

# Glossaries

## Glossary of legal terms

Abortion	The termination of a pregnancy
Accused	A person brought before the court and charged with a crime
Act	A statute passed by Parliament
Adversary system	A court procedure where the Judge or Magistrate plays a neutral role and the contesting parties must prove their cases. It is different from the 'inquisitorial system' where the judge or magistrate runs the case
Advice office	An office run by non-lawyers, usually by people with experience in dealing with practical problems, who refer people to lawyers or legal assistance agencies when necessary.
Advocate	A lawyer who can appear in any court except the Small Claims Court. Advocates do not deal directly with the public. They are instructed by attorneys on behalf of their clients
Affidavit	A sworn statement
Appeal	When a person takes a decision of a lower court to higher court. The person bringing the appeal hopes to persuade the higher court to change the decision of the lower court
Assessors	People who sit with a Judge to help the Judge arrive at a judgment
Assault	An unlawful and intentional physical attack or the threat of such an attack on another person
Attorney	A lawyer who can appear in any court in South Africa except the High Court (unless specifically authorised) and the Small Claims Court. Attorneys deal directly with members of the public who need legal advice or representative and may refer them to advocates
Bail	Money paid by an accused so that he or she may be released from police custody or gaol until the trial. If the accused attends the trial the money will be paid back
'Balance of probabilities'	The amount of proof that must be shown by a plaintiff in a civil action to win the case
'Beyond reasonable doubt'	The amount of proof that is required to be shown by the State in order to obtain the conviction of an accused in a Criminal case
Bill of Rights	The chapter in the Constitution which provides for the protection of fundamental human rights
By-Law	A Statute passed by a town or city council
Charge	The accusation against an accused person. Also called an indictment
Chiefs' court	A court in which a chief sits to decide cases affecting African people
Civil action	An action brought by a person who feels that he or she has been wronged by another in terms of the law. These actions usually involve damage to property, injury to people, commercial disputes about contracts, the renting of houses, consumer problems, employment troubles, family problems, etc.
Civil court	The court that hears Civil actions. They may also require a person to do or stop doing something
Civil law	The law dealing with civil wrongs
Clerk of the court	The court official who receives and issues legal documents and pleadings in the Magistrates' Courts
Common law	The law that comes from Roman-Dutch law and is found in the writings of old Roman Dutch law authors and the decisions of the courts. It sometimes has English law influences
Confidentiality	The expectation that what one person discloses to another will remain in confidence and not be told to anyone else
Constitution	The Statute law that sets out how the country should be governed. This includes who may vote, and who may be elected to Parliament
Constitutional Court	The highest court in the land which deals with constitutional cases, and can declare an Act of Parliament invalid
Contract	An agreement to do something or give something usually, but not always, in return for something else from the other person (e.g. to buy a car for money)
Conviction	The finding guilty of an accused by a Judge or Magistrate in Criminal court
Counsel	Another name for an advocate
Crime	A crime is a wrong against the State for which the criminal is punished by the State
Criminal	A person who is found guilty of a crime
Criminal Case	A case involving Criminal law

Criminal courts	Courts that hear Criminal cases
Criminal law	The law dealing with crimes
Cross-examination	A method of questioning witnesses to test the truth of their evidence by trying to show that they are not telling the truth or that they are mistaken
Culpable homicide	The negligent killing of a human being
Customary law	The indigenous African legal system that existed in South Africa before the arrival of the European settlers. In some instances the law has been written down in Statutes. An example is the Code of Zulu Law
Damages	Compensation for injuries caused to persons or property
Defamation	The unlawful and intentional publication of statements about another which lowers the reputation of that person in the eyes of others
Defendant	The person who is sued by the plaintiff in a Civil action
Director of Public Prosecutions	The state official in charge of all prosecutions in a province
Evidence	Information which is used by the plaintiff (or a prosecutor) or the defendant (or accused) to prove or disprove a case. It may consist of statements by witnesses, documents or other things used in the case
Evidence-in-chief	The evidence given by a witness to support the side of one of the parties in a case
Evidence in mitigation	Evidence led after conviction in a criminal case to persuade the court to reduce the sentence
Exhumation	The digging up of a dead body which has been buried.
Expert witness	A witness who, through education, training and experience, possesses knowledge outside that of lay persons
Family Court	A division of the Senior Magistrate's Court which will hear family law cases. eg. divorce, custody etc.
Gaol	A prison
Government Gazette	A newspaper published by the Government in which all government notices, legal notices and new Statutes are published
Headman's court	A court in which a Headman sits to decide cases affecting African people
Health Professions Council	The official body responsible for controlling doctors, dentists and other supplementary health professions
High Court	A court in which a Judge sits to hear and decide cases
Inquest	An inquiry into the death of a person who has apparently died from other than natural causes
Insult	A civil wrong in which a person's feelings are intentionally harmed
Invasion of privacy	An intentional interference with people's lives by watching, investigating their personal affairs, publishing facts about them to the outside world, without their consent or searching themselves or their property or seizing their property
Judge	A court officer who hears and decides cases in the High Court. Judges are the most important of all court officers who hear cases
Judgment	The decision of a Judge or Magistrate or other judicial officer in a case
Judicial Service Commission	The body that makes recommendations concerning the appointment of judges
Kangaroo Court	A court in which there is no separation amongst the roles of prosecutor and judge, and the rules of natural justice are not followed
Law	A set of rules used to control the behaviour of people in society
Leading questions	Questions that suggest the answer the questioner wishes to obtain
Legislature	The law-making body of Parliament for the National Government and the provinces
Lower Courts	Courts other than the Constitutional Court, High Court and the Small Claims Court
Magistrate	The court officer who hears and decides cases in the Magistrates' Court
Magistrates' Commission	The body that makes recommendations concerning the appointment of magistrates
Medical malpractice	Wrongful acts by doctors or health care workers that cause injuries or harm to patients
Magistrates' courts	Courts presided over by magistrates
Minor	A person under 21 years of age who requires the consent of his or her guardian to enter into certain legal relationships
Mock trial	A simulated trial where people roleplay the different parties – clients, lawyers, witnesses, judges etc.
Moral	Whether something is right or wrong in the eyes of society
Murder	The unlawful and intentional killing of another human being
National Assembly	The main legislative body in the National Parliament
National Council of Provinces	The second legislative body in the National Parliament which is made up of representatives from the different provinces
National Parliament	The highest law-making body in South Africa

