CRIME and Conflict

EDITORIAL

We have a new Constitution – billed as one of the most progressive in the world – and a crime prevention strategy with a fresh focus on victims in the criminal justice process. But how far has the victim-friendly message filtered down through the system?

Certainly, the implications momentarily escaped two people central to the process: a Cape Town Supreme Court judge recently explained to a gathering in the Mossel Bay court on National Women's Day – hopefully there were no men present – that if a man accused of rape was found to have been enticed by for example, a 'nineteen year old tart', a suspended sentence would be considered. Defending the judge's comments – and praising his willingness to travel the distance to enlighten women – Justice Minister Dullah Omar explained that each rape case must be treated individually in sentencing. (Does this not in any event apply to all court cases?)

It is no surprise that people in the legal profession hold such views. But it is disheartening to hear them from such senior decision makers – not least because they coincided with an event intended to strengthen women's position in society. The trauma of the court process is one reason why rape is an under reported crime. Now women have it from the horse's mouth that before reporting a violation, they must consider whether they led their attacker on.

And in culturally diverse South Africa, answering this question is a subjective affair – hardly the stuff of legal proceedings. For some, an exposed female ankle or neck is believed to be sexually suggestive. Others feel women should not wear trousers since they reveal the crotch. In the midst of all this – and who knows what the judge's definition might be – some women wear nothing more than a few centimetres of bikini on a beach.

Rape is a violent crime of alarming proportions. No one would suggest that survivors of other violent crimes 'invited' the attack. Lisa Vetten and Naomi Webster in this issue explore the causes of the high rape rate and the problems with rape laws and sentencing procedures.

Police statistics suggest that women are not equally at risk: those in the Northern Cape, Gauteng and Western Cape are most in danger. And while problems in the legal system affect the whole country, little is known about the dynamics specific to these areas which threaten women's safety. Improved sentencing procedures should serve as a deterrent. Ultimately though, prevention will depend on localised understandings and interventions.

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Bad News?

Crime Reporting: Trends and Effects

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How the media reports crime is increasingly an issue for government, the police and business (see Lee and Klipin in this issue). The reporting style supposedly undermines public confidence in the police and negatively affects investment decisions. This article considers the role of the press in particular, as well as that of official sources in the production of crime news.

n independent and active media is something to be safeguarded and encouraged. Without freedom of speech, a democracy cannot live up to its name or survive for long. As an avenue for expression, the media can provide a means of communicating and participating in how a country is run, by making government accountable and by keeping people informed.

South Africa is one of the best examples of how important the media is for democracy and thus for long term security: the previous government's clamp down on the media between 1986 and 1990 coincided with the most violent and unstable years for the country.

The media ban certainly did not cause this decline – rather, drastic measures such as those curbing freedom of information were indicative of more serious problems.

Why crime reporting

The role of the media in strengthening democracy does, however, depend on how the job is done. Crime reporting is only one part of what the media do, but it deserves attention for several reasons:

- Crime rates are high in South Africa, and threaten the democratisation process.

- Because crime is such a problem, accurate information needs to be made available to the public and decision makers.

- Crime itself is an issue which is prone to misinterpretation and manipulation. Good information is thus particularly important.

- Since one of the media's tasks is to inform and educate, how

crime is reported becomes relevant.

- The media's role is especially important with regard to the criminal justice process because few people have direct experience with many areas of crime, policing and the courts.

Problems associated with crime reporting have been identified throughout the world, and South Africa is no exception.

The impression exists in this country that crime escalated dramatically in the mid-1990s with the change of government. But statistics show that crime has been increasing since the early 1980s, with the most pronounced increases occurring from 1990.

What is more certain, is the clear shift in media focus after April 1994 away from political violence towards crime, even though crime had been a problem for some time and political violence continues to this day.

This notion of a recent 'crime wave' is probably a media-police-political construct: the real dynamics have not been well covered, nor have the reasons for the increases or the debates about crime in transition.

Concerns with crime reporting have also been expressed by the business sector. In 1996 Marriot Merchant Bank – worried about the effects of spatially biased crime reporting – compared crime rates in KwaZulu-Natal, Gauteng and Western Cape provinces.

Finding that KwaZulu-Natal's rates for most crimes were less than the

other provinces, the Bank concluded that the true picture was being misrepresented in a prominent daily newspaper, to the detriment of investment in the province.

Increasing fear of crime among South Africans – which may be linked to crime reporting – is another concern. A national victimisation survey conducted by the Human Sciences Research Council (HSRC) in July 1996 showed that:

❑ 44% of people said they felt safe in South Africa, compared with 73% after the April 1994 elections.

❑ 28% think the government has the crime situation under control, compared with 67% after the April 1994 elections.

❑ Only 10% of the respondents had in fact been victims of crime.

Fear of crime

Fear of crime reflects public perceptions about personal safety. The fear is often even more serious than crime itself: usually only a small percentage of those expressing the fear have been victims or have even witnessed a crime. In fact, an individual's risk of personal injury due to crime is lower than the risk of injury due to an accident (Glanz 1994).

This fear has been linked to a range of social problems associated with withdrawal from everyday life. While reasonable fears may be useful in fighting crime – although even that is uncertain – unreasonable fears can be counter productive and cause social problems.

People lose faith in the state's ability to protect them, which may result in them taking action themselves. This may take the form of private security or vigilante action.

Fear of crime has been a concern in developed countries for years. In Britain, the fear of crime is so bad

that by 1989 the Home Office was taking it as seriously as crime prevention and reduction (Williams and Dickinson 1993). In South Africa, studies by the HSRC since the mid-1980s show that the fear of crime is now also being identified as a serious problem (Glanz 1994).

But to what extent can the media – and in this case, the press – be held responsible for increasing the public's fear of crime?

Sources of fear

The media alone cannot be accused of causing a fear of crime – various factors have been identified:

❑ Actually being a victim.

❑ The environment in which people live – an area with a high crime rate, for example.

❑ Physical vulnerability – being female, elderly, or having a low income.

❑ Interpersonal communication about other's crime experiences and rumours.

❑ The mass media. Headlines and pictures in the press have also been identified as key factors.

In 1989, a survey in Bristol among women, the elderly and the poorer residents – categories of people identified as feeling most vulnerable – revealed that for 70% of respondents, the main source of knowledge about risk was the mass media.

Most research on the causes of the fear of crime have focused – like the case mentioned above – on the demographic factors affecting people's perceived vulnerability, rather than on what affects perceptions about the frequency of crime.

In other words, people's ideas about what South Africans like to call 'law and order'. The press may shape these general views about crime levels to a greater extent than feelings of personal insecurity.

Newspapers' role

Studies have investigated the links between newspapers and the fear of crime. An analysis of the crime content of three Scottish newspapers in the early 1980s found that 6,5% of the news was about crime (Ditton and Duffy 1983). Of that portion, 45,8% was about violent and sexual crime. Police statistics, however, showed that only 2,4% of crime in the surveyed area was of a violent or sexual nature.

In a study of the 10 most popular daily newspapers in the United Kingdom and a corresponding survey about the fear of crime, Williams and Dickinson (1993) found that 41% of those interviewed attributed the source of their unease to television and radio coverage. Press coverage was mentioned by 39%.

The study concluded that the tabloids ('down market' newspapers) and broadsheets ('up market' newspapers) differed greatly in reporting, especially for personal violent crime. People reading newspapers with more graphic crime reports – usually the tabloids – experience greater fear of crime.

Readers could, however, easily discern sensationalist reporting and high levels of sensationalism did not result in comparable increases in fearfulness.

Overall, the study found that the newspaper readership group accurately predicted fear of crime. The most striking evidence was in readers' assessments of whether people in their neighbourhood would become victims: the low market tabloid readers gave estimates three times those of the broadsheet readers. This applied across age and sex categories, although socio-economic status remained a good predictor of fear of crime.

While a relationship undoubtedly exists between the press and the fear of crime, it is difficult to establish a causal link. Factors like rumour, socio-economics, and who

can access and influence the media, also play a role. It cannot be assumed that readers are not aware of the problems associated with the press reporting of crime.

Nevertheless, the media play an important role in creating a social awareness of crime, which can affect behaviour. The impression of a 'crime wave' also impacts on the actions and statements of politicians, government and the police.

Policy may be developed and laws enacted on the basis of fear and heightened public awareness which may not necessarily present the best solutions. In South Africa, a good example is the ever popular notion that increasing crime is due to the Government's focus on human rights.

Relating conclusions about fear of crime and the media drawn from international studies to South Africa can be problematic. Not only are people's perceptions at issue, but the local press – in terms of both staff and readership – have a history of being divided along racial lines.

These issues cannot be ignored, but a comparative review of crime reporting patterns suggests many similarities with local crime reporting tendencies.

Crime reporting patterns

A review of newspaper crime coverage in the United States and 14 other countries in Europe, Africa, Asia, Australia and North America between 1960 and 1988 (Marsh 1991) found four areas in which newspaper crime coverage was essentially the same:

❏ An over representation of violent crimes and an under representation of property crimes.

❏ The percentages of violent crimes reported in the press do not match official crime statistics.

❏ Crime coverage presents a false image of the effectiveness of

police and courts in controlling crime and punishing criminals.

❏ Newspaper coverage does not educate readers about the causes of crime or how to avoid personal victimisation. Crime news informs about events but does not add to the general understanding of crime. Public awareness is thus based on 'an information-rich but knowledge-poor foundation'.

Marsh's most telling finding – especially for South Africa – is that constitutional and legal differences between the countries had no significant impact on conventional newspaper crime coverage. Instead, the accessibility of the media to criminal justice personnel and the newsworthiness of violent crime were important determinants.

Similar conclusions were reached in a study of press reporting of political violence in KwaZulu-Natal from 1987 to 1994 (Louw 1996). The State of Emergency laws were expected to have severely curtailed reporting between 1986 and 1990. But no clear evidence of this was found when comparing reporting in the 1980s with that in the 1990s – in terms of the occurrence of events as opposed to details about events. In fact, the opposite was true.

The political environment was found to have the greatest impact on reporting probability, because it affected the newsworthiness of events at a particular point in time. The States of Emergency were an important feature of the political environment, and while in place, violence was probably considered more newsworthy than before and since.

Reporters went out of their way – often placing their lives in danger and risking detention – to cover the conflict. The remarks of the editor of one daily newspaper in 1995 are suggestive:

"During the days of the Emergency, all newspapers were reporting what was going on in a more blow-by-blow way than they are today, because it was a new phenomenon at that

stage. And it was very central to what was going on in the politics of the country. It was the political issue of the day."

News production process

Several of the crime reporting patterns mentioned above apply to local press reporting. Based on interviews with journalists and editors in Durban, two factors emerged as central to the news production process – of which crime reporting is just one part: newspapers are businesses aiming to make profits, and newspapers report items perceived as newsworthy. One news editor's comments sum this up:

"We tend to concentrate on the 'bad news', because generally you expect society to be ordered – to work. And what you expect is not news."

The main concern of those responsible for selecting news items, is the market – the readers – and what news will sell the newspaper. All those interviewed did, however, see their role as reflecting events as accurately as possible.

Newspapers have different target markets and different geographical areas of focus and reporting is geared toward these. For crime reporting this may mean that 'down market' newspapers cover more individualised, dramatic stories about particular crimes. The 'up market' press favour an interpretation of crime trends and their broader political implications.

The availability of resources also determines reporting patterns. The press face increasing financial pressures. As a result, *The Mercury* for example, has only 10 reporters to cover all news, compared with between 30 and 40 in the past.

At the time of the interview, even the *Daily News*, despite its more extensive coverage of crime, was in a position in which the news editor was also responsible for the crime beat. This limits the type of crime coverage possible, as reporters have

to rely on the telephone and established sources rather than investigating events themselves.

In terms of news selection, these newspapers receive daily reports from the police which provide sketchy details about crime incidents. These are generally selected for publication if:

❏ Themes can be identified.

❏ They involve well known people.

❏ They present 'new' or unusual cases.

❏ If details are provided.

❏ They are set within some broader context.

❏ They can be linked to 'bigger' political dynamics.

The organisation of news into themes has also been reported in the United States: numerous occurrences are consistently reported as a single topic, allowing reporters to cast an incident as a instance of something.

This not only orders reported events, but enables editors to deal with the huge amounts of 'raw materials' they receive daily (Fishman 1978). A good South African example was the reporting of ongoing clashes in KwaZulu-Natal before the 1994 elections as 'election related violence'.

Official sources

Throughout the world, the media rely on official sources for information about crime. Crime news is essentially police news, and the media's supply of incidents is a function of police reporting practices.

Because details about all crimes cannot be sent to the media due to sheer volume, journalists depend on the police for summaries. So while the police cannot control *how* crime news is presented, they certainly control *what* information is made available to the press.

A study of 371 crime reports sent to the media in New York City over specified periods in 1977 showed a heavy bias towards 'street crimes': two thirds consisted of robberies and burglaries, unspecified shootings and stabbings and other assaults. There was also a notable lack of detail, and victim-offender relationships were rarely mentioned (Fishman 1978).

Fishman found that police select the crimes they think will interest the journalists – thus deciding what the media are interested in on the basis of what has been reported before. This creates a reinforcing cycle of news production.

Similar practices were reported by the South African Police Service (SAPS) in Durban. Among other criteria, events which can be grouped into themes which the press are believed to be interested in, are selected for distribution (interview with Director Bala Naidoo).

And while the local police believe their relationship with the press has improved over the years, problems arise when information sent to the press is not used, and when details are reported inaccurately or are 'skewed'.

Media relations

Better understanding and cooperation is needed between media and criminal justice personnel with regard to the crime reporting process. This does not mean controlling or censoring crime news – but focusing on how reports are gathered, selected and presented, in an effort to 'educate' readers as they are being informed.

The police especially need to develop good communications departments at city level for public and media access. This is the trend worldwide. Until recently in the United States, there had been no fixed organisational role within criminal justice organisations equivalent to the news media's crime reporter (Surette 1995).

As is the situation currently in South Africa, police interaction with the media in the US has been *ad hoc* and case specific, and more likely to be based on personal relationships than formal linkages. In fact, until the 1980s, few criminal justice agencies in America had formal media relations units or individuals permanently assigned to dealing with the media.

