

Rape: The Forgotten Issue?

A European research and networking project

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Chapter One: Rape - the forgotten issue

The project on which this report is based has been developed in partnership by three UK organisations which have already established strong working relationships (*The Child and Woman Abuse Studies Unit - CWASU*, *South Essex Rape And Incest Crisis Centre - SERICC*, and *Campaign to End Rape - CER*), and in close collaboration with partners in Ireland (*The Network of Rape Crisis Centres, Ireland - NRCCI*) and Finland (*Rape Crisis Centre, Tukinainen*).

The idea for the project emerged from an awareness that a pattern noted by the *Campaign to End Rape* (a UK NGO) of increased reporting of rape accompanied by a proportionate decrease in convictions - was not peculiar to the UK. At a WAVE (Women Against Violence, Europe) conference hosted by ROKS in Sweden in 1998 a workshop on rape, facilitated by one of the authors of this report, revealed that despite differences in legal codes and procedures a range of common barriers within Europe limited successful rape prosecutions. A lack of 'hard' information, however, meant that the attrition process (the number of reported cases that drop out of the legal process before reaching court/trial) in reported rape cases had not been recognised, studied or addressed at the European level. Two additional problems identified by the workshop participants were the dominance of domestic violence within the violence against women agenda and the lack of networking between groups across Europe working on rape. The project was designed around these common issues, specifically:

- ◆ the limited attention to rape and sexual assault in national and European programmes on violence against women;
- ◆ the failure of criminal justice systems to prosecute rape effectively;
- ◆ the absence of co-ordination, information exchange and networking across Europe on rape.

Rape is a key form of violence against women, and is implicated in sexual exploitation and sexual abuse. Examining the projects funded under the Daphne programme to date provides further evidence of the neglect of rape and sexual assault - this is one of very few that addresses it directly. The same pattern of neglect can be seen in research (see Chapter Three). The lack of basic information and research on rape across Europe severely limits the possibilities for promotion and co-ordination of actions and measures aimed at provision, protection and prevention¹ of violence against women.

Responses to our questionnaires and feedback at the first project seminar (see

¹ These are the 'three p's' which the Edinburgh based Zero Tolerance Trust proposes should be used to think about responses to violence against women.

Chapter 2, and Appendix C) provide further evidence of the extent to which rape has become a 'forgotten issue' across Europe. Of the government departments and agencies that responded half (n=7) seven said rape was not currently considered a pressing social issue. For many of those that thought rape was on their political agenda, it was rape of children and not adults that predominated. Only four countries (27%) provided any evidence that rape of adults was currently on their political agenda: two countries (Ireland and Sweden) referred to recent high-profile cases, one (Germany) to current debates about decreasing re-offending, and two (UK and Sweden) to reviews of sexual offences law. Only the UK mentioned increased media attention linked to concern about attrition rates. Participants at the first project seminar, held in Dublin in June 2000, representing NGOs from 19 European countries expressed even more consensus about the relative lack of attention to rape in their countries. The only exceptions were the UK (for the same reasons as the justice department noted, and the emergence of CER), and Bosnia and Croatia, where rape *had* been a political issue during, and in the immediate aftermath, of the wars in the region. In this case the post-conflict period resulted in a re-silencing and re-privatising of sexual violence (see, Kelly, 2000b). Several participants, especially from Scandinavian countries, noted significant programmes (Finland) and/or legal reform (Sweden) with respect to violence against women, but that rape and sexual assault were marginal to the interventions, which had emphasised domestic violence.

Any study on rape must begin from a recognition that most rapes are not reported; indeed recent research suggests rape is significantly more under-reported than domestic violence (Johnson and Sacco, 1995; Kelly 2000a; Raijas, 2000). Across Europe estimates range from 1-12% of rapes being reported to the police. We also know that a significant barrier to reporting is women's lack of faith in the criminal justice system - police, prosecutors and the courts.

This forms part of the context within which international law and policy (such as the UN Beijing Platform for Action, Council of Europe Plan of Action on Violence Against Women, and European Union policy positions), national government plans of action on violence against women and anti-crime strategies are being implemented. As this report will show, support services for survivors of rape are both less frequent and less well resourced compared to responses to domestic violence (see Chapter Five). Both legal and support systems need to be more responsive if the ambition to increase reporting is to benefit rape survivors, and especially if their desire for justice is to be fulfilled.

One of the clear findings in this report is that in some countries in Europe reporting of rape is actually decreasing, in others it is stable, and still others it continues to increase. In every country serious problems in the responses to reported rape cases are evident (see Chapters Three and Four), meaning that across the continent there is a failure to bring rapists to justice. There are both similarities and differences

between countries that account for these patterns, but it is clear that the neglect of rape as an issue by governments and professionals has contributed to a situation where barriers to justice have increased rather than decreased. All governments, therefore, need to be mindful of the extent to which they have 'forgotten' rape, and what the consequences of this have been for women's lives, for the achievement of international commitments, and in the control and prevention of crime.

Re-making the public agenda

The recognition in the UK justice department response to this project - of concerns about attrition rates, and increased media attention - confirms one of the central ideas underpinning this project. It was a deliberate strategy of the NGO *Campaign to End Rape* to publicise the attrition rates, and to seek widespread media coverage. The group itself is a small coalition, linking lawyers, academics, the network of rape crisis centres in England and Wales (RCF) and individual activists; it has also formed a strong link with the YWCA². Within two years CER built a strong reputation for the quality of its briefing documents to politicians and media, and developed proposals for change and political lobbying skills. These linked strategies of focussing on attrition, and campaigning for reform in statute and procedure have, in part, been responsible for the return of rape to the public agenda. The other main contributor was a number of highly publicised legal cases that exposed failures in current procedures, and two research projects (see Kelly, 2000a for a more detailed account).

Analysing and publicising attrition has been a key tool used by CER. By looking at patterns over time something rather disturbing was revealed: that over a twenty year period (1977-1997) whilst reporting of rape increased by over 500%, the number of convictions remained almost static (see table 1.1 below). This means that in 1977 one in three women reporting rape saw their rapists convicted, whereas in 1997 less than one in ten did.

Table 1.1 The attrition rate for rape in England and Wales			
Year	Reported Rapes	Convictions	Conviction Rate
1977	1015	324	32%
1987	2471	453	18%
1997	6281	599	09%

Source: *Social Trends and Criminal Statistics*, Home Office.

² Young Women's Christian Association, which in a number of countries has campaigned about violence against women.

More detailed analysis highlighted key 'attrition points' - stages at which significant numbers of cases drop out of the system - beginning with the fact that the majority of rape victims have so little confidence in the criminal justice system that they choose not to report at all. The attrition points noted in England and Wales are:

- ◆ police decision-making and practice, including classifying cases as 'false reports/complaints' or 'no crimes', and failure to identify the assailant;
- ◆ victims withdrawing their complaint;
- ◆ prosecutors dropping cases due to lack of, or inadequate evidence;
- ◆ acquittals in court.

This report documents the extent to which similar patterns and processes of attrition can be discerned across Europe (Chapters Three and Four), the extent and organisation of support services for rape survivors (Chapter Five) and the need for, and potential roles of, a European network (Chapter six). The report also includes a Plan of Action (Appendix B) which draws together the findings and recommendations from the project.

Chapter Two: Aims and Methods

The development and conduct of this project has been one in which partnership featured strongly. The original idea emerged from an international workshop, and the application was developed by three UK groups, supported by partners from Ireland and Finland. The work of the project has involved consultation between partners throughout, with three meetings and commentary on materials via e-mail as core elements in project development. Box 2.1 (below) provides basic information on the five partners, their roles and responsibilities. The intention was to use transnational exchange to highlight common barriers to successful prosecution of rape cases. Within this, approaches that have been used, or proposed, for improving policy and practice were explored, especially if they appear to connect to more success in prosecution. This information was connected to the possibility of building a European network of groups working on rape.

The project had five key aims, three elements and three projected outcomes.

The aims were:

- ◆ To document the response of criminal justice systems to reported rape cases within Europe.
- ◆ To compare conviction rates and track the key points at which cases are dropped or lost (attrition).
- ◆ To discover common problems and formulate an action plan on effective prosecution of rape.
- ◆ To explore the potential and role for a European network which would promote the action plan, and ensure rape is no longer a 'forgotten issue'.
- ◆ To publicise problems and possible solutions using existing networks and websites.

The three elements were:

- ◆ research;
- ◆ network building;
- ◆ linking the two.

The intended outcomes were:

- ◆ A report which compiles analysis of the prosecution of reported rape cases across Europe, identifies key attrition points and shared problems.
- ◆ An action plan.
- ◆ A network to carry the work forward, and to ensure that rape is no longer on the margins of work on violence against women.

This report fulfills the first two outcomes and includes a discussion of the need for,

and potential of, a European network.

Box 2.1 Details and roles of project partners

Child and Woman Abuse Studies Unit (CWASU)

A centre for independent research, training and consultancy from a feminist perspective on all forms of woman and child abuse. Established in 1987, and based in the University of North London, CWASU has completed 24 research projects, including prevalence research and evaluation projects.

Roles:

Full partner, participating in partner meetings, seminars, development of action plan.
To conduct the research element, and present findings.
To consult and provide technical assistance on the development of the network.

South Essex Rape and Incest Crisis Centre (SERICC)

One of the longest established rape crisis centre in the UK, with a tradition of linking direct support to campaigning and lobbying. Noted by the UK government Women's Unit as an example of best practice in responses to rape in 1999.

Roles:

Full partner, participating in partner meetings, seminars, development of action plan.
To co-ordinate the project.
To conduct the networking element.
To organise both seminars and host the second.

Campaign to End Rape (CER)

A NGO campaigning to place rape more centrally on the political and violence against women agendas, focusing on the failures of the criminal justice system and the attrition rate in the UK.

Roles:

Full partner, participating in partner meetings, seminars, development of action plan.
Present paper at the first seminar on the tools and strategies used in campaigning.
Provide legal consultancy.

Network of Rape Crisis Centres, Ireland

Provides a network for Rape Crisis Centres in South and North of Ireland. It provides support to its member organisations through training and the development of accountability and professionalism. NRCCI represents rape crisis centres on a number of national working parties and forums.

Roles:

Full partner, participating in partner meetings, seminars, development of action plan.
Hosting the first project seminar.

Tukinianen, Finland

The only rape crisis centre in Finland, providing a national service through its crisis and legal helplines. Also does campaigning and lobbying work at national level.

Roles:

Full partner, participating in partner meetings, seminars, development of action plan.

The methods used - research and networking

The project design attempted, as far as possible, to link the research and networking functions, thus increasing collaboration between partners and preventing duplication of effort. CWASU was responsible for the research, SERICC for the networking element, and the links were constructed through this collaboration, work with the other three partners and input from seminar participants.

The core strategy was to collect and analyse baseline statistical information on patterns in reported rape cases across Europe during the period 1977-1997, identify common problems and issues and use this knowledge as a tool to develop both a network and a plan of action. The basic data was sought from justice departments in all European Union member states, aspirant states, and Switzerland and Norway, through a short questionnaire. To explore the need for a network, a short questionnaire to potential members was used. A number of questions were shared across the questionnaires to compare official and NGO responses. NGOs identified as working primarily on rape and sexual assault were sent a longer more detailed questionnaire on their work at a later stage. In addition, those wishing to take part in the emergent network through participating in the first seminar were asked to bring material on attrition in their countries, and to give a verbal report on responses to reported rape and support services for rape survivors in their country (see Appendix C).

The justice department questionnaires

All justice departments were asked to provide data on reported rapes for the period 1977-1997: the total reported cases; the total prosecuted; the total resulting in a conviction. It was anticipated that this basic data would be relatively easy to access, since rape is seen in most jurisdictions as a serious crime. Additional information was sought on any significant changes in statute law, legal procedures, police and investigative responses during the period. Respondents were also asked what factors accounted for cases being lost before trial, significant barriers to successful prosecutions, and any research in their country on reporting and prevalence.

Table 2.2 (below) shows that only 14 of the 27 justice departments contacted returned questionnaires, despite repeated reminders, the sending of second copies of the questionnaire, and in some instances follow ups in country by NGOs. It is also worth noting the response rate from EU member was both slower and proportionately less (33%, five of 15) than from the aspirant and non-member states (75%, 9 of 12). This failure of states to respond to requests for basic data is a significant barrier to projects such as this one, which seek to build a picture of similarities and differences within Europe. Equally important was the fact that only 4 countries were able to provide all the data requested. Incomplete data involved only covering a proportion of the years covered (7 countries) and not including data on one or more of the three elements (5 countries) - not mutually exclusive limitations.

Table 2.2: Justice department responses to questionnaire

Country	Contacts made	NGO f/u	Questionnaire returned	Data on cases included	Official statistics/research	Details of legal code
Austria	4	√	x	x	x	x
Belgium	3	x	x (letter)	x	x	√
Cyprus	1	x	√	x	x	√
Czech Republic	1	x	√	√	x	x
Denmark	4	x	x	x	x	x
Finland	2	x	√	√	x	√
France	4	x	x	x	x	x
Germany	2	x	√	√	x	√
Greece	4	√	x	x	x	x
Hungary	1	x	√	√	√	√
Iceland	4	√	x	x	x	x
Ireland	4	√	√	√	x	x
Italy	4	√	x	x	x	x
Latvia	1	x	√	√	x	x
Luxemburg	2	x	√	x	x	x
Malta	2	x	√	x	x	x
Netherlands	4	x	x	x	x	x
Norway	2	x	√	√	x	x
Poland	4	x	x	x	x	x
Portugal	4	√	x	x	x	x
Roumania	4	√	x	x	x	x
Slovenia	1	x	√	√	x	x
Spain	4	√	x	x	x	x
Sweden	2	x	√	√	x	x
Switzerland	2	x	√	√	x	x
Turkey	2	x	x	√	√	√
UK	3	√	√	√	√	x

EU member states shaded

In addition two justice departments completed the questionnaire, reporting that the data would be sent by the criminal statistics department in their police service, but in neither case did it arrive. Two countries provided additional material, in the form of official statistical tables; in neither case did these tally with the data entered on the questionnaire.

Furthermore, the questionnaire took into account that for some countries data would include children, since their statute law includes child rape within rape prosecutions. Respondents were asked to indicate whether this was the case (true for seven of our respondents) and asked to provide data for adult cases only. This was only possible in two cases. All data from countries on reported rape was entered onto Excel, in order to track patterns over time for each country and to compare them (see Chapter Three and Appendix A)³.

These inconsistencies and absences in data have limited the extent to which a clear overview can be provided in this report. They also indicate significant problems at nation state level with the collection and collation of basic crime statistics. How can governments assess the way reported rapes are dealt with, let alone the impact of reforms in law and procedure, in the absence of basic information? This information gap must be addressed.

We sought to supplement the responses from justice departments from other sources: the only source of comparative European data on reported rapes was the Council of Europe Sourcebook of Crime and Criminal Justice Statistics (COE, 1999). As Chapter Three makes clear, whilst useful in providing a wider overview of the levels of rape reporting across Europe, the data does not address the key question of attrition, or changes over time.

The NGO questionnaires

Using the CWASU database, the Women Against Violence Europe (WAVE) network and the European Women's Lobby (EWL), SERRIC compiled a list of about 500 groups which might work on rape and sexual assault. All were sent a short questionnaire which asked about their work, whether reporting had increased over the last 20 years, current problems and barriers in the legal process, whether they knew what proportion of reported rapes resulted in convictions, whether they were part of a national network (if so what it did and how effective it was) and whether they were interested in a European network (and if so what its main contributions might be). Eighty groups completed this short questionnaire, from 30 European countries (see Table 2.3, below), and virtually all EU member states are represented.

Participants for the first seminar were selected on the basis of responses to this questionnaire, including expressed interest in becoming part of a network.

³ Support in this task was provided by Dianne Butterworth and Ema Kelly.

Table 2.3: Short NGO Questionnaires Returned

Country	No.	Country	No
Albania	01	Ireland	07
Austria	03	Italy	03
Bosnia	01	Latvia	01
Bulgaria	03	Luxembourg	01
Czech Republic	02	Macedonia	01
Croatia	01	Malta	01
Denmark	01	Netherlands	05
England	17	Portugal	01
Estonia	01	Romania	01
Finland	01	Scotland	03
France	01	Slovenia	02
Hungary	01	Spain	02
Germany	07	Sweden	03
Greece	03	Switzerland	04
Iceland	01	Turkey	01
Total returns	80		

EU member states shaded

The second more detailed questionnaire was only sent to groups that either did a significant amount of work on rape and sexual assault, or expressed a desire to extend their current work in the future. This questionnaire was distributed following the seminar to 60 organisations, and asked much more detailed questions about legal processes, the current situation in their country and the kind of support services that the group offered. Thirty seven groups returned these questionnaires, but a disproportionate number were from England (11) and Germany (4) (see Table 2.4, below).

Data analysis

For analysis purposes all questionnaire responses were coded and entered onto SPSS. In order not to skew results for the second NGO questionnaire, two of the UK and two from Germany were selected, meaning that data presented from this source throughout the report draws on a base number of 27. All three sets of questionnaires are used in the next two chapters to explore responses to reported rapes, and those from NGOs are drawn on extensively in chapters Five and Six.

Table 2.4: Long NGO Questionnaires Returned

Country	No.	Country	No
Austria	3	Ireland	1
Bulgaria	1	Italy	2
Czech Republic	1	Macedonia	1
England	11	Netherlands	1
Estonia	1	Romania	1
Finland	1	Scotland	2
Hungary	1	Spain	1
Germany	4	Sweden	1
Greece	1	Switzerland	1
Iceland	1	Turkey	1
Total	37		

EU Member states shaded

The networking seminar

In June 2000 40 women from 19 European countries met for three days in Dublin, Ireland (see report in Appendix C). The seminar included the following elements: all countries reporting on the legal process and service provision; presentations from CER, CWASU and SERRIC; exploration of common problems in responses to reported rape; and workshops on the role of a European network. This transnational exchange both deepened understanding of problems in the legal process and expanded the idea of the network (see Chapter Six). It also provided a valuable networking opportunity itself, with groups making contact for the first time, exchanging their materials and establishing links over common issues.

This report attempts to integrate all the sources of knowledge that the project has created.

Evaluation

There are two aspects to report on here - the experience of partnership and the seminar. Formal evaluation of the seminar took place through the completion of an evaluation form, which 80% of participants completed, and a short open session where participants fed back their responses to each other. The seminar itself and the project overall were evaluated extremely positively, especially with respect to decreasing the sense of isolation that many groups felt. For over a third of participants, they were the only groups focusing on rape in their countries. For other groups hearing about the more difficult contexts others had to contend with provided an opportunity to think differently about their own situation. One participant said:

It has been important to me to lift my eyes up from the everyday, to see what others have achieved with far less resources, it has been quite humbling.

The opportunity to share with, and learn from, one another was universally valued, and a strong desire to keep in contact and build on what had been begun was expressed. Both the feedback and content of the seminar affirmed the principles which the partners had used to select participants: to have as many countries as possible represented; to prioritise those most enthusiastic about the network and interested in campaigning and groups where there was little if any in country support for their work. This combination of experience, interest and desire for exchange proved valuable and stimulating. It was this overwhelmingly positive response to the seminar that led to a decision to apply for a second Daphne project to build the network (see Chapter Six), but unfortunately this was not successful.

The partnership element of the project also worked well, in part because the three UK groups and the Irish partner already knew each other quite well, although had never worked on a project together. The fact that there was a clear demarcation of roles and specified tasks also facilitated effective partnership. The participation of the Finnish partners was made somewhat more difficult by a change of personnel halfway through the project. There is no doubt that electronic communication, especially e-mail, enhanced the participation of partners. The ease and speed of this facility made it possible to send drafts of questionnaires, seminar programmes to everyone, and for comments to be integrated even where timescales were short.

In terms of lessons learnt for the future we would highlight the following:

- ◆ the value of some partners knowing each other, since this means less time is needed to build trust and respect;
- ◆ the advantage of shared language between most primary partners;
- ◆ the importance of a clarity of roles and responsibilities from the outset;
- ◆ the role of ongoing consultation and communication in making partnerships thread through the process and content of projects;
- ◆ the necessity of the same individuals participating within projects.

Chapter Three: The prevalence of rape and attrition rates across Europe

In this chapter we explore the extent of rape in women's lives, reporting rates across Europe, the process of attrition, and the barriers to effective prosecutions. We draw on the responses of justice departments and of NGOs to questionnaires and contributions to the project seminar.

We had hoped to be able to compare prevalence rates with reporting and then the attrition processes across a number of European countries. However, as noted in the previous chapter very few justice departments could provide the information we requested. Whilst we were aware that far less prevalence research had been conducted on rape and sexual assault than on domestic violence, we were surprised by how little there was, and the limited awareness of what did exist within justice departments. Much of the material in the next section draws on NGO questionnaires, information provided by participants at the project seminar, as well as our own resources. We should also note here, however, that there was considerable variation in NGO awareness of prevalence research, not to mention disagreement between them as to what the basic findings were. Many were also not able to provide references to the studies that they knew existed. This is in marked contrast to prevalence research on domestic violence, the basic findings of which are invariably well known by NGOs, and used strategically in their local and national lobbying work

The prevalence of rape

It is now accepted that all forms of violence against women are under-reported in official crime statistics; and that within this rape and sexual crimes are even less likely to be reported (see Johnson and Sacco, 1995). In this context it is critical that social research is funded in order to assess both the levels of under-reporting and the reasons for this.

We found only one study was focussed solely on rape (Painter, 1991) one on sexual aggression with young people as the sample (Krahe et al, 1999) , one on violence against women which gave prominence to rape (Purvaneckiane, 1999), four domestic/family violence studies that included questions on sexual assaults (Gillioz, 1997; Heiskanen & Piipisa, 1998; Romkens, 1992;Toth, 1999) and one report of findings from the International Crime Victim study. The information is summarised in Table 3.1 below. In a forthcoming paper on European prevalence studies, Carol Hagemann-White, also notes the limited research on rape and sexual assault, and her review reveals that most domestic violence studies neglect to ask questions about sexual assaults.

The research findings outlined below are not consistent, but then neither are the

samples, methods nor the definitions of sexual violence used. What can be said, however, is that most of the lifetime estimates range from 1 in 10 to 1 in 4.

Table 3.1: Research on the prevalence of rape in Europe

Country	Prevalence of rape/sexual assault	Prevalence within domestic violence	Sample and method	Comments
Finland, 1997		19% rape or attempted rape in previous relationships 6% in current relationship	Representative sample 4955 women postal questionnaire	A tenth sought medical help even though 50% were injured (Heiskanen & Piipisa, 1998)
Germany, 1999	8.2% 'forced sex' 13.8% 'force or drugs' 25% reported sexual events that would constitute a crime		Convenience, regional 304 young women	Study of sexual experiences (Krahe et al, 1999)
Hungary, 1999		10%	Not provided	Representative study of violence in the family (Olga Toth, 1999)
Latvia 1998	5.2% in last five years (sexual assault)		769 women random sample	As part of the International Crime Victim Survey
Lithuania 1999	26.5% sexual abuse by a stranger after 16 18.2% by a known man 17% attempted coerced sex		1010 women random sample	(Purvaneckiene, 1999)
Netherlands 1992		21% 'unwanted sex' 7.4% rape	representative random sample - 1016 face to face interviews	(Romkens, 1992)
Sweden forthcoming				Study findings currently being analysed by team at Uppsala University
Switzerland 1994		11.6% Unwanted or forced sex	Representative sample 1519 women telephone interview	(Gillioz, 1997)
UK 1991	25% rape or attempted rape		1007 women in 11 cities	Most common perpetrators were current/ex-partners 91% told no-one (Painter 1991)

Sexual crime is seriously under-reported in general victimisation studies, and it is now widely accepted that dedicated studies which ask a range of detailed questions using terms like ‘forced’ or ‘unwanted’ sex rather than ‘rape’ result in much higher prevalence findings (Walby and Myerhill, 2001; Hagemann-White, forthcoming).

The study which demonstrated this most clearly, and which has provided a model for many of the recent European prevalence studies, was conducted by Statistics Canada in the early 1990s. Whilst the findings with respect to domestic violence have had the most attention internationally, it also encompassed rape, sexual assault and sexual harassment. The basic findings on rape are presented in box 3.1 below.

