

A comparison of psychosocial and psychiatric features of mentally capable versus mentally incapable individuals referred by the courts for forensic psychiatric observation in relation to an alleged sexual offence

A thesis submitted in fulfilment of requirements for the degree of Doctor of Philosophy in Psychiatry

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THESIS SUMMARY

This is a mixed research methods study based at the forensic mental health unit of Weskoppies Psychiatric Hospital in Pretoria, Gauteng Province, South Africa. The overarching aim of the study was to help add insights that could indirectly inform the wider discourse on sexual offending in society and to the body of knowledge on the prevention of sexual violence – including in forensic mental health. Qualitative and quantitative methods were applied through concurrent and transformative mixed research methods, premised on the philosophical stance of pragmatism. Records of individuals accused of sexual offences were explored and in-depth interviews with individuals accused of sexual offending and / or other types of charges referred for observation in terms of the Criminal Procedure Act, 51, 1977 (CPA 1977) were conducted. Psychiatric and psychosocial features and general perspectives on sexual offending were explored. Data collection was done from the end of 2014 to the end of 2015.

In terms of findings, the record-based component of the study revealed that the majority of those referred were mentally capable, were known to the victims and lived in close proximity to them. Boys and girls, elderly women and socially isolated individuals seemed the most vulnerable irrespective of the mental capacity of the accused at the time of an alleged incident. In-depth interviews revealed scepticism, myths and new locally relevant ways of defining sexual violence. Socio-economic determinants of health seemed to render potential perpetrators of sexual offending vulnerable to violence and included adverse childhood events, poverty, unemployment and inequality. Experiences during and after arrest revealed possible human rights violations of alleged offenders by communities and law enforcement systems. Mental illness worsened stigma even in the hands of law enforcement systems.

Central phenomena viz. ‘the perceived oppression of men’ and ‘vulnerability’ of potential victims and potential perpetrators emerged. A tentative theory of ‘vulnerability’, as an explanation and an approach to preventing sexual and other forms of violence in society, is proposed for both victims and potential perpetrators. Public health, socio-ecological frameworks of sexual violence prevention and other explanatory and prevention frameworks on sexual offending seem aligned to the study’s findings. Patriarchy, collective violence inherited from South Africa’s past, social cognitive theory on learning, trauma re-enactment, and other factors seem to play a role. In terms of mixed research contributions, a need for robust ways of studying diverse populations such as South Africa is emerging. Further, an initial stance of studying prevention of sexual violence from a victim-centred advocacy lens, has been transformed to yield accused individuals’ advocacy issues as well. Multisystem prevention approaches involving at-risk potential perpetrators, and not just victims, seem to be the next frontier for research and interventions. The study reveals insights that may contribute to the field of violence prevention. Keywords: mental illness, forensic psychiatry, forensic mental health observation, sexual violence, child sexual abuse, transactional sex, vulnerability theory, oppression, stigma, human rights

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This work is dedicated to a better future for all of us – *Makubenjalo!*

DECLARATION OF ORIGINALITY

I declare that the thesis, which I hereby submit for the Doctor of Philosophy (Psychiatry) programme at the University of Pretoria, is my own work and has not previously been submitted by me for a degree at another university. Where secondary material is used, it has been carefully acknowledged and referenced in accordance with University requirements. I am aware of the University's policy and implications regarding plagiarism.

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GLOSSARY OF TERMS AND ACRONYMS:

#FME	#FeesMustFall - Free tertiary education movement in South Africa
‘Affected’	Not mentally capable = mentally incapacitated
‘Not affected’	Capable = has mental capacity
‘Under-age’	A minor/child whose age is less than the age of consent to sex of 16
‘With comments’	A writing style in the local systems denoting a more elaborative explanatory note than usual to the court, specific to a section 77 or 78 finding
Apartheid era	The period running between 1948 and 1994 in South Africa (National Party government: legislated racial segregation)
Assertion development	The interpretive construction of credible and trustworthy observational summary statements based on confirming and disconfirming evidence in the qualitative data corpus. (Saldana 2013:269).
Conceptual framework	The conceptual framework serves several purposes including the gathering of constructs into ‘intellectual bins’ that may serve as an anchor for a study describing relationships between constructs. Emergent themes are included in the final framework. (Creswell 2013)
CPA	Criminal Procedure Act, 51, 1977
HIV	Human Immunodeficiency Virus
HPCSA	Health Professions Council of South Africa
IPV	Intimate partner violence (IPV): The Centers for Disease Control and Prevention (CDC): Intimate partner violence includes physical violence, sexual violence, stalking and psychological aggression (including coercive tactics) by a current or former intimate partner (i.e., spouse, boyfriend/girlfriend, dating partner, or ongoing sexual partner). (Breiding, Basile, Smith, Black, Mahendra 2015:11).
MHCA	Mental Health Care Act, 17, 2002
NSO	Non-sexual offence accused sample group
Observandi	Colloquial term (Latin) referring to remand detainees (awaiting-trial prisoners) referred for forensic psychiatric observation (plural = observandi; singular = observandus)

Post-apartheid period	After 27 April 1994 (South Africa's first elected democratic government of nonracialism)
Pre-apartheid era	The period before 1948 including periods of rule between 1910 – 1948 (Union of South Africa government of systematised racial segregation)
Remand detainee	Awaiting-trial prisoner
Sexual violence	The CDC defines sexual violence (SV) as a sexual act that is committed or attempted by another person without freely given consent of the victim or against someone who is unable to consent or refuse. It includes: forced or alcohol/ drug facilitated penetration of a victim; forced or alcohol/drug facilitated incidents in which the victim was made to penetrate a perpetrator or someone else; non-physically pressured unwanted penetration; intentional sexual touching; or non-contact acts of a sexual nature. Sexual violence can also occur when a perpetrator forces or coerces a victim to engage in sexual acts with a third party. Sexual violence involves a lack of freely given consent as well as situations in which the victim is unable to consent or refuse. (Breiding et al 2015:11)
SO	Sexual offence accused sample group
SOA	Sexual Offences Act (Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007)
Sugar daddy	(synonym) sugar daddy; sugar daddyism (coined): older men versus much younger women sexual relationship involving an exchange of resources and probable exploitation
Tavern	(synonym) shebeen, bar, pub, drinking place or drinking hall
Theoretical framework	The major function of a theoretical framework is to help organize research by providing a loose set of constructs with which to approach empirical problems. There is no attempt to describe in detail the relationships between the different causal factors or processes. (Ward and Hudson 1998)
Theory	A theory aims to specify the causal mechanisms that generate data. The various causal factors are clearly described and their relationships with each other spelled out. (Ward and Hudson 1998)
Transactional sex	A sexual activity that is seemingly consensual but has an underlying financial component that may be inextricably linked to power relations in a relationship
Victim	(synonym) victim-survivor; a survivor of an alleged sexual offence

SECTION I: Introductory chapters

Chapter 1: Introduction

Chapter 2: Methodology

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SECTION I: INTRODUCTORY CHAPTERS

Chapter 1: Introduction

Chapter 2: Methodology

1 INTRODUCTION

This thesis presents a mixed research methods study based at Weskoppies Hospital, an academic psychiatric hospital in Pretoria, South Africa. It was conducted by the researcher - a staff-member at the forensic mental health unit - for the purposes of fulfilling the requirements of a PhD. The study received academic research and ethical clearance from the University of Pretoria's Faculty of Health Sciences' doctoral and research ethics committees and permission as per Gauteng Province's Department of Health (GDoH) regulations.

The study focused on forensic mental health and aimed to compare psychosocial and psychiatric features of those accused of sexual offending, who were assessed and were found to be mentally affected at the time of an alleged offence, to those who were found not to be mentally affected. The aim was to see whether mental incapacity yielded perspectives and features in alleged sexual offenders that were different from those who were mentally capable. The drawn perspectives, could help in formulating prevention models and in building theory in the management of risk for potential sexual offending in forensic and general mental health and other health and social sectors. It was also to contribute towards the building of theory from the ground up in those fields, if possible. The identification of features that may have been related to an increased risk of sexual offending in the mentally 'affected' and 'not affected' groups was also important. The main fields of knowledge embraced by the research study were psychiatry; psychology; criminology; sociology; and sociolinguistics (including Tsotsitaal) among others.

Personal interest arose in the work because the researcher is a forensic psychiatrist, an academic and a health systems manager in the field of forensic mental health. A retrospective, record-based descriptive quantitative study approved by the ethics committee of the University of Pretoria and presented at the Forensic Mental Health Conference at Valkenberg Hospital, Cape Town in March 2009, triggered early ideas about the current study (Sokudela 2009). Descriptive features of those who were accused of a sexual offence and were referred for forensic observation had been drawn using retrospective descriptive methods (Sokudela 2009). That study raised questions and was followed by work in the field that culminated in the current mixed research methods study that took a mixed research approach for deeper exploration of concepts - with its inception in late 2014. In the current standalone study, psychiatric and psychosocial features as well as broad perspectives on sexual offending were explored. The relationship between the accused and the victim was also reviewed.

The thesis is broken up into three (3) sections. First is the 'Introductory' section made up of the current 'introduction' chapter and then the 'methodology' chapter. In the methodology chapter the description of a mixed research methodology approach is given. Within the 'methodology' chapter, the description of the use of a transformative lens of studying sexual offending and thus sexual violence and violence in a South African study setting is detailed. Both quantitative and qualitative methodologies are

outlined. The introductory section embraces more quantitative approaches. As it is a mixed research methods study and in terms of qualitative approaches, the background literature is given in a manner that does not pre-empt the findings and their discussion, though. Existing literature is used after the description of the findings instead (as done in qualitative approaches) to support emerging evidence derived from the study.

The second section is made up of 'Findings' chapters that depict quantitative, mixed and qualitative results. The so-called 'standalone' chapters approach is used to give summaries of findings under specific headings and / or categories. Findings and their analysis, interpretation and discussion are drawn out under one standalone chapter heading at a time. The contents of the findings chapters are voluminous and might be difficult to take all in at once, and thus the approach described above. Moreover, not all arising matters are addressed under each theme /category heading but the most pertinent. Also, not all the participants' stories have been shared in their original context in order to promote confidentiality - some of the details have been adjusted. The omitted revealing parts do not necessarily add to the texture of the emerging narrative.

The third section is made up of the 'Final' chapters. The 'Theoretical underpinnings' chapter resembles the more qualitative approach of reviewing literature after the findings have been analysed in order to seek alignment. The review is followed by an overall description of the research process from a more qualitative approach where the researcher's reflections and interactions with the researched world are depicted to form part of a discussion on the validity and ethical considerations of the study. Conclusions and study implications are then drawn.

1.1 RESEARCH PROBLEM AND RESEARCH AIMS

1.1.1 RESEARCH PROBLEM

Sexual offending and related recidivism needs to be quelled in general but specifically in the forensic mental health field in South Africa. Theoretical knowledge about psychosocial and psychiatric factors related to sexual offending patterns of mentally ill individuals in the South African context compared to those who are not mentally ill is scanty. The relationship between mental capacity and alleged sexual offending has not been defined specifically in the South African context, especially with regard to the relationship between those who are mentally affected and their victims. Evidence is required to ascertain whether there is a difference between those who are mentally incapacitated and offend sexually, versus the general population surrounding them in terms of behaviour patterns specific to alleged offences. Forensic mental health practitioners, the judiciary and policy-makers in health intervention programs need more knowledge of the unique features that may be perpetuating sexual offending generally and in those suffering from psychiatric conditions in the local context. Examining psychosocial and

psychiatric features of those alleged to have committed such crimes is necessary to aid not just the practice of preventing the problem but in narrowing the theoretical gap that has perhaps caused failure in resolving some factors that contribute to sexual offending in the forensic mental health care system, and other contexts in the country. The theoretical gap necessitates that forensic mental health and other social concepts are explored to contribute towards the building of local theory around sexual offending within and without the context of mental health. The dearth in research in this field compels an inductive approach, moving from specific to general, developing theory from observation of reality whilst inducing general inferences from particular instances using mixed research methods including grounded theory approaches (Creswell 2009).

1.1.2 RESEARCH AIMS

- The study aimed to explore, in a predominantly male study context, whether there was a difference between those accused of a sexual offence and were found to be mentally affected at the time of an alleged offence and those who were accused and were found not to be mentally affected at the time of an alleged offence. The profile of the two groups were explored by reviewing psychosocial, psychiatric and other features that may have influenced sexual offending and/or the allegation of such.
- The study also aimed to understand the nature of sexual offending within the mental health and the broader societal context using psychiatric features of those accused of sexual offences and were subjected to a forensic psychiatric assessment. A comparison was done between psychiatric and psychosocial profiles of those accused of sexual offences that had been found to be mentally capable and thus resembled society at large and those that had been found to have been mentally ill at the time of alleged sexual offending and therefore were supposedly different from society.
- Factors related to offending in those who were mentally ill were explored. The relationship between a predominantly male population of accused individuals and alleged victims was used as a tool to decipher unique or differentiating features between the two groups as well. The relationship was explored using a transformative theoretical lens through which features of the relationship were depicted using a mixed research methods approach. The transformative stance was based on the theoretical framework of prevention – specifically the prevention of sexual offending through mental health interventions that brought about transformation for the greater good of society. Transformation was the overarching stance influencing the research process.

- The study also aimed to add to the body of theoretical knowledge in the South African forensic mental health field by exploring and systematically describing phenomena related to sexual offending and mental health from the ground up so as to unravel relationships and patterns between such variables in order to contribute towards the building of theory on sexual offending prevention and mental health where possible.
- The fundamental aim was not necessarily to generate new models but to use emerging mixed research methods practices in a field that did not commonly use such approaches. The study would add to the richness of exploratory scientific investigations in the South African context, it was hoped.

1.2 MOTIVATION TO DO THE STUDY AND ANTICIPATED CONTRIBUTIONS

1.2.1 SEXUAL OFFENCE PREVENTION

Although it may be easy to become emotional about the injustice and the enormity of sexual offending in South Africa, due diligence needs to be paid when scholars in the field of research needed to grapple with scientific explanations and resolutions to the prevailing problem. The motivation to do the current study arose then from a concern that South Africa's society may be dealing with a unique set of characteristics in their population of sexual offenders that may have been researched extensively in other fields in South Africa, but not as much in the forensic mental health field. These characteristics may be indirectly related to the high rates of sexual offences in the country. Was it a case of a unique society that had bred a special set of sexual offenders or was it a case of mental illness giving rise to what could be termed an epidemic (Sonderlings 1993)? Were South African alleged offenders who were mentally ill similar to other alleged sexual offenders who were not found to be mentally ill at the time of an offence and thus were like the general population? The other fundamental motivation behind the study was the 'so-what' question. Were there unique features that could be defined and contribute towards the remedy and prevention of the so-called epidemic of sexual violence? The study was not meant to establish single causes or explanations but was an attempt to unearth parts of a story (Pelser and de Kock 2000).

Studies have been conducted elsewhere to define features of sexual offenders in specific societies in as far as mental illness is concerned but none in the specific forensic mental health setting (Milloy 1994). Sexual offending of an 'epidemic' nature has also been previously described in war-torn societies across the ages, where it was seen as a function of a patriarchal society in conflict and had unique features including the view that women were part of the property the ownership of which was being contested via a war (Neill 2011). South Africa was however "not at war" (Seedat, Van Niekerk, Jewkes, Suffla and Ratele 2009: 1011) to justify such violence and thus there was a need to study factors related to the

escalation of sexual violence to such proportions. It was hoped that a study of this nature would continue the work of unearthing what society has been asking for, a solution to the outstanding problem of sexual violence. The rehabilitation of victim/survivors and offenders as well as the prevention of such offences, would be strengthened, it was hoped. South Africa needed to address the conditions that made its social environment conducive to violent crime in general and to sexual violence in particular. The country needed to address the impact of crime not just at the societal and socio-economic level but also at the individual level (Pelser and de Kock 2000).

Identifying and addressing potential psychosocial risk factors and mental health risk factors and prevention thereof was fundamental to the task of promoting primary and secondary prevention of sexual violence related to mental health factors (Meintjies-Van der Walt 1998). Continued exploration of factors related to attitude and behaviour, and of factors related to larger social, economic, political and cultural conditions was necessary. Like any other public health problem, violence could be prevented (Dahlberg and Krug 2006), it was believed. One of the challenges for mental health practitioners is the identification of risk factors for health disorders generally and for mental health disorders in particular.

By identifying risk factors associated with sexual offending in a culturally heterogeneous sample, in a specific South African setting, it was hoped that the maximum benefit for the largest number of people would be gained by way of generalisability of the findings where applicable (Dahlberg and Krug 2006). The approach towards the resolution of sexual violence in society had to be interdisciplinary and science-based for maximum effect. Like with any other public health problem, strength had to be drawn from many disciplines. Purely 'medical' problems were probably not that pure and often had to be solved by cooperation between diverse sectors such as health, education, social services, justice, and policy-makers (Dahlberg and Krug 2006). The same applied to the problem of sexual violence in the forensic mental health context, it was premised.

The study took a multi-pronged approach as outlined in the primary prevention framework approach in contributing towards the solution of sexual violence and as observed by Harvey, Garcia-Moreno and Butchart (2007) and others too (Bowman, Stevens, Eagle and Matzopoulos 2015). Harvey et al, in 2007, contended that in the field of violence research, there were key steps identifiable in the process of solving a problem, namely:

1. Uncovering basic knowledge by collecting data and describing the magnitude of the problem – as it was done in the previous study (Sokudela 2009) - and its impact;
2. Investigating why violence occurred through the research of: causes/correlates/risks and factors that improved or worsened it and factors modifiable through intervention (factors increasing the risk for violent behaviour);

3. Exploring ways to prevent violence;
4. Implementing interventions that appeared promising in various contexts, disseminating information and determining the cost-effectiveness of effectiveness of violence prevention programmes.

The current study attempted parts of steps 2 and 3 as described above in a very specific population context that had not been widely researched in South Africa. Step 4 was deemed to have potential as a future study on a bigger platform.

1.2.2 THE PLIGHT OF THE SURVIVOR

Another area of concern that motivated the study was the plight of victims of sexual violence and their families in terms of support in dealing with the trauma and re-traumatisation experienced because of the offence, the court processes if the offence was reported at all, notwithstanding the long-term impact of sexual violence itself. This area seemed to not have received much focus in psycho-legal research in the country (Walker and Louw 2006) although human rights aspects of justice were emphasized in the South African constitution (Constitution 1996: Chapter 2). Factors which contributed to the vulnerability of such victims and their families to perpetrators may not have been fully exposed in forensic mental health settings.

Male-to-female aggression occupied a specific place in research as it had been shown to be different from other forms of violence in that it involved multiple forms of abuse and domination that affected women physically, sexually, emotionally, and economically (Anderson and Anderson 2008). Sexual violence in the context of male-to-female relations seemed to reaffirm the vulnerability of women towards men (Neill 2011). There was also a need for research in order to strengthen not just the prevention of sexual violence between males and females but other forms including the sexual violation of children and males themselves by others. There was also a need to add to the intervention frameworks of assisting sexual violence survivors and their families especially when dealing with mental health difficulties resulting from such trauma. It was also important to assist families and community systems from which mentally ill perpetrators came too, for completeness sake. The question of how social and cultural variables affected sexual violence in the context of mental illness also needed to be addressed (Finkelhor 1994). Victims were not to be sampled directly in the current study but one of the fundamental motivations was to contribute towards the prevention of sexual offending and to improve the plight of survivors and potential victims. ‘Survivor activism’ per se - and thus the use of the victim / alleged offender relationship as a transformative theoretical lens to aid in the transformation of the problem, was important.

Factors derived from the relationship between victims and alleged offenders would be used to contribute towards the social discourse of transforming the problem of sexual offending in society. Research

needed not to be conducted for research only sake but also to change the way society defined its problems, it was deemed. A good example of a societal misunderstanding of a significant problem that was then unravelled by research in the context of sexual offending was how the perception of incest was transformed. Incest was initially perceived to be a rare phenomenon but that perception was transformed when research showed that it was a widespread problem in most places at most times (Finkelhor 1994). Likewise then, it was hoped that through the current study, research would enhance the identification of preventative factors related to sexual offending in the South African forensic mental health field context. The motivation was in keeping with the overarching transformative need to turn the public mental health and general sexual violence problem around.

1.2.3 JUSTICE AND REHABILITATION FOR THE ALLEGED OFFENDER

In the discourse on sexual violence, often forgotten, is the alleged perpetrators' needs to state their case in a fair judicial environment. Honouring that need would promote justice for all involved but especially for survivors and other potential victims. The promotion of justice would be enhanced and would ensure that actual offenders were arrested and prosecuted instead of what could be called false-arrests and prosecutions. Catching the wrong person was as bad as not catching anyone at all, it was felt. Moreover, when the context of mental illness was considered, prosecuting a mentally ill person erroneously was as bad as arresting the wrong person whilst the actual perpetrator was unaccounted for. The human rights of that mentally ill individual would be thus doubly violated.

South Africa's constitution has guaranteed human rights to all, even alleged offenders, in order to maintain the legitimacy of the country's justice system (Meintjies-Van der Walt 1998). Forensic observations as performed under the CPA are an attempt to safeguard the constitutional guarantees for both the survivors of sexual offences and alleged offenders. In the context of the CPA, forensic mental health specialists have to apply the requirements of the law and culturally-competent medico-legal and clinical expertise to ensure the exclusion of mental illness. At the end of the legal process and depending on the decision of the court, the alleged offender, if found guilty, would have to be managed in a correctional service facility and if affected by mental illness, would have to be managed in a forensic mental health system (Criminal Procedures Act 1977: Section77-79). The question then becomes whether the CPA stands to be a tool for punishment or a tool for collective rehabilitation of those involved and society at large.

Rehabilitation of convicted sexual offenders in the South African setting has not been defined in the mental health sector as well as it has been in the correctional services field, it may seem (Gannon and Ward 2014). Regardless of the reasons for the above, once considered further, correctional services facilities seem to apply general rehabilitation measures to all sexual offenders without specifying programmes. That approach may be seen to be problematic as it is known that sexual violence is

represented by a diverse group of offenders and types of offences (Gordon and Porporino 1990). Although there seems to be a lack of attention to the rehabilitation of sex offenders in the correctional services sector - be they mentally ill or not - it has been shown that it is in the best interest of society to rehabilitate this group in order to lessen chances of recidivism (Harvey 2002). Although strongly held, the use of psychotropic and hormonal medication has been found to be helpful in some cases (Carich and Stone 2000) but not in others. Society cannot afford not to explore other means of rehabilitation, therefore. The current study and others, hopefully, would aid in fine-tuning some of the work underway in order for sexual offending not to be seen as just a correctional service problem, but also as one that society would have to take up as a collective responsibility (Gordon and Porporino 1990).

1.3 BACKGROUND LITERATURE

South Africa has been dubbed the 'rape capital of the world' and one of the most violent societies in the world (Meintjies-Van der Walt 1998) although these labels have been refuted (Altbeker 2005). Violence is not deemed new to any society in the world but South Africa has been described as having a 'culture of violence' due to the escalation of the problem over time (Dahlberg and Krug 2006; Pelsler and de Kock 2000). Even though the rate of sexual offending against women and children has been on a downward progression, the rate of sexual offending against this sector in South Africa has been high compared to other nations (South African Police Service (SAPS) 2016). Despite a drop in the murder rate, in the years after the installation of a democratic state, the frequency of sexual violence initially went up by 1.6% over a period of five years between 2004 and 2008 – an average increase of 0.3% per annum (SAPS 2011; Meintjies-Van der Walt 1998). It was reduced by 11.9% over a period of 3 years thereafter resulting in an average reduction of 4.0% per annum in the period between 2008 and 2012. According to the latest results it is just under 10 per cent of all contact crimes as quantified by the South African Police Services report viz. 145/100 000 population ratio (SAPS 2016).

As elsewhere in the world, South Africa's society, including the scientific community, has been grappling with factors underlying the high levels of sexual violence. It has been known that sexual offending represents a trans-historical and transcultural act of violent hostility throughout the world (Neill 2011). Previous estimates from studies done under general conditions showed that one out of every three adult women in the United States of America (USA) had been exposed to intimate partner violence at some stage in their lives, though (Anderson and Anderson 2008). Although sexual offending mostly took the form of male aggression against women (Anderson and Anderson 2008) the size of the problem in local forensic mental health contexts has not been well defined. Not too many prevalence studies have been done (Finkelhor 1994; Dahlberg and Krug 2006).

In the South African context too, although researchers in social sciences have been studying the root causes of violence in general for years, there has been a sense that more has to be done in preventing conditions that may lead to sexual offences – both in the public health and social-justice settings (Sokudela 2009). Sexual violence has remained a major public health problem and may or may not be associated with mental illness (Dunsieth 2004; Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004). Over time, the definition of violence has had to include violence that did not necessarily result just in physical injury or in death but violence that posed a burden on individuals, families, communities and health care systems - leading to physical, psychological and social problems immediately and/or lasting for a long time (Dahlberg and Krug 2006; Neill 2011). Violence prevention has been seen to be a surmountable public health challenge but the specific curtailment of sexual violence has remained complex for both the criminal justice system and population-based approaches in South Africa (Jewkes, Sikweyiya, Morrell and Dunkle 2011). In the forensic mental health context specifically, the challenge has been not just with the offender who may have been affected by mental illness and thus offended, but also with the victim who may suffer health-wise as a result of harmful exposure (Winfield, George, Swartz and Blazer 1990).

As highlighted earlier, survivors of sexual offences have not been restricted to the female gender and the very young but include people of all ages and of both genders. Perpetrators too have varied in their presentations and have included both men and women (Tsopeles, Spyridoula and Athanasios 2011). The Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (Sexual Offences Act) (SOA 2007), in South Africa, may in time also expose women offenders more readily than before as the definition of sexual offending has been widened to include gender-neutral descriptions of sexual offences (SOA 2007). As the research topic is broad, the literature reviewed in this section was restricted to the interplay between sexual offending and its social, legal and forensic mental health and the law context.

1.3.1 THE SOCIAL PHENOMENON OF SEXUAL OFFENDING

Social factors related to the relative increase in rape cases have become more prominent as a result of a rise in the awareness of previously undisclosed societal malpractices like child prostitution (Finkelhor 1994), improper sexual liaisons in places of learning (Tsopeles, Spyridoula and Athanasios 2011), human trafficking (United Nations Office on Drugs and Crime (UNODC) 2008) and cases of paid-for or transactional sex as well (Zembe, Townsend, Thorson and Ekström 2013). In the latter, the line separating potential victims from aggressors may be blurred by socio-economic challenges too. The so-called ‘Sugar daddy’ phenomenon between very young women and older men is a case in point (Shefer and Strebel 2012; Wyrod, Fritz, Woelk, Jain, Kellogg, Chirowodza, Makumbe and McFarland 2011). As alluded to later in this section, the phenomenon has become important not just because of the sexual

violence involved but because of its association with the continued rise in new Human Immunodeficiency Virus (HIV) infections in younger women in South Africa (Luke 2005; Zembe, Townsend, Thorson and Ekström 2013).

Money has not been the only contributory variable but familiarity between the survivors and those that expose them to harm, also. It has been found that violent crimes, including sexual offences, seem to occur between victims and perpetrators known to each other (Abrahams, Martin, Jewkes, Mathews, Vetten, Lombard 2008) who may not necessarily have a financial relationship (Pelser and de Kock 2000). Much more violence occurred in homes, places of work and even in hospitals and other social situations meant to care for people (Dahlberg and Krug 2006). A study on gender violence and revictimization in South Africa found that the age of sexual assault by a known sexual partner ranged from age 12 to 39, similar to that by a stranger or a non-partner which was shown to be before the age of 20 as well (Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004).

There has emerged also the phenomenon of ‘corrective rape’ (Nandipha 2013) or as proposed by Chabalala and Roelofse: “homophobic rape” (2015:50), where homosexual women have been sexually assaulted in the name of converting them from being lesbian to being heterosexual. Such incidents have sent the same kind of shock and shame that was sent through social systems when the media in the late 1980’s opened up the taboo of child sexual abuse (Tsopelas, Spyridoula and Athanasios 2011; Sonderlings 1993). Child sexual abuse had been held secret up to then but through more media reporting, social awareness of the problem was raised (Finkelhor 1994). These and other social phenomena that manifest as acts of aggression and violence, collectively may be related to the rise in the awareness of sexual offending as a crime and its subsequent reporting. The reporting may be occurring more because of several factors including the reason that society has begun to open up about some of its secrets.

When compared to the rest of Africa, low and middle income countries (LAMIC) in other continents and other global societies, South Africa may not be faring well. Social ills that plague most developing countries viz. poverty, substance abuse, rapid urbanisation and partially resolved political tensions have been proposed to be part of the reasons South Africa is perceived to have higher rates of violence in general when compared to equivalent country contexts (Bruce 2010). When compared to LAMIC, the country has exceeded in that such offending has not been replicated or reported on at similarly high rates in other countries, until the highly publicized incidents in places like India (Lakshmi 2013) that is. It can be said, however, recently that sexual crimes are deemed high even in the so-called developed countries (Anderson and Anderson 2008; Browne and Lynch 1998; Gordon and Porporino 1990).

Regarding partially resolved political tensions post-apartheid, and contrary to expectations, the end of apartheid did not bring about a reprieve from violence; it just changed the focus from structural, political and social forms of violence by the state against citizens, to violent crimes by citizens on fellow citizens

(Pelser and de Kock 2000). The degree of violence in the South African setting has been noted to be peculiar in that, even during the apartheid era, the political violence witnessed in South Africa was of a more intense nature when compared with political violence elsewhere. An example was that in Northern Ireland 2 847 people died in 21 years of political strife versus at least 21 000 between 1987 and 1997 in South Africa (Pelser and de Kock 2000). Another factor related to apartheid was that when previously held gender roles were reversed and women held non-traditional functions in society, and men were perceived to fail in masculine tasks, the situation of violence worsened (Anderson and Anderson 2008). There have been suggestions that men may attempt to overcome their lowered self-esteem by behaving aggressively (Anderson and Anderson 2008) and as this may apply to the South African setting as well where poverty, inequality and unemployment have led to some gender role reversals. In other words, the gender-role reversal may have resulted in the use of aggression and violence as means of overcoming lowered self-esteem, it was proposed (Anderson and Anderson 2008).

Given the high incidence of violent crimes including sexual offences like rape (Pelser and de Kock 2000) and that rape included the sexual assault of the very young and the very old (Sokudela 2009), the question whether there are any unique features that separate South Africa from the rest in terms of its culture and moral codes in as far as sexual offending is concerned has been raised. Is it a bizarre phenomenon in a bizarre country? Often it has been thought that there has to be something wrong with those who perpetrate sexual offences especially against children as this may be seen to be inconsistent with the best interest of society (Sonderlings 1993). The ‘Uppington 6 case’ or the rape of nine month-old ‘Baby Tshepang’ (not real name) in October 2001 was an eye-opener and revealed what may have been a longstanding social problem (Sonderlings 1993; Richter, Dawes and Higson-Smith 2004). More than a decade later cases like that of Anene Booysen in 2013 (Kretzmann 2013) and Sulnita Manho in 2016 (Etheridge 2016) highlighted an unrelenting problem. The problem has reared itself also in the context of #RapeOnCampus. Lately, the outcry against what has probably been sustained over time, and has been more widespread than initially anticipated, has been getting louder. Sexual violence at places of learning, including higher learning, has exposed what has probably been there all along. Students have recently gotten louder in reporting the scourge of sexual violence on college campuses in the country and elsewhere, highlighting the importance of primary prevention strategies even in those contexts (Stephens and George 2009). Perhaps the perceived bizarreness of the increased rates of sexual offending in the South African context may not be out of keeping with global trends but may be highlighted more prominently in the local context.

To add to the social aspects of the problem, the burden of HIV infection prevalence rate has been reported to be approximately 12.7% of the total South African population. The total number of people living with HIV has been estimated at approximately 7.03 million in 2016. For people aged 15–49 years, an estimated 15.9% of the population was HIV positive about 10 years ago (Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004; Marshall Williams 2005). More recently, an estimated 18.9% of the

population in the same age group, was HIV positive (StatsSA 2016). It has also been shown in South Africa and elsewhere that a history of sexual abuse was associated with adult mental health problems (Finkelhor 1994; Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004). Added to the HIV narrative is the odd myth of the relationship between ‘virgin rape’ and HIV prevalence in countries with high rates of HIV/AIDS (Richter, Dawes and Higson-Smith 2004; Smith 2003). Such myths and perceptions have varied from community to community but have been perceived to have contributed to the high rates of sexual violence mostly against women and children (Anderson and Anderson 2008). The myth has been that engaging in sexual relations with a virgin – a very young pre-pubescent girl or a very old woman who has been sexually inactive for a long time – would cleanse or prevent the infection from HIV/AIDS. The myth may be relatively new to Africa, parts of India and the Caribbean but is similar to one that existed in England in the 19th century where the belief was that sex with a virgin could cure venereal disease:

“Men believed that intercourse with a virgin child would cure VD. In 1884 a man with ‘bad syphilitic ulcers’ raped a girl of 14. His defence was that he had not intended to harm her, but only to cure himself.” (Smith 1979:303)

The longstanding effects and the results of child sexual abuse and others forms of sexual violence have had to be borne in mind, though. It has also been shown in South Africa and elsewhere that a history of sexual abuse was associated with adult mental health problems (Finkelhor 1994; Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004). In the South African context however, the matter moves to being a public health problem when the effects of sexual assault, the sugar daddy phenomenon as pointed above, and the rate of HIV/AIDS infections are taken into account.

1.3.2 THE LEGAL PHENOMENON OF SEXUAL OFFENDING

Judicial factors have been perceived to be contributing to sexual offending in South Africa have included the variability of the application of the principle of a minimum sentence for serious offences like rape, especially when the victim was of a very young age and investigations were difficult (Meintjies-Van der Walt 1998; Browne and Lynch 1998); low conviction rates for sexual offences in general (StatsSA 2016; Artz and Smyth 2000); and the withdrawal of the Sexual Offences Courts in the last decade (Walker and Louw 2003). The perception that crimes against women and children have been taken less seriously in the recent past, given the lack of severe sentences for these crimes, has been viewed as a contributory factor as well. Perceptions have been that sexual violence perpetrators proceed with little fear of discovery, or severe repercussions once discovered, due to a perceived lack of rule of law (Meintjies-Van der Walt 1998; Pelsler and de Kock 2000). South Africa is not alone, as even the so-called developed states have shown low conviction rates (Browne and Lynch 1998). The conviction

rate decreased even further when the low-reporting rate in the population of rape survivors was considered (Finkelhor 1994; Browne and Lynch 1998).

When explored further, lack of support, harassment and revictimization of sexual offence survivors and their families by judicial and crime policing systems have emerged as further reasons for low-reporting (Walker and Louw 2006). In a South African house-hold survey, between 50% and 80% of survivors of violence received medical care for a violence-related injury but did not report to the police (Dahlberg and Krug 2006). For those who did report, perceived and experienced secondary victimization which included lack of ‘therapeutic after-care’ and lack of other forms of support during and after the legal process, discouraged survivors from reporting (Meintjies-Van der Walt 1998; Walker and Louw 2006).

The issue of definitions and how the legal system defined sexual offending seems to have led to more confusion. Defining the problem of sexual offending, and for society to find a collective voice, homework has had to be done to review what was previously referred to as sexual offending in the South African context. The Sexual Offences Act applies to South African courts as a frame of reference in defining sexual offending and is referred to at the time of related forensic observation referrals (SOA 2007). The debate on definitions that society has used to describe sexual offending remains open though as there seems to have been a schism in definitions in the context of different stakeholders, including the legal system. Open conversations regarding what some sectors of society have understood sexual violence to mean have become important in enhancing prevention strategies. Beyond the SOA, there do not seem to be further discourses even though sexual violence has remained a major public health problem.

1.3.3 THE PHENOMENON OF MENTAL ILLNESS AND SEXUAL OFFENDING

Sexual offending is not only a public health problem due to its physical and mental health consequences on individual survivors and their families but also due to its impact on society as a whole. Mental health and social scientists have been called upon to explain what has been perceived to be abnormal human behaviour – the ‘there has got to be something wrong with him’ phenomenon – even by courts of law. It has had to be borne in mind that the relationship between mental illness and offending may be variable depending on the type of offence and the type of mental disorder. The presence of a mental disorder has been shown not to automatically explain the presence of criminal behaviour or vice versa (Cochrane, Grisso and Frederick 2001). Certain types of mental disorders have been associated with certain types of crimes, however. It has been suggested that intellectual disability may be associated with more sexual offending incidents, for instance (Cochrane, Grisso and Frederick 2001). There have been lower rates of mental illness associated with inability to stand trial and impaired capacity to appreciate wrongfulness, when it came to sexual offences specifically. In other words, those who have been

accused of sexual offending have less often been found to be affected by mental illness (Cochrane, Grisso and Frederick 2001) compared to other offences.

Even though there has been a common perception that sexual deviance is not necessarily strongly related to mental illness, intellectual disability aside, some scientific evidence has claimed the opposite. In terms of neuropsychiatric implications on forensic psychiatric principles, brain lesions and mental disorders have been shown to lead to a lack of impulse control and an increase in the need for immediate gratification despite the knowledge of right and wrong (Dunsieth 2004; Batts 2009; Mendez 2010). A severely damaged prefrontal cortex has been given as an example of such (Batts 2009; Mendez 2010). Also, there are disorders like fronto-temporal dementias that may not cause a defect of general rationality but deficits in moral reasoning (Mendez 2010). A purely deterministic approach has not helped the debate, as damage to the prefrontal cortex does not result in criminal behaviour in all affected individuals, though (Batts 2009). Individuals suffering from such disorders would have to be assessed and managed in different ways by forensic mental health specialists and by the judicial system on behalf of society, it has been suggested. Behavioural sciences and neurosciences consider human behaviour somewhat differently than does the field of law. To the neurosciences, it may be the underlying cause of the behaviour that is important and to law the effect of a particular behaviour on criminal responsibility (Batts 2009). Law questions the voluntariness of the behaviour and whether a disorder results in a failure to control oneself by degrees rather than an absolute inability to control oneself (Zonana 1997).

Setting behavioural sciences and judicial technical approaches aside, societal debates come into the fray. Society often wants to label evil that which is unacceptable and violates the most vulnerable of its members, so as to overcome it. In the current instance, mental illness, be it endogenous or provoked by exogenous factors such as substance abuse has been set out as a presumed underlying factor for some of the so-called 'evil' offences (Sonderlings 1993). Part of the reason for this association may be the hope that once mental illness is treated, violent and sexually deviant behaviour would also end (Carich and Stone 2000). The association of the label of 'evil' behaviour with mental illness is not simple. Evil has been explained in neurobiological terms (Stein 2000), where its roots may be understood to be in the 'nature' of a human brain that is impacted by 'nurture'. The association of the limbic system and temporal dysfunction of the brain (nature) with aggression and sexual offending is an example on the one extreme (Stein 2000). The longstanding debate of attributing psychopathic behaviour to badness, mental illness, or normality is an example on the other (nurture). Attempts to explain sexual offences as brain disorders have been seen by some as not helpful, as such explanations may be used as excuses for what society should manage with punishment rather than a biopsychosocial rehabilitative treatment approach (Stein 2000). Not all brain lesions and abnormalities necessarily affect a mental state to an extent that the individual cannot differentiate between the rightfulness and wrongfulness of an act (Batts 2009). Illustrated differently, offending has not been viewed in the same light as have been addiction

disorders that cannot be resisted. Criminal offending has been viewed as a series of acts that individuals ought to resist, or ought to be held accountable for, should they fail to resist (Carich and Stone 2000).

As in other forms of criminal behaviour, the ability to reason and to form intent is seen to be at the core of criminal responsibility in the case of sexual offences. However, where the age of the perpetrator is concerned, the law has had to bear in mind that the formation of criminal intent and the presentation of mental illness are dependent on various factors. In response to this, in South Africa, juvenile crime is viewed in a different light than that of adult offending. Maturity has been taken to contribute to moral judgment and knowledge of societal norms (Warren, Murrie, Stekal, Colwell, Morris, Chauhan and Dietz 2006; Batts 2009; Child Justice Act 75 of 2008; Bryan-Hancock and Casey 2011). The duty of the forensic mental health practitioner then has been perceived not only to be to give a response to the referred legal question of whether the alleged perpetrator was affected by mental illness at the time of an offence or not (Criminal Procedures Act 1977), but also to answer society's bigger question of what was wrong with the individual in a social context. Society has continued to ask forensic mental health practitioners for parts of the solution; what society can do to prevent sexual recidivism and how to root out the so-called 'evil' (Zonana 1997). Proceeding from that, forensic mental health practitioners have had to play the dual roles of being commissioned to perform objective medico-legal assessments and to uphold society's morals and values on the one hand, whilst providing healthcare and rehabilitation to offenders, on the other (Austin, Goble and Kelecevic 2009). Tension between these roles is continuously on the balance in the sphere of forensic mental health ethics. The demand remains being for the practitioners to meet their obligations to the healthcare and justice systems at the same time as they interact with the so-called alleged violators of society's 'moral standards' (Austin, Goble and Kelecevic 2009). Practitioners are then expected to address socio-political aspects of their work and to understand persons and the systems within which all operate. In the preliminary study, referred to earlier, it was found that those referred for forensic psychiatric assessments were mostly deemed capable at the time of the offence (Sokudela 2009). In essence there was no mental illness that could explain their behaviour, even if there was a mental disorder in the background. Similar reports have been made elsewhere (Cochrane, Grisso and Frederick 2001).

The current study then sought to understand psychiatric and psychosocial features of those referred in the context of forensic mental health evaluations related to a sexual offence charge. In as far as forensic mental health was concerned, and in the study environment (South Africa), specific questions of those who were referred by the courts had not been explored from their perspectives further than for the purpose of the court evaluations themselves. The goal of the study then was to find perspectives that could indirectly aid and contribute to the wider discourse on sexual offending and its prevention in the South African context.

Chapter 2

2 METHODOLOGY

2.1 THE STUDY SETTING

As stated above, the study was based in a forensic mental health unit at Weskoppies Hospital, an academic psychiatric facility of the Department of Psychiatry, University of Pretoria. Forensic mental health services provided by the hospital cover a drainage area that includes approximately half of the population of Gauteng (the latest being 13.5 million people). Northern Gauteng Province and the western region of North West Province are covered by the hospital. At the time of the study, Mpumalanga province was also covered by the same unit, in part. This collectively comprises a population of approximately 12 million people in the drainage area - about 23% of the total South African population (55.91 million) (StatsSA 2016). The population settings of this specific drainage area range from rural to urban. Although the socio-demographic geographical details might seem to be obscure at this stage, the relevance will be demonstrated later. The forensic mental health unit in the department is one of ten in the country and probably serves the biggest population drainage area if the latest census results are to be used as a reference point (StatsSA 2016).

The number of psychiatrists doing court-referred forensic psychiatry observations according to the Criminal Procedure Act 51 of 1977 (CPA) at Weskoppies Hospital during the study period was about 10. This implied an estimated ratio of one state psychiatrist/ one million population size for forensic psychiatric observations in the drainage area. The number of other mental health care practitioners servicing the same population size e.g. social workers and psychologists was about the same for each professional group. In the rest of the country, there are approximately 39 psychiatrists for forensic mental observations in public service at present (Motaung 2017) giving a ratio of 39 psychiatrists/52 million (an estimate of 1 psychiatrist/1.3 million people) a ratio similar to the provincial workforce distribution mentioned above.

A proportion of those accused of a sexual offence, routinely got referred by the courts for observation by a panel of psychiatrist and a psychologist where applicable, at Weskoppies Hospital as well as other forensic mental health units in the country. This proportion of alleged offenders (remand detainees) gets referred routinely by the National Prosecution Authority prosecution authorities when there is a query about their mental capacity to offend and/or their mental capacity to follow court proceedings at any time during the court trial (Criminal Procedures Act 1977). Available crime statistics do not compare the rate of sexual offending to the rate of other alleged crimes in the referred population and so the size of the problem was difficult to quantify. One could extrapolate the magnitude of the problem from given South African Police Services statistics (SAPS 2016).

Forensic mental health practitioners play a dual role in as far as the court-referred alleged sexual offenders are concerned. Firstly, they play a role when the offenders are suspected to suffer from a

mental disorder that is affecting their ability to stand trial and/or their mental capacity at the time of an alleged offence. In that instance, the results of the findings according to Criminal Procedures Act 1977 sections 77 and 78 may vary, depending on the mental health condition of the alleged offender (Criminal Procedures Act 1977; Warren, Murrie, Stekal, Colwell, Morris, Chauhan and Dietz 2006). Secondly, forensic mental health practitioners play a role when the courts need to refer affected individuals who require mental health interventions as so-called state patients according to the CPA. Outcomes of these specified roles vary and depend on several variables placed before the forensic mental health practitioner. The current study context then has had to take these specific roles into consideration when in terms of the research design.

2.2 THE STUDY PHILOSOPHY

A mixed research methods approach was used. That implied that not a single worldview would prevail over others in the research design but working formulations attempting to resolve the research problem would be used. Both quantitative and qualitative approaches were thus used. The researcher had been exposed to various aspects of this kind of work and had previously participated in participatory qualitative research, ethnographic, quantitative and some collaborative research work outside of the field of psychiatry.

Worldviews that influenced the study approach were a combination of post-positivism, social constructivism, advocacy and pragmatism as described by Creswell (2009). The post-positivist influence on the research approach was a continuation of the quantitative experimental theory of the preliminary study that tested a hypothesis that the mental capacity of alleged sexual offenders referred for psychiatric observation would not be found to be affected by mental illness mostly. The current study compared the profiles of those who were affected to those who were not affected by mental illness to see if there was a difference between them as experimental units of analysis and between them as categories (affected or not affected by mental illness). A group of individuals, some of whom were accused of a sexual offence, were also engaged using in-depth interviews.

In the context of the qualitative component, social constructivism approaches allowed individual exploratory in-depth interviews to generate a pattern of meaning of the participants' world using qualitative data, concurrently. The participants' views on relationships in general, and on sexuality, sexual offending, and social narratives and perspectives, in particular, were explored. Their perspectives on the judicial system and correctional systems were also investigated. Advocacy and participatory worldviews influenced the proposed work in different ways. Where deficits in constructivism approaches would not have gone far enough in advocating for action for marginalized groups - in this case, victims and accused individuals including mentally ill remand detainees -

advocacy approaches allowed such. The main thrust of the study design happened outside of the participant's worldview initially. This meant that the participants would not have influenced the initial design as expected in advocacy and participatory approaches. However, even so, it was work that may have been perceived to be research that was intertwined with politics in the interest of the advocacy groups still. It showed some focus on the needs of groups that were known to be deprived or disenfranchised and marginalized (Creswell 2009). The study thus paid attention to the needs of victims from a risk factor description and prevention of harm perspective. Although the plight of the victims was a direct concern, their profiles were drawn not from them directly but through the description and their proximity to the accused as accessed in the record-based component of the study.

The most represented worldview in the study was pragmatism and the 'compatibility thesis' as defined by scholars such as Denzin (Salkind 2010). Pragmatism provided the philosophical underpinning for mixed research methods mostly, although scholars like Bergman have previously questioned the application of its understanding without rigorous scientific reasoning by some (Bergman 2008). One of the concerns with the approach was whether it was viable to mix paradigms thus creating an interface between epistemology and methodology. In the current study, the attempt was to apply the compatibility thesis principle of making design decisions based on what was practical, compatible, and consequential in terms of the context (Salkind 2010). The emphasis was on the research problem - the problem of sexual violence in SA and its public health consequences. Pragmatism was embraced as it implied depending on intended consequences; was concerned with applications and solutions to a problem and allowed the use of both qualitative and quantitative approaches to best understand the research problem incorporating a dual focus between sense making and value making (Salkind 2010). This pragmatist worldview had the research problem as the focus and used pluralistic scientifically sound and matching approaches as means to derive knowledge about the research problem (Creswell 2009).

2.3 DESIGN AND RATIONALE FOR USING MIXED RESEARCH METHODS

A non-experimental, emergent, iterative and inductive study was designed (Srivastava and Hopwood 2009). Transformative and concurrent triangulating mixed research methods were applied. Triangulation was applied in terms of data sources and other data management related factors (see 'Data analysis' and 'Research processes' sections below). Mixed research methods originated from researchers like Campbell and Fiske, 1959 when they used multiple methods to study the validity of psychological traits (Creswell 2009). In the concurrent triangulating mode of mixed research methods both qualitative and quantitative research paradigms apply in a one-phase design. The one-phase design implies that qualitative and quantitative data are collected in parallel and are then merged together to develop a more complete understanding of a problem or compare the results (Creswell, Clark, and Garret 2008). Mixed research methods in the context of the current study were used to broaden the

understanding of the research problem (Creswell 2009; Bergman 2008; Bryman 2008). Bergman, purported that the mixed research method was about using the strengths of each paradigm and combining them in one single research design (2008). The focus ought to be on justifying selected methods according to the research question, data needs, theoretical grounding and research design, providing an alternative to mono method designs which may not be adequate on their own (Bergman 2008; Bryman 2008).

The rationale for using mixed research methods approaches was that the focus of the current study was not well researched. A qualitative phenomenological as well as a grounded theory eclectic approach were deemed necessary and were used to explore the worldview of a group of participants and their relationship with their alleged victims. Methodological approaches like grounded theory have been used when there has been a dearth of information in the forensic mental health context, albeit in a setting outside of Africa (North America), (Gannon, Waugh, Taylor, Blanchette, O'Connor, Blake, et al. 2013). In the current study, a more observational non-experimental quantitative design was integrated with eclectic qualitative approaches including exploratory in-depth interviews. The record profiles of those accused of sexual offending and whose mental capacity may or may not have been affected were juxtaposed with perspectives arising from the in-depth interviews using mixed methods. Some of the features explored quantitatively were those areas that had been observed elsewhere already e.g. known psychiatric syndromes that were related to sexual offending and quantifiable features of the relationship between the alleged victim and the alleged perpetrator. The mixed approach allowed limited generalisability of the results where appropriate, as well as an in-depth description of a specific South African context in as far as alleged sexual offending and the meaning of related concepts were concerned. The quintessential part of mixing in mixed research methods was effected during data collection, analysis, interpretation and the reporting of the results (Salkind 2010). Sexual offending prevention remained the transformative basis for the methodological stance used.

The research design also utilized diverse sources of data about the same sample – triangulation - to best understand the participants in their context (Creswell 2009). In the context of the study, triangulation also referred to the traditional view that quantitative and qualitative research are combined to ‘triangulate’ findings so that they may be mutually corroborated, their weaknesses may be ‘offset’ and a more comprehensive account and ‘completeness’ of the research problem may be gained, as described by Bryman (2008). The rationale for using mixed research methods, was also for sampling purposes and the selection of the subgroup that would be exposed to qualitative testing in a parallel (concurrent) process as described below. Moreover, the inclusion and of qualitative data allowed for a potential contribution in the innovation of a research-designed framework that would begin to help identify primary, secondary and tertiary preventative measures to curb sexual violence associated with or without forensic mental health issues, it was hoped. The qualitative component would as a result be

equally if not more important as the preventative theoretical framework formed the basis of the study and became the transformative axis around which the study was designed.

2.4 THE STUDY CONTEXT

The study period for both the quantitative and qualitative samples was October 2014 to December 2015, with one outlier case which was used as a trial case in September 2014. As previously stated, the study was set in a forensic mental health observation unit that was part of the hospital and was run by Weskoppies Hospital as a centre housing remand detainees referred by the courts for forensic mental health observation only. The remand detainees were under clinical observation 24 hours a day and were explicitly not admitted for any therapeutic reasons but the forensic evaluation. The Department of Justice and Constitutional Development – Court Services Division (as it was called at the time of data collection) was the recipient of the ordered forensic mental services. The remand detainees would have been ordered to be observed under the authority of the head of the hospital for up to 30 days or longer depending on the circumstances. The remand detainees did not have any contractual relationship with the hospital and were not privy to the results of the forensic inquiry beyond the practical process of observation. The head of the hospital, would have made a panel of psychiatrists and when necessary, a clinical psychologist, do the observation according to a court order issued under the Criminal Procedures Act (1977: Section 79). At the end of the observation period the detainees would have been returned to correctional facilities and a forensic psychiatric report would have been sent to the referring court.

At the time of the commencement of the study, the researcher was one of the psychiatrists assigned by the hospital to do forensic psychiatric assessments together with a team of others as described earlier. During the study period the researcher requested to be assigned to cases outside of the study sample until the research data collection phase was concluded to avoid the introduction of bias.

2.5 SAMPLE

¹****Confidentiality Disclaimer:** The nature of the study rendered the content of the sample description section highly confidential. As a result, and as confirmed with participants at the time of data collection, the identities and any details that linked this document to plausible real or publicized cases have been removed. During the time of the compilation of this thesis, some of the court cases contained within have been concluded but others may yet to be resolved. The following description will only reveal

¹ ****Confidentiality Disclaimer:** I would like to thank the participants some more for sharing parts of their lives.

details that were meant to contribute to the scholarly subject matter and were not intended to reveal any real-life case details except where information was volunteered.

2.5.1 SAMPLING METHODS

Qualitative sampling:

The sampling for the in-depth interviews was purposive and non-random and made use of inclusion criteria to match the study design (see Table 1). A natural pairing technique was used as far as possible but there were limitations due to the random nature of admissions into the forensic unit. The selection was purposive as it had to be specific and was for a special population within which in-depth and key themes were sought to illustrate the research problem. Simply put, after each alleged sexual offender recruitment and interview, the next non-sexual offence referral that fitted the selection criteria was recruited for an interview. This did not happen in tandem as was initially anticipated because of the random administrative system of admissions. The sample descriptor tables (Table 2 and Table 3) will demonstrate the spread. The test case*** participant was recruited and interviewed in the month preceding data collection in order to give the interviewing schedule a test. That initial test case has been included in the sample.

Interpreter / Co-observer selection process:

At the time of the initiation of the sample selection process, INT01 (assigned study code) was on duty in the ward and the study was described to him and he showed interest in participating as an interpreter/co-observer. The participation was voluntary and informed consent was given. With time the group of interpreters/co-observers grew to a number that would be able to cover the interviews whenever the researcher was in the ward and resulted in seven (7) participant co-observer/interpreters. Their specific details have been explicitly omitted, except for the assigned study codes, in the sample descriptor tables (see Table 4) for the maintenance of confidentiality as well. They were all male professional nurses of varying years of experience in forensic mental health practice who were assigned routinely to the forensic observation ward and so were not preselected by the researcher to be in the ward— a further strength to control bias.

Quantitative sampling:

Non-probability sampling was used for the record-based component of the study and was also purposive and non-random and involved the selection of all the files identifiable through the Medicom health information system at the hospital according to the inclusion criteria (see Table 1). The sampling yielded 62 separate units of analysis (n = 62) that were made up of records that were identified according to the selection criteria as those of all the individuals referred for sexual offences in the identified period as

the population referred is of a limited size from year to year. The year period from October 2014 to October 2015 was used specifically for the record-based component. The in-depth interviews were conducted up to December 2015.

The decision to select 100% of the alleged sexual offences referrals instead of a smaller sample was to strengthen the validity of the study as the total population would have been small and the variance beyond the sexual offence allegation itself would have been wide in terms of heterogeneity of the group variables. Of the 62 alleged sexual offender's records, nine (9) became part of the purposive in-depth interview sample in the qualitative component of the study. Seven records of the alleged non-sexual offenders (NSO) group were also collected as they were specifically of those who had been involved in the in-depth qualitative interviews. The seven (7) NSO files were excluded from any analysis related to sexual offending and were only referred to in the context of the qualitative in-depth interviews for sample description sake. The process of identifying records meeting the selection criteria was undertaken by the registry office and the forensic administration office at Weskoppies Hospital upon request. The researcher then followed up at the stage of cleaning the selection list and the tracing of difficult to find records. Data was then collected.

Sampling process:

For the qualitative in-depth interviews, participants were recruited in the forensic observation ward of Weskoppies Hospital as per protocol. The anticipated alternating mix of active participants of the Sexual Offences (SO) group with 'control' participants of the Non-Sexual Offences (NSO) group was not as easy a flow as expected. On some weeks the predominant selection may have led to the admission of individuals accused of NSO and on some weeks, the SO group would predominate. The original plan of selecting individuals who were willing and could give informed consent to participate in the Sexual Offences Study (SOS) was adhered to. Individuals were identified according to a list that was kept in the ward by the ward's administrative clerk. The researcher would come into the ward and request the most up to date list of SO vs NSO recent admissions, depending on what category of participant (SO or NSO) was due for recruitment based on the previous type of participant (SO or NSO). The ward clerk or nursing professional on duty would then assist the researcher in identifying individuals that were the most accessible in terms of having been most recently admitted. The individuals would then be recruited and then interviewed after obtaining informed consent. The process identified here would take place over one to three days depending on the researcher's and the ward's schedule. Each seating would be at least an hour to two long.

Sampling categories (groups):

Quantitative SO record-based groups:

After data collection, the total SO group was then divided to fit with the study design into:

Group 1 = male sexual offence accused who after forensic observation had:

A psychiatric diagnosis

Could not stand trial (sec 77 CPA)

Were 'affected' by a mental disorder at the time of the alleged offence and were not accountable according to section 78(1) (a) and/or 78(1) (b) of the CPA

Group 2 = male sexual offence accused who after forensic observation had:

No psychiatric diagnosis

Could stand trial

And were accountable according to section 78 of the Criminal Procedures Act section 78(1) (a) and/or 78(1) (b) of the CPA

Qualitative groups:

Group 3 = Sexual offence in-depth interview group: (SO) those accused of a charge of a sexual offence nature who were able to give informed consent and to participate in the qualitative in-depth interviews.

Group 4 = Non-sexual offence in-depth interview group: (NSO) those accused of a charge that was not of a sexual offence nature who were able to give informed consent and to participate in the qualitative in-depth interviews.

2.5.2 SELECTION CRITERIA

Table 1: Inclusion criteria

Inclusion criteria for quantitative record-based data	Inclusion criteria for in-depth qualitative interviews
Records of persons age 18 and above Filed at Weskoppies Hospital Registry Department	Person aged 18 and above; Male gender Able to give consent
Referred for observation according to CPA section 79 for a sexual offence	Referred for observation according to CPA section 79 for a sexual offence or a non-sexual offence (control group)
Admitted to Weskoppies Hospital during the period 10/2014 - 10/2015 (except for test case admitted in the month 09/2015)	Can speak: English, Afrikaans, IsiZulu, IsiXhosa, SeSotho (North, South), SeTswana, IsiNdebele, SeShangane, Venda

2.5.3 SAMPLE DESCRIPTOR – ALLEGED SEXUAL OFFENDER GROUP

Table 2: Sample descriptor – Qualitative component – Sexual offence accused group

Code	Interview dates	Consent /Int/As	Very brief case summary + highlight findings
P01*** No Dx Can 77 'Not affected'	08 Sept 2014 11 Sept 2014	03/09/2014 INT01, INT01A, INT03 AS06	Single male in his 20's at the time of incident; secondary level education; reported to have had a prior diagnosis of substance-induced psychotic disorder; accused of rape of a neighbour in her 50's and was known to suffer from mental illness; was the initial test case for the in-depth interviews; theme of self-interest emerged strongly; the accused opted out after two interviews when material goods would not be exchanged for his time.
P02 Dx PNOS Cannot 77 'Affected'	22 Dec 2014 24 Dec 2014 29 Dec 2014	19/12/2014 INT02 AS01	Single male in his 20's at the time of incident; secondary level education; accused of attempted rape of an older relative in her 40's in a shared home; despite the psychiatric diagnosis the accused was able to give informed consent and was acutely aware of the need for informed consent; this participant became a 'sentinel' case that others would later emulate in terms of emerging themes including how men feel treated in society.
P03 No Dx Can 77 'Not affected'	27 Jan 2015 28 Jan 2015 02 Feb 2015	27/01/2015 INT01 AS06	Single male in his 20's at the time of incident; secondary level education with vocational training; accused of 'sexual assault by touching a body part' of a female minor, an acquaintance at his home; questioned the research process in terms of recordings the most; eventually opted out of the interview as knew it was an option ethically; gave permission to use material; despite exiting before conclusion the theme of culture clash in terms of mental illness and belief systems emerged the strongest in his case.

P04 Schizophrenia Can 77 'Not affected'	04 Feb 2015 06 Feb 2015	04/02/2015 INT02; INT01 AS07	Single male in his 30's at the time of incident; secondary level education; prior diagnosis of schizophrenia; accused of rape of a neighbour's child who was a minor, at victim's home; theme of 'community justice' emerged strongest here when the accused reported that he was almost set alight by the community.
P05 No Dx Can 77 'Not affected'	17 Mar 2015 18 Mar 2015 25 Mar 2015	17/03/2015 INT03; AS05	40-something year old male with a long-term partner; primary level of education; prior multiple non-contact crime charges; accused of multiple major charges including multiple charges of murder and rape of multiple adult female victims including friends/acquaintances in his community over time; themes of 'hostility' and 'revenge' are the hallmarks.
P06 Schizophrenia Cannot 77 'Affected'	22 June 2015 24 June 2015 25 June 2015	22/06/2015 INT04 AS06	Single male in his 30s; primary level of education; rich thick description of life circumstance; accused of multiple charges of rape of multiple female minors who were strangers from his neighbourhood during an alleged single episode, in his home; may have used food to draw their attention; theme of 'age of consent' being relatively strong as well as that of patriarchy; community justice; and vulnerability of the mentally ill to stigma; irony of sexual abuse in prison system. The concept of linguistics in the context of forensic psychiatry observation theme was cemented in this case (see chapter on psychiatric features).
P07 Schizophrenia Can 77 'Not affected'	02 Jul 2015 03 Jul 2015	01/07/2015 INT01 AS01; AS04	Single male in his 40s; primary level of education; presented with predominating negative symptoms with a prominent blunted affect but able to give profound perspectives on psychosocial details; accused of a charge of rape of a minor who was a neighbour, at his home; theme of 'aloneness' that leads to the theory of 'vulnerability' reflected in this case.

P08 Schizophrenia Can 77 'Not affected'	23 Nov 2015 24 Nov 2015	23/11/2017 INT 06 AS08	Single male in his 30s; secondary level of education; accused of attempted sexual assault and assault with intent to do grievous bodily harm (stabbing) on the same victim in her 60s; a stranger, in the bush; theme of cheating and lack of trust contributing to hostility theory and oppression of men; theme of vulnerability of women because of how they behave and where they go.
P09 Intellectual disability Cannot 77 'Affected'	30 Nov 2015 01 Dec 2015	30/11/2015 INT 01; INT06 AS01; AS03	Single male in his 20s; primary (special school) level of education; prior diagnosis of intellectual disability; accused of rape of two female minors who were neighbours, in his home; theme of community justice and blowing the whistle ('Mpempe'); concept: grooming of minors via use of social media and pornographic material; emerging concept for forensic observation process: ability to follow court proceedings separate from ability to comment on social schemas

Legend:

No Dx = 'No diagnosis?'; **PNOS** = Psychotic disorder not otherwise specified; **Can 77** = has the mental capacity to follow court proceedings; **'Not / Affected'** = Not / Affected by mental illness at the time of the alleged sexual offence; **SO** = Sexual offence accused; **NSO** = Non-sexual offence accused; **INT** = Interpreter /Co-observer; **AS** = State assessor

2.5.4 SAMPLE DESCRIPTOR – NON-SEXUAL OFFENCE GROUP

Table 3: Sample descriptor – Qualitative component - Non-sexual offence accused group

CODE	INTERVIEW DATES	CONSENT/INT/AS	Case Summary
C01 Dx PNOS Cannot 77 'Affected'	19 Dec 2014 24 Dec 2014	19/12/2014 INT02 AS01; AS05	Single male in his 30s; primary level of education; accused of attempted theft; prior diagnosis not clear; theme: PUI as social determinants of distress.

C02 Dx MDD Can 77 'Not affected' but diminished	23 Feb 2015 02 Mar 2015 12 Mar 2015 17 Apr 2015 (DW with AS03)	INT03 AS02; AS03	Previously married man; tertiary level education; prior diagnosis of a mood disorder; accused of murder x 2 and pointing a firearm; GBV and IPV related crime; the participant uses traditional and religious belief systems as an explanatory framework for his behaviour; the theme of cultural competence in forensic psychiatric evaluations emerges – about psychiatry coming to terms with traditional and cultural ways; theme; 'pearls of wisdom'; cousin marriages in his family system
C03 Dx Schizophrenia Can 77 'Not affected'	07 Jul 2015 08 Jul 2015	INT04 AS07	Single male in his 30s; secondary level of education; prior diagnosis of schizophrenia; accused of murder of a relative that he reports was very close to him; the emerging theme is that oppression of men as well as women as non-sexual partners; theme women raising men; he is in a women dominated social sphere and yet still violates against a woman
C04 Dx Schizophrenia Cannot 77 'Affected'	31 Aug 2015 03 Sept 2015	INT01 AS02; AS06	Single male in his 30s; primary level of education; accused of AIGBH of a female member of the family; strong theme of chronic mental illness stigma by family even, GBV
C05 Dx Adjustment disorder Can 77 'Not affected' but diminished	12 Nov 2015 13 Nov 2015 16 Nov 2015	INT01 INT04; INT05 AS08; AS06	Single male in his 20s; secondary level of education; accused of attempted murder that should read like a story; IPV; theme of trust and cheating; concept of oppression of men felt strongly here; there are hints of homicide-suicide planning; Dx Adjustment disorder with mixed disturbance of behaviour and emotion
C06 No Dx, Can 77 'Not affected'	18 Nov 2015 20 Nov 2015	18/11/2015 INT 06; INT01 AS03	Previously married male in his 40s; tertiary level of education; accused of murder; IPV; theme of cheating, oppression of men; perception of self after arrest explored deeper than some;

C07	25 Nov 2015	INT 07	Married male in his 30s; tertiary level of education; accused of culpable homicide; prior diagnosis of schizophrenia; treatment defaulting due to culture clash of belief systems; led to relapse; theme of oppression of men confirmed strongly
Can 77	26 Nov 2015	AS08; AS04	
'Affected' Cannot act in accordance			

Legend:

IPV = intimate partner violence; **GBV** = gender-based violence; **AIGBH** = Assault with intent to do grievous bodily harm; **MDD** = Major depressive disorder; **PUI** = poverty, unemployment and inequality

2.5.5 CO-OBSERVER / INTERPRETER GROUP

Table 4: Co-observer partial descriptor

CODE	Participant(s) co-observed	Total number of interviews per participant	Dates interviewed
INT01	P01	2	10/09/2014; 11/09/2014
	P03	3	27/01/2015; 28/01/2017; 02/02/2015
	P04	1	06/02/2015
	P07	2	02/03/2015; 03/07/2015
	C04	2	31/08/2015; 03/09/2015
	C05	1	12/11/2015;
	C06	1	20/11/2015
	P09	2	01/12/2015; 02/12/2015
INT02	C01	2	19/12/2014; 24/12/2014
	P02	3	22/12/2014; 24/12/2014; 29/12/2014
	P04	1	04/02/2015;
INT03	C02	3	23/02/2015; 2/03/2015;

			12/03/2015
	P05	3	17/03/2015; 18/03/2015 25/03/2015
INT04	P06	4	22/06/2015; 24/06/2015 24/06/2015; 25/06/2014
	C03	2	07/07/2015; 08/07/2015
	C05	1	13/11/2015
INT05	C05	1	16/11/2015
INT06	C06	1	18/11/2015
	P08	2	23/11/2015; 24/11/2015
	C07	1	26/11/2015
	P09	1	30/11/2015
INT07	C07	1	25/11/2015;
TOTAL NUMBER	16	40	09/2014 – 12/2015

2.6 PROCEDURES AND DATA COLLECTION

Quantitative component:

A data collection sheet was prepared (see Addendum C) as per protocol and upon location and identification of the defined records, the researcher did the data collection via a Microsoft Access programme (designed according to Addendum C). Later the data was transported to a Microsoft Excel spreadsheet and was cleaned as per protocol. The data was then run through descriptive analysis the results of which are described in the first part of Chapter 3 below. The process of quantitative data collection took place parallel to the qualitative data collection especially towards the end of the latter. The two processes were not mixed in as far as case-specific data collection was concerned. Qualitative and quantitative approaches were used in parallel or concurrently to better understand the research problem in a time-efficient manner.

Only those who were interviewed could give information described in terms of attitudes and other personal attributes as denoted in the In-depth interview schedule (Addendum D) which was used as a

guideline as discussed below. Other more salient details for the record-based component were gathered from witness statements and other documents e.g. psychosocial reports and became part of what is referred to in Addendum E: Qualitative analysis of quantitative data and thus as pointed out could not cover all of the data questions asked in the data sheet.

Qualitative component:

Participants were recruited on a voluntary basis for in-depth interviews upon meeting the inclusion criteria. The recruitment conversation included an interpreter always, to fall in with the norm in the practice of routine forensic assessments in the unit.

After recruitment, qualitative and some of the quantitative data was gathered during the same point of contact with each participant in an alleged sexual offending group (SO) using a data collection tool to capture verbal and observable behaviour as described in literature (Mouton and Marais1990). There was a matched convenient sample 'control' group of NSO exposed to the same data collection tool. The broad research design was concurrent and comparisons were made based on the variable of mental capacity according to the forensic psychiatric report. In this form of sampling, participants were identified whilst undergoing routine forensic assessment with an independent psychiatrist assigned routinely by the hospital to do the assessment according to the CPA (1977). The routine assessor was not aware of the selection process. The selected participants were then exposed to qualitative in-depth interviews.

The qualitative sample was smaller in numbers (16), compared to the quantitative, but was important for a transformative triangulating approach and was favoured more in terms of the mixed research study paradigm. This qualitative sample underwent in-depth exploration for the purposes of understanding further psychosocial features of those accused of sexual offending and other charges and the nature of the relationship between described victims and alleged perpetrators – a matter at the core of the overall proposed study. The smaller sample may have easily been mistaken for an 'embedded' sample that is drawn out to understand issues specific to a small but distinct group within a larger sample but because the overarching approach was that of triangulating the information gathered from various sources and mixing the analysis further down the line, the triangulating design feature was emphasized. The smaller sample was thus used to study the same concepts simultaneously but from a different angle to the discoveries of the larger quantitative sample. The smaller sample was, ironically, expected to yield a stronger arm of the findings in terms of the study's transformative stance.

Data that was used to triangulate information included field notes with translation of the interviews as data was being collected; the forensic psychiatric report describing the mental capacity at the time of the offence and the ability to stand trial; the social report as formulated for the purposes of a routine forensic observation where applicable; the integrated access data base questionnaire which had both qualitative and quantitative components to delineate the profile of all the alleged offenders under study

and their relationships with their victims; and the in-depth interview and initial questionnaire which were used mostly to initiate conversations to gather the worldviews of those interviewed (Addenda C and D). Also, to assist the process further, the researcher was familiar with the concepts embraced in both quantitative and qualitative research methodologies and used extensive field notes to crystallise concepts. It took the expertise of the researcher as a psychiatrist to decipher relevant signs and to accommodate them in the data collection process.

Data collection processes:

The research was designed along the naturalistic setting of the forensic observation ward. The researcher's day-to-day duties outside of the research study sphere included the regulation of the forensic observation administration systems. Her duties also included clinical forensic observation assessments not related to sexual offences and not related to any of the in-depth interview participants nor any other in the particular ward during the study period. The process of data collection followed the path of routine court referrals of accused persons to Weskoppies Hospital. The individuals would then spend as much time as regulated or as needed to undergo clinical assessment by a team at Weskoppies Hospital. They would then return to the court processes upon completion of the regulated assessments according to the CPA. During the period of up to 30 days the participants were approached to participate in the study based on whether they could give informed consent or not.

Ethical considerations:

As mentioned in the introduction, the study was approved by the University of Pretoria's Faculty of Health Sciences' Research Ethic Committee (Ethics reference no.: 472/2013) and permission to access records where applicable was granted by Gauteng Province's department of health via the head of Weskoppies Hospital, the chief custodian of the remand detainee processes during forensic observation, as per regulations. For the quantitative component, access to archived records of individuals who had entered and exited the forensic observation system during the study period was gained. The individuals were not in the system during record perusal including those that had been interviewed in the qualitative component.

Further, for the qualitative component, permission to conduct in-depth interviews was gathered from individuals at the unit who could give and sign for informed consent to participate strictly. Participants could withdraw at any stage of the interview as was illustrated by a few who will be discussed specifically. Participants were identified through a purposive sampling method that focused on those accused of a sexual offence who were most recently admitted and those who were accused of a nonsexual offence who were admitted in tandem although this did not always follow in the specific order. This is described extensively in the 'Sample' and 'Procedure' sections.

The participants' routine forensic observation process was explicitly separated from the research process. Research information was shared in participants' mother-tongue languages and in the presence of a forensic psychiatric nurse / interpreter at recruitment. Identities and revealing details of cases were concealed using assigned codes to enhance confidentiality. The researcher further emphasised the separation of her functions as a researcher by not participating in forensic observations in the specific ward during data collection so as to not to cause any confusion in terms of her function.

The participants were evaluated during the recruitment process via the assessment of their mental status capacity to give informed consent by the researcher and a professional nurse witness who would have read and would be coached about the research process. Their ability to give informed consent was specific to the research focus and was bound to the time of the interviews. Neither the official observing psychiatrist, nor the outcomes of forensic psychiatric reports were used to gather informed consent as the capacity to participate was specified for study purposes. The researcher was deemed the best suited to answer all questions pertaining to the study. Coercion was guarded against by the presence of a witness who was generally a senior member of the nursing staff group. The records including outcomes of the forensic observation were only accessed during the period of record-based data collection which was separate from the interviews and mostly involved accessing records once the few interviewed individuals had already exited the system, as logistics would dictate. Permission to access records of those who were interviewed was gained directly from them. Permission to access records of those who were not interviewed and were out of the system (N= 62) was gained from the health establishment (Gauteng Dept. of Health) as aforementioned.

Further, all participants ultimately gave informed consent and were given information both verbally and in writing (with the assistance of an interpreter). The given information was explicit in terms of the separation of the research process from the official forensic process and was included in the 'Participant information leaflet'.

2.7 DATA RECORDING

2.7.1 INSTRUMENTS AND TOOLS

A data collection sheet and an in-depth interview schedule were used to initiate qualitative interviews (see Table 5). Data sources were then sought to supplement information as applicable. The forensic psychiatric reports carried the biggest weight in terms of valuable information for the quantitative component of the study. It was through the use of the details contained in the psychiatric reports that the sample was split into the 'affected' and the 'not affected' sexual offence accused groups. The groups would then be analysed further and compared where applicable. The psychiatric reports represented multiple instruments derived from multiple sources viz. the psychiatrists that were assessors and

together with the admission files held the most pertinent information for the psychiatric features component of the research question.

Table 5: Instruments and tools for data collection

Instruments	Sources
Initial data collection sheet and an in-depth interview schedule	Admission file for court referral documents
An Access database collection sheet for both components of the study (electronic)	Routine social report (when applicable) Forensic psychiatric report (Clinical Report)
Tape recorder to capture interviews Transcriptions of recordings	Field notes for the researcher Reflective notes with the interpreter / co-observer Journal notes

Data covering the psychosocial features component of the research question were held within the in-depth interviews instruments mostly and the admission files in terms of the victim/perpetrator variables. The psychological assessment inventory - the Millon Clinical Multiaxial Inventory III (MCMI) was initially identified as a tool for psychometric testing but could not be applied to all in-depth interview participants due to human resources limitations within a state facility and was so omitted from the rest of the study. There was assurance that the material that was held in the field notes, reflective notes with co-observers and the transcriptions was rich enough and adequate to describe the lived experiences of the participants. There would have also been a limitation to the usefulness of psychometry in a heterogeneous group with varying admissibility criteria to psychometry. At least a third of the participants had primary levels of education which would not have matched the MCMI test. Further, the study took a more inductive direction and may have been too constrained within the confines of a specific psychological tool – especially language and education wise.

2.8 DATA ANALYSIS PROCEDURE

A summary of both quantitative and qualitative types of analysis will now follow. After collection, the quantitative and qualitative data were analysed via quantitative statistical and qualitative analysis. The description of the qualitative component is more extensive following tradition (traditional mixed research methodologies). Rigour in analysis in mixed research is as important as in either of the approaches. Because of the design of the current study and that there were quantitative and qualitative parts of research discourses underway – both quantitative and qualitative forms of analysis had to be

described in the context of their origin. In mixed research methods, data analysis is one of the most important steps towards the resolution of a research problem post data collection. The researcher has to give a detailed account of essential elements of data analysis in order for the audience to have a 'front row seat' idea of the evolution of the findings. It was in the doing that the method of analysis and thus validity determined the quality of the findings (Srivastava and Hopwood 2009). An attempt was made though, not to belabour the point beyond necessity as some of the details of the process are embedded in the 'Findings' section.

In the case of the quantitative component of the study, descriptive statistics were derived to define comparative features of the two major groups (group 1 and 2) of SO. The groups had been defined according to the categories as per study design. Units of analysis were allocated to one of the two groups based on whether the psychiatric report declared a case as being 'affected' or 'unaffected'. The units of analysis were made up of all the admitted cases in a period of 12 months. All case records of those referred for forensic observation after an allegation of a sexual offence during the study period had been captured in a Microsoft Access database during data collection.

Raw data was then transported from a Microsoft Access database to Microsoft Excel spreadsheets for the descriptive frequency tables and statistics to be defined and compared according to the two study groups. Graphic representation of the interplay between the two essential groups was done. The quantitative sample size would not allow for inferential statistical tests to work out the prevalence risk ratio used to quantify the difference between levels of risk factors for the 'affected' vs 'unaffected' group. Descriptive statistics were displayed using mean tests and the measure of standard deviations to lay out comparative relationships between independent variables of Group 1 and 2 ('affected' and 'not affected' groups) versus dependent variables e.g. demographic details of accused and the victims as well as diagnoses and forensic psychiatric features. The analysis was based on a non-intervention and non-experimental descriptive exploratory design framework. The design favoured a more qualitative than a quantitative approach and thus inferential statistics were deemed non-essential especially because of the non-random nature of the record-based sample. The number of individuals referred by courts cannot be predetermined.

As far as the 'mixing' of analytic methods was concerned, there was integration of data via the transformation of quantitative data to qualitative themes and categories to produce 'qualitized' data (Salkind 2010). As seen in mixed research methods, the integration was in order to approximate quantitative data together with qualitative analysis findings of the in-depth interviews (Creswell, Clark, Garret 2008; Salkind 2010). To utilize the advantage of mixed research methods, quantitative data was subjected to quantitative descriptive methods of analysis and then to thematic analysis and other qualitative methods of coding and analysis. Through the 'qualitization', categories were identified in the quantitative data and were then transferred to the qualitative analysis process. The resultant was that

both quantitative and qualitative data got analysed using mixed methods and cross-referencing of categories as described by Onwuegbuzie and Corrigan (2014).

Further cyclical qualitative data collection and/or analysis became necessary depending on emerging, conflicting or inconclusive findings. When saturation was reached as research questions were being addressed, still more in-depth interview cases would be recruited to confirm themes that were emerging from both quantitative and qualitative data. In the end, quantitative analysis of quantitative groups 1 and 2 was done according to the differentiating factors and the qualitative analysis of the entire interviewed group was done in unison as will be discussed in the findings section. The separation of group 3 and 4 at analysis time was merged, as a separation was deemed superficial (see 'Findings' chapters).

Through "analytic memos" as well as "reflection and refraction" (Saldana 2013:50) the researcher's view was affected by the lens through which interactions were observed. The 'refractions' and 'reflections' represented places where there was not always conscious awareness of why certain items and codes stood out more than others. In those instances, extra attention had to be paid during the process of interpretation to eliminate any potential bias that would be more than expected. There were instances as described by Saldana when certain themes overwhelmed the senses and had to be reflected upon (Saldana 2013:50). Although interpretive approaches were embraced, during the analysis process, at times, emancipatory critical theory kinds of internal voices and thinking were openly noted and 'bracketed' (Creswell 2013) so as not to close up interpretations representative of the emerging male voices as described in the 'Findings' section. As patriarchy was a common theme in South African social dialogue, the researcher went into analysis aware that some of the emerging matters may be affected by such a theme. The playing field was levelled by trying as far as possible to receive and accept what was emerging. What would come out could never be predicted though, ultimately. Analytic memo writing and thus internalized reflections, were used to link the coding and theming to the writing up process to minimize surprises. (Saldana 2013:50).

In summary, fundamental to a mostly grounded theory research design was the process of concurrent data collection and analysis. To achieve this cyclical process, the researcher generated or collected some data with an initially purposive sample including a case used to test the initial interviewing schedule. The data from these initial encounters was then coded before more data was collected or generated and then the process of analysis was repeated all over again for at least three cycles with each interviewed participant's summaries. This concept put grounded theory in the heart of data analysis, among other types of methods used in an eclectic approach to construct theoretical propositions, as recommended by others (Glaser and Strauss, 1967).

As encouraged, the study, in the qualitative components, sought to emulate essential grounded theory methods including initial coding and categorization of data; concurrent data collection and constant

comparative analysis using ‘inductive’ and ‘abductive’ logic (Rosenbaum, More and 2016). Intermediate coding and the identification of potential central categories evolved over time and was aided by ongoing memo writing and reflexive ‘notes-to-self’ and ‘in the room’ accounts as the data was being collected and analysed and theoretical saturation was being reached (see ‘Final’ chapters).

