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OFFICE OF THE MUNICIPAL MANAGER

PROVINCE OF KWAZULU-NATAL
KZN 435



UKUTHWALA IS AN ABUSE AGAINST WOMEN & CHILDREN

The fight against domestic violence, particularly violence against women and children, is paramount for our communities to feel safe and secure in their homes. The increase in the number of women and children abused and murdered bucked our priority of reducing crime. The fact that these perpetrators are known or ordinarily close to the victims, exposes certain of trust violation and barbaric human conduct that seeks to rob our loved ones an ideal trust. Perpetrators are proven to be found in all walks of life and have not particular class hence they swell all ranks of our society. The recently cases of these abuses and violations, including abductions, have regrettably reveal that there are more victims than anticipated but were stomaching their deep emotional scars.

It will never be enough until men embark a bold and traceably continuous programme to be vocal on this while capacitating themselves together with boy children. Our children need to protect and embrace each other while wives and sisters should be able to entrust men with

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unshaken protection towards children, girls in particular. Our communities need to stand united and firm against these barbaric conducts, without taking law into their own hands. This therefore calls for our institution to improve its approach towards these abuses and further create an internally an enabling environment for our female personnel to feel safe. We also have undertaken a bold stand towards embracing any male programme and further recognise stakeholders that seek to have an agenda towards broader male capacitation. We would like to call upon all males to take a much bold stand towards fighting abuse on female and children.

Umzimkhulu has a history of forced marriages (*Ukuthwalwa*) that used to be a predominant practise. Through this practise young girls were forced to get married to males regardless of their age gap as elders saw it fit for such to happen. Such activity has been proven to have an impact on the wild spreading on the pandemic diseases. In all cases, the female had no have a say even on conceiving the children while forced married, in most cases children will be born on poverty stricken environment from the first onset. This would impose serious challenges to Government and stakeholders hence interventions would be required as per expectations. *Ukuthwala* has since been classified is a form of abduction that involves kidnapping a girl or a young woman by a man and his friends or peers with the intention of compelling the girl or young woman's family to endorse marriage negotiations.

It is on that note and beyond that immediately on resumption her mayoral responsibilities the calm, decisive and eloquent first female Mayor of Umzimkhulu Hnr. Cllr. Jabulile Msiya made it crystal clear that she will roll all her sleeves towards eradicating any form of women and children abuse tendencies. It did not come as a surprise when she created an enabling environment for a prudent integrated approach by all stakeholders. This program is implemented through municipal Community and Social Services Department managed by Ms. Nosisa Luzulane.

In ancient Africa, particularly among the Nguni, *Ukuthwala* was a condoned although abnormal path to marriage targeted at certain girls or women of marriageable age. But it did not involve raping or having consensual sex with the girl until marriage requirements had been concluded. The act of *Ukuthwala*, however, was not with impunity; it incurred delictual liability for the culprit, in the form of the payment of one or more herd of cattle to the father or legal guardian of the girl. Today *Ukuthwala* increasingly involves the kidnapping, rape and forced marriage of minor girls as young as twelve years, by grown men old enough to be their grandfathers. The factual reality is that *Ukuthwala* steals childhood. It causes an

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abrupt end to a girl's childhood and the care free existence that all children are entitled to. Suddenly the little girl is a wife with a husband and in most instances, children and in-laws to serve or look after. In virtually all child marriage cases, the child is removed from school. Dropping out of school deprives the child education opportunities, including tertiary education and skills training. The social development of the child is also stunted as the early marriage and fast-tracking into the adult world skips organic developmental phases. Early marriage is a symptom of and exacerbates gender inequality. If it wasn't for gender inequality and child abuse, *Ukuthwala* would have no place in our society. The subordinate position of the girl or young woman is reinforced by the fact that in most of the documented cases, the girl children have been forced to marry men old enough to be their parents and grandparents.

Having sex with a child without her consent, following her kidnapping and abduction (*ukuthwala*), constitutes rape in violation of the Criminal Law (Sexual offences) Amendment Act of 2007 (section 15). This Act, which is known as the Sexual Offences Amendment Act of 2007, prohibits the sex with a person without their consent. Regarding a child, the age of consent is 16 meaning that sex with an under 16 constitutes statutory rape. Sex with a child that is 12 and below is rape as a child of that age is legally incapable of consent. The Act also prohibits other sexual activities with children (sections 16 and 17), including sexual grooming (section 18). Section 17 of the Sexual Offences Amendment Act of 2007 prohibits the sexual exploitation of children by parents and others. Parents or relatives and others who collude in or aid and assist the *ukuthwala* of a girl child commit the crime of sexual exploitation of children. These parents and relatives also face being charged with Trafficking in Persons under section 71 of the Sexual Offences Act. The 'lobola' delegates known as *Abakhongi* and every role player will also be charged with as criminal accomplices.

Research conducted with young girls that have been victims of *ukuthwala* and attendant rape, forced marriage and teenage pregnancy has revealed numerous health complications for the young girls. These range from HIV and other Sexually Transmitted Infections (STIs) to pregnancy related complications such as infant mortality and maternal mortality. These health complications are consistent with findings of KZN Department of Health, KZN Department of Social Development, Provincial Task Team (PTT), Operation Sukuma Sakhe (OSS), South African Human Rights Commission, UN Secretary General's Report on Violence

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Against Children (2006) and UN Agencies such as WHO, UNICEF and UNIFEM in countries that are bedevilled by forced and early marriages.

Due to public outcry, conclusive research conducted and many more the South African Constitution has since regulated that forced (*ukuthwala*) is a criminal offence. constitutional and criminal transgression had been committed. It is on that note that Umzimkhulu Municipality, Department of Traditional Affairs, Department of Justice, Department of Health, Department of Education, Department of Social Development, SAPS and other stakeholders collaboratively embarked on awareness campaigns to educate the communities. Another critical reason for these campaigns is that, forced marriage has since been declared as a criminal activity.

It is correct to point out that Umzimkhulu is therefore not immune to this shameful deed of *Ukuthwala* hence this rural based municipality to upon itself to conduct continuous awareness campaigns and dialogues on the subject. When KZN Government took a sober decision to further hold a significant event in Umzimkhulu throughout Umzimkhulu with the view to further add value to what the local stakeholders are always advocating to this rural based community, it became much clearer that the intergraded approach is quite vital our government and its stakeholders to enhance the principles of OSS.

The Traditional Leaders of Umzimkhulu vehemently supported and welcomed what Government stands for on this subject. They further committed to create an enabling environment for the foot soldiers to engage communities without removing their accountability as Traditional Leaders. In the recent awareness campaign, both iNkosi Baleni and iNkosi Jozana called upon the communities to refrain from misinterpreting traditional activities with criminal ones. Critical stakeholders such as SAPS and Department of Social Development partnered with the municipality to spread the word on the criminality of forced marriage.