

## **CHILD SEXUAL VIOLENCE IN SOUTH AFRICA**

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### **ABSTRACT**

Rape is a significant societal problem in South Africa. Both women, young girls, males and members of the Lesbian, gay, bisexual and transgender (LGBT) community are all victims of rape. There is a substantial amount of rapes not reported to the police. The objectives of the research are: to highlight the extent of child rape; to explore the causes; investigation process and possible solutions to child rape. The researcher relies on extensive literature review, reviewing of rape case studies and a number of both international and South Africa legislations in exploring the incident of child rape. The researchers advocate the following solutions to specific crime of child rape plaguing South Africa namely: educating citizens about the specific crime of rape and the level of punishment associated with it; alternatives to use of violence to solve problems; effective and accountable police service; tougher punishment to deter perpetrators of rape; victims support; and setting up of rape preventative programmes.

**Keywords:** Child, rape, sexual, violence, consent, force

### **INTRODUCTION**

The researcher looks into the unfortunate incidence of child rape (sexual violence) in South Africa. Child rape is any form of physical violence against defenceless children, using violence to force the victims to have sexual intercourse without their consent. Several excuses have been given as reasons why people commit these despicable crimes that have left many of us bewildered in South Africa. These excuses include power and control, cultural values, the search for a virgin as a cure for AIDS, lack of respect for women, patriarchy, insanity, suspects possessed by demons and evil spirits, alcohol and drugs, revenge, and peer pressure. Rape flourishes in an environment permeated by a culture of violence, dysfunctional families, lawlessness and inefficient criminal justice agencies, unemployment, and violence perpetrated both during the apartheid era and post-apartheid era.

This article introduces the reader to a step-by-step best practice approach to investigating child rape. It is argued that if some of these suggestive rape investigation methods are followed together along with tougher sanctions. The number of rape victims will be reduced. As many rape crimes are unsuccessfully prosecuted in South Africa due to the police's limited skills in bringing rapists to justice, victims not getting enough support to deal with their ordeal.

Rape is one of the most devastating of personal traumas. Victim's lives have been shattered and sometimes lost ... Psychological and physical privacy invaded. Survivors experience feelings of shock, disbelief, numbness, fear, anger, guilt, self-blame, sadness and sometimes elation, and behavioural changes, such as withdrawal, sleep disturbances, hypervigilance, mood swings, and poor concentration, lifestyle changes, and avoidance are common. The emotional scars take months, and sometimes years, to heal. (SAMJ, 2013:210).

This article is divided into four main parts. In the first part of the article, the researcher looks at some definitions of rape, the background of rape in South Africa, methodology, children's rights and the reviewing of some case studies of child rape. In the second part of the article, the researcher looks at the extent of child rape in South Africa; barriers to investigating rape, theorizing rape, and reasons for child rape. In the third part of the article, the researcher looks that the following: global rights of the child, child law in South Africa, rape offender profile and traits associated with sexual offenders in South Africa. In the fourth part of the article, the researcher looks at the following: case studies of child rape, the relevance of Thuthuzela rape centres in South Africa, recommendations and conclusion.

To put rape into context, it is important to mention here the different types of reported rapes in South Africa. They are as follows: child rape, female rape, male rape, gang rape, date rape, corrective rape, and elder rape.

## **REVIEW OF LITERATURE**

### **Definitions of Rape in South Africa**

Rape is generally defined as an act of sexual intercourse imposed upon a male or female through the use of force and against his/her will. Rape may occur also when sexual intercourse takes place with a male or female under a certain age, regardless of the victim's willingness to engage in the act. This type of rape is called Statutory rape (Gilbert, 2010: 10). Rape is 'the threat or use of force to compel one individual to engage in a sexual act with another' (Giddens, 1993).

Any sexual penetration, however slight, is sufficient to constitute the crime. The issue of whether it is done 'against the victim's wishes need not arise, nor is it necessary to evaluate the level of resistance during the intercourse. Many rape victims experience emotional disturbance, psychological trauma, flashbacks, anger, frustration and low self-esteem, and an urge for revenge.

(Bowley & Pitcher, 2002), looking at child rape from a medical perspective, argue that "infant rapes seem to have several striking features. To penetrate the vagina of a small infant, the perpetrators first need to create a common channel between the vagina and the anal canal by forced insertion of an implement. This section is analogous to the most severe form of female mutilation . . . in which perineum is split with a finger, knife or similar object presumably to facilitate penetrative intercourse in girls as young as 5 years old sold into early marriage".

Rape is a complex crime to investigate; it is difficult to prevent, and the social stigma attached to rape has made it difficult for victims to report it. Most people would not like to describe to a third party how they have been repeatedly sexually violated. It is a horrible experience and a very embarrassing one, especially when a victim has been raped by close family members or relatives. It is the stigma attached to rape that has enabled rapists to commit their unlawful acts on their victims with impunity; the crime is also encouraged by the environment of ineffective investigative procedures of the police and a culture of silence adopted by members of the community.

Under South African Law, the definition of rape is found under the (Sexual Offences and Related Matters) Amended Act 2007. Rape is defined as follows:

"a person who unlawfully and intentionally commits an act of penetration without the consent of the complainant is guilty of the offense of rape."

Under this act, the term 'sexual assault' is used to encompass a range of acts involving unlawful sexual penetration to any extent whatsoever by the genital organs of one person into the anus, mouth or genital organs of another person.

### **Definition of Sexual Violence**

The World Health Organization (WHO) report (2002) on Violence and Health defines sexual violence as:

'any sexual act, attempt to obtain a sexual act, unwanted comments or advance, or acts to traffic, or otherwise directed, against a person's sexuality using coercion, by any person regardless of their relationship to the victim, in any setting, including but not limited to home and work'.

Sexual Violence exists on a continuum of severity and includes, but is not limited to: rape (within marriage or a dating relationship, by strangers, during armed conflict, gang –rape); unwanted touching of sexual nature; unwanted sexual advances, comments or sexual harassment, including demanding sex in return for favours; sexual abuse of mentally or physically disabled people and children; and forced marriage or cohabitation, including the marriage of children.

