

VOLUME 1

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PEOPLE WHO CARE ABOUT PEOPLE



RAPE & SEXUAL ASSAULT

Ilitha Labantu's integrated approach to rape care is one of respect, comfort, restoring dignity and ensuring justice for children and women who are victims of sexual violence. It is guided by the following documents The Children's Act of 2005, the Sexual Offences Act as well as the Ilitha Labantu Child Policy.

In South Africa the children's act and the sexual offences act both establish mandatory reporting obligations to report abuse. Failure to report is a criminal offence but more importantly it could leave a child at risk without support and services.

Def: RAPE is a type of sexual assault usually involving sexual intercourse, which is initiated by one or more persons against another person without that person's consent. The act may be carried out by physical force, coercion, abuse of authority or against a person who is incapable of valid consent, such as one who is unconscious, incapacitated, or below the legal age of consent (16YRS).

RAPE is a crime no matter if the person committing the rape is a stranger, acquaintance, date, friend, or family member.

The legal definition of Rape as stipulated in the Sexual Offences Act under section 3 is as follows
Any person ("A") who unlawfully and intentionally commits an act of sexual penetration with a complainant ("B"), without the consent of B, is guilty of the offence of rape

For there to be an act of rape one has to see that there is a intention and unlawful act of sexual penetration, without the consent of the other person. Sexual penetration by its very definition means any act which causes penetration to any extent whatsoever by— (a) the genital organs of one person into or beyond the genital organs, anus, or mouth of another person; (b) any other part of the body of one person or, any object, including any part of the body of an animal, into or beyond the genital organs or anus of another person; or (c) the genital organs of an animal, into or beyond the mouth of another person.

A child who has been raped needs medical care comfort understanding and support.

But there is a clear distinction between Rape and Sexual Assault, both are crimes but are very different in their interpretation as Sexual assault has a broader spectrum of acts which constitute sexual assault. Sexual assault is governed under the sexual offences act under S 5.

(1) A person ("A") who unlawfully and intentionally sexually violates a complainant ("B"), without the consent of B, is guilty of the offence of sexual assault. (2) A person ("A") who unlawfully and intentionally inspires the belief in a complainant ("B") that B will be sexually violated, is guilty of the offence of sexual assault.

Unlike Rape where a person makes the threat of any sexual violation that is enough to inspire a belief that such an act will occur is guilty of sexual assault. Sexual assault includes sexual violation of a person, sexual violation in its own right has various meanings according to the act and the acts that constitute it are as follows.

(a) direct or indirect contact between the— (i) genital organs or anus of one person or, in the case of a female, her breasts, and any part of the body of another person or an animal, or any object, including any object resembling or representing the genital organs or anus of a person or an animal; (ii) mouth of one person and—

(aa) the genital organs or anus of another person or, in the case of a female, her breasts;

(bb) the mouth of another person;

(cc) any other part of the body of another person, other than the genital organs or anus of that person or, in the case of a female, her breasts, which could— (aaa) be used in an act of sexual penetration; (bbb) cause sexual arousal or stimulation; or (ccc) be sexually aroused or stimulated thereby; or

(dd) any object resembling the genital organs or anus of a person, and in the case of a female, her breasts, or an animal; or

(iii) mouth of the complainant and the genital organs or anus of an animal;

(b) the masturbation of one person by another person; or

(c) the insertion of any object resembling or representing the genital organs of a person or animal, into or beyond the mouth of another person, but does not include an act of sexual penetration, and "sexually violates" has a corresponding meaning; and "this Act" includes any regulations made under this Act, including the regulations made under sections 39, 53 and 67.

(2) For the purposes of sections 3, 4, 5(1), 6, 7, 8(1), 8(2), 8(3), 9, 10, 12, 17(1), 17(2), 17(3)(a), 19, 20(1), 21(1), 21(2), 21(3) and 22, "consent" means voluntary or uncoerced agreement.

