

RAPE IN CONTEMPORARY SOUTH AFRICA - MORE VEXING AND VICIOUS THAN EVER

Pieter Coetzer*

1. INTRODUCTION

Shortly after the ANC had taken over the reins in 1994 a major study on crime was conducted by the Human Source Research Council (HSRC). According to them crime was regarded as South Africa's worst problem and they warned that if the government did not get in check within the last three years of the century the RSA would sink as a country. In this report they covered the increase in violent crimes from 1980 to 1995. Since 1980 to 1989 there was a steady increase in violent crimes which included assault, murder and rape. Rape was one of the crimes which increased every year.¹ No wonder the incidence of crime, particularly rape, in South Africa is well above the world average. Crime, at that stage, took over from political violence as the country's biggest nightmare.

Sexual violence as such is the fastest growing crime in the world and the one that is least likely to result in conviction. In New York crime dropped by about 10% in 2002, except for rape, which increased by 5,6%. In Britain just over 5% of rape cases are effectively prosecuted, while in South Africa the figure is 1%.

Harsher measures are being imposed for rape worldwide as sexual violence persistently soars upward. Early in 2003 New York's mayor, Michael Bloomberg, introduced the Specially Targeted Offenders Project or 'Stop' to combat rape. They trained 50 assistant district attorneys to handle the registration of violations among the 3 972 registered sex offenders, and doubled the size of their Sex Offender Monitoring Unit.² By contrast South Africa's proposed measures are tame.

New York-based human rights organisation, Human Rights Watch (HRW), in its latest report on the availability and use of post-exposure prophylaxis (PEP) to help the victims of sexual violence, stated in a report that "sexual violence against

* Research fellow, Department of History, University of the Free State.

¹ **Cape Times**, 12 June 1996; **The Star**, 4 June 1996; PW Coetzer, "Violent crimes in contemporary South Africa", **Journal for Contemporary History** 22(2), December 1997.

² **Weekly Mail and Guardian**, 4 October 2003.

women is a problem of academic proportions in South Africa, including a virtually unprecedented epidemic of child rape and because South Africa is also in the grip of an explosive HIV/Aids epidemic, sexual violence is a potential death sentence". These factors conspire to cause a situation where the most vulnerable members of society are thus doubly victimised, first suffering the trauma of sexual violence and then its potentially fatal long-term consequences. According to the HRW it is laudable that South Africa has already adopted a policy to provide this service to the survivors of sexual violence, but they express their concern about the fact that its implementation has been rocky. Police, health professionals and counsellors working with rape survivors often lack basic information about PEP, it said, as did rape survivors themselves. It further stated that police failure to provide prompt assistance to rape survivors in obtaining medical treatment, and therefore PEP, completely barred some rape survivors, including children, from obtaining PEP. Children faced particular obstacles obtaining PEP services. HIV testing is a government prerequisite for PEP, but, under SA law, children under 14, cannot on their own consent to HIV testing or to medical procedures. PEP was generally unavailable outside major urban centres, effectively barring access for many poor, rural rape survivors. In conclusion, they said that the dual epidemics of rape and HIV/Aids will continue to claim the lives of many South Africans.³

No other country in the world has women who are as outspoken about rape or abuse as in South Africa and one should applaud their refusal to remain silent. South Africans have no choice. In Meadowlands, Soweto, the SA Police said that 90% of rape cases in 2003 was against children aged 12 or younger. The police arrested around two-thirds of perpetrators, but there were only convictions in 20% of the cases (recent research alleges that this figure is nearer to 1%). The reason for this is that many parents were happy to accept as little as R50 to drop charges.⁴ That is one of the most common reasons for unsuccessful prosecutions.

Home is the most dangerous place in the world for a South African woman or a child. Most of the violence against women and children is committed in family homes and by those known to the victims. In 1999 there were 180 rapes a day in South Africa in 2003; there was a rape every 26 seconds, and there is consensus that the cost of effective policing and prosecuting is too high.

Research recently undertaken by the Medical Research Council at the University of Cape Town conservatively stated that:

³ **Star**, 8 March 2004.

⁴ **Weekly Mail and Guardian**, 4 December 2003.

