# RAPE AS A HUMAN SECURITY ISSUE, WITH SPECIFIC REFERENCE TO SOUTH AFRICA.

By Jennifer Ann Schreiner

Submitted in partial fulfilment of the requirements for the degree of

Master of Security Studies (MSS)

in the Faculty of Humanities

at the University of Pretoria

March 2004

# ACKNOWLEDGMENTS

I wish to acknowledge the individuals who have provided of their time for discussion and interviews, as well as those with whom I have worked in government processes who have over the years helped to develop the understanding that I currently have of government responsibilities to the people of South Africa and their security. In particular the women and gender sensitive men that I have worked with in women's organisations, political parties and educational processes over the past 30 years are acknowledged for encouraging the development of my theoretical approach to gender relations and fundamental social transformation as part and parcel of the same struggle for freedom, now being taken forward through governance in a democracy.

To Anthony, Nikita and Raul, I owe, with thanks, many hours of quality time that has been devoured by the research and writing of this dissertation. Thank you for the support through this process, and particularly the music while I worked on it. It is for your future, Niki and Rauli, that we strive to free society from scourges like rape.

To my Head of Department throughout this degree, Mr Linda Mti, I express my appreciation of the support, input and encouragement to complete the project, and the constant reminders and reflections on why we are and should be concerned about such issues and committed to action to achieve security for the nation.

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# CHAPTER 1:
# INTRODUCTION

This Introduction formulates the problem statement; outlines the intention and structure of the dissertation, the methodology utilised, and the propositions made; and identifies any methodological problems involved in the dissertation.

## 1.   AIM OF THE STUDY AND MOTIVATION FOR THE STUDY

Considering the extent of interpersonal violent crime, (also referred to as contact crime), reported by the South African Police Service (SAPS), South Africa is likely to continue to face a situation of social fabric related crimes that violate the basic human rights of women, children and men. This is reflected in the rape statistics, the child abuse statistics, the extent of youth involvement in crime, the extent of interpersonal violence, both domestic and public, and in the extent of substance abuse which contributes to the levels of some interpersonal aggression. South Africa faces a major challenge in the extent of anti-social behaviour and gender violence that is prevalent in most communities, irrespective of race and class.

Of serious concern is that in South Africa, crimes are generally characterised by a high level of violence, irrespective of the geographical location, race and gender of the victim or suspect, or type of crime that is committed. Many of the incidents of other categories of crime include perpetration of violent crime in the process. Violence stands out as the aspect of crime which impacts most negatively in both the short-term and long-term sense on human safety and security. Crimes that violate basic human rights and dignity of the person will have a long-term negative effect on the mental and social health of the South African people and contribute to the creation of a climate of fear, interpersonal hostility and insecurity.

This research broadly speaking covers the period from March 2000, when Cabinet expressed itself on the issue of rape of women and children in South Africa, until the third quarter of 2003. It is significant that this period of study is half way into the first decade of a democratised state, based on principles of non-racialism, non-sexism and human rights enshrined in the Constitution. The uniqueness of this era in South Africa's recent history cannot be overemphasised, and implications of this era for debate within security studies, strategic studies and gender studies are profound. It must be noted that the cut-off date for this dissertation is due to practical considerations, as the Inter-Departmental Management Team (IDMT) that coordinates the work of the Anti-Rape Strategy, and the work of

Departments on the Anti-Rape Strategy continues. Departments and organisations may well reach crucial stages that would assist in periodisation of the strategy against rape in the near future. It must be noted that the cut-off time is not symbolic of any kind of periodisation of the Anti-Rape Strategy. It is merely a convenient date for the purposes of this limited study.

It must be noted that the official statistics that are used in this dissertation are utilised to give an idea of the trends and to identify key problem areas and not to attempt to provide a quantitative basis for conclusions.

## 2.   PROBLEM STATEMENT AND PROPOSITIONS

Over the past decade, democratic South Africa has faced unacceptable levels of rape of women and children, despite the government and nation's constitutionally enshrined commitment to protection of women and children. Based on a conceptual understanding of rape, gender oppression, human security and national security, this dissertation aims to make an assessment of the government approach to rape prevention and rape combating, as well as the role of integrated governance and partnerships with civil society in the provision of an appropriate strategy to build a criminal justice system, a social and physical environment and a rape-safe culture in South Africa, which is approached as a contribution to human security. Some assessment of why crime in South Africa involves violence should inform an understanding of the extent of interpersonal violence and rape in South Africa.

The propositions to be explored in the dissertation are that:
- Forcible rape undermines human security.
- The extent of rape in South Africa constitutes a widespread threat to the personal safety of especially women and children.
- The constitutional commitment to gender equality, the empowerment of women, the rights of children and the right to security of the person are indicative of the severity with which South African society views rape.
- These factors combine to render rape a national security concern in South Africa during the past decade, requiring direct measures to be undertaken.
- This situation obliges a coordinated government strategic interpretation of the impact of rape on constitutional rights and stability, and evaluation of government policy in this regard.
- An integrated government strategy that entails close cooperation with civil society is required to enable the countering and reduction of rape and the ultimate construction

of a rape-safe culture in South Africa.

## 3.    METHODOLOGY AND SOURCES

The study aims to present a description of work done by government in developing an Anti-Rape Strategy and a qualitative analysis of the developments since 2000 in relation to an Anti-Rape Strategy, against the background of a quantitative illustration of rape, *albeit* limited by the under-reporting of the crime of rape and the transformation of the official crime statistics during the period under consideration in this dissertation, and a theoretical consideration of human and national security. Since the approach to rape is that there are a broad set of factors that contribute to rape-promotion, and that rape varies from society to society, a comparative approach will not be adopted as there is little comparative literature that is applicable in terms of the socio-economic history of South Africa, the current democratic transition and the transformation of the organs of state, and the social circumstances in which rape occurs in South Africa.

In the course of research on rape in South Africa, various methodological problems have to be confronted, given the lack of a reliable trend analysis of rape in South Africa; given that rape is a crime that is largely dependent on the victim, or his/her guardian in the case of a minor, reporting the crime for it to be entered into the criminal justice system; and that rape is a seriously under-reported crime, which makes even the available figures not necessarily a true reflection of the extent, nature or circumstances of rape.

The extent of rape in South Africa is difficult to assess and there is a constant dialogue between the government and the Department of Safety and Security on the one hand and rape-support Non-governmental Organisations (NGOs) on the other hand, as to the accuracy of the figures. Rape is recognised internationally as a seriously under-reported crime, with an estimate that only half of the rapes in South Africa are reported to the police. Vetton indicates that various sources state divergent figures indicating variously that a rape happens every 23, 35 or 85 seconds, but without studies quoted to support these figures. She also points to the divergence between SAPS statistics which indicated that 1 out of 3.5 rapes were reported; figures from a Statistics South Africa victim survey in 1998 which indicated that one out of every two rapes were reported; and the MRC health and demographic survey which indicates that one in ten women report rape. (Interview with Vetton: 2003) Statistics South Africa reports that one person in approximately 200 had experienced at least one sexual offence (RSA, Statistics South Africa, 1998: 33) and that   amongst these victims, 28 per cent had

experienced a sexual offence against them more than three times in the reporting period (RSA, Statistics South Africa, 1998: 43) The <u>Report of the Inter-Departmental Management Team: Towards Developing an Anti-Rape Strategy</u> (RSA, IDMT 2001: 3) quotes figures from various surveys as indicating that 56 per cent of women report rape to the police; 64 per cent of women report rape; and another put the figure at between 11 and 25 per cent. Van Niekerk (2003: 11) argues that many acts of sexual assault are never reported to the police.

Statistics South Africa provides an analysis of reasons why people they surveyed did not report crime. In relation to sexual offences:

- Approximately 35 per cent of women who failed to report had reasons that related to the perpetrator.
- Nearly 30 per cent had crime-related reasons.
- 11 per cent of women who failed to report had reasons of self-blame.
- Approximately 10 per cent failed to report due to issues related to policing. (RSA, Statistics South Africa, 1998: 63)

For these reasons, it is accepted that there is serious under-reporting without wanting to attach a quantitative value to the extent. Davis makes the point that "(t)he anonymity of the vast majority of rapes is consequently treated as a statistical detail – or else as a mystery whose meaning is inaccessible."(1981: 199) She goes on to discuss rape perpetrators whose status protects them from prosecution, particularly when their victims may be subordinate or working class women and raises the query as to whether the anonymity is not a reflection of the privilege enjoyed by men of higher social status. In raising this valid question, Davis throws into question the reliability and value of a quantitative approach to rape. For this reason, rape figures are used with circumspection as pointers, rather than as a 'truth'.

Crime statistics released in September 2003 that cover the period since the election in 1994 indicate an increase in the reporting of rape cases to the SAPS. (RSA, SAPS. 2003b) The interpretation of this increase is complex and it is not possible to draw a distinction between increases that result from an actual increase in the number of rapes that occur in South Africa as opposed to an increase in reporting due to a climate that is more conducive to rape victims reporting the crime to the police. There is thus a serious reliability challenge in relation to existing information and it is not always possible to obtain the information that is needed for a detailed understanding of rape in South Africa.

A variety of factors combine to make rape and sexual assault such an under-reported and

stigmatised crime. Clearly, the impact of a democratic environment, the provisions of the Constitution and government's commitment to women's empowerment on rape reporting, has been to increase the opportunity for victims to report rape. But it should be noted that the situation is far from ideal. Vetton indicates that fear of reporting, intimidation, shame, stigmatisation, society being uncomfortable around victims, a desire by the victim not to upset his/her family , a fear that his/her family will not cope with the strain and stigma, and self-blame, all contribute to under-reporting. (Interview  with Vetton: 2003) She concludes that breaking the silence on rape is not really a deeply adhered to intention.

It is therefore not possible to categorically answer the question: Is South Africa facing an escalation of rape or an increase in reporting and greater awareness of rape as a crime?

Bearing in mind the qualified reliance on any rape statistics given the unknown entity of the unreported rapes, research should be based on an analysis of the rape dockets, case records and offender records in each of the policing areas and in each correctional centre in order to determine patterns and circumstances of the rapes, such as involvement of alcohol or substance abuse; crime perpetration in the vicinity of a social occasion/facility; crime perpetrated in a domestic environment – own or other; rape at night or day; rape on or near public transport or in public thoroughfare, etc. As part of advancing knowledge on rape, the IDMT has established five research projects, which are still to result in published findings. The topics of these projects are:

- Child offender profiling and docket analysis.
- Victim services for ages between 0 and 35.
- Linkages within the criminal justice system.
- Support services for both offenders and victims of rape and other sexual offences.
- A rape portal information system to create a site that will link up with NGO's that provide services for both victims and perpetrators.

A detailed analysis of the sub-cultures in which rape may be prevalent should inform the South African analysis of rape. However, the gathering of such information would involve detailed analysis of composite information from the offender profiling in the Department of Correctional Services (DCS), but this has not yet reached a stage at which such information is available to government. Such analysis would enable development of an intervention strategy that aims at redirecting behaviour into a socially constructive mode, and to make appropriate recommendations.

The research for this dissertation has been conducted through a literature review; through examination of public primary source documents from the relevant departments; examination of public speeches by Ministers and key officials of the departments; and through interviews with members of government departments and NGOs where information is not available in the primary sources. These sources have been used to develop an approach in this dissertation that is both descriptive and analytical.

## 4.  CHAPTER DIVISIONS

The structure of the dissertation is as follows:

- Chapter 1 serves as an introduction to the dissertation and outlines the problem statement, propositions, the methodology and the sources utilised in the research.
- Chapter 2 addresses the conceptual framework to be utilised in the dissertation in relation to rape, human security and national security.
- Chapter 3 outlines the South African government policy approach to rape since 2000, and the development of security policies and the role of the relevant security institutions in South Africa.
- Chapter 4 analyses the manifestation of rape in South African society, and sets out to explain the rape-promoting factors and rape deterrents in South African society in the post-apartheid period.
- Chapter 5 undertakes to record in an analytical manner the elements of the South African government response to rape.
- Chapter 6 seeks to test the propositions of the dissertation, to provide the conclusions from the analysis, highlighting the approach that is necessary for a coherent and successful Anti-Rape Strategy, and discussing the role of the relevant institutions in relation to such a strategy, with reference to enhancement of human security within the framework of the national security agenda of government.

**CHAPTER 2:**

**RAPE, NATIONAL SECURITY AND HUMAN SECURITY: A CONCEPTUAL FRAMEWORK**

This chapter aims to address the use of terminology in relation to gender studies, rape and sexual offences literature, and security literature. Conceptual definition is required in order to avoid misinterpretation of concepts and conclusions. There is a wide range of definitions utilised in literature on each of these fields of study, and this chapter aims to provide the usage of terminology in this dissertation in relation to rape, gender violence, human and national security. This will highlight the social nature of gender relations, and hence cast some light on the relationship between oppressive gender relations and rape, and explore the securitisation of issues in the context of debates about human and national security.

This chapter provides the background against which South African government departments' strategic approaches to rape prevention and rape combating can be considered. The various aspects of visible community policing, law enforcement and prosecution, victim empowerment, rehabilitation of rape offenders, education, social development, social crime prevention and urban design will be considered in the rest of the dissertation.

## 1.   UNDERSTANDING SEXUAL ASSAULT AND GENDER VIOLENCE – TOWARDS A DEFINITION OF RAPE

In the literature review in preparation for this dissertation, many definitional issues were explored. The starting point before moving to an appropriate definition of rape is to adopt a general definition of violence that facilitates scientific measurement and encompasses the broad range of everyday usage of the term violence. The World Health Organisation Task Force on Violence and Health, quoted in Butchart and Emmett offers the following acceptable definition:

> Violence is the intentional, threatened or actual use of physical force or power against oneself, another person, or against a group or community, that either results in or has a high likelihood of resulting in injury, death, psychological harm, maldevelopment, or deprivation. (2000: 15)

They go on to elaborate on interpersonal violence, which for purposes of this dissertation is seen as:

> violent behaviours that occur between individuals, but not planned by any social or political groups in which they participate. It occurs in many forms, and

can be grouped into three categories according to the victim-perpetrator relationship: family and intimate violence (e.g. child abuse), violence among acquaintances (e.g. in a social setting between "friends") and stranger violence (e.g. homicide by a perpetrator unknown to the victim). (Butchart and Emmett 2000: 15)

It must be noted that rape can overlap with each of these three categories of interpersonal violence: rape within the family of spouse or child; rape in a social setting – peer pressure rape and date rape; rape where the perpetrator has no personal relationship with the victim – rape of a sex worker, or of a person in a vulnerable position.

Of most value to this research has been Vogelman's definition of rape, drawn from the work of Brownmiller, of Burgess and Holmstroom, and from Medea and Thompson. Vogelman usefully defines rape as "sexual intimacy forced on one person by another". (Vogelman 1990: 4) Of importance is that this definition is not gender-specific in relation to either perpetrator or victim, and nor is it specific to the manner in which 'sexual intimacy' takes place. Of note is that in relation to the current narrowness of the South African legal definition of rape, many of the more atrocious crimes in which the human dignity of the victim is most defiled, in fact have to be prosecuted as indecent assault and not as rape.  It should also be noted that during the researching and writing of this dissertation there has been a process around the legal definition of rape, entailing a significant shift in the conceptualising of rape as a crime in South Africa.

A correct understanding of rape, in all of its manifestations, as being neither merely an act of violence nor an act of sexual passion or sexual need, but rather an act of sexual violence and power (Vogelman 1990: 61) must inform the assessment of the generators of the crime in South Africa. Rape is driven by anger, powerlessness, dehumanisation and desperation to feel empowered, classic alienation, rather than sexual desire. The work of Vogelman, who interviewed convicted rapists on why they had committed the crime, is of value in this understanding.

The literature and most legal systems refer distinctly to sexual assault and rape. For purposes of this dissertation that focuses on rape as a human security issue, and is written at a stage at which the legal definitions of such crimes are changing, the distinction may not be that significant. Both sexual assault and rape can be seen as forms of gender violence, in which most frequently but not exclusively, the victim is a woman or girl child. Gender violence is defined in the United Nations Declaration on the Elimination of Violence against Women as:

> any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivations of liberty, whether occurring in public of private life …Violence against women shall be understood to encompass, but not be limited to, physical, sexual and psychological violence occurring in the family and community, including sexual abuse of female children, dowry-related violence, marital rape, female genital mutilation and other traditional practices harmful to women, non-spousal violence, violence related to exploitation, sexual harassment and intimidation at work, education institutions or elsewhere, trafficking in women, forced prostitution, and violence against women perpetrated and condoned by the state. (United Nations 1993: Article 1)

While this definition is specific to women, it is generalisable in the context of rape to male rape victims – gender violence is a reflection of unequal and oppressive social and gender relations.

Much of the literature emanating from the international feminist and gay/lesbian movements would define rape in this breadth. In contrast, much of the literature on correction and rehabilitation of sexual offenders tends not to draw sufficient distinction between rape as an act of sexual violence and other forms of sexual offences, such as paedophilia, exhibitionism, statutory rape, etc.  Within this literature though, there are valuable insights into what is termed 'sexual assault':

> Sexual assault is not a disease that can be cured. It is an aggressive deviant behaviour that results from a convergence of a complex number of factors. It can however, be contained and managed. Offenders who are amenable to treatment and willing to actively participate learn to recognise precursors to relapse and self-manage their high risk behaviour. (Alaska Department of Corrections 1996)

What however is absent from this approach are the social determinants of rape, which are incorrectly reduced to individual deviance.

The understanding of rape as a form of gender violence requires an understanding of the social construction of gender relations, the inequality and power relations inherent within gender relations in most societies, and the role of socialisation of boy and girl children in sustaining gender relations. It must be noted that gender relations interact with race and class relations, and therefore manifest in specifically different ways for black working class men and

women, for middle class and *bourgeois* men and women, and for white men and women of different classes. This is particularly acute in South Africa given the complex race, class and gender history of the country. In this section, the unpublished theoretical writings of Schreiner over the past decade on the interaction of race, class and gender in a South African context have been relied on. In 1993, it was argued that:

> Men and women are different - biologically we are different sexes. For example, women have babies, men don't. There is nothing that we can do to change this sexual difference. Gender, on the other hand is a social construct. Gender relations define the way in which society says women should live and how this differs from men's lives and the unequal power between men and women. …gender relations are all pervasive, running through every sphere of our society …the oppression of women and therefore the emancipation of women as a struggle against unequal and unjust power relations, structured in society by the capitalist system, racism and sexism. Women's emancipation is thus a product of social change and the liberation of women. It is a liberating process for the people as a whole. ... There are many ways in which women experience life differently from men. How these experiences differ also depends on the kind of society that women are living in, but in most countries, and in all capitalist countries, men have a greater choice in their behaviour and more power than women do:
>
> - Socially, boys and girls are brought up to think, act and respond differently - women are taught to be homely, passive and caring, while men are brought up to be achievers, to work hard and earn the money, and to be aggressive and defenders of the community.
> - Culturally, society expects us to behave differently - men can smoke, drink, go out without their wives, affairs with other women are tolerated, while society frowns on women when they drink, smoke, or go out alone, and they are branded as loose if they have affairs.
> - Religiously, sometimes women are not allowed to become religious leaders, or to participate in all aspects of the services. Some religions prevent women from using contraceptives and having abortions.
> - Economically, we have different jobs and different wages - women workers often work in poor paid industrial jobs, or work in domestic work or on the farms, while men can work in many industrial sectors.
> - Politically, we have unequal positions in organisation and political life. Often the sectors where women work are not properly unionised. In

> those unions and political organisations where women have joined, there are few women elected into leadership positions.

- Traditionally, custom dictates that women have to play a particular role, often in subordination to the men.

- Within the family, the attitude of men within our homes is often oppressive. The notion of the head of the family as a man is often not a reflection of the reality. Women are often breadwinners, in addition to bringing up the children, seeing to the running of the household, doing more than a double shift of work. (Schreiner 1993)

This understanding of gender relations as part and parcel of unequal social relations within South African society is imperative for the understanding of rape as a social fabric related and interpersonal crime as well as a human rights violation. This understanding informs the approach that is adopted in this dissertation to the social prevention of rape, and to the importance of an Anti-Rape Strategy addressing the long-term challenge of the creation of a rape-safe culture in society.

For the purposes of this dissertation, the broader definition of rape that includes all non-consensual, violent sexual acts, and which sees rape as a violation of the most basic of human rights, personal safety, will be utilised. It is possible, given the draft Bill that the passage of the Sexual Offences Bill through Parliament will result in such a definition being adopted in South African law.

## 2.  NATIONAL SECURITY AND HUMAN SECURITY

This section aims to outline approaches to national security, and against this background to then explore the concept of individual or human security, with a view to laying a basis for the exploration of rape as a human security issue within the national security agenda of the South African state.

### 2.1 National Security and the Threat Spectrum

Much of the literature on security studies is driven by analysis and understanding of developed countries, *albeit* recognising Buzan's distinction between weak and strong states in

relation to power and socio-political cohesion and his broadening of the concept of security to cover five sectors. (1991) The literature that does address what is referred to as 'Third World' national security, does not directly address the issue of national security in states in transition, and as such there is a tendency to under-theorise the internal dimension to security. Azar and Moon (1984: 111-116) do deal with internal dimensions in so far as they relate to the protection of the legitimate socio-political system from internal disorder, with the key issue that they identify as relevant being ethnic conflict. Ayoob (1995:190) argues that "the low level of social cohesion and of state and regime legitimacy is the root cause of domestic insecurity in Third World states." The literature does not however adequately deal with the internal social justice and socio-economic rights issues in relation to national security in the developing world.

Much of the literature on security needs to be reinterpreted and tested for its applicability in a context such as South Africa where a transitional and developmental state is in the throes of consolidating a democracy out of a previously balkanised state, at war with its own citizens. Mutimer argues that "for weak states, a good part of their security problem is protecting the state against internal threat." (1999: 80) While it is over-simplistic to classify a state in a transition to a new social and political order as a weak state, there is an element of Mutimer's argument that is highly relevant to any state that is undergoing transformation and provision of services where services have previously not been available.

