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EASY PREY

Results of the national youth victimisation study

Patrick Burton
Centre for Justice and Crime Prevention
Patrick@cjcp.org.za

Recent media reports have highlighted incidents of violence and crimes against children and young people in South Africa. Yet, up till now, there has been little exploration of the extent and nature of criminal victimisation against youth. The recent National Youth Victimisation Study reveals that young people are almost twice as likely to be victimised as adults, and that young people are surrounded by violence and crime in all the spheres they occupy: the home, the school and the community.

According to recent press reports, in the period between 2004 and 2005, 85,808 crimes were committed against children, of which over 27,000 were sexual offences, and over 1,000 were murders. Internationally, victim surveys have shown that children and young people are victimised at a significantly higher rate than adults. Yet, other than the occasional sensationalised report in the media on child rapes and murders or attacks in schools, there is a dearth of accurate data on crimes against children and young people in South Africa.

This is an important gap in the literature, as the victimisation of young people can have a tremendous impact on their ability to relate to others and form healthy relationships, their performance at school, as well as their vulnerability to later victimisation as adults. Victimisation at an early age has also been identified as one of the many risk factors associated with later anti-social or delinquent behaviour. In a country where crime is widely perceived as endemic, the lack of focus on children and youth as victims of crime is highly problematic. This gap has been filled in part by the recent National Youth Victimisation Study, conducted by the Centre for Justice and Crime Prevention.

The international experience

The United States of America and Britain have only in the past five years begun to focus on the disproportionate victimisation of youth. In the United States, data from the National Victimisation Survey, the National Youth Victimisation Survey, and the Uniform Crime Reports reveal some startling figures:

• Youth between the ages of 12 and 19 years are twice to three times more likely to be victims of assault, rape and robbery than older age groups.
• Homicide rates are highest for youths of 17 to 19 years of age, then decline through the higher ages.

More recent reports argue that 22% of all violent crimes in the United States are committed against juveniles. These crimes may be committed by strangers or by individuals known to the youth or child. In fact, with the exception of robbery, the majority of cases across most crimes tend to be committed by someone known to the victim.

In the United Kingdom, the British Crime Survey, together with a National Youth Survey, showed that:
a stratified probability proportionate to size methodology, from a sampling frame based on the Statistics South Africa census data of young people between 12 and 22 years of age. The sample was stratified by province and race.

A total sample of 4,409 respondents was interviewed. Following data capture and validation in SPSS, the data were benchmarked and weighted by province, race and gender. This approach allows for the accurate extrapolation of the sample to young people aged between 12 and 22 throughout South Africa.

Extent of crime against young people
In the period between September 2004 and September 2005, 42% of South African children and youth between the ages of 12 and 22 years were victims of crime or violence. This translates to roughly 4.3 million young people. These crimes include assault, sexual assault/rape, theft, robbery, housebreaking and car hijacking.

The crimes of assault, sexual assault/rape, theft and robbery are all crimes committed against the individual. While not crimes experienced directly against a child or youth, crimes such as housebreaking and car hijacking are important in assessing the levels of crime that young people are directly exposed to, and which are likely to impact on their development, socialisation, and experience and perceptions of life.

It might be argued that property crimes such as theft, or housebreaking have less of an impact on young people than the violent personal crimes of robbery, sexual assault or rape, and assault. Even if this is true, this offers little reassurance in the South African case, where slightly more respondents actually fall prey to violent crime (27%), than to property crime (26%).

The youth victimisation data is directly comparable to the 2003 National Victims of Crime survey conducted by the Institute for Security Studies. A comparison between the victimisation rates shows that young people are twice as likely to be victims of at least one crime than adults (Figure 1). One in ten young people had
Table 1: Youth victimisation by area type

<table>
<thead>
<tr>
<th>Area classification</th>
<th>Metro</th>
<th>Urban</th>
<th>Rural</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Any crime</td>
<td>44.6</td>
<td>42.0</td>
<td>40.5</td>
<td>41.5</td>
</tr>
<tr>
<td>Property crime</td>
<td>26.8</td>
<td>25.1</td>
<td>25.7</td>
<td>25.6</td>
</tr>
<tr>
<td>Violent crime</td>
<td>30.8</td>
<td>26.9</td>
<td>25.5</td>
<td>26.6</td>
</tr>
</tbody>
</table>

Youth living in metropolitan areas of eThekwini, Nelson Mandela, Tshwane, Johannesburg, and City of Cape Town are most likely to be victims of crime, while those in rural areas are the least likely.

Repeat victimisation is common: more than one tenth (14%) of all those interviewed had been victimised on more than one occasion during the 12 month period.

An analysis of victimisation by age provides some interesting observations. Children between 12 and 14 years, and youth between 18 and 20 years of age, are most likely to be victims of crime. As shown in Figure 2, the violent crimes of robbery and assault are more common among the older age groups of 18 to 20 and 21 to 22 years of age, while the property crime of theft is most common among the younger children. This may in part be explained by the lifestyle of older youths, who are more likely to spend time socialising, out of their ‘safe’ environments, and in areas that would put them more at risk of violent crimes.

Nature of crime against young people
A total of one in five (20%) young people were victims of theft of personal property in the 12-month period. As the most common crime, theft of personal property could include the theft of items such as money, wallets or purses, schoolbags, books, music equipment or any other personal belongings. In a country where almost one out of

Boys are more at risk of becoming victims of crime and violence than girls, with almost one out of two (46%) males reporting victimisation as compared to 37% of young females. This trend holds for all crimes except sexual assault and rape. This fits the international trend that places young men at greater risk of victimisation than young women.
Assaults recorded in the survey include incidents of bullying that occurs at school. The frequency of violent experiences at schools contributes to the levels of fear that many children expressed of their school environment. One in ten youngsters (10%) attending school reported that they were scared at school.

Two (49%) inhabitants fall under the poverty line, and 27% of the population is unemployed. Theft of any goods can be a significant trauma and have a range of negative consequences for the victims.

Roughly one in six (17%) young people were assaulted in 2005. These assaults were most likely to occur at school (26%), in the street near shops (21%), or at home (20%). Nine out of ten of the young people who were assaulted knew their attacker, most often from school or elsewhere in their community. This is in accordance with trends identified in the international literature that suggest in the majority of both assault and robbery cases against young people, the perpetrator is known to, and often a peer of, the young victim.

In total, one in ten (10%) young people were robbed in the 12 month period. This translates to roughly 973,000 young South Africans between 12 and 22 years old. One in three robbery victims knew who had robbed them. Perpetrator(s) tended to be someone from the young person’s community (38%), or a schoolmate (21%).

A point must be made about the cases of sexual assault or rape reported in this study. In total, 4.5% of youngsters reported experiences of sexual assault or rape over the preceding 12 months. Victim surveys are notoriously weak instruments for measuring incidents such as these, as they entail supplying very personal information to a complete stranger knocking on one’s door. They do not offer any of the supportive environmental factors that might normally be required in exploring the extent or nature of sexual crimes.

The rate of report here is thus indicative rather than an exact representation. As Figure 1 shows, the rate is significantly higher than that revealed in the 2003 National Victims of Crime survey. The fact that the figure is as high as it is here is perhaps an indication of the extent of this crime within this age group, and the real figure is perhaps three or four times what is shown here.

**Reporting of crime and violence**

As previously mentioned, official police statistics are dependent on the reporting of crimes to the police. Yet in many instances crimes remain unreported due to feelings of mistrust, a lack of confidence in the police, lack of access to a police station, fear of retribution, or simply because the crime is not perceived as serious enough to report. However,
reporting often gives victims access to essential services that serve to ease the psychological trauma, and in many instances, treat the physical injuries, that result from victimisation.

It might be expected that young people are more likely than adults to tell others about crimes against them. Children will not easily hide injuries from their parents, and if they lose clothes, books, or other items, it is almost inevitable that an adult, either parent or teacher, will find out. Thefts of items such as money or cell phones are equally likely to be discovered.

As Figure 3 illustrates, in the majority of instances someone in the family was told about the crime. Most commonly this person was one of the child’s parents or caregivers. In only a few cases were the police told about the incident, with reports ranging from 7% in the case of thefts, to 16% in the case of assaults.

Exposure to violence
The prevalence of violence such as assault and robbery against South African youth is further exacerbated by the exposure, other than personal victimisation, to violence within their home, school and community environments. Extensive international research has shown that exposure to violence and crime at a young age, including acts of personal victimisation, will increase significantly the likelihood of engaging in anti-social or criminal behaviour at a later stage in life. Those who are exposed to such incidents within their communities and homes are also at greater risk of victimisation themselves.

