

'Negligent rape': Has Sweden's sexual consent law led to change?

By Catherine Edwards

TheLocal.se (12.07.2019) – <https://bit.ly/2JB2XoL> – One year ago, Sweden introduced a law change that meant sex without explicit consent was considered as rape, including when the victim did not actively say 'no'. The Local spoke to experts to find out the impact this has had on court cases and within Swedish society.

The law change meant that participants needed to clearly demonstrate that they wanted to engage in sexual activity in order for it to be considered consensual.

Two new offences of "negligent rape" and "negligent sexual abuse" were created for acts where courts found that consent had not been established, but in which the perpetrator had not intended to commit rape or assault. Previously, a decisive factor for a rape conviction was proof that a perpetrator used force, threats, or taken advantage of someone in a vulnerable situation.

The law faced backlash at the time, and had to be clarified after Sweden's Council on Legislation said it was too unclear. Others criticized it as "signalpolitik", meaning a policy implemented only for appearances and unlikely to make a real

difference.

Twelve months on, rights organizations say the law has had a measurable impact on court cases and helped change the national discussion on sexual autonomy – but warned there was still work to be done.

'Negligent rape' sentences

“Earlier this year, we looked at 30 court judgments, and these included cases which definitely would not have been considered to be rape before the change in the law; where no violence or other means of force was used,” Katarina Bergehed, an Amnesty International expert in women’s rights, told The Local.

Over the past year, the new law has been decisive in at least seven rape cases which went to court, according to an investigation by Swedish radio programme I lagens namn (In the name of the law).

The programme said that of 60 rape cases, the new law was crucial in seven, including six convictions of negligent rape.

A study from the Siren news agency reached the same conclusion, finding that in 84 cases where prosecutors mentioned “negligent rape”, 45 resulted in a rape conviction while six were sentenced for negligent rape.

'Sleeping in the same bed and wearing only underwear does not mean consent'

One of these sentences was confirmed by Sweden's Supreme Court on Sunday, marking the first time the country's highest criminal court made a judgment relating to negligent rape.

The 27-year-old male plaintiff was found guilty of the negligent rape of a woman while staying overnight at her home.

The woman said had agreed he could stay overnight, but made it clear she did not want to have sex. Despite that, the man initiated sexual intercourse.

Both the perpetrator and the plaintiff said that she was passive throughout the intercourse, and that they did not speak. The plaintiff said she "froze and did not know how to act", while the perpetrator said he was not sure whether she was awake when he first initiated sexual contact, "but [he] had the impression that she wanted to have sex" and continued because she did not tell him not to. He also said that he stopped the intercourse when he thought she didn't want to continue.

In a statement accompanying its decision, the Supreme Court wrote: "A person who is subjected to sexual acts against their will does not have any responsibility to say no or express their reluctance in any other way. Furthermore, the court notes that the fact that the plaintiff and the perpetrator agreed to sleep in the same bed and that they were dressed in

only underwear does not mean that the plaintiff voluntarily participated in the sexual acts.”

The man now faces two years and three months in jail, although this includes sentences for other crimes he was found guilty of. The penalty for the count of negligent rape was eight months’ jail, according to the Supreme Court.

Without the 2018 law, it is likely that the man would have been acquitted, since intent was previously required for a conviction of rape or sexual assault, and the Supreme Court found no evidence of intent.

‘Greater awareness about consent’

The fact that Sweden’s law now sets a clear boundary between consensual sex and rape or assault has also helped open up to discussions about sex and consent, the Swedish Association for Sexuality Education (RFSU) told The Local.

“There is increased awareness and a greater openness towards talking about [sexual consent] today,” said RFSU’s Maria Bergström, when asked what changes she had observed since the consent law was passed.

“For example, we can see that this has made it easier for people who have previously experienced this to put words on what happened to them, and to then perhaps go further with reporting it or seeking support. The law has finally made it

clear that one always has a responsibility to ensure that there is consent.”