With the above *caveat* however, Buzan makes a significant contribution to security studies in directly challenging the militaristic assumptions of strategic studies and identifying national security issues as stretching across the military, political, economic, societal and environmental security sectors. (1991: 116) If one considers the range of definitions of security that Buzan quotes, one can readily see that a common definition of security is not achievable. (1991: 16-7) Above all else, because security is a socially-constructed and socially-defined state, and reflects the interests of those who pursue it.

However, there are useful indications of thinking on national security reflected in Buzan's choice of definitions. The Canadian National Defence College defines national security as:

> The preservation of a way of life acceptable to the … people and compatible with the needs and legitimate aspirations of others. It includes freedom from military attack or coercion, freedom from internal subversion and freedom from the erosion of the political, economic and social values which are essential to the quality of life. (Quoted in Buzan 1991: 17)

Ullman is quoted as defining a threat to national security as:

> An action or sequence of events that (1) threatens drastically and over a relatively brief span of time to degrade the quality of life for the inhabitants of a state, or (2) threatens significantly to narrow the range of policy choices available to the government of a state or to private, nongovernmental entities (persons, groups corporations) within a state. (Quoted in Buzan 1991: 17)

In tracing the development of and distinction between strategic studies and security studies, Snyder identifies four key themes in the post Second World War debate:

> Security was not the primary concern of all states at all times, but merely one concern that varied in importance from one historical context to the next.
> Both military and non-military tools of statecraft would be important to national security.
> The recognition of the security dilemma that an increase in security in one state can generate insecurity in another would lead to cautious use of military power.
> Linkages between national security and domestic affairs such as the economy, civil liberties and democratic processes were made. (Snyder 1999: 5-6)

Snyder traces the evolution of security studies further to the post-Cold War period and argues that there are three broad issues that must be considered: security as a goal; the means of pursuing security; and the relation between security and domestic affairs. (Snyder 1999: 8) He argues correctly that the object of security is not merely the state, but can include a variety of things that are to be secured.

In moving away from the state as being the object to be secured, the issue of the security of the people is raised in the literature, amongst others by Booth who is described by Mutimer as arguing for a very different understanding of security from that put forward by Buzan, "with people rather than states as its referent object." (1999: 83) Booth, as reflected in Mutimer, identifies security as being emancipation, freeing people from physical human constraints which stop them from freely carrying out what they choose to do. Useful as this concept is, it begs the question of freeing which people, since society is not merely made up of individuals, and there are contradictory interests within any society, and what constitutes security for one social group may constitute insecurity for another. Booth has argued that "to broaden the security agenda is to accept – perhaps without realising it – that human security is ultimately more important than state security." (Booth 1994: 3)

Snyder importantly indicates that:

> Of the various ways of reconceiving the referent object of security, several, in addition to "the individual" have been particularly important: humanity as a whole, nations, societies, and genders. (1999: 84)

The recognition of gender as an object or social construct to receive security is of particular relevance to the debate about rape and national security.

The broader non-statist definition, entailing a variety of referents of national security has become current in much of the literature, particularly pertaining to the developing world. Changing the understanding of security in this manner alters the source and nature of threats to that security, and therefore alters the manner in which security can be achieved. Where the state-centred concepts of security lead to priority focus on the protection of the state, and hence the use of extraordinary means to achieve this in the face of a threat, the broader range of referent objects can even involve the very instruments of state security being seen as sources of insecurity for the people they are supposed to protect. (Mutimer 1999: 87)

This then raises the question of what it is that makes something a security problem and what are the implications of defining this as a security problem. Mutimer in discussing Waever has argued that defining something as a security problem both indicates that the state has a special right in relation to that thing, and that it entitles a claim on the social resources to address the problem. (1999: 89-90) This is a very significant contribution in the debate on national security issues, as it implies that securitisation of an issue does not necessarily lead to the use of extraordinary conventional security measures, an immediate resurgence of the militarist strategic studies approach, but that indeed identification of something as a security problem enables the allocation of human, strategic, financial and physical resources to the solution to the problem. This, it will become apparent, is highly relevant to the South African Cabinet decision to prioritise rape and task the development of an Anti-Rape Strategy.

The questions that must be posed are: How does an issue in society become of security relevance? How are issues securitised? And how is the national security agenda shaped? Each society develops an appropriate model for shifting issues from the ordinary political arena to the security arena, and the key criteria have to be that the issue becomes a threat to the good functioning of the societal entity. It must be recognised that achievement of human security is one of the fundamental necessities for sustainable national security, but that this does not render each and every human security issue a national security threat that requires

extraordinary security steps to address it.

The process of issues becoming recognised as posing a security threat, referred to as the 'securitisation of issues', has a strong subjective component. No two societies will place the threshold of national security at the some place or same level. What makes one individual in one country feel secure may not be sufficient to make others in another country feel secure. (Azar and Moon 1988: 109) Mutimer makes the additional point that since security is a product of social processes, it can also be changed through social processes, and argues against an ahistorical approach to understanding security:

> In other words, change is possible; just because security is understood and practised in a particular way today, this does not mean that it has always been so nor that it must always be so in the future. (1999: 95)

This is a particularly relevant issue when a phenomenon perpetrated by one section of society renders another section of the same society insecure – at what stage does the nation recognise that the insecurity felt by that section of society is so unacceptable that it requires extraordinary measures to address the causes and provide protection? This is a key issue that must be addressed in relation to rape since to a large extent it is women and the girl child who are the victims of rape and men who are the rapists.  The question should therefore be elaborated: when does a gender specific issue become recognised as a national security risk or threat? Recognition of rape as a key human security issue and a component of national security agenda would be an indicator of the level of gender consciousness and human rights culture of that nation.

Drawing on the important conceptual work of Buzan, Waever and de Wilde in their 1998 article (1998: 23-26), the process of securitisation of issues or the shifting of issues out of the normal process of governing and politics into emergency or extraordinary mode, is related to when such issues are perceived to constitute a threat to security and how ready government and other sectors of society are to address the issue in the normal course of governance. In analyzing the securitisation process, the existential threat (who or what is posing a threat) to a referent object (who or what is being threatened) by a securitising actor (the issue that has become a security issue) must be identified. The manner in which these interact generates the measures that will be opted for in the process of going 'beyond ordinary measures'. Not all national security issues warrant the same measures, and the role of intelligence would be to alert government to what might constitute appropriate actions, and to indicate policy implications.

Of importance is that securitisation of issues is not the responsibility or action of government alone. Civil society and political parties outside of government can be instrumental in putting issues onto the security agenda of any nation. Society defines its own security triggers. Securitisation, shifting issues out of the realm of the ordinary political process, is a socially constructed process, but one in which policy makers and the intelligence community have a key role to play, with ultimate responsibility to ensure that knee-jerk reactions do not determine the national security agenda, and securitise issues unnecessarily.

## 2.2  Individual and Human Security

In this section, the concept of human security is explored, with a view to developing a coherent definition of the concept. The starting point for conceptualising human security is that it is a fundamental responsibility of governments and that it essentially means that citizens should experience freedom from fear and freedom from want. It is seen as distinct from, but related to individual security. Human societal security can be seen as the level of security that relates to a collective of individual citizens, while individual security is seen as the safety and security of the individual person. In this sense, human security is the responsibility of governments, and provision of human security creates an environment in which citizens can realise individual security, but may also choose to live in a manner that undermines their individual security.

While accepting that human security and individual security are not necessarily the same, some of the literature that refers to individual security is relevant to this dissertation. Buzan, for example, does not utilise the term 'human security' but refers instead to individual security. In his study on the relationship between individual security and national security, Buzan argues that the dimension of individual security quickly takes on broader societal and political dimensions since human beings are the prime source of each other's insecurity. (Buzan 1991: 35) He argues that individual security is not easily defined:

> The factors involved – life, health, status, wealth, freedom – are far more complicated, and many of them cannot be replaced if lost (life, limbs, status). Different aspects of individual security are frequently contradictory (protection from crime versus erosion of civil liberties), and plagued by the difficulty of distinguishing between objective and subjective evaluation (are threats real or imagined?). Cause-effect relationships with regard to threats are often obscure and controversial (individual versus social explanations of crime). (Buzan 1991:

36)

Buzan goes on to discuss the state as a potential source of insecurity for the individual, and identifies such threats as groupable into four general categories:

- Those arising from domestic law-making and enforcement.
- Those arising directly from administrative or political action by the state against individuals or groups.
- Those arising from struggles over control of the state machinery.
- Those arising from the state's external security policies. (Buzan 1991: 44-50)

He argues that threats to the individual from the process of domestic law can occur as a result of inadequate or excessive policing and prosecution practices. (Buzan 1991: 44) In this context, inadequately prevented, policed or prosecuted rape would constitute a threat to the individual. Buzan concludes that "although individual security does represent a distinct and important level of analysis, it is essentially subordinate to the higher-level political structures of the state and international system. Because this is so, national and international security cannot be reduced to individual security."  (Buzan 1991: 54) Correctly so, but what is required is a more refined understanding of the inter-connections between human security and national security in any particular society at any particular time.

The 1994 <u>United Nations Human Development Report</u>, placing strong emphasis on the need for the concept of security to be related more to people than to nation-states, indicates that "human security is not a concern with weapons – it is a concern with human life and dignity." (1994: 22) The <u>Human Development Report</u> argues that human security, which is more easily identified by its absence than through its presence, has four essential characteristics:

- Human security is a universal concern.
- The components are interdependent and global.
- Human security is easier to ensure through early prevention than later intervention.
- Human security is people-centred. (1994: 22-3)

The United Nations (UN) argues that human security is not a defensive concept in a traditional security sense, but rather must be approached as an integrative concept – the achievement of human security lies in achievements in the various components of human security. The <u>Human Development Report</u> categorises threats to human security as falling into seven main categories:

- Economic security.
- Food security.
- Health security.

- Environmental security.
- Personal security.
- Community security.
- Political security. (1994: 24-5)

It is the category of personal security that is particularly relevant in the study of rape as a human security issue.

The Human Development Report holds that:

> Perhaps no other aspect of human security is so vital for people as their security from physical violence. In poor nations and rich, human life is increasingly threatened by sudden, unpredictable violence. The threats take several forms:
>
> - Threats from the state(physical torture)
> - Threats from other states (war)
> - Threats from other groups of people (ethnic tension)
> - Threats from individuals or gangs against other individuals or gangs (crime, street violence)
> - Threats directed against women (rape, domestic violence)
> - Threats directed at children based on their vulnerability and dependence (child abuse)
> - Threats to self (suicide, drug use)
>
> In many societies, human lives are at greater risk than ever before. For many people, the greatest source of anxiety is crime, particularly violent crime. (1994: 30)

The Human Development Report goes on to argue that women face the worst personal threats, since "in no society are women secure or treated equally to men" and "personal insecurity shadows them from cradle to grave". (1994: 31) The Report indicates ways in which the security of women is improving, but identifies physical violence as one of the factors that continues to undermine the human security of women, citing that one in 2 000 women in the world is reported to have been raped, and that in the United States, there were more than 150 000 reported rapes in 1993 alone. (1994: 31)

The Human Development Report (1994: 38) pays attention to selected indicators of human security, while arguing that precise quantification of human security is impossible. It posits the following indicators as providing "early warning of whether a country is facing problems of human insecurity and heading towards social disintegration and possible national breakdown":

- Food insecurity.

- Job and income security.
- Human rights violations.
- Ethnic or religious conflicts.
- Inequity.
- Military spending.

While these are indeed indicators of human insecurity, the extent of social fabric related crime, and in particular rape of women and children, must be an indicator of the social health of a nation and hence of the potential for social disintegration.

Hough argues that:

> Threats to human security, such as poverty, could therefore exist without this necessarily manifesting (or even potentially manifesting) as a threat to national security.  It has been argued that only if a certain condition or situation leads to violence, unacceptable conflict, or state of instability, or has the clear potential to do so (including existing indications to this effect), could it also possibly be viewed as a national security threat. In this regard, threats to law and order, are also not necessarily threats to national security… The intensity, extent and consequences of, for instance, violent crime, will determine in a given situation whether it is a threat to individual security and law and order, or also a threat to national security. (2002: 79)

Hough cautions that over-emphasis on human security can create false expectations, "as the alleviation of human security does not necessarily mean greater peace and security. Many 'human security' issues are in fact service delivery issues, some on local level." (2002: 81)

Solomon relies on the Bonn Declaration of 1991 for a definition of human security as "the absence of threat to human life, lifestyle and culture through the fulfilment of basic needs" and goes on to state that:

> One of the practical consequences of talking about human security as opposed to state security, or making people the primary referent of security, is that it becomes possible to identify threats to human security at subnational, national and transnational levels. (Solomon 1998: 7)

Solomon then quotes Booth's counter to the critique of the new security agenda, namely that the threat agenda will become unmanageably huge. The key challenge that Booth has raised and that Solomon endorses is the interests that lie behind the desire to keep human security issues off the national security agenda. (1998: 8)

It must also be stated that recognising interpersonal and violent crime as a human security

issue has implications for the governmental strategy to address the levels of such crime. This recognition results in an approach of identifying enhanced social crime prevention, encompassing both improvement of the service delivery of the criminal justice system and service delivery to address the social causes of crime, as necessary components of the solution. Following Butchart and Emmett, the approach to social crime prevention must entail an approach that is sensitive to the uniqueness of community perceptions and conditions, diversity of culture in order to obtain a sense of ownership of the violence problem and hence empower communities in its solution.

> Violence is therefore a problem for many different sectors and disciplines, demanding inter-sectoral approaches that link the prevention contributions that the police, the health sector, education, community groups and ordinary individuals can all make. (Butchart and Emmett 2000: 19)

Butchart and Emmett (2000: 19-20) argue that programmes that are beginning to return empirical evidence of violence prevention success, fall within three broad categories:

- Early developmental prevention interventions that target children agreed three to five years who are resident in urban communities at high risk of violence.
- Youth educational interventions that are usually school based and recruit teachers as intervention agents to target youth at risk with anger management, conflict resolution and life skills training.
- Regulatory interventions which aim at enacting and ensuring the enforcement of laws that restrict actions that facilitate violence, such as carrying of weapons.

## 2.3 Human Security as a Component of National Security

An aspect that is not adequately taken into account in the debate about at what stage a human security issue enters into the terrain of concerns, risks and threats to national security is the impact that a human security threat poses to the community, to sectors of the community, and on individuals' ability to contribute fully, freely and equally to the workings of the democracy. In relation to the gender specific human security issues, and human security issues with a violent and criminal character, this is an important dimension. It is the contention of this dissertation that human security is indeed an element of national security in the South African approach to security. This must not be conflated with the need to ensure a clear distinction between what constitutes a national security issue, and what renders such an issue a national security concern, risk or threat. It is indeed when a national security issue becomes a concern; a risk; or a threat that the utilisation of extraordinary measures or focused security

service attention or dedicated and extraordinary resource allocation may be considered.

The attention that the UN has attached to the issue of sexual violence is indicative of the importance that is attached to the phenomenon of rape and gender violence. The <u>Report on the UN 1995 Fourth World Conference on Women Platform for Action</u>, commonly called the <u>Beijing Platform</u>, addresses the phenomenon of violence against women and girl children and rape directly, and includes intervention on these issues in the actions that assenting states are expected to take. (UN 1995: Article 11)  This action by the leading global multi-lateral forum reflects the fact that those most affected by rape have raised it as a threat to their own security on a level that requires UN attention. While this does not convert an issue into a national security threat in each and every country, it does add weight to the manner in which the extent and impact of rape is perceived internationally.

While guarding against a definition of human security being so wide that it is neither conceptually nor strategically useful, where a state is founded on recognition of the human rights of its citizens, widespread violation of human rights through violent crime constitutes an important human security issue that can well impact negatively on national security. Rape in South Africa is such a violation of the human rights of women, children and male rape survivors.

It is perhaps in the objectives of security that the key to the conceptualisation of human security lies. Human security places emphasis on freedom from personal fear and freedom from want, as reflected in the principles governing national security in Chapter 11 of the South African Constitution. (RSA Act 108 of 1996) As such, it can be seen as the end goal of a state's national security strategy, as argued by Opperman. (2000: 2 of 10) Different communities have different interpretations of what is required for a condition of human security. Opperman further argues that national security closely links with justice, peace and order; is based on rules and norms that govern the behaviour of the citizens within a state; and the existence of a belief in and acceptance of common principles, or national values. This, he argues, will lead to a greater willingness to cooperate, rather than the precedence of individual desires over society goals. Justice, he argues, determines the stability of relations (order) within a society; and peace defines the environment in which cooperation and the predictability of life becomes possible, whether in the classic absence of war, the absence of structural violence, the presence of a highly effective process of conflict management, or the presence of economic justice and social harmony. (Opperman 2000: 2 of 10) For national security to prevail, these three components must be in equilibrium. Peace should also be

understood to entail absence of fear or threat.

## 3.   SERIOUS CRIME, RAPE AND HUMAN SECURITY

International trends in security studies place crime centrally on the national security agenda of most, if not all states. Serious crime, in both the organised crime sense and in relation to serious violent crime, is recognised as a factor that impacts negatively on stability within any society.

The United Nations Office on Drugs and Crime (UNODC) <u>Strategic Framework on Crime and Drugs for Southern Africa</u> identifies serious and violent crime as a region-wide problem, and argues that:

> Crimes related to violence against women, especially but not only rape, constitute a disturbing phenomenon that appears endemic to the region. All countries for which some figures are available from police or survey sources report high and, for the most part increasing, rates of such violence. Once again, the situation appears at its worst in South Africa, with the reported rates of rape among the single highest in the world … (2003: 12)

Mti has argued that serious crime can lead to the emergence of vigilantism that undermines the criminal justice system of a country; serves as a disincentive for investment and hence impacts negatively on economic development and growth; and can, particularly where it is organised, also impact on corruption and undermining of good governance and the ethics of a nation. (Interview with Mti: 2003)  Hough has argued that in developing countries, "endemic crime is not merely a law and order issue, but has in fact become a national security issue. … In South Africa, the nature, extent and implications of current crime trends, have clearly resulted in crime becoming a national security issue." (1995: 56)

While internationally, it is recognised that high levels of organised crime, of corruption and fraud, of armed robbery, and of organised violent crime are unmistakably issues of national security concern, the challenge is to see whether this approach is extendable to the crime of rape.

In relation to rape, the former South African Coordinator for Intelligence argues that this perspective of serious crime being a component of the national security agenda simplifies the question when it comes to rape, but he goes on to indicate that there are two dimensions to

understanding rape as a national security issue. The one dimension is a type of crime with unacceptably high levels, but he argues that:

> even before rape is seen as a crime, rape as a phenomenon and a human rights violation has the potential of destabilising a society if it is not controlled and can impact on investment in a community, city or town where rape is seen to be prevalent; can retard human resource development particularly in relation to women; can undermine the ability of the state to protect the Constitution as it violates the human rights of women and children; can exacerbate the pandemic of HIV/AIDS; and can lead to communities taking their own actions in a manner that weakens the nation and consolidation of a democratic state. (Interview with Mti: 2003)

On the basis of this, from a human rights perspective, Mti argues that rape should not be seen merely as a crime and hence a responsibility of the criminal justice system, but that it is indeed a human security concern and therefore has its place on the national security agenda.

## 4.   CONCLUSION

This chapter has attempted to generate a degree of theoretical clarity on the concepts of rape, gender violence, human and national security as the background against which the investigation of the dissertation will take place. For the purposes of this dissertation, the following will form the premise against which the analysis of rape as a human security issue will be conducted.

For the purposes of this dissertation, rape is seen to cover non-consensual forcible sexual intimacy. It is seen as both a violation of the human rights of victims, in particular women and children as the most prevalent victims of rape, and as a violent crime in the conventional sense. It should be noted that the purpose of this dissertation is not to study rape as a criminal offence prosecutable in a law court, but rather to study rape from a security perspective. It should also be noted that the current legislative amendments that are being considered in South Africa indicate a move towards a broader definition of rape, in line with the perspective utilised in this dissertation.

Human security is a key objective of national security and lies in a number of areas – the traditional military and political security spheres; the area of sustainable development, peace, and justice; the arena of food, health and environmental security; and the domain of personal security.  Social crime prevention as a partnership between government and community, and

an essential complement to traditional criminal justice efficiency and effectiveness, becomes a crucial link in the relationship between human security issues and the national security agenda.

Securitisation of issues of delivery is a socially-constructed process, in which the perceptions of the broad community have an important determining role. The process of how a state makes decisions as to when issues of a human security nature become national security concerns, risks or threats, is premised on the social dynamics in that particular country.

Serious violent crime is recognised as a national security concern in almost all countries, and the challenge is determine whether rape, in which half of the population are potential victims in the course of their daily lives, is identified as a security concern.

Furthermore, it has been argued in this chapter that recognising interpersonal violent crime as a human security issue has implications for the governmental strategy to address the levels of such crime, and that this recognition results in promotion of social crime prevention strategy aimed both at improving the criminal justice system service delivery and addressing the causal factors of crime as necessary components of the solution to interpersonal violent crime.

Building on the preceding sections, it must be concluded that rape should be seen as a human rights violation, a crime, a human security concern and a component of the national security agenda.

The next chapter will consider the appropriateness of these concepts of rape, of gender violence, and of human and national security when applied to the threat that rape poses in the South African context.

**CHAPTER 3:**
**SECURITY AND RAPE IN SOUTH AFRICA**

This chapter will briefly outline the background to South Africa government policies on rape and on security in the post-1994 period, focusing on the paradigm shift and outlining the conceptual approach of the South African government. This chapter will aim to utilise the definitions provided in the previous chapters, and to reflect on current debate on the government definition of rape and security utilised in a South African context. The chapter will attempt to reflect the interconnection between the understanding of rape in South Africa with concepts of human and national security utilised in South Africa.

## 1.   THE SOUTH AFRICAN APPROACH TO SECURITY

The South African security establishment is perhaps, at a policy level, one of the most radically transformed sections of government in contemporary South Africa. Due to the nature and role of the security forces in pre-1994 South Africa, the Constitutional Assembly focused specific attention on these institutions and their transformation, protecting such transformation by enshrining it in the Constitution. The underlying principles that inform the security doctrine and policy of the country have received focused government attention in the post-1994 period.

