/she reads the file.

Research in Denmark showed that the police had expectations as to the way in which a credible account is delivered: at the right pace and in the right frame of mind.

In Sweden, according to a research project led by professor Christian Diesen and Eva L. Diesen, the victim’s verbal skills and social status were of decisive importance in this context. Young and intoxicated women in particular had problems fulfilling the stereotypical role of the “innocent victim”. As a result, neither rapes within intimate relationships nor “date rapes” involving teenage girls generally led to legal action. The researchers also identified other groups of women who seemed to have problems asserting their claims in rape investigations, such as, for example, women from Asia or Eastern Europe who had relationships with Swedish men, sex workers, homeless women, women suffering from substance abuse or mental illness, and women who have previously reported rape. There is therefore deep concern that discriminatory attitudes might constitute barriers to access to legal protection for certain groups of women.

At the same time, studies from Denmark and Norway found that women from marginalized groups were over-represented among rape victims. According to a report published in 2008,²³ 24 per cent of women working in prostitution in Oslo, Norway, who participated in a survey on violence reported being raped in the previous year.

STEREOTYPES INTERFERE WITH JUSTICE

Several studies show that the assessments of rape cases are influenced by the norms and values of the police investigator and the public prosecutor. These norms and values pertain to the perception of norms for men and women's sexual behaviour. This means that women's right to justice and equality before the law risks being hampered by discriminatory attitudes about male and female sexuality.

"When you go out and talk to the witnesses you find she was dancing on the tables and throwing her clothes around the pub. This doesn't justify the fact that she was raped, absolutely not. But her behaviour went a long way towards giving those guys certain hopes and expectations".

Interview with a Danish police officer²⁴

During the police investigation and when prosecutors make decisions, certain circumstances are perceived to support the notion that the man may not have known that he coerced the woman into having sex with him. Among such circumstances are if prior to the alleged crime the woman was flirtatious or voluntarily went home with him, or if she and he had engaged in sexual acts on a previous occasion. Under such circumstances cases are often closed because it is found that the man had an excusable misconception – or was honestly mistaken – about her wish to have sexual intercourse with him. The woman's "negligence", her "provocative" clothing or her conduct is held responsible for a failure to make it absolutely clear to him that she did not anticipate any sort of sexual act with him. In short, expectations about how women should behave and react before, during and after a rape and stereotypes about male and female sexuality are more supportive for the credibility of the perpetrator than for the credibility of the victim.

"In addition, the two friends who accompanied you to town state that you were the one playing up to XX and they understood the situation to mean that something was bound to happen between you when you got home."

Danish prosecutor's closing statement, giving the grounds for not pressing charges²⁵

Amnesty International is concerned that this may result in a victim being made responsible for a crime committed against her, noting that victims of crime are not usually blamed in this way for the criminal actions of others. It is therefore imperative that the assessment of whether a perpetrator acted in "good faith" is formalized and transparent, as a first step in addressing and eradicating such attitudes, so that crimes committed in all circumstances are investigated and prosecuted with a professional attitude to the evidence.

INADEQUATE USE OF FORENSIC EVIDENCE

Proper collection and use of forensic evidence is crucial in many rape cases. Forensic evidence of physical injuries on the victim or other findings such as sperm or other traces from the perpetrator on the victim's body can help identify the perpetrator and document violence or physical coercion.²⁶ Amnesty International believes that much can be done to improve the collection and use of forensic evidence in the Nordic countries.

In Denmark, procedures for the collection of evidence are in place. But with statistical information showing that the majority of rape victims have physical injuries while only a minority of the cases go to court, it appears that even when there is forensic evidence of physical violence, cases are closed with reference to the state of the evidence (his words against hers). Also forensic evidence has been shown not to be decisive for the outcome of rape cases. This raises questions about the use and assessment of the forensic evidence.

In Finland, there are regional variations in the quality of forensic examinations. Lack of knowledge among healthcare personnel about the importance of, and the standards for, the forensic examination of rape victims has negative consequences for the collection of evidence.

In Norway, existing medical evidence is not used in many cases to back up the victim's allegation of rape. In a substantial number of rape cases where a rape victim was examined at the Sexual Assault Centre in Oslo, the police did not ask the Centre for its forensic report during the criminal investigation. The reasons for this appear to be partly financial. If the police request a forensic report, the Centre may claim a refund for expenses connected with the medical examination.