Box 3.1: Key findings from the Statistics Canada study

Sample:	National random sample of 2300 women	
Method:	Telephone interviews	
Key findings:	Over 1 in 3 reported a sexual assault For almost 60% this involved more than one incident Only 6% reported to the police (compared to 25% reporting an incident of domestic violence) Reasons for not reporting were:	
	Police could not do anything	50%
	Attitudes of police and courts	41%
	Fear of further attack	33%
<i>Source: Johnson and Sacco, 1995</i>		

These findings challenge some of the ways rape has been conventionally understood - that it is usually a single event, and that safety in the aftermath of the an assault is not so relevant to this crime. The fact that in almost two thirds there is repeat victimisation is connected to the fact that known men are the vast majority of perpetrators. This fact also places fear of further attack in a different context. One UK study demonstrated that this fear is not unfounded; Victim Support (1996) found that a third of women involved in prosecutions were threatened or attacked by the defendant or his relatives. Clearly repeat victimisation, protection and safety need to be given more attention in responses to reported rape.

We found little research data, beyond the Statistics Canada findings, on the reasons for not reporting rape. However, our questionnaire respondents drew on their experiences and practice. For justice departments three issues recurred: fear; the stigma and publicity and lack of trust in the criminal justice system. NGOs broadly concurred, but placed much more emphasis on negative perceptions of the police and the legal process and noted that many women do not define forced sex as rape. There are a number of points which should be made in light of this information:

- ◆ research on the prevalence of rape is currently at a low level across Europe;
- ◆ this should be addressed both through specific studies and integration of sexual assault into prevalence studies on other forms of violence against women;
- ◆ the implications of the fact that most rapes are committed by known men, and may involve repeat victimisation, need to be explored and addressed;
- ◆ the reasons that appear to underpin low reporting rates - fear of further attack, fear of stigma and lack of faith in the criminal justice system - are serious barriers to developing responses that fulfill commitments to the international policy such as the Beijing Platform for Action.

Reporting rates across Europe

The population of European countries ranges from Malta and Luxemburg with .4 million through to Germany whose population now totals 82 million. Only four other countries have populations over 50 million: France; Italy; Turkey and the UK. In such a context, there is little point in making comparisons in terms of numbers of cases reported, since the numbers only make sense when connected to the size of the population. The recently published *Sourcebook on Crime and Criminal Justice Statistics* (Council of Europe, 1999) calculates the rates of reported rapes per 100,000 of the population. They are reproduced below in Table 3.2

The Sourcebook cautions against using the data it records for anything other than looking at trends, and suggests it is unwise to make comparisons between individual countries. Several trends can be discerned from these figures:

- ◆ A consistent increase in reports: France; Italy; Turkey and the UK.
- ◆ Variations year on year, but an increasing rate of reporting over the time period: Bulgaria; Cyprus; Estonia; Ireland; Latvia; Luxembourg; Malta; Netherlands; Poland; Portugal; and Romania.
- ◆ A decrease in reporting: Croatia; Czech; Denmark; Germany; Hungary; Lithuania; Moldova; Russia; Slovenia; and Spain.
- ◆ Inconsistent variation: Albania; Austria; Finland; Greece; Macedonia; Norway; Sweden; and Switzerland.

We currently know very little about what prompts increases, and especially decreases, in the reporting of sexual crime. Increases in reporting have been attributed to a number of, often connected, factors: breaking the taboo and enabling women to speak about rape and sexual assault; legal and institutional changes within the police and justice system; new forms of support such as helplines and women's counselling projects; and increased public awareness and more sympathetic media reporting (Kelly, 1997). One factor that might be involved in decreased reporting was raised at the project seminar by women from former

communist countries. The period of transition had been one in which the legal and social infrastructure had been placed under pressure and in some countries virtually fallen apart. In this context faith in the police and other criminal justice agencies was extremely low, and as a consequence reporting of rape and other forms of violence has fallen. Whilst this may explain the majority of those countries where a decrease is evident, there are exceptions with some former communist countries not following this pattern and several western European countries where a decrease in reporting occurred in the 1990s (Denmark, Germany⁴ and Spain).

What is also clear is that Sweden has a much higher reported rape rate than any other European country. This is especially interesting in the context of Sweden's internal and external image as a country in the forefront of creating and promoting sexual equality. It is impossible from basic statistical data to do anything other than pose possible explanations: it may be that Swedish women are more willing to name unwanted sex as rape and to report it to the police; the Swedish police may be more accurate in recording all reports. These are the usual explanations offered for higher reporting rates, that the issue is one of reporting and recording rather than higher incidence. It is, however, worth considering whether there might be a higher incidence rate: that rape may represent a form of resistance by some men to increasing sexual equality. These possibilities are, of course, not mutually exclusive, and may operate in complex combinations⁵.

There are also countries where the reporting rate is consistently above or below the European mean of 6.0-6.6 across the time period. The higher rates are found in: Austria; Belgium; Denmark; Finland; France; Germany; Netherlands; Norway; Russia; Sweden; and the UK. With the exception of Russia, all are western European countries where the issue of rape has been politicised and publicised by women's movements, and where new support services and institutional change has occurred (although there is considerable variation within and between countries in this respect).

⁴ Germany is a special case during the 1990s, with the unification of the GDR and FDR, and during this transition crime figures being calculated on varying population base rates (see COE, 1999 for more details)

⁵ A recent paper (von Hofer, 2000) has offered the following as possible reasons for Sweden's high reporting rate: that police procedures mean that all reports once coded as rape remain so, there is no 'no criming system' as in some other countries; the data also include 'attempted rapes'; and recent legal changes widened the definition and included children. The authors doubt that these factors are exclusive to Sweden, however the fact that every incident is counted as an individual offence may make a substantial difference. We would, however, need data on how many of the Swedish reports represent repeat victimisations of the same individual before this could be demonstrated, and the paper provides little direct evidence of the salience of each of these factors within the Swedish data, let alone in comparison to other European countries.

Table 3.2: Rape reporting across Europe per 100,000 of population

Country	1990	1991	1992	1993	1994	1995	1996	% change
Albania	...	3.3	...	4.9	4.7	3.0	3.0	...
Austria	7.6	7.1	7.8	7.5	7.6	7.1	6.4	-15
Belgium	...	...	...	...	8.3	11.3	12.5	...
Bulgaria	4.6	8.6	8.9	9.5	8.7	9.0	7.5	61
Croatia	3.4	2.6	2.3	3.1	2.0	1.7	2.0	-41
Cyprus	0.4	1.2	1.4	1.1	2.1	2.3	2.0	361
Czech Rep	8.6	7.4	6.9	7.4	7.1	7.0	6.6	-24
Denmark	9.5	10.3	10.8	9.6	9.2	8.4	7.4	-22
Estonia	3.4	3.9	4.7	6.9	8.3	6.9	6.5	92
Finland	7.6	7.5	7.3	7.2	7.6	8.7	7.7	1
France	8.1	8.9	9.3	9.7	11.3	12.6	12.3	52
Germany*	8.1	7.3	7.8	7.9	7.5	7.6	7.6	-6
Greece	1.9	2.4	2.7	2.6	2.5	2.2	1.7	-8
Hungary	4.5	4.5	4.2	4.0	4.2	4.1	4.1	-9
Ireland	2.5	3.1	3.6	4.0	5.1	5.3	5.0	97
Italy	1.2	1.3	1.4	1.5	1.5	1.7	2.0	67
Latvia	5.0	6.0	4.7	5.0	5.1	6.3	5.3	5
Lithuania	5.3	5.1	5.2	5.3	4.5	5.5	4.6	-13
Luxembourg	7.3	6.7	5.1	5.3	6.5	8.8	9.9	35
Malta	1.1	1.4	1.4	1.4	1.1	1.3	2.9	160
Moldova	8.0	7.8	6.5	6.7	6.0	5.2	6.2	-23
Netherlands	8.9	8.9	8.9	9.8	10.0	9.1	9.2	3
Norway	...	9.0	10.0	9.2	8.4	8.5	9.7	...
Poland	5.0	5.3	5.2	5.4	5.7	6.1	5.4	8
Portugal	...	...	...	4.9	5.0	5.4	5.0	...
Romania	4.2	5.3	4.7	6.2	6.1	6.5	6.0	45
Russia	10.1	9.5	9.2	9.7	9.4	8.4	1.3	-87
Slovenia	7.1	6.8	7.1	6.8	6.1	6.2	5.3	-25
Spain	4.6	5.0	4.1	4.0	4.1	...	...	...
Switzerland	6.3	4.8	4.5	4.8	3.9	4.2	4.8	-24
Sweden	16.5	17.0	19.5	24.7	20.6	19.3	18.2	10
FYRO Macedonia	2.7	2.0	2.1	2.0	2.1	2.7	2.6	-1
Turkey	...	...	0.6	0.9	1.0	1.1	1.3	...
UK: Eng & Wales N.Ireland Scotland	6.7 7.9 6.5	7.9 9.8 6.3	8.1 9.7 6.9	8.9 12.1 6.7	9.8 13.0 7.7	9.6 16.1 7.9	11.1 18.1 8.7	66 129 34

The lower rates are found in: Albania; Croatia; Cyprus; Greece; Hungary; Ireland; Macedonia; Malta; Spain; and Turkey. Whilst there is no single factor that connects this group, they either have a strong catholic tradition and/or a culture based on honour. In most, but not all, the women's movement has, until recently, also been relatively weak and there has been little development of support services or institutional change.

Unfortunately the data in the *Sourcebook* on prosecutions and convictions have been aggregated for all the criminal offences covered. Conviction data for rape was provided by many countries, but not consistently over the time period requested (a problem we also encountered - see later section on attrition rates). There is some text relating to these issues, however, with nine countries being reported as having increases in convictions per head of population, and 15 decreases (COE, 1999, p113). The highest rates of conviction per head of population were found in Turkey, Russia, Lithuania and Estonia, the lowest rates in Ireland and Croatia. In E. Germany and Sweden 30% of those convicted are 'aliens', and in Estonia and Switzerland this figure rises over 50%. Two caveats should be noted here: many countries did not provide this data; and the status of 'alien' needs further exploration. In Switzerland, for example, there are many families who have lived there for several generations, but chosen to retain citizenship in the neighbouring country they migrated from (mainly, but certainly not only, Italy). Nonetheless, these data do raise questions about whether there is differential vigorous prosecution, depending on the status of the offender.

Some data on sentencing is also provided. The average was five years, with lowest averages found in Norway and Sweden. Almost of third of those convicted of rape received suspended custodial sentences in: Austria; Czech Republic; Macedonia; Finland; Germany; Moldova; Poland; Slovenia and Switzerland (COE, 1999, p114). It is not surprising in this context that one of the issues raised by NGOs as problems in their country was sentencing. Whilst we recognise widely different traditions within Europe with respect to the purpose and intention of sentencing, and also recognise that there is little evidence to suggest that 'prison works' as rehabilitation, there is an issue about public safety which needs to be addressed here, since there is equally little evidence to support the rehabilitative effects of psychiatric and other treatment methods with sex offenders (Kelly, Burton and Regan, 1998).

These data offer some support for the basic questions this project sought to address- attrition rates across Europe for reported rape cases. Looking just in terms of cases per head of population, a majority of countries have increases in reporting, and a majority also report decreases in convictions. How these patterns are reflected within individual countries is explored in the next section.

Patterns of attrition across European countries

In this section we draw on the data collected from justice departments and further information that sheds light on the baseline statistics. All the data provided by

justice departments was entered onto a data base in order to track changes over time. The charts produced (see Appendix A) show the patterns for reporting, prosecutions and convictions for the countries that provided this information. Trend lines were plotted for all the charts, but are not reproduced, since they made the charts confusing to read. Some countries provided information, but it was so limited that it has not been converted into visual format; for example reported cases in Malta rose from 1 to 2 over a five year period, and the data from Ireland only covered the years 1994-7.

One would expect most, and especially western European, countries to have overall increases in reporting of rape from 1977, and an increase in prosecutions and convictions for the following reasons:

- ◆ the activities of the women's movement in raising the issue, challenging the taboo on speaking and the stereotypes of rape;
- ◆ the establishment of new support services such as rape crisis lines and women's counselling projects;
- ◆ actions in many police forces in from the 1980s to improve their responses;
- ◆ legal reforms in the 1980s and 1990s to make rape a crime of violence, and to remove some of the discriminatory elements, such as the exclusion of rape in marriage, and evidential requirements that distinguished rape from all other criminal offences.

Only two countries - Germany and Sweden - provided all the data requested for the years 1977-1997, Slovenia and Hungary provided most of it, and England and Wales all of it but for a narrower time frame. This group are discussed first because of the relative completeness of the data sets. Our interest here is patterns over time for each country, and whether these patterns are different and similar between countries. When looking at the charts, readers should pay attention to the different base numbers involved.

Germany: Chart 1

Reporting in numeric terms is virtually the same in 1997 as 1977, there is an clear decrease between 1984 and 1990, with reporting beginning to rise again; the trend line showed a slight decrease overall. Clearly levels of reporting should be higher in the late 1990s, if only because of the large increase in the population following re-unification. This means that, there has been a real drop in reporting. No-one offered any explanation of this during the project. Prosecutions and convictions broadly follow the same pattern as reporting, with the same trend overall.

Sweden: Chart 2

The Swedish data shows a progressive rise in reporting from 1977 to 1992 and a peak in that year followed by a falling off and a new rise in 1997. The trend line showed a significant increase in reporting over time. The

relationship of prosecutions and convictions is similar to the reporting pattern, but the trend line shows a slight increase over time.

Slovenia: Chart 3

Here we have some missing data for convictions for 1979-82, and a much more variable pattern for reporting. The trend line shows a significant decrease in reporting, the most dramatic fall is in 1979, reports begin to increase then fall with various small peaks and troughs through the 1980s. The pattern in the 1990s is primarily one of decreasing reporting, but inconsistent across individual years. The rate for prosecution is much closer to that of reports, but a much higher proportion than in Germany and Sweden do not result in convictions. The trend line for convictions is also a decrease, but not at the same rate as the fall in reporting.

Hungary: Chart 4

There is some data missing for prosecutions for the early years in the series and no simple clear pattern can be discerned, although reporting does fall overall between 1977 and 1997. The trend line shows a significant fall, with reporting in the 1990s 50% lower than in the previous decade. Again a relative high proportion are prosecuted, but the trend line shows the gap between reports and convictions widening over time.

England and Wales: Chart 5

Unfortunately the data here only begin from 1985, but the patterns are the most clear and consistent of any of the data series. Reporting rises consistently, whereas both prosecution and convictions change relatively little. The trend lines show these patterns also. The fact that the number of convictions remains close to constant, means that the gap between number of prosecutions and convictions widens over time.

Finland: Chart 6

Data on prosecution was only provided for one year (1991) and missing for convictions for 1987-89. Reporting increases overall between 1977 and 1997, and whilst there is a significant drop and plateau between 1981 and 1988 and peaks and falls in the late 1990s, the trend overall is up. Convictions are similar to the pattern for England and Wales, remaining relatively constant and not really reflecting the peaks and troughs evident in reporting rates; the trend overall here is down.

The next series of charts have missing data to an extent that interpreting trends over time is less reliable. They do, however, contain sufficient information to make some comments.

Czech Republic: Chart 7

Here we have only data on reports from 1977-1989, after which the data is

complete. Reporting levels are only slightly higher in 1997 than 1977, with two peaks in 1978 and 1990; the trend overall is down slightly. The prosecution data follows reporting and the patterns evident in Slovenia and Hungary with a large drop in the period 1991-93. Convictions began to fall in 1989-90 and have stayed fairly constant since that time; the trend data shows a slight decrease over time.

Norway: Chart 8

Data here is limited to 1991-1997 for reporting and 1993-97 for convictions. The reporting rate stays fairly constant, is slightly higher in 1997, with small drops between 1992-95; the trend is a slight increase. There is a fall in conviction that echoes this but no comparable increase towards the end of time period; the trend here is a small decrease.

Turkey: Chart 9

Data is limited to 1989-97 for reporting and 1994-97 for convictions; the trend is a slight decrease in reporting. The conviction data echoes the pattern for reporting, but is too limited to say more than this.

Latvia: Chart 10

Data is limited to convictions with a clear decrease over the time period, which is also clear on the trend line. Without the reporting data, however, it is impossible to know whether these represent linked patterns.

Switzerland: Chart 11

Here we only have data on reported cases and convictions for five key years that were highlighted in the questionnaire. The trend lines are included in this chart to show patterns over time that way. Reporting falls somewhat over the time period, as does conviction, but at a slightly lower rate.

All that can be said from the limited data from Ireland, is that an increase in reporting during the mid-1990s has not been reflected in a similar rise in convictions.

Reflections and commentary

A number of important points can be made, even though we were not able to gather the extent of data we hoped for:

- ◆ A significant proportion of European countries cannot track the process involved in reporting rape, and thus have no mechanisms for assessing the impact of legal and procedural reforms.
- ◆ Only Sweden shows a clear pattern of attrition similar to that in England and Wales, of significant increased reporting and relatively small increases in convictions. The trend analysis, however, revealed that patterns in Finland and Norway involved increased reporting and decreased conviction rates over the time period.

- ◆ Other clear trends are also evident, with many western European countries only prosecuting a small proportion of cases and former communist countries prosecuting a greater proportion but having a lower proportion of convictions.
- ◆ Some countries showing dramatic decreases in reporting either over small time periods, or over the period studied.
- ◆ Overall the trends show slightly more countries with falls in reporting, and the majority with decreases in convictions; no country had an increase in convictions that was more than the increase in reporting.

Explaining these patterns for each country and the similarities and differences between countries would require more detailed interrogation of the many factors which might explain movements over time. These would include: legal reform; changes in police procedures and investigation, including recording practices; positive and negative media reporting; awareness raising and campaigning activities; the extent of support services; and wider political and socio-economic changes. What can be said though, is that whilst the clear pattern evident in the UK data is not reflected throughout Europe, there is absolutely no evidence to show that changes in the investigation and prosecution of rape cases and/or legal reform has resulted in an increase in convictions. Rather the reverse is the case, with most countries showing a fall in the proportion of reported cases that result in convictions. This is further illustrated in the next section.

Falling conviction rates

The next stage in looking at attrition rates involved calculating the proportion of reported and recorded rapes that result in a conviction over the period we attempted our tracking. This is only possible for those countries which provided more complete data sets, and to ensure that rogue years were not selected the average rate was calculated for the periods 1977-81 and 1993-97. This data is presented in Table 3:3 below.

Table 3.3: Conviction rates compared over time

Country	1977-1981	1993-1997
Czech Republic		22%
Finland	24%	13%
Germany	18%	17%
Hungary	81%	53%
Norway		15%
Slovenia	37%	31%
Sweden	11%	08%
UK (England and Wales)		10%

In each case where the comparison can be made across the two time periods the conviction rate is lower in the 1990s. We know that the same pattern would hold in the UK, since we have data for several years in the 1970s and early 1980s from other work, and the conviction rates for these years were 33% and 27% respectively. This data confirms one of the questions this project set out to explore - there is a consistent pattern of falling conviction rates in a range of European countries over the last two decades. It is also clear that the levels of decrease are not consistent and nor are conviction rates themselves. The former communist countries have significantly higher conviction rates than most western European countries, despite significant falls in the 1990s, and the UK and Sweden have the lowest. Additional research is needed to explore whether this clear pattern is reflected throughout Europe, and to investigate the factors which might be involved in explaining these patterns. We explore factors our respondents thought relevant in the next chapter.

Chapter Four: Issues in prosecuting rape cases

Rape is not like other forms of violent crime, since it is a sexual and predominantly gendered crime. It has been surrounded by myths and stereotypes, a number of which were, and in some instances still are, encoded within law and accepted legal and judicial practice. Prosecuting rape cases, therefore, poses particular challenges. We explored what these might be with both justice departments and NGOs. Before reporting on our findings in this respect, however, we present data on the extent and range of legal reform in the last 20 years, followed by sections on how we might explain attrition, the good practice uncovered by the project, and we conclude with the common and different barriers to successful prosecutions in reported rape cases in Europe.

The previous chapter demonstrates that there is a common pattern in many European countries - decreasing convictions in reported rape cases, and more than this that in most western European countries that only between 1 in 8 and 1 in 10 reported cases result in a conviction. More detailed research, which addresses the extent to which police under-record rape complaints, and the processes through which reports are 'no-crimed', suggest that the proportions may be even lower. For example, the most recent study by the Home Office in the UK reveals, in the small print, that if no crimes are included the conviction rate in a sample of cases tracked was actually 6% (Harris and Grace, 1999). We were also told about tracking studies in Greece, Finland and Ireland by participants at the seminar (although not given full references) which tracked cases and found even lower conviction rates. In Austria less than 2% went to trial and 1% resulted in a conviction⁶, Finland⁷ found a 5% rate (23 of 463) Greece⁸ a conviction rate of 7% (20 of 270), Ireland⁹ of 2% (1 from 50), and Syosti (Moscow Sexual Assault Recovery Centre) estimate that 3% of reported cases result in a court case. This suggests that where independent research is undertaken the levels of attrition found are even higher than those in official justice department data - often because all reports are included, not just those which are formally classified as 'crimes' by police. Both official and research based levels of attrition are concerning, especially since many women know their rapist, so this is not simply a matter of failing to detect the perpetrator.

Knowledge of conviction rates was limited in both justice departments and NGOs; in the long questionnaire only half of the NGOs said they knew these at a national level and only two groups knew them at local level. The range was from 0.5% to 34% at national level, and inexplicably the city level rates were far higher at 74% and 90%.

⁶ We have no reference, but the study was done in Vienna.

⁷ Study by Statistics Finland in 1998.

⁸ The study was undertaken by Angelos Tsingris.

⁹ No details were provided for this study.

Groups within the same country disagreed markedly as to what the rate was: in one country between 18-25%, in another 02-60%, and yet another 06-20%. In one sense this confusion is not surprising, since as we have just demonstrated research often produces far lower conviction rates than those based on official figures. However, what was interesting - and also concerning - was that only about 15% of the NGO estimates tallied with those based on *either* official statistics or research in their country.

Legal and procedural changes

Table 4.1 outlines the information we received from Justice Departments and NGOs about recent changes in the legal code. These data are drawn from the two sets of questionnaires. Clearly, there is no consistency here, and some of the changes relate to the differences between adversarial and investigative legal systems. Apart from procedural differences in how criminal cases are dealt with there is a strong difference here with most investigative systems defining the crime of rape in terms of force, and the adversarial systems using the concept of 'without consent'. However, both areas - force/threat/resistance and consent - tend to play a part in the prosecution process, this is more a difference of emphasis in evidential requirements than it at first appears. Some commonalities do emerge though, with eight countries either making rape a gender neutral offence or including male rape in the legal definition, and seven countries removing the rape in marriage exemption. The next most common changes are extending the definition to other forms of penetration, and in the case of Germany to define the crime itself more broadly. In four countries reform has taken rape out of the arena of crimes against morality and into crimes against the person/sexual crime. Three countries have changed the force/resistance requirements, and three the routes by which a prosecution can be mounted (in two cases making it a state responsibility and in one allowing women to make their own complaint in cases of marital rape). Other less common changes include: restrictions on sexual history evidence; reviews of sentencing; introducing degrees of sexual assault; allowing NGOs to be party to the case; lowering the age at which perpetrators can be charged; and stopping perpetrators being able to cross-examine the victim/witness in the court case.

There are still a number of European countries where the crime of rape continues to be defined in law as a crime against sexual morality (from our data this includes Hungary, Italy, Turkey). The question as to whether the crime of rape should be 'gender neutral' is an interesting one, and has been recently discussed in the review of sexual offences law for England and Wales (Home Office, 2000). Whilst there is no question that men can be, and are raped; the more interesting question is whether women can perpetrate it? The assault that comprises rape is, in the main, one that uses the penis as its weapon, and thus implies that it is a crime perpetrated by men. Whilst objects are used in some assaults, and these are undoubtedly amongst the most violent and degrading offences, again it is mainly men who do this. To make the crime 'gender neutral' to cover a small number of cases seems to detract from the core of the crime and its motivations. This conundrum was resolved

in the UK (Home Office, 2000) by suggesting that the crime of rape be defined in terms of any form of penetration by a penis of a woman, man or child and a new offence of 'sexual assault by penetration' introduced which is gender neutral in terms of both victimisation and perpetration.

The question as to whether the law should be cast in terms of levels of rape/sexual assault has exercised many in the English speaking world, especially in the USA and Canada. Few European countries seem to have chosen this route, apart from Finland. The arguments against it have been that it seeks find ways to distinguish between 'more' and 'less' serious rape, often on the basis of factors such as whether the parties knew each other, use of a weapon etc. These are extremely poor predictors of 'seriousness', since the meanings and impacts of sexual violation cannot be 'read off' forms or contexts in this way. That said, however, it is clear that distinctions about 'seriousness' are implicit in the decision making of all practitioners in the criminal justice system, from whether the investigation should be pursued through to sentencing, and what are considered aggravating and mitigating factors in this respect.

