



**Medicine,
the Law
& You**

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Sexual abuse: When adults prey on children

SIGNS OF SEXUAL ASSAULT:

When it comes to children it is hard to tell sexual abuse unless one observes the mannerisms of the child as minors are too scared to report.

A little girl of 11 years in Primary Six was brought to the medico-legal clinic in Mulago National Referral Hospital. Her teachers at school had noticed a sharp decline in her academic performance and most of the times; she was absent-minded while in class.

At home, her parents had also noted mood swings and irrational behaviour in the child and this had gone on for some time. When her mother interrogated her at length, the girl broke down and told her that a man in the neighborhood had sexually violated her on a number of occasions.

The medical examination confirmed that the little girl's hymen had indeed been ruptured.

Sexual abuse of children is very common and is defined as the involvement of children or adolescents into sexual activities that they cannot comprehend and for which they are not prepared and are a violation

of the legal or social taboos of the society. The abuse involves a wide spectrum of activities including but not limited to genital, anal or oral penetration or contact.

Common crime

Almost half of all reported cases of sexual assault occur in children and 1 in 3 girls and 1 in 5 boys will be sexually assaulted before the age of 16 years. The process of abuse influences the clinical features, physical

and psychological effects as well as the process of disclosure and presentation. Spontaneous disclosure is uncommon and invariably delayed.

In the Penal Code Act of Uganda, anybody who performs a sexual act with another person who is below the age of 18 commits a serious offence (felony) known as defilement and is, on conviction, liable to life imprisonment. However, if the victim is below 14 years or is a person with a disability or the perpetrator is infected with

the Human Immunodeficiency Virus (HIV) or is a guardian of or a person in authority over the victim or has previously been convicted of defilement, then the crime is even more serious and is known as aggravated defilement. A person, on conviction by the High Court, of aggravated defilement is liable to suffer death.

Proving the case

To successfully prosecute a person for the offence of defilement and

secure a conviction, the State must prove to court the following ingredients beyond reasonable doubt;

- A sexual act was performed.
- The victim was below 18 years.
- The accused person is the one who performed the sexual act complained of.

And in a case of aggravated defilement, any or some of the following ingredients must also be proved;

- That the victim was below 14 years.

• Even if the victim is above 14 years but below 18 years, the case will still be aggravated defilement if:

- That the victim had a substantial limitation of daily life activities caused by physical, mental or sensory impairment and environmental barriers resulting in limited participation.
- That the perpetrator is HIV positive (regardless of whether the victim was infected or not).
- The perpetrator was a guardian or a person in authority over the victim.

• The perpetrator had previously been convicted of the offence of defilement, aggravated defilement (and rape, although not included in the penal code).

Defining sexual act

The law defines "sexual act" as the penetration of the vagina, mouth or anus, however slight, of any person by a sexual organ or the unlawful use of any object or organ by a person on another person's sexual organ. And for the avoidance of doubt, a sexual organ means a vagina or a penis.

The law on defilement and aggravated defilement refers to the victim as a person unlike rape where the victim must be a woman or girl. In other words, a man cannot be a victim of rape according to the laws of Uganda. On the other hand the victims of defilement and aggravated defilement may be girls or boys.

To be continued...

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