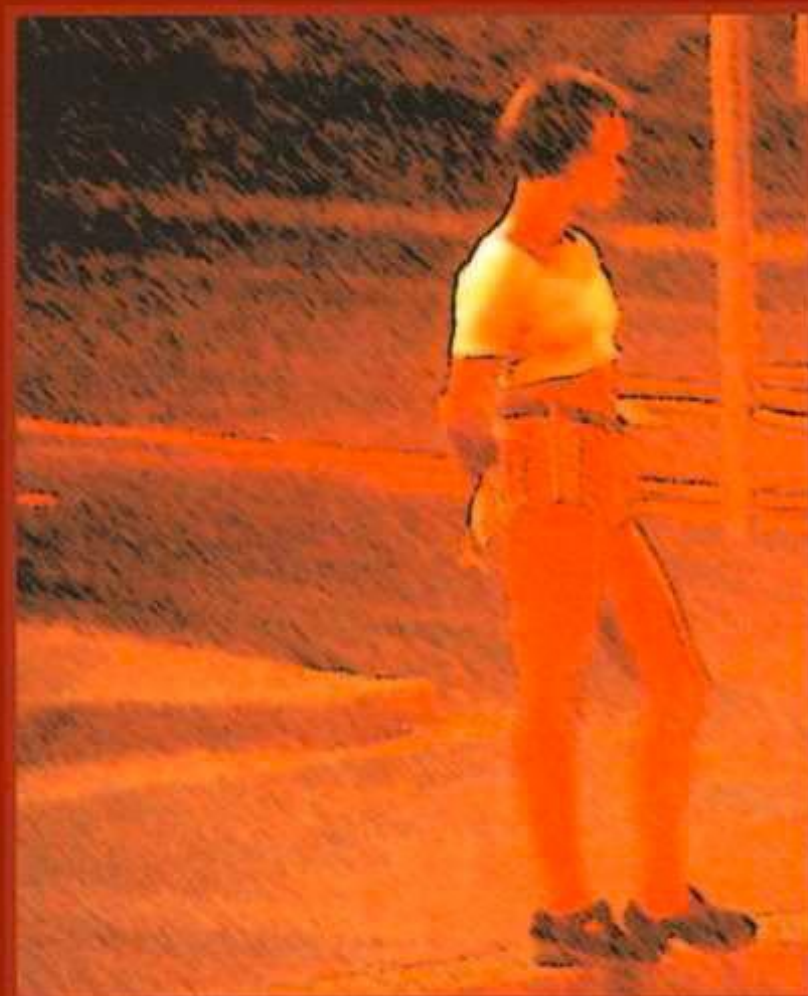


The Trafficking of Children for Purposes of Sexual Exploitation – South Africa

2nd
Edition



A report by Molo Songololo

The Trafficking of Children for Purposes of Sexual Exploitation – South Africa

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About Molo Songololo

Molo Songololo is a child rights organisation based in Cape Town. Molo Songololo's primary functions are advocacy and lobbying for the rights of children and education about these rights. The organisation was established in 1979, the International Year of the Child.

Molo Songololo has been involved in a number of national and international initiatives to advocate for and to educate and inform about the rights of children, this includes advocacy about the sexual exploitation of children.

About the funders

terre des hommes (Germany) has provided financial assistance for specific Molo Songololo projects over the past ten years. terre des hommes is an international funding agency for children's organisations. It also runs programmes that promote the well-being of children, in various countries. terre des hommes has been at the forefront of advocacy about traffic of children for sexual exploitation. Areas of particular concern to terre des hommes are the sexual exploitation of children and landmines, which have caused children the world-over suffering.

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"In their little worlds in which children have their existence, there is nothing so finely perceived and so finely felt, as injustice" – Charles Dickens: Great Expectations

"The children of any nation are its future. A country, a movement, a person that does not value its youth and children does not deserve its future." – Oliver Tambo



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Executive summary

This research reports on one component that underpins most child sexual exploitation through child prostitution: the sexual exploitation of children through trafficking. In examining this issue, our specific focus fell on both in-country and cross-border trafficking. The primary motivation for the research flowed from a growing concern about the increase in child prostitution. This report is the result of various national and international initiatives embarked on over the last four years. These initiatives are discussed in chapter 1.

Premises of the research

The primary assumption of this research report is that child prostitution equals the sexual exploitation of children and that children are coerced into prostitution. In keeping with the South African constitution, children in this report, are those persons under the age of eighteen years. As trafficked children do not voluntarily engage in the exchange of sex for money or luxury items this report therefore does not regard them as sex workers. Where the term sex worker is used it is placed in quotes. Sexual exploitation of children occurs primarily for the enrichment and economic survival of others. That the financial needs of others are met in this way clearly indicates that there is a demand for children as providers of non-emotional and anonymous sex. This research report, however, does not have an in-depth focus on sex exploiters, who provide payment in kind or cash. The primary focus is on socio-economic structural conditions in South Africa that provide the push and pull for the increase in child prostitution. Another focus is on adults who are responsible for facilitating the child's involvement in the exchange of sex for money or items the adult would normally not have ready access to. The report also provides a voice to children who have experienced such sexual exploitation.

Focus of the study

A concern underlying this research was to understand what accounts for the increase in child prostitution. The intended aim was to establish what the key causal factors for the trafficking of children are, how this trafficking takes place and who is involved, so that a picture of the nature of trafficking and the operations involved can be presented and solutions to stem the increase offered.

Findings

In presenting these findings the report focuses on critical aspects related to the trafficking of children. These are

- Who are the children at risk?
- Who is trafficking them?
- How are children trafficked?
- Why are children trafficked?
- What happens to children when they are trafficked? And
- What solutions can we offer to stem this practice?

While the findings are varied, the results highlight the following key aspects:

1. The trafficking of South African children is predominantly an in-country phenomenon. Most of these children are trafficked within the vicinity of the place of origin. Girl children are the primary targets, although boy children have also been identified as victims. Girl children range in age from four to seventeen years



2. Parents and local gangs are the primary traffickers of children, sometimes in collusion with each other. Traffickers in South Africa are thus predominantly locals
3. With regard to the cross-border trafficking of children, traffickers have been identified as foreign. These traffickers have been identified as individuals and crime syndicates from Eastern Europe, Moçambique and Thailand
4. The causal factors that give rise to the increase in the phenomenon lie primarily in the economic situation in South Africa. This together with related phenomena such as, the breakdown in extended and nuclear families, which is often accompanied by changes in cultural attitudes and practices, place children at risk. Demand for sex with children is another primary cause. The findings also provide a sketch of the nature of the trafficking of children for the purpose of sexual exploitation. Trafficking typically assumes six forms.
 - (a) *Strangers, individuals and others who are linked to gangs or syndicates forcibly recruit children to work in the sex industry.* The children subsequently either work in brothels or on the street. These brothels can be well-run operations in suburban areas or it can be a shack in a semi-rural area. This type of trafficking is of both an in-country and cross-border type. The nature of the trafficker or pimp's involvement with criminal activities or organised crime as well as the pimp or trafficker's access to commercial endeavours will determine whether the trafficked child becomes a brothel, escort agency or street worker.
 - (b) *Parents or relatives coerce children to work from their homes or the homes of sex exploiters.*
 Indications from newspaper reports, interviews with police officers and community workers are that these parents are generally un- or under- employed, have dysfunctional relationships with other adults, and are not suited to care-giving on an ongoing sustained basis.
 - (c) *A child is forced to submit to sexual exploitation by a family acquaintance or a person in authority or through a person in authority.* This is done through any of the following means:- abduction- deception- coercion. The child is used as a surrogate wife, to cook and clean. She is raped and sexually and physically assaulted repeatedly. The inclusion of this phenomenon as a form of trafficking draws on the voices raised by the Eastern and Southern African consultation to the Stockholm conference. The argument was for a broadening of the definition of commercial sexual exploitation to include all forms of sexual abuse against children. This practice is in essence a non-commercial practice but is linked to a number of elements we identified as consistent with trafficking. These elements are:- the abduction and removal of a child from his/her place of residence- the use of the child as a surrogate wife, where the child is engaged in domestic and sexual labour against her will.
 - (d) *The trafficking of children into the sex industry by children already in the industry.* In this instance children will either recruit their siblings or friends or will recruit children living on the street. This recruitment however is not necessarily for street prostitution alone. Children have also been trafficked in this way into escort agencies and brothels and into the legal aspects of the sex industry such as exotic dancing and massage parlours.



- (e) *New or relatively established business ventures advertise in national and local newspapers for teenage girls of working age for work in the hospitality or film industries.* This work then turns out to be work in the sex industry. The process by which the child is coerced into doing sex work appears to be similar to the manner in which syndicates and individual gangs operate. The syndicate or gang involvement in this form of trafficking is not clear. On the surface it would seem that there is no involvement. The methods of operation however indicate that this is a more sophisticated form of recruitment and that it might be an attempt to recruit middle class girls with better educational qualifications. This in turn might be an indication that there is an increased demand for such girl children.
- (f) *The cross-border trafficking of children into South Africa is organised by crime syndicates and individuals in the countries of origin and in South Africa.* Little information is available on the nature and extent of these operations. It has been possible to establish that children are trafficked from Russia, Thailand, Taiwan, Moçambique and Angola. Trafficking from Moçambique and Angola involves both girls and boys. While it is possible to discern these patterns in the trafficking of children, it is also possible to establish what the contributing factors are. These factors are presented in chapters 4, 5 and 6. The major contributing factor is an economic one. In a world where globalisation has resulted in increased un- and underemployment and where women have increasingly been pushed out of the job market, families and single parent families in particular have been faced with finding alternative ways of ensuring an income. Coupled with this, there is an increased demand for sex with children from both South African and foreign men. There is not only a supply but also a demand, which appears to be on the increase. Children are thus placed in a vulnerable situation where they can be trafficked and sexually exploited. This report also highlights the difficulties that those charged with the responsibility of protecting children have with regard to combating the twin phenomena of the sexual exploitation of children and the trafficking of children for this purpose. These difficulties relate essentially to inadequate service provision and an inadequate understanding of the legal remedies available to combat these phenomena. The report recommends a national initiative to educate and inform South Africans about the trafficking and sexual exploitation of children. It further recommends that a body be established to implement policy and to monitor the implementation of the policy.



Introduction: The world in which children live

"Prostitution is now recognised as a major component of the emerging global market – a vibrant multinational sex trade which involves millions of children, particularly girls, and which generates billions of dollars profit for the traffickers involved. The demand by wealthier countries for cheap sex workers is a major motivating factor in the recruitment by various means of women and children for the extensive and lucrative sex industries"¹

Children are trafficked into various sectors of domestic and international economies. They are trafficked into domestic service, to work in factories, into the agricultural sector and into sex industries. They are also trafficked for their organs, and as drug runners for syndicates. They are murdered and their dead bodies used to courier drugs across borders. In addition they are trafficked as mail-order brides and for purposes of cross-border adoption.

That children are the victims of such abuses is indicative of their vulnerability in relation to adults. Children's vulnerability however also increases with the vulnerability of adults, who are children's primary care givers and responsible for children's well-being. Adults' ability to take care of children however is dependent on adults having the economic means to provide for children. Most adults in the world today however do not have the means. Recent much published reports state that half of the world's six billion people live on less than US \$2 a day. Most of these people live in the developing world. In contrast to this there is a small group of people, most of whom are from the developed world, who have earned US \$1.1 trillion this year alone.² This disparity in incomes is indicative of the widening gap between rich and poor. On a global scale this manifests itself in a widening gap between the rich developed world and a poorer developing world.

The effects of declining incomes on South African adults and children are seen in this report. In addition to these pressures created by the world outside, South Africa has its own legacy to contend with. Whereas the welfare and social service sectors had to cope with about 5 million people before 1994 it now has to cope with the demands of 40 million people, most of whom are getting poorer. This places children even more at risk, as there is no real safety net for them and their families.

Changes in the world order however have not only been in the economic arena but also at political, social and cultural levels. This has resulted in South Africa and elsewhere in national transformation. In South Africa this transformation has seen challenges not only to a racial order, but also to the order of gender relations. This has resulted in a challenge to patriarchy. This in turn has created "the crisis of the patriarchal family, disturb(ing) the orderly sequence of transmitting cultural codes from generation to generation, and shake the foundations of personal security, thus forcing men, women and children to find new ways of living."³

Transformation however is an uneven and contested process and whilst the effects of the world order has been to challenge gender relations, the advances made in this regard are equally challenged.

¹ D. Westwood: 'World Vision Discussion Paper No. 4, 1998 p.1

² L. DiCarlo: 'Billionaires' www.forbes.com

³ M. Castells: **The Information Age: Economy, Society and Culture, Volume 2: The Power of Identity** (Blackwell Publishers, London and Massachusetts, 2000) p. 354



When a situation such as this is combined with changes in cultural responses to difficulties, children become increasingly vulnerable and the impression can easily be created that children are commodities. They can thus be used, sold, rented and trafficked. They can be stolen (abducted) and transported thousands of kilometres across borders to be used for nothing other than the sexual satisfaction and gratification of those who desire them and who have the money to pay for the use and exploitation of their bodies. How far sex exploiters and traffickers are prepared to go to satisfy their desires is evidenced by the following text taken from a television documentary *Throwaway Children*. The Norwegian Justice Minister commissioned this documentary, in 1988. The transcript was reproduced in Lee-Wright's *Child Slaves*.⁴

In this documentary an undercover Los Angeles police officer took a call from an Italian paedophile, Alessandro Monchini. *Alessandro*: "I want a child of ten years."

Police Officer: "A little girl of ten years?"

Alessandro: "Yes. Perfect. Also one of eight years, six years. What you say

...?" *Police Officer*: "I think a girl of ten, but if I can find someone younger I will try." *Alessandro*: "OK."

Police Officer: "OK. And you want to have sex with her?"

Alessandro: "Yes, yes. And I want to have, if possible, hard sex."

Police Officer: "Very hard sex."

Alessandro: "OK. We can do all this?"

Police Officer: "You can do anything you want with her."

Alessandro: "After she make love, she die."

Police Officer: "Do you want to kill the girl?"

Alessandro: "Yes. What happen when she die?"

Police Officer: "We would have to find a way to get rid of her body."

Alessandro: "Aha. And how much cost it?"

The global sex industry is a sophisticated one which is characterised by its diversity. It comprises both small businesses and large enterprises, "with bank accounts, advertising campaigns and glossy brochures." ⁵ These operations are run by local gangs as well international syndicates who use "deception, kidnapping, enslavement, smuggling, false passports, bribery, and corruption at many levels."⁶ This poses major challenges for the international community. The impunity with which international syndicates and individuals manage to engage in these illegal operations increasingly threatens the sovereignty of governments and borders. The primary focus of this report however is on the local nature of the trafficking of children for the purpose of sexual exploitation.

Structure of the report

The report is divided into eight chapters. Each of these chapters deals with a specific theme relevant to the issue. Chapter 1 covers the motivations for the research and provides details about political initiatives at international, regional and local levels related to child prostitution and the trafficking of children. These initiatives resulted in particular commitments to eradicate the twin phenomena of child prostitution and trafficking of

⁴ P. Lee -Wright: *Child Slaves* (Earthscan, London 1989)

⁵ 'Children as commodities' www.ecpat.net

⁶ Ibid



children, for this purpose. Whilst this report describes these initiatives, it does not provide an evaluation of progress in this regard.

Chapter 2 is concerned with conceptual and methodological issues. It provides definitions of terms used to describe and explain the phenomena, and outlines the research process in terms of methodology. This covers primary and secondary data collection, and analysis and interpretation of the data. Chapter 3 provides a brief overview of the international and national literature on the topics. This provides a brief overview of the main themes covered in international literature and provides a picture of the information available on South Africa. The major source of South African material comes from newspaper coverage. The results of trends and patterns identified from print media sources have been incorporated in Chapter 4.

Chapter 4 covers the causal factors that give rise to the increase in the trafficking of children and provide indications of patterns and trends as they relate to the phenomenon. It details the institutional and structural socio-economic conditions prevalent in South Africa that constitute the push factors that result in poverty and lack of access to financial resources. It also suggests that the changes in family structure are a major contributing factor and these, combined with the institutional socio-economic conditions prevalent in South Africa, constitute the primary push factors. The pull factors essentially constitute the factors that facilitate both the demand and the supply. The availability of money and the use of power determine the demand for sex with children by adults. Some sex exploiters favour children over adult sex workers because children are less likely to negotiate the exchange in terms of the sexual acts. The chapter also provides a sketch of patterns and trends that relate to the issues of child prostitution and trafficking of children. This chapter thus provides profiles of traffickers, children who are trafficked and some indications of who the sex exploiters are and what their attitudes to sex with children are. It also indicates the methods of trafficking used and gives an indication of in-country trafficking routes.

Chapter 5 provides indications of the cross-border trafficking of children into South Africa. The cross-border trafficking of children is not a recent phenomenon and further in-depth research is needed to establish the changes in the nature of cross-border trafficking over the past hundred years. Despite the occurrence of the cross-border trafficking of children since the time of the "White Slave Trade" in the late nineteenth and early twentieth centuries, South Africa still does not have legislation that prohibits the trafficking of children for this or any other exploitative purpose. Information on the nature and extent of present day cross-border operations is limited and more difficult to access than information on the in-country trafficking. This is largely due to two factors, the international nature of the trafficking and the involvement of transnational crime syndicates. Children are also kept in captivity and are therefore difficult to access.

Chapter 6 provides a case study of 19 girls trafficked into a Cape Town-based gang. The case study provides some information on gang involvement in child prostitution and provides a picture of the structure of the particular gang. Importantly the case study provides insights into the lives and experiences of the girls trafficked for the purposes of sexual exploitation. It details the methods of trafficking, provides a profile of the male members of the gang. It also explains the relationships that operate within the gang where girl children are subjected to physical and sexual violence on a daily basis from the gang leader, other male members in the gang and from sex exploiters. It also gives a profile of the girls interviewed.



Chapter 7 looks at the legal issues as they pertain to child prostitution and trafficking of children for this purpose. This chapter provides a review of current international conventions, African charters and South African legislation. As such it provides legal remedies to deal with the trafficking of children for the purpose of sexual exploitation.

Chapter 8 contains recommendations that will provide for the safety and care of sexually exploited children. These recommendations focus on initiatives that could be undertaken at both a national and a local level.



Chapter 1

Motivations of the research

1. Introduction

This report has its origins in local, national, regional and international initiatives concerned with the sexual exploitation of children, since 1996. These initiatives focused specifically on defining what sexual exploitation of children is, how it manifests in southern Africa, what international actions to combat sexual exploitation are, gathering information about the issue, and calling for research into sexual exploitation and the trafficking of children. These initiatives are discussed briefly. Molo Songololo initiated, hosted, facilitated and participated in these initiatives.

The research was motivated by the need to follow-up on commitments made since 1996. Molo Songololo recognised that thus far information on the trafficking of children for purposes of sexual and commercial exploitation is largely based on media reports and anecdotal accounts from sex workers and those who work with children at risk. At present no substantive record of in-country or cross-border trafficking, of children exists. The aim therefore was to obtain information that would allow the organisation to fulfil its obligations with regard to these commitments. A brief history of these is given below.

1.1. The lobby for the rights of children

Chapter 2 on the Bill of Rights of South African Constitution, Act 108 of 1996 states in Section 28(2) that "A child's best interest is of paramount importance in every matter concerning the child." This principle enshrined in the Constitution was the result of various lobbying initiatives by child rights organisations and other lobbying groups. This was preceded by initiatives such as the summit on children's rights and the South African Children's Charter in 1992.

This principle of the best interest of the child extends to all matters related to the child. This includes the socio-economic conditions, which determine much about the conditions of children's lives.

1.2. Network against the Sexual Exploitation of Children

In May 1996 a workshop hosted by Molo Songololo discussed the topic, "The Sexual Exploitation and Abuse of Children". The workshop was attended by 20 Cape Town based organisations. During the discussions the following⁶ was disclosed

- an 8-year old boy had been prostituted by his family, to provide the family with an income

⁶ Report of meeting by Network Against the Sexual Exploitation of Children (NASEC) held in May 1996



- school going children were being prostituted by their families
- abandoned children and children living on the street were engaging in survival sex
- children were being prostituted at shebeens and shacks of migrant workers
- children were being trafficked into prostitution rings controlled by Cape Flats gangs
- school girls were being sexually exploited by taxi drivers
- children under 18 were engaging in sex work on the city streets and in brothels
- 10 and 12 year old children were being held captive in brothels and forced into prostitution
- there was an increase in the demand for sex with children due to the belief that children are free from the HI Virus

1.3. Eastern and Southern African Regional Consultation on the Commercial Sexual Exploitation of Children

In April 1996 the Eastern and Southern African Regional Consultation on the Commercial Sexual Exploitation of Children, a preparatory consultation meeting for the First World Congress against the Commercial Sexual Exploitation of Children, noted that

"... the focus of the World Congress on the 'commercial' aspect of sexual exploitation does not sufficiently reflect the concerns of the region. They pointed out the fine line between commercial sexual exploitation for 'in-kind' benefits and the more alarming occurrences of the non-commercial sexual abuse of children in the form of domestic violence and incest. They believe that far more attention needs to be paid to abuse in the home as both a primary cause of commercial sexual exploitation and as a far more serious problem in itself."

The Human Sciences Research Council's (HSRC) position paper published later that year noted that the position of the Eastern and Southern African Consultation *"clearly reflects a broader perspective on the problem of the commercial sexual exploitation of children than currently prevails generally. Thus apart from the focus on the commercial sexual exploitation of South African children, the HSRC position paper also focuses on abuse and incest in the family; rape, lobola or bride price, child marriage, child sex in exchange for shelter, food, work and education."*⁷

The HSRC's position paper further stated that *"... only by addressing these wider non-commercial aspects of sexual exploitation can the commercial sexual exploitation of children be more successfully combated in South Africa."*⁸ (Emphasis in the original)

The HSRC position paper also noted the following patterns and trends with regard to the sexual exploitation of children:

- Although the majority of sexually exploited children are girls and the vast majority of exploiters are men, a growing number of boys are involved, and women as well as men are exploiting them
- The sexually exploited child is not paid in cash or profit, but 'in kind', that is the child receives shelter, food, school fees, school grades or new clothes in exchange for sexual favours
- Adolescent girls and boys who have no other means of supporting themselves and/or their families regard sex as an 'acceptable' way to earn money. Termed 'survival sex'; the victims, their families, their communities and/or the perpetrators do generally not regard this phenomenon as exploitation. Survival sex is often practiced by children who

⁷ E. Schurink and W. Schurink, 'Sexual Exploitation of Children: An HSRC Position Paper' in In Focus Forum, Vol. 4, No. 3, November 1996 p. 25

⁸ Ibid p.25

⁹ Ibid p.25



are sent by their families to earn money by begging or working, or by children living on the street

- Some older men ('sugar daddies') have sex with young girls in exchange for school fees, nice clothes and other unaffordable luxuries. In addition, commercial sexual exploitation of children also occurs when large numbers of children are present where large groups of single men are gathered. This commonly occurs on truck routes and at mining camps.

1.4. The Declaration and Agenda for Action

South Africa and 119 other countries adopted a Declaration and Agenda for Action against the phenomenon of commercial sexual exploitation of children, at the Stockholm Conference, in August 1996. In so doing South Africa committed itself broadly to the following actions:¹⁰ See Appendix 4 for the full texts of the Declaration and Agenda for Action¹.

1. Co-ordination and co-operation at local, national, regional and international levels with the purpose of ensuring that

- by the year 2000 there (is) a national agenda for action and indicators of progress, with set goals and time frames for implementation
- targeted to reducing the number of children vulnerable to commercial sexual exploitation and nurturing an environment, attitudes and practices responsive to child rights.

2. Ensure a reduction in the incidence of commercial sexual exploitation through the following preventative measures

- access to free and compulsory primary education
- improve access and provide appropriate health services, education and training, recreation and a supportive environment to families and children vulnerable to commercial sexual exploitation
- maximise education on child rights
- initiate gender-sensitive education
- the promotion of child rights in families
- the identification and establishment of peer education programmes to combat the commercial sexual exploitation of children
- the formulation and implementation of gender-sensitive national social and economic policies to assist children vulnerable to commercial sexual exploitation, families and communities in resisting acts that lead to commercial sexual exploitation
- the enactment and implementation of laws, policies and programmes, to prevent the commercial sexual exploitation of children, bearing in mind the Convention on the Rights of the Child.

3. The protection of children through

- the implementation of laws and policies and programmes designed to protect children at risk and to prohibit the sexual exploitation of children
- the implementation of national laws to establish the criminal responsibility of service providers, customers and intermediaries in child prostitution, child trafficking and child

¹⁰ A Step Forward: The Third Report on the Implementation of the Agenda for Action Against Commercial Sexual Exploitation Stockholm, Sweden, 28 August 1996: ECPAT, 1999 pp 92 - 94



pornography, including possession of child pornography, and other unlawful sexual activity.

4. Facilitating the recovery and integration of child survivors of commercial sexual exploitation by, inter alia

- adopting a non-punitive approach to child victims
- providing social, medical, psychological and other support to victims of commercial sexual exploitation
- adopting not only legal sanctions against the perpetrators of sexual crimes against children and their families, but also sociomedical and psychological measures to create behavioural changes on the part of the perpetrators.

5. Ensure the participation of children in actions aimed at the prevention of the commercial sexual exploitation of children by

- promoting the participation of children and others so that they are able to express their views and to take action to prevent and protect children from commercial sexual exploitation
- identifying or establishing support networks of children and young people as advocates of child rights.

1.5. National Programme of Action

The National Programme of Action (NPA) is a national process that grew out of recommendations made at the Conference on the State of the African Child and the Thembisa Declaration, devised in 1993. Out of these initiatives and in collaboration with UNICEF the NPA process began. The primary aim of the NPA is to improve the well being of families and children. Its work is based on a programmatic response through national and provincial processes and structures, underpinned by a partnership between government, civil society and UNICEF – to the idealistic vision of the UN Convention on the Rights of the Child and Section 28 of the South African Constitution.¹¹ In 1997 the NPA devised a programme with achievable outcomes towards the eradication of the sexual exploitation of children. Molo Songololo as partner in the processes of the NPA sees itself as giving expression to the programme of the NPA. One of the needs identified by the programme was for research on the issue of child sexual exploitation.

1.6. The National Consultative Conference on the Sexual Exploitation of Children

In March 1999, various stakeholders including national and foreign based non-governmental organisations (NGOs), representatives of political parties, the South African Police Services (SAPS) Interpol (London) and representatives of South African government departments met at a three-day conference held in parliament to deliberate on issues related to the sexual exploitation of children. This conference organised by the Network against the Sexual Exploitation of Children (NASEC) resolved that the traffic in children should be combated through particular steps and actions.¹² These included the need for research about child prostitution and the traffic of children for this purpose.

¹¹ National Programme of Action: 2000 & Beyond, An Assessment of the NPA and the Way Forward p.4

¹² National Consultative Conference against the Sexual Exploitation of Children March 1999 p.124



2. Conclusion

Molo Songololo is a child rights organisation, which has been active in the field of children's rights since 1979. The organisation decided to embark on a campaign to highlight the nature of child sexual exploitation and traffic in children to give expression to commitments it has made through participation in various fora, as described above. This research project is the first phase of this campaign and was embarked on with the intention to provide regional and national policy makers and researchers with a high level of in-depth research information and theoretical insights into questions about trafficking for the sexual exploitation of children. This was done in the hope, thereby of enhancing policy and practice of the legal, justice, immigration and migration, health and social welfare departments of the South African government as well as non-governmental organisations and other agencies working with children at risk of sexual exploitation. Molo Songololo envisages that the lobbying and advocacy campaign that will follow as a result of these findings will be a collaborative effort between Molo Songololo and various interest groups.



Box 1: Glossary of terms

Trafficker/pimp - a person who provides a child to another for the purpose of the sexual exploitation of such a child.

Sex exploiter - refers to a person who gives expression for the desire to have sex with a child or more than one child and fulfils this desire through verbal or physical coercion or promises or offers the child or a third party a reward. This reward is usually promised in exchange for the child performing sexual acts with the sex exploiter or for the sex exploiter. The promised reward can be either of a cash or inkind nature

Prostitution/sex work - the exchange of sex for money

Child prostitution/ commercial sexual exploitation/ sexual exploitation - the sexual exploitation of a person under the age of eighteen for financial or other reward. See Chapter 2 for a discussion and definition

Trafficking/ traffic of children for purposes of sexual exploitation - all acts by adults involved in the sexual exploitation of children for the financial gain of such adults. See Chapter 2 for a discussion and definition

Transfer - the removal and transportation of a child without the consent of the child

Sale of children - involves the exchange of money for a child where the child is permanently removed from the care of its parent/s or guardian/s. This money can be given either as a lump sum or as payment at regular intervals e.g. weekly or monthly. This definition does not include the temporary removal of the child in exchange for money. This form would more appropriately termed " the renting" of the child. "Renting" of children is believed to occur when the child is required by paedophiles or others for short-term purposes such as to pose for pornographic photographs or pornographic films.

Debt bondage - payment to an authority figure in a child's life in exchange for a child with the proviso that the child will have to earn the money back. The expectation of both child and parent/guardian is usually that the child will be released once the debt has been paid

Abduction and kidnapping - the term abduction is used in this document. South African common law defines abduction as:

The unlawful and intentional removal of an unmarried minor from the control of his or her parent or guardian in order to enable someone to marry him or her or to have sexual intercourse with him or her.

South African law defines kidnapping as:

The unlawful and intentional depriving of a person of his freedom of movement and/ or, if such person is a child, of his/her custodians of their control over him/her.



Chapter 2

Conceptual and methodological issues

"Sexual exploitation goes hand in hand with other forms of exploitation, and cannot be divorced from the economic exploitation of children in general, or the exploitation of female sexuality. It is therefore important to remember that the sexual exploitation of children is a double, or even triple, abuse, involving the misuse of economic power, age relations and sexual oppression."¹³

1. Introduction

This research report's focus is on the trafficking of children for purposes of sexual exploitation. The focus on this subject area was motivated by the following concerns:

- a significant increase in the incidence of the sexual exploitation of children for commercial purposes in South Africa
- children increasingly being forced into prostitution
- several reports of the cross-border trafficking of children for the purpose of sexual exploitation, and
- that attempts to campaign around this issue should be informed by empirical findings.

The trafficking of children for the purpose of sexual exploitation is regarded as those activities which facilitate access to a child by an adult in exchange for money through a third party or parties where all or most of the money goes to the third party and not the child.

Trafficking includes:

- the exchange of the child in marriage for money
- the abduction of a child by a person known or unknown to the child for the sole purpose of sexually exploiting the child or for the dual purpose of sexually exploiting the child and using the child as domestic labour
- the exchange of money between a trafficker and an authority figure in the child's life, for the child to be used by the trafficker as a child prostitute.
- central to these activities is the transportation of a child from the community in which the child lives.

2. Limitations of the Research

The research process was characterised by two main limitations. First, despite numerous efforts, we were unsuccessful in obtaining information regarding the in-country trafficking of boy children. While this partly relates to the low incidence of this phenomenon, it is further clearly clouded with silence. Secondly, the research was conducted over a relatively short period due to the urgent need to tackle issues around in-country and cross-border trafficking. As a consequence, we were not always able to pursue all leads vigorously.

A third limitation that partly relates to the second is that of the scarcity of first hand accounts of all identified forms of the trafficking of children for purposes of the sexual

¹³ Anti-Slavery Society, submission to the United Nations Commission on Human Rights Working Group on Slavery, 1984



exploitation. This particularly impacted on data collection with regard to the cross-border trafficking of children. This data collection was also hampered by the lack of prohibitive laws against the practice. This has the effect that police departments arrest children and then have them repatriated through the department of Home Affairs. We were unable to establish the numbers of children who have been abused in this way and subsequently repatriated. To present some indication of the nature of the practice, use has been made of interviews with police officers and accounts provided by investigative journalists, in the print media and specifically newspapers.

3. Terminology

The terms, "the child", "child prostitution", "commercial sexual exploitation", "sexual exploitation" and "trafficking" are dealt with here. For explanations of other terms see the glossary in box 1.

3.1. Who is a child? Defining "the child"

South African legislation, through provisions in specific statutes and the Constitution, defines a child as a person under the age of eighteen years.¹⁴

The United Nations Convention on the Rights of a Child states that "a child means every human being below the age of 18 years unless under the law applicable to the child the majority is attained earlier."¹⁵

This report adopts these definitions of the child.

A note on the use of the terms "girl" and "girls"

These terms are used here to denote the female child and do not reflect children and adult women in the sex industry who refer to themselves as "girls".

Whilst we do not want to negate the females' in the industry's self-referencing, we view women and children as two distinct social categories.

3.2. Defining child prostitution/commercial sexual exploitation of children/sexual exploitation of children

Schurink et al¹⁶ defines prostitution and child prostitution as follows:

"a prostitute is any person who gains his or her livelihood partly or wholly by indiscriminately, without affection, exchanging sexual and/or non-sexual activities (e.g. listening to someone's problems, going out with someone or acting as someone's regular girl - or boyfriend) for money or for accommodation, food and/or other valuable articles."

With regard to child prostitution, Schurink et al¹⁸ takes the view that any male or female under the age of 18 years who is coerced or forced (in other words exploited or victimised) to provide sex for money or goods is considered to be a child prostitute. (Emphases in the original)

¹⁴ The Child Care Act (--/1999), as amended. The Basic Conditions of Employment Act and Section 28(3) of the constitution of the Republic of South Africa (108/1996) are important.

¹⁵ Article 1 of the UN Convention on the Rights of the Child. 1979

¹⁶ W. Schurink, E. Schurink and C. Smit: Children Involved in Prostitution: Exploring a social process to manage the problem in South Africa, HSRC, 1995, p. 12 ¹⁸ Ibid p. 12



In these terms, by highlighting the voluntary nature of adult prostitution and the involuntary nature of child prostitution, Schurink et al essentially captures the most common activities associated with prostitution. However, whereas this description depicts adults as active agents who benefit financially and in other ways from prostitution, it clearly does not take the same view with regard to child prostitution. Within this definition then it is clear that child prostitution can be and should be regarded as a forced activity associated with coercion, dominance, violence and rape.

The United Nations Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography defined child prostitution thus:

the act of engaging or offering the services of a child to perform sexual acts for money or other consideration with that person or any other person.

Importantly, the Special Rapporteur, Mrs Calcetas-Santos, further noted that

under this definition child prostitution is not committed by the child itself, but by the person engaging or offering the services of a child¹⁷

Both these definitions link child prostitution inextricably to coercion by adults. In accepting these definitions it is clear that we must focus on how children are coerced into acts that essentially constitute their sexual exploitation. Combating the sexual exploitation of children must involve not only a focus on the child but more importantly on the sex exploiter who is responsible not only for the actual physical and sexual exploitation but also the adult who facilitates this exploitation.

This raises the difficulty of the commercial exploitation aspect of the sexual exploitation of children who have been trafficked. In order for children to be commercially exploited, as "sex workers", there must be

- a voluntary exchange of sex for money and
- the exploitation would occur when the agreed upon amount for a specific service is not paid.

If children do not engage in child prostitution voluntarily and there is no equal exchange between the child and the exploiter, then there is no commercial transaction between the child and the sex exploiter as the commercial transaction is essentially between the trafficker and the sex exploiter. Any commercial exploitation that might take place would therefor be at the expense of the trafficker/pimp.

The process that facilitates the sexual exploitation of children and the actions involved in this process is essentially what constitutes trafficking for purposes of the sexual exploitation of children.

A note on voluntary sex work by children

This report also recognises that not all children who are sexually exploited in this way are coerced.

¹⁷ Report of the United Nations Special Rapporteur on the Sale of children, Child Prostitution and Child Pornography to the Human Rights: Social and Economic Council 1996: 2-3



Some reports on children indicate that there are children who exchange sex for money without an intermediary. This is done essentially in two ways. In the first instance it is believed to be an easy way to make money to provide for their own needs in terms of fashion accessories and money for entertainment.¹⁸ In the second instance particularly children who are run-aways and live on the street do it as a means of survival.¹⁹ This report does not focus on this particular aspect.

3.3 Defining "Trafficking of children for purposes of sexual exploitation"

Trafficking involves the recruitment, transportation, transfer, harbouring or receipt of a child when this is done by means of the

- sale
- abduction
- use of force
- threats
- deception
- use of abuse, power or authority.

