

# RAPE AGAINST THE BACKGROUND OF VIOLENT CRIMES IN CONTEMPORARY SOUTH AFRICA

PW Coetzer\*

## I. INTRODUCTION

Crime in all its manifestations has in recent times increased in such measure in South Africa that it has converted the new democracy into one of the most dangerous countries in the world. Crime took over from political violence as the country's biggest nightmare. At this stage thuggery has become so firmly established that the government finds it extremely difficult to curb the crime and violence that have increased hand over hand.

The website UNCJIN (the UN Crime and Justice Information Network) supplies the whole world with statistics on crime-ridden South Africa. One paragraph in particular stands out: "Private security has become one of the most profitable industries in the country, employing well over 150 000. According to a recent article in the Christian Science Monitor, many suburban whites (and these days also many Indians, coloureds and blacks) live in jail-like homes guarded by vicious dogs, razor wire and armed security guards summoned by panic buttons. When they leave home, even to work in their yards, they take mobile buttons. (Office of the International Criminal Justice).<sup>1</sup>

For South Africans it is an all-too-familiar image, so familiar that many are numbed to all that occurs around them in the South African society, like the 180 rapes a day in 1999. The statistics cannot be brushed away and reveal a sinister picture of South Africa as the world's crime capital. A report from South Africa's own Government dubbed it "the most violent country outside of a war-zone".<sup>2</sup>

South Africa's bad crime reputation was reaffirmed by statistics presented by the British Ministry of Domestic Affairs during June 2001. They concluded that South Africa is no role model when it comes to international criminal behaviour and

---

\* Researcher, Department of History, Free State University.

<sup>1</sup> *The Star*, 7 June 1999.

<sup>2</sup> *The Star*, 7 June 1999.

violent crimes.<sup>3</sup> The Netherlands newspaper **De Gelderland** regards South Africa as the most dangerous country in the world.<sup>4</sup>

Although crime is a social phenomenon that has been with mankind for a long time, crime in the 21<sup>st</sup> century has grown in proportion and complexity. In 1996 crime cost South Africa as much as R31,3 billion annually - more than 18% of that year's budget. What is most alarming is that criminality is sinking its ugly fangs into the defenceless, i.e. women and children. Moreover: According to a study of the South African Institute of Race Relations (SAIRR) from 1994 to 2001 violent crimes in South Africa increased more rapidly than any other crime.<sup>5</sup>

According to figures released by the Crime Information Management Centre's quarterly report in July 1998 the incidence of rape increased since 1990. Murder, rape, serious assault, robbery and vehicle theft have increased every year since 1990: murder by 26%, rape by 81%, serious assault by 38% and vehicle theft by 43%. The most common crime against adults was robbery (19%) and against children rape (59%).<sup>6</sup>

When analysing the occurrence of rape in South Africa it must be taken into account that the United Nations Population Fund said in the UN's state of the world population report that violence against women and children is on the increase. The report said at least one in three women had been beaten, coerced into sex, or abused in some way, in many cases by someone they knew.<sup>7</sup> With South Africa being the rape capital in the world, the occurrence of rape on such a large scale is an alarming factor that has to be addressed ruthlessly and without any delay.

## II. STATISTICS ON RAPE

The New National Party's (NNP) Manifesto in the run-up to the elections of June 2, 1999, claimed: "No man, woman or child is safe anywhere in South Africa." Moreover: "A government that cannot guarantee the safety of its people, cannot guarantee freedom and democracy."<sup>8</sup> NNP leader, Marthinus van Schalkwyk, then deputy DA leader, said in 2000 that between 1994 and 1998 more than 61 910

<sup>3</sup> **Beeld**, 4 June 2001.

<sup>4</sup> **De Gelderland**, 16 February 1996.

<sup>5</sup> **Volksblad**, 13 December 2001; **Sowetan**, 1 August 1996.

<sup>6</sup> **The Daily News**, 28 July 1998.

<sup>7</sup> **The Citizen**, 21 September 2000.

<sup>8</sup> It is interesting to note that in 1993 former USA President Clinton announced his support for a major crime bill based on the premise that "the first duty of any government is to try to keep its citizens safe". **Time Magazine**, 23 August 1993.

children in South African had been raped, with an increase of 108% in just four years.<sup>9</sup>

Interpol figures for 1994 show one rape reported in South Africa for every 10 000 people. Rapes escalated from 47 506 in 1995 to 52 160 in 1996. More than 18 500 of these victims were children. Reported rapes nationwide rose to 119,5 per 100 000 of the 42 million population in 1996 compared with 115,2 for 1995. Research carried out in Soweto in 1994 found that one in three women attending a clinic for any reason had been battered at some time by her husband or boyfriend. A Human Sciences Research Council survey found that 43% of 159 married women from the Cape Town area had suffered marital rape or assault. The most likely place for a woman to be assaulted is at home.<sup>10</sup>