Various security terms are utilised in post-1994 South Africa, and a common understanding of these must inform discussions on human and national security.  Security concerns manifest in a variety of different forms and levels of impact, and as a transitional state in which there is not yet a common national perspective on issues of security, South Africa is engaged in ongoing debate about perceptions or assessment of the levels of risk and threat posed by many phenomena in daily life.

The term 'stability' is used to refer to the assessment of the ability, or otherwise, of a nation state to continue to function normally, within the legal and constitutional system of that country, and with a degree of harmony between government and the citizenry. Stability is therefore an important component of national security, and also directly relevant to characterising the phenomenon of rape as a security issue. Women and children make up more than half of the population of any country, and if they are unable to continue to function normally and fully as citizens, does this mean that the state can continue to function normally?

The term 'security' has a variety of uses. The most common use in relation to the global arena

is to refer to situations that generate or manifest inter-state tension and armed conflict, or situations of intra-state war or armed conflict, in other words, in situations in which governments have declared a situation of national defence, whether against another state or an indigenous armed rebel grouping(s). It should be recognised that rape is often a feature of war-torn societies, and addressing this has been recognised in the action steps of the Beijing Platform. While South Africa is neither in a state of defence, nor of intra-state conflict, this dimension of rape may be relevant to a nation such as South Africa that is in a post-armed conflict situation.  The nature of the armed conflict in South Africa, and its impact on citizens of and social relations in this country cannot be ignored in discussing violent crime in a post-1994 South Africa.

'Human security' is used in South Africa to refer to that aspect of national security that places emphasis on freedom from personal fear and freedom from want. The provision of human security, a fundamental responsibility of government, relates to the constitutional obligation to deliver on basic human rights, policy commitment to deliver on human needs, and eradication of phenomena that violate basic human rights, and therefore impact negatively on personal and community safety and hence on people's ability to participate fully in all aspects of society.

The term 'national security' has been defined so as to cover the need to secure the constitutional order, sovereignty of the nation, the system of good governance, the stability of the social order and the well-being of the nation's people.  It is in these two final phrases that the scope arises for an issue like rape to become an issue on the national security agenda. The challenge is to address what dictates that rape should be placed on the national security agenda; in putting rape onto the national security agenda, how is it categorised; and against that, does the current South Africa situation reflect this type of conflagration in relation to rape.

## 1.1 Defining National Security in Contemporary South Africa

Post-1994 views on national security were formulated in various documents, the most relevant for this analysis being the White Paper on Intelligence (RSA 1994), the National Strategic Intelligence Act (RSA Act 39 0f 1994), the White Paper on National Defence for the Republic of South Africa (RSA 1996) and the Constitution of the Republic of South Africa (RSA Act 108 of 1996).

The Constitution defines the governing principles of national security as follows:

The following principles govern national security in the Republic:

*(a)* National security must reflect the resolve of South Africans, as individuals and as a nation, to live as equals, to live in peace and harmony, to be free from fear and want and to seek a better life.

*(b)* The resolve to live in peace and harmony precludes any South African citizen from participating in armed conflict, nationally or internationally, except as provided for in terms of the Constitution or national legislation.

*(c)* National security must be pursued in compliance with the law, including international law.

*(d)* National security is subject to the authority of Parliament and the national executive. (RSA 1996: s198)

The South African <u>White Paper on Intelligence</u> addresses the strategic shift in the conceptualisation of national security that took place in the democratisation of South Africa, **and makes a crucial point that t**he maintenance and promotion of national security (i.e. peace, stability, development and progress) should be a primary objective of any government. (RSA 1994: s3.3)

The <u>White Paper on Intelligence</u>, then elaborates on the broader understanding of national security that was endorsed.

The traditional and more narrow approach to security has emphasised military threats and the need for strong counter-action. Emphasis was accordingly placed on the ability of the state to secure its physical survival, territorial integrity and independence, as well as its ability to maintain law and order within its boundaries...

In recent years, there has been a shift away from a narrow and almost exclusive military-strategic approach to security. Security in the modern idiom should be understood in more comprehensive terms to correspond with new realities since the end of the bipolar Cold War era. These realities include the importance of non-military elements of security, the complex nature of threats to stability and development, and the reality of international interdependence.

…

New thinking on security has the following key features …

- Security is conceived as a holistic phenomenon and incorporates political, social, economic and environmental issues.
- The objectives of security policy go beyond achieving an absence of war to encompass the pursuit of democracy, sustainable economic development and social justice.
- Regional security policy seeks to advance the principles of collective security, non-aggression and Peaceful settlement of disputes.

... National security objectives should therefore encompass the basic principles and core values associated with a better quality of life, freedom, social justice, prosperity and development. (RSA 1994: section 3.3)

The White Paper on National Defence echoes the approach of the White Paper on Intelligence, in stating that:

Security is an all-encompassing condition in which individual citizens live in freedom, peace and safety; participate fully in the process of governance; enjoy the protection of fundamental rights; have access to resources and the basic necessities of life and inhabit an environment which is not detrimental to their health and well-being.

At a national level the objectives of security policy therefore encompass the consolidation of democracy; the achievement of social justice, economic development and a safe environment; and a sustainable reduction in the level of crime, violence and political instability. Stability and development are regarded as inextricably linked and mutually reinforcing. (RSA 1996: 5)

The Cabinet-approved framework for the consolidation of coordination around national security issues, as indicated in the document prepared by the National Intelligence Coordinating Committee (NICOC), reinforced a crucial distinction between the broad and narrow concepts of security. It was argued that the broad conceptualising of national security that South Africa had adopted post-1994 required "a tighter structure, more narrowly based on the Security Departments is necessary in order to ensure that coordination on the narrower security issues is not lost in the broader focus". (NICOC 2000: 57)

Four enduring key national interests were identified, acknowledging that they were interrelated and mutually reinforcing, and should each be interpreted and understood in relation to the

others.  The key national interests were:

- The survival and defence of South Africa, its values and institutions and the safety of its people.
- Sustainable economic growth and development in South Africa and the region.
- A peaceful and stable international environment.
- Engagement with and participation in the international community.

It is the safety of its people, and one of the key features identified as requiring coordination, namely issues of high impact on quality of life, that are perhaps most relevant for the discussion of rape and human security.

NICOC argued that:

> The adoption of the wide definition of security means that any issue that could impact on the quality of life of the inhabitants of South Africa is a security issue. The national security management structure must therefore enable effective measures to deal with both routine, day-to-day issues and with crises. Most issues that impact on national interests and security in the broad sense are dealt with on a routine basis by government departments and do not require an urgent, concerted and coordinated response at a national level, except in the context of crises.  The scale and urgency of a matter may, however, elevate its status to a point where an extraordinary response is required. The main focus areas are expected to be Internal stability; Disaster relief within South Africa; International obligations; Defence of South Africa; and Big Event Security. (2000: 58)

On this basis of this argument, a National Security Council (NSC) was created to ensure a rapid, coordinated and effective response to critical threats to the security of South Africa and its people, and hence contribute to the protection of South African citizens and the democratic order, through enhancing the effectiveness of the President and Cabinet in relation to national security issues and through liaison with the Cabinet Cluster Committees in relation to coordination of their activities regarding security issues. (NICOC 2000: 58-60)

## 1.2 Security and Socio-economic Development

The White Paper on Intelligence argues that "the new approach to security holds that the Reconstruction and Development Programme, (RDP) as an organised and collective effort of our society led by the government of National Unity, is integral to and forms the core of the country's emerging national security doctrine." (RSA 1994: s3.3) In essence the White Paper on Intelligence argues that sustainable development, democratisation and transformation of

South African society are key determinants of genuine peace and lasting security.

The <u>White Paper on Intelligence</u> also states that:

> The national security doctrine must promote the creation of a societal environment that is free of violence and instability. It must engender, within the context of a transformed judicial system, respect for the rule of law and human life. (RSA 1994: 5-8 s3.3)

Human security is not addressed directly in the <u>White Paper on Intelligence.</u> However, it does provide guidance in this regard by identifying that:

> The main threat to the well-being of individuals and the interests of nations across the world (does) ... not primarily come from a neighbouring army, but from other internal and external challenges such as economic collapse, overpopulation, mass-migration, ethnic rivalry, political oppression, terrorism, crime and disease, to mention but a few. ... The objectives of security policy go beyond achieving an absence of war to encompass the pursuit of democracy, sustainable economic development and social justice. (RSA 1994: s3.3)

When the draft <u>White Paper on Intelligence</u> was debated in the *Ad hoc* Committee on the Intelligence Bills, there was concern from one political party that this was raising the entire Reconstruction and Development Programme to the national security agenda. This should *not* be read to mean that every issue in society, particularly in the developing world, becomes an issue that the government intelligence and security institutions are required to take extraordinary steps to address, but rather it should be understood to identify these as issues on which delivery is crucial for the provision of national security. It is therefore rather that non-delivery on these issues can constitute a national security risk that can escalate into a threat, at which stage extraordinary measures could be required.

## 1.3 The South African Debate on Human Security

In an insightful and incisive paper prepared by the National Intelligence Agency (NIA) Director General in 2001, a reflection of the lack of consideration on the positioning of human security within the national security discourse is manifest. He argues that the end of the 1980s ushered in two landmark events, namely the end of the Cold War and the demise of the Apartheid regime, that combined to alter not only the social discourse that had governed human affairs for almost half a century, but also contributed to the changing balance of forces

across the globe. He elaborates that these events also altered the conceptualisation of who constitutes a friend and who a foe, who is a strategic partner and who a tactical one. (NIA 2001)

He argues that while these two events introduced a refreshed set of values into the social and political discourse (e.g. participatory democracy, reconciliation, open and transparent society, and greater accountability), a strategically dangerous notion was also born, namely the relegation of issues of security and intelligence to the bottom of the national agenda. He elaborates further that the cycle of political violence in South Africa in the early 1990s as well as the concern about the spread of criminal violence, engendered a narrow application of intelligence at the expense of a comprehensive mandate encapsulated in the White Paper on Intelligence. (NIA 2001)

The NIA Director General correctly motivates that what is paramount in the South African context is good, effective and efficient governance and delivery to the people, but argues that "there can be no improvement on good, effective governance and delivery to the people without an improved injection of the input of the intelligence community. A good government, a vibrant democracy, a thriving economy, a safe environment, an efficient health sector, a working education system, a crime free community, all depend on adequate intelligence and counter intelligence capacity of the agencies of state." (NIA: 2001)

**This speech begs the thorny question, properly to be debated within the intelligence community and hence not necessarily accessible in the public arena, of the role of intelligence in relation to human security, and by extension in relation to rape in South Africa. Mti argues that intelligence has a role to play in relation to human security issues such as rape, in order to fulfil its mandate as the "interpreters of national security relevant information", as the "custodians on threats to government and the nation". (Interview with Mti: 2003) Emphasis has also been placed by the Minister for Intelligence Services and the Deputy President on the role of the intelligence community in ensuring that decision-making is based on accurate, scientific information and not misled by disinformation that abounds in the information age. (Sisulu 2002b; Zuma 2003) This perspective is relevant in later comment on the role of relevant security institutions in the Anti-Rape Strategy.**

Provision of human security in South Africa, as an integral component of achieving national security, is becoming an increasing concern in national strategic intelligence. Human security

issues, and the interface between these and the crime level in South Africa, have the potential to become a long-term stability threat in South Africa. It is anticipated that if there is not a significant improvement in delivery on human security in South Africa in the short to medium-term, many of the human security issues will become conflict-generating and have a serious negative long-term impact on domestic stability.


## 1.4  Violent Crime and Human Security

Rape is a human rights violation, and a violent crime. Of importance to this dissertation and to the conclusions to be drawn about the manner in which South Africa should respond to rape and its relationship to the national security agenda, is the approach that is adopted to understand crime and violence. Butchart and Emmett usefully comment that the roots of crime and violence in South Africa are:

> ... so embedded in our everyday social relationships and in the complex patterns of inequality in our society, that quick fixes can treat only the symptoms, but not the underlying causes. Public health, with its emphasis on using scientific methods for identifying and dealing with these underlying causes, is a framework for medium to long-term prevention. Public health is therefore a resource for crime and violence prevention that operates together with, rather than against, the essential short-term measures applied by the police and the courts. In the end, successfully coming to grips with crime and violence in South Africa will include both short-term measures and long-term strategies, and will involve science working for people and society in the formulation of shared solutions to a shared set of problems." (Butchart and Emmett 2000: 4)

They argue further that solutions to crime and violence have been almost entirely oriented towards traditional criminal justice, "retribution, deterrence and incapacitation. Yet, these criminal justice strategies have not been effective in reversing what appears to be a trend towards an increasing violence in all its forms." (Butchart and Emmett 2000: 4) They reach the conclusion that the methods and models of public health practitioners could complement existing criminal justice approaches.

In exploring how the South African state deals with violent crime and human security issues, it is important to recognise that the National Crime Prevention Strategy (NCPS), adopted by Cabinet in May 1996, represented the introduction into South Africa of a new paradigm for dealing with crime. The approach of the NCPS, as reflected in Rauch's summary of the key

NCPS concepts, is relevant to conceptualising an Anti-Rape Strategy in South Africa:

- Crime cannot be reduced using only law enforcement and criminal justice responses. States must also introduce methods to prevent crime. This is clear from the international experience of rising crime rates over the past fifty years, despite parallel increases in expenditure on criminal justice.

- The criminal justice system cannot operate effectively unless there is better cooperation between departments which constitute the system, and integration of the things they do as part of the system.

- The government cannot deal with crime on its own. The institutions of government, in all three tiers, must work with each other and with civil society to overcome crime. This is one of the key elements of the "social crime prevention" approach

- Crimes are different, and must be dis-aggregated if effective prevention strategies are to be designed and implemented.

- Prevention efforts need to be focused on victims and potential victims of crime, and not merely on perpetrators, as traditional systems of criminal justice tend to be.

- Prevention efforts need to take cognisance of fear of crime, as well as real crime patterns. The success of the NCPS would be in reducing fear, as well as in reducing crime. (Rauch 2002: 2-3)

The post-1994 South African government has not had any hesitation in identifying crime, and in particular organised and violent crime, as a national priority and as an issue that poses a national security concern, and at times a risk. Mti, the former Coordinator for Intelligence in South Africa, using as his starting point the definition of national security that was adopted by South Africa in the Constitution, and the intelligence and defence White Papers, indicates that addressing crime is integral to the national security agenda, due to the recognition that serious crime, and in particular serious violent crime has a potential destabilising influence on any country. (Interview with Mti: 2003) This approach is also informed by the understanding that crime has social causes that government is responsible to address, and that part of the role of the intelligence community is to monitor the impact of implementation of government policy, and assess its appropriateness to national security delivery.

There are indications of growing impatience on ground level in South Africa regarding issues related to service delivery, land restitution, black economic empowerment and a perceived inability of the SAPS and the criminal justice system to curb the persistent high crime levels.

This is resulting in tension on different levels of community life and, in some instances, in direct opposition to current government policies or to the execution thereof. In other instances, this results in vigilantism. These reflect a perception in the South African nation at large that these issues are of national security concern. The media outcry in relation to rape and particularly child rape is a reflection of an up-welling of public reaction to the prevalence of rape in South Africa.

Given that social transformation involves change at the grassroots level of society, the relative weakening of organs of civil society over the past decade is of concern. Of particular relevance given the concerns raised in the human security estimate is the role that sport, recreational, cultural and religious bodies can play addressing the 'RDP of the Soul' in partnership with government. The Moral Regeneration Summit and the ongoing work in relation to the resolutions of the Summit provide important windows of opportunity in this regard. A concerted effort by government to facilitate the growth of organs of civil society and to ensure dynamic relations with them could strengthen the forces involved in social transformation.

Moral regeneration in South Africa has a definite security dimension. Moral degeneration, the lack of social cohesion and social justice, poses a long-term threat to human and national security. In addition, moral degeneration is an issue that society does not know how to deal with and this in itself adds to the nature of the threat. Mti argues that "from a human rights perspective, rape when seen as a reflection of gender inequality and oppression, of patriarchy that still undermines democratic principles, in a country that is still in the process of moulding itself to the social relations envisaged in the Constitution and away from the inequities of the past, cannot be seen as anything other than a national security issue." (Interview with Mti: 2003) Reflecting on the fact that South Africa has not made sufficient progress in stabilising the rape crime levels, and the unacceptably high extent of youth involvement in rape, he goes on to argue that even if the levels of rape were not as high as they are, statistics are not relevant to whether rape is on the national security agenda or not. He argues that the existence of rape, particularly in the context of the levels of HIV/AIDS infection, requires that government monitors it, understands its causes, and strategises on its prevention and its combating, irrespective of the levels of rape. (Interview with Mti: 2003) His approach in this regard reflects the understanding of intelligence and the national security agenda as key components of the government's early warning system.

## 2.   RAPE AS A CRIMINAL CHARGE IN SOUTH AFRICA

The previous chapter defined the concept of rape that informs the analysis of this dissertation, as distinguished from the statutory definition that informs a rape charge in a court of law. It must be noted that in relation to the criminal justice component of an Anti-Rape Strategy, it is the legal definition of rape on the statute books that becomes of relevance, one that is currently subject to amendment after the South African Law Commission (SALC) completed its report. This section then seeks to engage with the legal definition of rape and the crime of rape.

The term 'rape' currently has a specific legal definition in South Africa which is, from a conceptual perspective, unfortunately narrow and restrictive. Due to the narrowness of the current legislation on rape, many serious sexual assaults are investigated and prosecuted as indecent assault. Many indecent assault cases in fact involve as much, if not more violence than the legal offence of rape, and as such should be considered more seriously by the courts. While convicted rapists face a minimum sentence, conviction in indecent assault cases often results in suspended sentences. It is of note that the DCS guidelines for parole of offenders sentenced for serious violent crime, including both rape and indecent assault, stipulate that the offender should serve three quarters of his sentence before he can be considered for parole.

The recommendation contained in the Report of the South African Law Commission  Project 107 (2002) on the expansion of the legal definition of rape to include rape as an offence against men and women, and including penetration by all objects is to be welcomed. The SALC Report states that:

> The proposed definition of rape will include vaginal and anal penetration. … Accordingly, the so-called "male rape", which is currently regarded as indecent assault, has been elevated to the category of one of the serious non-lethal offences … The Commission recommends that the State will no longer have to prove lack of consent, but rather that the penetration occurred under "coercive circumstances".  Coercive circumstances exist if there is any use of force or threat of harm against the complainant or another person or property, or if there is an abuse of power or authority to the extent that the person who is being penetrated is inhibited from indicating his or her resistance or unwillingness to participate in such an act. (RSA 2002: 2)

The South African Law Commission Report goes on to include definitions of sexual violation as penetration of one person by another unlawfully, intentionally and in coercive circumstances where an act causes penetration by any object (which includes the body part of an animal or person other than the genital organs) into the anus or genital organs of another person, and to define oral genital sexual violation when such penetration is into the mouth of another person. It recommends that these be considered extremely serious offences, and that they should attract the same penalties as are provided for rape. (RSA 2002: 3)

The South African statute books draw a distinction between forcible rape and statutory rape which is defined as sex with an underage minor even if the minor has 'consented'. While it is a concern that sexual activity by adults with young underage children does take place, this dissertation is concerned with the phenomenon of forcible rape, and not statutory rape, while recognising that in some cases there is an overlap of these two categories of rape. The rape of children that is considered in this dissertation will therefore relate to forcible and non-consensual sex with an underage child. The South African Law Commission Report addresses itself to the complexity of drawing the distinction between sexual exploration by teenage children, and rape. The Commission differentiates between penetrative and non-penetrative sexual offences in this regard, and allows for children between 12 and 16 years of age to commit indecent acts, if the age difference between the two children involved in the act is not more than three years, in recognition of teenage children's sexual development needs. (RSA 2002: 4)

While rape is a single crime category in the South African Police Crime Register, the act of rape can cover a range of different sexual and violent acts, with a diversity of impact on the rape survivor. Some of the key features of rape that are of concern in South Africa are:

- Rape of a single victim by a group of perpetrators, called Gang Rape.
- Rape of infant and prepubescent children.
- Rape of teenage children in the context of social recreation and rape of learners in the school environment.
- Rape of senior citizens, often in the context of household theft.
- Use of other forms of violence and abuse accompanying rape, including murder, or the use of an object for penetration.
- Rape as part of organised crime activities, and in particular as part of the initiating process into street gangs.
- Rape committed by serial rapists.

The NCPS in 1996 argued for the prioritising of certain crimes in order for criminal justice efforts to be strategically directed given limited resources. The NCPS identified seven prioritised key crime categories as being the crimes that, at the time, posed the greatest threat to South African citizens and to the prosperity of the country. The NCPS recognised that this prioritisation needed to be contextualised in provincial and local differences, but argued that it provided a critical starting point for the more effective utilisation of police, prosecutors and limited prison capacity. (NCPS 1996: p6 of 23) The seven prioritised crimes were:

- Crimes Involving Fire-Arms.
- Organised Crime.
- White Collar Crime.
- Gender Violence and Crimes against Children.
- Violence Associated with Inter-Group Conflict.
- Vehicle Theft and Hijacking.
- Corruption within the criminal justice system.

In relation to gender violence and crimes against children, the NCPS Summary indicates that these "are not only highly prevalent but have a profoundly negative impact on the rights and future well-being of women and children." (NCPS 1996: 6 of 23)

It is necessary for the Anti-Rape Strategy of government to consider all of these dimensions. Prevention, sentencing and rehabilitation routes for each of these types of rape cannot be simply conflated into one solution.

## 3.   CONCLUSION

The prevention of rape and the eradication of rape-promoting factors, *albeit* an ambitious and generationally long-term strategy, must be seen as an integral part of the governmental and societal agenda to achieve human and national security in South Africa.

There are, from time to time, indications from communities in South Africa that they will not tolerate the current rape situation as the *status quo*, and instances of extreme action against perceived rapists by communities in taking the law into their own hands reflect the level of intolerance of rape. This has not reached a level in society where the response to rape causes instability risks, and as such there is no basis from that quarter for rape to be identified as a measure that urgently requires extraordinary security intervention. However this does not remove rape from the national security agenda.