(3) Circumstances in subsection (2) in respect of which a person (“B”) (the complainant) does not voluntarily or without coercion agree to an act of sexual penetration, as contemplated in sections 3 and 4, or an act of sexual violation as contemplated in sections 5(1), 6 and 7 or any other act as contemplated in sections 8(1), 8(2), 8(3), 9, 10, 12, 17(1), 17(2), 17(3)(a), 19, 20(1), 21(1), 21(2), 21(3) and 22 include, but are not limited to, the following:

(a) Where B (the complainant) submits or is subjected to such a sexual act as a result of— (i) the use of force or intimidation by A (the accused person) against B, C (a third person) or D (another person) or against the property of B, C or D; or (ii) a threat of harm by A against B, C or D or against the property of B, C or D;

(b) where there is an abuse of power or authority by A to the extent that B is inhibited from indicating his or her unwillingness or resistance to the sexual act, or unwillingness to participate in such a sexual act;

(c) where the sexual act is committed under false pretences or by fraudulent means, including where B is led to believe by A that— (i) B is committing such a sexual act with a particular person who is in fact a different person; or (ii) such a sexual act is something other than that act; or (d) where B is incapable in law of appreciating the nature of the sexual act, including where B is, at the time of the commission of such sexual act— (i) asleep; (ii) unconscious; (iii) in an altered state of consciousness, including under the influence of any medicine, drug, alcohol or other substance, to the extent that B’s consciousness or judgement is adversely affected; (iv) a child below the age of 12 years; or (v) a person who is mentally disabled.

As one can see the list and definitions are extensive in how the law looks at what it means to be a sexual violation and this helps with extending the very definition of sexual assault in our Country. As it stands there are crimes which are based on Common Law and Statutory Law which is written law and our law is adopted and interpreted by our courts which then can help develop the law alongside the legislature.

Perpetrators of sexual abuse can be family members (fathers, grandparents, siblings, uncles, aunts, cousins, etc.). They can also be neighbors, religious leaders, teachers, health workers, or anyone else with close contact to children. Because of this, children can be sexually abused over a longer period of time and the abuse can happen more than once. Children can also be sexually abused by someone they do not know.

Many people are unaware that sexual abuse does not require penetration, force, pain or even touching. If an adult engages in any sexual behavior (e.g., inappropriate sexual language directed at a child, looking at a child’s private parts and/or showing private parts to a child) to satisfy the adult’s sexual desires or interest, such behavior is considered sexual abuse.

Acts of sexual abuse that do not involve contact or touching include:

- Showing pictures of naked men and/or women to a child,
- Deliberately exposing an adult’s genitals to a child for the adult’s sexual pleasure or interest,
- Photographing a child in sexual poses,
- Encouraging a child to watch or hear sexual acts,
- Watching a child undress or use the bathroom for the adult’s sexual pleasure or interest,
- And forcing a child to witness rape and/or other acts of sexual violence. Sexual abuse of children

is most often perpetrated by someone close to the child, resulting in the betrayal of the child's trust. Therefore, use of physical force is often unnecessary to engage a child in sexual activity because children trust and often depend on adults they are close to. Children are taught not to question authority and may believe that adult behaviors are always correct, or the adult has unchallengeable authority. Perpetrators of child sexual abuse take advantage of these vulnerabilities in children.

Furthermore there are aspects where people use others to perpetrate the acts contemplated above and this is called compelling. Acts such as rape can also be compelled crimes as stated in the act under S3

Any person ("A") who unlawfully and intentionally compels a third person ("C"), without the consent of C, to commit an act of sexual penetration with a complainant ("B"), without the consent of B, is guilty of the offence of compelled rape.

The acts of sexual assault also fall under compellment as seen in sections 6 and 7

A person ("A") who unlawfully and intentionally compels a third person ("C"), without the consent of C, to commit an act of sexual violation with a complainant ("B"), without the consent of B, is guilty of the offence of compelled sexual assault.

A person ("A") who unlawfully and intentionally compels a complainant ("B"), without the consent of B, to— (a) engage in— (i) masturbation; (ii) any form of arousal or stimulation of a sexual nature of the female breasts; or (iii) sexually suggestive or lewd acts, with B himself or herself; (b) engage in any act which has or may have the effect of sexually arousing or sexually degrading B; or (c) cause B to penetrate in any manner whatsoever his or her own genital organs or anus, is guilty of the offence of compelled self-sexual assault.

Here's what to do if your child has been raped/sexually abused:

Once a conclusion has been reached that there was/is abuse or deliberate neglect it must be reported to one of three authorities: a designated child protection organisation, the provincial Department of Social Development or a Police official.



WHAT DOES THE REPORTING ENTAIL?

When reporting a case of abuse or neglect to an appropriate authority ensure that a Form 22 is completed. This form triggers a child protection investigation by a designated social worker.

The concerned child has the right to receive dignified treatment, after reporting the crime, the victims are removed from the crowds at the police station to a more victim-friendly environment, then transported by ambulance to a Thuthuzela one stop care centre at a nearby hospital.