4. Design and Method

4.1. Aims and research tasks

This report focuses on seven key aspects, which relate to trafficking.

These are a) a profile of those who are trafficked

b) a profile of traffickers

c) an indication of established trafficking routes

d) an overview of South African legislation that provides guidelines with regard to issues related to the trafficking of children for purposes of sexual exploitation. These issues are the care and safety of children, migration, child labour and child prostitution

e) an overview of international conventions and agreements aimed at the prevention and elimination of the sexual exploitation of children and the trafficking of children f) police investigations

g) service provision in terms of safety and treatment to children rescued from trafficking.

In terms of scope, the research hopes to provide insights that will be relevant not only to South Africa but also to other regional and international initiatives and to provide a basis for further research and social and legal action.

To this end the specific research tasks were:

1. To investigate actual reported instances of trafficking within the provinces of the Western Cape, Gauteng, KwaZulu Natal and the Eastern Cape, focusing on the main centres where trafficking has been reported; namely Cape Town, Pretoria, Johannesburg, Durban and Port Elizabeth. These centres were chosen because we had limited time in which to complete the research and because there were actual reported cases, which could be investigated

¹⁸ Newspaper reports in South Africa and see for instance G. Sereny: **The Invisible Children: Child Prostitution in America, Germany and Great Britain** (André Deutsch Limited, London, 1984) for examples in Europe and the United States.

¹⁹ Noted particularly in South African discourse cf. Schurink et al and various conference papers presented at the National Consultative Conference on the Sexual Exploitation of Children, March 1999 Hereafter **NASEC Conference Report**.



2. To examine and compare South African and international experiences of trafficking focusing on legislation, police and anti-trafficking organisations' investigative procedures and methodologies
3. To review South African legislation and international conventions
4. To create profiles of trafficked children, traffickers and identify and map trafficking routes and destinations

To make recommendations with regard to social policy and legal reform.

4.2. The research team

The research team comprised a senior researcher and two field researchers. The project team was based at the Molo Songololo offices, in Cape Town.

4.3. Design and Method

Data Collection

The research comprised the collection of qualitative and quantitative data. Data was collected through the following procedures:

- a) A search and review of relevant literature, including print media, covering reported instances of trafficking, trafficking routes and international debates and trends in trafficking for purposes of sexual exploitation of children
- b) Extensive interviews with nineteen girls and one young woman who had been trafficked when she was a child
- c) Interviews with two family members of trafficked children
- d) Interviews with three adult sex workers; two in Cape Town and one in Durban
- e) Open ended interviews with members of the following South African Police Service (SAPS) departments: Aliens Investigation Unit (Pretoria), Border Patrol Unit (Cape Town), Child Protection Unit (Cape Town), The Youth Desk (Cape Town), The Section Head of the Family Violence, Child Protection and Sexual Offences Unit, The South African Narcotics Bureau (Port Elizabeth) and investigating officers at police stations in Cape Town and Wintersveld in the Northwest Province and the Station Commissioner of the Hillbrow Police Station
- f) An interview with an official at the Thai embassy, in Pretoria and telephonic communication with the Moçambican Consulate in Cape Town
- g) Interviews with representatives of organisations that provide services to sexually exploited children and organisations engaged in research of aspects related to the sexual exploitation of children. In particular:
 - The Sex Worker Advocacy Taskforce (SWEAT), Ons Plek, Homestead, and email and telephonic communication with Straatwerk, in Cape Town
 - The Reproductive Health Research Unit based at Baragwanath Hospital and in Hillbrow, Zizanani, The House, and Sithabele Child and Youth Care Centre, Johannesburg
 - Lerato House, in Pretoria
 - Wings of Love and the School of Development Studies at the University of Natal in Durban and
 - Amnesty International in Port Elizabeth



- h) A survey of some Western Cape organisations that provide services to children at risk with the aim of establishing what their service provision to children who had been sexually exploited or were being sexually exploited is. These organisations are:
- Streets
 - Tracing Missing Persons
 - Refugee Forum
 - Bon Esperanz (Women's Refugee Forum)
 - Children's Resources Centre
 - City Mission, and
 - Arise (Christian Child Care).
- i) Interviews with representatives of institutions who were believed to have useful information with regard to policy. These were the Commission on Gender Equality and the Assets Forfeiture Unit
- j) Interviews with The Aids Law Project at the University of the Witwatersrand, The Reproductive Health Unit and the Aids Project of the National Bargaining Council for the Road and Freight Industry in Johannesburg and the School of Development Studies at the University of Natal, Durban with regard to health issues related to HIV and STD transmission
- k) A telephonic interview with a radio journalist and a face-to-face interview with an independent researcher
- l) A review of the following South African statutes:
- The Sexual Offences Act, 23/1957 as amended in 1988
 - Proposed Draft Sexual Offences Bill, 1999
 - The Aliens Control Act, 96/1991 as amended in 1995
 - The Prevention of Organised Crime Act, 121/1998 as amended in 1999
 - The Basic Conditions of Employment Act 57/1997
 - The Promotion of Equality and Elimination of Unfair Discrimination Act, 4/2000
 - The Immigration Bill, 2000
 - The Child Care Act 74/1983 as amended in 1999
 - The Domestic Violence Act 116/1998
 - The Refugee Act, 130/1998
- m) A review of the following relevant international Conventions and Charters signed and ratified by South Africa, among these
- United Nations Convention of the Rights of the Child, 1979
 - The African Charter on the Rights of the Child

The sources listed from a - m provided information on the following:

- verified cases of trafficking and an indication of the ages and gender of children, their places of origin, circumstances under which they had been abducted or sold, nature of the debt bondage, length of stay in place where the child had been trafficked to and conditions in place of captivity
- information on aspects of the social realities of trafficked children such as possible health risks
- information on traffickers
- information on trafficking routes, places of origin and destinations



- police detection and investigation procedures
- indications of possible policy reform
- information on current legislation allowing for the identification of gaps
- indications whether current legislation is in keeping with commitments agreed to in United Nations Conventions and the Charter on Rights and Welfare of the African Child.

Interviews

Our methodology for qualitative data collection with regard to the children was based on a snowball sample and semi-structured interviews. The focus in these interviews was firstly on obtaining demographic information about the children with regard to their ages at the time they were trafficked, their present ages, the methods of trafficking and the conditions under which they were held captive. In addition, it was also assessed what type of intervention would be needed.

The research design was influenced by two key difficulties. First, since trafficked children are usually closely watched and protected from contact with outsiders, the children we wanted to interview were not accessible through direct approaches. Secondly, those who had left organised aspects of the sex industry were difficult to trace. In consequence, we relied on the technique of snowball sampling, as this form of non-probability sampling appeared the most realistic method to use.

A single informant was used to put field researchers in touch with their friends who were subsequently interviewed, they were then asked about their friends until the chain of informants had been selected. Access to the children was gained on guarantee of anonymity and the protection of their identities.

In one instance a police officer led us to an interviewee. In another a family member led us to three trafficked girls as well as another family member.

In this respect field researchers inherited the decisions of each individual as to whom the next suitable interviewee would be. We do not believe that this represents a problem as our interviewees presented sufficient diversity. We are however aware that we might have been led down a path of data collection which reflects a particular perspective. This in turn might have led to the omission of voices and opinions of others that are not a part of this network of friends and acquaintances. This did however present us with a situation where 19 of the 20 interviewees were connected to a particular trafficking situation. This in turn necessitated the case study approach in Chapter 6.

Literature

As with all research, interviews did not begin when we first commenced. Preparatory work through reading, initial exploratory work, understanding the situation into which we were venturing, clarifying any ambiguities which people might have of the research and eliciting their co-operation and being sensitive to ethical, political and theoretical considerations in the process, formed a central part of our practice. The literature was obtained in the following ways. Die Instituut vir Eietydse Geskiedenis en Navorsing at the University of the Free State was requested to do a search for newspaper articles for the period 1997 - March 2000. Other source material was obtained through local libraries and resource centres, international and South African Internet search engines and Molo Songololo's in-house collection of materials. Literature was also obtained through personal correspondence with researchers attached to academic institutions.



4.4. Data analysis and interpretation

4.4.1 Interviews with children

Interviews of children were analysed by using an ethnographic analysis. Focusing on the ways interviewees spoke of one another and made sense of the events that they experienced allowed for the construction of a picture of meaning of relationships to people and the language that people used to describe each other and the events, which took place.

None of the child interviewees spoke English as a first language. However two of the 19 children preferred to do their interviews in English. The remaining 17, interviews were conducted in Afrikaans. The interview with the one young woman was also conducted in Afrikaans. Two members of the research team have not only a proficient understanding of the Afrikaans language, but also have the necessary cultural understanding of words to allow for equivalence of meaning. This was particularly important as meanings of words can vary or entirely different words may be employed in referring to the same phenomena.

The transcriber also has a proficient knowledge to allow for accuracy in transcription. In addition field researchers' notes were also used to clarify certain aspects of interviews. The interviews ranged from 30-minute interviews to 70-minute interviews, with the average length being 45 minutes.

4.4.2. Interviews with organisations and individuals

The average length of these interviews was 45 minutes. Most of these interviews were tape recorded and transcribed. Field researchers' notes were used as complementary to these transcriptions. The purpose of these interviews was to obtain information about particular aspects of relevance to the research. Most of the information was of a professional nature. In these cases a system of coding was used to determine which relevant aspects were being talked about. These were then classified according to the category of data that they belonged to.

4.4.3. Analysis of the literature

This comprised three aspects. In the first instance, data was collected from international sources and from South East Asia in particular. This was done with the purpose of identifying key areas of research and intervention as well as identifying the conceptual and methodological issues raised by the material.

In the second instance attempts were made to locate South African research documents on the topic.

In the third instance a survey of newspaper articles for the period January 1997 - March 2000 was conducted with the intention of establishing what the themes covered by this sector of the print media, are.

This analysis of literature allowed for the identification of phenomena and the definition of concepts to guide the initial phase of the research.

4.5. Report writing

The report was written to firstly provide information and analysis to national, international and regional organisations with a view to inform social policy and legal reform. It was written secondly to emphasise the immediate need for implementation of existing policies and programmes of action that have the best interests of children at their centre.



Chapter 3

Review of literature: The trafficking of children for purposes of sexual exploitation

1. Literature Surveys

1.1. International literature

The international literature on the trafficking of children into domestic and foreign sex industries is vast. Most of this literature focuses on the trafficking of children on the Asian continent, with a particular focus on Southeast Asia,²⁰ especially Thailand, where the local sex industry although illegal is said to account for 15 to 18 percent of the Gross Domestic Product.²¹ Among these, are various studies conducted by anti-trafficking organisations.²² The themes covered in these reports are:

- the international trafficking of children

In general the literature indicates that children are trafficked to feed the growing international sex industries. This is largely by international crime syndicates. It also reveals that this is primarily to feed the growing sex tourism industries in Asian countries.

- the regional trafficking of children

The focus on the regional trafficking of children is primarily Asian-based and involves the trafficking of children on the Indian sub-continent. • the factors that put children at risk of being trafficked

From the literature the primary factors that put children at risk are poverty and religious practices such as temple prostitution in particularly Thailand and India.

- the number of children being trafficked

These vary, but figures range from a few hundred to tens of thousands. Trafficked children are primarily girls although boys have been identified in Sri Lanka.

- rescue of trafficked children

A number of documents have this as a feature. This usually covers the rescue of an individual girl child by a non-governmental organisation. The child is usually rescued from a brothel and reintegrated into her village. In some instances the rescue of a few girls from a single brothel is recorded.

- the need for legal reforms and penalties for traffickers

Most of the literature that focuses on this aspect indicates that there is not sufficient legal prohibition that allows for the arrest and conviction of traffickers. This usually relates to the difficulties related to extradition of traffickers for offences committed in the country of destination.

²⁰ Researchers who conducted a global literature review for UNICEF confirm this. See J. Ennew et al: **How Can We Measure and Monitor the Commercial Sexual Exploitation of Children? Literature Review and Annotated Bibliography** UNICEF and others, 1996

²¹ L. Lim (ed.) **The Sex Sector: The economic and social bases of prostitution in Southeast Asia** (ILO, International Labour Office, Geneva, 1998)

²² UNICEF **Cambodia: The Trafficking and Prostitution of Children in Cambodia: A Situation Report**, 1995, ECPAT, YMCA, ECPAT and UNICEF: **Child Prostitution: The Ultimate Abuse: Report on National Consultation on Child Prostitution** Nov 18-20 1995, New Delhi and various websites See for instances: Global Alliance Against the Traffic in Women see: <http://inte.co.th/gaatw> For Coalition Against Trafficking in Women see: <http://www.uri.edu/artsci/hughes/catw/catw/htm> For Captive Daughters see www.captive.org For Prostitution Research see www.prostitutionresearch.com



- that trafficking is a violation of the rights and dignity of the child

Anti-trafficking groups focus on this aspect with regard to the rights of children contained in the United Nations Conventions on the Rights of the Child. Articles 34 and 35 expressly obligate countries to ensure that measures are put in place to combat both the sexual exploitation of children and the trafficking of children for this purpose.

The patterns and trends that emerge from this literature are that

- children are trafficked primarily into domestic and international sex industries
- such children are from poor, rural backgrounds
- parents collude in the trafficking of their children
- children are most often debt-bonded to a trafficker or brothel owner
- children's health particularly with regard to HIV infection is placed at risk.

1.2. South African literature

By contrast, very little has been written in South Africa on the sexual exploitation of children or on the trafficking of children. Of the reports available, the writings of newspaper and magazine journalists predominate. As far as could be established, to date only a few studies on child prostitution or the trafficking of children for this purpose have been published. One study commissioned by ECPAT was done by two researchers in preparation for the Stockholm Conference and focused on the issue of sex tourism. Children were not interviewed for this study. Children in prostitution have been interviewed in a few studies that have focused on issues related to marginalised children such as children on the street and children in the informal economy.²⁵ Attempts have however also been made to grapple with the conceptual issues related to the phenomenon.²⁶ Reasons have also been sought as to why children are engaged in prostitution.²⁷ Children, however, were not the primary focus of this research, they were part of the research sample. The Consultative Conference on the Sexual Exploitation of Children produced a number of position and research papers on issues related to sexual abuse, sexual exploitation and trafficking of children.²⁸ These papers were largely based on the organisational focus of specific government and non-government agencies. The conference view on what constitutes the sexual exploitation of children is best summarised in the following definition provided by one of the presenters. "Sexual exploitation of children comes in the forms of rape, sodomy and any sort of inappropriate sexual contact, including exposing children to indecent acts, pornography and prostitution."²⁹ Thus the conference contributions broadly covered the following with regard to sexual exploitation

- child sexual abuse, in the home and institutional settings,³⁰
- children in street and hotel brothel prostitution³¹
- child labour, including child prostitution, as a form of child abuse³²
- pornography and the trafficking of children³³
- child sexual abuse and domestic violence as primary causes of child prostitution³⁴

²⁵ See for instance J. O'Connell Davidson and J. Sanchez Taylor: South Africa: Child Prostitution and Sex Tourism ECPAT International, Thailand, 1996 and W. Schärf, M. Powell, E. Thomas: 'Strollers- Street Children of Cape Town' in S. Burman and P. Reynolds (eds.) Growing Up In a Divided Society: The Contexts of Childhood in South Africa

(Ravan, Johannesburg, 1986) pp. 262 -287 and J. Swart-Kruger and D. Donald: 'Children of the South African Streets in

A. Dawes and D. Donald (eds.): Childhood and Adversity: Psychological Perspectives from South African Research

(David Philip, Cape Town and Johannesburg, 1994) pp. 107-121

²⁶ Schurink et al



- ²⁷ Schurink et al and L. F. Freed: The Problem of European Prostitution in Johannesburg (Juta, Johannesburg, 1949)
- ²⁸ Section 3 of the NASEC Conference Report pp 25 – 82 Indicated as pp 32 – 82 in Table of Contents
- ²⁹ D. Nairne: 'Girl Children at Risk: A Study of Child Sex Workers in Hillbrow, Johannesburg', Footnote 1, p. 105, NASEC Conference Report
- ³⁰ See for instance F. Matsaung: 'The Effect of Sexual Exploitation of Children on Education in The Northern Province' pp 38–41, NASEC Conference Report
- ³¹ See for instance: D. Nairne, Ibid pp 98–105, J. Van Niekerk: 'Children and Survival Sex in Kwa-Zulu Natal' pp 26–29, and V. Veeran: 'Breaking the Silence: Combating the Sexual Exploitation of Street Children' pp 29–33, NASEC Conference Report
- ³² See for instance D. Chabalala: 'Responding to the Sexual Exploitation of Children' pp. 113–115, NASEC Conference Report
- ³³ See Section 3.2 of the NASEC Conference Report
- ³⁴ Rachel: 'Domestic Violence: How it Contributes to the Sexual Exploitation of Children', p.62 and T. Msezana: 'Sexual Exploitation of Girl Children Growing up on Farms' pp 60–61. Ibid

1.2. South African Print Media

The print media, particularly newspapers and magazines are one of our most valuable sources of information on child sexual exploitation and, particularly, child prostitution. The value of these newspaper and magazine reports is that they

- raise public awareness about the phenomenon, and
- give children who are being exploited a voice by recording their words and attitudes about the manner in which they live.

Newspaper and magazine articles have used investigative methods to create public awareness about child prostitution. These sources also draw on reports from those who work with children at risk to highlight the factors that contribute to child sexual exploitation. Thus interviews are commonly conducted with social workers and police officers who work with street children or deal with families in distress.

A survey of newspaper articles, in the English and Afrikaans press, for the period 1997 to March 2000 indicated certain trends and factors which put children at risk of sexual exploitation. In addition, these articles also highlight the nature of the trafficking of children for the purpose of sexual exploitation.

National newspapers surveyed were The Sunday Times, The Sunday World, Rapport, The Sunday Independent, City Press, and The Mail & Guardian. Regional newspapers reviewed are the Pretoria News, The PE Herald, The Mercury, The Star, The Argus, The Sunday Tribune, The Sunday Argus, the Saturday Paper, The Saturday Argus, The Cape Times, Beeld, and Die Burger.

These articles highlight the fact that the sexual exploitation of children is the consequence of the interplay between macro, meso and micro factors. These factors have been incorporated into the discussion on the nature of the in-country trafficking of girl children in Chapter 4.

The media in general focus on child prostitution with regard to the following:

- casual factors
- incidence of the phenomenon
- need for effective legislation
- need for effective service provision.



The combined effects of these factors result in the following patterns and trends with regard to both the sexual exploitation and the trafficking of children for this purpose.

- The voluntary cross-country migration of girl children. This migration can be either from rural to urban areas or from city to city. They are lured into the sex industry by men either on their way to the new city or are approached by these men shortly after they leave home
- Girl children are sold by family members to brothels, syndicates and individual gang leaders, and as child brides to single men
- Girl children are abducted, held captive, sexually assaulted and coerced into having sex with several men in exchange for money
- Parents facilitate the sexual exploitation of their own children
- Boy children are voluntary migrants and engage in prostitution as a means to survive. Boy children engage mostly in homosexual sexual activity. Some of these boy children are homosexual, although most are heterosexual.

Another feature of newspapers is that their adult entertainment and employment sections advertise either the services of children or advertise for children to work in the industry. Advertisements for sex with children typically appear in the form of advertisements that advertise as "Barely Legal".

The recruitment of teenage girls between 15 and 18 years of age into the sex industry happens through newspaper adverts such as the following:

Actors/dancers/singers wanted. Experience not necessary (telephone number provided)

Young women are then surreptitiously coerced through a form of debt bondage into doing strip tease work, providing sex to patrons of certain establishments or performing in pornographic films. One such case came to the research team's attention at the beginning of March 2000. In this instance, advertisements for young attractive girls were placed in both the Cape Argus and the Cape Times. They offered work in the hospitality and film industries respectively. On investigation, it transpired that the work was in a men's club in a peri-urban area of the Western Cape and that the South African Police Service's Border Patrol Unit: Cape Town were investigating the case. This alone prohibits us from reporting our involvement in uncovering this operation as it is currently under investigation.

Newspaper reports have provided us with valuable information about the sexual exploitation of children and provide us with information that allows for the identification of trends and patterns with regard to this phenomenon. Specific newspapers have also run a series of in-depth articles on the issue. This would indicate that certain editors regard the issue as important and urgent. The tone of some of this reporting, however deserves mention, as it is sometimes sensationalist. This sensationalism is most immediately observable in the headlines and the way in which it labels and objectifies young girls who are being sexually exploited. Some examples of such reporting is provided here

*'My Baby's got eyes for you: Girls lured to Jozi with job offers - and sold'*²³

This article deals with the traffic of a 14-year-old girl from KwaZulu-Natal to Johannesburg. This girl was a voluntary migrant who accepted a lift and a job offer from a man who forced her to have sex with several men in a room from which she could not escape.

²³ City Press: 27/4/97



*'Girls aged 12 years selling their bodies for R2: Shocking tale of sex for sale'*²⁴

This article describes girl children, some, as young as 12, engaged in street prostitution in Chatsworth, Durban. It also notes community outrage about girls engaged in prostitution.

*'The war on gymslip sex: Children as young as 12 are being sold into prostitution'*²⁵

This article reports on the much-publicised case of brothel madam, Radha Hariganes, and parents who facilitate the sexual abuse of their children in Durban.

*'Hillbrow's seducers are babes in the wood'*²⁶

This article reports on safer sex workshops run by the Esselen Street Clinic in Hillbrow for sex workers. It focuses on girls who are under-age sex workers.

*'Meeting the teen sirens of the night'*²⁷

This article reports on the sexual exploitation of girl children in taverns in Messina, near Beit Bridge.

In these articles the objectification of girls as "Sirens of the night", "girls in gymslips" engaged in sex work, "girls as selling their bodies for R12" girls as "my baby" who's "got eyes for you", and "babes who seduce" affords girls a sexual agency. This sexual agency is then negated by the actual content of the reports, which invariably invalidates the girls' sexuality and presents a story of a girl child without agency and at the sole mercy of more powerful adults. This is then reflected in a focus on the causal factors that lead to the sexual exploitation of mostly black girl children.

2. In summary

International and local literature provides us with valuable insights into child prostitution and the traffic of children for this purpose. Importantly, it allows us to identify the key casual factors that lead to this phenomenon and facilitates its growth. It also allows for the identification of those involved in these practices.

From newspaper reports it is clear that a wide range of individuals and groups at all levels in society contribute to this exploitative practice. These can be individuals, club owners, taxi drivers and someone the child knows, including a parent. It can also be those organised into gangs and syndicates.

Newspaper reports also indicate that in some instances communities are aware of child sexual exploitation and justify this as a 'necessary evil' in a society where children are increasingly needed to help supplement the family income or to provide for themselves.



²⁴ V. Pillay: Tribune Herald 9/1/00

²⁵ Saturday Paper 18/10/97

²⁶ M. Sibanda and M. Marx: City Press 24/1/99

²⁷ M. Safara: Sowetan 2/2/00



From these investigative accounts in newspapers it appears that girl and boy children on and of the street resort to prostitution as a means of survival, whether voluntarily or as a result of having been trafficked.

These reports also indicate that there is considerable migration of girl children across the country. This in-country migration of girls is a particularly important phenomenon, which warrants more serious attention.



Chapter 4

Factors and trends with regard to the incountry trafficking of girl children

1. Introduction

This chapter is based on interviews with community workers, police officers and a child rescued from sexual exploitation. It reflects the findings from these interviews. With regard to the causal factors, those identified by the media have been incorporated here as there is significant overlap between these different sets of sources. These findings are also supported by findings in other literature.

These findings allow for a sketch of:

- the causal factors
- a profile of girl children who are trafficked
- the traffickers · trafficking routes.

2. South African children exploited in the formal and informal sectors of the economy: context

South Africa's 17 million children make up 44,24 percent of its population.²⁸ The majority, 61 percent, of these children live in poverty.²⁹

The Network Against Child Labour (NACL) estimates that there are 400 000 children working in South Africa.³⁰ According to the Human Rights Committee, these, children are working in both the formal and informal sectors of the economy. Of the children working in the informal sector; there are 200 000 between the ages of 10 to 14 and 200 000 between the ages of 15 and 18. The report further states that "child labour is everywhere, from taxi ranks to farms and coalyards. They are forced to work hours that adults are protected against simply because they have no voice in the labour market or recourse to law. Their average wage is R10 a day."⁴³ Children who are sexually exploited are counted among this number. Sex exploiters pay anything from R10 to a R150 to traffickers, for access to the child's body.³¹ Most children do not receive any of this money.

Newspaper reports and NGOs indicate an increase in child prostitution.³²

Children can be trafficked into any of the legal or illegal sectors of the sex industry. The sex industry comprises the following sectors as presented in table 1, below.

²⁸ Human Rights Committee, **Quarterly Review: Children's Rights and Personal Rights 1999** p. v

²⁹ Rights Up Your Street: Nadel 1998 quoted in Z. Abass 'Realities of Children's Lives' in **NASEC Conference Report** p. 87

³⁰ C. Bhengu, 'Children Forced into Prostitution', Sowetan, 17/3/98. This figure has been contested by child rights organisations, active in the field of child labour as a conservative estimate. ⁴³ Human Rights Committee, **Quarterly Review**, Ibid p. vi

³¹ These sums were mentioned in interviews conducted. Media reports however suggest that sex exploiters pay anything from 50c - R150 depending on where the exchange takes place for instance sex in an agency will fetch higher than sex on the street.

³² See for instance: S. Naidoo and P. Kirk: 'Rampant child prostitution' the *Saturday Paper* 8/11/1997



Table 1: Sectors of South African sex industry

Sector	Description
Independent entrepreneurs	Two categories: women and men
Street work	Independent men and women, pimped women, trafficked women, trafficked children
Escort Agencies	Voluntary and trafficked adults and children
Brothels	Voluntary and trafficked women and children
Hotel brothels	Independent and pimped, voluntary adults and trafficked children
Massage parlours *	Voluntary and trafficked adults and children
Telephone sex	Adult women and men
Clubs *	Adults and children: voluntary and trafficked
Residential based (home of exploiter/trafficker)	Usually children: voluntary and trafficked
Trucking routes	Voluntary Women, Men and Children
Harbours	Independent adults, pimped adults and trafficked children

* *Massage parlours and clubs constitute the legal sectors of the industry.*

2.1. Numbers – how many?

There are no official statistics of children in prostitution. The South African Police Services crime code list "does not make provision for the age of the offender with regard to prostitution." ³³ Information obtained from media reports is based on estimates and records of cases by individual agencies. Some of these are:

- Social workers and officers of The Child Protection Unit (CPU) estimate that there are 28 000 child prostitutes in South Africa³⁴
- The South African Council for Child and Family Welfare received 328 cases in 1998³⁵
- Reports for Johannesburg and Cape Town indicate that police deal with a significant number on a monthly basis. In 1998, the Johannesburg CPU dealt with an average 15 new cases a month of girls aged 13 to 18 years³⁶
- The Elsies River Police Station in Cape Town dealt with an average of 5 cases a month, in 1999³⁷
- The Sex Worker Advocacy Taskforce (SWEAT), based in Cape Town says that 25 percent of sex workers (in Cape Town) are children³⁸
- Police dealt with 38 000 child prostitutes during 1998³⁹
- In 1997 the Child Protection Unit estimated that a quarter of Cape Town's street children were engaged in prostitution.⁴⁰

The South African Polices Service's (SAPS) national overall statistics for the period 1996 to 1999 for arrests of women and children for prostitution are reflected in table 2.

³³ Faxed communication from the SAPS Crime Information Analysis Centre, dated 22 August 2000

³⁴ Simon Farrell, 'South Africa's Sick Trade in Young Girls, ' Reader's Digest, June 2000, p. 32

³⁵ S. Leslie 'Commercial Sexual Exploitation of Children' in **NASEC Conference Report** p.93 See also C. Bhengu: 'Call for 'war' on child prostitution' *Sowetan*, 9/4/1999

³⁶ C. Bhengu: 'Children forced into Prostitution' *Sowetan*, 17/3/1998

³⁷ T. Olivier: ' Jong meisies in prostitutie-net wek groot sorg' *Die Burger* 29/7/1999

³⁸ *True Love Magazine*, May 2000

³⁹ 52. *Die Burger* 18/6/1999

⁴⁰ G. Thiel: 'It's better than begging says a street child' *Mail and Guardian* 21/3/1997



Table 2: SAPS statistics for arrests for prostitution 1996 – 1999 ⁴¹

Province	January 1996 to December 1 999			
	1996	1997	1998	1999
Eastern Cape	4	2	8	6
Free State	6	2	3	3
Gauteng	124	57	92	91
KwaZulu Natal	21	20	17	34
Mpumalanga	7	3	18	12
North West Province	11	9	3	2
Northern Cape	0	0	4	3
Northern Province	0	0	18	3
Western Cape	19	1	10	10
Totals for South Africa	192	95	173	164

The low incidence indicated by these figures could be indicative of the fact that the SAPS less often arrest street sex workers than in previous years. This is in part due to a greater tolerance for sex work, and in part due to the fact that there is a lobby for the decriminalisation of adult commercial sex work. Given the great disparity in these figures it is clear that to create an agreed upon composite on the number of children in prostitution would be impossible.

3. Reasons for sexual exploitation

The causes of the sexual exploitation of children are diverse. The underlying causes include economic inequalities, migration and resultant urbanisation and family disintegration. These causes include attitudes about girls as providers of sex to adult men. The most often cited reasons by nongovernmental organisations and community workers and the media include:⁴²

- poverty, coupled with high unemployment, and school drop-out rates
- lack of effective social welfare support for children and families
- lack of effective safety and protection services for children
- sexual abuse of children
- high levels of domestic violence
- increased urbanisation
- parental involvement, and an
- increased demand from sex exploiters, local and foreign.

3.1. Poverty and school dropout rates

Poverty is regarded as a major contributing factor to school dropout rates as parents do not have sufficient money to send children to school. With regard to school dropout rates in particularly primary school, the dropout rates are reflected in reports by both South African and international bodies. According to South Africa's country report to the United Nation's Fourth Conference on Women in 1995, the school dropout rate for male and female children in both primary and secondary schooling was approximately 50%, at both levels. The consequence is that children are forced to either contribute to their family's income or

⁴¹ Faxed communication received from the SAPS Crime Information Analysis Centre, dated 22 August 2000

⁴² From interviews with members of organisations listed in Section 2 under 2.3.3. Data Collection, of this report and media survey mentioned in Section 3



ensure their own survival. These dropout rates were reflected as follows: Table 3: School dropout rates by gender in formal schooling ⁴³

Gender	Primary School	Secondary School
Female	44	53
Male	53	46

UNICEF indicates that only 65 percent of school children enrolled between 1990 and 1995 reached grade 5. This represents a dropout rate of 35 percent.⁴⁴ Compulsory education to Grade 9 or 15 years of age has only been a relatively recent phenomenon in South Africa with the passing of the South African Schools Act.⁴⁵

3.2. Lack of effective safety and protection services for children

Child protection services in South Africa have always been severely under resourced. Overstretched government and NGO structures are expected to respond to this problem, however the increase in cases has not resulted in a corresponding increase in service provision to the extent that welfare agencies can adequately cope with the demand placed on their human and financial resources. Typically child protection organisations, as part of the historically marginalised social service sector, lack basic resources and programme components, which are required to deal effectively with child abuse.

From the late 1980s onward there was an upsurge in public concern about child sexual abuse. This resulted in a situation where welfare organisations were flooded with new referrals, which they were ill equipped to respond to. This has heightened the dangers, already rife within the child protection system, of ineffective interventions and of secondary abuse of traumatised children.⁵⁹

3.3. Sexual abuse of children

The sexual abuse of children by family members and others, such as teachers has been identified as a contributing factor by interviewees.⁶⁰

A participant in the NASEC Conference expressed the causal relationship between child sexual abuse and child prostitution thus:

*"By sexually abusing our children we are creating a generation of prostitutes. Whenever a person sexually abuses a child, he will either give her candy, food or money. This causes the child to put value to her body. When she becomes a runaway, and/or gets hungry, she will turn to prostitution."*⁶¹

The sexual abuse of children by parents might be an indicator that parents regard children as sexually mature and therefore the effects of exchanging money for the children's sexual exploitation might not be regarded as harmful by parents.

Other forms of violence and physical abuse often accompany the high incidence of child sexual abuse by family members and others.

⁴³ Beijing Conference Report quoted in **Women in Development Southern African Awareness: Beyond Inequalities: Women in South Africa**, Table 23, p.36

⁴⁴ UNICEF: **The State of the World's Children 1998: Focus on Nutrition**, Table 4 Education p.108

⁴⁵ Section 3(1) of the South African Schools Act 84 of 1996, as amended by the Education Laws Amendment Act 100



According to one report the Child Protection Unit provides alarming evidence that a significant percentage of violence committed against children consist of sexual abuse. Between January and May 1996, 8 038 cases of sexual abuse of girls were reported to the police, of which 5 390 were recorded as rape.⁶² This paper also notes that "while boys are more likely to suffer physical assault, girls are more likely to be sexually abused, with street children being the most vulnerable to rape and prostitution."⁶³

3.4. High levels of domestic violence

South Africa has high levels of domestic violence. The SAPS reports that a National Victim Survey conducted in 1998 found that most assaults (54 percent) and sexual assaults (68 percent) occur in and around the home of the victim.⁶⁴ This indicates that children are subjected to high levels of violence. The effects of this violence on children are often the precipitating factor that causes children to leave home.

of 1997.

⁵⁹ Interviews with representatives of organisations

⁶⁰ Interviews with Annette Cockburn of the Homestead, Glynis van Halter of Zizane, representatives of The House and see also S. Farrell Ibid and Schurink et al Ibid ⁶¹ T. Msezana: Ibid p. 60

⁶² L. Jackson: 'Recent Initiatives in Addressing Gender Violence in South Africa' Occasional Paper No 14 January 1997, Institute for Security Studies p. 12

⁶³ Ibid p.12

⁶⁴ 'Domestic Violence: The New Approach' www.saps.org

According to a sex worker the effect on the girl child particularly is that "she becomes very vulnerable to gangs, drug peddlers and pimps; she may be drawn into a child sex ring"⁴⁶⁴⁷

3.5. Lack of effective welfare support

This is raised as a contributing factor in terms of the financial support provided by government welfare agencies for families in need. The current welfare provision for destitute families is limited to a grant of R100 per child per month for children under 7 years of age. Approximately 30 percent of intended recipients did not receive the grant in 1999.

This points to the lack of an effective welfare safety net for families who through lack of education, skills and unemployment are unable to provide for their families' financial needs. This in turn places a strain on the family. In a society where there is a demand for sex with children in exchange for money, this then becomes one way in which the immediate needs of the family can be provided for as evidenced by Lerato's testimony below.

3.6. Increased urbanisation

Another contributing factor is the increase in urbanisation. Child sexual exploitation for money is regarded as an essentially urban phenomenon. Fifty percent of South Africa's population was urbanised in 1996.⁴⁸ While this represented a 0,2 percent decline of growth for figures between 1965-1980 and 1980-1996, the expected annual increase rate was placed at 2,5 percent, indicating that a further increase was to be expected as rural economies began to slow down.

⁴⁶ Rachel: 'Domestic Violence: How it contributes to the Sexual Exploitation of Children' NASEC Conference Report p.

⁴⁷

⁴⁸ UNICEF: State of the World's Children, 1998 Table 5: Demographics, p. 112



It is widely accepted that one of the effects of increased urbanisation is the dislocation of families. As families increasingly move into informal settlements with higher population density, this affects culture and results in changes in the value attached to the protection and safety of children. The effects of this migration and dislocation are then seen in the weakening of the extended family, as a means of support. Added to this there is the decrease in employment opportunities which place children at risk of being sexually exploited for money.

3.7. Parental Involvement

Organisations working in communities reported the involvement of parents in the traffic of children. Parents, particularly mothers, are involved in a number of ways.

The survey of newspaper reports also indicates that family involvement in the sexual exploitation of children is neither specific to nor exclusive of any one of the four major "racial" groups, in South Africa. This confirms the statement by the then Deputy Minister of Social Welfare and Population Development that:

"Girls in South Africa are often subject to physical, sexual and psychological abuse that cuts across lines of income, class and culture. Violence against these girl children takes place in the family in the form of battering, sexual abuse, rape, as well as other forms. In the community as well, in schools and other institutions, young girls are raped, sexually abused and harassed, and are subject to trafficking and forced prostitution."⁴⁹

From reports by organisations and newspapers parents are characteristically involved in the following ways:

- Parents act as traffickers of their own children by allowing others to sexually exploit their children for financial reward which goes either to the upkeep of the entire family or to the individual family member. This sexual exploitation can occur on the street, in the family home, or in a shebeen, hotel, brothel, escort agency, tavern or bar
- Parents allow the sexual exploitation of their children in exchange for getting rid of a debt
- Parents receive money to give their children as child brides to others.

