A statute of limitations is a law that sets the amount of time (usually specified in years) that a victim has to come forward and report a crime before prosecution is no longer possible. Applied to sexual violence cases, statutes of limitations add an additional roadblock to access justice for victims.

Why are Statutes of Limitations Problematic?

Stigma, shame, intimidation, trauma, and even lack of recognition of the abuse keep many victims from coming forward and short statutes of limitations place an overwhelming burden on victims and allow perpetrators to evade punishment. The trauma, stigma, damage, and sometimes continuing threat and fear experienced as a consequence of sexual violence can prevent the victim from reporting the crime or delay reporting. This might be particularly true in the context of childhood sexual violence when violations might not even be recognized as such by the victim until many years later, or in coercive domestic violence or intimate partner situations, or for example in the context of conflict, political violence or social disturbance.

Furthermore, a number of jurisdictions, including in the Americas region (such as Bolivia, Ecuador, Guatemala, Nicaragua, Paraguay and Peru), calculate statutes of limitations based on the sentence possible for the offense. This is problematic because sexual violence offenses are often not recognized as serious crimes worthy of commensurate sentences and therefore the possible sentence for rape can be very low. This means that victims of rape must contend with both short sentence ranges as well as short time periods for reporting.
International and Regional Human Rights Standards

Human Rights activists and legal experts, including the UN Special Rapporteur on Violence against Women, have recommended that laws should not impose any limitation period within which the rape complaint needs to be filed, for both adult and child victims. Additionally, the European Court of Human Rights in Aydin v. Turkey and the Inter-American Court in Fernández Ortega et al. v. Mexico and Linda Loaiza López Soto v Venezuela have held that rape is a form of torture in certain circumstances. Since crimes against humanity such as torture should not have any statute of limitations, and since international jurisprudence has drawn clear parallels between rape and torture, no limitation period should be imposed for rape.

For more information on international and regional human rights standards and regional and country-specific information regarding statutes of limitations and other problematic legal provisions in the Americas, Eurasia, and South Asia, please consult Equality Now’s reports:

- Failure to Protect: How Discriminatory Sexual Violence Laws and Practices are Hurting Women, Girls, and Adolescents in the Americas (2021),
- Roadblocks To Justice: How The Law Is Failing Survivors Of Sexual Violence In Eurasia (2019),
- Sexual Violence In South Asia: Legal And Other Barriers To Justice For Survivors (2021).

What should the law say?

In light of the above, to enable access to justice for the victim and to prevent impunity of the perpetrator, there should be no time limit within which sexual violence cases can be brought for investigation, prosecution and adjudication. As well as ending statutory impunity, if there were no statute of limitations for rape, it would help to send the signal that rape is a serious issue which should never escape punishment.

Legislative text model:

The offences under Article XX of rape shall not be subject to any period of limitation in any circumstances, whether carried out in times of peace or conflict, political violence or other social disturbance.

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5. See, for example, CAT, Concluding Observations on Turkey, UN Doc. CAT/C/TR/30/5, 2003, §5(c); CAT, Concluding Observations on Chile, UN Doc. CAT/C/CR/32/5, 2004, §7(f).
6. Available at equalitynow.org
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