

# MEN'S GUIDE TO THE SEXUAL OFFENCES ACT



HOW MEN CAN SUPPORT SURVIVORS OF  
SEXUAL VIOLENCE AND TAKE ACTION  
TO MAKE THEIR COMMUNITIES SAFER



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HIV/AIDS, Gender Equality, Human Rights

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# INTRODUCTION

This guide introduces and explains South Africa's Sexual Offences Act (2007) and offers practical information and guidelines about how men can best support survivors of sexual violence.

## The guide covers:

- The **different sexual offences** covered by the law
- The **rights of the survivor**, under the SOA
- **How to report** a sexual assault to the police
- How the survivor can access **health services**, and what health services the state should provide
- How to make a **complaint about police misconduct** in taking/following up on a report
- How to make a **complaint if a survivor is denied access to health services** or is treated poorly by a health organisation
- How to **support a survivor practically and emotionally**
- Ways that men can **take action** against sexual violence





Thoko lives in Johannesburg, South Africa.



Her neighbour, Baruti, is a close friend.



One night, Thoko was raped in her home.

# UNDERSTANDING THE SEXUAL OFFENCES ACT

In 2007, South Africa passed the Criminal Law (Sexual Offence and Related Matters) Amendment Act, commonly called the Sexual Offences Act (SOA). The SOA covers a wide range of matters related to sexual offences and is the main law dealing with crimes of a sexual nature in South Africa. Its provisions are supported by the South African constitution and by various international laws – this means that all people living in South Africa are protected by it

## Do you know what these words mean?

**rape:** when somebody forces another person (male or female) to have sex – this can be vaginal or anal sex.

**consent:** agreement to have sex. The SOA states that people under 16 and people with mental disabilities cannot consent to sex, even if they say 'yes'.

**sexual assault:** any non-consensual sexual touching that doesn't involve penetration.

**statutory (rape or assault):** means that the survivor has given consent but is underage (12 to 16 years old) – this is a crime. Sex with someone under 12 is always a crime.

**compelled (rape or assault):** when someone forces a person to rape or assault another person.





## Responding to Rape

1. It is **always the survivor's choice** whether or not to report a rape.
2. If the survivor wants to report the rape, go to the nearest police station as **soon as possible** – best results are achieved within 72 hours of the crime.
3. Remind the survivor **not to shower or drink any liquids**.
4. Take **a change of clothes** to the station.
5. If the survivor wants to get changed before going to the police, **take the clothes she was wearing** with you, in a paper bag.
6. Make sure you **know the name and contact details** of the person who first found out about the crime.
7. Giving evidence to the police should happen in a **private** setting

## Victim's Rights

Victims of crime in South Africa have certain **rights**, including

- The right to be treated with **fairness and respect for dignity and privacy**
- The right to **offer information** during the criminal investigation and trial
- The right to **receive information** about the investigation and legal procedures
- You have the right to be **informed of relevant services** available to you
- The right to **protection**
- The right to **assistance**



# THOKO'S CHOICES

It would be normal if Thoko didn't want to report the crime – she may feel scared or worried that she will be humiliated. Going to the police and the hospital may be very stressful for her. Baruti can explain that it is important for Thoko to get medical attention and that the sooner she reports the crime the more likely it is that her rapist will be caught. It's very important that Baruti talks to Thoko about her choices.

**Baruti must let Thoko make the final decision for herself.** It is important that Baruti listens to Thoko, respects her decision and tries to understand how she is feeling.

If Thoko decides to report the case, she can choose whether to go to the hospital or police first. In order to access free health services, though, Thoko needs to file a complaint with the police and get a case number. Complaints and charges are not the same thing; filing a complaint does not lead to an investigation, but filing a charge starts a police investigation into the incident.

Reporting the crime within the first 72 hours increases the chance that the rapist will be successfully identified. However, if more time had passed since the crime had been committed, Thoko would still have a right to report it. The police have a duty to take the report seriously, no matter how long ago the crime occurred.

Remember that the law does not focus on Thoko's experience but on whether or not the crime against her can be proven to have occurred. Evidence is key to the success of the case. It is hard to find much evidence after 72 hours have passed.