The other dimension that places rape on the national security agenda is the impact that rape has on the victims of rape and the potential victims of rape. National security entails freedom from fear – while women and children know that there are 17 000 convicted rapists at any one time (RSA, DCS Management Information System 2003), and a whole lot more wandering in the communities, they cannot feel safe. This insecurity must impact on their capacity to participate fully in community and national life, which has a direct consequence for the content of democracy at all levels of society, and in particular by decreasing the women's voice in the practice of democracy and nation building.

The next chapter will focus on an analysis of the phenomenon of rape in South Africa, to provide an overview of the extent, types and circumstances of rape. It will also consider what are perceived to be rape-promoting factors, as well as deterrents to the perpetration of rape, in the South African context. This overview is necessary in order to inform the analysis of the government's response to rape that will be undertaken in Chapter 5.

**CHAPTER 4:**

**THE MANIFESTATION OF RAPE IN SOUTH AFRICA**

This chapter will undertake an overview of rape as a crime that, in terms of both victims and rapists, cuts across race and class and even in some instances across gender. The chapter will seek to explore who are the most vulnerable to rape in South Africa, who are the most likely to commit the crime of rape or sexual assault, and what are the circumstances that encourage or act as deterrents of rape. It must be noted immediately that the available government information does not enable an adequate analysis of the class dimension to rape trends, although certain indicators, such as the most rape prevalent policing areas, can be interpreted from a class perspective. It is against this background that the Anti-Rape Strategy and the security implications of rape will be analysed in the following chapter.

**1.    RAPE PROMOTION AND RAPE DETERRENTS**

As indicated in the Introduction to this dissertation, South Africa is likely continue to face a situation in which social fabric crimes, such as child abuse, child rape, interpersonal violence, and domestic violence, violate the basic human rights of women, children and men. While individual cases receive intense media attention and generate public excitement about these issues, South Africa faces a major challenge in the extent of anti-social behaviour that is prevalent in most communities, across race and class, and the contribution this makes to the creation of a climate of fear, interpersonal hostility and insecurity.

Although multiple-causation is a feature of every rape, recent studies and most feminist writers stress that a cardinal feature of rape is the rapist's desire to express his power and superiority over his victim. "Rapists are not, as is also commonly believed, in the grip of an 'uncontrollable sexual urge'. From various studies we know that over 80 per cent of rapes are wholly or partially planned in advance … The existence of rape is fundamental to the power structure which exists between men and women." (London Rape Crisis Centre 1984: 4-6) A clear understanding is needed of those rape-promoting factors that induce men to rape, and those that render victims of sexual assault and rape vulnerable to the crime, and their particular manifestation in a particular community or society.

A study of different theoretical perspectives on rape led Bergh (2002: 25-27) to identify the following aspects of rape as being important across the theoretical perspectives. They are useful in pointing analysis to causal factors in relation to rape:

- Rape is an atrocious and brutal act and an inter-personal violent crime, which involves not only physical harm but also emotional and physical injury.
- Rape reflects underlying feelings of insecurity in rapists about their masculinity, male dominance and power.
- Rape reflects a defective socialising process.
- Rape has varied social meaning and value across different cultures and some communities are rape prone, while others tend towards rape free cultures.
- Rape is an endorsement of violence in patriarchal societies, and reflects a universal devaluation of women and children.

The variety of causes of rape, of forms of rape, and of circumstances surrounding rape still require in-depth study in South Africa, particularly the relationship of rape to power inequalities in South African society; the impact of structural violence and the period of South Africa's armed conflict on the early childhood experiences of today's youth; the manner in which patriarchy manifests in South Africa; the gender dimension of the planning of urban and rural built environments; the public transport systems; and the nature of the South African entertainment industry.

In exploring a range of factors considered to be rape generators, Vogelman draws a distinction (1990: 61) between rape-promoting factors that relate to sexuality, and those such as work alienation, racial oppression and economic exploitation. Rape-promoting factors are therefore categorised in terms of socialisation, sexuality and violence on the one hand and factors in the economic, social and political spheres on the other hand

## 2.   RAPE VICTIMS, POTENTIAL VICTIMS AND RAPE SURVIVORS

An overview of the existing South African statistics on rape and sexual offences indicates that infants, boy and girl children, young and old women, and men are all potential victims of rape and sexual assault. Rape does not know class, colour, gender or sexual orientation boundaries. However, information on rape victims, or rape survivors, is limited due, amongst other factors, to the stigma attached to rape and hence the under-reporting of rape. The intention in this section is to identify the various categories of rape, to identify the victims/survivors and potential victims/survivors in each category, and to extract from the available statistics, an analysis of the extent of reported rape of each category.

This research does not purport to undertake a detailed analysis of each of the categories of

rape as there is as yet insufficient data about the profile of the offender who commits each type of rape or of the victim, to do justice to such an analysis. The socio-economic, social, psychological, physiological, and ideological dynamics of each category of rape are yet to be analysed – a necessary process for a comprehensive Anti-Rape Strategy. Analysis of the patterns related to the time, location, and circumstances of perpetration of each type of rape, and reasons for these patterns are relevant to the Anti-Rape Strategy.  The statistics used in this chapter are based on the current legal definitions since the statistics are drawn from official government documents.

## 2.1   Trends in Rape Statistics

Noting the limitations on the comprehensiveness of rape statistics, the recently released SAPS crime statistics can be used to give an indication of the extent of rape in South Africa.

The statistics in *Table 1* indicate that a total of 417 730 rape cases were reported in the nine year period January 1994 to December 2002. In the 2002 calendar year, the 52,107 rape cases that were reported constituted two per cent of reported serious crime, and 5,9 per cent of reported contact crime in 2002. (RSA, SAPS Annual Report 2002/3: Part 6) The ratio of reported rape per 100 000 of the population has increased from 111.9 in 1994 to a national average of 114.6 in 2002, with the highest level being 127.8 out of 100 000 of the population in 1997. It must be emphasised that this may only reflect an increase in the reporting and not an increase in the actual perpetration of rape. Taking  the level of under-reporting of rape on the one hand, and the presumed extent of rape recidivism on the other into account, the proportion of South African men who rape and the proportion of women, children and men who are their victims, is of concern. A snap shot on a single day indicates that at the end of June 2003, about 17 000 rapists were incarcerated for rape, while another 8000 were awaiting trial on rape charges. (RSA, DCS Management Information System 2003)

The SAPS Crime Statistics indicate an increase in rape reporting from 1994 – 2001 of 11 277, and a decrease of 2 386 cases from 2001 to 2002. It is premature to indicate that the decrease from 2001-2002 statistics for both rape and indecent assault reflects a stabilising trend, but the SAPS argues that:

> … the incidence of rape decreased by 5,3 per cent between 2001/2002 and 2002/2003. This may be a result of police action as part of the Anti-rape Strategy of the IDMT of the National Prosecuting Authority. (RSA, SAPS Annual Report 2002/3)

*Table 1: Rape and Attempted Rape in RSA, January –December 1994-2002*

| Reported Crime Figures | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Jan to Dec 1994 | Jan to Dec 1995 | Jan to Dec 1996 | Jan to Dec 1997 | Jan to Dec 1998 | Jan to Dec 1999 | Jan to Dec 2000 | Jan to Dec 2001 | Jan to Dec 2002 |
| RSA Total | 43,216 | 48,172 | 51,061 | 52,696 | 49,754 | 51,738 | 53,383 | 54,493 | 52,107 |
| Ratio per 100 000 of the population | | | | | | | | | |
| | Jan to Dec 1994 | Jan to Dec 1995 | Jan to Dec 1996 | Jan to Dec 1997 | Jan to Dec 1998 | Jan to Dec 1999 | Jan to Dec 2000 | Jan to Dec 2001 | Jan to Dec 2002 |
| RSA Total | 111.9 | 122.0 | 126.6 | 127.8 | 118.1 | 120.2 | 122.2 | 122.3 | 114.6 |
| Percentage Increase/Decrease | | | | | | | | | |
| Province | 1994/ 1995 | 1995/ 1996 | 1996/ 1997 | 1997/ 1998 | 1998/ 1999 | 1999/ 2000 | 2000/ 2001 | 2001/ 2002 | 1994/ 2002 |
| RSA Total | 11.5% | 6.0% | 3.2% | -5.6% | 4.0% | 3.2% | 2.1% | -4.4% | 20.6% |

Source: RSA, SAPS Crime Statistics 2003

Given the definition of rape that has been used in this dissertation, the statistics for indecent assault are also relevant as indicators of the extent of rape in South Africa (See *Table 2*). In relation to reporting of indecent assault there has been a steady increase in reporting throughout the nine year period covered by the recent SAPS crime statistics.

## Table 2: Indecent assault in the RSA, January to December 1994-2002

| Reported Crime Figures | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|
| | Jan to Dec 1994 | Jan to Dec 1995 | Jan to Dec 1996 | Jan to Dec 1997 | Jan to Dec 1998 | Jan to Dec 1999 | Jan to Dec 2000 | Jan to Dec 2001 | Jan to Dec 2002 |
| RSA Total | 3,874 | 4,873 | 5,220 | 5,053 | 4,851 | 5,762 | 6,602 | 7,418 | 8,469 |
| Ratio per 100 000 of the population | | | | | | | | | |

| | Jan to Dec 1994 | Jan to Dec 1995 | Jan to Dec 1996 | Jan to Dec 1997 | Jan to Dec 1998 | Jan to Dec 1999 | Jan to Dec 2000 | Jan to Dec 2001 | Jan to Dec 2002 |
|---|---|---|---|---|---|---|---|---|---|
| RSA Total | 10.0 | 12.3 | 12.9 | 12.3 | 11.5 | 13.4 | 15.1 | 16.6 | 18.6 |
| Percentage Increase/Decrease | | | | | | | | | |
| | 1994/ 1995 | 1995/ 1996 | 1996/ 1997 | 1997/ 1998 | 1998/ 1999 | 1999/ 2000 | 2000/ 2001 | 2001/ 2002 | 1994/ 2002 |
| RSA Total | 25.8% | 7.1% | -3.2% | -4.0% | 18.8% | 14.6% | 12.4% | 14.2% | 118.6% |

Source: RSA, SAPS Crime Statistics 2003

It is possible from the crime statistics to indicate the Provinces and policing areas where potential victims are most at risk. The SAPS, as part of the IDMT process, undertook an analysis that determined the provincial, area and station flashpoints in relation to reported rape as being the following:

## Table 3: Flashpoint Provinces, Policing Areas and Police Stations

| PROVINCE | |
|---|---|
| Gauteng | 23,2% of all reported rapes |
| KwaZulu-Natal | 18,0% |
| Western Cape | 12,5% |
| POLICING AREA | |
| Marico | 5,0% of all reported rapes |
| Pretoria | 4,7% |
| Eastern Metropole | 4,0% |
| East Rand | 3,8% |
| Durban North | 3,7% |
| Durban South | 3,6% |
| Soweto | 3,5% |
| Boland | 3,5% |
| Western Metropole | 3,4% |
| Johannesburg | 3,2% |
| Vaalrand | 3,2% |
| Midlands | 3,1% |
| Mooirivier | 3,1% |
| Southern Free State | 3,0% |
| POLICE STATION | |
| 20% of rapes occurred in 34 station precincts - i.e. 3,1 per cent of all stations. | |

Source: RSA, SAPS Annual Report, 2002/3

An analysis of the **extent of rape per province and per policing area** are indicators of where the Social Sector and the Justice Crime Prevention and Security (JCPS) Clusters' attention should be focused in addressing the rape problem. The *per capita* distribution of serious crimes indicates the presence of factors/conditions in a given area (province or

policing area) that generate, or are conducive, to the occurrence of specific crimes. The <u>SAPS Annual Report</u> indicates that an analysis of the above mentioned flashpoints revealed:

> some social and/or physical environmental factors/conditions conducive to rape at these specific flashpoints (e.g. a shortcut or footpath through long grass to a station or taxi rank, or a drinking venue frequented by women where it is dark outside in the vicinity of an open space). The local SAPS where necessary with the help of other government departments and especially the local authority and the community itself, can then prevent rapes from occurring at such flashpoints. This will definitely decrease the incidence of rape. Through matrix linkage analysis, rape cases are linked in terms of victim, suspect and modus operandi commonalities and clustered together for investigation. This procedure can in future ensure that repeat offenders are investigated by the same detective or group of detectives and that the chances of achieving arrests, successful prosecutions and proper convictions be increased, with the effect that such repeat offenders will for quite some time not be able to further contribute to the rape figures. (RSA, <u>SAPS Annual Report 2002/3</u>)

## 2.2   Gang Rape

Rape of a single victim by a group of perpetrators, called gang rape, is a complex phenomenon in itself, at times committed in the context of a group crime activity such as housebreaking, and at times committed as part of the activity of a social grouping. At the time of the research, the integrated justice systems, SAPS and DCS management information systems do not generate statistics on the number of offenders involved in gang rape, but it is a generally recognised manifestation of rape in South Africa.

Vogelman's research indicated that almost 45 per cent of his sample of rapists participated in gang rape, while he refers to United States' statistics as indicating that one in every four rapes is a gang rape. (1990: 128) Gang rape is a source of male bonding and masculine validation, as well as peer pressure to conform to attitudes to violence and to contemptuous attitudes to women.

## 2.3   Child Rape

The <u>SAPS Annual Report 2002/3</u> is very explicit on the subject of child rape, acknowledging that **14,2 per cent** of rape victims were in the age group of 0 - 12 years, compared to this age

group's share in the victim figures for murder (**1,6 per cent**), attempted murder (**1,2 per cent**), assault with intent to do grievous bodily harm (**1,2 per cent**) and common assault (**1,6 per cent**) during the period under consideration. This information had been drawn from a docket analysis of cases involving sexual offences against children of 12 years and younger during the 2002/2003 financial year. A total number of **3 222** dockets were analysed and the following findings were *inter alia* made:

> More than half (**52,7 per cent**) of the cases actually involved rape, followed by **24,8 per cent** indecent assault cases, **11,4 per cent** incest cases and **5,2 per cent** cases of attempted rape. Many of the indecent assault cases were registered as such because the fact that the victims were only 0 - 12 years of age prevented penetration from occurring and consequently precluded the registration of rape cases. Many of these cases should actually have been registered as attempted rapes, a more serious charge than indecent assault.  It should be noted that 14,2 per cent of reported rape cases in 2002 was approximately 7399 cases of child rape. (RSA, <u>SAPS Annual Report 2002/3)</u>

The <u>SAPS Annual Report</u> goes on to indicate that close 87,8 per cent of the offenders were known to their child victims before the sexual offence occurred. Among these:

- 41,8 per cent were acquaintances.
- 21,4 per cent were relatives (of whom 9,2 per cent - that is 43 per cent of the relatives - were the victims' own parents or guardians).
- 10,4 per cent were known by sight.
- 9,4 per cent were neighbours.

According to the <u>SAPS Annual Report</u>, the actual offence frequently occurred at the offender's residence (32,5 per cent), the victim's residence (31,4 per cent) or at a residence known to the victim (9,9 per cent). Only 16,5 per cent occurred in an open space. This raises a serious challenge to how government and the police in particular ensure the safety of these children. (RSA, <u>SAPS Annual Report 2002/3)</u>

Rape of children and paedophilia should not be conflated. While child rape is the forceful imposition of sex on a child, paedophilia is a longer-term process of seduction of the child in fulfilment of erotic needs, and seldom involves forcible rape, although there are cases in which forcible rape does occur. The social and psychological dimensions of the two crimes are dissimilar. It must be stated that while paedophilia on the whole does not involve violence and physical force, it is none-the-less coercive in the manipulative sense and deeply traumatic for the child victim, with long-term psychological and emotional repercussions. (Interview with

Bergh: 2003)

The <u>Nedcor Project on Crime, Violence and Investment</u> found that children and teenagers are two and a half times more likely to be raped than adults. (1996: 8) Studies of the SAPS Child Protection Unit statistics going back as far as 1996 indicate that a significant percentage of violence committed against children consists of sexual abuse. While boys are more likely to suffer physical assault, girls are more likely to be sexually abused, with street children being most vulnerable to rape and prostitution.

In relation to rape of infant and pre-pubescent children, over the past 15 years there appears to have been a lowering of the age of children targeted in sexual offences. (Interview with Pienaar: 2001) It is also assessed that the severity of violence in child abuse, rape/indecent assault and child murder has increased over the past ten years.

In addressing the issue of child rape, Van Niekerk (2003: 11-12) argues that under-reporting in South Africa is due to a variety of reasons:

- Difficulty of access to police stations and other points of entry into the criminal justice system.
- Family members of the child may block access to the criminal justice system.
- Persuasion to accept damages from the perpetrator as an alternative 'solution' to the sexual assault on the child.
- The child and/or the family may be intimidated and fear reporting the assault.
- Children may refuse or fail to disclose the sexual abuse or the alleged assailant.
- Belief that reporting to the criminal justice system will further traumatise the child with no positive outcome for the child or the family.
- Lack of faith and confidence in the local police.

While under-reporting on the rape of children may be more acute, many of the general factors that contribute to the level of under-reporting are also relevant. Jackson (1997: 2) ascribes lack of reporting in South Africa to factors such as lack of faith in the police, feelings of shame, and guilt and pressure placed on victims by peers or family members. She goes on to cite examples of cultural norms and myths being used to protect perpetrators of gender violence, through statements such as "it is in their culture to do so; it is in their nature to do so", which makes it more difficult for victims to confidently report the crime. The complexity of attitudes of husbands or partners to rape of wives/partners can also be a contributing factor in under-reporting of rape by married women.

In relation to rape of teenage children in the context of social recreation and in the school

environment, a distinction should be drawn between rape by peer members and rape at the hands of authority figures. Date rape, the vulnerability of girl children and young women in the context of dating to forced sexual intimacy, raises serious challenges to family, schools, religious institutions and government in relation to how society equips teenagers for entry into the sexually active world. Of note is that the average age for children to become sexually active appears to have dropped from 14-16 ten years ago to 11-12 currently. (Interview with Pienaar: 2001) This lowering of the age of sexual activity can be ascribed to a range of factors, including acting out what children have witnessed such as observed sexual activity due to overcrowded living conditions and sexual activity seen on television and film. The SAPS Annual Report, 2002/3 makes the following observation in Part 6:

> An analysis of the biographical characteristics of victims and offenders reveal that 39,3 per cent of the offenders were 19 years and younger. Nearly 10,0 per cent (9,8 per cent) was in the same age group than the victims (0 - 12 years of age). This finding as such is not sufficient to confirm or reject the hypothesis that overcrowding leads to a situation in which children observe adult sexual behaviour and then imitate this behaviour with other children.  However, it certainly makes a thorough investigation of this and other hypotheses about rape in general and specifically child rape imperative.

The Reports in early 2002 by both the Select Committee of the National Council of Provinces (NCOP) and the Medical Research Council on the extent of rape and sexual assault on school children by teachers, is of serious concern. The vulnerability of victims to threats of secondary victimisation should they report their experiences is particularly acute when the rapist is an adult authority who has power over the victims long-term future through their ability to impact negatively on the victims education. (RSA, Information Services Research 2002: 12)

There is no evidence that conventionally attractive women are more vulnerable to rape; in fact, the extent of rape of very young girls and old women in South Africa, conventionally unattractive women in a sexual sense, indicate strongly that this is not the case.

## 2.4  Rape and Gangsterism

The SAPS has reported rape as part of organised crime activities in particular provinces, namely the Western Cape, KwaZulu-Natal and Gauteng. Given that the SAPS lists street gangs under organised crime threats, it is more than likely that the information relates to rape in the context of street gangs. Rape is part of the gang culture within all communities where

street gangs are a dominant force in the community.

Monitoring of the press and participative radio reflects that it is a reality that violence is prevalent in dehumanised township/ghetto life. The rule of survival is often found in sub-cultures of violence. The social phenomenon of gangsterism, the most organised form of such sub-culture, is a case in point.

A range of sub-cultures exists in South Africa (particularly related to the recreation/entertainment industry) that manifest anti-social behaviour in the form of substance abuse, sexual abuse and promiscuity, interpersonal violence, and negative attitudes towards individuals outside of that sub-culture. It should be noted that these sub-cultures cannot be conflated with particular socio-economic or cultural groupings, although there may be unique dynamics to some of these sub-cultures that reflect cultural and socio-economic conditions. The existence of sub-cultures where substance abuse, sexual violence and rape are an inherent part of entrance into and credibility in the sub-culture constitutes a serious social problem with a negative impact on the quality of life in South Africa. However, the predominance of heavy social drinking in pubs, taverns, shebeens, clubs and discos (often connected to spectator sport); the phenomenon of drinking of alcohol in public in the absence of recreational facilities; and of glue sniffing and drinking of methylated spirits, generate sub-cultures that should be more fully understood in order for strategies against violent social fabric related crime and rape to be appropriately formulated.

## 2.5  Rape in Prison

Rape in prison is an international phenomenon. It is a part, an unacceptable part, of the culture of most South African prisons. Sex is a commodity embedded in prison economy. Rape in prisons also impacts directly on sexual violence outside of prison both because of its effect on the victim's and on the perpetrator's behaviour once they are released. Male rape in prisons is a complex issue, but with many parallels in terms of inequality in social relations between men and women in broader society. (Gear and Ngubeni 2002)

## 2.6 Deterring Rape and Protecting Potential Victims

In exploring rape deterrents, two sets of factors are relevant, namely factors which provide physical security to women in the community, and the impact of effective rape legislation and the efficient and effective prosecution of rape and sexual offences.

In considering the first set of factors that provide physical security to women in the community, gender sensitive urban planning and the provision of basic safety features in communities including street lighting, visible policing, safe public transport are relevant. The South African 'Safer City Projects', for example, included emphasis on visible policing, increased visibility of traffic enforcement, combined with urban renewal and city improvement districts in which crime hotspots were targeted, taxi ranks were upgraded and housing and economic centres were planned to be mutually easily accessible. (Palmary 2001: 10-11 of 16) Urban renewal in the 'Safer City Projects' also focused on informal settlements in the urban areas with social housing projects aimed to address the emergence of such settlements and based on principles of sound urban design.