Sexual violence can also be exhibited through the denial of the right to use contraception or to adopt other measures to protect against sexually transmitted diseases. (Krug et al., 2002) distinguish between both individual and societal risk factors associated with sexual violence. Individual risk factors include the following: using and abusing alcohol and drugs; lacking inhibitions to suppress associations between sex and aggression; holding attitudes and beliefs that are supportive of sexual violence towards women; associating with sexually aggressive peers; having experienced sexual abuse as a child. While societal risk factors include the following:

1. Gender-based inequality arising out of sexual violence is more likely to occur in societies with rigid and traditional gender roles where the ideology of male superiority is strong-emphasizing dominance, physical strength, and male honour.
2. Male entitlement: men are more to commit sexual violence in communities where concepts sexual violence goes unpunished. Social ideology entrenched in male entitlement may deny women a fundamental right to refuse sex and fail to recognize marital rape.
3. Absent or weak sanctions and services: community tolerance of sexual is evidenced by the unresponsiveness systems fail to hold perpetrators accountable and fall shorts of victim's needs.
4. Poverty: poverty increases people's vulnerability to sexual exploitation. Individuals who lack sufficient economic resources to meet their basic needs, specifically women, may have to resort to bartering for essential goods with sex.

### **RESEARCH METHODOLOGY**

The researcher relied on existing literature, case reviews, and a number of secondary data. The researcher subjected some of the secondary data information due to his own ontological interpretations and standpoint. The researcher is aware of the limitations associated with over-reliance on secondary sources: 'Secondary sources of data are usually of limited value because of errors that result when information is passed on from one person to another. However, they

can be valuable in their own right in providing a partial commentary on the events by revealing the different viewpoints and cultural/social background of the sources' (Silverman 2009).

### **Review of Case-Studies of Child Rape in South Africa**

A case-study involves the use of particular kinds of research methods mainly associated with qualitative research. A case study is a form of qualitative research: 'Case studies have been used for various purposes: explanatory, descriptive and exploratory research' (Yin 1989, p.15). Advantages of conducting a case-study are:

1. A case study allows the researcher to assemble a particular phenomenon or set of events with the explicit aim of drawing theoretical conclusions from it.
2. It encourages the use of analytical generalization as an alternative to statistical generalization.
3. The case-study enables the researcher to carry out a detailed investigation on a case-by-case basis.
4. It is a useful method of collecting data during research as it enables the researcher to make use of multiple sources of evidence.

### **Disadvantages of Conducting a Case Study are:**

1. Qualitative research cannot be replicated because it gives the researcher too much scope to be able to influence the results and it is prone to selection bias (Yin, 1984).
2. It is difficult to make useful comparisons from several cases.

The researcher introduced some case-studies to support his argument that child rape has grown and escalated to an uncontrollable and unaccepted levels. It is hoped that these case-studies presented in this article will invite readers to evaluate the extent of rape in South Africa.

### **Researcher's Practical Field Experiences of Rape Investigations**

The author served as a police officer for several years and was trained in a criminal investigation, preservation of crime scenes, mounting surveillance, combating terrorism, and protecting lives and property. Some of the researcher's experiences were gathered during the researcher's years as a police officer dealing with traumatised rape victims.

### **The Extent of Child Rape in South Africa**

Of the 124 526 total rape cases reported in the last 3 financial years 2015,2016 and 2017, children were the victims of a sickening 41% of these cases. In the same period, 2 600 children were also murdered. That amounts to 5% of the total murder numbers across the country. This also means that at least 46 children are raped every day and at least two children are murdered every single day in South Africa. Only 21% of child rape cases and only one in three murder cases resulted in successful convictions.

In 2014/15, there were 15 520 child rapes reported. Only 1799 ended up in successful convictions. In 2015/16, 16 389 were reported. Just 2 488 were convicted. In 2016/17, the number rose even further to 19 071 ([www.thesouthafrican.com](http://www.thesouthafrican.com)). It has been argued that a case of rape happens every 26 seconds in South Africa (POWA 2007). In South Africa, however,

the rape of infants and toddlers (children under 3 years of age) has reached what has been called epidemic proportions. (Richter, 2003: 393).

The rape of such young children has been linked, in the mass media and in academic exchanges, to the rampant HIV/AIDS epidemic in the country, and involves what is being called the 'virgin cleansing myth's (Jewkes et al.; 2002; Pitcher & Bowley, 2002). This myth refers to the idea that a person can be cured or protected from AIDS by exposure to intercourse with a virgin. The researcher calls this rubbish and nonsensical, as no religion openly promotes the abuse of children. Unfortunately, there appears to be an unquantifiable number of followers of this ridiculous myth, and this is one of the reasons why female children have become even more vulnerable to adherents of such obnoxious beliefs in South Africa.

(Jewkes et al.; 2002) argued that the violent past of South Africa during the apartheid regime is partly to blame for child rape in our society today. This was an oppressive era in which the family as a social unit was disintegrating amidst the arrests and murders of family breadwinners. Some children were raised in harsh and deprived communities with little or no hope. Members of these marginalized communities have sometimes turned to violent crime to express their anger at the strain society has imposed on them.

Richter (2003) provides us with some useful statistics on child rape in South Africa. She argues that 'in South Africa, prevalence rates of abuse experienced before the age of 17 years have been reported in one retrospective study of a student population to be 79% for psychological abuse, 16% for physical abuse and 6% for ritual abuse' (Madu, 2002). In three other South Africa studies, retrospective reports of sexual abuse as a child averaged 26% and 54% for men and women respectively (Collins, 1997; Madu, 2001; Madu & Peltzer, 2000). These are some facts about rape in South Africa:

- 64,514 rapes were reported in South Africa last year according to police statistics for 2011/2012.
- 80 to 95 percent of rapes are not reported to the police.
- It is estimated that a total of about 580,626 rapes may have been committed in South Africa in 2012.

According to a survey conducted by the Medical Research Council and the Department of Health, it was reported that 66.7 percent of the victims were women of African origin, 19.5 were Coloured, 11.4 were Whites and 2.3 Indian.

