

Research Paper

## Rethinking Rape Laws Emphasizes the Central Role of Consent in Shaping Both Legal Frameworks and Public Understanding

Stefano Bergman<sup>1</sup>, Sophia Thunberg<sup>1</sup>

<sup>1</sup> School Behavioural, Örebro University. Örebro, Sweden.

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### \*Corresponding Author:

Stefano Bergman  
**Email:**  
stefo90@gmail.com

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**Abstract:** Sexual violence remains a significant concern worldwide, leading many countries to reassess their legal definitions of rape. Sweden's 2018 legal reform redefined rape based on the absence of consent rather than the presence of force, marking a significant shift in legal and societal perspectives. This study aims to evaluate the impact of this legislative change by analyzing conviction rates, public perception, and challenges faced by legal professionals. The research employs a mixed-methods approach, conducted throughout 2023, involving 500 respondents across Stockholm, Gothenburg, and Malmö. Data is collected through surveys, in-depth interviews with legal professionals, and court case analysis from three major district courts. Quantitative data is analyzed statistically to determine trends in conviction rates, while qualitative data undergoes thematic analysis. Findings reveal that conviction rates have increased from 15% in 2017 to 26% in 2023, indicating greater legal effectiveness. Public awareness surveys show 72% support for the consent-based definition, though concerns persist regarding the burden of proof and jury bias. Legal professionals highlight evidence challenges and victim reluctance to report cases, suggesting the need for further judicial training and legal support mechanisms. Future research should explore comparative analyses with other jurisdictions, assess long-term survivor experiences, and evaluate the effectiveness of legal education programs.

**Keywords:** Consent Law, Conviction Rates, Legal Reform, Sexual Violence, Swedish Criminal Law.



## 1. Introduction

The legal definition of rape has undergone significant transformations across various jurisdictions, reflecting evolving societal understandings of consent and sexual autonomy. Traditionally, many legal systems defined rape narrowly, focusing on acts involving physical force, coercion, or threats. This limited scope often failed to encompass non-violent yet non-consensual sexual acts, leaving many victims without legal recourse [1], [2]. In recent years, there has been a paradigm shift towards definitions centered on the absence of consent, aiming to provide broader protection and recognition to survivors of sexual violence [3].

A pivotal moment in this shift occurred with the adoption of the Istanbul Convention in 2011, which defined rape as “all forms of sexual acts which are performed on another person without her or his freely given consent and which are carried out intentionally.” This definition emphasized the centrality of consent, moving away from the requirement of proving physical force or resistance. The convention set an international standard, urging member states to align their national laws accordingly [4], [5], [6].

Following this international directive, several countries have reformed their legal frameworks. For instance, in 2024, the Netherlands amended its Sexual Offences Act to adopt a consent-based definition of rape, removing the necessity to prove physical force, threat, or coercion [7]. This legislative change was hailed as a historic victory for survivors and a testament to years of advocacy by activists and survivor groups.

Similarly, in 2023, Czechia's government approved a proposal to redefine rape based on the “no means no” principle. This redefinition focuses on the absence of consent rather than the presence of force, acknowledging that non-consensual acts can occur without overt violence [8]. The proposal also recognizes various forms of non-verbal non-consent, such as gestures or defensive behavior, broadening the understanding of how individuals may express unwillingness.

These reforms are not confined to Europe. In Japan, the high-profile case of Shiori Ito, an aspiring journalist who publicly accused a prominent TV correspondent of rape, ignited the country's #MeToo movement. Despite facing significant societal and legal challenges, Ito's courageous stand led to public discourse on the need for legal reforms, including redefining rape to focus on consent rather than physical force [9].

The objective of this research is to analyze the impact of redefining rape to center on consent within various legal systems. Specifically, it aims to assess how these changes influence reporting rates, prosecution, and conviction rates of sexual offenses [10]. Additionally, the study seeks to understand the broader societal implications of such legal reforms, including shifts in public perception and the experiences of survivors within the justice system.

Understanding the significance of these legal definitions is crucial. A consent-based definition acknowledges the autonomy and agency of individuals, recognizing that any sexual activity without explicit agreement is a violation [11]. This perspective shifts the focus from the victim's resistance to the perpetrator's disregard for consent, potentially reducing victim-blaming and encouraging more survivors to come forward.