## Sexual Violence: Facts & Myths

A lot of popular beliefs about rape are not true and can have damaging effects for individuals like Thoko:

**False:** Thoko meant yes when she said no.

**True:** When Thoko said no she meant no. There is never an excuse for ignoring Thoko's 'no' to sex. Thoko has the right to change her mind at any point and refuse sex.

**False:** Thoko may have lied about being raped.

**True:** Only about 2% of all reported rapes are false. Thoko is statistically far more likely to try to hide that she had been raped than to lie about being raped.

**False:** If Thoko was married she could not refuse to have sex with her husband.

**True:** It is illegal in South Africa to have sex with anyone if they say 'no,' regardless of if you are in a relationship with them.

**False:** All rape victims are young women like Thoko.

**True:** Anyone can be raped – age, gender, job, and skin colour do not matter.

**False:** Because Thoko did not struggle, she was not raped.

**True:** Thoko may not have struggled because she was too scared or feared it may worsen the attack.

**False:** If a male friend of Thoko had been raped he would not be a man anymore.

**True:** A man who is raped is still a man – surviving the experience shows strength and courage.





# REPORTING TO THE POLICE

If Thoko decides to file a charge, an investigation will begin. This means that the police will ask Thoko questions about what happened, evidence will be collected, and if Thoko's rapist is identified, he may be taken to court.

Thoko can report the rape by going to the closest police station or phoning the police to come and collect her. At the police station, she can ask to speak to a woman police official. She can also ask to speak to someone in her home language.

Thoko will not have to give all the details of what happened in the public charge office. Having told the charge officer that she wants to report a rape, she should be taken to a private space such as an office, or to the trauma room.

When the rape is first reported, only the basic information needs to be provided. Only after the medical examination has taken place will the investigating officer get a detailed statement from the survivor. However, Thoko should try to give a detailed description of the rapist and where she last saw him immediately so that the police can try to arrest him as soon as possible.

Before leaving the police station, **don't forget to write down:**

- the **case number**
- the **name of the police officer** who took the statement – he or she will be responsible for the investigation of the case
- the **phone number and address** of the police station

If the police treat Thoko badly or fail to perform their duties, she can lodge a complaint with the Independent Complaints Directorate (ICD), the body which oversees the police services. It has the power to investigate misconduct and failure by the police to respond to a complaint.



# GOING TO THE HOSPITAL

As part of the investigation, the police will accompany Thoko to the hospital, where she will be seen by a health worker. Evidence may be found on Thoko's body, so she will be asked to take her clothes off and stand on a big piece of paper while the health worker examines her.

**If Thoko decides not to report the rape she should still go to the hospital to get treatment for any injuries and prevention of any sexually transmitted infections.**

Rape and any other form of sexual violence may leave Thoko feeling very vulnerable and scared. Thoko may feel depressed and weak, which means that making sure the case Thoko filed with the police is being investigated could be a tiring and frustrating process. It is very important that the police be contacted within a few days and asked if they are working on the case. Baruti, as Thoko's friend, could call the police for her, if she is unable to do so.

If Thoko is unhappy about the way she has been treated at the health facility, she should speak to the clinic or hospital manager. If she is still unhappy, she can contact the Provincial Health Department during working hours:

Eastern Cape - 0800 032 364

Free State - 0800 535 554

Gauteng - 0800 203 886

KwaZulu Natal - 033 395 2009

Limpopo - 0800 919 191

Mpumalanga - 0800 204 098

Northern Cape - 018 387 5778

Western Cape - 021 483 5624



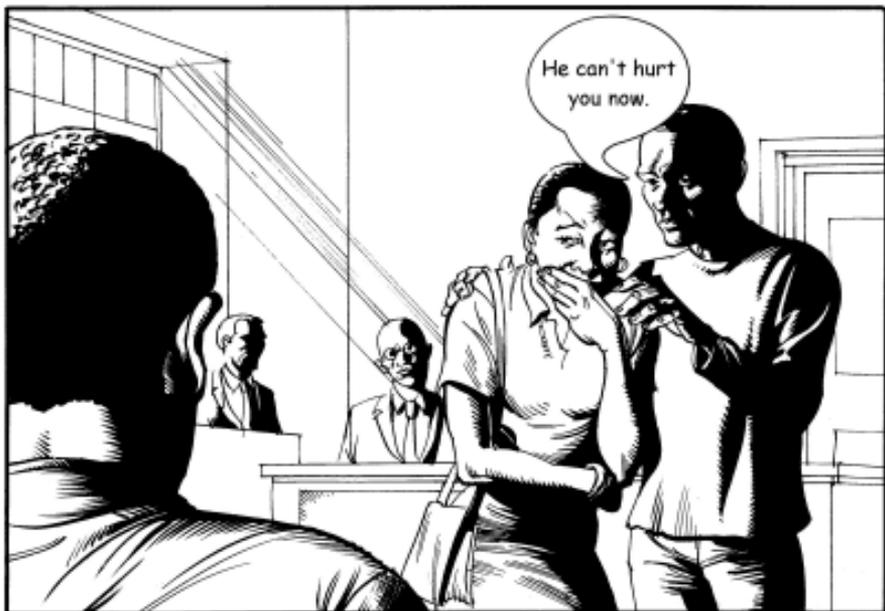


# GOING TO COURT

After the police investigation into Thoko's rape is completed, the case is handed over to a Public Prosecutor, who makes the decision about whether or not the accused person should be taken to court. Once the investigation of the Public Prosecutor is closed, the case may be set for trial. During the trial, the prosecutor will ask Thoko questions about what happened, to clarify the story, and the defense lawyer will ask her questions to try to show that it wasn't rape or that the wrong person has been arrested. Other individuals who have been involved in the case will be asked questions as well. The judge will then decide if the accused person is guilty "beyond a reasonable doubt." This is hard to prove; even if the judge does not find the accused guilty, this does not mean that Thoko's rape did not happen.

1. The survivor can hire a private prosecutor if the Director of Public Prosecutions decides not to take the case forward.
2. The case must be handled by one prosecutor.
3. It may be helpful for the survivor to go to the courtroom, before the day of the trial, to see what it looks like and try to make themselves feel more comfortable.
4. The prosecutor should let the survivor's employer know that they need time off from work to give evidence.
5. The survivor can be accompanied by a friend or a relative who isn't a witness in the trial.
6. The survivor does not have to wait in the same room as the accused and the witnesses.
7. The survivor can read the statement they gave to the police before giving evidence to the prosecutor. The survivor can add to the statement but not take out any information from the statement.
8. The survivor can ask the general public to leave when they are answering the questions posed by the prosecutor and lawyer.
9. The survivor has the right to testify in their own language.





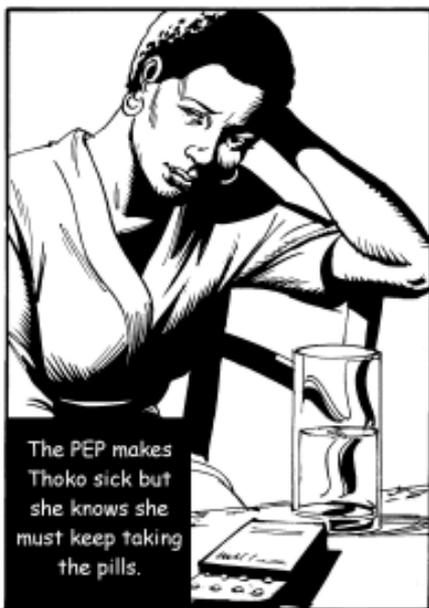
# POST-EXPOSURE PROPHYLAXIS (PEP)

PEP is an anti-retroviral medication that may prevent Thoko from contracting HIV. PEP is available to rape survivors who test HIV negative and had been exposed to the blood or semen of her rapist who may have been HIV positive. PEP treatment can cause various side effects, include nausea, vomiting, diarrhea, headaches, and fatigue. PEP is not 100% effective, but taking all the doses on time and completing the full 28 days of treatment makes it very likely to be effective.

Health services provided by the state to survivors of sexual violence:

1. **Post Exposure Prophylaxis (PEP):** a medication that can prevent a rape survivor from getting HIV. The SOA guarantees that this is free to ALL rape survivors who report their assault to the police within 72 hours.
2. **Antibiotics** to prevent or treat sexually transmitted diseases.
3. **Pain medication.**
4. **Treatment of injuries** caused by the assault.
5. **Morning After Pill**, which can prevent pregnancy if taken within 72 hours.
6. **Termination of pregnancy** up to 20 weeks into a pregnancy caused by rape.