Male abuse of schoolboys was more common in rural areas, while female rapes were more common in urban areas (Saturday Star March 2, 2013).

In South Africa, child rape may be carried out by relatives or familiar adults in the child's home. Child rape thrives in homes and communities where there is a lack of safety and security. It is important that we, as parents, should try to prevent our children from falling into the hands of rapists lurking around the community. In South Africa, some traditional healers known as "Sangomas" (or fortune-tellers) have taken advantage of their clients' quest for spiritual help by capitalizing on their state of vulnerability. Religious leaders are being sent to jail for raping children, police officers on duty are raping children, teachers are reported to have raped and impregnated teenagers at schools, university students are raped on their university campuses, and politicians and highly-placed public officials are accused of raping their victims. Nowhere is safe for rape victims, and stepfathers, in some instances, parents are receiving payments for allowing their children to be raped! What a shameful and wasted generation! One doesn't need to be a rocket scientist to realize that child rape has spiralled out of all proportion in South Africa. Cases are reported daily in the media. It can be argued that the police have given all rapists free rein to violate their victims. Some of these criminals go on to attack more than 20 victims before they are eventually arrested. It is important that the

researcher share with the readers a few cases of child rape, disturbing though they may be. This will help my readers to comprehend the extent of child rape in South Africa.

### **Barriers to Investigating Rape**

Rape is one of the fastest-growing crimes in South Africa but also has one of the lowest conviction rates. There are many reasons why it is a complex matter to investigate child rape; some of these reasons are as follows:

a. **Insufficient Evidence Found Against the Suspect**

This is sometimes due to police officers not being able to effectively deal with the crime scene or manage information reports; they may also fail to follow up leads regarding the suspect and delay the process of investigation, giving the suspect ample time and opportunity to conceal or in some cases destroy vital evidence that might have led to their arrest. Rape Remains one of the Most Under-Reported Crimes in South Africa. It is a very difficult crime to prove, especially as a considerable number of rape offenses, particularly child rape, are committed in secrecy.

b. **Lack of adequate Support for Rape Victims**

In South Africa, the support given to rape victims is inadequate although there has been an increase in awareness with the establishment of the "Thuthuzelas", or one-stop Centres for rape victims. Victims of rape are now reporting the crime and making use of these Centres because they have proved to be more accommodative and supportive than the police.

c. **Age of the Child**

A child's competency to testify in courts has always been a contested issue. This is based on the sometimes flawed premise that a child has no mental capacity of their own. Another school of thought is that a child can choose to be vindictive and is capable of telling lies against stepfathers with whom they lack a cordial relationship. This is why children's allegations must be handled with sensitivity and reliability. Crime investigators dealing with child abuse-related incidents are advised to approach the field of investigation with an open mind (Siegel and Mirakovits, 2010; Gilbert 2010). Under South African law, it is deemed that children under 12 years of age and persons who are mentally handicapped are not in a position to consent to sexual acts (Sexual Offences Act and Related Amendments 2007).

d. **Families Do Not Wish to be Seen as Irresponsible by Members of their Communities**

It is important to mention here that it has been reported that families may cover up incidents of rape, especially when the suspect is the sole provider in the family. This is common within reconstituted families where there are stepfathers and stepmothers. It is also common in marginalized communities. Abuses like this can go unreported for years because of what is at stake when such abuse is reported. For these reasons one can see why some parents will not want to press charges against familiar offenders. There is an absence of specialist service partnerships responding to child rape. Paediatricians, psychologists, social workers, and trained nurses need to work together to achieve their desired goals. There is an inadequate number of

forensics and medical practitioners to analyse blood and semen samples and injuries sustained by victims.

- e. Police are not properly trained to deal with child rape.

Interviewing child sexual abuse victims has traditionally been mishandled due to insensitive behaviour by the investigators. Taking into consideration the dominant police culture, the sympathetic treatment of victims of rape can be better provided by social workers. The cult of machismo provides us with the hypothesis that men are not conditioned to show emotion. So, dealing with rape is not real police work, nor is it dealing with domestic violence or marital rape.

### **Theorising rape (Multi-factor theory)**

The researcher argues that although biological, behavioural, social-cultural and intimacy/attachment can be held responsible as a motivating factor for rape. But this research is informed by the multi-factor theory alone. According to this theory, sexual offending is the result of a combination of biological, developmental and cultural influences, individual vulnerabilities and situational factors. The theory posits that negative developmental influences that occur early in life, such as maltreatment or exposure to violence in the home, adversely affect one's ability to form close, meaningful relationships, as well as impairing the capacity for solving, emotional management, healthy self-esteem, and self-control. As such, additional difficulties with adjustment are likely to be encountered during adolescence eg. peer rejection, esteem difficulties, and social isolation. This, in turn, exacerbates, the existing problems and vulnerabilities, and makes it increasingly difficult for such individuals to deal effectively with the significant physical and hormonal changes and emerging sexual feelings that occur during puberty. (Sigworth, 2009: 4-5).

### **Reasons for Child Rape**

There are several reasons why people commit child rape. In South Africa, child sexual abuse is exacerbated by widespread poverty, migration, social and economic insecurity, and inadequate childcare arrangements. However, for the purpose of this article, the researcher will look into some of the following reasons why people commit child rape: Cultural beliefs, virgin myths, victim-blaming, blaming the apartheid regime for violence, failure of the police and criminal justice system, and police culture.

- a. Cultural/ religious beliefs

First, the researcher takes a look at some Christian values. In the book of Ephesians 5:22-33, which categorically states that:

‘Wives, submit yourselves to your own husbands as you do to the Lord.

For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Saviour’. Now as the church submits to Christ, so also wives submit to their husbands in everything’.

The researcher took offense in this biblical allusion that commodifies and objectifies women in today's society. The researcher argues that man is given a godlike status that all women must obey because he is the head of the house, and to put up with all despicable

behaviour. One can understand from these verses of the bible why women have been treated as second class beings and are still treated so by men to date. The researcher calls for a very proactive resistance movement for all oppressed women in the world to stand up to all oppressive men confining them to slavery and servitude under the guise of culture or religion.