- One in three South African women will be raped in their lifetime;
- 40 per cent of girls' first sexual experience is non-consensual;
- less than one in 20 (some say 30) rapes are reported to the police;
- less than one per cent of rapes are successfully prosecuted, making rape by far the safest crime to commit in South Africa;
- one in ten of those raped will become HIV-positive;
- in 2001, rape overtook TB as the single greatest serious threat to women's health in the Western Cape - a region considered to be one of the world's worst for rates of TB infection.⁵

Moreover: in 2003 there was a national corruption line and a tollfree Aids helpline at people's disposal, but the crimes that cause the most fear and negative publicity for South Africa did not have such a helpline. People agree that a national helpline for rape and domestic violence is utterly important. Women and children suffer immensely. Protection orders were introduced because of persistent complaints that police officers fail to act in situations of domestic violence. Such an order will not stop an unstable person from hurting someone else - but effective police action can. In 2003 half of the cases in the court were rape-related, and in Durban it amounted to 60% of all cases. And yet there were more persecutors for traffic offences!⁶

2. STATISTICS FOR RAPE

In recent years statistics for violence and rape in the RSA were horrific. South Africans in general agreed that this crime was more vexing and vicious than ever, especially among young children.

In 1998 and 1999 the international police, agency Interpol alleged that South Africa had the highest rate of rape (59 per 100 000 of the population) - and the most violent - in the world. Late that year President Thabo Mbeki, amid an outcry against rape, stopped the issuance of crime statistics for 18 months because, he said, they were inaccurate.⁷

Nevertheless, both the **Guinness Book of Records** and Interpol affirmed in 2003 that South Africa still had the highest rate of rapes in the world - many of them against children. Carol Bower of Rapcan (Resources Aimed at the Prevention of Child Abuse and Neglect) asserted that there were about 50 000 reported rape cases annually in South Africa, 50% of which were against children. The SA Police's Child Protection Unit estimated that only one in 15 child rapes was reported, with a

⁵ **Diamond Fields Advertiser**, 26 November 2003; **The Star**, 7 June 1999.

⁶ **Weekly Mail and Guardian**, 4 December 2003.

⁷ **Cape Times**, 31 January 2003; **Diamond Fields Advertiser**, 24 April 2003.

total figure of approximately 160 000 rapes of under 18s. In 80% of the rape cases the perpetrator was a trusted adult. Bower, at this stage, estimated 500 000 rapes annually as a minimum, thus her conclusion: "It is not coincidental that South Africa has high rates of rape, high rape homicide and the highest transmission of HIV transmission."⁸

Since the ANC had taken over the reins of office in 1994 till 2004 half a million rapes were reported in South Africa. From April 2003 to March 2004 52 733 rapes were reported. Furthermore, the cruelty of specific murders, especially those who followed torture or rape, led to fear and uncertainty in many communities. Children (there was an increase of 35% in child abuse) and disabled people increasingly became victims of violent murders and rape. Till the levels of crime significantly decrease, South Africa has no reason to be satisfied with its crime statistics. The attitude of the government is proof of their insensitivity to the realities with which South Africans are confronted in their daily lives.⁹

Child abuse increased with 11,9% from 1994 to 2004. The number of child victims of assault and rape is much higher than statistics relate because many incidents are not reported.¹⁰ The fact that South Africa is becoming an increasingly unsafe country for children is a serious charge against the society. It is high time for the country and for the community at large to join forces against these evil misdeeds to exterminate them.

More than 80 000 cases of violent crime were reported in 2002 alone and perpetrators and their victims are becoming younger and younger. Already 16% of all prisoners in South Africa's overcrowded jails are between the ages of 14 and 20 years old - 6% higher than in 1996, many being rapists.¹¹ One can only speculate on the reasons why so many youths are being arrested for rape (cf. Reasons for rape later in this article).

The main opposition party, the Democratic Alliance (DA) maintained that 15 144 child rapes were reported during the 2002/03 financial year and 1 237 people (8%) were successfully prosecuted. The percentage of convictions is appalling, but there is a misconception because all the rapists do not come to the courts, according to Sapsac (South African Professional Society of Child Abuse). Recently Charles Nqakula, Minister of Safety and Security, said that 669 children had been raped

⁸ **Citizen**, 18 October 2003. In Craig Glenday, editor, **Guinness World Records 2006**, Entertainment United Company, 2005, there is no reference to the most recent rape statistics in the world.