Negligence	The failure to act as a reasonable person would in a particular situation
Offence	A crime
Omission	The failure to act
Opening statement	A brief description of their cases by the opposing parties in a court case
Opinion evidence	Evidence of the opinion or belief of a witness who has drawn certain conclusions from fact
Plaintiff	The person bringing an action in a civil case
Precedent	A judgment that becomes a rule of law established by the higher courts
Professional negligence	The failure to act like a reasonably competent person in that branch of the profession would have acted
Prosecutor	The person who represents the State in court in a criminal law trial
Provincial and local divisions	Branches of the High Court in different provinces
Rape	Unlawful sexual intercourse with a woman without her consent
Re-examination	Questions asked of a Witness to clear up any confusion or doubt caused by cross-examination
Regional courts	Lower courts that hear serious crimes like rape, armed robbery, serious assaults, and certain cases of murder
Registrar of the High Court	The official who receives and issues legal documents or pleadings in the High Court
Review	A case brought from a lower to a higher court when a person believes that the proceedings were irregular or illegal. The person asks the higher court to make sure that justice is done
Roman-Dutch law	The law based on Roman and Dutch law brought from Holland to South Africa by the Dutch settlers in 1652
Sentence	The punishment imposed by the court after a person has been found guilty in a criminal case
Senior Magistrates' court	Magistrates' Courts that hear serious Civil cases and Family Court cases
Small Claims Court	The court where Civil actions for less than R3 000 are heard by a commissioner
South African Law	Mainly Roman-Dutch law with some English law influences. It consists of Common law and Statute law
State	The Government
Statement of defence	A written statement by a defendant in a Small Claims Court action which sets out his or her defence
Statute law	A law passed by the National or a Provincial Parliament or a body given power to pass laws by such Parliament
Statutory rape	Sexual intercourse with a girl under the age of 16 years, whether or not she consents
Subpoena	A summons ordering a person to attend court as a witness
Sue	To take a person to court requesting an award of money or some other action
Summons	A legal document which is used to begin proceedings in a court of law
Supreme Court of Appeal	The highest court in the land for non-Constitutional cases. Its decisions must be followed by all other courts except the Constitutional Court
Trial	The court proceedings in which the judicial officer examines the facts of the case by listening to the evidence of the witnesses and makes a decision
Vicarious liability	Where one person is liable for the wrongful act of another person even though there is no fault by the first person
Witness	A person who comes to court and gives evidence for one or other side in a dispute

# Glossary of medical terms

Abrasion	An abrasion or graze or scratch is a superficial injury to the skin in which the outer layer of the skin is scraped off. An abrasion is an example of blunt force injury
Abrasion collar	The rim of abrasion around an entry gunshot wound
Aneurysm	An abnormal dilatation of a blood vessel
Autopsy	A scientific examination carried out on a dead body by a doctor primarily to determine the cause of death. It is also referred to as a post-mortem examination or necropsy
Battered baby syndrome or non-accidental injury syndrome	A syndrome of repetitive deliberate infliction of injury to a child
Blackening	The deposition of soot as a result of a discharge of a firearm. Its presence is used to determine the range of fire of a gunshot wound.
Bruise	A bruise or contusion is a form of blunt force injury in which there is haemorrhage as a result of damage to blood vessels in the skin or internal organs
Burn	An injury to the body caused by fire, heat or the effects of chemicals such as acids
Cervix	The neck part of the womb
Child abuse	Maltreatment of children that results in harm or potential risk of harm to a child usually of a physical, emotional or sexual nature
Choking	Blockage of the internal air passages
Clinical forensic medicine	A part of medicine which deals with the examination and completion of medico-legal reports on living patients in instances where legal proceedings will follow from an incident (e.g. rape)
Concussion	Temporary loss of consciousness of less than six hours
Congenital	Inborn abnormality
Congestion	Term indicating accumulation of blood in a tissue or organ. This is not bleeding as the blood is still in the blood vessels
Coronary artery	Artery feeding (supplying) the heart muscle
Cortex	Outer layer of the brain
Cot death	Also called Sudden Infant Death Syndrome. The sudden death of a child under 1 year of age that remains unexplained after a thorough case investigation
Custody-related death	Deaths of persons occurring while in the care of the security forces or prison authorities
Defence wound	A wound sustained when defending oneself – usually on the hands and forearms
Diabetes	Disease due to an absolute or relative lack of a hormone called insulin which results in high blood sugar levels
Diffuse axonal injury	Form of diffuse brain injury in which there is loss of consciousness as a result of widespread damage to nerve fibres
District Surgeons	General practitioners who work in the field of clinical forensic medicine or perform medico-legal autopsies (district medical officers)
Drowning	Death that occurs due to partial or complete immersion in a liquid medium
Ectopic pregnancy	Pregnancy occurring outside its normal position, i.e. outside the womb. Usually occurs in the fallopian tubes
Electrocution	Death due to the effect of electricity
Embolism	The passage in the blood of blood clots, air or fat which may then impact at another site and cause obstruction and death of part of the organ
Encephalitis	Inflammation of the brain substance
Epilepsy	Another name for fits or seizures
Ethanol	A form of alcohol usually found in alcoholic drinks
Extradural haemorrhage	Form of bleeding that occurs within the skull between the outer-most layer of the meninges [dura] and the skull
Femur	Bone of the thigh
Firearms	Weapons that fire projectiles such as bullets and pellets
Foramen magnum	A large opening at the base of the skull through which the spinal cord leaves the brain
Forensic Medicine	Branch of medicine which interacts with the law
Forensic Odontology	A field of dentistry which interacts with the law especially in the area of identification by use of dental remains
Forensic pathology	The investigation of the effects of trauma, poisoning and certain natural diseases on the body
Haematemesis	Vomiting of blood
Haemoglobin	Pigment in red cells responsible for carrying oxygen
Haemopericardium	Abnormal presence of blood in the sac around the heart
Haemoptysis	Coughing up of blood
Haemorrhage	The medical term which is used to refer to bleeding
Haemothorax	Abnormal presence of blood in the chest cavity around the lung
Hanging	A process by which there is constriction to the neck by a ligature in which the ligature is tightened by a downward pull by the body's weight
Hepatic	Another name for the liver
Histology	Microscopic study of the composition of tissues and organs
Hyoid bone	“U” shaped bone in the neck between the base of the tongue and the larynx [voicebox]
Hyper-	Prefix meaning more or increase of
Hypertension	High blood pressure
Hyperthermia	An increase in body temperature

Hypo-	Prefix meaning less or lack of
Hypoglycaemia	Low blood sugar
Hypostasis or Lividity	Drainage of blood to the dependent parts of the body due to the effects of gravity after death
Hypotension	Low blood pressure
Hypothermia	Decreased body temperature
Hypoxic brain damage	Damage to the brain due to a lack of oxygen
Incest	Sexual intercourse with a close relative, e.g. brother and sister
Incised wounds	Cuts or slashes caused by sharp force injury
Indecent assault	Intentional and unlawful assault of a person with the object of committing an indecent act
Infarction	Death of part of an organ, such as the heart or brain due to blockage of a blood vessel
Infection	A complication of injury due to the effect of germs
Injury	An injury or wound to the body caused by the application of force
Intracerebral haemorrhage	A haemorrhage within the brain substance itself
Laceration	A tear of the skin or underlying organ due to the application of blunt force
Ligature mark	The form of friction abrasion on the neck due to the effect of the ligature
Ligature strangulation	Constriction of the neck by a ligature which may be a rope, cord or wire
Lumen	Cavity of a hollow organ, e.g. lumen of the stomach
Medico-legal report	A report on the condition of a patient which gives the medical expert's diagnosis, prognosis and opinion
Meningitis	Inflammation of the lining membranes of the brain or meninges
Myocardial infarction	Another term for a heart attack due to blockage of the blood vessels supplying blood to the heart muscle. The blockage is usually due to deposition of fat [atherosclerosis]
Myocarditis	Inflammation of the heart muscle
Myocardium	Muscle of the heart
Myxoedema	Disease due to low levels of thyroid hormone
Oedema	Retention of body water or fluid in tissues in organs, e.g. in the lungs – referred to as lung oedema
Pathology	Study of illnesses and abnormalities of the human body
Penetrating incised wounds	Stab wounds which are due to sharp force injury
Pericardium	The membrane forming a sac around the heart
Peritoneum	The membrane lining the inside of the stomach cavity as well as parts of the abdominal organs
Petechial bleeding	Small pinpoint haemorrhages
Pharmacology	The study of drugs, its effects and side effects
Pleura	Membrane on the inside of the chest cavity and on the surface of the lungs
Pneumonia	Infection of the lung
Pneumothorax	Collection of air in the chest cavity around the lungs
Poison	A substance which can harm the body if taken in sufficient quantity
Propellant	The chemical substance used to provide energy to fire a projectile from a firearm, e.g. gunpowder
Pulmonary embolus	Coagulated blood or foreign body in the pulmonary arteries
Renal	Another name for kidney
Respiration	Breathing
Resuscitation	Attempt to save a dying person's life
Rifled firearms	Firearms that have grooves in the barrel that cause the bullet to twist as it leaves the barrel
Rigor mortis	Stiffening of the body after death
Scalds	A type of burn due to hot liquid, usually water
Scalp	The skin covering of the head
Smooth bore firearms	Firearms that do not have rifling or grooves in their barrels, e.g. shotguns
Smothering	Blockage of the external air passages [nose and mouth]
Sternum	The chest bone
Subarachnoid haemorrhage	Bleeding in the subarachnoid space – the space in which the brain fluid or cerebral spinal fluid flows
Subdural haemorrhage	Bleeding between the dura and the arachnoid layer of the meninges
Sudden death	Death occurring within 24-hours of the onset of symptoms
Swab	Substance made of absorbent material used during operations to absorb blood or to catch blood; it is also used to collect specimens of fluid nature, e.g. in the examination of a rape survivor
Tattooing	A form of abrasion on the body which is due to the propellant or gunpowder
Thrombosis	The formation of abnormal blood clots in the heart or blood vessels
Throttling	The application of force to the neck by the hands or forearm
Torture	The intentional infliction of physical or mental pain
Trachea	The major airway between the nose and lung
Wad	Felt, cardboard or plastic material that is used to separate shotgun pellets from the propellant