The survey revealed just how common exposure to violence is for South African children and youth. Three out of five young people have witnessed incidents of intentional violence within their home community, and one out of five children or youths have been witness to incidents of domestic violence within their own home.

One in two children or youth below the age of 22 years knows someone in their community who commits crime; while one in four knows someone who actually makes their living from criminal activity. One in ten young people have at least one family member who had engaged in activities that could get them into trouble with the law over the period September 2004 to September 2005.

These experiences clearly impact on the overall quality of life of South African youth and children. Approximately 28% of young people, just under three million people, cite murder as the one thing that they are most scared of, while over one fifth (21%) cite rape or sexual assault. These fears mirror those of the adult population of South Africa, with the 2003 National Victims of Crime Survey revealing that murder, housebreaking and sexual assault or rape were what most South Africans were afraid of.

These rates of crime against young people have profound implications. Fear of crime permeates every aspect of young South Africans’ lives. One in five do not feel safe in the community in which they live, and just under one in ten feels scared of criminals when they are at home. This, together with those who feel scared at school, reflects the general conditions of fear that many young people in the country live under.

The normalisation of crime
These fears feed into what can be called the normalisation of crime for young South Africans. Not only have almost one in two been victims of crime or violence, but they are exposed to it on a range of
levels in their home, school and social lives. Crime is something that surrounds almost all young people in South Africa in some form or another.

In addition to the exposure and victimisation discussed above, almost one in five children or youth had considered engaging in acts that constitute a crime. One half of these, just under one million youngsters, had committed criminal acts. Personal knowledge of people who do engage in crime is also common. Almost one in every two young persons personally knows someone who is currently, or who has been, in jail for criminal activities.

Violence and crime have become something not unusual, or deviant, but commonplace. Despite the extent of victimisation, the levels of repeat victimisation and the acts of violence that surround these young people, levels of fear remain surprisingly low. Fewer than one tenth (9%) of young people report feeling scared at home, while only a little over one in ten (12%) report feeling scared at school, or for those that work, in their workplace.

**Breaking the cycle**

Being beaten up, having belongings stolen, or watching one parent beat the other, has become a way of life for the majority of young South Africans. Perpetrators all too often are other children and young people, the same age or slightly older than the victims, people who themselves are surrounded by violence on all levels, and for whom such acts have become an acceptable way of obtaining something desired, or of resolving a dispute or conflict.

Unless steps are taken to provide a range of more efficient social services and support for children and youth, and as more and more young people fall victim to these crimes, criminal acts will simply become the preferred way for many to achieve their goals. Coherent strategies offering alternatives to violence as a form of conflict resolution, and encouraging the reporting of crimes and violence to the authorities, need to be combined with broader policies designed to make schools and the home in particular, safer for young people.

Parents, caregivers and educators need to be made aware of the cycles of violence in which young people find themselves, and trained to facilitate ways of breaking these cycles. Effective and accessible support measures for young people who have been victimised need to be developed within all the realms that children occupy, but most importantly the school and home, bearing in mind that in some instances educators and caregivers might be complicit in the crime. Most importantly, adequate resources need to be allocated to these strategies.

**Endnotes**


5 The full report on the findings of this study can be found in L Leoschut and P Burton, How Rich the Rewards? Results of the 2005 National Youth Victimization Study, Cape Town, CJCP Monograph Series No. 1, 2006.


7 Finkelhor and Ormrod, op.cit.


12 Finkelhor and Ormrod, op.cit.

Youth in South Africa are exposed to disturbingly high rates of violence within their families. Previous research studies investigating this phenomenon have, for the most part, centred on the psychological impact on children who witness violence against their mothers. Many of these studies have however failed to probe other forms of violence that typically occur in families and the consequences that these might hold for children and youth.

This article attempts to bridge this gap by drawing on the research findings of the first National Youth Victimisation Study conducted in 2005. It aims to shed light on the victimisation experiences of youth by exploring the links between exposure to violence within the family (both as direct victims and as witnesses) and criminal victimisation in the South African environment.

**Methodology**

The victimisation survey final sample comprised 4,409 young people between the ages of 12 and 22 years, recruited from all nine provinces in South Africa. The sample frame was provided by Statistics South Africa 2001 census data, and the sample was stratified by province and race. The total population between the ages of 12 and 22 years was identified. Based on this, a sample of 333 enumerator areas (EAs) was randomly selected, with 13 households in each identified for interviews. The final data was weighted by province, race and gender, using the marginal totals drawn from the 2001 census. This was done to ensure the most accurate representation of the experiences of young people throughout South Africa.

Participants responded to a survey questionnaire exploring their exposure to, and experiences of, crime and violence in their homes, schools, and the broader communities in which they live. The particular crimes explored in this study included both:

- violent crimes such as robbery, assault, rape/sexual assault and car hijackings; and
- property crimes such as theft of personal property and housebreakings.

The questionnaire was piloted at two sites in Gauteng, one rural and one urban. Following the pilot, minor revisions were made to the questionnaire. Respondents were specifically asked about their experiences in the 12 months preceding the study, in order to minimise recall limitations.
The raw data was then captured using the Statistical Package for the Social Sciences (SPSS) and was analysed by means of frequencies and cross-tabulations using chi-square statistical tests.

**Demographic profile of the sample**

Of those surveyed, the majority came from KwaZulu-Natal (23%), Gauteng (16%), Eastern Cape (16%) and Limpopo (14%) (Figure 1).

Female youth (51%) and those between the ages of 15 and 20 years (67%) constituted the greater part of the study sample. Black youth accounted for more than three quarters (83%) of the respondents, while coloured (8%), white (7%) and Indian (2%) participants constituted the remaining 17% of the sample. The sample consisted primarily of young people from rural areas (52%) while fewer respondents were recruited from urban (39%) and metropolitan (9%) areas (Figure 2).

At the time of the study, three quarters of the youth (76%) were still attending school.

**Fear and loathing in the home**

South African society has been described as “very violent.” Many of the youth surveyed were exposed to violence within their homes, both as witnesses and direct victims, indicating that this violence appears to have become entrenched in South African families.

More than a fifth (22%) of the respondents had witnessed family members intentionally hurting one another (Figure 3). Of particular concern is the violent nature of these family disputes, since two fifths (40%) of those who were exposed to domestic violence reported that a weapon had been used in the attack. Subsequently, more than a quarter (28%) indicated that the victim in these disputes had sustained injuries as a result of the altercation.

While exposure to family violence was common among youth from all provinces, it was found to be highest among those from the Northern Cape (33%), North West (27%), and Mpumalanga (26%).

Arguments were also a common occurrence in the homes of these young people (Figure 3), and would often lead to physical altercations. One in ten (12%) respondents indicated that their family members often became physical when they were angry with each other. These findings are again indicative of the violent nature of family arguments and the tendency to resort to physical violence in an attempt to resolve family conflicts.

When participants were asked at what age they first witnessed family members intentionally hurting
each other, nearly one in four (24%) had first been a witness to family violence between the ages of 6 and 10, while more than two fifths (46%) were between 11 and 15 years (Figure 4).

These findings suggest that South African youth are often exposed to violence in their homes at an early age. And when children and young people are exposed to violence during their formative years, it impacts negatively on their developmental pathways. The physical and psychological implications can be far-reaching: low self esteem, anxiety, depression, suicidal notions, and an increased likelihood of becoming involved with delinquent peers and activities. Youth who witness acts of violence in their homes are also more likely to encounter difficulties at school and often struggle to control their anger.

Besides witnessing family violence, South African youth are also direct victims of violence in their homes. More than a quarter (27%) of the young people surveyed reported that they had been caned, spanked or hit by their parents or caregivers for their wrongdoings. This study lends support to previous research studies that have found that even though corporal punishment has been abolished in schools, it continues to be a socially sanctioned means of effecting discipline within South African homes. Girls (29%) reported slightly higher rates of physical punishment than boys (26%).

On the whole, these findings reflect the violent nature of the home environments in which many children and young people live. The legacy of apartheid has given rise to a situation in which many South African families consider physical violence as a socially acceptable means of problem-solving within the home. Thus, as evident in this study, violence in the home has become the norm rather than the exception for many youth in South Africa.
This issue is of particular concern since young people are primarily socialised within the home. When their role models behave violently, these youth are likely to regard violence as an acceptable means of problem-solving, and employ these techniques when they need to resolve conflicts.