South Africa is at least a decade behind, but there are signs of improvements under the new SAPS. Official communications departments are being established for the first time, but they remain under staffed – only two SAPS officials manage KwaZulu-Natal's Durban communications office – and lack training in media and public relations.

More generally, those concerned with crime issues need to accept that information must be packaged in the right way in order to be covered in the press. If the comparative evidence is anything to go by, there is little likelihood that current crime reporting patterns will change dramatically. ꧁ꙩ꧂

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The Human Factor

Public Confidence and Crime Prevention

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Modern methods require public confidence in all crime prevention agencies and government departments responsible for eliminating long term causes of crime – and not just in the police. The media's role is especially important. Without this, progress is impossible.

The public, in various forms, participate in crime prevention in a number of ways. The now almost universally accepted model of successful crime prevention is based on:

❑ government accountability

❑ crime prevention

❑ investigation, detection and arrest of criminals

❑ trials and sentencing

❑ imprisonment and rehabilitation

❑ partnership policing

❑ other partnership arrangements

The public largely participate in this model by entering into individual and/or group cooperation with the police service and other elements of the criminal justice system to increase the effectiveness of crime prevention activity.

However, in a democratic state, the accountability for crime prevention – and all aspects of crime control – is ultimately in the hands of government as a whole. No other entity in the country can exercise this function – or should try to do so.

The most important reason for this is that crime prevention and crime control will at some point involve the use of force and coercion – something which only the government can legitimately exercise in respect of its own citizens. The second reason is that many of the causes of crime can only be removed through government action.

Partnership policing

This means that public involvement in crime prevention will always take the form of a partnership with the agencies of government. In South Africa this is generally called community policing, although the British term 'partnership policing' is preferable. This indicates a more active role for business, the public organised into groups and/or non government organisations, as well as the public or community at large.

According to this model of modern crime prevention, public confidence in the process is critical. In fact, the impact of public confidence can accurately be reflected in the 'spiral' model:

Public Confidence and Crime Prevention

more effective prevention

better partnership

increased confidence

more effective prevention

better 'partnership'

increased public confidence

ineffective prevention

low reporting

low apprehension of criminals

private security

less effective prevention

public intervention

vigilante activities

more crime by public and criminals

Crime prevention without any public support probably goes nowhere – it maintains a minimum level of effectiveness, depending on the volume and organisation of crime itself. However, with public confidence, an upward spiral can be started.

> It is becoming increasingly acceptable to blame crime on the police, rather than adopting a broader understanding of the real causes

Public confidence stimulates participation which in turn leads to more effective prevention and control. This leads to more participation and so on, in an upward direction. Results can be achieved quite quickly in a situation of growing confidence, as recently shown in New York City.

The converse is as true or even truer. Lack of confidence can lead to withholding participation and/or protecting or launching vigilante movements. The level of successful crime prevention subsequently declines and crime rises. As a result the public at large – those organised into interest groups as well as individuals – further lose confidence. The downward spiral continues as they progressively withdraw their cooperation from the police and other crime prevention agencies.

At a specific point on this downward spiral, people begin to turn increasingly to private security – leading to a situation such as that in South Africa at present, in which the private security industry employs 400 000 persons, second only in size to the mining industry. At a lower point in the spiral, people turn to self protection units and still further down, to vigilante groups which actively seek out known criminals and take action against them. This is itself a crime.

This analogy demonstrates the critical role which public confidence plays as a human factor in crime prevention. It was for this reason that the Nedcor Project on Crime, Violence and Investment spent some time trying to ascertain the degree of public confidence in current crime prevention measures in South Africa. The Nedcor figures are now dated, but a more recent UNISA study shows a spectrum of opinion over time.

Social problem

It is important to bear in mind that these figures do not exclusively or even mostly reflect the lack of confidence in the South African Police Service (SAPS). In this regard police officers are feeling very frustrated: the South African community as a whole perceives the police as being solely responsible for crime in the country. It is becoming increasingly acceptable to blame crime on the police, rather than adopting a broader understanding of the real causes – and effects – of crime.

> It is the role of civil society and all government departments to create a society which is not a breeding ground for crime

Crime is first and foremost a social problem. It is placed towards the end of a continuum which involves a range of socio-economic and political processes. The root causes of crime can be related to issues such as poverty, unemployment, undereducation, overcrowding and a lack of facilities. And these in turn may be traced back to a spectrum of political and economic trends.

This systematic approach to crime necessitates an understanding that there are many roleplayers and stakeholders in the process. The Government's National Crime Prevention Strategy recognises the inter-relatedness of social, economic and political phenomena in the greater crime picture. Accordingly, it attempts to bring together a wide range of government departments in an attempt to deal with crime.

The most obvious agencies which have a role to play in crime prevention are Education, Welfare, Health, Population Development, Safety and Security, Correctional Services and Criminal Justice.

Since crime is not usually caused by the police, the SAPS cannot be

> Public confidence in the SAPS is not very high, but it could be argued that public confidence in the criminal justice system is even lower

held accountable for the rise in crime. It is the role of the police to uphold the law of the land, but it is the role of civil society and all government departments to create a society which is not a breeding ground for crime. This is the theory behind community policing.

Unfortunately, however, it is easier to take the view that the police are responsible for crime and that the rising crime rate is a result of the police not doing their jobs properly.

It is true that public confidence in the SAPS is not very high, but it could be argued that public confidence in the criminal justice system is even lower. People are not prepared to act as witnesses against perpetrators in their midst, as the threat of being victimised by

Table 1: Reactions to government commitment to combat crime

Category	Big Business	Small Business	Clusters
Very convincing	4%	5%	—
Fairly convincing	19%	28%	13%
Not at all convincing	77%	67%	87%

the perpetrators once they have been released on bail or parole – or have had their case withdrawn due to lack of evidence – is too great.

> **Of all the provinces, people in Gauteng and KwaZulu-Natal feel the least safe**

For the station commissioners currently undergoing training at the Faculty of Management, the breakdown in faith is not so much with the police as with the courts. The Nedcor Project recognised this and asked questions which rather than specifying the police, referred to either the 'government' or the 'authorities'.

Table 2: What people do and what they think should be done about crime

Nothing/nothing can be done	68,2%
Additional security arrangements	17,3%
Insurance/additional insurance	5,5%
Neighbourhood watch/ community cooperation	5,2%
Considering moving	3,7%
Considering emigrating	1,8%
Acquired a weapon	6,1%
Changed behaviour to avoid risk	4,5%

Measuring confidence

There are several ways of measuring public confidence in crime prevention measures. The

Table 3: People who believe they will probably be a victim of crime within 12 months

All metropolitan areas	62%
All 'township' areas	48%
All rural tribal areas	43%
All rural farming areas	36%
Gauteng	66%
KwaZulu-Natal	59%
Northern Cape	49%
Northern Province	44%
Northwest	42%
Western Cape	36%
Mpumalanga	29%
Free State	29%

Table 4: Factors discouraging fixed investments

Factor	Big business	Small business	Clusters
Crime	59%	82%	77%
Political instability	44%	21%	45%
Labour costs/pressure	48%	35%	62%
Low market demand	21%	6%	4%
High interest rates	13%	11%	7%
Present/future fiscal policy	13%	13%	9%
Lack of tax incentives	12%	7%	2%
Fear of inflation	5%	4%	4%

most obvious is to ask the respondents how confident or convinced they are that the crime prevention agencies are coping, or even intend to cope, with crime. Business was asked how convinced they were about the commitment of government to deal with crime. The vast majority of all types of businesses showed little faith in the government in this regard (Table 1).

> **Crime, particularly for small businesses, was the main factor discouraging fixed investments**

Another way of assessing public confidence is to ask people what can be done about crime. In this case, households in urban areas around the country were asked what they thought could be done about crime. Nearly 70% responded that nothing could be done (Table 2).

Yet another way of estimating public confidence is to ask a sample of the public how safe they feel under the existing crime prevention systems. Figures from a Human Sciences Research Council (HSRC) survey in October 1995 show, unsurprisingly, that people in major urban centres more than anywhere else, believe they are likely to be victimised in the next year. And of all the provinces, people in Gauteng and KwaZulu-Natal feel the least safe (Table 3).

In terms of business perceptions, another indication of confidence is the decision to invest in the expansion of the businesses. A large sample of businesses were asked

about their investment intentions and the main inhibitions to investment. Crime, particularly for small businesses, was the main factor discouraging fixed investments. Political instability and costs associated with labour issues were also important (Table 4).

Finally, a key indicator of public confidence in the criminal justice system is the willingness to report crime. A recent UNISA study indicated that only 58% of victims reported crimes committed against them to the police (Naude 1996). The main reason for this low reporting rate was a lack of confidence in the police's ability to do anything about crime. In addition, people did not believe that once the criminal was apprehended, positive results could be achieved from the criminal justice process.

> **A recent UNISA study indicated that only 58% of victims reported crimes committed against them to the police**

While the average reporting rate was 58%, the spread in respect of specific crimes is instructive (Table 5).

Table 5: Willingness to report crime in 1996

Car theft	94%
Motorcycle theft	75%
Burglary	59%
Assault	26%
Personal theft	17%
Police corruption	3%
Average	**58%**

The very low proportion of people who were willing to report corruption in the police itself clearly illustrates the relationship between low public confidence and ineffective or even corrupt crime prevention services (Table 5). On the other hand, some high reporting rates are related to insurance claims, which may be greatly inflated.

The media's role

The School of Public and Development Management in the WITS Faculty of Management is current involved – with five other universities – in training programmes for police station commissioners. For many of these men and women struggling in very difficult circumstances, the lack of public confidence and assistance is a great drawback.

> **By focusing exclusively on crimes that are committed the public perception is that crime occurs without restraint**

More specifically, the media is believed to be unhelpful. These police officials believe the media behaves irresponsibly since responsibility for crime is laid firmly at the SAPS's door with little or no attention to other responsible government departments.

Newspapers and the electronic media are full of crime horror stories. Of course the public has little faith in the police – every time they see page two of *The Star* they read about all the serious crimes that have occurred over the

preceding 24 hours. But there is never any information about the arrests and prosecutions of criminals as a result of police work. The result of the media hype is threefold:

> **Potential criminals believe they can literally get away with murder because there is no evidence to the contrary**

❑ By focusing exclusively on crimes that are committed, as opposed to those that are solved or prevented, the public perception is that crime occurs without restraint. Rather than encouraging public confidence, the role of the police is actively undermined.

❑ It creates confidence in criminals. Potential criminals believe they can literally get away with murder because there is no evidence to the contrary. Criminals are imbued with almost supernatural powers by the media in South Africa.

❑ It creates demand for rapid action, which may not be most effective. The media hype pressurises the police to perform immediately, with the result that crime prevention strategies are not well thought through or particularly effective.

It would surely be more effective to eliminate the market for hijacked cars by prosecuting the people who buy them, than to focus on convicting individual hijackers who are paid R500 per car by a dealer.

Public confidence in the SAPS is imperative for crime reporting to increase and in order to encourage community participation in crime prevention.

It is for this reason that the police's use of horses has been a great confidence builder and also explains why police spend time at schools and, more recently, at churches, building contacts. But other agencies and departments – and most especially the media – are responsible for the control and prevention of crime also.

As long as the police are projected as being the only organisation responsible for crime and its prevention, they will not be freed or empowered to carry out their constitutional function – to uphold the law.

> **Public confidence in the SAPS is imperative for crime reporting to increase**

Modern crime prevention requires public confidence in the whole range of crime prevention agencies and government departments working on removing the long term causes of crime. Without this, progress is impossible. With this confidence – as many cases across the world show – almost anything is possible. ☐☐☐

Roots of a Rape Crisis

CRIME

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South Africans' response to sexual violence is far from consistent. The rape survivor may be labelled either as a 'good' or 'bad' victim with serious implications for how women are treated by the police, courts and medical profession. This article aims to understand the factors creating and contributing to our rape prone society.

n 1988 a total of 19 308 rapes were reported to the South African Police Service (SAPS). By the close of 1994, 42 429 rapes had been reported to the SAPS. This figure jumped yet again in 1996 to an all time high of 50 481 reported rapes (see box). But the official estimate of the National Institute for Crime Prevention and Rehabilitation of Offenders (NICRO) suggests an even more disheartening picture.

NICRO has calculated that only one in 20 rapes is ever reported to the police, leading them to state that a rape occurs in South Africa every 83 seconds. The SAPS has recently put this figure even higher, estimating that only one in 36 rapes is reported, or that a rape occurs every 35 seconds.

At the risk of stating the obvious, there has never been a greater need to understand those factors creating and contributing to our rape prone society.

Some explanations

Over the years a number of theories have been put forward to explain rape. Summarised briefly, these include:

❑ The biological: men have combustible sexual urges which, once aroused, are uncontrollable.

❑ The evolutionary: a mating tactic used by men unsuccessful in climbing the social ladder.

❑ The psychoanalytical: women are innately masochistic and seek out experiences causing pain – the work of Helene Deutsch is an example.

Taken as a whole, all three imply that sexual violence – rather like death – is inevitable. This leads to the conclusion that there is no point in preventing rape – either women

will go out and seek it, or men will be driven to it.

But whatever the biological basis for sexuality, it cannot even begin to provide a satisfactory explanation for the enormous variation in rape rates across different societies.

As Table 1 demonstrates, the incidence of reported rape varies tremendously across societies. Countries such as Australia, India and England and Wales – with individual populations larger than that of South Africa – all report significantly fewer rapes. Part of this variation may be explained by the diversity of reporting practices and the circumstances influencing women's decisions to report a rape.

Still, it seems unlikely that South African women are more likely to report rape than women elsewhere in the world. So whatever the role of biology may be in rape, its influence is outweighed by socio-cultural beliefs that shape not only the incidence of rape, but also its likelihood of being reported.

Socio-cultural factors

Anthropologist Peggy Reeves-Sanday (1989), drawing on her own fieldwork as well as that of other anthropologists, has attempted to identify some of the correlates associated with rape prone and rape free societies.

