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Design and typesetting: Handmade Communications
“I look forward to church communities working with other organisations to... make progress towards ending all forms of violence against children.”

Archbishop Emeritus Desmond Tutu
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“[A better society] will and must be measured by the happiness and welfare of the children, at once the most vulnerable citizens in any society and the greatest of our treasures.”

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1. INTRODUCTION
BACKGROUND

The United Nations (UN) World Report on Violence against Children of 2006 is the first comprehensive document that outlines the extent, nature and manifestations of violence against children and identifies the risks and consequences at a global level. The report also outlines important prevention and protection interventions that can be used to ensure that children are protected and that violence is prevented. The World Report on Violence against Children acts as a reference point for this report on violence against children in South Africa.

In addition to the UN report, this publication draws on a desktop study initiated by Department of Women, Children and People with Disabilities (DWCPD) and commissioned in partnership with the United Nations Children’s Fund (UNICEF) and the national Department of Social Development (DSD). The desktop study examined scholarly research and other quality literature as well as administrative data generated by Government and service providers. These sources were further supplemented with a number of in-depth interviews for issues on which the literature did not provide sufficient information. The study was preceded by a workshop of experts and other stakeholders that provided guidance with regard to data sources. Further workshops and consultations discussed the preliminary findings of the research and recommendations.

Similar to the World Report, the main body of this publication describes violence against children in South Africa within different settings, namely the home, community, school, care and justice systems, and places of work. The risk factors for violence in each of the settings are briefly discussed in these chapters of the report. The evidence on prevalence and nature of violence in each of the settings is followed by a chapter that describes the relevant legislation and policies that the South African government has put in place to address violence against children and related problems, as well as selected interventions by non-government actors. Finally, a short conclusion points to gaps in the current provisions for children affected by violence in South Africa and suggests key aspects of policy and implementation that need to be addressed.

This chapter sets the background for the entire publication by describing the broader context in which violence against children takes place, defining violence against children, presenting a framework for understanding violence against children, and highlighting some of the consequences of violence against children that necessitate strong and urgent action.

THE CONTEXT

Violence is widespread in South African society to the extent that the country has been described as having the highest prevalence of violence and violence-related injury in the world among countries where this is measured. The National Injury Mortality Surveillance System (NIMMs) data for 2008 record that nearly a third (32%) of all deaths were due to violence. For 2011/12, the South African Police Service (SAPS) reported that the murder rate stood at 31 per 100,000 of the population. South Africa also ranks extremely high internationally for reported incidents of sexual violence. With such high rates of violence occurring in society, it is no surprise that violence against children is also common.

The high levels of violence in South Africa can be explained variously, including its roots in the country’s history. Apartheid left South Africa with a deeply embedded “culture of violence”. The apartheid society was one in which violence was used by those in power as a legitimate means of achieving their goals. The use of violence to solve problems was thus socially sanctioned from the top. The decades of apartheid, with its attendant political violence and state-sponsored oppression, alongside widespread gang and other forms of criminal violence within communities, contributed to a scenario where, for many people in the country, violence was – and continues to be – used as a strategy for conflict resolution.

While the overall levels of violence in the country are high, violence tends to be concentrated in less economically developed urban areas such as the townships, which were
created in terms of the apartheid-era Group Areas Act and informal settlements. The differences in levels of violence reflect historical—and often ongoing—differences in access to services, ranging from police services to basic social and infrastructure services, including access to safe school environments. Underlying the apartheid-era differences in access to services and other forms of discrimination was the view that certain categories of people (whites) were superior to others and deserved better treatment, while others (blacks) were less human—and thus could be treated less well. This creates a situation in which violence against others seemed less objectionable.

The different values attached to people from different groups extended beyond race and colour. In particular, patriarchal values devalued women as well as children and established concepts of masculinity that encouraged violence. Meanwhile gender stereotypes shaped and constrained the options open to girls and the way they interacted with and were treated by others. South Africa’s post-apartheid Constitution begins with a Bill of Rights that outlaws discrimination on the basis of race, ethnicity, sex and gender. Nevertheless, many of the social inequalities created by apartheid remain and provide a fertile ground for violence. In addition to inequalities between groups, apartheid also left South Africa with fragmented family forms that can encourage violence.

While children generally benefit from living with both parents, the nuclear family form is not the only form of family that can provide adequate care and protection from violence for a child. Indeed, violence against children often happens within nuclear families, accompanied by domestic violence against the women in the family. Other family members, such as grandparents in particular, have for many decades provided loving care and good socialisation for their grandchildren in the permanent or temporary absence of the children’s parents. However, such care is not always adequate. It is especially difficult when the carers are poor, old, and themselves weak and vulnerable and in a situation where social services are non-existent or inadequate.

The post-apartheid Constitution has brought about important changes that could help to undo the factors that encouraged violence during apartheid. As noted above, discrimination on the basis of race, ethnicity, gender, sex and age alongside other characteristics is outlawed. Of relevance given the fragmented family structures, there can also be no discrimination on the basis of whether a child is born within or outside of marriage.

Beyond the Constitution, Government has made important strides in equalising access to services, ranging from protective services such as the police, through social services and infrastructure. There is now compulsory education for children, and very high rates of enrolment in the age group 7–14 years. Basic health care is free, as is health care for young children and pregnant women. Household access to electricity and safe water has expanded substantially.

Each of these advances has particular relevance for vulnerability to violence. For example, access to electricity provides improved lighting in the streets and home that makes crime, and particularly sexual violence, less easy for the perpetrator. Access to safe water in or near the home means that children do not need to spend such long hours collecting water that it becomes child labour, while exposing them to the threat of violence along the route. Access to education provides the opportunity for children to learn about rights and ways to protect themselves against violence. Corporal punishment is also outlawed in schools. However, there remain many children whose living conditions expose them to violence.

In addition, there is widespread recognition that unacceptably high levels of inequality remain and these, more than poverty, constitute an important driver of violence. Further, writing and passing a Constitution does not change the way people think and act. Similarly, passing laws and developing policies does not automatically translate into implementation and impact on the ground.

This report therefore presents current knowledge about the nature and extent of violence against children and the legislation and policies in place to address the violence in the hope that this can form the basis for both strengthening of legislation and policies and better implementation.

Violence happens across all settings but, as noted above, it is concentrated in less economically developed urban areas. More generally, poverty increases the risk of various types of violence, and also makes it more difficult for children and those who care for them to cope with the violence when it happens. However, while this means that a wide range of policies, including a range of poverty alleviation initiatives, could assist in reducing the risk of violence against children,
this report focuses on the legislation and policies that more directly target violence against children. Given the broad definition of violence against children and the many forms it can take, this already provides a broad scope for the report.

**DEFINING VIOLENCE AGAINST CHILDREN**

The Secretary-General’s Global Study on violence against children defines violence as including “... all forms of physical, mental violence, injury or abuse, neglect or negligent treatment, maltreatment or exploitation, including sexual abuse”. The term ’child maltreatment’ is often used to refer collectively to these different types of violence and abuse.

The World Health Organisation defines child maltreatment as “all forms of physical and/or emotional ill-treatment, sexual abuse, neglect, negligent treatment, commercial or other exploitation, resulting in actual or potential harm to the child’s health, survival or development or dignity in the context of a relationship or responsibility, trust or power”. The National Department of Social Development uses the same definition.

What these definitions make clear is that violence against children extends beyond physical violence to encompass a range of other actions – or omissions to act – that can harm children. This broad conception brings the concept close to matching the types of actions – or omissions – that child protection systems aim to prevent or address.

**ECOLOGICAL FRAMEWORK**

Bronfenbrenner’s ecological systems theory is useful in understanding the circumstances in which violence against children occurs and is used as the framework, and to structure, this publication. This theory highlights that individuals, including children, influence their social environments and that the various contexts of the social environment influence each other as well as the individual.

When applied to violence, this model provides a framework for understanding the factors that increase or decrease a child’s risk for violence. This ecological model considers the complex interplay between individuals and their spheres of influence (or the places they inhabit) at multiple levels: individual, relationship, community and society throughout their lifetime. The theory is also useful because it can combine an understanding of the historical and social factors of a particular society – such as those described in the context section above – with the various other factors influencing a child’s life and thus promote an understanding of the factors that increase vulnerability in each of the different spaces.

Consideration of this complex interplay is important because of the strong role that socialisation plays in perpetuating violence. Socialisation is the process through which individuals learn the ways, values and norms of a given society or group so that they can function within it. Social agents such as individuals, groupings or institutions teach the individual what is expected of them in society. In the early years, a child’s primary point of reference is the individuals in their home environment. As children grow older, the range of socialising agents increases as their contact with individuals in society expands. Thus, educators, principals and other learners shape socialisation. Within the community, broader socialising factors such as the media, religious, cultural and traditional actors and institutions, as well as politicians, socialise children directly as well as indirectly. Children are also influenced by their friends and peers. With regard to violence, children who inhabit violent spaces across a range of settings may begin to experience violence as a norm and may be socialised into accepting and tolerating violent behaviour unless there are countervailing sources of socialisation that counteract these forces.

Figure 1 depicts the different contexts in a child’s life. It shows, for example, that a child is influenced not only by the home and family but also by the school, while the home and school contexts are influenced by the community in which they are situated. Further, the community is situated within a broader society influenced by macro-level factors such as Government policy.

Each of these levels can be elucidated further, by describing the risk and protective factors at each of these levels. Risk factors are events or circumstances that increase a child’s risk of adverse outcomes and compromise a child’s right to protection and safety. Protective factors, also often referred to as resilience factors, interact with risk factors to reduce the likelihood of adverse outcomes for a child and enhance the child’s well-being. Protective factors in one setting may compensate for risk in another setting. However, the more risks that children are exposed to, the less likely they are to experience protection.
poor school attachment; neighbourhood disadvantage; pro-violence attitudes; poor parent-child relationships; harsh or inconsistent discipline; poor parental monitoring; and socio-economic disadvantage.

Potential protective factors include school support and involvement in after-school activities; family support, cohesion and monitoring; strong attachment bonds between parents and children, stable family units; availability of child care facilities; social support in the community; pro-social attitudes; high bonding to school; high self-esteem; internal locus of control; healthy communication patterns; and mentoring adult relationships.

**Individual level**

In the ecological model, the individual level identifies biological and personal history factors that increase the likelihood of becoming a victim or perpetrator of violence or factors that protect them from becoming a victim or a perpetrator. Some of these factors are age, sex, education, income, substance use, or history of abuse. A few of these factors are described below.

**Age and sex:** All children tend to be vulnerable just by virtue of being children as they have less capacity than adults to protect themselves. However, individual risk factors such as age and sex of the child also affect vulnerability. For example, younger children tend to be more at risk of physical violence than older children. Girls are at higher risk of sexual abuse and exploitation and harmful traditional practices than boys, while boys are more at risk of physical abuse.

Alcohol and drug use: Several South African studies have found a link between use of alcohol and drugs and violence and crime. The National Injury Mortality Surveillance System (NIMMS), a mortuary-based reporting system on causes of fatal injuries, found that blood alcohol concentration tested positive in 58% of homicide victims, 52% transport-related accidents and 37% of suicides in 2005.

In addition, substance abuse by parents interferes with their ability to care for and monitor their children. According to the Medical Research Council, 15% of children report times in their lives when one or both parents were too drunk to care for them. Furthermore, the poor impulse control and lowered inhibition associated with substance use may result in caregivers reacting in ways that they may not otherwise, and this may end with violence against children.

Children can become victims of violence not only because of use of alcohol and drugs by those within their own home, but also through the use of such substances by individuals within their social environments such as peers. For example, one study found that more than a quarter (27%) of perpetrators of sexual assault against children had been intoxicated at the time of the crime. In a vicious cycle, victims often turn to alcohol or drugs to cope with the trauma of their experiences. This ultimately perpetuates violence in society.

**relationship level**

The relationship level examines close relationships that may increase the risk of or protect from experiencing violence as a victim or perpetrator. A person’s closest social circle...
– peers, partners and family members – influences their behaviour, and contributes to their range of experience.

In South Africa, very few children live in what is considered to be a nuclear family. Statistics South Africa’s General Household Survey of 2010 produces an estimate of 18.5 million children in South Africa, of whom 79% (14.6 million) have both parents known to be alive, 12% (2.3 million) have mother alive but father deceased or unknown, 4% (0.7 million) have father alive but mother deceased or unknown, and 5% (0.9 million) have both parents either deceased or unknown.

Regardless of whether the children were orphaned or not, the General Household Survey data suggest that only 32% (6.0 million) of children under 18 years were living with both their mother and father. A larger number (39%, or 7.2 million) were living with their mother but not their father, while 0.6 million (4%) were recorded as living with their father but not their mother, and 4.6 million (24%) were with neither parent. These statistics on the parental situation and living arrangements of children paint a picture of children’s family circumstances that is very far from any nuclear family norm.

When children have little contact with parents due to irregular and unstable family homes, the parent-child bond is weakened. This can have negative effects, and can mean that children are left with people who do not care for them adequately and who may mistreat them.

A longitudinal study conducted in Cape Town found that children who were orphaned as a result of AIDS or whose parents were AIDS-sick were more likely to have suffered from emotional and physical abuse and transactional sexual exploitation than all other groups of children, including non-orphans, children orphaned from other causes, and children with parents with other illnesses. However, nuclear families are not always necessarily better for a child’s well-being. For example, evidence suggests that abusers are more likely than non-abusers to have experienced some form of abuse as children or to have witnessed violence, particularly violence directed at their mothers. This suggests that, especially in a context of high levels of domestic violence, living with parents is not always a protective factor.

One therefore cannot assume that a home with two parents is necessarily better for a child than other forms of family. Whether the main caregiver is a parent, grandparent or other person, the important point is that the children need adults with whom they can form a long-term relationship and bond and whom they can trust to provide love, care and protection.

Community level

The community level explores the various settings shown in Figure 1, such as schools and neighborhoods, in which social relationships occur and seeks to identify the characteristics of these settings that are associated with becoming victims or perpetrators of violence.

Neighbourhood factors: Access to electricity provides improved lighting in the streets and home that makes crime, and particularly sexual violence, less easy for the perpetrator. Access to safe water in or near the home means that children do not need to spend such long hours collecting water that it becomes child labour, while exposing them to the threat of violence along the route. The difficulty of monitoring liquor licenses results in proliferation of shebeens, especially in townships, and exposes children and adults to the associated dangers. Additionally, and more generally, weak community sanctions against perpetrators are associated with violence against children.

School environment: Although schools have an important role in protecting children from violence, often educational settings expose children to violence and may teach them violence. They are exposed to corporal punishment, cruel and humiliating forms of psychological punishment, sexual and gender-based violence, and bullying. For many young women, the most common place where sexual coercion and harassment are experienced is in school. A key contributory factor for violence is a school climate that is tolerant of these experiences and sees them as a “normal” part of the school experience.

Societal level

The societal level looks at the broad societal factors that help create a climate in which violence is encouraged or inhibited. These factors include social and cultural norms and other societal factors including health, economic, educational and social policies that help to maintain economic or social inequalities between groups in society. We can highlight several important societal-level factors.

Inequality, poverty and unemployment: Child abuse occurs across all socio-economic levels, but around the world
Poverty has been found to be associated with child abuse. Risk factors related to poverty and social inequality, such as income inequality, low economic development, health inequities, and high levels of gender inequality are strongly associated with violence. In South Africa, income inequality – one of the key determinants – is particularly high. Unemployment and poverty affect children both directly and indirectly. For example, high levels of unemployment and poverty can cause family stress and frustration which, in turn, can result in punitive behaviour towards children as well as abuse. Overcrowding, which is often associated with poverty, can also place children at risk of violence and, in particular, of sexual abuse.

South Africa’s history has resulted in poverty being concentrated geographically. In particular, poverty is concentrated in the more rural ex-homeland areas which were the areas to which African people were confined and “removed” during the apartheid era. These areas are disadvantaged both in terms of the socio-economic status of the inhabitants and in the availability and quality of government and private services. Poverty is also concentrated in the informal settlements of urban areas which continue to attract poor people who migrate from rural areas in the hope that they will find employment and services.