Table 4.1: Significant changes in rape law in Europe

Country	Justice dept	Changes	NGO	Changes
Austria	x	x	Yes	- language of rape and sexual assault - gender neutral - rape in marriage - less strong resistance requirement
Belgium	Yes	1989 - new definition - gender neutral		
Bosnia	n/a	n/a	Due	planned for 2000/1
Cyprus	YES	1994 - rape in marriage		
Czech Republic	Yes	1992 - sentencing range decreased		
Denmark	x	x	No	
Finland	YES	1998 - gender neutral - lower requirement of force/threat	Yes	1999 - gender neutral - lower requirement of force/threat - sex not moral crime - 3 degrees of sexual assault - now a state not private prosecution for higher two offences
France	x	x		

Country	Justice dept	Changes	NGO	Changes
Germany	Yes	1997 - rape in marriage - gender neutral - widened definition to include the exploitation of vulnerability and dependence		
Greece	x	x		
Hungary	Yes	1997 - gender neutral - rape in marriage		proposal from women's groups to include threat, psychological coercion and consent in definition
Iceland	x	x	x	x
Ireland	Yes	1981 - exclusion of sexual history evidence 1990 - marital rape - extension of definition to different forms of penetration - resistance requirement removed - review of sentencing		
Italy	x	x	Yes	1989 - women's groups can be parties to case 1996 - crime against person - defined as 'sexual violence' - six month window to report, but if do cannot withdraw
Latvia	No			
Luxemburg	Yes	1992 - any form of penetration		
Macedonia	n/a	n/a	Yes	1997 - rape in marriage now actionable by the woman herself
Malta	No			
Netherlands	x	x		
Norway	No			
Poland	x	x		
Portugal	x	x		

Country	Justice dept	Changes	NGO	Changes
Romania	x	x		
Slovenia	Yes	1995 - male rape - marital rape a state rather than private action		
Spain	x	x		
Sweden	Yes	1984 - gender neutral 1998 - extended definition - use of objects etc		current review of sex offences
Switzerland	Yes	1992 - rape in marriage		
Turkey	x	x		
UK England and Wales	Yes	1993 - under 14 boys can be charged 1991 - male rape 1993/7 - rape in marriage 1999 - end to cross examination by accused		2000 publication of consultation document <i>Setting the Boundaries on reforming sexual offences law</i>
Northern Ireland			No	Recent reforms in England and Wales not extended
Scotland			Yes	1986 - Restriction of sexual history evidence

We also asked about reforms with respect to procedural issues, and specifically protections for victims. Here there is considerable variation across Europe. Most of the Scandinavian countries have introduced widespread reforms to provide a place, status and rights for victims in criminal cases. Germany, Sweden and Switzerland have 'victim laws' which mandate certain rights to advice and support to victims of crime. In other jurisdictions, whilst some moves in this direction have begun to occur, there is a prevailing discourse that moving too far in this direction limits the right of defendants to a fair trial; this is especially evident in adversarial systems.

Key differences here relate to: whether there is anonymity for victims; their rights to legal representation and consultation over their case; whether their sexual history can be used in court; and whether the accused is entitled to conduct their own defence, and thus question the victim in court (only relevant in

adversarial systems). What protections are considered appropriate and necessary will, in part, depend on how the legal system in question operates, although there were some areas about which there was considerable consensus amongst European NGOs. At minimum the following were regarded as vital:

- ◆ *Confidentiality for the complainant*
Participants from countries where there is no right to confidentiality, or where it is seldom used told graphic stories of women's names and photographs being on the front pages of newspapers and broadcast on television. These events acted as powerful disincentives to women to report, and this was an even stronger barrier in societies where honour still forms a core cultural value. This reality needs to be placed against arguments by some feminists that confidentiality is a form of 'protective' law that treats women as if they are children. If lack of confidentiality prevents reporting, and exposes those who do not report to harassment and a further loss of dignity, then it constitutes a serious barrier to the prevention and prosecution of rape.

- ◆ *Access to legal advice and information*
In some countries there are statutory rights to consult a lawyer paid for by legal aid, and in most Scandinavian countries rape victims have the right to separate legal representation. But in other countries, the victim does not even meet with the prosecutor until the day of the court case. This partly turns on the status accorded to the victim by the legal system - are they a party to the case or simply a witness for the state. It is clear, however, that understanding the legal process, and being kept up to date with what is happening, are both vital elements for those who choose to report, and these need to be secured by whatever means are appropriate and possible in different jurisdictions.

- ◆ *Exclusion of sexual history from evidence*
The introduction of information about women's sexual past and reputation seems to be a problem, regardless of the legal system. It is almost invariably used to cast doubt on her character, and often has marginal, if any, relevance to whether she was made to have sex against her will on the occasion in question. At stake here are two fundamental issues: that in rape cases old-fashioned and sexist notions of sexual morality are being marshalled as if they constituted 'evidence'; and that the ways such information is gathered or probed for constitutes a violation of the human right to privacy and dignity. Rape is the only crime where behaviour of victim before, during and after the event in questions is more important than actions of criminal, and where this influences

decision and sentencing. It is this use of sexual history evidence which makes many women speak of feeling as if they were on trial, and that makes the court experience such a traumatic and humiliating one.

- ◆ *Giving evidence in a context that preserves dignity and integrity*
Various possibilities which are differentially available across Europe apply here. They include: giving evidence in camera; giving evidence on video or by video link; having a screen so that the victim does not have to look at the defendant when giving evidence; and the fact that in some jurisdictions the accused has the right to represent themselves, and thus can cross-examine the victim in court. Again whatever protections that are possible should be provided in order to enable the victim/witness to give their best evidence, and so that they are neither subjected to intimidation by the accused/his supporters nor be treated as a voyeuristic spectacle by the public.

Understanding and explaining attrition

In the long questionnaire NGOs identified problems at all stages for women reporting rape. They are outlined in 4.2 below. NGOs reported that less than 15% of their service users reported to the police, and many of the reasons for not doing were linked to anticipated responses by others: disbelief, disrespect, and knowledge that conviction was unlikely. High attrition rates were, therefore, believed to discourage reporting.

Table 4:2 Problems in the Criminal Justice System Process

Stage in Criminal Justice System Process	Yes		No	
The legal code	57	71% ¹	11	14%
Reporting to the police	67	84%	09	11%
Investigation of cases	60	75%	10	13%
Prosecution of cases	67	84%	06	06%
Court cases	65	81%	06	06%
Sentencing	69	86%	04	05%

1. Percentages do not add up to 100%, due to non-responses

In this exploration of attrition we are make three presumptions:

- ◆ That there is a no higher false reporting rate for rape than other crimes, and in fact it is probably far lower than for some crimes, such as theft.
- ◆ That contrary to popular legal mythology, rape is not 'the easiest crime to

allege', in fact research evidence of the extent of under-reporting suggests precisely the opposite, that it is extremely difficult to report a sexual crime.

- ◆ That the majority of women who make the decision to report are interested in securing justice and they are demonstrating a confidence that the Criminal Justice System will deliver this.

Justice departments were asked if they knew at what stage cases dropped out of the system and why. Revealingly, the majority of our respondents did not have this information either from their own data or research. Only five countries offered explanations: three cited victim withdrawal; two police dropping cases; and two prosecutors dropping cases. One country noted that 'insufficient evidence' is the most common reason for cases not proceeding.

Later in the questionnaire we asked what factors they thought affected the conviction rate. Despite having access to limited evidence, most offered an opinion at this point. The most popular explanation was lack of evidence/proof (10 countries), followed by victim withdrawal (5 countries) and increasing reports of assaults by known men (2 countries) and false accusations (2 countries). Other factors noted by single countries were : weak witnesses; delays in investigation; low awareness in professionals; delayed reports; and failure to identify the offender. Note how few of these explanations identify the criminal justice system as part of the problem.

Hungary was the only country to provide detailed data on the stages that cases drop out, but we are uneasy about using this. The number of cases on these official tables did not tally with the figures in the questionnaire return. For example, in the questionnaire the number of reports for 1981 were given as 442, whereas the official table (sent by the same person) puts the figure at 747. To confuse matters even further, a separate questionnaire from NANE (an NGO) gives a different figure again of 469. Moreover the official table shows a significant drop from 1988, where previously reports had been 700 plus for seven years, they plummet to the 200s and continue to fall to a low of 202 in 1999. Neither of the questionnaires reflect this pattern. It is difficult to know what to make of these inconsistencies from a single country, but the data tables did suggest a much higher withdrawal rate, increasing from 13.7% in 1981 to 27% in 1997. This seems to offer some support to the NGO position that faith in the justice system has fallen during the transition period, and that this is affecting not only the decision to report, but also the decision to pursue a complaint.

Issues with police responses

NGOs reported a series of problems here, with the most consistent being police attitudes both that they frequently disbelieved and discounted complaints without investigating properly and/or on the basis of stereotypes and prejudices.

Other common complaints were lack of access to female officers, poorly trained officers, and the failure to provide information and support.

In terms of attrition from research in the UK and Ireland, and the information provided by our participants, it appears four main factors are involved:

- ◆ police decisions that it is a 'false complaint';
- ◆ failure to identify the perpetrator;
- ◆ withdrawal of the statement by the complainant (in a study in England and Wales this accounted for over half of lost cases [Harris and Grace, 1999]);
- ◆ and second guessing the decision making of investigators/prosecutors (this might even involve asking advice about whether to lay a charge)

With respect to false complaints, some police officers estimate that between 20-50% of reports are false. It is hard to imagine why one woman, let alone such large numbers, would voluntarily subject themselves to having to give a statement and being forensically examined about something which had not happened. But it appears that the eighteenth century judicial view that 'rape is the easiest crime to allege and the hardest to disprove' is alive and well in the imaginations, and hence actions, of some police officers. This quote from a UK police officer who considers himself to be 'enlightened' compared to his colleagues, illustrates the context in which many women have to tell their story, and the extent to which they are expected to 'prove' their story even at this early point in the process:

I am not a great believer in pussyfooting around and mollycoddling the woman because she won't get that in court. She has got to understand that, all right she has given this story, but it has got to be watertight. It's got to be absolutely bombproof..... You've got to, to a certain extent, to put her through the mill to make her understand what she is going to go through in court... I always without fail tell a woman that rape is the most difficult offence to prove and the easiest one to allege. (quoted in Tempkin, 1997, p516-7)

Jennifer Tempkin (1997) notes "Old practices and attitudes ... are still in evidence", guidelines are not always followed and that disbelief and stereotyping persist. She also makes the point that in the UK improvements are most noticeable at the very early stages of the reporting process, where the initial contact is with often specially trained women police officers. The problems seem to increase where the investigation is taken over by investigators.

Issues with investigation and evidence gathering

The problems identified by NGOs here were again a culture of disbelief and lack of training; low standards in forensic examinations and victims being not kept informed on the process of the case.

Very few of our justice department respondents made reference to forensic examinations as causing problems, although a number of NGOs referred to poor practice, limited resources and a failure to collect evidence in a timely and professional manner. Whilst there has been considerable development in both the process and content of forensic examinations in North America, we found little evidence of this being used widely in Europe. Jennifer Tempkin's (1996) research in England showed that despite guidance and attempts at reform over a ten year period there were still very long delays in getting a doctor, that a woman physician cannot be guaranteed, and that some victims have to travel many miles to have the examination.

The sexual assault centre based in a hospital, which has become a key form of provision in many western countries (especially Australia and New Zealand), has not taken hold across Europe, although we did find some examples of exemplary provision, these were limited to particular cities or areas, and not present at all in many countries (see box 4.1 below). Forensic examination following rape will always be a difficult experience, but Jennifer Tempkin's research (1996) reveals three elements which make it a more or less awful experience:

- ◆ a woman doctor;
- ◆ the manner and attitude of the doctor;
- ◆ the way the examination is conducted.

The point of forensic examinations is both to document injuries and look for evidence which might identify the assailant. Given that external and/or internal injuries are only found in a minority of cases, evidence collection which enables DNA testing, and other evidential material is critical. Tempkin also found that some doctors, like the police, extended their role from collecting evidence to testing it, and this was particularly distressing for victims. She also notes problems in the twin roles of evidence gatherer and physician, it is important that the forms doctors use to record their findings separate these two roles. One of the routes through which sexual history evidence gets in 'through the back door', at least in adversarial systems, involves doctors notes which contain references to previous abortions and/or, contraceptive history. These details are not necessary for a forensic examination. The possibility of training forensic nurses, now long established in the USA, is currently being piloted in one area

of the UK¹⁰.

Issues with prosecution

The issues raised by NGOs here involved cases being dropped with minimal if any explanation; women being treated disrespectfully; poor understanding amongst prosecutors of the reality of rape; and a lack of specialisation.

Prosecutors make key decisions about which cases proceed, but we currently know very little about how these decisions are made. The conventional response is that it is on the strength of the evidence. The England and Wales study (Harris and Grace, 1999) showed that cases involving under 16s, over 45s and those where there are additional levels of violence are the most likely to proceed. There are major problems in three areas with at least 50% not being referred to the prosecutors: 'acquaintance' rapes; group/gang rapes and rapes involving women with learning disabilities.

Only two countries provided research that explored the prosecution and court processes. Looking at the UK study prosecutors were responsible for 10% of reported cases being dropped, and this was most often in cases involving young women. Despite having access to the case files, the researchers comment that it was often difficult to discern the precise basis for prosecutors decision making. In fact this group had a much stronger influence on case outcomes, since the police investigating cases often consulted the prosecutors before laying a charge.

A number of NGOs raised issues about legal training, citing examples of extremely old fashioned and sexist attitudes being reproduced in teaching about rape cases. For example, in Bosnia students are still told that it is as difficult to rape an unwilling woman as for a camel to get through the eye of a needle. On the other hand new discourses are emerging that are likely to have similar impacts. An NGO representative at the seminar noted the irony that currently in law schools, in Hungary, it was being argued that non-prosecution protects the victim since the court process is a form of re-victimisation. She commented: "They - create an intolerable process and then seek to protect you from it!".

Evidence from other countries suggests that specialist prosecution teams for sexual crime (and domestic violence) decrease attrition, especially if, as in the case of the group Alice Vasschs headed in New York, they set themselves the goal of achieving convictions in cases previously deemed 'unprosecutable' (Vasschs, 1994).

Linda Fairstein, currently head of a sex crime prosecution team in New York,

¹⁰ At the St Mary's Sexual Assault Centre, Manchester.

notes:

The sensitivity with which lawyers handle survivors, whatever the circumstances of the crime, is as crucial as their litigating skills. The human element is what makes sexual crimes unique. Not only can victims experience a catharsis if the offender is prosecuted, a witness who is gently guided through the whole process improves our chances in the courtroom of getting a conviction.

Issues relating to the court case

NGOs concurred that there were two major themes here: judicial attitudes and decision making; and the treatment of women in terms of their reputation and sexual history in court. For some groups the fact that in their country the status of victim is as witness and not party to the case was also extremely important. It was very clear that most groups thought that the court setting did not enable women to give their best evidence.

In terms of the outcome in court cases the Harris and Grace's (1999) study tells us that cases were more likely to result in a conviction where they involved under 16 year old victims, and that 50% of cases tried that involved women over 21 resulted in acquittals. This study also found that in 20% convictions involved a sentence lower than the minimum proposed in official judicial guidelines. Comments made by judges and lawyers made clear that they saw these as applying to stranger rapes, not the 'other' kind they now see more of. The comments made by judges in marital rape cases reveal an attitude that it is by definition less traumatic to be raped by someone you know (Lees, 1997); an opinion not supported by research (Esteal, 1998).

We were also told of a study on cases coming to court in Greece¹¹: the factors which increased the possibility of conviction were if the attacker was a stranger and the attack took place outside, and if the victim was present at the trial. A different set of factors made conviction less likely: if the report was 'delayed'; the presence of alcohol or anything that could be deemed 'provocation'; and an absence of resistance and/or injuries.

Heroines of Fortitude (Department of Women, 1996) is a remarkable study of 150 court hearings and trials from New South Wales, Australia. The vast majority involved known men (90%). Just over a quarter pled guilty (26%) but in the trials less than a third (31%) resulted in a conviction. Some of the detail of the trial transcripts is deeply depressing - since New South Wales is a jurisdiction which is seen to have done most to limit sexual history evidence and change the conduct of rape trials. One of the reports conclusions is that

¹¹ See footnote 3

women were routinely discredited and attacked during cross-examination by biased questions which drew on stereotypes about the appropriate behaviour of women in relation to sex and sexual assault. Over half were accused of making vengeful accusations, and a third of taking the case for the compensation. Over half (57%) were asked about sexually provocative behaviour, over a third about resistance (37%). The old style corroboration warning to the jury, which had been made discretionary - that it is dangerous to convict on the uncorroborated word of a complainant in rape cases - was given in 40% of cases. Despite legislation designed to limit sexual history evidence, the woman's reputation was raised in 12% of trials and sexual experience material introduced in 95 of the 111 trials - it was allowed in evidence in 84% of the cases where it was raised, but commonly admitted without prior application, with no challenge from the prosecutor or question from the judge. Similar findings from smaller studies show that legislation is not achieving its aims in England and Wales (Gregory & Lees, 1999), and Scotland (Brown, Burman and Jamieson, 1993).

Issues with sentencing

Whilst not a factor affecting the conviction rate as such, many NGOs raised concerns about sentencing - with the low level of sentence and inconsistency the primary complaints. Here the role of judicial attitudes was considered critical, and in particular the ways ideas about morality and appropriate femininity were used to mitigate the crime. Table 4.3 (below) shows, from the understanding of NGOs, what the available maximum sentences were in their countries and the average sentences passed.

This table highlights the range of maximum sentences across Europe - from six years to life, and that average sentences appear to be less than half the maximum in most countries. There is a relevant attrition point here; an argument that has often been made (usually by lawyers, jurists and judges) against increasing the sentencing maximum is that it will decrease the number of convictions. Given that we found low conviction rates in countries that have low and high maximum sentences, this argument seems to have little explanatory power.

Table 4.3: Sentencing according to NGOs

Country	Maximum Sentence in years	Average sentence in years
Austria	15	5
Bulgaria	20	3
Czech Republic	8	3
England	Life	4-6
Estonia	15	5
Finland	10	2
Germany	10	1
Greece	10	5
Hungary	15	
Iceland	16	
Italy	15	
Ireland	7	
Macedonia	10	4
Netherlands	6	
Scotland	Life	3
Romania	7	
Spain	12	6
Turkey		5

Barriers to successful prosecutions

We asked both justice departments and NGOs what they thought the most significant barriers to successful prosecutions were. The results are summarised in Table 4.2 (below).

Whilst concurring on some points, the emphasis of the responses are revealingly different, with justice departments focussing on evidential matters and the actions of the complainant, and NGOs on the legal process, lack of support and public awareness. The justice departments focus on the details of particular cases and the NGOs on the context in which all cases are dealt with.

One justice department respondent made the telling point that the legal process is a rational one, whereas the experience of rape is an emotional one.

Table 4.4: Barriers to successful prosecution

Barrier	Justice Depts	NGOs
Lack of evidence	Cyprus; Czech Republic; Finland, Hungary, Luxemburg (delayed reports) Sweden, Switzerland	
Unwillingness/victim withdrawal	Finland, Germany, Hungary, Sweden	
Undermining credibility of victim/victim blame	Malta, Latvia, Hungary	
Inadequate legal procedures	Czech Republic (police unwillingness), Hungary	Austria, Bulgaria, Czech Republic, Iceland, Ireland, Italy, Romania, Spain,
Lack of support for victims	Hungary, UK	Austria, Bulgaria, England, Estonia, Greece, Italy, Ireland, Romania,
Low public awareness	Slovenia	Austria, Bulgaria, Iceland, Ireland, Netherlands, Romania, Scotland, Turkey
Limited incentives for prosecutors	UK	
Limited forensic resources	Malta	

Searching for good practice

One of the indicators that suggest rape and sexual assault have been ‘forgotten’ in recent years was the dearth of good practice that our participants were able to cite. The box below details the total offered from both justice departments and NGOs, and even here many of these examples were localised rather than national initiatives. Compared to the range of innovation in policy and practice with respect to domestic violence this seems extremely sparse, and although we are aware of examples from European countries that did not respond, such as the Netherlands, these too are localised. The examples which we were made aware of, and know about from other work, are presented in Box 4:1. We should also note that NGOs from seven countries noted that overall responses by the police had improved, but there were far fewer comments of this sort, or examples offered with respect to either the prosecution or court process (two exceptions here were female prosecutors in Finland and trained judges in Austria). The project also highlighted the fact that in some countries proposals were not implemented, for example, only two of the twelve sexual assault centres planned in Denmark have been opened. Other examples revealed that what is said to exist on paper is not available in practice; For example, In Hungary there are supposed to be specially trained female police officers and

special rooms in which to take statements, neither exist in reality.

We found little evidence of serious attempts to address the issues that justice department representatives themselves identified as barriers to successful prosecution: improving evidence gathering; support for victims to limit withdrawal; and training of professionals. Nor was there any consistency in the models being used or evidence of them being evaluated. The one exception here is the right of rape victims to legal representation/consultation throughout the process. Variations of this provision exist in most Scandinavian countries, in Germany and Switzerland. The German justice department reported that the pre-trial advice is considered the most important, and one of the roles of this lawyer is to ensure that evidence is properly collected and that the case preparation is undertaken in a timely and efficient manner.

Our search for good practice in the state sector that enhanced prosecution was even less successful than our data gathering on attrition. Whilst there are undoubtedly examples in Europe that we were not made aware of, it is nonetheless the case that innovation with respect to responding to reported rape cases leaves considerable room for improvement. This was further confirmed by a piece of work the authors undertook concurrent with this project to produce a self-study guide for police officers on violence against women for the Council of Europe¹². Whilst we had many examples of good practice to select from with respect to domestic violence, those dedicated to rape and sexual assault were much more limited, and often located within more broad violence against women initiatives, in which the domestic violence agenda was dominant.

¹² The VIP Guide: Vision, Innovation and Professionalism in Policing Violence Against Women, Strasbourg, Council of Europe, 2000

Box 4.3: Good practice in response to reported rape cases***From Questionnaires*****Police practice**

Belgium	New guidelines for police in 1998
Germany	Training in a behavioural approach 1999
Hungary	Plans for trained female officers (never implemented)
Malta	Single trained female officer in 1993
Sweden	Some specialisation, but only in certain areas
UK	New guidelines in 1986 Specialist liaison officers (chaperones) in London Specialist teams in some areas

Investigation

Belgium	new guidelines for prosecutors in 1998 recognition of DNA evidence, and database 1999
Germany	New crime analysis system (not specific to sexual crime)
Finland	Recognition of DNA evidence, and database 1997

Court practices

Austria	Specialist judges, 1999
Germany	Limited system of special prosecutors

From other data

A number of countries have sexual assault/rape investigative units based in hospitals that a) conduct forensic examinations b) provide crisis and longer term counselling and c) accompany victims to court and act as advocates in relation to their case before the court hearing. To our knowledge such centres exist in some (a small number) of cities in: Denmark, Iceland, Ireland, Norway, Switzerland and the UK. The UK and Germany also seem to have developed 'rape examination suites' within police stations.

Common problems, different dilemmas

In this section we draw on the conclusions of workshops at the project seminar in which participants from 19 countries explored common factors related to attrition and those that were more localised (see Appendix C). These reflect the findings from the NGO questionnaires, but provide much more detail. The common problems noted were:

- ◆ Most women do not tell, or name their experiences so reported rapes are small proportion of all rapes.
- ◆ Limited research and statistics mean that professionals and policy makers are not well informed on the reality of rape.
- ◆ Patterns of reporting vary, with some countries having an increase and other a decrease, but convictions appear to be falling.
- ◆ Laws exist to protect/prosecute, but the system as a whole does not work.
- ◆ Rape is still defined in many countries as a crime against morals rather than against the person.

- ◆ Women have to prove that a crime has been committed against them.
- ◆ Lack of law and/or effective prosecution of rape in marriage.
- ◆ Women's credibility and reputation is on trial.
- ◆ Contradictions within legal systems prevent cases being effectively prosecuted (for example, alcohol implicates victims but excuses perpetrators).
- ◆ In many countries the woman has the status of witness, and is not a party to the case.
- ◆ There are private unaccountable court systems/investigations within professions, including the military.
- ◆ Unwritten rules based on stereotypes often override written law.
- ◆ The legal process is often unbearable for women, leading many to withdraw their complaint.
- ◆ Changes have been introduced - but few countries have monitored or evaluated to assess if they have worked.
- ◆ Rape has not been maintained on the political agenda, and domestic violence has been prioritised over sexual violence in many European countries.
- ◆ This in turn has meant limited funding for work on rape.