Violence breeds vulnerability
McCloskey, Figueredo and Koss maintain that youth who live in homes in which they are exposed to violence on a daily basis are more vulnerable than those not exposed to such a scenario, and hence are more likely to fall victim to crime. This tendency was also reflected in the National Youth Victimisation data. Young people who were raised in antagonistic households experienced higher rates of criminal victimisation than those not raised in such environments.

A statistically significant relationship was found between the participants who reported exposure to violence in their homes and those who had in fact been victimised. Respondents who reported that their families argued a lot, often lost their tempers, and became physical with one another when they were angry, reported significantly higher victimisation rates for most of the crimes explored in this study than those who were not exposed to such violence in their homes (p<0.001). Those who witnessed family members intentionally hurting one another were also significantly more likely to have been criminally victimised.

Exposure to family violence not only makes young people more vulnerable to criminal victimisation, but also impacts on the number of victimisations that they are likely to experience. Young people who had experienced repeat victimisations were more likely to report exposure to violence within their families. These participants were more likely to report that their families argued a lot, often lost their tempers, and sometimes hit each other when they became angry.

There was also a strong relationship between physical punishment and repeat victimisations. The youth who reported that they were caned or spanked at home for their wrongdoings were more likely to report multiple victimisations than those who were not spanked. Even those who reported that they were only occasionally caned for their wrongdoings were more likely to report multiple victimisations than those who were not caned.

Needed: non-violent families
These findings were statistically very significant (p=0.000), and suggest that young people who are exposed to various forms of family violence both as witnesses and direct victims are more vulnerable to criminal victimisation. Particularly concerning is that family violence exposure heightens the susceptibility of young people to violent crimes such as assaults and robberies.

The family is the primary socialising agent where children are taught about acceptable and unacceptable behaviour. Children who are continuously exposed to violence within the home, as is the case with the young people surveyed in this study, come to perceive violence as an appropriate means of conflict resolution and problem-solving technique. These findings point to the need for targeted interventions to raise awareness about appropriate conflict resolution techniques and alternative methods of discipline, particularly aimed at families since they constitute the primary role models for children and youth.

Youth who are victimised generally seek protection and support from their parents or other adults in their households. However, when domestic violence is a regular occurrence, as experienced by these young people, adult family members are unable to adequately meet the needs of these youth because they themselves are caught up in cycles of violence.

The subsequent lack of parental support is an issue of grave concern, because many South African youth do not have access to support systems outside of their families and thus rely on their parents/caregivers for emotional support following traumatic events. These findings thus call for the implementation of psycho-social support structures to be made available to youth outside of their homes, given the high rates of family violence in South Africa.
**Needed: safe spaces**

The data also suggest that South African youth have very few safe spaces where they are not at risk of being victimised. The widespread incidence of violence within these respondents' homes has serious implications for their psychological, physical and educational well-being. The creation of safe spaces for South African youth is a matter that needs urgent attention. The development of recreational and other social groupings and activities can provide these much needed safe spaces.

**Taking children's rights seriously**

Family violence exposure violates the rights of children to a life free from violence as stated in Article 19 of the Convention on the Rights of the Child (CRC),\(^1\) that protects children from all violence including physical and psychological forms of violence.\(^1\) In ratifying the Convention, South Africa has committed itself to ensuring the safety and well-being of all children in their homes and broader communities in which they live. According to the Convention, government parties are also responsible for ensuring that children are provided with the protection and care required for their well-being. However, this right has clearly been violated many times over.

These results are significant since they provide insight into one of the ways in which youth in South Africa are victimised. The study reveals the violent nature of the social environments in which many South African youth live and how this makes them more likely to experience criminal victimisation. However, a more comprehensive understanding of the factors influencing youth victimisation is crucial for advocating for more relevant and targeted youth policy that will reduce the specific threats facing South African youth.

**Endnotes**

2. Unless indicated to the contrary in the text, the term ‘family violence’ is used here to denote all forms of violence involving members of the same family that usually occur in the home environment.
5. Ibid.
In 2005, the Community Law Centre at the University of the Western Cape commissioned a ‘child consultation study’ around the issue of children being used by adults to commit crime. The study was part of a broader programme, ‘Towards the Elimination of the Worst Forms of Child Labour’ (TECL), a technical assistance project established by the International Labour Organisation (ILO) in support of the Department of Labour that seeks to eliminate children’s engagement in the worst forms of child labour. The International Labour Organisation Convention 182 of 1999 identifies “the use, procuring or offering of a child for illicit activities, in particular for the production and trafficking of drugs as defined in the relevant international treaties” as one of the worst forms of child labour. In addition, the commercial sexual exploitation of children, the trafficking of children, and work that is likely to harm the health, safety or morals of children are also considered amongst these ‘worst forms’ of child labour. This Convention was ratified by South Africa in 2000. South Africa has also ratified the ILO Convention on Minimum Age for Admission to Employment (1973), and, based on both conventions, has developed the Child Labour Action Programme (CLAP), which has been provisionally approved by government. The TECL programme commissioned the investigation and design of three pilot projects, aimed at addressing the worst forms of child labour in South Africa. These are:

- commercial sexual exploitation of children and child trafficking;
- the delivery of water by children to households far away from safe sources of water; and
- children engaged by adults in the commission of offences.

The acronym CUBAC was coined by the Community Law Centre as an abbreviation for the term ‘children used by adults to commit crime’, and this pilot project will seek to develop an intervention strategy which is to be implemented and tested in Mitchells Plain and Mamelodi in 2006/07.

One of the activities undertaken in preparation for the pilot project was a Child Consultation Study. This study sought to obtain information about the
experiences and opinions of children in relation to this phenomenon, in order that appropriate intervention strategies could be developed. This article summarises the key findings of the study, and briefly considers some of the issues that have emerged.

Child participation methodology
Engaging children in ‘participation’ or ‘consultation’ is motivated primarily by Articles 12 and 13 of the Convention on the Rights of the Child (CRC), which have the intention of ensuring that children are afforded a direct stake in all processes that relate to them. The Convention makes the following express provisions:

• State parties shall assure to the child who is capable of forming his or her own views the right to express those views freely in all matters affecting the child, the views of the child being given due weight in accordance with the age and maturity of the child.

• For this purpose, the child shall in particular be provided the opportunity to be heard in any judicial and administrative proceedings affecting the child, either directly, or through a representative or an appropriate body, in a manner consistent with the procedural rules of national law.

• The child shall have the right of freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of the child’s choice.

As may be noted from these provisions, the ideal situation is for children to be consulted in relation to all processes, programmes, policies and decisions that may affect them. There is much debate in the children’s rights arena about how to ensure that child participation actually happens, and the purposes that it may fulfil.

It is clear that there are varying degrees of participation that children may be engaged in, some where children may only be marginally involved (such as a once-off study), and others where children are engaged in a deep and ongoing process of discussion and debate (through structures created for this purpose). The primary debate amongst children’s rights activists relates to how such participation may be given respect and meaning, rather than become a token offering by adults, who continue to dominate processes and agendas.

It should be noted from the outset that there are considerable differences between a situation where children are simply being used as research subjects; and one where they are engaged in a participation or consultation process. In an authentic child participation process the views, experiences and opinions of children are paramount, and these are the direct object of interest.

When children are used as research subjects or respondents, they are seen as a means to the information-gathering process, thought to be relevant by adults. This distinction is both philosophical and practical, and is the most fundamental issue that should be addressed before any children are engaged in participation.

The CUBAC child consultation study
A total of 541 children were engaged in this consultation process. This number included 420 children who were awaiting trial in Secure Care Facilities (SCFs) and 121 secondary school children. Children were accessed in five SCFs (in Gauteng and in the Western Cape), and one secondary school in Gauteng. Forty-one focus groups were held, each involving an average of 14 participants.

The average age of the children in the sample was 16 years. A total of 492 males (91%) and 49 females (9%) participated in the focus group discussions. The females were all from the secondary school group.

Given that the intention of the research was child consultation, the substance of group discussions focused on obtaining the opinions and views of children on this issue, rather than on facts relating to their individual experiences. This is particularly important to note, given that the nature of the study did not lend itself to the direct questioning of children about the prevalence of the problem, nor about the impact on them personally.
One of the issues emerging from these focus groups related to children’s engagement in general economic activity and how they used the money earned. Two thirds (67%) of the total group indicated that they had in the past engaged in some activity that earned them money. Nearly a third (33%) of the total group stated that they had never earned money on their own, and that they relied on their caregivers for money.

Just over 30% of the total group, and 38% of the children from the SCF group, reported engaging in illicit activities to obtain money. In contrast, only 2.5% of the school group reported engaging in illicit activities to earn money.