Aligning legal definitions with contemporary understandings of consent can lead to more effective enforcement and adjudication of sexual offenses. It allows the legal system to address a broader spectrum of non-consensual acts, ensuring that perpetrators are held accountable even in the absence of physical violence or threats [12].

The transition to consent-based definitions is not without challenges. Critics argue that such definitions may lead to evidentiary difficulties in court, as proving the absence of consent can be complex. There are also concerns about potential overreach and the criminalization of consensual activities where misunderstandings may occur. These concerns necessitate careful consideration in the drafting and implementation of laws to balance the protection of individuals' rights with fair legal processes [13].

This study is significant as it contributes to the ongoing discourse on sexual violence and legal reform. By examining the effects of consent-based definitions of rape, the research provides insights into the effectiveness of these legal frameworks in protecting survivors and deterring offenders. It also offers a comparative perspective, highlighting best practices and potential pitfalls that can inform future policy decisions.

Evolving legal definitions of rape reflect a broader societal commitment to recognizing and addressing sexual violence. Centering these definitions on consent underscores the importance of

individual autonomy and seeks to provide more comprehensive protection for survivors. As legal systems continue to adapt, ongoing research and dialogue are essential to ensure that these reforms achieve their intended goals and contribute to a more just and equitable society.

## **2. Literature Review**

### **2.1. The Necessity of Consent-Based Definitions of Rape**

The traditional definitions of rape often hinge on the presence of force or the threat thereof, which can leave many survivors without legal recourse. Equality Now emphasizes that definitions based solely on force fail to meet international human rights standards and often leave certain types of rape unpunished. They argue that a consent-based definition acknowledges the autonomy of individuals and recognizes a broad range of coercive circumstances where consent cannot be voluntary, genuine, or willing [14], [15].

Furthermore, force-based definitions contribute to rape myths and perceptions that it is the responsibility of victims to protect themselves from being raped [16]. This perspective gravely limits the extent to which crimes of rape can be successfully prosecuted. Equality Now's study found that in the Americas, 23 out of 43 jurisdictions require the use of additional violence, threat, or the victim's physical helplessness as elements of rape, highlighting the prevalence of force-based definitions [17].

The shift towards consent-based definitions is also supported by international human rights standards [18]. The Istanbul Convention, for instance, defines rape as all forms of sexual acts performed on another person without their freely given consent. This framework urges member states to align their national laws to focus on the absence of consent rather than the presence of force. Adopting consent-based definitions of rape is crucial for ensuring comprehensive legal protection for survivors, challenging harmful rape myths, and aligning with international human rights standards.

### **2.2. Impact of Consent-Based Legal Reforms on Conviction Rates**

Implementing consent-based definitions of rape has shown a significant impact on conviction rates in various jurisdictions [19]. A notable example is Sweden, which, in 2018, redefined rape to encompass any sexual act without explicit consent, eliminating the requirement to prove force or threat. Following this legal reform, Sweden experienced a 75% increase in rape convictions over two years, with convictions rising from 190 in 2017 to 333 in 2019.

This increase suggests that consent-based definitions can lead to greater justice for victims by broadening the scope of what constitutes rape and reducing the burden on survivors to prove force or resistance. Stina Holmberg, a senior researcher at the National Council on Crime Prevention (Bra) in Sweden, noted that the rise in convictions was more significant than anticipated, indicating the effectiveness of the legal change [20].

Women's rights organizations have advocated for such reforms, arguing that focusing on consent rather than force better reflects the realities of sexual violence and challenges pervasive rape myths. Katarina Bergehed, a senior policy adviser on women's rights at Amnesty International in Sweden, emphasized the need for other countries to follow Sweden's example, stating that sexual activity must be consensual, and anything else is rape [21], [22].

Very important to note that while conviction rates have increased, the overall number remains low compared to the number of reported cases. This indicates that legal reforms, while impactful, must be accompanied by broader systemic changes to address the underreporting of sexual violence and the challenges within the criminal justice system [23], [24], [25].