Whilst these similarities are extensive, there were also a range of differences between countries that were also considered significant. These included:

- ◆ The decrease in reporting in many of the newly capitalist countries.
- ◆ The varied salience of tradition, religious values and notions of honour.
- ◆ The definition of rape in law - both the forms of sexual acts it covers, and whether it is defined in terms of force/threat or lack of consent.
- ◆ The level and kinds of support services.
- ◆ Whether rape is a complainant offence, public prosecution or a combination.
- ◆ Adversarial and investigative legal systems, meaning the process through which cases are investigated and tried are very different, including whether the accused has to give evidence, and the role of cross-examination in adversarial systems, and the fact that in investigative legal systems women get to tell their story.
- ◆ Levels of public awareness and sympathetic media reporting.
- ◆ Variation in the legal boundaries of childhood and the age of consent, which in turn affect how child/adult rape is defined and responded to.
- ◆ Whether victims have the right to meet prosecutors and/or have legal representation throughout the case.
- ◆ Whether anonymity is automatic.
- ◆ The extent to which female professionals are available (police, forensic doctors) and the degree of specialised trained professionals throughout the justice system.
- ◆ Countries and regions where the police and the judiciary do not have legitimacy or acceptance throughout the community.

Whilst mindful of these differences, the seminar participants were able to produce a list of recommendations for changes that, in their view, if all implemented, improve the effectiveness of rape prosecution

Recommendations for change

- Y Rape should be a crime against woman and the state, not against morality.
- Y Police should investigate the complaint and gather evidence regardless of whether they believe the woman or not.
- Y Police and investigators should begin from a culture of initial belief, and thus collect better evidence, including from the victim - this would result in less early withdrawals due to a sense of not being believed/respected.
- Y All professionals need to maintain the highest standards for all complainants, rather than making distinctions between 'un-deserving' or 'deserving' victims, 'believable' and 'unbelievable' accounts.
- Y Cases should be deemed false allegations only where there is clear evidence to establish this - the withdrawal of a complaint is not sufficient in this respect.
- Y Common, and high, standards for forensic examinations need to be established.
- Y Better evidence gathering and investigative techniques should be developed.
- Y Support/advocacy services need to be established designed to enable more women to stay in the process. These should include basic standards for protection pre-court and in court.
- Y Research should be commissioned to explore some of the presumptions that are used to suggest women's accounts are not true - for example, that if it is rape their ought to be some form of injury.
- Y Anonymity throughout the process for complainants.
- Y Clear legal rules which forbid the use of sexual history evidence to undermine a woman's credibility, and judges having to give written reasons whenever such evidence is allowed.
- Y The victim to be a party to the case, and to have the same personhood rights as are accorded to the accused.
- Y Specialist investigative and prosecutorial teams, and judges who have been trained in sexual violence.
- Y Police, legal and judicial training should be audited to ensure that sexist attitudes are not informing the teaching, and that course content reflects the most up to date knowledge and research on rape and sexual assault.
- Y Recognition that custodial sentences may be the best form of protection for the community.
- Y Monitoring of sentencing with judges having to give reasons whenever it is below the set minimum, and why it is not a custodial sentence.
- Y Public education, including about coercive sex, and that consent should mean 'free agreement' between both parties, which challenge the notion of rapists as 'deviants', and that reflect what we know about the contexts and relationships in which rape happens.

One of the key themes for participants was that the closer rapes were to the 'real rape' stereotype - committed by a stranger, outside, involving a weapon and injuries - the more likely it will result in a conviction. In reality 'ordinary' or 'common' rape is committed by a known man, inside, to not involve a weapon, and for there to be minimal if any injuries. The challenge is, therefore, to get 'ordinary' rapes effectively prosecuted.

Chapter Five: Support services for rape survivors

The level of services for women who have survived rape, and the resources allocated to them, varies enormously across European countries and within them. For example, Finland has just one rape crisis centre, whereas Germany, Ireland, Switzerland, and the UK all have networks of groups dedicated to support rape survivors, whilst Cyprus, Greece, Hungary, Malta and Turkey have no provision at all. Many of the central and eastern European countries have few, if any, dedicated services, although Medica Zenica in Bosnia (established to work with women raped in the context of war) has become an international model of good practice, as have the crisis services in Zagreb and Belgrade (both of these groups integrate responses to all forms of violence against women).

Our NGO respondents were asked detailed questions about the services they offered and who they worked with. In this chapter we provide an overview of the range of services that have developed within Europe to support and empower women who have been raped; drawing on the long and short questionnaires to NGOs and the project seminar.

Specialist rape provision

The 80 NGOs responding to the first questionnaire undertook a range of work: 56% worked on rape and sexual assault; 51% on all forms of violence against women; 46% on child sexual abuse; 45% on sexual harassment; and 31% on domestic violence. Given that these groups were selected because they were the most likely to focus on rape, the fact that only just over half did is revealing in itself. In the long questionnaire (analysed for 27 groups) we probed the extent of work devoted to rape: for 46% this was all of their work, the majority (54%) devoted less than half or less, with 38% spending less than a quarter of the time supporting rape survivors.

The long questionnaire provided more detailed information about the issues they work with, and summaries are present below in Table 5.1. Many people assume that rape crisis groups are a form of crisis intervention, focussing on recent assaults. Whilst most of our respondents did provide this kind of support, it was not the majority of their work. Most of their time was spent supporting survivors with respect to prior assaults as adults and children. This is but one reason why sexual assault centres which specialise in offering crisis intervention to recent rapes are not an alternative to rape crisis/counselling projects; the latter are often the only independent and confidential services that offer support about past abuse.

We also asked groups to what extent they worked with more complex forms of sexual violence: 55% worked with gang rape and 58% with organised sexual abuse rings. Most groups did not think that the relationships between victims and perpetrators had changed over time, but a minority reported that they now dealt with more sexual assaults by known men, including gang rapes. Others said what had changed was the profile of their users, with a wider range using the service and many having a greater awareness of their rights,

and several mentioned that they were working with more women who had severe multiple traumas in child and adulthood.

Table 5.1: Details of NGO support work

Type of abuse	Groups where this is more than 50% of their work	Groups where this is 25-50% of their work	Groups where this is less than 20% of their work
Recent Rape	4	3	17
Recent sexual assault	4	3	17
Recent sexual harassment	2	3	15
Previous rape, sexual assault, sexual harassment	6	7	6
History of sexual abuse in childhood	10	1	10

Base number: 27 groups

We received detailed materials from some NGOs that outlined the extent of the work, and how it has increased over time. For example one rape crisis centre in Germany had 193 contacts in 1994, and 1111 in 1998: 40% of their work was telephone counselling and just over a third of users chose to have face to face sessions. Almost three-quarters of their service users make multiple contacts. In terms of measuring of success, we regard repeat contacts as an excellent simple measure of the relevance and quality of services. With something as complex as rape and sexual assault, unless to enquirer is seeking information for someone else, it is extremely unlikely that one contact/session will resolve matters¹³. Tukinainen, the only centre on rape and sexual assault in Finland took 7000 calls on their crisis line in 1998 and a further 800 on the legal advice line. The rape crisis network in England and Wales estimate that 50,000 women contact them in any one year, and many of these groups are only able to offer 2-4 helpline sessions a week. Of these callers 97% knew their assailant, and 97% of attackers were male, 39% were calling about sexual abuse in childhood, and 18% of callers are under 18 years of age.

We also explored whether NGOs worked with minority women and women who had been raped in other countries. The majority (16 groups) did work with ethnic minority women, with a smaller number (6) saying they did not. Those who did not had earlier identified significant ethnic minorities in their population. One interesting point to emerge was that Roma/gypsy/traveller women were mentioned by groups in 11 countries; the other most

¹³ We are aware that some recently established generalist crisis centres in Central and Eastern Europe are using the fact that service users do not return as meaning their intervention was successful. This should not be assumed, and especially not in relation to issues that we know have complex long lasting impacts such as rape and sexual assault.

frequently mentioned groups (but never by more than six countries) were: Asian women; women from former Yugoslavia and/or Albania; Turkish women. Only two countries referred here to disabled women, and none to lesbians. NGOs were also aware of groups who were not accessing their service and considered the most significant barriers to be: language; not having information; cultural differences; lack of specialist services and one group mentioned racism. There was no consensus as to whether minority women reported to the police, and some NGOs thought those who did report were more likely to have their case dropped. This point was also thought relevant to women with learning disabilities and women involved in prostitution. Being disabled and/or a lesbian were considered major barriers to reporting to the police.

Over half of our NGOs had worked with women who had been raped in other countries; the majority of cases involved women raped whilst on holiday/travelling/ working abroad, with a smaller proportion involving refugees/asylum seekers. Other contexts mentioned involved trafficking, attending conferences; and women who had recently relocated for work. Within the NGOs seven groups reported that had dealt with 222 such cases in the last 12 months - a not insignificant number, even though one group accounted for 60% of the total. Just under half of the groups had found it easy to access information about the legal process in other countries, and just over half had found it difficult. The most useful contacts had been other women's NGOs, and many saw this as an important area for information exchange and support.

Kinds of services

The majority of our participants provided services for women - both adults and young women; a minority worked with children and/or all adults in crisis (19%), with others making some of their services - such as training and advice more open. Responses to rape and sexual assault have tended to involve telephone helplines and counselling, and this was reflected in our sample, with 82% providing both these services, alongside advice and advocacy. The other work groups undertook included: prevention and education work (74%); lobbying and campaigning (70%); training professionals (67%); self-help groups (41%); and self-defence classes (26%). Various other forms of work were mentioned by small numbers of group such as; work on self-harm; outreach in a drug clinic; media monitoring; court accompaniment; crisis accommodation; and awareness raising.

One of the most important aspects of rape crisis/women's counselling projects is that they provide free advice and support. The rape crisis network in England and Wales estimate that 55% of the women who use face to face counselling are financially disadvantaged, mostly dependent on public assistance of some form. Thus rape crisis groups are often working with women who face social exclusion in two senses: due to poverty and their experiences of victimisation.

The majority of (85%) reported that they worked from a feminist perspective. What this meant exactly varied with the most shared understanding being that it meant working from a woman-centred and empowering perspective (80%). The next most common

element involved viewing rape and sexual assault in terms of patriarchal power relations (40%), with less groups mentioning seeing sexual violence as a gendered crime (15%), never blaming women (15%), and having the aim to end women's inequality (15%). Those who did not work from an explicitly feminist perspective defined their orientation as involving the principles of human rights, egalitarianism and/or having a therapeutic basis.

There are some key tenets that inform feminist support work with women who have been victimised:

- ◆ creating a culture of belief;
- ◆ offering confidentiality;
- ◆ ensuring that women feel in control of what support they seek;
- ◆ providing information, advice and exploring options, rather than encouraging particular actions (such as reporting to the police);
- ◆ recognising both the harm of victimisation and the resources needed to survive it;
- ◆ recognising the damaging impacts of isolation and self-blame and that meeting with others who share the experience is often the most effective route to changing both;
- ◆ encouraging women to locate blame where it belongs - with the perpetrator;
- ◆ validating what women did to survive - during an assault, and in the aftermath - whilst working with her to identify the most healthy and life enhancing options;
- ◆ not viewing consequences of sexual assault, such as distrust of men or concerns about intimacy, as pathological but rather entirely reasonable responses in the circumstances;
- ◆ understanding the additional meanings and consequences of sexual assault for particular groups of women, and attempting to make sure that services are both accessible to all women, and relevant to them.

Women who have been sexually assaulted are not sick, or ill or mad. A feminist perspective presumes that what they want and need is support to enable them to cope with a painful and destabilising experience, a space to make sense of what happened and to work out how they reconstruct their sense of self and their sense of safety in a context where both have been profoundly shaken. It is the NGO sector and rape crisis in particular that has developed a practice which both recognises and validates women's strength and insights whilst not ignoring the impacts and damage. In other words she is treated like a whole person - not as a victim.

Kathleen Barry warns against the dangers of what she calls 'victimism'

Redefining rape, demanding recognition of women's victimisation has led to the creation of a new status - the victim. The status of this role is awarded according to the nature and extent of the abuse the woman suffered. Creating the role and status of the victim is the practice I call victimism. A woman who has been

sexually assaulted finds she can only be understood if she takes on the role of the victim, she is assigned victim status and then seen only in terms of what has happened to her.... It creates a framework for others to know her not as a person, but as a victim, someone to whom violence has been done.

Victimism is an objectification which establishes new standards for defining experience, those standards dismiss any question of will, and deny that the woman even whilst enduring sexual violence is a living, changing, growing, interactive person.... It denies the reality of women's circumstances and the very real human efforts they make to cope with those circumstances.... Surviving is the other side of being a victim. It involves will, action, initiative. Any woman caught in sexual violence must make moment-by moment decisions about her survival. (Barry, 1979, p38-9)

The development of rape crisis and new responses emerged precisely because the existing medical model was a form of victimism. This is not to say that there are not some women who need more in-depth and even mental health support and intervention. It is to say that most women who have been raped, if they are believed and validated, do not. The impacts of rape are many and varied, but often include: fear and anxiety; distrust (especially of men); searching for an explanation of 'why me'; and uncertainties about intimacy. It is these consequences themselves which explain why support by women is often preferred. What women need is space to talk, to be reassured that their responses are 'normal', not pathological, and they need to be enabled to let go of the ways they have internalised blame and responsibility. Early understandings of rape in women's services emphasised the importance of ensuring that the ways work was done created a sense of being more in control of their lives and bodies - hence the emphasis on choices and options.

Staffing and resourcing of services

The majority of groups responding had some paid staff (80%), but almost all of these groups also had volunteers. The data on the number of staff and volunteers is complex and presented below in table 5:1, each group appears on a separate line.

This table reveals both an imbalance in staffing, with some groups having significant numbers of paid staff, whilst others are entirely dependent on part-time staff and/or volunteers. Some groups, such as that in Iceland have all three, but they are the only one with this combination. Rather this pattern reflects a number of competing principles, debates and needs within the women's movement:

- ◆ An initial impetus to provide new support services that were not modelled on professions, but rather on peer support - this encouraged flat organisations with minimal financial remuneration.
- ◆ A later, and in some ways competing strand which argued that women should be paid for the work they do, and have their skills and expertise recognised.

- ◆ A move in the 1990s towards some form of professionalisation, which stressed the right of service users to quality and consistency in support.
- ◆ The reality of limited funding, contrasted to huge unmet need, thus volunteers continue to be vital if helplines are to be staffed for more than a few sessions a week.

Table 5:2: Staffing of NGOs

Country	Paid staff - full time	Paid staff - part time	Volunteers	Training/Qualifications required	Training/Qualifications not required
Austria	2 2	2	14 35	√	√
Bulgaria	1	1		√	
Czech Republic	3	1	2	√	
England	6	6	12 20	√ √	
Estonia	8	4		√	
Finland	3			√	
Germany	4	1 3 8	9	√ √	
Hungary	2		10	√	
Iceland	4	2	30	√	
Ireland	1	1	2	√	
Italy			25		√
Macedonia	3	4		√	
Netherlands			4		
Romania	1	5	20	√	
Scotland	2 2	2	14 35	√ √	
Spain			100		√
Sweden			15		√
Switzerland		6		√	
Turkey			8		√

The move to professionalisation can be seen in the fact that a number of NGOs now expect their paid staff to have qualifications, whereas most offer volunteers internal training. Qualification requirements focussed primarily on therapy or counselling skills, and this was especially marked in the German speaking and Scandinavian countries.

This probably reflects a different orientation to these skills, which in many cases were understood within a feminist orientation; whereas in the English speaking countries many groups are ambivalent about such training, since it is seen as connected to a medical model.

In terms of funding only two groups reported having none. The most common source was independent/charitable monies, followed by the local/city government. A third got money at the regional level and a lower number were nationally funded. It was also clear that many groups put together a basket of funding from various sources. We were not able to assess funding levels, but the data we do have suggests that some groups are well funded, whereas others were struggling to survive, having to raise money on a yearly basis, and devote considerable time simply to keeping going, rather than improving/extending their service provision. A survey by the Rape Crisis Federation of England and Wales found that 58% of groups were underfunded operating on an income of less than 30000 euros a year, and 32% had an annual income of less than 7500 euros. Two thirds of groups had faced threats or actual cuts in their funding in the previous financial year. A recent independent study for the Network of Rape Crisis Centres, Ireland (2000) concluded that rape crisis centres offered services that women wanted and needed, but that considerable more resources needed to be invested in order for groups to meet existing needs, and develop in the ways they wanted to. There is a need to conduct a similar study at the European level, and at the same time to explore the models of support and counselling that are in use.

Necessary and sufficient

Only groups from the Netherlands thought that there were sufficient support services for women who have been raped/sexually assaulted. The vast majority of groups thought that there were major gaps in basic services as well as more specific lacks. A number reported that women had to wait for counselling, were often not able to get through on helplines, and having no resources to run self-help groups. The more specific gaps related to rural areas, migrant and ethnic minority women, young women, and women who have multiple needs that support and counselling cannot meet.

Whilst there have been relatively very few evaluations of women's services and rape crisis in particular, those which have been undertaken offer strong support for the feminist approach outlined above. In studies of women's help seeking, whilst only a minority access women's services, they are the groups that are consistently assessed positively. Recent evaluations of two projects (Burton, Regan and Kelly 1998; Kelly 1999) in the UK revealed that what made a difference to women were hearing the basic messages that feminist inspired projects have emphasised: naming violence; knowing they were not the only one; hearing it was not their fault, and most importantly being told that they did not deserve to be treated like this. Linda Herman in *Trauma to Recovery* (1994) puts it this way:

Survivors are thus placed in the situation where they must choose between expressing their own point of view and remaining in connection with others....

Restoration of the breach between the traumatised person and the community depends, first, upon some form of community action. Once it is publicly recognised that a person has been harmed, the community must take action to assign responsibility for the harm and to repair the injury. These two responses - recognition and restitution - are necessary to rebuild the survivors sense of order and justice. (p34)

Many of the NGOs endeavour to do precisely this, through creating a sense that there are others who understand, who can act as supporter, advocate or just listener depending on what women want and need. It is vital that these necessary services are supported, and that resources are allocated to ensure that provision is sufficient to meet the needs of a group of women who are often ignored by other service providers. This is especially the case for those who seek support about sexual violence that they experienced in the past.

Chapter Six: A European Network?

The second key element in this project was to explore the possibility of building a European network on rape and sexual assault. The original vision of the project was to use the model of CER - as a national coalition, using the theme of attrition and legal reform as a strategic focus. The original application to Daphne also noted:

The emergent network, whilst beginning with a focus on prosecution, will have the potential to address many other aspects of responses to rape, and open dialogue and exchange with respect to best practice in crisis responses and longer term support.

This chapter documents the responses to this idea from the NGO questionnaires and the Dublin seminar, and concludes with the model of a network that emerged in Dublin and formed the basis for a subsequent Daphne application.

NGO responses from the questionnaires

The initial short questionnaire revealed that eight countries had national networks on rape and sexual assault, compared to 17 having networks on domestic violence and 19 on violence against women. It should be noted that in some countries there is no separation of services according to forms of violence against women; but even here respondents often noted that the agenda in such integrated models frequently privileged domestic violence and/or sexual abuse/exploitation of children. It is also important to re-iterate here that there were nine countries in which no networks existed, and the groups responding were operating in isolation. In terms of networking too, rape and sexual assault, have been neglected. Only two countries reported that they were part of a campaigning organisation on sexual violence.

Of groups that belonged to networks, whether they were specific to rape or not, what was most valued about them were (in order of the most mentioned): communication and information sharing; campaigning and lobbying; practical support and training; the strength of a united voice; and the ability to develop national strategies. Other less frequent strengths noted included improved inter-agency responses and access to policy/decision makers. The weaknesses of current networks were primarily: limited resources; inefficient structures; inexperience and lack of political background.

Interestingly, the two Europe wide networks which one might expect NGOs working on rape/violence against women to be in contact with - the European Women's Lobby and WAVE (where the majority of our contact addresses came from) - were known about by a minority. Of those in contact most - but not all - had found this useful. In response to a specific question on whether participants wanted a European network specifically on rape and sexual assault there was almost unanimous support (95%). Table 6.1 records what respondents wanted from such a network.

Table 6.1: Roles for a European Network on rape and sexual assault

Possible roles	Proportion wanting N=80
Information and skills sharing	59%
Lobbying/campaigning	47%
Good practice, good legislation information/change	34%
Good research, statistics, databases	14%
Greater influence on policy/decision making etc.	14%
Support generally	13%
Help with obtaining/securing funding	09%
Training	08%
Co-ordination re trafficking in women	02%
Sup groups on specialist issues	02%

Following this open ended question a series of possibilities were canvassed and groups were asked to note which of these they were most interested in. The results are presented below in Table 5.2.

Table 5.2: Support for particular

Possible roles	Number of countries supporting N=30		Number of groups supporting N=80	
Sharing ways of supporting survivors	28	93%	72	90%
Sharing prevention/education work	28	93%	71	89%
Developing common campaign strategies	29	97%	66	83%
Getting rape further up the EU agenda	26	87%	62	78%
An e-mail network	26	87%	59	74%
Links where women are raped in another European country	20	67%	44	55%

The coded responses show considerable unanimity, and in the written responses to this question it was clear that many groups were interested in a common European campaign that would both give voice to women’s experience and promote change; a sense that groups were moving in the same direction giving the same message.

Questionnaire responses made clear that many groups wanted a network to increase the profile of rape at the European level and thought this would be best achieved through joint and coherent awareness raising campaigns, information sharing and joint lobbying. Groups that had been involved in awareness raising activities in their own countries stressed the positive spin offs, including: increased government attention; increased take up of services and reporting; better multi-agency links; increased funding; and a shift of focus to the perpetrator.

Results from the seminar

This desire for links through campaigning and sharing models of support for survivors was strongly re-iterated at the seminar in Dublin. It became clear that whilst attrition was clearly an issue for many countries, many of the issues that underpinned it were more fundamental and basic - myths and stereotypes about rape, rape victims and rape survivors. Despite over two decades of campaigning in many countries, the tenacity of these beliefs had barely been shifted. Participants saw focussing on these issues through a network as both the most likely to produce a common message applicable across varied contexts, and as a route to challenging the attitudes that ensured most reported rape cases would not result in a conviction.

The wish to develop a common campaign was explored in detail, through discussions of previous and planned campaigns, and how a Europe wide one might be possible.

Assessing and leaning from what has already been done

- ◆ Iceland is planning a campaign to mark the anniversary of organisations working on violence against women, and they hope to make a television documentary.
- ◆ The recent Swedish poster campaign evaluation suggested it was not that effective because the language was not strong enough.
- ◆ The importance of keeping control over the message and image/s.
- ◆ The Austrian government ran a campaign in 1998/9 including a hotline, the best part were the TV spots.
- ◆ The debate about resources going to service provision or campaigns - can we move beyond either/or, and increase resources for both? There is a fear of running campaigns where is no increase in resources, but at the same time effective campaigns can result in more resources.
- ◆ The problem of backlash when running a strong challenging campaign like Zero Tolerance, it makes some men uncomfortable. Is it possible to pre-empt some of this by getting men involved in launching and supporting the campaign messages? A recent example from Bosnia, involved recruiting judges to support a campaign to reform family law - some of the men who were initially resistant became the best promoters.

What might be possible

- ◆ Need to be clear about the difference between campaigns designed to raise awareness and those designed to make women aware of services.
- ◆ The most important theme is dispelling myths and challenging the narrow definition of rape.
- ◆ Importance of being realistic, and having strategies to maintain momentum.
- ◆ Essential to develop good relations with local media and up-skill women with media skills.

This led into a discussion of whether the word 'rape' should be used in campaigns, since in some languages there is no simple strong word. In other countries, for example Canada, the word rape was removed from the legal code, because it was thought that calling the crime 'sexual assault' would in itself dispel some of myths. This has not happened, since the attitudes are about more than single words, and now some Canadian feminists regret the loss of the power of the word 'rape' itself. One participant who comes from a country where the word rape does not exist, pointed out that the absence of such a word means it is impossible also to name 'rapists'. The conclusion of this discussion was that most wanted to use the word rape, but at the same time it was necessary to give careful and thoughtful attention to how to create messages that would work throughout Europe.