The key discussions, however, related to how children get involved in crime and, in particular, the role of adults in this process.

How children get involved in crime
Prior to asking children about their views relating to CUBAC, the researchers explored their views and beliefs about how children get involved in crime in the first place. The following issues were raised by the groups, and are discussed in order of how frequently they were noted within the sample of 41 focus groups.

Factors at home
Overwhelmingly, the groups stated that factors at home were the cause of children getting involved in crime, and noted things such as poverty in families, parenting and care of children, and family relationships. These issues were raised by 33 of the 41 groups. Children said the following:

- Children come from a hard environment, they have a poor family.
- Your mother may be abusing you and you don’t know what to do.
- I had problems with my family and they chased me away.

Peer pressure and the influence of friends
This was the second most common factor noted by children as influencing children’s involvement in crime (in 30 of the 41 groups). The participants described the influence of their peers as subtle and nuanced; it is not simply a question of friends actively pressuring children into criminal behaviour. Many children are slowly drawn into the culture of the peer group, often because they aspire to having similar possessions as those of the peer group. Examples of children’s responses included:

- You just start hanging around with other people who do bad things. It happens from there.
- You want to please friends. You want to be part of everyone.
- You want to impress friends and wear label clothing.

The use of drugs and alcohol
The use of drugs and alcohol, and particularly addiction to these substances, emerged as a significant theme throughout the study. This was raised as the third set of reasons for children becoming engaged in crime for the first time (by 29 of the 41 groups). The influence of drugs especially was spoken about with a sense of desperation. Children described the drugs as ‘making’ children commit crime. They noted:

- Drugs and Tik make you crazy. Once you start, you must have more.
- You smoke mandrax and Tik and start going with the wrong friends, you become skelm (sneaky).

The influence of gangs
This was noted as the fourth set of factors (raised by 13 of the 41 groups) having an influence on children committing crimes for the first time. This was most prominently noted by the groups in the Western Cape, and to some extent in the group of school children. Children described gangs as helping to define their aspirations: children observe what gangsters have and how they are perceived by the community, and aspire to the same things. Children said:
Growing up in gangster areas, you get involved. You want to be like them.

The gang is attractive with its gold and rings, and there are things that you must do to get that.

**How adults are involved in child crime**

Children were asked several questions that attempted to elicit whether and how adults engage children in crime. All 41 focus groups provided information that indicated that adults engaging children in criminal activities is a common phenomenon, and provided clear and direct examples of how adults are involved when children commit crime.

Adult involvement: direct and indirect

Overall, children indicated that adults involved children in crime through direct and indirect means. The direct involvement of children by adults in crime (noted by 30 of the 41 groups) was described as engaging children as accomplices in the commission of crimes. This included committing crimes together, children acting as look-outs, adults taking children to crime scenes where the children were then expected to commit crime, adults overseeing the commission of the crime, and adults paying children for the commission of crime. This also involved using children to sell drugs.

In 32 of the 41 groups children also described how adults were indirectly involved in engaging children in criminal activities. This would include buying stolen goods, showing children how to commit crime, and providing the means to do so (such as guns). At another level, adults made it known to children that it was easy to commit crime; showed them the kinds of rewards that could be obtained; and gave them an overall impression of crime as attractive and positive.

Offering rewards or ‘bribes’

All 41 groups identified rewards as a means through which adults engaged children in crime. The key issue related to the nature of the reward that was offered, in many cases the children termed these as ‘bribes’. All the groups identified material rewards such as money (29 groups), drugs (21 groups), guns (6 groups) and clothes. In 14 groups, recognition, esteem, acknowledgement and respect were noted as a reward offered.

The issue of drugs in particular emerged throughout this study as a primary means by which adults engaged children in crime. Children often said that getting money was related to getting drugs, in order to feed what they described as an ‘addiction’. Fifteen of the groups described how adults deliberately got children addicted to drugs so that these children could become easy targets for use in criminal activities at a later stage.

Using physical violence and threats of violence

Twenty-seven of the 41 focus groups noted the use of physical violence and the threat of physical violence as a means by which adults coerced children into committing crimes. In exploring the nature of violence and threats used, nine groups spoke of actual beatings and abuse of children, and one of these groups mentioned rape. Fourteen groups identified threats of violence being used to coerce children to commit crime, with five of these groups specifically noting threats of death, made with a weapon such as a gun or knife. Two groups used terms such as ‘torture’ and ‘bullying’ to describe children’s experience.

At least six groups described adults engaging children in criminal conduct as a process of deception. Primarily, this was described as a process where adults would, over time, provide children with things such as money, drugs, clothes and other items. At a later stage they would then claim that ‘these things cost money’ and request the repayment of the ‘debt’ in the form of criminal activities.

Family influence

Twenty-four of the 41 groups described in some detail other behaviour of adults that resulted in children becoming involved in crime. In most cases this related to the experiences of children in their families, and actions of family members that were described as ‘pushing’ children to commit offences. These were:
• home circumstances, with poverty, neglect and abuse cited as the most critical of these influences;
• children receiving no guidance or examples of appropriate behaviour;
• families ignoring or excusing criminal behaviour;
• families making children feel guilty for expressing basic needs.

Mothers don’t know it, but they cause children to commit crime when they say, ‘don’t sit around, go and work for money’.

Coercion or willing participation?
In exploring whether children are coerced into crime, or whether they are willing participants, the groups provided responses to indicate that children were often threatened and coerced into committing crimes (as was noted earlier, 27 of the 41 groups provided information as to the coercive nature of this). However, the groups also noted that, equally, children were making decisions as to whether they should commit crime. Thirty-nine of the groups stated that children themselves often made decisions to commit crime, and that this often related to the nature of the reward expected.

Addressing the problem
The overwhelming majority of groups agreed that adults engaging children in crime was problematic, and that something needed to be done to address the situation.

It is clear that children need help for a number of reasons: those who have dropped out of school and have no opportunities; those addicted to drugs; and those children subjected to coercion by adults. Some of the responses indicated a somewhat fatalistic position, namely that whatever help was given would not make a difference and that a life of crime was somehow inevitable.

Responses to the question of what should be done to help children ranged from constructive options, such as the importance of returning to school, to the xenophobic: “get the Nigerians out of the country”.

The majority of suggestions, however, emphasised education, development, social work services, sport and recreation, and employment.

Based on the information provided, it seems clear that adults engaging children in crime was common knowledge, or commonly experienced, among the child respondents. The study also found that of those respondents in the SCF group on whom information was available through self-reporting (N=389), a total of 182 (47%) were co-accused with adults, while 207 (53%) reported being charged on their own.

The experiences described by children indicate that criminal justice and crime prevention efforts need to be far more vigilant to the question of adult involvement in crime with children. How the criminal justice system deals with the issue warrants particular attention.

The Child Justice Bill will respond to the issue of child offending, and provide for systems to deal with the child’s involvement in crime. However, the act of adults engaging children in illicit activities is not specifically criminalised in South African law.

Sloth-Nielsen comments that while the common law provisions for incitement and conspiracy do exist, these may be inadequate in dealing with the adults who engage children in crime. She argues that instituting prosecutions against adults may, in fact, undermine the overall goal of keeping children away from criminal proceedings, and states that the creation of a new statutory offence, in line with proposals already made by the South African Law Reform Commission in relation to the Child Justice Bill, may be preferable.8

Rewards and threats
The results of the study indicate children’s engagement by adults in crime is not primarily the result of violent or threatening coercion by adults (although this too is common). The respondents indicated that children are engaged in crime by adults most often through the promise of a range of different rewards.

The respondents described rewards of both a tangible and intangible nature. Tangible rewards
problems, child participation studies may be hugely inappropriate given the ethics of engaging children as subjects; and the kinds of risks that may relate to children acting as informers.

Child participation studies may, however, be enormously beneficial in the development of prevention, early intervention and reintegration programmes. From both a child rights and programme development perspective, the involvement of children in the construction of programmes intended for their benefit has been noted to be a good practice. More important, however, is that these studies offer glimpses into the lives of children that may otherwise be impossible to imagine.

Endnotes
6 Article 13, Convention on the Rights of the Child.
The idea of human beings being traded, exploited and abused challenges our very notion of civilisation and demands a response from governments, non-governmental organisations, law enforcement agencies and social service support structures. Yet human trafficking is a slippery concept – frequently confused with human smuggling or used as a blanket term for the sexual exploitation of women and children. In evaluating national and international research on the issue, this article finds that understanding the extent and nature of the problem is complicated, not only by contending definitions, but also by the lack of representative data about trafficking nationally and internationally.