2.8.1 SUMMARY OF FIRST CYCLE CODING STYLES AND BEYOND

From here on terminology borrowed from Saldana (2013) will be used except otherwise specified as that author described the researcher’s style of analysis best. Direct quotes will be referenced as such and the summary will give highlights of analysis approaches. The rest will be found in relevant sections in the ‘Findings’ chapters and the summary discussions at the end of the thesis. In as far as analysis was concerned, caution had to be exercised not to have a one-size fits-all approach as it has been acknowledged that “no two researchers can code the same.” (Saldana 2013:68).

Essentially, theming of data came first and then coding of themes across participants followed after superficial analysis of each individual interview. A metasynthesis and a metasummary process then followed where common themes and codes across the participants were synthesized into broader themes and categories for the qualitative data. For the quantitative data, categories were also derived in a qualitative nature thus implying the mixing of analysis between quantitative data and qualitative methods - the ‘qualitization’ of quantitative data as mentioned above (Onwuegbuzie and Corrigan 2014).

Procedural methods – Theming the data:

“Several qualitative methodologists recommend labelling and thus analysing portions of data with an extended thematic statement rather than a shorter code” (Saldana 2013:175). The description fits in with the general approach used in the study – data was labelled according to themes. Phrases or sentences were used to describe the essence of sections of data as they were emerging or later as analysis and interpretation were resulting in the description of a meaningful whole. Similar themes were then clustered together and may have led to “higher-level theoretical constructs” (Saldana 2013:176). As themes were emerging they were re-embedded into future interviews and later analysed and clustered under bigger themes, narratives and descriptions. Categories then emerged through thematic analysis and reflection on data. Superficial themes emerged during data collection and the first cycle of analysis. Later “meta-themes” (Saldana 2013:178) emerged through the second cycle of analysis as the researcher’s prior knowledge, new knowledge and reflections with participants and co-observer/interpreters came into play. By so doing, the process enriched data validation of emerging themes through member-checking and double-checking of themes and interpretations - some of which were new to the researcher.

Assertions and later theoretical constructs were then generated from the emerging and confirmed themes. These are discussed in the findings section in terms of how they linked up with the research questions and concepts. The participant's universe and experiences were embedded in the context within which data was interpreted, analysed and ultimately used to form theoretical constructs. Themes developed from conversation to conversation interlaced with co-observer observations and inputs as well as reflections and interpretations by the researcher. The process was repeated a few times as further thematic analysis and coding would then be applied through several layers of the emerging constructs (categories) as described below.

Highlights of coding beyond thematic analysis:

After the first cycle thematic analysis, initial coding, thematic coding, in vivo coding, simultaneous and sub-coding were used in the first and second cycle of coding. Theoretical coding and categorization of concepts and assertions was utilized in the second cycle of coding. Ultimately the categories, concepts and assertions were shaped into theory and theoretical models began to emerge as illustrated in the findings section.

To reiterate and give some highlights, initial coding was brought to the research process in the very early stages as questions were evolving and themes were emerging. Later areas that needed further exploration and more data were highlighted. Because interpreting and analytic memo writing are critical to the process, memos that represented the researcher's narrative were themed and coded as well over and above the analysis of field notes and transcripts. Because of the complexity and diversity of the multilingual context of the study (at least four local languages could be spoken at a go sometimes), interviews were captured using methods that went beyond simple verbatim recordings. This approach added richness to the research exercise. (See 'Research process' section).

Conversations were also captured through field notes and memos – involving an intense exercise of simultaneous interpretation and translation. Emotions and words were interpreted on the ground whilst the life-world of the participants was being unpacked in a more phenomenological fashion (observing and recording the nonverbal communication in the room). Initial analysis of the participant's contributions was undertaken by the researcher as well as by the co-observing interpreters immediately after each interview mostly. The co-observing interpreters were an arm of the research that added texture to the scene as they also contributed to the material being generated. The voice of the researcher 'in the room' would remain in the background at times when the co-observer/ interpreter would move into a central role instead. The triangulation of the process on the spot was the heartbeat of the knowledge generation in the study. The involvement of all three at the same time (the participant, co-observer/interpreter and researcher trio) was invaluable. That part of the research design became a built-in form of member-checking.

The ongoing memo writing that took place during conversations, during analysis and later during the write-up and further analysis phase was critical also to the interpretive nature of the study and the knowledge generation required. These approaches were later to add to critical research findings in multilingual systems (see 'Research process' findings section also). Through in vivo coding local colloquialisms including folk terms and words emerging from the participants were the main form of codes used. These were "informant-generated"/folk words that emerged, were grouped and later added richness to the description of the process and context within which the participants existed. Analytic terms from the researcher were used in a few instances. Certain subcultures or 'micro-cultures' were also isolated. (Saldana 2013:160).

Subcoding refers to embedded, nested, secondary or joint coding and was used especially when participants were giving details that were so rich that further coding/theming was needed (Saldana 2013:76). Simultaneous coding, referring to double coding or overlapping two or more codes, was also used and will be denoted in the findings section where appropriate. Quantitative data first cycle in vivo and other open-ended coding methods in grounded theory mode revealed categories which soon could be converted into that were used to categorise other categories in a systematic and hierarchical way.

Evaluative coding (Saldana 2013:119) was used to superficially evaluate the different systems accused individuals were exposed to socially before coming to Weskoppies Hospital for observation and these included: life before arrest, life during arrest (SAPS; Court; Prison) and life after being arrested. The forensic observation process at Weskoppies Hospital was also included. These codes evolved to major categories within which themes, concepts and emerging theories were grouped. Units of code were of variable lengths and were sourced from all data formats e.g. field notes, journal notes, transcripts and quantitative data in the early phases of analysis. Some parts were derived from "hunches" (Saldana 2013:142) whilst other components of the codes were brand new angles that were not anticipated and emerged from the interviews. Later more refined methods were used after interlinking data was lumped together for further analysis.

A basic questionnaire based on earlier preparatory review of literature on how to research violence in society and more specifically sexual violence (Bowman, Stevens, Eagle, Matzopoulos 2015), was used as a "start list" (Saldana 2013:41). The research questions, the researcher's hunches and a conceptual framework (Figure 17) on sexual offending and mental illness also fed into some basic questions. Soon though it came to be that the questionnaire would have to be discarded in part and was used as a general guide. The research questionnaire / interviewing schedule had been designed to grow 'forward' - growing as the study progressed borrowing from grounded theory approaches. The build-up was happening through notes made on the side that were followed-up and corroborated along the way.

Inductive questions and concepts started emerging from the data as it was developing. These concepts became the foundation of the provisional codes that would be adapted over time as broad categories

and early theoretical concepts emerging from the study. Grounded theory and inductive exploratory approaches had been the foundation of the study. A pragmatic approach meant that mixed research methods would be used. Multiple layers of coding systems were used – in ‘what works model’ approaches (Howells, Day and Thomas-Peter 2004).

2.8.2 TRANSITIONING FROM FIRST CYCLE TO SECOND CYCLE ANALYSIS USING ECLECTIC CODING

The coding and theming methods described above were used under the banner of ‘eclectic coding’ as more than one variety of coding methods were used. The most fitting coding methods were used at a given time. Most coding methods were used simultaneously with a theming method. (Saldana 2013:191). The Eclectic Coding method was appropriate as the data came from several sources including field notes, transcripts, memos, journal notes and co-observer observation and participant clinical and administrative records. The clinical records were also used as a source of data for the quantitative component of the study. The researcher used methods that fitted the data and context the best as there were no prior studies to model on in the research setting. Analytic memo writing carried the process over to second cycle analysis that led to categorization of codes and themes from both the qualitative and quantitative data sets.

Table topping and shop talking were some of the techniques utilized to decipher and analyse categories, concepts, assertions and ultimately emerging theoretical snippets that caused a lot of excitement. The shop talking was particularly valuable when conducted with co-observer / interpreters and external social groups (referred to and described as ‘sojourners’ in the ‘Findings’ sections where applicable. New perspectives or challenges were generated.

2.8.3 SECOND CYCLE CODING

“Our ultimate analytic goal is not just to transform data, but to transcend them – to find something else, something more.” (Saldana 2013:208 quoting Wolcott (1994) and Locke (2007)).

With second cycle of analysis narrower codes and categories were created in order to crystallize the qualitative findings in both the quantitative and qualitative data sets. During the second cycle, codes and themes had to be reorganized and ultimately some had to be refined into singular but related rich thick descriptions (Creswell 2013). The thesis ‘chapters’ emerged from the exercise.

Focused coding:

The most frequent or significant codes were selected but there was different emphasis of importance and alignment with each. Categorization led to meaning making as links were emerging. Theory-

building started forming the ultimate end where comparability and transferability of categories and concepts was shared amongst participants. It might be said then that the research process involved qualitative data collection that was intertwined with ongoing coding, analysis, interpretation and categorization building towards a theory-formation. This process was interjected by a big chunk of quantitative data collection and data cleaning and some coding in the form of what was domains and taxonomy formations. This process in turn led to crossing over from quantitative data collection to qualitative analysis of quantitative material in the form of second cycle focused coding. After this process, the two sets of data findings were merged and then ultimately split again in accordance with the research focus. The research focus was initially to compare the four groups per se but it soon became apparent to the researcher that approaches had to be adjusted and the quantitative methods had to be used for the comparative descriptive component rather than comparing qualitative data sets beyond the participant's experiences.

Axial coding:

Dominant codes and themes versus those deemed less important were separated and the most representative were selected through axial coding (Saldana 2013:218). The desired outcome through the process was for the data to reach a point of 'saturation' when no new elements emerged outside of what had been described as most representative. Coded data that was interlinked was grouped together to simplify and narrow codes down to conceptual categories that would be narrowed down further, later. At times though, the lone but significant disconfirming voice was recognised to strengthen reflections.

Theoretical coding:

Also called conceptual coding or selective coding, theoretical coding distils data down to its essence. In the current study, the initial step was to identify core categories that had an overarching definition of data findings and subcategories thereof – that is, categories that held the essence of the study and then to narrow them down to concepts, assertions and tentative theories. The development of theories is depicted within each of the findings chapter where applicable and in the discussion chapter. The evolution of a core category or what is preferably called the gist of the findings is reflected upon then.

2.8.4 PARADIGMS ADOPTED DURING ANALYSIS AND INTERPRETATION

Critical analysis theory and emancipatory approaches about changing the world through evidence were embraced. The researcher had spelt out the transformative stance from the outset so that during analysis and interpretation there would be no confusion regarding taken perspectives. As aforementioned also, pragmatic approaches about what was useful in the research context as well as constructivist approaches of mixed research traditions were utilized. Although mostly applied to qualitative rather than quantitative forms of analysis, 'meaning making' was resonant with the life-world of the researcher in

the study context. Constructing meaning through mixed data analysis yielded learning opportunities where new knowledge was generated by the participants - for the researcher to take and learn from the ground up (Krauss 2005). To the constructivist though, interpretation may be a crucial element in the meaning making process by “taking the point of view of the other” (Krauss 2005:765). The ‘other’ was in focus. The next section of the thesis will unpack the resultant major categories, assertions and theoretical constructs that make up the ‘Findings chapters’.

2.8.5 RULES FOR EXCERPT (TRANSCRIPT) IN-TEXT CITATIONS IN THE WRITE-UP:

Translated excerpts and untranslated quotes were used and denoted by reference codes referring to the original text via a line number and the participant code e.g. ”... 1234. P20. = Line 1234; Participant number 20. ‘P’ = accused of a sexual offence; ‘C’ = accused of a non-sexual offence

Material from the quantitative database were denoted by a code assigned to the original file e.g. Quantitative 10 = ‘Quantitative record number 10’ = Quanti 10

Extracts (citations) used in the chapters were derived from: Combined data; Completed analysis; Memoing documents; Process documents; Journal notes; Transcripts (original)

Parentheses in hard brackets denoted a thought from the researcher e.g. [a note-to-self]; [processes in the room at the time]; [the mood in the room]; etc.

Parentheses in soft brackets denoted an explanation of a text or a translation e.g. (IsiZulu: ...)

SECTION II: FINDINGS CHAPTERS

Preface to the 'Findings' section

Chapter 3: Psychiatric features and life during forensic observation

Chapter 4: Sexual offending

Chapter 5: The 'Village': Life before arrest and ways of relating

Chapter 6: The 'Village': Life in the hands of justice

PREFACE TO THE ‘FINDINGS’ SECTION

The ‘Findings’ section is made up of chapters that delineate the most pertinent results related to the research aims and objectives. The ‘Findings’ section is made up of two parts. Using the title of the thesis as a reference point, Part I deals with ‘psychiatric features’ and Part II deals with ‘psychosocial features’ findings of the study. In order to keep up with the emerging findings narrative and, for coherence sake, each chapter in the ‘Findings’ section is written in a manner such that it ‘stands alone’ and has its own discussions and summaries. The last two chapters of the thesis then blend all discussions and summaries to a close.

The ‘standalone’ approach is somewhat non-traditional to the typical presentation of ‘quantitative’ or even ‘qualitative’ findings. The approach was necessitated by the bulkiness of the ‘Findings’ section, especially the qualitative component. Had the more traditional approaches been used, it was feared that the reader would get ‘lost in translation’ – to borrow a phrase. Each chapter covers issues relevant to a specific set of findings. The areas covered in each chapter broadly include the following: an introduction to specific emerging concepts and themes; analysis and interpretation; and as in traditional qualitative work, a literature review and discussion of the specific chapter findings; research processes that stand out and are specific to the emerging findings including memoing and reflexivity; methodology findings peculiar to just the area of study in the chapter if relevant; emerging assertions and theories; and that chapter’s direct implications for forensic mental health, research and / or society, as far as possible. There may be deviations from this broad approach in case of need.

As this is a mixed methods study, in most instances the presentation of findings is a balance between quantitative and qualitative methods of inquiry in appropriate proportions. For ease of flow of the findings narrative, the main comparative quantitative results of the study are presented in Part I of the ‘Findings’ section. The quantitative component in Part I deals mostly with the more ‘hard core’ forensic ‘psychiatric features’ that compare the ‘capable’ versus the ‘incapable’ record-based study groups as per research aims and objectives.

The comparison is of the main groups that are described in the ‘methods’ chapter and ‘sample’ component above, essentially. The first chapter with its strongly quantitative content tends to lay the foundation for the rest of the ‘Findings’ section. The quantitative component tends to be relevant and is referred to in later and more qualitative chapters where applicable as well. There may be components of quantitative results that are embedded in proportionately more qualitative chapters, in some instances too.

The findings from the qualitative in-depth interviews component of the study are in focus more in Part II. That section deals with ‘psychosocial features’ derived from the in-depth interviews component as well as parts of the record-based sample. The ‘psychosocial features’ chapters occupy the rest of the ‘Findings’ section after the initial more quantitative chapter.

Lastly, because of the pragmatic, iterative and inductive nature of the study in part, 'Process' sections where appropriate are embedded in the 'Findings' as well as in the subsequent 'Final' chapters. The prominent combination of more phenomenological and grounded theory qualitative methodological approaches of investigation necessitated this inclusion. A more personal narrative akin to both phenomenological and grounded theory methods emerges from the 'Process' sections. The process narrative brands the research study unique and representative of the participant – researcher – co-observer trio. The attempt has been to stay true to mixed methodologies and to harmonise pragmatism philosophical approaches, whilst transcending dualism.

Chapter 3

3 PSYCHIATRIC FEATURES AND LIFE DURING FORENSIC OBSERVATION

3.1 INTRODUCTION: PSYCHIATRIC FEATURES

One of the main pillars of the study was to explore the psychiatric features of individuals who were referred to Weskoppies hospital (WKH) for forensic psychiatric observation in terms of section 79 of the Criminal Procedure Act 51, 1977 (CPA 1977). The ‘Psychiatric features’ discussed in this section are derived from the quantitative descriptive results of the record-based component of the study. The results are based on forensic observation assessments of all the experimental units within the study period. More details on the ‘Psychiatric features’ are also derived from relevant qualitative in-depth interviews as expressed by individuals in the mixed methods component of the study. The experimental groups have been described in the ‘Methodology’ chapter save for elements relevant to the current ‘Findings’ section.

Parts of the ‘Psychiatric features’ findings have been analysed in quantitative terms and parts in qualitative terms. In some cases mixed methods of analysis have been applied as in the instance where individuals who participated in in-depth interviews (qualitative) were also analysed according to their quantitative features from the record-based sample. The quantitative aspects were as per study aim, comparative. The group that was found to not have mental capacity in relation to their charges, according to the forensic psychiatric reports, was compared to those who had been found to have capacity. The sample size was of such a nature that descriptive methods could be applied.

A declaration upfront is that the qualitative ‘psychosocial features’ findings from early on could not be separated into ‘capable’ versus ‘incapable’ groups. There was overwhelming overlap and no particular difference between those who may have been retrospectively marked to not have mental capacity to stand trial or mental capacity to offend at the time of an alleged offence versus those who did have mental capacity. There was also no palpable difference in conversation perspectives of those who were accused of sexual offending (SO) versus perspectives of those with nonsexual offending (NSO) charges, generally. The non-differentiation of ‘qualitative’ features according to the sampled groups is further explored in detail in various chapters covering ‘Psychosocial features’ (PART II) in the ‘Findings’ section.

In the current chapter, and under the qualitative analysis segment thereof, thematic links between psychiatric features and the forensic observation process are also made. How mental illness is expressed in different cultural contexts and how it interacted with volunteered events that led to criminal charges is also explored, where possible. The second part of this chapter deals with the participants’ experience of the forensic observation process itself and is expressed in qualitative, quantitative and mixed methods terms where applicable.

3.2 FORENSIC PSYCHIATRIC FEATURES: DESCRIPTIVE QUANTITATIVE RESULTS

Details of the entire sample including the in-depth interview participants with sexual offence charges are given in the ‘Methods’ section. The section focuses on quantitative results based on experimental groups in the record-based component of the study as well as qualitative findings based on the in-depth interview component of the study. A general overview and specific findings pertaining to forensic psychiatric assessments on referred individuals mostly denoted as the ‘accused’ are given below. An overview related to the accused/ victims’ narrative is also given.

3.2.1 SAMPLE AND DEMOGRAPHIC DETAILS

The sample of all accused individuals referred for forensic observation after a charge of a sexual offence during the study period was made up of 62 records (see Table 6 and Figure 1). All were males except for one. The one female had been a co-accused in a sexual offence case involving co-accused males in a case involving victims who were children at the time of the offence. Of the 62 admissions and records, the highest level of education was up to secondary level of education on available data. The mean age and median age of the accused was 35.97 and 33 respectively. Of the accused 88.5% were single in terms of marital status. These details are compared to victim factors in Figure 2 and further down.

Individuals were referred from the drainage area of Weskoppies Hospital with the least number coming from northern parts of Gauteng province (GP), the main designated area (13%), and the most coming from North West province (NW) (46.7%) which has a specific demarcated area, and not the entire province, designated to Weskoppies Hospital. Some in the qualitative group in-depth interviews had expressed a sentiment that there may be less reporting of sexual offending in rural areas (See ‘Sexual offending’ chapter).

Table 6: Demographic data of accused and victims (record-based sample)

	Accused	Victims
N	62	75 (78)
Gender	61 M; 1 F	8 M; 70 F
HLE	Nil tertiary (missing = 18)	Not applicable
Mean age	35.97	21.11
Median age	33	11
Marital status (n 61)	4 Mr	Not applicable

	2 W 54 S (88.5%)	
Referring courts (n 62) (province)	GP 7 (11%) Mpu 23 (37%) NW 32 (52%)	Not applicable

M = Male; F = Female; Mr = married; W = Widowed; S = Single; GP: Gauteng; Mpu: Mpumalanga; NW: North West.

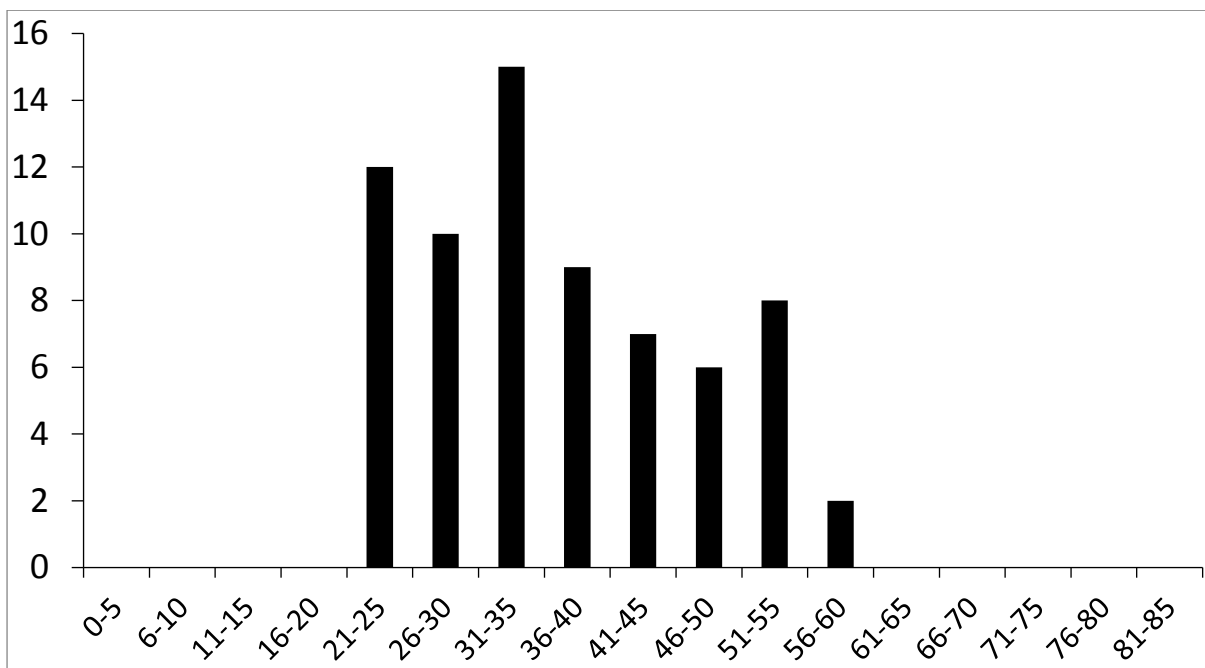


Figure 1: Accused age

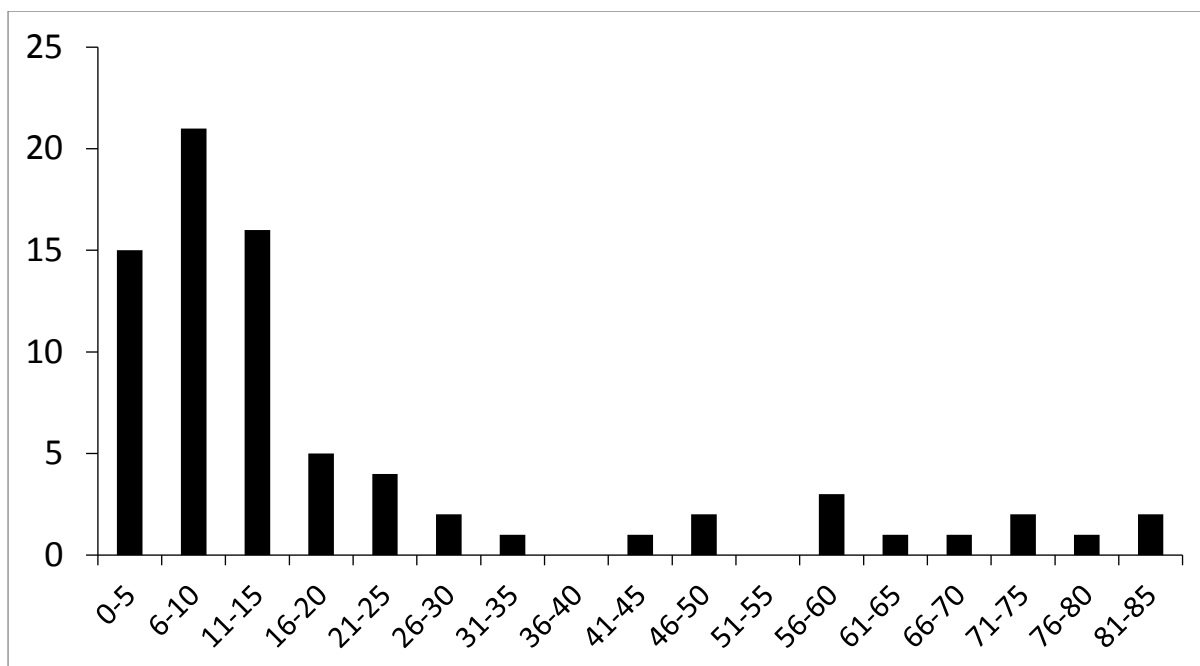


Figure 2: Victim age

3.2.2 GENERAL DESCRIPTION OF SEXUAL OFFENCES CHARGES AGAINST THE ACCUSED AND OTHER RELATED MATTERS

The nature of alleged sexual offences

In the majority of cases, rape dominated the picture as an alleged sexual offence for which individuals were accused as it occurred in 55/62 cases (88.7%). It was followed by ‘attempted rape’ at 6 cases and indecent assault at 2 cases. (See Table 7). Other charges according to the Sexual Offences Act (2007) definitions and terminology were not reflected upon in court documents. In the ‘Sexual offending’ chapter, findings related to terminology around the language of sexual violence are discussed.

Table 7: Frequency of sexual offence charges

Nature of sexual offence charge	Frequency
Rape	55 (88.7%)
Attempted rape	6
Indecent assault	2
Total number accused	62
Grand total of charges counted (There may be multiple charges/individual)	63

The co-occurrence of other crimes in the sampled records was reflected in about 14.5% (n = 9) of the referred cases (see Table 8). In other words, for at least nine (9) of the individuals referred there was a co-occurrence of another charge.

Table 8: Frequency of contact crimes co-occurring with the charge of rape

Charge	Frequency
Murder	3
Assault with intent to do grievous bodily harm	2
Common assault	1
Robbery	2
Malicious damage to property	1
Grand Total	9

Regarding the presence of co-accused during an alleged sexual offence, there were only three cases where there was a presence of a co-accused person (Table 9). The three occurred in the group with a ‘psychiatric diagnosis’. In all three cases the forensic report showed that the accused were not affected by the psychiatric diagnosis at the time. The diagnoses were intellectual disability, borderline intellectual functioning and schizophrenia.

Table 9: Presence of a co-accused at the time of the alleged sexual offence

	No co-accused	Co-accused	Total (42)
BIF	6	1	7
ID	15	1	16
Schizophrenia group	10	1	11
Other psychotic disorders	8		8

3.2.3 DESCRIPTION OF THE DIAGNOSIS OF THE ACCUSED

The distribution of diagnoses according to their appearance on the forensic psychiatric reports as submitted to court indicating the presence of ‘any’ psychiatric diagnosis in the sample was n = 44 (70.9%) of the total (n = 62). A standalone assessment of ‘**no diagnosis**’ was the highest frequency at n = 18 (29.01%), implying that just under a third of the individuals were deemed to have no psychiatric disorder affecting them with respect to the legal questions as set in sections 77 and 78 of the CPA. The most represented diagnoses after ‘**no diagnosis**’, were **intellectual disability** (n = 16), **schizophrenia** (n = 11) and ‘**psychotic disorders other than schizophrenia**’ (**other psychotic disorders group**) (n =

8). **Borderline intellectual functioning** occurred in the same frequency as the category of the ‘psychotic disorders other than schizophrenia’ group. Where **substance used disorder diagnosis** was made, it was found to be co-occurring with another formal psychiatric disorder as a ‘dual diagnosis’ in all of its counts (n = 7). Of note was the zero cases of bipolar disorder and one case of depression (major depressive disorder) in mood disorders. There was also no traumatic brain injury noted. See Figure 3 and Figure 4 as well as the explanatory Table 10 and Table 11 alongside.

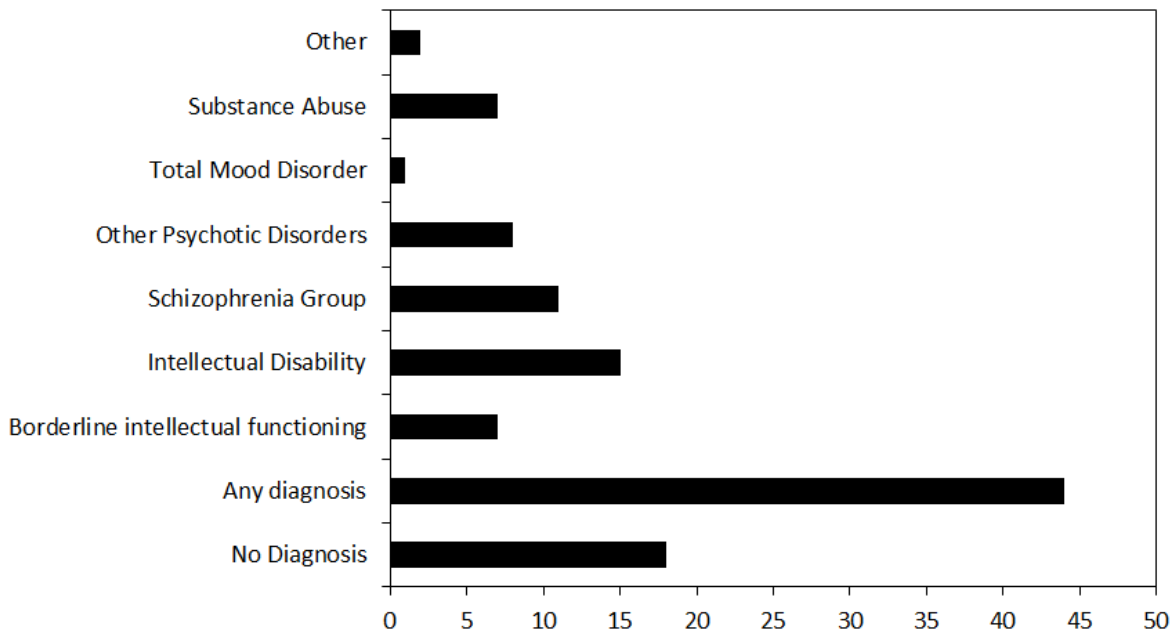


Figure 3: Accused diagnosis

Table 10: Frequency of accused diagnosis

Diagnosis	Frequency
No Diagnosis	18
Any diagnosis	44
Borderline intellectual functioning (BIF)	7
Intellectual Disability (ID)	16
Schizophrenia Group	11
Other psychotic disorders	8
Mood Disorder	1
Substance Abuse	7
Other	2

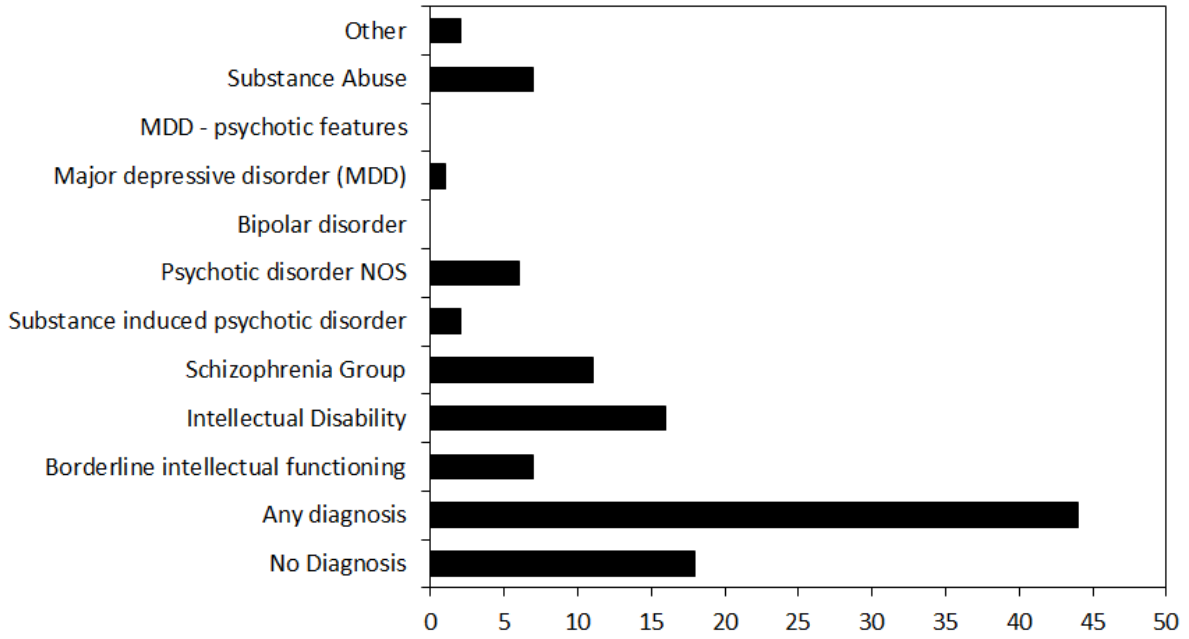


Figure 4: Accused specific diagnostic subcategories

Table 11: Frequency of accused specific diagnosis subcategories

Diagnosis	Frequency
No Diagnosis	18
Any diagnosis	44
Borderline intellectual functioning (BIF)	7
Intellectual Disability (ID)	16
Schizophrenia Group	11
Substance induced psychotic disorder	2
Psychotic disorder NOS (PNOS)	6
Bipolar disorder (BD)	0
Major depressive disorder (MDD)	1
MDD - psychotic features	0
Substance Abuse	7
Other	2

3.2.4 DESCRIPTION OF THE ACCUSED IN TERMS OF MENTAL CAPACITY ACCORDING TO THE CRIMINAL PROCEDURE ACT 51, OF 1977, AND RELATED FEATURES

For the purposes of this section, mental capacity is as stated in terms of the Criminal Procedure Act and refers to the legal question of whether individuals accused of an offence and who are suspected to have mental illness, are able to follow court proceedings so as to defend themselves (Criminal Procedures Act 1977). Also, whether those individuals were affected by any mental illness or mental disability that affected their ability to appreciate the wrongfulness of their actions and the ability to act according to their appreciation at the time of an alleged offence (Criminal Procedures Act 1977: Sections 77 and 78).

In terms of the results on mental capacity a comparative approach is used to depict the differences in features, if any, between those who retained mental capacity at the time of the alleged incident versus those who did not (Section 78 of the CPA). The ability to follow court proceedings (Section 77 of the CPA) is for discussion sake only. It is the former component (Section 78) that is of bigger interest as it relays conditions that would differentiate those who did or did not have capacity versus at the time of alleged offences. See Table 12.

Table 12: Overview of summary of forensic psychiatric reports results

Forensic report	N
N Any diagnosis	44 (70.9%)
N No diagnosis	18 (29.1%)
Affected by section 77 CPA	23 (51%)
Affected by section 78 (a + b) CPA	15 (34%)
Affected by section 78 (b) CPA only	6 (14%)
Total	62

3.2.5 MENTAL CAPACITY TO FOLLOW COURT PROCEEDINGS

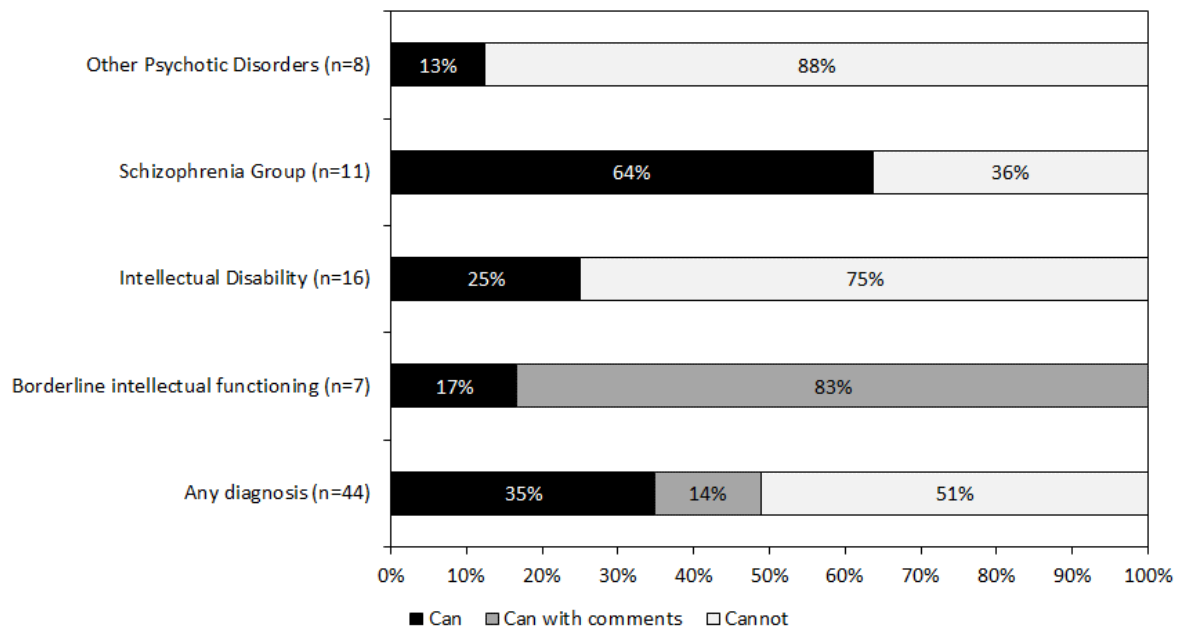


Figure 5: Mental capacity to follow court proceedings

As denoted above, 62 individuals were referred for sexual offences related inquiries. Of the 62 individuals 44 (70.9%) were found to have a psychiatric diagnosis. The diagnosis categories are as discussed in the previous section. For those falling within the ‘any diagnosis’ category made up of subcategories as depicted, in Figure 5, 49% were found to be capable of following court proceedings so as to defend themselves in all the subcategories.

This implies that just under half of those referred by the court for section 77 inquiries, and had a psychiatric diagnosis, were not ‘affected’ by any diagnosis given to them. All of those with borderline intellectual functioning were found to be able to follow court proceedings but some 13% may have needed further assistance in court as denoted by the remark ‘can (stand trial) with (explanatory) comments’ which is often elaborated upon in the psychiatric report to the court. In the diagnosed and affected group (51% of the group with any diagnosis), the ‘other psychotic disorders’ and the intellectual disability groups, at 88% and 75% respectively, were found not able to follow court proceedings so as to defend themselves. In contrast, those who had a formal diagnosis of schizophrenia were found to be able to follow court proceedings in 64% of the reports.

3.2.5.1 Mental capacity to appreciate wrongfulness at the time of an alleged incident (Section 78(1)(a))

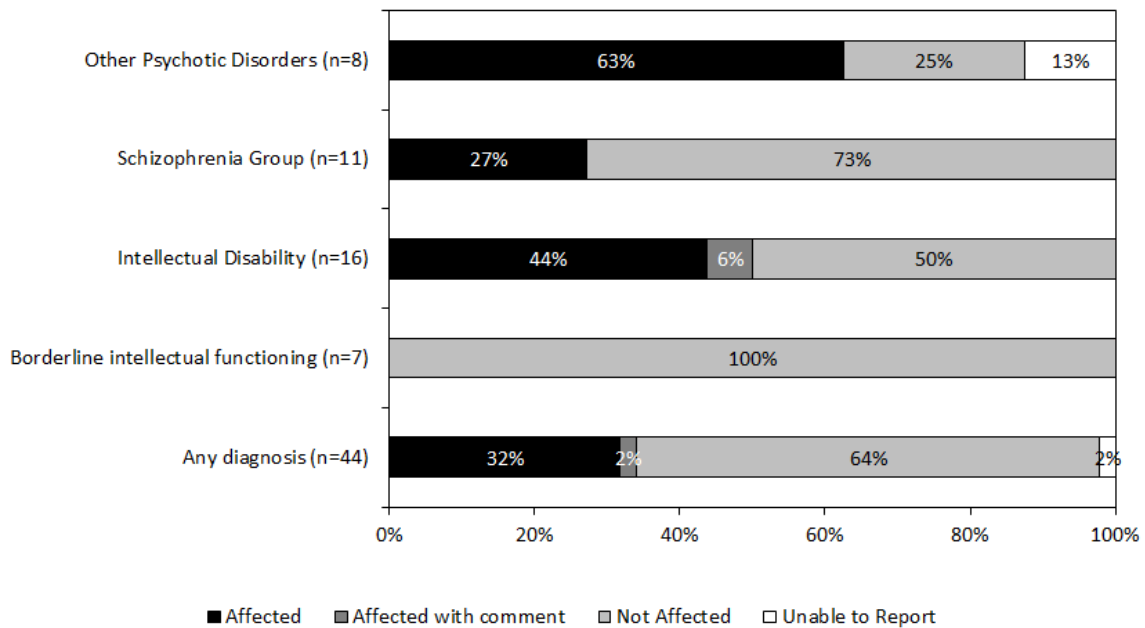


Figure 6: Mental capacity at the time of the incident

The assessments in terms of section 78 (a) of the CPA, found that most were not affected at the time of the alleged offence (64%) after ‘any (psychiatric) diagnosis’ was made (Figure 6). Borderline intellectual functioning was once again, found ‘not affected’ 100% of the time and would have been referred back to court. The ‘other psychotic disorders’ group was found to be ‘affected’ at the time of an alleged sexual offence in 63% of the group with ‘any diagnosis’. Although the numbers are small, the proportions of this sample would have to be compared to year-on-year results to dispute the current trends.

Unlike in the section 77 reports depicted above, the group diagnosed with intellectual disability were found to be ‘affected’ at the time of the alleged offence by a lesser margin (50%) than those that were found able to stand trial (64%). This implied that despite the fact that they had difficulty to stand trial, they were found ‘not affected’ by their diagnosis at the time of an alleged sexual offence.

3.2.5.2 Mental capacity to act in accordance with appreciation of wrongfulness of actions at the time of an alleged incident (Section 78(1)(b))

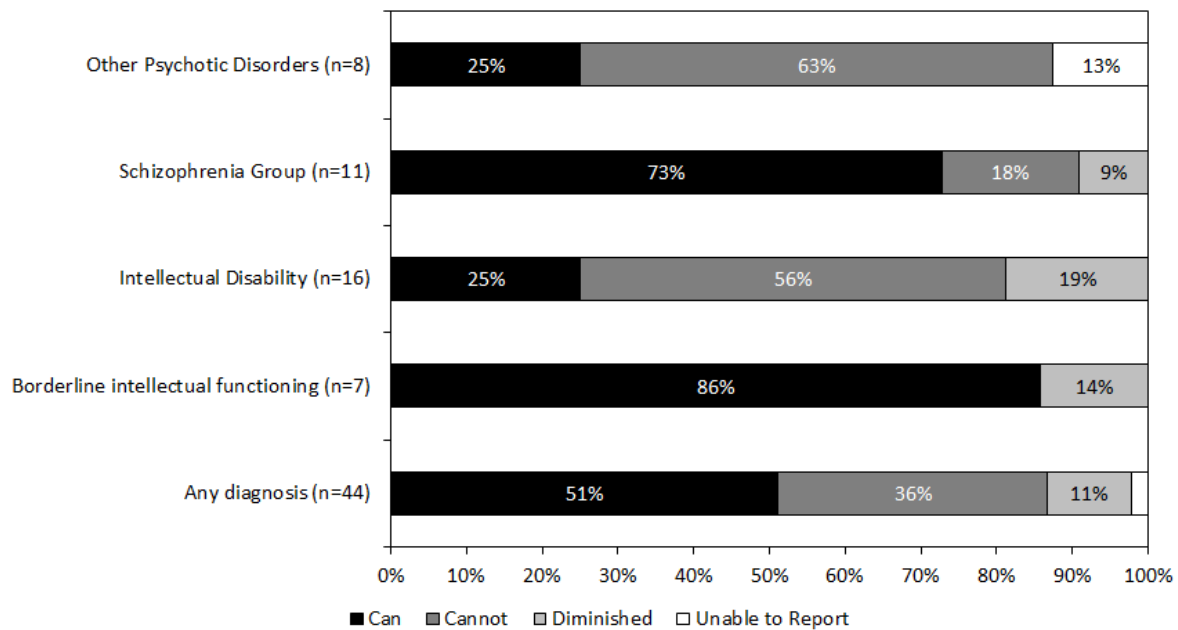


Figure 7: Capacity to act in accordance with mental capacity

In terms of the capacity to act in accordance to the appreciation of their actions, as seen in section 78(b) of the CPA, borderline intellectual functioning individuals, although not many in numbers in the sample (n =7), stood out compared to intellectual disability (Figure 7). The borderline intellectual functioning group appeared to have been affected by diminished capacity only, and could otherwise act in accordance with their appreciation. They were, for the rest of the comparison, similar to the ‘No Diagnosis’ group and were deemed to have full capacity globally.

3.2.6 COMPARISON OF MENTALLY ‘AFFECTED’ VERSUS MENTALLY ‘UNAFFECTED’ INDIVIDUALS DEPICTING PSYCHIATRIC AND OTHER RELATED FORENSIC FEATURES

The mapping out of a comparison between groups of those who were found to be ‘affected’ by mental illness versus those who were ‘not affected’, is displayed below. This comparison is one of the pillars of the study. The objective was to see whether there were any material differences between the two groups in terms of their psychiatric, psychosocial and any other related forensic psychiatric features. In this section the results of the ‘affected’ group are compared to those of the ‘unaffected’ group in terms of how they presented and/or in relation to their victim and forensic profiles. The age of the victim, the relationship between the accused and the victim as well as environmental and social matters linking the two groups are displayed. The terms ‘affected’ and ‘incapable’ as well as the terms ‘unaffected’ and

‘capable’ are used interchangeably. For ease of flow of the narrative, this section describes victims’ features first and then describes victims relative to the accused group. Later the victims’ profiles and other features are split according to the findings of the accused group’s mental incapacity (‘affected’) versus mental capability (‘unaffected’).

3.2.6.1 Description of the victims’ features

The number of victims linked to sexual offences charges in relation to the entire population of referred accused individuals was 78. There were 75 out of the 78 counts of victims that were included for analysis as their details were readily available (Table 6 and Table 13). In the three counts that had minimal information, the victim details were limited for variable reasons but the matching accused individual details were accessible and for one, showed that the accused was affected by mental illness ‘with (an explanatory) comment’ to the court. In another case the panel could not come to an opinion and in another case the observation had been cancelled. This meant that although the accused details necessary for the study could be deciphered from data, the same was difficult for the victims linked to the specific three cases. As much of the victims’ related findings are discussed forthwith including the three, as far as possible with specific references when their inclusion is not possible.

Victim age: According to victims’ profiles showed that the total number of victims exceeded the total number of accused individuals. This could be explained in terms of the multiplicity of criminal charges against the same individuals at times. There was an individual who was accused of offending against three minors. The average age of the victims was 21.11 years and the median age was 11. The average age was skewed by the extremes of ages with the lowest and the highest ages being 4 and 83 years old victims, respectively. There were six (n = 6) children who were 4 years old [6/78] making up 7.7% of the total population. Four year old girls made up [5/78] (6%) of the entire population girls and [5/6] (83%) of the subpopulation of four year olds. The ‘very old’ victims at the other extreme of age were not so prominent in terms of counts but the oldest was an 83 year old woman. There were 9/78 (11.54%) females and no males above the age of 60. In terms of density of age distribution, and as depicted in Figure 2, the majority of victims were less than the age of sexual consent of 16 [52/78] (67%). The average age when the victim was less than age 16 was 8.57 years.

Victim gender: The victim gender distribution of the entire group showed a majority of females at 70/78 (90%) of all ages and eight male victims (10%) (Table 6). All the male victims were of age less than 16 (less than the age of consent as defined in South Africa). There was a predominance of young girls at 52/78 (67%) who were younger than the age of consent in the entire group (of all ages). There were no adult male victims or male victims at or above the age of consent.

3.2.6.2 Victim age versus accused age matters

Figure 8 depicts the matching of each individual victim's age to that of the individual accused of a sexual offence against that specific victim. Each triangular 'dot' represents the exact victim/accused match and the graph shows the age distribution from the youngest to the oldest victim on the 'y' axis and the age of the accused on the 'x' axis. The stipulated age range of individuals referred for forensic observation at Weskoppies Hospital is age 18 and above as per specific official designation of the hospital, and thus the distribution display on the graph (Figure 8). The age of the victims matched to the age of the accused distribution was mostly in the age range below 15 (n = 52). The age of the accused seemed to be distributed across the range from age 20 to just under 60. This would then imply and as depicted in Figure 9, that the age distribution of the victim was younger than that of the accused individuals.

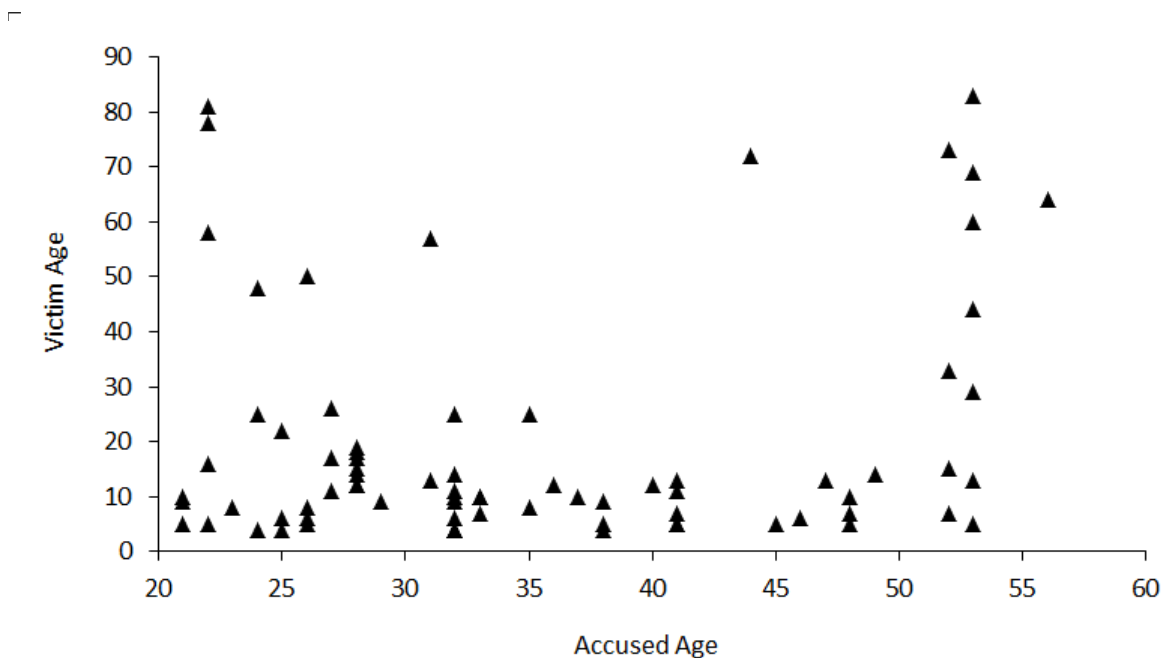


Figure 8: Individual victim ages matched to individuals accused of sexual offending

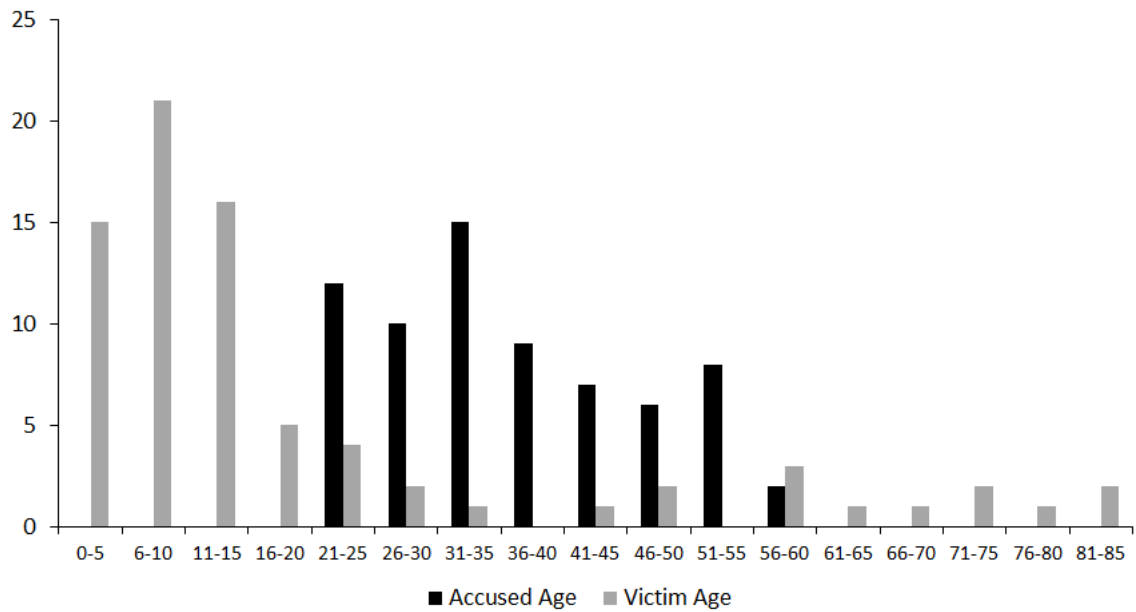


Figure 9: Victim versus Accused age distribution

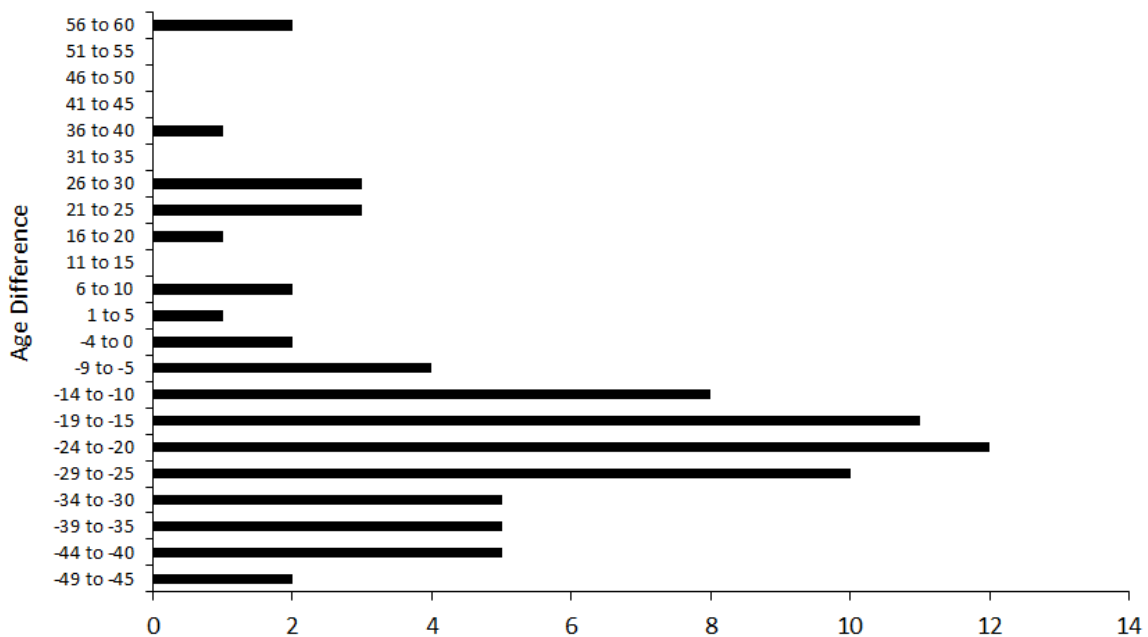


Figure 10: Distribution of age difference between victim and accused in years (accused age minus victim age)

In terms of the difference between ages of the accused and ages of the victims, there gap seemed big (Figure 10). Victims were much younger than the accused with the peak age difference at 20 – 24 years. That would mean the accused individual would be at least 20 years older than the victim at the peak of the age difference. The age difference led to the question whether there may be differences in the age

distribution of victims in terms of the diagnosis of the accused and other factors between the ‘affected’ and the ‘unaffected’ groups.

3.2.6.3 Victim age versus mental capacity of the accused to offend according to diagnosis

The presence of a psychiatric diagnosis in the sample did not imply automatic mental incapacity. As noted in the section on mental capacity above, those referred in terms of section 78 of the CPA, were found mostly ‘not affected’ at the time of an alleged offence (64%) after ‘any diagnosis’ was made. Intellectual disability and schizophrenia were the most diagnosed conditions with n = 16 and n = 11, respectively (Table 11). Within the group of individuals diagnosed with intellectual disability, 50% were found to be affected by the diagnosis at the time of the alleged offence (Figure 6).

The ‘other psychotic disorders group’ made up of psychotic disorders other than schizophrenia had 63% of the cases affected at the time of an alleged offence, as previously stated, but together with the intellectual disability group, they still did not differ much in terms of the age of the victim when compared to the rest of the ‘affected’, ‘unaffected’ as well as the ‘no diagnosis’ groups (Table 14 to **Error! Reference source not found.**). The implications of this result will be explored in the ‘Discussion’ section below even if statistical difference could not be measured effectively because the standard deviations showed vast swings to either side of the age spectrum with most diagnosis groups.

Table 13: Victim data breakdown: age

Victim total N	78
Victim with some but not all missing data	3
Mean age	21.11
Median age	11
Age less than 16 N	52 (67%)

Table 14: General summary of diagnostic groups and the age of the victim at the time of the alleged incident

	Mean	Max	Min	Std Dev	n
No Diagnosis	28.67	83	5	24.61	21
Borderline intellectual functioning	11.58	25	4	*6.58	12
Intellectual Disability	11.11	64	4	13.71	18
Schizophrenia Group	19.36	65	5	18.86	14
Other psychotic disorders group	21.63	72	4	24.70	8
Grand Total (Av. Age)	21.11	83	4	22.32	75

Table 15: Mental capacity affected x Schizophrenia group and the age of the victim

	Mean	Max	Min	Std Dev	n
Affected	18.05	72	4	19.26	19
No SG	16.92	72	4	19.99	13
SG	20.5	57	6	19.13	6
Not Affected	22.14	83	4	23.34	56
No SG	22.75	83	4	24	48
SG	18.5	65	5	19.93	8
Grand Total (Av. Age)	21.11	83	4	22.32	75

Table 16: Mental Capacity Affected x Intellectual Disability and the age of the victim

	Mean	Max	Min	Std Dev	n
Affected	18.05	72	4	19.26	19
No Intellectual Disability	24.27	72	4	23.65	11
Intellectual Disability	9.5	14	5	*3.25	8
Not Affected	22.14	83	4	23.34	56
No Intellectual Disability	23.83	83	4	23.83	47
Intellectual Disability	13.33	64	4	19.38	9
Grand Total (Av. Age)	21.11	83	4	22.32	75

Table 17: Mental Capacity Affected x Borderline Intellectual Functioning and the age of the victim.

	Mean	Max	Min	Std Dev	N
Affected	18.05	72	4	19.26	19
Not BIF	18.05	72	4	19.26	19
Not Affected	22.14	83	4	23.34	56
Not BIF	25.02	83	4	25.42	44
BIF	11.58	25	4	6.58	12
Grand Total (Av. Age)	21.11	83	4	22.32	75

Table 18: Mental capacity affected x Other psychotic disorders group and the age of the victim.

	Mean	Max	Min	Std Dev	N
Affected	18.05	72	4	19.26	19
No PG	14.21	57	5	13.35	14
PG	28.8	72	4	29.89	5
Not Affected	22.14	83	4	23.34	56
No PG	22.57	83	4	23.66	54
PG	10.5	12	9	2.12	2
Grand Total (Av. Age)	21.11	83	4	22.32	75

Diagnosis-wise, intellectual disability and borderline intellectual functioning appeared to have the youngest victim ages with victim mean ages at 11.11 [Std Dev 13.71] and 11.58 [Std Dev. 6.58] respectively regardless of whether they were affected by mental illness and/or intellectual disability or not at the time of an alleged offence (Table 14 and Table 17). When affected by the diagnosis, the intellectual disability group tended to have younger victims with an average age of 9.50 years as compared to 13.33 when not affected by the diagnosis (

	Mean	Max	Min	Std Dev	n
Affected	18.05	72	4	19.26	19
No SG	16.92	72	4	19.99	13
SG	20.5	57	6	19.13	6
Not Affected	22.14	83	4	23.34	56
No SG	22.75	83	4	24	48
SG	18.5	65	5	19.93	8
Grand Total (Av. Age)	21.11	83	4	22.32	75

Table 16). The ‘no diagnosis’ group victim mean age was 28.67 [Std Dev. 24.61] (Table 14). When plotted with the rest of the diagnoses (including the schizophrenia group as seen in Table 15) though, there seemed to be a similarity in terms of the overall victim age profile irrespective of the diagnosis as most of the victims, were below the age of consent. (See Figure 11 below also.) It seemed that whether the accused were mentally ill or not, the victims were still of the younger age distribution. The mean age of 21.11 calculation was affected by the extremes of age and is not demonstrative of the general trend in the age distribution narrative. The interaction of other features of the ‘mentally capable’ and the mentally ‘not capable’ groups with victims’ features is discussed below.

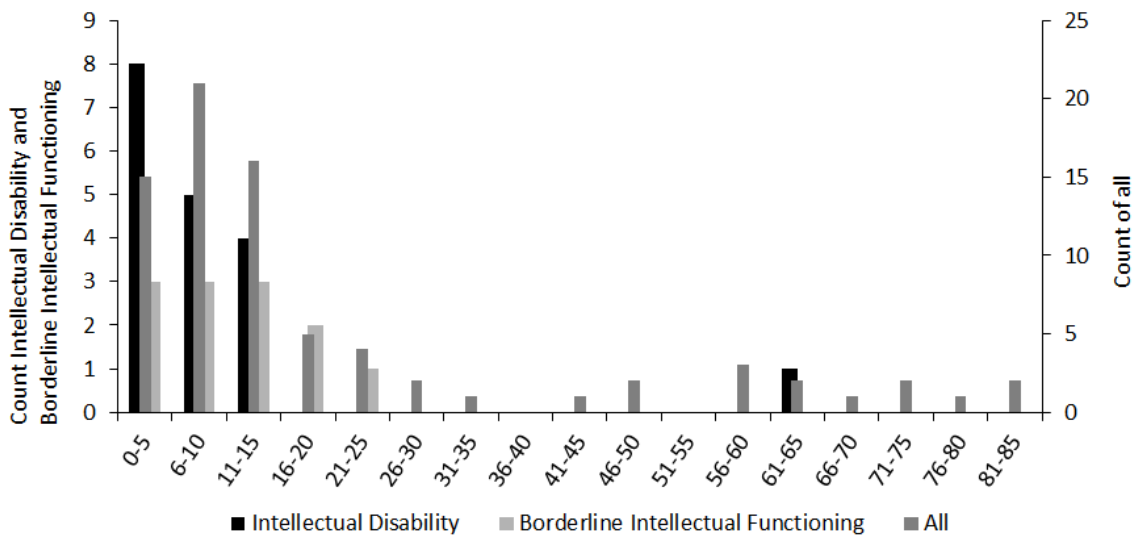


Figure 11: Distribution of diagnosis x victim age

3.2.6.4 Description of the relationship with the victim – when the accused was ‘Affected’ or ‘Not affected’

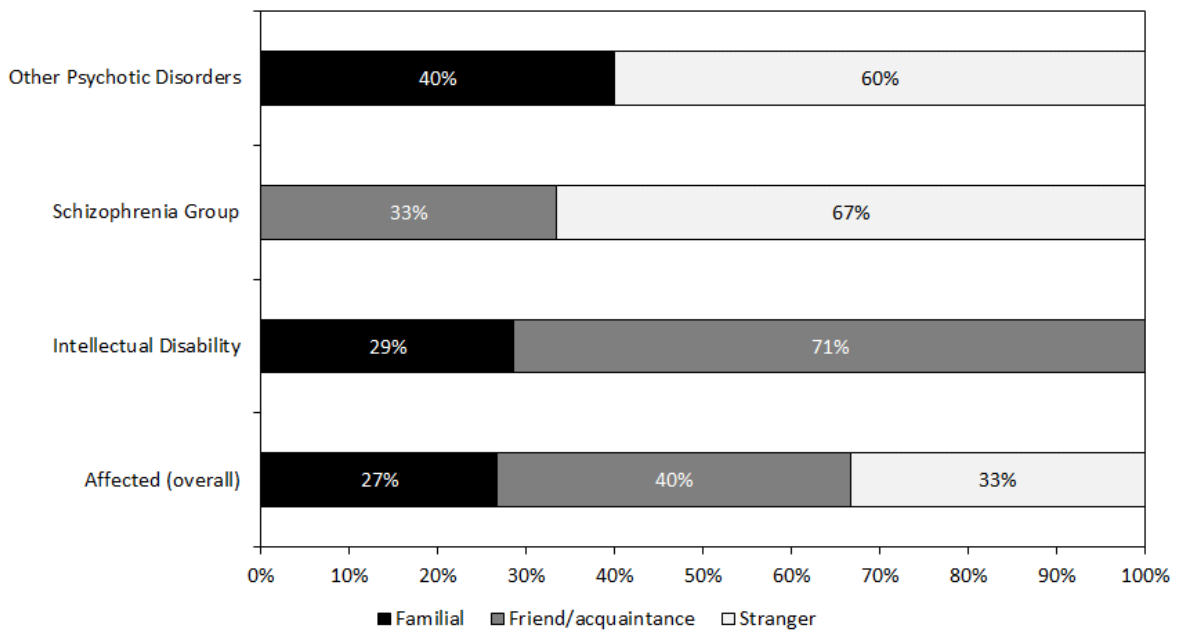


Figure 12: Relationship between a victim and a 'mentally affected' accused

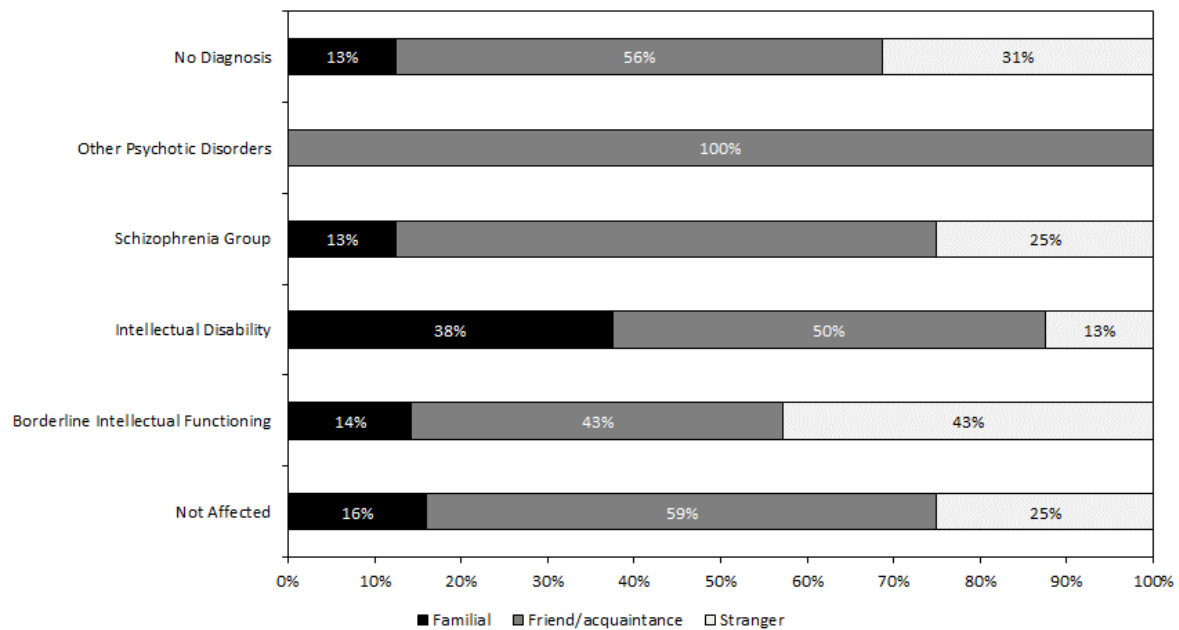


Figure 13: Relationship between a victim and a mentally fit accused

The status of the relationship between the accused and the victim was defined as that of family (familial), friend/acquaintance or a stranger. When the accused was affected by mental illness, the victim tended to be a person known to them as a family member in 27% of the 62 cases, or a friend/acquaintance as seen in 40% of cases (see Figure 12). Combined, in just under 70% of referrals during the study period, when the accused was ‘affected’ by a psychiatric diagnosis at the time of an alleged sexual offence, the victim was family or a friend/acquaintance. The intellectual disability group stood out in that when the accused was affected by the diagnosis, the victims were known to the accused as family or friend/acquaintance 100% of the time (Figure 12).

When the accused was ‘not affected’ by a psychiatric diagnosis at the time of an alleged sexual offence, the picture was (as seen in Figure 13) similar to that of the ‘affected’ group. The victim was family 16% of the time or a friend/acquaintance in 59% of the cases. This meant that in 75% of cases, the accused was known to the victim. The schizophrenia group was at a similar rate. The intellectual disability group, when capable at the time of the offence was family or friend/acquaintance to the victim 88% of the time (Figure 13). The psychotic disorders other than schizophrenia group seemed to be made up of friends and/or acquaintances, entirely. The ‘no diagnosis’ group, meaning the group of individuals most similar to the rest of the society around them, showed similar results as 69% of the cases were represented by family or friend/acquaintance victims. The relationship pattern for all the groups whether affected by mental illness or not then seemed to be made up of victims known to the accused even prior to the time of an alleged sexual offence.

3.2.6.5 Location of the offence – ‘Affected’ and ‘Not affected’ group

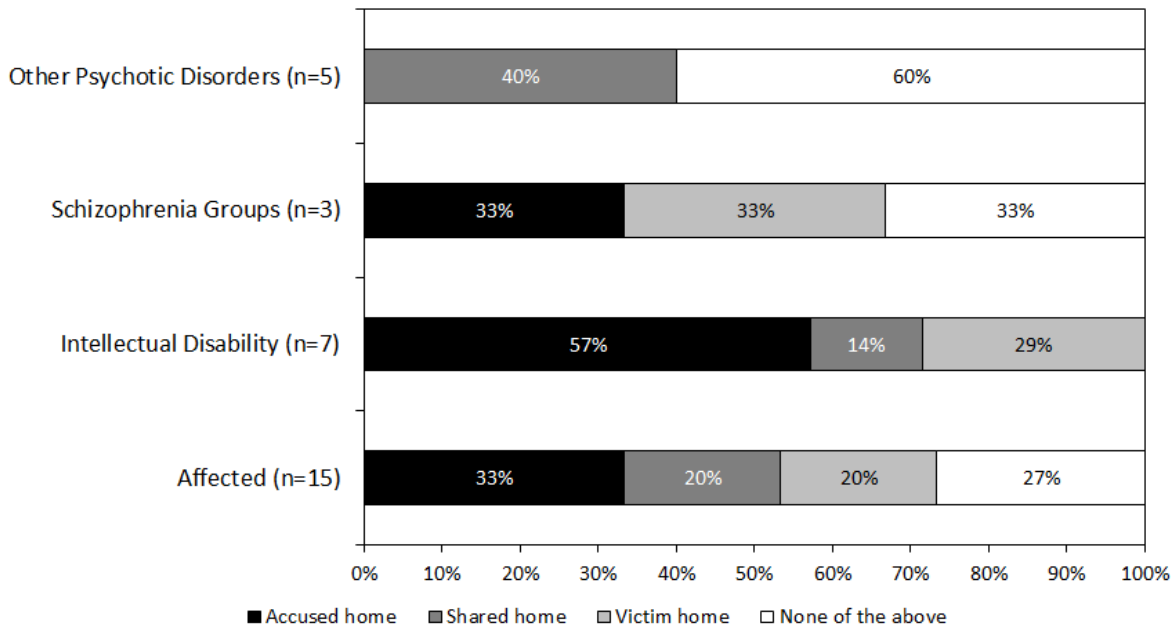


Figure 14: Location of the offence - mentally 'affected' group

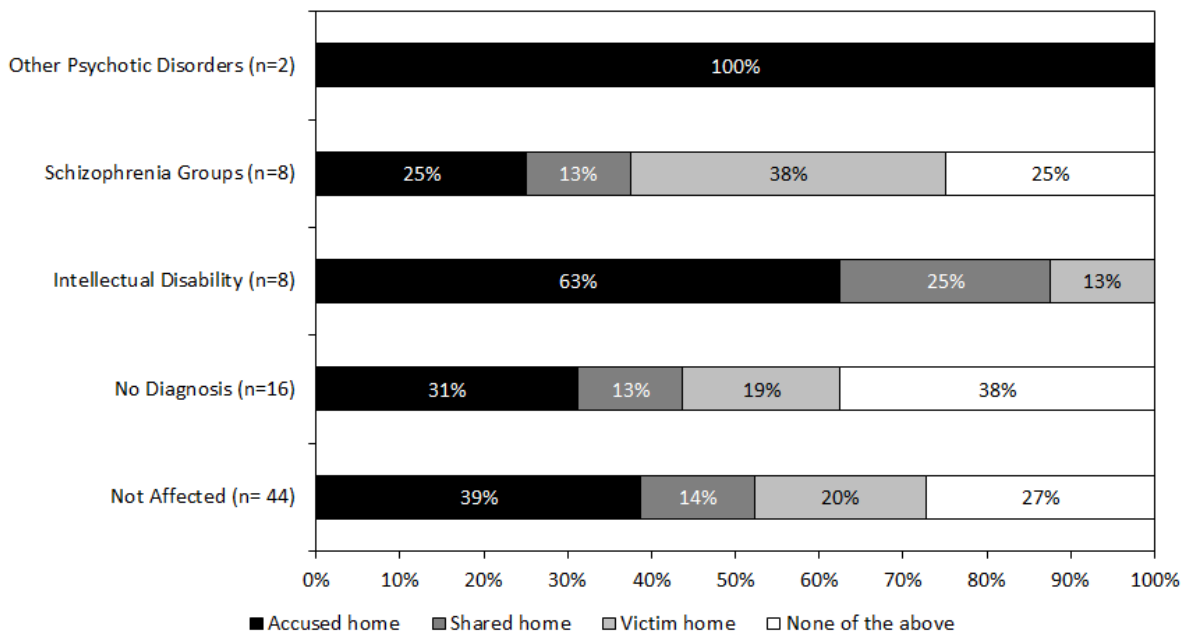


Figure 15: Location of a sexual offence - mentally 'unaffected' group

The possible places at which a sexual offence could have taken place were categorised in relation to the accused' abode, the victim' abode, a shared home between the victim and then none of the given options as depicted in Figure 14 and Figure 15 above. The location of the offence was not assumed to yield the same result as the relationship between the accused and the victim and so a separate category was

created in order to accommodate nuances where individuals may be family but may not share an abode or where friends or acquaintances may share an abode. Variations to the configurations may have been too numerous to make assumptions. That was part of the reason then for the categorisation and creation of the ‘location of offence variable’. In terms of the outcomes, the results of the ‘affected’ versus the ‘not affected’ group are similar overall though be it with some variation. For instance, the home of the accused was a common place to use in 33% of the ‘affected’ group and in 39% of the ‘not affected’ group.

The intellectual disability group as a standalone diagnostic category reflected an even higher observation of the location being at the home of the accused whether they were ‘affected’ (57%) or ‘not affected’ (63%). The rest of the time where an accused had the diagnosis of intellectual disability, a shared home or the victim’s home was used. There seemed to have been no occasion within the intellectual disability group when neither the victims’ nor the accused’ home were not implicated. Where there were no psychiatric diagnoses at all and where the individuals had a diagnosis but were ‘not affected’, the home of the accused was represented at a similar range, 31% and 39% of the time, respectively.

Incidence at a shared home and at the victim’s home were approximately the same for both the ‘no diagnosis’ and the ‘not affected’ group (Figure 15) The two groups are clustered together as they broadly represent those accused who necessarily had an intact mental capacity (like the rest of society) at the time of an alleged incident. Because the numbers are fairly small in the rest of the diagnoses breakdown, prudence may mean awaiting a bigger sample over a longer time period before further comments can be made about categories.

3.2.6.6 Substance use at the time of an alleged sexual offence:

Reports on substance use at the time of an alleged sexual offence were not confirmed with all cases on record, with 14/62 (23%) not determined (3 were unknown and 11 unspecified) (Table 20). Also, of the 48 that could be ascertained, the confirmation was as per reported information e.g. via the accused or collateral social reports in clinical records, at forensic observation assessment time or via court documents. The confirmation was not via biochemical tests at the time of an incident. Despite the listed drawbacks, the results are noteworthy still (Table 19 and Table 20) as they begin to paint a picture of what may be explored in a more succinct manner.

Table 19: Substance use at the time of an alleged sexual offence and the related diagnosis

	Unknown	No	Unspecified	Yes	Grand Total
--	---------	----	-------------	-----	-------------

BIF		2		5	7
ID	2	4	6	4	16
Schizophrenia Group		2	1	8	11
Other psychotic disorders		1	2	5	8
Grand Total	2	9	9	22	42

Table 20: Substance use at the time of an alleged sexual offence and the related mental capacity

	Unknown	No	Unspecified	Yes	Grand Total
Missing data	1				1
Affected	2	1	5	7	15
Affected with comment			1		1
Not Affected		13	5	26	44
Unable to Report				1	1
Grand Total	3	14	11	34	62

In just more than half of the accused who were referred with sexual offence charges and had a psychiatric diagnosis (whether affecting mental capacity or not), there was substance use at the time of an alleged offence [n = 22/42 (52.4%)] (Table 19). In approximately 60% of those who were assessed and were found to have had full mental capacity during the time of an alleged offence, there was reported substance use [n = 26/44 (59.1%)] (Table 20). Just under half of those whose mental capacity was affected at the time had used substances [n = 7 out of 15 (47%)] and the result could be more as only one (n= 1) was reported as had not taken at all and the rest (n = 7) could not be confirmed. All in all, 34 out of the total of 62 individuals (54.8%) referred for assessment after an allegation of a sexual offence were reported to have used substances at the time of an alleged offence, irrespective of their mental capacity (Table 20). The specific nature of the substances used was also not annotated always but anecdotal evidence and findings in the qualitative component of the study referred to alcohol use frequently in the context of sexual violence some communities (see The ‘Village’ section). The tavern or drinking place, for instance, became part of the theoretical framework of sexual violence for victims and for the accused individuals.

3.2.6.7 Use of violence at the time of an alleged offence

Upon analysis of the data on record, it emerged that the use of a weapon during an alleged sexual offence occurred in about 13% of the referred cases. There were other forms of physical violence which may have been used. Physical assault and threatened (promised) violence were used in 72% (n = 32/44)

and over 80% (n = 12 /15) of the cases that had a diagnosis (Table 21) but were ‘not affected’ and ‘affected’ respectively (Table 22).

Table 21: Use of violence at the time of an alleged sexual offence and the related diagnosis.

	Unknown	Other physical violence	Threatened physical violence	Use of weapon	Grand Total
BIF	1	5		1	7
ID	2	14			16
Schizophrenia Group	1	6		4	11
Other psychotic disorders	2	4	1	1	8
Grand Total	6	29	1	6	42

Table 22: Use of violence at the time of an alleged sexual offence and the related mental capacity.

	Unknown	Other physical violence	Threatened physical violence	Use of weapon	Grand Total
Missing data	1				1
Affected	2	11	1	1	15
Affected with comment		1			1
Not Affected	5	31	1	7	44
Unable to Report		1			1
Grand Total	8	44	2	8	62

3.3 DISCUSSION ON FORENSIC PSYCHIATRIC FEATURES, THE REPORT AND OTHER RELATED MATTERS:

3.3.1 GEOGRAPHY: RURAL VERSUS URBAN

In terms of geographical tendencies, no inference could be made beyond that it appeared as if more crude case numbers came from the more rural provinces of Mpumalanga and North West. That may have implied either a higher rate of detection of cases that needed CPA section 79 (CPA 1977) referral by courts or that there was more sexual offending in the more rural provinces per population size. That

referred individuals were in the majority referred from the more rural province of North West refutes what some had claimed in the qualitative group in-depth interviews. The sentiment had been that there may be less reporting of sexual offending in rural areas but the current numbers disconfirmed that. (See ‘Sexual offending’ chapter).

Time-series analysis approaches may have given more in terms of trends over time (Bradley 1999). The South African Police Service (SAPS) stats of that year 2014/2015 – 2015/2016 show that of all the three provinces Gauteng came in first place and had the most charges of sexual offence (18.5 % of 53617 cases) overall; North West and Mpumalanga were 5th and 6th at 8.6% and 6.5%, respectively (SAPS 2015). Not much can be said about the reasons North West and Mpumalanga sent bigger case-loads in that period, as trends would be a better reflection than cross-sectional stats.

What may need to be explored further are the reasons why the study profile emerged with NW having the highest and GP the lowest referred cases for mental health assessments (from specific demarcation zones and not entire provinces). This would become of interest if diagnosis profiles and offending patterns were to emerge from specific demarcated areas. Specific future sexual violence prevention models would need to take court referring patterns, environmental factors and social determinants of mental wellbeing into consideration (Wells, Claussen, Aubry and Ofrim 2012).