Second, the researcher turns to Islam religion. Muslims men are allowed to marry up to four wives provided they can take care of them. Muslim women are forced into purdah practices of wearing hijabs (Veils) covering their faces at this same time this oppressive does not apply to Muslim men. Women are not allowed to worship at mosques in the same room with their husbands. The husband is allowed to physical chastised / assault his wife with a whip under sharia law if they are rebellious or gone astray. Women are not allowed to go out without male minders watching over them. In some extreme instances death by stoning for adultery.

Third, the researcher takes a look at some of the African traditional religions associated with black South Africans. Marriages that were meant to bring joy and to foster unity between the two families involved, is sometimes driven by counterproductive rituals and traditions. Recently, amongst the Zulu Nation, the ilobolo / bride price exchanged by the groom and bride families has come under a series of debates in South Africa. Some men believe that if you can pay the bride price in question, it becomes a lifetime guarantee for sex and in some instances, the issue of the wife's consent falls away. It has been reported that some men will go as far as having sex with their wives by force. Such action illustrates the cultural construction of masculinity where male authority in the sexual domain is legitimized (Wood & Jewkes 2001, Sigsworth, 2009, Yesufu 2017).

The practice of " Ukuthwala or bride capture" which still persists in some rural areas of the former Transkei, in the Eastern Cape Province is worth exploring...as part of the male collective coercion marriage process which has long been deemed as acceptable. Ukuthwala is the culturally legitimized abduction of a woman through which a circumcised adult man can take a wife-this custom demonstrates that a woman's lack of consent does not automatically turn an act of sexual coercion into rape because the act involves her future husband...rape its believed cannot occur within marriage (Woods & Jewkes , 2001).

In some parts of the Eastern Cape and Kwa-Zulu Natal, young girls are tested for their virginity before the marriage. In some instances, the prospective groom is a promiscuous sexual abuser over the years. The culture and economic power endangered by these practices give him the power to test available young girls. The researcher argues that this very discomfoting, unfair and unacceptable treatment of young girls and women in our society. How can such men who have subjected their wives through this kind of ordeal under the guise of cultural beliefs ever claim to love their wives or treat them as equals in marriages?

The researcher unequivocally and unapologetically calls for a review of these practices. The South African government should be at the forefront of calling for a review of these unacceptable cultural practices. The women's month in South Africa should vigorously and relentlessly challenge these ongoing injustices against women in our society until it is completely eradicated. The researcher argues that upholding our African cultural values is a good thing but sexual predators should not be given a platform to abuse women. The researcher draws solace from the wise words of the late Burkinabe Leader Thomas Sankara who said that:

The woman leads a twofold existence indeed, the depth of her social ostracism being equally only by her stoic endurance to live in harmony with the society of man, to conform with men's demands, she resigns to a self –effacement that is demeaning, she sacrifices herself...

Comrades, there is no true social revolution without the liberation of women...



Women's emancipation is at the heart of the question of humanity itself, here and everywhere' (Sankara, 2007). The researcher argues that sexual violence against women permeates our society because of perpetual inequality that still exists alongside with it. It is not going to go away until women are treated better and equally by their male counterparts.

b. Virgin Myths

This unfounded idea suggests that having sex with a virgin cleanses/ cures one of AIDS in South Africa. This is one of the reasons why old men suffering from AIDS have attacked young girls in the belief that they will be cured of the disease (Baleta , 2001; Jewkes, 2002). It can be argued that there is no excuse or justification for an adult to have sexual intercourse with a 3-month-old baby. People who rape innocent children should rot in jail. We must stop hiding friends or family members if they are rapists. No one should be allowed to propagate false information, not even religious or cultural leaders.

c. Extreme Poverty

The high levels of poverty and the growing gap between rich and poor are a key risk factor associated with sexual violence in South Africa. Poor housing conditions force children to witness their parents or other relatives engaging in sexual acts; this, in turn, promotes sexual experimentation without proper guidance. Poverty increases the likelihood that women will engage sex work or subtler forms of transactional sex, and that poverty forces women to carry out a range of daily activities which place them at very high risk. In relationships of dependency, which of often result from the low economic status of women, women may find it difficult to protect themselves from sexual exploitation ( Jewkes & Abrahams, 2002).

The researcher argues that from the narrative of extreme poverty a new culture has emerged in South Africa predominately around the Gauteng Province. This culture is simply referred to as the " Blesser and the Blessee" practices. The "blesser" is referred to as the older men, economic buoyant, often married with grown-up children from previous relationships, in some instances, the age of the blesser is four times that of the "blessee's" age group. It is unexplainable why would an 18 years old girl want to date a 72 years old man? This kind of relationship defies logic. But has unfortunately remained a growing trend especially in the big cities of Johannesburg and Pretoria South Africa. The blesser and the blessee ways of life although frowned at by most people is becoming almost normalized. In some instances, the government is blamed for the high youth unemployment rates that have facilitated prostitution amongst young girls who live at the mercy of their abusive, predatory blesser. The researcher argues that there are potentially high risks of sexual infectious diseases been transmitted to young vulnerable women. It becomes very difficult for victims of rape in these circumstances to even report incidences of rape to the police as their entire life economically depends on the blesser's . The researcher argues that indeed money is the root cause of evil. This kind of morally bankrupt social relationships should not be allowed in any society. To allow it to continue unabated and some parents allows it to go on unchallenged. The government must intervene and pass laws to stop blesser sending women into early graves in South Africa due to prevalence of sexually transmitted diseases associated with these kind of relationships.

d. Blaming the Victims of Rape is a Common Phenomenon

The researcher argues that, in today's society in South Africa, victims of rape are constantly blamed for the abuse perpetrated against them. Some people state that rape victims have "asked for it", or "he/she was dressed provocatively", or "the victims behaved in a flirtatious way" and in some instances blames the social media. The child was "not supposed to be there at that time of the day unaccompanied" and "where were the parents of the child?"