In rape prone societies women hold limited power and authority, and males express contempt for women as decision makers. In such societies, 'masculinity' is

Table 1: International comparisons of the number of rapes reported to the police					
Country	1986	1987	1988	1989	1990
Australia	2 106	2 278	2 561	2 822	2 806
Botswana	491	599	658	581	614
Canada	20 530	22 369	24 898	26 795	27 842
Denmark	587	550	576	527	486
England/Wales	2 288	2 471	2 855	3 305	3 391
Ethiopia	596	622	718	710	289
India	7 952	8 559	9 099	9 752	10 068
Rwanda	1 021	970	1 339	1 162	721
South Africa	**15 816**	**18 145**	**19 308**	**20 458**	**20 321**
Swaziland	352	375	383	508	558
Venezuela	2 481	2 669	2 695	2 858	2 928

Source: Fourth United Nations Survey on Crime Trends and the Operation of the Criminal Justice System.

predicated on an ideology of toughness and an acceptance of interpersonal violence.

In rape free societies by contrast, women are respected and influential members of the community, and the maternal features of nurturance and childbearing provide a basis of human interaction. The attitude towards the environment is one of reverence, rather than dominance and exploitation, while the relationship between the sexes tends to be symmetrical and equal.

> **In rape prone societies women hold limited power and authority**

Finally, rape is regarded with abhorrence and treated very seriously. In West Sumatra, for example, a man who rapes has his masculinity ridiculed and is considered to have demeaned himself and everyone associated with him. He faces assault – if not death – and may be driven from his village, never to return.

This description of rape prone and rape free societies explains rape as the outcome of a number of societal beliefs about the differences between men and women. Societal attitudes to rape are also important – ultimately, as a playing out of socio-cultural

scripts based on an ideology of maledominance.

Female authority

Political structures in South Africa, like those in the rest of the world, illustrate quite clearly the degree to which female power and authority is (not) accepted by the general populace.

Prior to the 1994 elections, South African women were largely excluded from the previous National Party governments. The multi-party negotiations conducted at the World Trade Centre which led to South Africa's first democratic elections, presented one of the first challenges to this tradition.

Under pressure from women's lobby groups, it was finally agreed that at least one of the delegates from each political party/organisation's negotiating team had to be a woman. But while women may have been present at the Kempton Park negotiations, they were not necessarily welcome.

> **In rape free societies women are respected and influential members of the community**

Martheanne Finnemore, a Democratic Party delegate to the

negotiations, conducted a survey of men and women's perceptions of the appointment and performance of women delegates. She described how one male delegate would walk out every time his female counterpart spoke. Similarly, one of the survey respondents noted how 'some male delegates determine what, when and whether their female delegates can speak'.

This dismissive attitude was far from being confined to the male delegates at the negotiations. SATV's logo illustrating the negotiations initially showed men in ties alone as participants – a situation rectified only after a media conference organised by the Women's Caucus.

> **Only 19% of elected positions in local government are currently occupied by women**

After the 1994 elections, 117 women – representing slightly less than a third of the total number – were appointed members of parliament. This was one of the highest degrees of participation in the world. This representation was not matched in the subsequent local elections: only 19% of elected positions in local government are currently occupied by women (IDASA-LOGIC Gender Unit 1996).

Some changes for the better – no matter how grudging – have

occurred. But as these brief examples suggest, the presence of women in political structures is still remarkable rather than usual, and a subject of disparagement.

> The origins of jackrolling have been traced to the unrest in Soweto that began on June 16 1976

Male culture of violence

Given the rate of crime generally in South Africa, it is something of a truism to speak of South Africa's 'culture of violence'. What we need to ask though, is whose 'culture of violence'?

In terms of the 1995 Correctional Services Report, women currently make up 2,3% of the prison population (Munnik and Naude, *Crime and Conflict* 6, 1996). This suggests that women's involvement in violent crime is generally low – a speculation borne out by Munnik and Naude's study of 135 white female criminals.

According to their findings, most crimes committed by women are for financial gain. Rarely do women commit murder. As women are less likely to commit murder than men, so are they less likely to be the victims of murder.

Of the 89 192 deaths recorded by the Central Statistical Service's 1994 October Household Survey as the outcome of accidents, poisoning and violence (external causes), approximately 71 196 victims were male. Such a gender disparity suggests that men's involvement in violent behaviour – either as victim or perpetrator – is integral to 'masculinity' in South Africa.

Social responses

South African society's response to sexual violence is far from consistent, betraying rather a deep ambivalence on the subject. One set of stock responses expresses outrage, shock, horror, and condemnation – while yet another set uncritically takes the side of the accused. This group claims that women provoke rape through their behaviour and dress or, alternatively, make false accusations against men.

The effects of this ambivalence are multiple. For the rape survivor, it may mean being compressed into the crude category of either 'good' or 'bad' victim. This has serious implications for the treatment women subsequently receive from the police, courts and medical profession. For the rapist, this may result in his conviction when the woman is a 'good' victim and an acquittal when she is 'bad'.

> Typically, people believe that 'real' rape is committed by deranged strangers in unfamiliar surroundings

The 1994 case of State v Camroodien offers a clear example of a magistrate who divided women into 'innocent' – and by implication – 'guilty' victims: A businessman, Mr Abdulaief Camroodien, was convicted of raping a prostitute at gunpoint. Magistrate Marais found it bizarre that a man of Camroodien's calibre could act in such a manner. In sentencing, Magistrate Marais commented as follows:

> *"If the complainant was an innocent young woman, I would not have hesitated to send you to jail for a very long time".*

Camroodien was fined R8 000 with two years suspended for four years.

Once the categories of 'good' and 'bad' victim are established, they are compounded by a whole set of misleading stereotypes around sexual violence. Typically, people believe that 'real' rape is committed by deranged strangers in unfamiliar surroundings, or that women wearing 'provocative' clothing 'asked for it'.

A further variation claims that drunken women who pick up strange men also have only themselves to blame for rape. Consequently, rape appears to be the only crime where we judge the offence by the victim instead of the offender.

Historical factors

No understanding of sexual violence in South Africa is complete without reference to South Africa's apartheid history. The impact of this past will be considered in relation to a specific form of gang rape: jackrolling.

The term 'jackrolling' was coined to describe the forceful abduction of young women by a gang calling themselves the Jackrollers. The gang operated during 1987/88 in the Diepkloof area under the leadership of Jeffrey Brown. Abduction and rape were specific features of the gang's activities but as this practice spread and became fashionable, anyone who participated could be termed a jackroller (Mokwena 1991).

Mary Mabaso, a community activist in Soweto, traces the origins of jackrolling to the unrest in Soweto that began on June 16 1976, and lead to the closure of Soweto schools later that year. By the time schools reopened, many students were too old to return to school, having passed the age limit of 22 set by the National Party government. Unqualified for many jobs and unable to obtain work, some of these young men turned to gang activity.

> Rape appears to be the only crime where we judge the offence by the victim instead of the offender

Resentful of those who continued their schooling, some gangs began targeting young women at school. Rape was seen as a means of making young women pregnant – and so effectively ending their education. Young women were thus

> **The judiciary believes women are prone to laying false rape charges and the real victim is the innocent man falsely accused**

reduced to the same circumstances as the gangsters.

Steve Mokwena's (1991) research supports and extends Mary Mabaso's explanations. He states that many victims were originally chosen by the jackrollers because they seemed unattainable. Such women were termed amahaiza (snobs) as they seemed to enjoy better class and status than the gangsters. Rape was then deliberately used to keep women within their (jackroller designated) place, as well as to destroy women's opportunities.

Police and courts

Although the criminal justice system – represented by the police and courts – does not cause rape, it plays no small part in aggravating the problem. This may be through insensitive, judgemental behaviour that deters victims from reporting. It may also be through their inability to arrest and convict offenders, or through the reinforcement and perpetuation of the stereotypes referred to earlier (see Webster in this issue).

Consider, for example, the cautionary rule around sexual assault. This rule states that a trier of fact should 'show awareness of the special dangers of convicting upon the evidence of the complainant in a sexual case'. It is not even necessary for there to be any evidence of a motive for a false charge. The mere existence of the cautionary rule allows a judge or magistrate to freely exercise his/her imagination around possible motives.

Hoffman and Zeffert in the 1993 edition of the *South African Law of Evidence* speculate that:

> *"distinct [and] peculiar dangers [abound in the form of] hysteria that can cause a neurotic victim to imagine things that did not happen; spite, sexual frustration or other unpredictable emotional causes; financial considerations when the complainant is pregnant [or] the wish to protect a friend or to implicate someone who is richer than him".*

Clearly the judiciary believes that women are prone to laying false rape charges and that the real victim is the innocent man falsely accused.

The injustice of this belief lies in the fact that no research exists to support this opinion. In fact those studies that have been done conclude that the percentage of false rape charges is no greater than the percentage of false charges laid for any other crime.

> **The percentage of false rape charges is no greater than the percentage of false charges laid for any other crime**

Rape has one of the lowest conviction rates of all serious crimes. This factor, in combination with inconsistent sentencing and a high degree of underreporting can only suggest to potential rapists that rape is a high reward, low risk activity.

Sexually aggressive

Rape is an extreme end point of a whole continuum of sexually aggressive behaviours, beginning

with sexual harassment and ending in rape-murder. This understanding is a useful reminder that sexually aggressive behaviours are often just an extension of what frequently passes for 'normal' sexual behaviour.

Sexual harassment is often – and mistakenly – dismissed as nonsensical political correctness, which denies its relevance to rape. Rape's genesis lies in sexual harassment for at least two reasons. As the milder and less visible cousin of rape, its effects and implications are often overlooked. For it is in those grey areas that rape begins.

> **Rape has one of the lowest conviction rates of all serious crime**

Rape is not a simple problem requiring simple solutions. As a complex social phenomenon, it has multiple causes which require a range of prevention strategies. Condemning an individual rapist's behaviour may have its uses – but must also be accompanied by a careful analysis and change of the social support for rape. ⬛

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Reported rape in South Africa

Reported rape cases in South Africa: 1994-1996

Provinces	1994	1995	1996
Eastern Cape	5 449	6 037	6 399
Free State	3 553	3 802	3 816
Gauteng	10 813	11 979	12 938
KwaZulu-Natal	7 028	8 020	8 706
Mpumalanga	2 472	2 871	3 221
North West	3 750	4 549	4 426
Northern Cape	1 326	1 530	1 450
Northern Province	2 617	3 037	3 237
Western Cape	5 371	5 681	6 288
RSA Total	42 429	47 506	50 481

Number of rapes in South Africa
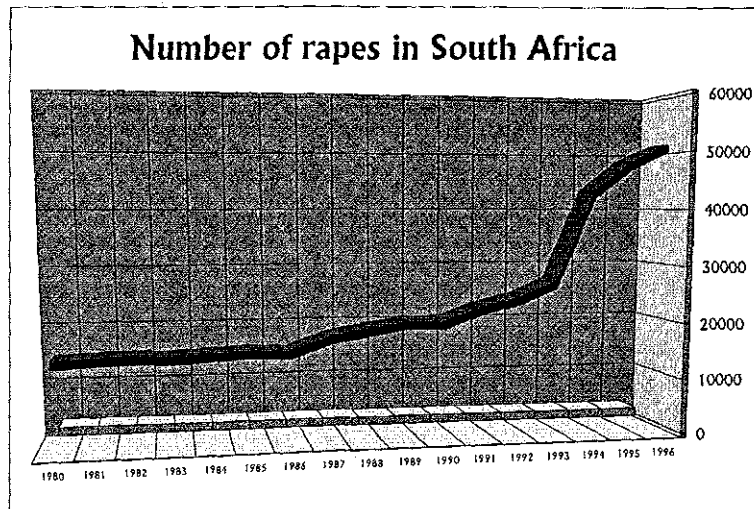
Ratio of reported rape per 100 000 of the population and changes over time

	Rate per 100 000			% difference in cases reported		
Provinces	1994	1995	1996	1994/95	1995/96	1994/96
Eastern Cape	85.4	93.1	98.1	9.8	6.0	16.4
Free State	130.3	136.6	134.4	7.0	0.4	7.4
Gauteng	157.4	170.0	178.9	10.8	8.0	19.7
KwaZulu-Natal	82.6	92.0	97.5	14.1	8.6	23.9
Mpumalanga	84.6	95.5	104.1	16.1	12.2	30.3
North West	115.3	135.7	128.2	21.3	-2.7	18.0
Northern Cape	179.8	206.2	194.2	15.4	-5.2	9.4
Northern Province	50.3	56.3	57.8	16.0	6.6	23.7
Western Cape	147.8	152.7	165.0	5.8	10.7	17.1

Ratio of reported rape cases per 100 000 population

Number of rapes in South Africa

1980	14 938
1981	15 318
1982	15 535
1983	15 342
1984	15 785
1985	16 085
1986	15 816
1987	18 145
1988	19 368
1989	20 458
1990	20 321
1991	22 749
1992	24 316
1993	27 039
1994	42 429
1995	47 506
1996	50 481
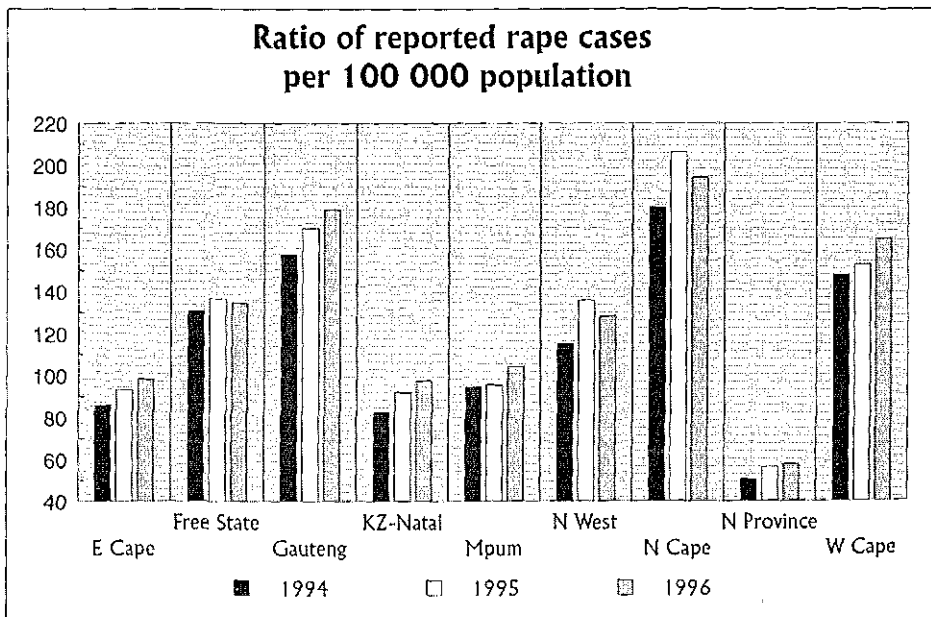
Source: South African Police Service Crime Information Management Centre

Rape Sentencing

Serving Whose Interests?