3.3.2 DEMOGRAPHICS: THE POLITICS OF GENDER DIFFERENTIATION IN SEXUAL OFFENDING

The majority representation of males as alleged perpetrators of sexual offending is not a surprise as national counts of gender-based violence with the male gender as the dominant figure remain stable over time (Moffett 2006). Sexual offending in the South African context is a highly contentious debate in many aspects including the reliability of reporting related statistics by law enforcement systems (Bruce 2010). It is though fair to accept that the referral of females to Weskoppies Hospital for forensic assessment after a sexual offence is rare given local anecdotal evidence. In the past, a 5-year sample from 2001 to 2005 showed nil counts of females referred for a sexual offence related forensic psychiatric observation (Sokudela 2009). The one female accused who was counted in the current study period of approximately 12 months, was co-accused with adult males to have offended against children – a recognised phenomenon in male-coerced female sexual offences typologies (Gannon, Waugh, Taylor, Blanchette, O’Connor, Blake, et al. 2013). That females can offend sexually is a reported phenomenon and the typologies of such females are variable depending on context and their mental health status (Beech, Parrett, Ward, and Fisher 2009). When discussed in the qualitative conversations reported in the section on ‘Sexual Offending’, sexual offending by women seemed to be something odd for the participants despite findings to the contrary elsewhere (Lambert and O’Halloran 2008). In their deductive thematic analysis of a website directed to them by law enforcement authorities, they found that women who visited websites designed for paedophiles were actively involved in seeking

material on children and displayed behavioural patterns similar to males. The question in the current study that will need exploration in another study is whether women who are referred for observation in the South African context fit the typologies seen elsewhere in the world. The notion that local transformative lenses on local patterns might yet emerge with dissimilar results given some of the unique local social phenomena is dealt with in ‘The ‘Village’’ chapters. The role of poverty and other related psychosocial features in sexual offending by both men and women might yield different results compared to samples from better economically resourced communities.

Social context has become important in explaining criminal behaviour (Gase, Glenn, Gomez, Kuo, Inkelas, and Ponce 2016). Sexual offending against adult males by both male and female perpetrators was dealt with disbelief in the in-depth interviews as physical responses to forced sexual activity were said to be impossible without the man’s willingness – a woman could not sexually assault a male victim - a common myth as research reviews show (Turchik and Edwards 2012). Sexual offending against males generally is held to be either not a common phenomenon or if it has happened is discouraged from reporting as it is perceived to be unmanly to report as discussed in the ‘Sexual offending’ chapter and in recent reports. Although it does not differentiate between perpetrator genders, the Sexual Offence Act (SOA 2007), has attempted over time to make it easier to define a wider array of emerging patterns of sexual violence involving females and male perpetrators and includes 70 subcategories of sexual offences and attempted sexual offences (SAPS 2016).

3.3.3 CRIMES RELATED FEATURES

The majority of the referred cases were for the charge of ‘rape’ (88.7%), as expected. The rest were made up of other kinds of sexual offences. This disproportionate representation of rape as a subcategory ties up with national statistics where it makes up 80% of all types of reported sexual offences (51895 in 2015/2016) and ‘sexual assault’ 12% (SAPS 2016). That the description of other sexual offence charges according to the definitions used in the Sexual Offences Act (2007) was not reflected in the current findings was noted with curiosity but cannot be speculated upon in terms of statistics. Entire records of court referrals in the region during the study period are not accessible logistically.

The co-occurrence of other contact crimes during alleged sexual offending of approximately 15% in the current study is difficult to measure against national or regional trends. Accurate data on that rate is not readily available from national sources. The term ‘contact crimes’ is used by the SAPS in the context of criminal behaviour targeting an individual or where property may be the primary target but an individual in the scene becomes a secondary target (SAPS 2016). The SAPS lists such co-occurring crimes to include: murder; sexual offences; attempted murder; assault with intent to do grievous bodily harm; common assault; and common robbery (SAPS 2016). The SAPS annual report corresponding with the study period notes “a sizeable proportion of sexual offences were committed during the

commission of other contact crimes such as robberies and murders” (SAPS 2016:42) and does not offer rates per population size or numbers (SAPS 2016). It may be that the occurrence of such contact crimes was the primary goal of the alleged criminal behaviour or sexual offending was the aim. It is hard to tell but nationally and elsewhere sexual offences may be opportunistic in nature. That may mean that sexual offending may not necessarily be the primary end-goal with an identifiable individual. It may happen as part of commission of another crime – a trend that may not necessarily be related to mental illness but to general criminal behaviour (Abrahams, Martin, Jewkes, Mathews, Vetten and Lombard 2008). This co-occurrence phenomenon shifts the goal post away from the link between mental illness and sexual offending. It may be that sexual offending may not be the primary outcome of a mental disorder or a mental disability in forensic settings, but rather the outcome of combined societal conditions including other crimes as suggested by Gase et al. (2016).

The finding that a small number (3) individuals may have been in the presence of a co-accused at the time of an alleged offence and had a ‘psychiatric diagnosis’ but were ‘not affected’ by the diagnosis, has to be explored further. Perhaps what may be implied is that the group with a ‘psychiatric diagnosis’ and whose mental capacity was ‘affected’ at the time of the offence, in all likelihood, acted alone. That would include the group with the diagnosis of intellectual disability who are usually expected to be easily influenced by others where suggestibility may play a role (Allan 2006:289). The current finding may be tending against common anecdotal notions of suggestibility but the sample period of approximately 12 months may be a limitation in terms of mapping out trends over longer periods of time. Gudjonsson and Henry had a similar finding with adults with intellectual disability (2003:241). They found that there was a difference between adolescents and adults with learning (intellectual) disability, with adults tending to not be easily persuaded to shift from their stance under pressure when compared to adolescents. Whether the same can be mapped out in the current setting would have to be tested further.

3.3.4 ACCUSED FEATURES VS VICTIM FEATURES

The ‘very young’ victims group of less than 16 were over-represented in the study with the youngest being four years old reflects the complexity of the sexual offences patterns as far as young victim profiles are concerned and what is seen countrywide and other contexts (SAPS 2016). The other end of the age spectrum with the oldest victim being 83 years of age in the current case has also been seen (May 2014; Jeary 2005; SAPS 2016). Dissimilar to the current study but unconfirmed as population-based prevalence studies in South Africa are not accessible at the time of the writing of this thesis. Cannell, Manini, Spence-Almaguer, Maldonado-Molina and Andresen in a United States of America national sample found a prevalence rate of 0.9% of sexual violation of the elderly (2014). Theory has been up to now, in the summation of available literature, that both extremes of age were vulnerable,

children and adults including the elderly (Thielen, ten Have, de Graaf, Cuijpers, Beekman, Evers et al. 2016; Jeary 2005; Sokudela 2009). For the current study, it is not disputed that sampling from a broader period of time to see the extremes of age from a larger scope may yield a more confirmatory representation.

The gender of the victims was as discussed above and showed a predominance of young girls and a sample of young males that resembled statistics in other studies. Barth, Bermetz, Heim, Trelle, and Tonia found that “8 to 31 % for girls and 3 to 17 % for boys” (2013:1) and “averages of 18-20% for females and of 8-10% for males” were found by Collin-Vézina, Daigneault and Hébert (2013:2). Turchik and Edwards reviewed other studies and found that approximately five to eight percent of American and British males reported exposure to sexual assault in their lifetime (2012). In the same review, they found that five to ten percent of victims were male (2012) and this resonates with the current study’s finding. The male representation in the current study was 10%. Previous studies showed national averages of male victims to be at around 4 – 14% (Ioannou, Hammond and Machin 2017), although inaccuracies due to underreporting are expected. The finding in the current study may be in keeping with that underreporting too. (See discussion on male rape in the ‘Sexual offending’ chapter).

The relationship pattern of ‘familiarity’ between the victim and the accused is one that continues to exist in literature over time. A study on gender violence and revictimization in South Africa found that the age of sexual assault by a known sexual partner ranged from 12 to 39 and that by a stranger or non-partner was before age 20 (Dunkle, Jewkes, Brown, Yosuhama and McIntyre 2004). The question would then be whether efforts to control and prevent sexual violence by those known to the victims in the ‘Village’ (as coined in the qualitative chapters) have failed or whether as some of the participants alluded to it in the discussions, there is no hope of reversing this phenomenon without addressing fundamental issues of trust and family secrets in communities. The question of vulnerability also applies here as discussed below and the ‘familiarity’ concept may have implications for rehabilitation and social re-integration in forensic mental health as well as for approaches in the prevention of sexual violence.

In terms of the location of where the alleged offence occurred where there were no psychiatric diagnoses at all, and where the individuals were deemed mentally stable and ‘not affected’, the split was fairly stable four-ways with the home of the accused and ‘elsewhere’ being equally represented relatively more than at a shared or victim’s home. This may mean that there was not much difference between individuals whether affected or not and also whether a diagnosis was found or not. The study would need to be replicated on a larger scale. The insistence is related to findings where it has been shown in the qualitative section of the study and in the qualitative analysis of the quantitative data that the different places where individuals might get sexually violated include the accused home, the victim’s home as well as neighbourhood places like drinking places or near those (see Addendum E). In the case of the presence of co-accused individuals during the commission of an alleged crime, the results are a

reminder of what is sometimes observed in practice, with intellectually disabled persons who are exposed to abuse and may be blamed for crimes they did not commit in some communities.

3.3.5 DIAGNOSTIC ISSUES

Intellectual disability had the highest frequency of being diagnosed after the ‘no diagnosis’ group and was related to the younger age group of victims like the other diagnostic categories although in the youngest component. Rice, Harris, Lang and Chaplin (2008) observed similar patterns with intellectual disability. The group in their review though did not exhibit paedophilic tendencies, a similar assertion in the current study. Intellectual disability, depending on the severity, was also linked to a higher likelihood of not having mental capacity at the time of the alleged sexual offence. The likelihood of being ‘affected’ if one had intellectual disability was in contrast with the finding that borderline intellectual functioning was mostly referred back to court as an ‘unaffected’ diagnosis. Often, and anecdotally from local practice, with borderline intellectual capacity it may be recommended that the court be more patient during court proceedings with the levels of functioning of those sent back under such categories. In terms of both diagnoses, there may be a notion that intellectual disability of varying degrees of severity may need to be monitored in specific ways in forensic psychiatry (Søndena, Rasmussen and Nøttestad 2008). Different indicators in terms of primary, secondary and tertiary sexual offending prevention in public health practice may need to apply in this diagnostic group compared to other general psychiatric diagnoses (Rice, Harris, Lang and Chaplin 2008).

The psychotic disorders other than schizophrenia groups may need further breakdown in larger studies as there may be valuable nuances e.g. in substance related disorders and the victim/accused relationship. Furthermore, the use of substances and the use of violence during the commission of a crime as reported (Table 21 and Table 22), have been noted in practice. The use of substances may be a reflection of broader social determinants of health (mental wellbeing) and deeper lying violence related social conditions in South Africa rather than being functions of mental illness only (Mayosi, Lawn, van Niekerk, Bradshaw, Abdool and Coovadia 2014). How the narrative of people exposed to substance abuse and to places where substances of abuse are found (‘taverns’, ‘beer halls’ and other similar social institutions) links to sexual violence with or without mental illness is explored further in the chapter on ‘Sexual offending’. The findings will have to be read together with the results of the relationship of the accused and victim being that of ‘familiarity’. In the case of familiarity, the victims are often younger than the age of sexual consent and substances and other forms of violence are used at times. The duty to protect the potential victim and the integrity of the psychiatrically unwell individual from the predicament of sexual offending, remains daunting.

About the psychiatrically unwell, the distribution of ‘any diagnosis’ in the forensic psychiatric reports showed that there was a fair proportion of psychiatric diagnosis in the overall sample. This showing may perhaps imply that the courts have improved in the detection of cases that need to be referred. It

may imply that there are more occurrences in the pool of alleged sexual offence cases submitted to the courts in the first place. When reviewing the trends at national level as released by the national department of health’s mental health directorate annually, the number of forensic observations has gone up year on year by approximately 7% between 2015 and 2016 (see Figure 16) (Motaung 2017).

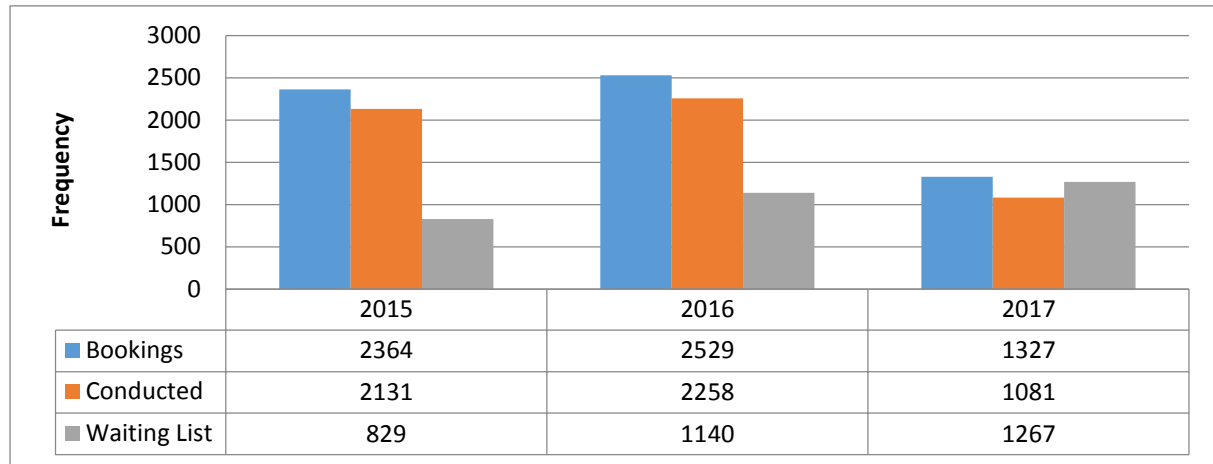


Figure 16: Forensic observations 2015 – June 2017 as per National Department of Health Annual Statistics

Different kinds of research designs and not the current, may decipher the speculated improvement of the courts better. In the current study, the biggest standalone category though has been the ‘no diagnosis group’ reflecting that still, at least a third of those that get referred for forensic observation are found to have no diagnosis and further, about two thirds were ‘not affected’ the result is concerning, resource-wise. In the ideal and accurate environment the ‘no diagnosis’ group ought to be much smaller. Those that need to be referred ought to get referred versus the referral of ‘unnecessary’ observandi. Sensitive screening and detection at court level may require the so-called ‘mental health courts’ in resource-stricken populations like South Africa despite the mixed opinions on this kind of diversion programme (Petrla 2004; Redlich, Steadman, Monahan 2005).

Taking the matter of court referrals and the presence of a diagnosis further, approximately half of those observed, whether they had a psychiatric disorder or not were found not to have been affected at the time of the alleged offence. This may be an indication that the diagnosis of ‘any’ mental illness ‘affecting’ the referred individuals was low. There may be good detection of the need for observation for suspected mental illness, the mental illness confirmed during observation does not necessarily ‘affect’ the accused. This is similar to previous findings of a similar population over a longer period of time in the same forensic unit (Sokudela 2009).

The respect of legal rights to forensic psychiatric observation when there is a suspicion of mental illness, still stands even if the human rights underpinnings of forensic mental capacity evaluations may be in question in certain quarters. In the quest for equality before the law, there has been a debate about

people with mental illness having guaranteed rights to stand trial irrespective of their mental status and the parameters used to measure mental capacity (Fogel, Schiffman, Mumley, Tillbrook and Grisso 2013). One of the ideas is to emphasise the (constitutional) right to stand trial irrespective of one's adjudicative (mental) capacity to follow court proceedings as a fundamental right that is in tension with the right to be protected by society from standing trial when incompetent to do so (Gooding, Arstein-Kerslake, Andrews and McSherry 2017). There are dissenting voices as well when the protection of those who lack adjudicative capacity is raised despite concerns about lengthy periods of hospitalisation or detention in some countries including South Africa (Freeman, Kolappa, de Almeida, Kleinman, Makhshvili, Phakathi et al 2015). Another voice stands that: "A mentally unfit individual should not be subjected to the rigours of a criminal trial, but should have at least the same protection as a fit defendant." (Howard 2012:430)

3.4 LIVING WITH MENTAL ILLNESS: SIGNS AND SYMPTOMS

The second part of this chapter deals with various perceptions on living with mental illness as derived from the qualitative component of the study (signs and symptoms), the experience of mental illness in the social context and ultimately the participants' critique of the forensic observation process. Some co-observers and observer perspectives are also outlined. In subsections, the most relevant in vivo codes, theoretical codes, themes and focused discussion drawing from literature are used. Highlights of the research process specific to the current section are also discussed.

A combined (mixed) summary of emerging assertions and theory emerging from both the quantitative results above and the qualitative component on living with mental illness herein, is given. As aforementioned, this format will be repeated throughout the 'Findings' chapters in the rest of the thesis culminating with overall summaries, conclusions and implications. This is to aid cohesiveness in the reporting of the findings as there is a fear that the vast details would be lost in the telling if written in the tradition of a separate section on all the findings, and then a discussion on the implications of findings followed by conclusions on numerous factors as per norm. The 'Findings' in the study needed to be tightly summarised to keep the details, although plentiful, as concise as possible. The resultant approach then is that of standalone chapters in the form of complete findings and corresponding discussions.

3.4.1 SIGNS AND SYMPTOMS AND PAST PSYCHIATRIC HISTORY:

3.4.1.1 An alternative glossary of symptoms: "Inetwork yatshaba" (Your network disappears)

The participants had various and unique ways of describing their experience of mental illness. The following examples are not exhaustive but depict personal perspectives and expressions of their

experience over time. Some were familiar and similar to given standard descriptions as used in the field of psychiatry and some were not:

“My illness manifested with things crawling on the head and I would check... I then started having a funny feeling that I was not myself... My mood was down and I was not feeling like myself.” 1893 - 1896. C02.

“I was hearing voices; seeing things like animals; crawling sensation; feeling of being watched; irritability; pain in the whole body; and a feeling as if I couldn’t control body parts.” 1900. C02 **“My performance had been going down; I was sleepy and stodgy; I would sleep in meetings; I was not able to jot a (mere) memo.”** 1905. C02.

Later it would be established that the only certain diagnoses that could be made according to the psychiatric report diagnosis was: Major Depressive Disorder... 2196. AS03 on C02

This description was an illustration of how sociolinguistics of mental illness in culturally sanctioned ways are difficult to contain (Motlana, Sokudela, Morake, Snyman and Roos 2004). In the instance of participant C02, dissociative features versus ordinary perceptual disturbances in culture-bound syndrome contexts seem difficult to separate (Kruger, Sokudela, Motlana, Mataboge and Dikobe 2007).

Another participant expressed emotional distress that may have been similar to what C02 above was describing. His was disruptive behaviour combined with mood symptoms, but in a different manner:

“I was planning to do Medicine... and had received a scholarship. (Afterwards) I heard from people that I was provoking people. Playing with small children and insulting people.” 3588. C03 **“I had depression and stress and appetite changes and “kitletsi moyo” (seTswana: full of emotions). I had to change treatment and got admitted into hospital and was given Ridaq and Haloperidol and Modecate monthly... (And) at some stage an antidepressant? 3683. C03. “I became suicidal and attempted twice. The first time I mixed up tablets and slept for 3 days... I then got hospitalised for two weeks. No, I haven’t told anyone before now that I had attempted suicide... I felt fine after the two weeks.” ... 3688. C03.**

After the revelation of a past suicide attempt that had not been divulged previously, counselling and relevant support were offered to this participant, as per research protocol. Yet another participant gave a different set of terms that described emotional distress and even a depressed mood in a different manner to C02 and C03 above:

“I suffer from “thinking too much with my heart” “a sore heart that speaks too much.” 4033. C04. **“Your mind changes and you get confused and come and go. I then become**

unable to do housework or chores. I have no energy... and you get irritable and you just want to go and sleep” ... 4142 – 4145. C04.

“Inetwork yatshaba” (IsiZulu: Your network disappears - your mind stops working). And you hear something in the ears and then you hyperventilate. “It is difficult to describe it” 4145. C04. “I see things. I see things in my dreams. I can see into the future. No, this is not part of mental illness” (Implying that it may be part of his traditional healing systems?) ... 4172. C04

The debate whether what the participant described was not a symptom of mental illness versus it being a manifestation of a religious experience and spiritual phenomenon has long been standing. In their inquiry on people with or without a need for care in the presence of persistent psychiatric experiences, Peters, Ward, Jackson, Morgan, Charalambides, McGuire et al found that there may be individuals who remain well despite having psychotic symptoms (2016). What is mental illness versus what are spiritual or unique manifestations of ‘being’ and belief systems remains an open-ended question with regard to individuals who remain otherwise healthy and functional in the presence of some psychiatric features.

As far as terminology is concerned, often in psychiatry and in the context of South Africa’s twelve official languages (including South African Sign language), there seems to be difficulty in expressing symptomatology using local languages. The need and call for the creation or addition to the glossary of terminology in different languages came from most of the participants irrespective of their sampling categories. The need demonstrated the universality of some of the symptoms that psychiatry may have been struggling to describe for a while in the local context using local languages (Motlana, Sokudela, Moraka, Roos and Snyman 2004; Poee, Sokudela, Roos, Motlana, Dlamini and Snyman 2010; Benjamin, Swartz, Hering and Chiliza 2016). In a court of law, a similar difficulty may be experienced from the interpretation of local languages as the use of an individual’s language is a human right (Constitution 1996: Chapter 2: Section 9 (3)) and all individuals are equal before the law (Constitution 1996: Chapter 2: Section 9(1)). The quality of language interpretation is important in preserving this right as some early local studies show (Lebese 2011). How much more then, where mental illness is implicated, are terminology and colloquialisms important (Swartz and Kilian 2014), as has been under general medical contexts where health care professionals are not proficient in the languages of the population served (VanderWielen, Enurah, Rho, Nagarkatti-Gude, Michelsen-King and Crossman et al 2014). The referral of a person for a forensic psychiatric evaluation who, by all means of illustration, was not mentally ill but had a language barrier in court, has been anecdotally evident in the past. This is at least according to anecdotal evidence in the Weskoppies hospital context.

3.4.1.2 Reported signs and symptoms at the time of the incident:

Some participants also shared their perspectives and experiences at the time of an alleged incident. The frankness of the descriptions was taken at face value as it could not be tested against documented court evidence. Whether mental illness was confirmed or not during the formal observation was immaterial at data collection time. It was the participant's subjective accounts, whether fitting a known psychiatric syndrome or not, that were sought the most:

“I was still taking treatment at the time of arrest” 1904. C02 “Something came into me... a spiritual attack... a strange feeling in me... I felt as big as a monster” 2026. C02 “One of the symptoms was fear... I was so fearful; I was like a toddler” 2039 - 2041. C02

“It was as if I woke up from some kind of sleep I was in... I was not fully alert...and there was no one immediately to tell me what had happened... I woke up and looked around and asked “where are we... and... what are we doing here... ” 2006 – 2017. C02.

“I had to figure out for three days what was happening... On the 3rd day my wife came and told me. I did not remember the dates... I ask myself why me... Also people die. Others did not go to jail... I’m not saying those people have better lawyers (but)... 6585 – 6589. C07

“That day, I did not get anointed because I heard voices that he (my father) will die... I asked the voices to take me far away... The voices said to get into (the) car... 6666 – 6670. C07....

“At first I wondered whether I’ll be on medication for the rest of my life... I’m not crazy “I made a mistake” – I’m not crazy – I don’t have any mental illness... What was diagnosed was because of depression and anger... I attended sessions about anger management... Everyone has depression and stress... I don’t understand how it ends up overpowering me... At the prison hospital...I was surprised to see “abazali” (IsiZulu: ‘parents’ or people of my parent’s age) nurses, police officers with bigger problems than mine... It kept me stronger.”... 4795 – 4804. C05

Both C02 and C07, at the time of the in-depth interviews were reporting that they had difficulty recalling the sequence of events around the time of their alleged criminal behaviour. The defences of amnesia and, in either situation, dissociation and/or disorientation are not unfamiliar in the context of typical forensic psychiatric evaluations (Kaliski 2006). Amnesia especially is often associated with recognisable neuropsychiatric and other conditions where a cause can be deciphered. Whether that was the case with these specific participants or amnesia in their separate instances was due to the more ominous reason- malingering – was not confirmed, nor was it the focus of the interviews. That their

accounts were part of an ordinary manifestation of stress was a possibility that could not be confirmed. The experience of stress and trauma by an alleged perpetrator is discussed below.

Further along, the issue of justice, fairness and equal treatment before the law, began to show itself during conversations about participants' accounts of their mental status at the time of an alleged offence. It was as if the participants were getting a second chance to review their presentation of their defence and to evaluate themselves in the presence of the researcher and co-observer. Whether the environment felt safer than the formal observation context cannot be speculated upon but is discussed in the 'Qualitative critique of the forensic observation process' section below. It is also touched on in the 'Life in the hands of justice' chapter.

3.4.1.3 Substance related matters:

The relationship between signs and symptoms manifest in those who used substances of abuse emerged as a feature during the in-depth interviews. Some participants went as far as pointing out their problematic behaviour in relation to their problematic substance use. Psychosocial underpinnings of the behaviour were given too. The following in vivo codes and categories are a few of the most significant notions of psychosocial dysfunction related to substances of abuse:

“I tended to drink on Saturday and Sunday. I would take three to four beers and probably pick up a fight with a person, take out a knife and fight and wouldn't remember what I'd done in that state afterwards. I would just see scars on my body as a tell-tale sign that I had been fighting” 2410 – 2415. P05

“I broke up with her because of alcohol... I used alcohol excessively... I was sent to rehab... and then... years later I started drinking again because she was choosing my friends for me, telling me to stay at home or go with her only... She wanted control over me, yes... She wanted to be the man in the house” 6371. C07

Participants P05 and C07 above linked problematic behaviour classically to problematic drinking. For P05, the description told of what would otherwise be described as pathology e.g. anterograde amnesia associated with binge drinking (Wetherill and Fromme 2016; Perry, Argo, Barnett, Liesveld, Liskow, Hernan et al 2006). There was no direct link to psychiatric symptoms.

“I did not see myself until I was at... hospital... I was there for one (1) month and then later I left the treatment... I would hear voices... I was not on any drug... I had last smoked dagga (cannabis) years back... during my matric year... Friends taught me the habit... 5918 - 5920. P08. I then smoked by myself and supported the habit through the selling of steel/metal picked up in the neighbourhood... 5923. P08

“I stopped smoking dagga because I was told at the clinic to stop it because it did not get along with the treatment... I was taken to the clinic when I relapsed and that’s when I was told to stop smoking dagga.”... 5924 – 5927. P08

The relationship between substances of abuse and mental illness has long been illustrated to be significant to criminal behaviour (Peters, Wexler and Lurigio 2015; Butler, Indig, Allnutt and Mamoon 2011). Whether the use of a substance of abuse precedes mental illness or is as a result thereof, is of common discourse. The human rights aspects of rehabilitation services provided for those who have the combination of mental illness, substance abuse and criminal behaviour in prison and in the community has also been of concern (Peters, Wexler and Lurigio 2015). Experiences on life in prison in the current study will be discussed in the chapter ‘Life in the hands of justice’. In the present section, the findings in relation to substance use and criminal behaviour and/or mental illness have been illustrated with some of the participant’s examples. The qualitative component supported the quantitative finding that substance use was reported at the time of an alleged incident, whether it had subsequently caused mental illness or not, in 54.83% of the cases. Perceptions on the specific link between substance use and sexual violence are discussed under the ‘Sexual offending’ chapter.

3.4.2 SIGNS AND SYMPTOMS AND TRAUMA-RELATED CONDITIONS AS EXPERIENCED BY THE PERPETRATOR (BECAUSE OF THE PERPETRATOR):

Exposure to trauma whilst perpetrating a crime became part of the narrative that was shared by some of the participants. It was not anticipated by the researcher that the subjective perspective of an alleged offender feeling traumatised by his own deeds would become a strong point to note, but it did. Although not all the participants volunteered and confirmed the allegations against them but, for those who did, some gave a history of trauma-related symptoms. The researcher drew a ‘note-to-self’ at the time: ‘post-traumatic stress disorder in the perpetrator, by the perpetrator’.

“I was “sick in my mind”... The incident was still fresh in my mind. I was hearing voices and seeing things.” 1867 - 1869. C02

“To kill a person is a difficult thing when you know it... When sleeping I’d see her and ‘she’ (spouse) asked at night what was the matter... I had nightmares... I carried on working. And then I did the same thing again (I killed another woman again) 2651 – 2653. P05. “When I killed the first person and when I killed the second person, I would dream as if the person was in the house” 2751. P05

“I became depressed and stressed and I tried to work things out.”... “She made up her mind”. “She was not going to listen to me” 5067 – 5109. C05

“I don’t remember, but she said I came up to her and I started stabbing her all over... I may have thought of killing myself and her as well.” 5093. C05

And then after the alleged incident the participant was admitted into hospital and gave the following account of his symptoms during the time of that admission:

“I always speak to myself... Speak to my heart... That’s not good... It felt as if “kepepile lefatshe” (SeSotho: I was carrying the world on my shoulders). I couldn’t sleep for four days... Sleeping tablets did not work... “Over-thinking things” can affect you in a negative and positive way... (The) negative way takes over... When negative, I always wanted to be right... And would get angry... And I do things that make me wonder at myself... I thought my thoughts were more important than others... 4808 – 4813. C05

Another participant accounted:

“I have been unwell... When I start getting ill I feel “distress and depression”. The person who caused (my depression) is the one for whom I was arrested... 5323 - 5325. C06

“I was depressed and did not get treatment... My depression started then (in prison).”... 5700. C06

Trauma-related conditions seemed prevalent for especially those who were involved with acts involving murder and attempted murder in the intimate partner and domestic violence context. Moreover, some of the participants, like C06 above, seemed to be blaming the victims for symptoms of mental distress experienced after altercations. In the case of C06, the altercation led to his arrest for the charge of murder of the victim. The phenomenon of blaming the victim although not universal, became a common feature shared by some participants. The blame-shifting was also reflected upon in depth in the ‘Sexual offending’ chapter.

The non-receipt of medical treatment whilst in prison once trauma-related symptoms emerge may be a signal of gaps in the correctional service system as discussed in the ‘Life in the hands of justice’ section. Symptoms starting in prison after the incident may be a common feature if the participants’ responses above are to be considered. Studies have shown that there is an increased prevalence of mental disorders in prison populations (Peters, Wexler and Lurigio 2015) irrespective of predisposing factors.

What may be contributory to the increased prevalence of mental disorders may not just be the higher premorbid predisposing factors in the prison population. Exposure to subjective trauma whilst perpetrating a crime may be contributory too. Dutton linked trauma related symptoms in perpetrators of intimate partner violence to early life experiences (1995) and not necessarily to violence inflicted on others. In the qualitative component of the current study, trauma related symptoms seemed to be about incidents inflicted by the accused individuals, when applicable. The notion of being mentally unwell as a result of being involved in the perpetration of violent crimes may need to be reviewed. It is often

thought that correctional interventions start after the accused individual is convicted but the findings herein suggest a need for supportive interventions in the pre-trial and trial periods.

Perhaps the need for supportive interventions is being addressed already, to an extent, however perspectives shared by some of the participants suggest that greater effort may need to be realised for further-reaching results. Access to healthcare services whilst in prison may be limited as has been demonstrated in other contexts (Peters, Wexler and Lurigio 2015; Gannon and Ward 2014). The refrain from some in society may be that the victim-survivors deserve more attention and transitional justice retribution (Benyera 2015) than the alleged perpetrators. The individual who has not been proven guilty before the law yet, as in the case of the current study, may demand equal justice in the pre-conviction context though. One of the headings, in the 'Village' section below, covers the issue of how society handles remand detainees. In the study, some of the participants charged with intimate partner violence (IPV), especially those charged with murder and rape seemed to have experienced trauma-related syndromes (and not necessarily disorders) in the course of their imprisonment. Whether the primary traumatic event was the case against them or life before or thereafter was not always clear. What was clear was that there were symptoms of distress related to the trauma they had admitted to perpetrating in a manner as has been seen elsewhere (Evans, Ehlers, Mezey and Clark 2007).

3.4.3 FAMILY AND COMMUNAL BELIEF SYSTEMS: UKUPHAHLA MEANS “TO KILL A GOAT AND SPEAK TO THE ANCESTORS WHEN (YOU HAVE DIFFICULTIES)”

When difficulties arose, some of the participants were given the aetiology of what may have been mental illness by other healing systems in several ways:

“My parents are Christians and my aunt is a traditionalist and uses “ukuphahla” Ukuphahla means “to kill a goat and speak to the ancestors when (you have difficulties)”... When I first became ill, my father took me to a traditional healer... The “bones and herbs” type... The traditional healer said “a woman did this” 1650 - 1654. P04

Another participant: **“I did not complete grade 12 because of stress from home. It was the effect of a book that was stolen and blinded me up [sic]”** (Implied: bewitchment is given as a reason for dropping out of school)... 895. P02

Another participant also believed that he became mentally ill because he was an above-average scholar and did well in his matric examination. When he became unwell after matric: **“Family took me to traditional healers but that did not help because you would go and... steam and bath and drink and “the voices are still there” with all of that.”** 3691. C03. This meant that all the listed traditional healing interventions did not help to alleviate what sounded like perceptual disturbances. A co-observer/interpreter sitting in with the researcher and C03 expanded: **“The explanation of bewitchment around “clever people” is common and is typical of good grades.... the common**

thinking is that academic excellence may lead to jealousy and the bewitchment.” 3702. INT04 on C03.

Expertise in healing methods was mostly bestowed to traditional healers but a different understanding came from a co-observer/interpreter after a session with a participant whose father had no traditional healer calling or abilities but was his wife’s assistant. The wife was the traditional healer. In the context of that exchange, INT01 suggested though that some may have been just ordinary skills. Ordinary folk with no traditional healing calling could become skilled in picking out certain commonly used herbs used for healing ailments: **“Some of these things are not taught e.g. Serokolo** (SeTswana: minty tasting root) **or Lengana** (SeTswana: medicine for colds and flus = Umhlonyane in isiXhosa) **that can be picked by anyone and then be used for medicinal purposes.”** 4050. INT01 on C04.

The communal knowledge systems depicted by INT01 above, were also confirmed by another participant: **“No, I was not undergoing training. I was working for a man who was undergoing traditional healing training instead. I would get food for assisting him with the picking of herbs”** 2933. P06. They were also confirmed on a lighter note: **“I used to eat Serokolo – no, without anyone having to give it to me as they would have in those days.** [Laughing +++]... 4054. INT01 on C04. The revelation was that INT01 was a Serokolo thief – much like stealing sugar.

Given the accounts above, it appears that although formal traditional health practitioner consultations were a norm as part of most of the participants’ help-seeking behaviour, once emotional distress or mental illness was experienced, matters changed. There would then be consultation of a wider communal belief system and traditional medicine knowledge system that were not necessarily linked to the bewitchment concept– a commonly held belief, nor to spiritual explanations of illness that would have been in the domain of diviners and similar practitioners only. Healing systems outside the medical sphere are known to be used by individuals who encounter mental illness for the first time in the South African context (Motlana, Sokudela, Moraka, Roos and Snyman 2004; Mzimkulu and Simbayi 2006).

3.5 LIVING WITH MENTAL ILLNESS: BELIEF SYSTEMS AND HEALING

Most of the participants referred to traditional belief systems dichotomies or plurality that had an influence in their lives irrespective of whether they were adherent believers in traditional or other systems. The theme of traditional healing became saturated early in the conversations. It became odd, rather than the opposite, if a person would not raise the issue spontaneously as part of their value system as life experiences and perspectives were shared. In the rest of this section complexities with respect to living with mental illness in culturally diverse belief systems become the focus. Dimensions of the theme are unpacked making use of illustrations and later discussions on a few specific participants.

Although there was diversity in presentation, there seemed to be an emerging universality in belief system structures.

3.5.1 WHEN BELIEF SYSTEMS CLASH: “THE CHURCH PRIEST WHO DID NOT APPROVE OF IT... HE SAID IT WAS DEMONIC”

3.5.1.1 *Church versus others:*

Religion, African and other traditional belief systems and so-called Western medicine (which is a belief system in its own right) were displayed as sometimes clashing and manifesting in distress in the individual involved. The distress could be labelled psychiatric or otherwise depending on the distressed individual’s belief system perspective. When the individual was looking for solutions to the distress, like participants such as C02 were, then explanations arrived at may have been attempts to make meaning of complex life experiences:

“My mother is the cause of ‘the problem’ (because she did not complete her faith-healer training). My parents were (church-goers). My granny and all of them... My mother then discovered that unomoya (is spiritually gifted)” 1937. C02. That was described as the beginning of the problems because certain spiritual processes would then not have taken place according to the mother’s world order and ‘the problem’ would not have resolved.

“It (Umoya) (isiZulu: the spirit) can come in different ways: ukuthwasa (a calling to be a traditional healer), to be a prophet, or ukugida (isiXhosa: to give praise to the ancestors) or as amafufunyana (isiXhosa: spirit-possession). This was not umoya to be a sangoma (isiZulu: a diviner). My father then ran to the church priest who did not approve of it (my mother’s faith-healing calling). He said it was demonic... She did not say that it will come back harshly on you or your children... You cannot take it away at your own will.” 1940-1945. C02

The implied sentiment was that because C02’s mother had not followed the ancestral processes fully, ‘umoya’ came back to her children, specifically the participant, and caused a ‘problem’ as put by him. The ‘problem’ was later defined as ‘the calling’ that was diagnosed when the participant started consulting specialists in the field of African traditional healing systems:

“My grandfather was inyanga, a “witchdoctor” (a derogatory term) (Nguni: iNyanga is a traditional healer). My mother’s side was of faith-healing spirits...When I started going around asking for help to gain understanding. “Ukubhodla” (isiZulu: being filled with the spirit) meant there was a spirit and the question was asked who is this ancestor [sic].”1951. C02

The participant expressed ambivalence about what all of that would mean for him as ‘the problem’ had manifested itself in the form of mental illness according to him. He explained that: **“I am battling to link amadlozi nokugula”** (isiZulu: I am battling to link this ancestral spiritual calling to mental illness) 1961. C02. As much as he battled with the link he said that he was also aware of the repercussions of not following the call: **“We have known of people who end up getting divorce and leave their home or of businesses collapsing... Others are aware of the calling but will not need to do more.”** 1959. C02

All of the above was part of an explanation that the participant found himself accused of a major charge because he had ignored his ancestral spiritual calling. The calling had been ignored in turn by his parents in favour of Christian belief systems. Whilst this explanation was being given, INT03 (a mental health care practitioner with a nursing background but with knowledge of the expressed traditional healing systems) was co-observing and gave a sceptical analysis after the session: **“Where is the vision of the calling? ... A typical calling would involve the calling and then resistance and then illnesses.”** 1971. INT03 on C02

“There’s a genetic linkage to the calling.” 1987. INT03 on C02. It turned out that the basis and the explanation given by C02 to ‘the problem’ would be doubted by co-observer INT03 who professed to have observed similar processes of ukuthwasa in other social contexts. INT03 was also battling to identify the calling altogether, whether it was linked to mental illness or not. The researcher could only listen in and learn. This illustration brought the matter of cultural competence in the African context into focus (Mkize 2003) as it may not have made sense at all to naïve others.

3.5.1.2 Psychiatric systems versus others: “They take me to the traditional healer. I take myself to the clinic.”

Psychiatric systems could be up against traditional healing systems as depicted through the following rich thick description:

“At the same time I had started taking medication from my mother. Herbs. I took them along with the medication from the clinic... After about six (6) months I stopped the medication myself when I was told by the clinic that there was no medication. I left everything and was fine until I became ill now again... 4116 - 4118. C04

“After not taking the medication for a while, the illness came back. Before I got into this fight with my sisters I had been taking medication for about a week... I had gone back to the clinic when I could tell that I was becoming ill because my ears started making noise.” 4022 - 4025. C04.

My family, “they don’t see me, I see myself” when I’m becoming mentally ill... They react mostly when I have severe symptoms and take me to the traditional healers. I fetch and

supervise my own medication from the clinic. “They take me to the traditional healer. I take myself to the clinic.” 4026 - 4027. C04

Traditional healing systems aside, psychiatric systems could also be up against religious systems:

“I stopped taking treatment (one year) when voices told me I’m healed... I stopped because I had been prayed for... This led to my next admission... 6351. C07. (When I got arrested) I had not taken treatment for three (3) months because an evangelist told me I’m healed... I was no more sick [sic]... The guy played with me. Nearly killed me.” 6687. C07

As it emerges in the current section, the design of psychoeducation programmes may need to take the intra-familial culture clashes into consideration (Poore, Sokudela, Roos, Motlana, Dlamini and Snyman 2010). Treatment, mental health promotion and disease prevention programmes have to take the social context into consideration too in order for access to psychiatric treatment, treatment adherence improvement and relapse prevention to be effective (Mkize 2003). When taken further, early detection and other values and belief systems measures are some of the ways that criminal behaviour prevention in the mental health context may take root.

3.5.2 WHEN BELIEF SYSTEMS COMPLEMENT EACH OTHER: “I WENT TO THE CLINIC WHEN THE TRADITIONAL HEALER TOLD ME TO GO TO THE CLINIC”

The complementary relationship between traditional healing methods and psychiatry was depicted in some of the participant’s accounts of their experiences in the hands of their families and/or society:

“I was taken to traditional healers and got treatment for about two months drinking herbal medicine from them... I went to the clinic when the traditional healer told me to go to the clinic... My family had taken me to the traditional healer. Both my parents are traditional healers.”... 3929; 3933. C04

The diversity within traditional healing systems was also another place where collaborations took place. The participant gave an account of his mother’s encounters with varying healing systems as illustrated here and further along this passage:

“My mother is a thwasa... She went for training three times... She went to two different places to finish some rituals that had not been done with each step. The third place was an Apostolic Church process where you become a faith-healer as well... She was told to go to the Apostolic Church by a traditional healer trainer. It was not in our family church tradition... My father would talk about having been going to an orthodox church before...” 3933 - 3943. C04

There was diversity even within typical ‘Western’ models of healing and those of other origins: **“The concepts of traditional healing vs. mental illness e.g. a nurse... went and became ithwasa and**

came back to nursing. The nurse “would say the patients... must go for thwasa.”... These are different approaches.”... 4044. INT01 on C04

The interface between the varying healing systems then needed exploration depending on the participant’s world view. It would be difficult for any mental health care practitioner to dismiss any of the systems and to invoke psychiatric classification systems that spoke of ‘culture-bound syndromes’, probably. The melting pot of healing knowledge systems meant that there was room to at least explore possibilities in forensic mental health settings similar to that of the current study context. The impact of knowledge systems on forensic observation assessments for court purposes is illustrated in the ‘Forensic observation’ section... Research on the relationship between traditional healing methods and psychiatry is growing (Mzimkulu and Simbayi 2006). It has long been recognised that for either system to be effective in providing adequate services to respective health care systems users, collaborations become essential (Pooe, Sokudela, Roos, Motlana, Dlamini and Snyman 2010; Kruger, Sokudela, Motlana, Mataboge and Dikobe. 2007; Motlana, Sokudela, Moraka, Roos and Snyman 2004). It would be befitting then that examples of such collaborations would emerge from the participants in the current study.

3.5.3 WHEN IT IS NOT MENTAL ILLNESS BUT A CALLING AND WHEN IT IS NOT A CALLING BUT MENTAL ILLNESS: “CALLING INTO THE TRADITIONAL HEALING PRACTICE STARTED WITH ‘CONFUSION’, “KGOHLAKA-HLAKANA”

“My mother’s calling into the traditional healing practice started with ‘confusion’ “kgohlaka-hlakana”. I also get confused and stop talking for a long time just like the time I was in prison. Even in prison I went to a Zionist church. I drank their tea. They gave me “di taelo” (seTswana: spiritual instructions and tea leaves as a medium). I would see people that were not there and at night too. I would hear my (paternal) aunt “rakgadi” telling me how to treat others but I couldn’t follow the instructions as I was not mentally well.” 3944 – 3949. C04

“With mental illness, when you sit with people they may be thinking you’re putting on an act, that you’re doing it deliberately.”... 3967. C04.

“Yes, I have been told that I have ancestors and I must go and train to become a thwasa... Even at home I was told by traditional healers to go for ukuthwasa. I do not want to go for ukuthwasa.” 4008. C04

The participant coined the uncertainty when a person has mental illness as well as manifestations of a ‘calling’ from a spiritual system. It is not only African traditional healing processes that may get labelled

as mental illness but also other systems that may sound too different to the traditional ‘Western medicine’ paradigm e.g. alternative healing methods as seen in Eastern philosophies, homeopathy and others. Psychiatry as a so-called ‘Western medicine’ field comes closest, when compared to other medical disciplines, in having symptoms that overlap with those described in other belief systems. Mkize suggested that in the African context, psychiatry ought to take the shape of the contextual landscape (2003). In the narratives given above, what may have been seen as psychopathology in one discipline, may have been observed to be non-pathological states by other systems. For instance, it is imagined that the traditional health practitioner who referred a participant to the clinic in the example given above, had a similar realization. C04’s case is a reminder that medical models rather than other social models of expression of illness or distress may be warranted in some circumstances as the traditional healer in that instance realised and vice versa. Whether there is room for all in the context of mental health practices, is for further debates outside of the current thesis.

3.6 LIVING WITH MENTAL ILLNESS: STIGMA

To the participants in the study, especially those who came in with a diagnosed mental health condition already, stigma was a reality. The section below describes how stigma was experienced by some of the participants in terms of how and where it manifested in their communities.

The perceived ‘disgrace’ of mental illness and the perceived disgrace of having been arrested meant that some were dealing with a state of double jeopardy – being disgraced twice and exponentially more when the two conditions of the so-called disgrace occurred together. The latter state of jeopardy because of arrest is dealt with in the chapter ‘Life in the hands of justice: perceptions of self after arrest’. In the current section the stigma of living with mental illness is explored as it came from relevant participants’ perspectives when discussions dealt with their experience of living with mental illness or how they were perceived after being arrested by their communities. Stigma was encased in relationships and became part of their ‘signs and symptoms’ of living with their conditions.

3.6.1 STIGMA AND LABELS:

Being part of a group or a family was not always protective and nurturing in terms of being spared of stigma and labels used in relation to mental illness: **“I have endured different types of abuse including emotional and physical abuse by the community and not just by my friends and family”** 2971. P06 **“I do not feel well when I’m called that “Amahlanya” (mentally ill people) by the community”** 3278. P06. The stigmata may have come in the names people would use to label a mentally ill person: **“They laugh at me because of mental illness... They refer to me as “sekgafi”**

(he who suffers from mental illness).” 1552. P04. Sometimes mentally ill individuals used the labels on themselves: **“They know that I am mentally ill “ukuhlanya”** (IsiZulu: mental illness (derogatory)) **I do not feel good that I’m mentally disabled and I have “ukugula kwengqondo”** (IsiZulu: mental illness) 1565. P04. The temptation may have been to see the self-labelling as self-stigmatisation but one would have had to be careful as the matter would have to be explored from the participants’ perspective as in the example of C04 below. The example of C04 demonstrated that for the person living with the psychiatric diagnosis the matter of ‘self-labelling’ or ‘self-stigmatisation’ is not always straightforward. There may be a dilemma in balancing one’s right to confidentiality versus dispelling stigma, living openly and thus compelling acceptance of the mental condition by others. At times then it might have appeared as if mentally ill individuals may have stigmatised themselves on the one hand or may have felt the need to protect themselves from judgement by hiding their condition.

“I have kept mine (my mental illness) a secret.” 4332. C04. The participant explained further: **“Some people may be abusive and some may be helpful when they know that a person is mentally ill...Mine is not the mental illness of “bolwetsi ba pampiri”** (SeTswana: ‘The illness of paper’ meaning the kind of severe mental that causes a person to roam around and pick up inanimate goods like papers on the streets.)” 4333 - 4335. C04 The labelling of severe mental illness as ‘bolwetsi ba pampiri’ could also be seen as role-reversal with C04 doing to those whose mental illness was more severe than his, as he feared the community would do to him. There was history though to his stance: **“(My relative) once told another person that I was ill. I told him I don’t like it. “He does not know when to keep quiet”. He is one of those people who likes talking too much and won’t keep quiet.”** 4337. C04

In the context of this section the term ‘stigma’ is defined as branding and diminishing the status of those who suffer or are suspected to suffer from mental illness (Motlana 2016: 799). There are various forms of stigma that were highlighted by the participants in different contexts. Some fit the textbook case of stigma and some fit dimensions not seen through the eyes of the sufferers before. In a study by Motlana, Sokudela, Moraka, Roos and Snyman, participants gave examples of similar labels by which they were called in the community and expressed the distress this caused (2004). In later work Motlana refers to ‘self-stigmatisation’ and the cognitive processes described by “Corrigan and Wassel” that add to limitations on self-efficacy and self confidence in individuals suffering from mental illness related stigma (Motlana 2016:799). Similar experiences are demonstrated by Link and Phelan (2006) as well as in the current study when e.g. individuals use derogatory labels on themselves denoting the strides yet to be made in closing the gap between mentally ill individuals and the labels used against them by those around them. The additional role of any further criminal behaviour or suspicion thereof is bound to be intriguing where mental illness is suspected to be involved.

3.6.2 STIGMA AND THE COMMUNITY:

“As far as (stigma), mental illness and discrimination is [sic] concerned they say: “We’ll see where he ends.” 3683. C03. The participant had felt that the community around him was expecting him to fail at whatever he may have tried to improve his life. This was a feeling he had. Some members of the community did support the individual though: **“All my friends that I had at the time were fine with me (and my mental illness).”** 6419. C07. **“The community treats me fine even though I’m slow.”** 7081. P09. Despite some being positive, aloneness could be the hall-mark of the experience as well: **“I had friends but not close ones. I lived by myself.”** 2926. P06. **“I lived in the bushes “ehlathini” Umuntu uyahlupha (a human being is a troublesome thing). I don’t want to live at home or support myself through stealing. I preferred to pick up bottles and would sell them to buy food.”** 2945. P06.

The emerging sense of aloneness was also picked up by the co-observers/interpreters when a person would be observed to be: alone in relationships; alone at home; alone in jail and alone in the community too as in the review of P07’s situation by INT01 (3467. P07). The separation of the aloneness from the experience of negative symptoms as would be seen in a condition like schizophrenia may have been difficult to measure though. The remark by INT01 is a reminder of the comment on the effect of stigma in prison as discussed in the chapter on ‘Life in prison’. It appeared as if it was easier for mentally ill people to escape taunting and physical abuse meted out on most individuals in prison because they were feared because of the stigma of mental illness. The same could probably be said of the community as well: **“People will avoid you.”** 3463. INT01 on P07.

Workplace programmes that are meant to protect individuals living with mental illness were not always accommodative to those who were different despite legislation on employment of people with disabilities in the workplace in South Africa (Employment Equity Act, 55 of 1998) either:

“I stopped (working) because of mental illness. I was talking to myself. I did get better with treatment. When I stopped working I got a disability grant (government).” 3375. P07.

“The reason for resigning is that I was hearing voices. They told me to resign (the voices?) and look for work. I am still looking for work... I went to three or four interviews but got disqualified because of mental illness.” 6653 - 6655. C07.

Accounts such as these impede the potential for rehabilitation of those individuals who may be employable but need a different kind of environment. Employment programmes in the sphere of mental health promotion and rehabilitation may contribute towards the enhancement of social cognitive skills as discussed in the ‘Sexual offending’ chapter. To achieve that in the long run, legislation may not be enough without a change in attitude and monitoring and evaluation measures in society at large.

3.6.3 STIGMA AND ROMANTIC RELATIONSHIPS IN THE TIMES OF MENTAL ILLNESS:

As protective as they are meant to be in terms of the prognosis attached to the diagnosis of a mental disorder as surmised by Metsä-Simola and Martikainen in a review (2014), romantic relationships can be difficult when one suffers from mental illness. For this participant, his girlfriend was open enough: **“She knows that I get confused at times. She knows that I used to receive treatment.”** 4226. C04 But for others it was not easy: **“People say that you can’t be in a relationship if you are mentally ill... You will fight with her.”** 6168. P08. **“I got a girlfriend at the age of 18... She broke up with me (due to mental illness?). My friends also did not stick around... I do not have friends... I watched movies, and would go to church with my family and my mom.”** 1589. P04 **“No, now I have no girlfriend - they say I’m ill.”** 1595. P04

Sometimes when the relationship was perceived to be progressing well, onlookers interfered:

“I taught her (my first girlfriend) Maths...when I was well and not ill. She tolerated my (mental) illness. “Her mother told her to get a guy who’s not on/off.” She became a friend instead ... 3785. C03. **“People try and tell her that I am mentally ill. She came and told me and she said she’ll see how things go... I told her about my mental illness when I first met her.”** 3791. C03 **“Generally, I did have people that rejected me... BUT... I’m “blind habanyana” (Tsotsitaal = I’m bad with girls – meaning I’m good with girls)”.** 3795. C03

The romantic partner would add to the trauma:

“Every time something small happens, then she will say let’s go to the hospital. I would go and keep quiet. I had told her before that these voices would come for one day and then it stops. But she’d get me in (into hospital) for four (4) months on end.” 6421 – 6424. C07.

As alluded to at the beginning of the section the term stigma as expressed by participants exposed various layers and forms of negative branding and diminishing of status. In the social context there are other descriptions that match the participant’s experiences. Some of the participants experienced mental illness as ‘a mark of disgrace’ in a manner similar to how some have described incarceration (Schnittker and Bacak 2013). Also, as in the original sense of the word ‘stigma’ from the Christian faith, mental illness seemed to have been experienced as a mark of suffering corresponding to those marks left on the Christ’s body by the Crucifixion (Fessler 2002). Unlike the marks on the bodies of St Francis of Assisi and others, the stigma derived from mental illness is not experienced as symbolising divine favour but the opposite - badness, criminality and slavery - as perhaps the Greeks are claimed to have understood stigma (Arthur, Hickling, Robertson-Hickling, Haynes-Robinson, Abel and Whitley 2010).

Instead of divine favour, the stigma seems to represent crucifixion by society, especially when you have a condition that is perceived to be setting you apart, like mental illness (Corrigan 2000). The management of stigma in the biopsychosocial mental health context is an important component of any helping behaviours that may utilise various methods to enhance an individual's outcome including instrumental, tangible, informational and emotional support plan (Corrigan 2000). As seen in a phenomenological qualitative study of individuals living with schizophrenia and their caregivers, the management of stigma by those who suffer from mental health conditions is exercised in relationships in the community (Motlana, Sokudela, Moraka, Roos and Snyman 2004:26).

3.7 A QUALITATIVE CRITIQUE OF THE FORENSIC OBSERVATION PROCESS: THE OBSERVED, THE CO-OBSERVER AND THE OBSERVER

3.7.1 THE REFERRAL SYSTEM FOR FORENSIC OBSERVATION

3.7.1.1 The time it took

From the outset, a significant voice from the participants was raised to declare forensic observation referrals a waste of time as it was time-consuming and may have added to an already long trial period: **"I did not like it because I knew I wasn't mentally disturbed... It took so long that I thought it would not happen (7 – 8 months) ... This was a waste of time: I have a future for which I have to go (outside)."** 1258. P02.

When a participant had been told by the official assessor(s) that his stay at the forensic unit would be extended as the assessment was not completed (not an uncommon eventuality), he expressed disappointment: **"I'm a bit frustrated... Staying here is strenuous."** 1854. C02. **"My case has taken long"** 1883. C02. Later he gave his opinion on the time it took to have him observed: **"I should have been taken to hospital "still fresh" to be checked... There was a delay between observation and the time of arrest."** 2140. C02.

For another participant, it was like adding insult to injury: **"No, it was not fine that I had to wait for something I had not done. It is taking long (the court case). These people are not serious... The complainant... I do not know why... Even if I had done it, they're not (taking the case seriously by not showing up)"** 7074 - 7077. P09.

Some of the participants felt that the time it took to get to the forensic unit was not too bad, however: **"The time it took to come here was not so long."** 1413. P03. **"(The time it took for me) is actually fast... I heard in prison there are people who are waiting a year or two."** 6597. C07 **"It is fine that I was sent here to have my mind checked."** 7036. P09

What was noted by participants in this section links up with the ‘justice delayed, justice denied’ adage that is explored in the ‘Life in the hands of justice’ chapter of this thesis. In addition to the delayed justice and the impact that has on individuals’ rights, there is the issue of the effect of the delay on the quality of the investigation itself. It has long been asserted, anecdotally, that the closer the observation time is to the incident the better the forensic observation process not only for ordinary forensic investigations by law enforcement agencies but also by the forensic mental health component too. In recent years in South Africa, there has been an attempt to manage factors contributory to the delay between the time of an alleged incident and a forensic psychiatry observation via the Mental Observation Protocol (2013).

The yield of the impact of the said protocol has yet to be published officially but would be a good indicator of whether concerns similar to those raised in this section would have lessened over time. The perception that the whole process of being investigated via a psychiatric assessment is a waste of time has evolved over time. The case of one Dimitri Tsafendas solidified the need for criminal competence assessments in the context of mental health in 1966 via the “The Responsibility of Mentally Deranged Persons”: Judge Rumpff 1966 commission (Minde 1975). That case was foundational in contributing to the contemporary approach to mental capacity assessment in the context of the law as held under chapter 13 of the Criminal Procedure Act (CPA 1977). Prior to such cases, mental capacity assessments may have not been held as important. Some of the participants in the current study seemed to question the value of the entire process though. That may be a matter the forefathers and founders of chapter 13 of the CPA may not have pre-empted as a retort at inception.

3.7.1.2 Reasons for forensic observation

The offered reasons on why individuals involved in the in-depth interviews were sent for observation were remarkably on point. Very few did not have some understanding of the reasons they had to be evaluated even if the understanding was superficial at times. In some cases, participants disagreed with the decision to refer them altogether (as discussed above) but yielded to the court order anyway. In other instances, participants misconstrued the purpose of the referrals. Herewith a combination of emergent perspectives:

“I was referred when I told them that I was not well at the time of the charge.” 3601. C03.

“I was told that I need to have my head checked and so I came along.” 4380. C04

“(The) observation was not my choice...The court said I must come here... If I can change the world... There are more people who think like me (and they are not here). But there’s nothing I can do... There’s nothing that I can do.” 5158 – 5160. C05.

“The court sent me here because they said I was seeing snakes... Just following the procedures... I wouldn’t have come by choice.” 5726. C06

“The magistrate said I had to have my mind checked because my lawyer told the magistrate after my mother said... I was not well at the time of arrest and I was hearing people speaking to me in my head – voices saying “tsamaya” (SeTswana: “go”) 5914. P08. “I came here to check if my mind is ‘sharp’ (Tsotsitaal: Okay) ... And they will call the court and say what they have found... They will find that I am slow... When a person speaks I do not understand what they are saying.” 7029 – 7032. P09

The awareness of legal rights and the concept of self-defence was also notable: **“I didn’t do some of these things they say I did. They did not ask me. They never asked me what I think. They should have proved that (I did it).” 2733 - 2736. P05.** There were, at times, also ideas about the forensic inquiry being a place where facts of the case were tested and that coming to the forensic observation unit would provide a reprieve for the accused person – especially if they were mentally ill:

“I then got referred to Weskoppies Hospital, and that’s okay... I agree that I should have been sent here...Because my charge is attempted rape and they lied that it was me... I was not there... I was ill... It will help that I come here.” 5961 - 5962. P08.

From the findings, it seems that there may have been individuals in the in-depth interviews who had fallen under specific diagnostic categories whose psychiatric conditions could be confirmed via the record-based sample e.g. intellectual disability. When a participant utters **“They will find that I am slow”** several issues may be implied as far as the observation outcomes of that observandus are concerned. Firstly, it might imply that although a person may have a certain diagnosis, mental capacity might not be affected to such an extent that a person’s multiple-domain functional capacity is completely obliterated. This is so especially when a person with intellectual disability demonstrates enough insight to pre-empt what the psychiatric observation findings may yield.

Secondly, the other issue may stem from the relationship between intellectual disability and sexual offending that can be clouded by lack of mental capacity on the one hand, and sexual deviance on the other (Rice, Harris, Lang and Chaplin 2008). Some individuals’ mental capacity to offend may be affected by their intellectual disability as the condition may affect their cognitive ability to appreciate the wrongfulness of their actions in terms of section 78 of the CPA (1977). Lack of mental capacity in such instances may be related specifically to their inability to appreciate the wrongfulness of their sexual offending as they would be affected by certain aspects of their intellectual disability. Also, the intellectual disability may affect their ability to stand trial in terms of section 77, CPA (1977).

However, it can be a misconception that the mere presence of any psychiatric diagnosis or intellectual disability will automatically imply a forensic observation finding of lack of mental capacity as some of the participants anticipated. See the ‘descriptive findings’ section above for further discussions on the intricate relationship between intellectual disability, other psychiatric diagnoses and sexual offending. The misconception that it is better to be found to be affected by mental illness than not, in a court of

law, flies in the face of what is known to happen once a person is noted to have been affected by mental illness during the alleged commission of a crime. The extended average length of stay (ALOS) of individuals referred back for care, treatment and rehabilitation to psychiatric hospitals as state patients after an allegation of a crime, where mental capacity is affected, can at times be a human right challenge.

That it may take longer to stay at a psychiatric hospital if an individual is affected by mental illness or intellectual disability than it would take a sentenced person facing equivalent charges in prison, may be seen as unfair and a gross violation of human rights of mentally ill individuals (Kaliski 2012). The average length of stay for general psychiatric patients at Weskoppies Hospital for the majority of general (non-forensic) acute admissions was between 43 and 90 days in a study done in 2014 by Madlala and Sokudela. It is known though that for forensic patients, the average length of stay is usually longer, as anecdotal evidence would show. The latest indications suggest that the stay for forensic patients, after they have been declared state patients according to the CPA (1977) is long. This is according to available records at facility level and is a matter for future research work. It might not serve justice well to be affected by a psychiatric diagnosis or intellectual disability in the context of a criminal charge, in the long run.

The awareness of legal rights and the ability to defend one's self are some of the precepts of an individual's mental capacity to stand trial in the South African legal context and in terms of section 77 of the CPA (1977). When a participant in the current study says: "**I didn't do some of these things they say I did...They should have proved that (I did it)**", it gives a general sense that some are aware of their right to be presumed innocent until found guilty as it is meant to be in the Constitution of the country (Constitution 1996: Chapter 2: Section 35 (3) (h)). In this study like in literature, it has been easy to find individuals who held the opinion that they were innocent of some if not all of the allegations against them. As pointed out by Herman Charles Bosman, in what may be referred to as irony and about his life in prison after being convicted on a charge of murder of his stepbrother in 1926:

A queer thing that I found among first-offender convicts – and something that I thought very much to their credit – was the fact that they were all of them innocent. Every man Jack of them. And without exception – bar one. Of all the convicts doing stretches in A2 Section (the section occupied by the first offenders) I was the only one who was guilty. Among old offenders there was also a pretty substantial proportion that was innocent (or that had been framed), but the percentage of innocent men was not nearly so high as among the first offenders. For that reason I respected the first offenders. (Bosman 1969:97).

It seems then that accused individuals, especially first-time offenders even if guilty, do not ever find themselves to blame for any wrong-doing once convicted. How that tendency may relate to the current study is a matter for speculation. See more in the chapter on 'Life in the hands of justice'.

The issue of trial of facts is a legal concept and not a mental health concept but affects mental health outcomes for those that may be declared state patients by the courts. It may be reasonable for some to expect a semblance of investigative confirmation of the facts of the charges against them. A trial of facts in legal terms means that even if individuals have no mental capacity to stand trial, it is their human and legal right for the case to be tested even if the notion may have its own challenges (Skilling 2010; Howard 2012). Generally, in the South African context an inability to stand trial may imply the declaration of a state patient status and the supposed protection from being subjected to the legal process. The question of fairness in being declared a state patient as in Chapter 13 of the CPA (1977) has remained steadfast though.

Reference when such fairness is questioned is made also to the Constitution of the Republic of South Africa (1996: Chapter 2: Section 35) as well as other statutes like Article 6 of the European Convention on Human Rights, 1950 (European Court of Human Rights 2010); and Article 12 of the UN Convention on the Rights of Persons with Disabilities (UNCRPD 2008) (United Nations 2008) as alluded to in part under section ‘Diagnostic issues’ above. The rights of affected individuals remain on the balance irrespective of the differing arguments (Howard 2012). There seems to be a latent tension between the need to guard against the ethical principle of paternalism and the need to promote autonomy through substituted or supported decision-making for people living with disabilities including intellectual disability (Devi, Bickenbach and Stucki 2011; Devi 2013; Hästbacka, Nygård and Nyqvist 2016).

3.7.2 THE PEOPLE – THE OBSERVED

This section covers the experience of being observed and being in the environment of a forensic unit at Weskoppies Hospital (Table 23). The participants talked about their perceptions of the process of being assessed and in part about the impact that may have had on their legal cases and their lives. As far as divulging relevant information in relation to the observation process was concerned, one of the participants was honest enough to say: **“I was told not to say too much by my lawyer.”** 2579. P05.

How much that kind of attitude would affect formal observation processes is subject to a different kind of scrutiny and falls outside of the realm of the current report. Some of the participants also expressed benefits of undergoing the observation even if that was intermixed with scepticism:

“At least I got to talk about my life... The magistrate did waste my time, though... Transferring me here won’t help... I didn’t know whether the blood had to come here or not... We have been waiting for blood results from here? (Upset)... This is my second visit.” 2976 – 2980. P06.

Aside from delays in court trials due to factors like forensic psychiatric observations, delays in other forensic investigations have been reported as a rate limiting component in the delivery of justice (Casey,

Ferraro and Nguyen 2009). When the case requires both forensic medicine and psychiatric reports, then the accused individuals would probably have a longer wait on their hands. Moreover, given the escalating complaints about the scarcity of forensic investigating officers at SAPS level (The Public Service Commission 2011), the duration of any given trial especially of sexual offences that depend on forensic evidence is bound to be long.

As far as the environment was concerned, invariably Weskoppies Hospital would be compared to prison as some felt that the physical setup implied that it was an extension of prison if only a bit better. (See the description of life in prison in the chapter on ‘Life in the hands of justice’.)

Table 23: Perceptions of life during forensic observation: “At least I got to talk about my life...”

<i>The experience of being observed</i>	<i>The environment</i>
<i>“Like me I’m saying I’m not mad and they treat us the same anyway.” 5114. C05</i>	<i>“There is “ubuntu” at WKH... Treated with harshness in jail.” 1463. P03</i>
<i>“Here, they’re preparing you for jail to go for trial.” 5168. C05</i>	<i>“It is better than prison here.” 4380. C04</i>
<i>“I am not free... I am controlled and am not a free person.” 1856. C02</i> <i>“When I’m here I cannot go to “spiritual people like me”...to gain a sense of healing process.”1865. C02.</i>	<i>“Life at Weskoppies hospital is better than living in a forest. It is the same as prison. Here you have your own room.” 2988. P06 “But... you don’t have control.” 2990. P06.</i>
<i>“You are amongst different kinds of mental illnesses... amongst abnormal ...nonsensical things by others... Most of them have a sign of abnormality...” 1857 - 1859. C02</i>	<i>“There is a difference here. There is no TV in jail. (In prison) there is no space, little food and you’re locked up. The process of the current observation is fine. They ask questions.” 3540. P07</i>
<i>“If you have mental illness you won’t be arrested” 5981. P08</i> <i>“If I don’t win I will come to Weskoppies for 6 months... And maybe the case may be withdrawn... My sister said this.” 7024. P09</i>	<i>“Weskoppies hospital is different... Here we can go outside... There (in prison) we are locked up the whole time... It is going fine (with the observation).” 6202 – 6205. P08</i> <i>Much (better) because of the way “you’re treated as a normal human” (at Weskoppies hospital) 6443. C07</i>
<i>“They concluded that “I am malingering” when I could not give them any information... I was “sick in my mind”.” 1867. C02</i>	<i>“In prison no meals beyond 14h00 until the next morning at 09h00... I feel sad... I’m not used to that... facilities (at WKH) are better... It is better here as we</i>

<p><i>“Prison is worse than here... in prison they lock you up at 17h00 and push the door.” 5166. C05</i></p>	<p><i>have rooms by ourselves...Prison is worse than here...but home’s the best still...” 1570-1574. P04</i></p>
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3.7.3 THE PEOPLE – CO-OBSERVERS

Co-observer/interpreters in the context of an ordinary forensic observation unit are often nursing professionals who have responsibilities befitting any such roles under such circumstances. The individuals who were recruited to be co-observer/interpreters for the current study, did the research work voluntarily and at times out of curiosity and a need for exposure to different angles of their areas of expertise. Despite sitting in with the in-depth interviews, the nursing professionals were still to continue with their ordinary duties in the unit. Their function is described fully in the methodology and research process sections of the thesis. Forensic observations were already their bread and butter and they may have entered the research space with questions of their own. That aspect was not explored in the current study, but opened up an opportunity for future studies. What will be explored briefly, over and above the reference to the co-observer/interpreter group made in appropriate sections elsewhere, are remarks and points that were relevant to the forensic observation process from their perspective.

Having experience in co-observing forensic observation processes over some time, frustration was at times expressed with some of the individuals that came in for assessment as illustrated by a comment by one of the co-observers: **“Why deny it if you’ve done it. But you (the co-observer) have to maintain professionalism... You (the co-observer) are a human being with feelings and you have ‘your other side’ (gestures)”** 1618-9. INT02. The frustration was voiced first as a personal judgement and then a professional judgement about observandi who may not have been truthful. The effect of that frustration would have to be explored in further studies in order to unpack fairly. For the purposes of the current study it would suffice to reiterate that the truth about the charges was not the focus. It was more important for the participants to be open about how they perceived matters related to sexual offending and other forms of violence in general, and not necessarily whether they were guilty or not. Because of the design and the nature of the study, it would have been difficult to tell a tall tale about your perception of the violation of your legal rights, for instance. In practice, for the purposes of forensic observations generally and not just the study, the narrative of the accused individual is usually taken into account and, together with any other versions of the case as presented by the court, has to be tested against the parameters of section 77, 78 and 79 of the CPA, in their entirety (1977). One of the critical skills in that context is to have neutrality and objectivity and to observe all versions.

About exposure and encounters with forensic cases over time:

“There may be a need for ‘debriefing’ for the staff that ends [sic] up seeing bad stories and photos.” 2702 - 2705. INT03 on P05. **“How I work it out is that non-clinical staff must be involved in risk management – professional boundaries and confidentiality must apply. You must “Switch off” your ordinary parts.”** 2718. INT03 on P05.

The risk management remark made above was with reference to the potential dangers of working with individuals who are remand detainees. There was a need for all the role-players including non-clinical staff members to be able to manage risk in the context of dealing with remand detainees. The reminder that there was continuous potential risk for serious adverse events lurked in the background and needed preparedness. The feeling was that the preparedness of co-observers / interpreters who were also nurses, although in need of ongoing improvement, was sometimes better than that of the SAPS officers who were meant to guard the forensic observation units in any case:

“They (the remand detainees) tend to be cooperative and relaxed in the forensic observation ward to an extent when the SAPS come to take them back to prison you see the difference – that here they are given ‘freedom of movement’...That is why when the SAPS come to fetch them they say: “I don’t understand why you need help if you let them roam around” (like this).” 2721 - 2724. P05.

The police officers were perhaps referring to their own guarding duties that were designated according to the Mental Observation Protocol (2013: Article 4). Risk management in the context of forensic mental health is an ongoing area of focus. How risk is measured in a typical forensic unit brings together multiple areas of expertise including clinical, physical and mental health risk evaluation. Strengthening of risk management in clinical, nonclinical as well as administrative spheres, in order to improve efficiency of forensic observations systems in the South African context, may be long overdue (Hunter 2013).

There were also observations regarding how the experience for the observandi could be improved in terms of the court proceedings and their legal rights:

“Education (of observandi) on court processes is missing.... although he is aware of some terminology e.g. “They kept on saying ‘remand, remand’. He also had the basic concept of the effect of mental illness on his behaviour, though be it superficial knowledge.” 4419 - 4421. INT01 on C04.

This implied that some of the referred observandi were observed to have been ill-informed of the court and forensic observation processes and an improvement on that aspect might have enhanced their interaction during observation. Education was not reserved for the observandi but may have been

necessary for the court system too: “**The effect of affect on those who are interacting with the accused in court. A blunted affect may be taken as remorselessness.**” 3473. INT01 on P07...

The relevance of that statement can be linked to the efforts that the Justice College of the Department of Justice and Correctional Service in South Africa have made over the last few years in offering some form of training for both prosecutors as well as court-interpreters on relevant mental health issues (personal observation).

3.7.4 THE PEOPLE – OBSERVERS / EXPERT WITNESSES

3.7.4.1 *Psychiatrists as experts during forensic assessments and in court: “There are very few psychiatrists...”*

One of the most critical areas for the medico-legal field in the country is probably the maintenance of efficient, effective, good quality and accessible forensic mental health systems. Access to good quality forensic mental health processes still leaves room for improvement and can be enhanced via multiple routes. One of the routes is the certification of forensic mental health expertise. Up to a few years ago, forensic psychiatry was not a recognised subspecialisation in psychiatry by the Health Professions Council of South Africa (HPCSA), despite there being a high demand for such expertise. The area of forensic clinical psychology still suffers the same although plans are in the pipelines. High quality levels of expertise in forensic mental health criminal and civil matters alike, go hand-in-hand with maintenance of good and ethical standards in those fields in general. Regarding criminal matters, the maintenance of good standards is for the sake of those specific individuals who need services the most, namely, the accused individuals, the victims and society at large.

It is thus critical that research and further curriculum refinement as well as ethical standards be continually reviewed. The qualitative component of the current study sought to draw out the experience of participants at the hands of the forensic observation systems. This was in order to explore gaps, if any, in the forensic observation processes so as to contribute towards the strengthening of the system. A critique of the process of forensic observation would include a critique of the specialist psychiatric experts, invariably, it turned out. The ensuing discussion covers just the area of specialist psychiatry experts. Other specialist areas fell outside the scope of the current study.

In view of that the current state of affairs of forensic psychiatric expertise in South Africa was in the context of scarce skills resources. A participant who had had a long-drawn out case covering several years and was highly frustrated by the inefficiencies of the system pinned it down to the scarcity of specialists: “**There are very few psychiatrists.... The dates are far in-between.**” 1926. C02. On top of that participants would open up an important aspect of forensic psychiatric expertise and probably

an important aspect of all the other areas of expertise in the field of forensic and general mental health too viz. cultural diversity.

The cultural diversity of South Africa's population with its 12 official languages (including South African Sign Language) may sometimes be down-played due to matters that may seem more important. The ensuing discussion then lays out highlights of the conversations around this area. The discussion highlighted a solo interview done with an assessor (AS03), an expert witness who gave perspectives to challenges and training in the field of forensic psychiatry, in South Africa. The descriptive study section of the current chapter holds the rest of the findings in relation to the outcomes of forensic assessments.

3.7.4.2 Diversity management during forensic assessments:

The narrative of participant C02, is used further to illustrate the subject of language and cultural competence in the study. C02 was a middle aged man at the time of the in-depth interviews and was facing a charge of a nonsexual offence (NSO) in the context of intimate partner violence (IPV). Like other participants who initially preferred expressing themselves in English, and were fluent English second-language speakers, he too later struggled to keep up with the language when describing spiritual or emotional matters. He preferred to communicate in English throughout most of his interviews but was noted to be switching more to sePedi, seTswana, isiZulu and even isiXhosa when certain contexts in conversations arose. And, as expressed in the researcher's journal note of 02 March 2015 about the participant's interaction with the researcher:

“He seems to thrive in an environment where he is in control and, for a change, this assertion I allow unlike when I do observations for court purposes. For example, I give in a bit of my shroud or veil of anonymity when he asks me what my cultural background is early on in our conversation. He means to check if I may or may not understand some of the cultural issues that have surrounded his life experiences.”

Aside from testing the waters with the researcher, C02 raised the issue of cultural discrepancies when assessors were from a different background from a remand detainee:

“As a general comment: Psychiatry must be reviewed... Our culture is being controlled by another culture... Psychiatrists are managing different cultures (that they do not have experience in) with ancestral spirits... “Iyamosha” (IsiZulu: it messes things up) when you don't attend to some things... I have seen people get affected just like I have been when you ignore... Some become “amahlanya” (IsiZulu: mentally ill people) on the streets.” 2150 – 2157. C02

Q: How do we get it right? A. **“We'll never get it right”** (We won't get the cultural gaps between the assessors and the ones assessed narrowed) 2158. C02. Co-observer INT03, after a session with C02,

concluded that change had not been fast enough, and especially post-apartheid, in terms of culturally-competent assessment conditions:

“About psychiatry coming to understand traditional ways of being... It is everywhere but not fast enough... Traditional healing has been brought in by government through legislation.” 2163 - 2165. INT03 on C02.

“It is also odd that post-1994 we still have to contend with the difficulty a black doctor has in recruiting patients across the colour lines... Power relations have brought back a balance especially those that cannot afford to choose who is sitting on the other side of the consultation desks... A nurse would have had to know Afrikaans (in the ‘old days’) ... and certain symptoms will be dismissed... When a person presents like the current participant (C02) for instance... Some symptoms respond to spiritual healing... All that was described as “seeing colours, a big moon, and a big light and smelling...” 2169 - 2174. INT03 on C02. **“In the traditional sphere you can perform a ritual ... In the context of the participant the spiritual phenomena are to blame for the offences for which he is arrested and is being observed”** 2182. INT03 on C02

AS03, a forensic psychiatrist assessor, in a standalone interview about C02, saw things differently. He believed that forensic psychiatrists could compensate by getting good quality interpreters as well as translators where applicable. The resource constraints in the field of forensic psychiatry, especially when it came to assessments for court purposes, would not allow the system the luxury of having a perfect fit for culturally-competent assessors versus observandi each time, he asserted.

Q. Role of psychiatrists in the observation process when cultural issues emerge.

A. **“There has to be established if there is a psychiatric issue or not and then the relation to the offence if diagnosis is present...vs. cultural issues... Additional information if there’s culture issues can be gathered via social work report ... Social workers are more... are sensitive to these issues... Find a social worker that is aware especially if you have a person that speaks the same language.”**

Q. Quality of observations when there are cultural issues.

A. **“Limit yourself to the observation... When the person comes back as a state patient then (we can fill in the gaps) There are gaps in general.... We are fortunate in our academic, hospital and inter-sector setting... How do we improve on it? We have inter-sector meetings and workshops (discussions on culture and mental illness are pertinent at workshops with prosecutors).”**

Q. On a scale of 1 – 10, how much did cultural issues affect the current case? A. **“1-2... Not much to do with the charges... Not much to do with the expression of his mood... Initially, thought maybe?”**

Somatisation? And then on further scrutiny could express common feature.” 2249 – 2270. AS03 on C02.

That was probably the direct opposite of some of the participants and co-observer/interpreter’s experience. In closing off that discussion, the importance of objectivity was reiterated. On why it may have taken long to reach a conclusion to the matter in court:

“The opinions previously given were issued by people who do not do medico- legal work routinely... People who are used to assessing a patient vs. an observandus. You as the observing psychiatrist must then reposition yourself and tell yourself “I’m not a treating physician”... In the previous reports the clinicians struggled with the separation... Clear “conflict of interest issue”... It is an “area of expertise” which applies in the “time-frame of the observation.” 2201 – 2208. AS03 on C02.

The implication is that there is a difference in expertise between a treating doctor and a psychiatrist observing for forensic psychiatric observation. The objectivity of an expert witness is critical, and the researcher suspects that, if coupled with some intuitive inferences based on training, then a forensic observation assessment remains a very specific exercise and ought not to be diluted by much outside of the relationship between mental illness, if any, and the alleged incident, when applied to whatever version of the evidence. For the researcher, the following illustration with another participant, P06, was a reminder that, over and above the language and cultural diversity issues discussed herein, an assessor would have to be continuously on the look-out for subtle signs and symptoms that went beyond the overt:

Q. Age of consent and the significance thereof. A. **“Amehlo awancishwa, abona akubonile.”** (One’s eyes are not robbed of sight. They see what they see.) **“At a certain age a person has rights. They are trained to... “buka itikiti lakho” (isiZulu: look at your ticket – meaning stick to your lane or mind your own business) If not you get into fights. I stay out of trouble. Fighting in prison wastes your time.”** 3003 – 3011. P06.

A note-to-self at the time: “...There may be a thought form disorder despite him making sense in terms of the content of the conversation at hand and the language spoken...” It was recognised at the time and as seen in other research contexts, that a thought form disorder by itself does not make up a formal diagnosis, especially when it is subtle and may be concealed by an individual’s rich figurative speech which could be a presentation of jargon aphasia or paralinguistic as seen in some mental conditions that manifest in pragmatic anomalies of how language is used to convey meanings (Colle, Angeleri, Vallana, Sacco, Bara and Bosco 2013).

The need for intuition and sensitivity in picking up linguistic impairment subtleties that are not quite pathological formal thought disorders linked to formal psychiatric diagnoses are a reminder of a scene

in 'The Night Watch'² (Pratchett 2002). In that scene, Vimes the commander of the Night Watch brigade walks and feels his way around Ankh-Morpork by virtue of the thinness of the soles of his shoes. He walks around and can feel where he is through his shoes. He does not need eyesight. The feeling of the way through thin and sensitive forensic shoes is likened by the researcher to Vimes' experience. The feeling that it cannot be helped but to intuitively use trained senses in the forensic and general psychiatry settings adds to the current study's perspective and experiential framework. Forensic psychiatric observers, may be seeing the world through the eyes of a detective in part, mapping out of the way through thin soles. In research instances though, as in the current, it is about investigations of a different kind. Discoveries that are made cannot be divulge to colleagues – the official forensic psychiatric assessors - as they may jeopardise the forensic observation and the research process too. Discipline becomes of paramount importance.