Social norms and values: In South Africa, large sections of the population hold outmoded beliefs and values. In particular, they may view men as having the right to exercise power over women and children. This may include the perception that men can beat women and children and take sexual advantage of them. Rape of infants has, at times, been seen as a way of punishing the child’s mother.

Traditional gender norms can also have a negative impact on men as they are required to express masculine traits such as toughness, aggression and bravery. Men may use violence as a way of demonstrating their masculinity, especially if they feel disempowered due to social inequalities.

Cultural beliefs and customs, including early marriage, also act as a risk factor for violence against children where children are viewed as the property of adults, thus denying them recognition and rights. Unquestioning obedience of children and their subservience to adults, especially men, enables child abuse to go undetected. Linked to this is the belief that child abuse, like other domestic violence, is a “private” matter and should not be discussed outside of the home. Sexual abuse of girls is also often kept hidden due to the fear that the child will be stigmatised in the wider community.

High levels of crime in society: As noted above, South Africa has among the highest prevalence of violence and violence-related injury in the world. South Africa also ranks extremely high internationally for reported incidents of sexual violence. The high levels of violence in South Africa have their roots in the country’s history. Apartheid left South Africa with a deeply embedded “culture of violence”. The apartheid society was one in which violence was used by those in power as a legitimate means of achieving their goals. The use of violence to solve problems was thus socially sanctioned from the top. The decades of apartheid, with its attendant political violence and state-sponsored oppression alongside criminal violence within communities, contributed to a scenario where, for many people in the country, violence was – and continues to be – a primary strategy for conflict resolution.

The differences in levels of violence across different types of area reflect historical – and often ongoing – differences in access to services, ranging from police services to basic social and infrastructure services. Underlying the apartheid-era differences in access to services and other forms of discrimination was the view that certain categories of people (whites) were superior to others and deserved better treatment, while others (blacks) were less human – and thus could be treated less well. This provided a situation in which violence against others seemed less objectionable. With such high rates of violence occurring in society, it is no surprise that violence against children is also common.

The ecological model emphasises that many South African children inhabit multiple risky spaces. This means that violence is often experienced in more than one context and violence within one setting can influence another setting. For example, in contexts of high community violence, there tend to be higher levels of family and school violence.

In addition, in many cases violence is neither a once-off event nor is it only one type of violence that the child experiences. Further, different types of violence tend to be related. For example, South African research has found that children who witness domestic violence in their homes are also likely to be victims of child abuse and vice versa. One explanation for this is that children who witness abuse between their parents are at risk of being abused by either the abusing or abused parent in the home. This in turn
means that children who are exposed to violence at home may avoid their home environment, which places them at risk of community violence. The result may be that the child engages in aggressive behaviour that invites further exposure to violence.

This report describes the various settings in which children experience violence in separate chapters. However these different settings do not function in isolation in the lives of children. In addition, many types of violence occur across different spheres. This is especially evident in the case of sexual violence, but is also true for other forms, such as bullying. To avoid repetition, the publication presents each form of violence in the discussion of the sphere for which the evidence is most readily available. This should not, however, be read to imply that each of the various types of violence is confined to a particular sphere.

THE EXTENT OF VIOLENCE AGAINST CHILDREN IN SOUTH AFRICA

The following chapters provide detailed information on the different types of violence against children that occur in the different settings of a child’s life. This section thus briefly provides only the high-level indicators of violence recorded in standard police statistics.

Before doing so, it is important to note the serious challenges that exist in obtaining reliable and comprehensive data on virtually all forms of violence against children. The challenges are encountered on many fronts. Firstly, for virtually all forms of violence, if violence is recognised even by most perpetrators as a negative phenomenon it will be “hidden” wherever possible, and under-reported. Alternatively, if certain forms of violence are not seen as problematic, people will not see the need to report it. Secondly, violence against children often occurs in private settings, and in particular in the home of the child. It is therefore not publicly visible and again is likely to be unreported or under-reported. Thirdly, the fact that the victims are children means that they have less “voice” than adults, are likely to be uninformed about their rights, might not recognise that violence is wrong, and – if they recognise it is wrong – might be fearful of reporting it when the perpetrator is in a position of authority or if they fear they may be blamed. Again, this will result in under-reporting. Fourth, there is a challenge in the form of incomplete or poorly-designed record-keeping by duty-bearers to make information publicly available. Fifth, many children and those who come to know about violence – and especially those from poorer communities – may have little trust in the authorities and/or lack the knowledge that they can and should report violence. Again, this will result in under-reporting.

The fourth and fifth challenges create a further challenge in cases where record-keeping improves or trust in and knowledge of reporting opportunities improve. In such cases, if there is an increase in reported violence against children, it is difficult to know whether this reflects an increase in actual incidents in violence or, instead, an increase in the rate of reporting of a constant, or even decreasing, number of incidents.

The 2010/11 statistics from the South African Police Service (SAPS) record a total of over 50 000 crimes against children for 2010/11. More than half (52%) of all reported crimes against children were sexual in nature, while sexual crimes accounted for “only” 19% of crimes against adult women. Unfortunately, in many cases the age of the reported victim is not known. If one accepts the patterns shown where ages are reported, most reported crimes against children are perpetrated against children between the ages of 15 to 17 years (55% of murders, 60% of attempted murders, 71% of assault with grievous bodily harm, 63% of common assault and 40% of sexual offences). However, 61% of the children who endured sexual offences were under the age of 15 years and over a quarter (29%) were between 0 and 10 years.
VIOLENCE AGAINST CHILDREN IN SOUTH AFRICA

Table 1: Crimes against children 2009/10 and 2010/11

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<td>Attempted murder</td>
<td>1 113</td>
<td>786</td>
<td>758</td>
</tr>
<tr>
<td>All sexual offences</td>
<td>27 417</td>
<td>28 128</td>
<td>25 862</td>
</tr>
<tr>
<td>Common assault</td>
<td>14 982</td>
<td>13 387</td>
<td>12 645</td>
</tr>
<tr>
<td>Assault (grievous bodily harm)</td>
<td>12 062</td>
<td>11 018</td>
<td>10 630</td>
</tr>
<tr>
<td>Total</td>
<td>56 539</td>
<td>54 225</td>
<td>50 688</td>
</tr>
</tbody>
</table>

Figure 2 below shows the neglect and ill-treatment of children crime ratio per 100 000 of the population for each province for the period 2003/04 to 2009/10. If the calculation was done per 100 000 children, the numbers would be even higher. The figure in brackets indicates the actual number of reported cases in each province.

Gauteng emerges as the province with the largest number of recorded crimes against children, although KwaZulu-Natal has a larger child population. Northern Cape records the highest rate of recorded crime, closely followed by Western Cape and Free State.

While the reported rates of crimes against children are extremely high, many incidents go unreported. The hidden nature of violence against children arises, among others, from the fact that young children usually lack the capacity to report violence and many others may fear further harm by the perpetrator or may worry that interventions by authorities may make their situation worse. As suggested above, what is not clear is whether the higher rates of crime recorded in particular provinces reflect easier access to, or trust in, police that result in higher levels of reporting, or whether actual crime rates are higher in these provinces.

Risk and Protective Factors

Risk factors are events or circumstances that increase a child’s risk of adverse outcomes and compromise a child’s right to protection and safety. Protective factors, also often referred to as resilience factors, interact with risk factors to reduce the likelihood of adverse outcomes for a child.

Figure 2: Reported neglect and ill-treatment of children, 2009/2010

RSA TOTAL 8.1 (4 014)

<table>
<thead>
<tr>
<th>Province</th>
<th>Figure</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Limpopo</td>
<td>4.2 (218)</td>
<td></td>
</tr>
<tr>
<td>North West Province</td>
<td>4.5 (164)</td>
<td></td>
</tr>
<tr>
<td>Gauteng</td>
<td>10 (1 057)</td>
<td></td>
</tr>
<tr>
<td>Free State</td>
<td>7.8 (270)</td>
<td></td>
</tr>
<tr>
<td>KwaZulu-Natal</td>
<td>15.5 (450)</td>
<td></td>
</tr>
<tr>
<td>Northern Cape</td>
<td>4.4 (455)</td>
<td></td>
</tr>
<tr>
<td>Eastern Cape</td>
<td>17.2 (197)</td>
<td></td>
</tr>
<tr>
<td>Western Cape</td>
<td>5.4 (356)</td>
<td></td>
</tr>
<tr>
<td>Northern Cape</td>
<td>15.4 (847)</td>
<td></td>
</tr>
</tbody>
</table>
and enhance the child’s well-being. Protective factors in one setting may compensate for risk in another setting. However, the more risks that children are exposed to, the less likely they are to experience protection.52

This section of the publication presents risk and protective factors that are found across multiple spheres. Each of the following sections of the publication highlights further factors that relate to a specific sphere.

At the general level, potential risk factors include family conflict;53 parental substance abuse; poor school attachment;54 neighbourhood disadvantage; pro-violence attitudes; poor parent-child relationships; harsh or inconsistent discipline; poor parental monitoring;55 and socio-economic disadvantage.56

Potential protective factors include school support and involvement in after-school activities; family support, cohesion and monitoring; strong attachment bonds between parents and children, stable family units;57 availability of child care facilities; social support in the community;58 pro-social attitudes; high bonding to school; high self-esteem; internal locus of control;59 healthy communication patterns; and mentoring adult relationships.60

All children tend to be vulnerable just by virtue of being children as they have less capacity than adults to protect themselves. Individual risk factors such as age and sex of the child also affect vulnerability. For example, younger children tend to be more at risk of physical violence than older children, while older children tend to be more at risk of sexual abuse. Girls are also at higher risk of sexual abuse and exploitation and harmful traditional practices than boys, while boys are more at risk of physical abuse. In addition, particular categories of children may have increased vulnerability to violence.61 Such categories include children with disabilities, orphaned children, gay and lesbian children, children in institutions, children living in communities in which inequality, unemployment and poverty are highly concentrated, children living or working on the streets and displaced children such as those moved to safe camps during the xenophobic attacks of 2008.

Some risk factors are more relevant for particular types of violence and/or particular settings. These are discussed in the chapters that follow. There is, however, a set of risk factors that are relevant for virtually all forms of violence against children as well as for most settings. These factors include poverty and unemployment, social norms and values, alcohol and drug abuse, and family structure. The following paragraphs provide a few examples of how these factors work to increase risk of violence.

**Poverty and unemployment**

Child abuse occurs across all socio-economic levels, but around the world poverty has been found to be an important cause of child abuse.62 Unemployment and poverty affect children both directly and indirectly. One route for this is that high levels of unemployment and poverty can cause family stress and frustration which, in turn, can result in punitive behaviour towards children as well as abuse. Overcrowding, which is often associated with poverty, can also place children at risk of violence and, in particular, of sexual abuse.63

South Africa’s history has resulted in poverty being concentrated geographically. In particular, poverty is concentrated in the more rural ex-homeland areas which were the areas to which African people were confined and “removed” during the apartheid era. These areas are disadvantaged both in terms of the socio-economic status of the inhabitants and in the availability and quality of government and private services. Poverty is also concentrated in the informal settlements of urban areas which continue to attract poor people who migrate from rural areas in the hope that they will find employment and services.

**Social norms and values**

In South Africa, large sections of the population hold traditional beliefs and values. In particular, they may view men as having the right to exercise power over women and children. This may include the perception that men can beat women and children and take sexual advantage of them.64 Rape of infants has, at times, been seen as a way of punishing the child’s mother.

Traditional gender norms can also have a negative impact on men as they are required to express masculine traits such as toughness, aggression and bravery. Men may use violence as a way of demonstrating their masculinity, especially if they feel disempowered due to social inequalities.66 Cultural beliefs also act as a risk factor for violence against children where children are viewed as the property of adults, thus denying them recognition and rights. Unquestioning obedience of children and their subservience to
adults, especially men, enables child abuse to go undetected. Linked to this is the belief that child abuse, like other domestic violence, is a “private” matter and should not be discussed outside of the home. Sexual abuse of girls is also often kept hidden due to the fear that the child will be stigmatised in the wider community.

The belief that sex with a virgin can cure HIV and AIDS is also a possible factor in the rape of babies and children.

Alcohol and drug use

Several South African studies have found a link between use of alcohol and drugs and violence and crime. The National Injury Mortality Surveillance System (NIMMS), a mortuary-based reporting system on causes of fatal injuries, found that blood alcohol concentration tested positive in 58% of homicide victims, 52% transport-related accidents and 37% of suicides in 2005.

In addition, substance abuse by parents interferes with their ability to care for and monitor their children. According to the Medical Research Council, 15% of children report times in their lives when one or both parents were too drunk to care for them. Furthermore, the poor impulse control and lowered inhibition associated with substance use may result in caregivers reacting in ways that they may not otherwise, and this may end with violence against children.

Children can become victims of violence not only because of use of alcohol and drugs by those within their own home, but also through the use of such substances by individuals within their social environments such as parents or peers. For example, one study found that more than a quarter (27%) of perpetrators of sexual assault against children had been intoxicated at the time of the crime. In a vicious cycle, victims often turn to alcohol or drugs to cope with the trauma of their experiences. This ultimately perpetuates more violence in society.

Family structure and childhood exposure to violence

In South Africa, very few children live in what is considered to be a nuclear family. Statistics South Africa’s General Household Survey of 2010 produces an estimate of 18.5 million children in South Africa, of whom 79% (14.6 million) have both parents known to be alive, 12% (2.3 million) have mother alive but father deceased or unknown, 4% (0.7 million) have father alive but mother deceased or unknown, and 5% (0.9 million) have both parents either deceased or unknown.

Regardless of whether the children were orphaned or not, the General Household Survey data suggest that only 32% (6.0 million) of children under 18 years were living with both their mother and father. A larger number (39%, or 7.2 million) were living with their mother but not their father, while 0.6 million (4%) were recorded as living with their father but not their mother, and 4.6 million (24%) were with neither parent. These statistics on the parental situation and living arrangements of children paint a picture of children’s family circumstances that is very far from any nuclear family norm.

When children have little contact with parents due to irregular and unstable family homes, the parent-child bond is weakened. This can have negative effects, and can mean that children are left with people who do not care for them adequately and who may mistreat them. A longitudinal study conducted in Cape Town found that children who were orphaned as a result of AIDS or whose parents were AIDS-sick were more likely to have suffered from emotional and physical abuse and transactional sexual exploitation than all other groups of children, including non-orphans, children orphaned from other causes, and children with parents with other illnesses. However, nuclear families are not always necessarily better for a child’s well-being. For example, evidence suggests that abusers are more likely than non-abusers to have experienced some form of abuse as children or to have witnessed violence, particularly violence directed at their mothers. This suggests that, especially in a context of high levels of domestic violence, living with parents is not always a protective factor.

One therefore cannot assume that a home with two parents is necessarily better for a child than other forms of family. Whether the main caregiver is a parent, grandparent or other person, the important point is that the children need adults with whom they can form a long-term relationship and bond and whom they can trust to provide love, care and protection.
THE CONSEQUENCES OF VIOLENCE AGAINST CHILDREN

Violence against children is not only a child rights issue but also a major public health concern. Apart from physical injuries, the experience of violence often has severe and lasting consequences for children’s psychological and social development, their behaviour as well as their health outcomes. These consequences can affect them well into adulthood.78

As with risk and protective factors, there are some consequences that relate to specific spheres, but also many consequences that are common across spheres. The latter are described briefly here.