4. Additional factors that contribute to the sexual exploitation of children

Other factors identified by community organisations and media reports are those that relate to social, structural and individual factors. These are presented here as macro, meso and micro level factors.

4.1. Macro factors have been identified as⁵⁰

This encompasses the social, economic, political and ideological overarching forces, which shape the lives of many, predominantly black children in South Africa. These include

⁴⁹ Keynote address by Ms G. Fraser-Moleketi: A National Networking Seminar on "The Girl Child in South Africa" NIPILAR and the Community Law Centre, June 1996

⁵⁰ Field researchers notes on interviews with organisations as listed in Chapter 2 (4.3) of this report. As well as various newspaper reports



- lack of intervention by police and welfare agencies to reports of the sexual exploitation of children
- silence by communities that allows the exploitation to continue
- the influence of mass media and the cultural dissemination that results in increased consumerism tied to status symbols such as particular clothing labels
- gaps in policy and poor policy implementation
- inadequate knowledge about intervention and treatment strategies for children in prostitution by professionals hinders the implementation of policy
- lack of appropriate communication between various government and non-government agencies that result in a negative impact at grassroots level
- negative attitudes of those working with children at risk to the issue of the sexual exploitation of children⁵¹
- a combination of an unwillingness and lack of training and knowledge by grassroots organisations and community organisations to deal with the issue.⁵²

Box 2: Section 28, Bill of Rights, constitution of South Africa (1996)

Every Child has the right to 1d. be protected from maltreatment, neglect, abuse or degradation
1.f. not be required or permitted to perform work or provide services that –
(i) are inappropriate for a person of that child's age;
(ii) place at risk the child's wellbeing, education, physical or mental or spiritual, moral or social development

4.2. Meso level factors are⁷¹

These factors occur at the level of the family. Here the following contributing factors have been identified:

- children who come from poverty stricken, multi-problem families and/ or where parents abuse alcohol and drugs
- children who are from broken homes or grow up in substitute care
- children who ran away from home or institutional care to escape adverse circumstances
- parents who traffic children
- siblings who traffic their younger sisters
- an older sibling who is being sexually exploited, which might indicate that there is an expectation by parents that younger siblings will follow suit
- parents who unable to provide for the children's economic and emotional needs.

4.3. Micro factors have been identified as⁵³

Here individual traits and problems are highlighted. These factors are generally indicated as the following:

- sexual abuse as young children
- physical abuse by parents
- children emotionally abused by parents
- children who have a need to acquire luxury material goods, such as Reeboks, Nikes and Levi's are vulnerable to be trafficked

⁵¹ A community worker in Ocean View (Cape Town) in discussion cited an example of this with researchers on 13 January 2000. Where a principal of a Primary school in Ocean View referred to girls in the school who had been trafficked as the sex exploiter's "whores". The Cape Times also reported that boys in the school were teasing and calling these girls derogatory names. See M. Gosling 'Schoolgirls paid R150 a time in city child sex ring' 22/7/1998

⁵² This factor was identified from a survey of Cape Town based organisations at the beginning of this research ⁷¹ Researchers field notes

⁵³ Researchers field notes



5. Profile of trafficked children

A survey done by The House, a place of safety and rehabilitation for sexually exploited children, in Johannesburg, indicates that children vulnerable to sexual exploitation are children who⁵⁴

- range in age from 4 - 17 years
- travel from rural areas to Johannesburg for mainly two reasons – in search of missing parents or in search of work
- have run away from places of safety
- have left parental homes where they were abused
- have left parental homes where there was not sufficient money to provide for the whole family
- were sexually exploited as a result of peer pressure.

In addition the following conditions place children at risk.

- children who have run away from places of institutional care and rehabilitation⁵⁵
- girl children who live in areas where there is a high incidence of gangsterism and gangs engaged in prostitution, as one of their money-making activities⁵⁶
- girls who give into the pressure of a culture that equates the wearing of certain clothing brands as indicative of status and conformity among peers
- girl children increasingly need to fend for themselves and provide for their own economic needs
- girl children who have left school at an early age
- girl children who desire a career in the modelling, fashion, film or hospitality industries
- girl children who do not have appropriate adult supervision.
- girl children vulnerable to parental pressure and coercion
- girl children who live in families where sexual abuse and sexual exploitation of children is tolerated and regarded as normal.

6. Those involved in the sexual exploitation of children

From interviews a picture of the nature of the sexual exploitation of children, the categories of traffickers, methods of trafficking, a profile of sex exploiters and a picture of areas where trafficking take place emerge⁵⁷

6.1. The traffickers⁵⁸

- Parents (mothers in particular)
- Relatives, particularly brothers, sisters and cousins
- Adult sex workers
- Teachers
- Foreign nationals, organised in gangs and syndicates

⁵⁴ Researchers field notes

⁵⁵ Identified as a factor by Schurink et al and indicated in interviews see Chapter 6

⁵⁶ Researchers field notes and interviews conducted. Also see Chapter 6 of this report.

⁵⁷ Interviews with Glynis van Halter of Zizani, Sister Puri Baloyi and representatives of The House, interviews with children rescued from trafficking.

⁵⁸ Researchers field notes and interviews with children and police officers.



- Strangers
- Gangs
- Minibus taxi drivers

6.2. Methods of trafficking⁵⁹

Parents receive money in exchange for their child. The child is usually transported out of the community (either from home or school) and taken to the sex exploiter's house. The sex exploiter returns the child. Periods of removal from the community vary from a few hours, to a weekend, to a few days, to a week.

- Parents force their children to earn money by offering them to sex exploiters. Children are taken to places where sex exploiters are known to be waiting
- Sex workers, from specific communities, act as intermediaries between parents and sex exploiters. Sex workers also act as procurers of children for sex exploiters. Where parents are involved the money is divided between themselves and the sex worker. The sex worker usually pays the child some money as inducement to continue the sexual exploitation
- Children are debt-bonded by teachers who in exchange for sex will pay the child's school fees. The child is expected to provide sex until the schoolfee has been repaid
- Strangers who are thought to be pimps are in collusion with parents and will take the child to be sexually exploited in exchange for part of the money given for the child, by the sex exploiter
- Foreign nationals involved in the sexual exploitation of children on the Cape Flats have been identified as Nigerian nationals.⁶⁰ In Hillbrow Nigerian pimps are involved in the sexual exploitation of girls. ⁶¹ In Durban, Nigerians have also been identified as contributing to the sexual exploitation of children by creating a drug dependency that forces the children to exchange sex for money as a means of paying for the dependency. The incidence of this phenomenon however is low and it is believed that this is not done expressly to debt-bond the child, as is the case with adult sex workers⁸¹
- Gangs based in communities traffic girls for purposes of sexual exploitation in exchange for protection and survival and as part of their money-making activities
- Taxi drivers facilitate the sexual exploitation of children by taking children to places where sex exploiters are known to gather and taxi drivers are in collusion with gangs. Gang leaders on the Cape Flats are taxi owners. Taxi drivers are also sex exploiters⁶²
- Children are abducted, held in captivity and forced to perform sexual acts with sex exploiters.

6.3. Profile of sex exploiters

Sex exploiters have been identified as both male and female. Little is known about female sex exploiters. One interview mentioned women from the northern suburbs of Johannesburg. Interviewees stated that the primary sex exploiters are men from all

⁵⁹ Interviews conducted with representatives from organisations and trafficked children.

⁶⁰ T. Olivier, Die Burger
Ibid

⁶¹ Simon Farrell, Ibid p. 33 ⁸¹ Interview with Ted Leggett of the Centre for Social and Development Studies at the University of Natal and interview with Josie, adult sex worker from Durban. See also L. Taitz: 'Selling sex to push hard drugs' *Sunday Times*, 9/11/97

⁶² From interview with independent researcher, Die Burger, Ibid and J. O'Connell Davidson and J. Sanchez Taylor: **Child Prostitution and Sex Tourism: South Africa**, ECPAT International, 1996 p. 13



walks of life and in all areas where there are girls. Men are identified by their occupations, or place of residence, and include,⁶³.

- Taxi drivers
- Farmers
- Doctors
- Lawyers
- Business executives
- Men who frequent shebeens and other drinking places such as taverns and bars
- Police officers
- Professionals
- Migrant workers (all sectors)
- Working class men
- Men from the Northern Suburbs of Johannesburg
- Foreign tourists and local tourists
- Men of all ages, colours, creeds and religions.⁶⁴

Interviews with sex exploiters are unusual. Researchers for the ECPAT International⁸⁵ study interviewed 32 sex tourists in Cape Town in 1995. Of these 7 were South African (6 white and 1 Indian) and 25 were foreign expatriates and tourists. Of the latter group 24 were white and 1 was Chinese. These authors note that sex exploiters who prefer to have sex with children can convince themselves that this act does not constitute child sexual exploitation. This is *because "prostitution is associated with notions of contract and consent, the abuser can tell himself that the child he exploits chose, wants and benefits from the abuse."*⁶⁵ Foreign sex exploiters also *showed "a marked preference for black and coloured women and girls and having no interest in white prostitutes."*⁶⁶ The authors note that this is because these men draw on

*"classic white racism about black women's sexuality to construct a fiction in which prostitutes they sexually exploit actively desire them, actively want and seek sexual congress, rather than being forced to trade their bodies for economic reasons."*⁶⁷ (Emphasis in the original)

Some of the men in this sample actively sought out children. One man justified his exploitation of girls thus: *"The little girls, 10 or 12 years old, I wouldn't describe them as innocent, they are not innocent, but they are fresh. They don't have the attitude of the older whores. The older whores have gone down hill. They use foul language. They drink. They're hardened. The little girls, they're not experienced. They're not hardened, they want to please you, they don't know what to expect, you get a better service from them"*⁶⁸

This particular sex exploiter does not believe that he is harming the children because they are from "hot countries" where girls are pregnant at age 12 and their brothers, fathers and

⁶³ Researchers field notes and J. O'Connell Davidson and J. Sanchez Taylor; Child Prostitution and Sex Tourism: South Africa, Ibid p. 14

⁶⁴ S. Moela: 'Not All Girls have the Luxury of a Real Childhood' City Press 19/9/1999

⁸⁵ J. O'Connell Davidson and J. Sanchez Taylor; Ibid p.16

⁶⁵ Ibid p. 28

⁶⁶ Ibid p. 21

⁶⁷ Ibid p. 22

⁶⁸ Ibid p. 27



uncles have sex with them. According to the sex exploiter a girl becomes a woman at 12 and at 28 she's an old woman.⁶⁹

In addition there are sex exploiters who believe that sex with a child, especially a virgin will prevent and even cure sexually transmitted diseases such as HIV and AIDS. And yet others who prefer sex with children because children are less likely to be able to negotiate the nature of the exchange and as a consequence the amount charged is less than adult women and more likely to occur without a condom.

"Truck drivers queuing at the border post at Beit bridge, between South Africa and Zimbabwe, told Sowetan they prefer "young blood" because they can easily manipulate the girls into fulfilling their wildest desires.

They also said they drive to Nancefield township to pick up the young girls.

Alfred, a truck driver from Zambia - who last saw his family on December 27 - said he was tempted to sleep with anyone, even a child, after being away from his woman for so long. "We see our families maybe once in three months," he said. "Sometimes we have to wait here for two days before clearance.

"These girls appear wearing only an overcoat with nothing on underneath. Even when you try to ignore them, they just flip open their overcoats."

"Shadrack from Zimbabwe, said "Most truck drivers prefer young girls because they charge less about R50 - and always consent to sex without a condom.

"He said that many drivers claim that young girls pose a lesser risk of contracting sexually transmitted diseases (STDs).

Others believe in the myth that sleeping with virgins cure STDs.⁷⁰

7. Trafficking routes

The in-country trafficking of children takes place between provinces from city to city and rural areas to cities. It can also take place within provinces from rural to urban areas. Several sources identified the traffic of children from KwaZulu Natal to Gauteng and the Western Cape and from the Eastern Cape to Gauteng and the Western Cape. If this is a fair reflection of the inter-provincial traffic in children then it would be reasonable to assume that Gauteng and the Western Cape are provinces of destination and the Eastern Cape and KwaZulu Natal are provinces of origin.

The most commonly reported trafficking routes however are those that do not need long distances to travel. These are indicated by the trafficking of children from informal settlements in the north of Johannesburg to the northern suburbs of Johannesburg. In areas where gangs operate children can be abducted and held captive in their own community as in the case of informal settlements in Johannesburg and several unconfirmed reports of a similar situation in Mitchell's Plain, in Cape Town. As is indicated in the case study in Chapter 6, children can be abducted and held a few kilometres from their parental homes.

⁶⁹ Ibid p.27

⁷⁰ From C. Bhengu: 'Mothers, daughters vie for steamers' Sowetan 2/2/00



8. Police investigations and the law

Police investigations are hampered by a number of factors. Firstly there is no legal prohibition against the traffic of people.⁷¹ Secondly reporting is low because families are often involved in the traffic of children, or families are indebted to traffickers.⁷² Families and trafficked children fear reprisal from traffickers, who often include hardened criminals such as gangsters.⁹⁴

In addition, current legislation does not expressly prohibit child prostitution. It is however a crime to have sex with a child under the age of sixteen. The State can bring a charge of statutory rape, irrespective of whether the child consented or not.

The Sexual Offences Act⁷³ expressly prohibits the sexual abuse and exploitation of children but places the onus of proof on the child, in that Section 14 2 (a) and (c) provide those who exploit children in this way with the defence

'that the girl at the time of the commission of the offence, was a prostitute'

or

'that the girl or person in whose charge she was, deceived the persons into believing that she was over the age of sixteen.'

More recent laws however do criminalise child prostitution, if a third party such as a brothel owner or pimp is involved. Where the exchange happens without third party involvement there is no criminal liability on the part of the sex exploiter. The Child Care Act provides for a maximum sentence of ten years for sex exploiters.⁷⁴

Alleged police involvement and corruption in the traffic of children further make it difficult for children to trust that the police will assist in their rescue or be willing to investigate allegations of abduction and sexual exploitation against traffickers.⁷⁵

Some newspaper reports have also identified policemen as sex exploiters.⁷⁶

9. Service provision to sexually exploited children

Organisations indicated varied responses to service provision, the nature of the response is influenced by the following factors:

- knowledge about children in prostitution
- the willingness to acknowledge the existence of the phenomenon
- available resources to deal with the problem.

Most organisations interviewed indicated that the

Box 3: Section 14 (4) (a) (iii)
The Child Care Act (1983 as amended 1999)

A child is in need of care if the child lives in circumstances likely to cause or conduce to his or her seduction, abduction or sexual exploitation.

⁷¹ Interview with Senior Superintendent A. Pienaar Section Head of the Family Violence, Child Protection and Sexual Offences Unit, Pretoria and interview with Superintendent van der Westhuizen and Captain Swart of the Aliens Investigation Unit (Pretoria)

⁷² Interview with investigating officer at a Cape Town police station

⁹⁴ *Ibid*

⁷³ Sexual Offences Act 23/1957 as amended in 1988

⁷⁴ The Child Care Act 74/1983 as amended in 1999

⁷⁵ As evidenced by testimony from survivors. See police collusion in Chapter 6

⁷⁶ See for instance: P. Motale The Star 14/9/1999 and interviews in Chapter 6

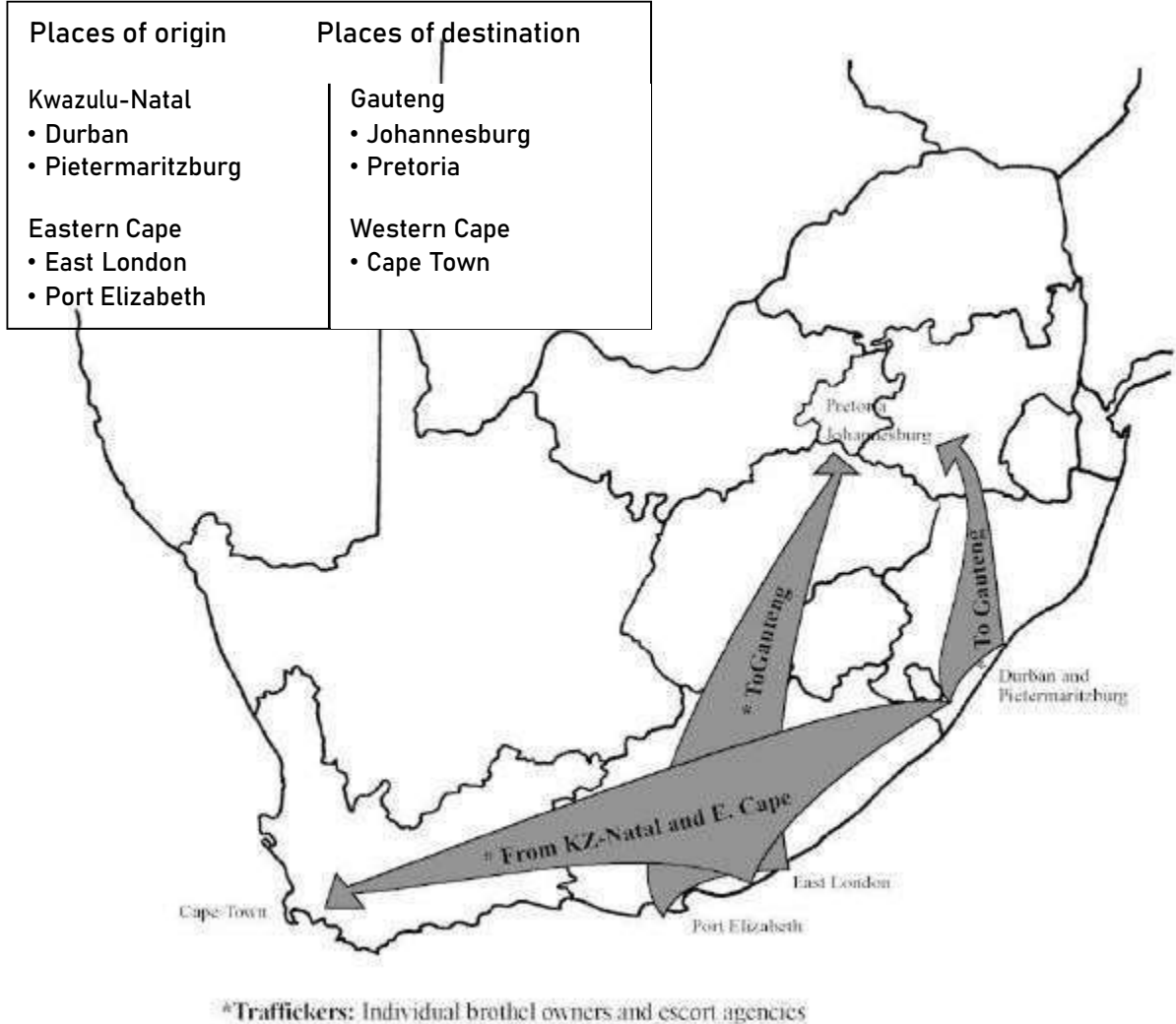


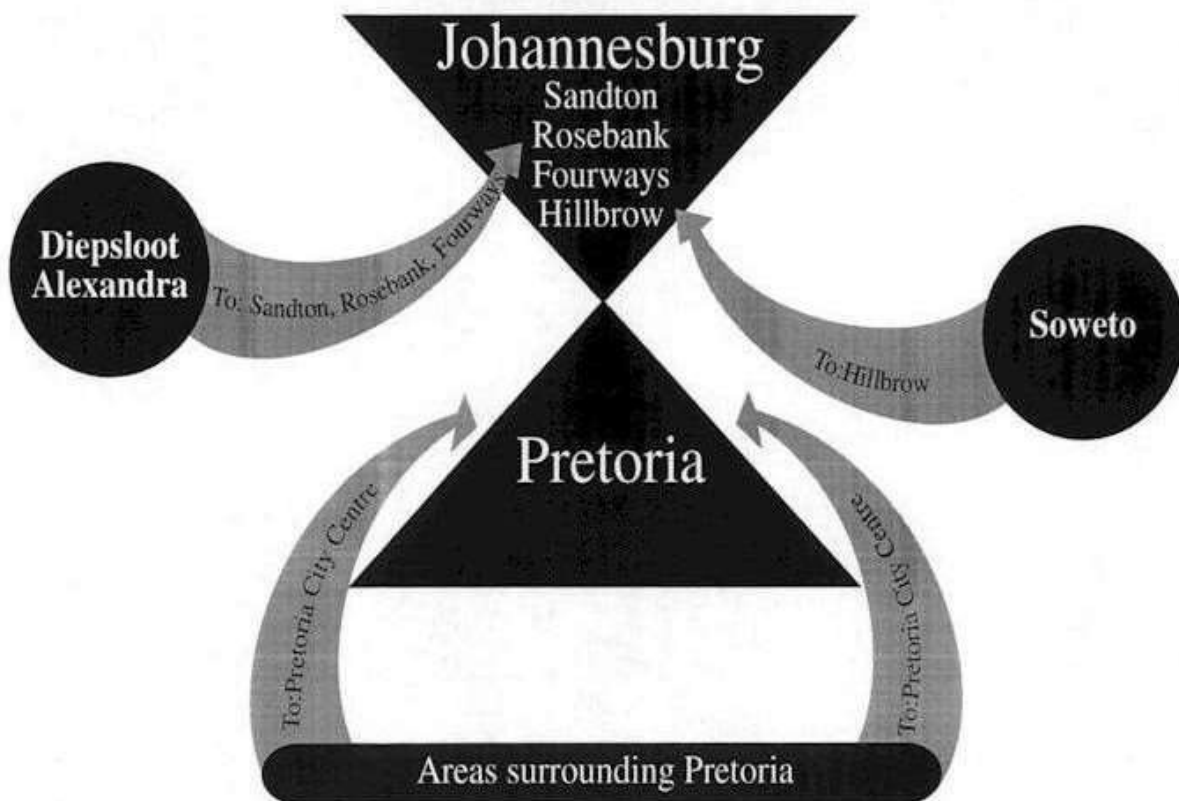
biggest obstacle to service provision is lack of resources to provide services on an ongoing sustained basis. Organisations that do provide services that include rescue and alternative placement indicated that the need far outstrips the available capacity, in terms of financial and human resources, and alternative placement facilities. The value of service provision and active intervention is evidenced by the interview conducted with a child rescued from prostitution.

Two field researchers (FR1 and FR2) interviewed Lerato, a child survivor of sexual exploitation. Lerato was in a place of safety and care at the time of the interview. At the macro level the unemployment of her father was an overriding factor which resulted in poverty. At the meso level the illness of her mother and the absences of her father were contributing factors. Her helplessness and sense of duty were additional contributing factors, at the micro level.

Lerato is not her real name. It is rather a name she chose for herself for this report. Names of caregivers have also been changed. An extract of this interview, is presented here, for the purpose of providing an example of a child coerced into sexual exploitation. The provision of counselling, and integration into school and "family" life in an alternative non-institutional setting have improved Lerato's self-esteem and sense of belonging.

Map 1: Interprovincial trafficking





FR1: *Lerato as I have explained to you we are doing research, and we believe that you've been with Mama Thenjiwe for some time, and we would just like to ask you if you would like to tell us your story in your own words. Okay.*

Lerato: *Umm, before I came here I was staying in Diepsloot and I was staying with my mother and father, and, and I was in school in Diepsloot, and I used to go to school everyday. Like, and my mother was sick at home, and, and I didn't know what was wrong with my mother. Then I didn't have anything left to give it to my mother. Like sometimes she needs pills and my father wasn't working. So we're suffering with my mother. And I, I and I was staying, I was sitting at home, then one of my friends came at home. Then the (unclear) said (real name) are you worried. I said I'm just worried about my mother. He said what's wrong with your mother? I said my mother is sick, and I don't know what to do. My father is not at home everytime, and his not working. Then he said to me: Aah, don't worry let's go. Then I said where we are going? He said no, if you want to save your mother just come with me. We went. Then he stopped the car, after a white man, then after he stopped the car after the white man, he said come. Then I said where are we going? He said never mind, just come with me. Then I came with her who's car it is. The time we came with the car, we went to the house of the man with the white car. Then they went to their room. Then he slept with that man. Then he called me, then I said no I don't want to do this, this is wrong. He said to me no, come on, if you don't you're not going to get money, and you can't take your mother to hospital. Then I slept with that man, and after sleeping with that man, I asked myself what I was doing. What I was doing was wrong. Then this man after he gave us R50-00, then he gave me R25-00, then we went back. After we went back, then I bought my mother some pills, and I bought some, some food with the other money that was left. Then we cooked at home with, with my mother. And in the night my mother was crying telling me, she's getting sore, then I said I don't know what to do. Then we couldn't sleep that night.*



Then I didn't go to school tomorrow. It was on Thursday, I didn't go to school, and on Friday. Then on Saturday that girl came again, and said let's go, I said no, I'm not going. She said let's go. Then that man came. Then we went there. Then I slept with that man. Then he gave us the other R50-00. Then I said to my friend no, I'm not going to do this again. This is wrong. Look now I'm not in school anymore, when I can't wait for this. Then with that money I took my mother to the hospital. Then after my mother went to the hospital, I couldn't get any money to go to see my mother in the hospital. Then I was worried then - my father was there. He said to me let's go to see your mother in the hospital. Then I said okay. Then we went to the hospital, with the taxi. And as soon as we got to the hospital, I was worried about my mother. And the time we left at home, my sister gave me a chain to give it to my mother. Then they said to me I mustn't get inside, I must wait outside. Then they talked to my father. Then they gave my father my mother's clothes. Then I asked my father where's mum? Then they told me my mother passed away yesterday night. I said oh, God. I don't know what to do. After that the situation changed at home. With sleeping without eating. My father couldn't even pay the school. Then one of my teachers at school came at home. After he came at home, he said I know what's wrong, and I'm so sorry. But I've got somebody who can help you. Then I said okay. Then he took me to the other woman whose name is Jackie. She's the white woman, and the other one who is Sister Angelina from Diepsloot at the clinic. The Sister Angelina I know that Sister. Then they helped me. Then they bought me some food, some clothes, and they were coming to see me at home. Then Jackie said, I know a safer place where you can stay. Then I said okay I will be happy. Then Jackie talked to Mama Thenjiwe. We went out. They took me out to the zoo. And after that, on Sunday then they came to fetch me. Mama Thenjiwe came to fetch me.

10. Conclusion

Trafficking of children for purposes of sexual exploitation does not require the crossing of borders. A large portion of trafficking in South Africa occurs from rural to urban areas, urban to semi-rural areas, within communities, such as when children are trafficked into gangs. The violations and harm suffered by in-country victims are no less than that suffered by cross border victims. For example, the harm suffered by a teenage girl sold into a gang by a parent(s) can be as great or even greater than the harm suffered by a person trafficked a few thousand kilometres across a border.

In general commentators and child rights activists agree that the in-country trafficking of children for the purpose of sexual exploitation is inextricably linked to the sexual exploitation of children, generally. This is linked to the vulnerable position that children find themselves in relation to adults. The vulnerability of children is reflected in the causal factors that contribute to the phenomena of the sexual exploitation of children and the trafficking of children for this purpose.

Research findings illustrate how severely the socio-economic situation in South Africa impacts on the vulnerability of children. These findings reflect high unemployment, and



school dropout rates, lack of effective social welfare support for children and families, lack of effective safety and protection services for children, changing patterns in parenting and high levels of domestic violence.

Poverty, alone, however, should not be regarded as the overriding factor for the sexual exploitation of children. Although poverty could create conditions that may contribute to such exploitation. A variety of factors interplay with each other when it comes to the sexual exploitation of children.

These factors include:

- An increase in unemployment
- Relatively low levels of education
- Changes in nuclear and extended families
- Changes in religious and cultural beliefs of society
- Breakdown in family and community support systems
- Lack of social welfare and protective services for children
- Lack of effective and appropriate investigation, sentencing and prosecution of offenders
- An increased demand for black children, from especially European and North American men, for sexual purposes
- Changes in the domestic and international sex industries
- An increase in the demand to engage in sexual acts with younger children
- Mistaken beliefs that children are free from sexually transmitted diseases
- Mistaken beliefs that sex with a virgin will cure sexually transmitted diseases, especially HIV infection and AIDS
- Relative bargaining power that an older woman has
- Children are less likely to be able to negotiate the terms of the exchange.

Box 4: Article 39 – The UN CRC (1979)

*State Parties shall take all appropriate measures to promote physical and psychological recovery and social integration of a child victim of; any form of neglect, exploitation; or abuse, torture or any other form of cruel, inhuman or **degrading treatment or punishment**; or armed conflicts. Such recovery and reintegration shall take place in an environment, **which fosters the health, self- respect and dignity of the child.***

Children are typically forced into specific sectors of the organised sex industry, such as being prostituted in hotels, brothels, hostess and escort clubs, sex clubs and bars, or being prostituted on streets. They are also forced to engage in sexual acts to be filmed and photographed for the purpose of pornography. The production of child pornography involving boys and girls are reported to be on the increase. Overtly explicit sexual and sexualised images of children are exploited as part of a multibillion-dollar world-wide pornography industry.

It has been said that two things sustain the growth in child prostitution: the dominance of money and the strength of the desire for perverse pleasure,⁷⁷ essentially the demand fuelled by the money to pay for sex with a child.

⁷⁷ P.Lee-Wright: **Child Slaves**, Earthscan, 1990 p.25



Box 5: Article 34 – The UN CRC (1979)

State Parties undertake to protect the child from all forms of sexual exploitation and abuse. For these purposes, State Parties shall in particular take all national, bilateral and multilateral measures to prevent:

- (a) The inducement or coercion of a child to engage in any unlawful sexual activity*
- (b) The exploitative use of children in prostitution or other unlawful practices*
- (c) The exploitative use of children in pornographic performances and materials.*



Chapter 5

Cross-border trafficking of children

1. Introduction

Information on the cross-border trafficking of children for purposes of sexual exploitation is difficult to obtain. Interviews with SAPS officers, members of community organisations, an official of the Thai Embassy and newspaper reports however give some indications. Reports indicate that the traffic is mostly to South Africa and that it is organised by international crime syndicates from Southeast Asia and Eastern Europe. It is suspected that crime syndicates involved in the traffic of women from these regions are also involved in the traffic of children.

With regard to traffic from the rest of Africa South Africa is regarded as a country of destination especially for children from Moçambique and Angola. It is not known whether the same organised criminal groups involved in the traffic of women are involved in the traffic of children.⁷⁸ One report indicated that the traffic of children from Moçambique was the work of an individual.⁷⁹ Another report states that Moçambicans *"cross the fence illegally via Komatipoort, in Mpumalanga, where they meet 'traders' who offer them the good life in South Africa"*.⁸⁰



2. South Africa as destination country

The cross-border traffic of children for purposes of sexual exploitation is not a new phenomenon in South Africa. Van Onselen⁸¹ in his study on the early sex industry on the Witwatersrand highlighted the story of 15 year old Fanny Kreslo from Poland who was trafficked in 1898, and described the operations for both in-country traffic of women from the Cape and the need for girls from elsewhere thus:

"It is certain that some attempts were made to recruit local women into the trade in vice - a procedure which appealed to the souteneurs because it had the virtue of being relatively cheap. In such cases the pimps would usually send out the oldest and most trusted of their prostitutes - the madams of their houses - to the town parks and recreation areas where seemingly attractive propositions would be put to badly paid white

⁷⁸ Molo Songololo: **The Traffic of Women into the South African Sex Industry**, 2000

⁷⁹ See report on traffic in Wintersveld, in this chapter

⁸⁰ N. Ncaca: "Cops rescue Illegals from grip of 'syndicate'" *City Press*, 31/1/99

⁸¹ C. Van Onselen: 'Prostitutes and Proletarians 1886 - 1914: Commercialised sex in the changing social formations engendered by rapid capitalist development in the Transvaal during the era of imperialism' **in Studies in the Social and Economic Development of the Witwatersrand 1886-1914, Vol 1 New Babylon** (Ravan, Johannesburg, 1982)



domestic servants or other young white women. Given the chronic shortage of mature women on the Rand at this time, however, this practice hardly produced a solution to the pimps' problem, and for this reason they were forced to look further afield in their search for new recruits. In the course of this latter search the pimps found that the older social formation of the Cape Colony tended to yield a slightly readier supply of poor, vulnerable or marginalised women. Small numbers of coloured domestic servants who had already been seduced by white men could occasionally be recruited from Cape 'boarding houses', while job adverts placed in the Colony's newspapers - via bogus 'employment agencies' - sometimes succeeded in luring naïve European women into the Transvaal's 'houses of ill-fame'.

Not even these forays to the south, however, could keep pace with the Rand's demand for sexual services during the mid - 1890s, and for this reason the 'Bowery Boys' and other local pimps were forced to turn to the older societies of Europe for the bulk of their supplies of prostitutes. At least some of these European recruiting operations worked along the same lines as those employed in the Cape. Advertisements placed in British or continental newspapers offered young women an assisted passage to South Africa in order to take up well-paid positions as 'barmaids' or domestic servants in Johannesburg. Needless to say, once these women had been 'escorted' to the Rand by the madams of brothels posing as 'agents', the vulnerable job aspirants were pressed into an entirely different line of service to that which they had perhaps imagined when they first set out on their journey.

In other cases the 'Bowery Boys' extended the area of their direct recruiting operations by pushing the boundaries back into the heartland of eastern Europe. In mid 1898, for example, 'Bessie Levin', acting on behalf of David Levinsohn of the 'American Club', was sent on a long trip which took her well to the north-east of her and her pimp's native Poland. In the small Lithuanian village of Vilna Krevo the procuress met and offered a fifteen-year old girl named Fanny Kreslo employment in London as a shop assistant at a salary of 100 Roubles a year. When the same proposition was made to the Kreslo parents they readily agreed to the 'employment' of their daughter on these terms and the two women then set off for England.

*On their arrival in London Miss Kreslo was informed by Levin that her 'employer' had suddenly departed for South Africa, and the two of them should follow him to the Rand. Isolated, vulnerable, penniless and speaking only Russian, the Lithuanian girl agreed to accompany the older more informed woman on the further journey south. Once in Johannesburg, Levinsohn and Levin placed the girl in a brothel in 35 Anderson Street and informed her that if she wished to make her way back to Russia it would be necessary for her to earn the money for her passage by prostituting herself. After allowing Miss Kreslo the luxury of having a Polish speaker as her first sexual partner, the pimp and his madam then proceeded to provide the young Russian woman with a wider variety of Asian, black and white customers. It was only after several months - and after the backbone of the 'American Club' had been broken - that the young woman was released from her prison as a 'white slave'. In mid - 1899 the police, after learning of Fanny Kreslo's age, rescued her from the house in Anderson Street and arranged for the prosecution of Levinsohn and Levin."*⁸²

A hundred years later indications are that South Africa is still a destination country for girl children from Eastern Europe. This despite South Africa's ratification of the Convention on the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others in 1951. These children are trafficked into the organised sectors of the sex industry such as brothels and escort agencies. One report indicates that children from Russia are especially vulnerable.⁸³

Box 6: Article II – The UN CRC (1979)

1. *State Parties shall take all appropriate measures to combat the illicit transfer and non-return of children abroad*
2. *To this end, State Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements*

⁸² C. Van Onselen: 'Prostitutes and Proletarians 1886-1914: Commercialised sex in the changing social formations engendered by rapid capitalist development in the Transvaal during the era of imperialism' Ibid pp 120-121

⁸³ I. Price: 'Kinderprostitutisie - tragiese lot van SA se weggooimensies' *Die Burger* 29/3/99



3. Countries of origin

If indeed children from Eastern Europe are trafficked through the same operations as women,⁸⁴ then it is conceivable that the countries of origin could include, Bulgaria, Romania, Latvia, Estonia, Czech Republic and the Slovak Republic.⁸⁵

Those involved in the trafficking operations with regard to women from Eastern Europe have been identified as the Russian Mafia, Bulgarian syndicates and individual South African and Bulgarian agents.⁸⁶ These recruiters, traffickers and agents are well organised in their countries of origin. According to one SAPS officer, Eastern European traffickers are almost exclusively ex-military personnel of senior rank.¹⁰⁹ The syndicate operation typically spans several countries in Eastern Europe. Traffickers also operate in the country of origin and in South Africa. In addition to the trafficking in women and children the Eastern European syndicates also traffic drugs, cigarettes and compact discs and launder money.⁸⁷

Besides the traffic from Eastern Europe reports also indicate the traffic of children from Southeast Asia, especially from Thailand and Taiwan.¹¹¹ Children from Thailand are typically girls between

the ages of 15 and 17.¹¹² They are trafficked primarily to escort agencies in Gauteng and Cape Town.