# Appendices

## Appendix A: Bill of Rights

7. (1) This Bill of Rights is a cornerstone of democracy in South Africa. It enshrines the rights of all people in our country and affirms the democratic values of human dignity, equality and freedom.
- (2) The state must respect, protect, promote and fulfil the rights in the Bill of Rights.
- (3) The rights in the Bill of Rights are subject to the limitations contained or referred to in section 36, or elsewhere in the Bill.

### Application

8. (1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of state.
- (2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable, taking into account the nature of the right and the nature of any duty imposed by the right.
- (3) When applying a provision of the Bill of Rights to a natural or juristic person in terms of subsection (2), a court-
- (a) in order to give effect to a right in the Bill, must apply, or if necessary develop, the common law to the extent that legislation does not give effect to that right; and
- (b) may develop rules of the common law to limit the right, provided that the limitation is in accordance with section 36(1).
- (4) A juristic person is entitled to the rights in the Bill of Rights to the extent required by the nature of the rights and the nature of that juristic person.

### Equality

9. (1) Everyone is equal before the law and has the right to equal protection and benefit of the law.
- (2) Equality includes the full and equal enjoyment of all rights and freedoms. To promote the achievement of equality, legislative and other measures designed to protect or advance persons, or categories of persons, disadvantaged by unfair discrimination may be taken.
- (3) The state may not unfairly discriminate directly or indirectly against anyone on one or more grounds, including race, gender, sex, pregnancy, marital status, ethnic or social origin, colour, sexual orientation, age, disability, religion, conscience, belief, culture, language and birth.
- (4) No person may unfairly discriminate directly or indirectly against anyone on one or more grounds in terms of subsection (3). National legislation must be enacted to prevent or prohibit unfair discrimination.
- (5) Discrimination on one or more of the grounds listed in subsection (3) is unfair unless it is established that the discrimination is fair.

### Human dignity

10. Everyone has inherent dignity and the right to have their dignity respected and protected.

### Life

11. Everyone has the right to life.

### Freedom and security of the person

12. (1) Everyone has the right to freedom and security of the person, which includes the right-
- (a) not to be deprived of freedom arbitrarily or without just cause;
- (b) not to be detained without trial;
- (c) to be free from all forms of violence from either public or private sources;
- (d) not to be tortured in any way; and
- (e) not to be treated or punished in a cruel, inhuman or degrading way.
- (2) Everyone has the right to bodily and psychological integrity, which includes the right-
- (a) to make decisions concerning reproduction;
- (b) to security in and control over their body; and
- (c) not to be subjected to medical or scientific experiments without their informed consent.

### Slavery, servitude and forced labour

13. No one may be subjected to slavery, servitude or forced labour.

### Privacy

14. Everyone has the right to privacy, which includes the right not to have-
- (a) their person or home searched;
- (b) their property searched;
- (c) their possessions seized; or
- (d) the privacy of their communications infringed.

### Freedom of religion, belief and opinion

15. (1) Everyone has the right to freedom of conscience, religion, thought, belief and opinion.
- (2) Religious observances may be conducted at state or state-aided institutions, provided that-
- (a) those observances follow rules made by the appropriate public authorities;
- (b) they are conducted on an equitable basis; and
- (c) attendance at them is free and voluntary.
- (3) (a) This section does not prevent legislation recognising-
- (i) marriages concluded under any tradition, or a system of religious, personal or family law; or
- (ii) systems of personal and family law under any tradition, or adhered to by persons professing a particular religion.
- (b) Recognition in terms of paragraph (a) must be consistent with this section and the other provisions of the Constitution.

### Freedom of expression

16. (1) Everyone has the right to freedom of expression, which includes-
- (a) freedom of the press and other media;
- (b) freedom to receive or impart information or ideas;
- (c) freedom of artistic creativity; and
- (d) academic, freedom and freedom of scientific research.
- (2) The right in subsection (1) does not extend to-
- (a) propaganda for war;
- (b) incitement of imminent violence; or
- (c) advocacy of hatred that is based on race, ethnicity, gender or religion, and that constitutes incitement to cause harm.

### Assembly, demonstration, picket and petition

17. Everyone has the right, peacefully and unarmed, to assemble, to demonstrate, to picket and to present petitions.

### Freedom of association

18. Everyone has the right to freedom of association.

### Political rights

19. (1) Every citizen is free to make political choices, which includes the right-
- (a) to form a political party;
- (b) to participate in the activities of, or recruit members for a political party; and
- (c) to campaign for a political party or cause.
- (2) Every citizen has the right to free, fair and regular elections for any legislative body established in terms of the Constitution.
- (3) Every adult citizen has the right-
- (a) to vote in elections for any legislative body established in terms of the Constitution, and to do so in secret; and
- (b) to stand for public office and, if elected, to hold office.

### Citizenship

20. No citizen may be deprived of citizenship.

### Freedom of movement and residence

21. (1) Everyone has the right to freedom of movement.
- (2) Everyone has the right to leave the Republic.
- (3) Every citizen has the right to enter, to remain in and to reside anywhere in, the Republic.
- (4) Every citizen has the right to a passport.

### Freedom of trade, occupation and profession

22. Every citizen has the right to choose their trade, occupation or

profession freely. The practice of a trade, occupation or profession may be regulated by law.

#### Labour relations

23. (1) Everyone has the right to fair labour practices.
- (2) Every worker has the right-
- (a) to form and join a trade union;
  - (b) to participate in the activities and programmes of a trade union; and
  - (c) to strike
- (3) Every employer has the right-
- (a) to form and join an employers' organisation; and
  - (b) to participate in the activities and programmes of an employers' organisation.
- (4) Every trade union and every employers' organisation has the right-
- (a) to determine its own administration; programmes and activities;
  - (b) to organise; and
  - (c) to form and join a federation.
- (5) Every trade union, employers' organisation and employer has the right to engage in collective bargaining. National legislation may be enacted to regulate collective bargaining. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).
- (6) National legislation may recognise union security arrangements contained in collective agreements. To the extent that the legislation may limit a right in this Chapter, the limitation must comply with section 36(1).

