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Misdemeanour or rape? Revised French bill on child sex sparks outrage

A bill initially aimed at tightening French child sex laws has been turned on its head and sparked widespread outrage, with critics accusing it of not only lessening the protection of children, but opening up a new legal loophole for child rapists.

France 24 (14.05.2018) - <https://bit.ly/2GjZpCm> - On Monday, a revised version of a government bill initially meant to clamp down on sexual offences and harassment went up for debate in French parliament, with lawmakers due to vote on its contents on Tuesday.

While much of the bill has been praised both at home and abroad for introducing on-the-spot fines for sexual harassment on the street, targeting cyber mobbing and extending the statute of limitations for child rape claims (from 20 to 30 years), the second of a proposed four articles, "Article 2", has caused child protection activists to see red.

The current law reads that today it is illegal in France for an adult to "have sexual contact" with a minor under the age of 15, but it is not considered rape. An initial draft of the bill proposed rectifying this by setting the minimum age of consent at 15, but this age of consent clause was quickly deleted after critics argued it would infringe on the defendant's presumption of innocence.

Open letter

On Monday, more than 250 renowned French psychologists, social workers, doctors, lawyers and celebrities signed an open letter to President Emmanuel Macron urging him to have the whole revised "Article 2" of the bill, which does not qualify sex with someone under 15 as rape, to be dropped altogether.

"We're very worried. We don't want another 'Pontoise'," they wrote, referring to last year's highly publicised case in which prosecutors refused to prosecute a man for rape after he, at age 22, had sex with an 11-year-old girl in a park. The main reason was that coercion couldn't be proved. Under the current law, all French rape convictions must contain proof of either violence, force, surprise or lack of choice.

The "Pontoise case" was then followed by a similar ruling where a 28-year-old man was convicted of the lesser crime of sexually abusing a minor after having sex with an 11-year-old whom he had lured to his apartment.

The two cases prompted public outrage and resulted in Macron's government vowing to reassess the country's child sex laws and providing the country's children with better protection.

Pascal Cussigh, a lawyer and president of the child protection group "Coup de Pouce", told FRANCE 24 that: "If you interpret the current text literally, an infant could consent to a sexual act involving penetration."

"We're one of the only countries in Europe who haven't adopted the principal of a minimum age for sexual consent. Last August, even Tunisia applied this principle with a very simple definition: 'Consent doesn't exist for children under the age of 16'," he said.

'Hard evidence' still needed

Cussigh, who is among those who signed the open letter to Macron, also criticised the fact that in the bill it is still up to the child to provide evidence that a rape has indeed taken place (through violence, force, surprise or lack of choice).

"So in essence, the bill doesn't change anything," he said.

In cases where so-called "hard evidence" cannot be presented by the alleged victim that a rape has taken place but there is enough proof to show that sexual penetration has in fact occurred, the government has proposed introducing the lesser crime of "sexual abuse of minors", which is considered a misdemeanour in France. The government hopes that this will lead to more convictions in child sex cases.

According to critics, however, this clause opens up a box of worms, because even if the intention is to avoid that a suspected rapist is acquitted just because of a lack of tangible evidence, many judges will feel prone to send suspected rape cases directly to the *tribunal correctionnel* -- which deals with misdemeanours -- rather than the criminal court, simply for the sake of saving time.

"It's counter-productive," Cussigh said, adding that "even if the suspect is convicted, the act might never be considered as having been non-consensual".

"For cases related to incest, there is no special treatment," he said. "A child victim of incest equally needs to prove that there was no consent at the time of the sexual act, even if they're only as young as eight years old," he said.

Dangers in not labelling rapists

Another problem is that if rapist is convicted for the lesser crime, the perpetrator may never be considered a rapist in the eyes of society, but a minor offender.

"Le Groupe F", which is behind the open letter to Macron, warned of the potential consequences the added misdemeanour clause could have on French society.

"Since 1810, rape has been considered a crime in France. By requalifying a crime as a sexual aggression or sexual assault that is thereby ruled a misdemeanour, it reduces the seriousness of the acts committed for both the victims and the perpetrators," it said.

The International Association of Incest Victims (AIVI) will stage a protest outside the National Assembly before lawmakers vote on the bill on Tuesday.