⁹ Roy Jankielsohn, "Suid-Afrika het nog geen rede om misdadaadstatistiek te vier", in **Volksblad**, 5 October 2004.

¹⁰ **Volksblad**, 24 September 2004.

¹¹ **Independent on Saturday**, 18 January 2003.

between January 2001 and March 2004 by people that had formerly been successfully convicted of rape.¹² This is alarming and has to be rectified.

In 2003 increasing statistics of child rape were profoundly unsettling, although the SA Police maintained that rape was decreasing. The opposition parties in parliament believed that government statistics were misleading. Gareth Newham of the Centre for the Study of Violence claimed that these crime statistics should not be used as an indication of how well the police were doing their jobs because some crimes were not 'policeable'. He added that child abuse, rape and assault are a different matter. The Police can do very little to prevent those things. The prevalence of rape and attempted rape was especially high in the Northern and Western Cape (165,2 and 151,1 per 100 000 of the population respectively),¹³ probably due to their high alcohol and drug consumption.

Minister Charles Nqakula in 2003 lifted the veil on rape statistics. Only 4,5% cases of child rape led to convictions (these statistics differed from those of the HRC - 1%). It was lower than that of 2002 (9%). Since March 2003 till the end of 2004 15 857 rapes of children younger than 18 years were recorded. Only 60% (9 169 cases) were referred to courts and 721 cases led to successful prosecution. KwaZulu-Natal (KZN) was the province with the highest figure for the rape of children.¹⁴

Rape reached alarming proportions in 2003. According to the SA Institute of Race Relations the country experienced about 58 rapes of teens and children per day. More than 52 000 rapes were reported in 2000 and 40% of the victims were younger than 18 years. More alarming is the fact that since 1994 there was a 4,9% increase in rape and a definite increase in child abuse. Of the 52 975 rape cases reported in 2000, only 7,7% resulted in conviction.¹⁵

The SA Police report of that year (2003) addressed the "issue of under-reporting of rape and the general perception that South Africa has the highest rape ratio in the world". It said despite allegations that only one out of 35 rapes had been reported to the police, surveys showed that at least one out of three were reported. They added that people should be cautious when comparing South Africa's rape figures with those from other countries because "definitions of rape differ widely". Among the report's other findings on rape were:

¹² **Rapport**, 14 August 2005.

¹³ **Sunday Times**, 28 September 2003.

¹⁴ **Volksblad** 8 December 2004; **Diamond Fields Advertiser**, 26 November 2003.

¹⁵ **Sowetan**, 3 December 2003.

- 45% of those arrested for rape tested positive for HIV;
- between 40% and 60% of cases were withdrawn at the request of the victims;
- 14,2% of rape victims were in the 0-12 age group;
- and nearly 90% of the rapists were known to their victims before the offences had occurred.¹⁶

Lisa Vetten of the Centre for the study of Violence and Reconciliation warned that South Africa would not solve the problem of rape just by persuading more people to report rapes. The fact that reporting of rapes increased by 0,6% in 2004 did not excite her (the Freedom Front alleged that this slight increase in reported rapes still meant that a woman was raped every 10 minutes in South Africa). During the financial year 2003/04 rapes decreased with 1,4% amid the growth in the population. Rape decreased by 4,8% in 2002/03. The SA Police report (2002/03) stated that 50% to 80% of rape victims were familiar with their rapists.¹⁷ Although the rape statistics were high the perception of South Africans still were that the police wrangled crime figures, and that crime like rape was actually increasing.

What is really alarming is that children were the victims in 40,8% of rape cases reported during 2004/05. Women and children accounted for 59% of the victims of all contact crimes. They accounted for 100% of rape victims and 86,3% of indecent assault victims. Moreover: the under-reporting of rape could be as high as 19 out of 20 cases, or 95%.¹⁸ It is clear that, especially in relation to sexually motivated violence, women and children are indeed extremely vulnerable.