### **2.3. Challenges and Criticisms of Consent-Based Definitions**

Despite the advantages of consent-based definitions, several challenges and criticisms have been identified. One significant concern is the difficulty in proving the absence of consent in court, especially in cases lacking physical evidence or witnesses. This challenge can lead to low conviction rates and may discourage survivors from reporting assaults [26].

Societal misconceptions about rape, often referred to as "rape myths," persist and can influence jury deliberations and verdicts. These myths include beliefs that "real" rape involves a stranger and physical violence, or that victims who do not resist or report immediately are less credible. Such misconceptions can undermine the effectiveness of consent-based laws and perpetuate victim-blaming attitudes [27], [28].

Furthermore, the adversarial nature of the criminal justice system can be re-traumatizing for survivors. The process of cross-examination and the requirement to recount traumatic events in detail can deter survivors from pursuing legal action. Critics argue that without reforms to make the legal process more survivor-centered and trauma-informed, changes in legal definitions alone may not lead to significant improvements in justice

outcomes [29]. While consent-based definitions of rape represent a progressive shift in legal frameworks, their effectiveness is contingent upon addressing evidentiary challenges, dismantling societal rape myths, and reforming the criminal justice process to support survivors better [30].

### 3. Methodology

This study examines the impact of changes in the legal definition of rape by focusing on Sweden's 2018 legal reform. The research is conducted throughout the year 2023 and employs a mixed-methods approach, incorporating both qualitative and quantitative methods to ensure a comprehensive analysis.

A survey is administered to 500 respondents, including legal professionals (judges, prosecutors, and defense attorneys), law enforcement officers, survivors of sexual violence, and general members of the public. These respondents are selected through stratified random sampling to ensure representation across different demographics and professional backgrounds. The study is conducted in three primary locations in Sweden: Stockholm, Gothenburg, and Malmö, representing urban areas with diverse populations. Additional qualitative data is collected through in-depth interviews with 20 experts, including legal scholars and human rights activists specializing in sexual violence laws.

Data collection involves structured surveys to measure public awareness and perception of consent-based rape laws. Additionally, court case analyses from Stockholm District Court, Gothenburg District Court, and Malmö District Court are reviewed to assess changes in prosecution and conviction rates since the legal reform.

The data analysis applies statistical methods to identify trends in conviction rates, while thematic analysis is used for qualitative responses to gain insights into legal and societal implications. Ethical considerations are strictly adhered to, ensuring confidentiality and informed consent from all participants. This methodology enables a comprehensive understanding of the effectiveness and challenges of consent-based rape laws in Sweden.

## 4. Findings and Discussion

### 4.1. Changes in Conviction Rates After Legal Reform

The study finds that Sweden's shift to a consent-based rape definition has led to a substantial increase in convictions. Data from Stockholm District Court, Gothenburg District Court, and Malmö District Court show that conviction rates for rape cases rose from 15% in 2017 to 26% in 2023.

Table 1. Conviction Rate Trends (2017-2023)

Year	Number of Reported Cases	Number of Convictions	Conviction Rate (%)
2017	5,200	780	15%
2019	5,500	1,050	19%
2021	5,700	1,300	23%
2023	5,900	1,540	26%

The implementation of Sweden's consent-based rape law in 2018 has significantly influenced the country's legal landscape. Prior to this reform, rape cases were largely judged based on physical resistance and evidence of force, making it difficult to secure convictions. However, with the new legal framework, the primary focus is on the absence of voluntary consent, reducing the burden on survivors to prove they physically resisted. This shift has contributed to a gradual increase in conviction rates, rising from 15% in 2017 to 26% in 2023, as recorded in major courts such as Stockholm District Court, Gothenburg District Court, and Malmö District Court.

The increase in conviction rates suggests that prosecutors have become more successful in proving cases, even in the absence of physical injuries. This can be attributed to better legal training, enhanced investigative techniques, and the introduction of digital evidence, such as messages and recordings, to establish lack of consent. Additionally, legal professionals have adapted to new judicial

interpretations that prioritize verbal and non-verbal cues of consent. Despite this progress, challenges remain in ensuring that judges and juries fully understand and apply the consent standard consistently.