# SUPPORTING A SURVIVOR TAKING PEP

There are many ways that **you can help the survivor**:

1. **Remind** the survivor to take her medication(s) on time and create a chart to help her keep track.
2. Make sure that the doctor informs the survivor about the **side effects** of PEP and/or other medication.
3. Inform the survivor that she may be able to get **medicines from the doctor to reduce the side effects** of PEP, such as nausea and diarrhea.
4. Be **supportive** around the house, and spend time with the survivor.
5. Encourage and help the survivor to get **counselling**.
6. Inform the survivor that a doctor can book **sick leave** if she needs time off from work. The law means survivors are allowed time of work if they get a medical certificate from the doctor.





Baruti is a good friend to Thoko which helps her.



Thoko also needs professional help.



Over time Thoko begins to feel better.



# SUPPORTING THE SURVIVOR

It is very important that Baruti supports Thoko emotionally. This may seem hard, but there are many ways Baruti can help:

## Respect

- Respect Thoko's choices. It is always Thoko's choice about whether or not to talk about her experiences and how she feels. Although it may be difficult for Baruti to accept, Baruti can only help if Thoko makes it clear that she wants his help.
- Respect Thoko's emotions. Different people respond to sexual violence in different ways. If Thoko wants to cry, allow her to do so. If Thoko doesn't cry, don't take this as a sign that she wasn't raped or assaulted.
- Respect the fact Thoko may need time. Sexual violence is traumatic and Thoko will probably not "feel better" immediately. If Thoko feels scared at night, encourage her to have a friend stay over. Baruti could also offer to go with her to places where she doesn't feel safe.

## Listen

- Listen to what Thoko has to say. Baruti may not know what it feels like to be a woman, but he does know how helpful it is when someone listens and provides supports during difficult times.
- Be available to talk. Baruti should make sure that Thoko knows that he is open to talking about what happened, what she is going through and that he really wants to listen to how she is feeling. He can help Thoko see that she can rely on him and other men in her life for support – that she doesn't have to feel like all men are dangerous.
- Baruti must believe what Thoko is telling him. It will have taken a lot of courage for Thoko to tell him what she has experienced.

**Counselling services** are not guaranteed to Thoko under the SOA, but free counseling and support is available from a number of organisations. For contact details of various support organisations, please see the back of this booklet.



## Understand

- Try to understand. Baruti should take the time to learn about abuse and how it affects Thoko by reading about the topic or talking to trusted counsellors, community leaders, etc.
- Understand that no one ever deserves to be raped. Baruti should not judge or blame Thoko or ask her why she thinks it happened. This might imply that Baruti thinks what happened is Thoko's fault.
- Reach an understanding about sex. If you are a lover, husband, or boyfriend of a survivor, it is very important to understand that it may take some time before you will be sexually intimate again. Be patient, and find non-sexual ways to show your partner that you love her.

Sexual assault survivors may suffer from **post-traumatic stress disorder (PTSD)**:

1. PTSD occurs when an individual has had a traumatic experience and feels like the world is no longer a safe place.
2. Symptoms: intense emotions, feeling afraid or jumpy, having difficulty sleeping or relaxing, feeling numb and cut off from other people, having flashbacks and nightmares.

## SUPPORTING YOURSELF

It is natural that Baruti may feel anger, frustration, pain, sadness, isolation, helplessness because he cares about Thoko and she has been hurt. Instead of ignoring these feelings, Baruti should seek support from a trusted friend, counsellor, or social worker. If Baruti shares his own feelings about what is going on it will help him offer better support to Thoko.

When the time feels right, Baruti could talk to Thoko about how he has been affected by what has happened to her. But he should be careful not to overburden Thoko with too much of his own struggle, as this may make Thoko feel guilty about causing Baruti pain.



Helping Thoko has been difficult for Baruti



Baruti needs to get help too - he has also been affected by Thoko's rape.



# TAKING ACTION

The government of South Africa and its local representatives are responsible for passing and enforcing laws to keep everyone safe and free from violence. By coming together with other concerned men, creating a strategy for making a difference, and taking specific actions, you can help make sure that the government lives up to this duty.