No wonder the Institute for Security Studies cautioned in 2005 that more needs to be done to protect women and children, as the increase in rape and indecent assault is cause for concern. They added that although the increase was not unexpected, to have 55 000 rapes a year was worrying.¹⁹ It was clear that measures to protect women and children should be strengthened.

What is shocking about the statistics on rape and reports in newspapers is not only the increasing rape of toddlers and children, but also that of elderly women. Several incidents of rapes and attempted rapes of women in homes, hospitals and old age homes were recently reported in newspapers, like that of a lady of 88 (Colesberg),

¹⁶ **Star**, 23 September 2003; **Citizen**, 23 September 2005.

¹⁷ **Volksblad**, 21 and 23 September 2004.

¹⁸ **Star**, 22 September 2005.

¹⁹ **Star**, 22 September 2005.

Postmasburg (104), Nelspruit (a sick mother of 65) and that of a woman in the Free State (85 and raped by her own son)!²⁰

Moving further to the 2004/05 statistics on rape is that almost 60 000 children were raped, sexually assaulted, murdered or maltreated in South Africa. Only 13% of the perpetrators were convicted in SA courts. What is unacceptable is that of the criminals that rape, sodomise or sexually assault children a total of 94% remained scot-free. In only 6% of the 21 702 incidents of reported sexual crimes against children in 2004 somebody was successfully prosecuted.²¹

When looking at contemporary rape figures in South Africa it is very difficult to ascertain the exact extent of rape. All the figures available are based on the reported rapes. Police, authorities and exerts differ on the percentage of victims who never turn up at police stations. While some claim only one in 20 or 30 actual rapes are ever reported, the figure shown by victim surveys is closer to one in four - which still means that 75% of all rapes remain unreported!²²

Some other interesting figures on rape and violent crimes in South Africa were released in newspapers in 2005:

- 41% of rape victims are under 18.
- There was a 17,8% rise in reported rapes in the past decade.
- 85% of Johannesburg high school students believe that forced sex is not sexual violence.
- In Durban secondary schools 80% of the boys claimed that they had a history of violent behaviour.
- At Phoenix, North of Durban, the average age of children who reported rapes at community crisis centres in 2002/03 was 10 years , and 22% of the rapes were of children under five.²³

It was determined that November, December and January were the worst months for rapes because of the holidays and because people generally were outdoors more often.²⁴

Recently two top politicians' names were also mentioned in connection with rape charges - the former deputy State President, Jacob Zuma, and a top IFP official,

²⁰ **Diamond Fields Advertiser**, 30 May 2005; **Cape Times**, 18 May 2005; **Star**, 11 February 2005.

²¹ **Rapport**, 14 August 2005.

²² **Daily Dispatch**, 24 March 2005.

²³ **Daily News**, 6 May 2005; **Weekly Mail and Guardian**, 10 March 2005.

²⁴ **Sunday Independent**, 30 November 2003. Statement by Thoka Majokweni, the head of the National Prosecuting Authority (NPA).

Albert Mnewango, Inkatha's national organiser. The arrest of Orlando Pirates soccer star, Benedict Vilakazi, for allegedly raping a 15 year-old girl shocked the football fraternity.²⁵

There is no doubt that these statistics on rape and sexual violence portray a gloomy picture of South Africa's rainbow nation and red lights are flickering all over the country. If ever South Africa needs prompt and serious intervention from the state and its communities to stem the tide against rape and disregard for our women and children, it is now.

3. REASONS FOR RAPE

When analysing the appalling extent of rape in South Africa one ponders on the reasons why people rape, and at such a rate that the country is regarded as the rape capital of the world. One will be better equipped to remove the stains in society when one understands all the reasons for this terrible crime. Moreover, why do women get violently assaulted and raped when the motivation for the crime is robbery?