#### Environment

24. Everyone has the right-
- (a) to an environment that is not harmful to their health or well-being; and
  - (b) to have the environment protected, for the benefit of present and future generations, through reasonable legislative and other measures that-
    - (i) prevent pollution and ecological degradation;
    - (ii) promote conservation; and
    - (iii) secure ecologically sustainable development and use of natural resources while promoting justifiable economic and social development.

#### Property

25. (1) No one may be deprived of property except in terms of general application, and no law may permit arbitrary deprivation of property.
- (2) Property may be expropriated only in terms of law of general application-
- (a) for a public purpose or in the public interest; and
  - (b) subject to compensation, the amount of which and the time and manner of payment of which have either been agreed to by those affected or decided or approved by a court.
- (3) The amount of the compensation and the time and manner of payment must be just and equitable, reflecting an equitable balance between the public interest and the interests of those affected, having regard to all relevant circumstances, including-
- (a) the current use of the property;
  - (b) the history of the acquisition and use of the property;
  - (c) the market value of the property;
  - (d) the extent of direct state investment and subsidy in the acquisition and beneficial capital improvement of the property; and
  - (e) the purpose of the expropriation.
- (4) For the purposes of this section-
- (a) the public interest includes the nation's commitment to land reform, and to reforms to bring about equitable access to all South Africa's natural resources; and
  - (b) property is not limited to land.
- (5) The state must take reasonable legislative and other measures, within its available resources, to foster conditions which enable citizens to gain access to land on an equitable basis.
- (6) A person or community whose tenure of land is legally insecure as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to tenure which is legally secure or to comparable redress.
- (7) A person or community dispossessed of property after 19 June 1913 as a result of past racially discriminatory laws or practices is entitled, to the extent provided by an Act of Parliament, either to restitution of that

property or to equitable redress.

- (8) No provision of this section may impede the state from taking legislative and other measures to achieve land, water and related reform, in order to redress the results of past racial discrimination, provided that any departure from the provisions of this section is in accordance with the provisions of section 36(1).
- (9) Parliament must enact the legislation referred to in subsection (6).

#### Housing

26. (1) Everyone has the right to have access to adequate housing.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of this right.
- (3) No one may be evicted from their home, or have their home demolished, without an order of court made after considering all the relevant circumstances. No legislation may permit arbitrary evictions.

#### Health care, food, water and social security

27. (1) Everyone has the right to have access to-
- (a) health care services, including reproductive health care;
  - (b) sufficient food and water; and
  - (c) social security, including, if they are unable to support themselves and their dependents, appropriate social assistance.
- (2) The state must take reasonable legislative and other measures, within its available resources, to achieve the progressive realisation of each of these rights.
- (3) No one may be refused emergency medical treatment.

#### Children

28. (1) Every child has the right-
- (a) to a name and a nationality from birth;
  - (b) to family care or parental care, or to appropriate alternative care when removed from the family environment;
  - (c) to basic nutrition, shelter, basic health care services and social services;
  - (d) to be protected from maltreatment, neglect, abuse or degradation;
  - (e) to be protected from exploitative labour practices;
  - (f) not to be required or permitted to perform work or provide services that-
    - (i) are inappropriate for a person of that child's age; or
    - (ii) place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development;
  - (g) not to be detained except as a measure of last resort, in which case, in addition to the rights a child enjoys under sections 12 and 35, the child may be detained only for the shortest appropriate period of time, and has the right to be-
    - (i) kept separately from detained persons over the age of 18 years; and
    - (ii) treated in a manner, and kept in conditions, that take account of the child's age;
  - (h) to have a legal practitioner assigned to the child by the state, and at state expense, in civil proceedings affecting the child, if substantial injustice would otherwise result; and
  - (i) not to be used directly in armed conflict, and to be protected in times of armed conflict.
- (2) A child's best interests are of paramount importance in every matter concerning the child.
- (3) In this section 'child' means a person under the age of 18 years.

#### Education

29. (1) Everyone has the right-
- (a) to a basic education, including adult basic education; and
  - (b) to further education, which the state, through reasonable measures, must make progressively available and accessible.
- (2) Everyone has the right to receive education in the official language or languages of their choice in public educational institutions where that education is reasonably practicable. In order to ensure the effective access to, and implementation of, this right, the state must consider all reasonable educational alternatives, including single medium institutions, taking into account-
- (a) equity;
  - (b) practicability; and
  - (c) the need to redress the results of past racially discriminatory laws and practices.

- (3) Everyone has the right to establish and maintain, at their own expense, independent educational institutions that-
- do not discriminate on the basis of race;
  - are registered with the state; and
  - maintain standards that are not inferior to standards at comparable public educational institutions.
- (4) Subsection (3) does not preclude state subsidies for independent educational institutions.

#### Language and culture

30. Everyone has the right to use the language and to participate in the cultural life of their choice, but no one exercising these rights may do so in a manner inconsistent with any provision of the Bill of Rights.

#### Cultural, religious and linguistic communities

31. (1) Persons belonging to a cultural, religious or linguistic community may not be denied the right, with other members of that community-
- to enjoy their culture, practice their religion and use their language; and
  - to form, join and maintain cultural, religious and linguistic associations and other organs of civil society.
- (2) The rights in subsection (1) may not be exercised in a manner inconsistent with any provision of the Bill of Rights.

#### Access to information

32. (1) Everyone has the right of access to-
- any information held by the state; and
  - any information that is held by another person and that is required for the exercise or protection of any rights.
- (2) National legislation must be enacted to give effect to this right, and may provide for reasonable measures to alleviate the administrative and financial burden on the state.

#### Just administrative action

33. (1) Everyone has the right to be administrative action that is lawful, reasonable and procedurally fair.
- (2) Everyone whose rights have been adversely affected by administrative action has the right to be given written reasons.
- (3) National legislation must be enacted to give effect to these rights, and must-
- provide for the review of administrative action by a court or, where appropriate, an independent and impartial tribunal,
  - impose a duty on the state to give effect to the rights in subsections (1) and (2); and
  - promote an efficient administration.

#### Access to courts

34. Everyone has the right to have any dispute that can be resolved by the application of law decided in a fair public hearing before a court or, where appropriate, another independent and impartial tribunal or forum.

#### Arrested, detained and accused persons

35. (1) Everyone who is arrested for allegedly committing an offence has the right-
- to remain silent;
  - to be informed promptly-
    - of the right to remain silent; and
    - of the consequences of not remaining silent;
  - not to be compelled to make any confession or admission that could be used in evidence against that person;
  - to be brought before a court as soon as reasonably possible, but not later than-
    - 48 hours after the arrest; or
    - the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day;
  - at the first court appearance after being arrested, to be charged or to be informed of the reason for the detention to continue, or to be released; and
  - to be released from detention if the interests of justice permit, subject to reasonable conditions.
- (2) Everyone who is detained, including every sentenced prisoner, has the right-

- to be informed promptly of the reason for being detained;
- to choose, and to consult with, a legal practitioner, and to be informed of this right promptly;
- to have a legal practitioner assigned to the detained person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
- to challenge the lawfulness of the detention in person before a court, and, if the detention is unlawful, to be released;
- to conditions of detention that are consistent with human dignity, including at least exercise and the provision, at state expense, of adequate accommodation, nutrition, reading material treatment; and
- to communicate with, and be visited by, that person's-
  - spouse or partner;
  - next-of-kin;
  - chosen religious counsellor; and
  - chosen medical practitioner.