Depression, substance abuse, anxiety, suicidal behaviour as well as reproductive health problems such as unwanted pregnancy, sexually transmitted diseases and sexual dysfunction are just some of the consequences associated with exposure to violence.79 In particular, post-traumatic stress symptoms affect a large number of South African children, with only a small proportion receiving any counselling or professional assistance.80 Traumatic experiences also affect brain development in children and can lead to difficulties in learning and cognitive functioning.81

Factors such as age, temperament, previous trauma experiences as well as external factors such as emotional support influence the outcome of exposure to violence for the individual child.82 The developmental level of the child is also important. For example, younger children who have been exposed to violence are more likely to regress in their developmental milestones by temporarily losing their bowel and bladder control or other recently gained skills. Toddlers and children of pre-school age may become clingy and have tantrums, while children of school-age and adolescents may have difficulty concentrating, and display mood swings and disruptive behaviour at home and at school.83

In terms of intergenerational transmission of violence, there is emerging evidence of the negative impact on developing neurology of being raised in environments characterised by continuous stress (sometimes called toxic stress) from early childhood. Children raised in this situation often have poor self-regulation, are hypervigilant and likely (if boys) to develop aggressive anti-social behaviour patterns.84

In addition to the impact on the individuals themselves, violence has considerable consequences for society at large. Exposure to aggression and violence socialises children into lifestyles that perpetuate violence in society.85 Violence also results in lowered social cohesion and impacts on the country’s social and economic development. In addition, there are clear links between violence in society and the HIV and AIDS burden.86
2. VIOLENCE AGAINST CHILDREN IN THE HOME AND FAMILY
As noted above, nuclear families are not the norm in South Africa as only 32% of children were living with both their biological parents in 2010. Families that are non-nuclear do not necessarily expose the child to a greater danger of violence than nuclear families, as evidenced by the high rates of domestic violence in the country. Instead, across all family structures and types, social and environmental issues such as lack of or poor service delivery, poverty, unemployment and substance use can increase the likelihood of violence.

The extent of the HIV and AIDS pandemic in South Africa has heightened concern about the particular form of child-headed households. About 90 000 children were found to be living in households with no adult member in the General Household Survey of 2010. However, contrary to common assumptions, 88% of these children had a living parent. Further, only 1% of all orphans lived in child-only households in 2010.

Section 137 of the Children’s Act has a broader definition of child-headed households than a definition that includes only children living in households with no adult member. The Children’s Act defines child-headed households as those in which the parent, guardian or care-giver of the household is terminally ill, has died, or has abandoned the children in the household, and in which a child aged 16 years or older has assumed the role of care-giver in the absence of an adult family member who can play this role. This definition would expand the number of children living in child-headed households. The Act’s provisions in respect of the children highlight the vulnerability of these children and their need for special attention.

Overall, however, the greatest areas of vulnerability of child-headed households probably do not relate to violence, but instead to poverty-stricken living conditions, which, in turn, are related to lack of employed members and limited access to grants.87

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**EXTENT AND NATURE OF VIOLENCE IN THE HOME**

Common types of violence that occur in the home include sexual abuse, physical abuse and corporal punishment, emotional abuse and neglect. Violence can also result in self-harming behaviour and suicide, and this section therefore also briefly discusses these phenomena.

**Sexual abuse**

The World Health Organisation defines sexual abuse as “the involvement of a child in a sexual activity that he or she does not fully comprehend, is unable to give consent to, or for which the child is not developmentally prepared and cannot give consent, or that violates the laws or social taboos of society …. [It] may include but is not limited to (i) the inducement or coercion of a child to engage in any unlawful sexual activity; (ii) the exploitative use of a child in prostitution or other unlawful sexual practices; and (iii) the exploitative use of children in pornographic performances and materials.”88

The definition is thus broad, and includes both contact and non-contact abuse. This makes comparison across studies difficult unless each of the studies has clearly identified the definition and scope.89

Statistics on the prevalence of sexual abuse are scarce. Approximately 55 000 rapes of women and girls are reported to the police every year. In 2010/11 a total of 28 128 sexual offences of children under 18 years were reported to the police. However, these numbers are estimated to represent only about a ninth of actual cases.90

Looking beyond police statistics, one study found that more than a third of South African girls had experienced some form of sexual abuse before the age of 18 years.91 The Teddy Bear Clinic in Johannesburg dealt with 1 979 cases of sexual abuse in 2010.92

In a nationally representative sample of 11 735 South African women, 153 (2%) reported being raped before the age of 15. Of these, 85% had been raped when between the
ages of 10–14 years. However, younger children are not immune from this type of sexual violence. In Gauteng in 2003 approximately 3% of the victims of reported rapes were aged between 1 and 3 years.

While women and girls are generally more at risk of being sexually victimised, men and boys are not exempt from sexual violence. A 2009 study found that 3.5% of young men reported having been raped by a man.

On the perpetrator side, a random population-based sample of South African men found that over a quarter (28%) reported that they had ever raped someone. Of those who said that they had committed rape, 73% had done so prior to the age of 20.

The overwhelming majority (84%) of rapes where the victims are children are perpetrated by males who are known to the victim. Similarly, the 2005 National Youth Victimisation Survey found that 88% of sexual assault victims knew their perpetrator. More specifically, 29% of perpetrators were friends or acquaintances of the victim and 11% were relatives or household members. The 2008 National Youth Lifestyle Study found that 24% of the sexual assaults (including rape) reported by young people took place in the respondent’s home. This is different from adult rapes of which nearly half (48%) are perpetrated by strangers.

The 2005 National Youth Victimisation survey found that only 33% of sexual assault victims received support services subsequent to the attack. Of those who received no support services, 56% stated that they did not need them while nearly 25% did not know where to access these services.

**Physical abuse and corporal punishment**

More than one in four children experience times in childhood when they are physically punished on a daily or weekly basis. Sticks, belts and other tools are frequently used and children commonly suffer physical injuries. During the development phase of the Children’s Act, there was a proposal to ban physical punishment within the home environment. This was not done due to the difficulty of policing these private spaces as well as resistance from various cultural and religious groups.

Physical abuse can be defined as action “which results in actual or potential physical harm from an interaction or lack of an interaction, which is reasonably within the control of a parent or person in a position of responsibility, power or trust”.

Corporal punishment is often defined as “the use of physical force with the intention of causing a child to experience pain but not injury for the purpose of correction or control of the child’s behaviour”. This definition is problematic as corporal punishment can indeed cause injury to the child.

Corporal punishment is widely practised by families in South Africa. The Human Sciences Research Council’s national study on corporal punishment indicates that 57% of parents had smacked their children at some point. The majority (59%) of those who admitted to using physical punishment had used a belt or another object to beat their children.

Corporal punishment is more common for younger than older children. The most common age at which a child is smacked is three years old and the most common age at which a child is beaten is four years old. This pattern may be explained by the fact that younger children cannot be reasoned with to the same extent as older children. This can lead to frustration for parents and other caregivers who do not understand the different developmental stages that children go through.

The general trend – globally as well as in South Africa – is that children from poorer households and children from rural areas are subjected to more severe and more frequent corporal punishment than children from wealthier, urban contexts.

Determining the number of physically abused children is difficult as only the more severe cases are likely to be reported. In 2008, Childline received 3 428 calls on their crisis line from children reporting physical abuse. Of the approximately 10 000 injured children presenting at the Red Cross War Memorial Children’s Hospital (henceforth Red Cross Children’s Hospital) annually, 5% are as a result of intentional injuries, often physical or sexual abuse. There is evidence to suggest that an abused child has a 60% chance of recurrence of abuse and a 10% risk of an eventually fatal injury.

Two types of physical abuse that are often discussed in the literature are battered child and shaken baby syndromes. Battered child syndrome occurs when there are multiple sites of injury on the child’s body, resulting in serious injury or death. Doctors generally uncover it
when there is a marked discrepancy between the caregiver’s explanation for the injury and the nature of the injury. Shaken baby syndrome is often associated with very young children and externally there is often no immediate sign of abuse. Violently shaken infants can suffer severe brain damage and spinal cord injuries which can lead to learning and behavioural problems, blindness, deafness, paralysis or death.

**Emotional abuse**

Unlike other forms of child abuse, emotional abuse generally takes the form of a relationship rather than an event.

According to the World Health Organisation, emotional abuse is “… the failure to provide a developmentally appropriate, supportive environment, including the availability of a primary attachment figure, so that the child can develop a stable and full range of emotional and social competencies commensurate with her or his personal potentials and in the context of the society in which the child dwells. There may also be acts towards the child that cause or have a high probability of causing harm to the child’s health or physical, mental, spiritual, moral or social development …” Acts include restrictions of movement, patterns of belittling, denigrating, scapegoating, threatening, scaring, discriminating, ridiculing or other non-physical forms of hostile or rejecting treatment.  

Emotional abuse is often inherent in other forms of child abuse. Thus sexually abused or physically abused children may also experience emotional abuse. In practice, discovery of emotional abuse is largely reliant on the discovery of other forms of abuse that the child is experiencing. Childline has seen a substantial increase in reported emotional abuse, with the number of cases doubling from 2 065 in 2006 to 4 827 in 2008. The Johannesburg-based Teddy Bear Clinic for Abused Children took care of 58 children who presented with emotional abuse in 2010.

**Neglect**

Neglect involves lack of provision for a child’s development and/or the failure to provide the child with basic requirements such as health, nutrition, shelter, safe living conditions and education. Not complying with health care practitioner’s advice, failing to seek appropriate health care, exposing children to alcohol and drugs, inadequate protection of children from environmental dangers, poor hygiene of children, depriving children of education, and inadequate supervision all constitute neglect of children.

These actions (or lack of action) constitute neglect when caregivers have the resources which would allow them to provide for the child’s needs but do not do so. Neglect can be a deliberate act of depriving children of their needs or it can occur by default, for example when parents or other caregivers abuse substances or are mentally ill.

Children who have been neglected may show significant developmental delays in language, which in turn affect intellectual development, attention, school readiness and academic achievement, and socio-emotional development and can result in behavioural problems.

The Medical Research Council reports that one in two children experience emotional abuse or neglect or witness violence against their mothers at home. Childline received 3 883 calls on their crisis line in respect of neglect in 2008.

“Although the medical literature often separates accidental from non-accidental injuries, a strong case can be made that injuries to children who do not yet possess the neurodevelopmental ability to assess the dangers in their environment adequately and/or respond to these dangers appropriately all represent forms of neglect (abuse).”

Children, particularly younger ones, are often not able to assess well the risks in their environment. They are then reliant on adults to make decisions relating to their safety. Child injuries result when parents fail to take the necessary precautions or to supervise children. There is thus a need to distinguish between ‘unintentional injuries’ that might have been avoided, and unavoidable ‘accidents’.

In South Africa unintentional injuries account for the majority of deaths in children aged 0–14 years (43%). Analysis of 88 822 patients who were treated at the Red Cross Children’s Hospital between 1991 and 2000 found that the most common injuries were falls (21%), transport-related injuries (13%), burns (8%) and foreign objects (4%). Among the traffic-related injuries receiving attention at the Red Cross Children’s Hospital in 2008, the majority of children (72%) were pedestrians, while 10% were unrestrained passengers.

The Red Cross War Memorial Children’s Hospital is the only children’s hospital in southern Africa. It has a dedicated
VIOLENCE AGAINST CHILDREN IN SOUTH AFRICA

A trauma unit for children under the age of 13 serves a population of 2 million. Approximately 1,000 burns are treated at the Red Cross Children’s Hospital annually. Burns occur most commonly in children below the age of one. Over three-quarters (79%) of burns treated at the Red Cross Children’s Hospital in 2008 were caused by hot liquids. A major risk factor for this type of injury is poverty as homes tend to be overcrowded and unsafe sources of heat and light and cooking equipment such as open fires, candles, paraffin, and kerosene stoves all present major risks. The same areas may be used for cooking and living in small dwellings with only one or two rooms.

Children who present at the Red Cross Children’s Hospital for ingestion and aspiration of foreign bodies are usually toddlers. Approximately 500 children with this injury are treated annually. The foreign objects were most often coins (30%), beads (8%), pellets (7%), fish bones (6%) and pins (5%). More than half (57%) of the foreign objects had to be surgically removed.

Another major cause of child injury is poisoning. This is most commonly associated with medication, paraffin, cleaning products or pesticides that are not kept securely out of reach of children. Children in poor homes tend to be more at risk as a result of a lack of storage spaces. Poor homes are also more likely to be situated in toxic environments.

Self-harming behaviour and suicide

Self-harming behaviour constitutes violence against self. It tends to be associated with adolescents rather than younger children and reported cases are often concentrated among adolescents in a particular school or area.

The NIMSS data of 2008 shows that suicide rates, as confirmed at inquest, are highest in the age group of 15 to 29 years. However, of the 3,125 suicides recorded by morgues across the country who participate in the NIMSS, 40 cases involved children between the ages of 10 to 14. No suicides were recorded for children younger than 10 years in this year.

The 2008 National Youth Lifestyle Study found that 5% of youth aged 12 to 22 years had seriously considered suicide in the 12 months preceding the study. Of these youth, 26% had attempted suicide two to three times and 6% attempted suicide on four or more occasions. Parental substance abuse, marital problems, peer pressure and poor academic achievement have all been implicated as risk factors for suicide in children.

Risk factors for violence against children in the home and family

Research suggests that financial difficulties, family stress, unemployment, parental depression, parental drug and alcohol abuse, as well as family violence all contribute towards a scenario that makes children more vulnerable to violence within the home. These risk factors do not cause violence, but instead indicate an increased likelihood that violence will be present.

Family poverty

Poverty and unemployment are widespread in South Africa. Financial stress may increase the likelihood of violence against children in the home. Fathers, in particular, may feel anger and frustration at not being able to provide for their family, as this is seen as part of the traditional masculine role. Meanwhile, economic dependence on men makes it difficult for many women to leave their abusive partners.
Poor families are often forced to live in overcrowded conditions, which results in children sharing sleeping spaces with sexually active adults. In doing so, they inevitably become aware of sexual activity. These arrangements place children at risk of sexual abuse by adults or older children in the home. Poverty is also linked to child injuries due to the lack of adequate safety provisions in the home and in the community. In addition, parents often work long hours in low-paying jobs while children are left unsupervised for portions of the day due to a lack of after-school programmes.

Social norms and values
Social norms and values that place children in a subordinate position in the home can contribute to violence. Adults may use violence to exert their power over children. Patriarchal values that suggest that men have biologically-driven sexual needs that they cannot control create a sense of sexual entitlement among men which places children at risk of sexual abuse.

Social expectations can also serve to prevent women reporting abuse. For example, a woman may believe that her femininity is called into question when her partner sexually abuses the child in the home and may therefore remain silent about the abuse of the child.

Intimate partner violence
The rate of domestic violence is extremely high in South Africa. There is evidence to suggest that children who are exposed to physical violence directed at their mothers often display the same psychological distress as children who are themselves abused. Further, children in violent homes are at greater risk for physical abuse, as the co-morbidity between domestic violence and child abuse has been found to be close to 40%. In addition to direct violence against children that is linked to intimate partner violence, close to 50% of head injuries in children have been found to occur when the children were caught in the crossfire of adult violence.

Characteristics of parents and carers
A lack of parental involvement in a child’s life as well as the absence of supervision and monitoring act as risk factors for violence being perpetrated against children by household members as well as individuals from outside the home. There is also evidence to suggest that prior history of abuse during childhood makes parents more likely to abuse their own children.

Child injuries have been linked to substance abuse by parents, as the abuse affects the level of supervision and monitoring. South Africa has very high levels of substance abuse. This includes high levels of alcohol abuse among pregnant women resulting, among others, in low birth weight, small body size, withdrawal symptoms, increased risk of sudden infant death syndrome and a range of mental and physical disabilities.

South Africa has one of the highest rates of foetal alcohol syndrome in the world. In the Western Cape 46 in every 1 000 births has been found to involve a full-blown case of foetal alcohol syndrome.
3. VIOLENCE AGAINST CHILDREN IN THE SCHOOL
Children spend large portions of their day and their formative years in schools. The adults within these environments have a duty to care for and protect the children who are entrusted to their care. However, violence has become a part of everyday life in some schools. A national study on school violence conducted in 2008 found that 15% of learners (approximately 1.8 million children) had experienced some form of violence while at school.

While peers tend to be the main perpetrators of violence in the school environment, adults also account for some of the violence. In primary schools, 9% of principals reported physical abuse of children by their educators and 2% reported sexual violence perpetrated by educators. In secondary schools the percentage stood at 25% of principals. It is likely that these figures under-report the true prevalence as principals would not know about all incidents.

**EXTENT AND NATURE OF VIOLENCE IN THE SCHOOL SETTING**

**Sexual abuse**

An estimated one in five cases (21%) of sexual assault in the country occurs in the school setting. The National School Violence Study revealed that 1% of primary school learners and 3% of secondary school learners had been forced to engage in sexual behaviour while at school. Reported rates of sexual abuse were higher for Limpopo than for other provinces. Similarly, the 2005 National Youth Victimisation Survey found that children living in rural areas were most likely to report being sexually assaulted within the school setting.