Two working groups met to develop the idea of the network and to explore how a common campaign strategy might be developed. The feedback on what the network should do included:

- ◆ to feed/exchange information between countries and existing networks;
- ◆ to develop a European campaign on 'hidden violence', with Zero Tolerance as a partner;
- ◆ to develop a travelling seminar that would help prioritise rape in countries where it has not yet entered the political/violence against women, and to re-prioritise it in countries where it has become a marginal issue;
- ◆ to produce a directory of rape crisis services and explore a common logo, so women can recognise where to get help;
- ◆ to use the Internet for a 'hall of shame', where attrition rates and judicial decisions are publicised;
- ◆ to collate data from the annual reports of service providers, and compare this to official data;
- ◆ to explore the possibility of a cross-national research project in which women are interviewed in many European countries;
- ◆ to offer up-skilling in terms of data collection and research through technical support on simple information collection across Europe;
- ◆ to enable twinning and mentoring around particular projects;
- ◆ to develop an accredited training module based on a woman centred approach to supporting survivors;
- ◆ to create a notice board and an enquiry desk on the Internet;

- ◆ to create solidarity links so that where aspects of service provision - such as respecting confidentiality are challenged;
- ◆ to develop ways of supporting women who are sexually assaulted in another country and/or where there are language/communication issues - potential twinning around cases;
- ◆ to document innovative prevention work in schools and share it.

There was consensus at the seminar that the network should be described as a coalition and that the word feminist should appear within its name.

The energy and ideas that emerged from these sessions prompted discussion of how any of this might be achieved given that currently funding for work on sexual violence was small in country and internationally. Few if any of the groups present had any spare capacity to facilitate networking, let alone take on the substantial new work that had been proposed. The decision was taken, therefore, to apply for funding from the Daphne programme to build the network over three years concentrating on five of the priorities outlined above.

The network would be based initially on the groups attending the seminar, and would grow gradually from this base. The work it would take on would comprise:

- ◆ Creating a website and e-mail network that would:
 - publish yearly figures on reported rapes and conviction rates across Europe
 - summarise the most up to date research
 - provide a noticeboard and enquiry desk for members.
- ◆ Develop a travelling seminar which would use the expertise within the network and visit six countries; three where rape was still taboo and three where it had become marginal.
- ◆ Develop a process for twinning and mentoring between groups.
- ◆ Work together over the three years to develop and implement a Europe-wide campaign which would be run throughout the third year in all member countries.

The application was made following the Dublin seminar, but the project was not funded by Daphne.

The future

There is clearly much that a European Feminist Coalition on Rape and Sexual Assault could do, and considerable support amongst a wide range of countries and NGOs for this. However, in a context where the work is marginalised and under-funded, without financial support the networking that began so strongly and positively through this project will remain at the level of personal and problem solving contacts. All of those participating in this project regret this outcome, but are realists - without the woman power and material resources it is not possible to undertake the complex task of maintaining and extending links across Europe.

Chapter Seven: Not forgetting rape

The 1990s has been the 'decade of domestic violence', much needed changes in professional awareness and practice, as well as multi-agency forums are to be welcomed. But an unintended consequence has been that rape, sexual assault and sexual harassment have become 'forgotten issues' in terms of public policy. In this concluding chapter we explore a number of ways in which this might be changed, and some of the fundamental questions which need to be addressed. A Plan of Action to address the neglect of rape, that draws together recommendations from various chapters is presented in Appendix B.

The neglect of rape is evident in two recent national policy documents. In the UK Living Without Fear (Women's Unit, 1999) begins with an ambition to create an integrated response to violence against women, but rape and sexual assault are 'residual', add ons within a document which focuses, despite its best intentions, on domestic violence. The report of the Irish Task Force (1997) is slightly more honest in registering at the outset that it concentrates on domestic violence (p9), but the justification for this - that "most attacks on women are in this category" - is rather questionable. It presumes we know the prevalence of all forms of violence against women - which we do not, and Chapter Three highlighted the limited knowledge on rape and sexual assault. Additionally it defines violence against women in terms of "attacks" which both misrepresents domestic violence and precludes most forms of sexual harassment, at work and in public space. In both documents there is hardly any reference at all to trafficking in women or sexual exploitation in the sex industry. This pattern is not peculiar to the two countries specifically mentioned, but as this project has demonstrated, is reflected to a greater or lesser extent throughout Europe. As a direct consequence few, if any, European countries are in a strong position to fulfill their responsibilities under the UN Beijing Platform for Action with respect to violence against women.

We should take time to ask why the agenda has narrowed. What makes domestic violence a more acceptable issue for national and international discussion and policy? Why have more feminist researchers chosen to focus on this area? Why has domestic violence been an arena where innovation in legal reform, models of intervention and support has been so fertile? And why are forms of male violence which have an explicitly sexual aspect in their name more challenging to address?

One of the ways we can see the neglect of rape is in the fact that there are far fewer national prevalence studies of it compared to domestic violence (see Chapter Three). Nor do we understand yet the contexts in which women choose to report rape, and what they are seeking from the justice system when they do. Rape has been neglected in other ways too: it has not been a focus for Daphne funding thus far; nor has it been addressed sufficiently at the series of European Commission conferences held on violence against women.

Yet we know that rape affects all women's lives: fear of rape and the threat of rape has profound effects on many women's lives and the choices they make. Many crime surveys reveal that 50% or more women do not feel safe walking in their own neighbourhood at night. This sense of danger causes many women to choose to restrict their use of public space and limits their participation in a range of activities; these are citizenship issues. This sense of fear and threat is a sense of sexual danger, and many of women's routine activities are undertaken in ways that attempt to minimise the possibility of rape, sexual assault and sexual harassment. Riger and Gordon (1989) in their study of women in 11 US cities argue that:

Most women experience the fear of rape as a nagging, gnawing sense that something awful could happen, and angst that keeps them from doing things they want and need to do, or from doing them at the time or in the way they might otherwise do. Women's fear of rape is a sense that they must always be on guard, vigilant and alert, a feeling that causes a woman to tighten with anxiety if someone is walking too closely behind her, especially at night. (p2)

The reason this fear is so palpable, yet so mundane is that rape and sexual assault are unique crimes: they are not like other assaults.

- ◆ they are not just a physical assault, but a violation of personal intimate and psychological boundaries;
- ◆ they carry additional emotional impacts and meanings, often linked to cultural contexts - including religion, notions of honour and reputation;
- ◆ they are surrounded by persistent cultural myths and stereotypes;
- ◆ they are overwhelmingly a gendered crime, committed by men predominantly on women and girls but also on some boys and other men;
- ◆ the perpetrator is in the majority of cases someone the victim knows, thus the crime involves betrayal of trust;
- ◆ they often leave victims having to cope with potent and debilitating self-blame;
- ◆ rape carries a series of specific health risks and consequences - STDs, pregnancy and HIV infection;
- ◆ the process of reporting the crime and any legal case are often experienced as a form of re-victimisation.

It is thus not possible to say we should respond as we do to other similar crimes; there are none. This is also why it is vital that there are support services which are based on understanding the reality of rape, and why speaking about it can be so difficult and painful (see Chapter Five).

A unique crime

Understanding what is unique about sexual crime is part of being able to respond more effectively to it. One element is the tenaciousness of the mythology of rape, and this was raised by many of the NGOs as a profound barrier to change. Some of the most common myths (and realities) are:

- ◆ Rapists are strangers, and in some way 'deviant' - rapists are usually known men, members of families, workplaces and communities.
- ◆ rape happens at night, outside and involves a weapon - what Susan Estrich called 'real rape' - most take place inside, at all hours and involve using strategies of power, control and threat.
- ◆ There are always injuries - only a quarter of reported rapes involve clear external injuries and a similar proportion internal ones.
- ◆ If women do not resist it is not rape - we do not require resistance in relation to physical assault, and this ignores what we know about responses to fear and threat.
- ◆ Women 'ask for it' - by the way they dress and/or behave: from the proverbial short skirt, to accepting lifts, inviting someone back for, or accepting a cup of coffee - what this usually comes down to in the end is that it is women's fault for simply 'being there'.
- ◆ That all women react to rape in the same way - the expectation of a distressed almost hysterical reaction has precluded awareness that some women respond in flat controlled way, and that there are all sorts of variations in between.
- ◆ That to be raped is worse than to be killed - this denies both the commonness of forced sex, and that most women chose to survive

Some of these myths are still encoded into law, and virtually all of them affect the way others respond to women who have been raped, and are used by lawyers and judges in court.

Attrition as a campaigning tool

This project grew out of an attempt by a coalition of women's organisations in the UK to put rape back on the political and policy agendas, through focussing on the attrition rate. Whilst this does mean giving attention to the small proportion of rapes that are reported, it has also created space to explore levels of under-reporting and the myths and stereotypes that still pervade the issue. The project has shown that whilst there are only a few European countries where the clear pattern that was evident in the UK is repeated - consistent increased reporting and falling conviction rates (see Chapter Three) - we did find an overall pattern of falling conviction rates. It is also of concern that in a number of European countries a decrease in reporting is evident which is unlikely to be related to a decrease in the crime itself. We still believe, therefore, that focusing on attrition can be a useful strategy in attempts to raise awareness. For this to be possible, however, two things are necessary:

- ◆ the information on reporting and convictions has to be available from justice departments;
- ◆ women's organisations need to access this, and use it.

Responses of NGOs to our questionnaires revealed that many did not have access to this basic information, and that others were poorly informed. Given that the majority of these groups (see chapter Five) saw lobbying and campaigning as part of their core activities, the lack of accurate information on responses to reported rape creates a weak position from which to analyse and make informed suggestions for change. We hope that this report will encourage more NGOs to monitor attrition, and to use what they find as a lobbying tool.

The process of tracking attrition, noting and explaining where and why cases drop out of the system reveals areas where change is needed (see Chapter Four). Whilst in many European countries there have been improvements in police responses, there are committed prosecutors, skilled lawyers and aware judges, they remain the exceptions. In this context reporting rape becomes a lottery for women, dependent on which individuals they encounter, and variations in provision and services across the country. In terms of improving responses we need to be mindful of good practice, whilst examining why it is so inconsistently implemented, and of the fact that in this area the examples of innovative responses are rather thin on the ground.

Setting basic standards

Mary Koss and Mary Harvey set the following challenge in 1991, it remains a target for most European countries:

Community attitudes to rape, rapists and rape victims are measured not by the sympathetic pronouncements of public officials, but by the quality of services that are and are not available.... The quality, speed and sensitivity of services provided by law enforcement, medical, mental health and social services agencies measures the true regard, dignity and safety that a community extends as a matter of course to member who become victims.

This conclusion to a study of reported rape in New Zealand also sets standards that need to be adopted by all agencies:

No matter what professional she is dealing with - police, doctors, counsellors - a woman who has been raped or sexually assaulted is looking to be heard, to be believed, to be respected and to regain a sense of safety and control over her life. ALL of the professionals who deal with her need to be adequately trained for the task, including having a clear understanding of both the effects of rape on her and the effects of rape myths on them. (Jordan, 1998)

One study has explored what justice meant to women who had been victimised (Geller 1991):

The women were very clear about the significance and importance of the rights of the victim within the justice system to be heard, believed, supported and respected. They wanted to hear the judge condemn the actions of their abuser (p86).

This study showed that for women justice was multi-dimensional, it involved protection from abuse, prosecution of abusers alongside re-educating them (note that women did not see these as either/ors, but as twin components of justice), and the availability of support to address the damage and pain they had experienced. Some woman made connections to social justice, to the fact that the only real justice would be that the assaults had never happened:

... justice will ultimately come only when women are respected members of society and when violence against women is unthinkable (Geller, 1991, p57).

This study confirms the importance of naming of wrongs, recognition of damage, restitution and protection. It also makes clear that an integrated approach would have to encompass policies for managing sex offenders which begin from the principle of protecting women and children.

Any changes we make, however, will remain paper proposals if the understanding of 'real rape', 'real rapists' and 'real victims' continues to exclude the majority of forced sex. We will not improve responses to rape and sexual assault until policy makers and legal practitioners understand that rape is the hardest accusation to make, and that it is their practices which make a critical difference in whether justice is done and seen to be done, nor until we begin to expect the best of men, rather than seeking to excuse or justify the worst.

A shift of perspective

In our view there are two key theoretical issues which need to be addressed if attitudes to rape and women who suffer it are to be shifted, if we are to move away from the myths and stereotypes which still dominate responses of professionals and the public: how we think about 'victims' and the philosophical basis on which rape law is constructed.

One area around which there is little consensus is how to define those who are victimised: as victims, survivors or neither. Koss and Harvey (1991) summarise the most common approach:

.. [a victim] is one who is acted upon and usually adversely affected by a force or agent, one who is subjected to oppression, hardship or who is tricked or duped. It can also denote one who is injured, destroyed or sacrificed. The survivor is the victim who not only has endured, but who has also prevailed and who has rebuilt the meaning shattered by rape. (pix)

We (Kelly, Burton and Regan 1996) have questioned this separation between victimisation and survival on a number of grounds including: that it encourages neglect of coping and survival strategies at the time of assaults, and immediately afterwards; that survival is a minimal goal; and that it suggests a necessary and complete resolution in order to 'qualify' as a survivor, which fails to address the variation in the impacts and consequences of sexual violence for individuals. The eschewing of the term victim by feminists, and preference for the word survivor, was an attempt to sidestep the negative meanings which attached to 'victim'. Box 7.1 below compiles responses to a training exercise we use. Participants are asked to brainstorm the other words they associate with 'victim' or 'survivor'. What always emerges are a series of oppositional words (although they are not volunteered directly as such).

Box 7.1: The victim/survivor dichotomy

VICTIM	SURVIVOR
Passive	Active
Helpless	Resourceful
Weak	Strong
Vulnerable	Courageous
Shame	Pride
Small	Gutsy
Hurt	Angry
Powerless	Powerful
Confused	In control/Coping
Controlled	Fighting back
Guilty	Not Guilty

Note how most of the words associated with 'victim' are negative, whereas those under 'survivor' are much more positive. In one sense this is not surprising, since the concept of 'survival', and its associated noun 'survivor' was developed within the women's and self-help movements to challenge stigmatising meanings. But there have been unintended consequences of this shift in language use which are neither helpful in understanding victimisation or supporting children and adults who have been victimised. The juxtaposing of valued and de-valued meanings does a profound injustice to the complexity of all women's lived experience and self-identities. Anyone who has supported women and children - either professionally or as friends - knows that individuals are frequently strong, courageous and resourceful, but at the same time can on some days or for periods of time feel powerless, vulnerable, hurt and ashamed. The stereotypes of 'victims' which pervade the Criminal Justice System, and function to deny credibility to women and children could not be deployed so successfully if we insisted on a more complex model which combined these two sets of meanings.

If one seeks to effect change in the legal system it is impossible to avoid the term

'victim', since this is the status/position of any person who seeks justice and redress because of harms inflicted on them by another. It is necessary, therefore, to address the role and status of victims within criminal justice systems. In this work making a distinction between the fact that someone had been a victim, that they have been victimised, and what Kathleen Barry insightfully term 'victimism' may prove useful here (see Chapter Five). Integrating awareness of victimisation and survival needs to inform legal thinking, legal processes and support services.

In chapters Three and Four the fact that rape is still defined in some European legal systems as a crime against morality was noted. The preferred strategy in the 1970s and 1980s was to define rape in law as a crime of violence, a sexual assault - this is reflected in many European laws that define rape in terms of force and threat. But this was at the cost of losing what makes rape a unique crime. In a fascinating and profound exploration of the failure of this reform strategy in the USA, law professor Stephen Schulhofer argues that rape law should be based on the principle of human sexual autonomy, linked to notions of human rights, what some have recently termed 'sexual citizenship'. He argues that sexual autonomy ought to be central to the principles of law, yet it is missing from the essential rights we are deemed to have as free and independent people. Autonomy is defined in terms of the roots of the word - auto, self and nomos, rule of law - to mean self-governance.

No other concern that is central to the life of a free person receives such stinting protection. (Schulhofer, p274)

Debates in the 1990s have taken place within an acceptance that there is a tension between securing freedom from unwanted sex and freedom to seek consensual sex. This apparent contradiction is, in part, the outcome of our reliance in law and in life on a negative rather than positive understanding of consent.

A positive notion of consent would begin from sexual autonomy - the right to make one's own choice about sexual behaviour/interaction without pressure or coercion, and with sufficient understanding and information about the meanings and consequences of one's actions. The emphasis in US rape law, as in much of Europe, on force has severely limited what counts as constraint. For Schulhofer respect for sexual autonomy requires an interest in ensuring positive and communicated consent.

Even without making threats that restrict the exercise of free choice, an individual violates a woman's sexual autonomy when he engages in sexual conduct without ensuring that he has her valid consent. (p111)

Schulhofer makes a number of telling comparisons with other areas of law, most

specifically property and contract law, where he argues attempts have been made to create comprehensive protections from unwanted interference. Yet in relation to sexual assault:

The law seeks only to assure the absence of force. It does not require the presence of genuine consent. (p5)

What concerns him is not just the narrow way in which 'force' has been interpreted in legal cases, but the abject failure of law to outlaw forms of coercion and abuses of trust which prevent a woman from deciding freely whether to choose or refuse a sexual relationship.

And when she does refuse, the law still fails to ensure that her clearly expressed preferences will be honoured and enforced. (p9)

The point here is not that sexual interactions should be seen as a form of contract, but to highlight the limited protections in one arena of law when compared to another. He canvasses recent debates about 'date rape', concluding:

.... sexual ambivalence and mis-communication, though they undoubtedly exist, do not automatically justify permissive legal standards. They need not dictate impunity for men who ignore women's verbal protests. (p65)

Calls by a number of prominent social commentators for women to 'take responsibility' are neither radical nor progressive, since they merely re-work the presumptions about male and female sexuality which have underpinned rape law for decades. Such thinking burdens women with the task of communicating their unwillingness so clearly, that no man, judge or jury could interpret it in any other way. Constructing rape law through the principle of sexual autonomy would mean that consent to sex required "affirmative and freely-given permission". Currently many statutes allow silence to constitute consent - which places no responsibility at all on men to respect the sexual autonomy of women.

A requirement of actual permission would not shift the burden of proof to the defendant or require doubts to be resolved against him. A defendant would be convicted only if he knew he did not have the woman's affirmative permission or if he was criminally negligent in thinking he did. (p271)

By requiring affirmative permission, through words or conduct, we can insist that any person who engages in intercourse shows full respect for the other person's autonomy - by pausing, before he acts, to be sure that he has a clear indication of her actual consent. (p273)

As UK law professor Jennifer Tempkin (2000) has pointed out, this is not a difficult burden for the law to place on men, since the woman is present, all he has to do is

ask.

The recently published review of sexual offences law in England and Wales *Setting the Boundaries* (Home Office, 2000) uses sexual autonomy as one of its key principles, and proposes a statutory definition of consent in law as 'free agreement', following the example of a number of states in Australia. An alternative re-visioning of rape law has been proposed in South Africa, where their sexual offences review recommends defining rape as 'sex obtained under coercive circumstances', with specification of what these circumstances might include (South African Law Commission, 1999). The intention here is to remove consent as far as possible from the case, and for the complainants evidence to be focussed more on what their assailant did, rather than their own state of mind. There is no way of knowing at this point which of these strategies will prove the most effective, but they are both seeking to recast law in ways which take feminist analysis into account, and that might be more effective in bringing 'ordinary rapes' into court.

Clearly one of the continuing barriers to change are the myths and stereotypes about rape which pervade criminal justice systems, and legal reform will be ineffective if not accompanied by public awareness raising. What matters here is developing recognition that most 'real rapes' are committed by known men, in their home or that of the victim, that the weapons used most often are knowledge of the woman, overpowering her and threats to her, her reputation and/or those she loves.

Current thinking in the UK Home Office, following much media attention to the attrition rate, seeks to explain the abject performance of the justice system by references to the increasing proportion of reported rapes that involve 'acquaintances' (Harris and Grace, 1999). Rather than explore why the justice system seems unable to adjust to what research and feminist services have known for two decades, - that most rapes are committed by known men - we were offered a counsel of despair, creating a 'lesser' crime of acquaintance rape. No rationale is offered for this proposal, other than it is hard to get a conviction when victim and offender are known to one another. Accepting this would be tantamount to accepting that 'ordinary' rapes are not prosecutable as rape. This project made clear that European women's NGOs want to work together to discover strategies that are effective in shifting public, legal and judicial thinking: to change perceptions of 'real rapes', real rapists and 'real victims'.

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Appendix A: Attrition Charts

Chart 1: Attrition in Germany

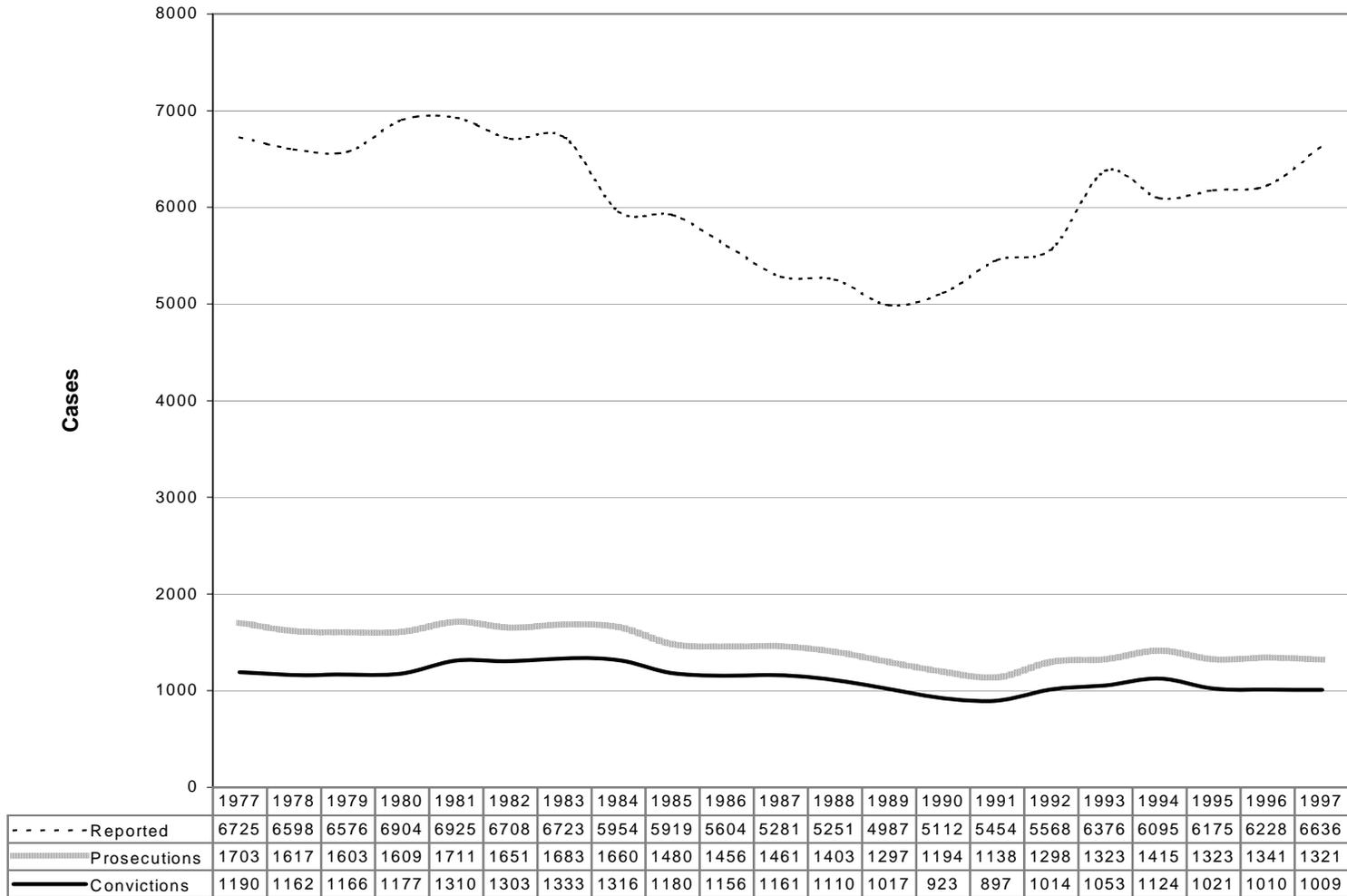
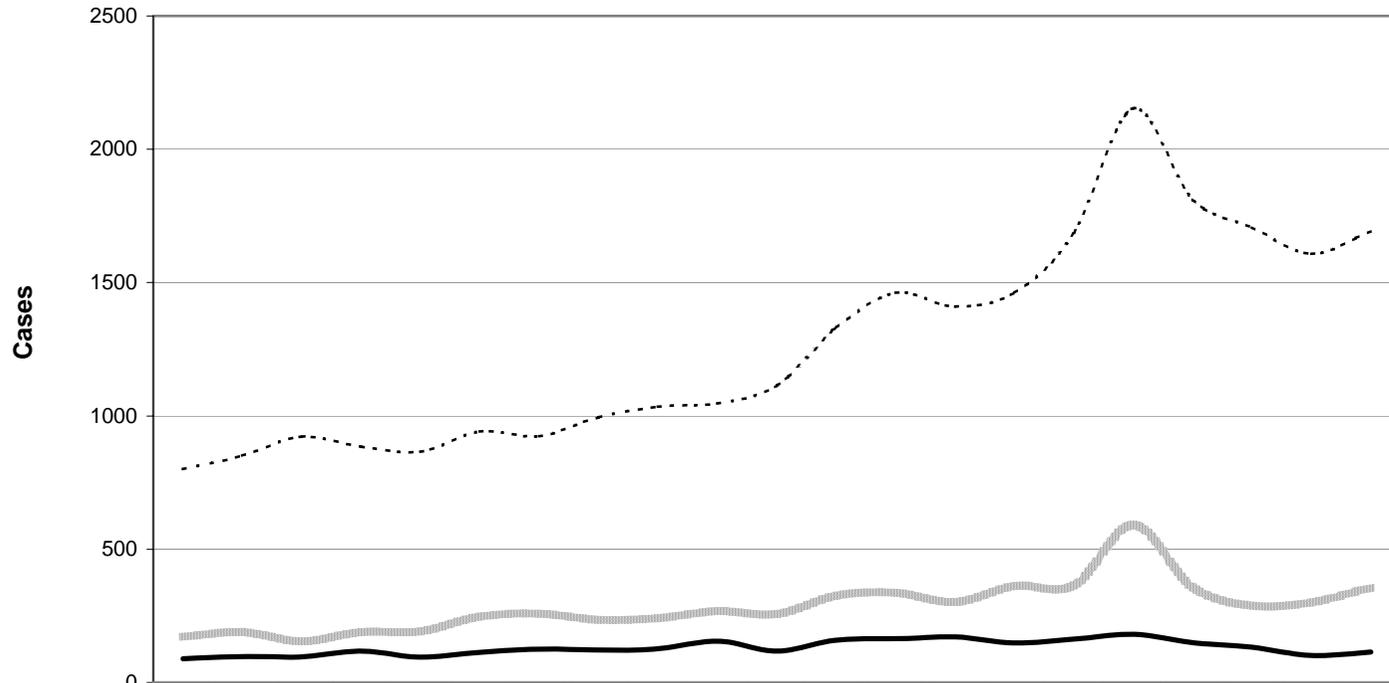