- (3) Every accused person has the right to a fair trial, which includes the right-
- to be informed of the charge with sufficient detail to answer it;
  - to have adequate time and facilities to prepare a defence;
  - to a public trial before an ordinary court;
  - to have their trial begin and conclude without unreasonable delay;
  - to be present when being tried;
  - to choose, and be represented by, a legal practitioner, and to be informed of this right promptly;
  - to have a legal practitioner assigned to the accused person by the state and at state expense, if substantial injustice would otherwise result, and to be informed of this right promptly;
  - to be presumed innocent, to remain silent, and not to testify during the proceedings;
  - to adduce and challenge evidence;
  - not to be compelled to give self-incriminating evidence;
  - to be tried in a language that the accused person understands or, if that is not practicable, to have the proceedings interpreted in that language;
  - not to be convicted for an act or omission that was not an offence under either national or international law at the time it was committed or omitted;
  - not to be tried for an offence in respect of an act or omission for which that person has previously been either acquitted or convicted;
  - to the benefit of the least severe of the prescribed punishments if the prescribed punishment for the offence has been changed between the time that the offence was committed and the time of sentencing; and
  - of appeal to, or review by, a higher court.

- (4) Whenever this section requires information to be given to a person, that information must be given in a language that the person understands.
- (5) Evidence obtained in a manner that violates any right in the Bill of Rights must be excluded if the admission of that evidence would render the trial unfair or otherwise be detrimental to the administration of justice.

#### Limitation of rights

36. (1) The rights in the Bill of Rights may be limited only in terms of law of general application to the extent that the limitation is reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom, taking into account all relevant factors, including -
- the nature of the right;
  - the importance of the purpose of the limitation;
  - the nature and extent of the limitation;
  - the relation between the limitation and its purpose; and
  - less restrictive means to achieve the purpose.
- (2) Except as provided in subsection (1) or in any other provision of the Constitution, no law may limit any right entrenched in the Bill of Rights.

# Appendix B: Ethical Codes

## 1. The Hippocratic Oath

'I swear by Apollo the physician, by Aesculapius, Hygiea and Panacea, and I take to witness all the gods, all the goddesses, to keep according to my ability and my judgement the following Oath:

"To consider dear to me as my parents him who taught me this art; to live in common with him and if necessary to share my goods with him; to look upon his children as my own brothers, to teach them this art if they so desire without fee or written promise; to impart to my sons and the sons of the master who taught me and the disciples who have enrolled themselves and have agreed to the rules of the profession, but to these alone, the precepts and the instruction. I will prescribe regimen for the good of my patients according to my ability and my judgement and never do harm to anyone. To please no one will I prescribe a deadly drug, nor give advice which may cause his death. Nor will I give a woman a pessary to procure abortion. But I will preserve the purity of my life and my art. I will not cut for stone, even for patients in whom the disease is manifest; I will leave this operation to be performed by practitioners (specialists in this art). In every house where I come I will enter only for the good of my patients, keeping myself far from all intentional ill-doing and all seduction, and especially from the pleasure of love with women or with men, be they free or slaves. All that may come to my knowledge in the exercise of my profession or outside of my profession or in daily commerce with men, which ought not to be spread abroad, I will keep secret and will never reveal. If I keep this oath faithfully, may I enjoy my life and practice my art, respected by all men and in all times; but if I swerve from it or violate it, may the reverse be my lot.'

## 2. Declaration of Geneva of 1948, as Amended

At the time of being admitted as a member of the medical profession:

I will solemnly pledge myself to consecrate my life to the service of humanity;

I will give to my teachers the respect and gratitude which is their due;

I will practice my profession with conscience and dignity;

The health of my patient will be my first consideration;

I will respect the secrets which are confided in me, even after the patient has died;

I will maintain by all the means in my power the honour and the noble traditions of the medical profession;

My colleagues will be my brothers;

I will not permit considerations of religion, nationality, race, party politics or social standing to intervene between my duty and my patient;

I will maintain the utmost respect for human life from the time of conception; even under threat, I will not use my medical knowledge contrary to the laws of humanity.

I make these promises solemnly, free and upon my honour.

## 3. International Code of Medical Ethics of 1949

### Duties of doctors in General

A Doctor must always maintain the highest standards of professional conduct.

A Doctor must practice his profession uninfluenced by motives of profit.

The Following practices are deemed unethical:

(a) any self-advertisement except such as is expressly authorised by the national code of medical ethics.

(b) Collaboration in any form of medical service in which the doctors does not have professional independence.

(c) Receiving any money in connection with services rendered to a patient other than a proper professional fee, even with the knowledge of the patient.

Any act or advice which could weaken physical or mental resistance of a human being may be used only in his interest.

A Doctor is advised to use great caution in divulging discoveries or new techniques of treatment.

A Doctor should certify or testify only to that which he has personally verified.

### Duties of Doctors to the Sick

A Doctor must always bear in mind the obligation of preserving human life.

A Doctor owes to his patient complete loyalty and all the resources of his science. Whenever an examination or treatment is beyond his capacity he should summon another doctor who has the necessary ability.

A Doctor shall preserve absolute secrecy on all he knows about his patients because of the confidence entrusted in him.

A Doctor must give emergency care as a humanitarian duty unless he is assured that others are willing and able to give such care.

### Duties of Doctors to Each Other

A Doctor ought to behave to his colleagues as he would have them behave to him.

A Doctor must not entice patients from his colleagues.

A Doctor must observe the principles of 'The Declaration of Geneva' approved by the World Medical Association.

## 4. Declaration of Tokyo of 1975

Statement on torture and other cruel, inhuman or degrading treatment or punishment

### Preamble

It is the privilege of the medical doctor to practice medicine in the service of humanity, to preserve and restore bodily and mental health without distinction as to persons, to comfort and to ease the suffering of his or her patients. The utmost respect for human life is to be maintained even under threat, and no use made of any medical knowledge contrary to the laws of humanity.

For the purpose of this Declaration, torture is defined as the deliberate, systematic or wanton infliction of physical or mental suffering by one or more persons acting alone or on the orders of any authority, to force another person to yield information, to make a confession, or for any other reason.

### Declaration

1. The doctor shall not countenance, condone or participate in the practice of torture or other forms of cruel, inhuman or degrading procedures, whatever the offence of which the victim of such procedures is suspected, accused or guilty, and whatever the victim's belief or motives, and in all situations, including armed conflict and civil strife.
2. The doctor shall not provide any premises, instruments, substances or knowledge to facilitate the practice of torture or other forms of cruel, inhuman or degrading treatment or to diminish the ability of the victim to resist such treatment.
3. The doctor shall not be present during any procedure during which torture or other forms of cruel, inhuman or degrading treatment is used or threatened.
4. A doctor must have complete clinical independence in deciding upon the care of a person for whom he or she is medically responsible. The doctor's fundamental role is to alleviate the distress of his or her fellow men, and no motive whether personal, collective or political shall prevail against this higher purpose.
5. Where a prisoner refuses nourishment and is considered by the doctor as capable of forming an unimpaired and rational judgement concerning the conse-

quences of such a voluntary refusal of nourishment, he or she shall not be fed artificially. The decision as to the capacity of the prisoner to form such a judgement should be confirmed by at least one other independent doctor. The consequences of the refusal of nourishment shall be explained by the doctor to the prisoner.