Once at the centre, the survivors receive comfort and crisis counselling from a trained counsellor. After counselling, they are taken to a quiet, private space where they are welcomed by the site coordinator and a doctor to conduct a medical examination. The doctor then provides the patient with information on the procedures to be performed and a consent form to be signed for medical examination and blood specimens.

After completing the medical examination, the patient is provided with follow-up dates for counselling with the psychologist and briefing about the procedure of the judicial system is explained by the site coordinator.



CHILDREN AND SEXUAL ABUSE DISCLOSURE:

"Disclosure" refers to the discovery of child sexual abuse. A child's capacity to disclose is impacted by several factors, including the child's age, sense of safety, available resources and other factors relevant to a particular context. Often, disclosure of sexual abuse is a process; in other words, children may first "test the waters" to see how adults react to hints about their sexual abuse or give their full disclosure. Adults who react with anger, blame or other negative responses may cause a child to stop talking and/or later deny the abuse disclosed by the child. Service providers are responsible for responding to child sexual abuse disclosure with compassion, care and calm.

CHILD SEXUAL ABUSE CAN BE DIRECTLY OR INDIRECTLY DISCLOSED:

- Direct disclosure occurs when the child survivor or the child survivor's family members/ friends directly informs the service provider about the abuse.
- Indirect disclosure occurs when someone witnesses child sexual abuse, or when the child contracts a sexually transmitted disease or becomes pregnant and the disclosure is brought to the surface by a third party or consequence of the abuse (e.g. pregnancy).

WHAT IF MY CHILD DOES NOT TELL ME?

Sexual abuse occurs throughout childhood and across contexts, cultures and classes. Service providers, teachers, parents, caregivers, and others need to be aware of the common signs and symptoms of sexual abuse in their particular setting, because most boys and girls will remain silent.

Any one sign or symptom does not mean that a child has been abused, but the presence of several signs may suggest that a child is at risk. Remember that it is important to believe reports of sexual abuse no matter what you observe about the child. Keep in mind that some of these signs can emerge during periods of stress, such as the loss of a loved one or other traumatic event, even long after the abuse has occurred. Boys and girls react differently to sexual abuse based on several factors, including their age and developmental stage and cultural context. The majority of signs and symptoms are behavioral and emotional in nature, but physical changes can indicate abuse as well.

The following are the most common physical signs of sexual abuse:

- Pain, discoloration, sores, cuts, bleeding or discharges in genitals, anus or mouth;
- Persistent or recurring pain during urination and/or bowel movements;
- Wetting and soiling accidents unrelated to bathroom training;
- Weight loss or weight gain;
- Lack of personal care

Even if your child does not confide in you some signs can indicate that he or she is struggling emotionally and may need your help - For example your child might:

- Act unusually irritable moody or cranky
- Seem angry frightened or confused
- Feel depressed anxious or nervous especially about being alone
- Withdraw from friends and family
- Have trouble sleeping
- Have changes in appetite
- Be unable to concentrate in school or to participate in everyday activities

NEEDS OF CHILDREN AFTER SEXUAL ABUSE:

Following the experience of sexual abuse, children may have immediate response needs that require service providers to mobilize crisis intervention support. Specifically, the need to ensure children's physical and emotional safety needs are met and access to timely health care is ensured.

Following the immediate crisis response, children may require additional care and support to help them recover and heal and to positively and fully engage in daily life. Longer-term needs include:

- Psychological needs. Children will need support to feel safe and trusting of adults again; to understand their feelings about the abuse; and to cope with post-traumatic stress symptoms that surface (flashbacks of the abuse, obsessive thoughts of the abuse, self-respect issues).
- Social needs. Children (and families) will need help to recover and heal from the impacts of sexual abuse on the family and familial relationships; to ensure that they are able to go back to school and participate in community and social events; and to develop and sustain positive and trusting relationships with peers and adults in the community.
- Care arrangements. Children will need a secure place to recover if abuse happened in the home and children cannot return.
- Legal/Justice needs. Children have a right to justice and may need support while the legal investigation and the prosecution of their cases occur.
- Other protection interventions. Children who are separated or unaccompanied or who are facing other protection risks require targeted protection interventions.

IMPORTANT CONTACTS

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SAPS FCS NYANGA.....	021 380 3319
SAPS FCS MITCHEL'S PLAIN.....	021 376 9850
THUTHUZELA CARE CENTRES.....	021 699 3266
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