Cultural competence and language usage ability are important aspects of communication during psychiatric assessments (Swartz and Kilian 2014; Bhugra 1997). Language usage in communicating symptoms, culture, traditions and belief systems is important in the understanding of meanings in forensic evaluations too (Aguerrevere, Castillo, Nicks, Juan and Curtis 2016). The same might be said for the expression of psychiatric or other symptoms during the forensic observation process. Linguistics and cross-cultural competence in the mental health context including forensics are important (Layde 2004; Ogunlesi, Ogunwale, De Wet, Roos and Kaliski 2012). The conveyance of meanings in a comfortable context during the in-depth interviews in the current study was important especially for clarity sake.

The area of language and cultural compatibility in general psychiatry, especially in forensic psychiatric assessments in culture-rich South Africa and elsewhere, is up for debate (Ogunlesi, Ogunwale, De Wet, Roos and Kaliski 2012; Swartz and Kilian 2014). The same questions asked in the context of the current study, can be extended to external examples including the context of migrant populations in a law

² After breakfast Sergeant-at-Arms John Keel stepped out into the first day of the rest of his life. He stood still for a moment, shut his eyes, and swivelled both feet like a man trying to stub out two cigarettes at once. A slow, broad smile spread across his face. Snouty had found just the right kind of boots. Willikins and Sybil between them conspired to prevent him wearing old, well-worn boots these da- those days, and stole them away in the night to have the soles repaired. It was good to feel the streets with dry feet again. And after a lifetime of walking them, he did feel the streets. There were the cobblestones: catheads, troll-heads, loaves, short and long setts, rounders, Morpork Sixes, and the eighty-seven types of paving brick, and the fourteen types of stone slab, and the twelve types of stone never intended for street slabs which had got used anyway, and had their own patterns of wear, and the rubbles and the gravels, and the repairs, and the thirteen different types of cellar cover and twenty types of drain lid. He bounced a little, like a man testing the hardness of something. 'Elm Street,' he said. He bounced again. 'Junction -97- with Twinkle. Yeah.' He was back. It wasn't many steps to Treacle Mine Road, and as he turned towards the Watch House a flash of colour caught his eye. And there it was, overhanging a garden wall. Lilac was common in the city. It was vigorous and hard to kill and had to be. The flower buds were noticeably swelling. He stood and stared, as a man might stare at an old battlefield. ... They rise hands up, hands up, hands up... How did it go, now? Think of things happening one after the other. Don't assume that you know what's going to happen, because it might not. Be yourself. And, because he was himself, he made a few little purchases in little shops in dark alleys, and went to work (Pratchett 2002:97).

enforcement and mental health system. The example of the disproportionately increased numbers of mentally ill immigrant youth in European and other prison systems is given in the chapter on 'Life in the hands of justice'. This disproportionate representation of culturally-different and diverse migrant populations in prison has raised alarm in the human rights and forensic mental health context (Nakatani 2012; Müller-Isberner, Jöckel and Gonzalez Cabeza 2000).

3.8 THE RESEARCH PROCESS DURING PSYCHIATRIC FEATURES AND FORENSIC OBSERVATION DISCUSSIONS

3.8.1 LANGUAGE AS A MEDIUM OF COMMUNICATING BELIEF SYSTEMS AND EMOTIONAL STATES:

As noted above, it may have been difficult to converse freely about traditional belief systems in a language that was not one's mother-tongue even during forensic observation interviews. The same language issues were raised during the process of current study and have been extended to external examples including the context of diverse populations in a system.

Linguistics and language styles during the interviews: The process during the in-depth research interviews included the observation of the use of certain interviewing styles by the researcher to accommodate participants e.g. the use of close-ended questions to diminish the intensity when a person seemed to feel awkward about certain subjects and was taciturn. It also included the observation and sensitivity to thought content phenomena e.g. poverty of thought content. The process also included mirroring and reflection of the style of communication used by participants themselves in the interview in order to ease any discomfort and to adopt the participants' stance. References to self-e.g. speaking in the third person that were used by some of the participants at times to divert focus away from themselves, were also observed and emulated where appropriate.

Veering off the observation style of interviewing in order not to exhaust participants was also important. The participant in the following example was willing to sit in but may have been exhausted by some of the repetitive question lines: **"But... you don't have control** (during the observation period). **Being under** (their) **control means that you have to do this and that. Look I've had to cut my hair. They said it's a hospital, I must cut my hair. I had to fight to keep my beard!** (The mood in the room is threatening to be light but I have to maintain self-control). **Bayaqalana.** (IsiZulu: They just won't let one be!) **E.g. Your age...** 2990 – 2993. P06. The researcher, prior to this response, had asked the participant about his age and this may have been considered bothersome by the participant – everyone wanted to know his age. This was perhaps a valid point when one considered that in one admission an individual could easily end up being asked similar questions up to five times by different assessors (various members of the multidisciplinary team tasked with the assessment). The other consideration

of his statement was that the participant was sending a veiled plea to the interviewer not to ask his age again! The consideration was honoured by the researcher.

Jargonaphasia / paralanguage/ or just a way of self-expression: The conversations in various languages brought out dimensions of linguistics that were not initially anticipated. Because of the size of the study a separate research approach would have to be used to mine the emerging themes of researching psychiatric phenomena in a language diverse population. See footnote from a journal note around that time³.

Multiple languages: The use of multiple languages: in the same room may be a feature of research work done in diverse populations and posed a challenge to the design of the study and thus the emphatic addition of co-observers who also had diverse language proficiencies. At any given time, a minimum of three languages could be spoken during the same exchange and the researcher would still have to interpret parts of the conversation simultaneously into hand-notes in English. The reader can picture a scenario where the researcher asks a question in isiZulu, the participant understands but responds in his home language of seTswana and then the co-observer/interpreter relays back to the researcher in English. The written material as well as the recordings would then subsequently be handed over to a transcriber – an unofficial linguist in her own right – she spoke at least five South African languages other than English. To muddy the picture further, in a fluid and artistic way, Tsotsitaal would then enter the fray. (Tsotsitaal is discussed elsewhere in this thesis.)

3.8.2 WHEN ‘TIME OUT’ WAS NEEDED

“I started off undermining the process...because...when they start beating the drums I walk away because if I don’t walk away I end up joining them. [In the room: Visibly distressed by the topic?] I do go and help my mother to dig up herbs and yes, she pays me. I must sort out some things in connection with the thwasa calling.” 4012. C04.

Subsequently, the questions were moved away from the traditional healing topic as the participant was still emotionally affected by even talking about his thwasa calling.

At a later stage, the same participant was in distress because of a recent loss of a relative, but unfortunately that did not come up until reference was made to a detail in his past that was linked to an old story of his relative’s suicide. After the interview session was done, the participant was provided with the necessary support within the forensic unit as per research protocol ethical prescripts. The main

³ Journal note at the time: The language issues arising from my not grasping siSwati so well are also funny as I always claim that I’m fine with Nguni languages... Amangoza (Ngoza = Mango) draws me nearer to the participant as he later laughs at how I just can’t get to some Swati words and yet we all understand each other language-wise...

researcher would only follow up in the context of the study and refer any emotional matters in need of therapeutic interventions to designated mental health care providers. Although generally supportive in such instances, the principal researcher would not enter into therapeutic alliances with the participants, to safeguard against role confusion and dual agency. This was the general approach to all participants in need of mental health or other medical interventions in the course of the research process.

At times the emotions were directly linked to the charges against the accused: Q. How will the case work out? A. **“I will accept whatever comes.”** 5736. C06 [In the room: We take a break. The participant is emotional (about finding himself in the situation). He comes back into the room looking tearful... We break further at about 13h10 for lunch. We resume at 13h40]. He had earlier said that he had suffered from depression and anxiety due to the charges against him. The relevance of that revelation to his official forensic psychiatric report would not be interfered with as per ethical clause of the research protocol.

3.8.3 THE SEPARATION OF RESEARCH FROM FORENSIC OBSERVATION PROCESSES:

Some of the **co-observers** shared their own observation of the research process and this had valuable implications for **data validity and authenticity in qualitative research** terms: **“The consistency of the information shared has been good and reassures me that he is being honest.”** 4412. INT01 on C04. **“He has been able to describe the assessors and recognises that they are separate from the research process.”** 4415. INT01 on C04

Some of the participants showed differences in their emotional responses to their ordinary forensic observations versus the research interviews as surmised from some of the interactions. For instance, during one of the research sessions, participant P08 was informed that his ordinary forensic observation assessor was in to see him as soon as he was done with the research interview (6086. P08). As per research protocol ethical terms, the research interview was wound down rapidly to accommodate the forensic observation interview. The formal forensic interviews were prioritised in case of time clashes as per research design. Afterwards, and upon reflection with the co-observer/ interpreter, the researcher noted that as soon as the participant was aware of the forensic assessor’s presence, he started giving one word answers and was less at ease.

The change in the style of responses may have been a sign of anxiety or evasiveness implying lack of ease now that the observing assessor was in the building. Whether this meant that the research interview was less intimidating or not, was not checked with the participant as it may have caused unnecessary discomfort. Nonetheless, one of the implications may well have been that the participant had adjusted to the material differences of the two distinct interview contexts (6058. P08). It was also noted that

although the participant was eager to sit in with the research interview, he was reluctant to converse about material closer to his (sexual offences) charges. He was more at ease with dealing with information that was more theoretical and removed from his case. This tied in well with the reassurance that participants would not be expected to divulge information on their charges except on a strictly voluntary basis.

Signs and symptoms during interviews:

Symptomatology during the interviews affected the research process at times. The level of expertise of individuals doing research in this kind of population would then be critical for authentic responses versus signs and symptoms to be deciphered. The more refined the interviewer's skills or better yet the closer the interviewer is to the field being studied, the better the outcomes, it is suggested. Ethical discipline had to be exercised to the utmost as well. When the following participant expressed his opinion on the observation process, the researcher could not help but put on her forensic observer's hat [see the note-to-self]: **"I came here to check if my mind is sharp... And they will call the court and say what they have found... They will find that I am slow... When a person speaks I do not understand what they are saying."** 7029 – 7032. P09. Either way, vulnerability and suggestibility and their effect on the ability to stand trial may have been at play in some instances. This occurred at several points during the research process and became a focus of attention that the researcher would keep under close scrutiny and in check. The focus was to ensure that the interviewing style would reassure the participants of the difference between the in-depth interviews and their routine forensic observations with their formal assessors. The interviewing style was relaxed to ensure the easing up of tension and a free exchange of ideas as noted in the following note-to-self: **"...He eases up and gives slightly more details but there is still poverty of thought content."**... 3402 – 3405. P07.

3.9 SUMMARY NOTES: EMERGING THEORY PSYCHIATRIC FEATURES AND FORENSIC OBSERVATION

3.9.1 VULNERABILITY THEORY:

- Young children
- Intellectual disability
- Borderline intellectual functioning (Is it a matter of opportunism or is this group misread?)
- Single males

3.9.2 EMERGING ASSERTIONS OR THEORY IN THE CONTEXT OF THE QUANTITATIVE RESULTS IS:

If a victim was 'very young' the accused was mostly male and may have been of any mental capacity including ordinary members of society with no psychiatric diagnosis. A very young victim age pattern was seen in all the diagnostic groups and in the 'no diagnosis' group as well.

Borderline intellectual functioning and intellectual disability cases whether affected by mental illness or not, had victims of a similar average age.

If a victim was an adolescent or older, the accused was mostly male and may have been of any mental capacity including ordinary members of society not affected by mental illness but was less observed to have had the diagnosis of intellectual disability.

The age gap between the victim and the accused was big and may fit concepts like child rape, transactional sex and 'sugar daddyism'.

The victim and accused' proximity and use of substances by the accused at the time of the alleged incident may be leaning to the qualitative findings that asserted that there is a relationship between the victim being of a young age, substance use by either victim or accused and sexual violence especially where alcohol has been consumed in certain areas in communities like taverns (drinking places).

The seeming lack of a relationship between mental illness in the accused and the victim age has been discussed in this chapter and may be hinting at new knowledge especially if corroborated by further studies in the South African context.

3.10 IMPLICATIONS:

3.10.1 FOR THE OBSERVED + HUMAN RIGHTS OF BOTH THE VICTIM AND THE ACCUSED WHERE MENTAL ILLNESS IS SUSPECTED + FORENSIC OBSERVATION APPROACHES IN A DIVERSE COMMUNITY

Local examples of diversity issues are language and culture differences as well as race and gender related matters. Gender may be superseded by race in local politics.

Apartheid legacy lingers on in the court room and it may be that court systems may still have patriarchal tendencies that may minimise the importance of some levels of scrutiny in delivering just cause for both the victim and the accused.

The effect of being observed by a person who may not have insight into your cultural background may have legal and human rights implications in a constitutional democracy like South Africa but current measures taken seem to ensure forensic mental health experts objectivity, mostly.

In terms of special mental health courts, is it possible that when asked about their lives from a different perspective even observandi who would traditionally not be able to stand trial because they may be seen to be mentally ill may end up being able to convey their stories if the court environment is adjusted to suit them? Then we may get closer to serving justice in an environment that is easier for the accused to defend them in. Should we recommend to the court that they have special courts for mental health related matters?

3.10.2 FOR RESEARCH:

Local prevention models: There seems to be a need for local research models on prevention of potential criminal behaviour in the context of mental illness and mental health promotion in those who have the potential to cause harm including sexual violence to others because of their mental illness. The theory as it stands now, may be moving away from the notion of a direct relationship between mental illness and sexual offending but this area will need further exploration. The question of the function of mental disorder in the evolution of sexual violence will need further exploration in the South African context as it may be that mental illness may be part of a combination of social determinants of societal wellbeing and not the driver in itself.

Vulnerable potential victims: Further exploration of victim social profiles especially young females and females at the extremes of age.

Sexual violence against males: The societal matter of sexual violence against males that may be driven by patriarchal systems as well, will probably need to be added to future research narratives on sexual violence in populations similar to the current study context.

Mentally-ill accused individuals as potential victims of law enforcement and justice systems: The contentious matter of a universal right to stand trial with or without assistance by the system needs further exploration. The concept of defending self in court in the presence of different degrees of severity of mental illness during the court trial as well as at the time of an alleged commission or omission of a criminal act remains an issue for research as there are conflicting calls for all to appear before the court for trial of facts.

About language and cultural incompatibility: The challenge for researchers would be to explore the material difference in picking up important nuances when forensic assessments are done in the mother-tongue or a language of efficiency for the observandus versus when that is not the case. In a general psychiatric context finding a good description of signs and symptoms has different implications than when the assessment is for court purposes. Some might say the observandus has a lot more to lose when there is language and cultural incompatibility.

The effect of co-observers / interpreters on the forensic observation process: In view of the fact that forensic observations are already in the repertoire of nursing professionals in forensic psychiatric units, there seems to be room to explore their perceptions of the world of forensic observations to which they belong. The same might be said for correctional services and any other personnel who spend most of their professional time observing the behaviour of remand detainees. In the current study, it is acknowledged that the co-observers / interpreters may have entered the research space with questions of their own already. That aspect was however not explored but opened up an opportunity for future studies. What is noted is that varying degrees of levels of expertise and experience have an impact on forensic mental health observations and are probably important when doing research in similar contexts in mental health; they may be equally important for interpreters in court as well. Research into the training of interpreters generally will be important too.

Research methodology – the role of co-observers and co-interpreters in a multicultural context: It may be necessary in future studies in forensic observation assessments to use triangulation and to allow for perspectives from the categories of assessors involved in typical cases as done in the instance of the narrative on ‘C02’ above. C02 the participant, INT03 the co-observer / interpreter and AS03 one of the specialist assessor in terms of the CPA referral are consulted to explore in depth, the language and cultural competence factor. They all have varying opinions on the same subject matter, whilst dealing with the same case from different angles. The richness of the illustrated triangulation approach could only add to the research experience. Both INT03 and AS03 were seasoned sojourners in the forensic psychiatric observation field and the researcher is grateful to them and other fellow sojourners for their inputs.

Research methodology – mixed methods analysis: The findings from the qualitative arm of the study were used to cross-analyse data from the quantitative part and vice versa. The basic order of the study was concurrent and moved from the qualitative to the quantitative in parallel to elucidate some of the emerging findings from either of the components. The richness of the formulation of ideas from the ground up was in the back and forth movement of linking what came out in the qualitative section to what was found in the quantitative results section to form a ‘whole greater than the sum of its parts’; this was an important arm to the blended and pragmatic approach used in the study. As noted above: it was in the nexus of the two methods that theory emerged or was strengthened. And so for instance, when qualitative conversations referred to the ‘age of consent’ as an issue and a harbinger of greater definitions of sexual offending, it is the ‘age of consent’ in numbers in the quantitative component that showed the magnitude of the problem.

3.10.3 FOR THE EXPERT WITNESS AND THE COURT SYSTEMS: THE NUMBERS GAME - HUMAN RIGHTS VERSUS HUMAN RESOURCES

The need for greater numbers of experts in both the forensic mental health context and the legal field seems urgent. Further, the question of whether everyone, irrespective of their mental status should go and face their day in court and make sure the courts hear their cases so that some are not incarcerated unnecessarily simply because they are not mentally well has been raised (Article 6 of the European Convention on Human Rights (European Court of Human Rights 2010; Article 12 of the UN Convention on the Rights of Persons with Disabilities). Whilst signatories of these statutes remain ambivalent about implementing articles 6 and 12, it seems to remain necessary for the court systems to continue training prosecutors and interpreters on mental health related matters that may affect the handling of such cases in court. It seems also important for the judicial system to take heed of the sensitive matter of stigma with which some mentally ill people may be dealt once they enter the system. Sensitization programmes may be imperative.

3.10.4 FOR LEGAL-AID, LEGAL RIGHTS

There were also recommendations based on what co-observers had observed over time on how the experience for the observandi can be improved in court by educating them on court processes. This implied that the individuals going through court trials were ill-informed of the court and forensic observation processes and an improvement on that aspect might have enhanced their legal rights.

Gaps in knowledge on court proceedings may be highlighting the need for training and support. It may be necessary for courts to adjust their environments to accommodate people living with mental illness and intellectual disability of varying severities to attempt to learn about the courts and to perhaps defend themselves – an attempt to meet the rights of those who may even be found not guilty or may be mentally ill.

Chapter 4

4 SEXUAL OFFENDING

4.1 PROLOGUE: PSYCHOSOCIAL FEATURES

Sexual offending as an overarching concept at the centre of the study stood out in both the quantitative and the qualitative components of the study. The participants had varied responses to the concept whether it came up naturally or as a question emerging from a conversation. There were several questions in the initial questionnaire and in-depth interview guideline that were set to open up conversations on sexual violence. During the interview of the first participant – P01, who was accused of a sexual offence against a minor, it became clear that the subject of sexual offending could not be contained by narrow boundaries that may have been conceptualised by law, society or the researcher beforehand. Below are the main emergent concepts around some of the areas of focus that came up as conversations grew between the researcher, co-observer / interpreters and participants. Concepts also evolved from interview to interview. ‘Addendum C’ depicts the initial interview schedule that was used to launch the first conversation one with the first participant (P01). After that conversation, the narrative evolved and yielded the resultant summarised themes, concepts and assertions discussed from here on.

Most of the time, those accused of a sexual offence, were reluctant to enter into conversation about matters directly linked to their own cases except maybe at times when they would volunteer information to illustrate a point. This came as no surprise and had been anticipated in the research design. A stance of declaring upfront to potential participants, during the recruitment phase, that the proof of the allegations against them would not be the focus of the interview was taken. It was preconceived that there would be no attempt during the in-depth interviews to prove charges against participants true or not. Those who wanted to volunteer details about their charges were free to share details but were not compelled to do so. Most participants were otherwise free and shared on matters under general discussions of how the concept of sexual offending affected society. They also shared on how sexual offending may or may not have been related to mental illness, as it is illustrated below.

It is also pointed out that in terms of the methodology, qualitative data analysis and interpretation of both the quantitative and qualitative data sets depict parts most relevant to the specific discussion of ‘Sexual offending’ in the current chapter. The advantage of using mixed methods in the analysis and interpretation of both quantitative and qualitative data became apparent during the thematic analysis, categorization, assertion and theory building in the ‘Sexual offending’ chapter. Collection of qualitative data preceded that of the quantitative data in practical terms but the entire process occurred concurrently as the record-based component and the in-depth interviews were done over the same study period. The subsections below will show the mixed analysis findings. A summary of the qualitative analysis of the quantitative data is attached as ‘Addendum E’. The results from both the quantitative and qualitative processes are interspersed and referenced accordingly in the chapter. The analysis and interpretation of the qualitative in-depth interviews section revealed findings that were closely linked to the quantitative

context in terms of sexual offending. The circumstances under which sexual offending occurred, the places where it occurred, those involved and the outcomes were better described in the records that were perused and analysed using both quantitative and qualitative methods because they were descriptions of actual accounts on record from those involved. What could not be expressed through the in-depth interviews by both the SO and NSO participants emerged from the record-based component of the study.

4.1.1 THIS CHAPTER WILL COVER:

Sexual offending: as defined

Sexual offending: contributory and preventative factors

Sexual offending: the process of researching the topic

Sexual offending: discussion: emergent assertions and theories

Implications for:	Research methodology	-	Women talking with men about violence
	Forensic observation	-	Mental illness and Sexual offending Society
	Systems	-	Law enforcement; health; civic

4.1.2 TERMS OF REFERENCE:

As reflected in the sample description, most ((n = 8/9) of those in the sexual offences group (SO) of the in-depth interviews component were referred for the charge of rape (88.89%) as defined in the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 (SOA 2007). The 9th person had been accused of attempted rape. The quantitative data set showed a similar pattern too as the specific charge of ‘rape’ was the most common referral reason under the sexual offences category (88.7%). (See previous ‘Psychiatric features’ section.) It is for this reason that most of the discussions may use the term ‘rape’ interchangeably at times with the terms ‘sexual assault’, ‘sexual offence’ or ‘sexual violence’. The term ‘sexual offending’ will be used to represent the whole group of sexual offences. Moreover, the narrative will follow the common pattern of ‘male’ perpetrators vs. ‘female’ victims in general sections but will specify gender differentiation elsewhere, where applicable. Also, the term ‘victim’ is used universally to denote the victim-survivor status and is no attempt to diminish the sensitivity of the survivor status of those whose experiences were captured in the records. Also, the general picture of the sexual offender referred to in mostly American and European scientific journals of forensic mental health is not the typical picture that emerges in this and previous samples (Sokudela 2009). The sample hardly fits the description of classical paraphilias (Seto 2017) in terms of the mode of criminal behaviour described in records. Other types of sexual offences involved can be viewed in the ‘Psychiatric features and forensic observations’ chapter earlier in the thesis.

4.2 SEXUAL OFFENDING: DEFINED

According to the Sexual Offences Act, sexual offences in South Africa fall under specific definitions (SOA 2007). For the purposes of the discussions, the participants were aware of the general meaning and used the word ‘rape’ to approximate the description that depicted it as an act by “any person ('A') who unlawfully and intentionally commits an act of sexual penetration with a complainant ('B'), without the consent of B” (SOA 2007: Section 3). The term ‘sexual assault’ was hardly used by the participants but the researcher refers to it interchangeably in the thesis and it is understood to refer to “A person ('A') who unlawfully and intentionally sexually violates a complainant ('B'), without the consent of B” (SOA 2007: Section 5). Sexual offences are considered to be major charges under the Criminal Procedure Act and individuals accused of such are referred for forensic mental health assessments under specific regulations when applicable (CPA 1977). A reminder, unlike the entire sample of the quantitative component described in chapter 3, individuals that participated in the in-depth interviews were not all referred for sexual offences (SO). Some were referred for other major charges that are referred to as non-sexual offences (NSO) in the context of the current thesis. Upon entering conversations with participants, the definition of sexual offending emerged not from what was described in terms of the SOA but in terms of the accused individuals’ lived or socially perceived realities and experiences. Various aspects of what they saw as descriptive or problematic with the definition of what they called ‘rape’ are covered forthwith.

4.2.1 AGE OF SEXUAL CONSENT AS WE KNOW IT: “AMEHLO AWANCISHWA, ABONA AKUBONILE.”

Discussions on the ‘age of sexual consent’ (also referred to simply as the ‘age of consent’ in this thesis) emerged in the context of the question of what it meant to sexually violate an ‘other’ in legal terms and otherwise. Most participants talked about the age at which a person can consent to sexual intercourse in terms of the chronological age or developmental stages of life (e.g. level of schooling, occupational status). There were divergent views and the conversations were left open-ended where appropriate so as not to interfere with the formal forensic observation parallel processes. A participant who had been accused of a sexual offence against minors himself, when asked about what he thought of the age of consent to sex, brought in the element of ‘looking’ at a person and making up your mind whether it was appropriate to engage sexually or not: “**Amehlo awancishwa, abona akubonile.** (IsiZulu: One’s eyes are not robbed of sight. They see what they see.) **At a certain age a person has rights.**”... 3003. P06. Later the same participant, when asked about the age of consent, according to his knowledge, said: “**With us we look at those who are growing**”... 3264. P06. Depending on the way a girl looked, and if she looked older than her chronological age, it seemed the person who sexually assaulted her could not be blamed entirely as he would have perceived the victim to be old enough to be of reproductive

age. **“Umuntu uba nomoya wokwenza abantwana umase ana13 iminyaka, se kuyafanela ukuthi akhone ukwenza abantu.”** (IsiZulu: “When a person has feelings to make children when she reaches the age of 13 years, she must proceed and make babies... Yes, if she so wishes so.”)...3266. P06.

A co-observer / interpreter and a participant reflected on the matter of ‘looks’ versus the age of consent and tended to differ from the ‘eye of the beholder’ and reproductive age perspective.

“Sexual offending is taken seriouslyand now it is worse even... young girls who look bigger than their age.”... 3716. INT04 during C03. **“About the rape of children, it may be through (bad) influence. Also, girls don’t all mature the same way...”**... 3824 - 3827. C03.

Another participant attested also: **“I see no difference in the rape of a child or an adult. Rape is the same thing. You do not spell it differently. You spell “R.A.P.E.” and not “B.A.P. E.” Sexual offending is the same... The same sentence (by a court of law) should be given”**...3268. P06. This implied that whatever it was called, sexual violence remained a reality. The same participant also illustrated the concept of ‘inducement’ or grooming (SOA 2007) when he narrated as partially translated: **“Amaphoyisa (the police) brought me here. They thought I raped someone... They (the victims) are just school children who came to my house. Maybe they are seven (7), eight (8) and eight (8) years old. They (the victims) came to my house and found me cooking meat and I offered them some when they asked.”**... 2886. P06. The interaction described here was confirmed in court documents via victims’ statements. In the quantitative data set, the phenomenon of grooming / inducement was illustrated and detailed in several other cases thus: **He gave them food [quanti 17; 27; 48]; He promised them (electronic) games [quanti 52]; He promised them balloons [quanti 52]; He enticed a boy with a bicycle [quanti 57].**

Some non-conventional notions of what the appropriate age of consent was, also came up. When a NSO participant C04 was asked: Q. Appropriate age of consent and age difference in romantic relationships... He answered: **“Is 25. Twenty-five (25) is a good age for getting together intimately”**... 4241. C04. **“The boy must be 21 and the girl must be 20”** said another participant... 6938. P09. **“Rape is when an old person forces himself on a child or younger person. No, you cannot rape a person of your age.”**... 4254. C04. The sentiment was shared: **“An adult who sleeps with a child... that is rape.”**... 6969. P09. Participant C04 encapsulated the confusion around what is legally defined as sexual offending age-wise and what other components of society may call it: **“Rape is to sleep with a person who is much younger than you. Yes, for instance with a school child when he’s 40 and she’s 19”**... 4245. C04.

As a concept, the age of sexual consent, in terms of South African law, is set at age 16 in accordance with the Criminal Law (Sexual Offences and Related Matters) Amendment Act 32 of 2007 - dubbed ‘The Sexual Offences Act’ (SOA). This definition is confirmed as stated in the preamble to the Criminal Law (Sexual Offences and Related Matters) Amendment Act Amendment Act 05 of 2015 (dubbed ‘The

Sexual Amendment Act'), as well. The SOA Amendment Act 05 of 2015 is meant to consolidate the SOA and "to protect children, who are 12 years or older but under the age of 16 years, from adult sexual predators... and consequently also does not lower the age of consent in respect of sexual acts to 12 years (SOA Amendment Act 2015: Section 1). The SOA (2007) refers to a child as "a person under the age of 18 years; and with reference to its section 15 (statutory rape) and section 16 (statutory sexual assault), a person 12 years or older but under the age of 16 years" (SOA 2007: Section 1(1) (a), (b)). This means that the age of consent is 16. The definition applies to all irrespective of gender and sexual orientation, a departure from past legislation.

As far as the age of consent is concerned, there has always been a contention about the various ages of maturity as written in different laws in South Africa, however (Strode, Slack and Essack 2010: 247). The SOA 32 of 2007, the Children's Act 38 of 2005, the National Health Act 61 of 2003, the Choice on Termination of Pregnancy Act 92 of 1996, the Mental Health Care Act 17 of 2002, to name a few, all give different ages for differing statutory functions. Laws on marriage also add to the confusion especially when parents are given the right to give consent for a child younger than 18 in South Africa. Moreover, in an attempt to allow some family decision-making space, the stance of allowing parental consent to child marriage, as seen in South Africa, has been linked to worsening teenager fertility rates and other risks as well (Kim, Longhofer, Boyle, and Nyseth, 2013). As far as the age of sexual consent is concerned though, it seems that South Africa has consistently stuck to 16 as the age under which statutory rape occurs, with or without the assent of the victim to a sexual act (SOA Amendment Act 2015). Globally there is no consensus with Collin-Vézina, Daigneault and Hébert in their review displaying a wide range from "12 or 13 (e.g. Tonga, Spain) to 17 or 18 years of age (e.g. some states in the US, Australia)" (2013:2) and in most of Europe age 16 onwards (2013).

Given the current legislative framework, as denoted here-in, it seems that the message on the age of consent has not reached all in South Africa and may be perceived to be debatable given the in-depth interviews findings above. Also, in corroboration, the quantitative results showed that 67% of the 78 victims in the record-based study component, were less than 16 years of age as discussed in the preceding chapter. The participants' perspectives in the in-depth interviews seemed to be mirroring the quantitative result in that there seemed to be confusion about the age of sexual consent with some referring to ages less than 16. The notion of gauging the age of sexual consent by how a person appears seems to negate campaigns aimed at taking away the blame of sexual violence from the victim and placing it on the offender. Recent and past campaigns like 'Men Can Stop Rape' in the US in the early 2000's (Murphy 2009), and their contemporaries 'Real men don't rape' (Holly Elissa 2009) have tried to emphasise the shift away from victim-blaming but have also fallen under criticism at times because they too tend to keep the responsibility-taking by the perpetrator superficial (Murphy 2009). The way individuals appear in terms of age and maturity and other gender stereotypes ought not to influence whether they are sexually assaulted or not, the campaigns attempt to affirm. The challenge is for would-

be perpetrators to control themselves and not to venture into sexual violence altogether. These campaigns and other efforts are an attempt at reversing the burden of responsibility in preventing sexual offending back to the perpetrators of sexual violence. See also the discussion on ‘Blame it on...’ in the ‘Sexual offending: contributory and preventative factors’ sections below.

Furthermore, debates about sexuality, choice, maturity and the age difference when two minors are involved in a sexual act, have been underway for some time. The matter reared its head especially during the time of the formulation and enactment of the Sexual Offences Act when the age gap between two ‘consenting’ minors became significant only if it was more than a two years (SOA 2007). The need to amend the Act over time attests to ongoing challenges with the interface between sexual autonomy, maturity, morality and the law (SOA Amendment Act 2015).

To make matters more complex, there seems to be an organic categorisation and / or splintering of the ‘under-age’ (less than the age of consent) victims group by the in-depth interviews participants in the current study. Some seem to suggest that the ‘under-age’ group may be made up of at least two subcategories. Further it seems that the subcategories are approached differently in terms of sexual interaction. The youthfulness of the victims is viewed from a perspective of a ‘very young children’ subcategory (understood to be pre-pubescent), as well as from a perspective of a ‘fresh’ girls subcategory (understood to be adolescent). It seems that ‘mental disturbance’, in colloquial terms, is ascribed to individuals who sexually offend against the ‘very young’ subcategory of children. The ‘fresh’ girl subcategory is in the grey-zone. Interacting with them sexually, even if they are below the age of consent, seems not to be deemed an offence. Male children are not accounted for at all in these subcategories.

The emerging picture then is that, at least for the participants in the qualitative component of the current study, it may be difficult to define the ‘age of consent’ concept especially in the context of sexually offending against ‘fresh’ girls (adolescent girls). Moreover, it seems difficult not to congratulate an older man who has found himself a younger ‘fresh’ girl. This finding is explored together with the concept of the ‘sugar daddy’ and others in the ‘transactional sex’ section below and in the ‘Ways of relating’ chapter. As discussed in those sections, social factors going beyond mental illness may well be contributing a big share to the phenomenon of sexual offending than does mental illness by itself. The role of mental illness in the complex formulation of other social determinants of sexual offending may warrant further scrutiny in future research.

In the current study, it is in the nexus of qualitative and quantitative analysis that theory emerges and/or legislative definitions are questioned on the social concepts of ‘age of consent’ and ‘wide age gaps’ between victims and alleged perpetrators. The displayed difficulty in understanding the concept of ‘the age of consent’ may be a harbinger of better ways of setting the record straight in terms of the intersection between the age of sexual consent and sexual offending in future, if addressed. That the

definition of the legislated ‘age of consent’ may be uncertain, can be part of the core factors behind the unrelenting occurrence of sexual offending against children, especially when viewed beyond the context of the present study. The quantitative result that sexual offending against victims below the age of consent is more prominent than that against older victims, corroborates the qualitative findings that the ‘age of consent’ is not well understood, and vice versa. Both components of the study hold these findings irrespective of the presence or absence of mental illness or intellectual disability in accused individuals and begin to illustrate child sexual abuse as the public health problem that it is (Barth et al 2013; Collin-Vézina et al 2013).

4.2.2 SPOUSAL AND ACQUAINTANCE SEXUAL OFFENDING

At initial review, the subject of sexual violence in the context of those known to the victim did not seem so large from the in-depth interviews participants’ perspective until a pattern started emerging:

“No, no rape in a relationship. You can’t force her if she refuses (sex) but you must then know she’s doing something on the side.”... [Laughter in the room]... 3860. C03

“No, not between married people. Yes, if it’s a stranger... if it’s people who are not in a relationship.”... 4256. C04

“The one problem I had was that she said to me one day, I’m not into sex... I asked her what was the reason I married her [sic]... I expected her to be willingly having sex ... And when she didn’t want to... then she must have been cheating”... 6413. C07

“Icherrie yakho (your girlfriend) ... It is possible to have rape in a relationship...But how do you prove it.”... 5120. C05. “When she’s saying no (and you’re in a relationship with her), why does she not want to sleep with me... You’re going to ask yourself after three (3) months or so, is she cheating... [Claps hands with a lively expression]... Does it make sense?” [Asking the researcher]... 5134. C05

“It (sexual offending) can happen when you love a person and she doesn’t want to sleep with you.”... 2764. P05

“Yes, they must get arrested... (Rape in) marriage, it is the same as in a rape case with a stranger”... 6096. P08

There seemed to be variable perspectives on whether sexual assault was real in the context of spousal relationships as illustrated in the passage above. A prominent response was that when a woman refused to have sexual contact with a partner, doubts about trust and fidelity would arise. Infidelity was often blamed for the refusal of sexual interaction between spouses. The partner, in particular the male, would at times be compelled to ‘force matters’ and this would perhaps end up with sexual and other forms of

violence it seemed. The sentiment was that it started with her refusing sexual relations and then the partner would be compelled to demand his conjugal rights which she ought not to refuse. Put differently, to some participants, it registered as senseless that a woman who was in a romantic relationship could say no to sexual relations with her partner⁴. This did not however mean that perspectives were not diverse, because it turned out that other participants saw things differently.

Spousal rape was seen by some as part of intimate partner violence (IPV) and added to a bigger story of gender-based violence (GBV) or domestic violence (DV) between those who knew each other in particular.

“Yes it can also translate to sexual violence especially with a steady partner... There’s relief after sexual intercourse. When you force her... We are seeing more and more of these cases.”... 5595 - 5596. C06

The participants’ perspectives on the concepts of conjugal rights and acquaintance rape (when the perpetrator is known to the victim) seemed to be mirrored by the quantitative results. In the majority (70%) of the quantitative record-based sample, the victim was known to the alleged perpetrator although not necessarily in a romantic way. Strangers were implicated during 30% of the time or less. That the spousal / acquaintance theme was highlighted perhaps indicates the severity of the matter in terms of the local context. Both the quantitative and the qualitative data sets seemed to attest to this. The extensive analysis below probably also attests to the graveness of the local social violence condition when viewed through local transformative lenses.

The geographical and socio-demographic context within which some sexual offending of the intimate partner kind occurred, was also unpacked by a co-observer:

“He says abuse is not common... Rape is not common... Where he stays is a rural area, there’s a better discipline... The system is more traditional and men are still in charge... Sexual offending within a relationship... (Women) cannot be independent because they are still dependent on them (men) for money.”... 6067. INT06 on P08

Patriarchy and traditional rural community settings were perceived to be conducive to the exercise of control males may have had in spousal relationships. The emerging simultaneous code was the concept of socio-economic factors that contributed towards sexual violence and were utilised to facilitate the same control. See the section on ‘Blame it on poverty, unemployment, inequality’ for a discussion on the perceived interaction between sexual offending and socio-economic factors. Other social concepts associated with rural communities e.g. the phenomenon of ‘ukuthwala’ are discussed below.

⁴ This was one of those times when the researcher had to keep a very straight face to not get in the way of the conversation flow. Even at the time of writing, I am struggling to grapple with how wide the difference in reasoning can be about sexuality and sexual violence in our context.

The findings in this section also illustrate that there may be room for the crystallisation of the concept of sexual offending, and in particular rape, within the context of IPV, DV and GBV as part of a broader strengthening of research and theory in the area of IPV as has been suggested (Shorey, Tirone and Stuart 2014). Sexual violence in the context of a relationship – what can be loosely called a ‘romantic relationship’ for ease of reference – was not perceived to be sexual offending in all instances in the current, although it has been shown that both sexual and nonsexual forms of violence can coexist in that context in other studies (Monson and Langhinrichsen-Rohling 1998). In formal research circles, spousal rape (sexual offending) is also called marital rape (Siegel 1995).

Historically too, sexual violence in a romantic relationship context was referred to as marital rape (Siegel 1995). The reference was adopted after the removal of the ‘marital exemption clause’ that allowed men in heterosexual spousal relationships to subject their spouses to non-consensual sexual relations *⁵ (Siegel 1995; Mill 1869). The marital exemption clause seemed to have been recognised in most societies until human rights movements gained momentum. The labels ‘spousal’ or ‘marital’ rape may still be socially relevant but are legally no longer relevant in places like South Africa because of the neutrality of definitions in laws (Sexual Offences Act) that recognise sexual violation in any context including spousal relationships (SOA 2007). There are countries like the United States of America where there is ambiguity still, in terms of so-called partial exemption states, (Siegel 1995).

The first recording of marital rape after the review of the marital exemption clause seems to have emerged in the year 1979 (Siegel 1995). Spousal rape is about forcing a sexual partner to non-consensual sexual relations and may well be about control more than about the sexual act itself (Moffett, H. 2006). The refusal of sexual intimacy and a suspected infidelity, both by the woman, are linked to sexual offending within spousal relationships even upon analysis of classics like Shakespeare’s ‘The rape of Lucrece’ (Koketso 2016). The sentiment that when he does force her and they are in a relationship, it ought not to be called sexual offending, is touted about in the current study but has been refuted by others (Culbertson, Vik and Kooiman 2001; Edwards, Bradshaw, and Hinsz 2014).

As alluded to already, studying the concept of spousal rape is probably as necessary if not more so in rural communities. Resources to support affected individuals may be more scarce. Also, in the more rural settings there may be a parallel, custom-sanctioned pattern of sexual violence and female gender differential treatment in the practice of ukuthwala (isiXhosa: female mock abduction to marry) (Monyane 2013; Mabasa 2015). Ukuthwala is recognised as a form of customary marriage by certain groups in the Southern African context especially. It may be said to be accepted by both genders (the bridal couple) if done according to accepted marriage customs of community groups where it is

⁵ John Stuart Mill: Not so the wife: however brutal a tyrant she may unfortunately be chained to—though she may know that he hates her, though it may be his daily pleasure to torture her, and though she may feel it impossible not to loathe him—he can claim from her and enforce the lowest degradation of a human being, that of being made the instrument of an animal function contrary to her inclinations. The subjection of women. pp. 57

practised. It has been illustrated to be a form of gender-based violence in recent times though if not applied according to accepted customs (Monyane 2013; Mabasa 2015).

Moreover, if phenomena like ukuthwala are put in other contexts, there may be other negative and enduring consequences socially. For instance, the early marriage of children to adults (as may occur in the case of ukuthwala) have been shown to worsen the child's health and other outcomes in some context (Kim, Longhofer, Boyle and Nyseth 2013; Chae 2013). Practices like ukuthwala then become associated with violent acts including kidnapping and sexual assault of females also (children and young women). The South African Law Reform Commission has been tasked with the review of the practice relative to the criminal law framework recently, as a result (Mabasa 2015). The criminal appeal case of *Jezile v S and Others* (WCC) (unreported case no 127/2014, 23-3-2015) as reported by Mabasa and others led to a judgement delivered by a full Bench of the Western Cape Division is illustrative (Mabasa 2015; Mwambene and Kruuse 2017). In that judgement it was found that ukuthwala could not be used to defend offences such as rape, human trafficking and assault with the intent to do grievous bodily harm.

Ukuthwala as a matrimonial concept is a useful illustration of how some social group concepts of marital union may be evolving. The evolution of traditional marital concepts and the confusion of those kinds of unions with sexual violence (in a manner similar to the Jezile case above) was also demonstrated to the researcher, upon inquiry, by a forum denoted (for the purposes of the narrative) as oral historians of isiXhosa (part of the researcher's grounding) over lunch on a Sunday, during the write-up process.⁶ Different types of matrimonial formations versus sexual and other forms of gender-based violence may need to be clarified as they evolved. Legislation review will need to be exercised with caution so as not to throw the proverbial traditional baby out with the bathwater, it was suggested by the oral historians and others (Mwambene and Kruuse 2017).

Ultimately, what seems clear in the South African context, is that the updated and amended legislative framework has allowed for the criminalisation of sexual violence in most contexts. The SOA has

⁶ From ukuthwala (kidnapping and marriage) to ukugcagca (eloping): Verification over lunch... These were conversations held informally with social women acquaintances including a 70, 52, and a 50 year old. The African concepts of marital union versus an evolving culture mixed with other social ills such as gender-based violence were discussed. For the enlightenment of the researcher who was up till then naïve of some of the information, the difference between ukuthwala ('non-criminal' traditional kidnapping and subsequent traditional marriage) and ukugcagca (eloping) were explained. These forms of marital union were labelled as good and accepted to various communities but it was acknowledged that lately they had been 'hijacked' and diluted by criminal perversion in the form of gender-based violence. The explanations coincided with another conversation held with one of the sojourners (Nom) wherein the concept of patriarchy being dehumanising to men who are 'coached' by society to be violent, was discussed. The forum around the Sunday lunch table ended up with a conclusion that maybe, reviewing legislation based on contemporary premises to criminalise all acts of ukuthwala without separating the 'good' from the 'bad' forms, might be ill-advised. Were past traditional societies less aware of human rights in the context of ukuthwala, the question remained.

simplified the definition of the relationship between the victim and the perpetrator down to any person ‘A’ versus any person ‘B’ in any manner violating the individual sexually (2007). This includes, physical and other kinds of sexual violations including compelling another person to violate another. And so it may be that the next obstacle will be the implementation of the law in a non-patriarchal system (Phillips 2004; Bumiller 1987). Given what seems to be compelling evidence in both the record-based and the in-depth interview components of the study, it may well be that spousal and acquaintance rape represent the largest share of the problem in the country context as has been suspected before (Wood and Jewkes 1997). More focused interventions in these specific areas are probably necessary.

4.2.3 WOMEN WHO ARE IN RELATIONSHIPS WITH MEN WHO HAVE BEEN ACCUSED OF SEXUAL OFFENDING – ‘STAND BY ME’

Moving to a new place in the conversations that went beyond spousal rape but where women in relationships with alleged perpetrators were equally involved, there emerged another concept. Women emerged as playing an unexpected and an often not-talked-about role of being partners to persons accused of sexual offending:

“My partner... does not understand why they would accuse me (of rape) because she is available sexually, how can I rape (yena ukhona nginga‘reyipa’ kanjani?)”... 3418. P07 ...

“If you’re married you do not need to rape as you will have a wife at home”... 1690. P04.

The notion here was that it could not be fathomed that people who were in romantic relationships could be accused of sexual offending as they would be generally satisfied sexually. The added layer was that the woman in the accused man’s life may be supportive of him on the one hand. On the other hand, society and those around her may have labelled the very same woman as being inadequate in satisfying her partner sexually and of being an accomplice and therefore deserving discrimination (Plogher, Stevenson, and McCracken 2016). Patriarchy seems to prevail in this context because to even accuse a man who is in that kind of a social scheme of sexual offending in any case is open for debate and found to be odd. It seems to be presumed that men in relationships do not commit sexual offending (Singal 2014). There may be feelings of inadequacy from the regular partner once the counterpart is accused of sexual offending. This conversation was not spread and generalised to other people who were relatives or friends of individuals who had been accused of sexual and other forms of violence and their reaction, however (see section on ‘The ‘Village’’). That the same woman in support of the accused, may turn out to be a victim of spousal sexual violation herself, as illustrated in the section just above.

4.2.4 SEXUAL OFFENDING AGAINST MALES: “WHAT WILL YOU SAY TO THE POLICE?”

The concept of sexual offending or sexual violence against a man by a man or by a woman drew contrasting views. In some instances it seemed that sexual offending of men was not possible or it was perceived to be homosexual behaviour.

“No, I have not seen a man who is raped. I have had no such, myself. Men like being forced (by women)”.. [Laughter in the room] ... 3821. C03

Q. Man versus man sexual violence? A. **“There’s no gay people (where I live).”... Q. No men get raped? A. “I don’t know”... 6523. C07.**

“The police won’t take it seriously. They will say a man cannot be raped by a woman... They will be like: “Guys, guys come and hear this man’s story”. He says he’s been raped by a woman!” [Laughs]...” ... 4299. C04

“The police will laugh if a man reports rape”... 5530. C06. “They will not go to the police. “What will you say to the police?”... The police will also not understand (the biology of a man being raped by a woman)... 3822. C03.

“Even with a girl who is a stranger... Then, yes, no, it’s not rape... Even if you didn’t want even if she’s a stranger... “Men are easy to tempt”... 5234. C05.

What was implied in these examples again is the biological impossibility of being forced as a man to have sexual relations with a woman against your will. Biologically a man would respond and therefore, according to this narrative, was complicit in his own sexual violation. The further explanation was that men can’t really be raped as it was easy to tempt them. It seemed then that there was no point in reporting male sexual violation because it did not count as sexual offending for some of the participants.

However differing perspectives from another participants regarding men experiencing sexual violence at the hands of women did emerge when the question was asked: Rich thick description as seen in this section sometimes worked well when participants began to come up with their own understanding and gave detailed accounts of social contexts. An example of such is set in the following almost one-sided exchange (with some summarising):

Q. Can man get raped? **“Yes, some (men) do get raped... A woman can tell a man do something for me (fix something in the house). And then he works and she turns around and does not pay him. She then says to him he can sleep with her instead of getting paid. This is a grown man with a family...”... 4275. C04.**

Q: What forces (compels) him (the man who is owed money in the above scenario) to sleep with her? A. **“She locks up... And then the guy must go home and explain to his wife**

about the money. He goes out to do a job and comes back with no money. He has to explain. And then his troubles begin.”... 4281 - 4282. C04

And so: Q: Sexual offending between strangers (when it is a woman against a man) happens.
A. **“Yes, it does happen. He is scared to hit her and stop her because the police will come quicker when she reports that she has been beaten up by him because she is a woman”... 4286 – 4289. C04.**

The assertion here was that a man who had been sexually violated by a woman as described above would not necessarily respond aggressively in self-defence. He would not respond aggressively because he would be worried that the repercussions of such a response would lead to a more adverse reaction against him by law enforcement systems, instead. This concern about differential treatment of genders by law enforcement systems also emerged in the section on ‘Sexual offending: contributory factors’. INT01 reiterated, during the validity exercise of ‘member-checking’, that his understanding of what participant C04 was saying was that: **“It is rape because he has been forced by circumstances to sleep with a person he did not want to sleep with...!”** 4432. INT01 on C04. The participant’s perspective provided a different angle on the definition of sexual offending against males by females – at least for the researcher⁷. Knowledge generation was in evolution, it seemed.

The given scenario above is an unconventional description of sexual offending but ties in with the theme of ‘sex and money’ and the section on ‘Sexual offending: contributory factors’. The reported abuse in the example depicts what may be more commonly seen in power relations involving men and women when men are the dominant figures. In this current and differing perspective, the power relations are skewed in favour of the woman who supposedly has money that the male victim needs. It may be emerging then, that even for men, the definition of sexual offending may be in the form of physical force vs. force by circumstances including socio-economic conditions and incarceration as in the examples given by men who have been violated by other men in prison (Harvey 2002; Moolman 2015). The finer details of this narrative can be explored further in future research especially when compared to a similar argument of socio-economic factors in women narratives of sexual violence (Barkhuizen 2015). The research population would probably have to include those who have observed these kinds of interactions or have been victims themselves, to gain well-rounded meanings.

That individuals, as seen in the current study, were accused of violent crimes they themselves may have been victims of in the past is not uncommon. The concept is as explained by theories on intrapsychic and interpersonal psychological ways of relating that lead to a victim-become-perpetrator cycle

⁷ It was during this explanation that the ‘wheels of new knowledge generation’ began to turn in the research process. The unit made up of the researcher and the researched was moving in unison. As a memo at the time, there must have been further confirmation then that it would take more than formal quantitative research approaches to begin to define what communities on the ground went through in the face of strifes.

(Cartwright 2002). Various forms of violence may manifest from similar foundations and may be fulfilled in different ways in society in response to trauma and attachment problems – a defence to perceived loss of power associated with masculinity (Cartwright 2002). For instance, the motivation for male-to-male sexual violence may be similar to male-to-female sexual violence when dominance may be the motivating impulse (Ioannou, Hammond and Machin 2017). Previous studies have, however, depicted female sexual aggression in heterosexual relationships that may be similar to what males do to female counterparts (Anderson and Savage 2005). The researcher anticipates scepticism from those who may not be comfortable with the conceptualisation of certain aspects of the findings e.g. the female-to-male sexual assault phenomenon. The concept of women sexually assaulting males might be treated with scepticism by others because of the belief that males are inherently dominant in gender-empowerment perspectives. Because women have been victims historically, conceptualising them as perpetrators of any kind of violence may be difficult but has been demonstrated (Dastile 2010; Prinsloo and Hesselink 2015). Besides, “perceptions of rape are, that women are the victims and that men are the perpetrators and that men are invincible (read strong and always able to protect and defend them)... The belief is that men cannot be coerced” (Moolman 2015:6747).

Going back to the earlier narrative from the participants, it seems that the male rape victim like the female rape victim probably does not report as he fears embarrassment and stigma fuelled by myths about male rape (Turchik 2012). Heath, Lynch, Fritch, McArthur and Smith, found that a sample of women offenders who would have been sexually assaulted prior to imprisonment had not reported the assaults because they themselves believed the myths related to rape (2011). The myths involved self-blame, fearing ridicule and doubting the experience to be rape in itself (Heath, Lynch, Fritch, McArthur and Smith 2011) and this highlights the importance of defining sexual violence concepts universally and in a gender neutral manner. Moreover, the scorn with which men are dealt with in society when they raise their abuse by others is one of the less talked about problems around sexual violence (King 1990). The current study’s showing, in its quantitative record-based component, that about 10% of the victims were males resonates with previous studies showing national averages of male victims in other country settings to range between 4 – 14% although inaccuracies due to underreporting are expected (Ioannou, Hammond and Machin 2017; King 1990).

About underreported male rape, perceptions of the participants in the in-depth interviews concur with the notion that when males are sexually violated it is difficult for them to report to law enforcement systems as ridicule is anticipated. The reporting male victim-survivor expects treatment that would be worse than that received by women in the hands of the police it seemed. As has been shown, conviction rates for sexual offences decrease when the low-reporting rate in the population of rape survivors is considered (Finkelhor 1994; Browne and Lynch 1998). There may be a link between low reporting especially by males and social ridicule and lack of serious consideration by SAPS – as it is in female victims. Given the reflected numbers seen in the study, the occurrence of male sexual assault may not

be reflected in real terms in the sampled population and may be downplayed, it is suspected. That the male representation in the current study was 10% may be because the male victims in the current context were minors and might be alluding to the presence of the central concept of 'vulnerability' as seen with other victim groups in the study. It might not be the gender but a matter of vulnerability because of their young age. The other element that may be contributing to the reflected younger male group representation may be that they had assistance from adults who reported to law enforcement. Notwithstanding the possible explanations, there seem to be multiple complexities that contribute to the difficult to determine figure of the male victims of sexual offence in the country (Eckstein and Cherry 2015).

4.2.5 TERMINOLOGY AROUND MONEY, SEX AND SEXUAL OFFENDING: MUST WE STILL CALL IT RAPE OR MUST WE CALL IT SOMETHING ELSE... "AND THEN SHE WANTS TO BE PAID"

Early in the conversations the notion of sexual offending being defined legally versus it being defined colloquially started emerging. **"Sexual offending is... you prove it with DNA... and then she wants to be paid"**... 3647. C03. Participant C03 approximated the legal process of confirming sexual offending initially but then introduced a mine-field of deviating sentiments as far as social concepts of sexual offending were concerned. The perception was that in some, if not in the majority of cases, sexual offending ought not to be defined as sexual offending when there was money exchanged. The relationship between what was called sexual offending and money will be scrutinised further in the next section (Sexual offending: Contributory factors) as well.

Under definitions though, the emerging trail was that sexual offending associated with money exchanging hands was not criminal. **"Sexual offending occurring when the people are married; when the people are partners; and Mavuso... "Let's call it something else"**... 5526. C06. About the money component though, transactional interactions were a big problem because, according to some participants like in the example given by P02, most (such) sexual assault cases ended up in prison.

"This young girl was not going to open a case... This girl wanted money from me. She asked for Carvella (a fashion label). I had no money. She went to the police station... The father made this girl to open a case."... 835 – 837. P02.

"Gold diggers out there you never know whether a person loves you... Some cases are withdrawn... She would just be after your money... A guy in prison now... It was an arrangement and he did not have... exact amount... He did not have money."...5137. C05

In the passage above, the explanation was that it was called a sexual offence because 'he did not have money'. This later became a recurring theme - how some women claimed they had been sexually

assaulted when they did not get given money by their suitors and links up with the rest of the discussions below.

4.2.6 FALSE ACCUSATIONS ARE DISTORTING STATS: LIES, #@% LIES AND STATISTICS; “OUR POLICE CANNOT INVESTIGATE. THEY JUST ARREST YOU.”... “15 YEARS FOR WHAT?”

‘There are three kinds of lies: lies, damned lies, and statistics.’ is a line ascribed to several people including Charles Dilke, Lord Courtney and was popularised by Mark Twain and others, Benjamin Disraeli (Martin 2017). Disraeli, Twain and their kin may as well have been in the room when the sentiment of false accusations and false statistics around sexual offending in South Africa came up. The voices around this area were quite strong in volume and in emphasis. The notion was that, if the South African Police Service (SAPS) was doing a fair job at investigating alleged sexual violence most of what was captured as sexual offending statistically, would not qualify to be counted as sexual offending. There was a strong representation with respect to the effect that false accusations of sexual offending had on the labels used to describe South Africa as a country. Some participants seemed to be questioning the perception and evidence gathered to confirm the size of the problem of sexual violence in part.

“They are forcing the charges on me. I did not rape the girl. I don’t know why they are accusing me... I don’t think much of it.”... 270 – 274. P01. “False accusations are common... They just see you walking with a person and say it’s rape.”... 3243 – 3249. P06

“When they report it and I have not done it” (then it is a problem)... 7126. P09.

“Sexual offending is because... They frame you... Girls get jealous when maybe you’re cheating on her and then she traps you and says you’ve raped her... “Uyalunga”... “If i-outie ikujolela”...phuma kuye.” (IsiZulu: It serves him right. When the guy’s cheating on you... Walk away from him (in colloquial terms))... 3653. C03

“In prison, there were some who read for me news about me but they agree that the police are not thorough. There is nothing linking me with these other cases. The blood results get me out (clear my name)... 2804. P05

Q. You said the Correctional Service Department is full of people charged with rape... A. **“Women are government.”... A. There’s a guy here (at Weskoppies)... “No evidence... No DNA... No penetration”... Instead of investigation and bail they don’t do that.” 5111. C05. “Irape iningi ejele.” (IsiZulu: There’s a lot of people charged with rape in jail.)... “Bagcwele.” (IsiZulu: the place is full of them.)” “And there was another guy... I saw a guy who was falsely accused by a girl who had agreed... And then the SAPS were there... Your hands are then tied... The SAPS will stand by her side ... 5117 - 5119. C05 “It might be that**

the numbers are high because there are many people arrested for rape... you might find that there is not a lot of rape”... 5135. C05.

The sentiment was that sexual offending stats are skewed because there are a lot of false accusations or accusations when it should not be called a sexual offence. There were some who reported real lived experiences on how one responded actively to the fear of false accusations in a romantic relationship:

“I started a relationship elsewhere to avoid her (my wife) charging me with rape... She told me this... She said she will call the police and lay charges of rape... Our police cannot investigate. They just arrest you.”... “Fifteen years for what?”... 5497 – 5499. C06.
“There’s a neighbour of mine who’s gone through the same... A. Other women open charges because she no longer wants you. She wants to get rid of you and lock you up. They (SAPS) must be trained to investigate these things”... 5501. C06

In the above passage the participant implied that he had intimacy needs that were not fulfilled within his marriage. When his wife didn’t want a sexual relationship, he sought it elsewhere to satisfy his needs and to avoid being accused of sexual offending by his spouse. The subcode within this excerpt was that during adversity in relationships, some will seek sexual relations elsewhere to have their sexual needs met. Also, women were portrayed to be using the weapon of false accusations of sexual assault on men as a means of solving relationship problems.

In summation, a co-observer noted that: **“Sexual offending is taken seriously... and now it’s worse... like participant P07 said.”** He then recounted what another participant (P07) had said in a separate session: **““The case, you will not win. You all get convicted. I have never seen a person who doesn’t get convicted.” ... Forget doing something about winning the case... It must be balanced (the rights issue). How can we balance?” ... 3716 – 3723. INT04 on C03**

Overall, the notion that women were in charge in South Africa because of legislative frameworks that favoured them came over as a surprise initially to the researcher. The sentiment was that sexual offending stats were high because it was easy to lay a charge of a sexual offence in South Africa because the allegation would be taken far more seriously than other charges, in favour of women. Also, another implied sentiment by both the participants and co-observer / interpreters, was that once you were arrested even if you were falsely accused you had no hope of getting off free. The idea that women were in charge and therefore there was too much eagerness to report in their favour seemed far-fetched but is explored further in the chapter on ‘Ways of relating: sexuality and relationships’. Inductively the conversations were not just uncomfortable but were also unpredictable - the researcher had to embrace the process, irrespective of the shift and discomfort. This was not the first, and would not be the last time either for the researcher to have to embrace the unknown and the unpredictable, it turned out. Before further discussion, another highlight related to false accusations and the difficulty in defining sexual offending is the issue of how to define it when money is involved as discussed forthwith.

Notions of false accusations are known to be related to some of the myths surrounding sexual violence especially if terminology like ‘rape’ versus other terms are used (Singal 2015). The false accusations cannot be seen to be just related to myths about sexual offending always, though. The phenomenon of false accusations has been researched and is seen to have a negative effect in the management of sexual violence through law enforcement systems too (Bumiller 1987). De Zutter, Horselenberg, and van Koppen also describe false accusations of rape as deliberate and seem to be motivated by various factors including material gain and to cover up for other behaviour(2017). In an Irish sample, the false accusation belief prevailed with 20% of those surveyed for their belief in sexual violence myths (McGee, O'Higgins, Garavan and Conroy 2011). The field of researching false accusations is probably context-bound and may yield different results in a South African socio-economic and socio-demographic context. Added to this complexity is the ultimate ‘false accusation’ against South Africa as a country itself. The effect of popular statistical reports and how inaccuracies can fuel misperceptions about the reality of sexual offending in South Africa have been reported in the media (Pather 2016). The adage that South Africa is the ‘Rape capital’ of the world has been given as an example of perceptions that are held elsewhere regarding statistics on sexual and other kinds of violent offending in the country. The perceptions in themselves may be false as they have not been supported by comparative numbers (Altbeker 2005). The label of ‘Rape capital’ has been questioned as the source of the adage is not very clear and seems to be not supported by scientific or statistical evidence beyond populism when tested. The ‘Rape capital’ adage has been labelled as an example of how not to tag societal problems irresponsibly. Regardless of the false tags though, that sexual violence is a public health problem is not in doubt but it is the statistical and conceptual basis of the extent that seem to be in question all round.

Overall, in the section of ‘Sexual offending: defined’ as in the preceding chapter but under different themes, the study findings demonstrated that potential victims in both extremes of age remain vulnerable. The seemingly not evident relationship between mental illness, intellectual disability and vulnerability may be knowledge that needs further exploration in the local South African context using triangulated approaches as in the current study. The issue of tension between perceived versus legislated ages of sexual consent also needs to be explored further and this may be a new finding in the specific context of interventions that seek to create a common understanding of civil rights of choice versus the need for a code for universally defined criminal behaviour in the country.

4.3 SEXUAL OFFENDING: CONTRIBUTORY FACTORS

Earlier in the ‘Findings’ section it was asked whether sexual offending in the South African context was different from that which was described elsewhere. Were there different drivers for the local sexual

offending versus other social and environmental contexts? The following section will present perceived local contributory factors that will be punctuated by summary discussions at intervals.

4.3.1 THE MOTIVE

Most of the motives for sexual offending are as deciphered from the qualitative analysis of the quantitative data of 70 files including those of interviewed individuals accused of sexual offending (SO group). A reminder, in-depth interview participants were not expected to admit or deny their charges unless they volunteered the information (see Table 24) as that was not the primary aim of the study. Addendum E holds the qualitative analysis of quantitative data and reveals more details from records about circumstances that may not have been easy to openly talk about in the in-depth interviews. Findings drawn out in this manner served to strengthened interview-based assertions via triangulation and mixed data analysis integration. In Addendum E: Qualitative analysis of quantitative data, the most common motives and underlying reasons given for sexual offending were revenge, sexual urge satisfaction and then others. Some of the highlights are listed in Table 24.

Table 24: Qualitative analysis of quantitative data: Motive for sexual offending

<p>Sexual satisfaction</p> <ul style="list-style-type: none"> • He performed rituals on her and then raped her for sexual satisfaction according to the court documents. [quanti 59] 	<p>He was teaching them what the teachers failed to teach them at school. [quanti 48]</p> <hr/> <p>He does not know why he did it. [quanti 36], [quanti 44]</p>
<p>Revenge</p> <ul style="list-style-type: none"> • Witness reported that the accused can be spiteful sometimes. [quanti 44] • He said she liked to interfere and influence other girls not to fall in love with him because he is older. [quanti 54] 	<p>She was assaulted whilst together with her boyfriend by a group of 5 men.</p> <ul style="list-style-type: none"> • They took her away from the boyfriend to a sports field. • They took her phone and shoes. • Two of the group raped her at knife and gun point. [quanti 54]
<p>Interviews established anger and revenge were stated as motives after the accused says he was infected with HIV by one of his girlfriends and subsequently affecting his regular partner. He states that he started drinking when he found out he had infected his regular partner. [Confirmed in social report] [quanti 43]</p>	<p>Past sexual offending is not confirmed but there is a high index of suspicion according to the researcher. Psychosis is a separate issue and is probably linked to substance abuse. [quanti 49]</p> <hr/> <p>He said she consented to sexual relations when she didn't have the money he asked (demanded) of her [quanti 41]</p>

Motives or reasons for sexual offending picked up in the quantitative record-based component of the study were reiterated in the qualitative interviews at times. In the interviews, reasons brought forth ranged from lack of morals, cowardice and unmanliness stances, to sheer opportunistic criminality. **“Today people have no morals because we have lost our culture and have adopted others.”**... 2117. C02. **“I think that guys are cowards.”**... 6543. C07. The latter was said in the context of sexual offending against children. Earlier another participant C03 had raised similar notions and added some:

“Sexual offending is because of: 1) Men who are scared of women.”...; **2) Consensual sex that turns to an allegation of rape...; 3) and then it’s related to general violent criminals who are opportunistic and rape as part of their general criminal behaviour...** 3650. C03

The notion of criminality seemed to be recurring: **“Criminals mostly are responsible for rape.”**... 6042. P08. **“In the final analysis, rape is not good, though.”**... 2763. P05. Both P08 and P05 had been accused of sexual offences. In terms of processes undercurrent in the room whilst discussing the sensitive matter of motives for sexual offending, especially for those who were accused of similar offences, it was not always easy going for all. In an attempt to ease discomfort and awkwardness, some of the participants drew relief from the presence of the male co-observer / interpreter during difficult-to-broach subjects.⁸

4.3.2 BLAME IT ON SEX: “RAPISTS ARE MISSING SEX”

Q. Why do people rape? A. **“They do it deliberately”**.....466. C01

“Rapists are missing sex... Bashorta (missing it) or it could be ootsotsi (thugs)”... 3419. P07

“They (pornographic pictures) make a man become sex hungry and grab anyone on the street and say let’s go (and have sex)”. Q. What would be the difference between that and rape? A. **Rape is force... It is also rape if you get sex hungry... Yes, these (pornographic) pictures made her (the complainant) say she slept with me...** 6963 – 6966. P09.

“Sexual offending can happen when: 1) awunayi cherrie (Tsotsitaal: you don’t have a girlfriend)... and 2) she rejected you and uyamrhalela (Tsotsitaal: you lust for her) and she rejects you (and you force her anyway)... They always say it’s easy to manipulate a man... They’re easily attracted to women... And men have sexual needs and feelings... I cannot say no as a man... A man has needs.”... 5129. C05.

The notions expressed above implied that men offend sexually because of their sexual needs and lack of self-control (‘I cannot say no as a man’). Perhaps the next line said it better about how some thought

⁸ Process: Note-to-self: The participant is hardly looking at me at this stage. He is mainly making eye-contact with INT01...I suppose it is more comfortable that way. He is responding succinctly to the researcher’s questions - not missing a beat - but is not making eye contact at present. Sensitive material is being discussed and it may be that it is not culturally appropriate to make eye contact - for the participant... 4289. C04

that women perceived men in a negative light because men had these needs more than women did: **“If a girl says no then ‘No is no’... Government is always taking the side of women, which is totally wrong... There’s always negative words that say ‘they are dogs, they don’t get satisfied’”**... 5130. C05. **“There are men who have seven (7) women and eight (8) ‘side-chicks’ to satisfy.”**...5131. C05.

Discussions around contributory factors for sexual offending as perceived by the in-depth interviews participants seem to hover around notions that sexual offending is motivated by several and varying factors as other studies have also found (Hale 1997). That sexual offending is mostly about the fulfilment of sexual urges and that men have a high libido and are promiscuous seemed to prevail, also. It seems that at times, when it is forced upon a counterpart, the sexual urges are not recognised as sexual violence either (Edwards, Bradshaw and Hinsz 2014). Beliefs and myths that sexual desire is the motivation behind rape prevail in other societies too as seen by McGee, O'Higgins, Garavan and Conroy in a European context (2011).

4.3.3 BLAME IT ON TRANSACTIONAL SEX, POVERTY, UNEMPLOYMENT AND INEQUALITY

In the context of the current chapter, transactional sex refers to sexual activity that is seemingly consensual but has an underlying financial component that may be inextricably linked to power relations in a relationship. Table 25 illustrates some of the transactions that were extracted from the quantitative records. The concept of transactional sex will be discussed further down under several specific emergent themes.

Besides the issue of transactional sex, other socio-demographic drivers of sexual violence in the social contexts of the in-depth interview participants and the explored records also came to the fore. These ranged from factors affecting specific vulnerable groups like children to matters affecting varying clusters of the victim population. Table 25 displays a range of factors as picked up in the qualitative analysis of the quantitative data (Addendum E). Records of individuals referred for observation revealed a wide range of instances where money and / or poverty were implicated in the commission of the alleged sexual offences. Grooming of children as described in the SOA may have played a role in some of the cases as illustrated (2007).

Participants in the qualitative in-depth interviews, also had perspectives on the interplay between socio-economic factors and sexual violence. **“Sexual offending is happening because of money and they fool children with this money.”**... 4252. C04. A co-observer / interpreter gave a summary that almost read like a lecture: **“Unemployment leads to crime, which leads to violence including rape... if a man is not working and is not in a relationship and his sexual needs are not met.... In the township, you will not have a relationship if you don’t (work).”**... 6280. INT06 on P08

He continued further with the summary:

Unemployment + poverty = No relationship

Unemployed + mentally ill = No relationship

Money + mentally ill = Relationship

In the case of a mentally ill person in a relationship, **“the woman will hide that her partner is mentally ill unless she’s also not well”**... 6289 - 6292. INT06 on P08. There seemed to be resonance on this note as earlier in the study some participants had said when asked: Q. How do you think we can resolve rape in our society?

“They must give people work to get money and get married and they will not need to rape.”... 1688-9. P04.

“Unemployment... they want money... We need to get them employed... Mostly women with children are not working... It is the same as prostitution.”... 5616. C06

In the process of using triangulation to verify emerging perspectives on the effect of socio-economic factors on sexual violence INT03 reflected: **“The other thing that comes up is the “Mukhukhwini culture”... This area** (referred to by the particular participant) **is defined by “slum-like” life. “Koditahanang”** (seSotho: slums) **or “Ematyotyombeni”** (isiXhosa: slums)... 2566 -2569. INT03 on P05

Table 25: Qualitative analysis of quantitative data: Money + Sexual offending (Sexual exploitation)

Money + sex	
The victims state that they took R20 and R10 at different times from the accused and ran off before and/or complied with his requests. [quanti 42]	Family of the alleged victim benefits from the accused’ disability grant / money Accused owed money by victim’s family
She says he told her not to cry because he is going to give her a baby and R200... [quanti 33]	She knows him and she does that to other people (accuses them of sexually offending)
He requested them to sit on him and to touch him. [quanti 42]	R2 [quanti 31]
He said she consented to sexual relations when she didn’t have the money he asked of her. [quanti 41]	Had tea with the only victim that survived to tell. He wanted her for a girlfriend she said. [quanti 43]

<p>He said he went to her as she was a known sex worker whose services he had used before. This time he didn't have money to pay her and instead wanted money from her. [quanti 43]</p>	<p>The young girl seduced him." [quanti 33] He said the two kids asked him for R1. [quanti 37]</p>
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4.3.3.1 Transactional sex: Sex work

The concept of sex work and the many faces of power relations as well as subtle race and gender-related politics emerged in this section:

“We knew of “white sex workers. Not black sex workers.”... A black girl who would have done that would have been called a “Skhebereshe” (Tsotsitaal: a ‘loose’ woman). 2081. C02

The gender and racial stereotypes emerging in some of the perspectives were noted but not necessarily challenged as the purpose was to explore as per research design – inductively including from a phenomenological - life view angle. Responses to the concept of sex work continued to vary:

“No, sex work is not good. She looks at you and wants your R250.00. You should arrange upfront with the girl and not be taken by surprise.”... 3808. C03.

“No, I did not have any person to do me “favours”... No, I did not approach a sex worker myself... I do not mind them... Society finds it bad to be a sex worker but I do not mind them.”... 6148. P08

Some shared their encounters openly:

“DEF met me on a Monday and she called me to come over and I said I’d see her later. She then said I can come and see her for R100.00... Her man did not support her and her child... She needed to find money then as she had nothing otherwise. She decided to get money in this manner.”... They (the men who pay her for sex in the community) feel sorry for her (because she needs to feed her children)... 2433 – 2437. P05.

The drivers in some of the described instances seemed to be either choice or poverty, unemployment and inequality or a combination of all. The idea of different ‘peripheral’ communities that lived by a different creed was emerging with some of the descriptions from participants including P05 above. The risk of apportioning ‘labels’ and ‘difference’ where exploration and understanding were needed instead, was actively guarded against throughout the course of the study and especially when topics like transactional sex arose. Some causes were not as charitable, benevolent and self-sacrificing as the note from P05 displays, however. As reflected upon by a co-observer a participant had a different description on what went on in his community and the currency used in similar transactions. **“Unemployed women will go to taverns looking for someone... once I buy, she owes me.”... (She owes me sexual favours)...**

6245 - 6248. INT06 on P08. **“No sex workers, no... Women in the community exchange (sex) with alcohol. No, not for dagga... Men use dagga... 6515. C07.** The simultaneous code that was emerging in the last account was the issue of gender stereotypes not just in sexual transactions, but even in the choice of substances of abuse that are traded thus. Gender stereotyping in the context of sexual violence is revisited in the sections ‘Blame it on substances’; ‘Blame it on the victim’.

4.3.3.2 Transactional sex: Mavuso or sexual violence

The researcher came across the term ‘Mavuso’ for the first time during the current study. This type of a sexual transaction came up in the in-depth interviews component but, upon analysis, it seemed to have been inferred to in the records of the quantitative data as well. In the qualitative analysis of the quantitative data there were hints of this phenomenon e.g.: **‘He says she agreed but then reported to the police when he could not give her money’.**

Although not fully explained in the context of the section on ‘Sexual offending: defined’, Mavuso was described by various participants as a concept where individuals meet at what, for lack of a better description, may be called a ‘pop-up stokvel or party’. There is a central organiser who makes guests pay a cover charge and for their meals and drinks and then individuals associate freely and proceed to have make-shift ‘one-night stands’. Mavuso is so named because the word literally means to ‘wake up’ or a ‘wake-up call’. It is said to happen when a person has a sexual encounter with a woman and the next morning, she expects the man to pay for her time. She is not a sex worker per se but the morning after, ‘there you are’⁹, to borrow from a logician.

Sexual assault charges that may then arise in the context of Mavuso raised several issues in the discussions. When the term first came up, the researcher ‘raised her inner eyebrows’. Soon though, it became clear that the phenomenon was well-known in certain pockets of society and was at times related to other forms of violence, besides sexual offending when emotions such as anger and frustration were reported to take over. **“Mavuso” means: “When you wake up, they want money.”... 5521. C06.**

Mostly, deviousness was perceived to be associated with Mavuso: **“Others will want to sleep with him and take his money. When he wakes up she’s gone... Mavuso hides that she will be asking for money ... The prostitute is upfront and maybe she’s looking after her children... It is better to be a prostitute because they want to earn an income (honestly)”... 5620 – 5624. C06.** When the same participant was asked if there was a difference between Mavuso and sex work, he offered:

⁹ “And if anyone knows anything about anything,” said Bear to himself, “it’s Owl who knows something about something,” he said, “or my name’s not Winnie-the-Pooh,” he said. “Which it is,” he added. “So there you are”. A.A. Miln, Winnie-the-Pooh

“More or less the same. The one who is selling is less dangerous than Mavuso... Unemployment justifies sex work... They can’t associate sexual offending with Mavuso nor sex work... Mavuso will take your money and open a case for you... Yes, there’s a lot of people who have been affected like that... They become angry and become serial rapists, and they start raping and killing women.”... 5651 – 5657. C06

Further, there were circumstances that may have started off as monetary transactions that then evolved to other forms of violence: **“I carried on working... And then I did the same thing again (I killed her).”... 2651 – 2653. P05.** Explaining how the murder had come about as he could not help himself as he had gotten used to killing: **“This thing was in my blood.”... 2661. P05.** The transaction between P05 and the victim had started as a sexual transaction: **“I paid her whatever I had to pay her for being with her... She had said I raped her because I did not pay her.”... 2664 - 2667. P05.**

The ‘false accusation’ concept also reappeared further:

“They don’t have a life”... They can be the ones that report rape... High risk... “Laba bamavuso (isiZulu: These Mavuso ones).”... 5518 – 5520. C06. “It’s painful to be charged for something you did not do.”... 5532. C06. “The law can’t intervene with Mavuso... It’s between two people.”... 5542. C06

The term transactional sex was first coined and used in the context of abusive relationships where skewed power relations meant that the one party, especially if vulnerable populations were involved, would be sexually exploited by some means (Moolman 2015) (also in terms of the Sexual Offences Act, section 17) (SOA 2007). Several examples are given in this section other than the ‘Mavuso’ concept. But, when it came to ‘Mavuso’, the implications were that false accusations abound and law enforcement seemed not to discriminate in terms of interventions (see sections ‘False accusations’ and ‘Systems-based prevention measures’).

Local reports are beginning to map out the social phenomenon of ‘Mavuso’ that may have been in existence before but might have been called something else in the South African urban communities’ context (Mananyetso 2016). It is seen as either a concept relating to freedom of sexual interaction, or sexual ‘transactioning’ where socio-economic disparities between those who actively engage in the practice exist. The difference between Mavuso, sugar daddyism (discussed just below), sex work and sexual violence is still under debate. Initial indications have been that it is isolated to specific vulnerable populations of younger women versus older men in parts of South Africa. Poverty, unemployment and inequality seem to remain tightly coiled around some of the concepts, although Fox and Hoelscher found that poverty may not necessarily be implicated in violent crimes, unlike inequality (2010). Even in extremes of cases of sexual violence e.g. in serial rape offender patterns, factors including socio-economic vulnerability of victims play a role (Slater, Woodhams and Hamilton-Giachritsis 2014).

4.3.3.3 *Transactional sex: Sugar daddies*

The phenomenon of sugar daddies or what may be referred to as ‘sugar daddyism’ in the context of the study was inevitable when the issue of sexual offending and money came up. In the section just below the phenomenon of ‘sugar mamas’ becomes relevant also and is then followed by a discussion on both phenomena. First, on sugar daddyism, the emerging idea seemed universal in terms of the definition of the concept and concurred with what was reviewed in the introductory chapters: an older man who gets sexually involved with a much younger woman where there is a socio-economic disparity. This involvement was equated to robbing the child of her childhood and a healthy life by using money to groom her in a sexually inappropriate manner:

“Urobba ngwana ka tshelete” (seTswana: he uses money to rob a child). **She ends up buying useless things.**... 4246. C04. **“Sexual offending is happening because of money and they fool children with this money.”**... 4252. C04. **“Kids like money e.g. 13 – 15 year-old going out with an old man... R1000.00 and then R20.00.”**... 5506. C06

The separation of concepts such as sexual offences, what is referred to as ‘transactional sex’ above and ‘sugar daddyism’ seemed difficult for some. As it was mentioned in the ‘Age of consent’ section, there seemed to be lack of clarity for some in terms of what constituted statutory rape in relation to sugar daddies: **“I don’t get to say anything to that kind of guy... I will congratulate... The sugar daddy... It’s not a crime to have a younger girl... Then you have a “fresh girl” with you.”**... 5509. C06.

The concept of ‘freshness’ is discussed further in the section on ‘HIV / AIDS, relationships and violence’ in the ‘Ways of relating’ chapter. The sugar daddy concept was also likened to sex work as alluded to in the section above. **“Sugar daddies like taxi-owners or married people... This is similar to prostitution.”**... 5786. C06. Another participant attested and added more dimensions to the description: **“Yes, we see it. Bakgalajwe... (seTswana: They are sex hungry) ... Girls who like older men... They sell themselves... They call them magosha (seTswana derogatory: sex workers).”**... 6971. P09.

At some stage young women were blamed for exposing themselves to inappropriate relationships and were deemed to be exploiting older men in turn because of socio-economic pressures:

“Model C’s (a term used colloquially to describe girls who go to ‘Model C’ schools and are thus labelled as more affluent socio-economically) **check what car you have... They want older men... They call them ATMs”** (bank automatic teller machines that dispense money); **“Mr Airtime”** (one for buying air-time); **“Owezinwele”** (one for hairstyles); **“Sugar daddies”**... 1603 - 1609. P04

“They are pressurised ...Girls of my age ... Sugar mama if it’s a boy... Sugar daddy if it’s a girl.... ‘Ben10’ if it’s a young boy that’s taken out by a grown woman.”... 766. P02.