Chart 2: Attrition in Sweden



	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
- - - - -Reported	800	851	922	885	865	941	923	995	1035	1046	1114	1332	1462	1410	1462	1688	2153	1812	1707	1608	1692
- - - - -Prosecutions	172	189	155	190	192	248	258	235	241	268	257	326	337	302	362	364	592	357	288	300	356
- - - - -Convictions	89	98	97	118	95	113	126	122	127	156	118	159	164	172	148	163	181	150	133	101	115

Chart 3: Attrition in Slovenia

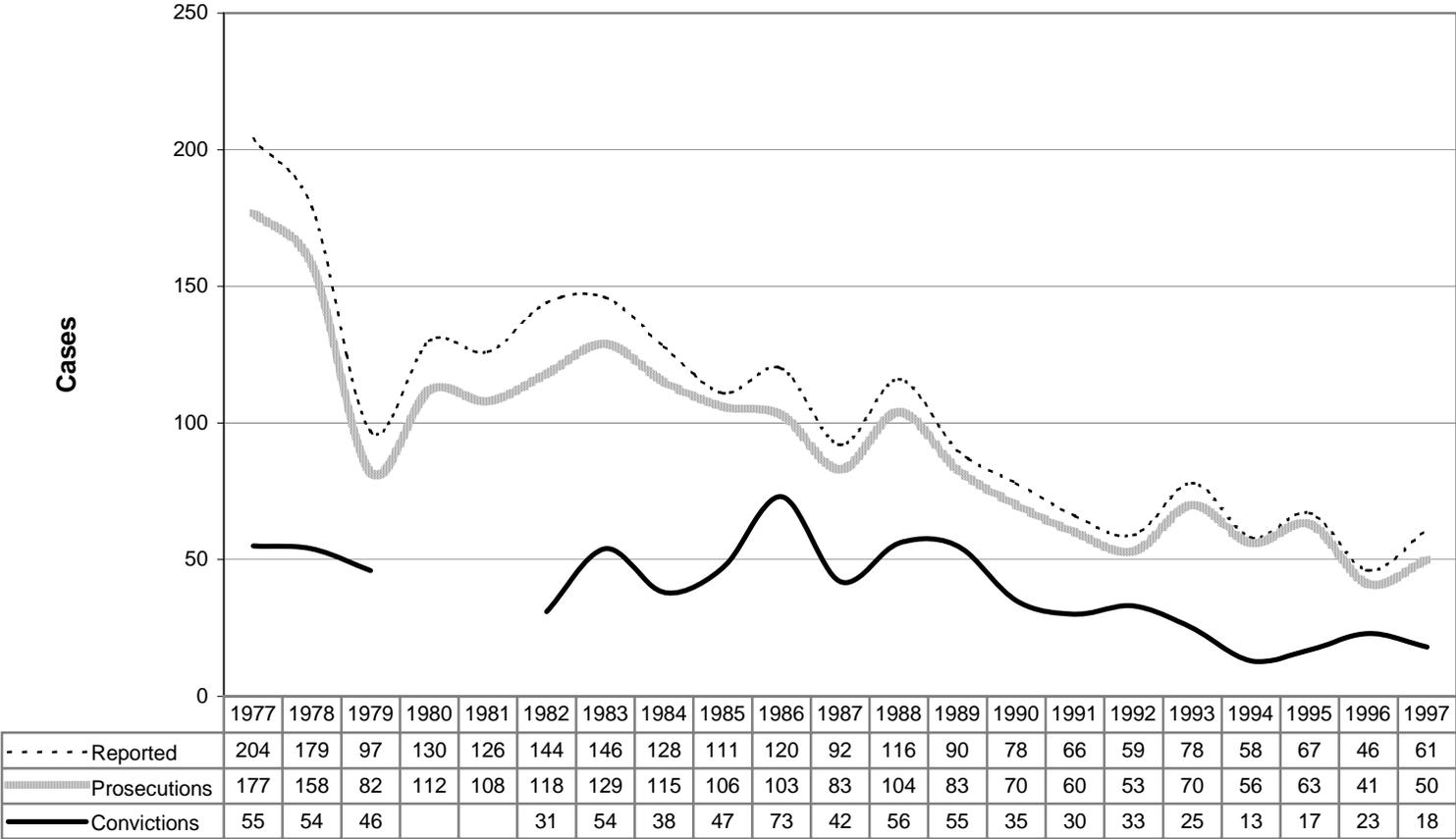
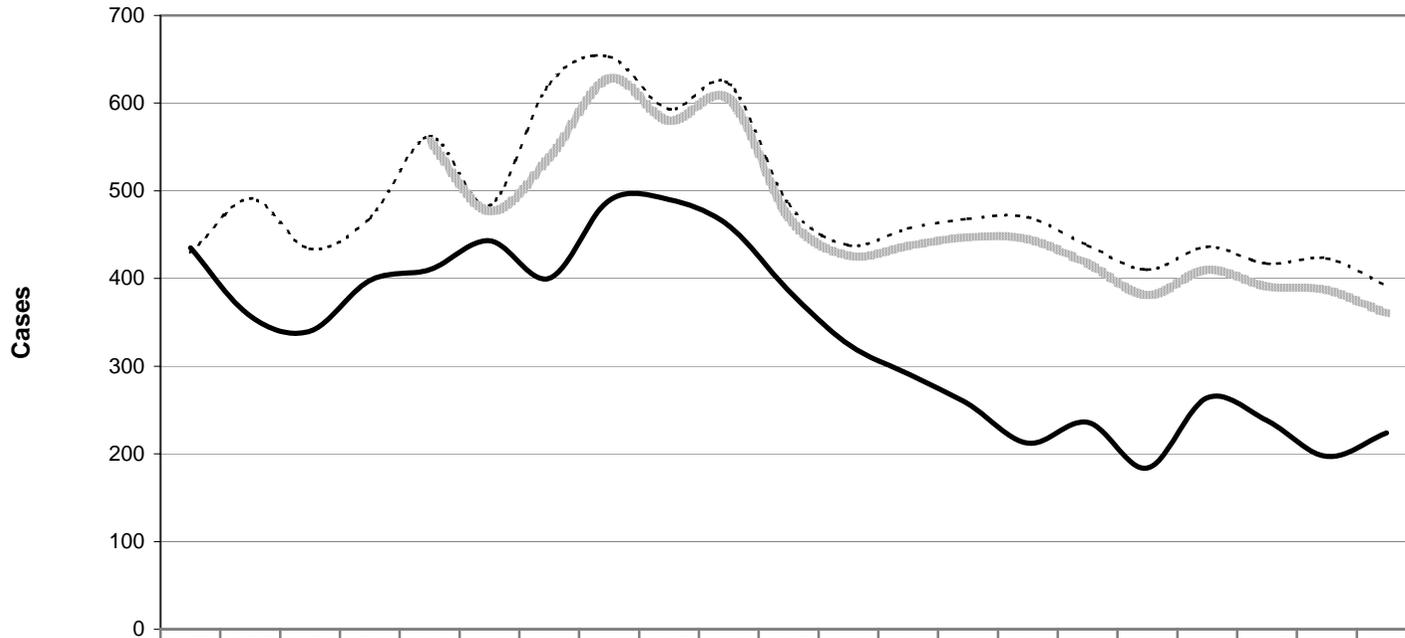
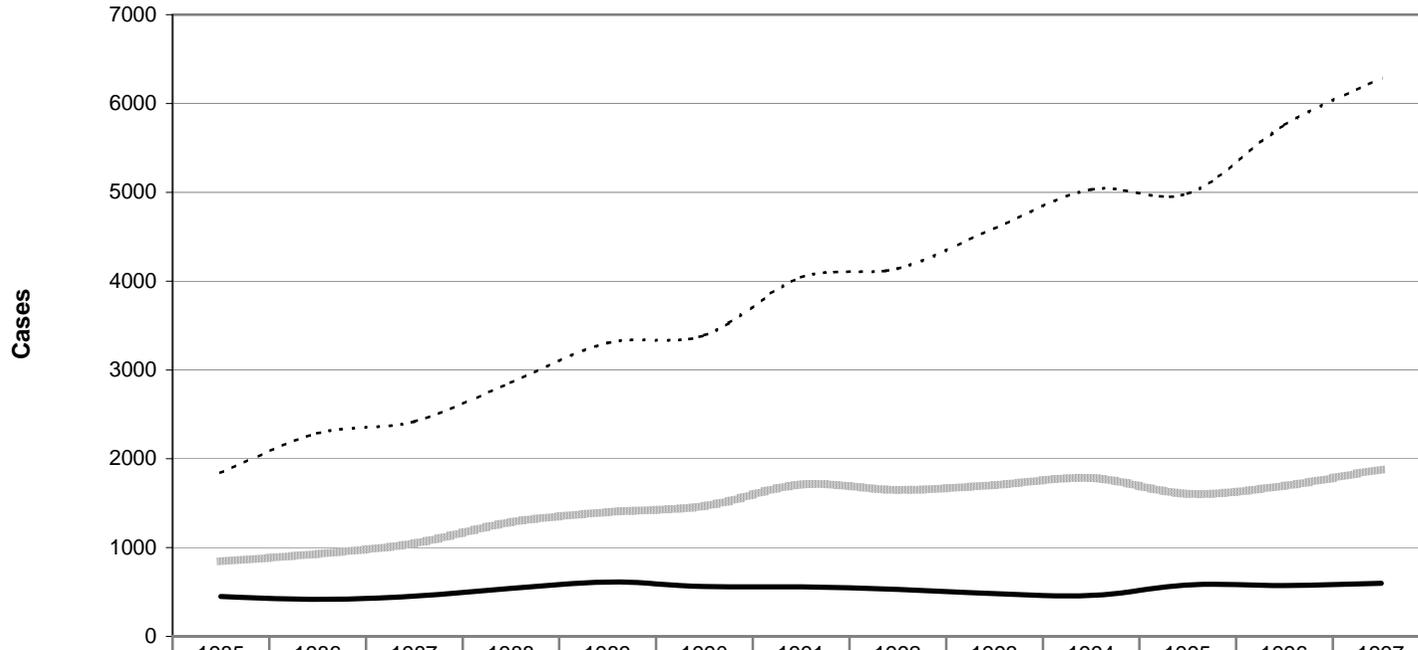


Chart 4: Attrition in Hungary



	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
- - - - - Reported	430	491	434	469	562	483	622	653	593	622	485	438	457	468	470	438	410	436	417	423	392
▨ Prosecutions					557	477	538	628	580	605	470	426	437	447	445	417	381	410	391	387	360
— Convictions	435	357	340	398	410	443	400	489	490	460	386	325	291	257	212	236	184	264	238	197	224

Chart 5: Attrition in England and Wales



	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994	1995	1996	1997
Reported	1842	2288	2417	2855	3305	3391	4045	4142	4589	5032	4986	5759	6281
Prosecutions	844	927	1048	1288	1400	1467	1711	1648	1704	1782	1604	1696	1880
Convictions	450	415	453	540	613	561	559	529	482	460	578	573	599

Chart 6: Attrition in Finland

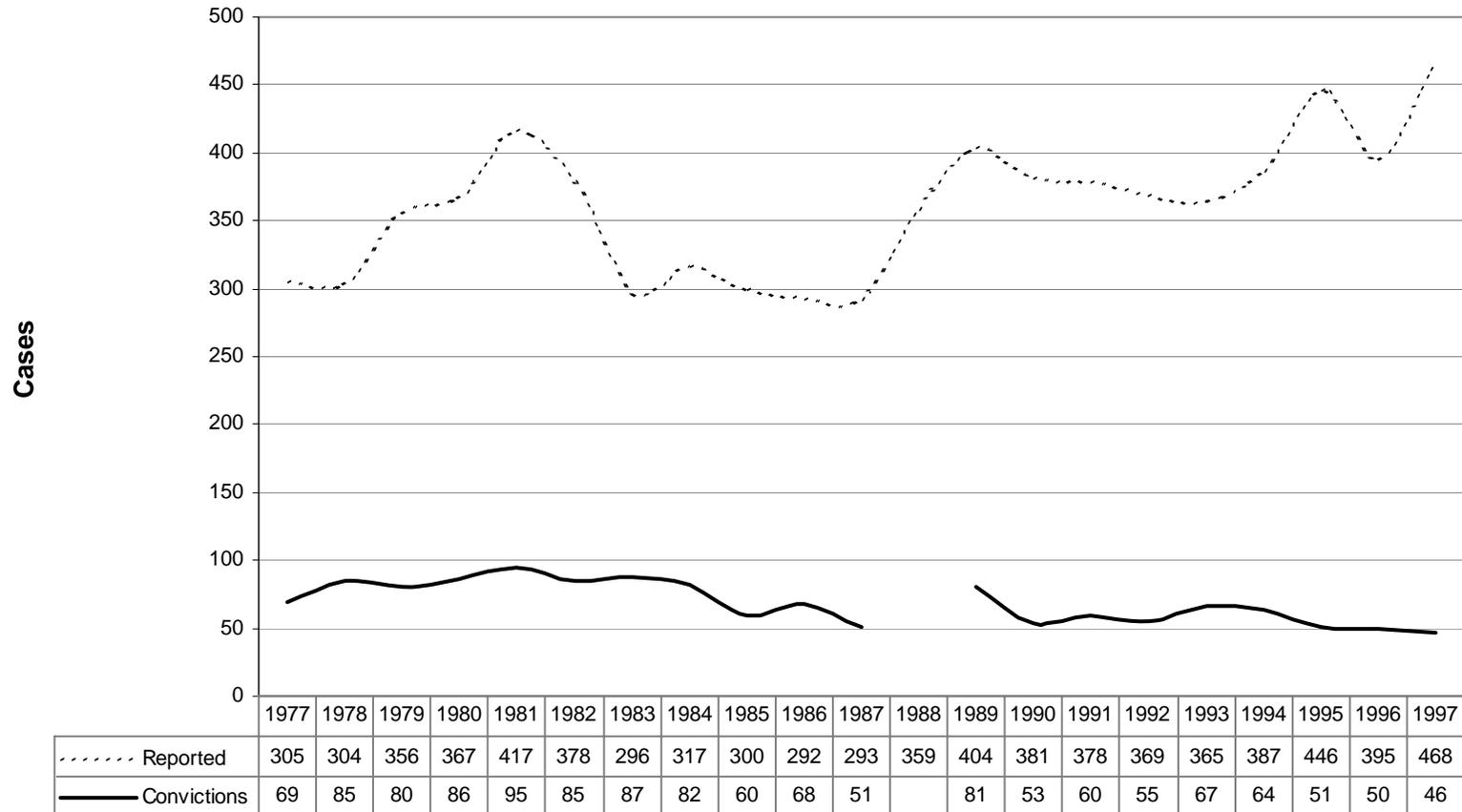


Chart 7: Attrition in the Czech Republic

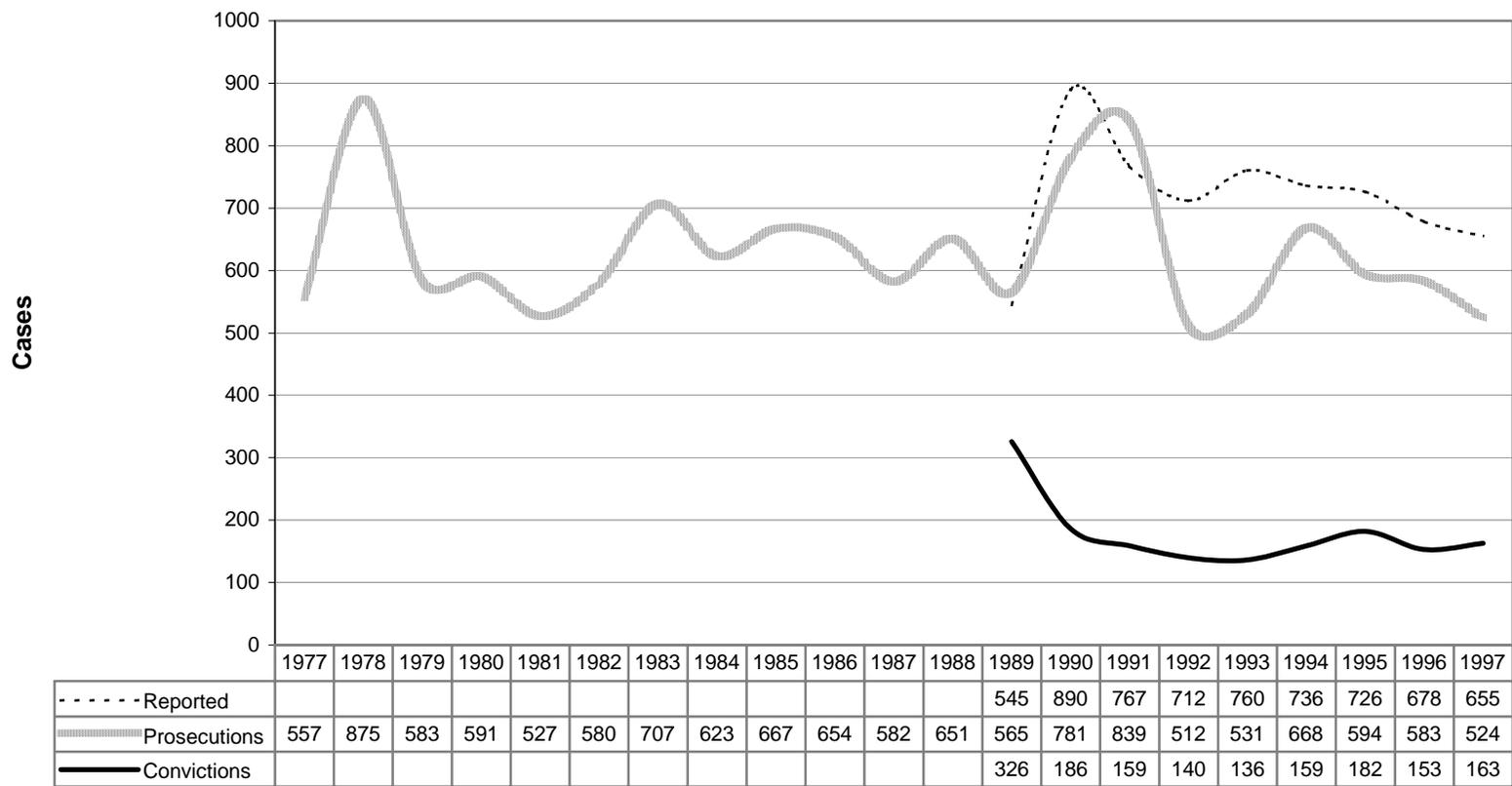
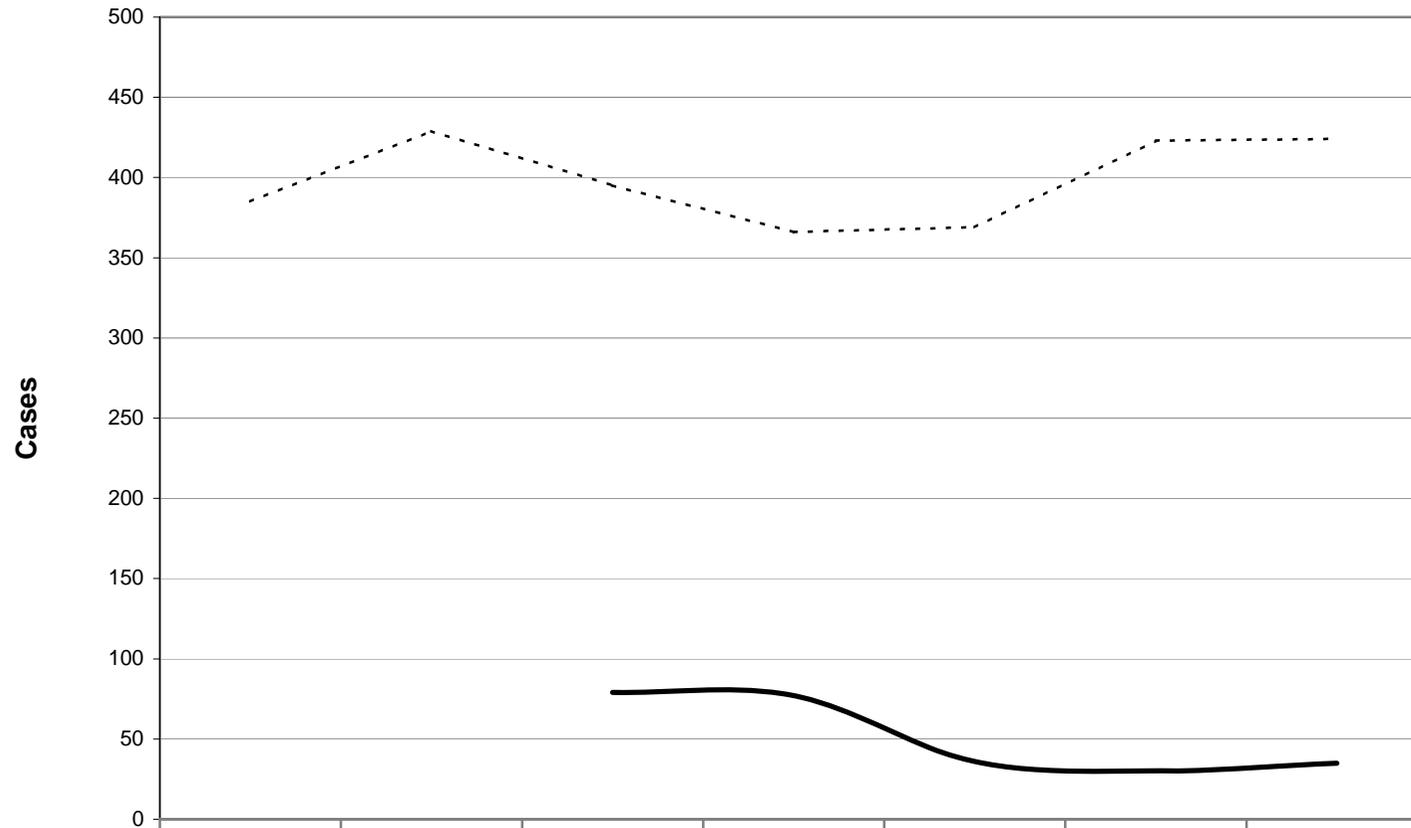