The methods of trafficking are similar to that used for incountry trafficking in Thailand.¹¹³ Girl children

from Thai rural communities and their parents

are typically approached by agents who promise work in a restaurant or as a domestic worker in South Africa.¹¹⁴

The children and their parents are enticed with offers of greater earnings, reminiscent of Fanny Kreslo and her parents, a hundred years ago.

Agents "go into villages and say 'we got work for you , in South Africa. It can be domestic, in a factory or

even a Thai restaurant. They can earn R3 000 - R5 000 a month. Those girls only earn R500 back home."¹¹⁵

The children are then transported to South Africa, usually via Singapore as Thai border control officials are alert to the trafficking in children and women to foreign sex industries. Syndicates have found alternative means to ensure that these children reach their intended destinations.

Traffickers of Thai women are typically both male and female, Thai and South African. If children were brought through the same operation then it would be reasonable to assume that the same people are involved in the trafficking of children from Thailand.

With regard to children from the rest of Africa being trafficked to South Africa, indications are that children as young as seven are trafficked from Zambia, Senegal, Kenya, Tanzania, Uganda, Ethiopia, Angola and Moçambique.¹¹⁶

Box 7: Section 32 (1) The Refugees Act (1998)

Any child who appears to qualify for refugee status in terms of section 3, and who is found under circumstances which clearly indicate that he or she is a child in need of care as contemplated in the Child Care Act, 1983 ... must forewith be brought before the children's court for the district in which he or she was found.

⁸⁴ See Molo Songololo: The Traffic of Women into the South African Sex Industry, Ibid

⁸⁵ From interviews with SAPS officers and a South African agent conducted for report on the traffic of women

⁸⁶ Ibid ¹⁰⁹ Interview with member of the Border Patrol Unit:

Cape Town

⁸⁷ Ibid ¹¹¹ I. Price Ibid and see for instance The Cape Times: 20/1/2000 for a report on the discovery of 11 Thai women and



With regard to the operation from Senegal, Kenya, Uganda, Ethiopia, Tanzania and Zambia it appears that girls were debt-bonded for R12 000. The report also indicates that South Africa is a transit country for girls from these countries en route to other destinations such as Bangkok.¹¹⁷

As far as could be established Moçambican children, both boys and girls have been trafficked to informal settlements such as Diepsloot north of Johannesburg,¹¹⁸ as well as to semi-rural areas such as Wintersveld.¹¹⁹ In this particular instance, a Moçambican national who had been living in South Africa for 10 years promised 4 girls and young women between the ages of 14 and 20, work in South Africa. On arrival in the Wintersveld area however they were given food and accommodation and were forced to have sex with men in exchange for money.¹²⁰ The community brought the case to the notice of the Wintersveld police. Indications are also that there are two categories of Moçambican children who are trafficked for purposes of sexual exploitation. In the first instance agents bring the children from Moçambique. It is not clear what the method is, i.e. whether the children are promised work and are transported together with children who are trafficked to farms in Mpumalanga and the Northern Province or whether they are abducted. In the second instance children who cross the border illegally in the company of their parents become separated from their parents. They are left to fend for themselves and become vulnerable to being trafficked.

It is not known who the sex exploiters of Moçambican and Angolan children are. With regard to children from Eastern Europe and Southeast Asia it would be reasonable to assume that the sex exploiters would be men with sufficient money to pay for children in brothels and escort agencies. Given the stigma attached to sex with a child, the children's illegal status and the criminal nature of the operation it would also be reasonable to assume that amounts charged would be greater than for women.

4. The conditions under which children are held captive

Children would typically be held captive and would be closely watched. In addition they would have no means of escape. Their travel documents with which they entered South Africa (if they entered legally) would have been confiscated on their arrival. They would not speak English and communication with outsiders would be difficult. The outsiders they would come in contact with, such as sex exploiters, would not have any interest in ensuring the rescue of the child.

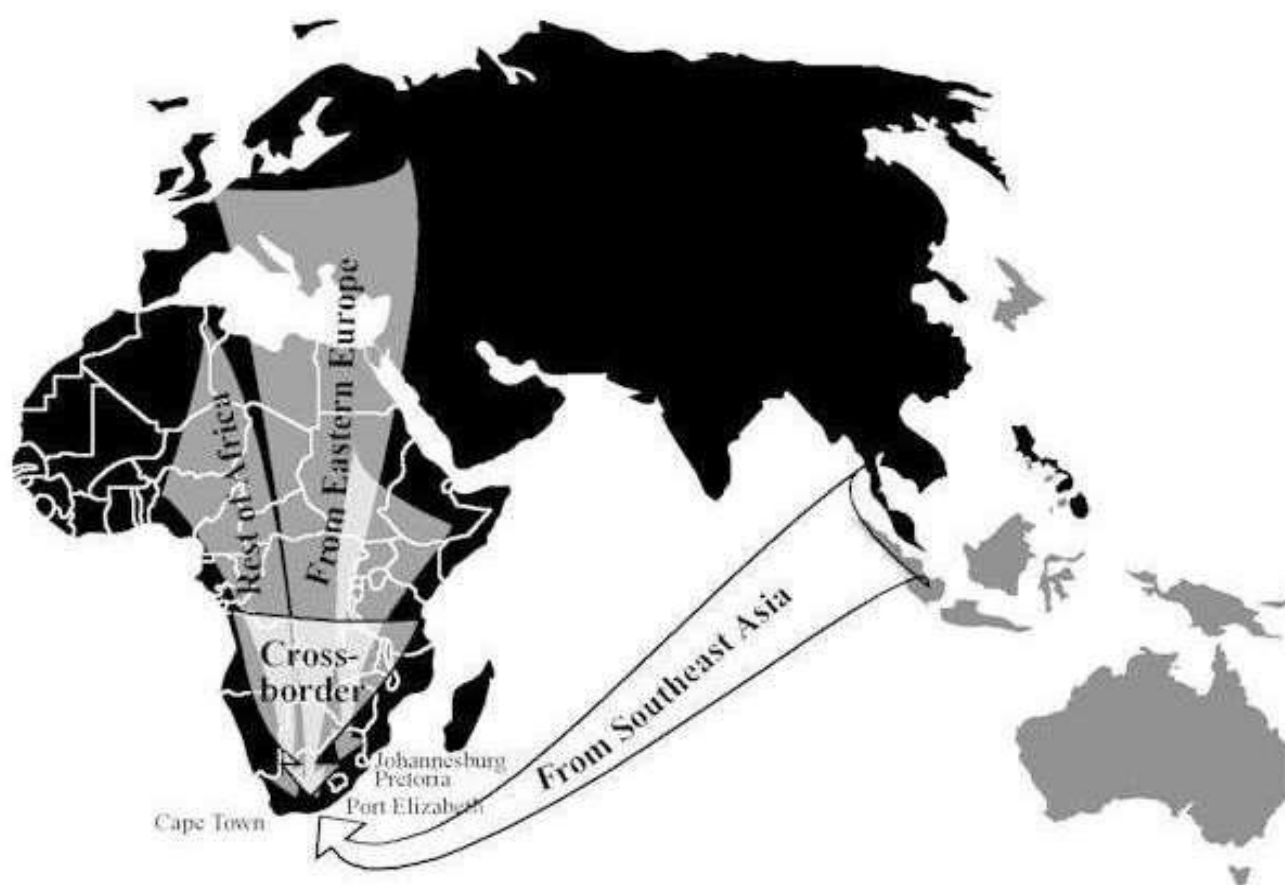
5. In summary

While evidence is sparse, indications are that the cross-border traffic of children for the purpose of sexual exploitation has changed little in the last hundred years. Indications are that the operations of Eastern European and Southeast Asian syndicates and traffickers are highly organised. Operations in East Africa appear to be as sophisticated. Operations in southern Africa appear to be less organised although the level of the traffic is probably higher as there is easier access to children who might enter the country unaccompanied and children who are separated from their parents on arrival.



Countries of Origin

Eastern Europe <ul style="list-style-type: none"> • Russia • Bulgaria • Poland 	Via Western Europe
Southeast Asia <ul style="list-style-type: none"> • Thailand 	Via Singapore
Africa <ul style="list-style-type: none"> • Senegal • Moçambique • Angola • Uganda • Tanzania • Zambia • Ethiopia • Kenya 	



Map 4: Trafficking of children from Africa via South Africa to Southeast Asia

Countries of

Tanzania
Zambia
Kenya
Ethiopia
Uganda
Senegal



Chapter 6

The role of gangs in the trafficking of children: A case study

*"Child prostitution has been a major cause of concern in recent years but there has been no widening of the debate and instead, campaigning groups have simply become increasingly shrill in denouncing it. Yet, despite the passion that child prostitution arouses, the children themselves have been largely silent. Many people are speaking in their name but few people have listened to them and know who they are or how they perceive what they do."*⁸⁸

1. Introduction

As described in chapter 2 a case study method for this chapter was decided upon as a result of the external limitations placed on access to children. This in turn necessitated a snowball sampling approach that led us to 18 children and one young woman who had been trafficked into a specific gang.

A key determinant of access to the girls was the guarantee of their anonymity. In keeping with this promise all names have been changed.

2. Context: Gangs and the sexual exploitation of children

Journalists, community organisations and community members have reported the involvement of Cape Flats gangs⁸⁹ and crime syndicates in the traffic of girl children for purposes of sexual exploitation. These reports indicate the primary methods of traffic as abduction and parental collusion with gang leaders. According to one report there are "(some) areas (in which) it is common knowledge that gangsters in the area run prostitution rings and kidnap girls, some as young as 13, and turn them into sex workers."⁹⁰ Another report states that

*"Cape Town City centre is controlled by up to 30 gangs who fight for control of drug dealing and child prostitution on the streets. On every corner pimps offer drugs and/or children of both sexes for sex. Gangs operating on the Cape Flats are calling in their loans to parents by demanding their children in exchange for debt owing. This debt is being incurred because of high rates of poverty where the provision of basic food and accommodation comes from gangs. These children are sold from brothels, or more and more openly on the street corners day and night."*⁹¹

A third report says, "According to Inspector Syster, of the Elsies River Police Station, girls between the ages of 12 and 17 are being used by drug dealers, taxi drivers and Nigerian citizens as prostitutes, to work on the streets."⁹²

⁸⁸ H. Montgomery 'Children, Prostitution, and Identity: A Case Study from a Tourist Resort in Thailand' in K. Kempadoo and J. Doezenia (eds.): **Global Sex Workers: Rights, Resistance and Redefinition**, Routledge 1998 p. 150

⁸⁹ Newspaper and other reports typically reflect the 'coloured' nature of Cape Flats gangs. Gangs however are not restricted to the coloured communities of the Cape Flats. Gangs do operate in the African areas of the Cape Flats. They are however under researched. These gangs' possible involvement in the traffic of children is not known.

⁹⁰ Nazma Dreyer, 'In My Opinion' Athlone News, 24 March 1999

⁹¹ 'Important facts concerning the sexual exploitation of children' Asijiki 16/3/1999

⁹² T. Olivier *Die Burger* Ibid Own translation



Other alleged methods of traffic by gangs involve boy gang members acting as recruiters where the gangs *"identify girls at school, through boys who are members of these gangs."*⁹³ The boys also identify girls at clubs. A boy will have a relationship with the girl and then she'll be forced into prostitution. In addition to this method gangs pay individuals from outside the gang to recruit girls. The girls are then kept in specific places owned or rented by that gang.¹²⁷

The girls are not only used as sex workers but are also used as drug runners. These gangs are usually involved in other income-generating activities besides drug trafficking and prostitution. They are also involved in extortion, armed robberies, running shebeens and the mini bus taxi business. These gangs are usually connected to prison gangs such as the 26s and 28s.⁹⁴

General consensus by those we spoke to in the SAPS i.e. investigating officers and members of the CPU, is that parents and girls exploited in this way fear making statements because of intimidation and threats to their lives. These fears are not unfounded as recent media reports in 2000 indicate the violent murder and sexual assault of young girls by gangs, ostensibly as part of initiation rites. There are also unconfirmed reports that trafficked girls have been found murdered in the places where they are held captive.

A member of the CPU believes that the major difficulty that hampers both investigation of gang involvement in child prostitution and prosecution of these gangs is the fear of intimidation and reprisal.¹²⁹ Police officers quoted in newspaper reports also indicate that police find these factors the biggest obstacles to arrest and prosecution.⁹⁵

2.1. Gangs, gangsters and girls in gangs

Reports about girls from the Cape Flats and their associations with gangs typically reflect one of two scenarios. The girls are either peripherally involved and find it glamorous to be associated with gangs as they

*"are treated differently to what they are accustomed to at home. The gangsters will supply them with material goods and food, luxuries that they are not used to, it might be the first time that they are taken to a 'fancy restaurant' like the 'Spur' or 'Steers' or taken to the Waterfront where they can get ice cream. They are made to feel special at a cost."*⁹⁶

The second view on girls' associations with gangs come from those in gangs, where they are seen from the perspective of the male gang members. Thus Douglas-Hamilton notes that

*"Even though there are female gangsters, they are few and tend to be an adjunct of larger male gangs. For example there is a female gang called the Naughty Girls however they fall under the command of the Naughty Boys. According to the male gangs the purpose of the female gangs seem mainly to make themselves available for sexual favours, conversely according to female gangs the male gangs 'treat us like shit.'"*⁹⁷

⁹³ 126. Interview with independent researcher of gangs ¹²⁷

Ibid

⁹⁴ Ibid ¹²⁹ Discussion with CPU officer in January 2000

⁹⁵ T. Olivier *Die Burger* Ibid

⁹⁶ G. Rhodes: 'Child Sex Workers: Gangster Culture' in NASEC Conference Report p. 45

⁹⁷ D. Douglas-Hamilton: Warriors of the Ghetto: Ganging as a rite of passage Dissertation submitted in partial fulfilment of the requirements for the B SOC SC (HONS) Degree in Criminology, Institute for Criminology, University of Cape Town, 1995 p.14 footnote 7



As far as could be established the first record of a woman as a gangster dates to the 1950s when Drum Magazine reported on District Six's lesbian gangster, Gertie Williams.⁹⁸ As far as is known the first report of women in gangs dates to 1990, when NICRO reported on this phenomenon. The NICRO report says that

*"Although the number of women drawn into gangs is increasing, they wield no power. They are included because they are personally involved with gangsters, or they may be dependent on drugs. They are also used to keep drugs and to support and serve the gangsters. Often gang wars are started because a gang will fight over the 'ownership' of a particular woman."*⁹⁹

The report further notes that:

*"In other cases women are actively involved in gang operations. For example, they may be used as spies or decoys. Female gangsters have very little respect for anybody and seldom get respect from others."*⁹⁹

The phenomenon of girls in gangs is not unique to the Cape Flats. Various reports indicate that whereas girls were adjuncts to male gangs and in some cases still are, they have now become girl gangs in their own right.¹⁰⁰ These girl gangs are as violent as their male counterparts,¹⁰¹ although they seem to fit the street gang category more than the organised crime category. Reports have been written on girl gangs in The United States, Britain, El Salvador and Singapore.¹⁰²

Little however has been written on girls in Cape Flats gangs and how they come to be members of a gang or of what the experience of being in a Cape Flats gang is like or indeed how the girls feel about being in a gang. Also little is known about the relationship of the girls in gangs to gang involvement in prostitution – a money generating activity that has been associated with gangs since the 1980s.¹⁰³

3. Case study of girls associated with a Cape Town-based gang

3.1. Introduction

The snowball sampling method led us to a Cape Town gang.

Interviews were conducted with 18 girls and 1 young woman. Of the sample of 19, 6 had been in the gang for periods ranging from 5 years to three months. The remaining 13 girls had been abducted by male gang members for the purpose of sexual assault, physical assault and sexual abuse.

⁹⁸ Gevisser, M. and Cameron, E. (eds.) *Defiant Desire*, Ravan Johannesburg, 1995

⁹⁹ NICRO and SJRP: **Gangs: The Search for Self-Respect**, Published by the National Institute for Crime Prevention and Rehabilitation and the Social Justice Resource Project, Cape Town 1990 p.6

¹⁰⁰ K. Tsiakals: 'Girl Gangs' in *Washer Zine Volume 2 Issue 1*

¹⁰¹ S. McNaught: 'Gangsta Girls' in *The Boston Phoenix* 20-27 May 1999

¹⁰² For Britain see A. Campbell: **Girl Delinquents** (Basil Blackwell, Oxford, 1981), for Singapore see for instance S. Vasoo: 'Gang Violence by Girls on the Rise' in *Straits Times* 18/10/1998. For the United States see for instance K. Tsiakals: 'Girl Gangs' in *Washer Zine Volume 2 Issue 1* see also K. Edwards: 'When Girl Power goes Gangsta' in *Insight Magazine* for a report of girl gangs of Vietnamese origin, in the United States.

¹⁰³ NICRO and SJRP: *Ibid* p. 12



The interview sample further consisted of two adult relatives of some of the children, two adult sex workers, a police officer and an independent researcher on gangs.

From these interviews, certain trends and patterns with regard to the gang and its involvement with the sexual exploitation of children emerges. It is also possible to construct limited profiles of the gang leader, the boy gang members and the girls. In addition the girls' own stories tell of a life of powerlessness in which personal resistance takes place in the 'nooks and crannies of the day-to-day situation'.¹⁰⁴

The following statement from NICRO evidences that violence in general, and against women and girls in particular, is a part of gang existence.

*"Gangs fight for power. This battle is partly an attempt to 'prove their manhood'. The macho culture of South Africa is the result of a maledominated and violent society. In a society where many people are robbed of economic and political power, the will to dominate others is increased. To prove their power and manhood, gangsters often pick on the weaker members of their communities, particularly women. Men and women are socialised differently from one another in our society. Men are brought up to be dominant, controlling and powerful, while women are taught to be submissive and dependent. Gangsters act out this social norm by using their power to control women."*¹⁴⁰



That this power is wielded through violence is clear from the testimonies of those we spoke to.

3.2. The Gang

Some researchers believe that "there is no clear cut answer as to why certain people and not others join gangs."¹⁰⁵ Pinnock¹⁰⁶¹⁰⁷ has argued that for adolescent boys on the Cape Flats "the gang generally occupies a period in the boy's life between childhood - when he is incorporated in a family structure - and - marriage - when he is re-incorporated into a family and into orderly relations of work. The gang says Pinnock "is his pseudo-kin." This need for a substitute family "becomes especially important at a time of cultural disorganisation."

Very little is known about the boys in the particular gang under study and we were unable to interview them. Information that we do have was obtained from interviews with the SAPS, girl children and their aunts. These aunts also related that three of their nephews and brothers had been members of the gang. These three boys died within a period of 10 months and were aged 19, 14 and 15 respectively, at the time of their deaths. The gang leader and the boys allegedly murdered them. From the testimonies it is conceivable that the two remaining brothers were involved in the murder of the first brother and that the last

¹⁰⁴ The phrase is borrowed from C. Van Onselen, Chibaro, Ravan, Johannesburg, 1979

¹⁴⁰ NICRO and SJRP, Ibid

¹⁰⁵ N. Mbede: Street Gangs: A Contextual Study Exploring the Gang phenomenon in the African townships of the Cape Peninsula and community attempts at curbing and re-directing gang activity B SOC SC (HONS) University of Cape Town p.31

¹⁰⁶ D. Pinnock: Brotherhoods: Street Gangs and State Control in Cape Town (David Philip, Cape Town, 1984) p

¹⁰⁷



brother to be murdered was involved in this murder as well as that of the brother who was murdered before him.

The funeral programmes for these three funerals indicate that two of the boys' funeral services were held at the house where they were reportedly murdered. The boys in the gang, the girls in the gang, and the gang leader made up the majority of the pallbearers. The family number here was small. By the second funeral the girls had lost their own surnames and had acquired the gang leader's surname.

3.2.1. The structure of the gang

The gang appears to comprise three elements, the leader, the male members of the gang and the girls.

3.2.1.1. The Leader of the Gang

Hy, jong, hy's lief om te sê: "Ek is, The Monster." En dan maak hy soe met sy hande. (brings the tips of his fingers together and moves his hands from his chest to his mouth) ¹⁰⁸

He likes to say: *"I am The Monster"*

*"Hy't dik goue kettings, dik ringe, en dik ringe, en dik wallets wat die prostitute se geld is. Is nie sy geld nie."*¹⁰⁹

He has lots of gold jewellery, rings and chains and a thick wallets. It's not his money. It's the prostitutes' money."

Zunaid tel baie, tel almal sy girls, en hy slaan sy girls oek, as jy nie meer vir hom wil werkkie, en kry hy vir jou, maak die boys vir jou reg. Hy iet vir jou eerste en dan sy boys agterna"¹¹⁰

Zunaid, likes to keep track of his girls. He beats them if they don't want to work for him. If they run away and he finds them then the boys will sort them out. He rapes them and then the boys will rape them."

Little is known about the gang leader. Interviews reveal that he tried to live up to his image as a monster. The girls speak of his brutality in relation to them and the boys in the gang. Little is known about his connections to other gangs, except that he had connections with the Hard Livings gang.

The gang leader is connected to a number of residential areas in Cape Town, most notably Salt River, Woodstock, the Bo-Kaap and Lenteguur in Mitchell's Plain and exercises some influence on residents in these areas.¹¹¹

It is conceivable that his initial job as a pimp is the consequence of his last stay in Pollsmoor prison, from where he was released in 1993. And it is probably here that he became a

¹⁰⁸ Interview with Belinda, trafficked child

¹⁰⁹ Interview with Una adult independent street worker

¹¹⁰ Interview with Connie, adult independent street worker

¹¹¹ Researchers field notes.



member of the 28s/26s. His role as pimp of a small group of girls appears to have started at the end of 1993.

Douglas-Hamilton points out that theoretically the 26s steal with cunning and the 28s are primarily concerned with organising sexual partners and sodomising.¹¹²

3.2.1.2. Male Gang Members: Known as the Boys/the Guards/Guardtjies

According to Douglas-Hamilton coloured male youths between the ages of 13 - 19 years provide the most useful study group for the investigator of gang behaviour as "The majority of gangs youths fall into this age, sex and race group."¹¹³

Table 4 below reflects this trend. The two who fall outside it are the gang leader, and one other member. Both are over 30. Fourteen of the male members represented in this table, are coloured and one Indian.

This particular gang reflects high family involvement. The gang leader seems to draw on his immediate and extended family for recruitment of boys.¹¹⁴ Of the thirteen boys, six are related to him.

The reason for the family involvement as well as the girls' taking on the gang leader's surname, in public spaces indicates that this is a mafia type gang - one type of gang organisation found on the Cape Flats.¹¹⁵

In some cases, the non-related boys are children who used to live on the street. It is not known how they became members of the gang.¹¹⁶ The boys' roles appear to have been to

- protect the girls from sex exploiters, on the street and in the house
- help bring the girls in line, through beatings and sexual assaults
- participate in the abduction of girls
- lure girls into the gang
- subjugate abducted girls through rape and beatings
- take possession of goods stolen by the girls, on the street or in the house.

Table 4: Male gang members - Relationships and reported offences committed against girls¹¹⁷

Name	Relationship to gang leader	Age in 2000 (some might be inaccurate)	Mentioned by girls in relation to offences against them and others
Boy 1	N/A	17	Physical assault
Boy 2	N/A	16	Rape, theft, abduction
Boy 3	Former street child	17	Physical assault

¹¹² D. Douglas-Hamilton: **Warriors of the Ghetto: Ganging as a rite of passage**. Dissertation submitted in partial fulfilment of the requirements for B SOC SC (HONS) Degree in Criminology, UCT, 1998. p. 57

¹¹³ D. Douglas-Hamilton Ibid p.14

¹¹⁴ Interview with police officer

¹¹⁵ Types of gangs are: corner kids, street gangs, mafia, prison and syndicate

¹¹⁶ Interview with police officer.

¹¹⁷ From interviews with abducted and trafficked girls and their family members



Boy 4	Brother/sister's son	N/A	Assault, rape, abduction
Boy 5	First cousin's son	14 at time of death	Physical assault
Boy 6	First cousin's son	15 at time of death	Physical assault
Boy 7	N/A	17	Abduction, attempted rape, assault
Boy 8	Brother/sister's son	23	Rape, abduction
Boy 9	Own son	17	Murder, rape, attempted rape
Boy 10	N/A	17	Physical assault
Boy 11	N/A	17, at time of death	Murdered between '96 and in Jan '99
Boy 12	N/A	17	Abduction, rape
Adult 1	Leader of the gang	36	Rape, murder, abduction, theft assault, extortion
Adult 2	N/A	33	Abduction, rape and physical assault
Adult 3	First cousin's son	19, at time of death	Rape, abduction, assault

3.2.1.3. The girl children

Of the nineteen interviewees, six had done sex work and engaged in the robbing of sex exploiters. Of the six, two had been abducted from the Golden Acre and the Parade respectively and held captive. Two of the girls were lured off the street and the remaining two went to the house to bring their siblings back home and were coerced into staying and becoming child prostitutes. The remaining thirteen interviewees were abducted for purposes of physical and sexual assault by the male members of the gang. They managed to escape. Their periods of captivity lasted from a couple of hours to two months.

Interviews with the girls revealed the traffic of thirty-six more girls between 1994 and February 2000. The girls are known in the community as the gang leader's girls. They are generally between the ages of thirteen and fifteen at first initiation. One child, was twelve. None of them indicated a history of prior sexual abuse, although some of them had been sexually active. Most of them had lived in relatively stable homes. Some had run away from institutions. The girls are exclusively 'coloured' and working class. The majority of them are from working class areas on the Cape Flats. Four, comprising two sets of sisters, are from other provinces namely KwaZulu Natal and the Eastern Cape.

Traditionally and universally gang members use a variety of methods to denote their allegiance or affiliation to a specific gang. Traditionally this includes the wearing of a specific brand, type, or colour of apparel (e.g. hat, jacket, shirt, pants, and shoes).¹¹⁸ Gang members also dress either to the right or the left.¹⁵⁴ The male members of the gang use covert methods to denote their gang affiliation, as for instance in the dyeing of their hair bright green or orange. The girl members' gang affiliation is shown in the tattooing of the leader's name on their hands and in the dyeing of their hair blonde and in the nose stud in the left nostril as well as three ear piercings in the left side.¹¹⁹ The girls however only mentioned the tattoo which some of them experienced as traumatic.

From the interviews the following emerged about the traffic of girls into the gang.

- 55 known girl children trafficked, over a six-year period (1994 to February 2000)
- 15 abducted, of which 13 managed to escape without having done "sex work", 2 stayed on as "sex workers"

¹¹⁸ J. Ogeiva: 'Gangs': <http://eric-web.tc.columbia.edu/monographs/nds107/-gangs.html>

¹⁵⁴ Ibid

¹¹⁹ The piercings were noted by the researchers and mentioned by the independent researcher



- 4 lured to the house by the girls, sexually assaulted but let go
- 2 lured off the street by one of our interviewees, who also lured her sister
- 2 reported to have been murdered
- All had been physically and sexually assaulted by male gang members
- 4 of the girls have children from the gang leader
- All lived in a house in Salt River
- All the money they make either through "sex work" or the robbing of clients go to the gang leader

Girls are watched "protected", beaten and gang-raped by male members of the gang.

These interviews also provide a vivid picture of the life of a trafficked child and offer us insights into

- the conditions under which girl children were trafficked
- what the conditions of captivity were
- the nature of the sexual exploitation
- the methods of coercion employed to keep them in the gang
- their own strategies for survival and escape.

3.3. The operation of the gang

The operations of the gang are primarily that of robbery through deception. This is done by using the availability of teenage girls and young women as sex workers as a front. The operation however also appears to be dependent on a steady supply of girls.

At some point (it is not clear when) it ceased to be obligatory for the girls to have sex with the sex exploiters. Instead the primary objective was to rob the sex exploiter of his money and other valuable possessions such as gold jewellery and cell phones. It would also seem that in some instances the girls would rob men on the street, without concluding the transaction for sex.

3.3.1. Methods of trafficking

The interviews with children and family members also sketch a picture of the methods of trafficking employed to lure the girls to the gang. These are

- money was exchanged with a parent in exchange for his/her girl child
- girl children were abducted, coerced, physically and sexually assaulted and held captive by male gang members and coerced into drug and alcohol consumption by girl gang members
- girls living on the street are lured by girls already in the gang
- young school going girls are lured by girls of the gang to the house with the intention of holding them captive, until they submit and become a member
- girls already in the gang lure their younger sisters to the gang
- boy gang members lure girls from clubs, as their girlfriends to the house
- girls from rural areas who travel to Cape Town in search of work and better life opportunities are approached on arrival at Cape Town station by an intermediary and taken to the house



They were trafficked to

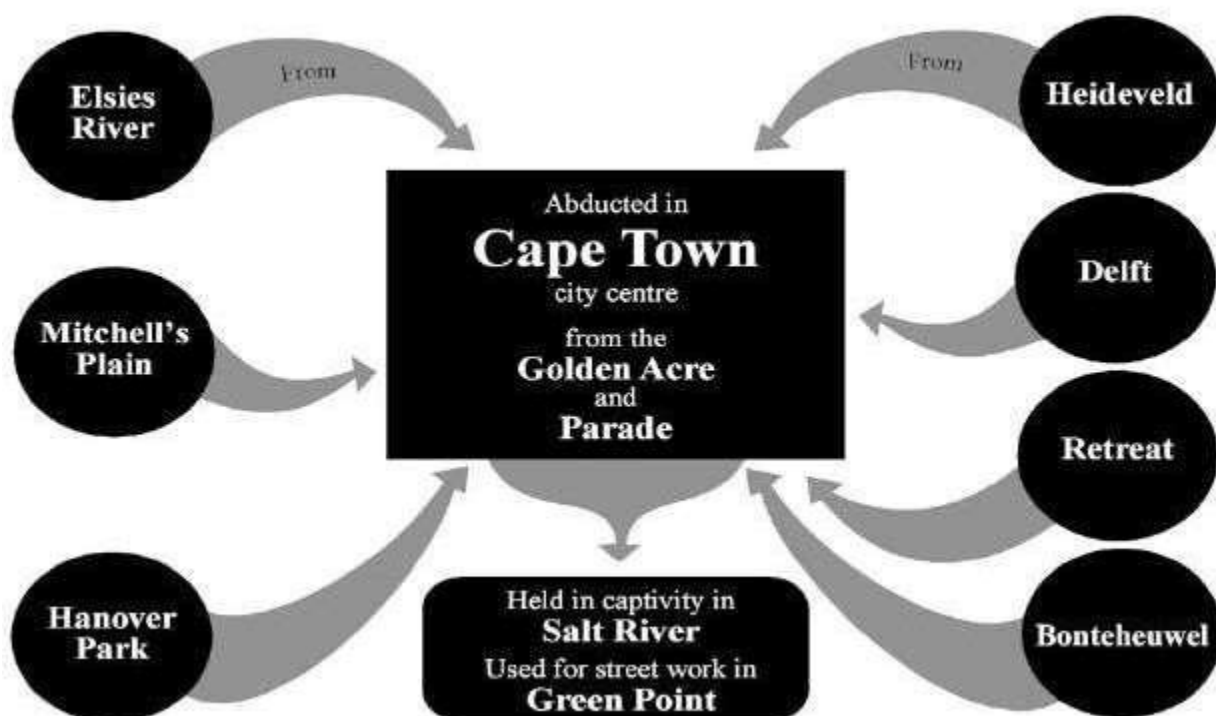
- have sex in exchange for money
- rob sex exploiters
- lure other young girls into the gang
- co-operate in the sexual assaults of some of the abducted girls
- participate in the assaults on boy gang members
- be party to assault and murder of both boy and girl members, of the gang.

Box 7: Article 29 - African Charter on the Rights and Welfare of the Child (1990)

State Parties to the present Charter shall take appropriate measures to prevent
(a) the abduction, the sale of or traffic in children for any purpose or in any form, by any person, including parents or legal guardians of the child

Map 5: Some indication of the local

trafficking of girl children in the Cape Peninsula



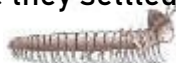
4. The lives of trafficked children

The children spoke about their lives, in the gang, as they experienced and remembered it. The memories they chose to share were those that related to their first involvement, the treatment they received in the gang and their desire for escape. These memories are presented here in thematic form. Their testimonies also allowed for the construction of profiles, which are presented in tables 5 and 6.

4.1. Chantal's story

Our first interviewee, Chantal, is from the Eastern Cape. She was 13 when she ran away from a reformatory in 1992. She met the gang leader at the end of 1993, in Green Point. According to her testimony he had two other girls working for him at the time. Both these girls left soon after her arrival into the group. She was thus left to work alone until she managed to lure two more girls from the street.

The first year and a half of Chantal's life with the gang leader was spent moving from a hotel to two different houses before they settled in a house in Salt River, owned by him.



Chantal's story of her life in this interview starts when she met the gang leader. This she describes in detail. Her testimony was given in a clear but emotionless monotone.

She mentions her lack of knowledge about prostitution and inability to get away from him. Already within a day of their acquaintance, according to her, he was able to threaten her with retributive action from the police for having run away from the reformatory.

She relates her initial contact with him and the first few months of her life with him thus:

Original transcripts of selected testimonies appear in Appendix 1

I am twenty-one years old. I was in a Reform school for girls. Two other girls and I decided to run away from the Reform school. I lived in Woodstock for a year and a few months. Now, every night the other two girls went to the road. At that time I didn't know what prostitution is. They did the work every night. Then I would wait on one of two corners for them.

Then I saw Zunaïd. We had to walk passed him in the evenings. He used to chase me and I would wonder who this man is. I was a little scared of him. I didn't respond to him. We just used to go home every night. Until this Friday night, we were sitting at the corner and he and two other girls approached us, in Green Point. He asked if we didn't want to go with them. I asked where to and he said first to the Parade and then to the Bo-Kaap. I said I wasn't going with him because I don't know him. Later, the girls had left and it was only one other girl and myself there and then I went with him. He bought us food at the Parade and then we went to the Bo-Kaap.

I shared a bed with two of the girls that night and he got up during the night and wanted to pull me out of bed because he wanted to have sex with me. I screamed and told him that I did not want to have sex with him because I did not know him.

The following morning I wanted to go but he stopped me and said that I would get into trouble, on my own. The girls who were with me went and fetched the police. He then told the policemen that I had run away from a Reform school. I had no choice but to stay with him, after that.

Later I was quite surprised to see that the two girls were getting dressed. They wore short skirts. I asked them where they were going and they said that they were going to (unclear from the tape). Then I also got dressed in a short skirt. We went to the road. Then they taught me how to do business.

After some time they ran away and I was left alone with Zunaïd and I told him that I wanted to leave. Then he said I couldn't leave because I am the only person who can help him get other girls.

We moved from his mother's house to the _____, in Sea Point. We stayed there for two or three months. I went to the road with him every night until I managed to get two or three girls to work with me. We didn't rob the men at that time. We had to do proper business with the men. Then we moved to ----- Lane in Woodstock. There we started robbing the men, without doing business. We stole guns and stuff like that. We didn't stay there long because the neighbours complained about the noise we were making. Then we moved to another house in Woodstock. We lived in a grey house.

Then the Muslim people who lived there said we should leave because we were keeping them awake at night. Then he bought the house that they are staying in now. I lived there for years.

4.2. Stories of abduction

During interviews the abduction of 15 girl children were described. All the abductions took place in the city centre either from the Golden Acre or Parade. The girls are typically abducted in groups of 3 or 4 by a group of 4 or 5 gang members. The leader of the gang is always present when the abductions take place.

Of the 15 who were abducted 2 became members of the gang. The remaining 13 escaped. These two girls escaped after 3 and 7 months with the assistance of others – in one case with the help of a sex exploiter and in the other case, with the assistance of a couple, who were driving in Green Point.