Court says man who had sex with 11-year-old girl must face rape charges

A French court said Tuesday that a 29-year-old man on trial for having sex with an 11-year-old girl must face rape charges, declaring itself incompetent to rule in the highly controversial case.

France24 (13.02.2018) - <http://bit.ly/2F56oQQ> - The man went on trial earlier Tuesday for sexual assault rather than rape in a case that triggered an outcry after prosecutors judged that the sex was "consensual", despite the girl's young age.

France does not treat sex between an adult and a minor as rape unless there is proof that force was used, and the government has vowed to introduce an age of consent.

The local court in the Paris suburb of Pontoise said after a day of closed-door hearings that the man should be put on trial for rape, pushing the decision to a higher court.

The girl's family were outraged by the initial decision not to try him for rape, and their lawyer Carine Diebolt hailed Tuesday's ruling as "a victory for the victims".

"There is no question of consent when we're talking about a child of 11 years," she had told reporters before the trial opened.

She has asked for the case to be adjourned and a rape charge to be applied, insisting that the child was shocked, intimidated and threatened by the defendant.

The father of two children, then aged 28, approached the girl in a public area of a housing estate in Montmagny northwest of Paris.

She performed oral sex in an elevator on the way to his apartment where they had penetrative sex.

His lawyer, Marc Goudarzian, cast doubt on the girl's testimony and insisted his client thought the girl was 17 because she had passed puberty. "She wasn't born yesterday," Goudarzian added.

In November last year, a man was acquitted of rape after having sex with an 11-year-old after a jury found no evidence that she had been forced into the relationship.

And in another widely publicised case in November, a teacher was given a suspended jail sentence, not a prison term, for having sex with a 14-year-old pupil.

President Emmanuel Macron, who is married to his former schoolteacher, has proposed a new law that would make 15 the age of consent.

More information: [Ages of Consent in Europe](#)

France to reassess child sex laws after controversial cases

BBC (13.11.2017) - <http://bbc.in/2AADIAY> - France is to consider a change to its laws around sexual consent, according to the minister for gender equality.

Marlene Schiappa said the government was considering setting a fixed age below which sex was automatically a serious offence.

It comes after two cases where men were acquitted of raping two 11 year old girls.

In France the age of consent is 15, but prosecutors still have to prove sex was non-consensual to prove rape.

In an interview with French television programme BFM Politique, Ms Schiappa said that as a member of the government she "could not react to court decisions".

But Ms Schiappa added she was looking at measures where "below a certain age...that there is no debate on the sexual consent of the child".

Despite its age of consent, France currently does not have any law which defines sex with someone below a fixed age as rape.

Currently in France if there is no violence or coercion proved, people may only be charged with sexual abuse of a minor and not rape - this has a maximum sentence of five years in prison and a fine of €75,000 (£66,000; \$87,000).

Sentences are the same for sexual assaults of minors and non-minors, but punishments for rape have much harsher sentences.

Ms Schiappa said her government was debating a defined age for irrefutable non-consent, between 13 and 15, as part of a new anti-sexism and sexual violence bill to be introduced in 2018.

What were the cases?

A public prosecutor said on Saturday that a 30-year-old man had been acquitted of rape after having sex with an 11-year-old girl in Seine-et-Marne in 2009 when he was 22.

The girl's family reportedly only found out about the incident after the girl became pregnant. Her child is now seven and is reportedly in foster care.

Local reports said the man's defense was that the girl had lied about her age to him.

Because there was no evidence of "threat or violence" a criminal court ruled that the man could not be charged with raping her.

It closely resembles a case in September which also prompted calls to change the law.

A 28-year-old man was acquitted when he was tried for having sex with an 11-year-old girl from Val-d'Oise, north of Paris. She reportedly followed the man home from a park, but prosecutors said there had been "no violence, no constraint, no threat, and no surprise" to constitute a rape charge - the court therefore ruled she had consented.

How does French law compare with elsewhere?

Age limits vary around the world, and exist to protect people who are not yet legally or emotionally competent to consent to sexual intercourse.

There is no official global limit for the age of consent but it tends to be about 16, and the UN's Human Rights body encourages countries to protect children from sexual exploitation.