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Rape laws do not protect women and these laws along with sentencing procedures need to be examined. Sentences should act as a deterrent and provide reparation for victims. This has obviously failed, considering the high incidence of rape and that survivors are seldom present during sentencing.

ape is a gendered crime. Legally it is defined as an offence against women and not men – the relationship between men and women determines how the courts and society understand rape. This understanding is directly attributable to the high incidence of rape and supported by anecdotal information that suggests 'women are not raped' or 'that they asked for it'.

This viewpoint often assumes that men are not entirely blameworthy – that it is because women accept lifts from strange men, choose to live alone, or refuse to have sex with their husbands and boyfriends – that they are raped by them. This apportionment of blame justifies lighter sentences. In this sense, rape law disadvantages women since it reinforces traditional attitudes of gender roles.

Failures of the system

Who are rape laws intended to benefit or protect? Certainly the laws do not protect women. For example, the legal definition of rape is confined to penetration of the vagina. Other forms of sexual assault that may take place, such as insertion of fingers, stones etc. into the vagina are regarded as a lesser form of rape, namely indecent assault.

The survivor is also often the only witness in the court proceedings, and as such is put on trial for the harm inflicted against her. These flaws necessitate an examination of rape laws and more specifically sentencing, as it is here that the law is interpreted.

Functionally, sentences imposed for rape – and other sexual assault cases – should serve as an individual and general deterrent. This has obviously failed in South Africa if one considers the high incidence of rape. Sentences should also provide some reparation for victims. But because rape survivors are seldom present during sentencing, reparation is unattainable.

Given these flaws, there is an urgent need to examine sentencing practices, particularly in the light of recent media attention on rape. Investigations by the South African Law Commission into sentencing generally also heighten the need for discussion on this issue (*SALC Bulletin* 1997).

An analysis of rape sentences must consider: length of sentence, mitigating factors, and statements made by the court upon sentencing. These aspects determine whether sentences highlight the severity of escalated rape cases (see Vetten in this issue and accompanying box). These insights may pave the way for sentences to achieve the aims of deterrence and reparation.

Rape statistics

The statistics illustrate the severity of rape (see the accompanying box). Undoubtedly the figures show increasingly that black, as compared with white women, are survivors of rape.

Gauteng has the highest number of reported rape cases. Located geographically, most of these

Table 1: Incidence of rape in Gauteng		
Town	1994	1995
Lenasia	6	67
Soweto	2 157	2 332
Hillbrow	161	418
Alexander	245	254
Norwood	23	13
Randburg	97	71
Parkview	18	13
Sandton	32	42

incidents occur in 'black' areas – Alexander, Lenasia, Soweto, Hillbrow – as compared to 'white' areas – Norwood, Randburg, Parkview, Sandton (Table 1).

> **Sentences for rape may vary from whipping to life imprisonment**

White areas (except Sandton) have experienced a decrease as compared with an increase in black areas. Of the total number of 4 311 convictions countrywide in 1994, 4 068 were black female survivors (Cochrane 1995: 356).

But the reality of the situation is not documented as many rapes are not reported. According to police statistics only 2,8% of rapes are reported (Human Rights Watch 1995: 51). By considering the sentences which are imposed, is it possible to speculate why many rapes are unreported.

Rape sentences

Section 276 of the Criminal Procedure Act 51 of 1977 sets out the nature of sentences that may be imposed for statutory and common law crimes. Sentences for rape may vary from whipping – in 1988 a man was sentenced to five strokes with a cane for raping a girl in Pretoria – to life imprisonment – in 1994 a youth was sentenced to life for raping an eight month old baby girl.

Before 1995, the courts could impose the death penalty for rape. This no longer applies since a recent constitutional court judgement rendered the death sentence invalid. Judicial discretion facilitates the imposition of any sentence, taking into account the evidence from the accused. This evidence constitutes the mitigating factors that often lead to lesser sentence.

> **The previous sexual history of the survivor may not be taken into account, although the courts have erred in this regard**

Clearly provisions of sentencing do not provide for the rights of victims. Section 180 of the Constitution Act 108 of 1996, however, provides for participation of victims at sentencing. Participation may provide insight into length of sentences, perhaps enabling for some form of reparation.

Sentences for rape are erratic due to the lack of clear guidelines. The courts require clarity on relevant factors that underpin decisions. Limited research has been undertaken on what influences court judgements, but relevant factors can be deduced from appeal cases: the violent nature of the rape, ages of survivors and accused, and previous convictions.

The previous sexual history of the survivor may not be taken into account, although the courts have erred in this regard (*Mail and Guardian*, 27 January-3 February 1994). A factor that has been overlooked is the experience of the court in dealing with sexual assault cases. It is here that statements made by the court reflect their understanding of rape.

Length of sentences

Table 2 illustrates the length of sentences imposed from a list of 15 cases that were reviewed for this article. It is important to bear in mind that full sentences are not

Table 2: Sentences imposed for selected rape cases		
Year	Sentence	On Appeal
1989	death	confirmed
1990	death	life
1991	8 years	6 years
1992	5 years	suspended sentence
1993	23 years	15 years
1994	death	12 years
1995	10 years	7 years

always carried out. The Department of Correctional Services has powers to parole accused depending on good behaviour and other criteria (see Powell in *Crime and Conflict* 5, 1996).

Table 3: Some mitigating factors in reduced rape sentences	
Factors	Number of cases cited out of 15
Accused was a first offender and working member of the community	5
Youthfulness and consumption of alcohol, less reprehensible	4
Accused not total strangers	3
Accused married man (family man)	3
Accused not able to perform sexually and this led to violence	2

The duration of sentences for the cases reviewed here show a tendency towards reduced sentences.

Of the 15 appeal cases, the courts reduced sentences in nine of these. Obviously mitigating factors play a crucial role on appeal. Table 3 provides examples of these factors.

> **Besides mitigating factors, statements made by the courts also contribute to lesser sentences**

Besides mitigating factors, statements made by the courts also contribute to lesser sentences. Some examples of these statements are:

- Complainants did not suffer lasting effects – nine out of 15 cases.

- No serious psychological harm of a permanent nature – seven out of 15 cases.

- No mental trauma – six out of 15 cases.

- The rape was not too violent as to warrant such a harsh sentence – six out of 15 cases.

The courts portray the notion that rape is similar to any other sexual encounter and that survivors recover easily. This is contrary to what rape survivors have stated. Six years after being raped, one survivor said she still suffered from nightmares and was receiving counselling (*Mail and Guardian*, 9-14 December 1994).

The link between these aspects – mitigating factors and statements made by the courts – clearly underlines the need for reform and for the participation of victims to prevent such horrendous statements.

Victim participation

The Victim's Charter (*Criminal Law Review* 1995) sets out the rights of victims of crime. This includes the right to access information, before and during the trial. The charter is internationally recognised and should form part of our culture, as the Constitution gives voice to victims of crime.

Section 180 gives victims the right to participate in decisions of the court, but clear parameters of this right are not spelt out. Should this right entail the court's consultation with the victim and if so, does this not undermine judicial discretion?

Should victims be allowed to participate in the outcome of their trial to ensure justice? These are just some questions that surface.

Despite this, there is the need for some form of participation. Judge Thirion (S v B 1992(1) SACR 271) states that in sexual assault cases, especially rape:

"it is not only the facts personal to the accused that are relevant but also facts personal to the complainant".

Participation is essential to illustrate the ordeal suffered by the survivor. The above examples of statements by the courts display an insensitivity that trivialises the experience of survivors and shows how gender interplays in perceptions of rape.

Stereotypes

The courts are equipped with the function of informing and educating public opinion. Ideally this educative function must maximise social change, particularly where rape is concerned. But the courts have failed in that they have normalised male violence through clearly defined gender roles, through male aggression and female passivity.

The courts apply these stereotypes that reaffirm myths about rape. Rape survivors who epitomize accepted roles must be protected – 'good' versus 'bad' women. In all the cases reviewed, the courts commented on the women's behaviour and background – 'refined young women', 'a respectable wife', 'dignified mother' (S v W 1993 (2) SACR 74(A) and S v V en Ander 1994 (1) SASV 481 (A)).

Where the survivor was not raped by strangers, she is described as

'unstable' and 'neurotic' – the type of woman who would make trouble for 'innocent men' (S v Selemale 1994 (1) SASV 481 (A) and S v Hilton-Barber 1994 (Unreported Magisterial Court Wynberg). It is the court's duty to fulfill its function as educator and to begin by addressing its own gender stereotypes.

Moody's study (1995) of rape and sexual assault shows that the stereotype of wife and whore is applied to the conduct of survivors before and during the trial. This in spite of the legislative provisions designed to prevent the admission of evidence of the complainant's previous sexual history.

Our courts have relied on previous history to validate the actions of rapists. In S v Hilton-Barber 1994 (unreported), the magistrate stated that the previous relationship would have 'made his desire to rape her improbable. He could have her whenever he wanted to'. This implies that women do not have a right to say no to sex when they are in a relationship.

Further, the assumption is that rape by a stranger is more painful than by an acquaintance. Another example is that of Judge Olivier's ruling in 1994. He stated that the survivor knew one of the men who raped her and that she was not raped by total strangers.

Finally, in his 1992 ruling, Magistrate Kotze stated that 'You are dealing with a woman who has a child. She knows sexual intercourse, she is an adult woman and she can deal with something [rape] of this nature'. Again, the court views sexual experience as a factor that lessens the trauma of rape.

The difference between the survivor's presence during the trial and at sentencing – in only one of

the 15 reviewed cases was the survivor present – is that often they are not able to give insight into mitigating factors. During the case, the survivor is the only witness and 'provides the central focus for defence and prosecution' (Moody 1995: 231). At sentencing therefore, she cannot portray her 'true' image and shed light on mitigating factors.

'Weak and wounded'

During sentencing, the courts rely on images of the woman as wronged, weak and defenceless. In passing sentence, the court in S v Boy 1992 (1) SACR 449 (E), stated that the survivor had a 'slight build and looks younger for her age, was alone in her house and the accused took advantage of her'.

> **The assumption is that rape by a stranger is more painful than by an acquaintance**

This statement portrays the image of a weak and wounded woman. It implies that women are weak and therefore need protection from strong men. Another example is that in which the court increased a sentence because the magistrate did not take into account that the survivor was 'breastfeeding at the time' (S v B 1991(1) SACR 271 (K)). Examples of other comments are:

❑ The complainant was a refined young woman.

❑ The complainant was a virgin at the time of rape.

❑ The rape did not affect the complainant as she was still able to enjoy her married life.

❑ Complainants were helpless and alone in their homes.

❑ Complainants were young, defenceless girls.

❑ The complainant was a respectable married woman.

> **The court views sexual experience as a factor that lessens the trauma of rape**

Moody's study (1995) shows that judicial officers categorize women into certain gender images and that these stereotypes impact on sentencing: a stranger attacks the wronged woman, and as a result a harsh sentence is imposed. The weak woman is vulnerable rendering her passive and an easy target.

All these categories have a negative impact on women, as the court focuses less on the ordeal and more on protecting the 'innocent woman'. What will the court say in the case where the complainant is a prostitute – or are these women not subject to rape? Sentencing practices need to be revised to ensure that they reflect the horrific ordeal suffered by many women.

Recommendations

This brief discussion has touched the surface of the problem of rape

> **What will the court say in the case where the complainant is a prostitute – or are these women not subject to rape?**

sentences. Solutions must be informed by further research in conjunction with consultation of organisations working in the area. The following recommendations attempt to ensure deterrence and reparation for survivors:

❑ Judicial officers must be trained to handle rape cases in a sensitive way that validates the experiences of the complainant.

❑ Complainants must participate at sentencing.

❑ Sentences must take into account the experiences of accused and complainants. ⬛ℂℙ𝕊ℚ

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No Place Like Home

Family Murder: The Child Victims

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Children who are victims of domestic violence and particularly those who witness the murder of a parent, are severely affected. Many children are at risk and most never receive help. In the long term they may themselves be more at risk of becoming victims or perpetrators of further violence.

South Africa is an extremely violent society and the incidence of some crimes in the country are well above the world average. Murder is particularly prolific and the Nedcor report (1996) referred to South Africa, together with Southern Africa, as 'probably the most murderous society(s) on earth, even with probable under reporting' (see Table 1).

A great deal of attention has been focused on the problem of violent crimes such as car hijacking and armed robbery. However, much less is said about the most dangerous arena in our society – the home.

It is difficult to accurately establish the incidence of murder within the family. At present, the South African Police Service (SAPS) includes these homicide statistics with murder in general and the relationship of the perpetrator to the victim is not documented.

Similarly, there are no accurate figures for domestic violence since the SAPS does not record domestic assault as a separate category. These cases are recorded as crimes such as common assault, assault with intent to do grievous bodily harm and other such offences (see Figures 1-4).

Despite the notoriously poor' statistics, it has been estimated that up to 60% of marital relationships involve abuse and that one in four women are abused. This abuse includes rape and sexual assault (see Vetten and Webster in this issue and attached rape statistics).

Home violence

These figures make it strikingly clear that numerous children growing up in South Africa are exposed to high levels of violence in their homes. This is a paradoxical situation as the home is traditionally viewed as a safe haven from the harshness of the outside world. Yet, it is the one place where many children are most at risk for violence and where no safety or protection is provided.

A study of intimate femicide suggests that between 1993 and 1994, one woman was killed every day by her partner in Gauteng (see Vetten, *Crime and Conflict 6*, 1996). This is alarming, especially when considering the child survivors of these grotesque deeds.