In Sweden, forensic evidence is only used in some rape cases. The fact that the police request so few forensic medical reports that can be used as evidence in court is an issue of concern, especially since an increasing number of rape victims seek medical care. Lack of knowledge about the difference in content of different types of legal certificate and the additional work involved for the police appears to result in very few requests for the type of legal certificate that has the highest value as evidence.

The consequence of the lack of appropriate collection and use of forensic evidence is that victims of rape may have their case closed because of the state of the evidence, although forensic evidence of physical injuries was or could have been available. In practice, forensic medical evidence is a necessary but not, in itself, sufficient prerequisite to ensure victims of gender-based violation access to justice. Forensic evidence has to be presented and properly explained if it is to be of use in the judicial process. As long as gender stereotyping, especially stereotyping in relation to sexual behaviour, continues to cloud the interpretation of evidence, rape trials may end with unfair acquittals despite the presence of high quality forensic evidence.

LACK OF TRANSPARENCY

The assessment of the credibility of the victim and the accused, and the reasons for deciding whether to close the case or to proceed, are largely non-transparent in the Nordic countries. Informal discussions concerning the credibility of the victim and the alleged perpetrator and whether the case will hold up in court or should be closed do not maintain the principle of due process of law. Especially in rape cases, where the assessment of credibility and subjective norms and values are influential, transparency and monitoring of the reasoning behind the decision are necessary to make sure that attitudes and stereotypes about male and female sexual behaviour are not decisive for the evaluation of the cases. Amnesty International calls for all decisions on whether or not to prosecute to be subjected to a formal assessment and to be treated objectively to the greatest possible extent. Amnesty International believes that this is necessary in order to ensure an assessment that is not based on the individual police officer's or prosecutor's personal views, but on the facts of the case.

STATES ARE OBLIGATED TO COUNTERACT DISCRIMINATORY ATTITUDES

In international human rights law, it has been recognized that in order to eliminate gender-based violence, the society and the normative culture that nourish such violence have to change. According to the UN Convention on the Elimination of All Forms of Discrimination against Women, states are required to take all appropriate measures, *“To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices which are based on the idea of the inferiority or the superiority of either of the sexes or on stereotyped roles for men and women”* [Article 5(a)].

Preventive work at all levels of society is therefore a prerequisite for a profound and sustainable change relating to women's right to a life free from gender-based violence, including rape and other kinds of sexual abuse.

An activist collects signatures to support demands for improvements in the law on rape in Denmark, Copenhagen, March 2009.



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5/SUPPORT FOR VICTIMS OF RAPE

A basic principle in international human rights law is that the state has a responsibility to provide reparations to victims of human right violations.

International human right standards regulating state responsibility towards victims of gender-based violence call on states to provide appropriate support services to promote the safety as well as the physical and psychological rehabilitation of victims. This includes available, accessible and acceptable services of appropriate quality in order to assist the victim with the necessary material, medical, psychological and social assistance. These rights should be guaranteed regardless of whether the perpetrator is prosecuted and convicted, and regardless of the relationship between the perpetrator and the victim.

SUPPORT SYSTEMS IN THE NORDIC COUNTRIES

There is no “one-size-fits-all” solution with regard to the establishment of systems for victim rehabilitation and support. Each country needs to take its specific social, demographic and geographic context into consideration in fulfilling state responsibility to provide necessary support services for victims of sexual violence. There are major differences between the victim support systems in the four Nordic countries.

SEXUAL ASSAULT CENTRES IN DENMARK AND NORWAY

In Denmark and Norway, centres for victims of sexual assault are in place in major towns and cities, providing women subjected to sexual violence with specialized medical and psychological help. In addition, these centres perform expert forensic examinations and play an important role in obtaining the necessary medical evidence in cases where the rape is reported to the police. Although the availability and accessibility of sexual assault centres in rural areas of Norway remains an issue of concern, national authorities in both Denmark and Norway are clear in their acceptance that victim rehabilitation and support is a state responsibility.

INADEQUATE SUPPORT FOR VICTIMS OF RAPE IN FINLAND

In Finland, there is no state-funded or nationwide support system for victims of sexual violence. In acute crisis, rape victims are treated in healthcare centres for example, but the

level of expertise differs greatly between centres. On the basis of a private initiative among gynaecologists, one hospital has developed a special programme for victims of rape. In addition, various non-governmental organizations provide some limited help and support for victims of sexual violence. The Finnish government is obviously not adhering to its international obligations to provide rehabilitation for victims of sexual violence, reflecting its general tendency to consider issues of gender-based violence a “private” matter. This remains the major difference between the situation in Finland and that in the other Nordic countries.