6. The World Medical Association will support, and should encourage the international community, the national medical associations and fellow doctors to support, the doctor and his or her family in the face of threats or reprisals resulting from a refusal to condone the use of torture or other forms of cruel, inhuman or degrading treatment.

#### 5. Declaration of Oslo of 1970

##### Statement on therapeutic abortion

1. The first moral principle imposed upon the doctor is respect for human life as expressed in a clause of the Declaration of Geneva: I will maintain the utmost respect for human life from the time of conception.
2. Circumstances which bring the vital interest of a mother into conflict with the vital interests of her unborn child create a dilemma and raise the question whether or not the pregnancy should be deliberately terminated.
3. Diversity of response to this situation results from the diversity of attitudes towards the life of the unborn child. This is a matter of individual conviction and conscience which must be respected.
4. It is not the role of the medical profession to determine the attitudes and role of any particular state or community in this matter, but it is our duty to attempt both to ensure the protection of our patients and to safeguard the rights of the doctor within society.
5. Therefore, where the law allows therapeutic abortion to be performed, or legislation to that effect is contemplated, and this is not against the policy of the national medical association, and where the legislature desires or will accept the guidance of the medical profession, the following principles are approved:
  - (a) Abortion should be performed only as a therapeutic measure.
  - (b) A decision to terminate pregnancy should normally be approved in writing by at least two doctors chosen for their professional competence.
  - (c) The procedure should be performed by a doctor competent to do so in premises approved by the appropriate authority.
6. If the doctor considers that his convictions do not allow him to advise or perform an abortion, he may withdraw while ensuring the continuity of (medical) care by a qualified colleague.
7. This statement, while it is endorsed by the General Assembly of the World Medical Association, is not to be regarded as binding on any individual member association unless it is adopted by that member association.

#### 6. Declaration of Helsinki of 1948, as amended

Recommendations guiding medical doctors in biomedical research involving human subjects:

##### Introduction

It is the mission of the medical doctor to safeguard the health of the people. His or her knowledge and conscience are dedicated to the fulfilment of this mission. The Declaration of Geneva of the World Medical Association binds the doctor with the words:

'The health of my patient will be my first consideration,' and the International Code of Medical Ethics declares that, 'Any act or advice which could weaken physical or mental resistance of a human being may be used only in his interest.'

The purpose of biomedical research involving human subjects must be to improve diagnostic, therapeutic and prophylactic procedures and the understanding of the aetiology and pathogenesis of disease.

In current medical practice most diagnostic therapeutic or prophylactic procedures involve hazards. This applies a fortiori to biomedical research.

Medical progress is based on research which ultimately must rest in part on experimentation involving human subjects. In the field of biomedical research a fundamental distinction must be recognised between medical research in which the aim is essentially diagnostic or therapeutic for a patient, and medical research the essential object of which is purely scientific and without direct diagnostic or therapeutic value to the person subjected to the research.

Special caution must be exercised in the conduct of research which may affect the environment, and the welfare of animals used for research must be respected.

Because it is essential that the results of laboratory experiments be applied to human beings to further scientific knowledge and to help suffering humanity, the World Medical Association has prepared the following recommendations as a guide to every doctor in biomedical research involving human subjects. They should be kept under review in the future. It must be stressed that the standards as drafted are only a guide to physicians all over the world. Doctors are not relieved from criminal, civil and ethical responsibilities under the laws of their own countries.

##### 1. Basic Principles

1. Biomedical research involving human subjects must conform to generally accepted scientific principles and should be based on adequately performed laboratory and animal experimentation and on a thorough knowledge of the scientific tradition.
2. The design and performance of each experimental procedure involving human subjects should be clearly formulated in an experimental protocol which should be transmitted to a specially appointed independent committee for consideration, comment and guidance.
3. Biomedical research involving human subjects should be conducted only by scientifically qualified persons and under the supervision of a clinically competent medical person. The responsibility for the human subject must always rest with a medically qualified person and never rest on the subject of the research, even though the subject has given his or her consent.
4. Biomedical research involving human subjects cannot legitimately be carried out unless the importance of the objective is in proportion to the inherent risk to the subject.
5. Every biomedical research project involving human subjects should be preceded by careful assessment of predictable risks in comparison with foreseeable benefits to the subjects or to others.  
Concern for the interests of the subject must always prevail over the interest of science and society.
6. The right of the research subject to safeguard his or her integrity must always be respected. Every precaution should be taken to respect the privacy of the subject and to minimise the impact of the study on the subject's physical and mental integrity and on the personality of the subject.
7. Doctors should abstain from engaging in research projects involving human subjects unless they are satisfied that the hazards involved are believed to be predictable. Doctors should cease any investigation if the hazards are found to outweigh the potential benefits.
8. In publication of the results of his or her research, the doctor is obliged to preserve the accuracy of the results. Reports of experimentation not in accordance with the principles laid down in this Declaration should not be accepted for publication.
9. In any research on human beings, each potential subject must be adequately informed of the aims, methods, anticipated benefits and potential hazards of the study and the discomfort it may entail. Her or she should be informed that he or she is at liberty to abstain from participation in the study and that he or she is free to withdraw his or her consent to participation at any time. The doctor should then obtain the subject's freely-given informed consent, preferably in writing.
10. When obtaining informed consent for the research project the doctor should be particularly cautious if the subject is in a dependent relationship to him or her or may consent under duress. In that case the informed consent should be obtained by a doctor who is not engaged in the investigation and who is completely independent of this official relationship.
11. In case of legal incompetence, informed consent should be obtained from the legal guardian in accordance with national legislation. Where physical or

mental incapacity makes it impossible to obtain informed consent, or when the subject is a minor, permission from the responsible relative replaces that of the subject in accordance with national legislation.

12. The research protocol should always contain a statement of the ethical considerations involved and should indicate that the principles enunciated in the present Declaration are complied with.

## II. Medical Research Combined with Professional Care (Clinical research)

1. In the treatment of the sick person, the doctor must be free to use a new diagnostic and therapeutic measure, if in his or her judgment it offers hope of saving life, re-establishing health or alleviating suffering.
2. The potential benefits, hazards and discomfort of a new method should be weighed against the advantages of the best current diagnostic and therapeutic methods.
3. In any medical study, every patient - including those of a control group, if any - should be assured of the best proven diagnostic and therapeutic method.
4. The refusal of the patient to participate in a study must never interfere with the doctor-patient relationship.
5. If the doctor considers it essential not to obtain informed consent, the specific reasons for this proposal should be stated in the experimental protocol for transmission to the independent committee.
6. The doctor can combine medical research with professional care, the objective being the acquisition of new medical knowledge, only to the extent that medical research is justified by its potential diagnostic or therapeutic value for the patient.

## III. Non-therapeutic Biomedical Research Involving Human Subjects (Non-clinical biomedical research)

1. In the purely scientific application of medical research carried out on a human being, it is the duty of the doctor to remain the protector of the life and health of that person on whom biomedical research is being carried out.
2. The subjects should be volunteers - either healthy persons or patients for whom the experimental design is not related to the patient's illness.
3. The investigator or the investigating team should discontinue the research if in his/her or their judgment it may, if continued, be harmful to the individual.
4. In research on man, the interest of science and society should never take precedence over considerations related to the well-being of the subject.