The majority of spouse killings involve the male killing the female partner. These murders are seldom premeditated and often occur in

Table 1: Crime ratios per 100 000 of the population for selected countries in 1994

Country	Murder rate
Belgium	31,5
Botswana	12,7
Canada	5,2
Chile	11,0
France	4,7
Germany	4,6
Honduras	63,6
Jamaica	27,6
Namibia	72,4
New Zealand	3,9
Nicaragua	25,6
Russian Federation	21,8
South Africa	53,4
Swaziland	88,1
Sweden	9,5
Thailand	7,7
USA	9,0
Zimbabwe	5,0

Source: Interpol cited in The Incidence of serious crime: January to June 1996, SAPS Crime Information Management Centre Quarterly Report.

Figure 1: Serious Assault
Ratio per 100 000 of the population

Source: SAPS Crime and Information Management Centre

□ 1994   ■ 1995   □ 1996
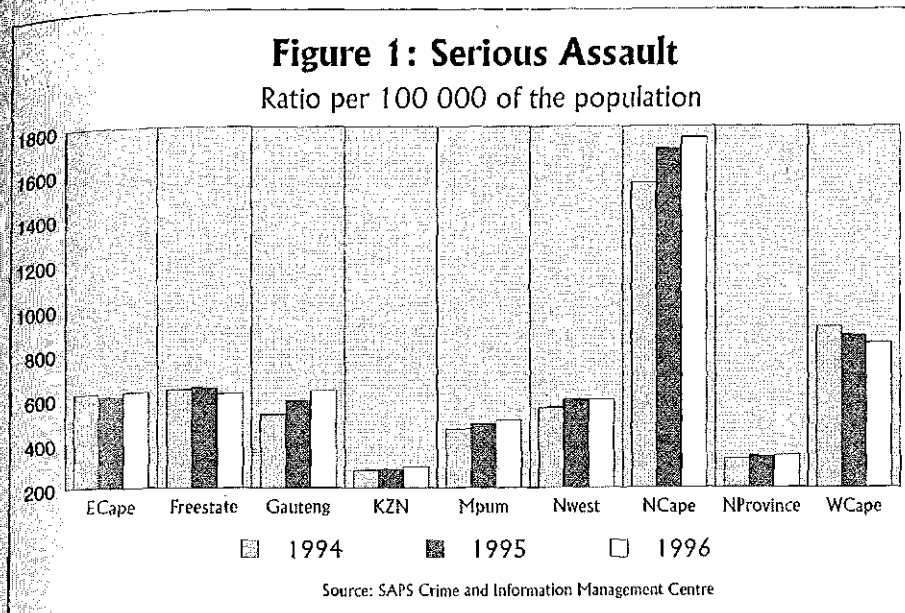
families where there are high levels of domestic violence.

Factors which appear to contribute to spouse killings are alcohol abuse, low self esteem, immaturity, poor interpersonal relationships, aggressive and impulsive behaviour, abusive relationships, economic problems and patriarchal attitudes towards women and children.

The one factor which seems most significant in determining risk for homicide is jealousy. Most murders occur when the female is leaving or threatening to end the relationship. When a wife kills her partner, she is seven times more likely to be acting out of self defence than when a male commits a similar violation. These relationships also often have a long history of abuse.

This article does not address family murders in which someone kills most or all of their family and often takes their own life. These tragedies differ from spouse killings and represent a type of extended suicide in which the perpetrator may be depressed and believes that he or she is rescuing the family from some kind of calamity or pain.

Children: silent victims

Children very often become the silent victims. They may be victimised directly through themselves being abused, or indirectly by witnessing the horror of a parent being repeatedly abused and sometimes killed.

> It is common for the family to deny the horror of what the child has experienced

They are silent victims as their plight is seldom reported by the media and frequently their own family disregards the impact of

their traumatic experiences. The social welfare and criminal justice systems may further contribute to this silence by failing to provide the support and follow up that these children require.

At the Centre for the Study of Violence and Reconciliation, 10 cases of children bereaved of a parent due to one spouse killing the other, have been seen in the Trauma Clinic in the last six months.

This represents the tip of the iceberg and the number of these referrals is anticipated to increase as more people become aware of the service. Many children who have experienced this loss never receive therapy or other assistance, and are expected to resume their lives as if nothing had happened.

The reality is that these children's lives are literally shattered by their experiences. They have to cope with the traumatic manner in which they may have lost a parent as well as the grieving process itself. In addition, they have to deal with the subsequent upheavals in their lives.

The parent is often killed in front of the children who may be left with the dead or dying victim for hours before they are found. Younger children in particular may not have the resources to call for help. The terror that these children experience is hard to envisage.

Figure 2: Common Assault
Ratio per 100 000 of the population

□ 1994   ■ 1995   □ 1996

Source: SAPS Crime and Information Management Centre

Figure 3: Attempted Murder

Ratio per 100 000 of the population

| | ECape | Freestate | Gauteng | KZN | Mpum | Nwest | NCape | NProvince | WCape |

☐ 1994   ■ 1995   ☐ 1996

Source: SAPS Crime and Information Management Centre
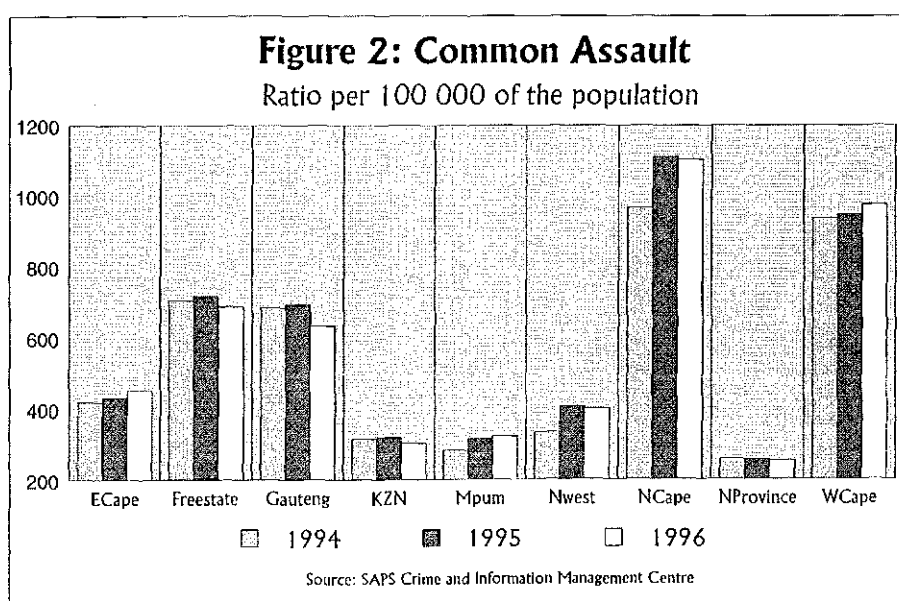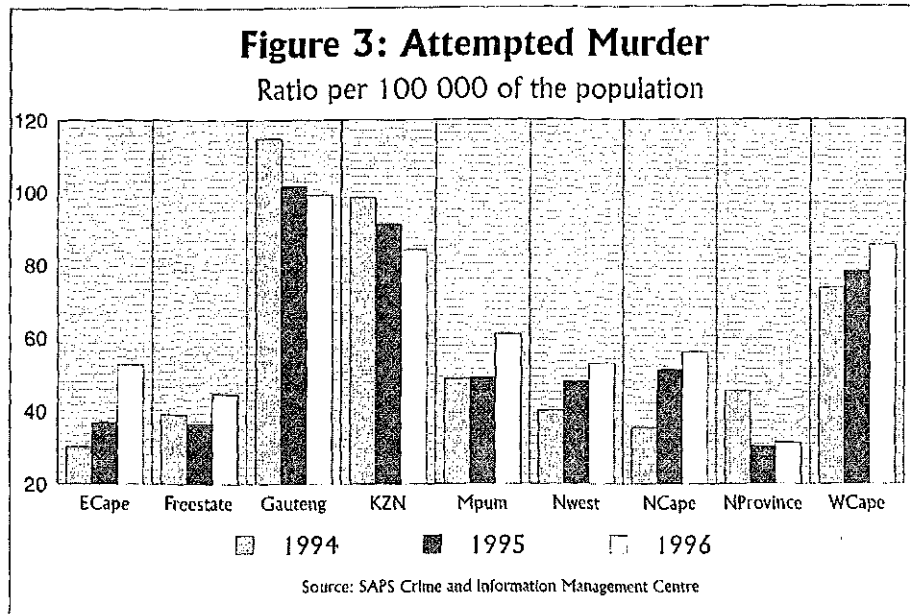
In one case, two children aged two and four years, witnessed the brutal killing of their mother. She died a long and agonising death after being bludgeoned by their father in front of them. The children were then left with their mother's body for the entire night. When their father returned in the morning, he shot and killed himself in the children's presence.

Disruption

The murder usually disrupts these children's lives completely. Not only do they have to cope with the stigma of being the child of a murderer, but they often lose both parents – either both are killed, as in the above incident, or the father is imprisoned.

Since the killing occurred within the family context, all routines familiar to the children are disrupted. They then face being uprooted from their home, familiar environment and relationships. They may be parted from their siblings and suffer the multiple losses of their parents, home, school, friends and possessions.

These children are often placed in foster care or with relatives. The latter are also grieving and may be reluctant to take care of the

children. Often when dealing with their own feelings of shame and guilt about what happened, they may not respond to the child's emotional needs.

> **Children may also hide their levels of disturbance for fear of being a burden**

It is common for the family to deny the horror of what the child has experienced. In the above

example, the children were placed with an aunt who acknowledged what had happened but received no support from the extended family.

The family refused to talk about the events and hushed the children if they spoke about their parents' death. The family constantly interfered with and undermined the aunt in her caretaking of the children, which made their adjustment so much more difficult.

Families may be insensitive to the needs of these children and may further traumatise them. One child of 11 witnessed the brutal murder of her mother by her boyfriend. After the mother was taken to hospital, the grandmother made the child clean the bloody murder scene to restore the room as though nothing had happened. When this child was seen at the clinic three weeks later, she was still in a severe state of shock, paralysis and numbness.

The extended family frequently fail to recognise the trauma of these children. It is difficult to gauge the impact of the murder: the child may initially be in a state of shock and those around them interpret their quietness and lack of emotional display as a sign that they are unaffected. Children may also hide their levels of disturbance for fear of being a burden.

Figure 4: Murder

Ratio per 100 000 of the population

| | ECape | Freestate | Gauteng | KZN | Mpum | Nwest | NCape | NProvince | WCape |

☐ 1994   ■ 1995   ☐ 1996

Source: SAPS Crime and Information Management Centre
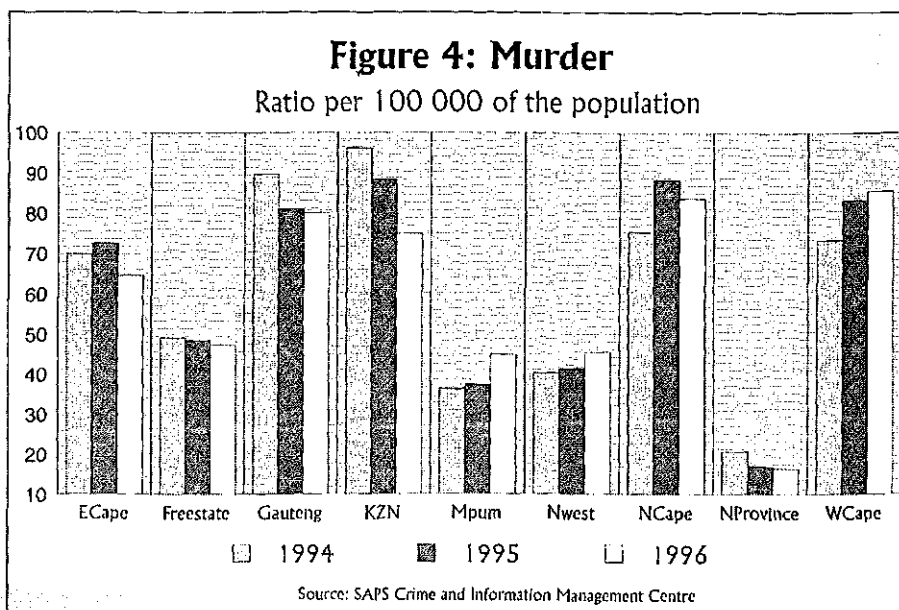
Post traumatic stress

Research suggests that these children are severely affected. Children may display symptoms of post traumatic stress disorder which can interfere with their grieving.

> The child will commonly attempt to avoid thinking about the trauma which interferes with the grieving process

The helplessness associated with witnessing the killing of their parent can lead to numbing and emotional constriction and attempts to avoid anything that reminds them of the event. There may be distressing nightmares and intrusive images and memories which leave the child stuck with the gruesome last images of their parent's death and unable to recollect more pleasant memories.

The child will also commonly attempt to avoid thinking about the trauma which interferes with the grieving process. In order to satisfactorily grieve for a dead loved one, it is necessary to recollect and remember it again and again.

Other post traumatic stress reactions include detachment, withdrawal, hyperarousal, impaired sleep and concentration, and fearfulness. These children also engage in post traumatic play in which they repeatedly act out the events. This type of play is grim and repetitive unlike the normal joyful play of children. Traumatised children commonly grow up with changed attitudes about themselves, life and others.

The age of the child and their developmental stage will have an effect on the nature of their reactions. Younger pre-school children do not have the cognitive ability to fully understand what happened and appear to be more affected. Adolescent children are also more affected and often have strong feelings of guilt and shame. They may engage in self

destructive, suicidal and delinquent behaviour.

Loyalty dilemma

Children who have had a parent murdered by another parent are placed in an extremely difficult dilemma of loyalty. The fact that one parent has killed another is very hard for the child to understand, especially as the youngster may have loved both parents. Younger children especially, may blame themselves for what happened.

After a killing, it is difficult to ascertain what kind of contact the child should have with the perpetrator. It is generally recommended that this be guided by the best interests of the child. Unfortunately in South Africa, the child's welfare is seldom the guiding principle.

> Children who have had a parent murdered by another parent are placed in an extremely difficult dilemma of loyalty

Children are not consulted about their needs and are often ignored. It appears to be common practice to return the perpetrator to the family. The clinic has seen a 12 year old boy who witnessed his mother's murder at the hands of her boyfriend, resulting in his placement in foster care. The family paid for the boyfriend's bail and he now has constant unsupervised access to the child.