Hardened court officials are stunned by the abhorrent rape cases in South Africa. One said: "Perhaps sociologists and psychologists would find a reason for such depravity, but to me it seems to be pure evil."²⁶

What causes this evil? It seems that there is a variety of reasons why SA men rape, some weighing heavier than others. Gareth Newham, a criminal justice expert at the Centre for the Study of Violence and Reconciliation, said that 80% of violent crimes were perpetrated by uneducated young men, who had little hope of finding meaningful employment and who felt excluded from society. It is alarming that in contemporary South Africa only a small percentage of matriculants are likely to find jobs, and it makes for bleak crystal-ball gazing as one has visions of the possibility of thousands of young men lolling about planning some criminal and violent mayhem.²⁷

More and more women are raising their children single-handedly and without support from the fathers, both financially and emotionally. These men, of whom many are unemployed, cannot support a wife and child. And yet those who are unable to contain their sorrow turn to violence of a sexual nature. It is from the

²⁵ **Sunday Independent**, 6 June 2004; **Sunday Times**, 13 November 2005; **Rapport**, 13 November 2005; **Sowetan**, 17 February 2005.

²⁶ **Independent on Saturday**, 18 January 2003.

²⁷ **Sunday Times**, 28 September 2003; **Independent on Saturday**, 18 January 2003.

jobless, alienated youth that much of the violence emanates. Through sexual conquest and control, young men are able to assert their masculinity and avoid the emasculation of their social world. They have little to look forward to outside of crime and violence.

It is true that social conditions play a leading role. South Africans' recent history is one of extreme violence. Socio-economic and cultural factors play a key role in the attitude of rapists. Boy and girls are brought up differently, and in line with the differentiated adult roles women and men play. Women, inevitably, are the carers for their partners and their children. Men, on the other hand, are expected to be the protectors and providers for their families. With these expectations, both groups develop distinctive behaviour.

Assertive and aggressive behaviour is seen as desirable among boys and men. Girls and women, on the other hand, have to demonstrate gentleness, submission and other feminine qualities. But these expectations about behaviour have undergone huge changes in the last few decades, with perhaps devastating effects on the future generation. All this is reinforced during schooling.²⁸ It is alarming that even at school violence occurs in various forms. The most disturbing perhaps is the seduction and rape of schoolgirls.

The experts all seem to agree that socio-economic conditions of poverty supply reasons for rape. This may well be true, but many other countries, particularly in the Third World, where similar conditions exist, do not have the violent crime statistics that South Africans experience.

Nevertheless, senior police officials blame poverty, drug addiction and heightened gang activity for "spawning a generation of young men with no respect for human life"²⁹ or for women and children. Nowadays, it seems that many rapists also do not have any regret after their invasion of the privacy of a woman's body, like the four white students who raped a school girl at the University of Pretoria in 2003.

One might wonder whether our police force is sufficiently equipped to deal with rape and assault. Police statistics in their 63 units for family violence, child protection and sexual offences (GKS) in 2003 announced that 17% of posts in these units were vacant. In these units 1 008 detectives handled 43 007 cases per annum; it is an average of 43 dossiers per detective. A criminal justice expert, Gareth

²⁸ **Cape Times**, 23 March 2005; **Citizen**, 18 October 2003.

²⁹ **Independent on Saturday**, 18 January 2003.

Newham, warned that employing more policemen would not necessarily reduce the crime rate. South Africa has to address the causes of crime/rape.³⁰

Carol Bower of Rapcan alleges that the rates of abuse, South Africa's political history, deeply entrenched patriarchy and lack of resources are all challenges that have to be addressed. Patriarchy is entrenched in the Afrikaans and black communities, and it is a factor which might lead to violence against women. Among the black community this trend is strengthened by the degrading which is associated with apartheid. Black people felt powerless in many spheres and took their frustrations out on women. At UCT men told the human rights activist and academic, Rhoda Kadalie, that they treat women badly because they are second class citizens, the bible asserted that women are inferior to men, they are physically weaker than men and also intellectually inferior. Kadalie believes that this sexism is still common among students and public authorities. Black students also maintained at disciplinary hearings that they assault women because they behave correctly in the townships, but not at the universities. They assault women to "restore" the balance of power. Lisa Vetten of the Centre for the Study of Violence and Reconciliation added that research proved that men in groups (like gangs and in prisons) act more violent than single men. In a group men tend to act in ways that might be unacceptable when alone. They effuse the responsibility on the group and afterwards tend to blame the other members.³¹

Lord Acton's expression is perhaps also suitable when dealing with groups or people who assault and rape: "Power tends to corrupt and absolute power corrupts absolutely". Rape, it seems, is not always about sex; it also is about power and that is clear from the behaviour of some of the horrific spate of rapes. Rapists act as if they own their victims. During interviews with rapists a large group had one common feature, namely the violence (the men's power) they had witnessed or experienced while growing up.³²

Rapists victimise and debase those physically weaker than themselves; women and, all too often, young children. It is a loathsome state of affairs, which may well develop into a cycle or spread of violence, as the men concerned may repeat the offence again and again in search of what is essentially a fleeting and illusory high - it can be a kind of addiction.