Studies generally indicate that girls are at higher risk of sexual abuse than boys. However, the 2008 study found that more boys (2.5%) than girls (0.2%) reported sexual abuse in primary schools. At secondary school level, in contrast, girls reported significantly higher levels of sexual abuse (4.8%) than boys (1.4%).

At primary school level, a quarter (25%) of learners who reported sexual assault experienced this type of violence on two occasions, while 22% experienced it on three separate occasions. Nearly one in five (19%) of the secondary school learners experienced sexual assault on two occasions at school, while a third (33.8%) experienced it on three occasions.

Only just over a half (56%) of the secondary school learners reported the incident. Of those who did not report it to anyone, 34% did not think it was important to report, 19% were too embarrassed to report it and 17% were too scared. Many of those who thought it not important enough to report could have been socialised to accept such behaviour.

Many of the perpetrators of sexual abuse, especially among older children, are their peers. Thus one study found that peers were implicated in 61% of cases of unwanted touching among high school students. Similarly, 62% of cases of unwanted sexual intercourse involved peers. Another national South African study found that a third of perpetrators of rape were educators. At least some of these sexual encounters between learners and educators are transactional in nature. Particularly in circumstances of poverty, learners may engage in sexual acts with
educators in exchange for money or goods. Alternatively, sexual acts are exchanged for improved marks or learners may be threatened with physical punishment if they do not comply with sexual demands.

Regardless of whether the learner is over the age of consent (16 years old) according to the law, sexual acts between educators and learners are in contravention of the Employment of Educators Act (No. 76 of 1998). In addition, the South African Council of Educators Act (No. 31 of 2000) states that when an educator has been dismissed due to sexual abuse of a learner they are to be deregistered as educators and may no longer be employed as education providers. However, while all educators are legally obliged to report all abuse of which they are aware, this does not always happen. The silence then appears to condone abuse in the school setting.159

Sexual violence and exploitation in schools, as in other contexts, infringes on human rights. However, sexual abuse of children in the school further infringes on a child’s right to education. In particular, violence can result in learners – and girls in particular – feeling forced to leave school.160 The common law concept of in loco parentis implies that educators have a role that includes the duty of care. This encompasses the obligation to look after learners’ physical and mental well-being while they are in the school environment.161

**Corporal punishment**

“I support the Global Initiative to eliminate all corporal punishment at home, at school, in institutions and community... Violence begets violence and we shall reap a whirlwind. Children can be disciplined without violence that instils fear and misery, and I look forward to church communities working with other organisations to... make progress towards ending all forms of violence against children. If we really want a peaceful and compassionate world, we need to build communities of trust where all children are respected, where home and school are safe places to be and where discipline is taught by example.”

Archbishop Emeritus Desmond Tutu

The South African Schools Act (No. 84 of 1996) prohibits the use of corporal punishment within educational institutions. However, the 2005 National Youth Victimization Survey and 2006 National Youth Offending and Resilience Study found that just over a half of respondents reported corporal punishment at school (51% and 56% respectively for the two studies).162 Males and females were equally likely to report physical punishment.163 The 2008 National School Violence study found that primary school learners (70%) were more likely to experience corporal punishment at school than secondary school learners (47%).164
Northern Cape had the highest level of corporal punishment in primary schools and Free State had the highest level of corporal punishment at secondary school level (see Figure 6). Corporal punishment was more common in schools in rural areas (64%) than in those in urban areas (43%) and metropolitan areas (36%). In a study in Gauteng between 2005 and 2006, 80% of interviewees said that educators regularly meted out corporal punishment. More than half of the learners (53%) were unaware that corporal punishment was illegal. Another study found that a third of child respondents supported the use of physical punishment at school. The same study found that educators and principals with higher levels of education were more likely to make use of non-physical forms of punishment such as additional learning tasks, while those with lower levels of education were more likely to favour physical forms of punishment.

Young incarcerated males were more likely than non-offenders to have been physically punished by teachers or principals for misbehaviour (73% compared to 56%). Similarly, offenders were twice as likely as non-offenders to have been threatened, scared, harmed or hurt while at school (26% and 11% respectively) and to have been forced to do something at school that they felt was wrong (13% of offenders compared to 4% of non-offenders). These findings suggest a close relationship between victimisation at school and later offending and anti-social behaviour.

**Bullying**

A study conducted in Cape Town and Durban found rates of bullying in schools of 41% and 33% respectively. A study in the Eastern Cape Province found that one in ten (13%) educators reported that bullying amongst learners was rife.

Bullying consists of intentional aggressive behaviour that involves a disparity of power or strength. Bullying occurs when another learner or group of learners repeatedly subjects a learner to negative behaviour.

The 2008 National Youth Lifestyle Study found that 18% of learners had been verbally teased or insulted by someone at school. Bullying was a somewhat more common experience for boys (21%) than girls (15%) (see Figure 7).

Bullying, harassment and teasing have been found to be more common among men who reported that they had ever raped someone. One study found that more than half (54%) of self-reported rapists had experienced some kind of bullying themselves, while two in five (40%) had teased or harassed others in their childhood. Again, this speaks to the cycle of violence created by childhood exposure.

**RISK FACTORS FOR VIOLENCE IN THE SCHOOL**

Community-level factors can contribute to the risk of violence in schools. For example, the presence of gangs at schools and in surrounding areas where the school is situated increases the risk of exposure to violence both in the school and in the community. Gang activities (including violence) may also spill over into the school when learners themselves are affiliated with gangs. In high-income areas, parents can contribute towards increasing the safety of the children by providing funds for employing guards and installing physical barriers and sophisticated security systems. This is not the case for schools serving poorer areas.
4.

VIOLENCE AGAINST CHILDREN IN THE COMMUNITY
In the 2008 National Youth Lifestyle Study, 50% of youth interviewees reported that they had at some point witnessed someone in their community intentionally hurting another person. Similar numbers described their neighbourhoods as having lots of fights (54%) and lots of crime (50%) and more than a quarter (26%) felt unsafe in their community.176

SEXUAL ABUSE

One in five (21%) of cases of sexual assault reported in the 2005 National Youth Victimisation Survey were reported as occurring in residential streets. Children living in metropolitan areas were most likely to report sexual assault in this setting.177 Nearly a third (30%) of perpetrators of sexual assaults were said to be perpetrated by known community members.

CHILD HOMICIDE

Over the period 2006/07 to 2010/11, the number of child murders in South Africa varied between 843 and 1 015 per year while the number of attempted murders ranged from 782 to 1 113. More than half of all child murders (55%) and attempted murders (60%) in 2010/11 involved children aged 15–17 years.178 However, younger children also fall victim to homicide.179

Many child murders result from sharp force and firearm injuries, highlighting the brutal violence used against children. In 2008 children under the age of one year and those aged 15 years and above were most at risk of murder using sharp force or firearms.

A national study on child homicide based on mortuary and police data found that 1 018 children were murdered in 2009 in South Africa.181 This translated into a child homicide rate of 5.5 per 100 000 children. Children under five years and those aged 15–17 years are most likely to be murdered, and the male child homicide rate of 6.9/100 000 was nearly double the female rate of 3.9/100 000. However, rape or sexual assault was suspected in 25% of girl homicides compared to 1.5% of boy homicides. Nearly half (45%) of the child homicides were due to child abuse and neglect, with 74% of the child abuse fatalities involving children aged 0–4 years.

GANGS

In South Africa, children as young as 11 or 12 begin to be involved in gang activities.182 Children may begin by selling drugs on behalf of gangs and may progress to violent behaviours in order to meet the demands of the gang.183 In a schools survey of children in Manenberg in Cape Town, which is notorious as a gang-infested area, nearly half of the boys surveyed had held a loaded gun compared to over a quarter of girls.184 Close on a third of the boys (32%) knew where to buy an illegal gun, as did 22% of the girls.

Lack of access to leisure activities in the community or school is one reason offered as to why children were attracted to gangs.185 In addition, gang leaders – who in some cases are linked to wider organised crime and drug-related networks – often sponsor youth activities and sport teams. This results, among others, in gang leaders being seen as role models due to their contribution to the community. Vulnerability to gang involvement tends to be particularly strong when families are dysfunctional as gangs provide a surrogate family and sense of belonging.
VIOLENCE AGAINST CHILDREN WITH DISABILITIES

Estimates of the extent of disability among South African children vary widely, including because of differences in definitions and instruments used for assessing disability. In addition, differing levels of knowledge about disability will mean that disabilities may be undetected in some settings. In 2006, one estimate put the prevalence of disability among children under the age of 9 years at between 5.2% and 6.4%. This yields a total of approximately one million children with disabilities in South Africa.186

Retrospective analysis of children presenting at the Teddy Bear Clinic in Johannesburg found that children with disabilities had a higher prevalence of neglect, physical abuse and sexual abuse than other children.187 For example, children with disabilities had a 10% prevalence rate for physical abuse compared to 6% of other children, while neglect was found in 23% of children with disabilities compared to 13% of other children. Children with disabilities were also substantially more likely to be sexually abused than other children.

Children with disabilities are easy targets for abuse because they may be less able to report the abuse and often have lower self-esteem than other children, are less able to defend themselves and are more dependent on, and thus perhaps trusting of, adults.188 Children with disabilities also generally have a profound wish to be accepted by others and may crave physical affection especially if they are neglected. This adds to their vulnerability.189 Children with physical or mental disabilities may be reliant on adults for assistance with their personal care, which involves considerable contact with their bodies. Potential offenders may use this as an opportunity to abuse children and the abuse can remain concealed as it forms part of an everyday care routine. Changes in behaviour which result from abuse and which may bring abuse to the attention of adults are also often attributed to the disability without consideration being given to the possibility of abuse.

VIOLENCE AGAINST SEXUAL MINORITIES

South Africa was the first country in the world to have a Constitution that prohibits discrimination on the basis of sexual orientation. However, homosexuals continue to face discrimination and violence. The phenomenon known as “corrective rape” involves attackers (usually family members, friends or neighbours) raping a homosexual woman to “correct” her homosexual tendencies. There have also been cases where children of lesbian mothers are raped in order to teach the mother a lesson.190

Gay and lesbian children experience discrimination and lack of tolerance in the school context from peers, educators and other adults. In a study conducted in 2003, 71% of homosexual females reported experiencing rude comments, jokes, discrimination, harassment, violence from peers, threats from parents, loneliness and fear, while 73% of males reported threats of physical violence, physical abuse and feeling that they had nobody to turn to or could trust.191

CULTURAL AND TRADITIONAL PRACTICES THAT ARE HARMFUL TO CHILDREN

Culture is a source of social identity and provides individuals with specific meanings for behaviour and social relationships in their daily lives.192 However, while beneficial to its members, cultural practices can at times be harmful and undermine dignity, especially of women and girls. This section briefly describes some of the potentially violent traditional practices that can affect children.

The African Charter on the Rights and Welfare of the Child, which has been ratified by South Africa, states that State parties are required to “… take all appropriate measures to eliminate harmful social and cultural practices affecting the welfare, dignity, normal growth and development of the child and those customs and practices prejudicial to the health or life of the child.”193

Virginity testing

Virginity testing is used to control the sexuality of girls.194 It involves a physical examination by an older woman in the community to find out whether a girl’s hymen is intact by inserting a finger into the vagina.195 The testing practice is traditionally used to bargain for a high bride price (lobola). The practice has to some extent been revived as it is seen as helping to prevent the spread of HIV and AIDS and early pregnancy as well as identifying girls who are being sexually abused.

However, at times, hygienic standards are not maintained. The practice is also considered discriminatory as it is
directed only at girls and undermines their dignity and bodily integrity.

Section 12(4) of the Children’s Act prohibits virginity testing of girls under 16 years. Virginity testing of older children can, however, be performed provided that consent is given by the girl. Section 12(6) stipulates that the results of the test may not be made known without the consent of the girl and section 12(7) outlaws any marking of the body of a child who has undergone the testing. However, traditional leaders and women who conduct the tests continue to practise the test outside of these laws.

**Ukuthwala**

*Ukuthwala* (meaning “to carry”) is a traditional practice – in particular in Xhosa-speaking communities – that occurs prior to some customary marriages, where a young man takes a young woman to his home by force. This is intended to force the woman’s family to enter into negotiations with the man and his family with regard to a customary marriage. Traditionally, the woman consented to this and the practice of *ukuthwala* served as a staged abduction by the couple to gain her parent’s permission to marry.196 However, the practice has recently been used to force marriage of young girls to older partners against the girl’s will. In 2009, it was reported that 20 girls in the Eastern Cape were forced to drop out of school every month to follow the tradition of forced marriage, with girls as young as 12 being forced to marry older men (at times 60 years old).197

The practice is illegal in that section 12(2) of the Children’s Act states that a child below the minimum age set by law for a valid marriage may not be given out in marriage or engagement; and that a person above that minimum age may not be given out in marriage or engagement without their consent. Section 3 of the Recognition of Customary Marriages Act (No. 20 of 1998) states that the prospective spouses must be above the age of 18 years and must both consent to the marriage.

**Male circumcision**

In South Africa, more than a third (35%) of males are circumcised.198 Circumcisions occur for a range of reasons, including medical and religious reasons and personal preferences. Muslim and Jewish boys are usually circumcised as infants, while some African cultures view male circumcision as a rite of passage that prepares the individual for the transition into manhood. In these cases, the circumcision is performed on older adolescents or young adults (usually those aged 15–25 years).199

A national study found that only 22% of African young men who were circumcised had the procedure done in a hospital setting.200 Beyond hospitals, in 2007 there were 4 816 legal initiation schools and a known 420 illegal schools in the Eastern Cape province.201 More than 12 500 initiates attended legal schools that year, while 1 460 attended illegal schools. Illegal initiation schools are a major concern due to the risk of botched circumcisions.202, 203

In 2001, the Eastern Cape, which has the highest number of traditional circumcisions, passed the Application of Health Standards in Traditional Circumcision Act. This law aims to decrease the number of casualties by establishing a clear and strict framework for the practice. This includes parental consent if the initiate is under the age of 21, a medical examination prior to the operation, certification of the surgeon and nurse, cleanliness of instruments and inspections.204

Further, section 12 of the Children’s Act specifies that circumcision of male children under the age of 16 is prohibited, except when it is performed for religious or medical purposes. Circumcision of male children older than 16 may only be performed if the child has given consent and been given proper counselling.

The Eastern Cape Act has resulted in the arrest and prosecution of several traditional leaders whose actions resulted in the mutilation or death of young men.205 Despite this important legislation, hospital admissions, mutilations and deaths from botched surgeries seem to be on the rise (see Table 3).

<table>
<thead>
<tr>
<th>Year</th>
<th>Hospital admissions</th>
<th>Mutilations</th>
<th>Deaths</th>
</tr>
</thead>
<tbody>
<tr>
<td>2007</td>
<td>329</td>
<td>41</td>
<td>24</td>
</tr>
<tr>
<td>2006</td>
<td>288</td>
<td>5</td>
<td>23</td>
</tr>
<tr>
<td>2005</td>
<td>288</td>
<td>9</td>
<td>23</td>
</tr>
<tr>
<td>2004</td>
<td>118</td>
<td>3</td>
<td>14</td>
</tr>
</tbody>
</table>
Despite the dangers, due to the stigma attached to non-completion of the ritual, parents may prevent their children from being removed from the initiation school and admitted to a health care facility when complications arise. Initiates themselves may refuse outside intervention. Moreover, traditional initiation schools outside of secluded areas may result in stigma and a lack of respect, perhaps because the initiation may be seen as easier or not traditionally sound. Further, a study that investigated community perceptions of traditional circumcision found that only 17% were aware of the risks associated with the procedure.

Female genital mutilation, also known as female circumcision or cutting, refers to any unnecessary modification of the normal female genitalia without any medical benefit to the patient. The practice occurs in approximately 28 African countries as well as in some Middle Eastern and Asian countries and affects 136 million females globally. Complications as a result of the procedure can arise and can cause severe pain, shock, bleeding, infection and injury as well as long-term consequences such as infertility, bladder infections, cysts, childbirth complications and death. The practice is rare overall in South Africa, but it has been reported in some immigrant communities and is found in particular local areas. It is unclear how many girls in the country are affected.