“There is a much greater awareness and more conversations today on these questions among young men but also in the adult population – we also see that the question is raised by the media in a different way than before,” she said.

Bergström also mentioned the impact of the #MeToo movement in putting the question of consent and boundaries on the political agenda, as women from a wide range of industries came forward with their experiences of assault and harassment, all calling for tangible change.

South Sudan court annuls child marriage of 16-year-old in landmark case

South Sudan has one of the highest rates of child marriage in the world.

By Hellen Toby

Global Citizen (09.07.2019) – <https://bit.ly/2NZbXIH> – A court in South Sudan has annulled a child marriage, in a rare legal case that activists say could signal a turning point for women’s rights in the conservative country.

The marriage of a 16-year-old girl, the daughter of a cattle herdsman, to a 28-year-old man was deemed illegal by a court in Kapoeta late last month, the southern state's information minister Simon Karlo said this week.

Despite the legal age of marriage being 18, more than 50% of South Sudanese girls are wed before their 18th birthday, according to the United Nations children's agency UNICEF.

Poverty, climate change, low levels of literacy and gender inequality in education have fuelled child marriage in the country for years.

But activists said last month's ruling, the first of its kind in South Sudan's eight-year history, could set a precedent for other girls in the country wishing to end marriages entered into at a young age.

"Child marriage is common in Kapoeta because the communities are cattle keepers and so they use their daughters for wealth," Karlo told the Thomson Reuters Foundation by phone.

"It is indeed the first time for a court here [in South Sudan] to take on such a case."

The girl's father, uncle and groom were each sentenced to three years in prison after arranging the marriage.

It involved paying a dowry of 60 cows to the bride's family, according to Steward Women, the advocacy group that provided the girl with legal assistance.

The ruling against the three men was later overturned at the request of the girl and on the condition of a written "commitment" from the men pledging not to force her into marriage again.

"As a way of harmonizing the statutory law and customary law, the sentence was suspended and the girl was put under the protection of a guardian," said Josephine Chandiru, executive director of Steward Women which offers legal advice to victims of sexual and gender-based violence.

"This was a historical moment ... The judge opened a gateway for us to use it as a precedent in future child marriage cases."

South Sudan has the seventh highest prevalence of child marriage in the world, according to UNICEF's head of child protection, Jean Leiby.

"Already the fact that this issue came to court is a step forward in South Sudan," Leiby said.

He called for improvements in the education of children and their parents as a way to combat child marriage.

“In many places in the country, many people do not know the modern laws,” he said. “So in line with that, sometimes you cannot blame the community for some actions because they don’t know.”

USA: Top female GOP senators just introduced a bill to fight the abhorrent practice of female genital mutilation

By Andrea G. Bottner

Washington Examiner (28.06.2019) – <https://washex.am/2LalqKT>– Most Americans are shocked to hear that more than 200 million young women and girls around the world have been subjected to the barbaric practice of female genital mutilation. FGM is the cutting or removal of female genitalia for non-medical purposes: a practice that has no real health benefits yet brings lifelong physical and psychological consequences.

In 1996, the United States outlawed the practice, but – disturbingly – it still happens secretly here sometimes.

Last year, a U.S. district judge dismissed charges against two

doctors who were charged with cutting or mutilating at least nine girls' genitalia. The judge's ruling wasn't because there was any doubt as to whether these girls, as young as age seven, were brought by their mothers to the Detroit area for a procedure which left them permanently injured and in excruciating pain. Rather, the judge concluded that Congress did not have the authority to pass the 1996 law against FGM, because it had no impact on interstate commerce.

Now Congress is working to right this wrong.

Sens. Marsha Blackburn, Martha McSally, Joni Ernst, Cindy Hyde-Smith, Shelley Moore Capito, and Deb Fisher introduced the [Federal Prohibition of Female Genital Mutilation Act of 2019](#) to amend federal law to make this practice a federal crime under several circumstances. This bill includes the requisite commerce clause language to address the district judge's concerns and pretext for dismissing the Michigan case.