NEED FOR LONG-TERM REHABILITATION SERVICES IN SWEDEN

In Sweden, rape victims are generally cared for by women’s clinics in public hospitals. There are, at present, only a few specialized centres for victims of sexual assault. Since the public discourse on gender-based violence in Sweden clearly defines it as a matter of public concern, it is difficult to understand why there is, at present, no public system providing specialized support centres for victims of rape and other sexual offences. One explanation could be that support for victims of sexual violence, such as that given by women’s shelters in Sweden, is generally provided by non-profit organizations.

A national programme on care for victims of sexual violence has been developed and is currently being implemented to ensure legally secure procedures for sampling and documentation, but it does not address the need for long-term rehabilitation, including psychological help.

LEGAL COUNSEL FOR VICTIMS OF SEXUAL VIOLENCE

In the 1980s, Nordic countries were pioneers in providing victims of sexual violence with free legal assistance from a complainant’s counsel during the police investigation, as well as during the hearing in court. This was an important step in improving the victim’s legal position and restoring her sense of dignity during the police investigation and the trial. However, the counsel’s parameters of action vary between the Nordic countries. Where necessary, the counsel’s ability to participate actively in the legal process should be strengthened to improve further the victim’s legal position and protect her interests.

In Finland, victims of crimes involving serious violence or sexual crimes may be provided with free complainant’s counsel regardless of their financial status. However, healthcare personnel, police and private attorneys fail to make rape victims sufficiently aware that this type of support is available.

6/POLITICAL LEADERSHIP

The political handling of rape in the Nordic countries reflects the general pattern observed in other areas: while several steps have been taken in Denmark, Norway and Sweden, political leadership in Finland is lagging behind.

NATIONAL ACTION PLANS

At its best, a national action plan on violence against women provides the mechanisms and the resources for the government and civil society to work together and to promote the protection of women against any form of violence. Denmark, Norway and Sweden have adopted a national action plan (NAP). At present, Finland has not.

Norway adopted its first action plan in 1999, Denmark in 2002 and Sweden in 2007. Even though sexual violence is a central and integrated feature of men's violence against women within intimate relationships, as well as a major component of gender-based violence against women in general, a similar feature of all three action plans is that they pay limited attention to sexual violence and rape.

EMPTY PROMISES?

In Finland, the authorities still struggle to recognize gender-based violence against women as an issue for which the state bears responsibility. The Finnish government's Action Plan for Gender Equality for 2008-2011 has seven priority areas, one of them being violence against women. The Plan includes a promise that the government is going to adopt a specific action plan on violence against women. However, work on this only started in December 2009. Without proper resources and indicators, the Finnish government's commitment to prevent violence against women, including rape and sexual violence, will remain an empty promise.

In Norway, a promising step was taken when the government appointed a public committee on rape in 2006, consisting of politicians, health officials and researchers. Their mandate was to focus on ways to prevent and combat rape. In early 2008, the committee presented a White Paper containing a number of recommendations, including preventive measures and improvements to the legal and healthcare systems. Regrettably, the White Paper has so far not been followed up by an integrated plan of action on sexual violence and rape, and the suggested measures have only been partly implemented.

POLITICAL LEADERSHIP NEEDED FOR CHANGE

The involvement of leading politicians is crucial. Ministers, as well as members of parliament and local politicians in the municipalities, need to be outspoken about, and show commitment to, curbing gender-based violence against women, including rape and sexual violence.

A holistic approach is needed to fight gender-based violence, including rape, in an effective manner. Integrated action must be taken:

- to reveal and address the failures that contribute to the attrition process whereby cases are not pursued and perpetrators are allowed to enjoy impunity;
- to develop a range of efficient preventive measures, including measures to challenge stereotypical attitudes in all parts of society;
- and to provide adequate support services for victims of rape and other forms of sexual violence.

The implementation and effectiveness of laws must be monitored and followed up in order to ensure that the measures taken are relevant and sufficient to meet the goals, that is, increased protection against sexual violence and the strengthening of individuals' exercise of their sexual integrity and autonomy in practice.

One of the many actions Amnesty International in Sweden organized to end violence against women was a banner on which passers-by sign their handprints.



7/RECOMMENDATIONS TO THE NORDIC GOVERNMENTS

Amnesty International calls on the governments of Denmark, Finland Norway and Sweden to take the following steps to increase protection against rape and other sexual violence to ensure justice for all victims/survivors of sexual crimes.