# Appendix C: Suggested Core Ethical Concepts for Nurses

1. The fundamental responsibility of the nurse is to conserve life, promote health and alleviate suffering.
2. The nurse must provide nursing care in accordance with human need and with respect for the dignity of the human being without consideration of race, creed, nationality and social or political and economic standing.
3. The nurse does not use her knowledge to the detriment of society.
4. The nurse keeps in confidence all confidential information about her patients.
5. The nurse must be a law-abiding citizen.
6. The nurse has a duty to uphold the efforts of her profession.
7. The nurse must continue to develop her professional competence and assist others to do the same.
8. The nurse helps to establish and maintain professional standards in nursing.
9. The nurse must be concerned with all legislation affecting the health care of the human being.
10. The nurse does not advertise.
11. The nurse has a duty to teach those she works with and to prevent unskilled or unauthorised persons from performing tasks that may harm patients.
12. The nurse collaborates harmoniously with other members of the health team.
13. The nurse does not participate in unethical practices.
14. The nurse is accountable.

[Source: Charlotte Searle *Professional Practice: A Southern African Nursing Perspective Fourth Edition*. Durban: Butterworths.1986: 98-100.]





**G. ANAL EXAMINATION (State clinical findings)**

**3**

**SKIN SURROUNDING THE ORIFICE**

- |                     |                         |                        |
|---------------------|-------------------------|------------------------|
| 1. Hygiene:         | 4. Abrasions:           | 7. Redness/erythema:   |
| 2. Pigmentation:    | 5. Scars:               | 8. Bruising/haematoma: |
| 3. Fissures/cracks: | 6. Swelling/thickening: | 9. Tags:               |

**ORIFICE**

- |   |  |                          |
|---|--|--------------------------|
| 10. Tears/fissures:                         | 13. Reflex dilatation:                 | 16. Twitchiness/winking: |
| 11. Swelling/thickening of rim (tyre sign): | 14. Shortening/eversion of anal canal: | 17. Discharge:           |
| 12. Funnelling:                             | 15. Cupping:                           |                          |

**DIGITAL EXAMINATION**

- |  |                               |
|--|-------------------------------|
| 18. Presence of hard faeces in rectum: | 20. Thickening of anal verge: |
| 19. Laxity (pressure on anal orifice): | 21. Tone (sphincter grip):    |

**22. CONCLUSIONS**

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**H. MALE GENITALIA**

- |   |   |                           |
|---|---|---------------------------|
| 1. Genital development: Tanner stage 1-5 <input type="checkbox"/> | 6. Pubic hair: Tanner stage 1-5: <input type="checkbox"/> | 11. Prepuce and frenulum: |
| 2. Glans:   | 7. Shaft:   | 12. Scrotum:              |
| 3. Testes:  | 8. Epididymus:  | 13. Vas deferens:         |
| 4. Ulceration:  | 9. Penile discharge:                                      | 14. Smegma:               |
| 5. Presence of faeces:  | 10. Circumcision:   | 15. Urethral orifice:     |

**16. CONCLUSIONS**

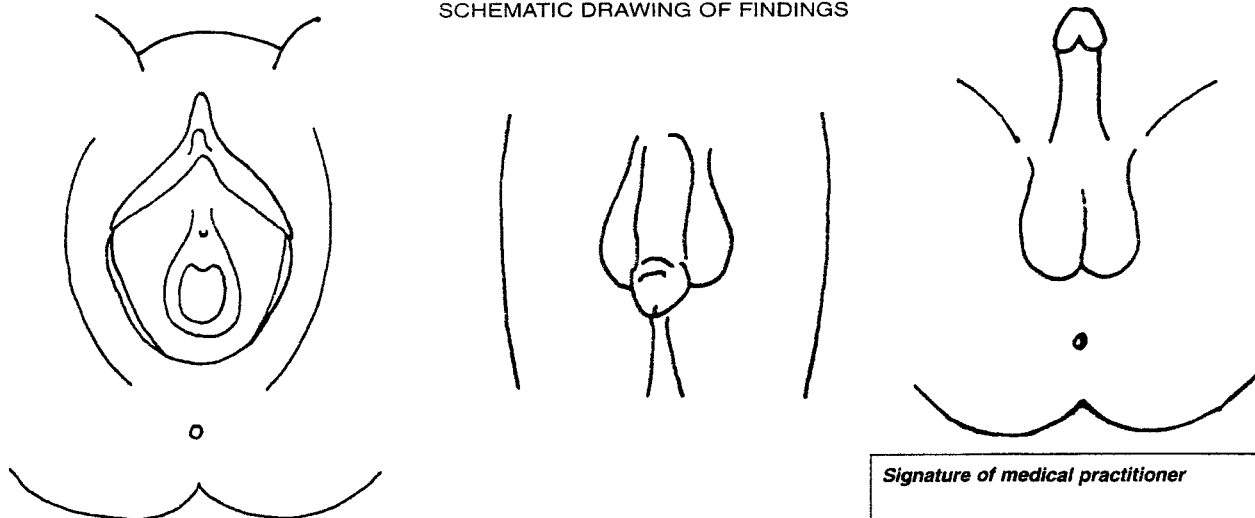
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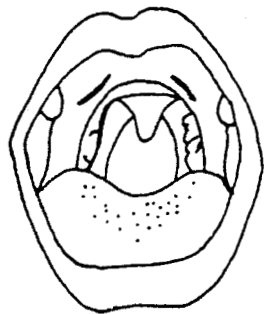
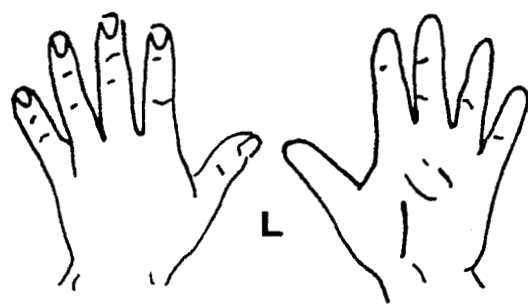
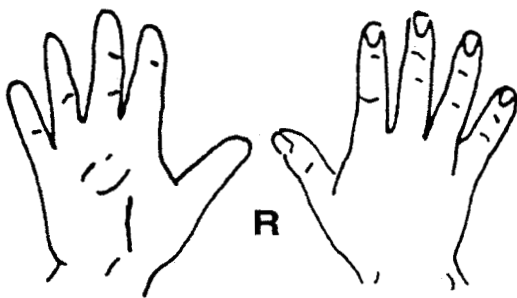
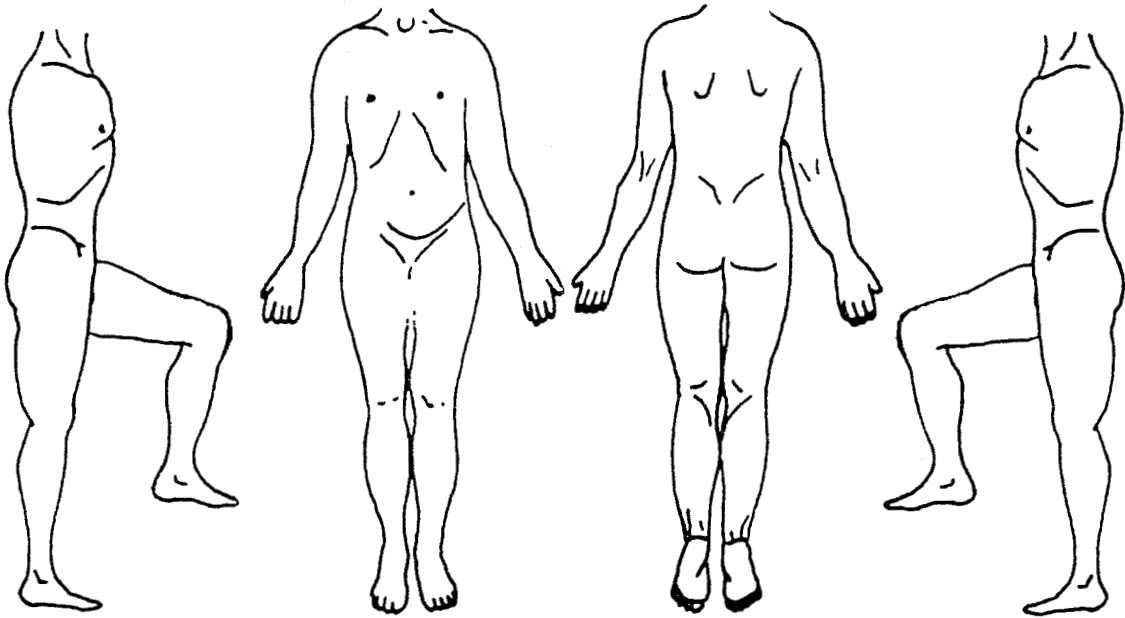
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**SCHEMATIC DRAWING OF FINDINGS**