In May 2006 the South African Law Reform Commission released a discussion paper and draft legislation on human trafficking for public comment by the end of June this year. In order to successfully identify, investigate and prosecute cases of trafficking, law enforcement agencies need a clear understanding of what constitutes trafficking. But human trafficking is a slippery concept – frequently confused with human smuggling or used as a blanket term for the sexual exploitation of women and children. In evaluating national and international research on the issue, this article finds that understanding the extent and nature of the problem is complicated, not only by contending definitions, but also by the lack of representative data about trafficking nationally and internationally.

The idea of human beings being traded, exploited and abused challenges our very notion of civilisation and demands a response from governments, non-governmental organisations, law enforcement agencies and social service support structures. Yet human trafficking is a slippery concept – something that is hard to pin down and come to grips with. It is frequently confused in the media with human smuggling, which involves assisting people to illegally cross borders, often for exorbitant fees. Trafficking is also sometimes used as a blanket term for the sexual exploitation of women and children that constitutes much of the writing about this phenomenon.

This article will evaluate national and international research efforts to understand the nature and patterns of human trafficking, and will suggest that more rigorous quantitative research is not only possible, but essential to dealing effectively with the problem. The article argues that the numbers of trafficking victims quoted by NGOs and governments tend to be based on estimates that are frequently inflated. Such overestimations, while successful in capturing public attention and generating moral outrage, do not provide a sound basis for policy making and resource allocation. Furthermore, it is vital for law enforcement agencies to have a clear understanding of what practices constitute trafficking, in order to successfully identify, investigate and prosecute such cases. Without a clear definition and understanding of what needs to be prevented and controlled, an effective response is impossible.

Concerns about trafficking: a background
It is important at the outset to consider the origins of international actions dealing with the problem of human trafficking. According to sex worker rights activist, Jo Doezema, concern about the trafficking (particularly of women and children) was born out of the early social purity movement which developed the stereotype of “white adolescent girls who were...


Drugged and abducted by sinister immigrant procurers, waking up to find themselves captive in some infernal foreign brothel, where they were subject to the pornographic whims of sadistic, non-white pimps and brothel masters.” Deuzema argues that research done at the time established that most of the alleged trafficking victims were in fact sex workers who had migrated in search of better opportunities.

Nevertheless, the result of the successful campaign of the social purity movement was two international instruments: The International Agreement for the Suppression of the White Slave Trade, Paris (1904) and the International Convention for the Suppression of the White Slave Traffic (1910). This was followed by the adoption of two Conventions by the League of Nations: The International Convention to Combat the Traffic in Women and Children (1921) and the International Convention for the Suppression of the Traffic in Women of Full Age (1933).

Eleven years later the United Nations adopted the Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (which combined and replaced earlier agreements). The 1949 Convention conflated trafficking and prostitution, stating that “prostitution … and the traffic in persons for the purposes of prostitution are incompatible with the dignity and worth of the human person.”

Deuzema notes that after 1949 international concern about trafficking abated until the mid-1980s when feminist concerns about sex tourism brought it back onto the agenda.

Deuzema and Alison Murray documented the political processes leading up to the adoption of the more recent Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing the United Nations Convention Against Organised Crime (hereafter referred to as the Palermo Protocol). They note that organisations such as the Coalition Against the Trafficking of Women (CATW) played a significant role in determining the nature and scope of the definition of trafficking that was ultimately adopted. This definition reads as follows:

(a) “Trafficking in persons” shall mean the recruitment, transportation, transfer, harbouring or receipt of persons, by means of the threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purposes of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or practices similar to slavery, servitude or the removal of organs;

(b) The consent of a victim of trafficking in persons to the intended exploitation set forth in subparagraph (a) of this article shall be irrelevant where any of the means set forth in subparagraph (a) have been used;

(c) The recruitment, transportation, transfer, harbouring or receipt of a child for the purpose of exploitation shall be considered “trafficking in persons” even if this does not involve any of the means set forth in subparagraph (a) of this article;

(d) “Child” shall mean any person under eighteen years of age.

The emphasis on sexual exploitation and the focus on women and children (in the title) are indications of the influence exerted by lobbying groups.

Defining what it is we want to control

The Palermo Protocol, exists (as its name suggests) within the context of the effort to curb and prosecute organised crime. The definition contained in the Protocol is extremely broad, and purposefully so. It seeks to provide states that use it in the formulation of domestic legislation with legal ammunition to prosecute all those involved in the process of recruiting individuals and transferring them into situations of extreme exploitation.

Yet, ironically, in the effort to cast the net widely enough to capture all the perpetrators in the chain of deception and abuse, the definition of trafficking becomes so broad as to include almost any act through which an individual ends up in an
exploitative situation. Indeed, there is not even agreement about what constitutes exploitation and a commonsense interpretation of the concept usually prevails.

Trying to establish exactly what it is that we want to control is muddied by the politics of sex, which divides organisations acting in support of women’s rights into two camps. Simply put, those represented by organisations such as the Coalition Against Trafficking in Women (CATW) define prostitution as sexual exploitation regardless of whether women who engage in prostitution do so willingly, or through coercion. Proponents of this position hold that prostitution is a violation of women’s rights and that any woman who apparently willingly engages in prostitution is merely a victim of male domination.

Researchers who share this analysis purposefully and consciously conflate prostitution and trafficking, arguing that trafficking cannot be separated from prostitution. They reject “arguments that redefine and seek to legitimate prostitution as ‘sex work’.” Many of the research reports on human trafficking written by supporters of this point of view argue that the trade in women and children is not only huge, but growing. They point to the demand for prostitutes and the allegedly large profits that can be derived from the trade as causal factors of trafficking.

On the other side of the ideological divide are those groups and organisations representing the rights of sex workers. Organisations such as the Network of Sex Work Projects (NSWP) and the Global Alliance Against Trafficking in Women (GAATW) recognise that women may choose to sell sex, and argue that this is a legitimate choice and one that should not prevent the women who make this choice from being protected against exploitation and violence.

This ideological divide may seem irrelevant to the important task of preventing trafficking from occurring; however, that is not the case. The confusion of definitions presents researchers and law enforcement officials alike with an enormous challenge. Where are we to focus our attention? How are we to count the number of affected people? How do police officers distinguish between self-identified sex workers who have been abused, raped or exploited, and victims of trafficking? Who qualifies for victim support?

The answers to these questions are not clear and the debate about where we draw the lines in distinguishing trafficking from other forms of abuse and exploitation has to be engaged with more actively if we are to put in place effective policies to assist victims, and laws to prosecute perpetrators.

Kauko Aromaa correctly identifies that uniform definitions and accurate measurements of trafficking are essential since “any reallocation of control or support resources is done in the face of competition where the ‘larger’ social problem receives more than the ‘smaller’ one.” He notes the enormous difficulties associated with quantifying something that is so difficult to define: “[T]he situation where a crime is characterised by an absence of the unity of time, place, perpetrator and activity makes the counting exercise particularly demanding [as in the case of trafficking].” Not only do these factors hinder quantification of the problem of trafficking, they also hinder law enforcement.

Aromaa notes that there is little experience of how to apply legal trafficking provisions. He reports on a number of informal interviews conducted with Finnish law enforcement officials to gather their views, during which one official said that the broadness of the definition meant that at least something could be pinned on traffickers, while others pointed to the difficulties in locating and identifying victims.

In one interview a law enforcement official raised the problem that victims of trafficking do not wish to be regarded as such - a point that Kauko later picks up again in relation to victim assistance, saying that the reluctance of ‘victims’ to identify themselves as such hampers investigations which invariably rely on victim statements. He quotes the police officer saying:

It is very hard to identify a victim who does not co-operate, or as often happens, denies his/her victim status, does not accept our view of him/her as a potential or real victim. Then he/she has no reason to co-operate, on
the contrary, he/she will try to escape us who are trying to help him/her. It is also not clear that if the victim’s role is not beneficial to the presumed victim he/she will have no reason to come to us – all we can do is send him/her back and he/she knows this. The only way to improve this situation could be if we would adopt a solution where the victim status is accompanied by some significant benefits – such as a permit to stay in the country, witness protection schemes, etc.10

What is not clear is why, when so-called victims do not wish to be defined as such, there is an insistence that they should be. This kind of thinking is pervasive in the anti-trafficking movement and appears to be a consequence of the view that no woman would choose to do sex work and that all sex workers are by definition exploited. In fact, Kauko and the law enforcement official he quotes go even further, suggesting that some inducement should be offered to supposed victims to define themselves as such, so that a prosecution can follow.