Of serious concern is the perception that to the extent that women break out of passive sex roles, they forfeit their right to legal protection and social sympathy.  In South Africa, socio-economic deprivation, working class experience, the legacy of racial urban planning, and the rapid urbanisation leading to informal settlements force women to break social traditional norms of being dependent on and protected by men – for example, having to walk alone, walk in the dark, and hitch-hike due to inadequate public transport. These can all render them more vulnerable to rape unless all role players provide women with the safety and protection needed for them to be independent beings.

There is debate about whether legislation that criminalises actions and minimum sentences for categories of offence serve deterrent functions. Carstens has argued that the role of the law and courts in relation to deterrence or crime prevention is indeed very limited. The court he argues is there to determine criminal liability and ensure that punishment fits both the crime and the criminal. (2002: 4-5) He elaborates to conclude that deterrence lies in fact in social crime prevention and not in the legal process.  It is generally held that it is rather the public perception of consistency and effectiveness of the criminal justice system that serves as a deterrent. While a potential offender feels that he (or she) may be likely to get away with it, crime is likely to remain an option. The current public perception that the South African criminal justice system is not yet able to deliver justice timeously, equitably, and consistently could then be seen to be an aspect that contributes to a rape environment.

As indicated, the various categories of rape described above may indeed be carried out by different types of people, and under different circumstances. The next section begins to explore this dimension.

3.  **TOWARDS PROFILING PEOPLE WHO RAPE**

As indicated above, information on rape victims and survivors is limited due to, amongst other factors, the stigma attached to rape and hence the under-reporting of rape. The information in relation to those who perpetrate rape is even more limited. Information generally only becomes available once a person has been convicted of rape. It is unlikely even in academic research that individuals will own up to rape that has not been reported and for which they have not been charged. The lack of this analytical body of knowledge severely limits the development of an information-driven Anti-Rape Strategy, and it is incumbent on the DCS to generate the necessary information analysis of offence and offender profiling.

Crime in South Africa is generally characterised by an increased and high level of violence, irrespective of the geographical location, race of the victim or suspect, or type of crime that is committed. Masuku has analysed crime statistics to reach the following conclusion: "In the past 7 years (1994/5 to 2000/01), violent crime increased by 33 per cent, the highest increase in any crime category. However, in the past 12 months, (2001/2) violent crime increased by only one per cent." (Masuku 2003: 18) He concludes that:

> The high volume of violent crimes, in particular interpersonal violent crime, is worrying. The SAPS has classified most of these crimes as social fabric crimes, to highlight the little control police have over these crimes. These crime types disproportionately affect poor communities, but this is not to suggest that there is a direct link between crime and poverty. It is not just about poverty, but about many factors associated with socio-economic development. These include a low standard of education, a lack of social and vocational skills, poor housing and living conditions, a lack of parenting skills, and so forth. Therefore strategies aimed at reducing these crimes are heavily dependent on serious investment in the social and economic development of the country's poor. (Masuku 2003: 24)

An assessment of why crime in South Africa involves violence may inform an understanding of the extent of interpersonal violence in South Africa and the extent of rape. As indicated, violence stands out as the aspect of crime which impacts most negatively in both the short-term and long-term sense on human safety and security. Social fabric related crime is largely of a violent nature. Many of the incidents of other categories of crime include perpetration of violence in the process. In some instances, other types of violent crime, such as armed

robbery, also result in rape. Analysis of the extent to which rapists are also offenders in other crimes, and in particular violent crimes, is required to fully understand the phenomenon and its impact on the security of women and children.

Most of the information about rapists comes from docket analysis, and from the profiling of rapists once sentenced. Bergh's research study (2002: 196-197) draws the conclusion that confirms various perspectives on rapists and from her work, an initial profile can begin to be developed, based on the similarities that she identified. Rapists seem to mainly come from the category of single, young adult males under the age of 30, without a father or mother figure, or an important role model, affecting socialisation processes and interpersonal relationships, leading to low self-esteem and insecurity about masculinity. Anger and hostility towards women is a factor, confirming a bad relationship with the mother figure, leading to the projection of anger and distrust of females in general. Alcohol and substance abuse plays an important role as more than half of the group also indicated alcohol abuse or other forms of abuse in their family homes and their own use and/or abuse of alcohol at the time of the crime. Many rapists still believe that if women say 'no' to sex, they are nevertheless willing to have sex.  South Africa women, in general, are still perceived to be submissive and dependent and have a non-dominant role in society where men can do with women as they wish. Men are perceived to still have more rights than women because in some societies men are dominant through control of the exchange of valued goods beyond the family group and this activity brings prestige and power.

The extent of non-sexual violence that accompanies the actual rape also reflects that much of rape has little to do with sexual gratification. "Rapists use sex to fulfil non-sexual needs: the need for power, to dominate and to prove their masculinity". (Vogelman 1990: 64) Bergh has described rape as a crime in which offenders use rape as their vehicle to dehumanise the person. This approach begs the question: why do rapists choose sex as the vehicle for dehumanising a person, when others use non-sexual violence? (Interview with Bergh: 2003)

In discussing social crime prevention in relation to rape, Sishuba has argued for the necessity to understand the root causes of rape to be able to address it through youth development, moral regeneration and urban renewal. Without that, she argues, it would be merely touching the surface. She went on to argue for an information-driven approach that is indigenous to South Africa, as there can be no generic approach to correction of rape as offending behaviour. (Interview with Sishuba: 2003) Her interview has pointed to the extent to which South Africa's apartheid and exploitative social system has impacted negatively on the

psychology, self-esteem and dignity of adult black men, resulting in serious problems in relation to anger-management, respect for the human rights of women and children, all of which she understands as contributing factors to violent crime and rape in particular. While her interview focused on black men, similar though less intensely dehumanising and belittling experiences are experienced by men across cultural groups and class that reinforce the need to address the rape offender as a holistic person, and the Anti-Rape Strategy as one targeting all aspects of society that generate rape-promoting factors. (Interview with Sishuba: 2003) Sishuba argues that social crime prevention will remain remedial until there is a full understanding of the profiling of South African rapists and government can then ensure that social crime prevention addresses the causes of rape. (Interview with Sishuba: 2003) She identifies early childhood development, the schooling system, youth development, the faith systems, the impact of the media, socio-economic conditions, unemployment and homelessness as key areas of intervention relevant to an Anti-Rape Strategy.

**3.1 Stranger Rape – Victim Rapist Relationship**

Docket analysis of rape and attempted rape cases indicates the frequency of victim and offender being known to each other. The SAPS Annual Report 2002/3 in Part 6 indicates that "all docket analyses up to now confirm that in a very high percentage (50 % - 80 %) of rape cases the victims and perpetrators had been known to each other." In the case of child victims, this percentage appears to be higher based on the conclusions of the docket analysis reported on in Part 6 of the SAPS Annual Report 2002/3 which concluded that close to 90 per cent of child rape victims knew their attackers.

Statistics South Africa reports that 63 per cent of sexual offence victims knew the offender by name, while a further 12 per cent of the victims of sexual offences knew the offender by sight. Fewer than 24 per cent did not know the offender at all (RSA, Statistics South Africa 1998: 47) The Victims of Crime Survey also indicates that this varies from urban formal, urban informal, and non-urban traditional areas, with victims living in non-urban traditional areas most likely to know their attackers by name (72 per cent) as against 49 per cent living in urban informal areas and 51 per cent in urban formal areas. (RSA, Statistics South Africa 1998: 48)

The often held view that rape is a sexually spontaneous act inflicted on an unknown victim is countered by various studies that indicate that up to 50 per cent of rapists know their victims, that up to 71 per cent of rapes in one study by Amir quoted in Vogelman (1990: 63) were pre-meditated, 11 per cent were partially planned and 18 per cent were not premeditated.

Vogelman's own study indicated that 66 per cent were premeditated, 22 per cent partially planned and 11 per cent were impulsive. (1990: 63)

Labuschagne has indicated that in serial rape and what he refers to as 'opportunistic rape' (where the primary motive is to commit a different crime like robbery or theft, and rape becomes a crime committed spontaneously in the course of the intended crime), victims are most often not known to the rape offender. (Interview with Labuschagne: 2003)

## 3.2  Criminal Records of Rape Offenders

The view that rape is due to sexual access problems has been disproved by studies that indicate that there is no relationship between the sex ratio in the community and the incidence of rape, and that the vast majority of rapists are involved in consenting sexual relationships with others at the time that they rape. Studies have also explored the criminal records of rapists for crimes other than rape and have indicated that rapists, when compared with other sexual offenders, have longer criminal records including crimes not sexually related. (Vogelman 1990: 65) An analysis of the criminal records of rapists for crimes other than rape should therefore become an integral part of the assessment and profiling of rape offenders.

## 3.3 Child Rapists

While it is not possible to provide comprehensive figures on the extent of rape of children by other children, it is of serious concern is that this phenomenon is prevalent in South Africa. DCS indicates that at the end of March 2003, of the 533 children facing charges of, or sentenced for rape, there were:

- 17 who were 14 years old;
- 55 who are 15 years old;
- 169 facing or sentenced for rape are 16 years; and
- 292 are 17 years old. (RSA, DCS Management Information System. 2003)

The docket analysis referred to in the SAPS Annual Report indicated that 39,3 per cent of the offenders were 19 years and younger and that nearly 10,0 per cent were in the same age group of the victims namely 0 - 12 years of age. (RSA, SAPS Annual Report 2002/3)

## 3.4 Serial Rape

There is currently an apparent increase in rape that is committed by serial rapists in South

Africa. A serial rapist is defined as a person who rapes with the same *modus operandi* more than two times. (Interview with Bergh: in 2003) Labuschagne indicates that the SAPS starts to consider serial rape when there are two or more victims; when the primary motivation and action was rape; and when there appears to be no other benefit than a purely internal psychological one. He indicates that once serial rapists start a series, they tend to increase the frequency of the crime, and once investigated could relocate in order to continue with assuaging the deep-seated need. Serial rapists manifest patterns of behaviour and a standard *modus operandi*. They have an urge to commit rape driven by a psychological pattern that is deeply ingrained in their psyche, and have a particular type of victimology. With serial rapists, there are usually no social circumstances that lead to a rape and there is little substance abuse. Serial rape is premeditated and systematically planned, often involving the use of a story to trap the victim. The victim is usually not known to the serial rapist. In addition, he indicates that the actions inflicted on the victim by a serial rapist are normally standardised and often includes gratuitous use of violence – sadistic rape. (Interview with Labuschagne: 2003) There is currently no indicator on the DCS Management Information System of the number of serial rapists in South African prisons as the system is based on the charges for which they are sentenced and there is no sentence of serial rape.

There are currently various external research projects being conducted through the DCS which will improve the body of knowledge in relation to serial rapists. The Anti-Rape Strategy will have to include addressing the protection of society from serial rapists, and in particular the challenge of whether society can indeed rehabilitate them.

Serial rape should not be conflated with the issue of rape recidivism rates amongst rapists. The psychology of a serial rapist is distinct from that of most rapists.

## 3.5 Repeat Rape Offenders

It is argued by writers on rape that sexual offenders are usually multiple offenders, with alarming figures being informally given for the time period within which after release from prison, a rapist is likely to rape again. Bergh, referring to the work of Evans and Gallichio has argued that "(l)iterature indicates that, in comparison to other forms of criminality, sexual offenders, especially rapists and paedophiles, are the most likely to re-offend, but at the same time would also be the most likely to gain from treatment." (Bergh 2002: 6)

Vogelman reflects this more forcefully in saying that "A final testimony to women's vulnerability

to rape is the fact that rapists have a tendency to rape more than once." He cites an American study that showed that 81 per cent of rapists in one geographic area, and 48 per cent of rapist in another geographic area admitted to one or more undetected rapes, with the number of undetected rapes averaging at about five per rapist. His own study indicated that in his sample 77 per cent had raped more than once, and one admitted to having raped 14 times. 43 per cent of that 77 per cent had done time in prison for rape before continuing to commit rape. (Vogelman 1990: 189-190)

Of the sentenced rapists currently in South African prisons for rape, 508 offenders are repeat rapists, 487 have been convicted of rape twice, 20 have three rape convictions and one has four rape convictions. (RSA, DCS Management Information System 2003) An issue that the relevant departments need to explore over the coming period is the rate of recidivism of rape offenders, and which categories of rape offenders are most likely to be able to be rehabilitated. Docket analysis could generate more information about repeat offenders and the circumstances of the rapes. It should be noted that these figures indicate those sentenced for rape, and cannot be extrapolated to generate a trend in repeat rape offences.

## 4. SOCIO-ECONOMIC FACTORS THAT COULD CONTRIBUTE TO RAPE

Over and above the potential contribution to rape by the socialisation of sex roles referred to above, the factors that lead the majority of men and women to experience life as one of degradation and humiliation can impact on the culture of rape. Many South Africans still live with work alienation or unemployment, continuing racial discrimination, and poor living conditions. This can create in men a sense of powerlessness and low self-worth. They can, because of women's objectification and inferior position in society, use women to boost their self-image. Sometimes, this can mean raping them.

In her seminal work, <u>Women, Race and Class</u>, which although dated remains conceptually as valid as when it was written in the 1980s, Davis contextualises rape as follows:

> Some of the most flagrant symptoms of social deterioration are acknowledged as serious problems only when they have assumed such epidemic proportions that they appear to defy solution. Rape is a case in point. In the United States today, it is one of the fastest-growing violent crimes. After ages of silence, suffering and misplaced guilt, sexual assault is explosively emerging as one of the telling dysfunctions of present-day capitalist society. (1981: 172)

Davis points to a society's system of social relations as a contributing factor to the

phenomenon of, and extent of rape.

The work of Vogelman (1990) pointed to several aspects of social relations that have a bearing on the rape culture, namely work alienation, racial oppression and community life; and the culture of violence, masculinity and power. It must be noted that there is little analysis in current South African literature of how social relations may contribute towards rape. Much of the current literature approaches the issue of rape from the perspective of the victim. For this reason, research published in 1990 has been relied on to provide a brief conceptual understanding of these factors. Such research would need to be thoroughly tested by current research in order to prove its current validity. In so far as Vogelman's research points to elements of social relations and economic relations as rape-contributing factors, and the fact that these economic, patriarchal and social relations are not readily transformed in the short term, except in an insurrectionary revolutionary situation, the research remains valid as an indicator of rape-promoting factors. The transformation of social, patriarchal and economic relations in South Africa in the post-1994 period has not been so fundamental as to change the experiences of most men so radically that this element of rape-contributing factors has been removed. Due to the dated nature of the research, nothing more than a summary of the research is provided.

Vogelman (1990: 109-114) argues that work is a fundamental component of the male gender identity and social standing in a manner dissimilar to women. While work should serve as source of psychological benefit, of stimulation, sense of belonging, structuring of a person's time, and should provide healthy social relationships, the impact of unemployment or work dissatisfaction on male gender identity can have negative behavioural consequences, referred to as the frustration-aggression hypothesis. The target chosen for the acting out of this aggression is most likely to have minimal social and economic consequences for the aggressor - for some, rape of a woman provides this. Work dissatisfaction and unemployment cuts across different classes in society as an inherent element of capitalist production relations, and can be exacerbated when women in the family or community are able to work while men are not.

While rape and its contributing factors are prevalent across all sectors of society, there is little analysis of factors such as the social status of the rapist and the rape survivor, of whether rape is inter- or intra-racial, and of how such elements may impact on the pattern in reporting of rape. This lack of analysis makes it more difficult to accurately understand and analyse the factors that lead to rape in the diversity of South African society. For example, inter-racial rape

appears not to be the most common form of rape in South Africa, while it still remains more high profile in the public arena than intra-racial rape.  Literature does not assess the extent to which the stigma attached to rape in different cultural communities could be a contributing factor to the divergence of reported rape. Nor does it assess the unequal access to the justice system and legal defence of different racial and social classes and hence assess a potential skewing in the composition of the rape offenders who are convicted *vis-à-vis* those who commit the offence.  While there is little research on this phenomenon, the following could be reasons for the apparent tendency towards intra-racial rape in South Africa: firstly, women of the rapists' own group are more accessible due to the legacy of the apartheid urban geography; secondly, the rapist's familiarity with the community-setting means there is less of a risk; and thirdly, the perception of greater social consequences of rape across colour line could act as deterrent for inter-racial rape.

Judging from the level of violent crime reflected in the crime statistics, South Africa can be described as having a culture of violence, a social response to problems of individuals, groups and institutions. Violence is part of human behaviour, and is moulded by the culture of a particular society. The pervasiveness of violence in South Africa can be attributed to a number of factors, including unemployment, poor wages, alcohol and drug abuse, racial and class conflict, and a social acceptance of violence as an appropriate means to attain personal and social goals. Violence should not simply be reduced to a sub-culture, as it is an inherent part of South African social life across race and class.

Where a culture of violence permeates the family, it tends to shift the balance from the family as provider of nurturance and support, to the family as a source of stress and violence. The social use of violence as a sanction in a family and the nature of parental conflict and its effects on sex role socialisation are reproduced in rape behaviour. Of particular concern given the current reporting on child abuse in South Africa, is that child abuse and subjection to corporal punishment at the hands of family authority figures, particularly fathers, tend to result in children of violence being the wife batterers and rapists of the future.

Physical violence is socially sanctioned as a means to validating masculinity, and this in South Africa is prevalent across cultures. For different men, the vehicle for manifesting this need will be different (Interview with Bergh: 2003) – for some it could be a physical fight; for others aggressive contact sport. For the rapist, women are legitimate targets and sexual violence is an acceptable form of male behaviour.

The SAPS statistics indicate that there is a **distinct pattern related to the time of perpetration of most of the violent crimes against the person** (murder, attempted murder, rape, serious assault and common assault). Most of the violent crime against the person, or what has recently been called contact crime, has a definite seasonal cycle with a very high annual peak during December - January and a low during June - July.  Over weekends, especially long weekends, there are also some monthly peaks.  These time fluctuations indicate that these violent crimes may be influenced by social behaviour over weekends, the festive season and long weekends (e.g. Easter weekends). These indicate a close correlation between interpersonal violence and recreational activities. The integrated justice system should develop the ability to map the perpetration time trends in relation to each of these types of rape in a manner that would inform social crime prevention strategies.

The SAPS Annual Report 2002/3 refers to a study by the DCS and the Human Sciences Research Council (HSRC) that found the following:

> Rape was statistically significantly associated with drinking, especially drinking that occurred mostly (a) in the company of friends of all ages, gang members, people who have been involved in criminal activity, and (b) at public drinking places such as shebeens, bottle stores and clubs … in this respect note should also be taken that offenders who were serving a sentence for rape especially reported that they took alcohol/drugs immediately before or at the time that they committed this offence. 45 per cent of arrestees in rape cases tested positive for drugs (ADAM study). (RSA, SAPS Annual Report 2002/3)

Alcohol should be considered as a violence inducer through being a disinhibitor, lessening control and generating irrationality. While large-scale abuse of alcohol lowers the sexual drive, lower levels of alcohol usage increases sexual activity by lowering inhibitions, causing euphoria and greasing the wheels of social interaction. The SAPS statistics have led to the conclusion that alcohol abuse is a contributing factor in much of the inter-personal violence or social fabric related crime. Assault, whether with intent to do grievous bodily harm or common assault, take place mainly in domestic and public drinking environments. The abuse of alcohol is of relevance both in relation to the actual perpetration of violence or rape, but also in the social background of the perpetrator where dysfunctional family and childhood trauma can be the result of parental abuse of alcohol. The trends of when inter-personal violence crime takes place in South Africa, namely over weekends and during festive seasons indicate the need for a national strategy against alcohol abuse in South Africa. (RSA, SAPS Annual Report 2002/3)

## 5.   CONCLUSION

This chapter has outlined information about rape victims and rape offenders, but has acknowledged that there are serious gaps in the information that government has at its disposal. It is noted that much of the raw and unprocessed data lies in the DCS Management Information System, but in a manner that does not necessarily speak to the information systems of the other integrated justice cluster.

Starting from the premise that personal safety and security of women and children is an essential component of human security, the prevalence of rape, especially the rape of children and babies, has a **long-term negative impact on human safety, on the empowerment of women, and on** the socialisation and development of children. The **crime of rape** has a number of negative consequences. The most direct is on the psychological and physical health of the individual victim and the impact of the trauma on other family members. Rape however also impacts on the family of the rape victim, resulting in fear for the safety of others in the family, strained relations between husband and wife, or between parents and children and impacting negatively on the families ability to provide a nurturing environment for family members, and children in particular. The impact of rape also spreads to the community, creating a general feeling of insecurity amongst women and children, while also generating anxiety and anger amongst the men of the community about the inability to provide women and children with a safe community. There is a connection between these insecurities and the national security agenda to achieve human security.

There is also a strong chance that victims of violence, if untreated, "frequently become perpetrators of either retributive violence or of violence displaced within the social or domestic arena." (RSA, Department of Safety and Security 1996: s4.10)

Given the psychological vulnerability of young children and teenagers when exposed to violence and their cognitive difficulty to comprehend violence and hence their need for an extended period in recovery, the effect of experiences of sexual abuse and violence at an early age has long-term negative impact on the personal security of these girls and boys as adults.

In the context of the HIV/AIDS pandemic, and the greater vulnerability of women to infection with the HIV virus during unprotected sex, which is exacerbated by violent sex, the extent of rape, particularly of young women and children, is likely to lead to an increase in HIV

transmission. The apparent belief that HIV/AIDS can be cured by sex with a virgin may be related to the extent of rape of children and very young women, but also raises the serious concern that such infant and child rape could go hand-in-hand with an increase in HIV/AIDS infection in this age group.

The next chapter will consider whether the Anti-Rape Strategy that is emerging in response to the phenomenon that has been described in the last two chapters confirms or supports the concept that rape is a human security problem and one of national security concern in South Africa.

**CHAPTER 5:**
**THE SOUTH AFRICAN GOVERNMENT'S RESPONSE TO RAPE**

This chapter will provide an overview of relevant policy developments, programmes of action and implementation of decisions by government over the past three years in relation to the combating and prevention of rape. It also makes certain recommendations considered important in enhancing the contribution of the government's response to rape. This will serve as the basis in the final chapter for an analysis of whether the government-led Anti-Rape Strategy confirms that rape is a human security problem in South Africa, and indeed one of national security concern.