Chart 8: Attrition in Norway



	1991	1992	1993	1994	1995	1996	1997
----- Reported	385	429	395	366	369	423	424
———— Convictions			79	77	36	30	35

Chart 9: Attrition in Turkey

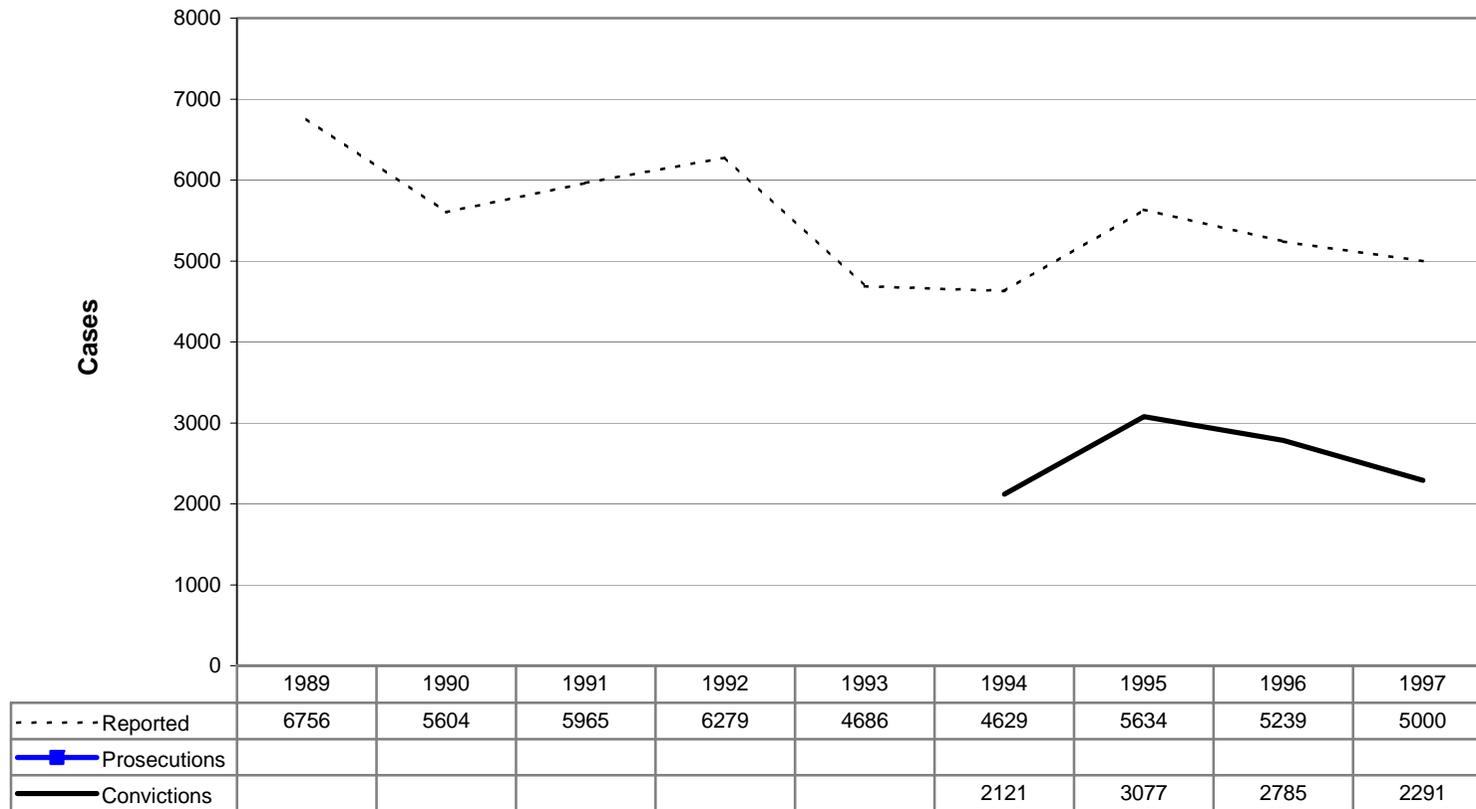
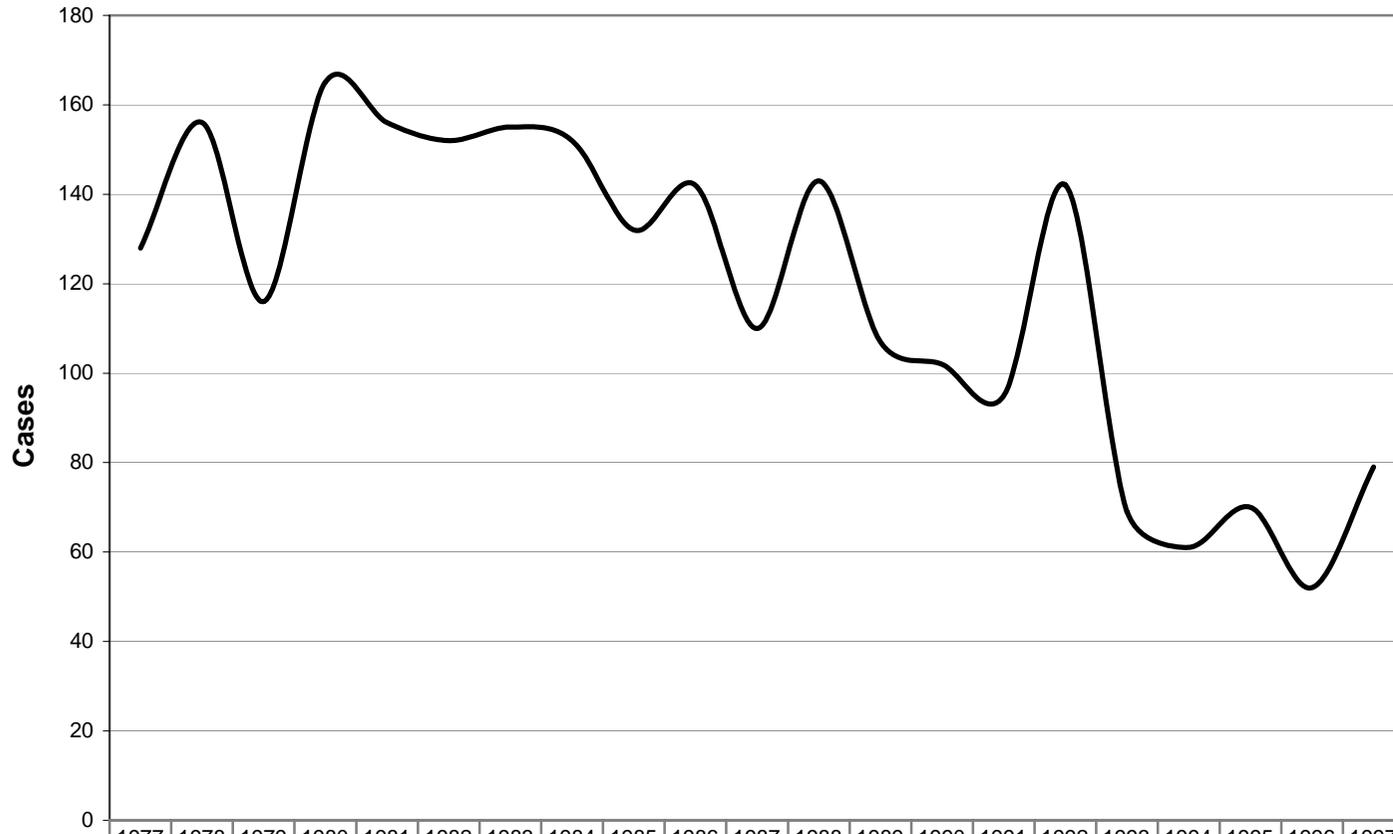
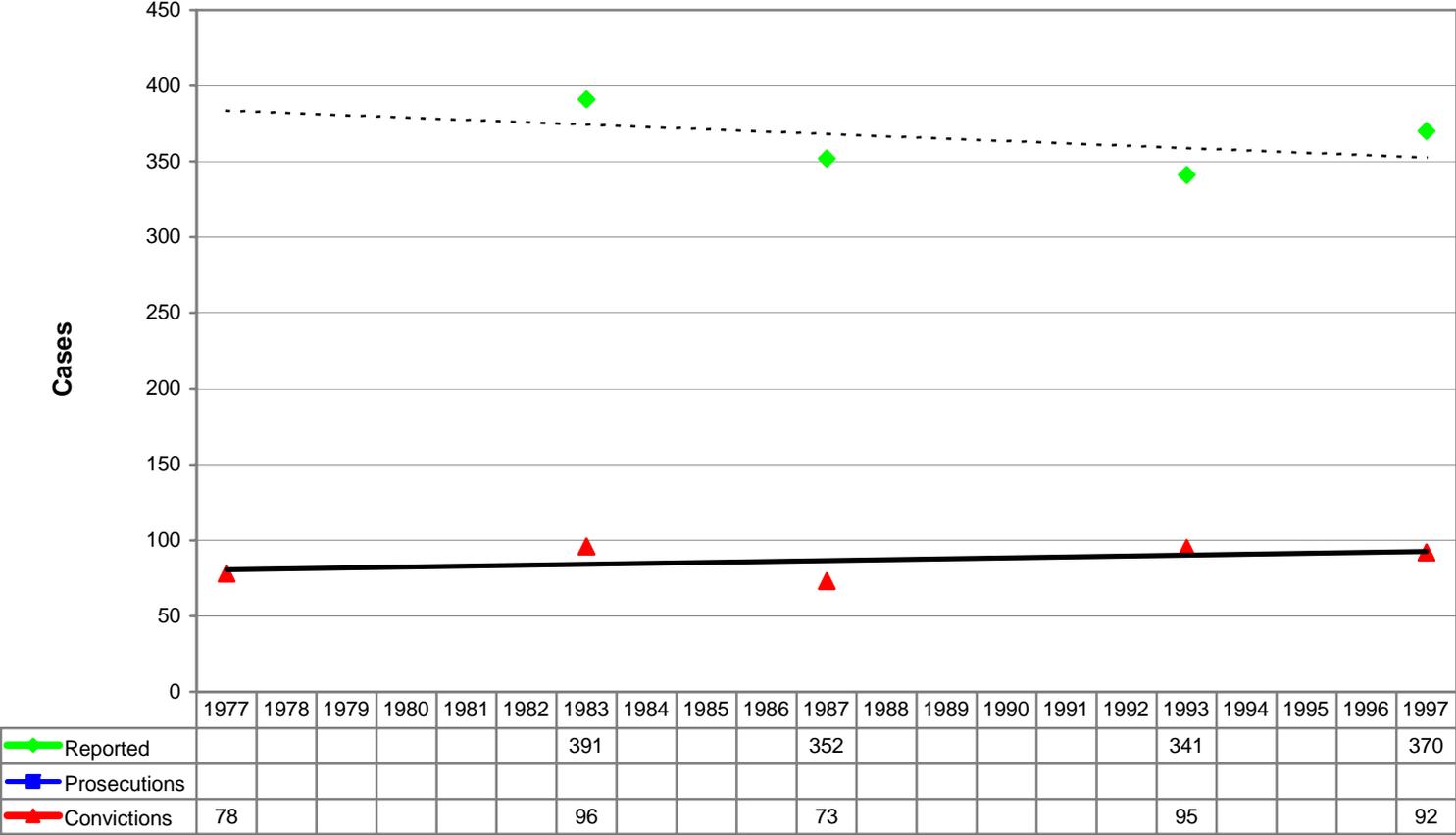


Chart 10: Convictions in Latvia



— Convictions	128	156	116	165	156	152	155	152	132	142	110	143	107	102	95	142	69	61	70	52	79
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Chart 11: Attrition in Switzerland



Appendix B: Plan of Action

In this Plan of Action we draw together issues and recommendations that appear in various chapters of the report. They are organised under headings/themes: information and research; definition of rape in law; responses to reported rape; support services; awareness raising and networking.

Information and research

This project has revealed that states are not recording and tracking reported rapes, nor funding research into the prevalence of rape and its consequences. We therefore have a significant knowledge gap in Europe which need to be addressed.

- Justice departments should collect, collate and publish data on reported rapes, prosecutions, convictions and sentences on a yearly basis. This information should be analysed nationally, regionally and for large cities.
- The data should be interrogated to look for patterns which suggest key attrition points, good and poor practice, and investigations mounted to discover what accounts for them.
- Any legal reform, including to professional practice, that is intended to improve responses should be evaluated.
- Priority for research funding should be given to prevalence studies of rape and sexual assault, factors that account for increases and decreases in reporting, the impacts on those victimised and their support needs.
- All research on the prevalence of domestic violence should include questions about sexual assault.

In addition, the knowledge that we do have challenges some of the ways that rape has been conventionally understood. In light of this:

- The implications of the fact that most rapes are committed by known men, and may involve repeat victimisation, should be explored and addressed.

Definition of rape in law

Both the Beijing Platform for Action and the Council of Europe Plan of Action on violence against women require states to review their state law and criminal procedures to ensure that women suffering gender violence have access to justice, and that sexist and discriminatory attitudes are not encoded within statute. The extent to which this has happened with regard to rape varies widely across Europe. The following issues need to be addressed:

- Rape should be a crime against woman and the state, not against morality.
- The state should take the prosecution.
- The victim should be a party to the case, not just a witness in the states' case.
- The basis of rape law should be the right of individuals to sexual autonomy.

Responses to reported rape

In the exploration of attrition in the prosecution of reported rape cases a range of issues emerged at all stages of the process. There are some issues which apply across the entire system, and others that apply to specific institutions.

General issues of principle

- Anonymity throughout the process for complainants.
- The right to see female professionals.
- Police, legal, judicial and medical training should be audited to ensure that sexist attitudes are not informing the teaching, and that course content reflects the most up to date knowledge and research on rape and sexual assault.
- All professionals need to maintain the highest standards for all complainants, rather than making distinctions between 'un-deserving' or 'deserving' victims, 'believable' and 'unbelievable' accounts.
- Support/advocacy services need to be established designed to enable more women to stay in the process. These should include basic standards for protection pre-court and in court.

Police

- All reports/complaints to be recorded.
- All complaints to be investigated, and evidence collected.
- Police and investigators should begin from a culture of initial belief, and thus collect better evidence, including from the victim - this would reduce the number of early withdrawals due to a sense of not being believed/respected. Cases should be deemed false allegations *only* where there is clear evidence to establish this - the withdrawal of a complaint is not sufficient in this respect, and this should be a separate category.
- Specialist squads to be encouraged, and where this is not possible, specialist police officers in every area should be trained in understanding rape and sexual assault, how to take statements and collect the best evidence.
- Police managers to audit local responses to ensure that prejudicial attitudes about women, and/or particular groups of women are not resulting in some cases being poorly dealt with.
- Any police decision to not pursue a case must be recorded, reasons given, and all such decisions should be reviewed by a senior officer.

Evidence gathering and Investigation

- Development of better evidence gathering and investigative Techniques
- Basic common standards for forensic examinations, which also encompass the right to be examined by a woman doctor, where and how the examination is conducted, and what information is, and is not, necessary to record.
- Serious consideration of establishing sexual assault centres in hospitals.

Prosecution

- Establishment of specialist investigative and prosecutorial teams, including training.
- Prosecutors to understand their role as ensuring that 'ordinary' rapes are effectively prosecuted., and that they find ways to enable disadvantaged women - those with disabilities, or who need interpreters - have equal access to justice.

Court case/trial

- The victim to be a party to the case, and to have the same personhood rights as are accorded to the accused.
- Case to be dealt with by judges who have been trained in sexual violence.
- Protections to be available that enable victim/witnesses to give their best evidence - for example, screens, video links.
- Defendants to not be allowed to conduct cross-examination of the victim/witness themselves.
- Clear legal rules that forbid the use of sexual history evidence to undermine a woman's credibility.
- Wherever judges allow such evidence, they must provide written reasons justifying this decision.
- Recognition that custodial sentences may be the best form of protection for the community.
- Monitoring of sentencing with judges having to give reasons whenever it is below the set minimum, and why it is not a custodial sentence.
- Commissioning of research to assess the presumptions that are used to suggest women's accounts are not true - for example, that if it is rape there ought to be some form of injury.
- Commissioning of research on what makes the legal process more or less bearable for complainants.

Support services

Chapter Five makes clear that throughout Europe provision of support services for

rape survivors is limited - and in some cases none existent.

- Acceptance that there is a need for specialist support services for survivors of rape and sexual assault, and that most women prefer for this to be provided by women.
- Recognition that rape crisis centres and specialist women's counselling services are often the only service that provides support for women wanting to deal with historic assaults in childhood and adulthood.
- Developing and resourcing a range of support services that include crisis intervention, advocacy, free legal advice and longer term support and counselling.
- Enabling NGOs to provide a range of points of access: telephone crisis lines, face to face sessions, support groups, self-defence classes and outreach sessions.
- Ensuring that women in institutions such as prisons, reception centres and refugee camps, mental health hospitals and those working in prostitution have access to support services.
- Commissioning research on the range of models of support and counselling across Europe, and what is known about their effectiveness.

Awareness raising

A recurring theme throughout this project from NGOs was the persistence of myths and stereotypes about rape, which had negative effects on all women who suffer rape, and meant those they sought support from - including the criminal justice system - often responded inappropriately. This makes awareness raising a priority, both to educate about the reality of rape and to campaign in relation to prevention.

- All professional training to include up to date information on the reality of rape.
- Public awareness campaigns which replace myths and stereotypes with accurate information including challenging the notion that rapists are 'deviant strangers', and which reflect what we know about the contexts and relationships in which rape happens
- Public education, especially with young people, on coercive sex, that consent should mean 'free agreement' between both parties. These issues should be integrated within sex education and sexual health campaigns.
- NGOs are encouraged to use data on attrition as an awareness raising/campaigning tool.

Networking

There was strong support for better networking at the European level between NGOs working on rape. Funding permitting, such a network should focus on:

- Increasing the profile of rape at the European level through joint and coherent awareness raising campaigns, information sharing and joint lobbying.
- Developing methods for increasing attention to rape at national levels, and sharing skills, expertise and good practice.

Appendix C: Notes from First Project Seminar

June 5-7 2000, Dublin

Agenda

1. Country reports
2. Presentations
 - Liz Kelly on the project and attrition
 - Stina Jeffner on young peoples attitudes
 - Sandra McNeill on the campaign to end rape
 - South Essex Rape Crisis Centre on networking and coalition work
3. Workshops
4. Plenary on whether to form a network and make a new Daphne Application

DAY ONE

1. Country reports

Austria

Sexual offences dealt with under offences against morality

1998 law reform

- Rape and sexual assault introduced to replace old fashioned words;
- is gender neutral and includes all forms of penetration
- defined in terms of force, so have to prove resistance, previous law was that defended self until it became impossible, this was amended in new law.
- Rape in marriage included (have only been three cases in Salzburg)

1999 new procedures for specialist judges for sexual violence cases, will come into force in Feb 2000.

Women can be a party to the case, can look at all documents, will be informed of verdict, from 1987 can take up to three 'confidantes' to court with her, also since this date can ask for woman police officer when reporting.

Rape was on political agenda for quite a while, many changes in late 1980s. Sexual violence was important topic. But context changed with the new government, the Ministry for Women's Affairs was abolished in Feb 2000.

Attrition

- reporting increased but has stayed constant since beginning of 1990s
- estimate in study of cases from Vienna - less than 2% get to trial less than 1% conviction, 33% acquittal.
- Police working quite well, but when case come to public prosecutor they disappear - would want more women judges.

Bosnia

Part of coalition which wrote a shadow report on violence against women and human rights. Is no official data.

Old criminal law, will be changed this year:

- contains a 1-10 year sentence, but no-one has ever got 10 years. Usual sentence is 2 years.
- within legal training are still taught the idea that rape can be compared to a needle

and thread - it is impossible the thread a moving needle. In effect this means law is only applied with respect to children, the extremely vulnerable or a gang rape. rape defined in terms of force, so injuries necessary to prove tried to defend oneself, other cases are understood as women who wanted sex but later changed their mind. most legal cases turn into cases against the victim - always talk about her past, is she 'good' or 'bad' woman. Many do not report because they know this.

The war gave men an opportunity to behave differently - 'a special kind of raping'. There is no official data on war rapes - even where police had files they were often not referred to prosecutors. What know is only from victims who came forward, Medica Zenica.

A new law under discussion, many women's organisations lobbying, and have good connections with women parliamentarians. One put forward women's organisations ideas, male members laughed, but support growing from other women. She then supported by other women members, and begun to be discussed. Seeking changes in:

- rape in marriage
- change procedure - currently women must take a private charge and pay expenses, want it to be public prosecutor to take case
- women police and prosecutors who trained and understand issues - recent case of 14 year old, police officer took statement, said would take home to keep safe and raped her again.

Croatia

Got information from state statistics

1999 100 reports 48 charged 41 convicted

Some concern that picture is too 'clear' - meeting with women police officer in Zagreb who responsible said in last five years have solved almost 100% of reported rapes. Raised questions about cases not being reported, or being lost by police maybe.

Little awareness beyond the 'official' requirements and perspectives. Rape is not on the political agenda - during the war there was a lot of attention, but after it a big silence.

Current law:

- Rape defined in terms of consent
- reform currently to increase penalties

Research with 200 women

- key point is that do not report sexual assault
- 11.5% knew someone who had been raped
- 3.5% reported experience of rape

Czech Republic

Centre for survivors of child sexual abuse, Electra, established 1995. First and only - 1600 hours therapy given in 1999. Now gives lectures, write books etc. Aim to uncover taboo of sexual abuse and prevention, including for blind people. Want more links with other centres (Has links with La Strada). and to move into self-help.

Study in 1993 that 34% women experienced some form of sexual abuse in childhood, 13% raped, 3% reported.

Current law on violence against women

- a woman was arrested for being in bed with her father

- a domestic violence case must be reported 3 times before a legal case
- very few reported rape cases

Denmark

32 Crisis Centre - mostly domestic violence, majority have entered into agreements for funding from local government, but some still independent. 1999 100 women 155 children stayed in, give priority to Muslim women.

Little available information on rape and sexual violence. Public focus on the need to protect men from false accusations. Is not on political agenda and little awareness amongst professionals.

Was an announcement of new centres for rape victims in each country hospital - 2 have opened of the 12 planned, a nurse acts as liaison. New campaign for lack of access to treatment for men - begun by men and links to 'white ribbon' campaign.

New equal opportunity law will increase work on domestic violence, cross ministerial group - how to reach women who not in touch with any services - 'hidden violence' - but are concerns about the limited expertise in this group. Minister of Justice now willing to put more effort into domestic violence - police taking the charge has been experimented with and the question now is whether this will be extended nationally.

Denmark has been criticised by the UN as not having any specific laws on violence against women. A 14 year old girl was raped for 4 hours by 7 males - they were sentenced to 4 months, and let out immediately as they had been in custody. The reason for the low sentence' was that the girl had only slightly resisted. Sentences seem to be decreasing all the time.

Research by World Bank in 1993 ranked health issues for women by seriousness in terms of lost years of healthy life as a consequence

1. Maternal conditions
2. STDs (excluding HIV)
3. TB
4. HIV
5. Cardiovascular (heart) disease
6. Rape and domestic violence (5-15% of healthy years lost)
7. All cancers
8. Motor vehicle accidents
9. War

Rape and violence higher than all types of cancer in health risk analysis for women

England

Brief history of SERRIC and rape crisis movement in UK - tension now between feminist philosophy and growth of counselling and therapy. Increasing competition for funds from non-feminist therapeutic organisations - concerns about de-politicisation, and ability to be activists.

Is a national network, Rape Crisis Federation of Wales and England, has 50 members. Has produced new statistics:

- majority of women do not report
- 50000 women in contact in anyone year
- 58% of groups have very low funding.

Have other research, but not a national prevalence study:

- 1 in 4 women girls rape/attempted in lifetime
- 85% of assaults by known men.
- experience of going to court described as 'almost as bad'.

Attrition

- reporting increased for last 20 years, now about 6000 a year
- less than 1 in 10 result in a conviction rate
- at least 25% are recorded as 'no-crime' by the police.

Has not been on the political agenda - apart from 'date rape' and false accusations - for most of 1990s. Has been some shift with new campaign group - Campaign to End Rape - and new government.

- have a total review of sexual offences law,
- some new protective procedures being implemented in 2000 legislation
- some money for new projects under Crime Reduction Programme
- a lot of government action at national and local level limited to information leaflets
how many leaflets does any woman need - the more she has the better she can defend herself!

Estonia

Small country - 1.5 million, .5 in Tallin.

Is an applicant state for the EU and as part of this have to reform law.

Has been an Increase in crime as social divisions have grown. Lots of media reports on violence, but rape not on political agenda.

