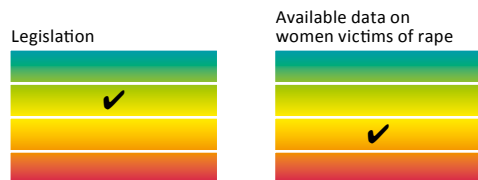


NATIONAL ANALYSIS

Italy



Expert
Oria Gargano

Legislation

Under law no. 66/1996, which has been strongly requested by the Feminist Movement for more than 20 years, rape is classified as a “crime against the person” and no longer as one of the “crimes against public morality and decency,” which include offences such as obscene acts and obscene publications and performances.

Article 609bis defines **simple sexual assault** as the use of violence, threats, or abuse of authority to force the victim to perform or submit to sexual acts. There are **aggravating circumstances** covering those who take advantage of the victim’s physical or mental infirmity, those who are present at the time of the offence, or who deceive the victim by impersonating another person and thereby cause the victim to perform or submit to sexual acts.

Article 609 ter defines additional aggravating circumstances when

- 1) the victim is less than 14 years of age;
- 2) the offender uses weapons, alcoholic substances, narcotics, drugs or other instruments or substances posing a serious danger to the health of the victim;
- 3) the offender is disguised as or otherwise feigns that he is a public official or otherwise engaged in public duties;
- 4) the victim is otherwise subject to limitations on her personal freedom;
- 5) the victim is less than 16 years of age and the offender is her ascendant, parent, including adoptive parents, or guardian.

Article 609 defines “*violenza presunta*” or statutory rape when there is no requirement to prove violence, threats, or abuse of authority. There are two forms of this offence:

1) When the offender engages in sexual acts with a minor under 14 years of age.

2) When the victim is a minor under 16 but over 14 and the offender is the victim’s ascendant, parent, including adoptive parents, guardians, or any other person to whom the victim has been entrusted for the purposes of the minor’s care, education, instruction, supervision, or custody, or any adult who lives with the minor.

The new law also narrows the offence of corruption of minors.

This offence punishes anyone who engages in sexual acts in the presence of a minor under 14 years of age, with the goal of having the minor participate in such acts.

An important innovation of the new law is the crime of group sexual assault - when more than one person participates in acts of sexual violence as defined in Article 609 bis, each offender is to be sentenced to six to twelve years’ imprisonment

In addition to these changes to the rape law, the 1996 reform includes provisions that are designed to protect the privacy of the victim. For example, the 1996 law created the offence “concerning the protection of privacy,” punishing anyone who divulges personal details or images of a rape victim with a sentence of three to six months. The 1996 law also added a provision to the Italian Code of Criminal Procedure stating that although sexual assault trials are to be open to the public, the victim may request that these trials be closed partially or completely. This provision also states that all such trials are to be closed when the victim is a minor. Finally, this provision specifies that questions about the victim’s private life or sexuality are not permitted unless this is necessary for the reconstruction of the facts.



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Available data on women victims of rape

The lack of data about the crime of sexual violence is endemic in Italy. This fact is very clear when quoting the list of critical issues of the Committee on the Elimination of Discrimination against Women – CEDAW (Pre-session working group, 49th session, 11–29 July 2011), with regard to the consideration of the sixth periodic report on Italy. The answers of the Italian Government are considered unsatisfactory by the anti-violence women’s movement, and a long list of critical issues is highlighted in the Shadow Report that has presented in July 2011 in New York CEDAW Session.

The Italian Official Institute of Statistics (ISTAT) produces data on sexual violence collected in different ways:

1. With the “Citizens Safety Survey”, which is a periodic survey (data are collected **every five years**, using a CATI system of data collection) based on a national sample of about 60,000 statistical units, which includes a dedicated section on sexual violence. That section is completed only by women aged between 14 and 65 years (about 25,000 women). Data collected during the last survey (2008-2009) are already available in draft form (downloadable from the ISTAT website: www.istat.it), and the complete database is almost ready to be published.
2. With the national survey “Violence against Women” (the last survey was carried out in 2006, using a CATI system of data collection): this is a national sampling survey (about 25.000 women between 16-70 years), realised thanks to the agreement between ISTAT and the Italian Ministry for Rights and Equal Opportunities. This survey is the first national Italian research project totally dedicated to investigating all issues associated with gender-based violence.

It collects and analyses data collected by the Italian Ministry of Justice and the Italian Ministry of the Interior, both as far as reported crimes/sexual crimes and convictions for crimes/sexual crimes are concerned.

A new survey on violence against women has been funded and will be carried out in 2013.

The Ministry of Justice publishes reports on law enforcement activities (crimes reported and punishments for perpetrators, but it does not specify sexual violence, included in the category of “crimes against persons”).

In relation to the attorneys and prosecutors offices (PROCURE), every year data on crimes and procedures are published for the start of the judicial year, for each province, but they are inconsistent and do not always show data on sexual violence, or quote it within data on the crime of paedophilia.

Useful Contacts

National Helpline number: 1522
SVD – Service Domestic Violence – Clinica Mangiagalli – Milan tel 00390264443043
“SPORTELLO DONNA H24” inside Emergency Department of San Camillo Forlanini Hospital – Roma
Tel. 00390658703216
National Antiviolence Network D.I.RE
www.direcontrolaviolenza.it