Use of body parts for traditional medicine

The Human Rights League in Mozambique studied trafficking of body parts in both Mozambique and South Africa. This study was based on first-hand accounts of police officers or eye-witnesses rather than on hearsay, as was common for previous reports on this topic. Of the 327 interviews conducted as part of the study, 213 related to personal, eye-witness accounts. In the second 10-month research phase spanning 2009 and 2010, the research team heard eyewitness accounts in respect of 26 separate mutilations.

The study found that in most cases body parts were not trafficked for transplant purposes. Instead, the majority of interviewees believed that body parts were either sold or used for activities relating to witchcraft, muti or other traditional practices. The muti uses included creation of medicines that were claimed to heal illnesses, boost economic prosperity or hurt one’s enemies. The study found that one in four of the South African interviewees believed that body parts can make traditional medicine more effective.

Most often body parts are removed from living persons as this is thought to enhance their power. At times, the intention may not be to kill the individual directly but the individual is likely to die as a result of their injuries from having body parts removed. Other times, the individual is killed prior to body parts being removed.

Most victims of muti murders are children. There are two reasons for this. Firstly, children are weaker and less able to defend themselves against such attacks. Secondly, because they are young, they are believed to have used very little of their good luck and health which means their body parts are considered to be more powerful than the body parts of adults.

Current legislation makes it difficult to prosecute cases due to the difficulty in tracing the body parts to the victim, particularly since body parts are often transported long distances from the mutilated body. The Human Tissues Act (No. 65 of 1983) appears to be the only legislation in place that speaks directly to the use of body parts. The Act forbids the sale of human tissue but does not acknowledge the use of body parts for traditional practices.

Cyberbullying

Cyberbullying is defined as any type of harassment or bullying, including teasing, telling lies, making fun of, making rude or mean comments, spreading rumours, or making threatening or aggressive comments that is effected via information and communication technologies. The technology used could include text messages, pictures or video clips via mobile phone cameras, phone calls, e-mails, chat rooms, instant messages, websites and blogs, social networking sites or internet gaming.

In separate studies, the Centre for Justice and Crime Prevention and Nelson Mandela Metropolitan University found that over a third of young people had experienced some form of cyber aggression (37% in the Centre for Justice and Crime Prevention study and 36% in the Nelson Mandela Metropolitan University study). The Centre for Justice and Crime Prevention found that the figure increased to nearly half of all respondents (47%) when harassment via the telephone was included in analysis. Cyberbullying was most commonly perpetrated via voice calls (28%) and text messages (26%) and was more likely to affect girls than boys.
Many young people in the Centre for Justice and Crime Prevention study also admitted to being perpetrators of cyberbullying. 18% admitted to bullying someone via text message, 17% had bullied someone via phone calls, 12% via chat rooms, 12% via instant messaging and 9% via video/photos. 218 Seven out of ten (70%) of those who admitted to cyber bullying someone had themselves been bullied.

Apart from cyberbullying, children’s use of information and communication technology presents a range of other risks that include sexual solicitation by adults and exposure to harmful content such as violence, pornography and websites that incite hate towards groups of people.

**RISK FACTORS FOR VIOLENCE IN THE COMMUNITY**

Inadequate resources, infrastructure and services can contribute to higher levels of violence in communities. In addition, community tolerance of violence socialises children into violent behaviours. Some argue that the media also contributes to the social acceptance of violence especially if, for example, perpetrators are shown in a positive light with little attention paid to the victim or consequences. Further, violent male role models in films and music videos could encourage boys to exert their masculinity in aggressive ways. 219

Easy availability of alcohol and weapons also encourage violence. In the 2008 National School Violence Study, 64% of secondary school children said that it was easy to obtain alcohol in their neighbourhood. 220 In terms of weapons, 62% of secondary school learners said that they could easily get a knife and 18% of secondary school learners and 11% of primary school learners said that they could easily get a gun.

5.

VIOLENCE AGAINST CHILDREN IN THE CARE AND JUSTICE SYSTEMS
The Children’s Act and Child Justice Act (No. 75 of 2008) are the laws providing for care and protection of children. These laws afford a South African child the right to be protected from any form of maltreatment, abuse and neglect. This includes provision for removal of a child to alternative care if they suffer neglect or abuse in their home environment and if such removal would be in their best interest.

Children are often placed in care centres as a means of removing them from the violence in their homes or because they are neglected, abandoned or orphaned. Others are placed in these centres because they are in conflict with the law.

In 2010, there were 345 registered child and youth care centres which under the Child Care Act would have been registered as children’s homes, places of safety or shelters. The children’s homes, which are by far the most common type, provide longer-term residential accommodation to children who have been abused, abandoned, orphaned or unable to live with family for other reasons. The places of safety are intended for temporary placements while the child is waiting for the courts to order a longer-term placement. The shelters mostly target children living and/or working on the streets. The 2010 audit commissioned by UNICEF did not cover secure care centres, reform schools of schools of industry. Reform schools (which cater for sentenced children referred by criminal courts) and schools of industry (which cater for children referred for care and protection by children’s courts), currently fall under the Department of Education. The Children’s Act provides for them to be transferred to Social Development by 1 April 2012, but this process has not yet been completed.

Individual information was collected in respect of more than 13,000 children who were accommodated at the child and youth care centres at the time of the 2010 audit. Of these children, 45% had been placed in the centre on account of abandonment or neglect, 14% on account of abuse and 14% because they were orphaned. The remainder were placed for other reasons. In the South African context, orphanhood is generally understood to include children whose mother and father are both deceased as well as those (“maternal”, and sometimes also “paternal” orphans) for whom only one parent is known to be deceased. This approach is used given the large numbers of children for whom the father is unknown or has played a minimal role in the child’s life. The number of orphaned children in South Africa was estimated to be 3 million in 2010, of whom 2 million were orphaned due to AIDS.

A recent survey of unregistered residential facilities for children found more than 100 unregistered facilities across six provinces that fit the criteria for a child and youth care centre. Children were placed in these facilities for similar reasons to those found in the registered centres. Thus, 45% were placed in the unregistered facilities on account of abandonment or neglect, 21% because they were orphaned, and 12% because they were abused. Over two-thirds of the centres had attempted to register with the Department of Social Development as a child and youth care centre. The main reason provided as to why they were not yet registered was that they were awaiting the results of the application.

While such centres and facilities provide accommodation for many orphans, they are by no means the most common sites of alternative care for such children. A large proportion of orphaned children live with family members and in particular with grandparents. Large numbers of these children are in foster placements with relatives, while others have not gone through the foster placement process but instead have been taken in by family in accordance with long-standing community practice.

The total number of foster grant recipients as at February 2012 was 524,378. In 2007, 41% of the foster child grants were paid to grandparents, 30% to aunts, and only 12% to non-relatives. Foster placements are a form of alternative care in terms of the Children’s Act in that these children are placed by the courts and are thus wards of the state. However, the children are in a non-institutional form of alternative care.
VIOLENCE AGAINST CHILDREN IN SOUTH AFRICA

CHILDREN LIVING IN CARE FACILITIES

Section 28(b) of the Constitution of South Africa provides that every child has the right to family or parental care “or to appropriate alternative care when removed from the family environment”. Residential (or out-of-home) care is considered a last resort for children once all other efforts to provide children with a stable family life have been exhausted.

Internationally, out-of-home facilities are seen as a form of care in which violence and abuse can abound as a result, among others, of negligence by authorities, poorly resourced centres, overcrowding and poor living conditions alongside abuse by staff. Other child residents of the facility can also be a source of violence, especially if the child perpetrators have themselves previously been subjected to violence and abuse.

The findings of the 2010 audit of child and youth care centres suggested that this was not the common picture in South Africa. For example, 88% of centres had clear written procedures for complaints, 95% had procedures for reportable incidents, 93% had a health register, and 92% had supervision records for each child and youth care worker. The Children’s Act also provides for a Child Protection Register, and the names of all staff working in these facilities are checked against this register to ensure that no person known to have abused children is employed. These measures do not, however, ensure that no abuse occurs.

The limited resources of care facilities might also mean that they do not provide for the basic needs of children. When resources are constrained, centres may also not be able to provide adequate services and programmes. The South African audit and survey suggested that limited funds resulted in under-staffing and poor pay of those who are employed. This, in turn, can mean that staff members are not adequately qualified, stressed, and less able and willing to provide the care needed.

Registered child and youth care centres are entitled to a government monthly subsidy. However, the 2010 audit found that the amount paid varied from province to province and by type of centre. In particular, shelters received a lower subsidy than other types of centres. Further, over half (53%) of centres reported that the subsidy had been paid late over the past 12 months.

The audit also revealed that nine of the registered centres did not have separate sleeping areas for boys and girls despite catering for both sexes, 13% did not have an indoor recreation area and 8% did not have an outdoor recreation area.

In terms of staff, the Department of Social Development’s norms and standards require that there should be one child and youth care worker on duty for every eight children. Over a third (36%) of the registered centres did not reach this ratio of child and youth care workers to the number of children that they were registered to accommodate even before taking into account the number of staff on duty at a particular time. Mpumalanga, North West and Northern Cape had the largest proportions of centres with insufficient child and youth care workers.

In terms of provisions for children in trouble with the law, during the apartheid era, corporal punishment was the single most prevalent technique used to discipline children and was also used as a form of sentencing. Further, there was a commonly held societal belief that children who commit an offence should receive the same punishment as their adult counterparts, and capital and corporal punishment were handed out as sentences to children as well as adults. The use of corporal punishment in the judicial system was prohibited in 1997, with the implementation of the Abolition of Corporal Punishment Act (No. 33 of 1997), after the Constitutional Court case of S v Williams struck down corporal punishment as a sentence on children in 1996.

However, the Child Justice Alliance has documented a number of cases involving the George Hofmeyer School of Industry in Standerton where children were verbally and psychologically abused to such an extent that authorities considered it to be torture. The children concerned were threatened with regard to academic progress and even expulsion from school, exposed to verbal maltreatment and called humiliating names by staff, denied family visits and telephone phone calls from family members, and controlled through physical restraint where the principal and teachers sat on the children resulting in at least one serious case of injury. In addition, children were punished if they had homosexual tendencies and severely punished for the most menial violation of the facility’s often arbitrary rules. In another example, various abuses and physical neglect of children in the JW Luckoff School of Industries were the subject matter of a High Court case.

Looking beyond child and youth care centres, since the coming into operation of the Child Justice Act in 2009,
children should be incarcerated only for serious crimes as the new approach favours diversion at the pre-trial stage. Further, if children are convicted, non-custodial sentences are to be considered before resorting to custodial options.

According to the Constitution, imprisonment is a measure of last resort, and should be for the shortest appropriate period of time. Thus, as with detention in child and youth care centres, detention of children is considered a last resort. Further, when children are detained, this should be for the shortest time possible and the children should be held separately from adults.

**Diversion** is defined as “a process through which children are ‘diverted’ away from the criminal justice system on certain conditions such as attending a specified programme. If a child acknowledges responsibility for the wrongdoing, he or she can be diverted to such a programme, thereby avoiding the stigmatising and even brutalising effects of the criminal justice system.”

There is no central register for children who enter diversion programmes. However, the National Institute for Crime Prevention and Rehabilitation (NICRO), which is the most important provider of community diversion programmes, reports that 24,055 children entered diversion programmes between April 2008 and March 2009.

In 2004, 41% of South Africa’s prison population consisted of young people under the age of 25 years. Of the young people aged 25 years and younger, half were incarcerated for aggressive crimes and approximately 13% were incarcerated for sexual crimes. In 2006, the Department of Correctional Services (DCS) reported that there were 2,729 unsentenced children in custody, 57% of whom were held in secure care facilities while the remaining 43% were in prison. In March 2012, 1,275 children aged 18 years and younger were incarcerated in the 13 Correctional Centres equipped for young people.

In 2006, Gauteng and the Western Cape accounted for the largest numbers of children in trouble with the law who were in prison, while such children were more likely to be found in secure care in KwaZulu-Natal and Eastern Cape (see Figure 9).

While both care and justice systems face similar difficulties in the form of overcrowding, poor conditions and insufficient and underpaid staff, children in conflict with the law are likely to experience violence to a greater degree because...
they are seen as anti-social or criminal. Children who are placed in detention centres or in the prison system are often at great risk of being victims of violence within these facilities. Possible sources of violence include security officers, police staff and adult detainees.242

In 2010, the Centre for Child Law represented the family at an inquest relating to a 14-year-old boy child who committed suicide whilst in police cells. This case suggests that self-harming is also an issue, but one that could be better addressed if there was adequate care and supervision in police cells, and if the conditions were not such as to encourage despair.243

South African legislation requires that children be transferred from police custody to child-friendly facilities and/or brought before the court as soon as possible to ensure their protection. However, the laws and policies are not always fully implemented. Further, while there are several specialised centres dealing with children in conflict with the law that are based on the ‘one-stop model’ so as to facilitate better access to services and improved communication between the different service providers, these centres cannot provide for all the children needing this type of integrated service.

Child detainees, by law, are not permitted to be placed with adult prisoners. However, at times, children may be placed in the same cells as adults. Further, resources may not allow for children to be transported to court separately from adults.244

The Centre for Child Law is currently suing several government departments for the rape of a child by an adult prisoner in Westville Prison which occurred in 2008. The child was awaiting trial on a charge of stealing short pants worth R49.99 and spent five weeks in prison. It was while he was with adults in the hospital section of the prison that he was raped.245

Children in justice facilities are also vulnerable to violence perpetrated by other children. Bullying as well as sexual and physical assault can occur, particularly when children are not separated by age, which allows older children to abuse younger children. In addition, these facilities can encourage criminal behaviour such as drug use and drug trafficking due to the children’s proximity to other offenders.246

Detained children are meant to have access to a Complaints and Requests Register.247 This is an internal complaints mechanism that allows children to report any human rights violations or violence inflicted by staff or other detainees. Children also have the right to lay a charge against any SAPS staff member who violates children’s rights. Senior police officers are meant to visit holding cells of police stations each morning and this provides a further opportunity for detainees to raise complaints.248 However, many of the detained children are likely to fear that using these mechanisms could result in further victimisation.

The Correctional Services Act (No. 111 of 1998) states that judges and magistrates have the authority to inspect prisons and police cells. There is also an Independent Prison Visitors System established in terms of the Correctional Services Act, which provides for access to all documentation on prisoners and allows for inspection of all sectors of prisons. However, these opportunities are not well utilised.249

SECONDARY VICTIMISATION OF VICTIMS OF VIOLENCE

The preceding discussion focused on violence experienced by children in trouble with the law. These are not the only children who may suffer violence within the justice system. A further important group of potential victims of violence within the justice system is those children who find themselves within the system as victims or witnesses in respect of crimes committed by others.

The US Government’s Assessment Report on gender-based violence in South Africa refers to the secondary victimisation suffered by some women and children when they attempt to report rape. It notes that they may be asked to provide their statements in front of other members of the public in police statements, may be disbelieved by police officers who might even refuse to take their statements, and may blame the victim for behaviour that the police officer feels encouraged the rape.

The report notes that in the worst cases police officers have themselves raped women reporting rape. It notes further that secondary victimisation of victims of gender-based violence may also occur within the health system and in court.250

Jonker and Swanzen refer to literature that shows that giving evidence is emotionally traumatic for a child and may in some cases result in inaccurate evidence. This is especially
the case when children must give evidence about intimate and emotion-laden events. Further, because of the adversarial nature of the court system, the defence will often do its best – sometimes aggressively – to attack the child’s credibility. This results in further trauma for the child.251

In some cases intermediary services are provided for child witnesses to try to avoid secondary victimisation. However, such services are primarily found in the main urban centres.