The blaming of the victims places a sense of guilt on the victim, not the suspect. The judgment passed on the victim's behavior takes precedence over the criminal behavior of the suspect. This is very common in instances where those accused of rape are very powerful people in society. It is morally indefensible to condone a society that constantly blames victims of crime instead of finding ways of supporting victims of rape. One can see how the blaming of victims negates and contradicts the ethos of "Ubuntu" in South Africa. One can clearly argue that this atmosphere of blame culture has contributed to rape victims' strong reluctance to report the crime to the police.

e. Blaming Apartheid Culture of Violence

No one can dispute the claim that successive apartheid regimes were characterized by oppressive minority governments represented by state law enforcement agencies that were commonly used for the brutalization and murder of citizens. The high level of violence in South Africa observed worldwide occurred on an unimaginable scale. Political murders marred the political landscape of society. Apartheid brutalized all – its victims, as well as its beneficiaries. Through the migrant labour system and homelands, apartheid sowed the seed for the breakdown of the institution of the family. The breakdown both family and societal moral values manifests itself in many ways and in all sections of our society, the rich and poor, urban and rural, black and white, young and old. The molestation of children and infants is a symptom of this degeneration'. One must surely ask why, in today's South Africa, where the apartheid regime is no longer in power, child rape and other forms of rape have spiralled out of control. It would be very misleading for us to continue to blame apartheid for some of the crimes now being committed by suspects who were not even born in the days of apartheid. This leads us to the inevitable question:

What is wrong with society? Why are human beings raping children as young as three months of age? How can we fix our morally degenerated society?

The researcher argues that the rape crisis needs to be discussed more in South Africa; citizens should be educated about their rights as there are still many rape victims who do not know their rights or where to turn when they become unfortunate victims of rape. Some rape victims do not know where to access advice or support in their communities. The Department of Education and Information is failing the people of South Africa in this regard. How can one expect rape to be reported to the police when some of the victims do not know their constitutional rights as victims of crime? The researcher believes that the South Africa government should do more to protect its citizens from harm. It is the government's responsibility to protect all inhabitants of South Africa. Security and safety should be one of the top priorities of the government and the people of South Africa. It is a collective response to fighting crime that will eventually make our communities safer. The researcher argues that the responsibility for crime prevention and investigation should not be left in the hands of the police alone. The founding ethos of modern-day policing is informed by 'policing by consent' not by policing by isolation. The author

argues that it becomes more problematic and complex when the police are detached from communities they serve and protect.

f. Failure of the Police and Legal System

The response of the criminal justice system to sexual violence in the country has been rather deficient and it remains a source of contention between the government and civil society. (Sigsworth, 2009).

To understand the extent of the police's failure to effectively investigate rape in South Africa, it will be useful to first explain the dynamics of pervasive police culture encapsulated in the "solidarity, cult of machismo, and cynicism" (Reiner, 2010; Loftus and Chan, 1997).

The researcher argues that most police officers do not see the investigation of rape and domestic violence as part of their jobs and do not regard it as "real policing". Many believe that the responsibility for investigating such crimes is best left to social workers as they are trained to support rape victims. First, let us look at how the police cult of machismo might hinder rape investigations. In most countries, the majority of police officers are men, who are most likely to endorse some of the patriarchal values of society. Police officers are not expected to show their emotions in public because those are not seen as typical qualities of a man, who is supposedly created to endure and subdue emotional feelings. Women, they claim, are governed by emotional feelings; they are the weaker sex and will always return to their husbands even when domestic violence has been reported to the police. A good police officer is expected to be able, with little or no assistance, to apprehend suspects who have broken the law. The nonsense "Robocop" should never be afraid to get involved in physical confrontations or brawls" (Loftus, 2009; Punch, 2009; Chan, 1997; Holdaway, 1983).

### **Global Rights of the Child**

The preamble to the 1959 United Nations Declaration on the Rights of the Child states the following:

‘Whereas the child, by reason of his physical and mental immaturity, needs special safeguards and care, including appropriate legal protection, before as well as after birth...’

‘The child shall enjoy special protection, and shall be given opportunities and facilities, by law and by other means, to enable him to develop physically, mentally, morally, spiritually and socially in a healthy and normal manner and in conditions of freedom and dignity. In the enactment of laws for this purpose, the best interests of the child shall be of paramount consideration.’

Some of these principles were translated into rights in the 1989 UN Convention on the Rights of the Child (Myjer et al.; 2009). Here are some of the child protection elements of this UN policy document. Article 37 states the following:

‘State Parties shall ensure that:

a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without possibility of release shall be imposed for offenses committed by persons below eighteen years of age.

The Article of the Charter of Fundamental Rights of the European Union states the following:

‘Children shall have the right to such protection and care as is necessary for their well-being’...

## **Child Law in South Africa**

The Sexual Offences and Related Matters Amendment Act 2007 is a very important piece of legislation for the following reasons:

1. It creates a duty to report sexual offenses committed with or against children or persons who are mentally disabled.
2. It provides the South African police with new investigative tools when investigating sexual offenses or other sexual offenses involving the HIV status of the perpetrators.
3. It provides our courts with extra-territorial jurisdiction in matters relating to sexual offenses.
4. It establishes and regulates a national register for sex offenders.

This Act also defines a "sexual act" as an act of sexual penetration or an act of sexual violation. "Sexual penetrations" were described as follows:

- (a) The genital organs of one person go 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 entering any part of the body of an animal, into or beyond the genital organs or anus of another person (see Sexual Offences and Related Matters Amendment Act 2007).

Meanwhile, section 54 of the Act places the onus of reporting child sexual offenses to the police on citizens. It states that:

‘a person who has knowledge that a sexual offense has been committed against a child must report such knowledge immediately to a police officer’. Should they fail to do so, that person is guilty of an offense punishable by a fine or imprisonment.

This section is intended to serve as a deterrent to those citizens who have knowledge about child rape and choose not to report the matter to the police either because the person is a family member or because they fear reprisals by the suspect. Under South African law, section 17 of the (Children Act 38 of 2005) states that "a natural person attains majority at the age of 18 years. A natural person under the age of 18 years is defined as a ‘child’ and must, therefore, be duly assessed or represented by his guardian in matters of civil and criminal litigation in South Africa. A child's legal guardian is also compelled to represent a child in most legal matters."