The family encouraged this as the boyfriend has money and is able to contribute to the child's upkeep. The boyfriend has even taken the child to the cemetery and placed flowers on the mother's grave.

This child has had great difficulty reconciling the apparent tenderness and care of this act by the boyfriend with the brutal murder that he witnessed. The child presents with feelings of confusion, depression and suicidal ideation.

Due to economic reasons, many families encourage the perpetrator – who is also the breadwinner – to return to the surviving children. This is an unfortunate reality of the socio-economic conditions which further traumatises the children and frequently leaves them confused and terrified.

This willing acceptance of the perpetrator back into the community seems to condone their actions and discounts the woman and child victims.

Long term effects

These horrific experiences have serious long term impacts on child survivors. In most cases, the murder of a parent was preceded by years of violence in the family and these children have been repeatedly traumatised. They may have grown up in a familial environment of pervasive terror, control and violence.

Adult survivors grow up with fundamental problems in basic trust, autonomy and initiative. Their prolonged exposure to trauma may lead to personality changes and emotional detachment, rage, sadness and fear. Female survivors seem more prone to further victimisation in adulthood as well as depression and anxiety.

In contrast, males display more aggressive behaviour. This is perhaps due to their identification with the violent role model of their father. In violent families, children also learn that violence is an acceptable way of resolving problems.

> Due to economic reasons, many families encourage the perpetrator – who is also the breadwinner – to return to the surviving children

This childhood trauma appears to be a crucial etiologic factor in the development of several serious disorders in adult life including

being at a higher risk for perpetrating violence or being a victim, suicide attempts, self mutilation and personality disorders.

> **In most cases, the murder of a parent was preceded by years of violence in the family**

A clear example of a child survivor becoming a perpetrator is that of a young boy who witnessed his father kill his mother and then at the age of nine he saw someone being raped. This boy is now 15 years old and has become a perpetrator himself by raping a nine year old child.

Recognition and services

Children who are victims of domestic violence and in particular, those who witness the murder of a parent, are severely emotionally wounded. Despite the absence of accurate statistics, it is evident that numerous children are at risk of being traumatised in this manner and most never receive help. Family members also often fail to understand the impact of their trauma.

These children are at risk for longer term difficulties and may themselves become victims or perpetrators of further violence. In order to break this ongoing cycle of violence it is imperative that the plight of these children be taken seriously.

More social and mental health services need to be provided for these children. Therapy can provide the child with a space to work through the horror of their experience. Hopefully they can integrate it in a more constructive way and minimise the negative longer term impact.

> **It is in a society that devalues women and children that such crimes can be perpetrated**

On a social level, women and children need to be given recognition and respect. It is in a society that devalues women and children that such crimes can be perpetrated. In the longer term, improved socio-economic conditions and education may reduce ignorance and the risk of such crimes being perpetrated.

The police and criminal justice system must take domestic violence more seriously and intervene more readily as it is frequently within the context of violent families that spouse killings occur. Above all, the horror of family violence and family murder needs to be publicly acknowledged and the silent victims must be provided with a strong voice against such atrocities.

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A Criminal Cycle

Rehabilitation and Therapy

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Long term retributive punishment without adequate therapy serves little purpose other than reinforcing crime. Therapy through rehabilitative prison programs is essential to alter the criminal cycle. The alternative is punishment for its own sake – and the loser is both the perpetrator and society.

From June to August 1996 a qualitative, instrumental collective case study involving four maximum security prisoners was carried out in Westville Prison in Durban.

It aimed to investigate the ways in which these prisoners use relationships to cope with stress. The findings regarding the paucity of rehabilitation presently offered to prisoners, were alarming.

In addition, one of the more powerful – but unintended – effects of the research was confronting the vast discrepancy between the criminal stereotype and the human being responsible for committing criminal acts. This article uses this information to focus on the psychological dimension of what could form a part of the rehabilitation of prisoners.

All four respondents agreed that:

❏ Rehabilitation is up to the individual prisoner.

❏ Rehabilitation is important.

❏ Except for limited therapy measures, rehabilitation efforts by the prison are non-existent.

James noted the importance of personal motivation for any constructive change:

"You have to do everything on your own. If you want to change, you've got to change. There is no such thing as 'smoke-enders' here."

Importantly, he acknowledged that he lacked the personal skills to control, or to practically channel his behaviour constructively. He hoped

to develop those skills in rehabilitation:

"I always wanted to be somebody better, but I just didn't know how. I would want to be part of rehabilitation."

Peter indicated that any rehabilitation was limited to therapy measures provided by psychological staff:

"The only rehabilitation we get here are these therapy sessions – they are where they show you how you can solve problems – they provide support groups and that."

Available therapy

Although a department of psychological services was available in the prison, the resources for therapy were severely limited. John provided a prisoners' perspective:

"You know, it's hard for them, they are only three of them. One has just left, and another is leaving soon. They have such a heavy workload, and they have so many prisoners they have to see every day. I mean, how can two people handle 3 000 prisoners, I mean it's ridiculous."

Notwithstanding the gross inadequacy of psychological resources, the services of the psychological staff were considered

to be one of only two ready resources to help prisoners cope – the other being God. One surprisingly effective way of dealing with the overwhelming pressures faced by limited psychological staff was group therapy.

> **Therapy provided an emotional safety valve by teaching the value of trust and direct expression of vulnerability**

Nevertheless, on 17 January 1997 the author was informed that the prison had been without any psychological staff since October 1996. Currently, three new staff members are in training and are due to assume their duties from the end of February 1997.

The extent of therapy necessarily affects the quality of psychological services available to prisoners. Interestingly, facing death – all had received the death penalty which was subsequently commuted in June 1995 – was mentioned by respondents as being indirectly and ironically therapeutic. It forced them to understand, in retrospect, that life consists of a series of choices for which each person must take responsibility.

However, it also became evident that such understanding was not followed by instruction in those practical skills necessary to control emotional turmoil in a socially acceptable manner, or to make choices with confidence and foresight.

Views on therapy

Concerning the respondents' perspectives of formal therapy, James said:

> *"You know, a man has his pride... and he will never want to tell you the things he did in his life and he would never tell you the bad things or the degrading things about his*

life...And I've learned one thing. If you speak about the degrading and embarrassing things, that makes you a better person."

And Peter remarked:

> *"I found it very difficult to talk about my feelings. Who says I won't say something and then, in no time the others will tell everyone in prison what is going on in my life? No, it took me a long time to talk. Now, I really like going to therapy. I am learning to trust much more. I can talk about my feelings now."*

John exhibited some anticipation of problems likely to face him outside prison when he expressed his wish to continue with therapy after release:

> *"I would really like therapy while I am adjusting to the outside world. Because I don't want to... what can I say, I mean it's going to be hard outside... but what I mean like adjusting again after so many years."*

Thus, therapy provided an emotional safety valve by teaching – sometimes for the first time – the value of trust and direct expression of vulnerability. But the resources available were not sufficient to use such knowledge to guide choices of behaviour – which are particularly restricted in a prison environment.

> **Violence requires emotional vulnerability for its perpetration**

In addition, the particular nature of relationships in prison appeared to be overwhelmingly characterised by a 'survival of the fittest' ethic. This by definition, reinforces previously learned anti-social relational and behavioural patterns. Therapy was therefore less able to transfer constructive lessons to the experiences and relationships of prisoners in their daily lives.

Early moral training

The brevity of this article necessitates focusing on a link between early relationships and later criminal behaviour. This is in no way intended either to ignore the complexity between psychological make-up and criminal behaviour, or to give the impression that such a link is simplistic.

Rather, these case vignettes are intended to provide a model of a flavour of the human condition in relation to violence. It is suggested that violence requires emotional vulnerability for its perpetration and that such vulnerability is most forceful when it has developed as an integral part of the psychological make-up of the perpetrator.

> **Parents' attempts to teach respondents rules of morality were typically reinforced with violence**

During their early years, parents' attempts to teach respondents rules of morality were typically reinforced with violence. This provided a model of a powerfully effective, but violent method of gratifying short term needs for obedience, while simultaneously providing release for their own frustration and anger.

James's depiction of his assigned role as the saviour of his family clearly indicates how violence was romanticised, while making a part of him acceptable in his family's eyes:

> *"So they let me down in a way. And I never trust them too much...My family is not so violent like I am...I was the rough one so they always, hey they bring the little one [he is the youngest child] and I have to make a lot of cover-ups...they would always come to me because I was the bully...So they trusted me for strength, but not as a person, you see...but now I am in prison and they*

hardly ever visit me. I can't understand why."

Frank's parents were not in a position to teach morality, owing to the fact that they both worked long hours:

"Nobody told me these things...My parents were not staying with me, sitting with me, telling me that no, my child, life is like this, you mustn't do something like this...we blacks...our parents didn't give themselves enough time to sit down with their children and explain to them about rights and wrongs."

Individual needs

In addition to inconsistent or non-existent moral training, all four respondents evinced habitual patterns of early relationships characterised by neglect of their individual needs for comfort and acceptance.

> **Both as children and adults, the respondents' (unattainable) task has been to satisfy their parents' needs**

James did not have a legitimate place of his own in his family, but had to fend for himself. It was only during our interview that he reached the insight that trust is somehow related to knowledge and acceptance of another person, and that these were lacking in his life:

"I trust him because he is my dad, but I don't know him that well. You see, he never sat down and told me about himself...I lived my whole life with him and I don't really know him. But how can you trust somebody you don't know? In fact, there are not many people I really know."

Peter was alienated from his family, and this distance was reinforced by violent punishment:

"Now that you are from the outside, I can speak to you...It is something I never did all my life. From childhood I was always getting hurt in a number of ways...I was always disciplined with hidings with whatever came into his hand, it was a hiding."

Notwithstanding the above, the respondents were adamant in claiming that their parents loved and cared for them. It is appropriate at this point, to distinguish between attachment and love. Attachment is a biological imperative without preconditions of warmth.

> **The vacuum left by parental emotional inaccessibility became filled with emotional rewards**

An analysis of the very quality of parental 'love', in these cases, indicated that it is not of the 'unconditionally accepting' kind, so that 'love' becomes a distortion of parent-child bonding. For example, James reverently spoke of his parents' concern and unconditionally blamed his own worthlessness for his mistakes:

"They always took good care of me. Even now, they stand by me. I was really bad, I really have hurt them."

Parents' needs

Although mothers attended their sons' trials without fail and visited them as often as their resources permitted, they nevertheless relied heavily on their sons to support them in their own emotional trauma. This even while their sons were facing the most critical and literal form of existential stress possible – the death penalty.

Thus, the quality of maternal love weighs heavily, and has increased and become immeasurably complicated by the added burden of guilt. Frank regretfully observed:

"The way I wanted to live life, the way I expected my family to live...Maybe if I spoke and told my family...maybe things would have been different...I don't want to speak to my mother about these things. She has the impression everything is all right...I don't want to make her cry."

Both as children and adults, the respondents' (unattainable) task has been to satisfy their parents' needs. As children, their failure lay in their own dependence and youth. As adults, this failure is inevitable because of their incarceration. More importantly, they have also not been given the necessary personal, social and relational resources to cope with their own unmet needs – let alone those of others. Inevitably, they have always felt – and without some therapeutically healing relationship are destined to continue to feel – worthless.

Emotional rewards

The vacuum left by parental emotional inaccessibility became filled with emotional rewards. These took the form of gratifying immediate needs as well as the release of pent up emotional frustration, found in friendships. These rewards were richest when coming from friends in similarly emotionally deprived situations – friends who mistakenly looked for external, material and 'macho' ways to prove their worth.

> **The crimes for which the respondents were found guilty were committed in the company of friends, usually when intoxicated**

Peter acknowledged that short term and long term need satisfaction may require dramatically different methods:

"I have been a fool. I have wasted a lot of my life. Sometimes I don't know why I thought it was so exciting. I know it was because I was

among friends, I wanted to impress them...There was a time I had eight women at one time...the best part of it was they were beautiful women, educated women...It could have been the uniform...I had this gun, I had combat boots, a big diving knife on my chest, I got my own vehicle and I seemed strong, just for the show. I used to put the lights on on my car, the sirens, and really speed all the way from Durban to Isipingo."

Mark described with graphic simplicity how his sense of self became, in essence, a split one:

"I was two people. One at home with my family, where I was always sorry for having hurt my family. Then, I would go out and be with my friends. I always wanted to be a cool guy, one of the best. I wanted to impress them...That was why I ended up here."

In light of the above, it is hardly surprising that the crimes for which the respondents were found guilty were committed in the company of friends, usually when intoxicated.

This discussion does not intend to apologise for criminal acts. Rather, it aims to illustrate the possible dangers, to the security of society, of psychological alienation or marginalisation of its members.

> **Efforts to teach prisoners how to act constructively, particularly when dealing with chaotic emotions should not be limited**

In children, it can lead to anti-social behaviour. In adulthood, relating to certain people purely in terms of the atrocities of singular actions they have committed in the past, may increase the sense of worthlessness which originally contributed to violent acts.

Prison as deterrent

Clearly, imprisonment necessarily limits personal freedom of choice. However, efforts to teach prisoners how to act constructively, particularly when dealing with chaotic emotions – the very scale of which may have been intensified by past unresolved relationships – should not be similarly limited.

Given the confusion surrounding these relationships, it is difficult to imagine how these men will ever be in a position to build, nurture and sustain coherent and congruent relationships after release without effective therapy. Furthermore, considering the added frustrations likely to follow release, recidivism is the probable outcome – in the absence of therapy – irrespective of the will or desire of an ex-convict to avoid further imprisonment.

> **Recidivism is the probable outcome in the absence of therapy**

Thus, the hope that long term imprisonment as a method of deterrence to prevent recidivism – which Prinsloo (*Crime and Conflict* 7, 1996) points out is currently the case in South African prisons – is intrinsically misguided. On this issue, Mark remarked:

"They say if a person, if he gets life, it must be natural life and all. How do you think the prison will be after that? I think it will be like a mad house then. Because I mean if I know that I've got a natural life sentence, what's going to stop me from getting up every morning and stabbing a member [warder] because I know well, even if they hit me or what, I've got nothing to loose. I'm never going outside again."