In the US, the age of sexual consent varies by state but is between 16 and 18 years old. There are however "close in age exemptions" (so-called Romeo and Juliet laws) to allow for small age gaps in consenting sexual relationships, to protect people from being labelled as sex offenders where one party is slightly underage.

However, because of some legal loopholes, people below these ages still get married. An estimated 200,000 minors were married in the United States from 2000 to 2015.

Child marriage and laws that require people to marry their rapists can circumvent legal age consent limitations in national laws.

In the UK the age of sexual consent is 16, but children under the age of 13 have additional legal protections that declare they can never consent to sexual activity.

Other European countries like Germany and Portugal have a lower age of consent at 14.

French abortion bill would outlaw 'moral' pressure

By David Roach

BRNow.org (09.12.2016) - <http://bit.ly/2i0BPji> - A bill passed by France's Senate Dec. 7 that bans websites distributing "false information" about abortion could be used, pro-life activists say, to criminalize legitimate attempts to dissuade women from terminating their pregnancies.

The bill was approved 173-126, according to news reports, and must return to the lower house of parliament, the National Assembly, for final approval before advancing to Socialist President Francois Hollande.

The measure would extend to the internet a 1993 law outlawing "interference" with abortions through distribution of falsehood, according to the news website France 24.

Violation of the law would be punishable by two years in prison and a \$31,800 fine, CNS News reported.

Among other provisions, the bill would outlaw "trying to prevent" abortions by "disseminating or transmitting" electronic statements "looking to intentionally mislead" regarding the "characteristics or the medical consequences of a voluntary interruption of pregnancy," according to a translation posted by the conservative publication National Review.

When conservatives objected to the bill's original text, it was amended to outlaw "misinformation," suggesting accurate pro-life activism may still be permitted, the National Review stated.

Yet Grégor Puppinck of the European Centre for Law and Justice said misinformation is not all the bill bans. Its accompanying vague ban of “moral and psychological pressures” may “prohibit the church from publishing its position on abortion,” he said.

“Publishing the Christian teaching that abortion is a crime could be seen as putting pressure on people,” Puppinck said according to the Washington Free Beacon. “The simple sharing of information that might upset moral conscience could be sufficient to constitute a crime.”

Puppinck added, “If you teach that [abortion] is a sin, [that] teaching itself” might be “sufficient for prosecution.”

The law is aimed at least in part, according to CNS News, at the pro-life website IVG.net, which comes up in internet searches for “IVG”, the French acronym for “voluntary interruption of pregnancy.” IVG.net asserts that abortion carries medical and psychological risks.

The government website on abortion, ivg.gouv.fr, uses the slogan, “Abortion, your right,” and mentions no risks associated with the procedure, World News Service reported previously. See related report.

Lawmakers clashed in debate leading up to the Senate’s vote, France 24 reported.

Socialist Family Minister Laurence Rossignol said “freedom of expression should not be confused with manipulating minds,” adding, “Thirty years ago militants chained themselves to abortion clinics ... today their successors are continuing this fight on the web.”

Bruno Retailleau of the more conservative Les Républicains party said the bill is “totally against freedom of expression” while Health Minister Marisol Touraine, arguing in support of the bill, denounced a “cultural climate that tends to make women feel guilty” for seeking abortions.

A final vote on the measure in the National Assembly is expected in the coming weeks.

Further reading:

[French MPs vote to ban abortion websites that intimidate women](#)
[French politicians move to criminalize anti-abortion information](#)

I created the burkini to give women freedom, not to take it away

By Aheda Zanetti

The Guardian (24.08.2016) - <http://bit.ly/2c7ogvO> - When I invented the burkini in early 2004, it was to give women freedom, not to take it away. My niece wanted to play netball but it was a bit of a struggle to get her in the team – she was wearing a hijab. My sister had to fight for her daughter to play, had to debate the issue and ask, why is this girl prevented from playing netball because of her modesty?

When she was finally allowed to play we all went to watch her to support her and what she was wearing was totally inappropriate for a sports uniform – a skivvy, tracksuit pants, and her hijab, totally unsuitable for any type of sport. She looked like a tomato she was so red and hot!