Next, the researcher looks at both rape offender profiles and the traits associated with sexual offenders in South Africa.

## **Rape Offender Profile**

- Tends to be young (16- 20 years of age).
- Previous convictions for sexually-related offenses.
- Power-reassurance - doubts his/her sexuality and seeks to dispel this doubt by exercising power and control over victims.
- Power assertive
- Anger and retaliatory
- Mental illnesses, sadistic, fetishist.
- Opportunistic offenders
- Willingness to humiliate, abuse, and degrade their victims

(Siegel and Mirakovits, 2010; Gilbert, 2010).

## **Traits Associated with Sexual Offenders in South Africa**

- Personal Details
- Characteristics
- Personality traits
- Very low self-esteem
- Very poor interpersonal skills and have difficulties in interacting with people and their communities in general.
- Callous and short-tempered or openly violent
- Over sexualized.
- Show a distorted sense of reality and a distorted sense of their environment.
- Some show signs of personality disorders or low IQ.
- Socio-economic background
- Poor and unemployed.
- Illiterate or with a very low educational background.
- Come from a dysfunctional family where they might have experienced domestic violence or sexual abuse.
- Have not been exposed to sexual education, particularly at home.
- Lacked parental guidance for most of their childhood and adolescent life.

### Age

Most perpetrators of rape, particularly gang-rape, are young men, under the age of 34. Perpetrators of paedophilia or incest tend to be older men.

### Racial and cultural profile

Matching the racial profile of the country-and of the prison population as a whole the majority of perpetrators of sexual violence in prison are black men.

\*Source: Centre for the study of violence and Reconciliation (CSVR)

Next, the researcher presents some case studies out of the exhaustive lists of child rape incidents in South Africa to support his arguments that child rape is endemic in South Africa.

### **Case studies of child rape**

One of the reasons the author picked only several child rapes is that time and space does not allow the researcher to highlight every incident of child rape in South Africa. But the case studies it designed by the researcher to provide the reader with a good insight into Child rape in South Africa.

#### **Case Study 1: rapist Johannes Kana**

The rape and gruesome mutilation of a teenage girl in South Africa have sparked a rare outburst of anger in a country that often appears numb to sexual violence. Anine Booysen, 17, was found disembowelled with her intestines hanging out at a construction site in the South Western town of Bredasdorp at the weekend and later died in hospital. She was reportedly lured away from her friends by a group of men and is thought to have been gang-raped, although police said on Thursday that they were still investigating. This case has shocked a nation in which

tales of sexual violence are commonplace. The whole nation is outraged at this extreme violation and destruction of a young human life.

The Cape Argus newspaper cited a witness as saying that the teenager's body was cut open from her stomach through to her genital area, exposing her internal organs. Two suspects have been arrested and one of them appeared in court this week on murder and rape charges. The rapist Johannes Kana was sentenced to two life sentences by the Court. ([www.mg.co.za](http://www.mg.co.za)).

The researcher argues that no matter how many life sentences the perpetrator may get, it does not bring back the lost life of a 17-year-old girl. Preventative measures should be put in place to avoid such incidence of rape.

### **Case Study 2: Serial rapist Soyiso Nofemele**

This case was headlined 'Serial Rapist Gets 11 Life Sentences in South Africa'; it appeared in the Leadership newspaper published by Oluwaseun OluwaRotimi. It was reported that:

'Serial child rapist Soyiso Nofemele was a "pervert and a sexual predator" who preyed on helpless young girls for a long period ...the 24-year-old father of a six-year-old child pleaded guilty to raping 11 girls between the ages of two and eight, raping one of the girls twice. He also raped and murdered four-year-old Ayiwe Speelman. His spree of rape crimes lasted from April 2010 to September 2011'. According to the presiding judge, Ndita to Soyiso, during sentencing:

'Your conduct is sick and disgusting, particularly killing a girl when she screamed ... you displayed a naughty and dismissive smile throughout the trial'...

Nofemele lived in the Harare neighborhood of Khayelitsha, abducting girls from Monwabisi Park and luring them to nearby bushes where he raped most of his victims. (Leadership 29/08/2012). It is important to mention here that Nofemele is a serial rapist who has become very comfortable with the police and the court system.

### **Case Study 3: A traditional healer**

A traditional healer appeared in the Eshowe Magistrate's Court on Thursday for allegedly raping a woman, he was treating, KwaZulu-Natal police said.

He would be back in court on Friday and would remain in custody, said Colonel Vincent Mdunge in a statement.

"The traditional healer had diagnosed the woman as being possessed by the tokoloshe," he said.

"On December 3 [Monday] the woman was allegedly instructed by the traditional healer to meet her at 7 pm for further treatment to get rid of the tokoloshe."

The healer told the woman to come along and not tell anyone she was receiving treatment from him.

After she arrived, the healer allegedly took the woman into nearby bushes and started to treat her. He allegedly rubbed the woman's stomach with ointment, began touching her and then raped her. The healer, 55, was arrested on Tuesday"

This is a pathetic case because traditional healers are seen by many as custodians of customs and traditions. To become involved in rape is not an anticipated situation. As people become more aware of their fundamental human rights in South Africa, they are more empowered to challenge and scrutinize the activities of traditional healers or fake religious prophets.

#### **Case Study 4 – ANC Councillor Rape Report "Hurts ANC Image"**

It has been recently reported that an African National Congress councilor aged 45 raped a young girl of 13 years in the bushes. This incident took place on 20th March 2013 at a place called Sutelong village in Bedwanin Northwest province. The Councillor was arraigned before the Thembisa Magistrates court on a charge of raping a minor. Brigadier Thulani Nugaubane has confirmed the incident to the media (Primedia online, 2013).