- Amnesty International urges the governments in all the Nordic countries to adopt a legal definition of rape in the criminal law which protects women's enjoyment of the international human rights principles of sexual integrity and autonomy in practice: the criminal law should define rape and other forms of sexual violence as sexual conduct in any instance in which the agreement of the woman or girl involved is not truly and freely given, that is, given without coercion of any kind. In addition, revision of current legislation in the Nordic countries is necessary in relation to, for example, the issue of victims in a helpless state including when due to self-imposed intoxication, the abolition of references to marriage as a mitigating factor, the abolition of the requirement that the complainant press charges and the inclusion of all rape cases as cases for public prosecution.

- Amnesty International calls on the Nordic governments to take effective measures to eliminate gender-based prejudices and practices that constitute a barrier to women's reporting of rape and other sexual violence.

- Amnesty International urges the Nordic governments to reinforce and develop preventive work against rape and sexual violence in society at large. According to Article 5(a) of the Convention on the Elimination of All Forms of Discrimination against Women, states are obliged to take measures to modify the social and cultural patterns of conduct of men and women and eliminate prejudices and customary and all other practices based on stereotyped roles for men and women. Preventive measures should include the education of children and young people about mutual respect in relationships, as well as the promotion of equality in public education messages, within the context of working towards substantive gender equality between men and women in all areas of life.

- Amnesty International calls on the Nordic governments to ensure that all legal procedures in cases involving crimes of rape and other sexual violence are impartial and fair, and not affected by prejudices or stereotypical notions about female and male sexuality. To achieve this, a wide range of concrete measures targeted at the legal system to improve the quality of rape investigations and the judicial handling of rape cases, as well as training and education to change discriminatory attitudes towards women, are needed.

- Amnesty International calls on the Nordic governments to establish an independent monitoring mechanism to systematically analyze all rape investigations that are closed before coming to trial, and to report on the reasons. The knowledge gained would allow assessment of the quality of investigations carried out by different police districts, and would ensure a higher level of consistency and uniformity.

- Amnesty International urges the Nordic governments to formulate national action plans to prevent and combat rape and sexual violence. These should either take the form of specific action plans against rape and other sexual violence, or be integrated into national action plans on men's violence against women. The particular needs of girls under 18 in relation to effective prevention, prosecution and reparations for rape and other sexual violence should be part of these action plans.