Abduction 1

In April 1997, four teenage girls from Delft, a township in the northern section of the Cape Flats, were spending a Saturday afternoon in the city centre. They were walking through the Golden Acre shopping complex at about 14h30. A man who was "'n Kleurlingman wat ek nie geken het nie" (A coloured man whom I did not know) approached the four, "Ek het agterna ytgevind sy naam is Zunaid." (I later discovered that his name is Zunaid.)

In separate interviews the four recalled the events of that afternoon. While they recall the events as they experienced them individually and separately, their stories are remarkable for its similarities. From these four testimonies the following emerge.

Four or five men approached them. One of the girls, Denise was threatened with a gun and told to go with two of the men to fetch a car. The other men stayed with the remaining three girls.

Denise was taken to Salt River by public taxi from where the car was brought back to town. The other girls were collected and taken to the house in Salt River. Here Eugene raped Denise. Mercia was beaten up. Anil and one of the young boys in the house thwarted Stephanie and Sandy's first attempt at escape, as Stephanie describes it:

"We went to stand near the neighbours who were having a braai, outside. Eugene came out and shouted and swore at me and told me to stay inside the house. I told him that I didn't want to. He told one of the boys who was standing outside that he should shoot us if we tried to run away. The boy had his hand under his jacket the whole time. I wasn't sure if he had a gun."

She tells how she escaped two months later. She left the house and went and knocked at several doors, asking to use the phone and how no one would let her. She eventually found a public telephone from where she called her mother.

Abduction 2

Recounted by one abductee: Jenny¹²⁰

Three girls had run away from a reformatory for girls. They were spending the Saturday afternoon in the city centre. They walked around in the Golden Acre and from there went to the Parade. "Ons het naby die Parade geloop, toe hoor ons 'n kar die hele tyd hoot. Ons kyk toe om en ek sien toe is 'n wit BMW." (*We were walking near the Parade. We heard a car hooting, persistently. We turned around to look and saw a white BMW.*)

There were three men in the car who forced the 3 girls into the car, at gunpoint. From here they were taken first to the Bo-Kaap and then "tot agter 'n factory, en hulle stop toe nou daar by 'n hys en sê ons moet yt-klim." (*We stopped at a house, which was behind a factory. They said we must get out of the car.*)

Once inside the house they were asked if they smoke and drink and because they did not, were they made fun of, and called the "Ballerina Girls."

According to Jenny, Zulfa was initiated as a sex worker that same night. She and Lucia however were held captive for differing periods of time. Lucia escaped 6 days after the abduction and 2 days after she had been raped.

¹²⁰ Interview with Jenny conducted in April 2000



Table 5: Profile of abducted girls

Name	Age at time of abduction	Age at time of interview	Abducted from	Abducted when	Length of stay	Became a "sex worker"	Nature of violence experienced
Jenny*	14	16	Parade	1998	3 months	Yes	Physical assault
Alicia*	14	17	Parade	1996	7 months	Yes	Raped and physically assaulted
Mercia	14	17	Golden Acre	1997	2 months	No	Physical assault
Denise	16	19	Golden Acre	1997	1 month	No	Raped
Sandy	14	17	Golden Acre	1997	2 weeks	No	Threatened
Marlene	14	17	Parade	1996	A day	No	Raped
Janine	14	16	Parade	1998	A few days	No	Threatened and assaulted
Amanda	15	17	Parade	1998	6 days	No	Raped
Crystal	14	16	Parade	1997	3 days	No	Threatened
Verosha	13	15	Parade	1997	1 month	No	Raped
Anthea	15	17	Parade	1997	1 month	No	Physical assault
Nadia	14	17	Parade	1996	2 weeks	No	Threatened and physically assaulted
Samantha	14	17	Parade	1996	2 weeks	No	Physical assault
Portia	15	17	Golden Acre	1997	3 weeks	No	Raped
Stephanie	14	17	Golden Acre	1997	2 months	No	Threatened

* Also represented in Table 6

Abduction 3: Alicia's story

Original interview in English

I was walking with Arlene and Shelley on the Parade, after school. We were approached by four men, we didn't know. They appeared, as if from nowhere and grabbed all three of us. They put us into a white BMW. We were shouting and going on. We shouted and went on. They pulled our hair and pushed our heads down so that people couldn't see what they were doing. We were pushed down onto the floor of the car in the back. One of them drove the car and the other three sat at the back holding us down, between their knees.

Alicia is one of the abducted girls who became a child prostitute. She stayed in the house for three months before she managed to escape. According to her she just decided that it was time to leave and she left.

5. What they say about their lives in the gang

5.1. Becoming one of the girls

5.1.1 The Chappie or Tattoo

One evening while we were sitting in the room I decided that I would refuse to be tattooed. The other girl decided she is going to tattoo "Zunaid" on her fingers. She insisted that I do the same, but I still refused. I then agreed to have my child's name tattooed on my arm. Much later I realised that all the girls have "Zunaid" tattooed on their fingers. I was the only one that did not have his name tattooed on my fingers.

One day while we were sitting outside we looked at each other's hands, I closed mine. They asked me why I closed my hands, I said 'because I don't have Zunaid's name tattooed on my fingers'. Then they said "then you are not one of the girls, you are a danger to us." Because of that I allowed one of the girls to tattoo my hands. – Chantal



The Friday morning seven o'clock they hijacked her on the road. With guns. They hijacked her into Zunaid's car. Zunaid was the driver and some of his guards. I can't tell you the names now. They hijacked her, the Friday. So when hmm, ja hmm so when this case was finished I asked her what did he do when he grabbed her into the car. She said no he hit her with his fist, and hmm she also mentioned to me like, they made her actually drunk there in the house, and they tattooed her. She was actually drunk, they used the branding needles on her. She didn't want it. She was forced to. – Christine

They say, they say why they got tattoos is like, like say for instance hmm, you your Zunaid, we both here, that's like we must stand together with him in whatever he's going through. And that's why all the girls got that Zunaid's name on their hands. – Christine

5.1.2. The first time on the street

One night, two of the girls Sylvie and Chantal stayed behind and talked to us about going out with them. They said that it was really easy the men just stop and you go to the car and you tell them it's R80-00 and then you bring them back to the house and the boys will follow you in the car. When you get to the house one of the girls will be waiting in the room, under the bed and you get the client to undress, and then the girl will take his money from his pants and you don't have sex with him. You just push his penis between his legs and it hurts and he won't be able to do anything and if he tries to hurt you or fight with you then the boys will be there to deal with him. After another few days I did go out with them, every night. – Alicia

5.2. Life in the house

Alicia says:

Everyone was locked up, in that house. There were eleven other girls there besides the three of us. They brought the men home and robbed them and one night there was a fight because the one man found out that the girls were stealing money from him. He demanded his money back and Zunaid and the young boy who was there, Sammy, beat the man and threw him out of the house. Belinda says:

He comes into the bathroom when you are having a bath and he sits and watches you. If he feels like getting into the bath with you then he does. And then you have to wash his back – you have to wash him because he is Zunaid. Chantal says:

Sometimes, when it rains and we can't sit outside then we sit inside the house. We drink our lives away. We drink everyday.

Jenny says:

The house was always dirty. Everything was always in a mess."

Crystal says:

While, we were in the room I heard Anthea screaming: "Leave me, Mommie help me, God help me!" Janine then told Zunaid to go and help Anthea. He said that he couldn't help her because the other guys would be cross for him if he spoilt their fun. He then also said that Anthea and Verosha chose to sleep in the lounge. Shortly after this, Verosha came running into the room and switched the light on. I noticed that she was totally naked. She climbed into bed and asked Zunaid to help her. I saw how he turned his back on her and laughed silently. Then another boy came into the room, I can't remember his name, but he was about eleven or twelve years old. He pulled Verosha out of the room.

5.3. Violence as a method of coercion and control

There are four ways in which violence takes place in this gang. In the first instance it is directly from the leader against the girls. Secondly the boys commit acts of violence against the girls. Thirdly the girls report their involvement in acts of violence against the boys. Fourthly the girls are involved in acts of violence against one another. All acts of violence appear to occur on the orders of or at the instigation of the gang leader.



Violence is clearly used as a method to ensure that the leader's authority remains unchallenged. Anti-trafficking organisations note that in addition to being trafficked children and adults also experience violence. This violence is exercised as a means of control.

These acts of violence include¹²¹

- torture, cruel, inhuman or degrading treatment
- slavery or slavery-like practices, involuntary servitude, forced or compulsory labour
- debt bondage
- forced marriage, forced abortion, forced pregnancy.

Box 8: Article 37(a)
- The UN
Convention of the
Rights of the Child
(1979)

No child shall be subjected to torture, or other cruel, inhuman or degrading treatment or punishment

The girls describe the occurrence of this violence thus:
 Hy moet 'n meisie slat. Elke aand dan moet hy 'n meisie slat.

He must beat a girl. Every evening he must beat a girl. – Lorraine

One of the boys, stabbed me with a knife, in the back, and he hit me with a bottle over my knees and on my head because I wouldn't stop crying and shouting. Anil and the other two boys slapped me and kicked me in the stomach. –

Mercia

After I had been there for a while he started beating me too. I wanted to go home, but it wasn't possible. Sometimes when you are sitting in the lounge then you have to be too scared to look up. You have to stare at the floor. You can't look at him. You never know when it will be your turn to be beaten. He just comes up to you without warning and slaps you in the face, for no reason. Or he will get Faghme to hit you. Faghme always beat me. He would hit me to the ground and kick my head against the tiles. – Lorraine

As jy slaap, jy word geslat nê. Hulle vang allerhanne goetters aan met jou as jy slaap. Hulle brand jou sommer mette entjie.

They do all sorts of things to you while you are sleeping. They'll burn you with a cigarette. – Belinda

5.4. Resistance and punishment

Any act seen as resistance or a challenge to the gang leader's authority is punished with physical or sexual violence. Acts of resistance include planning to escape, attempting to escape and defying any of the leader's orders and authority. Exhibiting behaviour that does not define one as one of the gang, such as wanting to raise your own children, is also punished. In keeping with the mafia-type gang the children fathered by the gang leader are given to his extended family to rear.

The children quoted here say how these acts of violence were committed. The descriptions are often graphic and detailed. This way of relating the incidences of violence against themselves and the other girls is indicative of symptoms of post-traumatic stress. These symptoms as Jackson points out can manifest up to two years later, for the first time.¹²²

¹²¹ Human Rights Caucus: **Human Rights Standards for the Treatment of Trafficked Persons** Document prepared to inform the deliberations of the Drafting committee on the Protocol on Trafficking of women and Children for the UN Commission on Crime Prevention and Criminal Justice.

¹²² L. Jackson Ibid



Planning to escape

During the time that I was there they assaulted me very badly, they kicked me and hit me, because they heard that I wanted to run away. They had brought us there the Saturday and the first Tuesday, after that, the two sisters Laetitia and Antoinette had to appear in court on a murder charge.

Zulfa went with them. While they were at the court she told the two of them that Lucia and I had said that we want to run away. When they got back that afternoon they told Zunaid and he was very angry. He told one of the guards, who were there, that he should go and fetch Lucia from where she was sleeping in the room. I was sitting in the lounge. Zunaid told Lucia that she should go and sit on the floor. He kicked her twice so that she fell against the cupboard and he told her to go and sit in the middle of the floor. She started crying loudly. Zunaid told her to shut up and stop crying because she is not a baby and she must take her clothes off. She took her clothes off, but she still had her bra and pantie on. One of the other girls, Nadine stood up and asked Lucia if she didn't hear that Zunaid said that she should take her clothes off. They went and fetched a blanket and told her that she should lie on the blanket and she did this. They called Faizel and told him to go lie with her. We were about seventeen people, in the lounge when Faizel raped Lucia. Lucia was only fourteen years old. When Faizel was done with her another man, Ray came to me and said that I should forget about running away. He asked me if it's not nice there with them and I said yes it is, because I was scared, after what had happened to Lucia. He then said to me that I mustn't even think about running away because we will be staying there for a very long time. – Jenny

Challenging notions of the family

She (Ghairo) took the child away from Zunaid. The child was at home. The two of them were inside the house, arguing about the child.

Zunaid became angry, and the girls were talking amongst themselves saying, that she is going to get a beating. She refused to listen, then Zunaid slapped her and began beating her in the house. He threw her to the ground outside. Zunaid stripped her of all her clothes in the road. She was forced to take off all her clothes, including her bra and her pantie. He forced her to stand against the wall of the private property (opposite the house). He let her enter the private property first then he kicked her, and then he threw her with stones. Then the guards had to throw her with stones. She was then forced to come out so that everyone could beat her. Zunaid then took a sjambok and whipped her, then he took her away. That evening he threatened me and promised that I will be beaten in the same way. He took Ghairo's clothes and threw it into the car. Her body was sore from all the beatings. Then he threw her into the car too. He then told to her to go to work. – Lorraine

5.5. Committing murder

According to some of the girls their involvement in acts of violence includes beating one another, fighting with sex exploiters and the murder of boy gang members. Some anti-trafficking organisations state that where trafficked women and children are defendants in cases where they have committed acts of violence against their traffickers or others that the state should provide such a person with the opportunity

"to raise a defence of duress or coercion and that the same evidence should be considered as a mitigating factor in sentencing, if convicted." The organisations also believe that in cases involving charges of having committed a crime against a trafficker, including homicide, *"she or he has an opportunity to plead selfdefence and to present evidence of having been trafficked and the same evidence is considered as a mitigating factor in sentencing, if convicted"*¹²³

Box 9: Chapter 4 9 (1)
(c) Prevention of
Organised Crime Act
(as amended
1999)

Any person who actively participates in gang related offences or is a member of a criminal gang who threatens any specific person or person in general, with retaliation in any manner or by any means whatsoever, in any act or alleged act of violence, shall be guilty of an offence.

One instance of the girls' involvement in the murder of a boy gang member was described thus:

One Saturday evening, we all decided to go dancing. Zunaid left one of the guards, Cassiem at home with a gun. He is a mandrax user and drinks as well. Zunaid then warned Cassiem if anyone comes looking for him, he must tell him or her that he is not there and that if they don't want to listen he must use the gun on

¹²³ Human Rights Caucus: Ibid.



them. On our way to Athlone we encountered some danger. Guys were shooting at the car. We were all forced to lie flat on the floor, Zunaid shot back, and the guards that was in the car behind us also shot back. The other car drove off.

We returned home and Zunaid asked Cassiem where the gun was. Cassiem said the gun was locked in the wardrobe. We searched the wardrobe for the gun, but the gun was not there. Zunaid then instructed us to each find a weapon to beat the boy with. We each found something. Some of the girls had spades, pickaxes and rakes. I took the lightest thing, - a stick- a broomstick and I beat him with it. We beat him from the lounge into the bathroom. The whole house was full of blood. Then he told us to stop. It was the boys' turn. The boys used the same sharp objects that we used to beat him with. The boys then took him from the kitchen to the backyard, his two fingers were cut off and they twisted wires together and shocked him. Cassiem repeatedly denied any knowledge of where the gun was. Afterwards Zunaid suspected that Cassiem had sold the gun. He was close to death. Zunaid, then told the boys to take him into the backyard. He couldn't breathe. I don't know what Zunaid was discussing with the boys on the stoep. So I told the boys to take him away, he was dead already. We heard the black Cortina drive off. We didn't hear anything about it after that. - Chantal

5.6. The role of alcohol in ensuring compliance

Alcohol consumption appears to be an inherent feature of the culture of this gang. All the children interviewed mentioned the consumption of alcohol as a daily occurrence. It seems that it was mandatory to drink and refusal to do so could result in retributive action or ridicule at the very least. As one of the girls said: "They called us 'Ballerina Girls' because we didn't want alcohol".

All the abducted children, except one said that they were offered alcohol on arrival at the house. Some of the girls reported that a detour was made to a shebeen en route to the house from the place where they were abducted. They also reported that groups of men would regularly sit outside, the house and drink.

This is undoubtedly used as a means of ensuring compliance and exerting control over them.

Two of the girl children expressed their first encounter with others in the house thus:

Toe lat hulle my mos eerste dronk raak. Daai is wat hulle doen met ammal die girls.

They first made me drunk. That's what they do with all the girls. - Belinda

Ons wil toe nou nie drink nie, want ons drinkkie. Annabelle het so aangedring dat ons drink sy het ons geforce en gesê as ons nie die wyn drinkkie dan gaan ons sien wat gebeur met ons. En toe drink ons nou maar.

We didn't want to drink because we don't drink alcohol. Annabelle insisted and forced us and said that if we don't then we will see what is going to happen to us. - Janine

5.7. Sex exploiters

The girls refer to sex exploiters as "Lanies" or "jumps" or "clients" or "klieënte"

Is wit mense, is polisiemense, is ammal. Hulle kom sommer in poliesklere, dan kom hulle daar vir werk.

They are white people, policemen. It's everybody. They come in their police clothes, when they come there for work (sex) - Belinda

5.8. Working

Referred to as "besagheid" or "werk" or "besigheid".



Now, the girls bring the clients to the house then they take the men to one of the rooms. They take the clients' clothes off and put it next to the bed. Now, the client doesn't know that there is another girl hiding under the bed. She climbed in under the bed before the time. This girl takes his wallet out of his pants pocket and takes the money out and then puts the wallet back. Sometimes the girls have sex with the clients and other times they do other things with the clients. All the money must go to Zunaïd. – Jenny

I took him into the room. I undressed myself. Now, I don't use cocaine. So, he said I should sniff it, and if I don't he won't do business with me. At that time there wasn't anyone in the house yet. Zunaïd wasn't there yet. So, I sniffed quickly, before they came in and saw me. After I sniffed, I went and laid on the bed, and started to fondle him so that he could have an erection. I then took money from his wallet and emptied his pockets. I only left a R10-00 in the wallet. As I was taking the last R200-00, he heard me and jumped up and went for his pants and I grabbed his pants from him. Then he just wanted to leave. Now, the men are not allowed to leave, unless the girl says they can leave. I stood at the door, and he was fighting with me. We were fighting in the room. He took out his knife trying to stab me. I kept running around the bed trying to get away from him. He managed to stab me and cut me across my finger. That's why my finger looks like this today. I called out to Zunaïd that the man had stabbed me. But Zunaïd ignored me and wouldn't come to help me. Afterwards Zunaïd came, and pointed a gun at the man. Then, Zunaïd asked what happened. I told him that the man stabbed me. I did not realise that he still had R5000-00 in his pocket. Zunaïd then said that this man must pay for what he did to my hand. – Chantal

But some of the Lanies noticed that we were not doing proper business with them. Before they can grab their things, we must make sure that we have emptied their pockets, looking for rings, chains etc. We must take off their chains if they have any, and they can't refuse to give it to us because we will beat them. – Belinda

5.9. The end of the work day

Nou die girls is nou soe two three o'clock se kant, innie oggend klaar gewerk dan kom hulle hys toe. Nou is ammal innie lounge en hulle drink en speel music tot six o'clock toe en dan gan ammal nou slaap.

Now, the girls finish working around two - three o'clock, in the morning then they come home. Now, everybody is in the lounge and they drink and play music until six o'clock and then everybody goes to sleep. – Jenny

Hoe kan ek nou sê, hy lat ons drink as ons innie aanne klaar gewerkkit.

How, can I put it? He let's us drink, in the evening, when we are finished working. – Chantal

5.10. Police collusion

The girls described the collusion of police several times. These acts of collusion range from receiving money from the gang leader to having sex with the children to getting charges of theft against the children dropped.

Two such instances are related below.

That evening I went to work. That evening we robbed a man ourselves. Because we were so busy talking to him, trying to name a price. Ilhaam grabbed the phone, and she put the phone in her pocket. The man drove away and then he came back. By then, we had already given the phone to the guards who watch us. They stand until we are finished working. The people don't know that they are guarding us. A lot of police came. So, they arrested Ilhaam and Nazlee. Antoinette and Laetitia were with her. The three of them got into the police van, and the police said that they know them, because they are thieves. The guards then phoned Zunaïd. Zunaïd came, and he went to the police station. Then Zunaïd just spoke two words and they were out. And the man came back for his phone. That evening he came to the house, for the phone. He had to pay for the phone. So, Ilhaam said, "no, it's R800-00." So, he said: "no R400-00." So Ilhaam said, "no it's R800-00." So, he had to give eight hundred for his phone. – Belinda

And we robbed the men. Let's say for instance a client picks me up then I take him to the house. Once in the house, he will lie on top of us but he's not doing the business. Then we take his money out of his pockets. If they go to the police, afterwards then Zunaïd will give the policemen each a R50-00. And then the policemen



will tell the client that he should rather go to the police station and make a statement there, because they can't do anything about it. – Chantal

5.11. Family relationships and how it operates for the girls/ Family collusion

A number of the girl children's parents and extended family members know the gang leader. They are either related to him or their parents are indebted to him for money paid in exchange for the girl child or because he had helped with the payment of accounts for rent or food.

The web of family involvement for some of the girl children is quite complex and difficult to unravel. An indication of how it operates for some of them is provided below.

The extract is lengthy but is provided to show the levels and complexity of family and how it operates to keep children in this situation.

One-day Lorraine and I were lying in the road. We each had a pair of shorts over our heads and we had two cases of beer. We were drinking and drinking. The two of us were talking about what it would have been like if we had been home in Hanover Park, it would have been nice, and we would have been free. Tiffany, Lorraine's sister, heard us talking and told Zunaïd that he should come and listen to what we were saying about going back home. Zunaïd just looked at me. We were still lying, in the road. We didn't know what was going to happen next. Zunaïd came toward us and we jumped up. He hit me against my mouth, and kicked me against the wall. I just stood there. I was just standing there. He was beating me with a broomstick, in the road. He chased Lorraine with the broomstick in the road. As we stood there he was beating both of us in the road. And he said, "Oh you want to go to Hanover Park, "we said "No! It's not true "we were just talking about what it would have been like had we been there. He said yes you are taking me for a 'p' and he beat us. I ran to the toilet. I did not want to cry in front of him. I sat and cried there. Cried, I cried for my mother. My mother could not hear because she was not there. I washed my face. My lip began swelling, my head started aching because of the way he beat me knocking my head against the wall. I came out of the bathroom and went out of the house. Auntie Catherine said, "Don't cry, it will be all right" and I said, "Don't talk to me." We both went back into the house. I drank two beers to take away the headache. Tiffany gave me a snowball160 and I started smoking, after that everything was Okay, I was laughing again. And then Zunaïd asked me if he and I now have an understanding and I said that we did. That night I went to work with the swollen lip. As I was standing on the road the Lanies asked who beat me and I just said that I'm fine and I had a fight. The girls tried to take over our territory. – Belinda

5.12. Relationships with boys

Relationships with boys whether they are gang members or from outside the gang is discouraged to the extent that girls are not allowed to look at other men. If caught looking at a boy or man they are beaten. The reason given by the girls is that the gang leader is jealous and wants them for him.

That the girls desired relationships with other boys indicate their desire for development and growth despite the difficult circumstances in their environment.

We are not allowed to look at anyone. Once I was looking through the window watching other young men and one of the guards saw me, he told Zunaïd and for that I also had a beating. He then accused me of being promiscuous. – Belinda

Then Zunaïd came in and asked his son what I was doing in the lounge, his son replied, "Daddy she was watching another guy" I said "No, its not true, I did nothing like that. I was just pouring the wine." Then he said to his son "Wait she is not finished yet, she has something more to say". Then he said he does not want to hear anything anymore. Then he told his son to beat me. He told his son to beat me on my body only not my face and head and to make sure that I don't walk again. Then his son beat me. I ducked and bent on the ground. My body was sore. He kicked my body. I still have pain since the time he kicked me. That was my punishment. – Lorraine

He's very quick to say that we only think about handsome men. I can take a man if I want to, but as far as he's concerned you can't have a relationship with another man, He wants you for himself. – Chantal



5.13. The escape

Getting away is a constant desire for the children. Attempts to do so however are often thwarted. Some of the girls who had escaped were found and abducted again, as was the case with Lorraine. The children employ a variety of strategies to escape. They typically leave alone. Some of these escape stories are described, below

Lucia gets away: as told by Jenny

The Thursday morning Lucia woke me up very early. Everything was locked up. She then came and told me she had found a place where we can escape from and she asked me to go with her, but I was scared, people might wake up. Lucia climbed through a window just above the door and managed to escape. Another boy Hiema heard her and woke everyone up and shouted that Lucia has escaped. The girls ran down the road looking for her. Zunaïd sent the boys to Cape Town station to try and find her, but they did not find her.

Chantal gets away

Last year I discovered that I was pregnant again from him. The girls said you are still going to become his wife. I did not respond. Then one Friday I was angry and I decided to run away. We were busy carrying benches out, I know, a slide broke our windows, then he scolded me. No he did not scold me. He said "there is badluck whores here". I thought he was talking about me. I went to sit outside and Zunaïd sent me to Shoprite. I wanted to run away then, but I thought about it. I decided to go back and ask Zunaïd to buy a hairdryer and a blow-dry brush. So I said Zunaïd we need a hairdryer and a blow-dry brush. He gave me money and asked who is going with me, I said that Geraldine is. In my mind I was thinking, you think you are involved with a stupid person, you are sending the most stupid person with me. We got into a taxi on our way to Shoprite, as we got out of the taxi she suggested that we go and say hello to our children. I said no, you go ahead, I will follow. When I got to the corner I managed to get into the taxi. I went to Wynberg and hiked a lift home.

Jenny gets away

The following Wednesday I decided to run away. I told them I also want to work on the road. I went with them. A white man in a bakkie stopped. Zuleigah and I approached the man. Zuleigah told the man that it would be R160-00 for both of us and R80-00 for one of us. The man said he will take us both. I got in first and sat in the middle, Zuleigah sat near the door. I was quiet and did not talk, the man then asked me why I was so quiet, I said I am always like that. When we got to Zunaïd's house I realised that neither the BMW nor the red car followed us. They were still with the other girls. I sent Zuleigah ahead to knock and open the door for us. She was on her way to the door and I told the man to drive. The man wanted to know what was going on because I was looking so nervous. I told him this was a whole con business and he must keep driving. He told me to close the door and drove off. When Zuleigah saw we were driving off she came running after us and threw stones at the bakkie. The man wanted to know what was going on, I then told him the whole story of what happens to the girls. He asked where I was staying and I told him that I stay in Strandfontein with my aunt. He then said because I helped him that he would help me too and take me home.

5.14. Life after escape

Ek is bly ek is yt daai hys yt.

I am glad I am out of that house. – Chantal

She (Lorraine) was restless. Everytime a car stops here in the road, she looks. – Christine

Innie aanne as ek slaap, dan, ek sien nog alles voor my man. Ek kannie lekker slaappie. Ek onthou mos alles wat gebeurrit daar by Zunaïd, hoe't hy vir ons geslat

At night when I sleep I still see everything as it happened. I don't sleep well. I remember what happened at Zunaïd's how he hit us. – Belinda

Ek dink meeste vannie meisies willie daar wiesie maar hulle is te bang om weg te harloep. Ek is net bly dat ek kon weggekom het. – Jenny

I think most of the girls don't want to be there but they are too scared to run away. I am just glad that I could get away.



6. Strategies for survival

Some researchers on girls in gangs have cautioned that girls in gangs should not be seen as mere victims but as girls negotiating a strategy, to deal with the difficulties of adolescent life.¹⁶¹ Within this view it is held that girls choose to be associated with gangs because of the benefits it brings them personally, in terms of access to luxury items and a sense of belonging. This would have particular relevance on the Cape Flats where there are limited opportunities for girls to development and growth.

The girls in the gang in this case study however did not choose to be associated with a gang, they were forced through various means, including abduction to become a part of the gang and its operations. Once in the gang however, they are confronted with a situation in which they had to negotiate strategies for survival. These strategies relate to their emotional survival and involve negotiating relationships with their family members and members of the gang. At times they attempt to develop a sort of joint response to the brutality they experience. This however never works. They are thus left to fend for themselves, individually. This expresses itself in the fact that their plans for escape usually does not involve anyone else in the gang.

Table 6 below reflects how they were coerced into the gang and what they were coerced into doing while in the gang. Their attempts at escape and the difficulties this presented are also reflected, to some extent.

7. In summary

The involvement of girls in gangs has received mention in studies on gangs in relation to the lack of power that they have in these gangs. They have also been identified as drug runners. Gang involvement in prostitution and child prostitution, in particular however has not been related to the presence of girls and women in gangs.

This case study shows that there is a definite link between the two. It also shows how this is not the result of any voluntary decision on the part of the girls. The glamour that gangs are said to represent for girls and to which they are ostensibly attracted also did not feature as a motivating factor for the girls' involvement or their stay in the gang.

Long associations with the gang appear to be attributable to the coercion strategies employed, rather than to any desire to stay. These coercion strategies include not only violence but also the repayment of a parent's debt to the gang leader.



Table 6: Girls in the gang interviewed

Name	From	Age when at first contact with gang	Age at time of interview	Length of stay	Work done: distinguishing features	Method of escape
Chantal	Eastern Cape - ran away from reformatory - found on street by the gang leader	15	21	5 years	"Sex work", theft. Described involvement in a murder.	Decided to leave - hitch-hiked to Eastern Cape
Lorraine	Went to house to bring sister home ended up staying	14	15	2 periods of 3 months each	"Sex work", theft	Went home with knowledge of the gang leader. Was then abducted by the gang and could not leave for another three months. Left after gang leader's arrest.
Belinda	Sent by older sister to get another sister who was with the gang leader, ended up staying. Threatened with violence when she wanted to leave	14	15	3 months	"Sex work", theft	Left in January 2000, after gang leader's arrest
Alicia	Abducted, together with two other girls, near the Parade	14	17	7 months	"Sex work"	Escaped
Cheryl	Approached on the street invited by some of the girls to come to a birthday party at the house, in 1998. Was raped and held captive. Managed to escape.	15	17	9 months	"Sex work", theft	Escaped
Jenny	Abducted together with two other girls, near the Parade	14	16	3 months	"Sex work"	Escaped with assistance from would be sex exploiter



Chapter 7

Trafficking of children for purposes of sexual exploitation and the law: A review of current and proposed South African legislation and selected international human rights instruments

1. Introduction

This chapter highlights international, continental and national legal measures taken in the areas of child prostitution, trafficking of children for this purpose, pornography, sex tourism and extraterritorial legislation. During the twentieth century, international human rights and humanitarian law have been advanced by the development of international instruments designed to promote the rights, dignity and protection of all people. Children have also been a focus of such international law. As such there is a body of international law that is geared specifically to halt both the sexual exploitation of children and the trafficking of children for this purpose. These instruments generally do not have the same focus on the exploitative use of children in pornography.

National legislation that deals with aspects related to the prostitution of children is covered in this chapter. These pieces of legislation do not deal with the traffic in persons, for any purpose.

Whilst gaps in legislation exist, there are however legal remedies which can be employed by law enforcement agencies. These remedies allow for the arrest, prosecution and conviction of traffickers and sex exploiters, for offences related to the prostitution and sexual exploitation of children as well as offences related to the traffic in children, such as abduction. These legal remedies are dealt with in this chapter. The enforcement of the laws however poses a major challenge.

This chapter does not deal with problems related to child witnesses and the rights of alleged offenders.

This legal review is underpinned by the belief that children should enjoy the right to respect. The review has taken as its starting point that children have a right to protection of their human dignity. In addition the 'best interests of the child', as reflected in the South African Constitution, and International Instruments, such as, the United Nations Convention on the Rights of the Child, and the African Charter on the Rights and Welfare of the Child, is a common thread throughout this chapter.

2. International legal instruments

2.1 United Nations Conventions

International instruments to combat the traffic in children and women for the purpose of prostitution date to 1904 with the League of Nations' International Agreement for the Suppression of the White Slave Traffic (amended by Protocol of 3 December 1948) and its



subsequent 1910 International Convention for the Suppression of the White Slave Traffic (amended by Protocol of 3 December 1948).

Between 1904 and 1933 the League of Nations developed a number of international instruments designed to combat the traffic in persons for prostitution and slavery. The League of Nations also developed a treaty to combat the circulation and traffic of pornographic materials in 1923.

During the course of the twentieth century the League of Nations and its successor The United Nations have passed a number of Conventions that deal with the prostitution of children and women, the traffic of pornographic materials and certain aspects of slavery. South Africa has signed or ratified a number of these. Among these are:

- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956)
- Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)
- The Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications (1923 - amended by Protocol of 12 November 1947)
- The Convention on the Elimination of All Forms of Discrimination against Women (1979)
- Convention on the Rights of the Child (1979)
- Optional Protocol to the Convention on the Rights of the Child (not yet in force).

These Conventions are discussed below.

- Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)

South Africa ratified this convention in 1951. This convention replaced the 1904 Agreement as well as the 1910 International convention. This Convention details procedures for combating international traffic of particularly children and women for the purpose of prostitution. In terms of the Convention state parties are obligated to punish any person who, *"to gratify the passions of another, procures, entices or leads away another person for purposes of prostitution" or "exploits the prostitution of another person"*, even with that person's consent. The convention also prohibits the running of a brothel and renting accommodation for the purpose of the prostitution of others. These provisions of the Convention appear to have been taken up in the 1957 Sexual Offences Act (as amended in 1988). The Convention also makes provision for the extradition of offenders. In the case where a state does not permit extradition the Convention stipulates that should offenders return to their countries after the commission of an act abroad, they should be prosecuted and sentenced in their own country. A criticism of this Convention has been that it conflates traffic in children and women with prostitution and outlaws not only the traffic in children and women for the purpose of prostitution but also prostitution.

- The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices Similar to Slavery (1956). – [SCAS]

This Convention was designed to supplement the Slavery Convention of 1926, which South Africa acceded to in 1927. Article 1 of the Supplementary Convention places an obligation on State Parties to

"take all practicable and necessary legislative and other measures to bring about progressively and as soon as possible the complete abolition or abandonment of, amongst others, "any institution or practice whereby a child or young person under the age of



eighteen years, is delivered by either or both his natural parents or by his guardian to another person, whether for reward or not, with a view to the exploitation of the child or young person of his labour."

- The Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications (1923 - amended by Protocol of 12 November 1947).

The Convention covers all forms of pornography and prohibits the possession, distribution and trade in pornographic materials. It specifically makes it an offence within countries to have pornography *"for purposes of or by way of trade or for distribution or public exhibition to make or have in possession obscene writings, drawings, prints, paintings, printed matter, pictures, posters, emblems, photographs, cinematography films or any other obscene objects"*. The Convention also makes the export, import, conveyance, advertising and taking part in a business concerned with any such *"obscene matters or things"* punishable offences. The Convention allows for extradition as offenders can be brought to trial in those signature countries in whose territories the offence, or any of the constitutive elements of the offence, was committed. Offenders who are not tried in the country where the offence was committed can be tried in their own country if they are found in its territories, even if the constitutive elements of the offences were committed outside such territories.

- The Convention on the Elimination of All Forms of Discrimination against Women (1979) – CEDAW

South Africa ratified this Convention in 1995. Article 6 obligates State Parties *to take all appropriate measures, including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women.* The Gender Directorate in the Department of Justice in its

Gender Policy Statement of March 1999 committed itself inter alia to "creating a legal environment to eliminate all forms of the trafficking in women and children." The Policy Statement further states that this "framework will"

- ensure that all women and the girl child enjoy the right to freedom and security of the person regardless of economic or occupational status,
- help eradicate the exploitation and abuse of, and discrimination against women involved in prostitution or sex work and thus enable South Africa to comply with Article 6 of CEDAW.

- Convention on the Rights of the Child (1979) – CRC

South Africa ratified the Convention in 1995. The Convention in Article 1 defines a child as *"every human being below the age of eighteen years unless, under the law applicable to the child the, majority is attained earlier."* Article 3 of the CRC states that *"in all actions concerning the child ... the best interests of the child shall be of primary consideration"* and in terms of this article *"State Parties undertake to ensure the child such protection and care as is necessary for his or her wellbeing."* The Convention contains a number of articles relevant to the issue of forced child prostitution and the traffic in children for this purpose. These articles are addressed below.

Article 11 states that *'State Parties shall take measures to combat the illicit transfer and non-return of children abroad' and that 'State Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements'.*

Article 19(1) provides that

State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse,



neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.

By ratifying this Convention South Africa undertook the obligation to introduce legislation that expressly prohibits the trafficking of children and in so doing, successfully protect children from all forms of violence and/or abuse. The Article also emphasises the need to provide legislative procedures to implement the legislation in an effective manner. In addition, it highlights the responsibility of every sphere in society, such as education, to take appropriate measures for the protection of children against any violation of their rights.