In 1997 a woman was raped every 34 seconds in South Africa.<sup>11</sup> When analysing these figures it must be remembered that the Nedcor crime report of 1998 stated that only 45% of crimes committed are reported. Citing internal South African police calculations, Interpol said only one rape is reported for every 20 to 35 committed. Reported cases make up only 2,8% of all rapes, giving a total figure of about one million rapes a year. Despite the unreliability of the figures it is clear that rape is of urgent concern for most South Africans.<sup>12</sup> Another factor that must be taken into account is that according to an investigation by the Institute for Security Studies,<sup>13</sup> few South Africans believe the statistics on crimes like rape which the police provides.

The Child Care Unit of the SA Police Service investigated more than 14 000 cases involving child rape in 1997 and more than 34 000 cases involving crime against children. It is alarming that a third of South Africa's known rape victims are minors.<sup>14</sup>

Unlike the victims of domestic abuse, recorded victims of rape have a particular profile. Poor and disadvantaged women are more likely to be raped than any other woman. According to the police, 95% of those who report rape are black. Those who tend to be more vulnerable to sexual attack are those without cars, those living

<sup>9</sup> *The Citizen*, 22 March 1999; *The Citizen*, 26 October 2000.

<sup>10</sup> *Woord en Daad*, October 1998; *The Citizen*, 5 March 1997; *The Natal Witness*, 27 November 1996.

<sup>11</sup> These are the statistics from the National Institute of Crime Prevention and Rehabilitation of Offenders (Nicro) based on reported cases. *The New Nation*, 18 January 1997; *Beeld*, 3 April 1998. In a most recent program on rape in South Africa it was alleged that at this stage a woman was raped every 17 seconds! *Carte Blanche*. M Net television actuality program, 10 March 2002.

<sup>12</sup> *The Citizen*, 18 January 1997; *The Natal Witness*, 27 November 1996.

<sup>13</sup> *The Star*, 5 June 1998; *The Star*, 9 February 1998; *The Citizen*, 18 January 1997.

<sup>14</sup> *The Cape Times*, 4 March 1998; *The Citizen*, 18 January 1997.

in houses without proper security and those who live in violent areas. Travelling to and from work, especially in the dark, is a great risk. Reported rape in the predominantly white suburbs is far less common and occurs most often to older women in conjunction with housebreaking and theft.<sup>15</sup>

In 1994 the average rapes in South Africa was 116 per 100 000 people according to a study in the *SA Review* by the Institute of Race Relations. Four years later alarming statistics on the number of children annually being raped, seriously assaulted and abducted were revealed by Mr Steve Tswete, Minister of Safety and Security. During August 1998 and July 1999 40 522 incidents of crime against children were investigated by the SA Police Force Protection Unit. This is 4 209 more than the 14 917 cases of the previous months. The 17 503 alleged rapes investigated during 1999 were 2 500 more than in 1998. Only 44,9% of rapists landed in court, and only 12,6% of them were found guilty and charged. No wonder opposition newspapers describe South Africa as a criminal's paradise.<sup>16</sup>

There are no reliable statistics on the number of violent attacks on women in South Africa. According to Human Rights Watch in the book *Violence against Women in South Africa*, "the reported statistics are already extraordinarily high". Statistics, where they do exist, are extrapolations of personal testimonies from women who approach non-government organisations for help. The police do not always keep detailed, useful statistics and lump battery of women by their male partners into the general category of assault.

Non-government Organisations (NGO) statistics vary, for example:

- Rape Crisis estimated in 1992 that one in every three women was assaulted by her male partner (in the late 1980s the figure for abused women was estimated by Rape Crisis as one in six women).
- The Women's Bureau's estimate was one in every four women.
- The Advice Desk for Women's estimate is that one in every six women is regularly assaulted and that one in four is forced to flee a life-threatening situation in her home.
- People Opposing Women Abuse and Co-ordinated Action for Battered Women estimate an abuse rate of one in six.<sup>17</sup>

In the SA Police's quarterly crime report in 1998 rape was the only crime among the 20 most common serious offences in South Africa that showed an increase in

<sup>15</sup> *The Natal Witness*, 27 November 1996.

<sup>16</sup> *Die Burger*, 29 September 1999; *Patriot*, 9 September 1999; *Die Burger*, 17 January 2000.

<sup>17</sup> *The Natal Witness*, 27 November 1996; *Cape Argus*, 8 December 1997.

1997 compared with 1996. The incidence of rape had risen from 119,5 per 100 000 people in 1996 to 120,6 in 1997. Researchers then believed that the most likely reason for the increase was a higher reporting rate.<sup>18</sup> It is not clear how the police came to this conclusion.