However, this suggestion could have dangerous consequences. Not only could it lead to the exploitation of a vulnerable person by law enforcement agencies to show that they are actively pursuing so-called traffickers, but it places a resource burden on the state which few countries outside the developed world could afford.

Perhaps a more appropriate definition of trafficking for purposes of sexual exploitation, and one that would prevent self-identified migrant sex workers from being identified as victims of trafficking, is that adopted by the Foundation Against Trafficking in Women (STV), a Netherlands-based organisation. They hold that:

| Trafficking | can be defined | as the process in which migrant women are brought into prostitution through the use of coercion, deceit, abuse or violence and in which they are denied fundamental human rights and freedoms such as the right to decide to work as a prostitute or not, the right to enter and leave the sex industry, the right to refuse certain customers, the right to refuse certain sexual acts, the right of freedom of movement, the right not to be exploited, and so forth. If trafficking is defined in a broader sense it can apply not only to prostitution, but also to other forms of labour...11 |

Participants in a workshop held in February 2006 by the Institute for Security Studies suggested that the inability (physical or material) of a victim to remove him/herself from a situation of exploitation should be identified as a feature of trafficking in addition to coercion, deception and force, which are features of the recruitment process. Narrowing the definition in this way may facilitate law enforcement and assist in the identification of victims.

The ideological divide in relation to prostitution and sexual exploitation is set to remain. In the meantime, there is little point in South Africans establishing new laws and dedicating resources to combating trafficking until there is clear agreement about what it is that needs to be prevented, stopped and controlled.

Assessing research on trafficking
Understanding the extent and nature of the problem of trafficking is complicated, not only by contending definitions, but also by the fact that there is so little credible, representative data about trafficking nationally and internationally. Much of the literature laments the absence of data about the prevalence of trafficking and yet, reaches the conclusion that it is a ‘growing’ problem. The reason given for the inability of researchers to quantify the problem is that the industry is hidden and inaccessible. In the same breath researchers quote one another, claiming that perpetrators are making huge profits from the trafficking industry.

US researcher, Thomas Steinfatt, commented extensively on this tendency, and consequently developed a workable methodology to determine the number of women and children trafficked into the sex work industry in Cambodia.12 Steinfatt stated that “[I]t appears to be common practice in statements about trafficking to claim that estimating
the number of persons trafficked into sexual labour is difficult to impossible, and then to present unfounded guesses as to these same estimates as though they were numbers to be relied upon.”13

Steinfatt et al critique the tendency of NGO researchers to reach estimations of prevalence on the basis of interviews with so-called experts:

This process of asking people who work for an NGO or governmental agency in a specific content area how big they think a problem is, may be likened to asking expert baseball players of long standing to estimate the number of persons currently playing baseball in their country. Being an expert at baseball does not imply knowledge or credibility concerning the number of baseball players. Without a scientific study to back up the estimate, players can offer no more than a wild guess even though they are quite familiar with the game of baseball, with many other baseball players and managers, and with the lore of baseball which may contain a ‘number of players’ guess that ‘everyone knows is true’. The average of a set of wild guesses is simply an average wild guess. It does not take much effort to ‘make public’ a wild guess, and then have a second party refer to this guess as a ‘statistic’, attempting to provide the guess with an aura of credibility.14

The authors argue that the large numbers frequently quoted in anti-trafficking literature often serve the interests of the quoted organisations, those that benefit from funding for anti-trafficking work. They state that “[I]f persons with a financial stake in the outcome are allowed to create numbers that affect the size of these donations, then the recipe and motivation for cheating have been created.”15

In a 2003 paper, migration experts Loren Landau and Karen Jacobsen considered the methodological shortcomings of much of the research on forced migration and internally displaced people. Like research on human trafficking, research on forced migration is defined by a dual imperative: to understand and record the phenomenon and, perhaps even more importantly, to help the people caught up in these situations. This means that more often than not, research reports are aimed at providing new insights and solutions to policy problems. This, Landau and Jacobsen argue, places enormous importance on ensuring that the research that is conducted is methodologically sound.

Research that is not methodologically sound not only brings into question the area of research (which in the case of human trafficking is sometimes viewed as research in furtherance of political agendas rather than a response to a real growing problem) but also risks reaching wrong conclusions that in turn will lead to inappropriate, and perhaps harmful, policies.”16

Research into forced migration and research into human trafficking are subject to similar constraints. In both cases victims are hard to access and identify, may speak a language that is not native to the country in which they end up, and may be involved in hidden criminal activity. Although these constraints present researchers with a formidable challenge, particularly when doing quantitative research, they cannot be ignored when designing methodologies.

Landau and Jacobsen, somewhat more generously than Steinfatt, put the lack of rigour in their field down to ‘advocacy research’: “where a researcher already knows what she wants to see and say, and comes away from the research having ‘proved’ it. Although those falling into this trap are often well meaning, this kind of research risks doing refugees a disservice and potentially discredits other academics working in the field. It encourages widespread acceptance of unsubstantiated facts that bolster a sense of permanent crisis and disaster.”17 This statement could equally be applied to research on human trafficking.

On substantive issues of methodology, Landau and Jacobsen argue that few of the studies on forced migration provide a detailed descriptive and critical account of the methodologies used, moreover, they also use techniques such as ‘snowballing’, which, if the intent is to develop a representative sample, are flawed.
That is not to say that snowballing - the practice of identifying research subjects through consultation with informants - is not useful or appropriate in many contexts. It cannot, however, be used as the methodological basis for the development of representative samples, or as the basis from which generalised conclusions can be drawn - as has been the case in much of the reporting on human trafficking.

Authors Frank Laczko and Marco Gramegna, researchers for the International Organisation for Migration in Geneva, grapple with the methodological challenges of doing research on human trafficking in a journal article titled, Developing Better Indicators of Human Trafficking. They, like others, note that “despite the growing literature on human trafficking, much of the information on the actual number of persons trafficked is unclear and relatively few studies are based on extensive research.”

Laczko and Gramegna note that, while there are a number of agencies that collect data on victims of trafficking, this data is seldom systematically analysed. They refer to a 2001 International Organisation on Migration (IOM) project in the Balkans to create a database on trafficking. While this would be one way of creating baseline data from which trends and patterns could be detected, they identify as a major constraint the fact that few governments systematically collect data on trafficking. “[I]t is still common in many countries to mingle data relating to trafficking, smuggling and irregular migration.”

In South Africa combating human trafficking has become a priority for the National Prosecuting Authority. The IOM and other organisations are providing law enforcement officials with training in how to identify and assist victims of trafficking, and a number of non-governmental organisations provide services to victims of trafficking.

These factors suggest that the collection and systematic analysis of data from all these sources about victims of trafficking could considerably aid our understanding of the nature and extent of the phenomenon. Such an exercise would require cooperation between the state and NGOs (for which there is considerable precedent in this field); an agreed method of gathering and recording information from victims; and a centrally administered database. In the long term it is not impossible to imagine that such a system may act as an early warning system for law enforcement officials if trends are monitored and regularly reported on.

The findings reported by Lakzo and Gramegna from data collected in the Balkans challenge conventional wisdom about the victims of trafficking and the recruitment process. Given that the assumptions made about causal factors of trafficking in Southern Africa seem to be based on a commonsense understanding of what causes vulnerability, the lessons from the Balkans should be taken seriously.

The findings from the Balkans data analysis show that:

- roughly a third of the identified victims came from rural areas and most did not classify themselves as very poor;
- almost half of the recruiters were women; and
- 8% of victims had been trafficked previously.

This latter finding suggests that naivete is not necessarily a factor in causing vulnerability, indeed it suggests agency on behalf of the victim. While the findings seem to support the notion that most trafficking occurs into the sex industry, this is likely to be biased by the fact that it is ‘easier’ to identify and find victims in this industry than it is to find victims in other sectors, because the industry is monitored by law enforcement officials.

A 2003 report by the International Organisation for Migration (IOM) on the trafficking of women and children for purposes of sexual exploitation in South and Southern Africa states that the push and pull factors fuelling the trade in women and children include the commoditisation of women, poverty, and, in the case of southern Africa, porous borders. The IOM report notes that the working conditions of women trafficked into the industry are extremely exploitative and include debt-bondage, long working hours, a limited right to refuse clients, and removal of their freedom of movement.
Unfortunately it is impossible to know whether women who are not trafficked may be vulnerable to similar levels of exploitation; or what the particular factors are that make some women, who share the same economic and social situation, more vulnerable to being trafficked than others; or whether the conditions under which trafficked women work in the sex industry differs significantly from those experienced by voluntary sex workers.