Another participant (C05) in his 20’s reiterated what P02 was saying about the socio-economic pressures that were apparently felt by younger women:

“If you’re a... student you need money for fees, rental, buying clothes and going out... My girlfriend used to tell me about her friends... You could hear they were under pressure... Make up and expenses... Boyfriends have cars and it is bontate babarata babanyane (the old men who like young girls).”... 5174 - 5176. C05

Also, the so-called morals of younger women seemed to be under scrutiny in a manner akin to the discussions in the ‘Blame it on the victim’ section below. The negative effects of the phenomenon of sugar daddyism on family structures in communities was also on focus although the blame then was laid on both involved parties:

“They (girls) like older men... They may have sex with multiple men too (because) they give something... “Imali” (isiZulu/isiXhosa: money). It does not seem right – it is disrespectful (of young girls) to go out with older men that age. The men also do not think much of themselves. To go out with girls in their 20’s and they are men in their 50’s /60’s.”... 471-474. C01

“It is not right. He can’t support his own family because he is busy with the girl.”... 4249. C04
“It messes up a grown man’s life... (However), the sugar daddy also messes up the girl’s life.”... 3815. C03

The sentiment was somewhat held by others too, and may have been deep-cutting for some, according to the next line from a participant who prior to the charges against him had been on the receiving end of a sugar daddy who was involved with his wife: **“She had an “extra-marital relationship”... I did not see a need to confront a man... A man cannot confront another man... This was disrespect to me... “That a man was a sugar daddy to her”... The guy was much older than me... I don’t know why she was like that... Maybe she didn’t play around (when she was younger)... She didn’t date before she met me.”... 5545 – 5555. C06.** The participant had been charged with the alleged murder of his wife. Anger and frustration seemed, once again, to have been a catalyst of violence as was seen in the case of transactional sex escalating to murder in the account above.

4.3.3.4 Transactional sex: Sugar mama – reverse sugar daddies: “Engibheja”

Q. What happens when the reverse situation applies and it is a woman who is older (and exploitative)?

“I had a girlfriend who was ± 12 years older than me. “She was sitting on my neck” [He demonstrates with gestures. Laughter in the room]. She approached me when she found me with friends. We went out for two (2) months and I had to ask my close female friend to pretend to be my girlfriend (to help me break up with the sugar-mama)... I had done a similar favour for her (the helpful friend).”... 3816. C03

“JKL loved me and I didn’t. She gave me money + R2700 “Engibheja” (isiZulu: trying to sweep me off my feet). She bought good quality clothes for me... I’d force myself to go to her... They are called “sugar daddy” when it’s a man and “sugar mama” when it’s a woman.”... 2515 -2518. P05

“She (JKL) was capable of hitting a man but, no, she did not hit me. She hit a man once with a hot pan – she threatened to hit me for not showing up. She was known to have hit Ntozakhe (not his real name) ... He ran all the way to get help.”... [Laughter in the room]... 2522. P05

The irony of the humour and light mood in the room with both C03 and P05 when talking about older women dating younger men was noted and is discussed in the ‘process’ section below. The humour was in contrast to the seriousness of the subject matter especially with P05. JKL, by the time of the in-depth interview with P05, would have become one of his murder and sexual assault victims, by his volunteered admission. At the time of P05’s narration of the story, she seemed a victor. The eerie irony of the apparent strength of some of the women in some of the narrations was that they ended up being victims at some of the participants’ hands – in turn. Also, the humour, it would seem, may have represented underlying nervousness at the topic of women having the apparent upper hand. The nervousness may have been representative of inherent beliefs about the roles and positions of women in society and how when this was altered, some on both sides of the gender divide, may have felt uncomfortable: Q. Younger man vs. older woman? **“A. That is very rare and would be taboo to other women.”... 2067. C02**

It seemed that, what was ‘good for the goose’ was not ‘good enough for the gander’ when it came to sugar daddies versus their women counterparts. There is a more sinister note though when HIV /AIDS in the sugar mama kind of relationship is considered. The reverse of what the sugar daddy notions provoked, when younger women were involved, has not been explored enough in terms of the risk of HIV infection to older women when involved with same-age and younger men (Harling, Newell, Tanser and Bärnighausen 2015). Although not well researched, the complexities that seem to be factored in the sugar mama context seem to be similar to when older men sugar daddy relationships are considered (Phaswana-Mafuya, Shisana, Davids, Tabane, Mbelle, Matseke et al 2014; Evans, Risher, Zungu, Shisana, Moyo, Celentano et al 2016). The exploratory questions that emerge and continue to linger in the background regarding sexual offending and related factors, are when is it transactional sex; when is

it sexual offending and can those concepts be separated in the context of socio-economic, gender and age disparities. In the current study most of the accused, whether there was mental illness or not, were linked to victims who were between 10 - 30 years younger than them and this phenomenon has been seen elsewhere (Shefer and Strebel 2012; Wyrod, Fritz, Woelk, Jain, Kellogg, Chirowodza, Makumbe and McFarland 2011).

It is in the 'mixing' of the analysis of the quantitative result with the qualitative findings that the 'under-age victim and the wide age gap phenomena' become complex. The quantitative results of a proportionately larger group of minors (less than the age of consent) and the wide accused / victim age gap when analysed in the context of in-depth interviews findings are enriched. This is part of the advantages of using mixed research methods and integrating (Creswell 2013).

Further, poverty and mental illness versus poverty and sexual offending may be in a continuum in the South African context. The continuum is noted as it may be significant in the discourse of sexual offending, poverty and mental illness, but is difficult to draw out of the current study's results, on the one hand. On the other hand, the concept of sugar daddies, "ministers of finance" (Shefer and Strebel 2012:59) or "blessers" (Evans et al 2016:6) as they are sometimes called, is being studied extensively in the Southern African and perhaps Sub-Saharan context, though be it with some gaps according to Shefer and Strebel (2012). They argue that the "'scientific' gaze on intergenerational relationships, and in particular, their transactional nature, may be serving the function of 'othering' African and poor communities" (Shefer and Strebel 2012: 61).

Perhaps then, the voices of the perceived 'sugar daddies' may need to be heard through other transformative notes that will scrutinise transgenerational normative gender roles objectively. The sugar daddy concept has also been crystallised by some authors in terms of the age difference between an older man and a younger woman (not married to the man) which seems to range from anything above five (5) to ten (10) years and older (Shefer and Strebel 2012; Wyrod, Fritz, Woelk, Jain, Kellogg, Chirowodza et al 2011). The definition seems to be important in terms of the quantification of the size of the problem – at least in the sub-Saharan context. Wyrod et al contend that the problem of sugar daddyism is not as widespread as popularly believed when defined according to an age difference of 10 or more years, with a partner who is less than 20 years in a non-marital transactional sex context (2011). They studied a sample in Zimbabwe and found that only 2.5% of men met the sugar daddy definition (Wyrod et al 2011).

Despite the negation of the sugar daddy phenomenon in part, some similar occurrences have been shown beyond the sub-Saharan African context in other socio-cultural practices that may be bordering on child sexual abuse and human trafficking in other places including the Far East (Ripley 2015). The sugar daddy concept is not very different to practices related to domestic child and young adult sexual exploitation in the so-called West either (Fedina, Williamson and Perdue 2016). Its impact in the local

sexual violence prevention sphere remains remarkable, however. This is especially when the impact is of an adverse nature and becomes a threat to a generation in the form of HIV / AIDS.

When associated with sugar daddyism, sexual engagement with under-age children and youth by much older persons (in particular males) has been linked to an increased incidence of new HIV infections in young women especially (Leclerc-Madlala 2008; Evans, Maughan-Brown, Zungu and George 2017). The added complexities and pressures of poverty, unemployment and inequality affecting the youth have been highlighted as confounding variables in the complex state of the so-called inter-generational relationships (Leclerc-Madlala 2008). Concerns about socio-economic pressures put on youth seem to revert back to how sex is used as currency to alleviate lack of resources, as opposed to being part of a simple victim-perpetrator equation as previously held (Evans, Maughan-Brown, Zungu and George 2017). Strebel, Shefer, Potgieter, Wagner and Shabalala further have described the ‘othering’ and blame-shifting onto the younger female person in the phenomenon of ‘taxi queens’ who were in transactional relationships with taxi drivers in a Western Cape study (2013).

Pressure seems to stretch further as described in the context of persons who lack resources and access to tertiary education as seen with the recently re-ignited FeesMustFall (FmF) movement (Pillay 2016). The movement has highlighted the risks that society has exposed youth to, in a way. The FmF struggle, may be an example of a realisation of the impact of socio-economic inequality in context. It has, ironically, over time been linked to the social conversation on sexual violence via ‘Rape on campus’, an old problem that seems to have been resurfacing recently (De Klerk, Klazinga and McNeill 2007).

4.3.4 BLAME IT ON ALCOHOL AND DRUGS, AND NOT JUST MENTAL ILLNESS

The degree at which saturation was reached in the in-depth interviews, regarding the involvement of alcohol and other substances of abuse as contributory factors to sexual offending was surprising to the researcher. Simultaneously, the quantitative record-based study showed that in 54.83% of the cases, alcohol and / or other substances of abuse were involved. Whether individuals had a psychiatric diagnosis or not did not change the stable presence of alcohol in the various narratives of sexual assault spelt out in the record-based component of the study. In the context of substances and mental illness, the overwhelming message was that mental illness by itself did not explain the accusation of sexual violence in the majority of referred cases as seen in the chapter on ‘Psychiatric features’. If the quantitative data was not strong enough, then the following in-depth conversations would assert the position.

The narrative about sexual offending emerged very early with a line blaming women for exposing themselves to alcohol and being sexually assaulted whilst under the influence, as a result. By the time the story line came to the part where ‘good girls’ were not to be found in drinking places, alcohol and

risky behaviour were central to the participant's narrative. This carried on until the matter of other kinds of women, including so-called 'good' ones, who still got sexually violated came up. The emergent concept was that even young children were vulnerable because of alcohol related matters e.g. underage use of alcohol or being enticed with money to buy alcohol (or other drugs). The following highlight the many angles from which the relationship between sexual offending and alcohol was scrutinised:

"Alcohol and rape are closely related"... 3804. C03

"Drugs are not good. You can be asked to buy drugs or give cash for sleeping with me. So I'd give this cash and not sleep with her. She'd ask me to kiss her. The kids (girls) in my street would do me favours and allow me to sleep with them. The most recent was at a tavern. She'd asked for beer... and then she'd get R10 beer at a time."...451 – 458. C01

Drugs and 'mental disturbance' too, but not necessarily mental illness, were linked to sexual offending:

"Drugs are responsible for the upsurge of cases in South Africa. When people are not thinking straight. Sleeping with women and your own mother even... 4258. C04. "A person has to be on drugs to rape people. A person who has a straight head will not rape another."...4269 – 4271. C04

"Drugs... These guys (who abuse substances) they always want something when they wake up they want to get intoxicated... and then they rape a person."... 5144. C05. So it seemed the perpetrator would lose self-control because of illicit drug intoxication: **"Nyaope guys (guys who smoke a designer drug by that name) who were robbing a pensioner after pay-day and stabbed and raped her for her money."**... 5456. C06.

"This guy was having an affair / stole a girl from the house and raped her the whole night and gave her alcohol."... 6482 – 6484. C07 **"Drugs and alcohol lead to rape... They do not think straight. Intoxication causes (them) not to behave."**... 6043. P08

4.3.4.1 The tavern

The tavern deserves a pause and a mention. It came up often and was mentioned in the context of prevention and solutions to sexual violence in the community as proposed by the participants as well (see relevant section below). It featured in both the qualitative and quantitative data sets (see Addendum E). The term 'tavern' was used by some of the participants and was interchangeable with the term 'shebeen' and a 'drinking place'. The role of drinking places in poverty or violence-ridden communities were highlighted. A link was drawn between places that sold substances, violence, and social determinants of health including poverty. Hostility seemed to abound as well. A few will be highlighted:

“It’s a poor community... The only way to make money is having a shebeen... And social grants for children and the elderly.”... 6495. C07. “It is because of these taverns.”... 4246. C04

“You don’t get seriously involved with the ones you meet at the tavern... “Onwa botho” (seTswana: she depends on men to buy her drinks). These girls who come in and ask for a drink knowing that a drink goes with sex. They use you and run. They think they will be expected to sleep with you... Girls and alcohol result in weak minds – girls who are “easy”... 3800 – 3804. C03

“Say I buy alcohol for her and then she refuses to have sexual relations with me. And then you rape her... You make her pay” (for the alcohol).”... 2762-2764. P05.

Some of the mechanics of the evolution of sexual violence in the context of alcohol and drinking places were described: **“When you see a woman, you may change your mind as you get drunk then you approach her and you want to sleep with her... When she refuses then he stays there for the whole night... When this lady leaves, he will follow her and that lady won’t see him because she is drunk and he is on a sober scene. At the end he will get a dark spot, grab her and rape her.”... 6524 – 6524. C07.** The theme was recurring as another participant, when asked about the context wherein sexual offending occurred said: **“You may be sitting in a tavern...You may lose control because of alcohol.”... 4295. C04. “(Taverns) are not good... A man will come with a woman and take another woman at the tavern... And then there’s a fight. When the woman is drunk then they drag her into a room by force.”... 6812 – 6817. P09**

“They can drink but drink too much... She becomes an easy target to have.”... 6049. P08

The theme of alcohol and sexual violence and communities’ instability is reiterated in the current study. It is known that South Africa is one of the leaders in its category when it comes to alcohol consumption litres per capita although the statistics may sometimes be an underestimate as suggested by Probst, Shuper and Rehm (2017). The association between sexual violence, alcohol and other substances of abuse is also not a surprise (Ngantweni 2008; Hines and Straus 2007). The surprise, as already stated, is the consistency of the narrative and how the association of substance abuse with sexual violence links up with known adverse outcomes in certain communities. The Anene Booysen case (Gqola 2015), and later cases, were mentioned in the introductory chapter and are recalled in the current to illustrate a point. The link between such cases, violence and substance abuse in a community context continues to be questioned.

As much as sexual offending and other forms of violence and deviant behaviour are ascribed to it at times, mental illness alone does not explain away other social and psychological constructs that define some of the links (Cartwright 2002). The relationship between some forms of mental illness, other

medical conditions and substances of abuse (especially alcohol) is well established (Rehm, Gmel, Gmel, Hasan, Imtiaz, Popova, Probst, Roerecke, Room, Samokhvalov, Shield and Shuper 2017). Known examples include conditions like fetal alcohol syndrome which is as a result of alcohol consumption by pregnant women and manifests with psychiatric features in the offspring. It is a public health and a human right problem in the winelands and farmland regions of South Africa where the ‘dop’ or ‘tot’ payment system is still sustained (Jansen Van Vuuren and Learmonth 2013). So far, what the findings begin to spell out, in the current study, is that mental illness by itself does not explain the accusation of sexual violence in the majority of the cases where substances are implicated. The role of social institutions like drinking places in perpetuating social roles of masculinity and violence including child sexual abuse, when such drinking places are embedded in communities, is questioned (Willott and Lyons 2012). It is anticipated then that individuals who suffer from mental illness and who live in such social conditions may be equally exposed to those gendered roles of masculinity and violence.

4.3.5 BLAME IT ON THE COMMUNITY

4.3.5.1 Sexual offending against children: “Abantwana (be)basala no malume” (Children would be left with uncle)

When it came to the matter of sexual offending against children, that adults could no longer be trusted to look after children without causing them harm was lamentable. “**Abantwana (be)basala no malume**” (isiZulu: Children would be left with uncle) 2112. C02 and this according to C02 could no longer be the case. The quantitative record-based component of the study corroborated C02’s assertion. Victims who were less than the age of consent made up 67% of the victim population (total victim population n = 78) and the majority (70 – 75%) were allegedly sexually assaulted by those known to them. The necessity for the overhaul of what used to be acceptable practice e.g. trusting your neighbour to look after your children, came into sharp focus. It seemed as if communities were perceived to be unsafe for children and had changed. The same communities were deemed to have raised individuals who sexually exploited even young children. Some of the participants gave examples of how they had been reared and sexually exploited in their communities themselves. The described sexual exploitation or abuse was not always linear and fitting common narratives of sexual offending (male-to-female / male-to-male victim profiles] either. The female-to-male scenario was approximated at times. Some would give examples of how they had sexually assaulted children themselves as well.

For some participants sexual offending against children was equated to loss of touch with cultural norms which was equated to mental illness in turn: A. “**That is taboo. Where it concerns child rape, they have a mental problem... In the township “bayahlanya”** (isiZulu: They are mentally ill)... 2105. C02. Simply put, deviating from cultural norms equalled mental illness and was probably the closest scenario where a participant would reflect what was discussed in the chapter on ‘Psychiatric features’.

In that chapter, it was demonstrated that mental illness by itself was not adequate to explain the sexual assaulting of minors. Other participants gave some details in terms of the charges they were facing or had heard of and did not quite repeat the cultural deviance perception raised above: **“You ruin a child’s life.”**... 1692. P04. **“She is a primary school girl. She is not mentally ill, no.”**... 3379. P07. **“The rape of children. That is abuse. I don’t know why it is so rife. A person accused of rape must not get bail.”** ... 3423. P07 The irony in P04’s expression was that he himself had been accused of a similar charge.

Others gave childhood accounts of their own sexual assault, at the hands of females in some instances, and the consequences thereof: **“I was forced to have sex by my sister, my step sister. You couldn’t tell anyone as it was embarrassing.”**... 2492. P05 **“I slept with a girl first when I was four (4)... An adult who forced me... She just took me and had sex with me... Another one just asked for sex...”** **“Ukubhaca”** (isiZulu: A game of hide and seek)... 3220. P06 Another participant also told of his sexual exploitation by an adult woman: **“I was age 13 and the woman was age 28 or 29... She compelled me to go with her to the back toilets... A. “That was rape”... “I have never told anyone.”** ... 5240. C05. (Afterwards participant C05 had a follow up session with a designated staff member for counselling with respect to any residual emotional harm that may have been triggered by his divulging sensitive material - as per research protocol.)... It seemed that the sexual assault of some of the participants then resulted in them exploiting peers: **“I’d be the older one and so take a chance with the younger ones.”**... 2489. P05 **“And then at the age of seven or eight (7/8) or so, I was sleeping in a room.... I slept with XYZ. She did not agree. But, once I started she did not stop me as she enjoyed it. It happened once.”**... 3225. P06 Later in his life the participant would be accused of sexual offending and other acts of violence. Perhaps the roots were set in his childhood¹⁰. P06 would prove an eloquent and strong contributor in terms of being frank and consistent over time even if his story was difficult to digest.

4.3.5.2 “Parents don’t look after their children.”

Over and above that children were exposed to harm including exposure to sexual violence by members of the community and/or their families, the role of parents in child sexual assault was also noted. **“Parents don’t look after their children.”**... 4247. C04 **“It happens and then you see the child swearing at an adult or the parent. And then you know it has happened** (because the child is behaving in an unexpected manner and is swearing at an adult – a frowned-upon phenomenon). **The child will tell people around her that it is her parents or will tell the parents if it is someone else.”**... 4264. C04

¹⁰ Note-to-self: Memoing during analysis causes sadness still even though this narration is from a would-be alleged sexual offender who later was convicted for his charges. At the time of the interviews he proclaimed the desire to die – whether this translated to suicidality or manipulative behaviour or not did not become the focus. Rather it represented emotional distress either way.

The responsibility to protect those who were vulnerable including children seemed to be split though. Gender differentiation in terms of parental roles seemed to apply where women were expected to protect children and to report cases more than men. Parents were also perceived not to protect children (and the elderly) from exposure to pornography and this was lamented as much as it had been with the so-called ‘sex-hungry’ men whose motives were to satisfy their sexual urges (earlier in the chapter). Lack of control in preventing the exposure of children to pornography was said to be contributory to sexual offending. **“The media... Pornography is available now and the nearest target is a child or the elderly. It is equally bad for both young children and the elderly... For five rand (R5) you can get a disc and the content may be worse.”**... 2118 – 2121. C02. **“They do not stop them. Adults will watch as well. Even parents know – they laugh. Even** (the victim in his case), **she showed her but she** (the mother) **just watched on.”**... 6960 – 6962. P09 Exposure of children and intellectually disabled individuals, or any person against their will, to pornography in any form or context is a sexual offence in South Africa in terms of Section 19 of the SOA (SOA 2007).

4.3.5.3 Sexual violation of children and the elderly: Family secrets and underreporting

One of the emerging themes in relation to factors contributing to the perceived escalation of sexual violence in South Africa was underreporting in case of an offence. Underreporting has been discussed in the context of sexual offending against males above. In the current section, it is discussed in terms of its link to other vulnerable groups, viz. children and the elderly. From some of the discussions with participants it came up that one of the factors that are linked to a growing sexual violence problem is the perception that victims and their families do not report. Views in terms of the net effect of the underreporting in relation to children and women were divergent with some concurring that it was a ‘family affair’, and others not. Other interesting links also came up – bringing new knowledge to the researcher, once again... Herewith some highlights.

“It depends... Rape by definition is with a stranger...A. For family members you find a family solution.... You deal according to ubuntu (isiNguni: humaneness] and how it happened.”...1250. P02

“The family is also scared to talk ... It’s the uncles that are responsible – it causes embarrassment for the victims and her next of kin to report”... 1696. P04.

“About children who get raped, it depends on the mother often; whether she will not feel “shy and embarrassed” in the community if she reports that her child has been raped. You get shy because when you go to court the place is packed and you will be exposed to scrutiny.”... **“Yes, these cases are common in my community.”**... 4260 – 4263. C04

“A (man) was an alcoholic... A girl youngster took a knife and stabbed him once and he died. There are many questions “but the child will not talk”... 6487. C07. Participant C07 came from a community in a semi-rural area and most of his narrative depicted a context of poverty, unemployment, inequality and substance abuse. The highlights of the mixed methods analysis of the quantitative record-based component of the study in as far as family secrets were concerned are listed in Table 26 below.

Table 26: *Qualitative analysis of quantitative data: Sexual assault of children; Family Secrets*

A. Family secrets / Children assaulted by family and neighbours		B. Children and the elderly attacked by the community
<ul style="list-style-type: none"> A friend avoided confronting; turned a blind eye [serial rape case] [quanti18] 	<ul style="list-style-type: none"> The girls were raped by their mother and father and two older brothers [quanti 56] 	<ul style="list-style-type: none"> He says she forced herself on him instead. [quanti 58] She was 10 and home alone after school. [quanti 58]
<ul style="list-style-type: none"> The mother of the accused asked the child-victim’s mother not to go to the clinic [quanti 21] 	<ul style="list-style-type: none"> The family was upset with the step-granny for taking the victim to the clinic [quanti 50] 	<ul style="list-style-type: none"> He said he doesn't know what made him do it; maybe it was the work of the devil... [quanti 36] At sleep over: He told the victim he's the devil's child. [quanti 51]
<ul style="list-style-type: none"> The babysitter told her not to lie about her son raping her and slapped her on the face. [quanti 45] 	<ul style="list-style-type: none"> The granny warned her son to stop but he said he will not stop [quanti 50] 	<p>Children playing Elderly people alone</p>
<ul style="list-style-type: none"> Victim was routinely left at the home of the accused to be looked after by neighbour whilst her mom was at work. [quanti 45] She reports that she was raped every time whilst the babysitter was in a different part of the house. 	<ul style="list-style-type: none"> The victim was left alone with the stepfather - the accused. [quanti 50] She was crying loudly but he never had the heart to stop [quanti 50] 	<p>Walking on the streets:</p> <ul style="list-style-type: none"> Six year old girl walking back from school with her friends [quanti 31] Children walking alone to school [quanti 48] She was sent to buy bread alone and did not return. She is known to be a ‘slow-learner’.[quanti 55]

Myths related to perceptions on sexual offending against children emerged in this section as much as they did elsewhere in the study. The myths included the notion that sexual offending is done by strangers, is the victim’s fault, and is a family matter and other sexuality stereotypes were typical of what studies have shown (Burt 1980; McGee 2011; Xue, Fang, Huang, Cui, Rhodes and Gelles 2016). More myths are evident here and as raised elsewhere in the thesis as they form part of the bare-bone structure of many belief systems. Also, as previously alluded to, the distinction between the different

types of victims that potential sexual offenders may assault is complex and is not to be unearthed extensively in the current context.

As aforementioned, it was suspected that in relation to sexual offending against children and as referred to by Seto, there may be multiple forms of terms and definitions surrounding paraphilias or sexual interests and behaviours (2017). These interests and behaviours would be related to sexual offending in terms of sexual orientation to gender and to age (the so-called chronophilia phenomenon) that would not necessarily fit the classical descriptions from elsewhere in the world (Seto 2017). There exists different kinds of sexual orientation including those defined according to the age of the victim (Seto 2017). The findings in the in-depth interview section, as discussed in the 'Psychiatric features' chapter, did not yield an overwhelming response on the sexual violation of children from the participants though. This was so even though the majority of the victims in the quantitative component of the study were children. Child sexual offending was instead relegated by the participants to mental disturbance- in lay terms – an assertion not supported by the current study findings either. Some of the participants in the in-depth interviews had more-or-less dismissed the notion of sexual offending against children and had relegated it to outright 'mental disturbance' – in lay terms – if present.

One of the more discussed phenomena was the underreporting that is commonly associated with the rape of both children and adults. In the South African context underreporting occurs despite sexual offences law-reforms that have attempted to address the problem via the legal framework (Artz and Combrinck 2003; SOA 2007; Artz and Smythe 2006; Frank, Hardinge and Wosick-Correa 2009). It is as if, when sexual offending has occurred, it must remain a family or a community affair instead of being reported to law enforcement authorities. It becomes the special responsibility of the women of the family especially as they are perceived to be mostly responsible for the protection of children (Leclerc-Madlala 2008).

As reviewed in the introduction chapter, fear of revictimization and harassment by law enforcement systems is also one of the many deterrents to reporting (Meintjies-Van der Walt 1998; Walker and Louw 2006; Dahlberg and Krug 2006). When underreporting occurs, a double-jeopardy phenomenon for the victim manifests itself in that, as a victim or family thereof, you are doomed if you tell and you are doomed if you don't (Walker and Louw 2006). If you tell you are doomed to stigma related matters and to secondary sexual revictimisation (Penning and Collings 2016) among other things. If you do not tell you are doomed to emotional scarring and emotional pathology that may affect you for the rest of your life (Cartwright 2002; Nilsson, Bengtsson-Tops and Persson 2005). Whether you tell or not either way, the scars will be there, or in the worst case scenario when all the ingredients are in place, you may become a perpetrator of sexual or other kinds of violence yourself (Cartwright 2002; Penning and Collings 2016). Needless to say, the victim pays a dear price, alongside society (Fox and Hoelscher 2010) as demonstrated in some of the confessed cases of perpetrators in the current study and other

studies that reflect on victimology – “the effect of violence and trauma on its recipients” (Artz and Smythe 2006:163). The societal cost of not preventing general childhood maltreatment is also high in terms of health care costs (Thielen, ten Have, de Graaf, Cuijpers, Beekman, Evers and Smit 2016). It is ironic then that the family and community unit that society expects to be protective, is not so protective all of the time, in societies globally and especially in those who eventually become users of psychiatric service (Nilsson, Bengtsson-Tops and Persson 2005). Instead, the family unit can cause greater harm because of ‘family secrets’ according to the current study’s findings. Besides, any sexual relation with an adult or child who is in a bloodline is also categorised as ‘incest’, in terms of section 12 of SOA, and is an offence in South Africa (SOA 2007) but not always elsewhere (Yates 2017).

The section on ‘The ‘Village’’ in the next chapter unpacks the effect of the family unit from a slightly different angle. In that section ‘The ‘Village’’ is scrutinised in terms of its role in providing the environment that becomes conducive to violence in general including sexual violence. Under the current heading of ‘Family secrets’ the focus comes back to ‘the uncle’ who can no longer be trusted because he turns around and sexually violates his nieces / nephews. In the South African context, an ‘uncle’ is not just your parent’s sibling but also anyone who may be your parent’s contemporary and is a family friend, a neighbour, a teacher, a leader in the community or even your mother’s boyfriend. In one of the local languages and subcultures, anyone who is about your father’s age or older is ‘oom’ [Afrikaans: uncle]. It is the ‘uncles’, oomalume and ‘oom’s who are proving to be difficult to control as they are not strangers. They live within the system and so are difficult to warn children about, especially. It is far easier to warn children not to talk to strangers, but how do you warn children not to speak to the uncle who is known... ‘Iliwa libheke umoya’ (isiXhosa idiom: ‘the cliff is facing the wind’; ‘we are exposed’).

Furthermore, held culpable with the ‘uncles’, are the communities that bear witness and fail to report in what can be explained as failure to take steps in the bystander intervention model (Nickerson, Aloe, Livingston, and Feeley 2014) although that failure can be tantamount to a criminal omission (Children’s Act 38 of 2005). The ‘tell-tale’ signs and stigmata that sexual offending has occurred in the community are identifiable but are not always reacted upon by families and others including schools (Ngqela and Lewis 2012).

The matter of gender-differentiation in terms of whose role it is to protect children in the context of family secrets, like in the matter of reporting to law enforcement authorities, is revisited. The expectation seems to be rested on women, again. This may be in line with societal expectations of certain roles played by the different genders even when it comes to ‘volksmoeder’ (Afrikaans: mother of the nation) (Van Der Merwe 2011) and other normative gender stereotypes (Leclerc-Madlala 2008). In Addendum E (Quantitative Data Analysis Results), illustrates the different types of community settings wherein sexual violence occurs and despite the emergent debates above, the results depict the

size of the problem of sexual offending against children irrespective of whether the definition of age of consent is agreed upon or not by participants in the qualitative component of the study. The findings in the current study are consistent with national and international discourse in terms of the enormity of the problem of sexual offending against children (Collin-Vézina et al 2013). The study also confirms that potential victims in both extremes of ages remain vulnerable to those known to them.

4.3.6 ‘BLAME IT ON THE VICTIM’ / BLAME IT ON WOMEN:

4.3.6.1 *Vulnerable women: Dress-code: It’s as if they are not dressed”... “They are supposed to wear - not small clothes... They are tempting men”...*

Poor impulse control on the side of men who are so-called ‘sex hungry’ and the dress code issue, although expected to be cliché, were raised enough times to confirm consistency within the sample of in-depth interviews group:

“Sexual offending is not good but it does happen because people are ‘greedy’... Women wearing clothes that are not appropriate ...mini-skirts”... “You get tempted when you see too much.” ... 2757. P05. “People get tempted when girls wear short skirts.”... 5506. C06

“When you have a short skirt on and you show legs and you are out late at night by yourself and men see you... They’ll offer to accompany the girl... “Then there’s an agreement”... 6557 – 6560. C07

The narrative ran as if there was a societal dress code or contract that determined how women should dress. If there was, the participants seemed to have read the same manual and it begged the question of the originators of the dress-code agreement. The ‘dress-code agreement’ was re-emphasized by some:

“Women will say ‘she’s selling her body’ men will say she looks nice.”... 6561. C07

“Young girls of age ± 15 years... are vulnerable to rape in our area because of mini-skirts. It’s as if they are not dressed... They are supposed to wear - not small clothes... They are tempting men... Also, the behaviour of these girls with or without cover-up... She is not respectful... Does not respect herself.”... 6045 - 6048. P08

The implication here was that if females did not cover up they did not respect themselves and were inviting sexual assault. Also, it was as if affected people would no longer be perceived as victims because they would have invited the sexual assault to themselves. Dressing ‘properly’ and by so doing respecting themselves and showing respect to men meant that females were behaving themselves and would not get raped.

A co-observer / interpreter explained to the researcher: **“He elaborated that they entice men... The other version is that she is trying to be attractive to the opposite sex. (A natural process)... She is**

just looking (for a partner)... **but uninvited people are also** (looking)"... 6075 – 6079. INT06 on P08. The same co-observer with another participant had said: **“About the dress code, I concur with him... People (men) can be expected to constrain themselves... But... It is very rare that a person who is appropriately dressed can get raped.”**... 5579. INT06 on C06

4.3.6.2 Vulnerable women: “Girls move around at night” and “The ‘Brown street’ thing

This section has to be read together with Addendum E (Quantitative Data Analysis Results) and relevant aspects of the chapter ‘Psychiatric features’ in relation to places where sexual offending occurs.

“Girls move around at night... It is not safe it is dark... It will be easy for her to be targeted... 6051. P08. **“No, they (rapists) don’t think further than that there’s a girl who is walking alone in the dark and so one must take advantage...** 6092. P08.

Again the notion that men tended to have no self-control, were opportunistic and libido-driven re-emerged with a different participant. If there was a female in a dark place or who was isolated then she would be worse off. INT06, the co-observer put it more succinctly and concurred with participant P08 after the session. **“Contributory factors are not the same... Being out at night alone; enticing dress code; drinking** (alcohol)... (All contribute towards being raped).” ... 6254 – 6256. INT06 on P08.

“In reality, women who stay alone are still at risk... Women in rural areas where there is darkness and no lights although this has improved... The ‘Brown street’ thing... a famous street in Marabastad where drugs are sold... When a girl walks past she won’t make it.”... 5534 - 5537. C06

Marabastad is an old district on the northwest end of the city of Pretoria (Tshwane). It is named after Chief Maraba of the Ndebele who is claimed to also have been the city’s first court translator. It became one of the melting pots of culture as segregation during apartheid forced different groups of migrant communities to settle in the area (Clarke, Accone, Masilela and Mthwethwa 2008). Later, like in other similar areas in the country, forced removals led to the disenfranchisement of those communities like communities in District Six, Sophiatown and similar. There are still both formal and informal merchants that occupy most of the remaining shopping zones. In recent reports, the area has grown a reputation for being a melting pot of all things bad, including drug abuse, and has come to be known as a place where ‘even robbers get robbed’ (Abreu 2013). It may represent places women ought to avoid.

About beliefs surrounding sexual offending, both lay and professional individuals seemed to see eye-to-eye in some areas representative of the myths about sexual offending referred to above. In those instances, emerging myths included the belief that women were to blame for their sexual violation if they were found at the wrong place, at the wrong time of day, whilst wearing the wrong clothes. At the end of some interviews, during the process of the evaluation and analysis of some of the emerging

concepts and themes (and myths) including the dress code phenomenon, the researcher would be compelled to reflect. For instance, the dress code issue came into play in the research process itself in terms of researcher reactivity during preparation for some interviews. How the researcher would dress and how that would be perceived would come into focus introspectively (see process discussion below). During the interviews, the dress code and environmental safety matters would come up again but in the context of the victims of sexual offences. The researcher had to be cautious not to close off any worthwhile conversations because of the sensitivity of the discussions though.

In a study by Muchoki in Kenya, like in the current one, vocabulary around explanations of sexual offending were those of victim-blaming (2011). The notion that potential victims are to blame for their sexual violation and have a responsibility to protect themselves versus a stronger sentiment that would-be perpetrators must desist from attacking women is an ongoing debate. The ‘Don’t Rape’, ‘Real men don’t rape’ (Holly 2009) movements and anti-Campus Sexual offending movements that later were linked with universities in South Africa represent the latter part of that debate (De Klerk, Klazinga and McNeill 2007). Furthermore, in South Africa, the ‘appropriate’ dress code concept has been topical all the while but was made more popular politically when the ruling governing party’s women’s league went on a march to protest the maltreatment of women in public transport spaces e.g. taxi ranks because of their outfits (Makoni 2011). Aside from that, the issue of the women’s dress code and the myth that women deliberately entice men by wearing ‘miniskirts’ and therefore men have a right to respond by sexually assaulting them as punishment, abounds (Makoni 2011). The relationship between the poor impulse control of men who are so-called ‘sex hungry’, and their being enticed by women’s dress code and women found ‘looking for trouble’ in isolated places, falls into the ambit of myths that perpetuate sexual offending as discussed above (Burt 1980; Cassim 2009; McGee 2011). It has also been demonstrated that the language around the dress code falls under the theme of social control of women in society, including the control of their dress sense (Makoni 2011). Historically, the exercise of controlling women through their dress and other societal value systems has been pegged on the tension between patriarchy (tradition) and modernisation (Makoni 2011). The current study findings seem to be aligned to similar notions – that sexual violence is a form of social control to entrench various power relations frameworks including gender and vulnerability.

4.4 SEXUAL OFFENDING: PREVENTATIVE FACTORS

Closely linked to the findings and discussions on sexual offending, how it was defined and what the contributory factors were, was the separate emergent concept of prevention according to the participants. Prevention in this context was specifically raised as part of the motivation to do the study (see Introduction and Theoretical frameworks sections). During the recruitment and selection of participants when the potential candidates were approached, prevention was a relatively easy concept to introduce as one of the pillars and the reasons the research study was being conducted. And so the

following discussion is in the context of questions and responses that were initially provoked by the researcher but later started emerging spontaneously. Once again, there was no palpable difference in terms of responses between those who were accused of sexual offences versus those who were not. Any other delineating lines of separation that may have been observed will be pointed out forthwith. The summary follows a pattern similar to the contributory factors section, partially. The separation of the contributory from the preventative factors almost becomes semantic in places as they are closely intertwined. The section is divided into victim, perpetrator and system preventative measures. The described measures were from the participants' perspectives.

4.4.1 PERCEIVED VICTIM-BASED PREVENTATIVE MEASURES: PROTECTION FROM VULNERABILITY

Analysis and interpretation of the quantitative data set yielded a theme of vulnerability that cut across the different categories of victims that were exposed to sexual violence according to the records of cases referred for forensic observations during the 12 months leading up to December 2015 (Addendum E). Where sexual assault by a person who was then referred to Weskoppies hospital was concerned, the majority showed that the identified victims were vulnerable and isolated. During conversations with participants in the qualitative arm of the study, areas of vulnerability emerged naturally when contributory and preventative concepts were raised. Vulnerability in society in terms of potential victims' spatial surroundings and socio-economic standing especially in poor communities, were remarked upon. Employment was raised as an issue that would protect those who were exposed to sexual violence and exploitation by poverty, for instance: **“Employment to enhance women’s socio-economic status (SES).”**... 6259. INT06 on P08

Where women moved around was raised as a potential factor in the prevention of sexual assault: **“Women must protect themselves... They must go to “respectable places”**... 6257. INT06 on P08. This theme seemed to cut across both the participant and co-observer / interpreter sentiments irrespective of difference in background and profession. Women and substance related control measures were also noted: **“This “freedom” thing causes problems because of “mokete”** (seTswana: traditional parties where traditional beer is served) ... **Stop women from drinking outside... Alcohol makes you lose control.**”... 2773 - 2776. P05

What women should or should not do was listed:

“Don’t walk alone. Don’t ask strangers to help... Most (girls) are ignorant. They take a chance and say “maybe this one will not”... It is like HIV and condoms... There’s no use... It’s a similar thing... Awareness... What women should do.”... 6706 -6708; 6710. INT07 on C07.

The message and subcode here was that women taking responsibility for themselves and thus behaving in a manner that avoids sexual violation was similar to taking responsibility for their lives and using condoms to avoid HIV infection.

What women ought to or ought not to wear (dress-code) featured highly as a significant theme in the prevention of sexual violence in line with the discussions on contributory factors as summarised above. The proposed steps to be taken in addressing the dress-code issue, although highlighted briefly, touched on deeper sentiments of patriarchy:

“The way girls get dressed: short skirts, they must change the law and be like the law in Botswana... This will bring rape down... If girls can dress properly.”5535; 5541. C06.

A message laced with victim-blaming but carrying a more complex approach that included broad strokes on how society could turn the tide of sexual violence and possibly other societal-ills around through better control of women including youth interventions was shared: **“Discipline starts at home... Tell children what is right... What to wear... How to speak.”**... 6571. C07. Regarding false accusations, as already highlighted in the subsections earlier in this chapter, women seemed to be perceived to play a central role: **“We must control women”**. **“They must not go out and accuse and then turn around.”**¹¹... 5255. C05

The expectation that the would-be perpetrator needed to take responsibility and to not sexually assault others was less emphasised than the expectation that the victim had to protect herself from sexual violation and was glaring (Holly 2009). Sofika and van der Riet found the concept of sexual vulnerability to exist even in a rural South African sample where women were subjected to scripted gender norms (2017). The discussions on the victim-based preventative measures began to suggest the universalisation of notions of control of women. Control seemed to depend on societal values and not merely on values attached to people accused of sexual offending and other crimes. The right to freedom of movement and association in the Bill of Rights and other human rights-based perspectives seemed not to be a reference point mostly (Constitution 1996: Chapter 2). The terms ‘respectable places’ conjured up the idea of Victorian times where women began to question how society was controlling their rights (Mill 1869; Grand 1894). In essence, according to some in the study, potential victims would have to restrict themselves in order to avoid any sexual violation. The interpretation applies to all vulnerable groups including children and adults of all genders – if other studies and the quantitative results are a reference point (Makoni 2011).

¹¹ Memoing during analysis: I surprise myself when I still get surprised by the things that were said directly to me. The idea of controlling the victims in order to control the perpetrator is still running through... but fortunately **the researcher no longer rolls her inner eyes...** see section on ‘Oppression of men’

4.4.2 PERCEIVED PERPETRATOR-BASED PREVENTATIVE MEASURES

Details of societal measures needed to prevent sexual violence in relation to perpetrators seemed to reflect perceptions that victims' more than perpetrators' issues had to be addressed. Herewith some suggestions related to perpetrators.

By way of employment, marriage or romantic relationships solutions for would-be perpetrators were proposed: **“They must give people work to get money and get married and they will not need to rape.”**... 1688-9. P04. Another participant linked sexual offending to the socio-economic status of the would-be perpetrator and money again: **“To use oomagosha (seTswana derogatory: term for sex workers) was an option but they don't have money – rapists don't have money.”**... 5256. C05. **“They need to find something that will satisfy...”**... 5258. C05. The implied was that if people had money they would buy sexual services to satisfy their sexual urges and this would dampen sexual offending. Aside from the poverty line and as mentioned earlier, the simultaneously emerging notion was the re-emphasis of the perception that sexual offending was about the satisfaction of sexual needs or urges:

“Men must not do favours for women with the view of sleeping with them in return. A man can remain faithful to one woman. But then ‘pelo iba tele’ (seTswana: he gets a long heart and has a sexual appetite that is difficult to satisfy)”. “You see her and you want to be with her, married or not.”... 2777. P05.

Upon comparison later, it is possible that the participant was volunteering something akin to what had happened to him and relating to his charges as was reviewed in records in the quantitative part component of the study. Self-revelation of a deep extent was observed in some of the participants accused of a sexual offence but more so in those accused of an offence of a nonsexual kind.

Coming back to the discussion, some of the assertions denoted above link sexual offending to poverty and spousal relationships. Money, marriage or romantic relationships are perceived to be a preventative measure despite evidence to the contrary in literature (Singal 2014). Besides, the reliance on an approach that uses the sexual objectification of women to alleviating gender-based violence is probably not going to aid society in the long run (Rooney 2011). The other emerging assertion on poor impulse control of sexual urges in relation to sexual offending is debated in research spheres in the context of mental disorders that are perceived to affect impulse control. The case of expected self-control in paraphilia versus impaired control in paraphilic disorders where others are exposed to harm and criminal behaviour, as per DSM 5, is an example (American Psychiatric Association 2013).

Aside from the issue of mental illness and impulse control, that potential perpetrators of sexual violence somehow cannot do without sexual relations may not hold much water. Sexual offending is often seen

to be about aggression and violence and not about sexual satisfaction (Cartwright 2002). Were the suggested perpetrator-based preventative measures to be ignored altogether though, there would be a gap, if the assertions denoted herewith are taken into consideration. Although it may seem like a superficial exercise, a question ought to be asked whether ignoring these concepts in sexual violence prevention models, might not be leaving a significant subset of the population not covered in terms of interventions in the local context.

There seems also to be a world that has a perspective that says if one cannot afford to get married and have sexual needs then, getting a job and getting married may be the solution so that you do not end up sexually assaulting others. This narrative may also imply that married men are perceived to not offend sexually as already discussed in the section under ‘Women who are in relationships with men who have been accused of sexual offending’. The research world, decision-makers and implementers of interventions in this field have a lot of perspectives to deal with. A combination of approaches may involve deeper exploration of socio-economic factors from bottom-up communities’ perspectives and not from generic top-down theoretical frameworks (Raiford, Herbst, Carry, Browne, Doherty and Wechsberg 2014).

Prevention strategies that take societal determinants of health into consideration may also lessen exposure to more risk when socio-economic deficits are addressed in both men and women (Bateman 2013). That might then yield accepted material to train, educate and coach etc. and thus try and challenge perspectives of some sectors in society. One of the strong motivations for doing this study, aside from needing to advance knowledge and methodology on the topic, was to come up with prevention measures and to identify areas of intervention that could be explored further.

4.4.3 PERCEIVED SYSTEMS-BASED PREVENTATIVE MEASURES

As far as systems-based preventative measures were concerned, the family, community and societal systems were highlighted from different perspectives to be significant in prevention models. The responsibility included parents of children, community forums and law enforcement systems. A different discussion on how law enforcement systems interact with matters related to sexual offending in general is captured in the ‘Life in the hands of Justice’ chapter. A summary of matters relevant to the current chapter are given below.

4.4.3.1 Community-based systems: “Khala impempe”; “Blow a whistle and form community “what what” “CPF”

Community interventions and other miscellaneous preventative factors meant that the entire community where sexual offending occurred had to be taken on board with any preventative measure. Ideas on

early interventions came up from some of the participants: **“What’s negative in the community is that there are no activities for youngsters, no playing grounds; zoos.”**... 6567. C07. As previously hinted on, youth interventions were seen as standalone means of bringing discipline back to the community. The issue of being hands-on in looking after vulnerable community members including young women was also raised: **“Late nights out especially... I’m strict... My daughter (adult age)... I tell her at 21h00... “If she doesn’t answer (her phone) then I go to every tavern and shebeen”**... 6533. C07.

Community-based law enforcement systems although not always popular seemed to form part of the sexual offending prevention package for some participants. This was especially the case in matters related to the protection of those who were vulnerable and were deemed potential victims of sexual violence. Prevention of sexual offending efforts related to the potential perpetrator were not given as much emphasis. For ease of the narrative, the researcher coined the term ‘community justice’ for the current and other relevant contexts:

“(Problematic) people are known... “Khala impempe” (isiZulu: Blow a whistle)... “Blow a whistle and form community “what what” “CPF” (Community Policing Forum)... The effect (of these efforts) on crime is good... that crime is becoming less and less... They see the one that is beaten and learn to behave... It’s a norm... Sometimes we call each other and solve the crime.”... 5459. C06.

“With the “CPS” ... “The CPF” (INT06 assists)... things have improved... Taverns close on time and that... means people go home safely.”... 6580. C07.

The link between the controls of social contributors to sexual offending with community policing efforts was made spontaneously. Some of the suggestions will be discussed in the chapter on ‘Life in the hand of justice’ and seemed to be akin to a reality gone-by:

“We need a Mangope constitution... (In the Mangope constitution) The police arrest you for drinking in taverns after curfew time... The (dress code) as well”... 5586-5587. C06.

Getting to know the community and a sense of unity were also counted as counters to violence. Societal responses seemed important in the prevention of sexual offending.

“Everyone knows everyone”... When something like rape happens, the whole community is awake when these suspects are taken to the police there’ll be witnesses... Feeling safe if you’re in trouble... A. Sometimes you can get to know people better.”... 6562 - 6565. C07

The police were not deemed to be innocent bystanders in the issue of sexual violence though: **“When a woman reports, it’s common for the police to respond quickly to take advantage of her (and hit on her)... And they will carry on in a relationship if she agrees... In the location (township), policemen are known to be like that... Especially younger men.”**... 5602 – 5607. C06. This was

possibly the closest in the study where SAPS were directly implicated in the matter of secondary re-victimization.

4.4.3.2 Court systems: “The people must get arrested and files must not get lost.”

Sexual offending was perceived to be overwhelming at times because of failing court system that yielded low conviction rates for sexual offences. Corruption gets in the way: **“They arrest you but you come back and then ‘the file will disappear’. It gets paid off... “The people must get arrested and files must not get lost.”... 4272. C04.** Also, there had to be limits to patience it seemed:

“You have to talk about it so that people must understand all about rape and how we must not have rape. You must talk about how it happens to other people ... “People who do not hear with their ears need to be admonished”. A person must go to prison “ayobhantinta” otherwise. (Tsotsitaal: And serve a sentence otherwise)”... 617 - 620. C01.

This was simultaneously coded for community education as well as for court systems deterrents as prevention measures. Educational programmes aimed at all levels of prevention probably would benefit communities by raising awareness to the size of the problem and what measures were within reach to address violence and sexual violence in particular. The principle of fairness, awareness raising and then retribution was being highlighted.

The question raised then: Q. For those who have done everything right and still get raped, then what.

“Justice and punishment should be harsher... There are people who won’t report... Even now with the 80/20 split... (With women being 80% in charge and men 20%)... It is no advantage to women... Women do not report because they fear... the police (SAPS) will say you were drunk.”... 6713 – 6716. INT07 on C07.

The message here was deemed to be that women’s perceived equality before the law had not gained them any more advantage in the fight against sexual violence. Women still did not report because they feared the male (patriarchal) response that would attack them and shame them for being irresponsible. They feared being blamed for bringing the sexual violence onto themselves by being drunk, for instance (as discussed in the section on ‘Blame it on the victim’). In the meantime, during some of these discussions the researcher could not help but review her status when she got included in the narrative: In the room: The participant uses “you” to refer to the interviewer whilst using her as an example in his story. This inclusion in the participant’s narrative no longer results in automatic discomfort for the researcher but the levels of unease depend on the context of the conversation mostly¹².

¹² **Process: In the room:** The participant uses “you” (referring to the interviewer to illustrate a point in his example) and this no longer results in some discomfort but the levels of discomfort depend on the context mostly¹².

4.4.3.3 Sexual offending cannot be prevented: “It’s going to be higher still.”

After an interview with a participant accused of a sexual offence involving a minor, INT01 was visibly emotional with his mouth agape too: I “**cringed when he** (the participant) **says there’s no way of preventing rape... It will happen... This means it can happen again in future**”... 3560. INT01 on P07. In that instance, the participant was observed to be quite hostile and had been bitter about his arrest. The sentiment was brought back in a more analytic tone by participant C06 who said: “**It’s going to be higher still** (sexual violence is going to be higher still)...” 5505. C06. The sentiment was coming back to the issue of the definition of sexual offending and the perception that a lot of what was called sexual offending ought not to be called sexual offending as it skewed the stats as discussed in the ‘False accusations’ section above. “**Sexual offending might go up...**” 3714. INT04 on C03 reiterated a point made by another participant in that although women’s rights have been held up, sexual violence may get worse given what they have observed in their contexts. .

The examples given above in the current section on ‘Systems-based preventative measures’ were not far from the reality of what social theory frameworks proposed for youth and others facing adverse social conditions. For example, resilience theory studies explore how to promote healthy and protective communities that foster healthy individual and community responses to adversity (Southwick, Bonanno, Masten, Panter-Brick and Yehuda 2014). In terms of the levels of hostility that were at times picked up, hostility in expressing one’s stance on sexual offending and sexual violence has been suggested to be linked to hostility towards women in more aggressive and hard-core sexually violent individuals (Marshall and Hambley 2016). It seems that calls related to coaching the youth in the community will have to use some of the existing evidence although differing views over time exist about some factors such as hostility versus aggression as motivations for sexual offending (Hamilton and Yee 1990). When it comes to community based prevention strategies and the availability of alcohol, the question is, when will regulations be enforced enough to control access to alcohol for underage groups. There needs to be enough emphasis on activating all available societal resources to render the problem of taverns near schools and near family steads and the youth obsolete (Ngantweni 2008). Whether South African societal culture and value systems have shaped its law enforcement approaches

I suspect that is why the researcher / interviewer refers to herself in **3rd person** in some instances. Referring to myself in 3rd person is a function of my need to put what I see as a healthy and protective layer between the researcher and the hard and threatening content under discussion. Until a participant says something that shocks or is troubling or makes you laugh and takes you by surprise, you forget that you are not in control, really, even in this room where knowledge and ideas are being formed. I see the 3rd person as my covering my face with wide open fingers... 6557. C07

on harmful social ills or vice versa to such an extent that enforcement has become ineffective, is debatable.

That the fight on sexual violence by the ‘system’ is perceived to be getting worse begs the question whether this kind of frank realisation can be stomached by decision makers who have been given varying statistics from varying perspectives. Civil society groups, and others active in this area, treat the annual stats issued by SAPS with scepticism at best because the notion of SAPS units producing their own stats to prove their own productivity begs for a stricter monitoring and evaluation process in parallel (Bruce 2010). As part of a conjoint effort to measure more accurate stats and to remove obstacles to reporting more vigorously, collaborative work will probably be the order of the day. Similar collaborations seem to be necessary to use known approaches in dampening the rise of violence and sexual violence. Although the sentiment that it will be time yet before sexual offending is controlled comes from a small voice in the study, it may be a loud enough voice. It may be loud and important enough to latch onto such perceptions as promissory notes of a future where society is open about such realities.

4.5 THE PROCESS DURING SEXUAL OFFENDING DISCUSSIONS

Doing in-depth interviews on material that is emotive and where power struggles exist was not always easy. Highlights of the processes that took place as the conversations proceeded are shared under the participants, co-observers and researcher titles. A more extensive account of the entire study’s processes and quality control measures will be dealt with in the ‘Final’ section – not here.

General Language factors: These are discussed elsewhere in the thesis but, specific to this section was the definition and language used to describe sexual offending. Both were important in terms of setting appropriate questions and getting mostly appropriate responses from participants. Terminology is known to cloud research questions and in this chapter the attempt was not to ask participants about their personal cases unless they volunteered the information. The information gathering would strictly remain within the sphere of the study.

The participant: The use of humour

Humour served as an ice-breaker and a coping mechanism during difficult conversations. For instance when sexual offending **or sexual violence against a man by a man or a woman** was discussed some had to draw back: **“No, I have not seen a man who is raped. I have had no such, myself. Men like being forced (by women)”**... [Laughter in the room] ... Irony was noted by the researcher as the accused was dealing with dark and heavy material but the interview space allowed humour as a relief note or even going along with it as his defence mechanism as he may have been feeling awkward... 3821. C03

Also when details of lived lives were coming out there were moments of lightness. **“I had a girlfriend who was ± 12 years older than me. “She was sitting on my neck”** [Demonstrates with gestures. Laughter in the room]... 3816. C03

“She was known to have hit *Ntozakhe (not his real name) ... He ran all the way to get help... [Laughter in the room]... 2522. P05

“Must get yourself [sic] a girlfriend... Lots of girlfriends..... I’ve never seen a guy who can’t get one... [Laughter despite the difficult topic content. Humour relieves tension]...5473. C06

Also, the humour, it would seem, may have represented underlying nervousness at the topic of women having the apparent upper hand. The deeper meaning of the humour was not explored further by the researcher during the interview, in order to keep the interview environment at ease. The interview technique is about balancing the mood in order not to cause discomfort in matters not necessarily on focus for research purpose. The nervousness may have been representative of inherent belief systems but was parked for exploration from other angles later.

The co-observer: The buffer zone

The use of interpreters / co-observers / co-participant in the in-depth qualitative interviews was valuable in ways that were unearthed as the research process was progressing. The co-observer acted as a cushion through which conversations were sometimes direct to ease awkwardness. [In the room: There is a need to create a comfortable gap due to the sexual content of the conversation with this participant (P08) in particular].

The same participant had to go out for another task and upon return, he was eager to return to the conversation. This belied the reluctance to engage on sensitive material but showed an authentic interest in the research process itself. Perhaps the research space provided an opportunity to ventilate in a free environment. The participant was more at ease with discussions that were general and theoretical. The apprehension level related to being observed seemed to ease during ‘research’ discussions. Perhaps that meant that the environment was less threatening within the research space. Not all cases were the same in terms of the need for the creation of this gap though.

The researcher:

Researcher sensitivity: A few times and by different participants, the researcher would be incorporated into the participant’s story. The researcher would be used in the narrative for illustration purposes where she would end up being used as an example of a person in a relationship with a participant. There was discomfort at times but the conversations went on and the researcher took it as part of the process – from a phenomenological qualitative research perspective.

Dress code: Even for the researcher dress code became an issue as an only female in a male dominated section e.g. wearing a skirt would be an issue at times. Assimilation into and paling into the background meant not to interfere with the research process.

The role of scepticism: When the concept of Mavuso stokvel parties first came up it was completely new to the researcher and ‘raised her inner eyebrows’. It sounded too surreal. The co-observers at the time would fill in the gaps. Part of the difficulty was that there was an element of surprise at open conversations that were not like an observation interviews initially. It seemed that the participants were at times also surprised by some of the questions: **“Initially I wondered if it was some underground investigation, that’s part of things... The concept of the research doctor versus the observation doctor.”**...5830. C06 The sugar daddy was not expected... 6235. P08

Finally, scepticism was also anticipated by the researcher from those who may not have been comfortable with the conceptualisation of certain aspects of the findings e.g. the male sexual assault phenomenon might have been treated with ‘rolling eyes’ by others who may have been coming from different perspectives. It would also be an opportunity for future research as well.

4.6 SUMMARY NOTES: EMERGING THEORY ON SEXUAL OFFENDING

After mixed analysis and interpretation, what emerged was a conglomerate of assertions and theories that later would merge with other sections in the thesis. Meantime under the chapter on ‘Sexual offending’ the following seemed relevant:

Assertions regarding the definition of sexual offending:

Age of consent definition is blurred.

If a victim was ‘very young’ then the accused must have been ‘mentally disturbed’, participants asserted.

If a victim was an adolescent, then the accused could be a person who may have been assuming that the girl was of age, or was consenting to transactional sex which may have been deemed fine or that there was a ‘sugar-daddy’ kind of arrangement.

Spousal and acquaintance rape (including child sexual abuse) may be representative of the largest share of the sexual violence problem in the country context – with or without mental illness of the accused. More focused interventions are probably necessary for these kinds of relationships. It will be less likely to be a stranger that attacks the next victim of sexual offending according to the quantitative data component.

The sample is sceptical of the SAPS national stats on sexual offending because sexual offending is not well defined.

There are definitions of sexual behaviour that are neither defined, nor understood, and are mistaken to be sexual offending by law enforcement systems: e.g. 'Mavuso'; 'sugar daddyism'.

The sample is sceptical about the significance of sexual offending against males in the bigger scheme of things. Other forms of sexual interactions tend to cloud the picture.

Rape myths are still strong including the 'false accusation myth'; 'men are sex hungry'.

Assertions regarding factors that are perceived to contribute to sexual offending:

Poverty + Unemployment = No money to get married = single men who are 'sex hungry' = sexual assault of others.

Money and transactional sex cloud the picture universally.

Women and the system are hostile to men and perhaps this has led to more aggression against women and children by men including sexual violence.

Victims are to blame with victim-related factors far easier to list than perpetrator-related factors as contributory to sexual offending.

Victims tend to be vulnerable in terms of extremes of age, alcohol use, what they wear and isolation.

The 'uncle' in the community is no longer safe – sexual violation of the vulnerable and isolated victim in communities is displayed in via the quantitative sample.

Age-disparate relationships are adding complexity to the picture: 'sugar daddies' and 'blessers'

Underreporting: several categories of underreporting have come up during the discourse specific to sexual offending viz. where females (of all ages) are ashamed and blame themselves; where females are discouraged by their environment and are stigmatised once they reveal; where males are sexually violated and the same stigma applies from the community and law enforcement systems and societal patriarchy; where families are in charge and decide on behalf of a child or a woman not to report.

Mental 'disturbance' is mostly associated with substance abuse, for it to be linked to sexual offending – otherwise it does not emerge as a major role-player at all according to the qualitative findings.

Those who offend against children and the elderly 'must be on drugs' – it is taboo according to the qualitative findings.

The HIV/AIDS + children + elderly myth is not linked perceptively to sexual offending by the sample.

Assertions regarding factors that are perceived to be preventative of sexual offending:

- The in-depth interview participants have little faith in the law enforcement system succeeding to prevent sexual offending except for community police forums and community justice.
- Sexual offending will not go down, instead it is going up...
- Social determinants of violence e.g. poverty, unemployment and inequality need to be corrected.
- Substance abuse control will help improve sexual violence prevention
- Alcohol abuse and control of taverns will help.
- Women are responsible for prevention of sexual violence against them.

Emerging theory:

To some extent, a tentative theory can be drawn that: if you are female; are vulnerable according to extremes of age and other socio-demographic factors and are isolated, you are likely to get sexually violated. You are likely to get violated by a person you know more than by a stranger. Males who are minors also fall into this narrative. The common factor is vulnerability (a central category in grounded theory terms). Mental illness seems to not be a major feature in terms of sexual offending in the local sample context.

Sexual offending myths are still strongly represented in the patriarchal notion of gender-based violence including sexual violence.

Existing theories that are manifesting and form part of the framework within which results fit at this stage include: trauma-re-enactment theory; control theory; humiliation theory; social cognitive theory on learning; resilience theory (in terms of victims); sexual violence prevention frameworks. The first three unpack the problem and the rest are about finding solutions to the problem. These will be revisited in the 'Final section' of the thesis.

[Emerging study-specific theory: Vulnerable populations + perception of power transfer to women by the system + low self-esteem of men = hostility + aggression + violence + sexual violence as an outlash by men]

[Emerging study-specific theory: Mental illness outside of intellectual disability and substance related matters is not perceived to contribute towards sexual violence.]

[Emerging study-specific theory: Sexual violence is a form of social control to entrench power relations including gender power relations.]

4.7 IMPLICATIONS OF THE FINDINGS RELEVANT TO THIS CHAPTER:

Perpetrator-related matters: raise men who have stronger self-esteem; educate men on sexual violence vs. ordinary and socially accepted sexual behaviour e.g. forced sexual relations = Sexual offending and not just part of sexuality; shift the focus onto the behaviour of those who are potential sexual offenders instead of focusing on the behaviour of potential victims; paradigm shift in the prevention programmes to focus on men and their perceptions of justice and equality; find ways to measure hostility towards women to ameliorate perceived oppression by the system; human rights focus instead of men vs. women's rights focus. The hostility measure may over time help with early-detection of those who may be potential violent offenders of any nature including sexual.

Educate society both men and women about sexual offending myths.

Victims: Interventions are necessary at socio-economic (poverty, inequality and unemployment) and other vulnerability levels to support reporting and to prevent secondary victimisation by the community and law enforcement systems including the courts.

Mental health: Psycho-educate at-risk patients especially those with comorbid substance use disorders; intellectual disability and low functioning patients (Quanti data) need special healthy lifestyle promotion and offending prevention interventions

Substance abuse prevention and intervention programmes: Drinking places in communities have a historical basis. Is it time we moved them to the periphery of communities? Older girls get into complex situations here. The role of alcohol in all SES communities needs to be reviewed. What kind of neighbourhood will emerge where there are substances all round but especially alcohol even for the youth?

Forensic observation: Court records are valuable for qualitative assessments of cases. The changing face of sexual offences referrals – same numbers but different variables e.g. age of the victim going to the extremes. The observation process may be superficial and assumes individuals cannot stand trial simply because of formality in the interview structure. Open-ended interviewing styles with less structure might be the ideal for some during the assessment period. In the study most if not all could follow the interviews if they were able to give consent, whether the official observing psychiatrist found them not able to stand trial or not. There may have been discrepancy in levels of functioning during research interviews vs. observation interviews. (The researcher could not breach confidentiality though and disclose to official assessor.)

Law enforcement: Educate the legislators, SAPS and courts regarding the review of nuances of sexual violence definitions. Attitude towards victims needs improvement and ethical consideration strengthening.

Research: Methodology: Mixed methods applications in critical theory contexts using participatory models from the ground up are important. Language, translation and the exercise of reviewing witness statements can be complex in the context of multilingual societies... Women doing interviews with men on sensitive material can get valid information despite some discomfort. The environment within which research is done in this sphere is important – the less hostile, the better. The use of co-observers who are the same sex as the participant needs to be considered.

About new definitions: future research will have to be from the ground up using participatory designs whilst addressing critical issues and theories irking the people on the ground.

The concepts of male-male and of female-male sexual offending have become an opportunity for future research as different drivers may be underlying these.

Specific definitions of what the sexual assault of women, men and children entail in the context of the contributory factors discussed in this chapter would have to be explored further.

4.8 EPILOGUE:

In the words of a participant: “In the final analysis, rape is not good, though.”... 2763. P05

This line belies the fact that the bulk of the contents is devoted to what women have done to contribute towards being raped. New definitions or accentuation of perspectives on what is sexual offending came up. Knowledge systems that are not necessarily commonplace also came into the discussions. Theoretical underpinnings that will eventually contribute to new angles on solving the problem of sexual offending have emerged and have been corroborated by both quantitative and qualitative data analysis.

In the definition surprisingly a lot is said around false accusations and men being raped in the context of less rights afforded to men. The conversation quickly shifts away from the plight of women or even men at the hands of perpetrators to what women do to contribute towards their sexual offending. Even when it is male sexual assault under discussion, it turns out to be the women who are at the centre of the controversy.

In the contributory factors section, a lot is said on the victim and how she (mainly) contributes towards her own sexual offending – from the way she dresses, where she goes, what she drinks, how she behaves and so on. Patriarchal undertones prevail throughout. Only in a few places is there reference to men being the primary problem.

What is also outstanding is that hardly anyone relates sexual offending with mental illness except for a very few who refer to the colloquial sense of being mentally unstable rather than suffering from a mental

disorder if you sexually offend against children or the elderly. The sexual assault of adult women in general is not seen in the context of mental illness. Most relate it to substance abuse but not necessarily mental illness. That most of the participants were at Weskoppies hospital to be investigated for mental illness and yet they did not directly associate sexual offending with mental illness is interesting. In other spheres paraphilias especially paedophilia may have been expected to be included in the discussions but it does not happen in the context of this study. Is there a difference in how sexual violence especially against children is expressed in certain socio-political and other defining terrains? There are reports of sexual violence against children but they hardly fit the description of paedophilia in the current sample. Is it a sample dependent feature or is it a population related matter?

On preventative measures, at times it felt like conversations were going backwards into the blame area but this was in keeping with how earlier categories had emerged too. The patriarchal undertones of women occupying certain positions in society and being subservient to external societal demands interlinks most of the sections discussed in this section. That solutions or preventative measures will have to move from there and beyond, in terms of societal values, in as far as sexual violence is concerned seems non-negotiable. Instead, there seems to be a lot of work for all sectors of society as there may be schisms in how the different components of ‘the ‘Village’’ perceive sexual offending. An example of the schism is that it cannot be said that the problematic patriarchal undertones are universally perceived as problematic by all of society and lawmakers currently. There may be more that see matters related to sexual offending in a similar fashion to the participants of the study.

The relationship between sexual violence and violence in general is drawn out elsewhere in this narrative as demonstrated later in the proposed assertions and theories arising from the overall study. Social determinants of health redress stands out in that poverty, unemployment and inequality (by association) are proposed as areas to work on to quell the unrelenting spate of sexual violence. The sentiment on employment is raised for both the upliftment and empowerment of women to care for themselves better as well as for men to find sexual partners in socially sanctioned ways and thus stop them from raping others in search for sexual satisfaction, it is suggested. A recent Oxfam ‘inequality’ report discussed at a recent World Economic Forum in Davos, shows that South Africa’s inequality is worse than initially measured (Quintal 2017). Globally inequality is raising ethical concerns (Pickett and Wilkinson 2017) especially when related to social and health outcomes including violence (Pickett and Wilkinson 2015). Also, it seems the effects of apartheid have not departed even though some participants long to go back to aspects of that racial domination system. One has to wonder whether the dismantling of the fibre of its society by violence including sexual violence and its perpetuating societal forces as described in this section, does not indicate that apartheid and its effects continue to prevail in South Africa (Armstrong 1994; Bae 2005). The call for a ‘Mangope constitution’ may put our society to shame and sound surreal to some but might be closer to the reality of others.

The process of delving into the subject of sexual offending brings out perspectives on methodology, data collection and validity strengthening for women researchers in conversation with male participants and co-observers in a male dominated environment and a patriarchal system. The work can be threatening but there is a pleasant surprise in finding a male audience that is probably as receptive if not more when engaged by a woman researcher. Validation of the data during collection and reporting through member-checking, rich thick descriptions, triangulation and mixed analysis between quantitative and qualitative data sets of the same study bring out remarkable accents that may not have been unearthed otherwise. Quantitative data complements qualitative findings.

Lastly, as stated earlier in the chapter, if the overarching reason research work is done is for the betterment of society, it is society that needs to be engaged about even very sticky subjects– from the ground up. Violence and the prevention of violence frameworks in the mental health and social rehabilitation context abound and come with different perspectives including health promotion and disease prevention concepts; forensic psychiatry and prevention concepts; recidivism prevention; as well as the separation between mental illness factors and crime rehabilitation factors. Grounded theory and other qualitative methods applied within the framework of pragmatism blending some of these existing frameworks with new assertions and theories will hopefully get society closer to the quest of establishing nonviolent nonbiased ways of interacting.

Chapter 5

PART II: PSYCHOSOCIAL FEATURES

5 THE ‘VILLAGE’- LIFE BEFORE ARREST AND WAYS OF RELATING

- Raising boys, raising men; sexuality and relationships; the oppression of men; life in the time of HIV

5.1 PROLOGUE: THE ‘VILLAGE’ CONCEPT

In the South African context, forensic mental health services cover various aspects including the assessment of the mental capacity of alleged offenders accused of criminal behaviour in terms of the Criminal Procedure Act, 51 of 1977. Upon resolution of any queries related to mental capacity in court, and when applicable, the affected individual is referred back to the forensic or general mental health system as a state patient or an involuntary mental health care user (MHCU), respectively, depending on the severity of the charge. The aim is for newly declared state patients or involuntary MHCUs to be rehabilitated in the forensic mental health or general mental health system for whatever psychiatric condition they may have. In terms of the Criminal Law and Related Matters Amendment Act 32, 2007, the Sexual Offences Act (SOA) as it is popularly known, the ‘system’ at some stage has to add the names of individuals accused and convicted of sexual offending to a ‘Sexual Offender’s Register’ (SOA 2007: Chapter 6). Moreover, in terms of the Criminal Procedure Act, 51 of 1977, convicted individuals may be referred for the assessment of their ‘dangerousness’ after conviction and before or as part of sentencing, under section 286 A and B of that Act.

The burden on the forensic mental health system under the above described circumstances is enormous (Hunter 2013). Human rights and ethical dilemmas abound because of increased demand for services in a resource-scarce environment with an uneven distribution of access to expertise geographically as well (Motaung 2017). Given the constant demand on forensic mental health services, it becomes reasonably easy to project that an increase in forensic mental health queries from court systems will continue causing a strain to access to universal forensic mental health services coverage generally. Strengthening health systems and other social systems via the enhancement of prevention approaches has become more urgent in order to ensure equitable and just mental health outcomes (including forensic) for all affected individuals (Mental Health Framework 2013-2020). One of the areas of focus is the need to lessen and prevent the occurrence of criminal behaviour generally and in the domain of forensic mental health specifically. This is in order to decrease the associated demand on forensic mental health services and is for the betterment of health and social development outcomes in the long run (Matsoso and Hunter 2013). It is in that context then that this chapter returns to society – here dubbed ‘the ‘Village’- to explore psychosocial features and perspectives of those who have been accused of sexual offending and other kinds of crimes.

The return to ‘the ‘Village’’ is in order to pursue and to understand societal issues that may have an influence on sexual violence in and outside of the context of forensic mental health. The ‘Village’ from which those accused of sexual offending emerge is scrutinised from the perspective of how ways of relating in society are negotiated from the participant’s perspective. Ways of relating in terms of how males – the child and adult male – are reared by society (the ‘Village’) as far as early life influences, relationships, gender, sexuality and other roles are explored. A link between these psychosocial features and violence including sexual violence is, hopefully, mapped out using emerging assertions and theories. Contributory factors from society that become part of the ingredients that lead to the outcome of general and sexual violence in some people, with or without mental health conditions, are distilled. Societal institutions within which accused individuals are handled by ‘the system’ once they are referred (South African Police Service, Correctional services and the courts) are explored with research participants using qualitative in-depth interviews.

In ‘the ‘Village’’ chapter, society is asked through the research participants why there seem to be increasing referrals of sexual offences cases to forensic mental health experts and units. As the tone of the current research study was explicitly grounded on a strong prevention framework component, it is only fair to take a pause and ask questions of society, the ‘Village’. The avalanche of sexual violence in society and, in the forensic mental health context and the sustained referral of cases of alleged sexual offences, are noted. It is society that is producing the cases, and so there is a need to scrutinise as far as possible the very same society. Together with alleged offenders, the development of an understanding of varying social contexts is hoped for so that what emerges can presumably add to the strengthening of existing systems and to the building of models of prevention of sexual violence. Prevention models are necessary within and without the context of mental illness - it is upheld.

An attempt to understand violence and sexual violence in the South African forensic mental health context necessitates the exploration of the so-called local transformative lenses (Mertens 2013). The term is also linked to the description of transformative frameworks by Creswell which refers to: finding alternative research means that emphasise that “knowledge is not neutral and it reflects the power and social relationships within society (2013:25). The purpose of knowledge construction is to aid people to improve society (Mertens 2013; Creswell 2013). The lenses themselves need to be defined locally. The current psychosocial features section, as derived from research participants’ perspectives, is an example of how local lenses and thus conceptual and theoretical frameworks can be built using local evidence. The picture of sexual offending, in relation to mental illness, that emerges locally does not always fit the typical picture and theoretical frameworks designed elsewhere. An example is in the context of sexual offending towards children (Table 27). In the local context and given anecdotal evidence, suspicion of paedophilia in a case is not commonly referred by the courts for forensic psychiatric observation except if there is other suspected mental illness. The question is whether paedophilia is not a common concept in the African or even South African context or perhaps it is just

one dimension of a more complex phenomenon of violence against children as has been proposed (Posel 2006; Collin-Vézina, Daigneault and Hébert 2013). These are some questions that illustrate how the local context is compelled to utilise its own transformative lenses in coming to terms with and in resolving sexual violence against all categories of victims including children. Socio-economic determinants of health and the burden of mental illness that engulf our society also compel us to study sexual violence from a local perspective.

The effects of poverty, unemployment and the inextricably linked factor of inequality on the burden of sexual violence have been covered in the ‘Sexual offending’ chapter. These socio-economic factors together with HIV / AIDS will be briefly referred to from the perspective of the effects they have on society in the current section. The harped upon link between the upsurge of HIV /AIDS and child rape will be explored. The discussion of the perceived oppression of men which was started under the ‘Sexual offending’ chapter as a contributory factor to rape is revisited here as it is from society where the perceptions of oppression arise. It must be accepted upfront though that beyond the matter of unique local features and the necessary local transformative lenses, sexual violence as depicted in the current study does have some commonalities with contexts elsewhere. The quantitative results analysis covers some of those commonalities.

The ‘Village’ section is made up of the most pertinent issues arising from the participants in terms of their views of life in general. The perceptions are corroborated by evidence from the quantitative component. The researcher has drawn out of these views, psychosocial features that closely describe the background and the environment of individuals who end up referred for observations. From the outset it has to be said that no generalisations can be drawn further than what the in-depth interview component and what the record-based component yield. The quantitative component of the study and relevant sections of its qualitative analysis findings are utilised to gain clarity on what the interviews illustrated where applicable.

5.1.1 THIS CHAPTER WILL COVER:

The ‘Village’: Ways of relating: Raising boys, raising men

The ‘Village’: Ways of relating: Sexuality, relationships and patriarchy

The ‘Village’: Ways of relating: Conditions that contribute to conflict, aggression and violence in relationships

The ‘Village’: Life in the times of HIV / AIDS: Relationships, sexuality and violence

The process of researching sexuality in the ‘Village’: the researcher on the spotlight

Summary of emerging assertions, theories and implications

Each of the above listed contents is discussed as a standalone section with its own discussions as an attempt to crystallise essential aspects without losing the core essence of the body of findings, related discussions and implications for research. This approach is similar to the previous chapters, if not somewhat slightly adjusted.

5.1.2 TERMS OF REFERENCE:

The local situation in this chapter is called the 'Village' and is based on the African proverb 'It takes a 'Village' to raise a child'. In the context of the research study, the 'Village' and the child involved are complex. The child that is being raised in the context of the saying can be both the accused individual and / or the victim of an alleged sexual offence. In all the subsections the common denominator question is what is society doing that makes it produce both kinds of progeny. In terms of the 'Village', the term may conjure up thatched roofs and mud huts, to the local reader, but that imagery is to be resisted. The 'Village' reference ought not to be mistaken to be referring to the thatched roof house 'Village' in rural South Africa and elsewhere, only. The 'Village' concept in this chapter also includes the urban high-rise glossy building kind, the 'squatter' camp kind, the suburban picket fence kind, the university residence kind, to mention a few. This wide reference is because it is in these and other 'Village' contexts that violence including sexual violence takes place. It is implored that the 'Village' reference not entice the reader to think in terms of race, either. This is discouraged especially because in the South African context, mostly black African people live in typical thatched roof kinds of 'Village's. They are the majority living in those kinds of 'Village's because of socio-economic and historico-political reasons. It is not implied that the discourse is aimed at a specific population group. The reader is encouraged to see members of the 'Village' as any typical community setting with a diverse group of people representing the so-called 'Rainbow nation'. It is this rainbow 'Village' to whom questions are posed.

Lastly, and as a reminder, the author has adopted a stance to refer to the predominant representation of gender roles in relationships, in the thesis, as heterosexual - for the sake of ease of writing and reading as the majority of participants referred to that frame of reference. This generalisation by no means implies ways of relating within same-sex relationships or others are not significant when it comes to sexual violence. Also, even when not specified, sexual violence towards children, women and men is implied in the narrative analysis throughout except in specific sections.

Table 27: Circumstances and places where sexual offending occurs: Qualitative analysis of quantitative data

Places and circumstances where rape occurs (quantitative sample)		
<p>1. Women alone</p> <ul style="list-style-type: none"> Numerous encounters building up to sexual assault of a woman alone in her house. No SAPS involvement prior to sexual assault. [quanti 49] He performed rituals on her and then raped her. [quanti 59] Elderly woman alone [Quanti 40] 	<p>2. Children not safe</p> <p>At home</p> <ul style="list-style-type: none"> The girls were raped by their mother and father and two older brothers [quanti 56] The victim was left alone with the stepfather - the accused. [quanti 50] She was crying loudly but he never had the heart to stop [quanti 50] He says she forced herself on him instead. [quanti 58] She was 10 and home alone after school. [quanti 58] 	<p>3. Children not safe</p> <p>At neighbours</p> <ul style="list-style-type: none"> Victim was routinely left at the home of the accused to be looked after whilst her mom was at work. [quanti 45] She reports that she was raped every time whilst the babysitter was in a different part of the house. <p>At sleep over</p> <ul style="list-style-type: none"> He told the victim he's the devil's child. [quanti 51] Playing <p>Walking on the streets</p> <ul style="list-style-type: none"> Six year old girl walking back from school with her friends [quanti 31] Children walking alone to school [quanti 48] She was sent to buy bread alone and did not return. She is known to be a 'slow-learner'. [quanti 55]

5.2 THE ‘VILLAGE’: WAYS OF RELATING: RAISING BOYS, RAISING MEN AND OTHER TALES OF TOIL

5.2.1 CONTENTS:

Early life influences: Women raising boys, raising men

Men raising boys, raising men

Grandparents raising the ‘Village’

The uncle in the ‘Village’

A relatives (relatives)

The ‘Village’ raising children

Factors contributing to later life aggression and violence:

Early life trauma

Trust

5.2.2 EARLY LIFE INFLUENCES

Discussions on early childhood influences on the participants, introduced ideas from the ground up. It would not have been possible and an attempt was not made to pre-empt the responses. The summary that follows shows the highlights of where the participants took the conversation. In true mixed research and qualitative terms, even when the focus seemed to be moving further from the original context, the researcher had to be led by the participants’ lived life descriptions.

The questions asked and conversations led were set out to explore the various kinds of role players that may have participated in raising the participants and thus contributed to the basic attachment styles that may have later linked up with or without problematic behaviour. Not all the vital information could be gathered adequately within the design of the current study to map out the attachment theory profile of the participants though. The essential ingredient of checking the identified attachment figures was covered, however. Later on, where possible, the role of the various gendered attachment figures would be reflected against the backdrop of the relationship styles of some of the participants in context.

5.2.2.1 Women raising boys, raising men:

Mothers and substitutes:

Early life relationships with a maternal figure seemed to be in the range of positive relationships. Mothers were often portrayed as providers, a label often attached to men in some systems. The effects of fragmentation of communities would have also forced the opposite to occur – women having to raise whole families by themselves for various reasons which may come out later. The following set of responses came from a participant (NSO) who ironically was accused of offending against a female relative and mental illness may or may not have played a role during the incident. His relationships with women in general were open and positive. He was in his early 30's at the time of the interview:

“The relationship with my mother was good.”... 3621. C03. “There was no man involved in raising me. I was raised by women and I was close to my cousins who were girls. My uncles did not have much influence. Yes, circumcision would have been discussed with them but my mom said I must not go because it was rough and I was used to a “soft life”... 3752. C03. “My mother was my disciplinarian. Each of the sisters disciplined their own children. We led a peaceful life. No, I did not witness my mother nor aunts and magogo (Zulu: Granny) being abused by a man. Men did not sleep over at our house. They must have been there but they didn't stay over”... 3774. C03 ...”I grew up doing housework.”... 3778. C03

Women portrayed as providers who were in turn supported and seemingly protected by the boys and later young men they are raising were also discussed: **“My mother provided for my financial needs.”... 4138. C04. “My mother managed to put us through school.” 1783. C02**, and similar, were refrains that came up regularly. Co-observer INT01 took it to an explanatory level: **“If there is no father, then a woman who works takes on the role of a man. She becomes the mother and the father. A provider who is of either gender is seen to be playing a ‘male role’.”... 4061. INT01 on C04.**

The above statement supported an emerging picture that depicted a different story. As positive as the provider-mother-and-protective-son narrative was, the opposite could be said too, however: that boys and young men were assisting their mothers because the ‘Village’ may have been compelling them to play a protective provider role in the absence of a father. The emphasised provision was material or financial but having been ‘in the room’ with the participants, affection and warm nostalgia were displayed when this part of the conversation came up.