It is not surprising that politicians have also joined the community of rapists in South Africa. The unlawful sexual violence exercised by the councilor on a defenseless teenager is a worrying concern at the moment in South Africa. It can be argued that the future of our democracy is put in jeopardy. We cannot afford to have people in a position of trust abused their power of the office. Collectively, we must hold them to account for their unlawful acts whenever they occur.

#### **Case Study 5 – Nkosemntu Ziqhu**

‘Recently in the Free State provinces of Bloemfontein High Court, an HIV-positive soldier, Nkosemntu Ziqhu, was convicted on twelve counts of murder for raping twelve children aged from 11 to 14 years...He ambushed them in a forested area near a Coca-cola factory south of Bloemfontein, always choosing girls who were slender and frail-looking for their age’ (Stuijt 2008).

#### **Case Study 6- Pat Thobela**

It was reported that ‘a 20-year-old man was sentenced to 20 years in prison for the rape of a 15-year-old girl in Gauteng province’. Pat Thobela was convicted in the Sebokeng Magistrate’s court. The 15-year-old was walking home from school on October 31, 2007, when she was hit from behind by a rock. Turning, she saw Thobela running towards her with a knife. He caught her and dragged her into the bushes near Tsita squatters’ camp. There he raped her five times, including forcing her to perform oral sex on him. He said he wanted her, the victim, to become pregnant as a result of the unlawful intercourse. When he had finished, he took the victim to tap and forced her to wash up, begging her not to tell her parents about the incident.

It can be argued that this is a vicious and savage attack on a young girl. There are three issues of interest to criminologists here. The modus operandi of the attacker were such that he committed this crime because he wanted to exercise power, control, and dominance over his victim. Second, he was determined to humiliate and degrade his victim. The rapist was a very callous and heartless person who wanted to conceal or destroy evidence, as we can gather from the incident described above when he ordered the victim to wash under the tap. The attacker in this regard falls into the category of an organized rapist who does everything possible to cover his tracks and make it difficult for law enforcement officials to arrest him. Third, the fact that the attacker begged the victim not to tell her parents shows that the attacker knows right from wrong and that he was planning to evade the consequences of his deviant behaviour.

The cases presented above are real incidents that clearly shows and enables the reader contextualize the extent of child rape in South Africa. Next, the researcher looked at some of how the investigations of rape have been handled. Had investigative processes been more effective, many more rapists would be behind bars in South Africa. Law enforcement officers should receive more training in forensics, criminalistics and the support of rape victims.

### **Case Study 7: A 51-year-old Limpopo Pastor**

In July 2019, it was reported in the online times live newspaper captioned "Limpopo pastor kept behind bars after 12-year old accuses him of rape". A 51-year-old pastor from Limpopo has been ordered to remain behind bars after being accused of raping a 12-year-old congregant a week ago. According to police spokesman Colonel Moatshe Ngoepe, the pastor –from Thabazimbi west of Bela-Bela- was arrested on June 17. ... The arrest of the suspect follows an incident where he allegedly arrived at the victim's house at about 4.30pm for a prayer session and then told the victim's mother that the girl was sick. He further claimed the girl should go with him to the nearest river so that she can receive her healing. However, when the pastor didn't return with the pre-teen, her mother started panicking. She informed the father, who then followed them to the river. He was surprised to see his half-naked, running and screaming for help. The frightened girl then alleged the pastor raped her. A case was immediately opened and the suspect was detained ([www.timeslive.co.za](http://www.timeslive.co.za)).

### **Case Study 8: accused rapist Lawrence Thapelo Paterson**

In another disgusting report, it was reported on IOL news South Africa captioned "Rape accused pastor threatened to lock girl in a mortuary fridge with corpses" A 49-year old pastor, accused of raping a Kimberley girl over a seven-year period, from when she was only six years old, made his first appearance in the sexual offenses unit at the Kimberley Magistrate Court. Lawrence Thapelo Paterson, 49, who is a pastor at the Orion International Church and also a funeral undertaker at Tusano funeral service in Trompsburg was arrested on February 2019. He is facing allegations of raping a now 13-year-old Kimberley girl from 2011, when she was only six years old, until 2018 ([www.iol.co.za](http://www.iol.co.za)).

### **Case Study 9: rapist Thozani Myalelwa of Durban South Coast**

According to a report by one Non-for – Profit Organisation "Bobbi bear. It was reported and captioned as "12 FEB PASTOR GETS 5 LIFE SENTENCES FOR RAPE". Thokozani Mvalelwa, a self-professed pastor on the South Coast of Durban Port Shepstone was recently handed 5 life sentences for the rape of 5 children under the age of 12.

### **Case study 10: ZCC pastor arrested for raping teen girl**

It was reported that a Zionist Christian Church has been arrested for allegedly raping a sickly 18-year-old girl he was tasked with healing according to Eastern Cape Police. The 43 –year old allegedly took the girl to a bridge in Butterworth to wash her with traditional medicine to treat her illness. Whilst they were there, he allegedly touched her private parts as no one was at the scene. The man then drove the teenager back to her home, only to pick her up again half an hour later. He fetched the victim and drove her to a certain shack at Ibika township, Butterworth, where she was told to take off her clothes. The pastor also took off his clothes and raped the victim. ([www.tears.co.za](http://www.tears.co.za)).

### **Case study 11: Alleged rape of 9 –month old-baby shocks South Africa.**

The rape of a 9-month old baby girl, allegedly by six men in a Northern Cape township, has left South Africans reeling with shock. In the wake of the horrific incident, the nation is trying



to come to terms with the harsh reality of the extraordinarily high levels of sexual violence in South Africa, half of which are child rapes (The Lancet, 2001).

### **Case study 12: Pastor in Court for allegedly raping young boys**

A 30-old pastor accused of raping young boys at his church made a brief appearance in the Soshanguve Magistrate's Court on Friday morning, where it emerged that the case was likely to be transferred to the Regional Court. The Sowetan reported that the pastor was accused of raping several minors and young men after telling them that they were the "chosen one". It is also alleged that he abused a group of boys attending a ministry school at his church to become pastors themselves. The newspaper reported that one of the victims came forward and said the abuse started when he was 16 years old. "It started in 2015 one night when he woke up while I was sleeping with other boys in another bedroom that we shared as junior pastors, he said God has chosen me to be his protector. He anointed himself with oil all over his body and started kissing me while I was shocked. he then penetrated me"

The researcher argues that the Church and faith organizations needs to be regulated in South Africa. Pastors are betraying the trust of their congregants due to sexual lust and carnality. The researcher argues that all these despicable acts of the pastors above are signs of the end of time where many false prophets will arise and perform astounding miracles in the deceit of their followers who have placed their trust on them.