In the period from 2000 to the mid- 2003, which is the cut-off period for this research, the South African government has focused significant attention on the phenomenon of rape, recognising it as an unacceptable constraint on women and children's freedom to benefit from the fruits of the democracy. This attention has been channelled through major public campaigns, through focused service delivery improvement of relevant departments on this issue, through inter-departmental coordination and through public pronouncements.

## 1.   NATIONAL PRIORITISING OF VIOLENCE AGAINST WOMEN AND CHILDREN

The second half of the first decade of democracy has seen government take key central decisions and actions about the issue of violence against women and children in South Africa, which are a reflection of the manner in which government recognised its responsibility for the safety and security of women and children, *albeit* with major delivery challenges still remaining at the end of this period. This is against a background of the NCPS which was adopted by government in 1996. Although this document precedes the period that is covered in this dissertation, the fact that the NCPS identified various crime categories as being of particular concern, amongst them, 'gender violence and crimes against children' is relevant background to the period under consideration. As quoted earlier, the document refers to gender violence and crimes against children as being both highly prevalent and having a profoundly negative impact on the rights and future well-being of women and children.  (1996: 5 of 19)

### 1.1  National Plan of Action against Violence against Women

In 1998, the Campaign of 16 Days of No Violence against Women focused on popularising the

Southern African Development Community (SADC) <u>Declaration on the Prevention and Eradication of</u> <u>Violence against Women and Children in South Africa</u>, and getting government departments to make commitments to that <u>Declaration</u>.  While the internationally-determined time frame of the annual campaign is 16 days until International Human Rights Day (10 December), the time frame of one year chosen by the South African government in 1999 intended to ensure that the concentrated 16 days focus had a long-term impact on programme implementation throughout government, with the objectives of determining the progress made on the commitments made in the previous year, and drafting an integrated five year plan. In late 1999, the Office on the Status of Women in the Presidency announced the five year integrated plan, namely the **National Action Plan against Violence against Women**. The National Action Plan, a culmination of extensive consultations with government departments, civil society, and other interest groups according to Gilwald (1999a), had five focus categories:

- Boy child and youth.
- Offenders and those at risk of offending.
- The family.
- The community.
- The workplace.

The National Action Plan identified six departments to coordinate and lead activities around these focus areas: Education, Correctional Services, Welfare, Health, Labour, and Justice and Constitutional Development. On 15 September 1999, the South African President issued a Proclamation establishing a Specialised Unit within the National Prosecuting Authority (NPA) to deal with Sexual Offences and Community Affairs, (SOCA).

The fact that further Cabinet processes were necessary in 2000 and 2001 indicates that the 1999 initiatives had failed to adequately deliver on the intention to reduce rape and improve service delivery by government in this regard.

**1.2  Cabinet Decision and Tasking on Rape Reduction.**

In March 2000, the Cabinet directed the Ministers of Safety and Security and Health to develop a strategy to reduce rape. In 2001, on the basis of crime statistics presented to Cabinet and against a background of the government commitment to improving the status of women and children, Cabinet decided to make rape and violence against women and children a national priority crime. This further served to focus attention on the phenomenon.

Out of these processes, the IDMT consisting of the NPA, the SAPS, the Department of Social

Development and the Department of Health, drew up a report entitled <u>Towards Developing an Anti-Rape Strategy</u>, presented to Cabinet in late 2001. (RSA, Monitor Group 2001) Critical consultation with and involvement of key government department stakeholders by the consultants appointed to draft the document was not undertaken, resulting in a lack of adequate participation by departments and a skewed focus of the document on the criminal justice processes from arrest to court decision. This document was reworked into the <u>Scoping Document</u> that was then enriched belatedly by the JCPS Directors General in May 2002 (IMDT 2002 b and c) with the intention to enable the IDMT to hone in on key areas for strategy formulation and intervention.

The IDMT identified four critical issues that must be addressed:

- A systematic in-depth analysis on the progress or lack of progress, of rape cases through the criminal justice system (CJS).
- A comparative analysis of other violent crime types, in order to transfer the analytical methodology that will be utilised in a rape project.
- Good data and enabling technology are required as strategy development tools.
- Managing conditions that predispose people towards offending behaviours is imperative and this requires, amongst others, understanding of behavioural drivers of victims as well as perpetrators. (IMDT 2002b)

The IDMT correctly emphasised that there can be no 'one-size-fits-all' Anti-Rape Strategy, arguing that not all rape, rape offenders or victims are the same.

The IDMT (2002b) approach to developing the Anti-Rape Strategy was based on making recommendations in relation to Prevention, Reaction and Support, and proposed six stages in the development of an Anti-Rape Strategy:

- Analysis of drivers of performance within criminal justice system.
- Redesign of the criminal justice blueprint.
- Implementation and roll-out.
- Prevention of rape in society.
- Extend to other crimes.
- Working with partnership model.

The emphasis of the IDMT has been, almost exclusively, on the victim needs, including the goal of conviction of the offender, perhaps symptomatic of the role that the women's movement has played in putting the issue of rape onto the national agenda.

## 2.  CRIMINAL JUSTICE PROCESSING OF RAPE DOCKETS

Part of government's strategy has been to enhance rape deterrence through the upgrading of the effectiveness and the consistency of the criminal justice system in relation to sexual offence cases. The processing of rape cases through the criminal justice system starts with the reporting of rape to a police station, includes the investigation of the case; collection of evidence; preparation of the docket; and then prosecution of the case and conviction or acquittal of the accused person; sentencing and enforcement of the sentences; and rehabilitation of the offenders.

### 2.1  Rape Reporting and Investigation

The SAPS has begun to address shortcomings in relation to combating and investigation of rape through attention to the following:

- The capacity and work of the Family Violence, Child Protection and Sexual Offences Unit (FCS) in the SAPS.
- The improved use of forensic evidence in the investigation of rape.
- The upgrading of crime statistics and analysis of diversity of rape offences.
- Improved visible policing against rape, particularly in relation to the informal and formal entertainment industry.
- Improved training of police officers to handle rape reporting, investigation and evidence collection in a manner sensitive to the victim of the crime.

The work of Jackson (1997: 4) has focused attention on key challenges brought about by the introduction of a new approach to rape and gender violence issues into the policing system. She has noted important dimensions of the organisational culture and training in the police service:

- Gender sensitivity training for the police.
- Basic training on how to deal with gender violence and the role of police.
- Institutional mechanisms for dealing with stress experienced by police officers from investigating such cases.
- Diversity training in all police training to address the deep sexist and racist biases that have been inherited by the SAPS.
- Training to address the aggressively male personality types that are attracted to policing as a career.

At the Sunnyside Police Station, police women established a gender violence section in which the three women police officers in this section received training in sensitive crime investigation techniques and in gender sensitivity. It is not clear how effective this training has been. (Jackson 1997: 4)

The police attached to rape and violence against women and children investigations have been referred to as the 'Nappy Squad'. This highlights the challenge to align policing practice and culture with the decision to make violence against women and children a national priority crime, and the need for institutional transformation to enable delivery on politically identified priorities.

## 2.2   Processing of Rape Dockets through the Criminal Justice System

The SAPS Annual Report 2002/3 reflects on the processing of child rape cases through the criminal justice system on the basis of the docket analysis of 3 222 dockets. What is said about cases involving child victims is not much different from rape dockets involving adult victims:

> An analysis of how the 3 222 dockets under consideration were disposed of reveals the following:
>
> | | |
> |---|---|
> | Cases withdrawn | 51,8 per cent |
> | Undetected | 16,2 per cent |
> | Found guilty | 15,0 per cent |
> | Found not guilty | 12,7 per cent |
> | Unfounded | 2,6 per cent |
> | Other | 1,7 per cent |
>
> The number of cases withdrawn again emphasises a finding repeatedly made by the Crime Information Analysis Centre (CIAC) during the past decade. A rape docket (in this case sexual offences against children) only has a 50 per cent chance from the start to end in a conviction, because more than 50 per cent of the cases are withdrawn. This usually occurs at the request of the parents or guardians in the case of children, often because the accused is a family member (sometimes the breadwinner) or a family friend.
>
> The 16,2 per cent of undetected cases do not necessarily indicate a failure on the side of investigation, especially with regard to cases involving children.

Some of the main reasons why these cases remain undetected are the following:

- The victim is too young to speak or tell anything.
- The victim has sometimes clearly been sexually abused (e.g. blood on the nappy), but no real clue of a possible suspect can be found.
- Doubt sometimes exists in the mind of the medical practitioner as to whether sexual abuse had ever occurred.
- The complainant/victim cannot be traced by the investigator (this occurs especially in informal settlements or very large townships saturated with informal housing (built in e.g. open spaces or on the same plots than existing houses). (RSA, SAPS Annual Report 2002/3)

The difficulty in rape cases reaching completion stage (only 15 per cent of the child rape cases studied by the SAPS resulted in convictions and many of the charges are withdrawn against the accused before or in court) is related to the nature of rape. The fact that often the rapist is known to the victim, or to family of the victim, that in some cases the alleged rapist is a boyfriend/partner of the victim, as well as related to some of the investigation weaknesses inherent in the South Africa criminal justice system all contribute to this reality. The fact that the NPA has introduced a mechanism to avoid the prosecution of rape being stopped if the reporting victim withdraws their complaint, arguing that once the information has been reported to the police, the case should be investigated and on the basis of the evidence collected, it should be prosecuted, is a reflection of the seriousness with which the crime of rape is now approached.

The improvement of processing of rape cases through the criminal justice system has included the establishment of dedicated Sexual Offences Courts, a reflection of the allocation of resources to address the problem of rape cases and the seriousness with which government has taken the prioritising of rape. Additional courts also have closed circuit television facilities and so can be used for sexual offence cases. This initiative addresses the issues of both the difficulty of rape victims giving evidence against an accused who has intimately assaulted her or him and hence enduring secondary trauma and victimisation, and the challenge of ensuring that child victims are able to give evidence without intimidation and further secondary victimisation and trauma.

The Criminal Procedure Act, Act 51 of 1977, addresses the conditions for granting of bail, and in Schedule 6 stipulates that when a person is charged with rape, the court must order that the

accused be detained in custody unless the accused produces evidence which satisfies the court that exceptional circumstances exist which in the interest of justice, permits his or her release. While this illustrates the attitude of the public representatives and law makers to the alleged rape offender, it has resulted in a large number of accused persons ranging from children between the age of 14 and 18, and young adults under 25 awaiting trial in overcrowded prisons. While the children should be held in Social Development facilities, the shortage of such facilities in certain provinces has made this unpractical.

## 2.3  Sentencing Practice

In 1997, the sentencing of rape offenders was addressed through the promulgation, in terms of the Criminal Procedure Act, Act 51 of 1977, of minimum sentences for certain categories of crime, including rape. This provision, renewable every two years, has so far been renewed each time. The Criminal Law Amendment Act, Act 105 of 1997, stipulates life sentences for rape:

(a)      when committed

in circumstances where the victim is raped more than once by the accused or by any co-perpetrator or accomplice;

by more than one person, where such persons acted in the execution or furtherance of a common purpose or conspiracy;

by a person who has been convicted of two or more offences of rape, but has not yet been sentenced in respect of such convictions; or

by a person knowing that he has acquired immune deficiency syndrome or the human immunodeficiency virus;

(b)  where the victim

is a girl under the age of 16 years;

is a physically disabled women, who due to her physical disability, is rendered particularly vulnerable;

is a mentally ill woman as contemplated in section 1 of the Mental Health Act, 1973 (Act 18 of 1973); or

(c) involving the infliction of grievous bodily harm.

(Schedule 2 Part I of the Criminal Procedure Act, Act 105 of 1997)

The sentences for rape committed in circumstances other than those listed in Schedule 2 Part I, are: for a first offender, a minimum of 10 years imprisonment; for a second offender, a minimum sentence of 15 years; and for a third or subsequent offender, a minimum sentence of 20 years. (Criminal Procedure Act, Act 105 of 1997 s51(2)b) While section 3 does allow for

lessening of the sentence if the court is satisfied that substantial and compelling circumstances exist which justifies the imposition of a lesser sentence, the intention of the legislators is clear. This reflects the seriousness with which Parliament has viewed the issue of rape in South Africa in the post-1994 period.

In the past year, both the Judiciary and the DCS questioned whether it is appropriate to have a minimum sentence for a category of offence when the key outcome of the sentence should be successful rehabilitation of the offender, which is not necessarily related to the length of sentence imposed on him or her. However, at this point in time, the practice of statutorily defined minimum sentences remains.

## 2.4 South African Law Commission Report On Sexual Offences

Parallel to the work of the IDMT, the South African Law Commission was tasked by government to establish a project on the law and procedures relating to sexual offences, and to report to the Minister of Justice. The Report was presented to the Minister of Justice in December 2002. (RSA 2002) The Law Commission identified that many of the problems that the public had raised with them, did not in fact emanate from inadequate law, but rather failure to apply existing law. (RSA 2002: 1) This informed the approach of presenting draft legislation on sexual offences, which contains a clause to enact non-legislative recommendations made by the Commission. In addressing process and procedure in relation to rape cases, the Law Commission Report addresses a range of issues related to the court processes in rape cases, as well as issues related to the treatment and sentencing of sex offenders (RSA 2002: 1-28) The draft legislation envisaged by the Law Commission Report has been subjected to detailed debate in the Portfolio Committee on Justice in the 2003 session, with Public Hearings being held on the matter.

## 3.   INTEGRATED VICTIM SUPPORT INITIATIVES

As part of the Anti-Rape Strategy, the NPA has initiated a project of Multi-Disciplinary Care Centres, setting up a coordinated approach that brings together different service providers in one-stop centres. A member of the NPA Sexual Offences and Community Affairs Unit has outlined the Thuthuzela Care Centre model which aims to provide women and children with better, humane treatment by:

- Reducing secondary victimisation.
- Reducing the time to finalisation of cases.

- Improving the conviction rate.

She stated that the Thuthuzela Care Centre approach reflects a radical approach to rape care management, which begins within the police station and follows the victim through all of the stages of the reporting and investigation process in a victim friendly manner, before being transported home.  This process ensures that service providers are available to a rape survivor at one location, rather than her being shuttled throughout the system. (DCS Report on Anti-Rape Strategy Workshop 2002)

The Anti-Rape Strategy has placed significant emphasis on integrated responses to rape cases. The proposed Community Safety Centre Programme, between the SAPS, the Department of Justice and Constitutional Development, the DCS, the Department of Social Development and the Department of Health, aims to bring the services of these departments down to the community level, especially in rural areas.

Action Plans developed by the Department of Social Development, the police, the Department of Justice, Department of Health and the DCS that will impact on the improvement of services to victims of crime, including rape victims, include the court support centre approach; the promotion of shelters of victims of abuse; improving facilities for victims of crime at police stations; community based victim support programmes; the victim empowerment programme run by the Department of Social Development; and Social Development's Child Protection Register and the process of ensuring a process of notification of alleged child abuse cases.

There remains a shortage of shelter facilities for victims who cannot remain in their home environment, particularly where the victims are children. Of particular concern is the provision of the Child Care Act that stipulates that children removed from their families must be placed in places of safety. Social Development facilities due to overcrowding and shortages of facilities at times serve a dual function as a refuge for child victims of crime, and as places of detention for children at risk of falling foul of the law or child offenders. Urgent attention has been focused in 2003 on the need for the building of new secure care facilities in order to address the problem of children in prison and in preparation for the implementation of the Child Justice Bill, but attention must be focused on facilities dedicated to child victims, possibly with donor funding.

The focus on victim support reflects the government's commitment to and responsibility for the human security of victims of crime, an important element of human security in a country with crime levels that both the community and government wish to reduce.

## 4.  REHABILITATION AND RAPE PREVENTION

As indicated above, the DCS was a latecomer to the IDMT initiative. However the work now being done in the department constitutes a significant aspect of the prevention dimension of the Anti-Rape Strategy. The DCS is faced with the task of rehabilitation of rape offenders sentenced through the courts, protection of offenders from rape within the prison environment, provision of counselling and treatment to victims of prison rape, and the training of DCS personnel to equip them in all of these respects.

The DCS has recognised that is has a significant contribution to make in relation to long-term social crime prevention (prevention of new generation of rapists) and prevention of rape recidivism, as well as generating a database that will assist government to focus the Anti-Rape Strategy on causal factors and rape-promoting circumstances. The challenges that DCS must overcome in making this contribution are the development of need-based programmes for sex offenders, and development of appropriate policy and practice to address rape in prison. (RSA, DCS 2002)

The shift in the strategic direction of the DCS over the past two years is significant in the development of the DCS Anti-Rape Strategy. The current strategic direction identifies rehabilitation as an over-arching concept and desired outcome and thus requires of the Anti-Rape Strategy to develop appropriate practice around correction of offending behaviour, safety and care for a specific category of offender, and to enhance the new approach to a security classification system based on offence categories and offender profile. The intention to develop prisons (correctional centres) or sections of prisons as centres of excellence in correction and care for a particular category of offenders will also contribute to improved implementation of the Anti-Rape Strategy. The intention of DCS is to render services to victims of rape through counselling by a multi-disciplinary team consisting of social workers, psychologists, religious workers, health and physical care officers through structured programmes on sexual behaviour that will address gender, as well as moral and cultural issues in order to improve offenders' social functioning. Over and above this, and in line with the Scoping Document intention to develop a methodology in relation to the crime of rape that could improve criminal justice delivery on other violent crimes, the DCS Anti-Rape Strategy is being consciously approached as a process that will provide a template of work to be done in relation to other categories of offence.

Rapist rehabilitation is a particularly complex issue that has been the subject of research within the DCS facilities.  Bergh argues that an effective treatment programme needs to deal with various issues such as self-esteem, cognitive skills, social skills, goal setting, HIV/AIDS, sexuality, anger management, victim empathy and remorse, how to take responsibility for themselves and relapse prevention. (RSA, DCS 2002: 7) This is reinforced by Sishuba, approaching rehabilitation from a social work perspective, who argues that the offender must be understood holistically in order to identify what part of the person is dominant at the time of the crime, and what part of the person is linked to the crime. Here she identifies the emotional part, the spiritual or values part, the hormonal part, past psychological experiences, cognitive processes that control urges, learnt behaviour, and social patterns as being of importance. (Interview with Sishuba: 2003)

Bergh refers to the work of Evans and Gallichio, Cull and the Report of the Working Group Sex Offender Treatment Review (Bergh 2002: 34), in which they point out that the expectation that treatment and/or rehabilitation programmes will prepare rapists to readapt to society when they are released needs to be balanced against the fact that most researchers agree that sex offenders, especially rapists, cannot be 'cured', but can learn to control their own offending behaviour and take responsibility for it.

Bergh's structuring of the treatment programme that she implemented in the course of her applied research indicates the breadth of factors that have to be addressed in the rehabilitation of a rape offender. She found it necessary to structure a programme that included cognitive restructuring; **trust building** interpersonal and social skills; **exploring emotions and anger management**; **sex education** and human sexuality; **recreational** use of leisure; **violence against women; substance abuse**; **victim empathy**; **stress management**; and **relapse prevention.** (Bergh 2002: 29-33 and 85-88)

Bergh indicates that the literature on sexual offending provides no conclusive findings that can easily direct the design of corrective treatments, but that it is generally agreed that the most effective kind of counselling for sex offenders takes place in group settings as they provide peer confrontation and group support when needed, and because prison treatment groups are often highly confrontational. (Bergh 2002: 66-7)

It is not clear at this stage given the absence of an adequate recidivism measuring instrument, whether the level of rape recidivism is a reflection of the failure of correctional systems' rehabilitation programmes, an indicator that rapists are cannot be rehabilitated, or a reflection

of the lack of social transformation and development.

## 5.   SOCIAL CRIME PREVENTION AND RAPE

The current approach to social crime prevention has it roots in the NCPS, adopted by government in 1996, which identified crime prevention as a crucial aspect of government's responsibility that should be forged through a partnership between government and the community.

The Social Sector Cluster of the integrated government system, along with the JCPS Cluster, has social crime prevention amongst its priorities, but it is an area in which focused delivery by government has been hard to sustain. In part this is because of the challenges of socio-economic development; difficulties in the identification of nodal points for social crime prevention and social development; and the difficulty of mobilising the community to take responsibility for crime prevention through moral regeneration and promotion of social cohesion and social justice.

Underlying the inappropriate location of the leadership of the NCPS in the SAPS referred to previously, is a conceptual slide from social crime prevention despite the accurate definition of social crime prevention as aiming to "reduce the social, economic and environmental factors conducive to particular types of crime". (RSA, Department of Safety and Security 1998: 12)

The work of Palmary (2001: 1-16) on social crime prevention in South Africa's major cities provides a useful analysis of definitions of social crime prevention. She quotes the International Centre for the Prevention of Crime (1997) definition of social crime prevention as "anything that reduces delinquency, violence and insecurity by successfully tackling the scientifically identified causal factors [of crime]." (2001: 2 of 16) This approach to crime identifies the causes of crime as social, environmental and situational, rather than a result of individual deviance. Palmary argues that "(t)he social crime prevention approach therefore rests heavily on a sound knowledge of the causes of crime, adequate research skills for the monitoring of crime trends, and the evaluation of intervention programmes." (2001: 3)

The JCPS in addressing violence against women and children as a priority crime developed two focus areas: crime prevention and crime combating to reduce rape levels in identified high crime areas; and the promotion of rehabilitation of rape offenders. Social crime prevention programmes are relevant in two senses. Through such programmes, the rape-promoting

factors in society can be addressed. In addition, social crime prevention, particularly as it relates to community responsibility for crime prevention and correction, is a crucial component of successful reintegration of ex-offenders and hence in the prevention of recidivism.

The Social Sector Cluster and some of its individual departments have a range of projects that interface with the Anti-Rape Strategy, and the challenge currently faced in government is to establish the mechanisms for ensuring that this interface is indeed realised in the practice of the various departments and inter-departmental processes. The key aspects of this interface lie in the following projects of the Social Sector Cluster:

- Social Cohesion and Social Justice.
- Child Justice, Children at Risk and Children's Rights.
- Urban Renewal and Integrated Sustainable Rural Development.