When mother was not available stand-in mothers seemed to have filled the gaps: **“Mother now gives the money to “mamkhulu” (isiZulu: my older mom - my mother's older sister).”... 30. P01.** Some of the substitutes were not voluntary and were not pleasant: **“Our step-mom was abusive”... 2452. P05. “My family thought that I had been abducted by the ‘Maimai’”... 2456. P05** (After running away

from stepmom.)... **I ended up getting involved with the ‘Local Authority’ because of theft, fighting.”... 2458. P05. “I’d run away and she would tie me down so that I would not run away again... She would hit us - both children.”... 2484. P05**

But then mother was not always able to have replacements and some of the participants became the primary providers for their siblings. This was also a common narrative within the context of child-headed families. **“I became the breadwinner helping my mom... When she passed away I had to send siblings to school.”... 5773. C06.** As an extension to the responsibility-taking described by C06, C02 shared further about the early responsibility-taking: **“My mother was the breadwinner at home... She used to sell umqombothi at home... 1790. C02** (IsiZulu: Umqombothi - sorghum beer sold from people’s houses and otherwise used for African traditional celebrations).

“We sold to elderly people who would pass through on their way from work... They would have one (1) or two (2) beers and then would go home... No tsotsis were welcomed... I was a teenager.”... 1797 - 1801. C02

As a subcode, the multiple characteristics of alcohol in the study group and in society are unpacked in other sections and chapters. In the current context, alcohol was seen as a resource and not as a vice.

Another participant had a new angle on the provision for the family narrative. He portrayed the perceived role of self-sacrifice by a young man for one’s family as a sign of strength:

“I took a gap year... There were things that I had to do as a man... I had to find a job... I called them in and told them I must drop out of school... I told them it’s going to be hard to take my sister to (college too)... Let her go... and I start looking for work... I started working... When the other door closed, the other one opened... I moved... to where I got a placement job, that’s when I saw my man ability... I paid for her studies... My mom does not work... My father gets piece-jobs (Slang: casual temporary work) ... And so I supported them too.”... 4555 – 4567. C05

Through this rich thick description, the theme of coming of age and providing for your family as a man coincided with the theme of self-sacrifice and lack of resources in an environment where education and access to education were seen as key to success.

“Amarelatives” (relatives)

“Amarelatives”4930. C05... “They never came to see us”... “When a person does not visit you, it means she does not want to be in your life”... “Now I’ve learnt that relatives are there when you’re not in trouble”... “Amarelatives” (Slang: Relatives).... 4927 – 4930. C05. The participant sums up the need not to be rejected: **“Your family will support... My family supports me... Even my biological father’s family.”... 4931. C05.**

The pressure on single women:

“Kumele baye emendweni.” Women must get married... I don’t agree with them raising their children in my father’s house instead of getting married... My sisters must go emendweni... Their children who are boys should not be taking our (family) name... Ukuzalela abantwana ekhaya? (IsiZulu: Single women having children before marriage)...
2912. P06.

In this narrative the participant is depicting the kind of pressure some women may be under when they are unmarried and are raising their children at home, where their children might be exposed to ACEs and rejection by male figures who may be perceived to be the rightful heads of households. The irony was that participant P06 saw himself as a victim of rejection by some of his own family of origin and yet was also rejecting them in turn through the patriarchal traditional context. Also, part of P06’s narrative depicted the link between early life abuses with himself as a victim who later in his life was accused of abuse of others. Theories abound about this link but will be unpacked elsewhere where appropriate (e.g. re-enactment theory).

About the rest of the section on ‘Women, raising boys, raising men’, there are emerging ideas that seem to be common to most of the participants and have been seen elsewhere in literature. The single-mother provider statements of ‘my mother put me through school’ given above and similar, have been anecdotal refrains for generations. The heroic mother is perceived to bring the one tool for success which was guaranteed to alleviate adversity – education. Further, the underlying theme of providing for means of success and education being perceived as a vehicle out of adversity seems relevant in South Africa today as it may have been when the participants were growing up. Societal transformation was probably sought to address varying social adversities when they were growing up. Currently, the same transformation and equal opportunity provision through the education system is still being sought via the ‘Fallist’ movement, among others. Social activism and what may be called ‘social agitation’ through the **#FeesMustFall** movement which is still underway in different formats has highlighted the persistence of the pressure on the system that is depicted in the current study section. The movement has escalated the call for a tertiary education funding system review in order to provide especially for resource-stricken individuals in South Africa. (Pillay 2016)

A twist to the tale came in the nature of the means by which families seemed to have sustained a positive livelihood in order to survive socio-economic adversities. The financial climate of the time during which some of the participants grew up, seems to have been laden with contradictions. For instance, that ‘umqombothi’ and other forms of liquor were used as a source of income especially by women, shows the difficulty some communities may have had then and perhaps now too in separating contradictory value systems. Later on in the same communities, the practice of selling umqombothi

would morph from being perceived to be a relatively harmless income and entertainment generating exercise to being perceived as a sinister and harmful social-engineering tool.

Through migrant labour systems of mining towns and early township ‘beer halls’ systems of control in South Africa, uprisings as early as the 1929 Durban beer hall riots’ heralded devastation that would be brought on by the effects of alcohol in communities (La House 1982). Some may say the country is still grappling with the effects of systemic use of alcohol (Ngantweni 2008). The equivalent in other communities is the so-called ‘dop system’ where research has shown the socio-developmental devastation that paying people with alcohol can have in farming communities especially in the ‘wine-lands’ and their ‘canteens’ systems of South Africa (Williams 2016). The effects of use of alcohol including its use in social control and its effects on social determinants of health and mental health have been shown in other ‘first’ (indigenous) communities world-wide (Wilson, Stearne, Gray and Sagers 2010; Kirmayer, Brass and Tait 2000; Frank, Moore and Ames 2000; Langton 1993). Even later in South Africa, the social and other effects of alcohol would be felt through contexts like ‘taverns’ in communities and their link to substance abuse, substance related disorders, sexually risky behaviour and violence (see chapter on ‘Sexual offending’).

The relationship between alcohol and sexual aggression is being rendered more complex in the local context, like in others, by the added dimension of HIV/AIDS and other sexually transmitted infections (Davis, Danube, Neilson, Stappenbeck, Norris, George and Kajumulo 2016). In the context of the current discussion, it is suffice to say that the age-old practice of income generation through the selling of alcohol in community dwellings is hard to defend nowadays because of the complex sociological and public health linkages between exposure to substances of abuse, adverse childhood experiences (ACEs) and social decay (Grady, Levenson and Bolder 2015; Ngantweni 2008).

“We cannot write history backwards.” (Williams 2016:907)

In the final analysis, the reality that women are depicted as raising boys that become men that are later accused of violence towards other women, children, and other men, seems to be the big part of the irony that adds to the background noise that has started to emerge. The separation of the noise and complex factors that perpetuate violence including sexual violence in society is an ongoing exercise. Perhaps the discussion on patriarchy below may shed some light. Meantime men were not spared either, as covered just below.

5.2.2.2 Man raising boys, raising men

The following are a series of responses that depict a little bit of the diversity in perspectives from the participants with respect to the role of males / father-figures in their environments.

A picture of fathers who were available:

“A father can’t raise a baby. He must start getting involved when the child has grown a bit.”... 3781. C03 (Memoing: Even though he is around)... The irony of the gender stereotype is reflected upon later in this chapter when another participant in the ‘HIV / AIDS’ section also talked about the distance between fathers and children being a reasonable thing as ‘pregnancy was not man’s business’ and yet in the ‘Ms Right’ section, for a woman to be the ideal partner she must bear the man’s children because those children ‘won’t leave him’ – unlike her. (See section on ‘modelled relationships’).

“We all lived and were raised by both parents. My father was the disciplinarian at home. No, there was no violence at home until this case that I have been arrested for. This is the first time I have ever been arrested.”... 4106. C04

“My father taught me how to be a man; my father was a good man... He taught me to deal with my issues and to fight by myself... I taught myself to deal with most things.”... 5570. C06

A picture of fathers who were not available:

“I met my biological father when I was 13”... He started calling me then and I said “where were you when I was growing up”... He said I must ask my (female relative) about that... 4940 – 4944. C05. (See ‘Family secrets’ in the ‘Sexual offending’ chapter).

“I was born in XXX... and moved... at the age of 10 to my biological father... When he realized that he had a son he came and fetched me from my mother’s family... (Because there) were high levels of poverty.”... 6338. C07. (The same participant later says about his biological father)... **“He never came to visit me in prison”... My father did not come to me”** (after arrest)... **He said he’ll come to me.”...** 6666 – 6670; 6675. C07 [In the room: a mixture of bitterness and sadness about the abandonment].

“I live... with my mother and her... children... My mother and father (means step-father no. 1) got divorced... (And now) We live with my mother and step-father no. 2... I don’t know my biological father... He left us.”... 5898 – 5904. P08. **“I have never met my biological father... I worry about that... I have not asked my mother about it.”...** 6214. P08. The feeling ‘in the room’ was that of harshness and hostility for those participants who felt rejected by their fathers. A model of the ‘missing’ and therefore ‘rejecting’ father began to emerge.

And stepfathers who make a difference:

“My relationship with my stepfather is special... We got along... Now we are not close... I don’t know, maybe it’s because I’m growing up... I see things that are wrong... When you are a boy

raised properly by my stepfather...When he and my mother were not getting along...I just wanted to keep out of it.”... 4908. C05

“I discovered (when I was in high school) that my stepfather was not my father... It was wrong... My father is married and has other children... [In the room: mood is low]... I was angry at him initially (for not seeing me) but women prevented him from seeing me.”... 4944 – 4948. C05 (See ‘Family secrets’ in the ‘Sexual offending’ chapter).

There was also a participant who was a stepfather himself: **“I take them (my stepchildren) as my own, I help them... About discipline - sometimes they say he’s not our father. The biological fathers are 3 different men... I let them have contact.”... 6539 – 6541. C07**

Some of the responses from the participants fell in line with diverse approaches to fatherhood and parenting that contribute to most social pictures. The effect of the ‘rejection phenomenon’ on self-esteem may be linked to the later lashing out that may be seen in relationships and in society in general, by young and old men (Bruce 2010). It may also be coupled to the phenomenon of nondisclosure of fathers to their children by single moms and its negative consequences in socialisation (Manyatshe and Nduna 2014). Prevention of violence and sexual violence that lean on ‘Social learning’ and ‘Resilience’ theories among others may build on this model and may assist in closing some of the gaps research and intervention-wise (Campbell and Wasco 2005). Perhaps society may continue to raise more boys who grow to be men who are also resilient, self-assured and are present in their children’s lives as has been demonstrated through social programmes like the one run by the Sonke group (Van den Berg, Hendricks, Hatcher, Peacock, Godana and Dworkin 2013). The role of men in raising boys who become socially responsible men may then assist in restoring some of the social adversities that may be affecting men who become violent.

5.2.2.3 Grandparents raising the ‘Village’ and making a difference: “Magogo” “Mkhulu”

A story of a warm place:

“I was raised by umkhulu and he checked whether I knew that he was not my father. I knew he was not my father. He was working away from home but would leave money and other necessities for us.”... 2922. P06.

“My grandmother raised me mostly... and she raised me and my cousins... My mom died... when I was still at school.”... 3615. P07.

“I used to live with my grandmother... She raised me... as my mother was working at a (place) in JHB... She’d send money home.”... 5905. P08. “I was close to Gogo (granny).”... 6212. P08. “My

grandmother raised me... My grandmother showed me the way of life including how to fetch water; to look after the cattle.”... 6791 - 6793. P09.

“My family did apply pressure for me to have a girlfriend. My grandmother especially.”... 3784. C03

That can easily turn dark when mental illness abounds:

“I don’t know what happened. I remember “waking up” (recovering from mental illness) and being told that I had killed gogo... I still wonder why this happened to me... My girlfriend says it is bewitchment... Because she has heard from others that I used to be a brilliant person at school.....Now that “I see myself”... 3843. C03

As it was mentioned in the description of the quantitative component of the study, most of the participants (both SO and NSO) seemed to have offended against family members or close acquaintances. C03 who expressed sorrow in being accused of the murder of his grandmother could be compared to P02 who was accused of attempted sexual assault of his mother. Both participants may have been mentally ill at the time but as that was not the focus of the in-depth interviews, there was not much exploration towards that end. This was also comparable to all the others who were accused of offences against family members or acquaintances except for C01 who was accused of attempted housebreaking / theft as well as C07 who was accused of culpable homicide (as was detailed in the quantitative component of the study).

The role of grandparents was lined with contradictions because, on the one hand most,, if not all the participants, spoke fondly of their grandparents even when talking about discipline. On the other hand though, the archetype of the caring grandparents became tainted by high levels of aggression against them. Together with that of the very young, elder abuse and sexual assault has become a problem, it seems. Adding to the theoretical model of prevention, the role of the broader group around a family nucleus seems to be growing more important (Collin-Vézina et al 2013). The grandparent component adds to the ‘attachment theory model’ as well as the ‘prevention’ and ‘resilience theory’ models (Grady, Levenson and Bolder 2015; Arthur, Hickling, Robertson-Hickling, Haynes-Robinson, Abel and Whitley 2010).

5.2.2.4 The ‘Village’ raising children: ‘It takes a ‘Village’ to raise a child’

The ‘Village’ analogy used above has been explained in the introduction to this section. The participants were asked to describe their lives ‘before arrest’. Various perspectives on community life, its effect on an individual and some of the ACEs were realised. These were aspects of growing up in some of the communities from which society had produced the kinds of difficulties that are summarised in Table 27.

The 'streets': were perceived to have raised some of the participants and may have played a major role in their socialisation. **"The streets can be rough.... When the gang is gone... I wish I could get a person that would live with me with no difficulties... My mother knows about my misdemeanours and wants me to be "her boy"...** 105 – 107. P01

"I want to be out of the life I'm in...[The mood in the room: Said with regret?]. I want to be with good people and not be seen to be part of this gang and have the police all over me. "I stayed at home and I stayed out of trouble."... 115 – 120. P01

Perceptions about the rest of the 'Village' raising boys, raising men:

"I had good and bad role models in the community around me. From the man who doesn't support his family. I could see for myself. Old persons shouldn't smoke dagga but you see this. What will your child learn from you?"... 3778 - 3779. C03

Town-planning and the layout of some of the township houses would also come into play in affecting social cohesion. About the 'back neighbour' and positionality issue in the townships: **"We are not used to the back neighbour (being friends with them). For "us" you concentrate on the ones next to you and in front of you... The ones in front and on the side you see more often. The ones at the back you see only when you go to the bathroom if your doors are aligned."** (If your outside-toilet doors are aligned). As can still be seen in many formal and informal dwellings in South Africa, rural or urban, there are households that, because of socio-economic disparities, are still compelled to use toilets that were designed to be outside the house and meant that if the timing was right, one had a public toilet effect in the privacy of their own yard. The notion of what is coined the 'next-door' neighbour emerged also: **"The first people to come and the ones to help you are those in front and next to you."**... 3445 – 3450. INT01 on P07. It could be interpreted that some neighbours were considered good, and would respond in times of distress and as illustrated in Table 27, some were not.

Good and bad memories and some bittersweet recollections of childhood came up too: **"I grew up close to my friends who were girls. We would play "Khati"** (seTswana: Skipping rope) (isiXhosa: Gqaphu); **"diketo"** (seTswana: game made up of sorting pebbles in a small circle) (isiXhosa: Puca)... **I tended to play with girls because boys were bullying me. They would call me names...** 3622 - 3625. C03.

As negative as literature sentiments may be, in the section on 'the 'Village' raising children', participants seemed to be alluding to romantic notions of a cohesive community in which children grow. Violence including sexual violence in school environments has been highlighted though in the chapter on 'Sexual offending' as well as in other local examples (Ngqela and Lewis 2012; Seedat, Van Niekerk, Jewkes, Suffla and Ratele 2009). The question of whether children are safe seems to be in the negative, even by the current study standards. The dangers of growing up in a place where town-planning and the

physical layout of the houses and ablution facilities add to more potential exposure and vulnerability to violence including sexual violence may be argued not to be so romantic however (Gonsalves, Kaplan and Paltiel 2015). The current section's findings as depicted, resonate with findings in chapters on 'Psychiatric features' and 'Sexual offending' which give accounts of how unsafe children may be in the 'Village'. That there are numerous typologies of what growing up in any community in 'rainbow' South Africa (Vambe 2008) meant to different people, may be a given though. Later, in the chapter and in sections covering 'ways of relating' within some communities, some of the romantic notions listed in the current section seem to get dispelled.

5.2.3 FACTORS CONTRIBUTING TO LATER LIFE AGGRESSION AND VIOLENCE:

5.2.3.1 Early life trauma:

Abused abuser:

"I was forced to have sex by my sister, my step sister. I must have been 12 years old. She was 18. We were not seen as in the room she'd turn the table over and she'd threaten to hit me... You couldn't tell anyone as it was embarrassing. [Interview process: Often shifts and refers to self in second (2nd) person when talking about sensitive bits]. I carried on as I was scared. She was older than me... It bothered me as I started doing the same to the others... Afterwards we'd play house.... I'd be the older one and so take a chance with the younger ones... I came of age... I would play with children still."..... 2492 – 2502. P05

Rejected:

"I lived in the bushes "ehlathini". Umuntu uyahlupha." (IsiZulu: A human being is a troublesome thing.) "I don't want to live at home or support myself through stealing. I preferred to pick up bottles and would sell them to buy food."... 2945. P06. Commenting on P06, INT04 later asked: "When does it become homelessness versus operating on the fringes of society willingly be it because of mental illness or other reasons?"... 3033. INT04 on P06. There had been events in his family life that had made P06 him avoid them to avoid pain, as depicted just below. He was in his 40's at the time of the interviews and had been accused of a sexual offence.

5.2.3.2 Poverty with or without mental illness: "I lived in toilets".

"I live alone in a shack that I built by myself. It is made of poles and (canvas)."... 2909.

P06. "After leaving home initially: I lived in toilets."... 2952. P06

As a consequence of one's choices or their lot in life P06 declared:

“If you run away from school you must work or plant and sell. The decision must be clear: You went to school and you can write, that means you will work in work for a firm; you went to school and you cannot write, that means go and plant.”... 2958. P06

5.2.3.3 *Trust*

Trust in the family of origin seemed to be an important component for some of the participants. Later on in the discussion on modelled relationships trust re-emerged as an issue. Even though women were shown above to be predominantly responsible for raising men, this did not automatically result in some of the participants trusting them. The concept of family secrets was touched upon in the ‘Sexual offending’ chapter when the qualitative analysis of the quantitative data on sexual offending against children especially was done. In the current section family secrets came out in the context of gender differentiation: women (and so it was probably implied not men) were secretive. They gave up their children; they hid their children; it was never known how they got their children. The theme of unwanted pregnancies and the consequences thereof were reflected upon too. What became important in the context of the study was that the struggle could sometimes result in violence against women when frustration and hostility levels allowed. There may be room to assert that through early life learning and socialisation the following may hold true.

“As I said it’s complicated... My mother’s children... As we grew up we thought we were X number of children... And it turned out there are Y number of children... She had a child whilst she was young and she gave (the child to a relative)”... [In the room: the participant seems very tense]... 4919 – 4922. C05. The anger continued to unravel: “These guys have secrets... Women have secrets... For an example, my aunt, I don’t know her man and yet she has children.”...4924. C05. “They are witches... If you grow up being told such things then when you grow up you’ll get agitated, aggressive and violent when any semblance of what was said comes up”... 5003 – 5005. INT04, a co-observer, concurred with participant C05.

During the above displayed engagements, the conversation eventually moved to a place where the link between early life influences, patriarchy and later life practices was associated with violence and sexual violence even. The concepts touched upon here are revisited in depth in the ‘Oppression of men’ section. The link between socialisation, early life influences and later violence against women has been made elsewhere (Jewkes, Sikweyiya, Morrell and Dunkle 2011). The concept of secrets also is known to add to adversity (Manyatshe and Nduna 2014). Furthermore, some of the participants seem to describe what research has shown to be a common feature in those exposed to early life trauma when they fit the avoidant attachment Internal World Models (IWMs) description of not being dependent on anyone at times (Grady, Levenson and Bolder 2015).

5.2.4 SUMMARY: RAISING BOYS, RAISING MEN AND OTHER TALES OF TOIL

The link between negative attachment styles, dysfunctional childhood environments and the formation of Internal World Models (IWMs) that are linked to dysfunctional ways of relating was touched upon in places in the current study in a manner similar to existing literature proposals (Grady, Levenson and Bolder 2015). The role of patriarchal frames of reference that will be discussed later in the chapter began to emerge in conversations too. This left the matter of early childhood influences and experiences and their effect on adult relationships and violence, including sexual violence, very complex. Also, if the 'Village' concept is used, blame seems to have been placed at the foot of not just women but men and the rest of the 'Village' with respect to negative social outcomes that are contributing to sexual offending and other forms of violence (Seedat et al 2009).

A model linking adverse childhood experiences (ACEs), to later criminal behaviour including sexual offending using attachment theory principles has been proposed (Grady, Levenson and Bolder 2015) and supports some of the questions that are emerging from the current study. Further research into this area seems to be warranted especially in culturally diverse communities (Kalra and Bhugra 2013) such as the South African context. If the findings herein are anything to go by, the role of social determinants of ACEs seems to be emerging as critical when it comes to populations that face poverty, violence and protracted political strife as would be seen here (Pickett and Wilkinson 2015).

5.2.5 EMERGING ASSERTIONS AND THEORIES: RAISING BOYS, RAISING MEN AND OTHER TALES OF TOIL

Society exposes boys to trauma as much as it does girls. How boys react to the trauma is by growing up to be men who traumatise others. There seems to be further perpetuation of trauma via socio-economic and political systems as well. The effects of apartheid have long been proposed to play a role in the high level of adverse childhood events, negative social determinants of health, violence and later life outcomes (Mayosi, Lawn, van Niekerk, Bradshaw, Abdool and Coovadia 2012). The negative effects of migrant labour systems and other social control systems including town-planning that separated parental figures from children contribute to the adversity. Whether the effects are perpetuated by current socio-political conditions as well as the difficulty to access services including mental health services for vulnerable persons probably needs to be explored as well.

Women who raise male children may end up being mistrusted and blamed for not protecting them from adverse childhood events that later lead to difficulties, even though the maternal figure is initially perceived as courageous.

Vulnerable individuals are targeted by vulnerable perpetrators who want to assert themselves by targeting perceived weaklings in society. Patriarchy precipitates and perpetuates some of the underlying

notions. This specific group of men who are accused of offending against women and children are feeling stressed, marginalised by society and act against vulnerable women as a way of lashing out at the same society. Society has led to their pain by selling out to the 'woman's rights' brigade. Any attempts at solving the crisis of violence will probably need to include bringing this specific group of men in from the cold. Gender-stereotypes in society may serve to make the perceptions of oppression seem true.

5.3 THE ‘VILLAGE’: WAYS OF RELATING: SEXUALITY AND RELATIONSHIPS

5.3.1 CONTENTS:

Ways of relating: The concept of romantic relationships

Ways of relating: Romance and sexual aggression modelled

Summary of findings specific to the section

Emergent assertions and theories

5.3.2 WAYS OF RELATING: THE CONCEPT OF ROMANTIC RELATIONSHIPS AND THE EVOLUTION OF SEXUAL VIOLENCE

To understand the participants’ perspective on sexuality and sexual relationships, notions on dating and ways of relating to women at a romantic level were broached. The conversations in this particular section had to be approached from a neutral perspective. This was done for a couple of reasons. Firstly, it was done in order to get the participants to acclimatise to talking about romance, with a total stranger, who happened to be a woman. Secondly, over and above sitting with a woman (stranger), the conversations were held in the presence of one of the forensic observation unit male nursing staff-members who was now playing a different role (a research co-observer / interpreter). At the outset a typical question would be on the participants’ ‘dating’ lives and the historical details of past romantic relationships. Once the ice was broken and the participants were more at ease, more open-ended questions would then be raised about the nature of romance, dating and their perspectives on ‘romance gone wrong’. Notions on pathological states of interaction between romantic partners that may have led to conflict and violence were also reflected upon. Eventually the link between pathological ways of relating and sexual violence were arrived at. Most often the participants would get to the point on sexual violence by themselves. Some of the time questions would be asked to yield responses. Herewith are summaries of themes, categories, concepts and assertions that emerged.

5.3.3 ROMANCE AND SEXUAL AGGRESSION MODELLED:

When participants were asked on dating and who taught them about romantic relationships and dating rules the responses were varied. How young males are taught how to date was partly based on personal, family values, group and societal norms. And so the foundation of the modelling of the participant’s notion of romance, where things went wrong and how the bridge over to sexual violence may have been crossed, were explored. When the question of who taught them how to date was asked, the responses were varied as to be expected but common threads began to emerge:

Family:

A number of participants had help from their families in terms of relationships. This ranged from coaching by siblings to nurturing by parents or parental figures: **The “strategy” on how to approach a woman... came from my stepfather... He would say “one day you’ll be papa” (a man)... Is there a makoti?** (IsiZulu: Is there a young lady in your life)? ...4827 – 4831. C05. The description of polygamous relationships also emerged. Setting the phenomenon of family secrets aside, the author had to look at the polygamy sentiment from the perspective of multiple families: **My father lived in another house. He had another wife... And had five other children... He chose to live alone to avoid fighting...** 1580 – 1583. P04.

The diversity of the culture of romantic relationships kept on expanding: **My parents were cousins... Those wouldn’t be funny things normally as even my aunt (dabawo, rakgadi, my father’s sister) was of the same persuasion... There was a big family of cousins coming together... They loved each other...** 1838-1842. C02. This may have been an attempt to display values congruent with so-called social norms on relationships and to show that even though they were cousins, his parents fit well within their environment. The researcher had to check with a co-observer / interpreter: Q. About the marriage of cousins. A. **That is a common custom within certain groups in our region... There is a song: “Dikgomo di boela disakeni”** (seTswana: the cattle have returned without entering)... **A child of my mother’s brother is fine to get married to...** And the marriage has to be arranged by the elders (instead of the couple)... 1978 - 1982. INT03 on C02. He recited a song by a group called “Rustenburg boys”. The researcher was learning new things. Meantime in the context of that interview, INT03 proceeded to demonstrate and sang the song – in the room - injecting a jovial mood even in the face of sombre discussions.

About cousin marriages, exploring literature for a better understanding of the concepts that were coming up revealed an existing movement that sought to support the phenomenon at: www.cousincouples.com. It seemed, upon reflection, that there was ongoing research necessary as the concepts ended up being very real including further evidence in literature (Yates 2017). As an aside- the concept of cousin marriages is also prevalent in founder populations e.g. Afrikaners in South Africa (Mitchell 2008). These were cross-cultural norms that would need to be reviewed in the context of what society labelled as sexual violence and exploitation e.g. incest and multiple-partner relationships, respectively. It has been proposed that understanding cross-cultural norms is an important area for evaluating sexual violence in some groups may have higher prevalence rates of sexual violence than others (Kalra and Bhugra 2013). Cultural vs. legislative frameworks of ‘constitutional sexuality’ as referred to by Walker, may clash at times (2005).

Friends:

Although participants came from varied backgrounds, there were certain conditions that cut across the differences.

“I learnt from friends and I was what they would call a “CJB”... (‘CJB’ was part of a musical group according to the interpreter / co-observer)... If you were a guy who had lots of girls they would call you this... The girls didn’t know (you were cheating on them). There were no serious illnesses back then... Now you’ll die young because of HIV.”... 5485 – 5491. C06.

The irony about C06 as the conversation panned out was that he had been charged with intimate partner violence (IPV) related to his partner having an extramarital affair. That he was part of the NSO group but offered information that was not too different from SO was to be seen as common to most of the conversations with other similar NSO participants also accused of intimate partner violence, as noted in earlier chapters. Irrespective of who introduced them to dating, machoism and multiple sexual partners seemed to be a culture at some stage in the lives of some.

Others felt that relationships were not taught but came naturally:

“Relationships are not taught. No one tells a child how to walk.”... 3072. P06.

“I have not had lessons about sleeping with girls or having sex... I do just propose love and when I see a girl by herself “kea mungena” (Tsotsitaal: I hit on her). 6948. P09.

Where friends were concerned, child play also came into effect:

“I already knew as a young boy that I liked sex. I played the father when we were playing as children... 1138 - 1139. P02

“I started having sex around age 3, 4, 5, 6. We would be playing “Mantlwana” (seTswana: playing house)... which was fine as you would not be able to have sex properly.”... 800 – 804. P02.

What could be determined from this and other participants was that the concept of not just peer-modelling but that of children who get exposed to sex play too (‘mantlwana’) was common place and had been blended with ordinary childhood development:

“And so we would play games like ‘khetomthandayo khetomthanda njengoFish’ (isiZulu: choose the one you like as much as Fish – a children’s song). These were the games we played. It was for practice more than for real relationships at the time. Games like “ukubhacelana” or “macashelana” (isiSwati: both meaning ‘hide-and-see’)... 3075 – 3084. P06

Learning through peer-modelling, its effect on sexual violence and the normalisation of certain practices and the accompanying language of aggression emerged. Young males of a certain age group, seem to learn easier from their peers about norms of social relations. Whether they may have over time been influenced by that group more than others is debatable. When individuals suffer from mental illness and / or intellectual disability it sometimes becomes difficult to separate this issue of peer-modelling from the specifics of the individual's capacity to withstand external influences through their own volition and locus of control (Søndenaa, Rasmussen and Nøttestad 2008). Further, if they can withstand peer pressure, the question then becomes, for how long in a social context where the 'streets' are bombarding those individuals with norms that encourage sexual violence. The implications for forensic observation and psychosocial rehabilitation in the forensic mental health sphere become important. In a person with intellectual disability, whose social functioning is affected, it might be that certain social skills deficits would make it difficult to discern the difference between child sexual play, 'Mantlwana' and sexual violence, for instance. Whether 'mantlwana' can be equated to 'child sexual play' may be a matter for further research in the area of child sexual abuse as well. In the 'implications' section, further down in the current chapter, how the area of social learning can be utilised in teaching young men different norms on social relations, is explored.

The streets and other influences:

"However, the streets taught you how to date"... 1842. C02. In the context of the 'Village' or society, it seems that the streets would also include other socially sanctioned forms of influence that played a role in shaping young people's minds e.g. the media. As put by some participants: **"Movies style of dating" came along and taught you about holding hands.**"... 1846. C02. **"I learnt about girls from watching TV, not with friends, too shy to talk about girls."**... 6664. C07. These and other similar sentiments opened up an avenue of conversations that made the researcher ask whether the streets, social and other media were teaching young men a model of harassment or a flirting game.

Whether society had to call some interactions something else became a curious point: **"A woman kumele umhluphe when umshela"** (isiZulu: you must trouble a woman when you're hitting on her...this was ordinary) ... 1843. C02. **"Umjije ingalo"** (isiZulu: you must twist her arm)... 1845. C02. These references needed some reflection. The researcher took the matter out for further triangulation in terms of interpretation - with fellow sojourners. They are referred to as 'sojourners' here and in other relevant sections in the thesis to maintain confidentiality. They are given the names Nom, Cheesegirl, Chap and others including 'Party and FbD' for the sake of the narrative flow. About the flirting versus sexual harassment question, a remark came from Nom who had previously described her ordeal whilst walking in a suburb / 'Village' in Cape Town. She had described how she was harassed by men as she was walking and minding her own business. Another woman sojourner (Cheesegirl) related how when she was walking down the streets of a leafy suburb / 'Village' minding her own business, this time in a city called Johannesburg, she was harassed by a group of construction workers calling her names.

The sojourner's reflections tied in with social media outpourings when a woman in a 'Village' called New York did an experiment and recorded her walk through Manhattan and displayed the verbal and sexual harassment that women go through daily whilst moving social spaces (Culp-Ressler 2014). The same experience is felt in places of learning (Adams, Mabusela and Dlamini 2013). Given the above examples, the place of potential harassment seems to have moved from the streets to social media and 'the movies' in some instances. The scenarios given in this section are examples of forms of interpersonal sexual objectification of women's bodies and the advancing of lewd verbal sexual harassment some have proclaimed (Rooney 2011).

In the current section, the differentiation of flirting from sexual harassment remains unresolved. There seems to be terminology that is used, in the context of what may be perceived to be sexual violence by some, which may be relevant in certain social contexts. The terminology may require debating. The debate will probably need to reflect on ways in which the harassment of women has been normalised through the use of language that may initially be intended to flirt but beneath the layers of 'lightness' there may be aggressive undertones of a verbal, sexual or other physical kind (Makoni 2011). The age-old concept of 'Dudlu' (isiZulu: 'Hey, what's up girl') in the name of sexual harassment versus flirting - as discussed with sojourners like Nom and the emergence of 'movies style of dating', as described in the current study, may be a fair example of cultures crossing over. Over time, in the African context, movies style of dating and the 'holding of hands', would replace or add on to 'Dudlu', perhaps signalling the setting in of other cultural influences. Where sexual violence emerges in that continuum does not seem to be clear.

Taking the participants' perspectives into account and going beyond, as illustrated above about 'TV' and the 'movies', telecommunications and social media have been confirmed (with some varying reservations) research-wise to have an influence on the expression of aggression by those who may be easily influenced, e.g. the youth (Ferguson and Beresin 2017; Rydell 2016; Barrett 1997). Scientific evidence may still need to be strengthened by using multimodal research approaches to explore the perception as the confirmed link is at times inconsistent as demonstrated by Ferguson and Beresin (2017) and others (Barrett 1997). In the majority though, and using local examples, there have been links made between social media and risky sexual behaviour (Kaufman, Braunschweig, Feeney, Dringus, Weiss, Delany-Moretlwe and Ross 2014) on the negative side, and in the context of growing health activism and the prevention of sexual violence on the positive side (Peuchaud 2014).

The drawing of legislation (Protection from Harassment Act 17, 2011) to curb sexual harassment including 'stalking' through the control of social media behaviour by law enforcement systems confirms the reality of the problem in South Africa. Social media have also demonstrated their influence through the escalation of modelling of sexual violence to the youth via media that may display open acts of sexual or physical violence e.g. when the gang-rape of young women at schools is sent out on video by

young men. This escalation, in South Africa, has been displayed as almost normalised behaviour (Ngqela and Lewis 2012).

Lastly, on the matter of the streets modelling sexual aggression, the matter of flirting versus sexual harassment links up with the matter of learning from peers that is discussed above. The question whether potential perpetrators need to follow cues from potential victim to know when their behaviour is threatening to be sexual violence versus being socially-acceptable. This also leads to questions and implications in the mental health and the law context for a person suffering from a mental disorder that affects the individual in a way that makes it difficult to comprehend social schema. In such situations that kind of learning may need to be entrenched in different ways. Beech, Parrett, Ward and Fisher assert that a deeper set of cognitive schemas associated with sexual offending need to be explored rather than superficial schemas often used as an excuse post-offending (2009).

5.3.4 SUMMARY: WAYS OF RELATING, SEXUALITY AND RELATIONSHIPS

The importance of raising questions on ways of relating and how they were modelled to the various participants is based on the notion that in order for prevention of sexual violence strategies to be effective, dating and relationship norms have to be reviewed. Bandura's social cognitive theory of reciprocal determinism emphasises behavioural factors, cognitive factors, environmental factors and social norms as part of the foundation for an individual's development (Centers for Disease Control and Prevention 2017; Bandura 1998). Anti-Bandura theories also abound though as debates about nurture versus nature and emotional regulation are ongoing (Barrett 1997).

Modelling of relationships ultimately contributes to how individuals will behave in their future relationships the preceding section has begun to show. The findings demonstrate that youth tends to learn from peer groups about most social norms as depicted in the current section. Family values and systems and their influence on those growing up in the 'Village' also began to emerge. Value-judgement abilities generally were part of the subset of skills an individual needs to have in order to function well in society and in relationships, it seemed. Stories of migrant labour forces that were and continue being moved to work environments that were far away from their communities and lived a life apart abound. That pattern also resembled global socio-economic conditions leading to fragmented societies and displaced children who became exposed to trauma earlier as well as to other adverse childhood experiences (ACEs). Later mental health problems would become rife and exposure to criminal behaviour would almost be inevitable a natural order if prevention steps were not built in.

5.3.5 EMERGING ASSERTIONS AND THEORIES: WAYS OF RELATING, SEXUALITY AND RELATIONSHIPS

A few matters arise when the concept of romantic relationships modelling and the evolution of sexual violence are measured against the participants' lived life experiences:

Youth tend to learn how to be in romantic and also violent sexual relationships from their environment including peers, family and the 'streets'. Later they re-enact their learnings on others – young and old.

Patriarchal systems of relating may be making it difficult to separate what constitutes sexual harassment from flirtatious behaviour towards girls and women in general. The difficulty exists irrespective of the social context. Undesirable flirtatious behaviour may be a precursor to sexual aggression and may be sanctioned in some social contexts.

Research process in this section (highlight): Women researchers talking with men about sexual violence need to be prepared for discomfort during conversations and may need to triangulate and reflect on matters arising through alternative sources like fellow women 'sojourners' and other men outside of the research room.

5.4 THE 'VILLAGE': WAYS OF RELATING: CONDITIONS THAT CONTRIBUTE TO CONFLICT, AGGRESSION AND VIOLENCE IN RELATIONSHIPS

5.4.1 CONTENTS:

Perceptions and criteria of being Ms Right

Resolution of conflict: From violence to peaceful means

Ways of relating: Power relations – Patriarchy, the oppression of men and the 'Rolling eyes'

5.4.2 PERCEPTIONS AND CRITERIA OF BEING MS RIGHT: THINGS SHE MUST DO TO AVOID CONFLICT

Stemming from discussions related to sexual violence, a concept of the types or kinds of women and children who may end up being violated came up from the participants. It also emerged in the chapters on 'Psychiatric features' and 'Sexual offending' that the majority of those who had been described as victims, were individuals known to the alleged perpetrators. The summary herein then describes features of relationships that might ensue, in the 'Village', which may expose some of the victims to potential harm. For the victims not to be attacked, it seemed in the chapter on 'Sexual offending' that they needed to do various things as well as behave, dress and be in places that would be safe, according to participants. A discussion on these ideas can be found in the 'Sexual offending' chapter under what

the participants perceived as ‘Contributory factors’ to sexual violence. In the current section and extending from the ‘Sexual offending’ chapter, perceptions that there was an ‘ideal woman’ out there who would not be violated because she would behave in a certain manner emerged from a different angle. It became worthwhile, to work out the frame of mind of those conversant with these perceptions from the ground up. Conversations became about what kind of woman would be deemed ‘Ms Right’ and would be the least likely to be sexually violated because she would be behaving herself. This would later link up to the conversation on what contributed towards violence, including sexual violence, in relationships.

Criterion 1: She must not be a ‘street girl’:

The responses on what an ideal woman ought to be were quite lively:

“You’d like all sorts of girls... The ideal wife had the right looks.”... 5513. C06

“She was not a “street girl”...Girls who (have a lot of) friends and are on the streets... Who liked men who’d give them a nice time.”... (Your typical) “Womaniser”... 2057 - 2059. C02

“Guys with cars and girls with dolls...” not “girls with cars”... 3737. INT04 on C03

“A girlfriend who goes to taverns after you meet her... (There will be a fight because) she’ll ask the other guys to buy her alcohol.... 4207 – 4212. C04

An ideal woman would not go to certain places especially taverns as discussed in the chapter on ‘Sexual offending’. The theme of a ‘loose’ woman as referred to by C02 above pervaded. After you met her she would be expected to avoid certain social places especially taverns or places where alcohol was served because the purpose of going there in the past would have been to get a partner. Subsequent to getting a partner, she would have no business going where women go to seek men because she had found one. If she did go she would probably not be trustworthy. The rest of the implications for the role of alcohol, and social places in the propagation of sexual violence have been discussed extensively in the chapter on ‘Sexual offending’. Basically the one who did not go out, did not drink, did not go to places perceived to be unsavoury in ‘the ‘Village’’, especially those where alcohol was served – clubs and taverns – was the woman to be with.

The notion of the ideal partner not being surrounded by lots of friends was also recurring: A. **The girl must be number one (1) at school; not very attractive; not having a lot of friends... 2079. C02**

I fight with... because she hangs out with women who are older than her... I don’t want her to have the same life as them... “She must not take up their lifestyle, they (older and therefore more mature and experienced women) may say I’m not serious, I joke too much and drink too much”... 251 – 255. P01. This implied that she would be coached or advised about his suitability if she interacted

with more experienced women. Isolation and exposure to vulnerability of women in relationships would probably result. Hints of aggression and bullying lurked in the background in the context of this particular assertion and possibly linked with domination in the context of domestic violence (Jewkes and Morrell 2010). That women of all forms or levels of attractiveness, even though there is no one standard of 'beauty', do get sexually violated seems to fly in the face of the emerging notion that certain kinds of women were more susceptible to certain kinds of vulnerabilities. The role of men in contributing to the ideal and safe environment was not however described as clearly as that of women. This lack of emphasis is as seen with the 'Blame it on' sections in the chapter on 'Sexual offending'.

Criterion 2: She must bear you children: "Your baby will never leave you"

A man needed: **"A girl who can have "timing"... "Umntu one timing" (isiZulu: A person who has timing)... Who will give me two or one child... A man must have children... Indoda enganabantwana unamaproblems..."** (IsiZulu: A man who does not have children has problems) 4890. C05

Q. What if you choose not to have children? **A. Is there such a thing? ...If a person gives me a child I will take it... If I get given a "hands-ball" [sic] I will take that hand ball... A hands-ball [sic] as in the game of soccer is a child that is passed on to you as if you are the... father when you are not** (when the mother of the child claims that you are the biological father of the child and she knows you are not) ... 4895 - 4903. C05

"Being a man is equivalent to having children..." 4979. INT04 on C05. Co-observer INT04 confirmed the sentiment: **"When you describe a man you describe a person with a child... You are talking about ubaba (a father)... When you get married you must check if she can have children, the uncles who pay lobola will say."** ... 4985. INT04 on C05. Beyond the uncles, the matter of clashing value systems came up too: **"The Christian view is that you must have babies after the marriage... (But) my uncles said "uyazala na?" (Is she able to bear children?)... If you take someone who cannot bear children, they will put pressure on me."** (To 'take' is to marry and may be seen as taking a woman from her family to the man's family.) And, in support of checking whether she can bear children or not, the line went to the effect of: **"Your baby will never leave you but a woman will leave you..."** 4988 – 4994. INT04 on C05

And thus according to the uncles, in the context described above, it was better to bank on your offspring than on your female partner – a form of insurance or surety. About the child: **"It is a common thing... Paying for damages when a man has made a young woman fall pregnant out of wedlock"... "paying her family as a form of an apology for deflowering her as she is their possession'... "So that you (as a man) can keep the child."** ...4999. INT04 on C05.

Upon meeting the 'right' woman, as a man would need to know whether she had child-bearing capacity as romantic relationships were about procreation primarily, it seemed. It was a matter of 'ukwenzumuntu' (isiZulu: to make a person) as P06 had said elsewhere. The point of view of these and other participants on the child-bearing idea initially sounded unique and like an outlier concept until it was explored further and was found to be almost universal. Traditional and patriarchal views and value systems about the symbols associated with being a man of regard and of a certain stature came from different angles. A surprise find was that the views also came from participants in the younger bracket and across the age spectrum of the sample. Did this mean that current youth value systems were beginning to merge with older generations'? The language of conveyance was coming up with new terminology too e.g. 'hands-ball'.

The discussions on value systems seemed fairly consistent. If the self-esteem of being men was attached to the ability to attract women who could bear children, then when they were unable to have children, levels of stress and conflict in some relationships may have been expected to escalate. Further, the possible objectification and commodification of women and children in that context will be revisited under the section on the 'Oppression of men' below. Meanwhile, in the context of describing child-bearing women as ideal partners, it may have to be observed that the issue of trust in a relationship would have to be marked as an important factor. It was implied that if a man did not trust a woman, he could still get involved, so long as he could stake his claim and have children with her and thus mark his manliness. The question is what happens in that relationship when parts of that equation fail to add up? In the social cognitive theory context and when applied to the forensic mental health systems context, in particular, hostility becomes a marker of some adverse outcomes. Some of the outcomes may be dire as portrayed in homicide-suicide or intimate partner violence cases.

In an article that is in print for publication by a group of researchers at the current study setting, it was noted that during times of low frustration tolerance levels and at times of relationship stress especially when rejection or a break up was imminent, male partners tended to turn to physical violence towards their partners, children and themselves (Kotzé, Khamker, Lippi, Naidu, Pooe, Sokudela and Roos 2017). That same possessiveness about children illustrated in the current study, was displayed in a different and more aggressive manner in the context of the homicide-suicide study. Depression and substance related disorders were more likely to be the underlying problem in a few of the cases in that study and not the majority. But the role of hostility could probably not be ignored. So, in terms of building a theory around the concept of trust in relationships, in the context of the present study, it might have to be said that lack of trust and the accumulation of hostility are critical contributors to the build-up of violence towards intimate partners and perhaps towards any other vulnerable 'other' as demonstrated in other forensic mental health contexts (McSherry 2005). (See section on 'conflict resolution' below as well)

Criterion 3: She must not be expensive to maintain

“Girls who drink... She’ll use my money drink and gamble... Life is very fast and their lives are limited.”... 5515. C06. The subcode was that she should not behave in a ‘loose’ manner as alluded to in the section just above (C02).

“Expensive girls want money... Expensive girls will give you problems.”... 2530. P05

“She started working... and was earning (a salary) per month... I was earning (more)... I used to give her money...” 5358. C06

What may have been implied was that she was not meant to earn more, and it may have been better when she was financially dependent? But in the section above she was just after the man’s money. It could be further implied that it was better when she was dependent.

Beyond the money and independence problem of going where they liked, the notion of women being in positions of power to do as they pleased with men had been building up overtime but started becoming a concrete and clear concept around the ideal women and relationships discussion. It would later unravel – see ‘The oppression of men’ section. That women could be seen as mischievous beings instead of victims of a patriarchal society had to be explored borrowing the lenses of the participants versus the transformative lenses of the victims as portrayed in the quantitative data (Mertens 2013). Vulnerability seemed to be the linked theoretical underpinning for the victims and would be explored further. Self-esteem injury seemed the possible explanation for the potential perpetrator in the context of the current study (Bruce 2010). The perception that women were out to use men materially and sexually became prominent also. They were not trustworthy. Trustworthiness in some women in the context of the participant sample was proving hard to gain and yet perhaps a befitting ending to the current subsection a participant asserted and brought the matter to a head:

Criterion 4: She must not be independent

“Independent women undermine their partners... It is taken as a fact that independent women tend to be disrespectful in the community... Most guys will go to independent women for prestige and for money... A certain percentage is not married... They don’t respect their partners and they want to have a final say...” 6261 - 6266. INT06 on P08

It could be interpreted that by implication women are not married because they do not **respect** their partners. Their not being married was perceived as punishment for being too independent because marriage was perceived to be the desired good by all women. The underlying theme was that: women’s independence is directly proportional to women’s disrespect of men. The more independent, the more likely women are to disrespect men. It goes without saying that this assertion would need more backing and was a worthwhile point to explore in identifying factors that contributed towards hostility and may

have led to eruptions of aggression and violence in relationships. Too much independence seemed to lead to a life of being single for women as well. Humiliation by independent women and other factors seemed to be strong partners to hostility and together they may have formed a force that may have worsened perceived threats from the environment.

“Women must protect themselves... They must go to “respectable places”... most rapes are from these”... 6257. INT06 on P08. The underlying message was that there were certain places that were off-limits, even for independent women. That women must take precautionary measures to shield themselves from harm. This linked up with the notion that women were responsible for themselves and by implication for the sexual violence meted out onto them if they behaved in a manner that exposed them to risk. Women for decades have been coached in a similar manner. During the Victorian times similar debates were held. These debates would be followed by the now run-of-the-mill conversations on woman’s emancipation and equal rights (Mill 1895).

Criterion 5: She must not cheat: ‘It’s traumatic to catch your woman with another

The most common factor linked to conflict between the participants and their intimate partners was cheating. The resultants of conflict in their social contexts seemed to have played a significant role in the lives of some of the participants up to the point of arrest and referral for forensic observation. (See the sample summary in the chapter on ‘Forensic Observation’ as a reference point). Both the NSO and SO participants were familiar with or had ideas on factors contributory to conflict and also attempted to find solutions thereto. The link between conflict resolution in relationships, cheating and resultant intimate partner violence became a recurring theme that could not be ignored, it was so overwhelming.

The topic of cheating when linked to conflict resolution approaches came from wide and varied angles and threatened to overwhelm other factors underlying conflict in relationships including finances, family, and stigma (when there was mental illness). The cheating was also not one-sided. Both men and women in relationships were cited to have been implicated. When it came to cheating by women though, the debate became much more heated and emotive as expressed by the participants. Closely linked to cheating but reported further down were the reported responses some men displayed in attempts to resolve conflict in the face of cheating or other relationship-related frustrations.

“I do not have ten commandments. When I don’t see her I don’t worry”... We say to each other we have no one else but I don’t know what happens when I’m not there [sic] ...One must search for the ideal partner – just in case. You can’t trust one person.”... 3864. C03

“I was not finding her at home and she played cards... “I didn’t trust her.” I thought that she was not trustworthy. She’d be with friends.”... 231 – 235. P01. **“She knows about my other girlfriend.”...** 242 – 244. P01. **“Alright... I’m not scared of having two girlfriends. “I live my life that way”... I manage two girlfriends.”...** 261 – 264. P01

“She may have been dating another man... “She was a rotten girl”... I slashed (smacked) her... She was behaving badly. She was fighting because she accused me of dating others. It was true... My friend had said “you must beat that girl. If you don’t, they misbehave...”
Q. What about “forced sexual intercourse”. A. **“I prefer to beat a woman through (sex)”**
[vulgar language substituted]... **If she does something wrong, one would.... You do not force the sex but do it in a forceful way.”**...1179 – 1197. P02

“I assaulted her physically just once...when I suspected that a guy was calling her at night.”... 4956. C05

“Hitting her to show who the boss is... If it’s my girlfriend, then it’s ok to hit her.”... 5683. C06

Moving on to the next person seemed to happen as part of dealing with conflict even if it was caused by a spouse who had cheated. It seemed within some sectors of the ‘Village’, there was scarcity enough that when a potential partner became available, he or she was snatched up by a suitor – whilst going through adversity in the original relationship:

“I also called a lady friend (after an alleged charge of IPV was committed and before arrest)... We do not talk about the case... She was my girlfriend at the time of the incident... She met me whilst I was arrested one of the times (before the alleged IPV incident)... She said people are messing up when we don’t have men.”... 5846 – 5849. C06

The narrative here was that women were struggling to get men and the victim of IPV had wasted an opportunity that others were in need of by treating the accused badly by cheating on him and thus he had lashed out, ultimately. The accused, in turn, found himself in an extramarital relationship with ‘another woman’ because his wife had wasted her opportunity after having been fortunate enough to have found a man. The assertion was that men were scarce and so women needed to behave themselves once they got lucky and found one. The question then becomes whether it is befitting then to be violent towards her if she misbehaves and squanders a priceless opportunity.

On reflecting with one of the co-observers and talking about contributory factors that seemed to be linked to cheating and aggressive retaliation thereto:

Q. Contributory factors to cheating... A. **I’m not sure... It is a norm... No one is shocked...**
6252. INT06 on P08 **Cheating will lead to relationship tension and violence... Prevention of violence: break up after cheating... Relationships like these can’t be repaired... Cheating is one of the unforgivable sins.”**... 6293 - 6297. INT06 on P08

And then a parting shot as far as cheating was concerned was the notion that somehow, the observation of conjugal rights in a committed relationship implied fidelity and the opposite implied cheating. If she

did not want to engage in conjugal relations, then she was cheating and the response from the partner may have been aggression because, as already expressed above and elsewhere, it seems, to some, it was acceptable to be aggressive in a relationship (Wood and Jewkes 1997).

Overall, the listed criteria seem to show that, there may be an emergence of the notions that promote intimate partner violence, including sexual violence when a woman is deemed not to be behaving herself – not being ‘Ms Right’. That a woman needs to behave herself in order to stay out of trouble, is reiterated by most including those charged with nonsexual offences (who in the majority were charged with IPV in any case). She must not drink; she must not disrespect; she must not cheat; and she must be trustworthy. These themes begin to merge and crystallise into more than just assertions but into a theory. A woman who is all things she must not be, will be taught a lesson and sexual violence might be part of it but it might not be perceived as a crime. This link is important in the local context and would have to be viewed through local transformative victim lenses as much as it is elsewhere (Singal 2015). In the chapter on ‘Sexual offending’, definitions of sexual violence and related semantics were delved into. As posited by Singal, it seems like P02, some individuals still separate themselves from sexual violence if they merely see themselves as being ‘forceful’ rather than seeing themselves as sexual offenders (2015). Also, as visited elsewhere in the chapter (romance modelled) peer pressure may play a role in the manifestation of more aggressive forms of conflict resolution in relationships.

5.4.3 THE PROCESS OF RESEARCHING MS RIGHT

Upon engaging with them, once the matter of what the ideal woman ought to be came up in conversation, the participants seemed to interact with more glee when compared to concepts covered in the ‘Sexual offending’ chapter. Perhaps it was because romance and matters of the heart were never too far from general social narratives. It was familiar grounds for the participants, and this would help with the authenticity of responses in this setting, it was hoped by the researcher. The other general remark to make was that the responses cut across the board in both the co-observer and the observed groups with respect to similarity of perspectives. Further, whether typical forensic observation interviews could be enriched by interrogating notions of romantic relationships in a more in-depth manner for specific kinds of charges or not, is left open for later discussion.

And then there were some interactions that once again left the researcher wondering. About cheating:

Q. Describe how it works. How do you move onto the next girlfriend whilst you have another one? A. **“The first woman who hit on me was from house no. ABC... She bought me 3 (three) beers... 2417. P05. My brother then said that I needed to be careful with her as she had had an affair with him. She was his “nyatse” (SeTswana: mistress)”.** 2421. P05.

The statement forced a mental pause to be taken to digest the material the participant was sharing (see chapter on ‘Reflections on the research processes’). The mental pause was a necessary exercise that occurred with most if not all the sessions. The researcher, however, recalls what it felt like to interview especially participant P05. He had the ability to leave the researcher and co-observers feeling out of depth in terms of assimilating his world because of some of the seemingly implausible descriptions of what seemed ordinary to him. The co-observer after this particular session also reflected on some of the variance observed in the participant’s world. That was not going to be the last of such instances either.

5.4.4 LEARNT MODES OF CONFLICT RESOLUTION: FROM VIOLENT TO PEACEFUL MEANS

Interpersonal violence:

“Men killing their wives... It’s common... (Because of aggravation)... The aggravation is because the woman tends to protect the intruder (her lover) when they are caught (real-life example for this participant) ... It’s traumatic to catch your woman with another”... 5590 – 5592. C06...

“Yes, it can also translate to sexual violence especially with a steady partner... There’s relief after sexual intercourse. When you force her... We are seeing more and more of these cases.”... 5594 -5597. C06

“Being in jail, it made me realise that I will never do anything to (get into trouble) ... I will never get married again.”... 5722. C06.

In the narrative, the participant was implying that marriage life got him into a state of conflict which he attempted to resolve and the outcome was interpersonal violence which led to his arrest. Had he not gotten married, he would have not found himself arrested, he believed. Blame-shifting onto the victim was overt during the in-depth interview. There were alternative non-violent ways of responding to conflict that were volunteered by others though:

“We went out for one (1) year... We broke up when she cheated on me... She was 16... And one day I saw that she had a love-bite... I couldn’t discuss it... No, we had no fights verbal or otherwise.”... 6365. C07.

“We broke up because she cheated on me... The other guy would call whilst she was with me... They would meet behind my back... I felt disrespected by him and her.”...6111 – 6115. P08. A little bit later the same participant had another relationship: “We got along fine until she found me with another one girl... I’d started seeing a lot of girls by then”... 6118. P08. I had lots of girlfriends... My brothers did not like this...6123-6128. P08.

It seemed that nurture worked to an extent for participant P08 but not all the way, at least not all of the time. And then the participant, like others in the study, turned around and did the same to his girlfriend(s) – what the researcher dubbed the ‘what’s good for the goose is good for the gander’ situation – it was so rife during the in-depth interviews.

A participant also gave a perspective on factors contributing to conflict and violence in general in relationships:

“Stress contributes to all these... Trust and lack of trust... “Women, it is common-knowledge that women cheat.”... 6219. P08 Men are more trustworthy.... Cheating and money are the root causes.”... “Men also like women too much.”... “They all contribute” (these factors)... Q. What needs to happen for men and women to have peace or less stress (as put by the participant)...A. **“They must be honest with each other.”... 6223 – 6228. P08**

Conversations dwelt mostly on the violence that is unleashed onto a known partner and that which cannot be generalised to sexual violence against a stranger nor necessarily some of the other scenarios that involve transactional sex, that some of the participants cited as not being rape or sexual violence in their understanding in the ‘Sexual offending’ chapter. The theme that men could not help themselves but lose self-control and sexually offend because they were attracted to women seemed to be recurring also, as covered in the chapter on ‘Sexual offending: contributory factors’. Ultimately, though be it with some bias towards women, honesty and trustworthiness seemed important in resolving the problem of conflict in relationships.

It seems that there may be a struggle with the reality of a woman who takes up a similar line of problematic behaviour as a man in a relationship - the ‘when the shoe is on the other foot’ arrangement. Aggression and violence then become the outcome as has been found elsewhere (McSherry 2005). Moreover, the notion of blame-shifting onto the victim has been dealt with in the ‘Sexual offending’ chapter. Suffice to say that, within this section on cheating, blame-shifting is a common theme when attempts are made at explaining intimate partner violence especially. This is not unique to the current study context or even to the South African context (Gqola 2007; McSherry 2005).

Walk away: “Maybe I loved her too much”

From the ‘Sexual offending’ chapter, a participant who had a lot of friends who were girls and had observed those girls’ interactions with male counterparts, came up with the notion that partners should walk away from each other when aggrieved: **“phuma kuye”** (walk away from him). **Because these things can cause depression...** 3653. C03. Walking away from a conflict-ridden relationship was seen to be a reasonable solution by others too:

“It was a TV show”... I was watching what she was doing like it was a TV show... She was acting... I was not acting... She came back... and she asked to come back and she asked for forgiveness... I loved her and my children... I forgave her... “With time she started her nonsense again”... 5408 - 5421. C06

You can see where I am again (arrested for intimate partner violence)... I never want to go through this path... I take it as a lesson... The lesson was that everything has a reason... “Maybe I loved her too much”... I did not accept losing her... I gave it all... We had plans... She had things that made me trust her too much... I should have withdrawn and think about things... I did not take a break in emotions... I was taught later to do that when in conflict... 4814 – 4820. C05. “I saw her with another guy and then that’s where I blank.”... 4501. C05

In forensic psychiatric evaluations, ‘going blank’ is not a foreign concept – the underlying mechanism of this blankness may be some form of amnesia which may or may not be pathological (Kaliski 2006:108). The going ‘blank’ can also be a colloquial description of rage – “emotional stress” (Kaliski 2006:53). To avoid these states, emotional regulation is essential and may need to be a goal in prevention of future violence programmes (McNulty and Hellmuth 2008). Healthy conflict resolution skills become part of the build up to a more manageable relationship and a less violent outcome in the end. How men conduct themselves relative to women, when in conflict, in terms of sexual violence, may be learnt in part from nurture. Ideas about what an adequate relationship ought to be and what to do when in conflict with your partner have been suggested to be absorbed from the environment (Bandura 1998). Understanding the role of conflict in relationships in the local context and its link to violence including sexual violence may be a keystone for local models on prevention of sexual violence.

The whole ‘Village’ seems to get involved

When the focus shifted slightly further into the couple-in-conflict’s support systems, ‘his and her’ family tended to add to the complexity:

“She said that she did not want to have anything to do with my parents telling her anything about this fight”... 4486. C05. “Family got involved when she wanted to abort my child”... She was pregnant and said “how did I know that was my child”... This led to agitation and aggression in the relationship... She said she did not want to be pregnant because (it would affect her career)... “Is it true?” (Asking the researcher)... 4963-4968. C05

Earlier in this chapter it was established that there seems to be a link between proof of manhood and the ability to have children – almost as if men are defined by their ability to have children. The participant’s response to the fact that he had to deal with a partner who would not carry his child seemed to be at the heart of the problem. His response to the conflict was to lash out. It was almost as if he was

not allowed by the partner to seek assistance to resolve the conflict outside of the relationship, either. In the section on ‘the perception of the oppression of men’ the inability to seek help to resolve relationship conflict is discussed further.

“She started working night duty and came back later than usual... I asked her about that and she packed her things and left with my children... She came back with her father and he was shouting at me and pushing things around... 5364. C06 There’s a man who shot his mom-in-law and partner... A man becomes aggressive... Anything can happen to me then it is ok... You try and secure your children.... When the car (of the man she’s cheating with) stands in front of your house your dignity is out.”... 5557 – 5560. C06

“She never loved my mother”... Once she came to live with us... “After she treated my mother like that I said I’m leaving the marriage”... 6389 – 6393; 6397. C07 One day, my father-in law... asked me to go sleep in the garage... “I packed my bags”... I left my wife at that stage.”... 6399 – 6404. C07.

For the researcher, memories of the above components of interviews linger. The participants were almost reliving their humiliation. The expressed hostility towards perceived aggressors was intense. Adversarial families seemed to be enabling conflict in some examples.

There were more positive ways in which families could have assisted, however:

“The family uncles in a traditional sense tried to intervene... There was no solving it... The uncles got involved as they have done the lobola procedure (dowry)... She took all my furniture and left and took it to her mother’s house... 5393 - 5398. C06. And then I went to the uncles, the social worker and the chief as well... 5429. C06

About formal ways of engagement, what was implied with the ways families could assist was that in certain traditions, once lobola had been negotiated and later there were problems, the role of the lobola negotiators became transformed into that of mediators in times of distress. The couple was not left to resolve their own problems once they invited the family to assist. Whether this system of conflict resolution was effective would have to be explored elsewhere in order to enrich IPV prevention models.

There were bystanders in other instances:

“We try to “men up”... The things we saw from our fathers... There must be something that provoked the man.”... 3867 - 3872. C03

“When he and my mother were not getting along... I just wanted to keep out of it.”... 4908 – 4912. C05

“There were signs early on: one day I came to his house. They were selling liquor... He normally uses the money to buy for us beers... In front of us they will fight and I just move away. One day he hit (her)... he could not control himself. I turn my back and go when there’s violence. I go to my house to avoid... 6490 – 6494. C07

There seems to be a range of cognitive steps that take place when onlookers witness an imminent or an unfolding act of violence especially against a vulnerable person. The idea that it is important to operate within a finite set of boundaries and to keep to one’s self and therefore not interfere seems to be entrenched in communities and this may need unlocking for prevention of violence to be enhanced, the bystander model and theory (Banyard, Weber, Grych, and Hamby 2016; Nickerson, Aloe, Livingston and Feeley 2014) and others assert (Moynihan, Banyard, Arnold, Eckstein and Stapleton 2011).

Also, intimate partner violence and sexual violence in the current sample were difficult to separate because it seemed as if the participants themselves did not see the need to separate sexual violence from other types of violence. The separation became a semantic point if one conceded that sexual violence may be in a continuum with other forms of violence in the local context.

5.4.5 POWER RELATIONS – PATRIARCHY, THE OPPRESSION OF MEN AND THE ‘ROLLING EYES’

5.4.5.1 The perceived oppression of men: A swinging pendulum: Mangope, Mbeki, Zuma and the differential treatment of men, women and even children

In the context of building theoretical models on sexual violence prevention it has been discussed above that hostility was perceived to be one of the factors that contributed to or preceded physical or sexual acts of aggression. It was discussed earlier also, that one of the ways of coaching men to overcome potential sexual violence, was to raise levels of social competence by lowering levels of hostility towards women in society. In the context of the current study, one of the factors that was observed to be linked to feelings of hostility towards women in society, during the in-depth interviews, was the perception that men were oppressed by women. Systems that had been designed to elevate women’s rights were perceived to contribute to the oppression. From the first to the last, whether it was a person accused of a sexual or a nonsexual offence, the participants had an opinion on men versus woman’s rights and sometimes children’s rights too.

The debate on the rights issue arose spontaneously and naturally from in-depth conversations and was not a formal question at the initiation of the study. However, as the data collection proceeded, the researcher soon realised that it was an emotive point that had to be explored. It culminated in differing views but with an overwhelming voice that suggested that men in the current study perceived themselves as being oppressed by a system that may be emphasizing the rights of women more than

those of men. The intention, by the South African constitutional mandate for the 'Village', had been to correct an overwhelmingly patriarchal system that was perceived to be enabling forces that led to misogyny and acts of violence against women, it was inferred. The end-result though, according to the participants, had been the unintended consequence of the pendulum swinging away from patriarchy and towards an over-emphasis of women's rights at the expense of men's rights. When this idea first came up the researcher's internal response was to take it lightly and to see it as a passing thought. It was not in the researcher's framework in terms of historical and societal gender-relations perspectives. When the researcher began to encounter more and more of the 'violation of men's rights' concept, verification outside the research realm with 'sojourners' was applied – see the 'Process of researching the oppression of men' below. The emergence of the 'rolling eyes' phenomenon during the research process is discussed in the 'research process' section too as it became an important source of reflection and projection that would contribute to the authenticity of the research process. It is suffice to say that it was initially a struggle for the researcher to believe that the perceived 'oppression of men' was a real and strong sentiment. By the end of the qualitative in-depth interviews however, the researcher no longer had any doubts about what the participants were voicing out and how this component of the findings was critical for theory building in the current and future studies. A memorable note-to-self at some stage during data collection: **'My eyes are rolling' – honestly – revealing my scepticism initially – this later on gets replaced by the realisation that the study is shifting to a place I didn't predict – inductively we are here and I must embrace it... 3720.**

The one name that was consistently popping up, when the issue of the violation of men's rights by the system and the reverse process of men's oppression was raised, was South Africa's ex-president Mr Thabo Mbeki. Mr Mbeki had been the country's second post-apartheid president between 1999 and 2007. During his almost-two terms in office a lot of reviews had been put in place in terms of the correction of the landscape of the so-called 'Village' on constitutionally prescribed rights including those of women. In terms of the forensic context, South Africa by then had already emerged to be perceived, whether accurately and fairly or not, as one of the world's leaders in violence especially against women and children. It is during this time as well where the most difficult debates were taking place regarding sexual violence against females of extremes of age (the very young and the very old). The discussion of the myth of the link between HIV / AIDS and the rape of children (which has been touched on in the 'Introduction' and 'Sexual offending' chapters) was also rampant. And so, that ex-president Mbeki's name came up several times in association with the country's swinging of the gender-equality pendulum towards more recognition of women's rights and the balancing of gender power relations, was fitting, perhaps. Further, the irony of his background as a 'Xhosa' male-figure may have confused some who may have expected a more stereotypical misogynistic traditional approach to the woman's rights issue, perhaps. As illustrated further down in this passage, other leaders' names also came up in other narrated contexts.

“This has been happening especially since woman’s rights have become important... Most women do their things in their own way... This has been the case since the time of Mbeki... Most marriages are ruined... Respect for men is gone.”... 5443. C06

“Men are being oppressed.”... It started at the time of Mbeki.”.. 5565. C06

“It is not true (that women are oppressed)... “Men are the ones who are oppressed”... Zuma [sic] said we must take these things seriously.”... 5561. C06

“The (traditional) law must be the same as the old one... “Women must respect men”... We must go back to Mangope’s constitution... Women couldn’t wear pants... Women used to respect men.”... 5562 – 5565. C06

The manifestation of men’s rights violation emerged strongly in the illustration volunteered by the participants: differential treatment of men by law enforcement systems especially the South African Police Service. Co-observer INT02, at some stage, concurred with participant P02 in that they **“tend to have a faster and quicker response from the system”** when women call the police for assistance. The same applied when INT04 reflected on C03 on: **“Girls who line up guys”** and **“Framing”... the SAPS are quick to react... 3710 - 3711. INT04 on C03.** This differential treatment raised resentment among men and possibly fuelled animosity and hostility from men towards women.

“If as a man I call they will come after an hour... If it’s a woman, especially a young one, they will come immediately... 5438. C06. “If it’s a man beating a girl, they will arrest him and come back to the woman to propose to her”... They respond faster to women... They want your wife.”... 5441. C06.

The differential treatment and further fuelling of the perceived oppression of men was also linked to the matter of false accusations that skewed the statistics on rape in South Africa as discussed under the ‘Sexual offending’ chapter.

“Women are oppressing men. Women’s rights are more emphasized. Women’s rights. Children’s rights. Men must be included.”... 3711. INT04 on C03

Q. Perceptions on male abuse by women? A. **“Why does umama ashaya ubaba”** (Why does a woman physically assault a man)... A. **They don’t take it seriously... They will never react as seriously if it’s a guy abused by a woman... They laugh at you... The police (SAPS), family and community.”... 5059 – 5063. C05.**

The participant linked the abuse of men by women to shame and humiliation in society by himself without being questioned deeply by the interviewer. Shame may have been related to ‘respect’. Respect of men by women seemed to be a factor related to patriarchy at face value but when universalised, respect may have been seen as an essential component to human dignity. When it was applied in the

patriarchal context there seemed to be a link with aggressive behaviour when some men experienced disrespect and ultimately felt their right to be respected was not observed. Notions of rights seemed to be far reaching:

“Children have too many rights. Man’s rights are oppressed. We can’t discipline anyone. Not children. Not women... Not the police either. The police will admonish, yes. SAPS (the police) are good but not for that (domestic violence).” ... 3854. C03.

“16 days of activism (A national campaign against woman abuse)... There’s no children and men days against abuse... There are mothers who abuse children and their men... The response is not the same... The thing is they hide... Men hide it... Because they’re going to laugh at you... She controls you and takes control of your money... 5067 – 5072. C05

“In my marriage we had a fight, she slapped me for being out.”... 6406. C07

“Women have more powers... “They will laugh if you report that you are assaulted by a woman” I have a friend whose wife would abuse him physically but they (SAPS) wouldn’t do anything...”... 5447. C06

Modelled early life experiences resonated with later perceptions of women and the control they had in men’s lives:

“My father had no input (in my life). The woman (step-mom) was in charge”... My father lived at work... He just listened to the woman... 2466 – 2468. P05. “I observed abuse by the father of the stepmother. At some stage she had been operating between two (2) men.”... 2487 - 2490. P05

The concept of ‘oppressed men’ continued to come up even as the researcher was doing ‘reverse’ (retrospective) superficial analyses of earlier interviews once all data was collected. Even if earlier interviews had not initially coined it the ‘oppression of men’, the concepts were the same. Bitterness perhaps mirrored some of the participants’ frustration about the perceived emphasis on women’s rights vs men’s rights. The frustration included participants who were not accused of a sexual offence, either.

5.4.5.2 “Banyana are government” “Women are government”... “Whatever they say, izobanjalo (it shall be)”...

The emphasis on the swinging of the pendulum towards women’s rights in an unacceptable manner according to participants is illustrated in Table 28.

Table 28: Women's rights emphasised

Women's rights	
<p>“The ladies are now bosses... Government gives... This tells me women are powerful”... 1279 – 1283. P02</p>	<p>“Women are government”... “Whatever they say, izobanjalo.”... 5065. C05. (IsiZulu: It shall be)...</p>
<p>“Banyana are government.”... (SeTswana: Girls are government)... “Women can be evil”... 5123 - 5124. C05. The participant was expressing sheer frustration against women and what began to sound like blame-shifting*¹³.</p>	<p>“Everything she says, she’s always right”... “She wouldn’t talk or she will blame”... “It made me feel I’m an outsider...” “Because I’m not talking...”... 6427 – 643. C07</p>
<p>“The law has left men rejected”... “Power lies with women”... 5077. C05 (Men) feel that they don’t have authority over women... Some of the women can break a man’s heart... 6634. C07.</p>	<p>Q. Do courts treat people the same? A. “Rights are taken from men... Women get 80 and men 20...” 6627. C07.</p>
<p>“Women have more rights than men... they say “don’t abuse women.”... 6038. P08</p>	<p>“I disagree (that women are oppressed)... They would like to do as they wish (women.)”... 5584. INT06 on C06</p>

The sentiments that women’s rights surpassed those of men in society were not always held by all:

“There are men who don’t mind... They say Mbeki sold out men to women and yet we have not reached equality”... 5264. INT05 on C05. “The older ones still believe men are oppressed”... The young ones will learn more... Old men don’t listen to women” ... 5266. INT05 on C05

“It is in theory that women have more rights”... “It is like HIV information... They still do not use protection.”...6072. INT06 on P08.

The co-observer / interpreter was giving a perspective that implied that, just because the rights of women had been legislated upon and emphasised, it did not mean that had translated to them being upheld in society. That, it was premature to say the status of equal gender rights had been achieved. That, the claimed acceleration to women’s rights could not have translated into the other extreme - the oppression of men. Another participant seemed to concur independently and during a different interview: **“Men have more powers. They oppress women.”... 7134. P09**

¹³ * Note-to-self: The researcher had to maintain a straight face.

Upon being asked the question, C04 would have initially fit the same bill as INT06 on P08 and P09 above: Q. Woman vs. Man's rights in the South African context...

"The man is the head of the family" ... (Emphatic). The house is named after the man and so the man has more rights...

But, when the matter was explored further: Q. Rights in the context of the law?

"Men are oppressed." ... "A woman can control you. She can hit you even. You cannot hit her back and you cannot report it.. "These days it's "50:50"" ... 4310 – 4314. C04.

Q. So you say even if they report to the police....? A. **"They will call others to come and see this phenomenon (of a man reporting a woman). Even friends and family, they will laugh at you and say leave her." ... 4315. C04**

P09's perception was that men were in a 'catch 22' situation as they would equally get into trouble if they retaliated or if they reported a woman-on-man type of violence openly, because of the overemphasis on woman's rights in the current legislative framework. The 50-50 concept raised by C04 and C07, led to a place where there was a 'lightness of mood' and would later be reflected upon during the write up through a kwaito (modern South African township music genre) song: '50-50' by Mandoza (2001). The song may have been signalling the emergence of what participants in the current study were alluding to – a riot from the side of men because they felt that their rights were being violated and were not recognised because women's (and children's) rights were being valued more than men's in the South African 'Village'. 'The pendulum had swung too far' to the women's side.¹⁴

The illustration of women as manipulative and in control crossed over to the extreme in some instances. Where patriarchy would have defined men as being in charge, some of the participants perceived their female counterparts of being in charge on an extreme that was even further than described in the section above. For one participant, describing a partner whose age was much younger than his, the age gap between an older man and a younger woman tipped power relations in favour of the woman. This was in the opposite direction of the more common order where the older man was in charge: **"For her satisfaction, I thought she could go and get another man outside our area..... She said she did..... "I accepted that I was an older man" ... 2504 – 2509. P05**

The tipping of power relations could be compared to the sugar daddy phenomenon discussed in the section on 'Transactional sex'. If one considered P05's situation, the younger woman was presumably

¹⁴ The artist 'Mandoza' in the meantime and by the time of the completion of the current thesis would have passed away in late 2016. A big tribute went out from all that followed his career. His song 'Nkalakatha' (2000) was hailed as a reconciliation song that brought South Africans of all genres and generations to the dance floor in the years post-apartheid. Mandoza's 50 – 50 song (2001) was a play-off on gender rights. The play-off was that "angithi nathi ni independent 'let's go 50-50' (Is it not true that you said you're independent, and so (stop complaining) and 'let's go 50-50').

in charge in the context of polyandry – her choosing to have different partners - but may not have been in a different framework. When put in the forensic framework within which the accused found himself, for instance, the woman’s upper hand was weak. The context of the charges against the accused and his description of his world, belied the upper hand he proclaimed his partner had. By his own admission, his partner was living with some of the negative consequences of his choices – he had had multiple sexual partners whilst in a committed relationship with her. Ultimately, and in a show of not being fine with her so-called ‘upper hand’, P05 eventually expressed frustration with their arrangement:

“I would try to prevent her from leaving but she’d go out anyway”... 2404. P05

My response to her behaviour was to “Tlala pelo” (SeTswana: to feel frustrated). 2408. P05.

“I tended to drink on Saturday and Sunday. I would take 3 – 4 beers and probably pick up a fight with a person, take out a knife and fight and wouldn’t remember what I’d done in that state afterwards...” 2410 – 2415. P05

The feeling of loss of control in not being able to resolve his relationship impasse was expressed through hostility and lashing out at others as well as substance abuse. This could be demonstrated through other participants’ narratives as well:

“I broke up with her because of alcohol... I used alcohol excessively... I was sent to rehab... and then years later I started drinking again because she was choosing my friends for me, telling me to stay at home or go with her only... She wanted control over me, yes... “She wanted to be the man in the house”... 6371. C07

And, when this participant did not feel that his self-defined role as a man was respected, he lost control. The emerging concept in these narratives too is the perceived ‘oppression of men’ because ‘women are government’. The assertion that concretises the concept is that men who are feeling oppressed tend to lash out and in their lashing out all kinds of violent acts may occur. Some of the participants accepted that some of the charges against them were related to conflict and frustration that led to hostility which then manifested in acts of aggression – of a nonsexual and in some instances of a sexual kind.

5.4.5.3 Patriarchy and the role it plays in the emergence of violence: “That attitude contributes to rape in marriage with the notion that ‘I bought you’”

“I asked the Lord to give me a partner because I don’t cook, I do not wash... I did not learn... It’s a woman’s job...” ... 6657. C07

“I wanted to speak to all the men in the community... And say the men were the head of the house... And the father is the head of the church... Many men have fallen.”... 6464 – 6468. C07

“Domestic work is for women. A man is the head of the family. They told us this”. 3781. C03

Stepping further away from what looked like basic housework designated to women, more would be ascribed to the order of what the role of women was: **“I think a woman must have a specific partner.”**... 3659. C03 ...**“They must use “implantanon”** (Implanon - a contraceptive implant) **...or an injection.**”... 3660. C03. Although speculative, it seems that the participant may have been alluding to the matter of controlling the number of partners women may have as well as their reproductive lives. The same did not seem to bother the next participant when it applied to males: Q: What would count as men’s business then? A. **We would look at women and talk about them as they went past... We had a place where we’d hang out as guys and just chat about affairs and count those we know are with the woman, say if you go past us.** 2633. P05

Or, put differently by another participant: **“Kumele baye emendweni.” Women must get married... I don’t agree with them raising their children in my father’s house instead of getting married... Their children who are boys should not be taking our (family) name. Ukuzalela abantwana ekhaya?** (IsiZulu: Single women having children before marriage)... 2914 - 2919. P06. Later, in relation to the same participant, interpreter / co-observer INT04 explained: **“He’s the one who is “indlalifa” (heir) and remains at home.”**... 3024. INT04 on P06. The participant thus had the right to inheritance and the women in that system had to proceed to another male-dominated system if they wanted to have children and raise families.

The dissection of the process described above, in some family and community systems, falls outside the scope of the current discussion. The examples are just used to illustrate the depth of what may seem simple at cleaning and cooking level but carries deeper undertones in terms of the position and role of women in some clusters of the so-called ‘Village’. It may be postulated then that when traditionalism and patriarchy are forced to shift and family values become redefined in terms of the role of women, the change that takes place may feel threatening to the male systems within those families. This may then be perceived as an attack on patriarchy that yields ‘the oppression of men’ retort. Violent retaliation may also result.

At times, the shoe was on the other foot and a man was in a difficult social environment: **“I live alone in a shack that I built by myself. It is made of poles and (canvas)... My parents had died earlier in our lives... After my grandfather died, my sister... kicked me out of the house after we had a family dispute.”**... 2909 - 2912. P06

The role of women seemed to differ from family systems to family systems too: **“My mother was in charge of the household and malume (maternal uncle) and rakgadi (paternal aunt) would fix problems arising from elsewhere.”**... 4179. C04. In other family systems, certain female members

had power. **“Dabawo = rakgadi = my father’s sister”** 1839. C02. Rakgadi seemed omnipotent and appeared as the all-powerful matriarch.

Further, the deep-rooted relationship between patriarchy and the commodification and objectification of women came together in romantic relationships and the conflict that may arise in such, as earlier demonstrated in the section on ‘Conflict resolution’. Traditional ways of relating seemed to contribute in some instances. Also, as already discussed, the high frequency of acquaintance rape in the quantitative component of the current study further raised concerns that it may have been in set ways of relating that violence occurred.

“That attitude contributes to rape in marriage with the notion that “I bought you”...
5272. INT05 on C05

“Tradition contributes... when men come back from the mountain especially Xhosas... they must get a girl... It is not so rife in other traditions.”.... 5274. INT05 on C05

“The Basotho put a woman aside for you...They choose a wife for you.”... 5278. INT05 on C05

Here the co-observer was explaining a custom that is observed after young men come back from their male circumcision coming-of-age rituals. The custom was perceived by the speaker to be encouraging the use of women as sex partners that are engaged solely as sexual symbols of coming into manhood. Various traditional groups practice the custom in varying ways. In the illustration above, the description of what the amaXhosa versus what the BaSotho practice differed. There are many variations on the theme of coming-of-age rituals that fall outside the scope of the current study. Suffice to say that there seemed to be a continuous link between some rituals, sexual exploration and violence in the process.