Statistics differ. In an article in the American **Washington Post** on South Africa's crime situation they alleged that South Africa's fight against rape was a lost cause. Reported offences against mainly black children were elucidated with alarming statistics. Figures showed an increase of 7 559 in 1994 to 10 037 in 1995 and 13 859 in 1996 - according to the police probably the highest in the world. This comes down to 141 rapes per 100 000 women and children, against America's 72 per 100 000, and in 38% of the rape incidents in the country the victims were children.<sup>19</sup> The picture is much darker when one considers that women and children are very reluctant to report rapes.

From 1994 to 1997 rapes in South Africa increased by almost 23%. A thousand women were raped in Gauteng every month and ten children were raped or molested every day, Jessie Duarte, Gauteng Safety and Security MEC, told a media briefing in 1997. The incidence of rape had in two years increased by almost 20 per cent, an alarming phenomenon.<sup>20</sup>

In a statement in 1998 Dr Chris de Kock of the Police's Crime Information Management Centre told the media that South Africa was still the rape capital of the world while the country was second in the row as far as incidents of robbery with aggravating circumstances were concerned, and third with murder. During the next month research in collaboration with the UN regarding the situation in South Africa, Zimbabwe and Uganda inter alia revealed that in sexual crimes South Africa led the way with 39,2% against Zimbabwe's 10,2% and Uganda's 6%. No wonder that at that stage of the 90 countries in Interpol that submitted statistics on serious crimes, South Africa had the highest incidence of rape.<sup>21</sup>

In 1999 the **Sunday World** revealed the following shocking statistics:

- South Africa's police said that for every reported rape, 35 were unreported. They reaffirmed that the majority of rape victims were black (79,4%), reflecting demographics of the population and increased vulnerability of black women due to socio-economic circumstances.

<sup>18</sup> **The Citizen**, 2 April 1998.

<sup>19</sup> **Beeld**, 5 February 1997.

<sup>20</sup> **The Citizen**, 19 March 1997 and 28 April 1998.

<sup>21</sup> **Finansies en Tegnek**, 2 October 1998; **Beeld**, 7 November 1998; **Cape Argus**, 4 November 1998.

- The majority of rape victims (63,8%) were between the ages of 14 and 19.
- The majority of rapists threatened their victims with knives and guns.
- 36% of female students reported having had experienced sexual violence at school in 1998.
- In cases monitored, 39,3% of the perpetrators were known to their victims.<sup>22</sup>

In a report of the Institute for Racial Relations released in 2001 the following results emerged:

- During the first five months of 2000 rape increased by 8%.
- Rapes grew from 49 280 reported in 1998 to 51 249 in 1999.
- During the first six months of 1999 a total of 8 683 children under the age of 18 years were raped.<sup>23</sup>

What is extremely alarming to all peace-loving South Africans is the growing figures on rape on babies and infants. Martin Schöntech of the Institute of Security Studies (ISS) stressed the fact that since 2000 child rape "immensely" increased. As many as 90% of child rape occurred in the family circle and in 10% of the cases a child was also the suspect.<sup>24</sup> When one looks at these alarming trends and figures it is difficult to understand the remarks by the SA Police (MIAS) that our crime compares "favourably" with that of other countries. Violent crimes like rape, murder and assault reached unacceptable levels in comparison to the rest of the world.

In a recent interview Dr Heinz Rode, a pediatric surgeon at the Red Cross Hospital in Cape Town, stated that child rape victims are getting younger and younger while their numbers increase daily. They published the team's research results (1991-1999) in the latest issue of the **South African Medical Journal** and came to the following conclusions:

- One out of four girls and one out of ten boys have been sexually molested by the age of eighteen.
- Between 450 and 500 child rape victims are annually examined at this hospital.
- About 87% of the victims were female and 13% were male, with an average age of 6,3 years (children between 8 months and 13 years).

---

<sup>22</sup> **Sunday World**, 13 June 1999.

<sup>23</sup> **Volksblad**, 28 March 2001.

<sup>24</sup> **Volksblad**, 28 March 2001.

- In most of the cases (70%) the identity of the rapist was known to the victim. Most of the perpetrators were neighbours (26%) and family, friends or persons well known to them (18%). The biological father was responsible for 6% of the rapes.<sup>25</sup>

The incidence of rape in South Africa is alarming, but what is even more alarming is the fact that violence taking place during rape is worsening. In a ground-breaking study into rape in Johannesburg in 1992 and rape homicide in Cape Town from mid-1996 to late 1998, University of Cape Town forensic pathologist, Dr Lorna Martin, found that police officers usually ignore district surgeons who point out similarities in rapes which would point to serial rape. Because officials do not want extra work, South Africa has the highest incidence of rape and the most brutal sexual violence in the world. She added that the Western Cape has one-and-a-half times more rapes than the national average and 40 times more rapes than the average European city "and that is only the reported cases".