**RISK FACTORS FOR VIOLENCE IN CARE AND JUSTICE FACILITIES**

Lack of monitoring of children in facilities and lack of implementation of policies and compliance with norms and standards can result in children living in conditions with poor nutrition, hygiene or health care. Poor implementation of policies and laws can also put children at risk of violence by staff, police officials, adult detainees or other children.252 Lack of monitoring of children in diversion programmes means that these children, too, do not always benefit as planned.253

Internationally, violence in facilities is correlated with a low staff-to-child ratio, and children who are unsupervised and left alone for long periods of time have an increased vulnerability to being physically or sexually abused.254 Where staff members are poorly trained, the risks are increased as the personnel are more likely to feel overwhelmed and frustrated.
VIOLENCE AGAINST CHILDREN IN PLACES OF WORK
EXTENT AND NATURE OF VIOLENCE AGAINST CHILDREN AT WORK

South Africa’s Child Labour Programme of Action (CLPA) defines child labour as “work by children under 18 which is exploitative, hazardous or otherwise inappropriate for their age, detrimental to their schooling, or social, physical, mental, spiritual or moral development.”

On the one hand, this definition expands child labour beyond what is conceived of as labour for adults, i.e. work for monetary or other compensation. On the other hand, the definition restricts child labour to refer to work that is harmful, rather than seeing all work by children as problematic. Harm includes work that prevents children from attending school regularly, or from benefiting from studies because they have no time for homework or rest.

Labour force surveys are the standard instrument used to generate estimates on labour. However, these surveys are not able to capture all forms of child work and labour. In particular, a household survey is unlikely to capture illegal activities or activities about which household members feel shame. A household survey will also not fully capture activities that are mostly done by people who are not living in households, for example those living on the street.

As a signatory to the ILO’s Worst Forms of Child Labour (WFCL) Convention of 1999, South Africa committed to giving urgent attention to trafficking of children and other practices similar to slavery, commercial sexual exploitation of children (CSEC), and children used by adults to commit crime (CUBAC). The limitations of standard labour force surveys means that such surveys will not capture some forms of work that are considered to be WFCL.

An add-on module to the Labour Force Survey of the third quarter of 2010 included questions to capture those forms of child labour that can be captured by such a survey. The survey attempted to capture market economic activities where children were working as employees, as self-employed individuals or as unpaid workers in a family business; non-market economic activities such as collecting fuel and water and subsistence work; and non-economic work such as domestic chores and unpaid work at schools.

Overall, 784,000 children aged 7–17 years were found to be vulnerable on at least one of the indicators. Thus:

- 116,000 children appeared to be doing work prohibited by the Basic Conditions of Employment Act. For children 15 years or younger, this includes all employment-related work, irrespective of the number of hours. For children aged 16 or 17, it includes children working more than 40 hours in a week.
- 431,000 children appeared to be working excessive hours for their age when all types of work were combined. For children under 10 years, the cut-off was 14 hours per week, for children 10–15 years it was 21 hours per week, and for children 16 or 17 years, it was 21 hours per week for those attending school and 40 hours for those not attending school.
- For 11,000 children there were indications that school enrolment was affected by work.
- 36,000 children appeared to have been absent from school because of work-related activities.
- 290,000 reported having been injured at work or exposed to hazardous conditions.
Commercial sexual exploitation of children and child trafficking

South Africa’s Towards the Elimination of the Worst Forms of Child Labour Programme defined CSEC as “the use, procuring or offering of a child for prostitution, for the production of pornography or for pornographic performances.”

The Children’s Act (No. 38 of 2005) defines trafficking in relation to a child to mean the recruitment, sale, supply, transportation, transfer, harbouring or receipt of children, within or across the borders of the Republic —

- by any means, including the use of threat, force or other forms of coercion, abduction, fraud, deception, abuse of power or the giving or receiving of payments or benefits to achieve the consent of a person having control of a child; or
- due to a position of vulnerability;
- for the purpose of exploitation; and
- includes the adoption of a child facilitated or secured through illegal means.

There are no reliable and comprehensive statistics on the extent of CSEC and child trafficking. The International Organisation on Migration found evidence that South Africa serves as a source, destination and transit for international trafficking of children, but the samples used for this and other studies are small.

The differences in definitions of CSEC and child trafficking across studies exacerbate the problem of obtaining reliable estimates of the extent of these forms of child labour. The difficulty of obtaining reliable statistics and other information is further explained by the illegal nature of these activities, the stigma attached to these types of work, and the lack of systematic recording of reported cases by government and other agencies.

Reports on CSEC tend to focus on the more sensational incidents. They generally ignore transactional sex, although it fits within the definition of CSEC and is far more common than other forms of CSEC. South Africa’s Child Labour Programme of Action noted that the research on which it was based found that transactional sex was common among vulnerable children, and often occurred in circumstances where grants and other support were lacking. In these circumstances, the child often engaged in sex as a means of survival, or to obtain access to food, shelter, education or clothing. Transactional sex was thus included in South Africa’s definition of CSEC as a form of exploitation of the vulnerability of a child.

In reports on child trafficking there is also often limited attention to in-country trafficking where, for example, girls from rural areas are lured to urban areas with the promise of a job and find themselves in low-paid or unpaid domestic work.

Those who work with children involved in CSEC and child trafficking identify poverty and unemployment, HIV and AIDS, and abuse and dysfunctional families as key factors that “push” children into these forms of child labour. In addition, peer pressure, gangs and other forms of organised crime “pull” children into these activities.

Mturi and Nzimande found that children engaged in prostitution had high levels of exposure to being threatened with weapons, being threatened and chased by cars of clients, being physically harassed, being dropped at dangerous locations, and being raped. They report that children that experience violence in these circumstances are not adequately protected by the police force or the general public.

Children used by adults to commit crime

As noted above, CUBAC is identified as one of the Worst Forms of Child Labour. This category overlaps with children in conflict with the law, which was discussed in a previous chapter of this report. However, identifying this category of children as a form of child labour points to the particular factors that result in these children coming into conflict with the law.

The international literature and attention tends to focus on children used by adults for crimes related to drugs. Moreover, paragraph 11 of the International Model Guidelines for the effective Prosecution of Crimes against Children observes that children who engage in crime because they are forced to do so by others who profit from their actions should be seen as victims of exploitation rather than perpetrators.

In South Africa, with its high rates of general crime, children are used by adults in a much wider range of crimes. South Africa does, however, not have consistent record-keeping
that can provide estimates on the extent to which children in trouble with the law have been used by adults. Consultation with 420 children awaiting trial in secure care facilities in Gauteng and Western Cape and with 121 children in a secondary school in Gauteng highlights factors at home as among the main causes of children engaging in crime. In particular, poverty, poor parenting skills and problematic family relationships were often associated with crime. Use of drugs and alcohol were the second most commonly mentioned set of factors.

The children reported that adults involved them in crime through both direct and indirect means. In terms of direct means, they used children as accomplices to commit crimes. In terms of indirect means, children referred to buying stolen goods, showing them how to commit crime, and providing them with guns and other instruments that would assist in committing crime.

Children working on the streets

It is difficult to count the homeless population, but it is estimated that in Gauteng there are 3 000 children living or working on the street. Children living and sleeping on the streets are especially vulnerable to exploitation and child labour. Street children have been found to be involved in commercial sex work, begging for money, involving themselves in sales activities as well as committing petty and serious crimes. They are often forced to take part in child labour by others or do so in order to survive.

One can distinguish between children on the streets and children of the street. Children on the street work on the streets but live with their families, while children of the street are homeless and, thus, sleep and work on the streets. Children often end up on the streets due to parental divorce, poverty, parental neglect and past abuse. These children often come from extremely poor or violent home conditions and may perceive themselves as being better off living in the street than being at home.

Boys who participated in a children’s consultation on child labour provided a glimpse into the types of work accessible to them whilst living on the streets of inner Johannesburg. They mentioned dancing in discos, prostitution, cleaning, and selling clothes donated to them as some of the ways they made money. Other times, children work as car guards. Boys involved in this work report that they work without any guarantee that they will receive remuneration, they sometimes work on the streets with moving traffic, sometimes at night-time, and have to deal with dangerous car robbers whilst trying to protect the cars.

Many children on the street report difficulties related to schooling, including failure, harsh punishment, or an inability to attend schools due to their parents not having money to pay school fees or buy school uniforms. In addition, street children generally have poor access to health care services, with only 15% reporting access to a government hospital or clinic.

Employment-type labour

The Survey of Activities of Young People found that overall 25% of children aged 7–17 years had engaged in some form of economic work over the past seven days. The rates of engagement were very similar for girls and boys, but much higher for African children (29%) than for the other population groups (rates of 4% or less).

Only just over 1% of all children aged 7–17 years – about 121 000 in total – were reported to have engaged in market economic work over the past week. Of these:

- 41 000 were said to have done work for a wage, salary, commission or payment in kind.
- 30 000 were said to have run or done a business.
- 56 000 were said to have worked unpaid in a household business.

Among children who worked in production for the market, over half (58%) worked in trading activities. Over two thirds (68%) of employed girls worked in trade, compared to just under half (49%) of boys. A further 15% of children who did market-related work did so in private households, mainly as domestic workers.

Children producing and selling alcohol

The National Liquor Act (No. 59 of 2003) states that no person under 16 years of age may be employed in a licensed premise unless they are apprenticed or receiving some other form of training. However, not all businesses that sell or make liquor are licensed, especially shebeens.
A rapid assessment of children working in the liquor industry estimated that the number of children working in shebeens could be somewhere between 165,000 and 250,000. This includes children who work in family shebeens that are run from or next to their dwellings. Both the children and their parents may see this work as part of household chores. This is especially the case with younger children where the work is likely to involve tasks such as cleaning.

Children involved in this work are vulnerable to sexual and physical abuse by a drunken clientele. Their health is also likely to be affected to the extent that the work encourages the children themselves to use – and abuse – liquor.

**Non-market economic work**

Non-market economic work is work that produces goods that are not sold on the market, but are instead consumed by the household. The most common form of this work in South Africa is collection of fuel and water. In 2010, a quarter (25%) of all children aged 7–17 years reported collecting water for household use and 11% reported collecting fuel. The other relatively common activity was subsistence farming, with 7% of children reporting having done some of this type of work over the past twelve months. Boys were slightly more likely than girls to report farming activities, while girls were more likely than boys to report fetching fuel and water (4 and 2 percentage point differences, respectively).

A rapid assessment conducted in selected sites in Western Cape, KwaZulu-Natal and Mpumalanga in 2007 found higher levels of engagement of children in both commercial and subsistence farming in these sites than suggested by the national surveys. The rapid assessment survey was administered to children aged 12 to 16 years attending schools in each of the areas. Close on half (45%) of the children surveyed across the three areas engaged in farming activities – 50% in commercial farming and 35% in subsistence farming. This profile is explained in part by the fact that more than half the sample of children was from the Western Cape site.

Work in commercial agriculture tended to be more hazardous than subsistence work. However, across the three sites, informants said that the use of child labour had reduced as a result of improved enforcement of labour laws, as well as the introduction of a minimum wage for agricultural work.

Most children were also doing a range of other work-type activities, including household chores, in addition to their agricultural work. In Mpumalanga, children were also commonly required to work in school gardens.

Poverty emerged as the primary cause of children engaging in agricultural work. This was the reason most commonly provided by teachers, while parents were more likely to refer to the children’s duty to support the family. Employer farmers highlighted both cultural practices and the fact that the work contributed to the well-being of the families.

**Household chores**

Unpaid work in the home doing basic chores is the most common type of child work. This work is not necessarily detrimental as it can teach children useful skills and allows them to contribute to the household. However, household chores become harmful and constitute child labour if they involve over-long hours and, in particular, if they interfere with a child’s school going and studies.

In the Labour Force Survey of the third quarter of 2010, more than four-fifths (81%) of children aged 7 to 17 years were said to have done at least one household chore over the past week. Girls (84%) and black children (84%) were more likely than boys (79%) and white children (46%) to have done so. Of the children who did chores, 4% spent more than 15 or more hours in the week on these activities. This percentage ranged from 2% of children aged 7–10 years to 6% for children aged 15–17 years.

**RISK FACTORS FOR CHILD LABOUR**

Poverty is the primary risk factor for child labour. For many South African children, working on farms or in other sectors is a means of obtaining an income that ensures their own survival as well as that of their parents and younger siblings. The HIV and AIDS pandemic and the associated loss of other income-earners is an added factor encouraging work by children. Other children may be encouraged to work by delinquent peers or do so to escape the abuse they suffer at home. Some children are also forced into labour by adults in a quest for profit.
7.
THE CONSEQUENCES OF VIOLENCE AGAINST CHILDREN
THE IMPACT OF VIOLENCE THROUGHOUT THE LIFESPAN

Exposure of a young child to violence affects the normal development of trust and exploratory behaviours that leads to autonomy in children. Older children who are exposed to violence may worry about what they could have done to cause the violent behaviour or to prevent being a victim. This erodes self-esteem and may lead to social isolation. Both direct and indirect exposure to violence affects children’s ability to relate to others and form healthy relationships, their performance at school and makes them vulnerable to victimisation as adults.

The National Youth Victimisation Study found that more than a quarter (28%) of young people in South Africa stated...

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<td>• Poor nutrition and lack of exercise</td>
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FIGURE 10: THE IMPACT OF VIOLENCE THROUGHOUT THE LIFESPAN
that they are most afraid of murder and a fifth (21%) stated that they were most afraid of rape and sexual assault. Thus, many young South Africans live in fear of the settings in which they live out their daily lives.278

Violent experiences during childhood create significant risk for mental health problems such as post-traumatic stress disorder, mood disorders and anxiety disorders. These may become worse during adolescence and can result in self-harming behaviour or even suicide. As a coping mechanism, children may engage in substance abuse or risky sexual behaviours or may display behavioural problems such as aggression. This places them and those around them at further risk of violence. Risky sexual activities can lead to teenage pregnancy and sexually transmitted diseases such as HIV and AIDS.

Figure 10 gives examples of the impact of violence – how it manifests – at different stages of the child life cycle and into adulthood. The figure does not reflect the way in which these impacts accumulate over time. So, for example, the impacts that manifest during a person’s infancy will be compounded if the individual encounters further violence later in childhood or in adulthood. There is also emerging medical evidence that exposure to violence during childhood can erode the telomeres that predict longevity.

Figure 10 also simplifies reality in that some of the impacts shown for a particular life-cycle stage may also be found in other stages. For example, as noted above in respect of toxic stress, post-traumatic stress disorder is not confined to adults.

**THE COST TO SOCIETY**

Violence against children imposes costs on society beyond those borne by the individual child and their family. On the side of government, costs are incurred for health care and by the criminal justice system as well as by further government agencies that are involved in investigating reports of maltreatment and placing children in alternative care. Costs are also incurred by the non-governmental agencies that provide care and support for the children and families, as well as by other community-level actors. Over the longer term, society bears the costs of lowered productivity resulting from the legacy of violence on workers who suffered violence in their childhood.

A social consequence of violence against children is that children who witness violence regularly tend to live with the assumption that violence is an intrinsic part of life and that it is an effective and acceptable means of conflict resolution. Violence is thus perpetuated as these individuals start their own families, as well as in the other aspects of their lives.

**PROTECTIVE FACTORS**

The impact that violence has on children varies substantially between different individuals. Factors that affect the impact include the severity, extent and duration of exposure to violence as well as the support and resources children have at their disposal to cope with violence.

In terms of protective factors, strong attachments with caregivers in their homes have a positive effect on children’s resilience to negative experiences. Similarly, strong bonds between adults and children in other settings, such as the school, create a buffer against risk factors. Further, the bonds that children establish with others in the family, school, peers and the community present children with norms, values and attitudes that guide and shape the child’s own beliefs and behaviours. These have positive effects when the norms are pro-social.

Family characteristics are also an important factor in children’s resilience. Non-violent homes, positive parenting skills, parental education, parental support and parental self-esteem act as buffers for children who are exposed to violence.

Protective factors at the individual level include high self-esteem, an internal locus of control, sense of humour, empathy, spirituality, easy temperament and good communication skills.

Involvement in recreational activities builds many of these individual protective factors in children.

