

SEXUAL OFFENCES

TYPES OF SEXUAL OFFENCES

A sexual offence is an offence whereby sexual gratification is obtained through sexual contact between two people or between human beings and animals.

The main sexual offences of rape, indecent assault, incest and sodomy are defined in the Penal Code of Kenya CAP 63.

Types of Sexual Offences

Sexual Offence	Definition
Rape s. 139	Any person who has unlawful carnal knowledge of a woman or girl, without consent or with her consent if the consent is obtained by force, or by means of threats or intimidation of any kind, or by fear of bodily harm, or by means of false representations as to the nature of the act, or, in case of a married woman, by impersonating her husband, is guilty of the felony termed rape. Carnal knowledge means sexual intercourse involving penetration by the penis.
Attempted Rape s. 141	Any person who attempts to commit rape is guilty of a felony.
Indecent assault of females s. 144	* Any person who unlawfully and indecently assaults any woman or girl is guilty of a felony. * Whoever, intending to insult the modesty of any woman or girl, utters any word, makes any sound or gesture or exhibits any object intending that the word or sound shall be seen, by the woman or girl, or intrudes upon the privacy of the woman or girl, is guilty of a misdemeanour.
Defilement of girls under 14 years s. 145	* Any person who unlawfully and carnally knows any girl under the age of 14 years is guilty of a felony. * Any person who attempts to have unlawful carnal knowledge of a girl under the age of 14 years is guilty of a felony.

Unnatural offences s. 162	Any person who a. Has carnal knowledge of a person against the order of nature, or b. Has carnal knowledge of an animal, or c. Permits a male person to have carnal knowledge of him or her against the order of nature commits an unnatural offence.
Attempts to commit unnatural offence . s. 163	Any person who attempts to commit an unnatural offence is guilty of a felony.
Indecent assault of boys under 14 years of age s. 164	Any person who unlawfully and indecently assaults a boy under the age of 14 years is guilty of a felony.
Indecent practices between males. S. 165	Any Male person whether in public or private commits any act of gross indecency with any other male person, or procures another male person to commit any act of gross indecency with him, or attempts to procure the commission of any such act by any male person, whether in public or private is guilty of a felony.
Incest by males s. 166	* Any male who has carnal knowledge of a female person who to his knowledge is his granddaughter, daughter, sister or mother is guilty of a felony. It is immaterial that the carnal knowledge was had with the consent of the female person. * If any male person attempts to commit any such offence he is guilty of a midemeanour. * If the victim is under the age of 21 years, the court may divest the offender of all authority over her and if the offender is the guardian of such female may remove the offender from such guardianship.
Incest by females s. 167	Any female person of or above the age of 16 years who with her consent permits her grandfather, father, brother or son to have carnal knowledge of her knowing him to be her grandfather, father, brother or son, as the case may be is guilty of a felony.

THE CHANGING PATTERNS OF RAPE

As a result of the HIV epidemic, a recent pattern of child rape has emerged. It is said to occur in the belief that sex with a young girl who is a virgin is safer in terms of protracting HIV. Another development is the revenge raping of innocent women and girls by HIV positive men.

The world media has recently reported a new epidemic of woman who are allegedly sexually assaulted while under the influence of alcohol and or drugs. Typically the women report loss of memory during parties or a night out. They wake up later in strange places, often appropriately dressed with no recollection of the events of the previous evening.

Some of the drugs there have the potential to make them sleepy or to lower their inhibitions and may lead to sexual assault. In other cases the drowsiness is due to the recreational use of one or more drugs by the victim. The victims may also be made vulnerable by the effects mixing of the drugs prescribed by their doctors or bought from chemists over the counter with alcohol or recreational drugs.

THE MEANING OF SEXUAL ABUSE IN CHILDREN

Sexual abuse of children can be defined as any intentional act of indecency committed by an adult against a child in order to get either sexual pleasure or finan

cial gain. In addition to the usual sexual offences outlined above, a number of other indecent acts may be performed against children. These include stimulating or penetrating the private parts, taking or publishing indecent photographs, and procuring children to watch or participate in the sexual activities of children.