The average rapist is either "happily" married or has a steady girlfriend. Most women were attacked either in their home (31%), while walking in the street (20%) or after leaving a sjebeen or bar (17%). They were also most likely to be stabbed to death (41% of the cases). Most rapes were committed on women travelling to and from work, with abduction common. Some women were held as "sex slaves" for days.

Most rapes were under threat of physical harm and many at gunpoint. Girls under 16 were more likely to be raped by people known to them - while 80% of all rapes were perpetrated by strangers. In Johannesburg a black woman is almost five times more likely to be raped than her white counterpart. In Cape Town 17 out of 1 000 women who are raped die. In South Africa one out of 35 rapes are reported. This means that only 49 000 out of a million rapes are reported annually.<sup>26</sup>

In a recent article on violence against women the journalist reported that according to conservative figures by the South African Legal Commission 1,6 million women had been raped in 1998! The organisation Lovelife concluded that the first sexual experience of 39% of all women between the ages of 12 and 17 was forced and that 33% was too afraid to say "no".<sup>27</sup>

---

<sup>25</sup> Rapport, 3 February 2002.

<sup>26</sup> Mail and Guardian, 17 June 1999; Die Burger, 14 June 1999.

<sup>27</sup> Adrian Lackay, "'n Tragedie van ongekende omvang. Geweld teen vroue" in Die Burger, 18 Desember 2001.

Is South Africa in line with international trends in violent crimes like rape? While the ANC maintains a general raise in crime all over the world, the FBI reported that the American crime rate kept falling in 1997, hitting the lowest level in 23 years as police reported fewer murders and robberies and a slightly lower rape rate.<sup>28</sup> Thus it seems that the situation on violent crimes like rape is out of hand and remains a concern in this troubled country.

### III. REASONS FOR RAPE IN SOUTH AFRICA

There are various reasons why people rape in South Africa. Some of the main reasons are as follows:

- Traditional values in all sections of South African society reinforce the attitude that wife-beating or wife-raping is a private affair, and to complain to the police is to exhibit disloyalty and invite ostracism.
- In black areas, dense population, breakdown of families, high levels of unemployment, rising crime and gangs of thugs have heightened levels of violence. The incidence of rape, accordingly, rises. The Human Right Watch researchers are very critical of government attempts to do something about this. Although there is legislation protecting women from abusive male partners and from marital rape (to date there is one documented conviction for marital rape) generally the police are ignorant about their responsibility and often uncaring.

Government services for abused women are virtually non-existent and the departments of justice, health, welfare and safety and security have not thrashed out a co-ordinated effort to do something concrete countrywide. In police stations and courts, the stress is often on racial and not on gender attitudes.

- Top police crime analyst Chris de Kock said the higher rate of rape in the south of the country appeared to correspond to alcohol abuse. "Unfortunately, we have a tradition, especially in the wine-growing areas from Upington to the Southern Cape, of the tot system. I know the system has been removed, but the culture still exists." Arguing that there was a distinct link between alcohol abuse and rape, he said the syndrome of liquor abuse continued even after people moved from rural to urban areas.

A Women's National Survey (1996) found that the only common factor in the abuse of women was alcohol, which plays an important role in violence in the

---

<sup>28</sup> The Citizen, 23 November 1998.



home. In urban areas, 66% of battery cases have an alcohol factor and in the rural areas it is 76%.

There is an alcohol link to the Christmas surge in rape. The festive season is also the season of rape. This is one of the disturbing conclusions of statistics and evidence presented to the South African National Assembly committee on safety and security in 1997.<sup>29</sup>

According to a study by the Police Crime Analysis Centre about 12% of sexual criminals were intoxicated by alcohol while 2% were using drugs while committing rape. No wonder South Africa is regarded as one of the five unsafest countries by international business men.<sup>30</sup>

- Rape may also be linked to a power struggle between the sexes. The political transition from the old, male-dominated South Africa, with emphasis on equal rights for both sexes and affirmative action favouring women, might have created a perception among some males that they were being discriminated against.
- In an article in the *Washington Post* it is alleged that it is an "inheritance of apartheid". The soft penalties/punishment of perpetrators, other than in the apartheid era, does not help to contain rapists. Lynne Duke, South Africa's *Washington Post* correspondent in the country, says that rape and especially the raping of children is South Africa's "worst secret" and the most alarming aspect of the country-wide explosion.<sup>31</sup>
- The *Sowetan* also believes that failure to punish perpetrators of violent crimes adequately encourages youngsters to engage in criminal activities like rape.<sup>32</sup>
- Another perception is that of criminals that they are out of range and will not be arrested and prosecuted.
- Men, according to tribal tradition, wield the sceptre, and they feel socially impotent and frustrated and unload by raping.
- The spreading of a rumour that sexual intercourse with a child is a cure against aids, worsens the situation. The SA National Editors Forum (Sanef) found that South Africa was the only country where children were raped and infected with HIV in the belief that this was a cure for the disease.