From the discussions, it also emerged that traditional family systems in some groups had women defined as commodities that would be passed on from one male system onto another. From the woman’s father, brothers and other males in the family of origin, to the woman’s partner or husband’s family and their males. The woman would bear the male names - the name of her father first and then that of her partner / husband next and play certain expected roles as described in the section on ‘Contributory factors’ in the ‘Sexual offending’ chapter with respect to ‘volksmoeder’ (Afrikaans: mother of the nation) concept (Van Der Merwe 2011) and other normative gender stereotypes (Leclerc-Madlala 2008). Ironically, as much as some of the participants believed that women and systems of governance were domineering and were responsible for the concept of the oppression of men, they also verbalised ways of relating that could be said to be demonstrations of the commodification and the objectification of women. These concepts are common factors in the narrative of sexual harassment and violence against women (Rooney 2011). The roles described by some of the participants seemed innocent but when read together with the severe consequences of objectification of women and the hostility with which women were

viewed by some, they may have been signals of deeper-lying problems. Commodification is dealt with better under the sections on 'Transactional sex' in the 'Sexual offending' chapter as it describes the use of women's bodies as commodities.

Even when women appear to be favoured, through observation and through literature, in the form of the role of rakgadi (seTswana), makhadzi (tshiVhenda), dabawo (isiXhosa) – the paternal aunt – it may not be sustainable in modern societies. At face value, and in African traditional settings rakgadi, makhadzi or dabawo plays a leadership role especially when there is conflict to be resolved or wisdom to be sought in families. Her brother will send his children to her for guidance. Rakgadi and malume (Nguni: mother's brother) are deemed important as substitute parents in marital disputes especially (Ntsoane 2003). In a TshiVhenda study Matshidze and Nemutandani described the important role of makhadzi in marital problem-solving too (2016). Tradition allows rakgadi to 'wear the pants' in the family, it seems.

When scrutinised further though it would have to be clarified if the concept of 'rakgadi' is not an example of tokenism. 'Tokenism' as used by the author in this instance would mean that the paternal aunt of the family represents all women. It may be that this is a way of allowing women to send on a woman representative who may or may not be listened to by the rest of the males in the family system. At the polar end and from a less sceptical explanatory angle, there seems to be an emerging voice that says patriarchy, in the African continental context, played differing roles in pre-colonial versus post-colonial states (Ntsoane 2003; Phillips 2004). It is suggested that, prior to colonialization, traditional African societies believed in woman leadership in the form of the rakgadi, makhadzi, dabawo phenomena as described above. In a Tswana narrative study of indigenous knowledge systems, Ntsoane asserted that in the precolonial and in modern traditional African contexts, women have power and get designated roles in conflict resolution that used methods that were problem-solving focused rather than blame-apportioning:

“Being patient and accepting each other is the easiest way to coming up with a solution. That is why the Tswana method of conflict resolution takes so long before negotiations are reached for the resolution to be arrived at.” (Participant) (Ntsoane 2003:16)

In postcolonial and so-called western settings though, it seems to be emerging that more modernised patriarchal systems may be diluting the importance of the rakgadi leadership and influence (Matshidze and Nemutandani 2016). This would imply that patriarchy still has a domineering effect and does not necessarily lead to the advancement of women's positions – in whatever role, rakgadi included – and thus negates the 'oppression' notion.

5.4.5.4 Boys do cry: “When she broke up with me... I covered myself with a blanket on a hot day.”
“Mona ushwa sinku”: A man dies like a sheep and keeps it inside.”...

As illustrated above the expression of anguish and frustration when dissatisfied with life was in the form of lashing out for some of the participants. Although it may have been underestimated, the amount of agitation during conflict left some feeling overwhelmed and frustrated. Non-violent conflict resolution skills especially in relationships have already been highlighted above as being an essential component of sexual violence prevention. Several matters came up in relation to conflict in relationships and how the participants managed or coped with adversity in relationships and some of these have been discussed already. In the current section, how romance could cause heartache and result in lashing out is discussed. Other causes of pain are also discussed. Unlike the adage ‘boys don’t cry’, some of the participants expressed sensitivity and sorrow when describing their experiences:

“It was serious. She was a person in my heart... She broke up with me and she would not give me a reason... She just cried... When she broke up with me, “I covered myself with a blanket on a hot day”... 1149 – 1154. P02

“Then men are oppressed by women; let me tell you about my relationship with my girlfriend... [In the room: getting emotional]... I used to cry and she never used to feel any pain for me... That this is a man...and she was making me cry... She would say “man up”... 5078 – 5082. C05

“My own case - I don’t remember, but she said I came up to her and I started stabbing her all over... I may have thought of killing myself and her as well.”... 5093. C05

A sense of self-hate seemed to be abundant: **“I see myself as a bad person. It got to a point where I wanted to kill myself.”... 3284. P06. “I have thoughts that I can kill myself or others.”... 3286. P06.** Sometimes sorrow was re-lived during the interviews: **“I found her with another man in my house”... I stayed on and we had a fight and then I stabbed her... She was trying to stab me, in the struggle I stabbed her.”... 5330 – 5334. C06.** As he was sharing, it increasingly became necessary for the interviewer to allow space for the participant to calm himself down and an attempt was made to balance that difficult conversation with neutral material.

Accompanying the sense of sorrow described above, was the sense of loss, loss of a sense of being for some and a loss in the ability to relate to others. **“My life is messed up. I don’t have anything... I live in a shack... I will accept whatever comes”... 5734 – 5737. C06. “For now I’m still angry at her.”... 5749. C06. “Internally I see myself as a zero – a hobo”...5757. C06.** As part of dealing with his anger: **“When I came out I changed women a lot.”... 5808. C06.**

The grit could not be missed throughout the exchange with C06. He was an NSO who through his own volunteered admission had been on an aggressive rebound littered with sexually inappropriate

behaviour that may have been tantamount to sexual aggression. The inappropriate behaviour had been brought on by emotional pain which he referred to as anger after the loss of his wife through a physical altercation with him that culminated in intimate partner violence and her death. C06 then proceeded to describe stigmata associated with post-traumatic distress in one who is accused of violence against an intimate partner. He became angry and self-destructive through his sexual behaviour. He sought solace in others and resorted to self-help eventually. And, all along he kept his family and friends near him.

The participant expressed a concept of not ‘showing anger’ and ‘keeping it in’ like others did too – in an overwhelming description of what seemed to be the creed for some of the participants:

“There is no support system for men! You keep it in and then you burst and find yourself in prison for physical assault or any abusive nature... It is because of the way men are treated by women and children. We try to “men up”.... The things we saw from our fathers... There must be something that provoked the man... 3872 – 3867. C03

INT04 to C03: **Would you come and tell me (as a fellow man) when you are in distress?**
A. **“No, I will keep it inside. You know that saying: “Mona ushwa sinku”. A man dies like a sheep and keeps it inside.”.... The sheep story... 3856. INT04 on C03.¹⁵**

“The saying is that “indoda ayikhali, ikhalela phakathi” (isiZulu / isiXhosa: a man does not cry, he cries inside).”... (The participant gets to this point that resonates with many other participant by himself without being prompted – an authentic response)... 5083. C05.

Explaining the angst accompanying the perceived loss of power and the swinging of the pendulum towards women’s rights sanctioning, a co-observer / interpreter said: **“Change is painful. The feeling is that painful... once they understand they won’t be in charge anymore.”... (That men won’t be in charge anymore is painful to them).”... 5263. INT05 on C05**

The ‘poetry in sorrow’ and colourful eloquent language, at the time of data collection as illustrated in this section, gave hope that although the emerging narrative of the core study was dreary, there was still a chance that through art, that time story-telling and not music, there would come a time where even the participants in the study would benefit from having shared perspectives of their lives. It was hoped that they would be transformed by their own story-telling to be advocates for change and prevention of violence in their communities irrespective of the charges against them. The transformative lens was framed for a sexual violence prevention agenda and was focused on putting the male voice in the middle of the agenda. It was hoped that it would be through the male voice that sexual violence would stop.

¹⁵ INT04: **“Where do men go to cry”... This conversation with INT04 ought to form part of a joint case study with C03 to explore the mirroring of ideas from men of differing backgrounds... but in the same society. One is a professional. The other is a remand detainee facing a charge and yet their responses are so alike you would think they know each: “Mmona ke nku. Nku ilela teng. / Nku ayiswi?**

The use of language by the participants throughout the data collection process was fascinating and although some of the quoted participant's account above was spoken in English, others expressed themselves in other rich tongues with aphorisms that could at times be lost in translation. The process of language usage is visited in the 'Process' sections in this and previous chapters.

There was also an overwhelming strength in the voice from the participants that said men were beings that keep their distress within like sheep, and these beings would then lose control and become aggressive when the distress levels got too much. This was further seen to be a way that some men were responding to the changing women's rights environment, the perceived consequences of equal rights and the perceived oppression of men: 'the swinging of the pendulum perceived'.¹⁶ It was established earlier that ex-president Mbeki featured in a recurring theme that read something to the effect that president Mbeki sold out and supported the women's rights narrative too much. The balancing narrative to the 'Mbeki' perception may be that the pendulum is still swaying, certain sectors of men are feeling the pinch and yet women are still feeling oppressed as well – a sombre description entailing a 'lose-lose' situation, seemingly.

The distress that is displayed above was relevant to most of the participants irrespective of whether they were charged with a sexual offence or not. It was also irrespective of whether the charge involved an act of violence towards a woman or not. Of note, as mentioned earlier, the separation in terms of perspective between the sexual offence charge group SO versus the nonsexual offence charge group (NSO) became negligible over time. It was noted also that most of the participants that were accused of a NSO were actually accused of intimate partner or domestic violence against a woman anyway except in two cases. The evolution of the acts of aggression in those cases, be they sexual or not, would be perceived to be against women and seemed similar over time. The other lesson that began to emerge from all the participants irrespective of whether they were in the SO or NSO group was that the explanation of the acts of violence was given from a distinctly male gender-defending angle. The

¹⁶ **Memoing during analysis:** There seems to be a societal impasse. It seems that some men are expressing a need for tender-loving-care care from society and some women are saying it is not their mandate to save men from themselves. A stage may need to be reached where it is acknowledged that it does not matter who it is in the 'Village' that takes up the role of raising a society that looks after the needs of all irrespective of gender. It will probably take different sets of messages to move away from the current impasse. Social schemas that have yielded massive outputs of violence will probably need to be identified and isolated for interventions to succeed at societal level. Whether message-sending is done by men or women raising boys it ought not to make a difference if it is done for the greater good. One of the outstanding assumptions that would have to be in place in order for the lessons to be meaningful though, is that the 'Village' may have to assume that whoever has these conversations with boys and men will also have to be reversing dominating patriarchal notions in society. It seems possible for men to raise boys in a non-patriarchal society, as demonstrated by groups of everyday men working for change. The 'gender equality pendulum' need not be perceived to be in the middle for this work to be effected, probably. It may be work that is more like 'affirmative action for the soul'.

researcher found the lack of neutrality of explanation noteworthy initially. This included the participants' perspectives not just on sexual violence but on domestic or other forms of violence too.

5.4.5.5 Oppressed men: consequences and resolution

Abstinence from relationships / Walk away [maybe blend with the conflict resolution passage

“I did not feel the need to be in a relationship again... Balapisa (seTswana: They're tiresome). They stress... They cheat, they want money... This is from my experience... Others (men) feel the same about women... It's a common thing... So men's feelings get hurt... They drink to get the stress out... Those that do not... they restrain themselves and do not talk about it... Men and women deal with stress in different ways... Men smoke, women do not... Women talk to other women... Men don't... It's like you're letting out your secrets, your personal matters... Others can talk to their families... Men don't want to talk. They sit with a lot of stress until they become ill... You will have heart problems...The relationship won't be nice... You'll fight... It may culminate into rape and yes it must be reported.”... 6153 – 6166. P08

Substance abuse: “When the nagging doesn't stop”

“It does not have a start and a finish... Women talk... Men will accumulate... Counsellors and psychologists – more women will go to them than men. In rural places “elders” will intervene... 3878. C03

“Otherwise the divorce rate will continue rising as well as the abuse of women and children... you end up going to a tavern or club ... “when the nagging doesn't stop”... 3881. INT04 on C03

“Some drink too much to drown their sorrow.”... 5568. C06

Help from others including professionals: The ‘Village’ helps resolve conflict

“A social worker should deal with the matter... It depends on who started it... Ladies start everything.”... 1276 – 1277. P02

“Counsellors and psychologists – more women will go to them than men. In rural places “elders” will intervene.”... 3878. C03

Q. What happens if he does not go to social workers? A. **“Then he might end up hanging himself.”... 4321. C04.** The participant was referring to a real-life example where one of his relatives had committed suicide after marital life and other stressors.

“After the arrest I went to family... I had appealed to my uncles and social workers for help... I then went to the chief who told me to seek lawyers... 5661 – 5663. C06

“They need to talk to the doctors and others.”... 6643. C07

To talk or not to talk

“Men don’t talk when they are hurt”... They also don’t want to dwell on serious matters or formal things... Like shopping [In the room the mood is light]... When you come back, you won’t be speaking to each other... Two (2) hours after fitting dresses... men sit in cars waiting... avoiding arguments... It’s not wrong to shop like that... They enjoy this... It’s an open process... For a man it’s closed... It’s not wrong... 6272 – 6277. INT06 on P08

“We will end up in an argument... I’m not a person who talks too much and make things difficult for myself... I avoid ugly words... I kept quiet and she started taking control because I was quiet... She would push me to do things I don’t want... “It was always about her family... I never wanted to talk about it.”... 6383 – 6386. C07 “One day I put my foot down.”... 6388. C07

Exploration of men

“We must research men... We must support men. There must be a structure that is user-friendly – designed and rendered by men... Men don’t go to the hospital because they will find women... She’ll take her side.”... 3883. INT04 on C03

The last note read like a recommendation because it was. The co-observer / interpreter was speaking from experience and what he had observed in his professional and social context. Most of the participants fit the stereotype that was described by P08 when he proclaimed his solution to the avoidance of exposure to oppression was for men to abstain from relationships with women. He added stereotypes to what had led him to personally walk away from relationships. The stereotypes were held up by other participants too and appear to be similar to the contributions made in the ‘conflict resolution’ section above. This then brought the author to a juncture where voices that attempted to list factors related to conflict and its resolutions seemed to be in tandem with voices that listed factors related to the perceive oppression of men and the resolutions thereto. The underlying message may have been that conflict and adverse resolution thereof may have been linked to the perception of oppression by some.

Further, participants asserted that men were stressed and oppressed by women and this could have negative consequences like substance abuse, ill-health and violence by men including sexual violence on women as has been reported in other South African contexts (Walker 2005). Beyond the stereotypes listed above, there were gender stereotypes that fed into the narrative about women – e.g. ‘they cheat, they want money, they talk to other women; about men – they drink, they smoke’. This narrative

although littered with those stereotypes fits in with the emerging theory so far: some men become violent as a consequence of feeling oppressed and stressed by women (and the system ultimately). Some men opt for violence and other harmful means as a retaliation to their feeling oppressed and stressed. Women are perceived in the current study like in other studies, to deal differently with relationship stress and violence as they may opt to seek the counsel of others but especially of other women as observed by Moynihan et al as well (2011).

And so, when the suggestion to ‘research’ men was made, the current study and similar work that has been and will be done in future seem relevant. At the beginning of this chapter reference is made to the need to explore local lenses that will be fitting in explaining and resolving some of the factors required to prevent violence generally and sexual violence specifically. Emerging theory will assist in the design of such preventative frameworks. The ‘Village’ may have to reverse lessons taught to males that say masculinity is expressed in ways that imply a show of strength, force and aggression (Walker 2005; Jewkes et al 2011).

5.4.6 THE PROCESS OF RESEARCHING THE OPPRESSION OF MEN: A GUIDE ON ‘HOW TO KEEP THE RESEARCHER’S EYES FROM ROLLING’

Scepticism

In order to do justice in exploring the concept of the oppression of men, the researcher had to dig deep to set the order of the philosophical paradigms, methodology and theoretical frameworks of sexual violence prevention straight. Reflection, checking and transparency had to be at the core of the engagements that ensued when the matter of oppression emerged from an unexpected angle. Journaling assisted the researcher to separate personal from systems related matters. Checking with co-observer / interpreters and the research supervisor who are men and fellow sojourners who are women (Nom, Cheesegirl, Chap and others) also had to be done to expose the roots of scepticism. Checking assisted the researcher to reflect. There was a shift in the outlook as themes were emerging from the research work. As mentioned earlier, the memorable note-to-self at the time of data collection was: ‘My eyes are rolling’.

The note-to-self was in relation to a particular conversation but there were many that caused a shift in paradigms for the researcher. In retrospective 2nd and 3rd cycle analyses it emerged that from as early as the first participant, hints of women interfering with men’s processes were present. It became clearer later on that the roots were there from early on. By the time the researcher was exposed to more and more material and the participants actually used the term ‘oppression’, it became clear that this area of work was as authentic as any other developing theory may have been. It became a norm for notes-to-self to emerge stating: ‘the interviewer no longer raises her eyebrows when this comes up... I have since stopped rolling my eyes because I have realised that this is not for show, the participants are

genuinely experiencing this and ours is to see how we re-engineer this narrative and end up with both sides ‘not rolling their eyes’ ... ‘Our eyes need to stop rolling’.

5.4.7 EMERGING ASSERTIONS AND THEORIES IN ‘PATRIARCHY AND THE OPPRESSION OF MEN’ SECTION:

Males tend to be hostile because of poor self-esteem and the perception of ‘oppression’. Women are perceived as being disrespectful and not trustworthy. Moreover, if a male feels humiliated, there may be resultant hostility and violence. Hostility seems to be applicable in the South African context not more or less but possibly the same as instrumental motivations for violence including sexual violence, as suggested by Marshall and Hambley (2016), and unlike in Hamilton and Yee’s sample (1990). Hamilton and Yee asserted as fair Gebhard et al’s 1965 classification of two types of rapists as being those who are motivated by sexual satisfaction versus those who are motivated by violence and are likely to be hostile in general. Sexual violence may be a means to effect the anger and hostility rather than an end to itself in the local context. Future research may help clarify this area further.

Community level interventions may work when the whole community is involved in identifying and assisting those who are vulnerable and are at risk. The bystander effect is likely to cause individuals not to intervene when they see harmful interactions (Centers for Disease Control 2017; Banyard, Weber, Grych, and Hamby 2016; Nickerson, Aloe, Livingston and Feeley 2014; Moynihan, Banyard, Arnold, Eckstein and Stapleton 2011). This remains an opportunity for intervention locally.

5.5 THE ‘VILLAGE’: LIFE IN THE TIMES OF HIV / AIDS – RELATIONSHIPS, SEXUALITY AND VIOLENCE

5.5.1 CONTENTS

HIV / AIDS, relationships and violence

The process of researching HIV/AIDS discussions

5.5.2 INTRODUCTION

South Africa has a history of struggling with HIV/AIDS as depicted by the year-on-year rise in numbers of infected people noted between 2002 (4 million) and 2013 (5.26 million), as well as a prevalence rate that has remained steady between 10 and 20 percent on average for differing populations (Andrews and Wolmarans 2015). Together with rates that remained steady but high, there existed a myth or a perception of a myth that led to the belief by some pockets of society that HIV / AIDS could be cured by having sexual relations with a sexually-naïve child or with an elderly woman. This myth is claimed to have stemmed from old century Europe during the times of venereal disease outbreak as described in the introductory chapter (Smith 2003). The direct effect of the myth on the statistics of sexual violation of the two vulnerable populations at the extremes of age in this study could not be explored but perceptions from participants were that it was not held highly.

Further, in the context of violence prevention frameworks, the occurrence of violence in the evolution of the HIV diagnosis where relationships and power struggles exist, was explored specifically. The current area of focus was not exhaustive of the link between HIV and sexual violence, but drew on what participants had to say about these points. In the section, a few participants volunteered their HIV status independently during the in-depth interviews. Some of the participants had very specific narratives to share with respect to HIV / AIDS, relationships and violence too. Included in the findings report and subsequent discussion are highlights of the period related to the diagnosis of HIV and the impact such a diagnosis may have had in some of the participants’ lives, in relation to aggression and violence. Through the listed cases and others, links between HIV, sexuality, violence and social perceptions of the nature of the condition and how it affects society, are displayed.

There are specific participants whose narratives will be drawn on. Their narratives are complex but an attempt has been made to capture the essence. Participant P01, at the time of the interview was in his 20’s and was accused of a sexual offence (SO) of an acquaintance, and as it will be illustrated, described his experiences when he was first diagnosed with HIV. Participant P05, was in his 40’s at the time of the interview and was accused of both nonsexual and sexual offences. Through his narrative, the evolution of a diagnosis of HIV in the context of adverse social conditions is discussed. Other participants may also feature in appropriate spaces as well. The two specific participants are selected for narrative sake and thick description.

A general note to the reader: It is necessary to re-confirm that as included in the research ethics protocol, every time a participant was interviewed on any matters related to their well-being and general health promotion and disease prevention topics including HIV / AIDS, TB and other conditions, the participant was offered a follow-up session with nursing personnel in the ward to provide health education.

5.5.3 HIV / AIDS, RELATIONSHIPS AND VIOLENCE: ‘SHE’ SAID SHE GOT IT FROM ME.’

“We would meet and used condoms. She went to the clinic and she was HIV positive. I felt sad but I didn’t go... 203 – 205. P01. Q. Repeated: How did you feel when you heard that your girlfriend was HIV positive? A. “I felt pain for her and she was weak as she could not take care of me”...

“I told her I was not worried about her. I didn’t worry about who brought it (HIV) in or not. I thought that she would think I am the one that brought it in... I would fight with her instead. She accused me of giving it to her. She was angry and I got angry that she told me in the middle of a fight... We were fighting about not having children... She then told me that I had HIV too. I went and tested myself at the clinic... After testing I didn’t fight with her. We eventually broke up as it was getting too much. The baby did not have HIV. I do not know how she prevented it. The baby is with her... [The mood is heavy in the room. The participant is casting eyes downward and covering his mouth on/off....]

“I was told in 2010 (altered details for confidentiality sake) and have been on treatment for the last 5 years (altered details). I feel alright about it now. Initially I did not understand. I was feeling sick. I was thoughtful and thinking deeply. I was seeing visions. Sometimes I would feel as if there are people making noises and as if there’s a noise or a running tap. I would then take treatment like Panado. I started feeling better after taking treatment for HIV.”... 203 – 227. P01

P05 shared: **“She (my partner) said she got it from me.”... 2375. P05.**

“She got a letter from the doctor saying that I must come”... And then on a Monday we went. The results came back showing that ‘she’ was positive but mine were negative. I tested three (3) times but I remained negative. I was told I am a carrier. I think (she) gave the infection to me but I did not get affected.”... 2593 - 2596. P05

“I denied that it was true that I brought it in... I also had illness but I did not test positive. I had slept with MNO... I did not want to use a condom – it is plastic... MNO was the last one that I slept with without a condom.”... ‘She’ was upset with me and was planning to leave. I asked an

older woman in the neighbourhood to talk to her. ‘She’ remained unhappy and would not do my washing. (A symbol of troubled love).” 2597 – 2600. P05

“I said to GHI that she’s the one who gave me the disease... Her (GHI’s) friend... told me that GHI is on medication. She had seen that I had sent the child to give GHI money”... (And assumed there was a sexual relationship between P05 and GHI)... 2603 – 2604. P05. **“She should have told me she had HIV and to use a condom. I had not used condoms with others either because they were “fresh” (they looked healthy)”...** 2610. P05.

What P05 implied was that the friend assumed that, because money was being exchanged, sexual interaction was underway between the two parties. This may have been a norm in that community. This was the same community that had the researcher’s ‘inner eyes’ growing wide as the details of what were deemed ordinary sexual relationships were being described by P05 in the ‘transactional sex’ section in the ‘Sexual offending’ chapter. That money was exchanging hands for sex seemed to be part of the social discourse. The stigma associated with HIV / AIDS in small communities seemed not to be a detractor in that context and may have been outweighed by the ‘economy of surviving’ in a poverty, unemployment and inequality state.

Referring back to the concept of ‘freshness’, this was not isolated to participant P05. In a separate and unrelated context, C06 had said: **“I don’t get to say anything to that kind of guy... I will congratulate... The sugar daddy... It’s not a crime to have a younger girl... “Isbhehedlane uhamba naso”...** (You go with your cute girl!)... **Then you have a “fresh girl” with you.”...** 5509. C06. This statement has undergone simultaneous coding in at least three separate instances because of its significance in many layers of the current study. ‘Freshness’ as a concept was described in the ‘Sexual offending defined’ section in the context of the ‘age of consent’ for some – and the concept of gauging a female’s suitability to engage sexually by how she looked for others. ‘Freshness’ was also raised in the section on ‘Transactional sex’ in the context of the sugar-daddy phenomenon. In the context of the current section on HIV / AIDS, ‘freshness’ is used as a symbol of youth, health or wellness by others, implying that a person who looks ‘fresh’ (healthy) is unlikely to be HIV positive – a myth. The bemoaned relationship between the rape of children and HIV as a mythical cure for HIV and the increased incident rate of HIV in young women between the ages of 15 and 24, and the sugar daddy phenomenon are also relevant in the current chapter.

Going back to the P05 discussion, when asked to clarify his stance on the concept of ‘freshness’ the participant proceeded to assert that: **“HIV positive people lose weight and other people can see... A ‘fresh person’ is a healthy person... If a person is sick I don’t go to her....If she is HIV positive and tells me I use a condom whether she is on medication or not... People can see...**

GHI knew that she was sick and still did not tell me... ‘Her friend’ told me... One day I told myself I will sort her out... I then asked her why she did not tell me that she was HIV positive... She said

no it's not her (who gave HIV to me)... I pulled her into the bushes... I had to take revenge... She was killing me... I left her there.”... 2609 - 2649. P05. [Note-to-self: It is cold in the room and the researcher and co-observer are in straight-face mode. It may be a mixture of shock and even sorrow all round?]

The duty to report one's HIV status was raised as one of the underlying factors related to the participant's anger and aggression towards the described victim. The expressed emotions seemed in keeping with the hostility and frustration hallmarks of conflict that precede acts of violence as described in earlier sections in this chapter. A sense of hopelessness was expressed by P05, after his account of the ordeal, when he took stock of what had transpired through and around him:

“It's done. We are finished as a generation. HIV/AIDS has been brought in by God. We messed up with God. I must die because I killed. If it was just rape I would have been rehabilitated and come back. ... Satan makes you do it.”... 2786. P05. “They (the victims) can forget about it after a few years. Rape is not equal to murder.”... 2789. P05. “I planned to kill myself but then I thought of killing her instead... because she had given me a death sentence.”... 2609. P05.

The violent and fatal outburst was not left at just the one victim though. According to the participant and as confirmed via quantitative records, more victims were affected. Hopefully encouraged by the openness of the in-depth interviews, or other reasons, the participant openly and voluntarily accepted responsibility for some of the crimes he was accused of. At some stage during the in-depth interviews, he expressed suicidal ideation. Homicidal notions were never too far either, the researcher sensed. Ethical responsibility meant that he was referred appropriately to the responsible officials who could then deal with urgent dilemmas in his life, including the suicidality, whilst at the forensic unit. In his utterances lay the gist of the link between the participant discovering he may potentially have been infected by a specific individual and him lashing out violently in the form of suicidality and homicidality towards that specific individual and later others.

Both the cases used in this section illustrated the nuances of the relationship between HIV infection, power struggles in relationships and violence at the time of discovery or resultant conflict in the relationship. The implications for forensic psychiatry and the assessment of the effect of the neuropsychiatric condition on mental capacity in relation to an alleged crime become important during such forensic observations. For P01, the tension and struggle was about the suspicion that the infection had been brought into the relationship by him and his partner leaving him as a result. He also reflected on being ill and the effect that had on him. Agitation and hostility seemed to have been reflected during the period of doubt when his diagnosis had not been confirmed. After confirmation, there was reported calm. P05 is the opposite. In P05's case the anger surged after the diagnosis. Both scenarios fit in with a response to traumatic news.

In P05's narration the morbidity is of a large scale as the expressed doom and mayhem and the end of a generation results in far more damage than does P01's experience. For P05, the anxiety is also about the consequences of his actions and shows that sexual offending was surpassed by the seriousness of murder in the participant's worldview, it seemed. The sentiment came from a small but significant voice as the participant was also facing allegations of a sexual offence and a series of major charges that were intertwined with other forms of violence. The sense of hopelessness may have been a reflection of a personal journey through the system and in life. It should not have been a surprise and in a way it was not then when doom and mayhem about the end of a generation were expressed in a similar manner as described by Gwandure and Mayekiso (2011). Their proposal of use of social learning fear and guilt factors in inducing HIV/AIDS prevention in youth especially may be seen to be somewhat controversial although cognitive models of HIV prevention have been demonstrated to be relevant in similar populations elsewhere in Africa (Tenkorang and Maticka-Tyndale 2014). Social learning aside, there were beliefs, myths and perceptions that living with HIV implied a death sentence, as observed before stringent management factors were put in place by the health system in South Africa (Andrews and Wolmarans 2015:32; Rispel 2016).

Furthermore, some of the participants' lives including those in this section displayed what may be seen as the making of social and emotional adversity. Some came from broken families, had run away from home as children, and were exposed to social dehisence, sexual promiscuity, the effects of HIV in their communities and ultimately violence, by the time they were referred for forensic observation. So what seemed like an externalised force of doom in the statement made above may have been a reflection of the inner workings carried by others in similar circumstances. Suicidality and homicidal ideation are not uncommon in the forensic observation and prison settings given the high prevalence rates of mental illness and personality disorders as described in literature (Andersen 2004; Watzke, Ullrich and Marneros 2006). The violent lashing out discussed in this section has been demonstrated in the context of dyadic death studies too where individuals end their partners' as well as their lives upon receipt of news they are infected by HIV (Kotzé et al 2017).

5.5.4 THE PROCESS OF RESEARCHING HIV/AIDS DISCUSSIONS

HIV / AIDS Health education as per research protocol:

Processes in relation to discussions on HIV included a follow-up discussion outside of the research context where the nursing staff members sitting in as co-observer / interpreters would have a health education discussion with the participants to clarify and share information on HIV/AIDS. This was a commitment made at the time of the study approval by the University of Pretoria's Health Faculty Research Ethics Committee.

The mood in the room and reactivity:

Appropriate to the context of the discussions about HIV/AIDS, it was not surprising that the mood during most of the sessions can be described as sombre. There were either individuals who were living with HIV or individuals' whose lives had been affected by the diagnosis. Conversations were open and flowed freely. The rest of the discussions on the research process are undertaken in the next section and include processes significant to the entire chapter and not just HIV/AIDS.

5.6 THE PROCESS OF RESEARCHING SEXUALITY IN THE 'VILLAGE': THE RESEARCHER IN THE SPOTLIGHT

In the previous and other chapters focus has been much more about others and less about the researcher directly. The topics covered in the current chapter though necessitated that time be taken to reflect on the research process in relation to the researcher herself. Under several short summary headings below, highlights of what stood out for the researcher are given. Mixed research methods and other influences are pointed out where appropriate.

Exposure:

Generally, conversations on sexuality were not the easiest for a woman researcher in a male-dominated context. At times the conversations were threatening to the researcher in a different manner when compared to the sexual offending chapter processes but were intimidating nonetheless. It has to be noted though that the researcher at no stage felt under direct physical or other forms of harm. That said though, it can be confirmed that there were instances when emotions did run high with anger towards women in general. In those instances the researcher may have been perceived to be on the 'other' side – taking sides. The use of humour during 'heavy' and 'emotive' conversations has been discussed elsewhere. In the context of the current chapter, its use as a coping mechanism through difficult conversations is drawn out under the use of 'artistic expression' discussion.

Manipulation was another process of engagement to which the researcher felt exposed. A note-to-self at the time: "the participant (P01) promises he won't do this again (he won't refuse to continue with a session), if I bring him cigarettes". He had said: "If you buy me cigarettes I will talk". The participant said this outside the interviewing space after ending a session abruptly as the conversation was nearing a subject close to charges against him.

Meantime the researcher had initially been reluctant to do this kind of research work because of fear of vulnerability and that fear stayed in the background early on but disappeared after interaction with the first participant despite the demanding and perceived manipulative nature of that particular individual

outside the research space. The depiction of other forms of interaction used by participants within the research space follow directly.

Superficial engagement or non-engagement versus transparency:

During the interviews with some there was a sense that some of the participants were keeping the conversation superficial in certain parts. It was inferred that this was especially noted in those who had been accused of sexual offending. The superficial response was deemed appropriate under the circumstances as the concept of self-defence when accused of an alleged offence would be natural. The creation of spaces for upfront, frank and open conversations allowed freedom for participants to shift away from uncomfortable subjects when they saw it fit. In the context of a forensic observation environment this was not too light a feat to achieve. It assisted in reassuring the researcher that coercion was kept in check during the research process and transparency was upheld.

Another way in which coercion was minimised and transparency was enhanced was through direct reflection with participants on the research concept as well as on topics that would ordinarily be taboo or difficult to discuss between the genders. One participant openly accepted that: “Initially I wondered if it was some underground investigation, that’s part of things... The concept of the research doctor versus the observation doctor”... 5818 – 5832. C06. Another said: “Sugar daddy was not expected.”... 6235. P08 referring to the taboo nature of the topic. The sugar daddy phenomenon is covered extensively in the ‘Sexual offending’ chapter.

Exclusion from ‘men-only’ conversations was another way in which the researcher was kept in check by some of the participants. An example of such an engagement follows:

Q. Gender – specific duties in your context? A. Nil except some awkward things as a man... [In the room: reluctant to share with a woman, even the researcher.]

The participants would not reveal some “men only” things alluding to traditional belief systems and patriarchal systems – that meant women were not meant to be part of all conversations with men. It seemed the researcher simply because she was a woman, was being spared gory details either out of respect or out of disdain. Sharing with a woman was not a done thing. The co-observer in those instances would then be the preferred audience, a convenience in terms of the research design.

Reflexivity versus transference:

She always got calls at night... “What would you call that?” Q. What would YOU call that? ... 4957. C05. The depicted exchange is an example of how emotions that were probably initially intended for a female counterpart related to the accused were redirected to the researcher. The participant confronted the researcher as if she were to be drawn into the conversation as an active participant in an old argument. The researcher then reflected the question back to the participant as a response and in an

attempt to keep the conversation neutral. Reflecting at the time, the researcher noted that the participant was: ...not threatening at all, but agitated... the researcher is not shaken and has the advantage of being familiar with this emotional environment... In terms of the strengthening of the research method, it helped that the researcher's professional background came into play to keep the space neutral even in a non-therapeutic context. This was not the only or final such encounter as there were other times when the researcher was dragged into examples of dating where she may have exemplified a would-be partner. It became easier for the researcher to allow her being used as a surrogate in the process as a way of facilitating the flow of conversation to its natural end. The matter would then be redirected back to the conversation space to honour the natural order in the room.

At times, and beyond the issue of transference as described above, there would be inappropriate reference to the researcher, especially outside the 'room' and in contexts that would perhaps be viewed negatively had it been a forensic observation setting. When a participant shouted from across the yard and passed a comment on the researcher's dress style... "Where to Dr (as you are dressed nicely...)" The resultant blushing was out of shock. Others would flirt openly and privately make inquiries about the marital status or dating potential of the researcher (the latter to a co-observer). The research process prevailed though as there were far more redeeming factors to account for than not, as expressed below.

Artistic expressions:

And then there were moments where time got lost in space and we set aside that we were there other than to tell and listen to stories. There would be singing and a jovial mood even in the face of sombre discussions. A song by the "Rustenburg boys" became a lesson in point when the researcher was introduced to it during one of the discussions on marriage customs. The co-observer in the room, after a session with a participant had ended, had to explain different styles of marriage arrangements in the BaTswana people. This was new to the researcher and the simplest and the most accessible way of conveying the story for the co-observer/interpreter was to sing a song that carried the meaning... **"No, it's not the same as the 'Jonas Gwangwa' song"**... 1984. INT03 on C02, a further correction came. 'Writing in song' and the use of art in expressing what words could not carry became an adage and would be referenced throughout the rest of the writings as a stamp of the author's prerogative and liberty – a bit at a time. The freedom and liberty to 'write what I like', as Steve Biko is quoted to have said (Biko 1978), would come to mind despite scientific writing restrictions, needless to say, came to mind. The role of music in the data collection, analysis and write-up, kept the mood light in the face of hard and heavy material.

Sitting with co-observers:

The concept of sitting in with co-observers who functioned as translators of language and interpreters of research perspectives as well as extra voices representing men in society became fundamental to the current research. At times participants preferred speaking to the fellow male co-observer in the room

when it came to sexual matters. Where matters potentially became sensitive was when the observers changed over within the same case from being an ordinary nurse in the ward to being a research co-observer / interpreter. The change-over may have brought some kind of a disequilibrium and uncertainty to the participant. As far as the researcher could arrange, the obstacle of uncertainty was surmounted by the confidentiality factor that was emphasised throughout. Participants were reassured and had no reason to feel that the conversations that were taking place inside the research room were shared to those outside of the research process. And, secondly, the co-observers were generally people that the participants were familiar with even if they had changed over time because of duty calls. Finally, the changing over of co-observers may have strengthened the research process as it could be seen as an extra form of triangulation. The variation of observers may have meant that, where consistency in responses from different participants and different observers was noted, it reflected an authentic message about the same subjects from different sources at different times. That the main researcher remained a constant throughout all the conversations formed a link to the authenticity, consistency and stability of interactions, it was believed.

5.7 SUMMARY: EMERGING ASSERTIONS, THEORY AND IMPLICATIONS IN ‘WAYS OF RELATING’ SECTION

5.7.1 FOR RESEARCH

The definition of relevant local ‘transformative lenses’ that is proposed at the beginning of this chapter will require more grounded theory approaches in exploring local frameworks and respective lenses through which to look at factors relevant to sexual violence in the country. Methodology involving the construction of theory through the analysis of data as will have to be explored. In the context of the ‘Village’, there seems to be a need to understand sexual violence and violence in general in the context of the local environment using some local lenses grounded from the locals themselves.

The underlying psychosocial factors involved in the evolution of an ‘oppressed’ generation of men who are lashing out at women because of their pain also, need to be researched. They are numerous but there is a need to understand these factors so that society can make amendments that will lead to the prevention of the lashing out. The end of the lashing out may go together with an end to men perceiving themselves as a class of ‘oppressed’ persons and perhaps also an end to society perceiving men as the ‘oppressed oppressors’. The people who are presented to forensic psychiatry after the lashing out may still need to be rehabilitated even if they are not later declared state patients, meaning that they are competent and are either sentenced to a jail term or are not convicted. Furthermore, the prevention of criminal acts emanating from mental health instability in the context of the lashing out due to perceived ‘oppression’ and other social determinants of violence may become clearer through research, it is hoped.

Finally, in relation to research around issues raised in this chapter specifically, higher level questions for further exploration reside in the quandary of the role patriarchy plays in the choices and rights women have on their reproductive and sexual lives, relative to the social systems around them as well (Jewkes and Morrell 2010). There seems to be room for exploratory research in the local context to define what kind of peer relationships may be linked to intimate partner violence and sexual violence, also.

5.7.2 FOR PSYCHOSOCIAL FRAMEWORKS

The education of the youth from a young age about sexuality, violence and in particular sexual violence, intimate partner violence and domestic violence, and what it means in different forms is critical for South Africa. The education is probably important for the country to come out of its current climate of heightened levels of violence and sexual violence. Also, as raised above, the question of whether it is always sexual harassment or do men need to follow cues from women to know when it is threatening to be sexual violence versus when it is socially-acceptable behaviour, needs to be explored. Training in social cognition skills for young males and females is probably necessary. This includes those who may suffer from mental disorders that may have difficulty to learn from ‘the streets’.

Furthermore, in the ‘Sexual offending’ chapter, the issue of discipline was raised. In the current chapter, that the erosive effect of what is condoned as ‘manly’ behaviour in some patriarchal systems has to be reviewed, is unveiled. It is important for boys and girls to understand early what their responsibilities are in the cycle of relating with the ‘other’. It is especially important for children to grow up knowing different types of ‘forceful’ behaviours that need to be kept in check to preserve their dignity and that of others.

In terms of building theory around the concept of trust in relationships in the context of this study, it may have to be said that lack of trust is critical to the build-up of violence towards intimate partners and perhaps towards any other vulnerable other. Vulnerability and hostility can then become hallmarks forming a triad with ‘lack of trust’. Furthermore, hints of aggression and ‘bullying’ lurked in the background in the context of individual males that guarded their self-interest by isolating vulnerable women and disguised it as their rebellion against the oppression of men. Keeping women away from peers that may assist them in getting away from a dominating male partner may be perceived as a form of aggression viz. bullying by men. It is asserted that the guarding of self-interest by domineering males may possibly be linked to domination in the context of domestic and sexual violence. The question to be answered by all (men and women) would be about what factors can lead to frustration and violence?

Another tentative emerging assertion would be that because in some social context ‘men are scarce’, women ought to behave themselves once they find partners. In other words patriarchy may be saying

that a woman needs to have a man to be considered lucky as that is an advantage in a society that favours the masculine position. Is it then befitting for society, including women, to be intolerant of women if they ‘misbehave’ and squander their opportunities to be with men? Do women who opt out of relationships for whatever reasons get viewed as ‘wasteful’ and get treated with disdain? In the case of mentally ill males, do women who walk away get viewed in a different light? It is difficult to imagine so in the context of this ‘Village’. A different narrative for a mentally ill men may be that their partners may exploit them materially in the context of poverty.

When it comes to the sense of self-worth of men, the assertion is that men become violent because society through various means has eroded their sense of self-worth and has shown disrespect to them. Sexual and other forms of violence may be a manner in which men are re-asserting their self-esteem in a pathological manner. How society then may improve herself, is probably through raising boys and men who feel differently and care for themselves and others differently. To move away from the theme of ‘oppression’, young boys in early childhood development programmes may need to be taught the art of preserving one’s dignity and that of the other in order to preserve one’s self-esteem especially in romantic relationships (Centre for Disease Control 2017; Bruce 2010).

5.7.3 FOR LAW ENFORCEMENT:

There seems to be a perception that the judicial framework has thrown males under the bus so-to-say when it comes to protecting them from reverse-discrimination and oppression by women. The courts as well as SAPS are seen to be on the side of women and are assisting in the oppression of men. The irony is that whilst the oppression item is being decided upon, there are individuals who are affected by sexual violence directly and probably feel that the judicial system has failed them as well. This area of focus needs further exploration in order for perspectives to be tested.

Moreover, when it comes to certain kinds of conditions under which sexual offending may occur in the ‘Village’ of South Africa, child sexual offending may be easier to report outside the context of paedophilia, other paraphilias and paraphilic disorders. The courts seem not to view such conditions as anything more than punishable under the law. Paraphilic disorders are, overall, not frequently diagnosed in the local context – a reason for this may need to be explored research-wise. Anecdotally, it has been noticed that once a person is referred as a state patient and upon exploration of his or her background, patterns fitting paraphilia or paraphilic disorders may exist. What happens in the ‘Village’ about paraphilias and paraphilic disorders does not come through in the current research findings.

Lastly, there may be a need to review the suggested use of conciliatory traditional court systems in South Africa – but probably not for major crimes especially those that involve violence of any kind.

The clash between how conflict is resolved in traditional court systems versus the democratic state judicial systems probably needs further exploration.

5.8 SUMMARY OF EMERGING THEORY IN THE CHAPTER ‘LIFE BEFORE ARREST AND WAYS OF RELATING’:

Vulnerable individuals are targeted by vulnerable perpetrators who want to assert themselves by targeting perceived weaklings in society.

Rejection may be a factor in the social conceptualisation of sexual violence. The effect of the ‘rejection phenomenon’ on self-esteem may be linked to the later lashing out that may be seen in relationships and in society in general, by young and old men.

Hostility seems to be one of the hallmarks and precursors to aggression. Humiliation seems to be a strong partner to hostility and together they may form a formidable force that may worsen perceived threats from the environment.

Society exposes boys to trauma as much as it does girls, but then how boys react to it is by growing up to be men who traumatise others and this festers in a patriarchal context.

Men in some social contexts are stressed and perceive themselves to be oppressed by women and systems that foster women’s rights. Perceived oppression could have negative consequences on men like substance abuse, ill-health and violence including sexual violence. Although there are gender stereotypes that influence the narrative, men may become violent as a consequence of feeling stressed and oppressed ultimately. Men opt for violence and other harmful means as a form of retaliation to their feeling oppressed and stressed. Patriarchy may be fostering the perception of oppression in the wake of gender-based corrective policy and legislation.

Summative emerging theory A:

Attachment gaps + Adverse Childhood Events + Socially inadequate environments => Maladjusted vulnerable individuals who later are drawn to acts of violence that target other vulnerable victims within the same systems mostly or even external to their systems.

Summative emerging theory B:

Vulnerability + lack of trust + perceived oppression in the context of a patriarchal system => Hostility + Violence + Sexual violence in order to dominate because your self-esteem is low because of various issues.

Chapter 6

6 THE 'VILLAGE' - LIFE IN THE HANDS OF JUSTICE

6.1 INTRODUCTION

This chapter is about how the participants perceived their handling by law enforcement systems during the process of their arrest and thereafter. In the 'Findings' section the relationship between sexual offending and the justice system is discussed in various respects. It is discussed in the 'Sexual offending' chapter where some of the participants suggest that the occurrence of sexual offending is overestimated in the South African context partly because law enforcement systems (SAPS and courts) do not define sexual offending appropriately. The relationship is also reflected upon in the 'oppression of men' section where the majority of the participants feel that 'systems' of law and government are stacked against men because women's rights are overly emphasised by SAPS and the courts. The current chapter focuses on how participants, SO and NSO, perceived their management by law enforcement systems prior to and during the time of arrest in the community, after arrest in the SAPS cells, in court and in prison where applicable. Personal encounters are reflected upon but participants also share their general observations with regard to law enforcement systems and what, if any, improvements can be recommended.

'Justice delayed is justice denied', the adage goes. Delays in the throughput of legal cases as well as forensic observations have not improved over time for numerous reasons that go beyond the scope of the current discussion. It is suffice to acknowledge that this area of practice in South Africa has been known to be a sore point for all involved role-players (Mental Observation Protocol 2013). Forensic observation processes that have to take place when an individual is referred according to section 79 of the Criminal Procedure Act, 51 of 1977 contribute to these delays (CPA 1977). Time delay is not the only injustice and this is depicted in the ensuing discussion. The concerns about law enforcement systems explored herein are part of a bigger picture where society – the 'Village', has to step back and reflect on the purpose of having law enforcement systems if it is not to protect the rights of all. Both the human rights of victims and the rights of alleged perpetrators of crime who later become remand detainees, as well as those of society in general have to be considered continuously, it is proposed. When law enforcement systems do not function well, then the rights of those who need protection from potential offenders are also violated. When the adage becomes an ongoing reality for long tracts of time, questions have are asked of society.

Firstly, if the South African health, legal and correctional systems frameworks and their underlying philosophies, policies and societal mandates dictate that a healthy status for the population is an ultimate objective, as in most nations (Roberts, Hsiao, Berman and Reich 2008), then what can be done to improve the delivery of that condition?

Secondly, in the ‘Village’, to borrow from the overarching analogy, the policing and correctional systems are meant to rehabilitate those who are accused of violent crimes and to prevent further occurrence or recurrence of those crimes. The question is whether society is achieving this or whether the perception is that people, both victims and alleged perpetrators, may come out of those systems worse for wear as scholars like Foucault have suggested (1980). The participants had opinions on this and other discussions on how their lives had been since arrest – in the policing, court and prison spheres. Once again, the reflections were summarised from a perspective of prevention of sexual violence and other forms of violent crimes especially against vulnerable members of society with or without the involvement of mental health systems.

Lastly, society will probably have to reassess the ultimate objectives for having law enforcement and corrective justice systems and ask whether the intention has been to produce well-adjusted individuals in society after prison or merely to punish.

“My hypothesis is that the prison was linked from its beginning to a project for the transformation of individuals. People tend to suppose that the prison was a kind of refuse-dump for criminals, a dump whose disadvantages became apparent during use, giving rise to the conviction that the prisons must be reformed and made into means of transforming individuals. But this is not true: such texts, programmes and statements of intention were there from the beginning. The prison was meant to be an instrument, comparable with – and no less perfect than – the school, the barracks, or the hospital, acting with precision upon its individual subjects.” (Foucault 1980:39)

The participants decried the human rights violations they perceived to be meted out on them by society through its law enforcement systems at times. The discussions were driven from a male remand detainee rights perspective by the participants themselves. The research process during this specific topic in the interviews is also reflected upon by the researcher. Some surprise discoveries are made.

6.2 LIFE DURING ARREST

6.2.1 THE PERCEIVED ROLE OF THE 'COMMUNITY JUSTICE' SYSTEM VS. IMPEMPE (WHISTLE-BLOWING):

In the 'Sexual offending' chapter, the concept of community justice was raised as a systems response to an intolerable lawlessness that involved sexual and other kinds of violence in communities. The term 'community justice' has been coined by the author to reflect those processes that communities use to manage what they perceive to be lawlessness in the face of crime in their neighbourhoods. The term, in the context of the study, refers specifically to those processes that take place outside of the legal crime management framework of the country but are supposedly meant to be for the greater good of society as they are used to fight crime, according to their proponents. Policing and court systems are not involved in those system except at the time of managing resultant unlawfulness. The 'community justice' system may also be viewed as a perversion of the legislated format of community policing viz. the 'Community Police Forum' which is part of law enforcement.

Participants reflected on community justice in varying ways as some were affected directly when they were being 'arrested' and 'punished' by the community before the police were called in at the time of the incident for which they had been charged. Some may have been 'community justice' perpetrators themselves, as members of their communities. Individuals, whether mentally ill or not, reported being falsely accused or being used as scapegoats for crimes they may not have committed – an injustice, the participants felt. Human rights dilemmas were evident in the management of most of those affected.

'Community justice' conversations ensued from a positive-gone-negative place: **"There is a "Mpempe" (isiXhosa/Zulu: whistle: literal whistle blowing) for crime awareness... They must have blown it and then they say I raped the girl... They threw stones at me, I was scared."**... 1545. P04. In that case the 'Community Policing Forum' ('CPF') crime awareness and alerting systems (The Public Service Commission 2011:8) were overridden by 'community justice' when the participant was then assaulted by the same community that was assisting the reported victim. How often these occurred in the context of community policing could not be confirmed beyond what was given. It was a case of communities taking the law into their hands. The police had to intervene and despite negative sentiments regarding their ineffectiveness in other sections of the current study, appreciation for the positive was shown at times: **"The police came and rescued me (from the community that was attacking). The community came. I had to be in hospital... at the surgical unit"** (because of injuries inflicted by the community)... 1540. P04

Participants had varying opinions about the community taking matters into their hands: **"When you assault her, the girl can call the police or the community and the police. The community can**

assault you and then the girl influences them (to assault you). **It should depend on the person who was assaulted** (whether the police must be involved or not)... 459 – 464. C01

“The “CPF” – people go to them before going to the police when there’s a problem... “Mob justice” is not right.”... 1549. P04

Another participant had a similar experience and claimed false accusation by the community: **“I had been fetched by people, the community because they said I had tried to rape a woman... A stranger whose name I don’t know... I don’t know where...”** 6009 - 6011. P08

“Yes, the community did assault me with a sjambok and stabbed me with a knife on the hand... They stopped when the cops came...” **“No I was not assaulted by the SAPS”**... **“The police work well with the community.”**... 6023 – 6027. P08

The ‘mpempe’ seemed to be integral to community response systems in this context and the narratives around the origins of the whistle were also remarkable:

“Yes they do sort out situations where for an example a thug snatches a bag and someone blew a whistle. There are whistles ...from people who are striking at the mines... There would have been a meeting and it is decided that when something happens (you must blow a whistle)... **The whistles do not work because afterwards people get arrested. “They’ll bring big SAPS vans to arrest the community for assaulting a person for doing nothing.”**... 6823 – 6829. P09. [‘In the room’ there is a sense of bitterness from the participant as matters had turned badly for him during his arrest.]

“I do not agree with this community intervention... They are not linked to the courts. It is not okay because you may damage people who have done nothing wrong.”... 6845. P09

In that instance the participant was in his early 20’s and had been accused of a sexual offence against a minor and had shared that it was a false accusation.

The ‘mpempe’ also symbolised other times of distress linked to the mine workers who were the apparent suppliers of the whistles: **“Marikana, Wonderpark... It was not good. It was sore; we saw on TV and heard on the radio... It is not right, they wanted their money...”** 6850 – 6859. P09. ‘In the room’, the mood changes and there seems to be sadness brought on by the perceived injustice of the strike over and above the perceived injustice to the participant at the time of his arrest by the community.

6.2.2 THE PERCEIVED ROLE OF THE POLICE: “IF NO ONE’S DEAD THEY WON’T COME”

About the police:

“SAPS are controlling rape...The police should punish people who rape.”...6057; 6062.

P08. “Drug-dealers are to be dealt with. The police must get involved.” 4269 – 4271. C04.

However: **“There are houses that have police people that live in the community... It does not help that there are police around... They (SAPS) don’t come and help always... No, crime still carries on.”... 6863 – 6866. P09.** The police were at times also perceived to be non-responsive in various contexts related to gender-based violence and crime in general and thus were perceived to play a contributory role to ‘community justice’ as they left a gap for the illegal ‘community justice’ systems to fill: **“Even in my community both are crying for the police for different reasons” 1626. INT02.** (The victim would be crying for help, the alleged perpetrator would be crying to be saved from community justice.) **“If no one’s dead they won’t come” 1631. INT02.**

The comments came from a co-observer / interpreter’s reflections on what they had seen in their communities of origin as well, after the matter had been raised by a participant. A participant’s perspective resonated with the sentiment: **“It took the police two hours... “myekeleni” (isiZulu: leave him alone they were saying)... petrol was ready to douse me... people do this.”...1709. P04. “The people are tired because the police do not respond in time... even though the participant said: “Police are doing a good job because they saved me.”... 1719. INT01 on P04.** The participant and the co-observer describe a common complaint of how the police take time to arrive to assist people in distress.

There were further pockets of dissonance within communities in defence of the police:

Actually the SAPS are beginning to say that if there are guns involved it is better not to get involved because they get killed..... (An example is given of a community policing forum that did not work)... **Because there was no unity in the community... There’s different South Africa’s”** (Societal inequality as witnessed in certain communities)... 3709. INT04 on C03.

Police resources to cover the community’s needs were of concern:

“Maybe they cover 9/10 areas but they have no vehicles... When a person calls... Someone’s trying to kill or rape... They can’t respond... “They’ll take 2 hours and they’re 10 kilometres away”... There are not enough members... It feels they are not helping.”... 6576. C07.

6.2.3 OTHER COMMUNITY BASED SYSTEMS: TRADITIONAL AND NON-TRADITIONAL

“I also had the chief involved.”... 5400. C06 “At the chief’s place I asked for a letter to get my things and move out of the house... The chief said go to court... There was a chance that my house would be taken up... The chief was sought to try my luck because I had nowhere to go... I had tried other things to no end... At that stage I went to the SAPS and they were not going to help.”... 5433 – 5438. C06

“The chiefs of today send you to a lawyer... Chiefs of back then (would have solved it).”... 5860. INT01 on C06

“She put a protection order against me... I was issued with a “room 15” protection order.”... 5363 + 5368. C06. “I gave up on her “doing in and out”... That’s when I left my house and locked up... After she gave me a letter from “room 15”... 5402. C06.

(‘Room 15’ was explained to be an office where court protection orders are issued.)

The colloquialism ‘room 15’ (details changed to enhance confidentiality) served to posit the idea that in that particular community, the reporting of domestic violence was expected and was built into the fabric of the group. ‘Room 15’ seemed to be a place that gave assistance in relation to domestic violence. It had a relevance that went beyond the room number. The significance of the room for the participant was noted as a place of meaning-making. That perhaps signified some winnings for the social justice system that sought to alleviate the plight of potential victims but as stated elsewhere in the thesis, the justice system was not always deemed effective.

‘Room 15’ in this narrative was also seen as a threatening place where no justice was effected but where those in trouble could go for help, regardless. An evaluative research question here would be whether those who sought help through protection orders felt safe when their relationships reached heights of unbearable hostility. Moreover, and as equally important perhaps, the remnant involvement of the traditional chiefs in conflict resolution in the community forms part of the vestiges of the apartheid era where, for people of African descent, there was a separate justice system that was based on old traditional leadership systems (Armstrong 1994; Bae 2005). Whether those traditional leadership systems are effective in South Africa’s current constitutional democracy or not, is a debate beyond the scope of this thesis but is important for multisector social interventions.

‘Community justice’, as deciphered from the participants, referred to violent and punitive means of bringing fear ‘without a trial’ to those who were assumed to be guilty of crimes in the community – similar to the so-called ‘transitional justice mechanism’ of ‘ngozi’ as described by Benyera (2015). The aim seems to be to punish alleged offenders of any kinds of crime and thus protect potential victims – a purpose unlike what some scholars have defined as ‘collective violence’ (Littman and Paluck 2015). Littman and Paluck refer to collective violence that is perpetrated on behalf of a group by people who

are not by nature violent but are instead encouraged to be violent by virtue of being part of a collective (2015).

In the current study context the community justice group(s) perhaps use violence to achieve a social goal – retribution on behalf of and in defence of a victim (often vulnerable) from a perceived criminal offender. The aim may also be to instil fear and therefore discourage any potential or future criminal behaviour from other members of the community. It is often said to take place in communities where formal policing seems to be inadequate (Botha 2015; Martin 2010). ‘Vigilantism’ is a similar term used elsewhere in differing contexts that are faced with communal states of violence targeting specific groups or individuals (Kucera and Mares 2015; Sundar 2010; Jacobs, Carmichael and Kent 2016; Tyson 2013) and in methods like ‘the necklace’ in the 1980’s wave of violence in pre-and post-apartheid South Africa (Botha 2015). ‘Necklacing’ is a term used to describe the method of putting a car tyre around a person’s neck and setting it alight. Major crimes like murder, attempted murder and assault with intent to do grievous bodily harm by groups of people in communities may arise from acts of ‘community justice’. The community justice groups mentioned in the study however did not seem to be operating along the lines of gangs as described in literature (Littman and Paluck 2015). They seemed to be enforcing crime-free conditions in their communities by using violence in turn.

Irrespective of the reasons for inclusion and narration by some, the researcher observed ‘community justice’ concept to be a significant part of the social make up of some of the communities from which participants came. That kind of social law enforcement could not be ignored as it seemed to be integrated within the legal community policing concept of ‘Community Police Forums’ in the minds of the narrators. It would thus be important to explore this subject in future research looking at life experiences of those accused of offending in parts of the so-called ‘Village’ in order to help prevent the furtherance of violence in general. Exploration will also assist to set up systems where communities may begin to use and allow legal processes to take root so that cases including ‘sexual offences’ may be dealt with in a legal framework that will assist with speedy justice and rehabilitation for the victim and the perpetrator whether they come to mental health systems or not for recovery. Recovery, in the therapeutic sense of the word and as emphasized by the Mental Health Policy Framework for South Africa and Strategic Plan (MHF2020) (2013) may get affected by vigilantism at the time of rehabilitating would-be state patients or general mental health care users. The disturbance of the rehabilitation process may bring in further time delays to their return to their communities in turn.

6.3 LIFE IN COURT

The discussions on 'life in court' almost came as a given as individuals were admitted for forensic observation via court orders as part of section 79 of the CPA (1977). How participants perceived their handling by law enforcement structures came up. The exploration became about the participant's perception on how courts dealt with sexual offending and other violent crimes in general. The participants' observations about their personal experiences in the hands of the courts were also explored.

6.3.1 THE LAW AND SEXUAL OFFENDING – THEN AND NOW: “EVEN THE LAW DIDN'T RECOGNISE IT... BLACK PEOPLE DID NOT REPORT... NO POLICE SYSTEM... RAPE WAS NOT SEEN AS A SERIOUS THING.”

Some of the participants had perceptions that there had been a shift in the occurrence rate of sexual offending (generally referred to as 'rape' by most participants) during present day South Africa versus the 'old days' (before and during apartheid years up to 1994 South Africa). The perceived increase of 'rape' occurrence was ascribed to better reporting of sexual offending and awareness nowadays by some, and to increased incidence as a result of lawlessness and a failed court system by others.

It seems that in what was described as the pre-1994 old South Africa, **“Rape was not common.”**...Part of the reason was shame: **“If it became known (by others) then the person would be treated with less respect because they would have been perceived as having “invited” the rape by exposing themselves to the wrong place and the wrong time... They wouldn't go to the police and say I was raped... Even the law didn't recognise it... Black people did not report... The perpetrator would get 'traditional punishment'... The family of the girl would say how they would want the matter to be handled... As a girl you would be looked down upon (shamed)... but the stigma...that will go away... There was a local authority system... No police system... Rape was not seen as a serious thing.... The Police station would be 100km away and so she would be shy to tell... (Shy to go all the way to report something that would bring shame on you as a girl anyway).”**... 2085 – 2103. C02

And so, if a victim could not decide for herself, the question would be how justice was meted out then.

“Misbehaviour was solved by maybe fining you with a job to do or “lashes”... Murder was never a done thing. In rural areas there was never such...Not sure about rape.”...2460.

P05

The issue of non-reporting of sexual offences by the victim because of shame and stigma in the community and secondary victimisation through the policing and court systems came up in the 'Sexual offending' chapter as well (Bumiller 1987). The double-jeopardy that would have been experienced by a victim in the 'old days' would have been that on top of the shame and secondary victimization, there would be added 'non-handling' of such cases by the then court systems. The rights of women in court seemed to have been affected by both patriarchal community systems as well as by perceived

differential treatment by the court systems (Bumiller 1987). There seemed to be tension between communal value systems versus the victim's autonomy to report, as the family would make the decision on behalf of the woman or child and, as alluded to in the 'Sexual offending' chapter. Male adult victims would be unlikely to report either way. Society seemed to decide for victims that sexual violation was not to be taken that seriously – especially for women of African descent. The quantitative component of the study has shown a proportionally representative victim group country-demographics-wise in terms of race and this is confirmed by others too. That violence affects women of all backgrounds is known but the reaction by society has been questioned when it came to certain demographic groups (Scully 1995).

That sexual violence occurred in the 'old days' was not in doubt but when law enforcement systems failed the individual, there seemed to have been no recourse. When courts started taking sexual offending seriously, it was seen as something new that may have come when the apartheid government wanted to punish African folk for contravening certain laws. The Native Affairs Act (1913) that gave the administrative mandate to 'tribal councils' in rural land reserves allocated to people of African descent and to 'advisory councils' in urban areas (O'Malley 2004), was probably what the participants were alluding to. The assertion that emerged then was that courts or the justice and security systems as represented physically by magistrate's courts and police stations respectively, were not meant for Africans during apartheid. In essence, there was no need for such social justice and security systems because African communities would sort themselves out with their own 'native affairs' systems.

Just because there were no physical symbols of justice in certain communities did not mean that crime including sexual offending would not happen though. And, it appears as if the perception of a lacklustre take on sexual offending described above, may be occurring in some courts in South Africa and elsewhere still. The more recent illustrative case is that of the aforementioned Judge Camp, a South African who had become a court judge in Canada, who made lewd remarks about a victim and asked what physical attempts she made to stop an alleged perpetrator during a sexual assault, (Kassam 2017). Also, not so long ago, when the then ex-deputy president of South Africa was charged with rape, the courts and his supporters went out of their way to question the woman involved - 'Khwezi' (not her real name) (Gqola 2007; Gqola 2009). In 1850 that questioning of a would-be victim Anna Simpson was expected (Scully 1995); in 2007 it may have been tolerated with the 'Khwezi' case; but by 2016 it was not, as demonstrated by protesters (Pather 2016). A similar narrative came from the defence of the accused in the recent tennis star / coach Bob Hewitt case who was found guilty of sexual assault of young girls who, when they reached adulthood, laid complaints against him (Chutel 2015).

6.3.2 CAPITAL PUNISHMENT: THE COURTS MUST BRING THE “HANG PAAL” BACK

“Capital punishment demolition was a mistake. It would have saved government from a lot of things... Capital punishment in politics is different... They should not have done it. De Kock...”... 2789 – 2793. P05

And so upon encountering the participant’s perspective, it was asked of the co-observer / interpreter sitting in and the reflections were thus:

“We might have made a mistake. We may have been clouded by apartheid where people got killed for nothing.”... 2853. INT03 on P05.

“The TRC was good for the healing (of the nation). We needed to get a perspective... De Kock was an instrument of apartheid and therefore capital punishment was not issued.... “It’s a very thin line”...” 2855. INT03 on P05.

INT03 was commenting on how he perceived it as an injustice that Eugene De Kock, a pro-apartheid law enforcement officer who was convicted post-1994 of murders that took place during the apartheid years (O’Malley 2004), had not been given a death sentence because the post-1994 democratic constitutional dispensation had abolished capital punishment.

“During apartheid capital punishment was violence. During democracy capital punishment will be used to control violence.”... 2861. INT03 on P05.

INT03 was commenting on P05’s comments and it was ironic to him that the severity of charges against P05 would have been punishable by capital punishment had it been pre-1994. INT03, whilst reflecting on P05’s idea that scraping capital punishment was a mistake, gave a perspective on right-to-life issues viewed from a professional angle as well as from that of an ordinary citizen who had lost loved ones through crime.

Another participant recommended capital punishment as a solution for repeat sexual offending:

“The ‘hang paal’ does not work for rape because there are those who are falsely accused. It may be suited for frequent perpetrators. After first attempt nil “hang paal” (in case of false accusations)... (It was used)... During the time of apartheid.”...6718 – 6722. C07. “The courts must bring the ‘hang paal’ back (Afrikaans: hanging pole – capital punishment)... It will teach the criminals.”... 6625. C07

The sentiments shared by some of the commentators regarding sustainable solutions to violence were in keeping with ideas from some quarters in post-1994 South Africa. There have been ideas that the reconciliation and human rights perspectives that led to the abolishing of capital punishment may have been an overcompensation for the correction of apartheid-era violations (Bae 2005). According to Bae, more than 4200 individuals were executed between 1910 and 1989 (the date of the last recorded

execution) with half of that number executed at the height of apartheid political strife (in the years 1978 – 1988) (2005).

In the current study, the need to abolish capital punishment may have been apparent to some but others lamented the loss of control over violent crimes. This may also explain, according to some individuals in the study group, the perception that acts of sexual violence were mounting. The occurrence rate of sexual offending was not dampening because capital punishment had been abolished post-apartheid, they reasoned. Capital punishment was necessary especially for repeat sexual offenders, it was surmised. The notion to bring back capital punishment sits at the heart of a society that may be ambivalent about the means that are currently used to control crime and violence.

Suggestions are that the current levels of violence indicate a deeper-lying state of conflict than the TRC and other forms of conflict resolution could resolve. It is suggested that protracted conflict resolution theory approaches may have yielded more sustainable post-apartheid states of peace and justice than the short-term intervention provided by the TRC (Bradshaw 2002). For those who are asking for tougher measure to control violence in South Africa, pro-capital punishment notions may not be supported. The South African Constitution is the hindrance, unlike in other settings like the USA, where longstanding use of capital punishment has been likened to legitimised vigilantism by the state, (Jacobs et al 2016). The principle of not permitting the use of capital punishment as a retributive or political tool through the will of a majority, but rather abolishing it to preserve a fundamental right to life, is emphasised in South Africa (Constitution 1996: Chapter 2: Section 11; Bae 2005). Whether matters would ever reach a time where control will be lost by the democratic state and where citizens will take over law enforcement as described by Sundar, remains a debate (2010).

6.3.3 GENDER VERSUS RACIAL BIAS IN COURT:

When asked about perceived fairness during court processes some participants felt that, depending on who they appeared before, in court, there may be bias.

6.3.3.1 Gender-bias in court: “She does not defend me... She assumes she’s with the victim.”

“It is difficult if you don’t have finance... With Legal-Aid S.A. A woman... I saw her using her “womanhood”... The magistrate wanted to give me bail but the case had to be “stepped down”. She just confirmed the remand afterwards... She does not defend me... She assumes she’s with the victim... Women in a sexual case are ... (biased) ...Men will judge according to protocol... The magistrate... She’ll tell you about her feelings and... She’s not using Ubuntu (humaneness) ... Telling you, you are violent, you are a man... She

was moved... She's not involved in my case... I'm glad... Women are not supposed to do this... The magistrate in a case is a man (like it should be, it is implied)... 1231 – 1242. P02...
“The complainant's rights are followed according to protocol... You are a victim to death.”... 1265.P02

This section, although raised by one participant and is quoted here in a thick description, seems to touch on a question that often comes up for women psychiatrist expert witnesses in court too, anecdotally. If it could be raised in the medical sphere, then it being raised in the legal sphere ought not to have been a surprise to the researcher. The implied sentiment was that women could not be professional, neutral and objective in representing or in trying men in cases that involved gender-based violence, broadly, and sexual offending specifically. The opposite would be fair according to the participant – men representing and trying men in gender-based violence cases would be a more just process. Whether men could then represent women against men in court would be the next logical question. Could men be deemed to be more neutral with either gender in any configuration, it was wondered. The debate remained open. Of interest, recent utterances by a woman high court judge in South Africa, set the debate alight once more when she may have revealed race and gender-based forms of bias. Using a social media context, the particular court judge voiced a sentiment that black men were naturally sexually aggressive and so were expected to be sexually violent (Manyathi-Jele 2016).

6.3.3.2 Racial-bias in court

In order to avoid racial bias in court an interpreter / co-observer suggested: **“Magistrates and lawyers must reflect society** (demographics)... **...Magistrates and lawyers must reflect... Judicial systems must.”**... 1303 – 1307. INT02 on P02. This would enhance transparency according to INT02.

P02 had said: **“Different criminals of different races... So many mixed... that are not raised the same”** (not dealt with the same?)... 1267. P02

Another participant expressed no qualm, on the other hand: **“In court, there is an interpreter. There is also a magistrate. Usually it's a white person. I am satisfied with the progress of the case.”**... 3534. P07.

Perhaps the ambivalence reflected in the discussions represents what South Africa has been going through since 1994 – a difficult transition to a more representative and democratic judicial system. Although expected to occupy a big chunk of the debate, a lot on race matters has been covered in the section on ‘the law and sexual offending’. What was expressed in the section was that, even though South Africa was now a democracy post-1994, the legal system may have still been geared to doing things as if it were in the old days, however. Crime against or by people of Caucasian origin may have still been set as more important and was managed differently from crime against or by other groups

(Bae 2005). The African-American example of being worse off in a law enforcement system by virtue of being of a certain demographic background, has been given before (Jacobs et al 2016). The increased rate of incarceration of young black men including mentally ill black men has been documented in different settings (Gase, Glenn, Gomez, Kuo, Inkelas and Ponce 2016) and may be sustained even in the South African setting.

Taking the race versus gender-bias measures of discrimination into further consideration, it seems that, gender-bias related conversations may have been simpler to ponder upon than were race-based issues, as far as some of the participants were concerned. The focus on gender-based violence including sexual violence by law enforcement systems had been deemed to be exaggerated according to participants in the ‘sexual offending’ and the ‘oppression of men’ sections. Although in the ‘oppression of men’ section the system seemed dominated by women’s rights, according to participants, there was a possibility that prevention of gender-based violence including sexual violence may have been downplayed as it might have been competing with the protection of men’s rights. Also, participants may have been reflecting some of society’s inclination to deal with gender-bias debates more superficially because they may be deemed less important than racial-biases, some authors have suggested (Armstrong 1994). The apparent superficiality with which gender-based issues are handled may mean that the debate might remain superficial and less might be done to quell it over time in post-apartheid patriarchal political landscapes.

6.3.4 KNOWLEDGE OF COURT PROCEEDINGS:

The one participant who summarised the whole debacle comprehensively and gave his opinion on justice, fairness and rights in the court process is also one who tended to have fewer words than most as a sign of chronic illness – with an element of ‘poverty of speech’:

“Before that they kept on remanding the case and that was not good. I think to prevent that the investigation must not take too long. This “further investigation” thing. “Further investigation” means more evidence is needed...” 3528; 3538. P07

“The lawyer must speak to me. I don’t know which one is my lawyer. There’s no need to know him. He knows who I am. He will speak on my behalf. He will hear from the magistrate. They will hear from the police. A lawyer helps with bail and lessens the years you may get sentenced. The lawyer must speak to me... “The case, you will not win.”
[Smiling appropriately].

You all get convicted. I have never seen a person who doesn’t get convicted... I spent eight (8) months in jail. One month should be enough though. Being in prison is not nice.”... 3535. P07

That there were gaps in knowledge of some court proceedings for P07 is acknowledged but the ability to perceive all that went on in court and to be able to reflect appropriately is often part of what is reviewed during forensic observation. This area of mental capacity is often assumed to be lacking in those who suffer from chronic mental illness and yet this is often debatable and raises questions about the degree of ability according to Buchanan (2006). Mental capacity to stand trial is dealt with further under the ‘psychiatric features and forensic observations’ chapter.

6.3.4.1 Legal representation:

Self-representation:

There may have been confusion about court proceedings:

“I did bail for myself...I had asked for a lawyer but did not get one... I got rearrested... and I was dismayed by this as I thought I was done with the case (and so did not go to court)... No, bail does not mean the case is over ... I did not have a lawyer at that stage who would have explained to me what it meant to be on bail... Especially if you’re a first-time offender.”... 1398 - 1409. P03

There may have been mental capacity or stigma issues:

“When I entered the court... I said I will present myself... Later I saw I can’t do it... The court won’t take my statement because of my mental illness – they said I need to be assessed...”... 6591 – 6595. C07

And there may have been regret: **“It is useful to have a lawyer... I don’t know the court processes. I don’t know why I said that (I could defend myself)... Maybe I was not ‘myself’...”... 6599. C07**

Legal-Aid representation: ““Bayisana ejele” (they make you end up in jail)”

Some had faith in Legal-Aid lawyers despite their bad reputation:

“I have a lawyer... I think she will help... It is no problem that it is not a private lawyer even though (Legal-Aid) lawyers... “Bayisana ejele” (they make you end up in jail)... I do not have finances to pay private lawyers... I’m not sure why it works better to have a private lawyer.”...1668 - 1678. P04.

Some, though, did not have any hope in Legal-Aid lawyers:

“The state lawyer (Legal-Aid) is helping them send you away”... 5213. C05

“People do not trust Legal-Aid lawyers to win their cases because... they are part of the state...” 5969 – 5976. P08

“I am not so sure about that... I heard my brother saying that the paid one will win the case. The Legal-Aid lawyer might not even come to court... My family is paying a lot of money... 7022. P09

Poverty and the inability to afford sound legal representation was seen as a disadvantage – and what the researcher would describe as part of the theme of ‘injustice’. Basically, if you could not afford a private lawyer, you would not get adequate representation according to some of the participants. Legal –Aid was perceived as less effective in representing the individual who could not afford a private lawyer in some but not all respects. Legal –Aid as a ‘brand’ and as an institution that stands for the rights of those who need their legal rights preserved according to the constitution of the country, may need to reflect on some of the given perspectives (Constitution 1996:S.35). Legal-Aid was perceived by others to be a state-sponsored entity that could not be neutral when representing those accused before the law.

Legal representation and poverty: “Ummeli uyancwilisana.” (A lawyer will let you sink.) “Money-making lawyers”

“I don’t see how my rights are preserved. ... Our courts assist when people have money... But the authority says I’m guilty... If I had money I would get an advocate and that would change things”... 2739 - 2740. P05

“No, I do not have a lawyer. They do as they please anyway. “Ummeli uyancwilisana.” (A lawyer will let you sink.)... Money-making lawyers. I refused as I did not want a lawyer initially. They’re just creating work for themselves... How can you represent me when I can tell the story myself? ... 2985. P06

“I had a lawyer but we have run out of money... “You’ll go back to jail if you’re poor.”... 4781 - 5216. C05. “No difference. A private lawyer wants me out because he wants his money... They will lie for you to get you out.”... 6603 – 6605. C07

“I’m not sure, the lawyer that I have paid for, my mother does not have money to pay for this case.”... 7019. P09

“My opinion is that “I will not get justice” as have had to pay money for private psychometrist and pay money for legal services, the psychiatrist report... Non-payment determines whether you get the report or not.” (From private entities)...2143 – 2148. C02

Legal representation is recognised as a human right in South Africa and yet many of the participants perceived inequality before the law based on affordability of good quality legal representatives. It may be time to review the system and to consider a concept of universal legal coverage while the country is considering universal health coverage. This concept as reflected upon in literature may mean a fairer footing for all in the justice system (Constitution 1996: S.27; United Nations 2008; European Court of Human Rights 2010).

6.3.4.2 Awareness of legal rights:

“The process has been painful, stressful and the outcome uncertain.” ...“my case has taken long.” 1881 - 1886. C02

“The case commenced (10 years ago) and it was dropped then for a referral, like now.” 3828. C03

“The case has taken 2 years.”... 5741. C06

“It is a long time since my case started... The results are taking too long.”... 3261. P06

“They don’t want to hear anything from you”... It’s like they’re taking your life.”... 5198. C05

“No, there is no justice... Look at what happened with the DNA results.”... 2688. P05. **“I don’t see how my rights are preserved... Our courts assist when people have money.”**... 2739. P05

“No, I don’t think they will sentence me. My sister, the one who called the police and laid charges against me, wants to withdraw the charges... The magistrate has refused to withdraw the charges. Those that are charged with rape get cases withdrawn but others not.”... 4368. C04

The last comment was made by a participant (C04) who was accused of nonsexual charges against a family member and was known to be a patient with a chronic mental health condition which may or may not have affected him at the time of the alleged incident. He, together with other participants, seemed to have taken time, even before they participated in the research, to review the manner in which their rights in court were handled. Some also had experience of the adage ‘justice delayed, justice denied’ as discussed earlier in this section. There was also inference of corruptible processes as seen in the participant’s comment just below. Awareness of legal rights ought to have been a foregone conclusion within the legal rights framework of all those who are before the law, it was believed. Whether this prevailed for the participants and does prevail in South Africa generally seems to be of no certainty if the reflections in the current study are to be held reasonable. The following captures the ultimate despondency and outrage:

“There’s no justice in South Africa.”... 5199. C05. **Justice works for people who are in government or people in the justice system... The only people who survive are those who have government people (contacts) for them.”**... 5210. C05

6.3.4.3 Summary: Life in court

In the current discussion, the oppression of men assertion has been applied from a different angle but still links up to earlier discussions on how the perceived oppression may result in increased hostility and aggression towards women. Now, it seems it may link up to a dampened response to the social problem of gender-based violence, also. The ‘oppression of men’ concept seems to be emerging as a ‘central phenomenon’ in grounded theory terms (Creswell 2013:89).

Emerging assertions and theories:

Vulnerable men due to perceived oppression of men + vulnerable victims who are blamed + hostility + frustration + patriarchal judicial systems = dampening of systemic prevention and responses to IPV + GBV + SO as gender related matters are dealt with superficially as opposed to e.g. racial-bias matters in post-apartheid SA.

Racism may be held as a more important problem than are gender issues in the South African context? Perhaps that may be the reason that despite the perception of the ‘Mbeki’ 50/50 gender equality drive, sexual offences courts were still scrapped in the early 2000 (Walker and Louw 2003).

The double-jeopardy effect may be in place if you are appearing in court and you are a black man accused of offending against a female victim (of any race); and you appear before a woman judge and you have a woman legal representative, you may be doomed?

6.4 LIFE IN PRISON

Perhaps no other law-enforcing system captures the ethos of a country’s justice system better than the prison system, as the late past-president of South Africa Nelson Mandela said:

“It is said that no one truly knows a nation until one has been inside its jails. A nation should not be judged by how it treats its highest citizens, but its lowest ones.” Amnesty International web article on 22 May 2015, 15:40 UTC.

The focus in this section will be on remand detainees and as such does not reflect the more correctional post-conviction side of prison services but the pre-conviction side. From a lay perspective the basic premise of being innocent until proven guilty ought to mean that you are an ordinary citizen with ordinary rights until otherwise declared by a court of law. That an individual has been accused of a heinous crime means that society, the ‘Village’, has to stop and attend to the complainant as well as ask questions of the alleged perpetrator. The judicial system and other law enforcement agencies are tasked with this inquiry and the lack of faith in such systems has been demonstrated in the sections on ‘life in the community and life in court’ above.

The current section will cover the participants' perceptions of life in prison whilst awaiting trial. The accounts are both reflections on their own processes as well as their general observations of the remand detainee prison systems. The accounts are not generalisable but give a probably fair indication of what may be prevalent in other systems as well. The participants in the study had been referred for observation at the forensic observation unit at Weskoppies hospital from various courts in Northern Gauteng, parts of North West province and in some instances from Mpumalanga and Southern Gauteng when the need arose. The list makes up the drainage area of the Weskoppies hospital forensic unit. The prison facilities described by the participants cover all these areas but shall not be specified for the sake of confidentiality. Some labelling references may be altered to protect the identity of the participants as well as the specific prisons. How individuals were arrested, the conditions of the places in which they were kept and the effect of life in prison on the remand detainees. Conversations are summarised in terms of the process of being arrested, the prison environment, prison systems and role-players in places, and the remand detainees in the environment.