Article 27(1) states that *'State Parties recognise the right of every child to a standard of living adequate for the child's physical, mental, spiritual, moral and social development'*.

Recognising this right, State Parties are obliged to combat conditions of socio-economic underdevelopment and poverty of which an inadequate standard of living is characteristic. In addition, State Parties should provide special protection to children who due to inadequate living conditions are 'forced' into situations, such as sexual exploitation, which harm the safety and wellbeing of children.

Article 34 deals with the protection of children from sexual exploitation and abuse and reads:

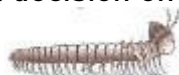
States Parties undertake to protect the child from all forms of sexual exploitation and sexual abuse. For these purposes, States Parties shall in particular take all appropriate national, bilateral and multilateral measures to prevent:

(a) The inducement or coercion of a child to engage in any unlawful sexual activity (b) The exploitative use of children in prostitution or other unlawful sexual practices (c) The exploitative use of children in pornographic performances and materials.

Article 35 places an obligation upon State Parties to *take all appropriate national, bilateral and multilateral measures to prevent the abduction of, the sale of or traffic in children for any purpose or in any form.*

Articles 34 and 35 highlights not only the need for national legislation to protect children from sexual exploitation, as well as trafficking for the purpose of sexual exploitation, but also the importance of and necessity for bilateral and multilateral agreements. Those agreements would be of particular value in addressing the 'best interests' of child victims of cross-border trafficking. Article 37 focuses on the deprivation of a child's liberty and states that State Parties shall ensure that:

- a) No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment
- b) No child shall be deprived of his or her liberty unlawfully or arbitrarily
- c) Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age
- d) Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before the court or other competent, independent and impartial authority, and to a prompt decision on any such action.



The above mentioned inherent rights of liberty and dignity, as well as to human and non-degrading treatment is especially of importance to the child offender of trafficking activities and sexual exploitation. Even if a child is committing an offence and prosecuted therefore, this does not negate the obligation to act in the 'best interest of the child'.

Article 39 is aimed at the obligation of State Parties relating to the recovery of child victims and reads:

State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse; torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment which fosters the health, self-respect and dignity of the child.

This emphasises that State Parties to this Convention, including South Africa, are obliged to protect child survivors of sexual exploitation from any further victimisation. It also implies an obligation to take all necessary steps to enable and facilitate the recovery and reintegration of such children.

Selected articles from the CRC appear in Appendix 2

- Optional Protocol to the Convention on the Rights of the Child (not yet in force)

South Africa signed this Protocol in 2000. The protocol has its origins in the 8 March 1995 resolution by the Commission on Human Rights which resolved that "the open-ended intersessional working group of the Commission ... for the elaboration of guidelines on a possible optional protocol on the sale of children, child prostitution and child pornography, shall elaborate ... a draft optional protocol" on the issues.

This Optional Protocol to the CRC thus deals with activities surrounding the sale of children, child prostitution and child pornography. The Protocol is not yet in force. The Protocol states in its Preamble that State Parties to this Protocol are:

Gravely concerned at the significant and increasing international traffic of children for the purpose of the sale of children, child prostitution and child pornography.

Deeply concerned at the widespread and continuing practice of sex tourism, to which children are especially vulnerable, as it directly promotes the sale of children, child prostitution and child pornography.

Recognising that a number of particularly vulnerable groups, including girl children, are at greater risk of sexual exploitation, and that girl children are disproportionately represented among the sexually exploited. ...

Believing that the elimination of the sale of children, child prostitution and child pornography will be facilitated by adopting a holistic approach, addressing the contributing factors, including underdevelopment, poverty, economic disparities, inequitable socio-economic structure, dysfunctioning families, lack of education, urban-rural migration, gender discrimination, irresponsible adult sexual behaviour, harmful traditional practices, armed conflicts and trafficking of children.

The above stated concerns in the Preamble to the Optional Protocol directly address the South African reality of increasing sexual exploitation of children and the related trafficking



of children. That South Africa signed the protocol indicates its commitment to the eradication of the sale of children, child prostitution and child pornography.

The Optional Protocol primarily emphasises two main obligations of State Parties. Firstly it highlights the need to initiate and/or strengthen international co-operation by multilateral, regional and bilateral agreement and arrangement to combat the sale of children, child prostitution and child pornography. Secondly it emphasises the importance of protecting the rights and interests of child victims.

Ratification of this Optional Protocol would place, amongst other things, an obligation upon South Africa to enter into bilateral and multilateral arrangements and to adopt measures which would protect the rights and interest of child victims. Such measures could especially protect child victims of cross-border trafficking and could ensure that the rights and interests of children would not be violated after arriving in their country of origin, but taken care of and protected. It could also place the obligation on South Africa to 'maintain a child in safety' in South Africa until such time as the safety and care of that child in the country of origin could be guaranteed.

The following only states the content of certain Articles of this Optional Protocol and does not discuss them, since it is not yet in force.

Article 1 of the Protocol places an obligation on State Parties to prohibit the sale of children, child prostitution and child pornography.

Article 2 defines:

'sale of children' as 'any act or transaction whereby a child is transferred by any person or group of persons to another for remuneration or any other consideration', and 'child prostitution' as 'the use of a child in sexual activities for remuneration or any other form of consideration'.

Article 3 states that:

State Parties shall ensure that acts and activities related to the sale of children, child prostitution and child pornography are fully covered under its criminal or penal law, whether these offences are committed domestically or transnationally or on an individual or organised basis. It includes *'the offering, delivering or accepting, by whatever means, a child for the purpose of sexual exploitation of the child'* in those activities.

In Article 8 the Protocol emphasises the rights and interests of child victims and places an obligation upon State Parties to:

8(1) adopt appropriate measures to protect the rights and interests of child victims of the practices prohibited under the present Protocol at all stages of the criminal justice process

8(3) ensure that, in the treatment by the criminal justice system of children who are victims of the offences described in the present Protocol, the best interest of the child shall be a primary consideration.

Article 10(1) highlights the obligation of State Parties to this Protocol to enter multilateral, regional and bilateral agreements for the prevention, detection, investigation, prosecution and punishment of those responsible for acts involving the sale of children, child prostitution, child pornography and child sex tourism.

It states further in Article 10(2) that



State Parties shall promote international co-operation to assist child victims in their physical and psychological recovery, social reintegration and repatriation.

• Protocol to the Convention against Transnational Organised Crime

This Protocol is currently under development by the UN Ad Hoc Committee on the Elaboration of a Convention against Transnational Organised Crime and the process is scheduled to be completed by October 2000. South Africa is represented on the Ad Hoc Committee.

Since this Protocol is still in the drafting stage the main points of concerns of the document will be mentioned here and not discussed further.

The focus of the Protocol is to prohibit the '*trafficking in persons*' for any exploitative purposes. Special emphasis is given to the prevention, suppression and punishment of trafficking in women and children for purposes of sexual exploitation and forced entry into the sex industry. The Draft Protocol defines 'trafficking in persons' in the context of children as

Recruitment, transportation, transfer, harbouring or receipt of any child, or giving of payments or benefits to achieve the consent of a person having control of a child, for the purpose of slavery, forced labour or servitude or for the purpose of using, procuring or offering a child for prostitution, for the production of pornography or for pornographic performances.

Chapter 2 of the Draft Protocol deals with the protection of trafficked persons and places an obligation on States to assist and protect victims of trafficking and focuses on issues surrounding the repatriation of trafficked persons as well as highlights the importance of rehabilitation. In addition, the responsibility of States to take all 'necessary and appropriate measures to allow the seizure and confiscation of gains' from any trafficking related activities is emphasised.

The proposed Protocol further states in Chapter 3 the need to strengthen legislative measures dealing with immigration and emigration as well as transnational co-operation in order to successfully prevent trafficking in persons for any form of exploitation as well as the protection of victims and survivors of trafficking for purposes of sexual exploitation. It also identifies the need to protect child survivors of trafficking for purposes of sexual exploitation from re-victimisation.

2.2. Other UN Conventions which places obligations on South Africa are:

- International Covenant on Civil and Political Rights (1966) - South Africa signed in 1994
- International Covenant on Economic, Cultural and Social Rights (1966) South Africa signed in 1994
- Convention against Torture and Other Cruel, Inhuman and Degrading Treatment (1984) - South Africa signed in 1993
- Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962) - South Africa acceded in 1993.

2.3. International Labour Organisation (ILO) Instruments

The International Labour Organisation (ILO) regards child prostitution as one way in which the labour of children is exploited. The ILO has developed a number of Conventions dealing with forced labour of children, among these are:



- Convention 29 Concerning Forced Labour, 1930
- Convention 105 Concerning the Abolition of Forced Labour, 1957.

South Africa ratified both these Conventions in 1996. These Conventions deal with forced labour and the abolition of forced labour. Convention 29 prohibits the forced labour of children. Convention 105 specifically sets out a number of conditions under which forced labour may be permissible such as, military service, emergency situations, etc. Article 11 of this Convention places an age and gender limitation with regard to those from whom forced labour can be exacted. These are *“able-bodied males of an apparent age not less than 18 and not more than 45 years.”*

In contrast ILO Convention 182 Concerning the Worst Forms of Child Labour identifies child prostitution as a harmful form of child labour.

The Worst Forms of Child Labour Convention (No. 182) of 1999 is aimed at the prohibition and elimination of especially harmful forms of child labour. South Africa ratified this Convention on 7 June 2000.

In its Preamble the Convention emphasises the recognition of poverty as a cause of child labour and states that *the long-term solution lies in sustained economic growth leading to social progress, in particular poverty alleviation and universal education.*

This part of the Preamble not only highlights the importance on the part of State Parties to fight the results of poverty such as the sexual exploitation of children, but also the need to eliminate the causes of the worst forms of child labour such as poverty and socio-economic underdevelopment.

In article 3 of the Convention the worst forms of child labour are defined as:

- a) all forms of slavery or practices similar to slavery, such as the sale and trafficking of children, debt bondage and serfdom and forced and compulsory labour, including forced or compulsory recruitment of children for use in armed conflict
- b) the use, procuring or offering of a child for illicit activities, in particular for the production of pornography or for pornographic performances
- d) work, which, by its nature or the circumstances in which it is carried out, is likely to harm the health, safety or morals of children.

The broad definition of child labour includes the conditions experienced by children while being trafficked for purposes of sexual exploitation. Children are *‘sold’* by their parents or guardians for sexual purposes, which is harmful to their health and safety. In the case of the *‘sale’* of a child as a *‘bride’*, the condition under which the child lives and has to *‘perform’* domestic and sexual tasks would certainly constitute forced and compulsory labour as well as the *‘use, procuring [and] offering of a child for illicit activities’*.

Article 7 places an obligation on state *parties ‘to take all appropriate measures to ensure the effective implementation and enforcement’* of the clauses and provisions in this Convention. Necessary steps should be taken to *‘prevent the engagement of children in the worst forms of child labour’* as outlined in Section 7(2)(a).



It also highlights the States' responsibilities to implement rehabilitative measures and initiatives aimed at the social integration of survivors of harmful forms of child labour. The Convention states in Section 7(2)(b) that States have an obligation *to provide the necessary and appropriate direct assistance for the removal of children from the worst forms of child labour and for their rehabilitation and social integration.*

In addition, in Section 7(2)(d) and 7(2)(e) the Convention strongly emphasises the need for states to take *'effective and time-bound measures'* to *'identify and reach out to children at special risk; and take account of the special situation of girls'*.

Despite the importance that Article 7 gives to the responsibility that States have for the rehabilitation and social integration of child survivors, its strongest emphasis is placed on measures intended to prevent child labour in its worst forms from taking place. This means that it is of the utmost importance to take all measures, including education and awareness raising, to eradicate harmful child labour.

In the context of trafficking of children for purposes of sexual exploitation this would certainly translate into introducing trafficking legislation making direct or indirect involvement in such trafficking, as well as any activity that facilitates, enables, or ensures children's sexual exploitation, a criminal offence.

3. Continental Charters

South Africa has signed both the African Charter of Human and People's Rights and the African Charter on the Rights and Welfare of the Child. In so doing South Africa committed itself to protect children from exploitative and harmful practices, which place their safety and well being at risk.

- African Charter on Human and People's Rights (1981)

The Charter came into force in 1986. South Africa ratified the Charter in 1996. In terms of Article 5 South Africa is obligated to prohibit all forms of exploitation and degradation and in particular slavery and the slave trade. Article 18(2) obligates South Africa to *ensure "the elimination of every discrimination against women and ... the protection of the rights of the woman and the child as stipulated in international declarations and conventions."* This stipulation places a further obligation on South Africa to adhere to its obligations in terms of UN Conventions and Declarations and ILO instruments.

- African Charter on the Rights and Welfare of the Child (1990)

South Africa signed the African Charter on the Rights and Welfare of the Child in 1996. The Charter has been ratified by only six member states of the Organisation for African Unity and as such is not yet in force (15 ratifications are required to enforce the Charter). The Charter contains provisions related to the rights and responsibilities of children. It contains provisions to deal with the sexual exploitation, and the sale and trafficking of children. These provisions while in essence similar to provisions in the CRC contain a number of additional aspects.

Article 16 of the African Charter protects children against abuse and torture and its wording is identical to Article 19 of UN CRC. It imposes the obligation on State Parties to *Take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or*



mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.

In Article 16(2) emphasises the importance of establishing *'forms of prevention and for identification, reporting, referral, investigation and follow up of instances of child abuse and neglect'*.

This implies not only an obligation to introduce child protective legislation, such as the Child Care Act, but also to introduce (as argued under Article 19 of the UN Convention) anti-trafficking legislation per se. It also emphasises the need to provide legislative procedures to effectively implement the legislation. In addition, it marks the importance of every sphere in society to take responsibility for the protection of children against any form of violence and/or abuse.

Article 21 is aimed at the protection of children against harmful social and cultural practices. The emphasis lies on the elimination of *harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and in particular:*

- (a) those customs and practices prejudicial to the health or life of the child; and*
- (b) those customs and practices discriminatory to the child on the grounds of sex or other status.*

In Article 21(2) states that child marriages and the betrothal of children shall be prohibited and places an obligation on State Parties to pass legislation which *'specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory'*.

In the context of trafficking for purposes of sexual exploitation the 'sale' of a child as a 'bride' would be covered under this article.

Article 27 of the African Charter focuses on the prohibition of sexual exploitation of children. In its essence it repeats Article 34 of the UN Convention. It emphasises the State Parties obligation to protect the child from all forms of sexual exploitation and abuse and to *'take measures to prevent:*

- (a) the inducement, coercion or encouragement of a child to engage in any sexual activity*
- (b) the use of children in prostitution or other sexual practices*
- (c) the use of children in pornographic activities, performances and materials.*

This Article implies, along with Article 16 of the African Charter, and Articles 19 and 34 of the UN Convention, an obligation to introduce comprehensive legislation preventing any form of sexual exploitation of children, including the use of children in the sex industry and pornography. Article 29 highlights the prevention of the sale, trafficking and abduction of children and reads: *States Parties to the present Charter shall take appropriate measures to prevent:*

- (a) the abduction, the sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child*
- (b) the use of children in all forms of begging.*

Selected articles from the Charter appear in Appendix 3



4. The South African Legal Framework

4.1 Introduction

South Africa does not have legislation that specifically prohibits the traffic in persons. There are however, legal measures such as the Child Care Act, the Domestic Violence Act, the Sexual Offences Act and the Prevention of Organised Crime Act that can be applied to prosecute offences related to trafficking of children for the purpose of sexual exploitation.

The following is a review of current and proposed South African legislation which deal with the constitutive elements related to offences that are a part of the traffic in and sexual exploitation of children. This review also includes a focus on the traffic of pornographic images of children. The review focuses specifically on the South African Constitution and the following laws:

- Child Care Act, No 74 of 1983, as amended 1999
- Basic Condition of Employment Act, No 57 of 1997
- Sexual Offences Act, No 23 of 1957, as amended 1988
- Proposed Draft Sexual Offences Bill, 1999
- Domestic Violence Act, No 116 of 1998
- Prevention of Organised Crime Act, No 121 of 1998, as amended 1999
- Promotion of Equality and Prevention of Unfair Discrimination Act, No 4 of 2000
- Films and Publication Act, No 65 of 1996, as amended 1999
- Aliens Control Act, No 96 of 1991, as amended 1995
- Immigration Bill, 2000
- Refugees Act, No 130 of 1998

The review of the above legislation is limited to offences that are directly related to activities surrounding the traffic of children for purposes of sexual exploitation.

4.2. The Constitution of South Africa (1996)

The South African Constitution provides in Section 10 for the right to human dignity and states that *'everyone has inherent dignity and the right to have their dignity respected and protected'*. Section 12 guarantees the constitutional right of everyone to freedom and security. This includes the right *'to be free of all forms of violence from either public or private sources'* (Section 12(1)(c)) and *'not to be treated or punished in a cruel, inhuman or degrading way'* (Section 12 (1)(e)). The constitutional rights defined in the Bill of Rights are applicable to *'everyone'* and this includes children.

Even though children are entitled to all constitutional rights, Section 28 of the Bill of Rights provides for the special protection of children. According to this provision:

Every child has the right –

(1)(b) ... to appropriate alternative care when removed from the family environment

(1)(d) to be protected from maltreatment, neglect, abuse or degradation

(1)(e) to be protected from exploitative labour practices

(1)(f) not to be required or permitted to perform work or provide services

that(i) are inappropriate for a person of that child's age

(ii) place at risk the child's well-being, education, physical or mental health or spiritual, moral or social development.

The Constitution states further in Section 28(2) *that 'a child's best interests are of paramount importance in every matter concerning the child'*. Since the Constitution does



not provide a definition of 'a child's best interest' it gives wide scope for interpretation. While the concept can possibly be interpreted in ways that are contrary to the *'best interests of a child'*, it also provides room for the fullest realisation of children's rights. For the child survivor of trafficking for the purpose of sexual exploitation it provides, amongst other things, for the right not to be victimised further by the justice system. It further provides for the right of access to places of safety and care during the process of physical and psychological recovery.

4.3. South African Legislation

The following analysis will focus on legislative measures aimed at the protection, safety and care of child survivors of trafficking and sexual exploitation. In addition, criminal law provisions aimed at the prosecution of anyone who is directly or indirectly involved and participates in the sexual exploitation of children, and those who facilitate and enable in any way the trafficking of children for the purpose of such exploitation, are analysed. Furthermore, legislation related to foreign nationals, such as immigrants and refugees will be reviewed.

- Child Care Act

The Child Care Act (1983, amended 1999) is aimed at the protection and welfare of children and provides, amongst other things, for the removal of a child thought to be at risk and in need of care (Chapter 3) as well as the prevention of the ill-treatment of children (Chapter 8).

The Act defines a child as any person below the age of 18. It further *defines 'children in especially difficult circumstances'* as children denied of their basic human needs, such as children exposed to violence. It also defines *'commercial sexual exploitation'* as

The procurement of a child to perform a sexual act for a financial or other reward payable to the child, the parents or guardian of the child, the procurer or any other person.

The Act fails to define *'ill-treatment'* even though Chapter 8 deals in its entirety with the prevention of ill treatment of children. This leaves room for interpretations of what constitutes *'ill-treatment'* and may hinder the successful prosecution of any person involved in the ill treatment of a child.

Sections 11 and 12 allows for a child to be removed from any place and taken to a place of safety and care if it is *'in the interest of the safety and welfare'* of the child. An inquiry at the Children's

Court shall determine if the child is a child in need of care. According to Section 14 children in need of care are those who have been abandoned, exposed to sexual exploitation, physically, emotionally or sexually abused or ill treated, and live under circumstances which seriously harm their physical, mental or social well-being.

Subsection (4)(a) of the Act states that a child is in need of care if the child

- (i) *has been abandoned or is without visible means of support*
- (iii) *lives in circumstances likely to cause or conduce to his or her seduction, abduction or sexual exploitation*
- (iv) *lives in or is exposed to circumstances which may seriously harm the physical, mental or social well-being of the child*
- (v) *is in a state of physical or mental neglect;*



(vi) has been physically, emotionally or sexually abused or ill-treated by his or her parents or guardian or the person in whose custody he or she is.

The above section of Chapter 5 of the Act could be applied to provide for the protection and care of child survivors of sexual exploitation and trafficked children and ensure their access to places of safety and care.

Chapter 8 of this Act is aimed at preventing the ill-treatment of children. Section 50 (1) states that

Any parent or guardian of a child or any person having the custody of a child

who *(a) ill-treats that child or allows it to be ill-treated; or*

(b) abandons that child, or any other person who ill-treats a child, shall be guilty of an offence.

This clearly allows for the conviction of parents, guardians, or persons having custody of a child in the case of ill treatment or allowing ill treatment to occur. However, '*any other person*' can only be found guilty of an offence if he or she ill-treats a child and not for merely allowing the ill treatment of a child. Therefore, if any person accused of facilitating the ill-treatment of a child can show that he or she did not personally engage in the ill-treatment of that child then there would be no offence. In other words, a taxi driver who transports the child to the place where sexual exploitation occurs can show that he or she in fact never ill-treated the child, he or she would escape prosecution despite having allowed the ill treatment.

Furthermore, this section fails to impose a responsibility on the part of medical personnel or teachers who have knowledge of, or reason to suspect, the ill treatment of a child to report this to the appropriate authorities, like the Child Welfare official or social worker. The fact that there is no clearly defined obligation to report allows the perpetuation of the ill treatment of children. Section 50A(1) deals with the commercial sexual exploitation of children and reads:

Any person who participates or is involved in the commercial sexual exploitation of a child shall be guilty of an offence.

Even though, the section declares the participation and involvement in commercial sexual exploitation of children as an offence, it fails to specify the activities and persons who facilitate and enable such exploitation, such as the sex industry, media, pornography, as well as the role of any person coercing a child into the circumstances allowing sexual exploitation, such as peers, family members, women working in prostitution, pimps, etc.

In other words, this section is only aimed at any person who is 'directly' participating and involved in the commercial sexual exploitation of children and not those who are 'indirectly' involved. Section 50A(2) states that:

Any person who is an owner, lessor, manager, tenant or occupier of property on which the commercial sexual exploitation of a child occurs and who, within a reasonable time of gaining information of such occurrence, fails to report such occurrence at a police station, shall be guilty of an offence.

This section, on the one hand, focuses on the actual place where the sexual exploitation occurs and allows for any person related to that property to be prosecuted. It is however



not clear whether property is understood in its narrow meaning of a building or if it would include a car, where sexual exploitation occurs, in its definition of property.

On the other hand, this section highlights the obligation of any person who gains knowledge about a property where sexual exploitation occurs, to report the fact to the police. The phrase 'within a reasonable time' and the failure to define the meaning of 'reasonable' minimises the legal obligation since it is left to the person's very subjective interpretation of what a 'reasonable time' is.

Section 50A provides for the prosecution of any person directly involved in children's sexual exploitation, as well as any person legally linked to a property where the exploitation occurs. It does not however, explicitly cover any person who, through facilitating and enabling sexual exploitation of children, is 'indirectly' involved. In other words, this section covers the actual act of sexual exploitation and the place where it occurs but not activities related to this exploitation like trafficking.

The abduction of children, one of the methods of trafficking, is dealt with in Section 51 entitled '*Unlawful removal of children*'. It states that:

Any person who abducts or removes any child or pupil, or directly or indirectly counsels, induces or aids any child or pupil to abscond..., or knowingly harbours or conceals a child or pupil who has been so abducted or removed or has so absconded, or prevents him [or her] from returning..., shall be guilty of an offence.

This is a broad understanding of '*unlawful removal*', which includes coercion, assistance, harbouring and preventing the return of a child and can therefore be applied to child survivors of trafficking.

Section 52A(1) provides that any person who employs or provides work to any child under the age of 15 years of age shall be guilty of an offence.

- Basic Conditions of Employment Act

The Basic Conditions of Employment Act (1997) provides in Chapter 6 for the prohibition of employment and forced labour. In Section 14(1) of this Chapter makes it an offence for any person to employ a child under the age of 15 or who is under the minimum school-leaving age in terms of any law. It states further in Section 14(2) that no child may be employed in any kind of 'work' that is inappropriate for the age of that person and;

14(2)(b) that places at risk the child's well-being, education, physical or mental health, or spiritual, moral or social development.

Section 48 of this Act prohibits forced labour and highlights that 'no person may for his or her own benefit or for the benefit of someone else, cause, demand or impose forced labour.

Even though in the context of this research trafficking of children for the purpose of sexual exploitation is not regarded as 'work' and/or 'employment in the common understanding, the above sections can be applied for the protection of trafficked children. Children forced by traffickers (i.e 'employer') into circumstances that allows sexual exploitation (i.e. 'work in the sex industry') are in situations that endanger their well-being, '*physical or mental health, or spiritual, moral or social development*'. In addition, any form or method of trafficking for the purpose of children's sexual exploitation should automatically be regarded as '*forced labour*' and therefore be prosecutable under this provision.



• Sexual Offences Act

The Sexual Offences Act (1957, amended 1988) mainly deals with brothels *and 'unlawful carnal intercourse'*. The Act does not make provision for the prosecution of those involved in the traffic of children and therefore is dealt with briefly. Greater emphasis is placed on provisions contained in the proposed Sexual Offences Bill (1999).

The Sexual Offences Act however is the current legislation most applicable for the protection of victims of sexual offences and the prosecution of the offenders. This Act defines:

'brothel' as 'any house or place kept or used for purposes of prostitution or for persons to visit for the purpose of having unlawful carnal intercourse or any other lewd or indecent purpose'.

'Unlawful carnal intercourse' is defined as carnal intercourse otherwise than between husband and wife'.

Section 2 of this Act makes it an offence to keep a 'brothel' and defines in Sections 3 persons who are 'deemed to keep a brothel' as any person a) *residing in*

- b) *managing or assisting in the management of*
- c) *knowingly receives money taken in*
- d) *being the tenant or occupier of any house or place and knowingly permits the same to be used as; and*
- e) *being the owner of any property and lets the same, or allows the same to be let, or continue to be let with the knowledge of it being a 'brothel'.*

Even though persons who are directly and indirectly involved with the property used as a *'brothel'* are committing an offence and can be prosecuted, the limitation of this and any other Section of this Act lies in the narrow definition of a *'brothel'* and *'unlawful carnal intercourse'*. Only a narrow understanding of sexual intercourse is included and not any other form of sexual activities. In addition, this Act is limited by the underlying notion that only women can be victims of sexual offences and therefore excludes any provisions for the prosecution of sexual offences committed against men.

Section 9(1) provides for prosecution of a parent or guardian of any child under the age of 18 years who-

- a) permits, procures or attempts to procure such child to have unlawful carnal intercourse, or to commit any immoral or indecent act, with any person other than the procurer; or to reside in or to frequent a brothel, or
- (b) orders, permits, or in any way assists in bringing about, or receives and consideration for, the defilement, seduction, or prostitution of such child. It states further in Section 9(1A):

For the purpose of subsection (1)(b) a parent or guardian whose child has been defiled or seduced or has become a prostitute, shall be deemed to have assisted in bringing about that defilement, seduction or prostitution if he has knowingly permitted his child to consort with, or to continue in the employment of, a prostitute or a person with an immoral reputation; and

'Guardian' is defined in Section 9(2) as any person who has in law or in fact the custody or control of the child.



Section 9(1A) implies that only the father or male guardian can be directly or indirectly involved in the '*defilement of a child*' and does not provide for the prosecution of an involved mother or female guardian. This broad definition of '*guardian*' however, allows for the inclusion of persons who have '*temporary*' custody, such as a relative or teacher, of the child.

Section 10 dealing with procurement states, that:

Any person who-

- (a) procures or attempts to procure any female to have unlawful carnal intercourse with any person other than the procurer or in any way assists in bringing about such intercourse; or
- (b) inveigles or entices any female to a brothel for the purpose of unlawful carnal intercourse or prostitution or conceals in any such house or place any female so inveigled or enticed; or
- (c) procures or attempts to procure any female to become a common prostitute; or
- (d) procures or attempts to procure any female to become an inmate of a brothel; or applies, administers to or causes to be taken by any female any drug, intoxicating liquor, matter or thing with intent to stupefy or overpower her so as thereby to enable any person other than the procurer to have unlawful carnal intercourse with such female, shall be guilty of an offence.

This Section is inclusive of acts such as coercion and the use of drugs for the purpose of sexual exploitation. Due to the use of the term 'female' instead of 'person' this provision could be applicable for the protection of a girl child, but this restriction excludes the prosecution of sexual offences against a boy or male. In addition, the narrow common law understanding of 'carnal intercourse' (i.e. a man having sex with a woman) does not explicitly provide for the prosecution of female offenders committing 'unlawful sexual activities' with other females or to males.

Section 11 makes conspiracy an offence only in the case where a female is induced by false pretence or fraudulent means to allow a male to have 'unlawful carnal intercourse' with her. Therefore, conspiracy in this context, is not an offence in the case where another male submits a male to sexual exploitation, or another female submits a female to sexual exploitation.

Section 13 of this Act is aimed at the prohibition of activities related to abduction. It allows for the prosecution of any person who takes or detains or causes to be taken or detained any unmarried person under the age of 21 out of the custody and against the will of the parent or guardian with the intent to have or allow 'unlawful carnal intercourse' with such abducted person.

Even though, coercion is considered in this section (i.e. against the will) it is only applicable to protect the parent or guardian's '*will*' and not the '*will*' of the abducted person. In addition, the age limit of 21 is too high, since the '*legal age*' to be a '*major*' is 18 and a person who is no longer a minor can leave without the consent of parent or guardian or even against their will.

Section 14(1) deals with sexual offences against children and states that 'any male is guilty of an offence who



(a) has or attempts to have unlawful carnal intercourse with a girl under the age of 16 years; or (b) commits or attempts to commit with such girl or with a boy under the age of 19 years an immoral or indecent act; or (c) solicits or entices such a girl or boy to the commission of an immoral or indecent act.

Subsection 3 deals with the same conduct as the mentioned above, but reverses the sexes.

A problem here is the different age limits that would define whether an offence is committed. In relation to sexual intercourse, the age is 16 and in case of immoral or indecent acts the age is 19.

Section 18 of the Act prohibits any use of drugs, etc. for purposes of defilement of females. This provision allows for the protection of women who had been drugged to ensure their compliance in their sexual exploitation.

- Proposed Draft Sexual Offences Bill

The preamble of the proposed Draft Sexual Offences Bill (1999) highlights that *'children are particularly vulnerable to sexual offences including commercial sexual exploitation'* and that current legislation fails

to deal effectively and in a non-discriminatory manner with activities associated with sexual offences, thereby failing to provide adequate protection against sexual exploitation to the victims of such activities.

The focus here is on Chapter 3 which deals with sexual offences against children and Chapter 5 which deals with the commercial sexual exploitation of children.

To provide for a more substantive protection for child victims of sexual offences, 'child' is defined as a person under the age of 16 for the purpose of sexual offences against children (Chapter 3), and under the age of 18 for the purpose of sexual exploitation of children (Chapter 5).

'Brothel' is defined as *'any movable or immovable property where the commercial sexual exploitation of children occurs'* which is a very inclusive definition.

'Commercial sexual exploitation' is defined as *'engaging the services of a child, or offering such services to any person, to perform a sexual act for financial or other reward, favour or compensation to the child or to any other person'*.

The Bill also provides for a broad meaning of *'coercive circumstances'* and *'sexual penetration'*, which specifies clearly that, in relation to a child under the age of 12, sexual penetration under any kind of coercion constitutes rape. It further provides a much broader meaning to *'sexual penetration'* than *'carnal intercourse'* (terminology used in Sexual Offences Act).

Chapter 2 provides for the prosecution of rape, compelled sexual acts, the inducement to allow sexual acts, and the administering of substances for purposes of sexual acts. Section 3 makes it an offence for any person to intentionally compel another person to engage in a sexual act with that person or any other person or himself or herself. In the context of trafficking of children for the purpose of sexual exploitation this makes a pimp or any other person who coerces a child to submit to sexual exploitation guilty of an offence under this section.



Section 4 makes any person guilty of an offence *'who intentionally induces another person by false pretence or fraudulent means to allow him or her to commit a sexual act with that person'*. This would also apply to the trafficker who under false pretences (i.e. offer of employment) induces foreign nationals to come to this country and submit them to sexual exploitation immediately after their arrival. In addition it would apply to any person who induces citizens or residents of this country to go to another country for the purpose of their sexual exploitation.

Chapter 3 of this Bill deals with sexual offences against children. As mentioned earlier, for the purpose of this chapter a child is a person below the age of 16. Section 7 entitled 'child molestation' is in part a reformulation of the statutory rape provision in Section 14(1) of the Sexual Offences Act. It also aims to provide for prosecution of offenders based on the fact that he or she is 2 years older than the child. It does however not provide for sexual offences against children committed by children. Furthermore, under the provision of this section and in relation to the defence of sexual crimes, a child below the age of 16 cannot consent to any sexual act.

Section 7 reads:

- 1) Any person who intentionally commits a sexual act with a child, at least two years younger than him or her, shall be guilty of an offence
- 2) Any person who commits any act with the intent to invite or persuade a child, at least two years younger than him or her, to allow any person to commit a sexual act with that child shall be guilty of an offence
- 3) Consent by a child to any sexual act shall not be a defence to a charge under this section. The above would certainly be applicable to the pimp, aged 22, who 'obtains' a child, aged 15, to have sex with before offering this child to potential 'clients'.

Section 8 allows for the prosecution of any person who persistently abuses a child and defines persistence as two or more occasions during a specified 12 month period. Even though this Section makes continuous sexual abuse as well as any other unlawful sexual acts an offence it still potentially hinders prosecution of sex offenders due to the limited time frame of 12 months within which the abuse has to occur.

The sexual exploiter who continuously engages a child in sexual activities is therefore guilty of an offence. This would apply to the 'client' of the brothel engaging the same child repeatedly in sexual acts as much as to the 'buyer' of a child bride.

Chapter 5 of this proposed Bill is titled 'commercial sexual exploitation of children' and deals with offences related to child prostitution, keeping a brothel to that effect, offering or engaging a child for, facilitating or allowing of, or receiving consideration from commercial sexual exploitation. For the purpose of this chapter, a child is a person below the age of 18.

Section 10 declares it an offence for any person to intentionally commit a sexual act with a child and to intentionally invite, persuade or induce a child to commit a sexual act in exchange for financial and/or non-financial gain. It also provides for the prosecution of any person who participates or is involved in the commercial sexual exploitation of a child. This section is a reformulation of Section 9 of the Sexual Offences Act.

Section 10 of this Bill reads:



- 1) Any person who intentionally commits a sexual act with a child for financial or other reward, favour or compensation to the child or to any other person, is guilty of an offence.
- 2) Any person who intentionally invites, persuades or induces a child to allow him or her or any other person to commit a sexual act with that child for financial or other reward, favour or compensation to the child or to any other person, is guilty of an offence.
- 3) Any person who intentionally participates in, or is involved in, the commercial sexual exploitation of a child is guilty of an offence.

Even though this section provides a broad scope for the prosecution of any person who directly or indirectly participates, is involved in, enables and facilitates children's commercial sexual exploitation, it fails to lay legal obligations on any person 'who knows' of such crimes being committed and does not report them.

This means that a nurse in a private hospital who treats a 13 year old girl repeatedly for sexually transmitted diseases or finds bruises indicating rape has no obligation under this Act to report this to the police. In that way, one could argue, the nurse facilitates further sexual exploitation of that child.

Section 11 provides for the prosecution of any person who intentionally keeps a 'brothel', including the persons who own, lease, rent, manage, occupy or have control of such a 'brothel'. This section is formulated and extended on the basis of Section 2 of the Sexual Offences Act.

It does however, not include the legal obligation of any person who knows of a 'brothel' to report it. In this regard Section 50A of the Child Care Act goes further (with the above discussed limitations) in the prohibition of commercial sexual exploitation since it includes the legal responsibility of any person 'who has knowledge of such offences to report them to the police.

This translates into the fact, that a neighbour 'knowing' of a 'brothel' in the community has, under this proposed legislation, no legal responsibility, but merely a moral responsibility to report such an offence.

Under this proposed Bill it is an offence for any person to intentionally offer or engage a child for purposes of commercial sexual exploitation (Section 12), and to intentionally facilitate, directly or indirectly, such exploitation (Section 13, subsection 1). It further provides in Section 13(2) for prosecution of any parent, guardian or caregiver of a child who intentionally allows the commercial sexual exploitation of that child.