<sup>29</sup> *Cape Argus*, 4 November 1998; *The Natal Witness*, 27 November 1996; *Beeld*, 5 February 1997.

<sup>30</sup> *Die Burger*, 17 January 2000. For decades marijuana was almost the only drug used by South Africans, but at this stage heroine is flowing into the country from Asia, mandrax across Northern Africa from India and cocaine across Nigeria from Columbia. *Die Volksblad*, 10 January 1996.

<sup>31</sup> *Beeld*, 5 February 1997.

<sup>32</sup> *Sowetan*, 1 August 1996.

- Although the ending of apartheid was commended across the world, there is a feeling amongst the black community that the end of this system left a vacuum. During apartheid their political struggle united blacks against the government and the police. Thus they had their own bundu courts where they prosecuted criminals. Democracy ended these structures while crime did not end but escalated.<sup>33</sup>
- The importance of South Africa's socio-economic position and high unemployment rate in instigating crime and rape cannot be ignored. Fifty per cent of South Africans are under 25 years old, unemployed and black.<sup>34</sup> Crime is part of their way of life, something ordinary, something you can expect at any moment.

It will be difficult to establish how important each of these reasons is, but it is certain that every one of them adds to the country's problem. It is the government's duty to take a close look at all these reasons and to reconsider effective ways of punishment of rapists.

#### IV. PUNISHMENT OF RAPISTS

During the era of apartheid rapists were subject to a no mercy policy for rape and often received the death penalty for this offence. Nowadays capital punishment has been abolished and this may be a contributory factor to the high rape figures in South Africa.

Moreover, the SA Institute of Race Relations Survey early in 1998 showed that rape, like other crimes, has been on the rise for years. However, in the 1980s and early 1990s, public debate was often widely focused on political issues. Violence (which included rape) was often seen as a by-product of political instability, or indeed, of concerted action by one's opponents. The persistence of criminal violence since the ostensible end of political conflict in 1994, showed at least that this was only partly true.<sup>35</sup>

In 1997 a document was released by the SA Police Service on crime between January and June of that year, showing that some 96% of cases reported had been disposed of, that is, investigations had arrived at a point where no further action was thought possible or appropriate. Rape reported the lowest proportion of guilty verdicts in the 15 categories of crime listed (21%), while murder received a fairly high conviction rate, 45%. To put this into perspective, for every 100 incidents of

<sup>33</sup> The Star, 9 February 1998; Cape Argus, 12 July 1999.

<sup>34</sup> Vrydag, 20 June 1997.

<sup>35</sup> The Star, 9 February 1998.

rape reported, 92 will be disposed of, 40 will be referred to court, and of these, 9 of the accused will be found guilty. No wonder rape is a special concern - police statistics indicate that January to September 1997 saw an increase in rape, and attempted rape, of 20% over the corresponding period in 1994.

In the same year (1997) more than 52 000 rape cases were reported to the police and less than one third of these cases reached the courts. Deputy Minister of Justice, Dr ME Tshabalala, said that of the total number of cases heard in court, only half resulted in convictions.<sup>36</sup>

Figures clearly show that the state has failed the country's rape victims dismally. Between 1988 and 1996 the number of reported rapes increased by more than 160%. Over a similar period, the number of rape cases which went to court decreased by 28%, and the number of successful prosecutions by 30%.

The number of prosecutions are dropping because the police service is understaffed and badly trained. The police have neglected their detective functions. Secondly, the national experience level of prosecutors is, on average, only three-and-a-half years, and in Kwazulu-Natal it is less than three years, while in the Western Cape it is a mere six months.

Consequently, of the cases the prosecution takes on 25% ends in the acquittal of the accused. For a serious offence like rape it is 51%. Technically, rape is a difficult crime to solve. Police usually have to make use of forensic evidence and district surgeons reports to build a solid case. Rape is also difficult to prosecute. The prosecution usually relies on the evidence of a single witness who is also the complainant. Moreover, police officers and prosecutors require a certain level of skill and experience to be able to secure a conviction in a rape trial.<sup>37</sup>

The **Sunday Tribune** painted an even darker picture on convictions for rape after the Human Rights Watch, Africa's report on **Violence against women and the medico-legal system in South Africa**. They found that since 1993 the number of rapes reported has almost doubled, to 50 481 in 1996. Only 8,1% of the cases reported led to convictions. While the percentage of cases prosecuted has increased, the rate of convictions has fallen.<sup>38</sup>

---

<sup>36</sup> Sowetan, 25 November 1998.