Next, the author looks at the relevance of Thuthuzela Centres to South Africa's fight against rape.

### **Relevance of Thuthuzela Rape Centres in South Africa**

'Thuthuzela' is a Xhosa word meaning comfort. In South Africa today Thuthuzelas represent a radical shift from lack of support and blaming of rape victims to a more proactive support and understanding of the needs of rape victims. It can be argued that Thuthuzelas form a critical part of South Africa's anti-rape strategy. Thuthuzelas are operational in public hospitals and sexual offenses courts.

Thuthuzelas' integrated approach to rape is one of respect and comfort, restoring dignity and ensuring justice for children and women who are victims of sexual violence. The rape victim is first removed from the crowds at the police station to a more victim-friendly environment before being transported by ambulance to the Thuthuzela One-Stop Care Centre at the hospital where she is given a medical examination. This process ensures that service providers are available to rape survivors in a single location, and the victims do not have to be shuttled around the various elements of the criminal justice system (UNICEF, 2008).

## **CONCLUSION AND RECOMMENDATIONS**

### **a. Investigating Rape**

Crime investigators must take the following practical steps while investigating incidents of rape in South Africa. More attention needs to be paid towards rape investigations in South Africa.

The first officer(s) to attend the crime scene must assess the situation to establish the following:

- Establish whether there is any evidence suggesting a lack of consent by the victim.
- Level or amount of force used by the suspect.

- Extent and type of sexually deviant acts performed during intercourse.
- Good interviewing skills to gather information from the victim.
- Each item of clothing seized should be packaged and labelled separately to avoid contamination.
- Crime investigators must be prepared to take different types of swabs: oral, vaginal, penile.
- Photograph the scene.
- Sketch the scene and conduct a detailed search for clues.
- Collect, preserve and document all the evidence found.
- Use the special rape collection kits provided.
- Make use of ultraviolet lights to identify semen or bloodstains.
- Blood samples and DNA analysis.

b. Full Medical Examination

Rape victims should be transported to the hospital as soon as possible for closer observation which must be carried out at the earliest possible time. More also, the investigator(s) must do the following:

- Photographs should be taken to record injuries sustained.
  - Collection of evidence, for example, evidence like loose hair, semen, blood, saliva.
  - Counselling and psychiatry.
  - Traditional leaders, religious leaders, and all faith-based organization leaders to constitute and oversee the conduct of pastors and religious leaders.
  - Job creation for youths. Unemployed and poverty needs to be addressed as both are push factors to young girls and boys selling their bodies for sex.
  - Tougher sentences to deter blessers from preying on young girls and boys.
- c. Education: The school curriculum needs to teach learners about sex education, rape, and the law, the impact of rape on victims, supporting processes for rape victims and reporting rape incidents. Duties of the investigating officers.
- Increase in aftercare support for vulnerable families to prevent rape; closer regulation of alcohol sales to teenagers at public licensed houses.
  - Effectively periodic training for police officers assigned to investigate rape cases.
  - Court interpreters must be properly trained and correctly translate the victim's testimony at courts.
  - Correctional facilities should ensure that repeat offender are taught life skills that will deter them from recidivism.

South Africa has one of the highest numbers of rapes per capita worldwide., with children bearing the brunt of this sexual violence. In the first part of the article, the researcher looks at some definitions of rape, the background of rape in South Africa, methodology, children's rights and the reviewing of some case studies of child rape. In the second part of the article, the researcher looks at the extent of child rape in South Africa; barriers to investigating rape, theorizing rape, and reasons for child rape. In the third part of the article, the researcher looks that the following: global rights of the child, child law in South Africa, rape offender profile and traits associated with sexual offenders in South Africa. In the fourth part of the article, the researcher looks at the following: case studies of child rape, the relevance of Thuthuzela rape centres in South Africa, recommendations and conclusion. It can be argued that the majority

of South Africans are beginning to run out of patience and, if the government does not respond to their needs, a system of vigilantism may emerge where citizens will start to protect their communities, their children and the members of their families from sexual predators.

There is no so-called 'virgin cure' for AIDS, South Africans should dispel such rumours via educational workshops and campaigns in the community to inform citizens about the completely false hypothesis that sleeping with a virgin cures AIDS. The researcher is not aware of any scientific proof or facts to suggest that raping a child to cure AIDS is an acceptable thing to do. The researcher believes that traditional healers and any person(s) of authority found guilty of rape should be given tougher sentences.

Community education programs must be vigorously expanded and appropriately targeted to the populations at risk. Traditional healers must play an important role in delivering appropriate messages. A system of obligatory reporting of all infant rapes is needed with standardized protocols for the collection of forensic evidence. All rape victims, especially child rape victims, must be offered post-assault antiretroviral prophylaxis prescribed medication. In South Africa, the current circumstances surrounding HIV testing of alleged rapists are confused and not always adhered to in practice. The researcher believes that all rapists should remain on the offenders' register for life. There should be mandatory life sentences for people who commit rape and murder simultaneously in South Africa. The researcher remains convinced that child rapists are sick people, and believes that they tend towards to be more criminal than the sick. The researcher does not believe in wasting taxpayers' money in attempting to rehabilitate a rapist who cannot be rehabilitated. Instead, we should spend more on building Thuthuzela Centres to provide more support for victims of rape, put in place proactive preventative measures to protect vulnerable victims of rape. Effective action needs to be taken to deter teachers from raping their pupils in the school, old men raping young girl and boys and religious leaders raping their congregant. The researcher believes that one child rape is one too many in South Africa. And that child rape is a very sickening and disgusting crime.

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