



RAPCAN  
protecting children's rights

# Prevention of Violence Against Children through Legislation in South Africa

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Resources Aimed at the Prevention of Child  
Abuse and Neglect

# Outline

- About RAPCAN
- Prevention framework
- Children's Amendment Act No. 41 2007
- Child Justice Act. No. 75 of 2008
- Tertiary prevention:
- Criminal Law (Sexual Offences and Related Matters) Amendment Act. No. 37 of 2007
- Children and Domestic Violence
- Dedicated specialised services
- Way forward

# RAPCAN

- Resources Aimed at the Prevention of Child Abuse and Neglect
- Established in 1989 – 20<sup>th</sup> anniversary
- Broad children's rights agenda
- Focus: child victimisation and child offending
- Within a prevention framework
- Key services
  - Direct services (local level) court and community based
  - Training and capacity building
  - Resource production and dissemination
  - Advocacy for social change (law and policy focus)
  - At district, provincial, national and regional (SADC) levels
- Committed to evidence based practice

# Prevention framework

- Primary prevention (prevention)
  - Broad based programmes addressing risk
  - Parenting programmes, social security, education
- Secondary prevention (early intervention)
  - Targeted where risk factors are evident and early signs are present
  - Diversion programmes, behaviour problems, learning difficulties
- Tertiary prevention ('statutory' responses)
  - After victimisation/crime has been committed
  - Counselling, prison, treatment programme
- Current responses emphasise expensive tertiary interventions
- Most responses fail to look 'upstream'
- Higher returns on investment for primary prevention

# Risk and/or Protective Factors

- **Victims and offenders share many of the same risk and protective factors**
- **Gender dimension: Women more likely to be victimised; Men more likely to offend**

These include:

- History of sexual violence/abuse
- Risky sexual behaviour
- High levels of stress
- Substance use/abuse
- Controlling patriarchal relationships
- Male sexual entitlement
- Unsupportive families
- Poor parent child attachment/relationships
- Poverty
- Access to quality education
- Weak child protection and criminal justice systems
- High levels of exposure to violence in the home or community
- Disempowered communities
- Social tolerance of violence and sexual violence

# Primary and secondary prevention: Relevant legislation

- No comprehensive prevention policy framework – piecemeal approach
- Legislation can address a range of risk factors.
- Prevention of Violence Against Women (VAW) and Violence Against Children (VAC) should be addressed through a range of legislation.
- Children's Act and Prevention and Treatment of Substance Abuse Act address primary through to tertiary prevention.
- Child justice legislation addresses secondary and tertiary prevention



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# Prevention in the Children's Amendment Act

- Prevention and early intervention programmes must be provided for in provinces
- The Act includes:
  - Developing appropriate parenting skills and the capacity of parents and care-givers to safeguard the well-being and best interests of their children
  - Promote positive, non violent discipline
  - Promote appropriate interpersonal relationships within the family
  - Provide psychological, rehabilitation and therapeutic programmes
  - Preventing the recurrence of problems in the family environment that may harm children or adversely affect their development;
  - Preventing the neglect, abuse or inadequate supervision of children and preventing other failures in the family environment to meet children's needs;
  - Diverting children away from the child and youth care system and the criminal justice system
- Availability of programmes is the challenge



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# Prevention in the Child Justice Act

- Recognises that institutional detention exacerbates and promotes risk factors
- It is in the interests of the community/society to intervene in the cycle of offending
- Young offenders must be held accountable
- Innovation in process
- Promotes restorative justice and provides for possible diversion
- Availability of evidence based treatment programmes for diversion or sentence is limited.

# Primary and Secondary Prevention: Relevant legislation

- In addition:
  - Domestic Violence Act
  - Liquor Act
  - Firearms Control Act
  - Social Security Act
  - Prevention and Treatment for Substance Abuse Act
  - Education laws
  - Housing related laws
  - Health related laws
- We can't prevent violence by only focussing on violence after it occurs

# Tertiary Prevention

# Criminal Law (Sexual Offences and Related Matters) Amendment Act

- Many positive developments:
  - Recognises the vulnerability of women, children and people with disabilities.
  - Broader definition of rape to recognise seriousness of a range of forms of sexual penetration
  - Wider range of acts are recognised as offences
  - Amends certain discriminatory rules of evidence.
  - Access to PEP provided

# Criminal Law (Sexual Offences and Related Matters) Amendment Act

- Fails to improve entrenched harmful court practice
  - Exposure to the accused and public
  - Grueling adversarial processes
  - Adult centered environment
- Improved access to protective measures for children and adults limited
- This has been successfully challenged through the Constitutional Court in relation to children
- Not finalised yet in terms of orders
- Adult survivors needs have not been addressed



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# Counselling victim/survivors of sexual offences

- Counselling for survivors is not provided in legislation
- Opportunity to break cycles of violation is missed
- Law thus recognises only the legal context not the social or personal context
- Counselling is essential to address needs of victim/survivor
- Counselling acts as tertiary prevention
- Few or no services
- Waiting lists in urban areas for children



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# Implementation of SO legislation

- National Policy Framework must be developed by Minister of justice and constitutional development in consultation with key cabinet members.
  - For co-ordinated approach
  - To guide implementation, enforcement and administration
  - Enhance service delivery including plan for progressive realisation of services within available resources.
- Changing knowledge and practice in every police station, hospital and court is a challenge
- Parliamentary oversight required on an annual basis (reporting by DoJ annually including info from other departments listed).
- NGO and state monitoring and research is essential

# Children and Domestic Violence

- DV pervasive in society
- Research demonstrates significant impact of children
  - Direct physical violence
  - Experiencing violence vicariously has serious psychological and social impact
- DVA recognises children as victims
- Services for DV fail to adequately recognise children's needs
- Ongoing failure to intervene in cycles of victimisation and offending
- Impacts on all violence in society not only DV

# Specialisation for quality services

- Family Violence, Child Protection and Sexual Offence (FCS) units
- Dedicated Health facilities
- Sexual Offence Courts
- Particularly vulnerable victims, complex cases
  - Nature of trauma
  - Nature of social and criminal justice responses
- Extremely low reporting, prosecution and conviction rates
- Require high level skills and expertise
- Elements of specialisation
  - Dedicated resources
  - Staff recruitment processes (not everyone can do this work)
  - Initial and ongoing training
  - Specialised management (understand issues and intervention)

# Specialisation for quality services

- Challenges to specialisation, moving towards generalist approach
- Undermines developments in service of the past 15 years
- Specialisation represents development to improve status quo from the past in these cases
- Goes against evidence of what is most effective to address secondary victimisation and poor investigation and prosecution
  - Positive impact on secondary victimisation
  - Positive impact on investigation
  - Positive impact on prosecution and conviction
- Erosion over the past 3 to 5 years
- Require strong political leadership on the issue
- Recent development in terms of policing
- Concerns re the sexual offence courts

# Going Forward

- Enhance primary and secondary prevention
- Developing understanding of intersections of different legislation for violence prevention
- (Parliamentary oversight regarding implementation of legislation)
- Strengthen mechanisms to implement (awareness, training, accountability)
- Availability of tested and evidence-based programmes at necessary scale
  - Particularly primary and secondary prevention
- Legislation is the foundation
- Ensure budget allocation and capacity to spend

# Going forward – Civil Society

- CSOs to record and represent the needs and concerns of our clients
- Support implementation efforts (materials, training etc.)
- Monitor implementation
- Develop and test models for service delivery.
- Promote relevant evidence-based practice

Thank you

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