<sup>37</sup> The Natal Witness, 20 August 1998.

<sup>38</sup> Sunday Tribune, 5 October 1997.

In 1998 it was reported that female victims of sexual violence were also getting a raw deal in Johannesburg's southern suburbs, which at that stage recorded an average of one conviction for every 394 reported rape cases. It was found that two out of three rape victims went to the police for help, with only one in 16 reports eventually becoming a "case". For every 17 cases, five made it to the court and only one ended in conviction.<sup>39</sup>

In Parliament the NNP's spokesperson on justice and women issues, Sheila Camerer, launched an attack on the ANC because of their refusal to acknowledge the high statistics on rape in South Africa. The party was criticised for the low percentage (8,9%) of convictions in courts. She pointed out that 49 280 rapes had been reported at police stations in 1998, of which only 4 394 of the accused had been convicted. Statistics of Interpol highlighted that in South Africa a woman had a five times greater chance of being raped than in the USA.<sup>40</sup>

This is alarming, especially if you compare these figures to that of the FBI which reported towards the end of 1998 that in the USA 66% of all murders and 55% of all rape cases were solved!<sup>41</sup>

Two alarming facts intensify the high incidence of rape in South Africa:

- Apart from the trauma of rape, it also means that a woman might be infected by HIV/aids.
- Murder often follows rape in South Africa. Sanef heard that research in 1999 suggested that 17 000 women were killed every year after rape, 7 000 more than all the deaths recorded in the Kosovo crisis!<sup>42</sup>

## V. MEASURES TO COMBAT RAPE

In 1999 the Institute for Security Studies (ISS) in conjunction with Business Against Crime (BAC) recommended sweeping changes to the current legislation if crime in South Africa was to be dealt with effectively. Much tougher laws had to be put in place to deter criminals/rapists from continuing with their deeds, to protect

---

<sup>39</sup> This was the key finding by the Southern Metropolitan Local Council and Community Information, Empowerment and Transparency (CIET) Africa in a campaign against sexual violence. Information was provided by almost 8 000 people. According to Dr Neil Anderson of the CIET, over a year-long period the average rapist "stood more chance of having a birthday than he did of being convicted".  
*The Star*, 12 October 1998.

<sup>40</sup> *Die Burger*, 29 April 2000.

<sup>41</sup> *Die Burger*, 8 December 1998.

<sup>42</sup> *Cape Argus*, 12 July 1999.

victims - particularly women and children - and communities had to be convinced that it was in their own interest to act as "whistle-blowers" against criminals.<sup>43</sup>

Deputy President Jacob Zuma recently criticised "members of the justice system" for their "lack of interest" and added that those committing crimes against women and children should be punished more severely. Mr Zuma's concern for South African women and children is understandable, especially when one considers that the picture on rape becomes even darker if one takes into account that the raping of men and boys and the raping of people using queer objects are not considered part of the statistics because of the narrow definition of rape in the South African law.<sup>44</sup>

Both the partner and the victim could also experience the justice system as a "second rape". Many women suffer another round of trauma and stress at the police station or during the court process. Solutions to the sexual violence problem include better pay for policemen, more and better trained policemen, a joint approach to the problem in partnership with local authorities, non-governmental organisations and community-based organisations in preventative programmes. Special prosecutors should be hired for each police station to handle criminal prosecutions of sexual violence offenders. Interestingly, a special training programme for criminal personnel was announced towards the end of 1998. The programme - with emphasis on violence against women - was the brainchild of the Justice College and funded by the Danish Government.<sup>45</sup>

A successful rape prosecution requires the co-operation of at least three government departments, health (the district surgeon), safety and security and justice. Moreover, police officers and prosecutors require a certain level of skill and experience to be able to secure a conviction in a rape trial.<sup>46</sup>

No wonder women shy away from courts after having been raped. Recent research by Wits legal researcher Naomi Webster shows that in sexual offence cases, courts tend to comment on the woman's behaviour and background with the result that an impression of the female victim as either a "good" or "bad" woman is established. This assessment necessarily influences the sentencing process.<sup>47</sup> It is difficult to understand why it becomes relevant in proving guilt or innocence of a rape survivor. If anything, it is designed to humiliate the woman and deter her from testifying in court. This problem has to be rectified in South Africa's justice system.

---

<sup>43</sup> *The Citizen*, 19 August 1999.

<sup>44</sup> *Die Burger*, 29 September 1999 and 29 April 2000.

<sup>45</sup> *The Star*, 12 October 1998; *Pretoria News*, 21 November 1998.

<sup>46</sup> *The Natal Witness*, 20 August 1998.