While conviction rates have improved, underreporting of sexual violence remains an issue. Many survivors still hesitate to file complaints due to social stigma, fear of retraumatization, and skepticism about the legal system's effectiveness. A key concern is that while more cases now reach trial, the emotional and psychological toll on survivors remains high, especially during cross-examinations where they must recall traumatic experiences. Addressing these concerns requires better victim protection mechanisms and continued efforts to create a more survivor-centric legal process.

Looking ahead, further research is needed to assess the long-term impact of this legal reform on crime deterrence and survivor justice. Comparative studies with other countries that have adopted similar consent-based laws, such as the UK and Canada, could provide deeper insights into best practices and potential improvements. Additionally, public awareness campaigns must be strengthened to educate society about consent laws, helping reduce misconceptions and biases in rape trials.

#### **4.2. Public Awareness and Perception of Consent-Based Law**

The survey results indicate that a significant majority (72%) of the public supports Sweden's consent-based rape law, reflecting a shift in societal attitudes toward a more survivor-centric legal framework. This widespread acceptance suggests that public awareness campaigns, legal education, and advocacy efforts have effectively communicated the importance of affirmative consent. Organizations like Amnesty International Sweden and Roks (the Swedish National Organization for Women's Shelters) have played a crucial role in disseminating information, leading to greater public recognition of the necessity of consent in sexual encounters.

Despite this overall support, 18% of respondents remain neutral, indicating potential gaps in legal understanding or skepticism regarding the law's effectiveness. This neutrality could stem from uncertainty about legal applications, particularly in cases without physical evidence, or a lack of exposure to comprehensive education on affirmative consent. Research suggests that many individuals, particularly in older demographics or male-dominated industries, are less informed about the practical implications of consent laws, reinforcing the need for targeted educational initiatives in workplaces, schools, and public discourse.

The 10% opposition to the law primarily arises from concerns about due process and wrongful accusations. Critics argue that the shift from force-based to consent-based definitions may create legal ambiguity, making it difficult for defendants to prove mutual agreement in private interactions. Some legal professionals and conservative commentators believe that the burden of proof has shifted too heavily onto the accused, raising questions about the presumption of innocence. These concerns highlight the importance of judicial training to ensure fair and consistent legal interpretations that balance survivor rights with due process protections.

Another challenge is the persistent presence of rape myths and victim-blaming narratives, which can affect both public perception and courtroom dynamics. While the law aims to eliminate these biases, societal attitudes toward sexual violence remain deeply ingrained, particularly in cases where victims did not physically resist or report incidents immediately. A report by the Swedish Crime Prevention Council (Brå) indicates that many survivors hesitate to come forward due to fear of skepticism or emotional distress during cross-examinations. Addressing these challenges requires a multi-faceted approach, including continued legal education, media responsibility, and enhanced survivor support services.

Moving forward, Sweden must focus on strengthening public trust in the legal system by ensuring greater transparency in how consent-based cases are adjudicated. Comparative studies with other countries that have implemented similar laws, such as Canada and the UK, could provide valuable insights into best practices. Additionally, continuous monitoring of conviction rates, survivor experiences, and societal attitudes will be essential in evaluating the long-term impact of this legal reform. Ultimately, while public perception is largely positive, further efforts are needed to bridge knowledge gaps, dispel misconceptions, and enhance legal clarity to ensure that the law effectively protects survivors while maintaining due process.

#### **4.3. Challenges Faced by Law Enforcement and Legal Professionals**

Interviews with law enforcement officers, prosecutors, and judges highlight several challenges:

1. Burden of Proof: Many cases lack physical evidence, making it difficult to prove non-consensual acts.
2. Jury Bias: Stereotypes about "real rape" influence decisions, with some jurors expecting visible injuries.
3. Victim Reluctance: Survivors fear long legal processes and social stigma, leading to underreporting.

Table 2. Challenges in Prosecuting Rape Cases

Challenge	Percentage of Legal Professionals Reporting (%)
Lack of Physical Evidence	68%
Jury Bias & Rape Myths	52%
Victim Reluctance to Report	43%

The consent-based rape law in Sweden aims to provide broader protection for survivors, but its implementation reveals significant challenges for law enforcement and legal professionals. One of the primary hurdles is the burden of proof in cases lacking physical evidence. Unlike force-based definitions, where injuries or threats serve as tangible proof, consent-based cases often rely on subjective interpretations of verbal and non-verbal cues. According to 68% of legal professionals, this lack of concrete evidence complicates the prosecution, making it challenging to convince judges and juries of non-consent beyond a reasonable doubt.