## 5.1  Social Cohesion and Social Justice

The Social Cohesion and Social Justice Task Team has recently undertaken conceptual work to serve as a basis for government's strategy for social cohesion and social justice in South Africa, including the development of 'national well-being' indicators. Social cohesion is understood to denote a discernible social or national identity characterised by harmonious diversity in its efforts to strengthen human dignity and the social rights that underpin it through various targeted actions; while social justice is used to refer to equitable social relations in community, family, production, exchange and distribution and in the polity. (RSA, Social Cohesion and Social Justice Task Team 2003) This conceptual approach is consistent with the approach that has been adopted in the earlier chapters of this dissertation, and lays a basis for improved delivery on rape prevention if the link between the IDMT and Social Cohesion and Social Justice Task Teams can be forged in practice.

The list of key variables of social cohesion and social justice that have been identified provide a useful reference point for aspects that must be addressed in a holistic government Anti-Rape Strategy. A comparison of the rape-promoting factors analysed above and the identified social cohesion variables, indicates a large degree of commonality, but missing as an explicit variable, with unfortunate consequences for the variables being useful in relation to an Anti-Rape Strategy, is the level of gender equity and emancipation of women, and the protection of children. (RSA, Social Cohesion and Social Justice Task Team 2003)

## 5.2  Prevention of Child Rape

The phenomenon of child rape in South Africa highlights most acutely the need for a strong social crime prevention component in the Anti-Rape Strategy. In response to the Human Rights Watch report sent to the Select Committee on Education and Recreation entitled Sexual Violence in South Africa Schools, the Select Committee drafted a report on the Public Hearings held by the Provinces in 2001 (RSA, Information Services Research 2002), which provides a useful set of observations and recommendations that should become part of the social crime prevention strategy of government. In summary, the report indicates the following:

- Incidents of sexual violence against girl children happen at home, on the way to school, and at school with most perpetrators being known to the victims.
- Inadequate parenting skills and lack of communication between parents and children in relation to sex and negative experiences of the child.
- Instances of educators, and persons in authority over children who are themselves the abusers and rape offenders of school-going children.

In the analysis of what is being done, the Department of Education responsibilities are identified in relation to:

- Provision of sex education and sex behaviour guidance to learners.
- Counselling victims and child perpetrators.
- Liaising with social workers, with the SAPS and the Department of Provincial and Local Government.
- Ensuring a code of conduct for an educator that enhances children's trust in authority figures.

These responsibilities constitute key dimensions of social crime prevention and of the nature of future citizens in this country.

## 5.3  Environmental Design and Rape Prevention

The Urban Renewal Programme and the Integrated Sustainable Rural Development Programme, coordinated by the Social Sector Cluster, are government programmes of targeted socio-economic infrastructural and social development aimed to address the needs in prioritised nodal points. The initial tool used to identify the nodal points was primarily based on the crime rates in particular policing areas. Since then the Social Sector Cluster Task Team has been involved in developing a more comprehensive method of prioritising these nodal points. Conceptually it has been agreed that the approach should include crime levels, poverty indicators, and communities from which the bulk of offenders originate. However the DCS is

currently for technological reasons unable to generate the analysis of the communities of origin of offenders.

Projects such as the Council for Scientific and Industrial Research/Institute for Security Studies (CSIR/ISS) project on environmental design for safer communities in South Africa done in 1998 as a result of the NCPS project that addressed Pillar 2: Reducing Crime through Environmental Design, have direct relevance to social crime prevention. The <u>Summary of the NCPS</u> indicates that P**illar 2 on Reducing Crime through Environmental Design focuses:**

> … on designing systems to reduce the opportunity for crime and increase the ease of detection and identification of criminals.  The high incidence of many forms of crime is due to an environment which provides ample opportunities for crime, and where risks of detection, or prosecution are low. This pillar will extend the development of security-based design of residential areas buildings and shopping centres. Ultimately the objective of this pillar is to ensure that safety and crime prevention considerations are applied in the development of all new structures and systems, and in the re-design and upgrading of old areas.
>
> The objectives of this pillar are:
>
> - To encourage awareness of the possibilities of environmental design in reducing and preventing crime.
> - To promote the use of environmental designs in new areas including in the design of delivery systems, the organisation of industries and accounting systems. (RSA, NCPS 1996: 15 of 23)

## 6.   CIVIL SOCIETY AND RAPE

Against the background of the Anti-Rape Strategy and the understanding of the rape-promoting factors developed in the previous chapters of this dissertation, this section aims to explore partnerships outside of those between government departments.

The IDMT process of developing the Anti-Rape Strategy has been weakened by the inadequacy of liaison with civil society organisations. Vetton when interviewed in February 2003 indicated the perception that government had made it clear that the Anti-Rape Strategy was a government strategy without room for NGOs, and that the limited involvement of NGOs in the very early stages had degenerated into a single private sector organisation that had offered its services for free. (Interview with Vetton: 2003)

Vetton went on to elaborate that NGOs often see cases that have not been reported to the SAPS and that they therefore have important information that could supplement government information, which is based only on the reported and prosecuted cases. She acknowledges the potential danger of the advocacy role of NGOs influencing the manner in which statistics are portrayed and utilised, but argued that NGOs have invaluable information about perceptions of the criminal justice system delivery that should inform aspects of an Anti-Rape Strategy. She also emphasised that the Anti-Rape Strategy has to be sufficiently flexible to accommodate the micro-level community detail and that this is often lost in nationally-driven processes. Involvement of a range of often locally based NGOs can be an important counter to this. (Interview with Vetton: 2003)

## 7.    RECOMMENDATIONS IN RELATION TO THE ANTI-RAPE STRATEGY

### 7.1 Integrated Approach Necessary for Anti-Rape Strategy

An effective Anti-Rape Strategy must straddle the interface between the criminal justice system, victim support and rape prevention, and as such rape cannot be addressed in isolation from either the JCPS or Social Sector Clusters.  An integrated approach is thus called for, while in practice this has not adequately manifested. It is argued that one of the key limitations of the scoping exercise lay in the conceptualisation of the criminal justice system as consisting of the police, prosecutors, and courts, excluding the Department of Social Development and the DCS. This resulted in conceptualising sentencing as aiming to remove offenders from circulation and to punish the offender. The role of the DCS, still to be effectively realised in delivery, in enforcement of sentences handed down by the courts and in the rehabilitation and reintegration of offenders back into the community having promoted social responsibility amongst these citizens and focused on their human development, is therefore undervalued.

While various plans and programmes have been put in place over the past five years, the biggest restrictions on the success of these programmes lies in the lack of dedicated resources within the line functional departments and the inadequate incorporation of civil society into the programmes, as well as inadequate participation and coordination of government departments in the criminal justice and social sectors.

Of particular importance in the work of the IDMT has been the recognition that rape is not a single department issue, and that delivery by government on an Anti-Rape Strategy requires

integrated governance in practice.

## 7.2 Information Driven Anti-Rape Strategy

In developing a more balanced focus that is required for a truly national Anti-Rape Strategy, a database on rape offenders must inform the Anti-Rape Strategy. In June 2003, there were 8 148 detainees awaiting trial for rape, and 16 939 sentenced sexual offenders in prison. (RSA, DCS Management Information System 2003) It should be noted that the category utilised by DCS of sexual offenders would include some sentenced for sexual offences other than rape, but the vast bulk of the number are indeed sentenced for rape.

The IDMT study identified dangers in varieties of terminology definition and usage and the challenges in aligning the information between the criminal justice and other government departments. For example, it identified the problems posed by the utilisation in the literature of two ways of calculating conviction rate. The first method is a conviction rate as ratio of guilty cases to cases reported (7.7 per cent in 2000 down by 4 per cent from 1999). The second way of calculating the conviction rate focused on those trials that were finalised (i.e. reached judgment irrespective of the nature of judgment) which in 2000 was 49 per cent. (RSA, IDMT 2002b) This highlights the need for government to generate uniform usages of terminology, reliable statistics and official formulae for calculation of conviction rates.

## 7.3 Improving Criminal Justice Service Delivery on Rape

The Sunnyside Police Station project where police women launched a gender violence section at the police station should be considered for broader implementation driven by senior police officers with appropriate training of personnel deployed into such sections.

An issue that government has to address is the status of the personnel who are involved in these processes, which tends to be under-valued. The formal naming of the units investigating rape and crimes against children as Special Victims Units could contribute to a status upgrading within the culture of the SAPS.

A review of the criminal justice system must engage with the debate about the value of minimum incarceration sentences for particular categories of offence, when the desired outcome of the sentence should be the successful rehabilitation of the offender and the approach to rehabilitation is based on assessment and profiling of the individual. The impact of the length of incarceration and the gains made in rehabilitation have to be balanced with each other and with the desire of society to achieve a degree of retribution.

Action on the non-legislative recommendations made by the SA Law Commission, particularly as they relate to the treatment and sentencing of sex offenders, if prioritised in the coming period, will deeply enhance the Anti-Rape Strategy.

To address the issue of child victims of rape, and given the extent to which these rapes take place in the home, intensified delivery on places of safety for child victims, with specific training of care givers there in rape and trauma counselling should be prioritised. Attention must be focused on facilities dedicated to child victims and the possibility of accessing donor funding to expand the resources available should be explored.

In relation to children who perpetrate rape, urgent attention must be focused on the building of new secure care facilities in order to address the problem of children in prison. The issue of how best and where best to rehabilitate such child offenders, requires inter-departmental debate and research.

The blueprint for the establishment and functioning of Care Centres and the success of existing Care Centres requires that the finding of resources for Care Centres should be addressed. This provides an area of potential public-private cooperation on infrastructural development.  The Cabinet backing of the Anti-Rape Strategy and declaration of rape as a priority crime provides a leverage in accessing funds that should be utilised.

In the light of the evidence that rapists are frequently repeat offenders, one of the outcomes of the DCS Anti-Rape Strategy and the analysis of offender information over the next ten to twenty years should be to make the necessary scientific assessment of trends in rape re-offending in South Africa, and through this to be able to contribute to improved delivery on human security.

## 7.4 Appropriate Understanding of Social Crime Prevention

Criticism has included that the IDMT-driven Anti-Rape Strategy did not adequately conceptualise or address the social crime prevention strategy in South Africa. The aspects of prevention that had been addressed in the Scoping Document did little to go beyond the role of better visible policing, and improvement of environmental design. In this respect the document tended to reflect an approach to crime prevention through intensified and upgraded criminal justice delivery that has been internationally recognised as inadequate. (Palmary

2001: 1 of 16) The issues of socialisation, of gender relations, of social cohesion and social justice, crucial to change the potential generating of rape offenders, and the challenge of rehabilitation and correction of convicted rape offenders were not addressed. The IDMT Scoping Document unfortunately reflects an inadequate understanding of social crime prevention as the appropriate strategy against crime.

Despite the NCPS that was adopted by Cabinet in 1996, delivery of the social crime prevention approach has not progressed as envisaged. This is a reflection of South Africa's need to move away from a police-driven approach to crime prevention, which tends to present crime combating as synonymous with crime prevention.

An effective Anti-Rape Strategy must balance the emphasis on victim needs, including the goal of conviction of the offender, with a focus by government departments on the potential offender, the sentenced offender and on social crime prevention.

Against the background comment on the challenges of social crime prevention, the role that the Social Sector departments must play in an effective government Anti-Rape Strategy, particularly in relation to rape prevention must be further explored. As already indicated, the Anti-Rape Strategy has tended to be criminal justice-driven, and the social sector responsibility has been underplayed. This has negative consequences for a holistic Anti-Rape Strategy that can drive towards the prevention of and reduction of rape, thereby prevent rape recidivism, and through this contribute significantly to improved human security in South Africa.

**7.5 Social Crime Prevention Projects and Interventions**

In respect of social crime prevention intervention targets, most value would be achieved from an analysis of community of origin of offenders overlaid with an analysis of the types of crime and hence the types of causes of crime that are prevalent in that community. This, when focused on the crime of rape, would generate an understanding of the driving factors to be used in shaping rape prevention interventions.

A project on reducing sex crimes through environmental design, equivalent to the CSIR project on urban design and safer communities, should be considered as part of the Urban Renewal and Integrated Sustainable Rural Development Programme as its contribution to the government Anti-Rape Strategy. The Department of Provincial and Local Government would

have a key role in providing an analysis of how urban planning and local level public transport systems impact on rape.

The following areas appear as crucial aspects of an effective Anti-Rape Strategy that can address the human security dimension:

- Addressing the domestic environment as contributor to rape culture, domestic violence and malfunctioning families.
- Addressing the appropriate socialisation of children, including sex education within families and schools, the development of parenting skills in relation to gender socialisation and sex education, and the promotion of life skills education for appropriate sexual conduct.
- Addressing offending behaviour amongst children and diversion of children at risk of the law away from the criminal justice system as part of long-term crime prevention.
- Addressing the cover up of rape incidents involving child victims in a poor community due to the manipulation of families to tolerate rape of children in exchange for financial/material benefit.
- Addressing the trauma to rape victims through victim empowerment and victim counselling.
- Addressing the reintegration of rape parolees and rape ex-offenders into society and their continuing rehabilitation and social acceptance.

## 7.6 A Social Compact in Rape Prevention

The Social Sector programmes that are relevant to the Anti-Rape Strategy are not fully achievable without the active participation of civil society. Addressing the need for the community and civil society to take ownership of the social problems in their community in a partnership with government is perhaps one of the greatest challenges for the Social Sector Cluster Task Teams. Such a partnership plays a potentially important role in identifying and assessing the factors that generate a rape-conducive environment in order for government to develop an appropriate strategy for creation of an environment for women and children that does not encourage a rape culture. It is not government itself that builds a nation, establishes the national values and ethics, or provides the environment in the community in which social relations foster or hamper social cohesion and social justice. The people themselves organised into many and diverse social formations are proactive agents in nation building, in social transformation and in social crime prevention.

There are aspects of work being done by civil society-based organisations that should be brought into the Anti-Rape Strategy. The research being done by the CSIR Crime Prevention Unit and the Centre for the Study of Violence on rape enhancing factors in the Johannesburg inner city is one such area.

There are a number of incidents that have taken place over the past years where communities have taken vigilante action against individuals suspected of or caught in the act of rape. The intensity of response is particularly high when the victim of rape is a child. The challenge of government is to mobilise this response into a socially constructive direction, which reinforces the criminal justice system, and directs community attention to the causes of, and circumstances that allow rape to occur.

## 7.7 Advocacy Role for Democracy Supporting Institutions

The South African <u>Constitution</u> provides for a range of institutions aimed at the protection of the human rights of South African citizens as reflected in chapter 9 of the <u>Constitution</u>. The Human Rights Commission and the Gender Equity Commission have particular mandates that are relevant to the Anti-Rape Strategy as they are responsible for the promotion of human rights and gender equality and empowerment. In particular, these two institutions have a crucial *niche* role in the promotion of public awareness around human rights and what constitutes a violation of human rights.  Rape is both a human security issue and a violation of the human rights of the rape victims. These two institutions therefore have an important advocacy role in mobilising the community around an Anti-Rape Strategy, particularly in relation to the crime prevention dimension of the strategy. These institutions should be engaging civil society to ensure that issues of non-violence, of gender respect and of women's empowerment are addressed in the family, in the community, as well as through government. An anti-rape perspective should be an integral part of the nation-building role that these institutions contribute towards.

## 7.8 Youth Subcultures and Rape

Analysis of the subcultures prevalent amongst youth that contribute towards anti-social behaviour, and in particular towards rape by youth, would be relevant to development of a government Anti-Rape Strategy. The role in particular of the National Youth Commission, along with key women's and youth organisations, in support of the Anti-Rape Strategy's social crime prevention dimension should be considered.

## 8. CONCLUSION

This chapter aimed to describe and analyse government action, both as individual departments and collectively, to address factors related to the phenomenon of rape in South Africa, and to make certain recommendations that could contribute to the South African response to rape.

What is apparent is that there are crucial aspects of work being done by departments on rape that the IDMT has not yet succeeded in integrating into the Anti-Rape Strategy given the overemphasis on the criminal justice dimension. In addition, there are a number of cross-government projects and programmes, with a potential impact on the social prevention of rape, which do not appear to have focused on the contribution that they could make to the Anti-Rape Strategy. The challenge of coordination in government, particularly in relation to cross-cutting human security issues underlies these shortcomings.

Moreover, the lack of partnership between the IDMT and relevant NGOs in relation to the Anti-Rape Strategy, reflects a lack of synergy at national level between government and relevant NGOs on the role that each play in nation building, in social crime prevention and in social cohesion and social justice. An effective strategy against rape that contributes to enhanced human security and thereby lessens national security concerns in South Africa must involve the following:

- A partnership across government departments with integrated service delivery.
- The involvement of those institutions which have an advocacy and watchdog role on human rights issues and hence have a vested interest in promotion of human security.
- The active involvement of the community for attending to the social issues that contribute to and result from the rape culture, from gender inequality and sexism, from the culture of violence that has been so deeply engrained in South Africa society.

What has been highlighted in this chapter is the need for a nationally-supported assessment of the factors that generate a rape-conducive environment in order for government to develop an appropriate strategy, involving all relevant stakeholders in its implementation, to provide a rape-safe environment for women and children. The variety of causes of rape, of forms of rape, and of circumstances surrounding rape indicates that such a study would need to consider the complexity of this phenomenon, including its relationship to power inequalities at a personal level in South African society; the manner in which patriarchy manifests in South

Africa; the gender dimension of the planning of urban and rural built environments; public transport systems; the nature of the South African entertainment industry; the extent of substance abuse; the role of authority figures and abuse of their power, etc.  From this a correctly driven and holistic Anti-Rape Strategy could be crafted.

Over and above the improvement of the criminal justice system in the investigation, prosecution and sentencing of rape cases, the success of a comprehensive Anti-Rape Strategy will depend on achieving the following goals:

- Reducing the incidence of rape.
- Reducing rape-promoting factors in society.
- Improving the effectiveness of victim support programmes.
- Improving the rehabilitation of rape offenders.
- Reducing rape recidivism.

This will serve as the basis in the next chapter for an analysis of whether the government-led Anti-Rape Strategy confirms that rape is a human security problem in South Africa, and indeed a national security concern and whether the Anti-Rape Strategy as it is unfolding is appropriate to the phenomenon of rape in South Africa and to the nature of the security challenge posed by rape.

**CHAPTER 6:**

**EVALUATION**

This chapter seeks to summarise the evidence and analysis that has been presented in the dissertation regarding the nature of rape in South Africa and the manner in which government has responded to rape in the period 2000-2003; to restate the propositions made in the Introduction; to test these propositions; and to draw conclusions in relation to **indicators of appropriateness of the government responses to addressing rape** and **indicators of rape as a human and national security concern**.

It aims, on the basis of the extent of rape and the impact of rape in South Africa on, by and large, the women and girl children of the country, to evaluate the importance of an Anti-Rape Strategy in relation to its contribution to enhancing human security, as a component of the national security strategy.

It also seeks to propose on the basis of this evaluation, the role that security services and non-security departments could play in relation to an Anti-Rape Strategy.

Finally, it aims to present integrated governance and partnerships between government and civil society as essential for the delivery of human security, and in particular for an appropriate strategy against rape. These will be seen to address an essential component of national security in a country committed constitutionally to the empowerment and protection of women and the rights and protection of children.

1.   **SUMMARY OF THE TEXT**

The dissertation has illustrated how over the past decade, South Africa has faced unacceptably high levels of rape of women and children, despite the government and nation's constitutionally enshrined commitment to protection of women and children. Based on the conceptual understanding of rape, gender oppression, human security and national security outlined in Chapter 2, this dissertation has outlined the manifestations of rape in South Africa, illustrating the complexity of rape as a crime and human rights violation. The dissertation has utilised available information to draw what conclusions are possible both about the victims and potential victims of rape, and the perpetrators and potential perpetrators of rape. The study

has also investigated the manner in which rape-promoting factors are considered in the literature, and attempted to shed light on the various elements of social transformation that are required to break down the rape culture that exists in certain South African communities.

Against these conceptual and factual backgrounds, the dissertation has made an assessment of the government's approach to rape prevention and rape combating in order to assess government's response to rape and to draw conclusions about the contribution that this response plays in the human and national security agenda.  The dissertation has explored the role of integrated governance and of partnerships with civil society in the provision of an appropriate strategy to build a criminal justice system, social and physical environment, and a rape-safe culture in South Africa, with a view to asserting the importance of such approaches in addressing human security issues. The analysis of why crime in South Africa tends to involve violence and how this influences the extent of interpersonal violence and rape in South Africa has been undertaken with a view to identification of key human security concerns in South Africa.

## 2.   TESTING OF THE PROPOSITIONS OF THE DISSERTATION

The propositions that were set out for exploration in the dissertation are:
- Forcible rape undermines human security.
- The extent of rape in South Africa constitutes a widespread threat to the personal safety of especially women and children.
- The constitutional commitment to gender equality, the empowerment of women, the rights of children and the right to security of the person are indicative of the severity with which South African society views rape.
- These factors combine to render rape a national security concern in South Africa during the past decade, requiring direct measures to be undertaken.
- This situation obliges a coordinated government strategic interpretation of the impact of rape on constitutional rights and stability, and evaluation of government policy in this regard.
- An integrated government strategy that entails close cooperation with civil society is required to enable the countering and reduction of rape and the ultimate construction of a rape-free culture in South Africa.

## 2.1  Forcible Rape Undermines Human Security

The argument of this dissertation has brought the manner in which rape undermines human security to the fore in a number of instances. The main potential victims, namely women and children, constitute more than half of the society and their insecurity and perceptions of their vulnerability contribute to fear and perceptions of instability. Since human security has been understood to combine both individual security with the security of human collectives, there are two senses in which extensive rape has a negative impact on the stability and freedom from fear in a society.

Of significance is the increasing value that is attached to human security in the debates about the broader concept of national security. In the broadening of the concept of security to cover various sectors, such as economic, military, environmental, personal, political, and social, and to include both domestic or internal security issues and those emanating from the international arena, the securitisation of issues and the assessment of the extent of threat that an issue poses, potentially paints a very broad canvas. It has been argued that there is no need to artificially attempt to limit the breadth of the national security agenda, as it is on the basis of the measure of the risk or threat posed by any phenomenon, and the perception of such a risk of threat, that the decision-making lies. The intensity of the hazard and intensity of the perceptions of the danger posed by any security issue, namely the threat assessment, would then be the basis on which government would prioritise resource allocation, prioritise policy and strategic direction on the issue, and determine what if any extraordinary measures may need to be taken. The issue of rape has, it has consistently been proven, a significant impact on insecurity within communities, and as such undermines human security within those communities, and more broadly raises the view that rape requires more dedicated attention by government.