In summary, emotional neglect by significant others in childhood can

> **Emotional neglect in childhood can lead to feelings of worthlessness and self-alienation in later life**

lead to feelings of worthlessness and self-alienation in later life. Depending on the configuration of environmental, social and physiological factors, this estrangement can result in a lack of feelings of concern for others.

Criminality is unequivocally an expression of such estrangement. Long term and essentially retributive punishment, without access to adequate therapy, serves little purpose but to reinforce alienation – which in turn reinforces crime. Such punishment ignores other necessary pillars of appropriate sentencing: reformation and ultimately, personal deterrence.

If this discussion is valid, one necessary, humane, and constitutionally appropriate manner to alter the criminal cycle is therapy. It should be contained in efficient, resourceful and comprehensive rehabilitative prison programs. The alternative is punishment for its own sake without regard to either the individual or the outcome. The loser, in that event, is both the perpetrator and society.

Note:

All respondents' names have been changed to honour agreements of confidentiality.

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Violence To Democracy?

KwaZulu-Natal's Slow Road

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The acceptance by the ANC and the IFP of the local election results sealed a new working relationship between the parties at provincial level. Violence statistics show substantially decreased levels of conflict on the ground. But open clashes have largely become a thing of the past because of decreased contact between supporters of opposing political parties.

KwaZulu-Natal has begun to shake its image of a province dominated by political violence. This has as much to do with a real decrease in the number of violent incidents as with the changed climate between the African National Congress (ANC) and Inkatha Freedom Party (IFP) politicians at provincial level.

Since 1993 – the year in which the most people were killed at just over 2 000 – annual deaths associated with political violence have decreased. In 1996, the figure was down to 469 fatalities. These statistics cannot be denied, but do not mean that active solutions have been found in troubled areas.

Nor do they indicate that people are moving towards greater political tolerance and reconciliation after more than a decade of fear and division. Instead it appears that political conflict is not being translated into violence with the intensity of previous years.

At the provincial level, an important indicator to explain this has been elections. Both the national election in April 1994 and more especially the local government elections in June 1996 were 'tests' of the degree to which political competition would remain violent. The two months before the 1994 elections were the bloodiest in the province's history. Since then, recorded levels have dropped substantially (Figure 1).

And while tensions mounted before local elections, voting was preceded and followed by relative calm. This trend away from eliminating political opponents has been attributed to the fact that the support bases established by the IFP and ANC after 1994 remained largely uncontested and unchanged in the 1996 election.

Other positive steps during 1996 also played a role: improved policing, politicians' willingness to abide by the electoral code of conduct, attempts – albeit controversial – by two notorious parliamentarians (the IFP's David Ntombela and ANC's Sifiso Nkabinde) to bring about peace, the depoliticisation of Shaka day, and the Enyokeni meeting between IFP President, Mangosuthu Buthelezi and Zulu King Goodwill Zwelithini.

So an optimistic reading of the situation might suggest that at last the electoral process is having its intended effect in KwaZulu-Natal: political competitors are beginning to accept that contestation must be more peacefully channeled through the ballot. But past and current patterns suggest that the violence is being contained rather than resolved.

> It appears that political conflict is not being translated into violence with the intensity of previous years

In many cases, open conflicts have become a thing of the past largely because of decreased contact between supporters of the two major political parties. Planned attacks have replaced the often indiscriminate attacks on women and children which previously characterised the violence. There have been few improvements in tolerance and freedom of political activity.

Figure 1: Monthly deaths caused by political violence: 1993 to 1996
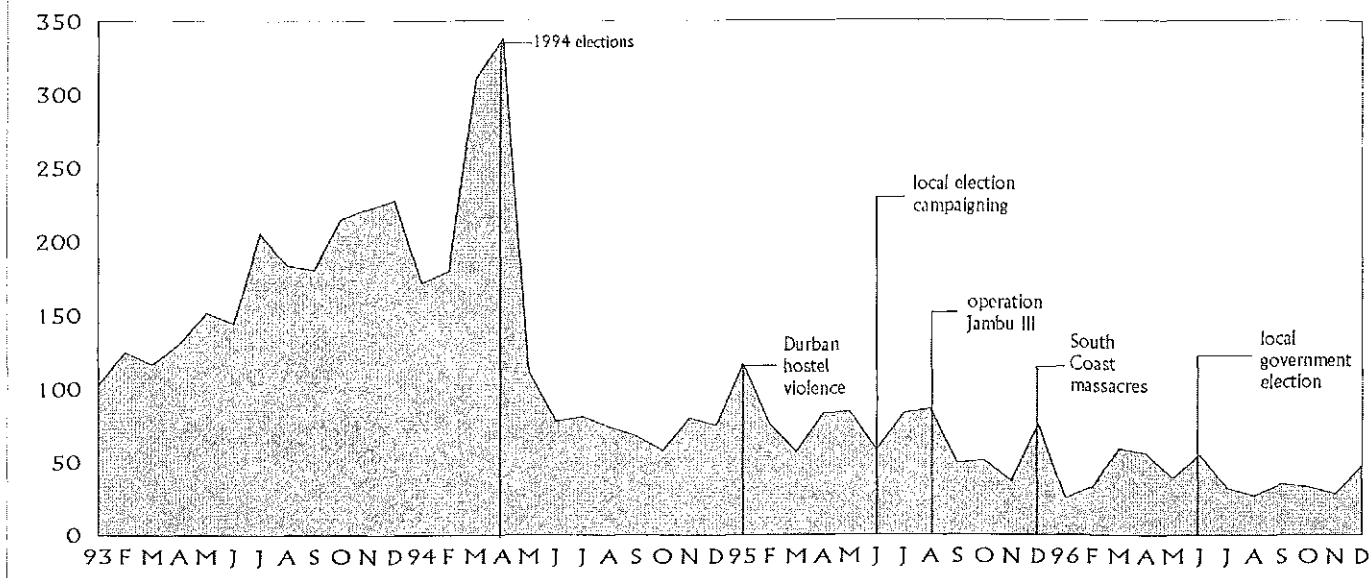
One of the best indicators of these trends has been the intimidation, destruction of property and even killing of people associated with the National Party over the last 15 months by political opponents in Mpumalanga township – long regarded as a model for achieving lasting peace after being ravaged by war. The peace here is founded on agreements over turf divisions which leave little room for political opposition.

This article maps the changing levels of political violence in the province since 1993 drawing on the databases of Indicator SA's Conflict Trends in KwaZulu-Natal Project and the Human Rights Committee. In analysing events over the past three years, stabilising factors as well as pressure points are proposed.

Decline: 1993-1995

On average, 167 people died per month in 1993. As the country's first democratic elections approached, the contest for political control of the province was being violently decided in urban and rural areas – predominantly around Durban and the North Coast (Figure 2).

In March and April 1994 prior to the IFP's decision to participate in the elections, as many as 311 and 338 people died (Figure 1). Soon after the announcement, violence levels plunged, but the human costs were extreme: in June 1994 the Regional

Peace Committee estimated that over 500 000 people were internally displaced. Spatially, the conflict was still concentrated around Durban and the North Coast (Figure 3).

January 1995 began badly with clashes in hostels around Durban. But the monthly average of 68 fatalities during 1995 was substantially lower than that of previous years: 167 in 1993 and 133 in 1994. More rural areas of the province were affected in 1995: a greater proportion of deaths were recorded along the South and North Coasts than in the Durban region (Figure 4).

With local government elections planned for November 1995, leaders started aggressive campaigns and no-go areas were challenged. Violence escalated during this time (Figure 1). This trend was temporarily reversed with the announcement of Operation Jambu III by the security forces and the postponement of elections.

These developments nevertheless failed to prevent the now well known Shobashobane massacre and two other such attacks on the South Coast in December 1995. Together these incidents claimed 45 of the total of 76 lives lost that month in the province.

Figure 2: Deaths caused by political violence in regions in 1993
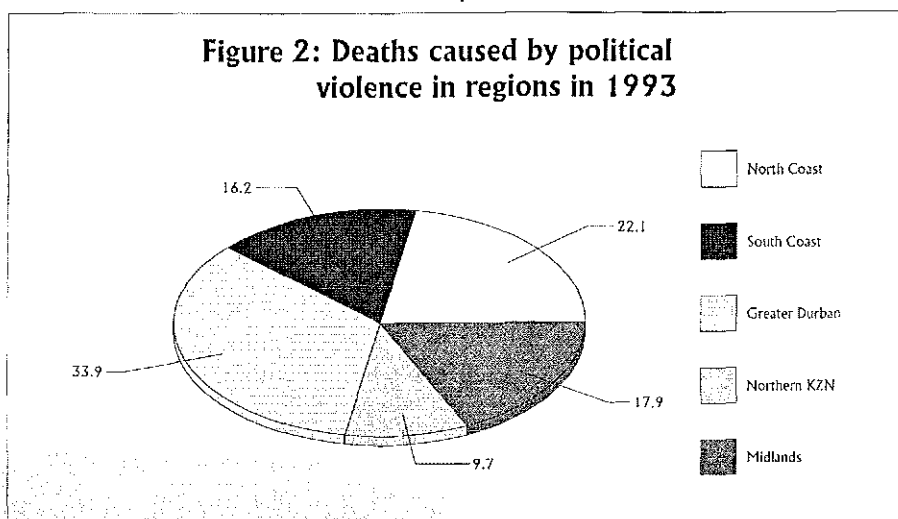
Spatially, the data show that between 1993 and 1995 political violence has not occurred with equal intensity throughout the province. Maps representing the number of people killed in magisterial districts in the province in 1993 and 1995 illustrate that although actual levels in 1995 are substantially lower, the same districts are largely affected (Maps 1 and 2, pages 32 and 33).

Violence occurred in a band running the length of the North and South Coasts, as well as in areas around Estcourt and Ixopo in the Midlands. In these areas, unresolved problems at local level associated with politically contested territory, leaders, the movements of refugees, policing and other criminal activities sustain tensions and violence.

1996: election trends

Figures for 1996 suggest that changes are afoot in the province: the average monthly death toll decreased to 41. These trends could be attributed to the deployment of extra security forces, the appointment of special investigation teams and efforts by party leaders to promote peace.

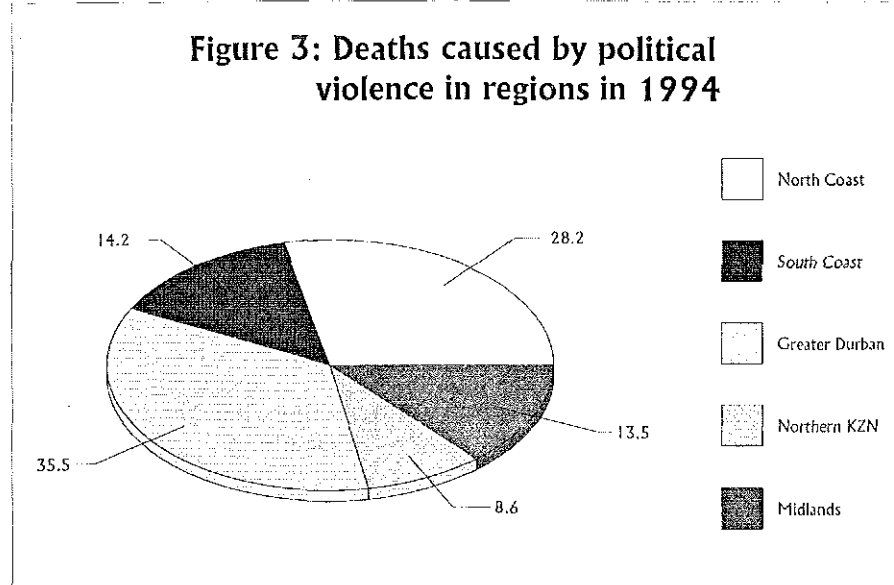Another important change in violence trends in 1996 was the substantial increase in events recorded in the Midlands region. After accounting for 19% of deaths in 1995 – and even lower

Figure 3: Deaths caused by political violence in regions in 1994

North Coast
South Coast
Greater Durban
Northern KZN
Midlands

proportions in previous years – more than half of all fatalities occurred here in 1996 (Figure 5).

Local government elections were the key feature of KwaZulu-Natal's political landscape in 1996. Tensions mounted as attacks on candidates and party leaders became a feature of this period: at least 12 candidates were killed.

Fears that the IFP's rejection of the model of rural local government might mar the process were unfounded. Despite being twice postponed and the IFP's subsequent threats of more violence, that party's unexpected acceptance of the new June date

allowed preparations to proceed peacefully.

Two significant incidents played no small role in reinforcing calls for the postponement of local elections. First, the protest march in Durban by the IFP aligned National Hostel Residents Association organised by former IFP MPP, Thomas Shabalala. Police were shot at and chaos ensued in the city centre – although the IFP did distance itself from the incident. Second, the attack on the Zulu royal family in KwaMashu which left a princess dead and six other relatives injured.

The deployment of thousands of additional security forces and the introduction of an electoral code of conduct in May 1996 helped prevent large scale violence before the elections. After voting, conflict levels declined in the context of a general acceptance of the results.

Several significant events followed in the wake of this relative calm. Peace initiatives and joint peace rallies were held, along with Shaka day celebrations and the Enyokeni meeting between King Zwelethini and IFP president Mangosuthu Buthelezi. These developments have not filtered down to many communities, but at least represent fresh efforts to find a solution.