Growth of NGOS - big campaigns against child abuse. Are now hotlines and psychological domestic violence centres in each of 15 local areas. Crisis centres use 'crisis intervention' and taking time for this kind of approach to be accepted and trusted. From the Tallinn centre - 62% attend, 33% use hotline. 8% come about violence, 2% about rape.

First conference on women's rights in 1999. First shelter opened in 1999 - housing impossible problem for women wanting to leave.

Finland

Rape Crisis in Finland funded by the Finnish slot machine association, is only one which has national crisis line - therapeutic and legal. Services vary across country.

Low victimisation rate for crime, but almost highest re rape and sexual assault in Finland.

Research

National prevalence study:

- 40% some form of male violence;
- 20% physical or sexual violence from husband/partner
- 19% forced sex in previous relationships
- 6% in current relationship
- survey linked to domestic violence (12% sought help, 10% police)

Law

1999 new law on rape and sexual crimes:

- before it was a moral crime now is a sexual crime;
- is defined in terms of force by act or threat of violence
- sentence 1-6 years

- is rape if woman unconscious, in a state of fear, or exploiting inability to defend self
- controversial element that has three degrees of sexual assault/rape
- is now a public prosecution case but not for 'milder' offence and some room for interpretation for public prosecutors

Attrition

1998 463 reports 269 investigated 24 court cases, 23 convictions 185 went to prosecutor, 63 dropped

Best calculation that 5% reported, and only 5% of these reach court

Reasons for attrition:

- many women withdrawing complaint
- a third dropped by prosecutors
- but do not know why in each case

Rape is and is not on the political agenda. There is a 5 year national project on preventing violence against women, and whilst rape is included it has focused mainly on domestic violence.

Greece

Law

- is about sexual freedom - of sexual partner and of sexual interactions - rape defined in terms of physical force or threat of direct danger
- no rape in marriage
- minimum of 10 years for gang rape

Research

1998 - 6% reported

Research on court cases

- conviction more likely where stranger and outside
- delayed reporting = reason for doubting women's account.
- alcohol or 'provocation' decreases likelihood of conviction,
- if there was no resistance and/or no injuries this increases the belief that the woman consented.
- also higher conviction where victim is present in trial.

Rape is the only crime where behaviour of victim before and after more important than actions of criminal, and where this influence decision and sentencing.

Attrition

Estimate are 4500 a year

270 reported to police, 127 offender detected 47 trials 20 convictions

Less than 10 sentences for more than 5 years

Women distrust police., more likely to tell friend/ family and take advice from others - most report after advice from informal network.

The issue is still taboo in Greece. There was a campaign against domestic violence recently and want one now on rape. Needs to be placed on political agenda. Are no specific services for rape.

Hungary

Rape not on political agenda. The Ministry of Women's Affairs turning down applications from

women's NGOS for bureaucratic reasons, whilst spending money creating an exhibition called 'women in traffic' - not about trafficking but women on transport, and in public space!

Is one rape and child sexual abuse counselling organisation - but they know little if anything about child sexual abuse, and have no feminist insight. The women's NGO gets less money than the cost of a flight to Dublin!

Is no research.

Law

- is a moral crime, names of offences reflect feudal patriarchal meanings:
- crime if under 14, for homosexual offender must be over 18,
- but anyone under 14 can be prosecuted crime called 'spoiling'
- homosexual offence is 'activity against the species'.
- incest is 'blood-infecting'.
- Rape = 'violent intercourse'.
- Prostitution not a crime, but an petty offence "business like enjoyment of pleasure".
- Homosexual crimes involve many more convictions - rape is provable between men

Supposed to be female police officers, but are not, supposed to be special provisions in terms of rooms, but there are not.

Instruction at law school, it protects victim for cases not to be prosecuted, as court process is a form of re-victimisation. Irony - create an intolerable process and then seek to protect you from it!

Case example - Mother pressed charges against father of children 4 and 6. The mother was investigated by five professionals and a police woman said 'there will be no prosecution, he didn't do that much wrong, he just wanted to fuck'.

There is a proposal from women's groups to amend sexual offences law, to include threat, psychological coercion and include consent.

Iceland

Stigamot focuses mainly on child sexual abuse - incest = by someone the child has reason to trust.

Have collected data on offenders since the beginning, since only have half truth if only data on victims, men become a grey mass.

Attrition

Research done in 1989 on cases 1977-83 (Ministry of Justice had no newer numbers).

126 reported cases	42 dropped by police	33 dropped by criminal investigators
48 went to court	38 convictions	3 acquittals

Under 10% get before the courts, 8% conviction

System re-thought after this study. Rape Crisis Unit in hospital since 1993 - most rape cases go here. Role of the legal advisor at the RCU accompanies woman through whole process, but had no legal standing until recently.

Shift in Scandinavia to focus in law and policy on men/offenders

Increase in strip joints and pornography in Iceland in recent years. Diana Russell speaking of connections - caused a furore in media. Report in *The Times* in London that Reykjavik become the Bangkok of the north - all of a sudden men speaking out.

Want to link incest centres in Nordic countries. Campaign 25th Nov women's groups to advertise services. Evaluation of women's services is very positive, so should make available to more.

Ireland

Is a cross-border network linking rape crisis centres in north and south.

Have no statistics

Was a governmental task force after high profile case, but implementation has become very dominated by domestic violence, rape and sexual assault no really on political agenda.

Some questions and problems:

- use of taxi drivers and bus drivers in voluntary organisations for disabled where know are sexually exploiting - what to do with this information;
- drug rape - both at home and when women away on holiday - any training for holiday reps;
- women's concern that if disclose sexual violence to social, health and welfare agencies they will be judged
- how to ensure access to justice for women with learning disabilities and mental health problems - prosecutor do not meet them, and so do not understand their levels of ability etc
- police and state solicitor can write a comment on file before referred to prosecutor

Italy

Association Telephone Rosa - now recognised as new form of social services and political advocacy. Have produced a guide for living and travelling in Europe.

Italian women's movement responsible for making rape an issue, was a crime of honour till 1970s. Code of silence. Needed radical revolutionary social change. Rape in marriage recognised by the Supreme Court in 1976 - but very few women willing to prosecute. 1989 new criminal code allows women's groups to be parties to cases. Police and health often recorded under 'accidental events'.

Research

Surveys more than 80% ill treatment is domestic violence - violence as normal rather than deviance.

Law

Reform on sexual violence 1996

- is now a crime against person
- woman can appear as the party offended against
- crime of 'sexual violence' includes deception and taking advantage of superiority.
- is no anonymity
- women are given a 6 month extended deadline, time to recover and make decision to report calmly, but then is irrevocable.
- Group sexual violence (gang rape) more severe.
- Can require defendant to undergo medical tests for HIV.

New civil protection order for child sexual abuse/domestic violence - including removing offender - focused on integrity and dignity and aimed at prevention (includes family mediation).

Barrier to implementation are the judges, have to work for cultural change.

Macedonia

Domestic violence programme - public awareness and promoting human and women's rights. System advocacy. Drafted amendments to four laws. Yugoslav constitution made equality and human rights key elements. Nominally there was protection, but implementation is the issue.

There is no co-ordination between institutions, so do not have accurate statistics. Of 700 crimes per month reported in Skopje, 50 are rape. Rape and sexual assault not considered serious enough for government investment. In post communist societies private integrity not protected to same as collective interest cases (property).

Law

Physical and moral integrity is inviolable. Rape is crime against sexual freedom and morality.

- defined in terms of force or threat,
- sentence 1-3 years.
- if serious injuries, or gang, or cruel degrading, not less than 3 years.
- Rape in marriage is illegal, but only by petition of complainant, other sexual crime case taken by public prosecutor.
- have to be 3 elements before charge - force, and threat and intercourse. Therefore is a 'complex' crime evidentially
- Woman has to show serious and persistent defence, and offender has to be aware of her resistance.
- Change 3 years ago on marital rape - this cuts out police and women file a petition directly with public prosecutor. Cannot guarantee that will be accepted - and has to have proof - such as medical exam, which has to pay for herself.
- Can apply for compensation for 'material damage', but this doubles the procedures.
- Victim has to request that case is heard in private, and are no rules on anonymity.

Malta

Very small country 250000 persons.

Not able to get data and no research on rape as such, low reporting.

Law

Is a crime against peace and honour and against the family and morality - in civil code.

- Victim treated as witness not as main injured party
- Penalty 3-9 years, Coercion and child victim increases penalty
- where is a 'person of trust' and where victim has some form of disability are aggravating factors.

Over last 7 years new unit covering child protection and domestic violence, set up by government. Works in catholic shelter/children's home - and see rape in context of domestic violence. Have a Helpline.

Cannot say this is on or not on political agenda. Close knit families, sometimes even mothers cover up. As awareness grows is an increase in reporting.

Northern Ireland

Legal changes in England and Wales have not been extended, to Northern Ireland.

Research

50 cases - 26% reported to the police, only 2 court cases, and 1 custodial sentence

Law

- maximum sentence of life imprisonment hardly ever used
- marital rape made illegal in 1991, first conviction in NI 2000
- have adversarial system, so woman is only a witness,
- no special prosecutors, often only meets woman on the morning of the trial.
- Definition of consent based on what man believes.
- problem of sexual history evidence being introduced by the defence
- defence subpoenaing medical and counselling notes - Belfast Rape Crisis threatened with imprisonment for not revealing notes - have burnt own notes as a consequence to protect women.
- Compensation - are time limits on claims for child sexual abuse. Cases where younger sisters get and older women do not.

Fear of reporting where there is para-military involvement, and men know to say this as a threat. Women seeking other forms of justice.

Scotland

Is a network of rape crisis groups, but fairly weak at the moment.

1998 SRC had 6000 calls - 60% their first experience of sexual abuse was before 16.

Research

Dundee young women (1000) - 133 had experienced sex violence, but only 3 women reported in an official victimisation survey by the Scottish Office.

Law

Different statute and legal procedure to other parts of the UK

- rape defined as "Carnal knowledge by overcoming her will"
- is a witness for prosecution - therefore no rights in process, No-one representing her interests, prosecution representing 'justice'.
- Plea bargains done without her consent, no information links.
- have a law to restrict sexual history and sexual character evidence - but research showed used in 50% of court cases, is n-one seeking it as their responsibility to enforce.
- Can be cross-examined by the accused (this made illegal in England and Wales in 2000) - currently a case where a 13 year old was being cross-examined by her abuser.

Procedural problems

Have been improvements in police practice - but recent cases where women withdraw and have been threatened with being charged themselves with wasting police crime

Do not have right to examination by a female police surgeon - in some regions of Scotland there are NO female examiners, and it can be two hour journey to a medical facility where the examination can be done.

Attrition

1700 sexual assaults reported 212 court cases ??? convictions 59 custodial sentences

Sweden

Sex violence is on the political agenda. 2 years ago a major new law was passed, including money for prevention. It was also the first law to criminalise buyers in prostitution - removing the male right.

Women's services on violence against women in Sweden integrated in network of 122 crisis centres, co-ordinated by ROKS. But at the moment rape is often forgotten, feminists have become afraid of rape - seeing it as an area needing 'experts'. Are also some good and feminist governmental services.

Research

Hardly any on rape

Is an ongoing prevalence study on violence against women - had a 70% response rate.

Law

Similar to Finland

- requires force but does not have to be penetration
- Problem is enforcement
- Is a group in government working on a sexual crime review

Recent increase in reports about gang rapes - public debate because of women's movement.

Sweden represented as country where women equal at formal level - but if there is still as much rape what does this tell us? Have to look at promotion of particular forms of masculinity

Turkey

Are no services on rape, and the only shelter just had to close. Is an emerging women's movement, but not strong.

No research and no official statistics

Law

Is complex and a problem - are discussions to reform

- is defined in terms of force but no requirement for any resistance if a child under 12
- marriage is still a way of removing the crime
- yet a man can ask for divorce where his wife is raped by another man

DAY 2

Exploration of difference and similarities in law and responses to rape

Similarities

- ◆ Most women do not report rape
- ◆ Limited research and statistics
- ◆ reporting up - conviction down
(however the possibility was raised that reporting may have fallen in post-communist/newly capitalist countries)
- ◆ Laws exist to protect/prosecute, but system does not work
defined in many countries as a crime against morals or the state rather than against the person
- ◆ women have to prove crime has been committed against them
- ◆ lack of law and/or effective prosecution of rape in marriage
- ◆ Women's credibility and reputation on trial
- ◆ Contradictions within legal systems preventing cases being effectively prosecuted (witness has to tell truth and offender allowed to lie, alcohol implicating her but excusing him)
- ◆ in many countries woman is witness not victim

- ◆ Private unaccountable court systems/investigations within professions - military
- ◆ unwritten rules override written law
- ◆ legal process unbearable for women
- ◆ Changes being introduced - but no-one monitoring or evaluating to see if it works
- ◆ rape not on political agenda
- ◆ domestic violence prioritised over sexual violence
- ◆ So much work done by women which is not recognised - and we know it 'works'
- ◆ Limited funding for work on rape

Differences

- ◆ Different reality in newly capitalist where reporting has decreased
- ◆ traditionalism and religious values
- ◆ definition of rape in law
- ◆ levels and kinds of services on rape
- ◆ If it is a complainant offence or public prosecution or a combination
- ◆ Adversarial/investigative legal systems
- ◆ Level of public awareness/media reporting
- ◆ Ages of child/consent - ways in which criminality of child rape is undermined
- ◆ In adversarial rapist does not have to give evidence, but in others he has to answer questions
- ◆ Less traumatic in investigative system, where women are asked to tell their story, and where has legal advocate to accompany (in Iceland is mandatory for anyone under 18)
- ◆ Anonymity provisions
- ◆ Poor representation of women legally in adversarial
- ◆ Contradiction between having female police and them being poorly trained
- ◆ Men suing women when get acquitted - UK, Scotland, also men sending at least solicitors letters when prosecutors drop cases
- ◆ Rape in custody - reduction of punishment
- ◆ Countries where police force does not have legitimacy or acceptance throughout the whole country/community.

LOOKING AT TRENDS

Women believing that will not be a serious punishment - and feeling let down

Need to get the 'ordinary' rapes prosecuted

Presentation - Campaigning in the UK - Sandra McNeill

Two examples - Zero Tolerance and Campaign to End Rape

Zero Tolerance

Based in Scotland. Is professional feminist public awareness campaign on violence against women, with clear gender analysis, but also using media skills.

Uses

- strong imagery, not showing women as victims,
- contrast between comfortable photographs and uncompromising messages. 'No man has the right' and 'male abuse of power is a crime'

Based on 3 'p's'
provision of services
protection prevention

Is run on local basis - purchase campaign from ZT and get official backing to run it.

Campaign to End Rape

A feminist coalition, linking rape crisis groups, individual activists and more mainstream groups like the YWCA, which focuses on rape and law - has set its activity as campaigning, not providing support services.

Is a small group of 10 women, but with links to much wider network and has put rape back on the political agenda

Used attrition rates as beginning and then pointed to problems in law and procedure, has produced useful briefing material for key people in government, which does not just show where the problems are but offers ideas for reform.

Were invited to be part of Sexual Offences Review - due to report soon - will write briefing documents for women's organisations to defend good parts, and try to improve.

Campaigning - takes many forms, and can include working from change on the inside, as well as being outside writing letters, sending postcards, writing letters to media, educating other groups as well as demonstrations and protests. One effective way is to work with women about their case of injustice, especially if they are willing to speak publically.

Workshop report backs - looking at attrition and barriers in legal frameworks

Group 1

- so many women don't tell, or name experience so reported rapes are small proportion
- problem of rapists being seen as 'deviant'
- increase in reporting due to women's groups
- is police job to investigate whether they believe woman or not
- are there some rapes which will never be recognised in law? Acceptable for men to push, and many women feel unable to stop - but it is still unwanted sex.
- cases where there is a conviction are where the evidence fits a certain profile - so what is rape? Under this model unwanted sex where women did not say no could not be recognised in legal framework.
- need campaigns which ensure proper evidence gathering and good procedures, but also to target awareness and attitudes since there is not always evidence. But may have to accept legal convictions unlikely where is unwanted.
- want campaigns which say coerced sex is not consensual, so women recognise it and so do men - these are conditions where men are thinking they are both having sex, whereas woman's experience is that he is taking sex.

Group 2

- given how society views rape, a woman who reports has to expose herself in public and within her community - exposure of intimacy of person and her credibility on trial. This discourages reporting since she is not treated as a victim who requires and deserves protection
- problems of rural areas and small communities - if known then lowers her status;
- not a crime against her integrity, she has done something;
- women carry responsibility and perpetrators none - have to find ways to shift the stigma to men, but making women feel responsible is part of dynamics of abuse
- complex subtle cultural ways in which women secondary status re-inforced
- 'un-deserving' or 'deserving' victims - who women are and their behaviour, this also influences reporting;
- Question is constructed as 'Is she really a victim?' - has to prove her 'innocence', but this is not possible for many women, we are not 'innocent' in this way;
- treatment of women in court also discourages reporting, and is experienced as like a second assault
- if fits the stereotype then more likely to get conviction, and trauma of reporting
- Turkey still strong controls on girls and women's behaviour so most rapists from within her close

network

- Austria if there is a woman judge are less acquittals, where is two men is twice as many
- huge problem of penalties not being applied as they should be - all sorts of routes to evade what is expected to be the minimum, let alone the maximum
- Italy had to increase penalty, some mechanism for plea bargaining, but if less than 2 years and can have it reduced by a third if confesses to through extenuating circumstances, used to agree to without having to face trial, and is not a conviction as such. Increased the minimum to 5 years to try and prevent this happening. Difference is that this is codified into the law.
- Changing of charges and pleading guilty to lower charges - confusing for women, especially young women and where feel does not reflect what was done to her
- where system fails women and children tendency to apply 'community' justice; and then justice system has to protect the person they failed to sanction
- problem of the time it takes to create cultural change, but are small changes which contribute - strategy of men using women to defend them
- the quality 'of the prosecution
- importance of police reports indicating belief, collecting good evidence, and women police can make a difference
- importance of advocacy, including through a lawyer
- Italy woman can have her own solicitor, and/or an association to defend her interests
- how is it possible to prepare a legal case without talking with the victim/witness?
- arrogance of English legal hierarchy
- where case is defined in terms of morality/family honour then how the case is conducted reflects this
- defendant is treated as a person, she only a witness, need to be a person and we need to argue for victims having this status too, shift in human rights thinking that not just the individual and the state but violation in civil society, and these need to be reflected in how legal systems are constructed - examples of Scandinavian countries moving to ensure victims have rights in legal process.
- supporting each other through networking - getting information out to other NGOs and extending want minimum standards and working principles for support services around rape from the EU (possible topic for next seminar)

Group 3

- cases lost mainly through lack of evidence, delayed reporting (improvements in forensic making harder in some cases, rapists using condoms)
- lack of support affecting withdrawal of statements
- special prosecutors make a difference
- should victim have the right to say who is in court (no consensus on this, some thought important for justice to be in public, and therefore accountable)
- still many myths which must be challenged
- rape suites
- must be a crime against woman not morality or state - problem if is a crime against the person this means it is their responsibility to take case. Need to distinguish between making rights and status of victims in legal system and 'crime against the person' so should be both crime against state and the person - this is the case in many Scandinavian countries.
- war crimes should face charges whether or not they are in power when the conflict is over

Presentation 2 - Stina Jeffner

Based on a research project in Sweden with young people - exploring the relationship between what they think of as normal and extreme with respect to gender and heterosexuality and rape - where is the

boundary between rape and sex.

At the level of principle they define rape broadly - everything sexual that happens after woman has said no, and some would say everything before says yes, some distinguish between physical and psychological rape. Good sex involves reciprocity, love, negotiation.

When move to concrete and their everyday life it becomes more complex. Constant negotiation about boundaries, and several conditions have to be satisfied for something to be defined as rape.

1. How no is said - it has to be said in the right way
2. The importance of love - love and rape do not go together, so cannot be rape if she still loves him
3. Alcohol - for boys this decreases it being rape 'because they were drunk' and also if she was drunk too
4. The whore/slut - if women have a reputation then less likely to be rape, since she said 'yes' to others, why not him
5. Rapist as deviant - is not a 'normal' boy, so there can be a rape but no rapist
6. Consequences for the woman - has to be clear in her behaviour and responses that as been hurt/harmed

There is so much space in-between rape and good sex, and very little in everyday life can amount to rape.

Young Swedish people think young women and men have same space for action, but if look at the conditions which are there in everyday life - they all gives boys extra space and girls less. Rape has become normal - but not called 'rape'. There are attempts to increase space for girls and women but very little to reduce the space for boys.

Presentation 3 from SERRIC

Project running Zero Tolerance Respect scheme in a local school for 24014-15 year olds.

1. Questionnaire - which moves from principles through to concrete, are clear about principles, but are always qualifications where have a context

2. Play

Story of two young women and two young men - one boy is popular, good looking and is pressurising girl, other boy is supportive of the young women.

Have the possibility of changing the ending of the play - young people really tried to find positive ending, and more able to challenge myths than teachers

Each of the actors then facilitates a single sex group, and this changed the ways that the young people, especially young men, responded.

Issues about space, giving permission to speak, and the complex relationships within both the school and in their relationships

Returned after a month using the same questionnaire.

Very encouraged by the young people's responses

Problems of getting into schools - issues which cannot be raised

What happens when leave schools?

Workshop report backs on campaigning

Group 1

- Iceland campaign follows up birthday of organisations on violence against women, hope to make a documentary
- Swedish poster campaign - evaluation not that effective because language not strong enough
- difference between campaigns to raise awareness and to make women aware of services

- dispelling myths about class
- being realistic, needs to maintain momentum
- service provision v campaign
- Hungary want to begin, but not enough individuals to train
- need to challenge narrow definition of rape
- Backlash, what happens when you run a campaign like 2T - makes men uncomfortable
- pre-empt this by getting men to launch, possibly even judges
- Bosnia recruiting judges to campaign to reform family law, and some of the men who initially resistant became best promoters
- Austrian government campaign 98/9 on hotline, best was tv spots
- develop good relations with local media and up-skill women with media skills
- fear of running if no increase in support services
- are challenging myths in everyday work of RCCs
- importance of feminist campaigns staying in local control
- where are government campaigns experience is of local groups being a referral point, but not getting any of the money/resources

Much general discussion about whether we should we use the word 'rape'

- in some languages is no such word,
- but it is a strong word,
- changed law in Canada to not use it, but it made no difference in legal responses
- not using it means you cannot name the rapist - there are no words in Hungarian and Russian to name them, so are using the English word

DAY 3

Feedback from questionnaire

Majority wanted support but also to have an international/European campaign - to give voice to women's experience and promote change, especially for non EU states. Moving in the same direction giving the same message.

Finland

Daphne project wanting to start - create basic standards in forensic examination and medical treatment. Aim to create European standards and a rape kit - groups wanting to be part of to contact them.

Summary of small groups on network/coalition

What would like network to do?

- to feed into existing national networks
- to feed/exchange information between countries
- Have a 'hall of shame' on the Internet for attrition, which might have some impact on our governments
- European campaign on 'hidden violence' - ask ZT as partner
- having a travelling seminar
- prioritise where rape is not yet on the agenda put it there
- 'lift up' rape where has dropped off agenda
- enable women to believe they can do things
- research - possibility of cross-national research project where interview women in many European countries; technical support but also simple information collection across Europe
- twinning and mentoring around particular projects
- training model based on women's experiences, accreditation

- collate data from Annual reports - use of to compare to official data
- Notice board, and enquiry desk on Internet
- publicise cases of injustice
- solidarity links (Dublin RC being required to give up client notes - privilege not there, feminist groups can choose not to keep notes, but if are professional counsellors are required to) - can a network take a case to European Court
- having a common logo, so women can recognise where to get help
- ways of supporting women where in foreign country, and language issues, and where something has happened in another country - twinning around cases
- directory of rape crisis services
- innovative work in schools and sharing it

General discussion

- ◆ Coalition was word everyone felt most comfortable with - core group based on the seminar
Example of resistance and campaigning in Bosnia - local organisation which built coalition nationally on trafficking
- ◆ Network to share skills, experiences, languages
- ◆ Disparity with respect to research, and want to up-skill in relation to
- ◆ Issue about safety of women involved in campaigns - variety of threats to, need for safe addresses, secure phone lines
- ◆ Needs to begin in a manageable way
- ◆ Want word feminist within coalition

Decisions

Agreed to make application for 3 year Daphne project with majority of attendees as partners
All to e-mail whether will be partners by end of the week.

Evaluation session

Was valuable
Decreased isolation
Learning/sharing
Wanting to keep in contact