**A way forward for South Africa**

Drawing on the methodologies of authors such as Steinfatt who have managed to find a way of estimating, within a fair margin of accuracy, the number of trafficked persons in the sex work industry, and repeating such research in South Africa, would contribute baseline data to discussions about control and prevention. Combining that with qualitative research of inter-governmental organisations (IGOs) and NGOs would provide a depth of understanding about the character of the problem.

Social science researchers could also benefit from considering the methodologies employed by public health researchers who have had to grapple with reaching hidden populations. It is vital that, as researchers who wish to positively assist policy makers, we begin to find ways to gather information that can inform resource allocation and victim assistance programmes.

**Acknowledgement**

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**Endnotes**

2. Ibid.
3. Quoted in Doezema, p 38.
4. Ibid.

10. Ibid., p 5.
13. Ibid., p 3.
15. Ibid, p3.
17. Ibid., p 4.
20. Ibid., p 181.
The South African Constitution guarantees certain rights for those who are arrested, detained or accused of crimes. Since the end of apartheid the South African Police Service (SAPS) has committed itself to serving the community through policing that is "conducted in a manner that is consistent with human rights and democratic values".1

However, the Sex Worker Education and Advocacy Taskforce (SWEAT) has found that the police are engaging in unlawful and unconstitutional acts when arresting sex workers. The rights of sex workers who are arrested and detained are not upheld and in some cases members of the police engage in criminal actions themselves, while supposedly enforcing the law. Over a number of years, sex workers in Cape Town have notified SWEAT about such incidents. In addition to responding to these complaints individually, SWEAT analysed 48 statements received up to the end of 2004, to identify common kinds of abuse experienced at the hands of the police.

‘Sex bribery’, rape and indecent assault

One in three of the women who made statements to SWEAT described being forced to have sex with police officers or knew other sex workers who had been coerced. Women spoke of police officers that offered to release them from jail in return for sex:

There were three of us arrested and taken to the cells. One person was released, when we asked why, the officer indicated that the person who was released and the other police officer were having sex.

Another cop, I don't know his surname, but I know and will always remember his face, always tells me that he will not lock me up if I sleep with him.

Sometimes they ask for sexual favours in the cells (one policeman will come to the cell and choose who he would like to have sex with, so that he can free them all) and if that sex worker doesn't want to do that they all had to sleep there [in the police cell].

Nicolé Fick
Sex Worker Education and Advocacy Taskforce (SWEAT)
nicole.fick@sweat.org.za

Together with other research (see SA Crime Quarterly No 15 2006), this Cape Town based study shows that the highest levels of violence against sex workers come from the police. Far from guaranteeing the rights of the accused, police officers’ actions against sex workers when making an arrest are characterised by criminal activity including theft, assault and rape. Moreover, the minimum use of force is rarely applied when arresting sex workers. These findings reflect a worrying lack of respect for the basic human and constitutional rights of the most vulnerable in South African society.
In addition to this type of coercion, sex workers also reported incidents of forced sex acts with police officers, either in exchange for not being arrested or during the process of being arrested:

He was actually sex bribing me so he won't lock me up... the cop ordered me to give him a fuck and to suck his colleague. He ask a condom and sex me doggie style while I suck his colleague's cock. I felt so shit after that... they left me sitting in front of the police van and they drop me at the Total garage...

Suddenly he grabbed me and kissed me on my mouth and touched me all over including my breasts, arms and buttocks. I tried to push him away but he still continued. I said to him please don't do this. In the mean time I noticed that he took his gun off and put it on the desk and he took a condom from his pocket and he has pulled my pants down. I told him when I do this I always get paid... I told him that even when your wife says no it's no and that I did not like what he was doing to me... he unzipped his pants and put on the condom. He made me sit on the desk and took off my panties and had sex with me. Afterwards he said he was sorry and that he liked African women like me. He took the condom off and I got dressed.

Two sex workers also described incidents of indecent assault by police officers. In legal terms indecent assault relates to the indecent handling of a person who is usually, but not always, a female, including touching the complainant's private parts, lifting up her dress, putting a hand up her dress, or caressing her breasts. A sex worker who was arrested describes a clear case of indecent assault by a police officer:

He pulled my jersey up to see if I had a belt on, touching me... when I asked him to stop he hit me on the back of my head and swore at me.

**Physical abuse during an arrest**

One in two of the women who made a complaint to SWEAT spoke of being physically assaulted or sprayed with pepper spray by the police, either while being arrested or during detention. Assault is defined in South African law as the unlawful and intentional application of force to another person or the threat of force. Usually the application of force is of a direct nature – a slap, a punch or a kick.

Section 49 of the Criminal Procedure Act 51 of 1977 states that in the event that a suspect resists arrest or flees, the arresting officer may, “in order to effect the arrest use such force as may in the circumstances be reasonably necessary to overcome the resistance or prevent the person concerned from fleeing”. However, there is also a recommendation, and indeed a legal requirement, that the police use the minimum amount of force required to effect an arrest. It is significant to note that in reality this is not the case and the minimum use of force is rarely applied in arresting sex workers.

Sex workers speak of various physical abuses when they are arrested by police officers, including being beaten or choked. In 13 of the 48 statements, sex workers complained of being sprayed with pepper spray. One describes her experience of being arrested as follows:

A white golf car with three SAPS police officers stopped. They told me to get out of the car and the client to go. After the client left they sprayed me with a spray gun, at the same time they were kicking me all over my body as I had fallen down at the time... the two were swearing saying: "Jy wil nie hoer nie, jou jintoe, jou hoer, slegte goed." [You mustn't whore, you hooker, you whore, bad woman]. As I was trying to run they followed me with the golf, I felt that they wanted to knock me with the car with the intention of killing me, I thought they were planning to do a hit and run.

In this case the person involved was hospitalised for three days after the incident and the doctor on duty encouraged her to make a case against the
police. She decided not to follow this advice for fear of further abuse by the police, but she did come to SWEAT’s offices to make a statement.

The standard police operating procedure for using pepper spray states that it should be used...
• if a suspect is resisting arrest;
• for self-protection when a police officer is attacked;
• for crowd management;
• inside cells if the safety of the police officer concerned is threatened.

Sex workers experiences are, however, very different. Statements revealed how police spray sex workers with pepper spray as they drive past and once they are confined inside the police van.

**Verbal abuse**
Racism is still an issue that confronts the SAPS.² Research has shown that police abuse disproportionately affects marginalised and vulnerable groups. A number of the women who made complaints spoke of racial slurs and reported that police officers called them “kaffir” or “swart poes” when speaking to them. One sex worker said the police were:

... calling us jintoes and telling us to “take our black pussies and sell them in Bellville”.

Sixteen of the women who made complaints spoke of being verbally abused by members of the police. They talked of being called ‘whores’, ‘jintoes’, ‘naaiers’ or ‘poes’. One woman spoke of her experience as follows:

\[He swore at me and threatened to kick me in my ‘pussy’, until I couldn’t bleed anymore…. They asked for my details…. when I said I had completed Std 9, they said I am uneducated and that is why I sell my ‘pussy’\].

**Extortion**
The dictionary definition of extortion is that it involves the use of one’s official position to obtain a fee. Five sex workers complained that the police required them to pay bribes or very high fines for which they got no receipt. They also said police required sex workers’ clients to pay fines and that they threatened to expose clients to their wives or families if they refused to pay the fine:

He told me the fine is R500 and if I take too long to get in [the police van] it will be R1,000.

If they caught you with a client, they want money from the client (saying it is his fine so that he can’t be locked in or they will tell his family) and from the sex worker too… they don’t ask the same amount all the time; it depends.

The police also threaten the clients (by saying they will tell their wives or lay a charge against them) they want R300 - R1,500.

**Abuse of municipal by-laws**
The majority of sex workers are targeted through the use of municipal by-laws, including those against loitering or loitering with the intent to commit prostitution. The offence of loitering is described in the Western Cape’s municipal by-law as ensuring the convenience of persons using streets or public places as follows:

1. (1) No person shall in a street or public place –
   (a) Run, walk, stand, sit or lie, or
   (b) Deposit, leave, spill, drop or place any matter or thing as to obstruct or be likely to obstruct or cause or to be likely to cause inconvenience or danger to persons or other traffic using such street or public place.

2. Any person running, walking, standing, sitting or lying in a street or public place in the manner referred
the police and frequent arrests, sometimes as often as four or five times a month. They also had concerns about the fact that despite these frequent arrests they were not charged or brought before a magistrate.