So I went home and went looking for something that might be better for her to wear, sportswear for Muslim girls, and I couldn't find anything, I knew there was nothing in Australia. It got me thinking because when I was a girl I missed out on sport – we didn't participate in anything because we chose to be modest, but for my niece I wanted to find something that would adapt to the Australian lifestyle and western clothing but at the same time fulfil the needs of a Muslim girl.

So I sat down on my lounge room floor and designed something. I looked at the veil and took away a lot of the excess fabric, which made me nervous - would my Islamic community accept this? The veil is supposed to cover your hair and your shape, you just don't shape anything around your body. But this was shaped around the neck. I thought, it's only the shape of a neck, it doesn't really matter.

Before I launched it I produced a sample with a questionnaire to find out what people would think - would you wear this? Would this encourage you to be more active? Play more sport? Swim? A lot of people in my community didn't know how to accept this, but I developed it commercially and made a good business.

The burkini came to everyone's attention when Surf Lifesaving Australia introduced a program to integrate Muslim boys and girls into surf lifesaving after the Cronulla riots – they had a young Muslim girl who wanted to compete in an event. She wore a burkini.

After September 11, the Cronulla riots, the banning of the veil in France, and the international backlash that came with it – about us being the bad people all because of a few criminals who do not speak on behalf of Muslims – I really didn't want anyone to judge girls wearing these. It's only a girl being modest.

It was about integration and acceptance and being equal and about not being judged. It was difficult for us at the time, the Muslim community, they had a fear of stepping out. They had fear of going to public pools and beaches and so forth, and I wanted girls to have the confidence to continue a good life. Sport is so important, and we are Australian! I wanted to do something positive – and anyone can wear this, Christian, Jewish, Hindus. It's just a garment to suit a modest person, or someone who has skin cancer, or a new mother who doesn't want to wear a bikini, it's not symbolising Islam.

When I named it the burkini I didn't really think it was a burqa for the beach. Burqa was just a word for me – I'd been brought up in Australia all my life, and I'd designed this swimsuit and I had to call it something quickly. It was the combination of two cultures – we're Australians but we are also Muslim by choice. The burqa doesn't symbolise anything here, and it's not mentioned in the Qur'an and our religion does not ask us to cover our faces, it's the wearer's choice to do so. Burqa is nowhere in any Islamic text. I had to look the word up, and it was described as a kind of coat and cover-all, and at the other end you had the bikini, so I combined the two.

This negativity that is happening now and what is happening in France makes me so sad. I hope it's not because of racism. I think they have misunderstood a garment that is so positive – it symbolises leisure and happiness and fun and fitness and health and now they are demanding women get off the beach and back into their kitchens?

This has given women freedom, and they want to take that freedom away? So who is better, the Taliban or French politicians? They are as bad as each other.

I don't think any man should worry about how women are dressing – no one is forcing us, it's a woman's choice. What you see is our choice. Do I call myself a feminist? Yes,

maybe. I like to stand behind my man, but I am the engine, and I choose to be. I want him to take all the credit, but I am the quiet achiever.

I would love to be in France to say this: you have misunderstood. And there more problems in the world to worry about, why create more? You've taken a product that symbolised happiness and joyfulness and fitness, and turned it into a product of hatred.

Also, what are the French values? What do you mean it doesn't combine with French values, what does that mean? Liberty? You telling us what to wear, you telling us what not to do will drive women back into their homes – what do you want us to do then? There will be a backlash. If you are dividing the nation and not listening and not working towards something you are naturally going to have someone who is going to get angry. If you are pushing people away, and isolating them – this is definitely not a good thing for any politician to do, in any country.

I remember when I first tested the burkini. First I tested it in my bathtub, I had to make sure it worked. Then I had to test it by diving in it, so I went to the local pool to test that the headband would stay put, so I went to Roselands Pool, and I remember that everyone was staring at me – what was I wearing? I went right to the end of the pool and got on the diving board and dived in. The headband stayed in place, and I thought, beauty! Perfect!

It was my first time swimming in public and it was absolutely beautiful. I remember the feeling so clearly. I felt freedom, I felt empowerment, I felt like I owned the pool. I walked to the end of that pool with my shoulders back.

Diving into water is one of the best feelings in the world. And you know what? I wear a bikini under my burkini. I've got the best of both worlds.