ENDNOTES

- 1** Amnesty International, *Case Closed – Rape and Human Rights in the Nordic Countries*, 2008. Available at: [http://www2.amnesty.se/extern/ai/global.nsf/%28sidor%29/E940A657CA9E7167C12574C5002E9495/\\$file/Case_Closed_2008.pdf](http://www2.amnesty.se/extern/ai/global.nsf/%28sidor%29/E940A657CA9E7167C12574C5002E9495/$file/Case_Closed_2008.pdf)
- 2** In each of the four countries covered in this report the law specifies the age at which a person is considered to be psychologically and physically mature enough to have the right to determine his/her own sexuality and bodily autonomy. In Sweden and Denmark the age is 15 and in Norway and Finland 16. This has legal implications. In Sweden, for example, sexual intercourse or other comparable sexual acts with a child below the age of 15 always constitutes rape. This report focuses on girls above the age of 15 or 16 and on women.
- 3** Report of the Special Rapporteur on violence against women, its causes and consequences, Yakin Ertürk. *Mission to Sweden*. A/HCR/4/34/Add 3. February 2007.
- 4** Balvig et al 2009: Voldtægter der anmeldes, del III Det Kriminalpræventive Råd juni 2009.
- 5** Cases of sexual abuse, which is defined in the Finnish Penal Code as a crime which can include forced intercourse, also increased sharply.
- 6** Criminal statistics in all four countries include rape on men. However, the overwhelming majority of reported rape cases involve female victims and male perpetrators.
- 7** Rapes of people aged 15 or more. Prosecutions instituted in one year do not refer exclusively – or include all – rape crimes reported in that same year. A report that is filed late in the year, for example, may appear in the prosecution statistics for the following year. In addition, some reported cases of rape are reclassified at a later stage as, for example, sexual coercion and are thus not included in the prosecution and conviction statistics for rape. Nevertheless, the prosecution rate illustrates the problem of attrition. When it comes to the number of people sentenced it is important to note that one person may be prosecuted for several reported rape crimes.
- 8** Balvig & Kyvsgaard 2006: International Violence Against Women Survey (IVAWS).
- 9** *Rape – A survey of rapes reported to the police*. BRÅ Report 2005:7 and *Rape of individuals aged 15 or over – developments during 1995-2006*. BRÅ Report, 2008:13.
- 10** The law stipulates that if a man commits repeated acts of harassment or abuse against a woman with whom he is, or has been, in an intimate relationship, he can be convicted of gross violation of a woman's integrity. The offences referred to include assault, molestation, violation of the privacy of the home and sexual coercion. The provision is mainly intended to cover crimes that are not as serious enough to constitute, for instance, gross assault.
- 11** European Court of Human Rights, Application number 39272/98, judgment, 4 December 2003.
- 12** See Amnesty International, *Six-Point Checklist on Justice for Violence Against Women*, ACT 77/012/2009.
- 13** S 2341 (answered 10 June 2009).
- 14** Question 666 (answered 15 May 2009).
- 15** Straffelovrådets Kommisorium for en revision af straffelovens kapital 24, 20 November 2009 (revision of the Penal Code chapter 24 on Vice crimes).
- 16** Article 8 (2) (e) (vi)-1: International Criminal Court, Elements of Crimes, PCNICC/2000/1/Add.2 (2000).
- 17** Reinboth, 2009. The research was done for Channel Four TV News in Finland. Reinboth / Channel Four Finland news requested all the district courts in Finland to provide the details of all sexual crime cases completed between 1 Oct 2007 and 30 Sep 2008. There were a total of 611 cases and 671 persons accused. In addition to sexual crimes as such (Chapter 20 of the Finnish Penal Code), Reinboth also requested the details of crimes closely connected with sexual crimes and mentioned in Chapter 17 of the Penal Code (Finnish Penal Code, Chapter 17, items 18-22).
- 18** *Opuz v Turkey*, Application 33401/02, judgment 9 June 2009, Paragraphs 138-139.
- 19** In November 2009 the Minister of Justice asked the permanent committee dealing with revisions of the Penal Code to look into the provisions regarding rape and sexual abuse in the Penal Code. The terms of reference for the revision include looking into the provision on non-consensual sex with a victim in a helpless state and the level of sanctions.
- 20** Reinboth, 2009, Research for Channel Four TV News in Finland.
- 21** Director of Public Prosecutions, Norway, 1/2007.
- 22** Guldborg, Anita (2006): *Er det virkelig sket? En undersøgelse af kvinders reaktioner på retspraksis efter politianmeldelse*, Center for Voldtægtsofre, København: Rigshospitalet.
- 23** Bjørndahl and Norli 2008, p30.
- 24** In Laudrup, Camilla og Helle Rahbæk (2006): *Var det voldtægt? – En undersøgelse af menneskerettigheder og voldtægt i Danmark*, Center for Voldtægtsofre, København: Rigshospitalet.
- 25** In Laudrup, Camilla og Helle Rahbæk (2006): *Var det voldtægt? – En undersøgelse af menneskerettigheder og voldtægt i Danmark*, Center for Voldtægtsofre, København: Rigshospitalet.
- 26** It is important to stress that threats of violence or other forms of coercion do not always leave traces on the victim's body. Lack of physical evidence does not necessarily mean that a rape has not taken place.



**I WANT
TO HELP**

WHETHER IN A HIGH-PROFILE
CONFLICT OR A FORGOTTEN
CORNER OF THE GLOBE,
AMNESTY INTERNATIONAL
CAMPAIGNS FOR JUSTICE, FREEDOM
AND DIGNITY FOR ALL AND SEEKS TO
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TO BUILD A BETTER WORLD

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CASE CLOSED

RAPE AND HUMAN RIGHTS IN THE NORDIC COUNTRIES SUMMARY REPORT

Women in the Nordic countries – Denmark, Finland, Norway and Sweden – have achieved impressive levels of gender equality in many aspects of life. Nevertheless, rape and other forms of sexual violence remain an alarming reality that devastates the lives of thousands of girls and women every year.

This report is a summary of a comprehensive document published by Amnesty International in Denmark, Finland, Norway and Sweden in 2008: *Case Closed – Rape and human rights in the Nordic countries*.

This report shows that women who report rape to the police in the Nordic countries have only a small chance of having their cases tried by a court of law. The result is that many perpetrators are never held to account for their crimes. Amnesty International examines the gaps in laws, procedures and practices and calls on the governments of Denmark, Finland, Norway and Sweden to take steps to ensure justice for all victims and survivors of sexual crimes.

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