Ten sex workers reported being fined for contravening by-laws. The fines they received ranged from R50 to R500 and different fines were often given for exactly the same offence. This is a counter-productive strategy in terms of preventing people from continuing to do sex work, as arbitrary fines impact on sex workers’ income and they often have to solicit more clients to pay the fines.

There were also complaints made by four sex workers about the length of time they were held in custody. According to the Bill of Rights, arrested, detained and accused persons have the right “to be brought before a court as soon as reasonably possible, but not later than 48 hours after the arrest or at the end of the first court day after the expiry of the 48 hours, if the 48 hours expire outside ordinary court hours or on a day which is not an ordinary court day”.

One person spoke of being arrested by Cape Town’s City Police and held for seven days with almost no food (two slices of bread per person per day). Others spoke of being:

…arrested for loitering and kept five days in the [name of place] police cells, with no hearing... we were released afterwards.

Abuse of rights while in detention
Persons engaged in sex work also spoke of various abuses of their rights while in detention. The Notice of Rights given to those who are detained by the police informs them that: “You have the right to be given the opportunity to communicate with, and be visited by, your spouse or partner, next-of-kin, religious counsellor and a medical practitioner of your choice.”

A number of the women SWEAT works with are mothers who are responsible for taking care of their children. One in four of the women who made complaints indicated that they were refused the
right to make a phone call when in custody. The result of this is that they are held overnight or longer, but are not able to let their family know where they are or to make arrangements for the care of their children.

When detainees are informed of their rights they are told that: “You have the right to be detained under conditions consonant with human dignity, which shall include at least the provision of adequate accommodation, nutrition, reading material and medical treatment at state expense”. One in four sex workers who made complaints said they were not held in proper conditions, highlighting that they were kept in crowded, dirty cells, without being given adequate amounts of food or water:

If we are kept in the cells there is never enough food and we are told that ‘kaffirs’ must share porridge and the coffee.

We were kept in an overcrowded cell, with no toilet paper and no drinking water.

We were kept in the cell for a day, with no food the whole day. They released us without seeing the magistrate or being given a fine.

Other sex workers also spoke of the theft of their property while they were held in detention. One person indicated that her jewellery was taken and never returned to her. Another woman reported that when she was arrested with R150 in her possession she only received R100 back.

Lack of police protection

Stigma and social marginalisation play an important role in preventing certain groups from accessing police services and the legal system.4 Given the levels of harassment by the police described above, it is also not surprising that mistrust of the police plays a role, as well as victims’ fears that they won’t be believed and that “the criminal justice system too may be biased against the group to which the victim belongs”.5

In other research done by SWEAT in 2005, participants spoke of their fear of not being believed as well as their actual experiences of not being taken seriously when they reported violence to the police.4 Sex workers who came to the SWEAT office to make complaints confirmed this view, with one reporting the following experience when trying to lay a complaint against the police:

When I complained to the captain about how I was hurt when they arrested me he said “Ag dis maar net hoere en hy kan nie n saak van n prostituut aaneem nie.” [Oh they are only whores and he can’t take a case made by a prostitute.]

Persons engaged in sex work are often traumatised and humiliated by the treatment they receive from the police when they report having been raped.7 Two sex workers reported to SWEAT that the police laughed at them when they tried to lay a charge. In one of these cases two women who tried to report a rape said police just laughed at them and refused to take their complaint:

And we reported it to the police, they just laughed at us...No. We were made to sit in the waiting room. And I just remember this girl saying she wants to speak to the detective and then he didn’t want to help. So then she wanted to speak to the man in charge, he didn’t help. So eventually we left...
and went back to the agency, told the boss, but he wasn’t interested.

Implications of the research
An effective criminal justice approach?
SWEAT’s experience has shown that in the past, the policing of the sex work industry largely took the form of reactions to isolated incidents based on community complaints. However by-laws are now being used for broader campaigns to ‘clean up the streets’ or ‘remove crime and grime from our cities’. The policing of the industry seems unrelated to community complaints and by-laws are being proactively used to target and arrest sex workers to the extent that some sex workers speak of feeling ‘hunted’ by the police.

What is even more concerning is that these arrests are accompanied by increasing complaints of abuse and human rights infringements. It is questionable whether the frequent arrest of sex workers is an effective use of police resources. It is also important to consider the cost effectiveness and impact of local municipal policies that encourage clamping down on sex work and arresting sex workers.

Police are the main threat to safety
The work carried out by SWEAT indicates that the highest levels of violence against sex workers come from the police and law enforcement sectors. However there is little that these women can do given that sex work is illegal. According to sex workers, their strategies for coping with police violence often involve trying to avoid contact with the police by hiding or working at times when they think the police are less likely to be present.

This in turn means the women often work in remote, poorly lit areas where they are more vulnerable to forced unprotected sex with clients. Their fear of the police means that sex workers are unable to access the services of police for protection or even to report crimes that they may have witnessed.

Sex workers are seldom able to lay charges against violent police officers. In most cases this would need to be done at the same police station where the perpetrator works which means risking encountering the offending party again. In our experience, sex workers do not want to risk exposing their identity and they are afraid of retaliation by police officers if they complain about police brutality.

Alternate avenues for protection
Their other recourse is to bring their complaints about police mistreatment to SWEAT. Although the organisation assists individual sex workers in laying complaints against police officers, this has not been a very successful strategy. In only one instance has the Independent Complaints Directorate taken up the case of a sex worker who was raped by a police officer. SWEAT’s attempts to work with the SAPS’ Internal Investigations Unit have also not resulted in the prosecution of police officers who mistreat or abuse sex workers.

In the interests of sex workers, SWEAT engages in a combination of strategies to deal with the problems described above and to reduce the harassment of sex workers. One of these strategies is to offer training to police officers who approach us or to attempt to mediate and negotiate on behalf of sex workers in community policing forums. SWEAT is also developing more confrontational strategies to challenge the incorrect use of by-laws to target sex workers and to address the abuse of sex workers.

Basic and constitutional rights are disrespected
The experiences that sex workers describe reflect a dehumanising lack of respect for basic human and constitutional rights. In many instances the actions ascribed to police officers constitute crimes, including theft, assault, indecent assault and rape. These actions not only threaten sex workers physically, but also put their children at risk when they are unable to make arrangements for their care. The psychological impact of repeated harassment and the denial of legal rights is devastating – reinforcing stigmatisation and discrimination.

It is this stigma and discrimination, coupled with the ongoing criminalisation of sex work, that
enables the abuse of law and of due process to which they are subject when sex workers come into contact with the criminal justice system.

Endnotes


2 G Newham and D Bruce, Racism, brutality and corruption are the key human rights challenges facing the transformation of the SAPS, 2000, retrieved March 2006 <http://www.csvr.org.za/articles/artgnd2.htm>

3 Western Cape Provincial Gazette, 9 June 1995, p 271.


5 Ibid, p 245.

6 N Fick, Coping with stigma, discrimination and violence: Sex workers talk about their experiences, Cape Town, Sex Worker Education and Advocacy Taskforce, 2005.

RECENT ISS PUBLICATIONS

CRIME PREVENTION AND MORALITY: THE CAMPAIGN FOR MORAL REGENERATION IN SOUTH AFRICA
Janine Rauch, ISS Monograph 114, April 2005

Politicians, religious leaders and social commentators have all spoken about a breakdown in morality in South Africa, with crime as the most commonly cited evidence. The moral regeneration initiative is one response to this crisis, emerging in parallel to countless other initiatives aimed at reducing crime, some of which have themselves contained explicit appeals to morals, values or ethics. This monograph traces the origins and development of the moral regeneration initiative in South Africa, and illustrates that the initiative has suffered from a lack of clarity about both its mission and its strategy. The movement's attempts to build meaningful civil society participation in the campaign have also been a key challenge. The monograph also considers whether a largely ideological campaign of this type will deliver any meaningful results in terms of strengthening social fabric and reducing crime.

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The SANDF’s Territorial Reserve, popularly known as the Commandos, is currently being phased out. Its role in rural crime fighting is to be taken over by the SAPS. Using three case studies – Ladybrand in the Free State, the West Rand in Gauteng, and Uitenhage in the Eastern Cape – this monograph assesses the rural crime-fighting capacity that will be lost with the closure of the Commandos, and discusses the manner in which the SAPS will replace that capacity. The central argument is that the SAPS will probably absorb much of the capacity currently contained in the Commandos, but will increasingly use it to police contact crimes in rural town. Resources will be thus shifted, partially and incrementally, away from the policing of agricultural crimes.
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