As with other diagrams in the publication, Figure 11 simplifies reality in that there are linkages between the categories and across sites. In particular, social norms and traditions underlie many of the protective and risk factors. Further, mechanisms to voice grievances can serve to strengthen protective factors across the different sites.
**RISK FACTORS**
- Poverty and unemployment
- Gender inequality
- Inadequate government capacity to provide basic services

**PROTECTIVE FACTORS**
- Healthy communication patterns
- Family cohesion and support
- Strong attachment bonds

**BROADER SOCIETY**

**RISK FACTORS**
- Neighbourhood disadvantage
- Pro-violence attitudes
- Lack of infrastructure and services
- Availability of weapons

**PROTECTIVE FACTORS**
- Social support
- Strong community leaders
- Availability of support services and infrastructure

**COMMUNITY**

**RISK FACTORS**
- Lack of respect for learner rights
- Poor role models
- Poor school management
- Poor school bonding

**PROTECTIVE FACTORS**
- Supportive school environment
- After-school activities
- Zero tolerance approach to violence
- Positive role models

**SCHOOL**

**HOME**

**FIGURE 11: INTERPLAY OF RISK AND PROTECTIVE FACTORS ACROSS SETTINGS**
8.

LEGISLATION, POLICY AND PROGRAMMES
This chapter discusses legislation, policy and programmes that aim to address violence against children.

Intervention efforts can be characterised on a continuum spanning three levels of prevention, namely primary, secondary and tertiary. Primary prevention includes efforts that aim to prevent violence before it occurs.279 This involves identifying specific risk factors in communities, schools, homes and individuals and addressing the risks prior to any negative experiences. Secondary prevention focuses on more immediate responses to violence that include emergency services and treatment after the occurrence of a negative experience. Tertiary prevention includes actions that focus on the long-term care of an individual who has experienced violence, including, rehabilitation and attempts to minimise the trauma and long-term impact of violence. While efforts are ideally needed at all three levels of prevention, primary prevention to stop violence from occurring in the first place is the most beneficial and cost-effective in the long-term.

South Africa has an excellent and extensive legislative framework for protecting children and has made important advances in providing social welfare services to children. Both the Constitution (No. 108 of 1996) and subsequent Children’s Act (No. 38 of 2005, as amended) are particularly important in ensuring that children’s rights are protected and that provisions are made to ensure the best interests of the child. Both are based on principles of development, with an emphasis on prevention of harm to children.

**LEGISLATIVE FRAMEWORK**

**International obligations**

South Africa ratified the Convention on the Rights of the Child (CRC) in 1995 and is therefore required to report to the UN Committee every five years. Article 19 of the CRC stipulates that state parties will 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”. South Africa subsequently ratified the CRC’s optional protocols on the Sale of Children, Child Prostitution and Child Pornography in July 2003 and on Involvement of Children in Armed Conflicts in February 2002.

In January 2000, South Africa ratified the African Charter on the Rights and Welfare of the Child (ACRWC). Article 16 has similar provision to those of the CRC in terms of child protection. In June 2000, South Africa ratified Convention No. 182 on the Worst Forms of Child Labour, which requires each member state of the International Labour Organisation (ILO) to take immediate action on that matter.

**Rights in the Constitution**

The Bill of Rights in the Constitution upholds human rights for all and applies to both adults and children. The first right listed in the Bill of Rights speaks to non-discrimination on any grounds including race, gender, religion, disability, language or age. There is also a right to dignity and freedom. Section 28 of the Constitution outlines rights that apply specifically to children. These are informed by the United Nations Convention on the Rights of the Child (UNCRC) as well as by the African Charter on the Rights and Welfare of the Child.

Section 28(d) of the Constitution states that every child has the right “to be protected from maltreatment, neglect, abuse or degradation”, section 28(e) “to be protected from exploitative labour practices”, and section 28(f) “not to be required or permitted to perform work or services that – (i) are inappropriate for a person of that child’s age; or (ii) place at risk the child’s well-being, education, physical or mental health or spiritual, moral or social development”.

**The Children’s Act**

The Children’s Act (No. 38 of 2005), along with the Amendment Act (No. 41 of 2007), provides for the full continuum of services, from prevention and early intervention to tertiary protection services of different forms of violence against children. The preamble to the main Act states that one of the objectives is to set out “principles relating to the care
and protection of children”. One of the main principles underlying the Act is the best interests of the child.

The Act imposes a legal obligation on a wide range of professionals and officials as well as staff and volunteer workers involved in delivery of child-targeted service to report cases of abuse or neglect of children to the police, to social workers or to an agency designated in terms of the Act. It also stipulates procedures for the removal of children in need of care and protection from harmful environments where this is necessary and placement of such children in safe care.

Once a case is reported, two routes are possible. The non-statutory intervention lets the child remain with the family, and the social worker provides appropriate family support and/or other services. The statutory route involves the Children’s Court. Whatever the route chosen, all reported cases of child abuse and neglect should be recorded in the Child Protection Register. Part A of the Register should have a record of all the reports, convictions and findings by a children’s court that a child is in need of care and protection because of the abuse and deliberate neglect of the child. Part B should contain a record of persons who have been found to be unsuitable to work with children because of the danger of abuse. At present there is a gap between what should happen and what is in place in respect of the register as it is sparsely populated and thus not yet useful for screening purposes.280, 281

Chapter 9 of the Children’s Act lists reasons why a child might be found to be in need of care and protection. These include, but are not limited to, that the child has been exploited or lives in circumstances that expose the child to exploitation, lives in or is exposed to circumstances which may seriously harm that child’s physical, mental, or social well-being, may be at risk if returned to the usual caregiver of being exposed to circumstances which may seriously harm the physical, mental, or social well-being of the child, is being maltreated, abused, deliberately neglected or degraded by the person who is meant to be caring for the child or under whose control the child is.

The national Department of Social Development is the custodian for the implementation of the Children’s Act. The Department bears the responsibility for policy-making and coordination. This includes drafting regulations, norms and standards, and national strategies for each service area so as to ensure an appropriate spread of each service throughout the country, as well as ensuring that the Act is implemented in an integrated, co-ordinated and uniform way.282

The Children’s Act clearly sets out what services the Department must provide. The services of particular relevance from a violence against children perspective include prevention and early intervention services, drop-in centres, protection services, and child and youth care centres (children’s homes, places of safety, schools of industry, reform schools, secure care facilities and shelters for street children).

The Act stipulates that the provincial Members of the Executive Council (MECs) responsible for social development must ensure that the services are provided and funded.283 However, the responsibility for implementation and funding of the services provided for in the Act do not lie only with the national and provincial Departments of Social Development. Other agencies (South African Social Security Agency) and Departments (Justice and Constitutional Development, Education, Health) also bear responsibilities for funding and implementation of the services provided for in the Children’s Act.

The Department of Social Development also coordinates a National Child Protection Strategy and System (NCPSS) whose aim is to ensure an equitable spread of child protection programmes and inter-sectoral collaboration. The NCPSS develops protocols, policies, strategies and guidelines and monitor the implementation.

Most childcare and protection services are rendered on behalf of government by civil society organisations. In order to ensure coordination, a National Child Care and Protection Forum was established in terms of sections 4 and 5 of the Children’s Act. Its purpose is to facilitate the co-operation, co-ordination and integration of all government spheres and departments and civil society organisations in the implementation of the Children’s Act and related matters. The Forum discusses child protection issues, and its proceedings include presentations of case studies, debates and proposals for new strategies and processes for improving the country’s response on violence against children and child care and protection more generally.
Legislation relating to domestic violence and sexual abuse

Two Acts – the Criminal Law (Sexual Offences and Related Matters) Amendment Act (No. 32 of 2007) and the Domestic Violence Act (No. 116 of 1998) – state that any person who has knowledge of child abuse must report the abuse to a police official immediately.

The Criminal Law (Sexual Offences and Related Matters) Amendment Act expands the definition of rape to include all forms of sexual penetration without consent irrespective of gender. Sexual assault is defined to refer to all forms of sexual violation without consent and made a statutory offence. The Act, along with the Films and Publications Act (No. 65 of 1996) deals with exposure, distribution or creation of child pornography. It sets the age of consent to be 16 years of age. Children under the age of 12 years are automatically considered to be unable to give consent to such acts. The Act also includes provisions to avoid secondary trauma for vulnerable witnesses, including children, during reporting, investigation and court proceedings.

The Domestic Violence Act covers a range of violent behaviours, including physical, sexual, emotional, verbal, psychological and economic abuse. In cases of child abuse, family members of a child, children and youth under 21 years of age or any other individual who has a material interest in a child’s well-being can apply for protection orders under this Act to prevent the abuser from inflicting harm on the child.

The Department of Justice and Constitutional Development manages the National Policy Framework for the Management of Sexual Offences. The Framework regulates the manner in which sexual offences and related matters must be dealt with. The emphasis is on the inter-sectoral and the multi-disciplinary approach. The Framework is intended to ensure that all government departments and other role-players are collectively guided in the implementation, enforcement, administration, monitoring and evaluation of the Act. Underpinning the Framework are the Constitution of the Republic of South Africa of 1996 (the Constitution), international and regional human rights instruments, related jurisprudence and indicators that have a bearing on the South African context in so far as they relate to the unlawful perpetration of sexual offences.

The SAPS commitment to victims of domestic violence includes an undertaking, among others, to immediately arrest the abuser at the scene of the incident, without a warrant, if there is reason to believe that an act of violence has been committed; to search the premises at which the incident has taken place and remove any weapons from the abuser or from the home; and to assist the complainant to obtain medical treatment, counselling and shelter. Family Violence, Child Protection and Sexual Offences Units (FCS) were established to provide crime prevention and victim support services. The FCS units are also responsible for managing reported cases of child abuse, neglect, exploitation and sexual offences. Most of the units were disestablished by then Police Commissioner Selebi in 2006, but this decision was later overturned and the units were meant to be fully operational by 1 April 2011.

The Child Justice Act

The Child Justice Act (No. 75 of 2008) aims to protect children who come into contact with the justice and correctional systems. One of the main principles of the Act is to ensure that detention is used only as a last resort in the case of children, with a focus instead on diversion. The Act also sets out specific provisions for the case management of children in the first 48 hours of children coming into contact with the system.

When a child is detained for a hearing or if court proceedings are postponed, consideration must be given to releasing the child into the care of the parents or guardians. Alternatively, when a decision is made that it is necessary to keep the child detained, the placement of children in detention must be the least restrictive option possible.

In order for diversion to be considered an option, the child has to acknowledge responsibility for the offence and may not be unduly influenced to acknowledge responsibility. A range of diversion options exist and include counselling, an oral or written apology, a compulsory school attendance order, compulsory attendance for educational, vocational or therapeutic purposes, payment of compensation or community service amongst others.

With regards to child prosecution, a child has full capacity to litigate in certain instances, e.g. where a parent is sued for maintenance of his/her child or where a child applies to the court for a protection order in terms of the Domestic Violence Act. However, a child less than 10 years of age cannot be tried and convicted of a crime because he/she is irrefutably presumed to lack criminal capacity. There
are, however, proposals that instead of a criminal prosecution, the child must be referred to a probation officer and a decision must be made on what action to take (including a decision not to take any action at all). Support services could be arranged for the child or the matter could be transferred to the Children’s Court for a Children’s Court inquiry.

The Department of Social Development has, in consultation with the Department of Justice and Constitutional Development, Basic Education, Police, Correctional Services and Health, created a policy framework to develop the capacity within all levels of government and the non-governmental sector to establish, maintain and develop programmes for diversion. A Policy Framework for the Accreditation of Diversion Services in South Africa has been developed. A total of 191 diversion programmes and 55 diversion service providers have been accredited.

Section 96(3) requires the Cabinet Member responsible for the administration of justice to consult with the Cabinet Members responsible for safety and security, social development, correctional services, education and health in order to submit reports from these associated departments to Parliament on the implementation of the Act. These reports must be submitted to Parliament within one year of the commencement of the Act and annually thereafter.

The Intersectoral Committee on Child Justice, which includes both government departments and non-governmental bodies, was established in terms of section 94 of the Act to address policy and operational challenges in managing children in conflict with the law. It includes the Director General of Justice and Constitutional Development; the National Director of Public Prosecutions; the National Commissioners of the South African Police Service and Correctional Services and the Directors-General of the Departments of Social Development, Education and Health. The Intersectoral Committee is responsible for developing a draft National Policy Framework, that includes plans for resourcing, to ensure collaboration and coordination of the efforts of government agencies and non-governmental actors in implementing the Child Justice Act.

The graphic below shows the intersectoral nature of the implementation of the Child Justice Act.
Laws relating to child labour, exploitation and trafficking

The Children’s Act (No. 38 of 2005) defines child labour as work by a child which is exploitative, hazardous or otherwise inappropriate for a person of that age; and places at risk the child’s well-being, education, physical or mental health, or spiritual, moral, emotional or social development. Exploitation is defined as (a) all forms of slavery or practices similar to slavery, including debt bondage or forced marriage; (b) sexual exploitation; (c) servitude; (d) forced labour or services; (e) child labour prohibited in terms of section 141; and (f) the removal of body parts. Social workers or other social service professionals who become aware of child labour must report this to the Department of Labour. Section 184 in Chapter 18 of the Children’s Act outlaws trafficking of children.

Section 43 of the Basic Conditions of Employment Act (No. 75 of 1997) prohibits the employment of children under 15 years of age or who are under the minimum school-leaving age and employment in work that is age-inappropriate. Section 31(1) of the South African Schools Act (No. 84 of 1996) requires every parent to cause every learner for whom he or she is responsible to attend a school until the last school day of the year in which the learner reaches the age of 15 years or the ninth grade, whichever is the first.

The Department of Labour leads the National Child Labour Programme of Action. This is a holistic, multi-departmental plan of action to develop appropriate policies and a national action programme to combat child labour. As the lead department for the programme, the Department of Labour coordinates the Child Labour Implementation Committee. This committee, which meets quarterly, brings together all roleplayers – government, non-government and private sector – with key roles in the Child Labour Programme of Action. In these meetings, the agencies give updates on progress in implementing the steps assigned them in the Child Labour Programme of Action and discuss and plan where intersectoral collaboration is needed. Statistics South Africa conducts regular surveys that allow monitoring of employment-related child labour.

South African Schools Act

Section 10 of the South African Schools Act (No. 84 of 1996) prohibits corporal punishment. In addition, the National Education Policy Act (No. 27 of 1996) further states that: “No person shall administer corporal punishment, or subject a student to psychological or physical abuse at any educational institution.”

COORDINATION MECHANISMS

The government of South Africa has put in place various institutional mechanisms to address issues related to violence against children across all three spheres of government. Several of these mechanisms are described above in the discussion of specific pieces of legislation.

Department of Women, Children and People with Disabilities

This department carries the mandate to promote, facilitate, coordinate and monitor the realisation of the rights of women, children and people with disabilities. As part of its mandate, the DWCPD has developed a National Plan of Action for Children. The main aim of the National Plan with regards to violence against children, is to ensure that:

- A safe, supportive and protective environment for all children in their homes, communities and schools is created and sustained;
- children are protected from all forms of sexual abuse and exploitations;
- the rights of refugee children are protected within the ambit of the provisions of national and international laws;
- unaccompanied minors receive protection and support services; and
- all forms of child labour are eradicated in the country by 2015.

Aligned to the National Plan of Action for Children, the Departments’ Monitoring and Evaluation Framework for Children includes key indicators on child protection which are monitored and reported on annually.

Further, the department administers the work of the National Council on Gender Based Violence. The Council has been established to provide strategic leadership, and coordinate and manage gender-based violence initiatives in the country. It is further envisaged that the Council will be a forceful authoritative structure capable of adopting comprehensive measures in addressing all forms of violence against all children – especially girl children. The Council,
as a structure, will aim to maintain consensus on policy and strategic issues by coordinating all activities on gender-based violence.

**Department of Social Development**

The department is the lead agency and secretariat for the Inter-Ministerial Committee on violence against women and children. The Committee was appointed by the Cabinet in 2012 to investigate the root causes of violence against women and children with the objective to develop a comprehensive strategy to address violence against women and children. It is expected that the Committee will develop and monitor a plan of action to address violence against women and children.

**Department of Justice and Constitutional Development**

This department is the lead agency for the Inter-Sectoral Committee on Child Justice. This structure was established to manage child justice issues at a national level through promoting inter-departmental co-operation and communication. This is in line with the objects of the Child Justice Act which envisages such cooperation contributing to an effective child justice system.

**PROGRAMMES AND STRATEGIES**

The legislation and policies stipulate the obligations of the various duty-bearers, ranging from government through to the family and individual. However, the impact on vulnerable children depends on the extent to which the legislation and policies are implemented.