³⁰ **Sunday Times**, 28 September 2003; **Independent on Saturday**, 18 January 2003.

³¹ **Burger**, 20 September 2003; **Beeld**, 19 March 2003; **Citizen**, 18 October 2003.

³² **Weekly Mail and Guardian**, 14 August 2003; **Burger**, 20 September 2003; **Beeld**, 19 March 2003.

Studying rapists it was clear that the majority of men raped to mimic masculine domination. Even the motives of gang rape were regarded by researcher Izak Nieuhaus of the University of Pretoria as "male bonding and sexual socialisation"!³³

According to a recent Gauteng area study 80% of young men believed that women are responsible for causing sexual violence and nearly half the males surveyed said they had sexually violent male friends. In an effort to understand why men rape, the study compared the value system of a group of 95 convicted rapists with those of a sample of 100 people drawn from the community. Early indications were worrying, said Thoko Majokweni, the head of the National Prosecuting Authority's newly formed Sexual Offences and Community Affairs Unit (SOCA). There were many similarities in the way the two groups thought. She urged: "We need to understand what it is that drives some men to domestic violence and rape and others not."³⁴

Looking at violent crimes and rape in Kraaifontein (Cape Town) local police said that these crimes, the main crimes in this region, have a most cases been associated with alcohol abuse which seems to have taken over the community. A few days before Christmas 2003 a two-month-old baby was found covered in blood and raped in a field near Kraaifontein at Wallacedene. In many cases alcohol seems to trigger rape, for example in the Northern and Western Cape where rape figures are the highest in the country and where there is a strong culture of alcohol abuse. To stem the tide of rape the police closed down a number of shebeens on public holidays. The problem of rape and sexual assault intensifies due to the fact that many shebeens close very late at night. Many drunk people become victims of rape or sometimes even offenders.

Coming back to the high unemployment rate of about 40%, it is important to note that it leads to rape and other crimes at places like Kraaifontein. In the words of the SA Police: "People don't have money, but strangely enough, they manage to get money to buy alcohol by selling anything they come across from cardboard to materials such as copper. They convince themselves that liquor is part of a solution to their misery." At Kraaifontein gangsterism, drugs and child-rape have become a daily occurrence lately.³⁵

Much can be said about the fallacious notion among South Africans that HIV/Aids can be cured by intercourse with a virgin. These people seriously need education and counselling to stop this myth. Women or children who have been raped stand

³³ **Mail and Guardian**, 14 August 2003; **Natal Witness**, 28 January 2004.

³⁴ **Financial Mail**, 5 August 2005.

³⁵ **Cape Argus**, 19 January 2004.

in danger of becoming infected with HIV/Aids. The curious contempt for women and children became obvious on July 24, 2003 when the SA cabinet struck out section 21 of the draft Sexual Offences legislation, which would have provided for counselling for rape survivors and treatment to prevent pregnancy and sexually-transmitted diseases, including HIV. In 2004 South Africa buried 400 000 people because of Aids. One could echo the words of Charlene Smith in the **Washington Post** in June 2000: "The key to a reduction in this pandemic is a change in attitude towards women. In Africa, even if we develop a vaccine or distribute billions of condoms, unless we begin working on male attitudes towards women - and that requires looking at the role of culture, tradition and religion - we will get nowhere."³⁶ That is possibly one of the most important keys to the reduction of rape in South Africa.