The trafficker or pimp, the parent, guardian or caregiver as well as any other person (such as the taxi driver) who is directly or indirectly involved in activities aimed at facilitating access to children for the purpose of sex are, according to this section, guilty of an offence.

Despite the fact that activities related to trafficking of children for the purpose of their sexual exploitation are covered by Sections 12 and 13, it does not offer a clear provision that specifically prohibits trafficking.

Section 14, a reformulation of Section 20 of the Sexual Offences Act, deals with the receipt of rewards from the commercial sexual exploitation of children and states that:



- 1) *Any person who intentionally receives any financial or other reward, favour or compensation from the commercial sexual exploitation of a child...; [and]*
- 2) *Any person who intentionally lives wholly or in part on rewards, favours or compensation for the commercial sexual exploitation of a child is guilty of an offence.*

This means that any person directly or indirectly gaining in any way from the sexual exploitation of a child is an offender. Under this provision all persons involved in trafficking children, from the parent 'selling' or 'renting' the child, to the person 'transporting and harbouring' the child in exchange for any kind of reward, to the pimp 'offering the child for sex in exchange for money are guilty of an offence.

In accordance with Chapter 6, Section 15 of this proposed Bill declares conspiracy with and incitement of any person to commit sexual offences an offence.

• Domestic Violence Act

The Domestic Violence Act (1998) is another legislative measure that can be used for the protection of children trafficked for the purpose of sexual exploitation.

This Act provides for a broad definition of '*domestic relationship*' in which violence can occur, including the parent of a child or '*persons who have or had parental responsibility for that child*' as well as sharing the same residence. In addition, the definition of '*domestic violence*' allows for the inclusion of a variety of forms of abuse (e.g. physical, sexual, emotional, psychological), intimidation (i.e. uttering or conveying a threat, which induces fear), harassment (i.e. pattern of conduct that induces fear of harm), as well as 'any other controlling behaviour'.

This indicates that mainly two forms of trafficking of children for purposes of sexual exploitation are covered under this Act. In the first instance, parents or relatives coerce a child to 'work' from their homes or the homes of sex exploiters. According to this Act coercion of a child by a parent to submit to sexual exploitation is an offence.

In the second case, where a child is, in exchange for money, given away as a 'bride' and forced to perform sexual and/or domestic labour, the Act can be applied to protect the child from further abuse and violence and to prosecute the offender.

• Prevention of Organised Crime Act

The Prevention of Organised Crime Act (1998, amended 1999) is so far the most comprehensive criminal law provision dealing with offences related to trafficking for the purpose of sexual exploitation of children. It is aimed at the prohibition and criminalisation of certain activities related to criminal gang behaviour and racketeering. In addition, this act provides for the recovery of the proceeds of unlawful activities as well as the civil forfeiture of criminal assets that have either been used to commit an offence or are the proceeds of such an offence.

In terms of this Act all adults who ensure and facilitate the access of others to a child for sex would be guilty of committing offences. These acts, amongst others, include: (Schedule

- 1) *2. rape*
- 3. kidnapping*
- 8. indecent assault*
- 9. the statutory offence of-*
- (a) unlawful carnal intercourse with a girl under a specified age*



(b) committing an immoral or indecent act with a girl or boy under a specified age
*(c) soliciting or enticing such girl or boy to the commission of an immoral or indecent act*¹⁴.
childstealing
34. any conspiracy, incitement or attempt to commit any offence referred to in this Schedule.

Further, this Act defines in Section 1

'property' as money or any other movable, immovable, corporal or incorporeal thing and includes any rights, privileges, claims and securities and any interest therein and all proceeds thereof;

'proceeds of unlawful activities' as any property or part thereof or any service, advantage, benefit or reward which was derived, received or retained, directly or indirectly, in connection with or as a result of any unlawful activity; and

'enterprise' as any individual, partnership, corporation, association ... and any group of individuals associated in fact.

Chapter 2 of this Act provides for offences relating to patterns of racketeering activities (i.e. planned, ongoing, continuous or repeated participation or involvement in any offence). These offences include receiving, retaining, using or investing of any property that is directly or indirectly derived from pattern of racketeering activities. It also covers the activities of enterprises, such as the managing of, the employment by, or association with such enterprises through pattern of racketeering. Finally, any person *'who knows or ought to have reasonably known'* of those offences while engaging in any of the above activities commits a crime.

This indicates that any person who directly or indirectly gains (financially and/or non-financially) from trafficking activities for purposes of children's sexual exploitation could be prosecuted under this section. The pimp who knowingly and repeatedly receives and retains the *'property'* (through the transfer and harbouring of children), as well as uses and invests the *'property'* (through sexual exploitation and offering children to others for the purpose of sex in exchange for money) is committing a criminal offence. This applies to the taxi driver, who repeatedly delivers children to places of sexual exploitation, since he or she *'knows or ought to have reasonably known'* of criminal offences being committed and therefore participates, directly or indirectly, in the conduct of the trafficking enterprise's affairs.

Chapter 3 dealing with offences related to proceeds of unlawful activities makes money laundering, assisting another to benefit from, as well as the acquisition, possession or use of proceeds of unlawful activities an offence (Section 4 to 6). It also allows for the prosecution of any person who fails to report suspicion regarding proceeds of unlawful activities (Section 7).

The above translates into committing a criminal offence by any person who is directly or indirectly benefiting from, acquiring, possessing or using the proceeds (financially and/or non-financially) of trafficking of children for the purpose of sexual exploitation. The parent who sells a child is guilty of obtaining proceeds of unlawful activities as much as the pimp who acquires, possesses and uses the *'proceeds'* (the child obtained as *'property'*) of unlawful activities, and the sexual exploiter who benefits from such *'proceeds'*.

Chapter 4 of this Act covers offences of criminal gang activities. Any person who actively participates in gang related offences or is a member of a criminal gang and who-



9(1)(a) wilfully aids and abets any criminal activity committed for the benefit of, at the direction of, or in association with any criminal gang;
9(1)(b) threatens to commit, bring about or perform any act of violence or any criminal activity by a criminal gang or with the assistance of a criminal gang; or
9(1)(c) threatens any specific person or persons in general, with retaliation in any manner or by any means whatsoever, in any act or alleged act of violence, shall be guilty of an offence.

This section would therefore allow for the prosecution of gangs and individual gang members in communities who traffic girls for purposes of sexual exploitation in exchange for protection and survival, which, as mentioned earlier, is one method of trafficking.

• Promotion of Equality and Prevention of Unfair Discrimination Act

The Promotion of Equality and Prevention of Unfair Discrimination Act (2000) is aiming, as described in Section 2, 'to give effect to the letter and spirit of the Constitution, in particular (i) *the equal enjoyment of all rights and freedoms by every person*

(ii) *the promotion of equality*

(iii) *the values of non-racialism and non-sexism contained in section 1 of the Constitution*

(iv) *the prevention of unfair discrimination and protection of human dignity as contemplated in sections 9 and 10 of the Constitution;*

This Act further promotes the prohibition of unfair discrimination on the ground of gender in Section 8 and includes gender-based violence in Section 8(a) and any practice aimed at the undermining of the dignity and well-being of a girl child in Section 8(d) as such grounds.

Chapter 3 of this Act deals with the burden of proof and the determination of fairness or unfairness. According to Section 13(1) the burden of proof in a case of discrimination on the ground of gender (i.e. gender-based violence and undermining dignity and well-being of a girl child) lies with the respondent (i.e. trafficker, who is accused of discrimination under this Act) and not with the complainant (i.e. child survivor of sexual exploitation).

• Films and Publication Act, No 65 of 1996, as amended 1999

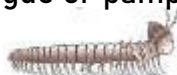
The Films and Publications Act (1996) aims to provide for the classification of certain films and publications and deals with matters arising from the production, possession and distribution of such classified films. The broad definition of '*publications*' makes this Act also applicable to computer software, soundtracks as well as '*any figure, carving, statue or model*'. On the other hand, '*any picture intended for exhibition through the medium of any mechanical, electronic or other device*' is included in the Act's definition of '*films*'.

The classification or even refusal thereof for '*publications*' and '*films*' is aimed at regulating distribution of films and publications based on fundamental constitutional rights.

Schedule 1, Section 1(a) of this Act allows for the classification of '*publications*' if it contains a visual presentation, simulated or real of a person who is, or is depicted as being, under the age of 18 years, participating in, engaging in or assisting another person to engage in sexual conduct or lewd display of nudity.

The same criterion applies to '*films*' as described in Schedule 6, Section 1(a) of this Act.

This means, that any form of pornographic '*film*' or '*publication*' depicting children would be classifiable. This could include a catalogue or pamphlet which advertises children for the



purpose of sexual exploitation. However, a very narrow definition of sexual conduct limits the applicability of the above criterion.

The possession (Section 27) and distribution (Section 28) of child pornographic publications and films are offences. Section 27(a) prohibits any person knowingly producing, importing or being in possession of child pornography, while Section 28(a) prohibits the distribution of child pornography.

However, the above classifications and restrictions do not *apply 'in respect of a bona fide scientific, documentary, literary' 'film' or 'publication'*, (Schedule 5 and Schedule 10) which leaves a broad scope of interpretation and potential misuse, since it could be argued that the portrayal of child pornography is *'scientific' or 'documentary'*.

The Act further fails to address the use of a child or child's image for purposes of sexual exploitation on the Internet. This would mean that while possession and distribution of a *'publication'* and *'film'* portraying child pornography is prohibited, the import, distribution and possession of child pornography through the Internet is not an offence.

Especially with regard to trafficking of children for purposes of sexual exploitation the Internet is one of the main tools facilitating activities related to trafficking. Children are *'offered'* on the Internet, places where sexual exploitation occurs use the Internet to advertise, and *'clients'* are using the Internet to *'buy'* children for purposes of sexual exploitation.

- Aliens Control Act

The Aliens Control Act (1991, amended 1995) together with the Immigration Bill and the Refugees Act are of importance in relation to cross-border, regional and international, trafficking of children for the purpose of sexual exploitation. These legislative procedures can be applied for the prosecution (e.g. the *'removal'* from or prohibition of further entry into South Africa) of foreign criminal offenders and therefore be regarded as protective measures for sexually exploited and trafficked children. However, the same measures can be and are applied to victims of trafficking and survivors of sexual exploitation. This means that the foreign child trafficked into South Africa for the purpose of sexual exploitation is prosecuted under the same provisions as the trafficker and *'sent back'* to the country of origin. It can be argued that this is a violation of the child's constitutional right, which guarantees that *'a child's best interests are of paramount importance in every matter concerning the child'*

Chapter 5 of the Aliens Control Act deals with prohibited persons and defines in Section 39 such person as:

(2)(c) any person who lives or has lived on the earnings of prostitution or receives or has received any part of such earnings or procures or has procured persons for immoral purposes

(2)(d) any person who has ... been convicted in any country of a contravention of a law relating to exchange control or an offence mentioned in Schedule 1 ... and is deemed by the Minister to be an undesirable inhabitant or visitor to the Republic.

Section 39(2)(c) certainly provides for the *'removal'* of foreign nationals who are directly or indirectly involved in the trafficking of children for purposes of sexual exploitation. However, it applies in the same way to foreign children coerced through trafficking into



child prostitution and fails to consider the circumstances under which a child of foreign nationality is *'picked up'* by police and declared a *'prostitute'*.

Chapter 6 provides for the *'removal of persons'* and states in Section 44 that any *'prohibited person'* shall be removed from South Africa.

In Section 45 it allows for the 'removal of persons from the Republic because of certain offences'. Committing an offence under the provisions of the Sexual Offences Act is included in the meaning of *'certain offences'*.

It also allows in Section 46 for the *'removal'* of a foreign national if this person through committing any offence within three years after entering the country *is 'deemed undesirable inhabitant of or visitor to'* South Africa.

Section 28 of this Act allows for issuing a resident permit if the *'Minister'* is satisfied that there are special circumstances which justify his or her decision'. This exemption clause relating to immigration procedure could be applied in the case of children from outside the country and would therefore provide the child survivor of sexual exploitation access to protective measures such as the Child Care Act.

• Immigration Bill

The Immigration Bill (2000) includes the same provisions as the Aliens Control Act, which it is intended to replace. It does not provide for the protection of the child survivor of trafficking for the purpose of sexual exploitation.

Due to the fact that this Bill has gone back to the White Paper stage, which requires new discussions and the drafting of a new Bill surrounding the issues of immigration and foreign nationals, it will not be discussed here. However, it is important to note that this provides fresh opportunities for campaigning for issues of cross-border trafficking and the protection of victims who are foreign nationals to be included in such legislation.

• Refugees Act

The Refugees Act (1998) is aimed to provide principles and standards relating to refugees. Section 32 deals with unaccompanied children of foreign nationality and reads:

- 1) Any child who appears to qualify for refugee status in terms of section 3, and who is found under circumstances which clearly indicate that he or she is a child in need of care as contemplated in the Child Care Act, 1983 ..., must forthwith be brought before the Children's Court for the district in which he or she was found.
- 2) The Children's Court may order that a child contemplated in subsection (1) be assisted in applying for asylum in terms of this Act.

A situation where a *'found'* child is submitted to sexual exploitation and through activities related to trafficking brought into this country would certainly indicate that this child *is 'a child in need of care'*. This means, that a child in these circumstances should be able, with the assistance of the Children's Court, to apply for refugee status. Especially, since it is in the *'child's best interest'* not to be sent back into conditions which would most likely allow for trafficking for the purpose of sexual exploitation all over again.



Section 3 of the Act defines the circumstances under which a person qualifies for refugee status. It states in Section 3(a) that a person is eligible to apply who

Owing to a well-founded fear of being persecuted by reason of his or her race, tribe, religion, nationality, political opinion or membership of a particular social group, is outside the country of his or her nationality and is unable or unwilling to avail himself or herself of the protection of that country, or, not having a nationality and being outside the country of his or her former habitual residence is unable, owing to such fear, unwilling to return to it.

It could be argued, that child survivors of trafficking for purposes of sexual exploitation belong to a '*social group*' and '*owing to a well-founded fear*' (i.e. to be submitted to sexual exploitation again) are 'unwilling to return' to their country of origin.

The review in this chapter sought to provide an overview of South Africa's international legal obligations as they pertain to the issues at hand. It has also identified the constitutive elements involved in the traffic of children for the purpose of sexual exploitation that are covered in current South African legislation.

Implementation of these relevant aspects of the law can alleviate the lack of success with regard to arrests, prosecution and conviction.



Chapter 8

Recommendations

1. Introduction

This chapter proposes recommendations with regard to the safety, protection and care of children rescued from prostitution. In addition recommendations are also made to deal with the issue at a national level.

Despite the gaps in South African legislation there are legal remedies in both international Conventions and Charters as well as South African legislation that can be applied to arrest, prosecute and convict offenders of trafficking and others who sexually exploit children. The difficulties with regard to successful prosecution and conviction therefor are not inherent to inadequacies in the law. These difficulties can be attributed to ineffective enforcement of the law and possibly to an inadequate understanding of the legal issues related to the trafficking of persons and child prostitution on the part of the South African Police Services and Department of Justice officials.

In addition to providing the legal remedies outlined in Chapter 7 this report makes the following recommendations:

2. Recommendations

2.1. The development of legislation that will prohibit the trafficking of persons for any exploitative purpose.

Whilst there are legal remedies that can be applied to prosecute offenders for offences related to trafficking this is not sufficient to deal with the problem of trafficking per se. Legislation that specifically prohibits this practice, whether for in-country or cross-border trafficking, is required.

In the absence of such legislation, however law enforcement officials should recognise that trafficking is often only one of the crimes committed against the trafficked child. Officials should therefore consider bringing the following charges against alleged offenders:

- rape, and other forms of sexual assault
- without limitation, charges of murder, abduction and kidnapping
- charges of torture, cruel, inhuman or degrading treatment
- charges of slavery or slavery-like practices, involuntary servitude, forced or compulsory labour
- charges of debt bondage
- charges of forced marriage, forced abortion and forced pregnancy.

To increase detection and prosecution

The South African Police Services (SAPS) and the Department of Justice should consider the establishment of specialised police and prosecutorial units. These units should have members that are trained to deal with the complexities, gender issues and victim sensitivities involved in trafficking. These units could be lodged within existing structures such as the Child Protection Unit with regard to the SAPS. With regard to the Department of Justice, units could be established along similar lines as the anti-hijacking unit within



the National Director of Public Prosecutions Office or could be lodged within units such as the specialised sexual offences centre.

2.3. With regard to restorative justice for victims

Court orders should make provision for the award of compensation to victims of trafficking. With respect to restorative justice this report recommends that where the Assets Forfeiture Unit has confiscated the assets of traffickers and brothel owners, such assets should be disbursed in payment of all court orders for compensation, restitution and recovery due to the trafficked person.

2.4. Where victims of trafficking are defendants in criminal proceedings

Prosecutors should ensure that a victim alleged to have committed a crime has the opportunity to raise a defence of duress or coercion. The same evidence should be considered a mitigating factor in sentencing if there is a conviction. In cases where a victim is accused of having committed a crime against a trafficker(s), including murder, she or he has the opportunity to plead self-defence and to present evidence of having been trafficked. It is also recommended that the same evidence should be used as a mitigating factor in sentencing, if there is a conviction.

2.5. Combating and monitoring the trafficking of and sexual exploitation of Children

It is recommended that the National Programme for Action in the Presidency (NPA) in conjunction with relevant government departments embark on a programme which will educate and inform South Africans about the issues as they relate to both in-country and cross-border trafficking.

Such a programme should be geared toward creating a better understanding of the issues as well as increasing vigilance on the part of communities. Programmes such as neighbourhood projects aimed at identifying children at risk, children in difficult circumstances and providing protection for children should be strengthened through linkages with police stations and local offices of the departments of health and welfare and social services.

It is also recommended that the NPA, the South African Human Rights Commission, the Commission on Gender Equality and the South African Youth Commission either collectively or individually take responsibility for establishing an office not only to receive and deal with complaints from children and others, but also to advise the government on issues affecting children. Alternatively, it is recommended that an Ombudsperson's Office for Children is established.

Such an initiative should be tasked with the responsibility for monitoring children at risk and should also monitor the following

- care of and for abused children
- evidence-gathering against traffickers and sex exploiters
- protection of child witnesses

This should be done to encourage and enhance the development of appropriate responses to local situations and local needs.



2.6. With regard to sex exploiters/sex offenders

It is recommended that a register for sex exploiters is set up so that repeat offenders can be monitored.

These are some recommendations that could ensure a reduction in the sexual exploitation of children, through prostitution and the trafficking of children for this purpose.

References

Books

- Burman, S. and Reynolds, P. (eds.): Growing Up in A Divided Society: The Contexts of Childhood in South Africa (Ravan, Johannesburg, 1986)
- Campbell, A. Girl Delinquents (Basil Blackwell, Oxford, 1981)
- Castells, M. The Information Age: Economy, Society and Culture: Volume 2: The Power of Identity (Blackwell Publishers, London and Massachusetts, 2000)
- Dawes, A. and Donald, D. (eds.): Childhood and Adversity: Psychological Perspectives from South African Research (David Philip, Cape Town and Johannesburg, 1994)
- Freed, L. F.: The Problem of European Prostitution in Johannesburg (Juta, Johannesburg, 1949)
- Gevisser, M. and Cameron E. (eds.): Defiant Desire, Ravan, Johannesburg 1994
- Kempadoo, K. and Doezema, J. (eds.): Global Sex Workers: Rights, Resistance and Redefinition: Routledge, New York and London, 1998
- Lee-Wright P.: Child Slaves, Earthscan, London, 1990
- Lim, L. (ed.): The Sex Sector: The economic and social bases of prostitution in Southeast Asia (ILO, International Labour Office, Geneva, 1998)
- Pinnock, D: Brotherhoods: Street Gangs and State Control in Cape Town (David Philip, Cape Town, 1984)
- Sereny, G.: The Invisible Children: Child Prostitution in America, Germany and Great Britain (Andr  Deutsch Limited, London, 1984)
- Van Onselen, C.: Chibaro (Ravan, Johannesburg, 1979)
- Van Onselen C.: Studies in the Social and Economic History of the Witwatersrand 1886-1914 Vol 1. New Babylon (Ravan, Johannesburg, 1982)

Reports

- Barnes-September R., Mayne, A., Brown-Adam I. (eds.) National Consultative Conference Against the Sexual Exploitation of Children March 17th -18th 1999 Produced and published by The Institute for Child and Family Development, University of the Western Cape, National Department of Welfare, and Population Development and the Network Against the Sexual Exploitation of Children, 1999
- ECPAT International: A Step Forward: The Third Report on the Implementation of the Agenda for Action Adopted at The World Congress against Commercial Sexual Exploitation of Children Stockholm, Sweden, 28 August 1996, ECPAT International, Bangkok, 1999
- Ennew, J. Gopal, G. Heeran, J. and Montgomery, H.: Children and Prostitution: How Can We Measure and Monitor the Commercial Sexual Exploitation of Children? Literature Review and Annotated Bibliography A collaboration between UNICEF Headquarters, New York:



Children in Especially Difficult Circumstances Section, Centre for Family Research, University of Cambridge, Childwatch International, Published by The Centre for Family Research, Cambridge,

UK & Childwatch International, Oslo, 1996

Human Rights Committee Quarterly Review: Children's Rights and Personal Rights, 1999

NASEC: Sexual Exploitation of Children: A Report May 1996

NIPILAR: Report: A National Networking Seminar on "The Girl Child in South Africa"

Organised and coordinated by National Institute for Public Interest Law and Research and the Community Law Centre, Gauteng, 1996

O'Connell Davidson J. and Sanchez Taylor J.: Child Prostitution and Sex Tourism: South Africa: A research paper for ECPAT in preparation for the World Congress Against the Commercial Sexual Exploitation of Children, 1996

Schurink, W.: Researching Commercial Sexual Exploitation of Children: Some Observations from Existing Social Science literature and a Preliminary Research Agenda For Eastern And

Southern African Countries: Human Sciences Research Council, 1996

Schurink W., Schurink, E and Smit, C.: Children Involved in Prostitution: Exploring a social process to manage the problem in South Africa, Background Document, Human Sciences Research Council, 1995

The National Programme of Action: National Programme of Action: 2000 & Beyond: An Assessment of the NPA and the Way Forward: Pretoria, 2000

The National Programme of Action: National Programme of Action for Children in South Africa: Framework 31 May 1996, National Programme of Action Steering Committee Pretoria,

South Africa, 1996

The House: The House A Place of Hope for Abused Youth: An Overview, 1994 Johannesburg, 1994

UNICEF: The State of the World's Children 1998: Focus on Nutrition Oxford University Press, London, 1998

UNICEF Cambodia: The Trafficking and Prostitution of Children in Cambodia: A Situation Report, Phnom Penh, 1995

United Nations: Human Rights Social and Economic Council: Report of the Special Rapporteur on the Sale of Children, Child Prostitution and Child Pornography. 1996

Women In Development South Africa Awareness: Beyond Inequalities: Women in South Africa,

UWC, SARDC, Bellville and Harare, 1997

YMCA, ECPAT and UNICEF: CHILD PROSTITUTION: The Ultimate Abuse: Report on National Consultation on Child Prostitution, November 18-20, 1995, New Delhi

Occasional Papers and Theses

Gammage, S: 'Is Equality and Social Justice Achievable under Capitalism?' Association of Women in Development Conference Paper, Washington, November 1999

Jackson, L: Recent Initiatives in Addressing Gender Violence in South Africa: Occasional Paper 14 January 1997, Institute for Security Studies

Westwood, D.: World Vision Discussion Paper No. 4, 1998

Douglas-Hamilton, D.: Warriors of the Ghetto: Ganging as a rite of passage Dissertation submitted in partial fulfilment of the requirements for the B SOC SC (HONS) Degree in Criminology, Institute for Criminology, University of Cape Town, 1995



Mbede, N.: Street Gangs: A Contextual Study Exploring the Gang phenomenon in the African townships of the Cape Peninsula and community attempts at curbing and re-directing gang activity B SOC SC (HONS), University of Cape Town, 1998

Magazines/Periodicals

South African

In Focus Forum: Focus of Child Abuse HSRC/RGN Vol 4, No. 3 November 1996

Readers Digest, June 2000

True Love, May 2000

International

Insight Magazine

Lovers March 1997

Washer Zine Vol 2 Issue 1

Newspapers

South African

Asijiki

Athlone News

City Press

Die Burger

The Cape Times

The Mail &

Guardian the

Saturday Paper

Sowetan

The Star

The Sunday Times

Tribune Herald

International

The Boston Phoenix

Straits Times

Internet Sources

<http://www.captive.org>

<http://www.csun.edu/~hcch006/18.html>

<http://www.ecpat.net>

<http://www.forbes.com>

<http://inet.co.th/org/gaatw>

<http://www.prostitutionresearch.com>

<http://www.saps.org>

<http://www.uri.edu/artsci/hughes/catw/catw/htm>

<http://eric-web.tc.columbia.edu/monographs/nds107/-gangs.html>



Legal Instruments

South African Legislation

The Aliens Control Act 96 of 1991 as amended in 1995

The Basic Conditions of Employment Act 57 of 1997

The Child Care Act 74 of 1983 as amended in 1999

The Constitution of the Republic of South Africa

The Domestic Violence Act 116 of 1998

Films and Publication Act, No 65 of 1996, as amended in 1999

The Immigration Bill of 2000

The Prevention of Organised Crime Act 121 of 1998 as amended in 1999

The Promotion of Equality and Elimination of Unfair Discrimination Act 4 of 2000

The Proposed Draft Sexual Offences Bill

The Sexual Offences Act 23 of 1957 as amended in 1988

The Refugee Act 130 of 1998

South African Schools Act 84 of 1996 as amended by the Education Laws Amendment Act 100 of 1997

United Nations Conventions and Protocols

The Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and

Practices Similar to Slavery (1956)

Convention on the Rights of the Child (1979)

Convention for the Suppression of the Traffic in Persons and the Exploitation of the Prostitution of Others (1949)

The Convention for the Suppression of the Circulation of, and Traffic in, Obscene Publications

(1923 - amended by Protocol of 12 November 1947)

The Convention on the Elimination of All Forms of Discrimination against Women (1979)

Optional Protocol to the Convention on the Rights of the Child (not yet in force) Protocol to

the Convention against Transnational Organised Crime (in process) International

Covenant on Civil and Political Rights (1966) International Covenant on Economic, Cultural and Social Rights (1966)

Convention against Torture and Other Cruel, Inhuman and Degrading Treatment (1984)

Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages (1962)

Continental Charters

African Charter on Human and People's Rights (1981)

African Charter on the Rights and Welfare of the Child (1990)

Other International Instruments

International Labour Organisation Convention 29 of 1930: Concerning Forced Labour

International Labour Organisation Convention 105 of 1957: Concerning Abolition of Forced

Labour International Labour Organisation Convention 182 of 1999: Concerning Worst Forms of Labour Stockholm Agenda for Action (1996)



Appendix 1: Transcripts

Chantal's story

Ek, ek, is een en twintig jaar oud. Ek was in die Reform skool vir meisies toe het ek besluit om weg te hardloep saam met die anner twee meisies, toe bly ek in Woodstock 'n jaar, 'n jaar en 'n paar maande, nou elke aand het hulle pad toe gekom. Ek het nog nie geweet wat is prostitusie nie. Hulle het elke aand die biesagheid gedoen, dan wag ek op een van die twee hoeke vir hulle. Toe, sien ek vir Zunaid, nou ons moet verby hom loep, innie aanne, dan jaag hy my so innie rondte, dan dink ek wie is die man? Ek, is nou 'n bietjie bang vir hom. Dan worry ekkie met hom en wat nie, dan kom ons net weer hystoe elke aand. Tot die Vrydagaand wat hy en twee anner meisies (unclear), hier innie Groen Punt, ons het gesit daar oppie hoek, toe vra hy will onssie saam kommie. Toe vra ek waantoe. Toe sê hy nee ons gan eerste Parade toe, dan gan ons Bo-Kaap toe, agter daai. Toe sê ek nee ek gan nêrens heen nie. Ek kennie vir jou nie. Jy ken ook nie vir my nie, so jy kannie net vir my sê ek moet saam kommie. Maar agterna toes daai meisie mos weg, toessit net ek en daai anner een en Zunaid, toe gan ek maar saam. Van Parade af, hy't vir ons kos gekoop, toe gan ons op BoKaap toe.

Toe die aand het ons oppie kooi gelê, ek en die anner twee meisies, en hy't net innie nag in opgestaan, en somer vir my vannie kooi afgehaal en toe wil hy seks hê. Toe skreeu ek mos, toe sê ek nee, ek sallittie doennie want ek ken nie vir jou nie.

Toe raakkit mos nou dagbreek, toe wil ek hystoe gan, toe sê hy nee, ek kannie hystoe gannie, want ek sal nog in dieppere goedte in gan want ek kennie die plek nie.

Toe het die meisies met wie ek saamwas het, het die polisiebeamptes gan haal. En toe sê hy ek het weggehardloep van Reform af, nou die man wil my nie ken nie. Toe kan hulle ook niks aan die saak doen nie. Toe bly ek daarso.

En toe, toe sien ek net die twee meisies trek vir hulle aan. Ek is verbaas. Ek vra toe waantoe gan hulle. Nee, hulle gan, (unclear) toe, ek moet saam gan. Toe trek ek oek mar vir my aan, mar kort klere. Toe gan ons pad toe, toe vra ek is dit nou die rigting wat julle van praat? Toe leer hulle nou vir my hoe om die besagheid te doen.

Toe hardloep hulle nou weer weg, toes ek en hy alleen, toe sê ek, ek kannie alleen by jou bly nie, ek moet hystoe gan. Toe sê hy nee ek is nou al uitweg hoe hy anner meisies kan kry. Ons het daar van sy ma se huis vertrek daar na Rio toe, daar in die See Punt. Ons het daar gebly vir twee, drie maande. Elke aand ytgegan, ek alleen saam met hom, totdat ek, totdat daar weer twee, drie meisies saam gebly het. Ons het noggie ouens gerobbie. Daai tyd was dit nog soe ons moet regte besagheid doen saam met die ouens. Toe trek ons hier in Woodstock in, in ----- Lane in. En daart ons begin die ouens rob. Sonder besagheid doen, guns gesteel, sulke soorte van goedte.

Toe het ons mossie mee lank daar gebly nie, want die mense complain van onsse geraas. Toe trek ons hier in (she's thinking) ek weet nou nie mee wat daai pad se naam is nie, maar dus hierso in Woodstock in. Ons het in 'n vaal hys gebly.

Toe sê daai Moeslims wat daar bly ons kannie daar bly nie, is te veel geraas en ons hou vir hulle yt die slaap yt. Toe koop hy nou die hys wat hulle nou in bly. Ons het daar, hulle bly nou nog daar. Ons het daar gebly, ek altans het daar gebly vir jare.



Abduction 1: Stephanie

Ons het by die neighbours gan staan wat bytekant besig was om te braai. Eugene het toe ytgekom en vir my gevloek. Hy't geskree: "Jou ma se poes, wag daar binne!" Ek het toe vir hom gesê ek willie inkomme. Ek gan byte staan. Anil het toe vir die klontkie gesê dat as ons wil weg harloep dan moet hy ons skiet met die gun. Die klontkie het die heeltid sy hand onner sy jacket gehou. Ek kan nie gesien het of hy regtig 'n gun het of nie.

5.2. Becoming one of the Girls: The Tattoo or Chappie

Want die aand ons het innie kamer gesit, toe beslyt ek, nie ekke nie, die anner meisie sy gan nou "Zunaid" chap, ek moettit oek doen, toe sê ek nee ek gattit nie doennie, toe sê ek okay chap sommer maar my kind se naam hier op my arm, toe chap sy my. Agterna toe sal ek sien ammal chap "Zunaid". Ek het, was die enigste een wattie Zunaid op my vingers gehadtit nie.

Uhh, Uhh, toe die dag, het ons bytekant gesit. Ons het ammal se hande soe deurgekyk. Toe maak ek my hanne toe. Toe vra hulle hoekom maak ek my hanne toe, toe sê ek omdat ek nie die naam op my hand het nie. Toe sê hulle nou jy 's nie een vannie girls nie. Jy's sommer danger sê hulle vir my, toe lat ek daai meisie sommer vir my ytchap. – Chantal

5.3. Violence as a Method of Coercion

... toe begin hy oek vir my te slat, toe will ek hystoe gekommit, maar dit wassie moontlik gewiessie. En somtyds sit 'n mens soe innie voorkamer, innie aanne in, dan moet jy nie opkyk nie, jy moet grond toe kyk. Jy kan nie in sy mond dophou nie, want hy is baie jealous. Want jy sit net somtyds, jy wietjie wanneer hy na jou toe kom nie, net onverwags dan kom hy na jou toe, dan slat hy vir jou in die gesig in. Dan wiet jy nou van niks af nie. Want hoekom hy vat dit mos nou soe, jy het iets verkeerd gedoen maar jy weet van niks af nie. Dan vat hy dit nou soe, jy het nou 'n fout gemaak, dan kom slat hy vir jou, dan wassit nie eens soe gewiessie. Dan slat hy jou, of hy lat vir Faghme vir jou slaan. Faghme het altyd vir my geslat tot oppie grond. Dan trap hy my kop oppie grond, al tiennie tiles dan slat hy vir my. – Lorraine

5.4. Resistance and Punishment

Planning to escape

Innie tyd wat ek daar was het hulle my lelik aangerand, en geskop en getrap omdat hulle gehoor het ek wil weg hardloep. It was die Saterdag dat hulle ons gekidnap het en die eerste Dinsdag toe moet die twee sisters nou Laetitia en Antoinette innie hof voorgekom het vir 'n moordsaak. Nou Zulfa het saam met hulle gegán. Toe hulle nou daar byrrie hof is toe vertel sy nou vir hulle twee dat ek en Lucia het gesê dat ons gan weg harloep. Toe hulle nou die mirrag terugkom toe sê hulle vir Zunaid en toe is hy nou baie kwaad. Hy sê toe vir een vannie guardjies wat daar was hy moet vir Lucia gan haal daar waar sy nou innie kamer gelê en slaap het. Ek sit toe nou innie lounge in. Zunaid sê toe nou vir Lucia sy moet nou oppie grond gan sit. Hy trap toe nou twee keer vir Lucia lat sy tienaan die kassie val en hy sê toe vir haar dat sy moet innie middel vannie vloer gan sit. Sy het toe baie hard begin huil. Zunaid sê toe vir haar dat sy moet ophou tjank sy's mos nou nie 'n baby nie en sy moet haar klere yttrek. Sy trek toe maar haar klere yt, tot sy net in haar onnnerklere was. Een vannie anner meisies, Nadine staan toe op en sê vir Lucia of sy dan nou nie gehoor het Zunaid het gesê sy moet haar klere yttrek nie. Hulle het toe 'n koebers gan haal en vir haar gesê sy moet oppie koebers gan lê, wat sy toe oek gedoen het. Hulle roep toe vir Igsaan en sê vir hom om daar by haar te gan lê. Ons was nou omtrent so 17 mense innie lounge toe Igsaan vir Lucia verkrag het. Lucia was toe maar net 14 jaar oud.



Toe Igsaan nou klaar is met haar toe het 'n anner man wat hulle Eugene roep, na my toe gekom en gesê dat ek moet die gedagte van wegharloop yt my kop yt kry. Hy vra toe vir my of it dannie lekker daar by hulle issie, en ek sê toe maar ja it is lekker daar, want ek is toe nou baie bang, na wat met Lucia gebeur het. Hy sê toe weer vir my ek moet gladdie daaraan dink om weg te hardloepie, want ons gan sommer nog baie lank daar by hulle bly. – Jenny

Challenging notions of "the family"

Nou sy het die kind, het sy weg van Zunaid kom vat. Die kind is byrrie hys, en hmm, hulle twee skel al heel tyd innie hys al, skel hulle. En Zunaid beginne raak toe kwaad, en die girls sê vir mekaar o jene sy gan pak kry. En sy hoor toe nie, en sy daar klap Zunaid haar, en begin om vir haar te slat innie hys. Hy klap vir haar. Hy gooi vir haar oppie grond en soe bytekant. Zunaid trek vir haar kaal yt, innie pad. En sy't oek niks pantie aan, niks bra aannie, moet sy yttrek. Hy laat haar staan daar tiennie mier daar byrrie private (property). Hy lat haar eerste in gat daar byrrie private property. Daar byrrie private property. Dan trap hy vir haar. Dan gooi hy vir haar met klippe. Dan moet die guards haar met klippe gooi. Dan kom sy, dan moet sy yt kom, dan slat hulle ammal vir haar man. Toe slat hy vir haar mette swiep en al die goette. Toe vat hy haar. Toe daai aand toe sê hy vir my ja, jy, jy vanaand gan jy net soe pak kry sê hy vir my. Toe vat hy Ghairo se klere, toe gooi hy'ret innie kar. Toes sy al seer geslat al. Toe gooi hy haar innie kar in. Toe sê hy vir haar gan, gat werk, sê hy vir haar. Toe moet sy gat werk. – Belinda

5.5. Committing Murder

Die, it was op 'n Saterdagdaand, toet ons ammal beslyt ons will dans toe gan. Toe het Zunaid nou die een boytjie, Cassiem. Toet Zunaid vir hom innie hys gelos mette gun. Nou hy verbryk oek daai mandrax en drink oek op. Toe sal Zunaid sê as daar enige ouens kom soek, en hy't een keer gesê hulle, hy issie hier nie, en hulle willie hoor nie, dan moet hy die wapen gebryk op daai mense. Toe ons ry nou Athlone toe, toe kry ons nogge gevaar, ouens wat skiet oppie kar, toet hy nou gesê ons moet plat ammal innie kar, toe skiet hy toe nou trug, en die boys wat agter ons ry, het oek trug geskiet, toet die ouens net verby gery.