Blackburn and her colleagues are making it clear that Americans will not tolerate this abuse against our young women and girls. For that, they deserve commendation. But this isn't the end of the fight against FGM.

Another way to further protect our young women and girls is by making certain all 50 states have laws on their books outlawing FGM. Currently, only 33 states have anti-FGM laws. There are still 17 states that need to recognize this violence and act to protect their young women and girls. Over the next several months, all 50 states should put anti-FGM laws in place or strengthen existing ones.

In addition to putting laws on the books, our state and federal leaders should identify education and outreach opportunities within at-risk communities. According to the Centers for Disease Control and Prevention, an estimated 513,000 women and girls in the United States have experienced or are at risk of FGM. Our legislators should make resources available to train medical and law enforcement representatives to recognize and prevent the practice.

Currently, the Violence Against Women Act is being considered in the Senate. Senators should make sure anti-FGM efforts are included in this important legislation and that VAWA's funding is available to those who seek to end this practice, which is unquestionably a form of violence against women.

There is much to do, but today, Blackburn began that work and stood up for vulnerable young women and girls. Her colleagues from both sides of the aisle should join her and take this important step to protect young women and girls from a practice that should have no place in this country.

**AFRICA: African Development
Bank President attends
historic African Union**

summit, decries child marriage

AfricaNews.com (08.07.2019) – <https://bit.ly/2NIuWHk>– The president of the African Development Bank, Akinwumi Adesina joined continental leaders in Niger for an African Union summit which saw the official launch of the African Continental Free Trade Area agreement – the world’s largest free trade area since the formation of the World Trade Organization.

The agreement, ratified in April, will cover a market of 1.2 billion people and an estimated gross domestic product (GDP) of \$2.5 trillion, across all 55 member States of the African Union.

The Bank has been central in shaping the AfCFTA agreement, setting its strategy and format and approving a \$4.8 million grant to the AU for the establishing of the Secretariat and to accelerate its roll out. Nigeria made history at the summit by becoming the 54th African country to sign up.

Commending all the parties involved for bringing this historic agreement to fruition, President of Niger, Mahamadou Issoufou said: “The time has come to translate words into actions. The continent has waited for far too long, and we are glad this historic moment for the people of Africa is being witnessed in Niger.”

His comments were echoed by AU President, Abdel Fattah al-

Sissi and AU Chairperson, Moussa Faki Mahamat who both stressed the need to celebrate the strides the continent has made.

“An old dream has come true. The founding fathers must be proud,” said Faki.

Whilst in Niamey, Adesina also participated in a high-level panel on combatting child marriage, organized on the sidelines of the summit by the First Ladies of West African Economic Community states and Niger’s first lady Dr. Lala Malika Mahamadou Issoufou.

The panel, themed: “*Combatting child marriage and promoting girls’ education and retention in schools*”, heard testimonies from young girls as well as from Niger’s traditional chiefs, who committed to support the recommendations of the meeting.

“It is totally unacceptable that in Africa some people would block the future of girls. Fundamentally, we have to protect girls, help them achieve and perform.” Adesina said.

Highlighting the need to urgently address “this plague which jeopardizes the future of girls in Africa,” Adesina urged participants to prioritise the inclusion of women. “Women are the backbone of the African economy and of the African communities,” Adesina stated.

President Issoufou also reaffirmed his government’s commitment

to supporting the First ladies.

“Keeping girls in school is one of the best ways to end child marriage. Like men, an educated girl will contribute to her community’s transformation,” the President said.

Rounding off the conversation Niger’s First Lady described the issue as a “critical priority.”

“It is not just a West Africa issue, but an issue for the entire region. So all of us must come together – public, non-governmental institutions, religions leaders, communities, families, and schools – for a sustained multi-stakeholder approach to combat early marriage and promote girls’ education,” Malika Mahamadou Issoufou concluded.