An attorney who had represented several child rapists in court believes that some rapists imitate aberrational sexual practices seen in porn movies, such as anal penetration and intercourse while standing, or in unusual situations. Many children share rooms in which their parents or others engage in sex, and they imitate them.³⁷

Izak Nieuhaus of the University of Pretoria commented on the factor of the apartheid regime's influence on the rampant rape and sexual violence. He found no evidence that the collapse of the apartheid regime was to be blamed for the growth in rape as "the white government and chiefs did not successfully police the sexuality of villagers" and that "in the contemporary period, prison sentences for rape became more severe!"³⁸

One might conclude with the words of Thoko Majokweni of Soca: "Sex and gender violence holds us back as a nation. Victims of this violence are oppressed. If we could unleash these talents ... imagine what kind of society we could create."³⁹

4. MORE ON HIV/AIDS

In SA HIV/Aids has reached alarming proportions. With the country's abnormal high rape rate in mind, it nowadays is a serious issue whether it can be classified as rape if you do not inform a person with whom you have sex that you are HIV positive? Is it an offence to remain silent and knowingly infect your sex partner? In SA some people just keep quiet about their HIV status. Research has highlighted the fact that in many areas, especially in KZN, people are deliberately infecting

³⁶ **Natal Witness**, 1 April 2005.

³⁷ This is such a copious issue that a whole article can be devoted to it.

³⁸ **Mail and Guardian**, 24 August 2003.

³⁹ **Independent on Saturday**, 18 January 2003.

their partners when they know they are HIV+, on the basis of, "I'm not going to die alone".⁴⁰

It is a crime in other parts of the world to knowingly have sex and not revealing your MIV+ status. In 2002 police in America launched a manhunt for two HIV+ men who were knowingly infecting people. In some countries such conduct is classified as culpable homicide or attempted murder. Many SA rape survivors talk of how rapists taunted them and told them that he or they (75% of rape in 2003 was gang rape)⁴¹ were MIV+. And that leads to another aspect of proposed legislation being debated - does a person who has been raped have the right to know the HIV status of his/her assailant? It is, of course, not always possible to ascertain whether rapists are HIV+. For the victim of a rape it is utterly important to be informed, because apart of the psychological torment of those raped, they also have to deal with the fears of being HIV+. Even for a HIV+ victim this is important.!

5. CONCLUSION

Is our beloved country sick? Is there nothing but a pot of bubbling evil at the end of the rainbow? The facts and statistics of an increasing number of young people committing more and more violent crimes like assault and rape do not bode well for the future.

Handling a serious crime case in Pretoria, judge Theo Grobbelaar said that crime had become South Africa's favourite national sport. If the nation displayed the same dedication and enthusiasm in other sporting activities SA would soon become the world champion. Criminals are not just satisfied robbing people. They are only satisfied when they rape victims or attack them in the most violent way. He doubted whether such unbelievable violence has this regular incidence in other countries.⁴²

We need to question our society's dismissiveness regarding the horror and brutality of sexual assault and our easy recourse to painting women as deceitful, scheming and untrustworthy. And to question the possible consequences of this discourse of denunciation. Moreover, can we afford to set such precedents when so few rapists ever see the inside of a prison cell - in a country where we are so obviously losing the battle to stem the tide of violence against women?

⁴⁰ **Cape Times**, 31 January 2003.

⁴¹ **Cape Times**, 31 January 2003. UN Aids in December 2003 reported that 58% of those infected with HIV were women.

⁴² **Volksblad**, 16 October 2004.

It is perhaps true that violence against women and children is increasing because those in power fail to act to prevent harm or punish those who harm.⁴³ South Africans can remain silent and allow the conditions for violence to spread unhampered or they can act and speak out, again and again, until the violence ends. They cannot afford to keep still or be silent.

The Talmud, which contains Jewish religious philosophy, says: "Whoever destroys a single life, destroys the entire world; whoever saves a single life, saves the world."⁴⁴

⁴³ Cf. Charlene Smith, "Rape is political, Mr President" in **Natal Witness**, 1 April 2005. In a follow-up article on contemporary rape in SA the veil will inter alia be lifted on governmental and other measures to combat rape, the punishment of rapists and the newest legislation on sexual violence, and groups who tend to rape/sodomise (gangsters, the schools, prisons, the SA Police, etc.).

⁴⁴ Charlene Smith, "Rape is political, Mr President" in **Natal Witness**, 1 April 2005.