The proposition as formulated, namely that rape undermines human security, has been supported by the research and analysis of this dissertation.

## 2.2  Rape as a widespread threat to personal safety of women and children

The dissertation has drawn conclusions about the extent of rape in South African on the basis of the official statistics on rape during the post-1994 period and victim surveys. Through this, the research has indicated the widespread extent of rape in South African society. The dissertation has also reflected on the under-reporting of rape to the police, which means that the official statistics are indeed only a reflection of the reality of the extent of rape.

The dissertation has also indicated the location of most rape reporting through analysis of policing areas rape statistics. This indicates that rape is a phenomenon that is widespread throughout the country.

The analysis of the nature of rape in South Africa in Chapter 4 also indicates the variety of different manners in which potential rape victims, mainly women and children, are vulnerable to rape.

It is therefore concluded that the proposition as formulated, that the extent of rape in South Africa constitutes a widespread threat to the personal safety of especially women and children, has been supported by the research and analysis of the dissertation.

## 2.3  Indications of the Severity with which Society and Government View Rape

Throughout the dissertation there have been various indications of the severity with which society and government perceive rape, both domestically and internationally. The introduction of minimum sentences for rape, with 15 or 20 year sentences for repeat rape offenders and life for rape involving serious and aggravating circumstances; the priority attention that the SAPS has placed on the combating of rape; the Cabinet decisions in relation to the National Plan of Action against Violence against Women; the declaration of rape as a national priority crime; the establishment of dedicated sexual offences courts; the introduction of a mechanism to allow prosecution to continue even when the complainant withdraws the charge; the tasking of the South Africa Law Commission to review the law and procedures relating to rape; the allocation of resources for the rehabilitation of rape offenders; the protection of children; and the development of an Anti-Rape Strategy, are all indicative of government's response to the level of intolerance of rape within South African society.  It should be noted however that there is little that currently indicates that the community attitudes in relation to rape are likely to result in widespread or even localised instability. While there have been individual communities, or groups within communities who have taken the law into their own hands, the assessment has been that rape does not at this stage pose a significant risk or threat to national security in South Africa.

The proposition that the constitutional commitment to gender equality, the empowerment of women, the rights of children and the right to security of the person are indicative of the severity with which South African society views rape, is supported by the research which has indicated the extent to which these constitutional imperatives have been translated into policy and practice by government.

## 2.4  Rape as a National Security Concern

Rape has been defined as an issue of human security, and hence in line with the broad concept of national security adopted in the South African <u>Constitution</u> which encapsulated human security as part of national security. Rape is an issue that, both as a human rights violation and as a serious violent crime of unacceptably high levels, warrants government attention within the national security strategy. Using the distinction between a concern, risk and threat, it has been correctly argued that rape is currently a human and national security concern in South Africa.

In Chapter 2 it was argued that securitisation of issues is not the responsibility or action of government alone, and that civil society can have a significant role in placing issues onto the security agenda of any nation. It was argued that society defines its own security triggers and shifts issues out of the realm of ordinary political process through a socially constructed process, but one in which policy makers, public representatives, law enforcement agencies, and the intelligence community have key roles to play.

The extent of rape in South Africa, and the public outcry about the level of rape and the insecurity of women and girl children especially, faces the government decision makers with the ultimate responsibility to ensure that policy and the national security agenda are not determined in a purely reactive manner, while at the same time ensuring that an issue that is as widespread as rape, and that so directly impacts on the empowerment and social well-being of especially women and children, is appropriately addressed as a national security concern.

It has correctly been argued that placing issues on the national security agenda of a country does not necessarily imply the use of extraordinary measures, such as deployment of the Defence Force, intensified intelligence operations on the domestic population, or massive deployment of the police in a combat mode. What securitisation implies in a democracy is the prioritising of the resource allocation and energies of the state on the basis of interpreted intelligence information that identified the issue as requiring dedicated attention of the state to prevent destabilising or security risks from materialising.

The proposition as formulated that these factors combine to render rape a national security concern in South Africa during the past decade, requiring direct measures to be undertaken,

has been supported by the research, while it has been consistently argued that the direct measures necessary should not be interpreted to mean conventional security measures.

## 2.5  Strategic Interpretation of the Impact of Rape on Constitutional Rights And Stability

Based on the argument that rape does not constitute such a danger to the lives of citizens, or pose such a hazard to stability that is poses a national security risk or threat that would warrant extraordinary security measures in the conventional sense, it is argued that rape should correctly be addressed by government through prioritising delivery and resource allocation regarding the investigation, prosecution, conviction and sentencing of rape offences and rape cases, and the implementation of long-term social crime prevention strategies, in partnership with the community, to address the rape-promoting factors and enhance rape deterrents.

Therefore, while rape does not constitute a phenomenon in which intelligence, police and defence resources should be mobilised in an extraordinary sense, it does however require the intervention of strategic intelligence and crime intelligence analysis to ensure that rape is addressed as a priority crime and potential destabilising factor. The role of early warning about possible increases in vigilante action, and the identification of social patterns and socio-economic factors that are causal factors in rape, are critical issues facing the intelligence community and the police.

The identification of rape as a social phenomenon and not merely an individual deviance indicates that an information and analysis-driven approach is crucial to the success of an Anti-Rape Strategy. In this regard, the National Strategic Intelligence Act, stipulates that:

> It shall be the duty of any department of State that comes into possession of national security intelligence or information which may be of value in the preparation of the national intelligence estimate referred to in section 4 (2) *(c)* to transmit such intelligence and information without delay to the relevant service forming part of the National Intelligence Structures, with an indication of the reliability of the source of such information. (RSA, Act 39 of 1994: s3(3))

NICOC as the custodian of strategic intelligence has the responsibility to make the appropriate threat assessments of issues on the national security agenda in order to advise government on the level of risk that is posed by any phenomenon. In relation to rape therefore, the

responsibility to assess the threat it poses to women's equal participation in society, on children's development as healthy members of society; to the human rights of rape victims; and to levels of tension within communities, lies with the strategic intelligence structure. The challenge to the intelligence community lies not in whether such an assessment should be made, but rather how the limited resources are focused given the range of threats, risks and concerns that are being identified, and as such whether an assessment of rape as a national security concern reaches the strategic intelligence agenda.

The National Intelligence Estimate as the key strategic intelligence document produced for government by the intelligence community plays a crucial role in relation to human security concerns. Information for the National Intelligence Estimate should correctly be sourced from experts in the relevant government and parastatal departments. Mti has argued that intelligence "has a role to play to assess the impact of rape on stability and social harmony, to assist police in the interpretation of the policing strategy that will support rape reduction for example policing of recreational centres over weekends and festive seasons, to proactively through public education and advocacy create an environment for easier rape reporting, and for focusing the service delivery of social sector departments." (Interview with Mti: 2003) The intelligence community should for example, develop the ability to map the perpetration time trends in relation to each of these types of rape in a manner that would inform social crime prevention strategies.  Since the NICOC is statutorily obliged to produce assessments of the risks posed in relation to any national security issue, it is therefore argued that coordinated intelligence interpretation of the causes of rape in society, the trends in relation to rape, and the impact of rape on society, should have played and should in the future play a central role in the development of and refinement of the Anti-Rape Strategy.

Strategic intelligence has a crucial role to play in guiding the service delivery of integrated governance, particularly in areas were there is a potential or actual negative impact on human security.  This has significant implications for the intelligence community and its client relationship with non-security service government departments and discussion during the course of this research indicates that there are divergent interpretations within the intelligence community, and between the intelligence community and other government departments, as to this area of co-responsibility and as to the availability of the resources to delivery on the approach that is presented in this dissertation. Obviously a key determinant of the work that intelligence can do in this regard is the resource allocation to intelligence and the presence or otherwise of national security threats that require focused attention. Much of the debate within the intelligence community currently relates not so much as to whether social issues such as

rape are issues that warrant strategic analysis, but rather how the intelligence resources, limited as they are, should be prioritised.

The dissertation has also indicated that the phenomenon of rape covers a wide range of acts, and manifests in a wide range of forms, including gang rape, child and infant rape, rape of teenage children, rape of senior citizens, often in the context of household theft, rape as part of organised crime activities, and in particular as part of the initiating process into street gangs and the phenomenon of serial rape. Given the range of social determinants of rape, and the dilemmas over interpretation of rape statistics, it is necessary for the Anti-Rape Strategy to consider all of these dimensions. Prevention, sentencing and rehabilitation routes for each of these types of rape cannot be simply conflated into one solution, and nor can there be a single rape prevention approach. This once more reinforces the argument that coordinated information gathering and interpretation is necessary to refine the Anti-Rape Strategy.

The proposition as formulated, namely that identification of rape as a national security concern obliges a coordinated government strategic interpretation of the impact of rape on constitutional rights and stability, and evaluation of government policy in this regard, has been supported by the research.

## 2.6 Integrated Governance, Civil Society and a Rape-Safe Culture In South Africa

This dissertation has argued that rape is both a violation of human and constitutional rights, and a crime. It has therefore sought to argue that a strategy is required that balances crime combating (including investigation, prosecution, sentencing and incarceration) on the one hand, and social crime prevention (including promotion of social cohesion and social justice, victim empowerment, offender rehabilitation and addressing the causative and contributory factors from the social and socio-economic realms) on the other hand. It therefore argues that there is a need for the government Anti-Rape Strategy to be broadened, to become a more holistic, cutting across two, if not three, crucial sectors of government – the criminal justice system and the social transformation sector. The assessment has been made that the Anti-Rape Strategy has been unduly focused on the criminal justice system, and is therefore a reflection of an approach to crime prevention through a combination of vigorous policing and

tough justice, which has been internationally rejected in favour of a social crime-driven prevention strategy that combines social development with rehabilitation. (Palmary 2001: 1 of 16)

Underpinning the roles of the JCPS and Social Sector Departments is the critical role that the Economic and Investment Cluster plays in socio-economic development. The role that the Departments of Trade and Industry, Labour, and Public Works, for example, play in job creation, infrastructural development, and wealth creation at community level has not been explored in this dissertation but remains a critical dimension that must underpin any crime prevention strategy.

Furthermore, the dissertation has utilised a social crime prevention perspective in both the understanding of rape and in the understanding of government responsibilities to prevent crime, which indicates that the partnership between government and the community is fundamental to rape prevention and correction of rapists offending behaviour. Crime has been recognised as both a human security issue and currently a national security risk, while rape as a violent crime targeting women and children is usually not recognised as being a national security issue. It has been argued that rape must be recognised as being an integral part of the current South Africa human and national security agenda, at the level of a national security concern, and not at the level of a national security threat.

Rape, as an indicator of the social health or otherwise of a nation and its people, reflects the systematic inequalities and discrimination that remain in South Africa's emerging democracy, and which continue to generate human security issues, that may over time and if not adequately addressed, become a national security risk.

The dissertation has also argued that the approach to social crime prevention must entail an approach that is

> attentive to unique community perceptions and conditions, so as to secure the participation of individuals, households and groups from diverse cultural and sub-cultural settings; engender a sense of ownership of the violence problem and empower them in its solution. … violence is therefore a problem for many different sectors and disciplines, demanding inter-sectoral approaches that link the prevention contributions that the police, the health sector, education,

community groups and ordinary individuals can all make. (Butchart and Emmett 2000: 19)

The dissertation therefore draws the conclusion that the government Anti-Rape Strategy must be a cross-cutting programme across both social and justice/crime prevention sectors. This entails a broadening of its conceptualisation and better coordination of the practical work of its implementation while recognising that there is a massive amount of work being done, and more that should be done, that feeds into such a holistic approach. Moreover, it has been argued that the understanding of rape and what is entailed in a successful Anti-Rape Strategy requires that the broader society becomes a co-determinant of the Anti-Rape Strategy and a co-participant in its delivery.

Analysis of the work done within the criminal justice system, and of the relatively less effective work done on long-term rape prevention and prevention of recidivism, has led to the conclusion that integrated government across both the JCPS and the Social Sector Clusters is essential. But over and above that, social crime prevention implies that the objectives of the Anti-Rape Strategy are not achievable by government alone. Integrated governance must be combined with the involvement of the community for delivery on human security, and in particular for a strategy against rape. The moral dimension of rape, the human rights dimension, the social conditions that promote rape, and the correction responsibility of the family and society as a whole, all motivate this conclusion.

Without substantial progress on the delivery problems of the criminal justice system in relation to rape cases, a social crime prevention approach to rape, social cohesion and social justice to address aspects of rape-promoting factors, and transformation of social relations in South Africa, the human insecurity generated by the levels of rape will continue to bedevil the newly emerging democracy and to hold back on essential constitutional imperatives of human rights, the equality of the genders and the protection of children. The continuing unacceptably high level of rape in South Africa, and particularly the rape of children, results in rape being an area of potential community action, and possible destabilisation of communities, even if not at a national level.

The proposition as formulated, namely that an integrated government strategy that entails close cooperation with civil society is required to enable the countering and reduction of rape and the ultimate construction of a rape-free culture in South Africa, has been supported by the

research.

## 3.   CONCLUSION AND RECOMMENDATIONS

In overall conclusion, South Africa does face a national security concern due to the extent and nature of rape, especially of women and children. Rape undermines human security, both in the sense of individual security and the security of the human collective, and as such requires the development of a **multi-disciplinary, cross-sectoral Anti-Rape Strategy,** involving both government and the community, driven and monitored by strategic intelligence as part of the national security agenda.

It is recommended that the Anti-Rape Strategy must include the following:

- An analysis-driven, and strategic intelligence supported, inter-departmental rape strategy formulation process.
- Educational programmes targeting youth, their parents and women, aimed at increasing the reporting of rape and the pressing of charges through to conviction stage.
- Effective victim counselling and empowerment programmes that are also able to ensure a restorative justice approach that contributes to the promotion of social responsibility in the offender and their successful reintegration into society.
- Effective delivery by the criminal justice system on the investigation, prosecution and sentencing of rape cases.
- Development of an appropriate strategy for rape offender sentencing, effective delivery of corrections and development to rape offenders, and their appropriate reintegration into society.
- Educational campaigns, run by both government and civil society,  targeting boys, young men, and adult men in order to create a moral environment in which interpersonal violence, violence against women and children are socially taboo.
- Effective delivery by both government and the private sector on a strategy to address the social causes of rape, including the creation of a rape unfriendly social and physical environment and the promotion of social justice.
- Serious attention to the issues of gender socialisation, sex education and social attitudes to violence with a view to the promotion of socially acceptable gender relations and the promotion of social responsibility.

# ABSTRACT

**Topic: RAPE AS A HUMAN SECURITY ISSUE, WITH SPECIFIC REFERENCE TO SOUTH AFRICA.**

By: Jennifer Ann Schreiner

Leader: Prof M. Hough

Department: Political Sciences, University of Pretoria

Degree: Master of Security Studies (MSS)

The dissertation aims to explore the impact of rape on human security and hence to drawn conclusions about rape as a national security concern in South Africa. The dissertation puts forward six propositions to be explored and tested:

- Forcible rape undermines human security.
- The extent of rape in South Africa constitutes a widespread threat to the personal safety of especially women and children.
- The constitutional commitment to gender equality, the empowerment of women, the rights of children and the right to security of the person are indicative of the severity with which South African society views rape.
- These factors combine to render rape a national security concern in South Africa during the past decade, requiring direct measures to be undertaken.
- This situation obliges a coordinated government strategic interpretation of the impact of rape on constitutional rights and stability, and evaluation of government policy in this regard.
- An integrated government strategy that entails close cooperation with civil society is required to enable the countering and reduction of rape and the ultimate construction of a rape-safe culture in South Africa.

The dissertation begins with a conceptual exploration of the concepts of rape, violence, gender violence, human and national security, and then provides an outline of how these concepts have been applied in the post-1994 South African context. Human security is identified as a core element of South African national security. Against the background of the conceptual definitions of terminology used in the dissertation, and the outline of the application of these concepts in South Africa, the extent and nature of rape is described and analysed. The dissertation avoids over-utilisation of statistics given that rape statistics are based to a large extent only on those cases that are reported to the police, and there is a range of factors that result in the under-reporting of rape.

The dissertation then describes and comments on the government's response to rape in the period 2000-2003, outlining the inter-departmental strategies that have been initiated by Cabinet. Through this analysis, the seriousness with which government and parliamentary representatives have viewed rape has been indicated, as well as the strengths and weaknesses of the governmental response to rape. This has enabled an indication of certain key aspects of governmental response that must be addressed if the security risk of rape is to be contained.

The dissertation concludes that the propositions are indeed supported by the both exploration of the South African policy on rape, human and national security, as well as the operational practice of the relevant government departments. The dissertation indicates a strong emphasis on the criminal justice prosecution of rape cases, and an imbalance in the social crime prevention dimension of government's response to rape. It is argued that for a successful strategy to combat rape and to achieve a rape-safe culture in South Africa, an integrated governmental response, with a close social compact with civil society, balancing both improved efficiency and effectiveness of the criminal justice prosecution of rape cases, and social crime prevention that addresses the causes of rape, is required.

**OPSOMMING**

**Onderwerp: VERKRAGTING AS 'N MENSLIKE VEILIGHEIDSVRAAGSTUK, MET SPESIFIEKE VERWYSING NA SUID-AFRIKA.**

Deur: Jennifer Ann Schreiner

Leier: Prof M. Hough

Departement: Politieke Wetenskappe, Universiteit van Pretoria.

Graad: Magister in Veiligheidstudies.

Die skripsie beoog om die impak van verkragting op die veiligheid van individue te ondersoek en op grond daarvan gevolgtrekkings te maak oor verkragting as 'n nasionale veiligheids-kwessie in Suid-Afrika. Die volgende proposisies is in dié verband geformuleer:

- Gewelddadige verkragting ondermyn die individuele veiligheid.
- Vanweë die omvang van verkragting in Suid-Afrika is dit 'n aansienlike bedreiging vir die persoonlike veiligheid van veral vroue en kinders.
- Die grondwetlike verbintenis tot geslagsgelykheid, die bemagtiging van vroue, die regte van kinders en die reg op veiligheid van die individu, is tekenend van die ernstige lig waarin die Suid-Afrikaanse gemeenskap verkragting beskou.
- Gesamentlik het hierdie faktore in die afgelope dekade daartoe gelei dat verkragting 'n nasionale veiligheidskwessie in Suid-Afrika was wat die tref van direkte maatreëls genoodsaak het.
- Hierdie situasie noodsaak 'n gekoördineerde strategiese interpretasie van regerings-kant van die impak van verkragting op grondwetlike regte en stabiliteit, en die evaluasie van regeringsbeleid in hierdie verband.
- 'n Geïntegreerde regeringstrategie wat noue samewerking met die burgelike gemeenskap behels word vereis vir die bekamping van verkragting en die uiteindelike daarstelling van 'n kultuur wat ongunstig is vir verkragting.

Die studie begin met 'n omskrywing van die konsepte verkragting, geweld, geslagsgeweld, die veiligheid van individue en nasionale veiligheid, en verskaf daarna 'n oorsig van hoe hierdie konsepte gebruik is in die Suid-Afrikaanse konteks na 1994. Die veiligheid van individue word geïdentifiseer as 'n kern-element van nasionale veiligheid in Suid-Afrika. Teen hierdie agtergrond, word die omvang en aard van verkragting beskryf en ontleed. Die navorsing vermy die oorbenutting van statistiek in die lig van die feit dat verkragtingstatistiek in a groot mate slegs op daardie gevalle wat aan die polisie gerapporteer word gebaseer is, en daar 'n verskeidenheid faktore is wat bydra tot die onderrapportering van verkragting.

Vervolgens beskryf en ontleed die studie die regering se reaksie op verkragting in die 2000-2003 tydperk en gee dit 'n oorsig van die inter-departementele strategieë wat deur die Kabinet geïnisieer is. Hierdie analise dui aan met welke erns die regering en die parlementêre

verteenwoordigers verkragting benader het, asook die sterk en swak punte van die regering se hantering van verkragting. Dit het dit moontlik gemaak om aan te dui aan watter sleutelaspekte van die regering se hantering van die saak aandag gegee moet word om die veiligheidsrisiko van verkragting te verminder.

Die slotsom is dat die proposisies ondersteun word deur die ondersoek na die Suid-Afrikaanse regering se beleid ten opsigte van verkragting, die veiligheid van individue, en nasionale veiligheid, sowel as die operasionele benadering van die staatsdepartemente. Die studie dui aan dat daar sterk klem gelê word op die kriminele vervolging van gevalle van verkragting maar dat daar 'n wanbalans is wat die sosiale misdaadsvoorkomingsdimensie van die regering se hantering van verkragting betref. Daar word aangevoer dat, vir 'n suksesvolle strategie om 'n kultuur wat ongunstig is vir verkragting in Suid-Afrika te vestig, daar van regeringskant 'n verskerpte geïntegreerde reaksie moet wees in noue samewerking met die burgelike gemeenskap, wat 'n balans sal tref tussen die verbeterde doeltreffendheid en effektiwiteit van die kriminele vervolging van verkragtingsake, en sosiale misdaadsvoorkoming wat die oorsake van verkragting aanspreek.

**GLOSSARY OF KEY TERMS**

| | | |
|---|---|---|
| Gender Relations | : | Geslagsverhoudings |
| Human Security | : | Menslike Veiligheid |
| Integrated Governance | : | Geïntegreerde regering |
| Integrated Justice System | : | Geïntegreerde regstelsel |
| Intelligence | : | Intelligensie |
| National Security | : | Nasionale Veiligheid |
| Rape | : | Verkragting |
| Securitisation | : | Sekuritisering |
| Social Cohesion | : | Sosiale Samehang |
| Social Crime Prevention | : | Sosiale Misdaadvoorkoming |
| Social Justice | : | Sosiale Geregtigheid |

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