1. **Learn more about sexual violence and the law**, and share what you know with others, especially men.
2. **Pay attention to your own behaviour** when it comes to sex. Remember that coercing or forcing someone into sex is ALWAYS a crime.
3. **Talk to your family and friends** about their views of sexual violence, and challenge them if they are untrue; too many people still believe old myths!
4. **Let others know about the SOA**. The law was created for everybody, to punish acts of sexual violence and give better protection to survivors.

As a man standing up against sexual violence, you can make a big difference. Contact Sonke Gender Justice Network on 011 339 3589 (Johannesburg) or 021 423 7088 (Cape Town) for more information about training and how to get involved in the One Man Can campaign.

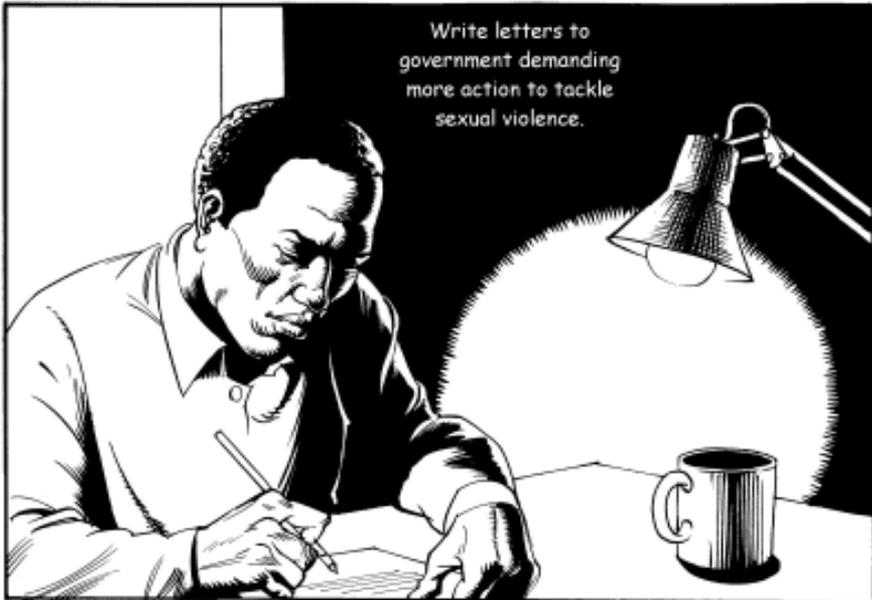


Talk to others about what you've learnt about sexual violence.



Show your friends this guide.





## What can you do to ensure that the SOA is enforced?

- Join your local **community policing forum** and work with the police to make sure they implement the SOA
- **Meet with your peers** to talk about what isn't working right and what needs to happen to change the situation.
- **Find out whether the police in your area have been trained** on how to implement the SOA. If they have not been, contact an NGO like Sonke to arrange training.
- **Write letters to government representatives and media outlets** demanding implementation of the SOA. This can help bring issues of sexual assault to the attention of state officials and the broader public. This will help to make them aware that something isn't working and that changes are needed.



# USEFUL CONTACTS

AIDS Consortium: 011 403 0265

Childline: 0800 055 555

Crime Stop: 0860 0 10111

Human Rights Advice Line: 0860 120 120

Legal Aid: 011 877 2000

Life Line South Africa: 0861 322 322

Love Life Sexual Health Line: 0800 121 900

Marie Stopes South Africa: 0800 117 785

National Aids Helpline: 0800 012 322

National Children's Rights Centre: 011 408 4835

National Network on Violence Against Women: 012 321 4959

National Toll Free PMTCT Related Informational Helpline: 0800 mothers

NHIV Programme - HIV Service Providers: 0860 448 911

People Opposing Women Abuse: 083 765 1235 or 011 642 4345/6

Rape Crisis 24 Hours Life Line: 0861 322 322

SAPS Emergency number: 0861 10 111

Sonke Gender Justice Network: 011 339 3589 or 021 423 7088

Stop Gender Violence Helpline: 0800 150 150

Suicide Helpline: 0800 567 567

The South African Depression and Anxiety Group: 011 262 6396

Toll Free Crisis Line: 0861 574 747

Treatment Action Campaign: 021 422 1700

Women's Health: 0800 116 941





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faced by survivors. Thoko's story can be viewed at

[www.genderjustice.org.za/digital-stories/thoko](http://www.genderjustice.org.za/digital-stories/thoko)