*Signature of medical practitioner*



Signature of medical practitioner

# Appendix E: The Management of Survivors of Sexual Violence and Abuse

These principles apply to any type of violent incident.

## No-one may be turned away

A survivor of violence must not be turned away and referred to another health care institution. It is irrelevant from which geographic area the survivor originates.

## Reporting to the police

Health care practitioners must establish whether the matter was reported to the police or not:

- If the patient wishes to report the incident, contact the police station in the area in which the incident occurred. The health care practitioner must ask the police to come to the health care institution to take a statement from the patient.
- If not, discuss the advantages and disadvantages of reporting the incident.
- If an adult survivor declines to report the matter to the police, the health care practitioner should still perform a full forensic examination of the patient and record the findings, in case the patient changes her/his mind.

## Medical assessment

A patient who has sustained injuries must be assessed and treated at the nearest casualty/trauma unit. Once stabilised the Casualty officer may refer the patient to the CCC for the forensic examination.

Under NO circumstances must an injured survivor be referred back to the referring institution for forensic assessment or medical management.

## Timing of the medico-legal examination

The medico-legal examination of the patient must be done after the medical assessment has been completed and ideally within two hours of the patient presenting to the institution. Where a patient is admitted, the medico-legal examination is conducted in the ward.

## Venue

The health care practitioner must respect the dignity of the patient and all survivors must be interviewed in a private room or in the Crisis Care Centre.

## Emotional support

Patients suffer mental trauma that may or may not be obvious. The health care practitioner must be caring and supportive.

## Consent

Consent for the medical examination, treatment, collection of specimens for medical and forensic purposes, disclosure of medical information and the HIV test must be voluntary and informed and must be obtained in writing on the prescribed form or recorded in the patient records.

Any patient over the age of 14 years can consent to the medical examination.

## Presence of third person

It is important for a third person (with whom the survivor is comfortable), to be present during the examination of a patient.

## Post-medical examination procedures

### Forensic specimens and exhibits

These must be sealed, labelled and kept under lock and key in a special cupboard or refrigerator, until sent to the laboratory.

### Medical treatment

Physical injuries must be treated appropriately.

In the case of sexual assault, there is need to treat and counsel regarding:

- Prevention of pregnancy
- Treatment of sexually transmitted diseases

### Referral for counselling

If the patient is suicidal or has suffered severe emotional trauma, she or he must be referred for immediate counselling and management, or be admitted to the ward.

The patient must be advised of the options regarding post-trauma counselling. The patient may be referred to the hospital social worker, mental health services, or to a NGO support group.

### Recording the findings

The report should be comprehensive and all necessary information must be recorded in the patient's file during or after each consultation or examination. The results of the forensic examination must be recorded on the prescribed form (J88). A copy must be retained for the hospital records and the original J88 form handed to the investigating officer.

# Appendix F: The Management of Child Survivors of Violence

## A Multidisciplinary Approach

### Best interests of the child survivor

The best interests of the child survivor are always a priority and each case must be dealt with on its own merits. The future treatment and rehabilitation of the child will depend on how the trauma is treated at the time of crisis.

### Relationship between professionals

The health care practitioner is part of a multidisciplinary team, including medical, police and justice personnel.

It is essential that a close working relationship and liaison is maintained at all times between the professionals and the community.

### No one may be turned away

A child survivor must not be turned away or referred to another health care institution.

All child survivors of abuse, whether male or female, must be medically examined.

### Consent for minors

Informed consent (for examination, treatment, collection of specimens for medical and forensic purposes, disclosure of medical information and the HIV test) must be obtained from the parent/legal guardian on the prescribed form or recorded in the patient record.

Any patient over the age of 14 years can consent to the medical examination.

### Interviewing the child survivor

A social worker or the sister in charge must interview the child survivor and accompanying parent/legal guardian with sensitivity in a private room at the health care facility. It is not necessary for a Police Officer to be present at the medical examination of the child survivor.

### Medical management of the child survivor

The purpose and nature of the medical examination must be explained to the child and the parent/legal guardian. The child survivor's personal details and case history must be recorded and given to the examining doctor together with a child abuse notification form and a J88.

### Medical assessment

If the child has sustained serious physical injuries, these must be assessed and treated at the nearest Casualty/Trauma Unit. The Casualty Officer may thereafter refer the patient to the CCC or admit the patient.

Under NO circumstances must an injured victim be referred back to the referring institution for the forensic assessment.

### Timing of the medico-legal examination

The medico-legal examination must be done after the medical assessment has been completed and ideally within two hours of the patient presenting at the institution, especially if the patient was sexually abused.

### Second opinion

When the examining health care practitioner is unsure of the medical findings, a second opinion may be sought from another health care practitioner or a paediatrician.

It is the responsibility of the doctor who first examined the child to complete the J88, after consulting with the second doctor/specialist. Consider admitting the child survivor to the ward in order to remove the child from the traumatic environment and obtain a second/specialist opinion.

### Making a statement to the police

It must be established whether the matter was reported to, and a statement taken by, the Police. If not, the social worker or sister must make the necessary arrangements with the Police to come to the health care facility to take the statement.

### Record keeping and notification of abuse

The report must be comprehensive and all the information must be recorded in the patient's file immediately.

The results of the forensic examination must be recorded on the prescribed form (J88). The original J88 form must be handed to the Police and a copy/photocopy of the J88 retained in the patient's file.

The health care practitioner is required in terms the Child Care Act 1983 to notify all child abuse cases to the relevant regional welfare authority. The clinic or hospital is responsible for ensuring that the notification reaches the relevant authority.

### Post trauma counselling and support

The child survivor should be referred for trauma counselling and support or if necessary to a psychologist or psychiatrist.

### Medical management and follow-up

The health care practitioner must routinely take ano-genital swab(s), urine and blood samples.

The health care practitioner must prescribe medication for the prevention of STDs and pregnancy.

### Follow-up

All cases require follow up within 48 hours, but the giving of further medication is dependent on the circumstances of each case and must be assessed accordingly. In the majority of cases follow up investigations are at 3 and 6 months intervals, and may include:

- Blood (HIV – 3 and 6 months; VDRL – 3 and 6 months)
- Vaginal swab – if indicated
- Urine – if indicated