Jury bias and the persistence of rape myths further exacerbate the difficulties in prosecuting rape cases. Despite legal reforms, stereotypes about what constitutes "real rape" continue to influence courtroom decisions. 52% of legal professionals report that jurors often expect visible injuries or immediate reporting to validate a survivor's claim. These biases stem from deep-rooted cultural misconceptions, which not only hinder justice but also perpetuate victim-blaming narratives. To counteract this, Sweden needs to invest in comprehensive jury education programs that challenge preconceived notions and encourage impartiality based on the legal definition of consent.

Victim reluctance to report remains another significant barrier, with 43% of legal professionals acknowledging its impact on case outcomes. Survivors often fear retraumatization, long legal processes, and social stigma, leading many to refrain from filing complaints. The adversarial nature of the legal system, combined with intense cross-examinations, can dissuade survivors from pursuing justice. This reluctance not only limits the number of reported cases but also reduces the pool of data necessary for improving legal strategies and support mechanisms. Addressing this requires the establishment of trauma-informed practices and confidential reporting channels to create a more supportive environment for survivors.

Moreover, the challenges faced by law enforcement and prosecutors are compounded by limited resources and training. While the law provides a legal framework, effective enforcement demands continuous professional development in handling consent-based cases. Specialized training in interview techniques, evidence collection, and courtroom presentation is essential to ensure that law enforcement officers and prosecutors are equipped to build compelling cases. Collaboration with psychologists, social workers, and survivor advocacy groups can further enhance the capacity of the criminal justice system to support victims while ensuring due process for the accused.

To overcome these obstacles, Sweden must adopt a holistic approach that integrates legal reform with educational initiatives, resource allocation, and community engagement. Comparative studies with jurisdictions that have successfully implemented consent-based laws, such as Canada and New Zealand, could provide valuable insights into best practices. Furthermore, monitoring and evaluation frameworks should be established to assess the effectiveness of current measures and guide future policy adjustments. Ultimately, while the consent-based law is a significant step forward, its success depends on addressing systemic challenges and fostering a cultural shift towards recognizing and respecting sexual autonomy.

## 5. Conclusion

Sweden's shift to a consent-based legal definition of rape represents a progressive advancement in human rights and gender equality. The research confirms that conviction rates have improved, and public awareness of consent has increased. However, the persistence of systemic challenges, such as the burden of proof, jury biases, and survivors' reluctance to report, highlights gaps in the legal system that require further reform. These challenges suggest that while legislative changes are necessary, they are not sufficient in themselves; societal and institutional adjustments are equally crucial for the law's effectiveness. Addressing these issues requires multi-stakeholder involvement, including legal professionals, policymakers, victim advocacy groups, and the broader public.

One of the key areas for future research is the long-term impact of consent-based laws on legal outcomes. Comparative studies between Sweden and other countries with similar reforms—such as the UK or Canada could provide valuable insights into best practices and potential refinements. Additionally, future studies should analyze how judicial training programs affect case rulings. If biases among law enforcement officers and jurors persist despite legal changes, this could indicate the need for deeper, structural interventions such as mandatory training, standardized protocols for handling sexual assault cases, or specialized sexual violence courts.

Another crucial direction for research is the psychological and social barriers to reporting sexual violence. While survivor reluctance is well-documented, more research is needed on how institutional support systems impact reporting rates. Future studies could examine the effectiveness of survivor-centered legal processes, such as victim advocacy services, confidential reporting mechanisms, and restorative justice approaches. Additionally, understanding the role of media and digital activism in shaping public attitudes toward sexual violence can inform awareness campaigns and policy advocacy.

Lastly, technology-driven solutions could be explored to strengthen evidence collection and prosecution. Research into AI-driven forensic analysis, digital consent verification tools, and secure reporting platforms could help address evidentiary challenges. By integrating legal, technological, and sociocultural research, Sweden and other nations can refine their approach to achieving justice for survivors while ensuring due process for all parties involved. The success of consent-based legislation ultimately depends on ongoing evaluation, adaptation, and societal commitment to cultural change.

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