<sup>47</sup> *The Natal Witness*, 5 June 1997.

One need not marvel at the findings of the Human Rights Watch report, **Violence against women and medico-legal system in South Africa** that despite the new democracy and the ANC's commitment to human rights and gender equality, South Africa's women remain second-class citizens. Victims of violence and rape continue to face an often unsympathetic and hostile judicial and police system. "South African women of all races continue to complain of mistreatment at the hands of police officers taking statements; prosecutors and magistrates in court; district surgeons who examine and court clerks who issue forms to abused women for a restraining order. Ignorance of the laws protecting women from domestic violence, including the 1993 Prevention of Family Violence Act, is common in many police stations and among court clerks." The report concludes that the medico-legal system in South Africa is deeply flawed, with problems of inaccessibility, prejudice and lack of training.<sup>48</sup>

Lisa Vetten, who made a pilot study detailing femicide in Gauteng, concluded: "What is needed from society and its agents is a little more compassion and sorrow for the victim and a little less identification with the perpetrator." They also found that rape and domestic violence worked hand in hand in many cases. Women having a history of assault within the relationship were often eventually raped.<sup>49</sup>

In a lengthy article in the **Washington Post** the writer came to the conclusion that South Africa is failing in its struggle against rape. Is the country really slipping and how can the government combat rape? The following measures may help in this struggle:

- The reinstatement of the death penalty for serious criminal offences such as murder, rape and armed robbery (opinion polls indicate that 71,4% of all South Africans support the death penalty). Callers to radio phone-ins say rapists should be castrated, flogged or hanged, mirroring overwhelming national support for the return of the death penalty which President Mandela has ruled out. It was last carried out in 1989 and scrapped by the Constitutional Court in 1995. People applaud vigilantes or parents who, in rage or in despair of an overburdened justice system, take the law into their own hands - such as a policeman who went to the cells and shot dead the suspected rapist of his six-year-old daughter.

---

<sup>48</sup> **Sunday Tribune**, 5 October 1997.

<sup>49</sup> **The Star**, 9 August 1996.

- By far the majority of persons having wide experience in criminal justice and its administration have no doubt that the death penalty has a significant deterrent effect on prospective criminals and perpetrators of violence. The death penalty has unfortunately become politicised.<sup>50</sup>
- Dr Willem Boezak of the National Council of Khoi tribal chiefs of South Africa also wants the reinstatement of the death penalty. While South Africans pat themselves on the back because of "the most liberal Constitution" in the world, the country takes the lead as far as rape is concerned. Violence against children and the raping of babies were absolutely unimaginable in the former Khoi communities and crimes like rape deserved the death penalty. Many people want a death penalty referendum but up to this stage the ANC refused this.<sup>51</sup>
- The urgent upgrading of the criminal justice system, so that criminals may be prosecuted effectively;
- The infliction of harsh, compulsory punishment and the protection of the integrity of such punishment by maintaining strict measures for parole;
- The reprivatising of the budget, so that urgently needed funds can be allocated to the police, prison service and justice;
- The appointment of a larger number of police officials to ensure higher intensity of policing (it has been proved that visible policing leads to a decrease in crime). (The announcement in his latest budget by Finance Minister Trevor Manuel that an additional 16 00 police officers will be accommodated was applauded by all political parties);
- Utilising the South African Defence Force to assist the police in combating crime;
- Extension of the special courts to hear cases of child molestation and other sexual crimes (a positive step by the Government was their recent announcement that Parliament is to hold public hearings all over the country in an effort to stop the scourge of baby rapes and child abuse. MPs also decided to mobilise all communities and the public sector "to fight and expose the scourge", while campaigning for harsh punishment. During this debate some opposition parties called for the reintroduction of the death sentence or chemical castration for rapists.<sup>52</sup>
- Loss of the franchise in the case of certain categories of criminals;
- An education drive to change attitudes of people who look on rape too lightly;
- Special courts to deal with rape cases to lessen the ordeal for victims in the hope that more will come forward;

<sup>50</sup> Consultus, Vol. 6, No. 2, October 1993.

<sup>51</sup> Die Burger, 17 December 2001; The Citizen, 20 April 1999. Editorial.

<sup>52</sup> Daily News, 24 January 2002.