The Children’s Act emphasises the importance of prevention and early intervention. In line with the ecological model discussed in the beginning of this report, the various prevention efforts must be directed at all sites of a child’s environment including the home, school and community, as well as institutions in which children may find themselves, in order to have a significant impact. The design of interventions should also draw on existing evidence of which strategies are effective. A holistic approach such as this requires a coordinated and collaborative approach by the government and other state organisations, civil society, adults who work with children in various settings, parents as well as children themselves.

A holistic approach also requires interventions spanning the continuum from primary, through secondary, to tertiary interventions. The World Health Organisation (WHO) explains that primary prevention involves approaches that attempt to prevent violence before it occurs; secondary prevention focuses on immediate responses to incidents of violence; while tertiary prevention focuses on long-term care. WHO notes that the distinction between primary, secondary and tertiary is based on the timing of the intervention in relation to incidents of violence. It notes further that although this terminology has usually been applied to interventions for prospective or actual victims, the same continuum could also be applied to interventions for perpetrators.

WHO describes a parallel categorisation of interventions that is based on the target group. This categorisation again distinguishes between three categories, as follows:

- Universal intervention focuses on the full population (or population group, such as children), irrespective of the degree of individual risk. Broad media campaigns would fall in this category.
- Selected interventions focus on those who are thought to be at increased risk. An example here would be an intervention for teen mothers.
- Indicated interventions focus on those who have already engaged in violent behaviour. An example would be an intervention focused on caregivers whose children have been removed by the court because they have been found to need care and protection.

The examples that follow are of interventions by non-government and government actors at primary, secondary and tertiary levels, and in and across the various sites in which children experience violence. The examples are not at all comprehensive. They are drawn from among the better-known and well-established organisations that focus on children, and in particular on different aspects of violence against children. The examples are intended to illustrate what translating legislation and policy into action entails. They are also intended to provide inspiration as to what is possible.

The examples include non-governmental interventions because the bulk of interventions – especially at the prevention and early intervention levels – are implemented by
non-government actors. Clause 146 of the Children’s Act states that government “must” provide prevention and early intervention programmes alongside several other services, while it “may” provide a range of other services. This clause is interpreted to mean that government must either provide these programmes itself, or must ensure that others – such as non-profit organisations – do so by providing the necessary resources.

Some of the non-governmental interventions profiled below are supported by government, but others are not. Among those that receive financial support from government, the support generally takes the form of a subsidy, rather than the full funding characteristic of outsourcing. Thus, while the examples below and many other examples exist, most reach only a very small proportion of the children and families in need of these interventions. At this point, none of the provinces has a comprehensive plan that indicates where services and programmes are needed, who will provide in each case, and where the resources will be found to support the provision.

The programmes and strategies described are by no means meant to be a comprehensive catalogue. They are intended to illustrate what translating legislation and policy into action entails. However, while these and many other examples exist, most reach only a very small proportion of the children and families in need of these interventions.

**Awareness campaigns**

One of the most common strategies to begin to address violence has been to support and participate in international and national awareness campaigns. The 16 Days of Activism for No Violence Against Women and Children is an international campaign which takes place every year from 25 November (International Day for the Elimination of Violence Against Women) to 10 December (International Human Rights Day). The period also includes Universal Children’s Day and World AIDS Day. In May 2006, government and non-governmental stakeholders developed a plan of action to extend the 16 Days of Activism to 365 days of action.

Child Protection Week has been held annually since 1998 under the leadership of the Department of Social Development. On 28 October 2010, the National Child Care and Protection Forum adopted a five-year national theme “Working Together to Protect Children” for the period 2011 to 2015.

Launched in 2008, United Nations’ UNiTE to End Violence Against Women Campaign is a multi-year effort aimed at preventing and eliminating violence against women and girls in all parts of the world. In January 2010, the United Nations Secretary General, Ban Ki-Moon, and the Chairperson of the African Union, Jean Ping, launched Africa UNiTE during the African Union Heads of State and Government Summit. Since then, Africa UNiTE has held national and sub-regional launches, and regional and sub-regional level consultations involving national policy makers and major media outlets, among others.

**Prevention of violence**

In line with the socio-ecological model discussed earlier in this report, prevention efforts ideally address multiple levels and influences in a child’s life. The Children Are Precious model is one example of a multi-level approach in that the three-year intervention focuses on the individual, family, school as well as community level, and offers a range of programmes at each of these levels. Supported in part by government, it was developed by the non-governmental organisation Resources Aimed at the Prevention of Child Abuse and Neglect (RAPCAN). 289

Prevention strategies at the individual level should promote attitudes, beliefs, and behaviours that ultimately prevent violence. Strategies targeting the relationship level can address families’ caregiving and parental skills. The Parent Centre’s Teen Parenting Programme is offered to teenage parents and includes male and female parents who are attending high school as well as parents who have had to leave school in order to care for their children. 290 NICRO’s Me and My Family Programme targets men who are husbands and fathers and addresses the impact that the man’s offending has had on the family and its dynamics. 291 The Parent Centre, in partnership with the Department of Social Development, offers Fatherhood Workshops with male facilitators in mostly rural communities of the Western Cape.

At the school level, NICRO’s Safety Ambassadors programme targets school-going youth between the ages of 15 and 18 years. RAPCAN’s Positive Discipline Programme trains educators and other adults in the school environment...
on alternatives to corporal punishment. The Department of Education has also published examples of codes of conduct that incorporate alternative forms of discipline.

The Girls’ and Boys’ Education Movement is a partnership between UNICEF and the National Department of Education which aims, among others, to create safe schools and communities. The programme targets learners aged between 7 and 19 years who are encouraged to join school-based clubs. The Western Cape Education Department’s Safe Schools Programme includes a focus on infrastructure alongside knowledge and skill development programmes and counselling services. It works in partnership with community-based organisations.

Prevention programmes targeting the societal level include Men as Partners. This programme aims to engage men in reducing gender-based violence and to promote men’s constructive role in sexual and reproductive health.

Response to violence
Care, treatment and support for victims of violence are essential to the response to violence against children. Childline’s toll-free crisis telephone counselling line is a national emergency call centre for children which receives calls on a wide range of issues and problems, including all forms of violence against children. Childline also provides on-line counselling as well as treatment services through social workers in a number of offices. Other call centres, such as LoveLife, also provide young people with information, counselling and referral services. The Safeline Child Abuse Treatment and Prevention Centre offers long-term counselling to children who are victims of sexual abuse, as well as support for the child’s family.

The National Prosecuting Authority, in partnership with other government departments, international organisations and civil society organisation, has established Thuthuzela Care Centres across the country to provide integrated cross-departmental services for people reporting sexual offences. Over 80% of the cases dealt with involve children. The objectives are to reduce secondary victimisation, improve the conviction rate for offenders and reduce the time to finalisation of cases.

The Teddy Bear Clinic provides a range of services including forensic medical examinations, forensic assessments, counselling, psychological testing and a diversion programme for youth sexual offenders. The Clinic also offers court preparation services for child victims. Parents are made aware of the likely behavioural consequences of abuse and how to manage the symptoms of abuse.

Child Welfare’s Isolabantwana: Eye on the Child Programme, established in 2003, makes use of adult volunteers who are trained to assist social workers in management of child abuse cases. The programmes operate in under-serviced communities and assist between 8 000 and 10 000 children each year.

Molo Songololo’s Victim Empowerment Programme assists and empowers youth who are victims of sexual abuse, sexual exploitation and child trafficking. Services include trauma counselling, support for reporting the crime to family, police and the court as well as referral support such medical care, shelter and substance abuse counselling, school and community reintegration, empowerment and life skills training.

Other responses to violence against children include those that address offenders, in an effort to prevent re-offending. In partnership with the Office of the Attorney General, NICRO’s Youth Empowerment Scheme diverts young offenders between 12–19 years of age and thus acts as an alternative to institutionalisation and giving young people a criminal record. Parents and caregivers are encouraged to attend two of the sessions in the programme that deal with relationship building and parents’ experiences.

Khulisa’s Positively Cool Diversion Programme targets children aged 8–18 years who have been approved for diversion by the court. It aims to assist these children to manage their lives more effectively. Separate programmes exist for offenders who perpetrate sexual crimes and aggressive crimes. NICRO’s Restorative Group Conferencing brings together young offenders, their families and victims to explore the ways the wrong that has been committed can be corrected for the victim, as well as the community. NICRO also offers a programme for perpetrators of domestic violence which focuses on the offender, the victim and the family unit.

These programmes complement legal approaches such as the establishment of the National Register for Sex Offenders.
GAPS AND CHALLENGES

Social and income inequalities

Evidence on a global level shows that living in impoverished conditions constitutes an important risk factor in relation to exposure to violence. Murder rates worldwide, as an example, are generally found to be highest in areas where poverty is most predominant. This does not imply that there is always a direct relationship between poverty and violence. For example, Calcutta, one of the poorest cities in India, has an extremely low rate of crime and violence. Nevertheless, poverty is an important aggravating factor that needs to be considered when trying to understand the rates and distribution of violence against children. Poverty is especially likely to be a risk factor when it is linked to social and cultural norms – such as patriarchal notions of masculinity that valorise toughness and risk-taking – that generate violence. The relationship between poverty and violence can also work in the reverse direction as increasing rates of criminal activity within a community may result in increases in poverty.

In addition to poverty, rates of violent crime have been linked to the pattern of income distribution. A study analysing the relationship between the Gini coefficient (the most common measure of income inequality) and homicide and robbery rates found that income inequality “has a significant and positive effect on the incidence of crime”. This is, unfortunately, relevant for South Africa, which is one of the most income unequal countries in the world. Income poverty therefore remains very much part of inequality in South Africa as close on 12 million children live in poverty. Further, in terms of geographical distribution, poverty and other forms of deprivation among children are still to a large extent concentrated in former apartheid-era homeland areas, as well as among black children.

There are also significant differences in levels of service provision between different geographical areas. For example, the costing of the Children’s Bill in 2005, when basing costs on then-current levels of provision, envisaged only 15 793 children in KwaZulu-Natal receiving intervention services as against the much larger 50 164 for Gauteng. Yet Gauteng is, overall, a much wealthier province with a similarly sized population to that of KwaZulu-Natal and with lower levels of HIV infection. Similarly, the number of children at risk the costing based on then-current service provision envisaged being referred to social services was only 14 000 for KwaZulu-Natal, as compared to 51 765 for Gauteng.

Leadership and coordination

There can be no question that violence against children needs a multi-sectoral and multi-disciplinary response if it is to be combatted effectively. The fact that this, in turn, implies that a large number of different actors, with different reporting lines, must be involved raises the question of who is to lead and coordinate the activities to ensure that there is synergy between all the different efforts.

The mandate of the Department of Women, Children and People with Disabilities includes monitoring of the rights of the child, including the right to be protected against violence and to have his/her best interests protected. The National Council on Gender-Based Violence recognises the “need for strong political leadership and the meaningful participation of all sectors of civil society in the multi-sectoral national response to gender based violence”. A range of forums and multi-sectoral committees already exist for issues related to violence against children. Some of these are referred to in earlier sections of the report. The question that now arises is whether a separate structure should be created for violence against children, or whether a better use of human, financial and time resources would be to use the existing structures.

Resources

One of the key factors that impede effective action to prevent and deal with violence against children is the shortage of resources. As noted in a previous chapter, the Children’s Act is the key legislation dealing with violence against children in South Africa.

A costing exercise commissioned by government developed four different estimates of what would be needed to deliver the services for which the various departments were responsible. The highest estimate, the Full Cost “high”, was based on objective measures of need for the different services and “good practice” standards for all services. The lowest estimate, the Implementation Plan “low”, based the quantity or level of services to be provided on planned extension of the services provided at that time. In terms of quality, lower standards were used for services classified by the costing team as non-priority.
The Department of Social Development is the most important duty-bearer, with responsibility for the majority of key interventions. However, analysis of the budgets of the nine provincial departments reveals serious shortfalls in allocation. The combined 2012/13 budget allocations for the three core sub-programmes for the Children’s Act – child care and protection services, care and support to families, and HIV/AIDS – plus the estimated budget for service delivery staff for these sub-programme amounted to only 41% of the Implementation Plan low estimate of what is needed to implement the Children’s Act, and only 6% of the Full Cost high estimate. Further, after adjusting for inflation, the allocations were 2% lower than those for 2011/12.

Insufficiency of budgetary resources translates into insufficiency of human resources. It also translates, in the case of these government budgets, into insufficiency of funds for non-profit organisations that provide services mandated by the Children’s Act and other legislation. While international and local donors provide some funding for these services, legislation places the ultimate obligation on government to provide.

The key legislation relating to sexual violence is the Criminal Law (Sexual Offences and Related Matters) Act (No. 32 of 2007) and the Domestic Violence Act (No. 116 of 1998). A recent study finds that none of the government departments with obligations under these two acts has complied fully in respect of all their responsibilities and none has adequately budgeted for implementation. The report notes that lack of implementation relates, at least in part, to the under-budgeting.

**Lack of coordination and resources among service providers**

The multiplicity of actors means that the various government agencies as well as non-government actors, including parents and other family members, need to work together. Small-scale experiments have demonstrated the value of local community-based responses, within involvement by community members, in ensuring child protection. However, these efforts can only succeed if they are backed up by the availability of formal services. This will ensure, among others, that there are agencies to which community members can refer children or turn to help when the problems are beyond what they can deal with alone. Without these services, there can be no continuum of care.

The Department of Social Development has a record of more than 85 000 non-profit organisations (NPOs) across the nine provinces, of which almost 34 000 provide social services. Included in this number is a substantial number of early childhood development centres. Also included are organisations that do not focus on services for children.

However, all provinces rely heavily on the services of NPOs to deliver children’s services. In 2012/13, provinces allocated an average of 48,9% of their social welfare programme budgets for NPO transfers, slightly down from the 51,4% for 2011/12 adjusted estimates. Despite the slight decrease, this percentage remains an indicator, in monetary terms, of the heavy reliance on NPOs. If NPOs were fully funded for their work and NPO-employed staff earned the same salaries as government staff doing similar work, the percentage would need to be even higher. The subsidies provided by the provincial departments to NPOs do not cover the full cost or scope of the services.

In not covering the full costs and scope of the services, government expects NPOs to find funds elsewhere. However, internationally, the fact that South Africa is viewed as a middle income economy has resulted in decreased funding opportunities. The decrease in available funds has been aggravated by the global financial crisis. The result is ongoing retrenchments and closures of NPOs. The consequence is a decrease in services available for vulnerable populations, including children.

**Inadequacies in monitoring and evaluation**

In 2004, the Cabinet initiated plans for a monitoring and evaluation system for government, and the Presidency subsequently developed the Government-wide Monitoring and Evaluation Framework. South Africa has also successfully shifted to a programme-oriented budgeting system which is held up as an example to other countries in the world, including in terms of the transparency and public availability of budget information. However, South Africa does not mandate departments to include performance indicators of physical service delivery in their budget votes. Such indicators are mandatory for the annual performance plans, but the latter are often not publicly available. Until good quality meaningful and regular indicators are available, assessment of the quantity and quality of implementation of the policies and legislation and utilisation of available financial, human and other resources will be difficult, if not impossible.
DWCPD has developed a comprehensive set of national level indicators relating to the realisation of children’s rights and well-being. The set of indicators include indicators of violence against children.

Delays and failures in reporting
The previous chapters of this publication have shown that the Government of South Africa has developed one of the most progressive legislative frameworks to protect the rights of children. However, the country performs less well in terms of reporting on implementation.


Reports in respect of the various conventions are outstanding. South Africa will submit its next reports to the UNCRC and African Union in 2013.

CONCLUSION
This report has identified the nature and extent of violence against children in South Africa. It has also identified the existing policy, legislation and coordination mechanisms, including the associated gaps and challenges.

It is clear that the child violence situation in South Africa needs urgent and serious attention. Much of the needed policy and legislation is in place. The challenge now is to establish the coordinating and other mechanisms to ensure efficient and effective implementation of the policies, legislation and related programmes so as to fulfill the implied commitment to a better society characterised by the welfare and happiness of the country’s children made by President Mandela when he accepted the Nobel Peace Prize in 1993.
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