Figure 4: Deaths caused by political violence in regions in 1995

North Coast
South Coast
Greater Durban
Northern KZN
Midlands
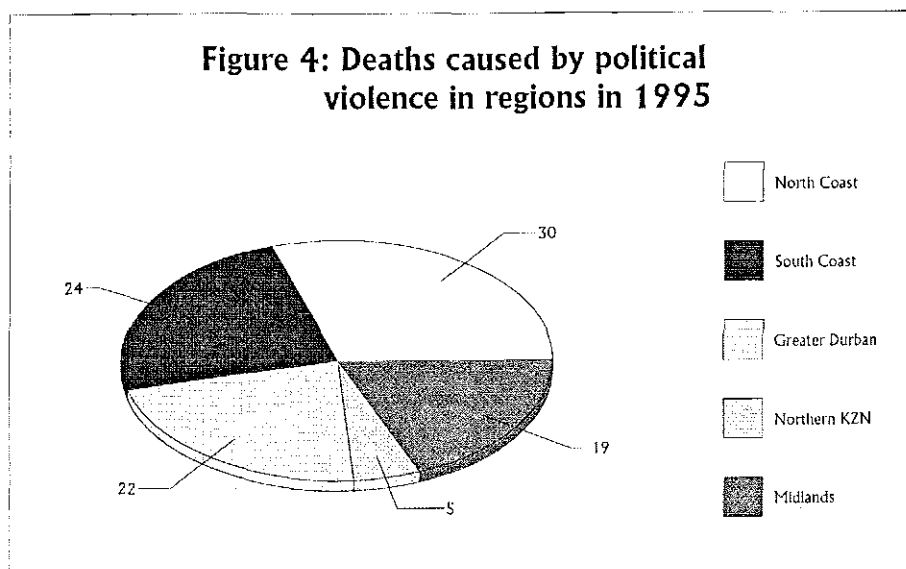
Regional analysis

❖ Midlands

Since 1993, on a yearly basis less than 20% of the province's violence occurred in the Midlands region (Figures 2-5). In 1996, however, this region was worst affected, accounting for 55% of all violent incidents. Open conflicts that have faded in most parts of the province still prevail here.

> The criminal justice system is hampered by political processes of control in the Midlands, with politicians interfering with police work

The role of leaders and a local power struggle have been central factors. The involvement and presence of provincial politicians suggests that both the ANC and IFP regard the area as important. Indeed, members of parliament have on more than one occasion been involved in ambushes while visiting the area.

The core of the problem according to the IFP is the ANC's refusal to acknowledge traditional structures and leaders. The IFP allege that Richmond based self protection units (SPU's) are involved in most of the attacks. The ANC for their

part believe traditional structures are obsolete and suppress free political activity. This conflict is at the core of violence in many areas of the province.

The infrequent nature of attacks makes policing difficult: areas which are quiet for a few months suddenly erupt. This could be linked to the return of troublemakers who have been released on bail or escaped from police custody. In addition, the criminal justice system is hampered by political processes of control in the area, with politicians interfering with police work.

Investigators in the ANC supporting Richmond area, for example, are required to report to the SAPS station commander. He then reports to the community who will hand suspects over to the police. In Impendle, when police were attacked by IFP supporters the party leadership warned police not to visit the areas at night since their safety could not be assured.

❖ North Coast

A total of 82 deaths were recorded in this region – the second highest of all regions in the province. The situation has, however, improved as a result of the army's presence and the work of the National Investigation Task Unit (NITU) in the area.

Violence here seems to have been orchestrated by a few individuals: following the conviction of three former KwaZulu Police hitsquad members the situation has improved markedly.

Sundumbili in Mandini – one of the worst affected areas – has stabilised after the station commander was removed and people were arrested in connection with a May 1995 massacre in the area. The deaths of known attackers also appear to have brought some calm.

> Open conflicts that have faded in most parts of the province still prevail in the Midlands

Problems still, however, prevail in areas such as Mtubatuba, Mtunzini and Mkuze. Many of these are linked to the Mtubatuba Public Order Policing Unit which has been implicated in numerous cases of torture against ANC supporters or people perceived to be ANC aligned.

❖ South Coast

This region has long experienced the most intense violence in the province. While the number of incidents has declined, the death toll remains high. Most of the problems around KwaXolo near Margate are linked to the movement of people displaced by the violence.

In KwaCele, the return of people to Shobashobane and the reconstruction of the houses destroyed during the massacre in 1995 have heightened tensions. The IFP has voiced dissatisfaction with the Special Investigation Task Unit in the area, which it claims only arrests IFP supporters.

The deployment of extra security forces after the Shobashobane massacre and the appointment of the Special Investigation Task Unit saw perpetrators being arrested and some fleeing the area. Violence then declined almost altogether,

Figure 5: Deaths caused by political violence in regions in 1996

- North Coast
- South Coast
- Greater Durban
- Northern KZN
- Midlands

15
13
8
17
55
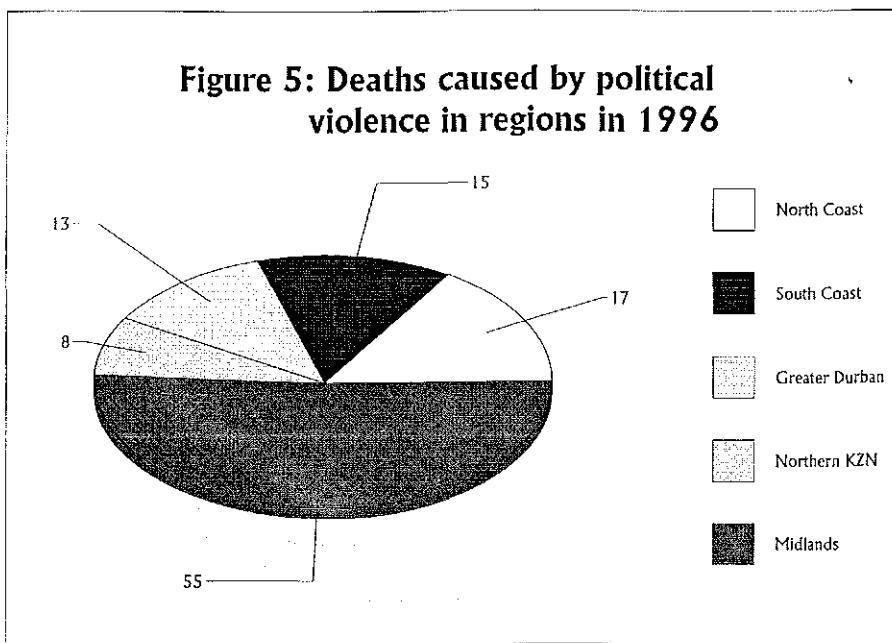
only to resume when the alleged perpetrators were released on bail. Some were rearrested for committing murders while out on bail.

> **No-go areas appear peaceful simply because one party controls an area**

Effective investigation and prosecution have had an impact on violence levels in the worst affected regions of the province. Policing and court processes are still inadequate in many areas, and the closure of the Investigation Task Unit (ITU) which threatened to expose high profile political leaders, diminishes the reach of the rule of law.

Along with nurturing the electoral process, these are the best ways of ensuring accountability – something which has been lacking in this province. Without this, preventing violence will be difficult and a police force already over burdened by high crime rates will only be able to react to violence. Several stabilising factors have, however, improved the relationship between political parties and encouraged peace in a few areas.

Stabilising factors

❖ Security forces

About 30 000 extra security forces were deployed before the local government elections, averting several possible clashes in volatile areas. Most of these incidents were characterised by political parties' refusal to grant free political activity.

❖ Peace processes

The highly publicised Ukuthula peace process initiated by church groups shortly before the local elections aimed to ensure that voting proceeded peacefully. Part of the peace pact was the electoral code of conduct which required that the leaders refrain from war talk during campaigning.

This initiative probably had more impact on relations between provincial level leaders than on violence levels on the ground. While the message did reach some communities, successful peace efforts can generally be ascribed to local rather than provincial initiatives, as the recent case of Wembezi outside Estcourt in the Midlands illustrates.

❖ Code of conduct

Politicians agreed to abide by a code of conduct whereby they would not incite their supporters against political opponents. It was the first time in KwaZulu-Natal that politicians showed a genuine willingness to cooperate on this issue.

> **The IFP will have to secure its provincial – and now rural – vote at all costs. This could spell problems for elections in 1999**

ANC MPP for Gauteng, Peter Mokaba, was subsequently called to task when he launched an attack on the IFP during his speech in Durban. On the IFP side, MPP Thomas Shabalala – better known as a 'warlord' from Lindelani outside Durban – was expelled from the party after he defied orders not to organise a march which ended in violence in Durban.

❖ Elections

The decline in violence after the local elections has largely been attributed to the ANC's and IFP's acceptance of the results. After the violence and dissension of the 1994 election, there were fears that the outcome would be rejected by some parties.

But surprisingly, the results were accepted less for their reflection of which party is the 'legitimate master of the province' (Johnson 1996), than for the control they ceded to parties in different parts of KwaZulu-Natal. The IFP won the most votes as a whole and in rural areas, but were squarely defeated

by the ANC in KwaZulu-Natal's cities and some towns.

In addition, the acceptance of the 1996 result implied acceptance of the 1994 outcome. By adding back to the IFP's 44,5% in 1996 the votes which the party lost, the official 1994 result is reached (Johnson 1996). This is an important step for democracy in the province.

The 1994 general election, however – the controversial results of which were contested by both parties – was followed by even greater decreases in violence than in 1996. This suggests the influence of factors other than the acceptance of results in the stabilisation of the conflict.

Even with a democratic track record as dubious as that of KwaZulu-Natal, the impact of voting procedures cannot be denied. Within the context of countrywide democracy, increased accountability of political leaders to their electorate and improvements in the rule of law, it is likely that democracy is at last being taken more seriously.

> **The location of the 52 no-go zones correlates closely with the local government election results**

At the same time, it would be naive to forget that the conclusion of elections also signaled the end of political campaigning – probably behind more than half all violent attacks. This decreased contact between the IFP and ANC on the ground will persist as long as the support bases won in the local election are not challenged.

However, the ANC announced in late 1996 that it would attempt to capture the rural vote. This will mean a contest between some of the oldest foes in the struggle for power in the province. It will also threaten the heart of IFP support.

Having failed to make its mark on the constitution, and with declining support nationally, the IFP will

have to secure its provincial – and now rural – vote at all costs. This could spell problems for elections in 1999.

Pressure points

❖ Intolerance/no-go areas

Prior to the election there were an estimated 52 no-go zones in the province, 28 belonging to the IFP and 24 to the ANC. The location of these zones – the ANC's mainly in urban areas and the IFP's in rural areas –

correlates closely with the local election results. Indeed, a feature of the elections was the *de facto* admittance by political parties that they could not campaign in certain areas.

No-go areas appear peaceful simply because one party controls an area. This balance could be shaken at any time should other parties decide to campaign or open a branch. The migration of people and the return home of those displaced by violence – and often perceived as supporting the

ousted party – similarly invokes political intolerance and often results in violence.

> There is an increasing sense that the cycle of impunity – which has enabled the violence to continue for more than a decade – is being broken

In Inchanga between Durban and Pietermaritzburg, a friendly soccer match in an ANC dominated area ended in a stand-off between IFP officials and ANC supporters. A person from the winning (Tintown) team was later shot dead and counter attacks followed.

While clashes continued, people from an IFP area settled in Tintown. The area subsequently became labeled IFP and the ensuing violence prompted leaders to reach a peace agreement. Tintown people, however, allegedly interpreted this as surrender and set their sights on conquering the area.

This lead to renewed violence and people fled the area. The remaining residents who felt the ANC had deserted them, invited IFP officials to address their problems. The ANC supporting community then blockaded the road and IFP officials were denied access.

This presents a recent example of the high levels of intolerance in some areas. Anyone opposing a view of the majority party is labeled – providing possible justification for their elimination.

❖ Role of the leadership

The activities of powerful local and regional leaders in some areas can be associated with violence. The level of violence in the Midlands is a case in point. Local political leadership appears very weak and both Hlanganani and Okhahlamba districts are under the control of the ANC's Sifiso Nkabinde and IFP's David Ntombela.

Communities feel they cannot make decisions unless approved by these

Map 1: Total number of people killed in political violence in KwaZulu-Natal in 1993

Legend

■ Magisterial districts

Total killings
- 0 - 5
- 5 - 17
- 17 - 45
- 45 - 224
- No events recorded

HSRC
RGN
GIS Unit

Source: the Human Sciences Research Council and Indicator SA

leaders. People allege that on several occasions when they have taken peace initiatives they have been told to withdraw. These leaders have themselves also allegedly been part of the violence in these areas.

This leadership style has earned several notorious figures the label of 'warlords' in the province. This usually denotes ruthless leadership of an area in which no opposition is tolerated, total loyalty and obedience is commanded, and the involvement in many extra-legal activities (Ewing 1996).

> **All avenues to exposing and ending violence – particularly by people in positions of leadership – must be safeguarded**

Recently, some of these leaders have opted for the image of 'peacelords' – some allege in response to the prospects of their activities being investigated by the ITU and Truth Commission. The expulsion from the party of controversial IFP warlord and MPP, Thomas Shabalala also

suggests a growing emphasis on accountability.

That they maintain their position as 'lords' is telling: the power and control which earned them their positions remain unchanged. But there is little evidence that problems of no-go areas and displacees – crucial for attaining peace – are being addressed.

Prospects

The acceptance of election results and thus – however grudgingly – of the democratic process is encouraging. And although problems in the criminal justice system abound, there is an increasing sense that the cycle of impunity – which has enabled the violence to continue for more than a decade – is being broken.

The trials relating to the KwaZulu Police hitsquad in 1995, the Richmond self defence unit in 1996, the Ndwedwe massacre in 1994 and most recently the Shobashobane massacre, evince this. The Truth Commission's amnesty process also has the potential to expose the perpetrators of violence – many of whom not only continue their activities, but currently hold public office.

For these reasons the ANC's proposed 'special blanket amnesty' is worrying. It is 'special' because it implies making significant compromises on the truth. As things stand, the Truth Commission faces an impossible task in exposing the truth behind nearly 13 000 deaths in KwaZulu-Natal since 1985.

And with the acquittals in the Magnus Malan trial, all avenues to exposing and ending violence against the people of KwaZulu-Natal – particularly by people in positions of leadership – must be safeguarded.

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Ewing D (1996) 'Natal midlands "Godfather"?' The Natal Witness, November 20 1996.

Johnson RW (1996) Understanding the Elections', KwaZulu-Natal Briefing, Number 3, August 1996.

Map 2: Total number of people killed in political violence in KwaZulu-Natal in 1995

Legend

■ Magisterial districts

Total killings

	0 - 2
	2 - 8
	8 - 25
■	25 - 164
	No events recorded

HSRC
RGN
GIS Unit

Source: the Human Sciences Research Council and Indicator SA

University of Natal