- Mandating the departments of Safety and Security, Justice and Correctional Services to take institutional, legislative and budgetary steps to address the violence against women and children.<sup>53</sup>
- South Africa needs an integrated long-term strategy to effectively combat rape and crime, which includes participation of the public, effective policing, prosecution and correctional services.<sup>54</sup>
- It is important that people do not take the law into their own hands. Organising against crime like rape must be in co-operation with government institutions. The country cannot afford a vigilante culture.
- For the Christians and all religions it is the time for prayer and to act in concert.<sup>55</sup>
- One wonders if advertisements on television and radio will have a positive effect on potential rapists. It may be worth trying. Charlize Theron's recent anti-rape advert on TV was banned for being "offensive to men".<sup>56</sup>
- Dr Lorna Martin (UCT) who studies recent rape homicides in Cape Town and Johannesburg, called for a national rape protocol to be implemented - a guideline for the medical care of all rape survivors. The South African Medical and Dental Association also recently called for such a protocol.<sup>57</sup>

## VI. THE CONSEQUENCES OF RAPE

Rape and violence are not only a concern to South Africans in their strife towards peace and stability. The country is also under a cloud in the world. International business leaders regard South Africa as one of the five least secure countries in the world. A solution must be found for the high crime and rape rate not only because of the effect it has on South Africa, but also because of its negative effect on potential investors.

Violence and crimes like rape are blamed for the drop in foreign visitors. International tourists decreased from 43 085 in October 1999 to 40 059 in 2000. Wally Cleland, owner of Bob's Backpackers in Long Street (Cape Town) said: "The murder, mayhem, rapes and bombs .. have definitely had an effect on the tourism business." Although less than 2% of international tourists to South Africa have become victims of crime while visiting the country, Satour chairman Peter Swartz warned that tourism is an extremely fragile industry, and potential tourists are

<sup>53</sup> *The Citizen*, 28 April 1998 and 18 January 1997; *The New Nation*, 31 January 1997.

<sup>54</sup> KPCO von Lieres and Wilkau and F Stander, "Misdaad: oorsaak, gevolge en remedies" in *Consultus*, October 1993.

<sup>55</sup> *Woord en Daad*, October 1998.

<sup>56</sup> *Sowetan*, 9 October 1999; *Rapport*, 10 October 1999.

<sup>57</sup> *Mail and Guardian*, 17 June 1999; *Die Burger*, 14 June 1999.



becoming increasingly concerned about personal safety and security in South Africa.<sup>58</sup>

A growing decline in South Africa's tourist trade can affect the country's economy severely because towards the end of the millenium it attracted more tourists than any African country with 4,9 million arrivals in 1996 and the figure is still rising. This makes it the fourth-biggest industry in South Africa.<sup>59</sup> Nevertheless, the crime problem (which includes rape, which women all over the world fear most) is known by all in the tourism industry to remain one of the major disincentives for foreign travellers.

It is also fear of violent crime like rape which is the spur that drives most of those South Africans seeking new lives elsewhere to emigrate, robbing their own country of their skills. Fear of rampant and violent crime does appear to be the number one reason for upping stakes and moving out. If one takes stock of the rape figures elsewhere one can understand why men who love their wives and daughters decide to go to safer countries like Canada, Britain and the USA:

RAPES 1996	
Number of rapes per 100 000 people	
COUNTRIES	RELATION
Canada	0,00
Norway	11,7
Britain	11,74
Zimbabwe	23,27
USA	36,1
Botswana	68,46
Gaboen	105,07
South Africa	119,54

60

This does show, equally clearly, that the cost of crime in South Africa is far more than just the value of stolen property or even the tragic lost of lives. The brain-drain is indeed an alarming reality in the country and in a recent survey by **Sunday Times** 74% of the respondents said that they considered leaving the country. The main reason was the security situation and the distressing crime and violence which left them with no choice but to look for greener pastures.<sup>61</sup>

<sup>58</sup> Cape Times, 9 November 2000; The Star, 31 October 1996; Weekend Saturday Argus, 23 July 2000.

<sup>59</sup> Business Day, 15 April 1999.

<sup>60</sup> Rapport, 10 October 1999; Sowetan, 9 October 1999.

<sup>61</sup> Eastern Province Herald, 24 February 1998; Beeld, 29 September 1998.

There is no doubt that crime in all its facets has to be drastically reduced. One of a civilised country's main concerns remain the security of its women and children. Thus, one of South Africa's main crime problems is violence and rape. It cannot be left to the Rape Crisis and people like Jane Raphaely (editor of *Femina*) to lead the battle against rape in a country where a woman is raped every 26 seconds. Raphaely correctly wants all "true men" in South Africa to fight with their women in their struggle against rapists. Women cannot stand alone in a country where rape figures can be nine times higher than the police's official records.<sup>62</sup>

At this stage the most immediate threat to South Africans are their fellow citizens. Looking at the overall picture of crime and especially that of rape in South Africa it is clear that a war on violent crimes has to be waged with as much ruthlessness as the gangsters show. Violent crimes and rape are on the increase in South Africa and only a combined effort of the government and the community can swing this alarming ongoing trend.

---

<sup>62</sup> Sowetan, 9 October 1999; Rapport, 10 October 1999.