Toe ons trug kom toet hy gevra hmm, vir Cassiem waars die gun. Toe sê Cassiem die gun is innie kas in toegeslyt. Ons gan, ons soek innie kas of die gun daarin is. Daar wassie 'n gun innie kassie. Toe sê hy ons moet elkeen vir ons iets kry om die outjie mee te slaan. Okay ons het toe elkeen its gekry, som vannie meisies het grawe gevat, en pikstele en harke. Ek het net die ligste ding gevat die stok gevat – en die besemstok en hom geslaan, yt die voorkamer innie badkamer. Die hele hys is vol bloed; toe sê hy ons moet ophou is die boys se beurt nou. Die boys het toe vir hom geslaan met die skerp voorwerpe waaarmee ons vir hom mee geslaannet. Agterna het hulle vir hom gevat yt die kobys yt agter innie yart, sy twee vingers afgesny, en die drade soe bymekaar gemaak en hom soe geshock. Hy't net aanhoudend gesê dat hy wietjie waars die gun nie, want hy't die gun verkoop. Agterna het hy vermoed hy't die gun verkoop. Toe hy, sê maar hy was amper dood gewees, want toe hy sê die boys moet hom ytbring toe kan hy nie asem haal nie. Toe wiet ek nie wat het hy gepraat met die outjies daar bytte oppie stoeppie. Toe sê ekke, toe sê hulle, hulle moet hom wegvat, want hy's al klaar dood al. Toe hoor ons net die swart Cortina trek weg. En ons hettie weer gehoor daarvannie. – Chantal



5.8. Working

Nou die meisies bring die clients na die hys toe, dan vat hulle nou die mans na een vannie kamers toe. En dan trek hulle byvoorbeeld die client se klere yt en sit dit nou langs die kooi neer. Nou, die client wiet nou nie dat daar is nou nog 'n meisie onner die kooi nie. Sy het nou voorrie tyd onner die kooi ingeklim. Sy haal nou sy wallet yt sy broeksak yt en haal die geld yt en sit dan weer die wallet terug. Sommige kere het die meisies sex met die clients en anner tye dan doen hulle anner goeie met die clients. Allie geld moet dan na Zunaid toe gan. – Jenny

Ek het hom innie kamer gevat. Ek het my ytgetrek. Nou ek verbrykkie cocaine nie. Toe sê hy ek moet snif, en as ek nie gan snif nie dan gan hy nie biesagheid met my doennie. Toe was daar nog niemand in die hys nie, Zunaid was noggie daar nie. Toet ek nou vinnig gesnif, voordat hulle nou inkom en sien. Toe ek nou klaar gesnif het, toe lê ek op die kooi, besag om hom styf te maak en so aan. Toe het ek nou geld yt sy wallet, ek het sy sakke leeg, leeg gemaak, net 'n tien rand gelos. Toe ek die laaste twee honnerd rand ythaal, toe het hy vir my gehoor, en hy spring op, en hy gan vir sy broek, en ek gryp sy broek yt sy hand yt, nou hy wil net yt gan. Nou die ouens kannie yt gannie, unless die meisie sê nou hulle kan ytgan. Toe staan ek byrrie deur, en hy gooi my rond, en ons baklei innie kamer in, en toe hy sy mes ythaal, en my toe steek, maar toe hardloop ek mos al om die kooi met hom. Toe het hy my, toe sny hy my oor my vinger, dat maak dat my vinger is so vandag.

Toe sê ek, toe skree ek mos nou vir Zunaid, Zunaid hy't my gesteek, en hy'ttie note gevattie. Agterna toe sal hy kom met die gun en die ou nou hensep met die gun. Toe vra hy wat het hy gedoen. Toe sê ek hy't my gesteek. toe weet ek nie die ou het nog 'n vyfduisend rand in sy sak nie. Toe sê hy die ou moet betaal vir my hand wat hy so gesteek het. – Chantal

But som vannie lanies het opgelet hmm, ons doennie regte werk met hulle nie. Dan hmm, dan vat, gryp hulle, hulle. Nou voor hulle, hulle goed kan gryp, het ons alweer klaar hmm moet ons alweer klaar hulle sakke nê ingegannit vir, vir die geldte, die ringe, die, die, die, die kettings wat hulle om het. Ammal moes ons afgehaallit. En hmm, hulle kannie vir ons sê hulle gannit nie vir ons gee nie.

Ons gee vir hulle pak. – Belinda

5.9. Police Collusion

Die aand ek gan werk. Daai aand toe rob ons 'n man oppie pad, onse selffe. Want ons is nog so biesag om met hom te praat, om vir hom die pryse te gee, en al die goeters. Toe ruk Ilhaam die phone, toe sit Ilhaam die phone in haar sak. Toe ry die man, en die geld oek. Toe ry die man, toe kom die man trug. Toet ons klaar die phone en daai vir die guards gegee, wat vir ons dop hou. Toet ons klaar vir hulle gegee.

Ja. Hulle staan mos tot ons klaar gewerkkit. Die mense wiet mossie hulle hou vir ons doppie. Dan staan ons daar. Dan, dan gee onssit vir hulle. Toe kom die hele Boere. Toe vat hulle vir, vir Ilhaam. toe vat hulle vir Nazlee. Wie was nog saam? En Antoinette of Laetitia was saam. Hulle drie het innie van geklim, en die boere het gesê hulle ken vir hulle, want hulle is hmm ou skelms en al die goeters. Hulle moet gan. Hulle klim innie van. Die guards phone vir Zunaid. Zunaid kom, en Zunaid gan toe polisie stasie toe. Toet Zunaid net twee woorde gesê toes hulle alweer yt. En toe kom hy maar net weer trug vir sy phone. Die aand toe kom hy na die hys toe, virrie phone. Toe hmm moet hy betaal virrie phone. Toe, toe sê Ilhaam "no it's eight hundred rand." Toe sê hy: "no four hundred." Toe sê, toe sê Ilhaam "no eight hundred." Toe moet hy eight hundred rand gee vir sy phone. Okay. – Belinda



En ons het ouens gerob. Is miskien 'n client tel vir my op dan vat ek hom na die hys toe. Nou by die hys, hy lê op ons maar hy doennie die besigheid nie, dan haal ons sy geld yt die sakke yt en so an. Dan gee Zunaid die polisiebeampies elk 'n vyftig rand. Dan sê die polisiebeampies vir die kliënt nou hy moet yrrer afkom polisie stasie toe, daar 'n verklaring kom afgee. Hulle kan nou niks maak annie saakie. – Chantal

5.11. Family Relationships

Toe lê, toe lê. En op 'n dag toe lê ek en Lorraine daar innie pad. Ons lê sommer daar innie pad, mette 'n shorts aan oor onse koppe, en soe. En hoeveel kiste, twee kiste het daar gestaan. En ons het gedrink, en gedrink en gedrink. Toe praat sy en ekke, hoe it mos nou gewiessit hier by ons man, hier byrrie hys, man. It sal lekkere gewiessit man. Ons sal free gewiessit, en al die goed. Hey en Tiffany, Lorraine se suster, hoor.

En Tiffany sê "Zunaid, Zunaid moet hoor watter goeie praat Belinda en Lorraine van hys toe gan en al die goed. Zunaid gee net vir my en Lorraine soe 'n kyk. Ons lê nog daa. Ons wiet van niks af. Zunaid ko daar ons jump op. Een hou tien die mond – Gwa, kop tiennie muur. Ek staan daar. Ek staan daar. Ek staan soe. Hy slat vir haar mette biesemstok innie pad. Hy jaag haar mettie biesemstok innie pad. En ek, en ek staan daar, en hy slat vir haar en vir my man. En hy sê ons wil kom "en" hier innie Hanover Park man. En ek sê it issie man. Ons het maar net gesê hoe sallit gewiessit by die hys sê ons vir hom. Hy sê ja, vat julle vir my virre 'p'. Slat hy vir ons.

Ekke, ek harloep toilet toe. Ek willie voor hom huilie. Ek harloep toilet toe. Ek sit en huil daar. Ek huil. Ek dink jo, skree vir my ma nè. Okay my ma kan mos nou nie hoor nie, my ma issie daar nie. Ek is innie toilet. Ek was my gesig. My lippe beginne dik staan, en my kop beginne pyn nè, soes hy mos vir my geslatti tiennie muur, en ek staan daar. Ek kom weer yt.

Auntie Catherine sê nog vir my, Belinda moenie huilie man, is oraa. Sê sy vir my. En ek sê wag man en moettie vir my sê alweer nie. Sê ek. Sy, ek gan in. Ek drink weer twee biere om my kopseer weg te vat, en ek sit, en Tiffany gee vir my 'n snowball en ek roek. En agterna toes alles weer oraa. Toe lag ek weer.

Toe sê Zunaid vir my is jy duidelik. Nee ek is duidelik. Die aand ek gan werk, weer gat werkkie, toe hmm toet ek 'n dik lip.

Toe staan ek daar, en die Lanies vra vir my wiet dan vir jou geslat? En ek sê nee is oraa. Ek het gebaklei. Die girls het getry om onse plek te vat. Hulle wil hier ko staan. Is hulle dan mal. Dies mos onse plek, sê ekke virrie Lanie. – Belinda

5.12. Relationships with boys

Ons moet vir niemand dop hou nie. Soes een keer toe kyk ek deur, deur die venster, toe hou ek die jongetjies dop. Toe sien een vannie guards. Toe sê hulle vir Zunaid. Toe slat Zunaid vir my ook vir daai. Toe sê hy vir my ja, ek is 'jas' en al die goette – Belinda

Toe kom sy seun in, toe vra hy vir sy seun wat het ek innie voorkamer gedoen. Toe sê sy seun nee Daddy sy't nou die anner outjie dop gehou. Ek sê toe nee, issie soe nie. Ek het niks soes daai gedoenne. Ek het mos nou net geskink mos nou. Toe sê hy vir sy seun ek het nog nie klaar gepraat nie, ek wil nog iets gepraat het, toe sê hy hmm, hy wil niks hoor van my nie. Toe sê hy vir sy seun hy moet vir my dress, hy moet vir my slat, behalwe my gesig en my kop, hy moet net my lyf lam slat, dat ek nie meer kan loeppie. Toe slat hy my. Ek het geduck ou broer ek het gebuk oppie grond, my lyf was soe seer hier, hier't hy my getrap hier by my lyf. En ek kry nou nog, ek kry altyd pyne.

Nou van daai tyd af, toe hy my soe getrappit, kry ek pyne. My straf. Maar is al innie voorkamer wat dit gebeur. – Lorraine



Hy sê ja jy's te vinnig om te sê ja julle dink net aan mooi mans, mooi mans en as ek (unclear) 'n man vat, ek kan mos 'n man vat as ek wil, but by hom kante, nee jy kannie 'n man vattie, hy wil hom jou hê vir jou hê vir homself – Chantal

5.13. The Escape

Lucia gets away as told by Jenny

Die Donderdagoggend het Lucia my vroeg wakker gemaak. Nou alles was toe en geslyt. En toe kom sê sy vir my dat sy het 'n plek gekry om weg te harloep. Lucia vra toe vir my om saam te gaan, but ek was te bang, want netnou dan raak hulle wakker. Lucia het toe by 'n venster bo by 'n deur ytgeklime en weggeharloep. 'n Anner jongetjie, Hiema het toe vir haar gehoor en vir ammal wakker geskree, en gesê dat Lucia het weggeharloep. Die meisies het toe af innie straat vir haar begin soek. Zunaïd stuur toe die boys af na Kaap stasie toe om vir haar te gaan soek, maar hulle het haar nie gekry nie.

Chantal gets away

Ek het laas jaar ytgevind ek is weer swanger van hom. Toe sê die meisies, oe jy gaan nog Zunaïd se vrou raak. Toe sê ekke nee ek het niks gepraattie. Toe dink ek net een Vrydag ek is nou kwaad, ek gaan nou maar eenkeer weg harloep, but toemaar ons het banke ytgedra, want ek weet die slide het onsse rytte gelaat breek. Toe skel hy my yt, nee hy't nie vir my geskel nie, hiers alweer badluckke enne.

Hiers alweer badluckke naaiers. Toe dink ek hy praat van my. Ek het bytekant gaan sit, hy't my Shoprite toe gestuur. Toe wil ek toe al weggeharloep van Shoprite af, toe dink ek nee, as ek nou trug kom dan gaan ek sê Zunaïd koop 'n blowdryer en 'n borsel. Toe sê ek vir hom Zunaïd ons norag 'n hairdryer en 'n blow borsel. Toe gee hy die geld toe vra hy wie gaan saam van die meisies, toe sê ek Geraldine moet saamgaan. Toe dink ek net in my gedagte jy dink jy's deurmekaar met 'n stupid mens, jy stuur nou die stupidste meisie saam met my. Ons het innie taxi geklime, op pad Shoprite toe sy't yt die taxi geklime toe sê sy ons moet gat hallo sê vir hulle kinnars. Toe sê ek nee gaan, seil solank aan, ek sal agterna kom. Toe ek om die draai is, toe kry ek kans om in die taxi te klim, toe ry ek daarvandaan tot innie Wynberg, toe loop ek net 'n entjie tot innie Library. Toe hike ek vir my 'n lift hystoe.

Jenny gets away

Die volgende Woensdagaand het ek beslyt om te probeer wegkom.

'n Witman in 'n bakkie stop toe en ek en die anner meisie, Zuleigah het toe tot byrrie bakkie geloep. Zuleigah sê toe virrie witman is R160-00 vir twee en R80-00 vir een. Die man sê toe hy gaan vir ons altwee vat. Ek het eerste ingeklime en innie middel gesit en Zuleigah het byrrie deur se kante gesit. Ek het niks gepraat nie, die man vra toe vir hoekom ek so stil is, ek sê toe dat ek maar altyd so stil is. Toe ons by Zunaïd se hys kom toe sal ek oplet dat nie die BMW offie rooi kar agter ons angery hettie, want hulle was nog saam mettie anner meisies. Ek sê toe vir Zuleigah sy moet solank gaan klop sodat ons kan inkom. Toe sy oppad voordeur toe is toe sê ek virrie witman hy moet ry. Die man sê toe nou vir my ek moet eers vir hom vertel wat nou hier aangan, want ek lyk baie nervous. Ek sê toe vir hom dat dit is 'n hele con business en hy moet nou net ry. Hy sê toe ek moettie deur toemaak, want sy het it mos nou oepgelos. En toe ry ons nou. Toe Zuleigah-hulle sien dat ons ry nou, toe hardloep hulle agter die bakkie aan en toe gooi hulle nog klippe na die bakkie. Die man wil toe nou weet wat gaan aan. Ek vertel hom toe die hele storie met die girls. Hy vra toe waar bly ek en ek sê toe vir hom ek bly eintlik by my auntie. Hy sê toe omdat ek vir hom gehelp het gaan hy nou vir my help en my hys toe vat. Ek was nou baie gelukkig dat Zunaïd-hulle nie agter ons angery hettie, sodat ek 'n kans gekry het om weg te hardloep.



Appendix 2: The UN Convention on the Rights of the Child: 1979

As a signatory to the Convention on the Rights of the Child South Africa is obligated to fulfil the provisions of the Convention. These provisions are set out in 54 articles. Articles of particular relevance to the issues of child prostitution, sexual exploitation and the traffic of children are.

Article 2

1. State Parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status.
2. State Parties shall take all appropriate measures to ensure that the child is protected against all forms of discrimination or punishment on the basis of the status, activities, expressed opinions, or beliefs of the child's parents, legal guardians, or family members.

Article 11

1. State Parties shall take measures to combat the illicit transfer and non-return of children abroad.
2. To this end, State Parties shall promote the conclusion of bilateral or multilateral agreements or accession to existing agreements.

Article 19

1. State Parties shall take all appropriate legislative, administrative, social and educational measures to protect the child from all forms of physical or mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse, while in the care of parent(s), legal guardian(s) or any other person who has the care of the child.
2. Such protective measures should as appropriate, include effective procedures for the establishment of social programmes to provide necessary support for the child and for those who have the care of the child, as well as for other forms of prevention and for other forms of identification, reporting, referral, investigation, treatment and follow-up of instances of child maltreatment described heretofore, and, as appropriate, for judicial involvement.

Article 32

1. State Parties recognize the right of the child to be protected from economic exploitation and from performing any work that is likely to be hazardous or to interfere with the child's education, or to be harmful to the child's health or physical, mental, spiritual, moral or social development.
2. State Parties shall take legislative, administrative, social and educational measures to ensure the implementation of the present article. To this end, and having regard to the relevant provisions of other international instruments, State Parties shall in particular:
 - (a) Provide for a minimum age or minimum ages for admissions to employment;
 - (b) Provide for appropriate regulation of the hours and conditions of employment;
 - (c) Provide for appropriate penalties or other sanctions to ensure the effective enforcement of the present article.



Article 33

State Parties shall take all appropriate measures, including legislative, administrative, social and educational measures, to protect children from the illicit use of narcotic drugs and psychotropic substances as defined in the relevant international treaties, and to prevent the use of children in the illicit production and trafficking of such substances.

Article 34

State Parties undertake to protect children from all forms of sexual exploitation and sexual abuse.

For these purposes, State Parties shall in particular take all appropriate national, bilateral and multinational measures to prevent:

- a. The inducement or coercion of a child to engage in any unlawful sexual activity;
- b. The exploitative use of children in prostitution or other unlawful sexual practices;
- c. The exploitative use of children in pornographic performances and materials.

Article 35

State Parties shall take all appropriate national, bilateral, and multilateral measures to prevent the abduction of or the sale of or traffic in children for any purpose or in any form.

Article 37 (a)

State Parties shall ensure that:

- a. No child shall be subjected to torture or other cruel, inhuman or degrading treatment or punishment. Neither capital punishment nor life imprisonment without the possibility of release shall be imposed for offences committed by persons below eighteen years of age;

Article 37(c)

Every child deprived of liberty shall be treated with humanity and respect for the inherent dignity of the human person, and in a manner which takes into account the needs of persons of his or her age. In particular, every child deprived of liberty shall be separated from adults unless it is considered in the child's best interests not to do so and shall have the right to maintain contact with his or her family through correspondence and visits, save in exceptional circumstances.

Article 37(d)

Every child deprived of his or her liberty shall have the right to prompt access to legal and other appropriate assistance, as well as the right to challenge the legality of the deprivation of his or her liberty before a court or other competent authority and to a prompt decision on any such action.

Article 39

State Parties shall take all appropriate measures to promote physical and psychological recovery and social reintegration of a child victim of: any form of neglect, exploitation, or abuse, torture or any other form of cruel, inhuman or degrading treatment or punishment; or armed conflicts. Such recovery and reintegration shall take place in an environment, which fosters the health, self-respect and dignity of the child.



Appendix 3: African Charter on the Rights and Welfare of the Child

The charter was developed in response to certain shortcomings in the UN Convention on the Rights of the Child. South Africa has signed the charter. Articles relevant to the prostitution and traffic of children are:

Article 16: Protection Against Child Abuse and Torture

1. States Parties to the present Charter shall take specific legislative, administrative, social and educational measures to protect the child from all forms of torture, inhuman or degrading treatment and especially physical or mental injury or abuse, neglect or maltreatment including sexual abuse, while in the care of the child.
2. Protective measures under this Article shall include effective procedures for the establishment of special monitoring units to provide necessary support for the child and for those who have the care of the child, as well as other forms of prevention and for identification, reporting, referral, investigation and follow up of instances of child abuse and neglect.

Article 20: Parental Responsibilities

1. Parents or other persons responsible for the child shall have the primary responsibility of the upbringing and development of the child and shall have the duty:
 - (a) to ensure that the best interest are their basic concern at all times
 - (b) to ensure, within their abilities and financial capacities, conditions of living necessary to the child's development; and
 - (c) to ensure that domestic discipline is administered with humanity and in a manner consistent with the inherent dignity of the child.
2. State Parties to the present Charter shall in accordance with their means and national conditions institute the all appropriate measures
 - (a) To assist parents and others responsible for the child and in case of need provide material assistance and support programmes particularly with regard to nutrition, health education, clothing and housing
 - (b) rearing and ensure the development of institutions responsible for providing care of children:
and
 - (c) To ensure that the children of working parents are provided with care services and facilities.

Article 21: Protection against Harmful Social and Cultural Practices

1. States Parties to the present Charter take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity normal growth and development of the child and in particular:
 - (a) those customs and practices prejudicial to the health or life of the child; and
 - (b) those customs and practices discriminatory to the child on the grounds of sex or other status.
2. Child marriage and the betrothal of girls and boys shall be prohibited and effective action, including legislation, shall be taken to specify the minimum age of marriage to be 18 years and make registration of all marriages in an official registry compulsory.

Article 27: Sexual Exploitation



States Parties to the present Charter shall undertake to protect the child from all forms of sexual exploitation and sexual abuse and in particular take measures to prevent:

- (a) the inducement, coercion or encouragement of a child to engage in any sexual activity
- (b) the use of children in prostitution or other sexual practices
- (c) the use of children in pornographic activities, performances and materials.

Article 29: Sale, Trafficking and Abduction

States Parties to the present Charter shall take appropriate measures to prevent:

- (a) the abduction, the sale of, or traffic in children for any purpose or in any form, by any person including parents or legal guardians of the child
- (b) the use of children in all forms of begging.



Appendix 4: Agenda for Action

World Congress Against Commercial Sexual Exploitation of Children

Declaration and Agenda for Action

Declaration

1. We, gathered in Stockholm for the World Congress against Commercial Sexual Exploitation of Children, representing the Governments of 122 countries, together with non-governmental organisations, the End Child Prostitution in Asian Tourism (ECPACT) campaign, UNICEF and other agencies within the family of the United Nations, and other concerned organisations and individuals world-wide, hereby commit ourselves to global partnership against the commercial sexual exploitation of children.

The Challenge

2. Every day, more and more children around the world are subjected to sexual abuse. Concerned action is needed at the local, national, regional and international levels to bring an end to the phenomena.
3. Every child is entitled to full protection from all forms of sexual exploitation and sexual abuse. This is reaffirmed by the Convention on the Rights of the Child, an international legal instrument of universal significance (of which there are 189 States Parties). States are required to protect the child from sexual exploitation and sexual abuse and promote physical and psychological recovery and social reintegration of the child victim.
4. According to the Convention on the Rights of the Child, the best interest of the child shall be a primary consideration in all actions concerning children and, and their rights are to be enjoyed without discrimination of any kind. In all matters affecting the child, the views of the child shall be given due weight, in accordance with the age and maturity of the child.
5. The commercial sexual exploitation of children is a fundamental violation of children's rights. It comprises sexual abuse by the adult and remuneration in cash or kind to the child or a third person or persons. The child is treated as a sexual object and as a commercial object. The commercial sexual exploitation of children constitutes a form of coercion and violence against, and amounts to forced labour and a contemporary form of slavery.
6. Poverty cannot be used as justification for the commercial sexual exploitation of children, even though it contributes to an environment which may lead to such exploitation. A range of other complex contributing factors include economic disparities, inequitable socio-economic structures, dysfunctional families, lack of education, growing consumerism, urban- rural migration, gender discrimination, harmful traditional practices, armed conflicts and trafficking of children. All these factors exacerbate the vulnerability of girls and boys to those who would seek to procure them for commercial sexual exploitation.
7. Criminals and criminals networks take part in procuring and channelling vulnerable children toward commercial sexual exploitation and in perpetuating such exploitation. These criminal elements service the demand in the sex market created by customers mainly men who seek unlawful sexual gratification with children. Corruption and collusion, absence of and /or inadequate laws, lax law enforcement, and limited sensitisation of law enforcement personnel to the harmful impact on children, are all further factors which lead, directly or indirectly, to the commercial sexual exploitation of children. It may involve the acts of a single individual, or be organised on a small scale (e.g. family and acquaintances) or a large scale (e.g. criminal network).



8. A wide range of individuals and groups at all levels of society contribute to the exploitative. This includes intermediaries, family members, business sector, service providers, customers, community leaders and government officials, all of whom may contribute to the exploitation through indifference, ignorance of harmful consequences suffered by children, or the perpetuation of attitudes and values that view children as economic commodities.
9. The commercial sexual exploitation of children can result in serious, lifelong, even life threatening consequences for the physical, psychological, spiritual, moral and social development of the children, including the threat of early pregnancy, maternal mortality, injury, retarded development, physical disabilities and sexually, transmitted diseases including HIV/AIDS. Their right to enjoy childhood and to lead a productive, rewarding and dignified life is seriously compromised.
10. While laws, policies and programmes exist to counter the commercial sexual exploitation of children, greater political will, more effective implementation measures, and adequate allocation of resources are needed to give effect to the spirit and letter of these laws, policies and programmes.
11. The primary task of combating the commercial sexual exploitation of children rests with the State and families. The civil society has an essential role to play in preventing and protecting children from commercial sexual exploitation. It is imperative to build a strong partnership between Governments, international organisations and all sectors of society to counter such exploitation.

The Commitment

12. The World Congress reiterates its commitment of the rights of the child, bearing in mind the Convention on the Rights of the Child, and calls upon all States in cooperation with national and international organisations and civil society to:
 - Accord high priority to action against the commercial sexual exploitation of children and allocate adequate resources for this purpose;
 - Promote stronger cooperation between States and all sectors of society to prevent children from entering the sex trade and to strengthen the role of families in protecting children against commercial sexual exploitation.
 - Criminalise the commercial sexual exploitation of children, as well as other forms of sexual exploitation of children, and condemn and penalise all those offenders involved, whether local or foreign, while ensuring that the child victims of this practice are not penalised;
 - Review and Revise, where appropriate laws, policies, programmes and practices to eliminate the commercial sexual exploitation of children;
 - Enforce laws and policies, programmes to protect children from commercial sexual exploitation and strengthen communication and cooperation between law enforcement authorities;
 - Promote and adoption, implementation and dissemination of laws, policies, and programmes supported by relevant regional, national, and local mechanism against the commercial sexual exploitation of children;
 - Develop and Implement comprehensive gender-sensitive plans and programmes to prevent the commercial sexual exploitation of children, to protect and assist the child victims and to facilitate their recovery and reintegration into society;
 - Create a climate through education, social, mobilisation, and development activities to ensure that parents and others legally responsible for children are able to fulfil their rights, duties and responsibilities to protect children from commercial sexual exploitation;



- Mobilise political and other partners, national and international communities, including intergovernmental organisations and non-governmental organisations, to assist countries in eliminating the commercial sexual exploitation of children; and
- Enhance the role of popular participation, including that of children, in preventing and eliminating the commercial sexual exploitation of children.

13. The World Congress adopts this Declaration and Agenda for Action to assist in protecting child rights, particularly the implementation of the Convention on the Rights of the Child and other relevant instruments, to put an end to the commercial sexual exploitation of children world-wide

Agenda for Action

1. The Agenda for Action aims to highlight existing international commitments to identify priorities for action and assist in the implementation of relevant international instruments (see Annex 1). It calls for action from States, all sectors of society, and national, regional and international organisations, against the commercial sexual exploitation of children.

2. Coordination and Co-operation:

i) Local/ National Levels

- urgently strengthen comprehensive, cross-sectoral and integrated strategies and measure, so that by the year 2000 there are national agenda(s) for action and indicators of progress, with set goals and time frame for implementation, targeted to reducing the number of children vulnerable to commercial sexual exploitation and nurturing environment, attitudes and practices responsive to child rights;
- urgently develop implementation and monitoring mechanism(s) or focal point(s) at the national and local levels, in co-operation with civil society, so that by the year 2000 there are data bases on children vulnerable to commercial sexual exploitation, and on their exploiters, with relevant research and special attention to disaggregating data by age, gender, ethnicity, indigenous status, circumstances influencing commercial sexual exploitation, and respect for confidentiality of the child victims especially in regard to public disclosures;
- foster close interaction and co-operation between the government and non-government sectors to plan, implement and evaluate measures against the commercial sexual exploitation of children, coupled with campaigns to mobilise families and communities to protect children from commercial sexual exploitation, and with adequate resources

ii) Regional/International Levels:

- promote better co-operation between countries and international organisation, including regional organisations, and other catalysts which have a key role in eliminating the commercial sexual exploitation of children, including the Committee on the Rights of the Child, UNICEF, UNESCO, UNDP, WHO, UNAIDS, UNHCR, IOM the World Bank/IMF, INTERPOL, UN Crime Prevention and Criminal Justice Division, UNFPA, the World Tourism Organisation, the UN High Commissioner for Human Rights, the UN Centre for Human Rights, the UN Commission on Human Rights and its Special Rapporteur on the Sale of Children, and the Working Group on Contemporary Forms of Slavery, each taking guidance from the Agenda for Action in their activities in accordance with their respective mandates;



- b) advocate and mobilise support for child rights, and ensure that adequate resources are available to protect children from commercial sexual exploitation; and
- c) press for full implementation of the Convention on the Rights of the Child by the State Parties, including requirements for reporting to the Committee on the Rights of the Child in accordance with existing deadlines, and encourage follow-up of countries' progress towards full realisation of child rights in the context of other relevant United Nations organs, bodies and mechanisms, including the UN Commission on Human Rights and its Special Rapporteur on the sale of Children.

4. Prevention

- a) provide children with access to education as a means of improving their status and make primary education compulsory and available free to all; improve access and provide relevant health services, education, training, recreation and a supportive environment to families and children vulnerable to commercial sexual exploitation, including those who are displaced, homeless,
- b) refugees, stateless, unregistered, in detention and/or in state institutions;
- c) maximise education on child rights and incorporate, where appropriate, the Convention on the Rights of the Child into formal and non-formal education for all communities, families and children.
- d) initiate gender-sensitive communication, media and information campaigns to raise awareness and educate government personnel and other members of the public about child rights and the illegality and harmful impact of the commercial sexual exploitation of children, and promote responsible sexual attitudes and behaviour in society, in keeping with the child's development, sense of dignity and self-esteem;
- e) promote child rights in family education and family development assistance, including an understanding that both parents are equally responsible for their children, with special intervention to prevent sexual violence against children;
- f) identify or establish peer education programmes and monitoring networks to counter the commercial sexual exploitation of children;
- g) formulate or strengthen and implement gender-sensitive national and social and economic policies and programmes to assist children vulnerable to commercial sexual exploitation, families and communities in resisting acts that lead to the commercial sexual exploitation of children, with special attention to family abuse, harmful traditional practices and their impact on girls, and to promoting the value of children as human beings rather than commodities; and reduce poverty by promoting gainful employment, income generation and other supports;
- h) develop or strengthen and implement and publicise relevant laws, policies and programmes to prevent the commercial sexual exploitation of children, bearing in mind the Convention on the Rights of the Child;
- i) review laws, policies, programmes and practices which lead to or facilitate the commercial sexual exploitation of children and adopt effective reforms;
- j) mobilise the business sector, including the tourism industry, against the use of its industry, against the use of networks and the establishment for the commercial sexual exploitation of children;
- k) encourage media professionals to develop strategies which strengthen the role of the media in providing information of the highest qualities, reliability and ethical standards concerning all aspects of commercial sexual exploitation children; and
- l) target those involved with commercial sexual exploitation of children with information, education and outreach campaigns and programmes to promote behavioural changes to counter the practice.



5. Protection

- a) develop or strengthen and implement laws, policies and programmes to protect children and to prohibit the commercial sexual exploitation of children, bearing in mind that the different types of perpetrators and ages and circumstances of victims require differing legal and programmatic responses;
- b) develop or strengthen and implement national laws to establish the criminal responsibility of service providers, customers and intermediaries in child prostitution, child trafficking, child pornography, and other unlawful sexual activity
- c) develop or strengthen and implement national laws, policies and programmes that protect child victims of commercial sexual exploitation from being penalised as criminals and ensure that they have full access to child-friendly personnel and support services in all sectors, and particular in the legal, social and health fields;
- d) in the case of sex tourism, develop or strengthen and implement laws to criminalise the acts of the nationals of the countries of origin when committed against children in the countries of destination ("extra-territorial criminal laws"); promote extradition and other arrangements to ensure that a person who exploits a child for sexual purposes in another country (the destination country) is prosecuted either in the country of origin or the destination country; strengthen laws and law enforcement, including confiscation and seizure of assets and profits, and other sanctions, against those who commit sexual crimes against children in destination countries; and share relevant data;
- e) in the case of trafficking of children, develop and implement national laws, policies and programmes to protect from being trafficked within or across borders and penalise the traffickers; in cross border situations, treat these children humanely under national immigration laws, and establish readmission agreements to ensure their safe return to their countries of origin accompanied supportive services; and share relevant data;
- f) identify and strengthen or establish networks between national and international law enforcement authorities, including INTERPOL, and civil society to monitor against the commercial sexual exploitation of children; set up special units among law enforcement personnel, with adequate resources and child friendly facilities, to counter the commercial sexual exploitation of children; appoint liaison officers aimed at guaranteeing child rights in police investigations and judicial procedures for the exchange of key information; and train all law enforcement personnel on child development and child rights, in particular the Convention on the Rights of the Child, other relevant human rights standards and national legislation;
- g) identify and encourage the establishment of national and international networks and coalitions among civil society to protect children from commercial sexual exploitation; foster action and interaction among communities, families, non-governmental organisations, the business sector, including tourist agencies, The World Tourist Organisation, employers and trade unions, computer and technology industry, the mass media, professional associations, and service providers to monitor and report cases to the authorities, and to adopt voluntary ethical codes of conduct; and
- h) create safe havens for children escaping from commercial sexual exploitation, and protect those who provide assistance to child victims of commercial sexual exploitation from intimidation and harassment.

6. Recovery and Reintegration

- a) adopt a non punitive approach to child victims of commercial sexual exploitation in keeping with the rights of the child, taking particular care that judicial procedures do not aggravate the trauma already experienced by the child and that the response of the



system coupled with legal aid assistance, where appropriate, and provision judicial remedies to child victims;

- b) provide social, medical, psychological counselling and other support to child victims of commercial sexual exploitation, and their families, paying particular attention to those with sexually transmitted diseases, including HIV/AIDS, and with a view to promoting the selfrespect, dignity and the rights of the child;
- c) undertake gender-sensitive training of medical personnel, teachers, social workers, nongovernmental and organisation and others working to help child victims of commercial sexual exploitation on child development and child rights, bearing in mind the Convention on the Rights of the Child and other relevant human rights standards;
- d) Take effective action to prevent and remove societal stigmatization of the child victims and their children; facilitate the recovery and reintegration of child victims in communities and families; and where institutionalisation of the child is necessary, ensure that is for the shortest possible period in accordance with the child's best interest;
- e) Promote alternative means of livelihood with adequate support services to child victims and their families so as to prevent further commercial sexual exploitation; and
- f) Adopt not only legal sanctions against the perpetrators of sexual crimes against children, but also socio-medical and psychological measures to create behavioural changes on the part of the perpetrators.

7. Child Participation

- a) promote the participation of children, including child victims, young people, their families, peers and others who are potential helpers of children so that they are able to express their views and to take action to prevent and protect children from commercial sexual exploitation and to assist child victims to be reintegrated into society; and
- b) identify or establish and support networks of children and young people as advocates of child rights, and include children, according to their evolving capacity, in developing and implementing government and other programmes concerning them.