INDONESIA: Forcing your wife to have sex is rape: Komnas Perempuan

The Jakarta Post (09.07.2019) – <https://bit.ly/30tr5iT>– In response to a recent case of a man allegedly assaulting his wife for refusing sex, the National Commission on Violence against Women (Komnas Perempuan) has said that forcing your wife to have sex is a form of rape, known as marital rape.

Komnas Perempuan commissioner Adriana said that marital rape was also a form of domestic violence.

“Domestic abuse means that [the husband] is forcing his wife to do something without her consent. That’s a form of rape or sexual violence against women that in extreme cases could end in death,” Adriana said on Monday as quoted by kompas.com.

Marital rape is often overlooked by many parties, including husband and wife, she said, adding that many victims of marital rape opted not to file a report to the police.

“Cases like this are often not taken seriously even though it’s important. Unfortunately, many victims don’t consider their husband’s actions to be rape,” Adriana said.

Police also tend not to take such cases seriously, and often urge for marital rape cases to be settled personally.

The possibility of trauma for children in households where marital rape takes place should also not be ignored.

“The trauma for sexual assault is huge for children and the victim. There could be long-term effects for the child, and in the worst case they could emulate the abuser.” Adriana said.

Marital rape came under the spotlight after the alleged abuse

of a woman, identified only as FZ, by her husband, identified only as AN. AN allegedly attacked FZ with a machete after she refused to have sex with him in their home.

FZ is currently being treated at a hospital and is in a stable condition

AN has been charged under the 2004 law on the elimination of domestic violence and faces a maximum sentence of five years in prison.

African nations urged to enforce family laws to protect women

By Nita Bhalla

Thomson Reuters Foundation (02.07.2019) – <https://tmsnrt.rs/306dei0> – Women and girls in Africa are still being pushed into forced or early marriages, while those in unhappy unions face discrimination when seeking divorce, campaigners said on Tuesday, urging governments to enforce fairer family laws. The Solidarity for African Women's Rights (SOAWR) – a coalition of 50 groups – said while most nations had committed to a pan-African pact on women's rights, states had failed to enforce laws relating to marriage, divorce, child maintenance and inheritance.

The pact, known as the Maputo Protocol, came into force in 2005 and guarantees extensive rights in areas from protection against violence to economic empowerment.

Anisah Ari from the Nigeria-based Women Rights Advancement and Protection Alternative, a SOAWR member, said while African nations had taken steps in other areas such as tackling sexual violence, family laws were largely being ignored.

“While the Maputo Protocol affirms women’s rights to exercise self-determination and bodily autonomy – free from discrimination, coercion and violence – many African girls and women continue to bear the brunt of discriminatory family laws,” Ari told a news conference.

“For instance, despite the fact that women have a right to inherit their husbands’ properties after death, this is not always assured – leading to protracted legal battles.”

The SOAWR members, which come from 25 African countries, said many nations had enacted progressive family laws in line with the Maputo Protocol, but the laws were not being enforced.

Women’s contribution and access to familial property was rarely recognised during marital disputes, and women often faced an uphill struggle when seeking child maintenance, they added.

The legally binding pact, lauded as the most progressive human rights instrument for women and girls in Africa, has been signed and ratified by 42 of the African Union's 55 member states.

Three countries – Botswana, Morocco and Egypt – have neither signed nor ratified it.

The SOAWR members – which come from countries such as Tunisia, Uganda, South Africa, Nigeria and Kenya – said addressing the protection and rights of women and girls in the family was the integral to the advancement of women.

“Family laws are key as the family unit is where the socialisation of gender roles begins. It is where girls first learn their rights and roles in society,” said Violet Muthiga from Sauti Ya Wanawake, a Kenya-based women's rights group.

“So if we can intervene at the family level to ensure they are protected and treated fairly, we can change perceptions and curb practices like child marriage and female genital mutilation – all of which happen with the family unit.”