6.4.1 LIFE IN PRISON AND THE QUALITY OF LIFE: WHEN THEY PICK YOU UP: “UZOZWA PHAMBILI NDODA”... (THE EQUIVALENT OF ‘YOU HAVE A RIGHT TO REMAIN SILENT’ IN ISIZULU)

“People were shocked that I was getting arrested and accused of these crimes. Those who protected me.... I disappointed a lot of people.”... 2796. P05

“The presence of the police did not stop the people from hitting me. I was taken to the hospital as I was injured... 2900. P06. No, the rights paper was not given to me. A lady came and asked at the police cells instead.”... 2905. P06

“(My relative) saw me being arrested... (Another family member) came out and gave me old clothes and a jersey. New clothes get taken (in jail).”...“They (SAPS) told me that they are fetching me and they said I will hear once we got to the police station why I was being arrested... Uzozwa phambili ndoda.”(IsiZulu: You’ll hear when we get there, man)... 6880 – 6884. P09

Police brutality at the time of arrest was cited by some:

“It’s the police that hit me instead. They hit me and hurt me with ‘hakabooi’ (Tsotsitaal: handcuffs)... and put me in a police cell and proceeded to assault me with my hands tied to the back.”... 3919. C04.

Participants in this section cited the lack of observation of their rights at the time of arrest. This read together with the earlier assertion that some participants believed that too many men were being arrested by the police for reasons that did not qualify to be called rape or because of false accusations, raised the

tone of injustice a bit higher. In simple terms, the resultant word was that not only might one be falsely accused but one might also be subjected to human rights abuses at the time of arrest.

6.4.2 THE PHYSICAL ENVIRONMENT AND THE ‘FOLA’ (FALL IN LINE) SYSTEMS

“Life is unhealthy in jail.”

Once arrested, the individual would be exposed to further trauma by way of the physical environment and other systems in prison, it emerged. Overcrowding in police or prison cells seemed to be a universal occurrence. Numbers were variable and sometimes confusing even for the participants. The effects were similar though – poor quality unhygienic overcrowded facilities with a shortage of resources like blankets and food were described:

“There are **66 people in one room**. Others fight. Not us. I did not talk too much. I did have friends...There are **40 people per section... We were 25 people in a cell.**”... 1562. P03

“There is **90 people in one room.**”... 3837. C03 “**For food that is not enough; for 1000 people in 6 cells (overcrowding). Or when there are no blankets.**”... 2815. P05

There was discomfort at being locked up the whole time in prison:

“**I hate being locked up for long hours.**”... 5730. C06.

“**There (in prison) we are locked up the whole time.**”... 6202 – 6205. P08.

And whilst locked up the whole time you were in unhygienic spaces:

“**Life is unhealthy in jail... The reception cell had lice / bed bugs in the beds.**”... 5703. C06.

“**Cleanliness is important... You’re not people; you’re pigs**”... 5730. C06.

Hygiene standards were not always dire, however, and that was illustrated by P09 in his account of different facilities even if his was an isolated account: “**At prison A you had double-bunk beds.... It was a clean place with clean beds and, yes, the mattresses were clean too... At prison B the beds have bugs... There are no beds or mattresses.**”... 7044 – 7052. P09

The “Fola” system: How to stay out of trouble: Obey the rules... (Fall in line)

“**Fola means follow and fall in line–down; Also, it means fall down and squat in “2-2” (two-by-two).**”... 4606. C05. “**They treat you as a criminal. Swearing at you... “Do that.”**”... “**If you talk back they give you a hiding... Fellow prisoners and warders alike**” (they treat you the same)... 6445. C07. “**I read the Bible, pray and sleep.**”... “**Fola and rules**” (queue up)... 6456. C07. And if you did not ‘fola’... the ‘Fridge’ systems was used: “**Sometimes they beat you up and put you in the fridge... It’s a fridge where they put dead**

bodies... Maybe you'll sleep in a single cell... For not following the rules... "For jumping the yellow line."... 4777. C05

6.4.3 THE PEOPLE: "THERE ARE THOSE WHO CAN ACCEPT YOU THE WAY YOU ARE"... "THERE ARE PEOPLE WHO HATE PEOPLE"... "HE LOOKS OLD BECAUSE THEY DON'T SMILE"...

This section covers the people in the prison environment and how they interacted with each other and the world around them from various aspects. It is presented mostly in the form of a narrative.

Characters:

"In jail you are all the same... In my cell there were "big cases"..." 5701. C06 [In the room: the participant seems boastful]..."I was with a guy who was accused of rape. As we knew each other as... as neighbours... When you get in you see that you must hang with your other street guys... "The house of 26". 517. C01. Knowing people in the right places, at the right time seemed to be a source of pride for some of the participants. At times an individual would not necessarily want to be with others for various reasons. "There are different characters of life... There are those who can accept you the way you are... There are people who hate people."... 4595. C05. "You don't have to trust people in prison..." "A hellish place"... I was scared... I had anxiety... I asked this guy how old he was and he said he was 21... "He looks old because they don't smile!"... "I thought he was old and it turns out he was younger than me."... 4601 - 4602. C05. (The participant was in his mid-20s at the time of the interview). There was lightness of mood as well as sadness in the room as laughter seemed to be an attempt to elevate the participant's sense of fear about prison life... The subcode in the discussion was that prison culture aged a person. Because of the misery there was bitterness and an unhappy person would tend to look older.

Institutionalised subpopulations:

"There are people who love being in prison"... "Babaratang to be in prison" (who like to be in prison)... "They'll get bail and then he'll be gone on a Wednesday and be back on a Monday – he had re-offended - How? (You ask yourself)...4648. C05. This sentiment was presented by other participants too: "There are people who like to stay there... They go out and come back again."... 5714. C06... The courts have tried but the man in jail... says this is my home or house... and will rape and go to jail and then come out and rape again... 6621 – 6623. C07 (Simultaneous coding in 'Sexual offending chapter'.)

The recurring theme that was emerging was that some of the participants had observed the phenomenon of a revolving door syndrome that is often seen in those who become institutionalised. In the forensic and the general mental health spheres, repeat offending and / or repeated admissions, respectively, of

those who may happen to be mentally ill is not a new phenomenon and has been observed over time (Harris and Bergman 1984; Frick, Frick, Langguth, Landgrebe, Hübner-Liebermann, Hajak, and Clelland 2013). The replica of this phenomenon in the prison subculture may be leading the discussion to theoretical frameworks on recidivism and prevention models. The common conceptual link between those in prison and those who are institutionalised in specialised psychiatric hospitals would be that of recidivism prevention. Room for rehabilitation and recovery back to the community of origin of a remand or convicted detainee or a state patient may have to be the focus in both contexts - utilising perhaps similar approaches. Recent literature though has questioned some of the approaches used in prison rehabilitation programmes and found them not to be assisting detainees but that the programmes were used to further the administrative regulations that entrenched institutionalisation (Gannon and Ward 2014). The question will be whether the same questions can be asked of forensic mental health rehabilitation programmes. Would rehabilitation programmes be seen to be worsening the revolving-door syndrome and thus churning out big numbers of those ‘people who hate other people’, ‘babaratang prison’ and who ‘look older than their ages’ as referred to in the context of the current study’s findings? Lack of effective community based programmes, once individuals are placed back in their communities, has been discussed as a gap in the current thesis (see ‘Final’ chapters). There seems also to be room to resound past and recent calls to review prison systems in South Africa and elsewhere (Foucault 1980; Harvey 2002; Gannon and Ward 2014).

Gangsterism and sexual brutality

In the pre-trial prison systems from which the participants came, there seemed to be active forms of gangsterism:

- Gang formations:

“Gangster groups. RAF-3. Royal Africa Family – 3. My friends from our area (at home) formed a gang. I needed protection from rough treatment.”... “The 26, 27, 28... RAF 3, 4, 5... For protection from other gangs.”... “The (prison) police did not care... They’ll take your “besoek” (food provisions) instead... 3834 - 3838. C03.

As previously noted, the brutality was meted out by both prison officers as well as by fellow inmates including gangs. There seemed to be no control over gang activity. And those who chose to be left out of the gang system were not necessarily spared always.

- Nomoro system (Numbers system):

“There are these **“Numbers People”**...” 4608. C05. There seemed to be a system coined by the participants which, once second and third cycle data analysis were done, emerged as a distinct theme and concept in the mapping of life in prison. It had been mentioned in different contexts too as seen

below. The 'Numbers' system did not just use Tsotsitaal as its lingo Franca, but it also had an organisational structure fitting into the concept of gangsterism. There were different numbers gangs and there were different dialects of what was spoken as well as rules falling beyond what was called the 'Fola' system (see below).

“The language is different... Bangak’hleba (isiZulu: they can gossip about you in your presence) even in your own language... They leave the (ordinary) language outside.”... 4690 – 4694. C05.

The participant got to the place where he assessed and professed the 'Nomoro' language to be different by himself - saturation during data collection in qualitative research terms on the existence of the 'Number' system had been reached by then.

- The Nomoro system was not harmless: consensual sexual relationships vs. sexual violence:

“I hear “there were guys who were like a man and a woman”... “Most people were married in my cell”... 5707 + 5711. C06... “And the sister (lady warder) says do you have a “blue card”... “She said they’ll make you a ‘wife’... ‘Mosadi”” (seTswana: Mosadi: A wife)... “There’s so many sentenced (inmates)... 4690 – 4706. C05

“Yes, they asked me to sleep with people that I didn’t even know. I didn’t even know what they were saying... It is these people who talk about numbers “Nomoro” – the 28’s... 26’s... They wanted to sleep with me... They slept with 28’s... You get assigned who you will sleep with when they assign you a number... I told them I did not want a number.”... 7053 – 7060. P09

For this participant and others accused of sexual offending themselves, the irony of being exposed to the same sexual violence that they were arrested for, was striking. There may have been a system of prisoner – to – prisoner punishment for those who had been accused of sexual offending especially. In those instances fellow prisoners seemed to be taking it upon themselves to punish alleged sex offenders. See 'Sexual violence in prison' section below.

- Sexual violence: Awumenzi umuntu nendoda (A man can't make a person with a man):

“I was attacked (sexually assaulted) by another prisoner in jail.”... 3301. P06 . He was found and charged and I was asked whether I wanted to change cells and I said no. I was ill. I confronted him. I wanted to fight. I had not ever experienced that... Maybe if we find each other outside... (Threatening tone)... Maybe it happens to others. We need victims to protect themselves... I can kill him when outside.... Awumenzi umuntu nendoda. (IsiZulu: You can't make a person with a man = It is unnatural for a man to try to make a baby with a man)... 3304 - 3306. P06

The participant P06 was accused of a sexual offence against minor(s). Despite that, in the room, there was still empathy and an element of surprise when he broke the news of his own sexual assault in prison (see 'Process' section below). The irony of the empathy and that he felt that strongly about his own sexual violation despite the charges against him would have to take the discussion in the 'Sexual offending' chapter into consideration. The discussion in that chapter had held that definitions of 'sexual force' versus 'rape' and other forms of sexual violation may at times be perceived by some to be ordinary depending on their interpretation and their context. Some might think being 'forceful' is not the same as 'rape' and thus may not be a sexual offence. The participant had not openly admitted to any charge(s) against himself – and this was appropriate as the protocol had stated upfront that participants would be protected from discussing their cases directly unless on a voluntary basis. That he implied a point that comes up in discussions of this nature is of interest though.

One of the implications from his statement was that a male could not sexually engage another male and, technically then, ought not to 'force' another male sexually. But, a male can force a female because she is naturally created as one and he can make a child with her. (A male cannot make a child with another male in nature.) Patriarchy and cultural relativism may apply as explanations in this context (Bhabani Shankar Nayak 2013) in that it seemed that relative to their context in society, females could be treated differently to males because of their differing natural dispositions. The ability of females to bear children is their natural function and so their sexual violation is relatively more sensible than that of males, it may have been implied.

Patriarchy, sexual brutality and its effect in male prison systems has been researched and consensual sexual relations and sexual orientation of the involved individuals versus prison culture effects and sexual violence have been difficult to separate (Moolman 2015). Given studies that show that the Correctional Service department may not always have full capacity to run all the facilities with or without its collaborative partners (Harvey 2002), there will be ongoing debates around the matter of sexual violence in prison system. The plight of those in prison whether they are affected by mental illness or not in that context becomes complex. The balance to that debate is the question of rights to sexual activity whilst in the pre-trial section of a prison as well as the effect of gangsterism on such rights.

6.4.4 THE SYSTEMS - PRISON CONTROL SYSTEMS: WARDERS AND CELL-MONITORS

The prison-warder system, 'protection' and brutality: "it's necessary for them to be harsh"...

Verbalised sentiments about prison control systems reflected a sense of resignation at one's fate when in the remand detainee section. In some way, some reflected a notion that the environment ought to

remain harsh so as to dissuade anyone from returning to it. People needed to be discouraged from re-offending by exposing them to hardship in prison.

“Treated with harshness in jail...because it’s necessary for them to be harsh.”... 1464. P03

“I wouldn’t want them to change it (the prison system)... It’s unhealthy for human beings.” (And therefore discourages bad behaviour once you have been exposed, it is implied.)... 5716 – 5717. C06

“About the warders... You ask yourself: “Does he get angry when he comes to work?”... But there are exceptions... XXX is old and treats people nicely... He says things are better now... He used to be like that.” ... 4761. C05

“Prison warders treated others badly especially if you’re naughty... I protected myself by paying... The boss of the area would say “what do you have for us?”... With R29.00 they will get you a bed... with R55.00 (something else)... 5707 + 5710. C06

Q. Protection ya (of) R55 airtime from what. A. **“Homosexual sex or as the days go by, there’s lots of fights.”... Q. How do they protect you from that? “The guy is safe. They speak in their own language.”... 5841. C06.** The language system alluded to, revealed a significant part of how the prison system was organised and its effect on the individuals that went through it (see the section on ‘Gangsterism’).

The ‘prison-monitor’ system and brutality in general:

There was an attempt at order as well, albeit utilising the remand detainees themselves. The prison-monitor system seemed to be employed by most of the correctional facilities in a formalised manner:

“The cell-leaders go through elections... Their function is to keep order...because there are different people with different personalities.”... 1466 – 1467. P03 ‘Ngena phuma’ (isiZulu: in and out) ... 1561. P03

“The fellow prisoners that look after the cells are of two types. A “cell-monitor” and then another one who looks after the stock and materials that you need in the cell... You do get “treatment” (initiation) there as well. I reported to the “induna” (the chief)... 4350 - 4357. C04

One could also get allocated work in exchange for some comforts. Sometimes the allocation was at a bit of a cost: **“You had to get smart and organised in prison to protect yourself, as well... I told the police officer “bayangihlupha” (they’re troubling me)... He took me there to be a cleaner... It’s nice... until they say you must unblock the toilet!”** [Laughter in the room]. But then the benefits seemed to be worth it: (As a cleaner) **“you gain experience in how the prison is organised...**

Cleaners get up first... They shower first which amounts to gaining a privacy benefit.”... 4609 - 4616. C05 [In the room: the mood is light in the room because of the injection of humour]....

“Life is not good “Akgo sharp” (it is not good)... They will kill you there amongst unknown people... If you have money in prison B they will kill you... They will send you to your maker... I told the guy I will give him all my things.”... 7064 – 7067. P09

“You are treated like something that does not have life... You are a human being that is behaving like an animal.”... 4591. C05

This **thing of being displayed for people and warders to see**... 2836. P05. The participant was describing mockery and humiliation because of perceived severity of charges against him at the time of his imprisonment. It seemed that both the prison-warders and fellow prisoners could be equally brutal.

In general, systematised attempts at order seemed to be made up of both formal and informal correctional services systems. Formal systems were represented by prison warders and organised support systems. Informal order systems were represented by what seemed to have grown out of formal regulated systems into something that could at best be referred to as manifestations of ‘prison culture’. By ‘prison’ culture in the context of the current study the researcher is referring to a way of relating between prisoners and the world around them. How they interacted with each other, the warders and other role players was portrayed. What was of note was that, out of all the mentioned ‘systems’, correctional psychological and social support systems were not volunteered often. This area may need further exploration via research.

6.4.5 THE SYSTEMS – GOODS, DRUGS AND SERVICES: “THERE IS A TRADING SYSTEM VIA A “CAGE” BETWEEN BUILDINGS”

The management of goods in the prison environment seemed to be under the influence of both the prison-warder and gang systems. The seemed to be a dual system which on the one hand was resource-scarce (as described above) and on the other hand seemed to have a monetary system of its own. The currency establishment seemed to be food, materials like clothes, drugs and sexual services. Any of those could be used in a battering system.

“The police don’t treat us the same... There are those who ask for your ‘visit’ (‘besoek’)... (Remember) I had said the warders don’t buy food – only a few by food... There’s a shop open on a Monday until 15h00... They sell food in bulk... It’s very expensive... I don’t know whose shop it is... Let’s take just living in prison... I had ± R4000; and more... It just got used up... (My family)... In 4 months I used ± R16 000 sitting inside... And that’s not counting the lawyer fees... 4726 – 4737. C05

“Trial-awaiting prisoners make things worse. They sell each other off. They can buy a prisoner for tobacco and things they bring drugs into the section. They arrest some of them for bringing drugs.”... 2826. P05

“There are those who like it (who like to return to prison deliberately) for business and sell drugs... There is a trading system via a “cage” between buildings... It may be “cash”... 5718. C06.

“Dagga was easily available. Fellow prisoners sell. The police sell for them and get paid back. Others hide it inside packages like a loaf of bread 3839. C03

“Some prisoners smoke Nyaope”... They get it (substances) when they attend court and they put in their buttocks... “No one gets caught”... They smoke in the cells... 6448 – 6452. C07

“Drugs do come in, yes... People bring them in by putting them in their buttocks. They can also come in with the police or the warders... 4362. C04. [In the room: the participant seemed apprehensive and had to be reassured that information provided was strictly confidential as per research protocol and that his identity would be concealed].

For the rest, it emerged from most that substance abuse and drug peddling were rife inside prison. The question that remains is the effect of this in the management of those individual who may have substance use disorders and other psychiatric conditions whilst in prison. By the time individuals are presented for forensic observation, their mental status may be altered already and this may have an impact on their ability to stand trial and the cascade that follows may cause them to be declared state patients according to the Criminal Procedure Act.

6.4.6 THE SYSTEMS - RELIGION AND SPIRITUALITY

The role of religion, spirituality and belief systems seemed important for some whilst in prison. There was a mixture of a formalised pastoral care system and an informal system that was managed by some of the fellow inmates themselves. Some of the participants revealed that they themselves would interact with fellow remand detainees along these lines as well – playing differing roles:

“There’s church on Wednesdays and Sundays as well... with fellow inmates... No, not minister... We do not judge if a person is an inmate.”... 1645. P04

“I could not talk to people, even the doctor (in prison)... She’d try and cheer me up... I used to think I’m different from those people”... I told them to leave me alone... “I changed”... I wanted to see what’s wrong with me (for ending up like this).”... 4654. C05.

“There was this guy who is a police officer (an inmate), who told me to go to the church.”...
4662. C05

Coping skills that had been learnt during previous therapy sessions, prior to imprisonment, made a difference and worked toward self-preservation according to the above participant.

“What has healed me is being with others even whilst in prison...”... 1867. C02

“They say this about my case... “Talk to her and she drops the case”...”... 5215. C05.

The last given line was advice after the participant was charged for intimate partner violence (IPV). The examples given above seem to show that even in prison, there seems to be an informal counselling process from fellow prisoners when necessary. Whether this may not be room for the introduction of more resources and formalised processes in the form of rehabilitation by professionals where there are gaps, for any individual that has been arrested whether they end up convicted or not, is the question. Table 29 displays the difficult emotions that some of the participants were dealing with from the time of arrest up to the time they were referred for forensic observation. The time-lapse was variable as already demonstrated in the section: ‘Life in court: Awareness of legal rights’. Table 29 when read in conjunction with the section ‘Living with mental illness: Stigma’ in the ‘Psychiatric features’ chapter, demonstrates that perceptions of self do not only invoke emotional distress but represent stigma and self-imposed stigmata throughout and after the process of arrest as described in that chapter. Overall the emerging theme is that religion and the ability to exercise one’s spirituality whilst imprisoned may play a big role in lending emotional stability to some.

Table 29: Perceptions of self after arrest: By self and by others

SELF	FAMILY AND OTHERS
I’m calm...My life is fine... “If only the stigma can come down”... It troubles me that they bug me... My future... I must isolate myself... No friends, no accusations... 1660. P04	My main support is my sister-in-law... My siblings show no support. My relatives supported me... They say they are scared of me when I do not take medication. 6678. C07
I was being accused of something I did not do. 1394. P03	I have support from my mother and my sister... 6211. P08
I don’t know what went wrong...I don’t want to hate myself... 5181. C05	My sister said we will move... 1554. P04
My perception of myself has not changed through this time, no... My community does not know I was accused of this... My family will not change their perception of me... “My family takes me just as I am.” 3543. P07 (Denied the SO charges)	My mother said this thing has gotten me into trouble. My sister (cousin) also said the matter will go to trial... 7009. P09 I told them that she wanted me to sleep with her. When she came back home that day, I had told my

	grandma about her (the victim's) behaviour... 7012. P09
I see myself as a bad person. It got to a point where I wanted to kill myself... [Signs and symptoms]... 3284. P06... Simultaneous coding because there may be underlying mental illness... I have thoughts that I can kill myself or others... 3286. P06	My community “Bambheka” (They look at me) different... A. “Kwenzakalani outie yami...” (What’s happening my friend)... If you make one mistake after 25 years (of your life)... 4589. C05 (Regret about being in prison)...
I ask myself why me... Also people die. Others did not go to jail... I’m not saying those people have better lawyers... 6588. C07 (Justice + Fairness + Cases in South Africa in recent times + Implied money + justice element)... I have not changed... 6691. C07	My in-laws have taken my children... My life is stuck and his (the wife’s lover) carries on...5744. C06 For now I’m still angry at her... 5749. C06 Some accept the situation...They are with me some are not... They give alternatives on what I could have done... My family understands ... 5751. C06
My life is messed up. I don’t have anything... I live in a shack... 5734. C06 I used to like expensive clothes... I used to change cars and furniture... “Internally I see myself as a zero – a hobo”... 5757. C06	Even my friends when they come and see me... The say I am so fair in complexion (typical expression used when one looks pale because s/he has been indoors a lot lately, implying that he has been in prison and has not been getting much sun) ... I do not tell people easily that I was in prison. I don’t want to get involved with them. I do not go out of the yard too much... 6889 – 6894. P09 (Self-isolation)
My uncle once burnt me with a cigarette butt and he accused me of looking at his woman and burnt me with a cigarette... He doesn’t trust me with his woman... He warns me and threatens to shock me with his stick... He uses it for protecting himself... We’ve always not gotten along... 7089 – 7095. P09 My community is also angry about this guy... A. We couldn’t confront this guy. He was older remember... 5686. C06. (Double-jeopardy) # ¹⁷	My family said all will be well “go tla loka”... I do not know why (they are accusing me)... 6901. P09 About work knowing... A. When you do good [sic] and are on the safe side, you worry about your image... And I was surprised they were supportive when I got back... They gave me a warning but did not dismiss me... 5047 – 5049. C05 (Workplace support vs. self-imposed stigma)

¹⁷ Memoing during analysis: They did not attack this guy because he was older. Traditionally an older person is given more respect? Is it a function of gender? Because he is a man he is shown respect or those around him exercise self-restraint? And yet we have seen older women subjected to all sorts of violence because of their age and gender and sometimes their mental illness or disability (Chappell and Havens 1980).

6.4.7 LIFE IN PRISON: WHEN YOU'RE MENTALLY ILL: 'THE PROTECTIVE CLOAK OF MENTAL ILLNESS' VS. THE UNTOUCHABLES AND THEIR HUMAN RIGHTS VIOLATIONS

The overarching response from those who also happened to be mentally ill whilst under arrest was that of being treated differently. Even in prison it seemed, mental illness set you apart and ironically spare you from some of the abuse described in this chapter.

"I have been kept in different cells... Life is okay... They want your things... My sister when she visits she brings these things that they want to take from you... We call the provisions "besoek"..." Embedded theme: abuse in prison: **"No I have not experienced abuse in prison..."** Some others of us do get treatment from the prison hospital... The warders can even assault you...**They don't tease me."**... 1558 – 1565. P04.

The underlying impression was that this was a form of discrimination that was paying off technically as they are wary of mentally ill people and this may have been double discrimination.

Also, another form of discrimination is the lack of access to mental health care services whilst imprisoned. If a person was mentally ill whilst in prison, there may not have been adequate treatment – as confirmed by some of the participants.

"I was depressed and did not get treatment... My depression started then."... 5700. C06
"No, I did not receive any treatment in prison. Yes I was mentally unwell at that stage until I left prison."... 3595. P07

"I was not well in prison when I got arrested. I did not see much. I would sleep and eat, sleep and eat. They did not take me for treatment until I went back home."... 3830 - 3831. C03

"I was kept in prison A and then prison B (confidentiality). I think they were scared of me because I was mentally ill."... 3832. C03 Cf. 1558 – 1562. P04. Differential treatment in prison because of stigmatization of mental illness meant that they would leave you alone because you were mentally ill and scary, and not because you had a right to be left in peace.

As crowded as the rooms and cells seemed to have been in the various prison sections, it seemed there was an invisible shroud over a mentally ill person - a cloak made up of aloneness and stigma that rendered it possible to be given space even in a cramped situation. There interaction of these with signs and symptoms of e.g. depression or negative signs of schizophrenia would be a step too far to take on the content analysis and interpretation course. The discussion does coincide with what has been shown in literature all along though: the theme of overcrowding and overrepresentation of mental illness in prison that seems to have been prevalent in the current context (Andersen 2004). With young and black people; and added to that, mental illness, the concept of the double jeopardy hypothesis of double or

more discrimination as a factor of belonging to multiply disadvantaged groups could be assumed as has happened elsewhere in literature though be it specific to other groups (Chappell and Havens 1980; Das-Munshi, Stewart, Morgan, Nazroo, Thornicroft and Prince 2016). Black males in particular especially if of an immigrant population seem to be caught in the system (Nakatani 2012). The same seems to be happening in South African prisons even though the majority population in focus is not migrant, according to the current study sample.

The Correctional Service Act 19 of 1998 and regulations make it mandatory that all individuals incarcerated within South African prison systems need to receive all the necessary medical assistance whilst imprisoned. For mental health care needs that are too challenging for the Correctional Service medical system, the MHCA and its regulations can be applied. It seems there are gaps in the current provision of services and this may not bode well for the imprisoned population of mental health care users in need – as research shows (Harvey 2002; Andersen 2004).

A fitting summary of the discussion above is given by a participant, who may or may not have been mentally ill himself during his time in prison. He gives an account of spending time briefly in a section set aside for mentally ill individuals in prison:

“The other time I observed difficulty) was in the “Marabastad cell”... I had to stay there whilst I was waiting for observation at Weskoppies... It looks like Marabastad (a merchant zone in downtown Pretoria city)... It is dirty and not organised... You won’t want to be there... They call you a patient... I don’t understand... “Lo akathathi kahle” (isiZulu: this one is not mentally well) ... Instead of a clean place... where you can gather your thoughts... They put you in a place like that... I was there only for one night by mistake... I was from court and “I fola in the wrong place”... [In the room: there is shared humour despite the dark content]... You can’t change (once you fola in the wrong place)... They will “klap you” (hit you in the face with an open hand)... “I fola’d on the wrong side”... 4746 - 4757. C05

6.4.8 LIFE IN PRISON: FOOD

The section on food in prison had to get its own heading because of the profound effect it seemed to have on some of the participants. There was expressed trauma when they described the dirty prison environment. There was expressed trauma when they described hardship and severe human rights violations they had observed within correctional systems. Nothing tended to bring out bitterness and humour at the same time as did the food topic, though. The original interviewing schedule did not have ‘food in prison’ as a standalone feature. Conversations regarding prison life in general led to discussions on food and, with each participant, different points of emphasis would emerge. What was observed as a contrasting factor, was that for those individuals who may have been lower functioning socially for

various reasons and / or may have been from poorer backgrounds at the time of arrest, there may have been less complaining about the quality of the food. In other words, a person who did not have regular meals on a day-to-day basis might have felt comfortable at a place where meals were regular. Overall though, even the researcher was confronted with unanticipated accounts on the topic of food. The following rich thick descriptions are illustrative highlights.

Prison life, food, and developing a sense of humour in the face of meanness: “a spadeful of pap”

“We get... pumpkin, cabbage, and a “spadeful of pap”... That’s what you get in prison... And then “you get this very small spoon of chicken”. On top of that because of the “fola” system once you miss out you can’t turn back... The plates are divided in three (3) parts... and then you have tea in those plates [he demonstrates]... “There may have been cups but they are all taken”... 4618 - 4622. C05 **In prison you have to eat very fast** (or there may be negative consequences for eating slow.)... **Uboshiwe but usebenza ekhishini and you are mean...** (IsiZulu: the prisoner that works in the kitchen is himself under arrest and yet he is mean to others in turn)... **This caused my heart to break** (witnessing the abuse of others by fellow inmates).”... **“I told them I’m gonna write a book... What I’ve seen here is not the way you treat people... I eat fast because of this... The next day they remember that “Ulo ospeedayo”** (Tsotsitaal: there goes the one who thinks he is clever)... **You get punished for speaking up “wa speeda”** (Tsotsitaal: you think you’re clever)”... 4626 – 4640. C05

Cabbage: O ya ejele kgoyo ja cabbage (You go to prison to eat cabbage).

“I hated cabbage... “Cabbage is always there”... “Lephutsi (seSotho: pumpkin) is always there”... 4638 – 4639. C05

“I had to force myself because I needed to nourish myself... “O ya ejele kgoyo ja cabbage.” (SeSotho: You go to prison to eat cabbage)... 4719. C05

“Everything is bad. The food... You get pap and a small egg... Pap and cabbage... It made me hate cabbage... “Ojela (seTswana: you eat) to sustain yourself.”... 5705. C06

“I was fine with the setting... There was good food like pap; veggies; and meat.”... 6199. P08 Cf. 5705. C06 and C05. The varying perspectives on the quality of life in prison referred to above depended on the differing socio-economic status of the participants vs. their differing levels of social functioning as well as the variability of prisons and sections within correctional systems.

The relationship with food could also mark sadness:

“I spent 3 weeks without eating initially... “I hated myself because of what I had done”... “Where I was”... 4634 – 4636. C05. “I was feeling down... I wanted to die... I was angry with myself... I started seeing the pastor at the hospital... The pastor said I need God... He

prayed for me... I started eating well and taking medication to calm me down.”... 4641 - 4647. C05

Food may have also been a bargaining tool in an almost hunger-strike:

“It is hard but it’s okay for a person like me. You get food and sleep... I do not eat often but it is not a hunger strike to fight with them for my rights. Hunger strikes occur when e.g. certain items are not allowed in. This happens often... for food that is not enough... 2811 – 2815. P05

“There was overcrowding... and the food system” (was inadequate)...1863. C02

Generally, about ‘Life in prison’, the following may give a summary: **“Life in prison. The good and the bad. Good is friends; bad is drugs; violence; direct threat to one’s life; “the food is not good”; many people in one cell; “my privacy is violated”; “it takes a long time to go through a case.”... 1220. P02.** When it was all put together the overwhelming sense was that of experienced trauma.

“You wake up, eat, and sleep.”... 525. C01. “Feelings... inyama nomphefumlo are somewhere else (Your body and soul are somewhere else)”... 1459. P03.

6.5 RECOMMENDATIONS TO CORRECTIONAL SERVICE DEPARTMENT FROM REMAND DETAINEES:

- It depends on the management and the police... Corruption starts at the top and comes down. By the time it gets to us the prisoners it’s like a playground. “Siyazenzela”... (We’re doing as we please)... 4709. C05. You start at the top so that the people...they must fix themselves... 5221. C05
- They won’t listen. They hit a person in front of the police. People get assaulted in front of the police to a point they can’t sit on their behinds... “There is no hope”... 7068. P09
- There’s “umlungu la” (a white guy here) who says prison is like a rehabilitation... “Correctional service” but the question is are they making corrections? A. I don’t have problems... I told him I was in section XX where you get treated differently... In that section they keep police officers under arrest... 4712. C05
- They would need to install CCTV’s in the cells... And (control) the use of cell phones... Control the prison but how... CCTV’s... A. Then prison warders can be exposed... 5719. C06
- The prison system has to review its Food Service sections – to bring about humaneness

6.6 THE PROCESS OF RESEARCHING ‘LIFE IN THE HANDS OF JUSTICE’:

Reflexivity:

One of the participants surprised the researcher when he said being in court was similar to participating in the current research process at the time. The statement was made early enough for the researcher to incorporate it into discussions about how the participants felt about the research process. It became a worthwhile exercise as it helped the researcher in adjusting questions to ensure the participants’ levels of comfort were maintained.

When a participant referred to the researcher’s interest in his story, and how curious he was about that interest, there was a moment of surprise. Focus was being turned from the participant to the researcher - an unexpected but justified shift. Although the scrutiny was short-lived, it brought focus to the tension between the researcher’s need to bring parts of self into the research process and the need to keep the researcher out as far as possible because of the sensitive nature of the discussions.

Language in the room:

Tsotsitaal seemed a universal lingo Franca for the participants. The researcher would get stuck at times and would need the voice of the interpreter to understand some of the underlying meanings. It was a recurring theme throughout. Everyone spoke Tsotsitaal – a surprise to the researcher. The effect and the significance of Tsotsitaal is covered in the ‘Final’ chapters.

Informed consent and the willingness to talk about difficult times:

Discussions during recruitment allowed for honesty and strengthened authenticity in the interviews especially in those related to traumatic events as experienced in prison. Preparation seemed to have helped individuals to participate more fully. They had been told about the importance of honesty and openness as well as the ‘safety’ of sharing ‘in the room’. More than one participant saw an opportunity to “help the researcher and participate” as well. Some of the sharing became crude though. The crudeness may have been for shock effect – an attempt to shock the interviewer, perhaps exposing personality traits of the person being interviewed. Or, it could have been just an expression of language and nothing more, perhaps.

Overall participants were willing to talk about life in prison as it seemed this was an important topic and was a cathartic exercise for them. Whilst telling prison stories too, humour emerged as it seemed necessary to lighten up the mood as the subject was emotionally difficult – as seen elsewhere in the research study. “He took me there to be a cleaner... It’s nice... until they say you must unblock the toilet!”

Memoing during the research process:

As the interviews progressed, one could not help but have empathy for the participants as they were describing their ordeal in prison and in the hands of community justice. The empathy was balanced by shock at times when some of the participants volunteered some of the things they had done to their victims. Empathy for the victims was continuously in the researcher's background also. The irony of those accused of a sexual offence being themselves exposed to sexual assault in prison was an example of the moral precipice upon which each stood. Aside from the 'shocking' stories, empathy for the traumatic events the accused had gone through would re-emerge every so often. The first time the researcher saw one of the participants in shackles, when the police fetched him from the observation ward, the depth of the emotional work that was going on within the research process was crystallised.

Memoing during write up - paradigms shifting:

The researcher may be reviewing the whole punishment sentiment around correctional services. That the remand detainees are not yet proven guilty and are yet treated in a manner so brutal that one is being punished without trial is difficult to digest. Moreover, if they are eventually not proven guilty, arresting and prosecuting the wrong person is as bad as not catching the right person, if not worse – for the victim as well. The speedier and more efficient the trial the better the justice served to all involved. How society deals with those who are found guilty is also a matter for further debate (see 'Final' chapters).

6.7 SUMMARY DISCUSSION OF THE CHAPTER ON 'LIFE IN THE HANDS OF JUSTICE'

The prevailing sentiment in the current chapter is that there is lack of faith in law enforcement including the justice systems in the country. The rights of alleged perpetrators are not preserved by their communities of origin and the communities themselves feel unprotected by the same law enforcement systems for varying reasons. Once arrested, legal processes are seen as slow, inaccessible and inefficient. Poor legal representation and unfair treatment in court and in prison also prevail, it is asserted. Justice for accused individuals seems delayed and denied. By implication, justice is then delayed and denied for victims as well, the researcher asserts.

Adding to the emerging assertion of vulnerable men who want to assert themselves in society that was raised in the preceding 'Ways of relating' chapter, the current chapter highlights that once men are accused of offending, they, in turn, may be exposed to trauma in the justice and correctional systems they enter. The perceived 'oppression of men' assertion seems to be emerging from a different angle in the current. Oppressive law enforcement systems may be adding to rebound of hostility, frustration and ultimately, aggressive outbursts by vulnerable men. The perceived 'oppression of men' concept seems to be emerging as a 'central' phenomenon in grounded theory terms (Creswell 2013:89). Bias and gender-based unfair treatment in court are perceived to add to the problem, despite the context of a

patriarchal legal framework. Further, ironically and in contrast to the plight of men, because of hostility it may be that law enforcement systems in turn have a dampened response to gender-based violence. Gender-based violence may not be perceived to be as serious as race—based violence, for instance?

Perhaps the theory of relativism and universalism of ‘human’ (men and women) rights versus separated concepts of ‘men’s rights’ or ‘women’s rights’ has become as important as touted (Bhabani Shankar Nayak 2013) and may apply in the current discussion. Both victims and accused individuals may be feeling the injustice of the same law enforcement and judicial systems. There may be universal feelings of despondency on both sides. From a prevention of sexual violence perspective, the role of law enforcement systems in responding firmly to the challenge is emphasised.

In the chapter on ‘Sexual offending’ when the issue of family secrets and sexual offending came up, it was felt by some that the concept of ‘ubuntu’ (isiNguni: humaneness) must apply. It was felt that matters of sexual offending needed to be dealt with within family and community systems and not by court systems so that the accused individuals did not end up in prison – a worse-off disposition. In South Africa, however, the ‘Village’ has signed up to a different creed that hands over such matters to law enforcement agencies. Despite attempts to preserve all individuals’ constitutional rights, both the complainants and alleged perpetrators’ rights seem not well preserved in that constitutional creed, and in the hands of ‘justice’ systems, though. Human dignity and further exposure to trauma seem debatable.

As far as forensic mental health contexts are concerned, the question of setting up mental health systems in court so that trauma can be minimised and minor cases can be fast tracked and referred to psychiatric services, subject to judicial conditions, has been raised over time (Redlich, Steadman, Monahan, Petrila and Griffin 2005). This would alleviate pressure on the ‘justice’ system so that more serious charges like sexual offending could be dealt with more efficiently. The other question of whether mentally ill people, once proven guilty, ought not to be sentenced to a term in forensic psychiatric systems to be just and fair and to streamline discharge processes, has also been raised as noted above (Kaliski 2012). Ultimately, the question whether society is raising a generation that will grow up in prison and / or psychiatric hospitals, continues to emerge.

Emergent assertions and theories:

Vulnerable men due to perceived oppression of men + vulnerable victims who are blamed + hostility + frustration + patriarchal judicial systems = dampening of systemic prevention and judicial responses to IPV + GBV + SO as gender related matters may be dealt with superficially in court as opposed to e.g. racial-bias matters in post-apartheid South Africa. The question of whether the dismantling of racism is more important than that of gender inequality, despite the highlighted efforts of the ‘Mbeki’ 50/50 woman’s rights drive, may need to be explored further.

The double-jeopardy effect: if you are in court and are a black African, poor, male and are accused of violating a female victim, and you are being tried before a female judge and are represented by a female lawyer, you are doomed – according to the emerging assertions.

Another double-jeopardy effect: the ‘revolving door’ syndrome may lengthen the trial and if one is suspected of mental illness and becomes a state patient, one might spend more time in a psychiatric hospital than if serving a prison sentence for the same charge. This is worsened by the lack of appropriate rehabilitation resources in prison, specialised psychiatric hospitals and the community as far as mental health issues are concerned.

In other words: Offending + Mental illness = Longer incarceration in an already lengthy trial system = diminished observation of human rights in the process of those who may be mentally ill.

The current correctional support systems, if available, seem to be geared towards assisting individuals in the ‘post-conviction’ phase. Support systems seem not to be available for those who are not found guilty and are yet traumatised by the systems. There seems to be no atonement for having been exposed if one is found not guilty. There may be a need for rehabilitation to prevent further adversity even if not convicted, if one has spent time in prison. Those who end up in the system, whether found guilty of their charges or not, may then be supported in a humane way. This would fit in with the prevention of mental health adversities models that may have been alluded to so far in discussions. Prevention of brutality in law enforcement systems is probably the ultimate solution.

6.8 IMPLICATIONS:

6.8.1 FOR RESEARCH:

In terms of community justice and the legal framework, it may be important to explore in future research the life experiences of those accused of offending in parts of the ‘Village’ in order to help prevent furtherance of violence in general. Exploration will also assist to set up systems where communities may begin to use and allow legal processes to take root so that cases including ‘sexual offences’ may be dealt with in a legal framework that will assist in speedy justice and rehabilitation for the victim and the perpetrator. Community awareness programmes may not be adequate in lowering ‘community justice’ and exposure to trauma of those who are being arrested including those who may be mentally ill at the time of ‘arrest’. Further studies and interventions at community level are warranted.

6.8.2 FOR FORENSIC PSYCHIATRY:

By the time individuals present for observation, they seem to have gone through experiences that may have traumatised them and affected their psychiatric presentation beyond the time of an alleged offence. It is possible that at times, at the time of observation, that trauma-related matters experienced through the ‘community justice’ and in the hands of law enforcement systems may be ‘normalised’ and thus

might be down-played by accused individuals and not be picked up and referred for care treatment and rehabilitation in the awaiting-trial prison system.

Recent literature though has questioned some of the approaches used in prison rehabilitation programmes and found them not to be assisting the detainee but that they were used to further the administrative regulations that entrench institutionalisation (Gannon and Ward 2014). The question may be whether the same questions can be asked of forensic mental health rehabilitation programmes. Can rehabilitation programmes be seen to be worsening the revolving-door syndrome? The lack of community based programmes once the individual is placed back in his or her community has been discussed as a gap in the emerging theoretical model in the current thesis (see 'Final' chapters). Calls for a complete review of the ethos and the philosophy behind the management of those declared as state patients from a human rights perspective seem to be coming up relentlessly over time (Kaliski 2012). The discussions on human rights of those who eventually become state patients and are held in specialised psychiatric hospitals for periods of times longer than would be incurred if they had been sentenced for their charges instead is under scrutiny locally and globally (Freeman, Kolappa, de Almeida, Kleinman, Makhshvili, Phakathi et al 2015; Kaliski 2012). Before they are considered state patients, the right to stand trial and the right to a trial of facts of the charges against remand detainees, especially if they seem to be mentally ill, also need to be reviewed (Skilling 2010; Howard 2012).

It may assist the forensic mental health system to study prison systems further as some of the persons that get incarcerated in the pre-trial sections of prisons as the participants were, may then be referred to forensic mental health units as state patients for rehabilitation (according to section 79 of the Criminal Procedure Act, 51 of 1977) or even as convicted mentally-ill prisoners (according to section 50 of the Mental Health care Act 17 of 2002), thereafter. It may be that similarities between some prison culture systems and some of the populations of long-staying state patient systems are influenced by the prison environment during the time they spend in prison as remand detainees, before their court trials are concluded. The human rights of those who would then become state patients and thus by implication may not be responsible for their criminal actions perhaps or may not be able to stand trial, may be violated as early as at the stage they are rendered remand detainees. If they end up not declared state patients, the question about their human rights would still be relevant.

Vulnerability to human rights violations may also need to be viewed from the perspective of those who are not found guilty of charges against them who may walk away without any assistance in terms of recovery. Recovery would be from the trauma of having been accused in the first place and then of having been exposed to trauma during imprisonment. There could be long-term mental health sequelae post-exposure to prison. Mental health service needs of this specific group would need to be attended to in order to prevent a cascade of trauma re-enactment that may lead to further violence.

6.8.3 FOR JUSTICE AND LEGAL – AID SYSTEMS:

‘Community justice’ and mob violence seem to affect some communities: measures to prevent through community awareness programmes may assist, however, whilst the judicial system is perceived to be failing, as reflected upon by participants in the current study, more human rights may be violated through the hands of ‘community justice’, meantime.

The brand reputation of the Legal-Aid institution may need to be reviewed as there seems to be a perception that Legal-Aid is state-sponsored and therefore is biased against the remand detainees they represent. Whether this perception is fair or not is open to debate. Its effect on those working within that institution will probably be profound and may need to become a research focus within Legal-Aid. Legal representation is recognised as a human right in South Africa and it may be time to review the system and to consider ways of improving equality before the law – a constitutional right.

Poverty, unemployment and inequality (PUI) are perpetuating ‘old system’ perceptions of disenfranchised victims as well as those accused of sexual and other kinds of violent offences. By not doing a fair job on either side, sexual violence is perpetuated. Efforts by the judicial system in addressing the plight of both victims and accused individuals seem to need revitalisation in order for prevention and recidivism models to work. Perceived race and gender-bias imbalances may also need to be explored.

6.8.4 FOR CORRECTIONAL SERVICE:

An overhaul of ‘Life in prison’ systems is a human right necessity. There seems to be exposure to trauma, abuse and exploitation of remand detainees by everyone: by fellow prisoners (besoek, gangs, protection), by correctional services officers (‘besoek’, ‘the fridge’, protection money), and by the system (perception of a general sense of inadequate resources for remand detainees). Perhaps the system will have to correct itself from the top-down as recommended by some of the participants.

Abuse and exploitation of mentally ill remand detainees seems to be worse in some centres: the group awaiting transfer to Weskoppies hospital for forensic observation is treated differently in some prisons if there are signs of mental illness. There seems to be stigma even in prison when mental illness is suspected.

Of all the mentioned support systems, psychological and social support service systems seem not to be emphasised in the remand detainee sections in prisons. Whether this is because of omissions by the current study’s participants or that these systems are not very well represented in remand detainee sections is not clear and might need further exploration with research. Religious, spiritual and medical interventions seemed to be fairly represented as a support system.

Care treatment and rehabilitation of overtly mentally ill remand detainees seems inconsistent and yet systems are in place in terms of legislation. Might it be a problem of access on the ground?

6.8.5 FOR SOCIAL DEVELOPMENT SYSTEMS:

The challenge is on for the entire 'Village' as represented by social developmental commitments at population level and in the words of Foucault:

“In 1820 it was already understood that the prisons, far from transforming criminals into honest citizens, serve only to manufacture new criminals and to drive existing criminals even deeper into criminality.” (Foucault 1980:40)

SECTION III: FINAL CHAPTERS

Chapter 7: Theoretical underpinnings

Chapter 8: Reflections on the research process; Final summary

Chapter 7

7 DISCUSSION: THEORETICAL UNDERPINNINGS

7.1 INTRODUCTION

The current section will discuss the “theoretical, substantive, or practical problems (that) the analysis most closely aligned” (Creswell 2013:262). It will also attempt to answer the question: “How does my theory make a fresh contribution?” (Charmaz 2006:155,156 as quoted by Creswell 2013:262). The manner in which literature and theory will be presented in the ‘Theoretical underpinnings’ section follows the premise that in research work like the current, literature evidence is better introduced after the presentation of results if findings are derived inductively. The literature review is used to demonstrate the alignment of the findings to any existing research work rather than to show the theoretical underpinnings of the research question or hypothesis. This approach in mixed research methods tends to lean towards a more qualitative style of presenting critical evidence from other scholars. The approach resembles what would be considered a combination of a ‘literature review’ and a ‘discussion’ in quantitative research approaches. A review of theoretical underpinnings of the most pertinent frameworks and /or models of understanding that match the current research findings the closest, according to the researcher, will be offered.

In terms of the current research study, initially assertions and models were not anticipated or pre-empted. They evolved naturally from the data, analysis and interpretation derived inductively from the ground work and the lived experiences of the participants - leaning on the inductive and no-prescriptive nature of the study. The discussion below will attempt to display what has emerged. The question asked is, what theories might explain and transform the local problems. Existing theories are then expounded upon in the form of a literature review that may explain sexual violence in the South African context and talk about prevention approaches that may encase the emerging assertions and tentative models as offered by the current study. The section will end with the introduction of the current researcher’s tentative theoretical assertions and models and how they may fit into existing theories, if at all. The implications of the proposed theoretical assertions and models are then discussed.

Before the review of theoretical underpinnings is done, a summary of the emerging assertions and tentative theories derived from categories that were presented in this thesis in the ‘Findings’ chapters is given.

7.2 SUMMARY OF ‘FINDINGS’ CHAPTERS

The ‘Findings’ chapters depicted psychiatric and psychosocial features of the sampled records and interviewed individuals that were analysed and compared using both quantitative and qualitative as well

as mixed research methods approaches. Emerging patterns illustrated features that described the accused individuals, victims as well as the environment from which they came.

The following were revealed upon analysis: the in-depth interviews participants' understanding of the concept of sexual offending; the processes in society that may be linked with the concept of sexual offending including the way individuals learnt to interact with their environment; the ways individuals related with others in relationships; the processes that may have been linked to violence in general and to sexual violence in particular from what participants had observed in the communities around them or in themselves; life processes before one got accused of a sexual or other offence; life during the time of arrest; life after arrest and how society dealt with those who were accused but were not yet proven guilty before the law (remand detainees); and what individuals with suspected mental illness may have gone through in all the systems before and after arrest up to the point of forensic observation.

A transformative stance of contributing to the prevention of sexual offending in society was taken from the outset in terms of the interpretive lens of analysis used by the researcher. Also, the idea of exploring the lives of those who may have been mentally ill as well as victims was upheld. The conversations entered upon emerged along the conceptual framework depicted in Figure 17 and would later evolve into more concrete summations as seen further on.



Figure 17: Conversation conceptual map

Regarding theory building: “If a theory is unable to account satisfactorily for... processes, it requires further development. The focus on distal or proximal causal factors, or the inclusion of both, should also be addressed in the exposition of theory.” (Ward and Hudson 1998:49) Theory building in relation

to the current study was then set at three levels as suggested by Ward and Hudson and was applied in level I and II theories in sexual offending to supplement what seemed to be prolific level III theories according to the review of theory construction (1998) on sexual offending. Level I theories were referred to as ‘comprehensive or multifactorial’ and level II as ‘middle or single-factor’ theories that ought to describe actual offending behaviour that would then be defined in level III ‘microtheories’ (Ward and Hudson 1998). The ‘microtheories’ at level III are meant to provide details of the actual behaviour under investigation – an exercise that may not have been too emphasised in the current study.

“The construction of theory involves structure and process. The structure refers to the construct of levels and the distal-proximal distinction. Process refers to the dynamics of constructing theory: the movement from tentative phenomenon identification, formulation of rudimentary models, construction of theoretical frameworks, single-factor theories, and ultimately a mature global theory.” (Ward and Hudson 1998:52)

The current study may have emerged with theories that touched on all the prescribed levels above but these would need to be tested and refined further – an exercise that goes beyond the scope of the current report. The initial aim of the study had not been to build theory per se but to glean on theoretical frameworks and emerging assertions. What emerged from studying records of those referred to the current study setting; and from exploring and analysing in-depth interviews about processes linked to sexual offending, sexual violence and violence in general has been illustrated in the preceding ‘Findings’ chapters. The emergence of the most pertinent notions and the build-up from codes – themes – concepts – categories – assertions and ultimately, tentative theories from the ‘Findings’ chapters has been summarised as follows:

7.2.1 EMERGING THEORY ON ‘PSYCHIATRIC FEATURES AND FORENSIC OBSERVATION’

If a victim was ‘very young’ then the accused was mostly male and may have been of any mental capacity including ordinary members of society with no psychiatric diagnosis. A very young victim age pattern was seen in all the diagnostic groups and when there was ‘no diagnosis’ as well.

Borderline intellectual functioning and intellectual disability cases whether affected by mental illness or intellectual disability or not, had victims of a similar average age.

If a victim was an adolescent or older, the accused may have been of any mental capacity, including ordinary members of society not affected by mental illness, but was less observed to have had the diagnosis of intellectual disability.

The age gap between the victim and the accused was big and may fit concepts like child sexual abuse (rape), ‘transactional sex’ and ‘sugar daddyism’.

The proximity of accused individuals to victims and their use of substances at the time of alleged incidents that are demonstrated in the quantitative component, might be leaning towards the qualitative findings that suggest that there may be a relationship between the victim being of a young age, substance use by either the victim or the accused and sexual violence. This seems to be especially the case when alcohol has been consumed in certain areas in communities, like taverns (drinking places).

7.2.2 EMERGING THEORY ON ‘SEXUAL OFFENDING’

If you are female; are vulnerable according to extremes of age and other socio-demographic factors and are isolated, you are likely to get sexually violated. You are likely to get violated by a person you know the most first, more than by a stranger. Males who are minors also fall into this narrative. The common factor is vulnerability (central category in grounded theory terms). Mental illness has very little to do with sexual offending according to the qualitative sample context.

Sexual offending myths are still strongly represented in the patriarchal notion of gender-based violence including sexual violence. For instance, if a victim was ‘very young’ then the accused must have been ‘mentally disturbed’. If a victim was an adolescent, then the accused could be a person who may have been assuming that a girl was of age, or was consenting to transactional sex which may have been deemed fine especially if it was a ‘sugar daddy’ kind of arrangement.

Existing theories that are manifesting and form part of the framework within which the results fit included: trauma-re-enactment theory; control theory; humiliation theory; social cognitive theory on learning; resilience theory (in terms of victims); sexual violence prevention frameworks. The first half unpack the problem and the last three are about finding solutions to the problem.

Potential model: Poverty + Unemployment + Inequality = No money to get married = single men who are ‘sex hungry’ but may be despondent and have unstable self-esteem etc. + other antecedents to violence.

7.2.3 EMERGING THEORY ON ‘WAYS OF RELATING’

Vulnerable individuals are targeted by vulnerable men who want to assert themselves by targeting perceived weaklings in society.

Rejection may be a factor in the social conceptualisation of sexual violence. The effect of the ‘rejection phenomenon’ on self-esteem may be linked to the later lashing out that may be seen in relationships and in society in general, by young and older men, mostly.

Hostility seems to be one of the hallmarks and precursors to aggression. Humiliation seems to be a strong partner to hostility and together they may worsen the perception of threats from the environment.

Society exposes boys to trauma as much as it does girls, but then how boys react to it is by growing up to be men who traumatise others and this festers in a patriarchal context. (The question then becomes what happens to the female counterpart.)

Men in some social contexts are stressed and perceive themselves to be oppressed by women and systems that foster women’s rights. Perceived oppression could have negative consequences on men that may contribute to substance abuse, ill-health and violence including sexual violence (See Figure 18). Although there are gender stereotypes that influence the narrative, men may become violent as a consequence of feeling stressed and oppressed ultimately. Men opt for violence and other harmful means as a form of retaliation to their feeling oppressed and stressed. Patriarchy may be fostering perceptions of oppression in the wake of gender-based corrective policy and legislation.

Summative emerging theory A:

Attachment gaps + Adverse Childhood Events + Socially inadequate environments => Maladjusted vulnerable individuals who later are drawn to acts of violence that target other vulnerable victims within the same systems mostly or even external to their systems.

Summative emerging theory B:

Vulnerability + lack of trust + perceived oppression of men despite a patriarchal system => Hostility + Violence + Sexual violence in order to dominate because of lowered self-esteem as a result of multiple factors.



Figure 18: Life in the ‘Village’ and the birth of the perception of oppression of men.

7.2.4 EMERGING THEORY ON ‘LIFE IN THE HANDS OF JUSTICE’

Once men are accused of offending, they are exposed to trauma in the community, justice and correctional systems. Their rights seem to be violated. Societal safety nets designed to keep all individuals intact seem to barely cope with the onslaught of cyclical and self-sustaining systems of trauma (multi-causal) that may result in males offending and violating the rights of others. Once men

in turn become incarcerated, their human and legal rights seem to get violated, resulting in them being exposed to more trauma. Inherited pre-apartheid and apartheid related socio-economic factors as well as post-apartheid prevalent conditions, seem to add to the complexity by way of poverty, unemployment and inequality.

Vulnerable men + perceived oppression of men + vulnerable victims who are blamed + hostility + frustration + patriarchal judicial systems = dampening of systemic prevention and judicial responses to IPV + GBV + SO as gender related matters are dealt with superficially in court unlike e.g. racial-bias matters in post-apartheid South Africa. The question of whether the dismantling of racism is more important than that of gender inequality, despite the highlighted efforts of the 'Mbeki' 50/50 woman's rights drive, may need to be explored further. That the so-called 'patriarchal' judiciary may be unconsciously or consciously responding to the perceived 'oppression of men' concept, seems to be emerging as an issue in law enforcement systems. Hostility, frustration and agitation toward women may be rising from the law enforcement front as well, because of resentment of the perceived 'oppression of men'.

On the other hand: mistrust of the judicial processes in dealing with gender-based violence may result in the 'double-jeopardy' effect: if you are in court and are a black African, poor, male and are accused of violating a female victim, and you are being tried before a female judge and are represented by a female (Legal-Aid) lawyer, you are doomed – according to the emerging assertions.

Offending + Mental illness = Longer incarceration in an already lengthy trial system = diminished observation of human rights in the process, of those who may be mentally ill. This may be worsened by the lack of appropriate resources in correctional systems.

The current correctional support systems, if available, seem to be geared towards assisting individuals in the post-conviction phase. Support systems seem not to be available for those who are not found guilty and are yet traumatised by the awaiting-trial prison systems. There seems to be no atonement for having been exposed to trauma in the law enforcement systems whether found guilty or not.

The rights of those who are trial-awaiting prisoners (remand detainees) in courts of law are perceived as not preserved as there are slow legal processes, inaccessible and inefficient legal representation and unfair treatment in court and in prison. Justice for the accused is delayed and denied; by implication, justice is then delayed and denied for the complainant victim, as well.

'Constitutional law' versus 'Ubuntu law' => If there is sexual violence within a family, ubuntu must apply and the incident needs to be dealt with within the family framework and not by the court systems. Complainant rights seem secondary to communal family values and indigenous knowledge systems (Jewkes 2002; and an oral historical account by a group of sojourners).

7.3 THEORETICAL FRAMEWORKS REVIEW

As stated above and borrowing from qualitative research approaches, the ‘Findings’ summary is followed just below by a concise literature review on emerging assertions and theories to see where the current study fits in existing theoretical frameworks. The aim is to point out the niche that may tentatively be filled by the current findings. Reviews are summarised under explanatory and preventative frameworks of sexual violence (offending). The use of the explanatory and preventative frameworks ‘labels’ is an attempt to embrace what the researcher, through the transformative lenses of sexual violence prevention, has observed and has interpreted from the study the most (Creswell 2013).

7.3.1 CONTENTS:

Definitions

Introduction of frameworks on sexual violence

Explanatory frameworks on sexual violence

Prevention frameworks on sexual violence

Vulnerability: A proposed explanatory and prevention framework on sexual violence

7.3.2 DEFINITIONS:

Violence:

“According to the *World Report on Violence and Health (WRVH)*, violence can be defined as: The intentional use of physical force or power, threatened or actual, 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.” (Krug & Dahlberg, 2002, p. 5)

A typology of the different types of violence and the nature of its expressions, founded on this definition, is presented in Figure 19. The three types identified are self-directed, interpersonal, and collective violence.” (Bowman et al 2015:282)

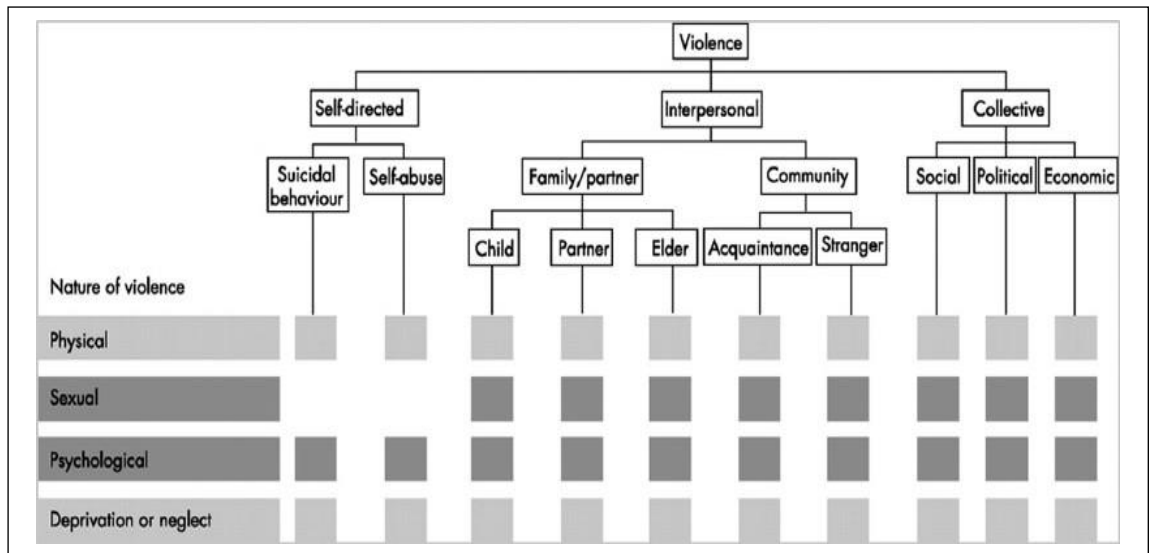


Figure 19: The World Health Organization (WHO) typology of violence. Source: Rutherford, Zwi, Grove and Butchart (2007a).

Prevention:

For completeness sake, the most fitting definition of prevention that echoes the sentiments of the current thesis was from the forensic mental health and prison sector expert Gilligan:

Primary prevention can also be described in more positive terms: ensuring that people have access to the means by which they can achieve a feeling of self-worth, such as education and employment, and a level of income, wealth, and power that is equal to that which other people enjoy... (2000:1802)

7.3.3 FRAMEWORKS ON SEXUAL VIOLENCE

The need to move beyond explanatory and causation models of sexual violence to prevention models has been raised for decades and in their 20 year review of research of rape and sexual assault, Campbell and Wasco referred to the “need to move from prevalence to prevention” (2005:129). Whether that call has been heeded may not always be evident in terms of its impact and outcomes in societies like South Africa. Over time, and in terms of theoretical frameworks that link up with the current study on the issue of both explanatory and prevention models, some work has been done. The schools of thought most aligned to the current study are related to the work done by the Centers for Disease Control and Prevention (CDC) in the United States of America’s social cognitive theory learning programmes (2017) and the World Health Organisation (WHO) (Bowman et al 2015). The WHO has subsequently moved to adopt and build on work such as done by the CDC and has come up with a public health violence prevention framework which is one of the anchors of the current study. The frameworks from

these spheres address some of the research gaps that have been noted by others but it seems that the prevention component although pointed out, is still a challenge to many member states including South Africa (Bowman et al 2015). In South Africa, certain approaches including the public health approach on prevention seem to be favoured. Those approaches most aligned to the current study are discussed below. Different theoretical approaches that may be approximating the explanatory and prevention frameworks that the current study has embraced are described.

7.3.4 EXPLANATORY FRAMEWORK IN SOUTH AFRICA:

Theoretical explanations of violence including sexual violence in the South African historical context have been given over time and include work from the Human Science Research Council (HSRC), the South African Medical Research Council (SAMRC) and the Centre for the Study of Violence and Reconciliation (CSVR). The CSVR has done work that has explored what the WHO framework on typologies of violence would call ‘collective violence’ as well as other forms of violence including sexual violence at communal and interpersonal level. What seems to not have happened in as far as the CSVR and others are concerned is the mapping out of the mechanism or process through which sexual violence is enacted. Explanations and outcomes of sexual violence are given. The process that links the risks of offending to the enactment of offending has so far not been clearly mapped out, though. Further, the continuum between structural violence (systems based), communal and interpersonal forms of violence is well known (Matzopoulos and Myers 2014; Bowman et al 2015; Campbell and Wasco 2005). However prevention of sexual violence and the dampening of its prevalence have so far proven stubborn and unyielding and this may mean that existing interventions need refinement or further exploration. The current study has come up with some suggestions that may perhaps add to research approaches that may unlock some of the blockages.

7.3.4.1 Communal historical violence, apartheid and community justice

When it came to work done on explaining violence and sexual violence through community theoretical frameworks, several formulations came up in literature. In their qualitative work on collective trauma and collective violence through community protest and xenophobia in some communities in South Africa in 2009, Von Holdt, Langa, Molapo, Mogapi, Ngubeni, Dlamini and Kirsten, cited the previous trauma of apartheid, and the continued state of inequality in various spheres, as part of the reason that the country is still undergoing high levels of violence (2011). Further, within the Von Holdt et al project, in an essay titled “Collective violence and collective trauma – The traumatic past of apartheid and the paradox of the new democracy”, Mogapi advanced that the focus on individual experiences of trauma in traditional traumatic stress fields has come at the cost of the focus on collective and communities based trauma. In South Africa, trauma counselling was used in the 1990’s as a means of dealing with the amplitude and complexity of trauma that the country was faced with, perhaps. The focus was on

individuals who were going through political stress as observed in the Truth and Reconciliation Commission. The focus was however not extended to the rest of the communities who were not part of such specialised commissions and other forms of interventions that were aimed at post-apartheid conflict resolution and reconciliation. This omission may have been a mistake. As Bradshaw pointed out in a parallel analysis of the conflict resolution linked to the TRC:

“It is taken quite simplistically that what is good for a traumatised individual, will also be good for a traumatised nation of individuals. If the goal is the healing of social conflict, however, it must be understood that society is a collective, in which each will hear and react to the narrative in different ways” (Bradshaw 2002:94)

The ‘social mind’ phenomenon of Hegel (Mogapi 2011:121) is recalled to explain the collective nature of trauma on a society. The trauma manifests in symptoms that are proposed to be evident at national level and are proposed to include: “fixation with the trauma of apartheid, re-enactment of the traumatic memories, culture of denial, avoidance and splitting in dealing with the countries problems and challenges” (Mogapi 2011: 124). The link between collective trauma and collective violence has been made over time but does not seem to be drawn to sexual violence. Further discourse and exploration will be needed. In the current thesis however, there seems to be a continuum between collective violence and ways of relating that is suggestive of sexual violence linkages. Local definitions emerging from the current study may in turn ‘normalise’ sexual violence and help to map out the process through which socially-sanctioned ways of relating like ‘sugar daddyisms’, ‘mavuso’ and other forms of transactional sex, are linked to interpersonal forms of violence. The collective responses through what has been called ‘community justice’ to individuals may be a display of an emotive response to sexual violence. Communities are responding to the societal problem of sexual offending through means that can be equated to collective violence responses in the days of apartheid as described by Mogapi (2011) and Von Holdt et al (2011). It seems that at ground level communities are re-defining sexual violence as a problem that affects the collective beyond the ‘interpersonal’ description provided by the WHO. Theory on trauma re-enactment, when linked with communal violence may provide an explanation of this reverting back to the collective responses that were seen during apartheid. Studies elsewhere on the link between communal and interpersonal types of violence are few but promising (Kiss, Schraiber, Hossain, Watts and Zimmerman 2015)

7.3.4.2 Explanations of sexual violence in South Africa

Bruce, Fuller, Ngwane and Pino (2008) in a commissioned report for the CSVIR looked at the problem and causes of sexual violence in South Africa and found that between 24% (SAPS reports) and 60% prevalence rates of ‘stranger rape’ were reported in varying context within South Africa. They also showed that the problem of spousal rape may be affecting about 9% of the population if not underestimated. They found that the simplest explanatory framework for the local context needed to

absorb factors including “three broad themes of sexual entitlement; insecure and threatened masculinity; and the relationship of the problem of sexual violence to that of other crime and violence” (2008:11). They also found that sexual violence may have been encased in criminality and entitlement rather than personality related matters mostly. They also recognised that psychosocial (‘socio-psychological’) and cultural contexts could not be ignored - findings similar to the current study. Further, they found that ‘antipathy’ was likely to be prevalent in a similar manner as observed in the current study. In the current thesis ‘antipathy’ is referred to as ‘hostility’ and points at feelings of what Bruce et al. call ‘insecurity’ (2008), what the current author calls the ‘perceived oppression of men’ and what Gilligan calls ‘humiliation’ (2000). The CSVr in its recommendations refers to the need for further explorative work with groups at high risk including conversations with men regarding their state of insecurity (2008) – what the current study has taken up. The current thesis has however a slightly different emphasis on the implications of the relationship between sexual violence and criminality. In the current thesis the application of criminal justice systems and thus violence prevention strategies has proven to be problematic at times in terms of the predominantly-male study population. Law enforcement systems are treated with mistrust at best as a result of perceived structural violence by the state against males especially – an indictment that probably requires further exploration at research and intervention level. Emphasis on strengthening law enforcement to combat sexual violence may need to be balanced by an equally strong prioritization of social level interventions as discussed in the sections on public health and other frameworks in this chapter.

7.3.5 PREVENTION FRAMEWORKS IN SOUTH AFRICA AND ELSEWHERE

As stated in the introductory chapter of this thesis the public health approach to prevention (Figure 20) describes the steps to take towards the primary prevention of violence (Harvey, Garcia-Moreno and Butchart 2007). DeGue, Simon, Basile, Yee, Lang and Spivak also describe the steps that the CDC has adopted to guide work on prevention research and practice: “(1) define and monitor the problem through surveillance, (2) identify risk and protective factors, (3) develop and evaluate prevention strategies, and (4) ensure widespread adoption of effective approaches” (2012:1212). Moreover, as has been explained in the introductory section above and although there are other theoretical frameworks to refer to, it seems that the work done by the CDC as well as the WHO seems mostly aligned to the current country context of South Africa as demonstrated below in some of the given examples. The CDC work includes programmes related to primary prevention at victim, perpetrator and bystander level. The overarching approach and the CDC’s mandate is to prevent sexual violence before it occurs (Degue et al 2012). Evaluation studies according to the CDC show that not all approaches have been identified as effective in preventing sexual violence as they mostly focused on psychoeducation and individual level interventions and not broader community and societal level interventions (DeGue, Valle, Holt, Massetti, Matjasko and Tharp 2014). Research then becomes important to ensure that utilised prevention

strategies fit local environments, as has been attempted in the current study. Besides a focus on victims and potential perpetrators, bystander related approaches to research and community and societal level interventions may possibly match the local context too, given the collective narrative to South Africa’s expression of violence. Involving communities in positive measures of prevention may yield positive responses but will need exploration as done in some of the theoretical perspectives given below.

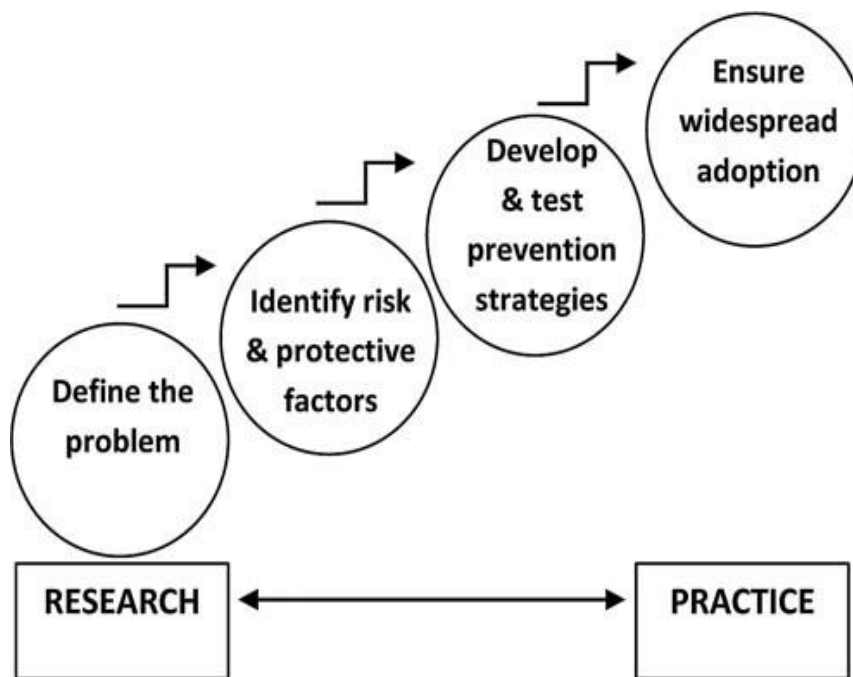


Figure 20: The public health approach to prevention. Source: DeGue S, Simon TR, Basile KC, Yee SL, Lang K and Spivak H (2012) “Moving Forward by Looking Back: Reflecting on a Decade of Cdc’s Work in Sexual Violence Prevention, 2000-2010,” *Journal of women’s health* (2002), 21(12), pp. 1211–8.

7.3.5.1 Public health frameworks of sexual violence prevention

Public health prevention frameworks that attempt to describe violence prevention including sexual violence have been held as fair approaches in socio-political contexts like South Africa and elsewhere (Bowman et al 2015; Perry 2009). Public health violence prevention approaches tend to shift the focus from individual based to population based factors for further reach. However, some have held that public health approaches are not enough in that they may not hold up to complex social problems that cannot be simplified by these approaches (Bowman et al 2015). In terms of the current research study these ‘complex social problems’ have persisted in the form gender-based violence and to some extent old apartheid era effects culminating in inequality. The current study has thus yielded findings that are beginning to straddle the separation between individual, community, societal and complex systemic problems linked to the public health problem of violence, including sexual offending. To slacken the

course of violence and sexual violence, attempts at addressing ‘upstream’ and ‘downstream’ contributory factors to violence are needed (see Conceptual framework on Vulnerability theory Figure 26 below). In their work Bowman et al recognise there is a gap in research in terms of the description of the process of how upstream risk factors translate into interpersonal enactment of violence (2015). The current research seems to have gathered information from the ground up that may be showing narrative links between psychiatric and psychosocial factors and the enactment of violence at interpersonal, communal and societal levels. The need to understand the “the importance of the agent or social subject in specific violent interactions and more importantly, the mechanisms that translate risk into violent enactments within particular circumstances or contexts” (Bowman et al 2015:281) is emphasised.

Public health theories on violence have not been forthcoming over time but some scholars have emerged with ideas that seem sustainable. The concept of violence as a violation of integrity (Vittrio Bufacchi) and the theory on violence based on the notion of shame/humiliation, have been forwarded by scholars like Gilligan:

“The difference is that in the case of violence the pathogen is an emotion, not a microbe—namely, the experience of overwhelming shame and humiliation.” (2000:1802)

The model referred to by Perry (see the Sociological model in Figure 21 and the Socio-ecological model in Figure 22) illustrated “how an individual’s exposure to violence is influenced by factors at the individual, relational, community and societal levels. The individual level of the model encompasses biological factors, beliefs and attitudes, and personal history factors that influence an individual’s likelihood of becoming a victim or perpetrator.” (2009:380)

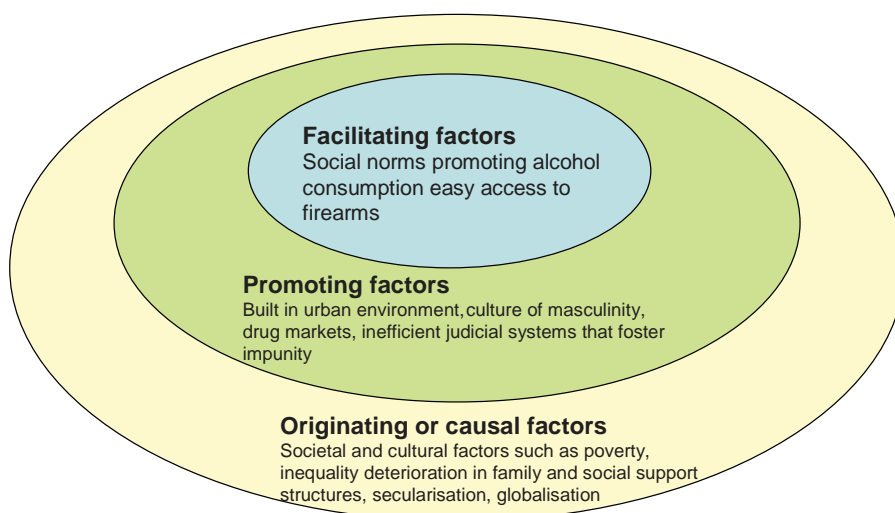


Figure 21: Sociological model of violence. Source: Briceno-Leon. R, Villaveces. A and Concha-Eastman. A., ‘Understanding the Uneven Distribution of the Incidence of Homicide in Latin America’, International Journal of Epidemiology 2008; 37:751–7.

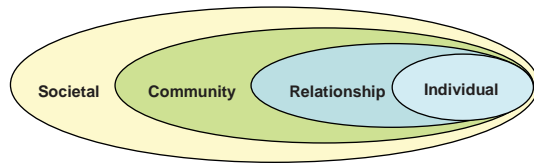


Figure 22: Socio-ecological model of violence. Source: Bronfenbrenner, U., *The Ecology of Human Development: Experiments by Nature and Design* (Cambridge, MA: Harvard University Press, 1979).

The socio-ecological framework is aligned to the findings of the current study in that it identifies common contributory factors to violence (in the instance of the current study, factors contributory to sexual violence) viz.: (Perry 2009: 385)

- gender inequality;
- social norms supportive of traditional gender roles, intimate partner violence and sexual violence and macho male gender roles;
- poverty, economic stress and unemployment;
- lack of institutional support from police and judicial systems;
- weak community sanctions;
- dysfunctional, unhealthy relationships characterised by inequality, power imbalance and conflict;
- alcohol and substance misuse;
- witnessing or being a victim of violence as a child

7.3.5.2 Country-specific prevention frameworks

The SAMRC, HSRC, and many others have been trying over time to forge frameworks that can be said to be country specific. Through the work of research groups like the HSRC and Jewkes (2002) and others, various approaches have been proposed. The field of research on violence has had to be expanded from narrow platforms to wider platforms and it seems, like in the case of the current research study, it has not been possible to extricate sexual violence from intimate partner violence (IPV), domestic violence (DV) and gender-based violence (GBV). Jewkes (2002) for instance talked about interventions on IPV that are not dissimilar to interventions that may be necessary for the current study on sexual violence. The identified factors in her review of causes and prevention of IPV were gender inequality in relationships and in society as well as the ‘normalisation’ of conflict resolution through violence. The current study suggests that these are key ingredients to sexual violence as well, especially given that the quantitative results showed that most of the sexual offences were against acquaintances too. Research in Southern Africa has shown over time, like in the current study narratives, that those who sexually violate others are known and are within close proximity to them (Richter et al 2004). In her review, as mentioned above, Jewkes found that education and an improved socio-economic status

may have been protective for women in IPV contexts (2002). The current study further supports the U-shape relation between empowerment and violence (Jewkes 2002) - independence and self-reliance in a woman may be a negative mark that might induce hostility and thus a higher risk to sexual violence, IPV and GBV as it may be a challenge for an 'insecure' male partner with a low self-esteem who may be sensitive to the 'perceived oppression of men'. The encasement in that context would include patriarchal relationships and societal values as well as matters of control.

Above all, it seems the general sentiment is that there are multiple factors including the above that contribute toward violence in general and thus there will be multiple factors to address in prevention of violence frameworks as manifest in the current study. A public health approach-based violence prevention policy framework introduced by the Western Cape government recently has yet to confirm ease of implementation of its 'whole-of-society' approach in dealing with the multiple causes of violence – and not just sexual violence (Matzopoulos and Myers 2014). Interdepartmental and multisector level challenges may prove the difficulty in researching and implementing prevention plans against violence in the country although early indications are promising. The current study seems to point in the direction of multisector solutions for the complex multi-layered factors contributing to sexual offending even those that implicate the forensic mental health sector.

7.3.5.3 Prevention models for forensic mental health

The blending of disciplines within and outside of medicine is probably not better displayed than in the realm of psychiatry and mental health, specifically forensic mental health. The current study has attempted to show that even within the framework of forensic mental health observations, criminal and other capacity assessments, collaboration and multiple formats of theoretical applications may be important. The findings are related to how individuals who are being assessed cannot be divorced from their context. It would be the duty of experts doing these kinds of assessments to immerse themselves in the psychosocial context of referred individuals. Without the immersion, it may become difficult to understand the context of what is being shared between the observer and the observed, the findings suggest. The concept of oppression, may not be something that forensic psychiatrists would comment on ordinarily but it may need to be understood to aid the assessment of individuals in their social environments – especially if later they are referred back as state patients.

Implications in the mental health and law realm for a person suffering from a mental disorder, which may make it difficult to comprehend social schema in the context of social violence, also need to be attended to in psychosocial rehabilitation. In such situations social cognitive learning initiatives may need to be enhanced in a different manner for those who suffer from mental disorders than for those who do not. Programmes at community mental health level that integrate forensic mental health, disease prevention and recovery models would have to be explored.

A forensic mental health prevention model has previously been proposed to fit in the prevention of sexual violence framework (see Figure 23) (Sokudela 2017). The model serves to depict perceived gaps in the primary, secondary and tertiary prevention systems between adversely affected individuals (who may suffer from mental illness) and the health, social developmental and law enforcement systems around them. The arrows ↓ depict timeous interventions to prevent further escalation of psychopathology. The balancing tensions are between more public mental health approaches – the so-called ‘whole-of-society’ approaches - versus legal and moralistic approaches – the so-called ‘whole-of-government’ approaches of managing violence including sexual offending in the context of mental illness (Matzopoulos and Myers 2014). The implication is that the model is aligned to the concept of prevention and / or minimisation of formal incarceration as far as possible to prevent worsening of violent behaviour – especially through imprisonment. The current study and other scholars have shown that imprisonment often worsens violence (Gilligan 2000).

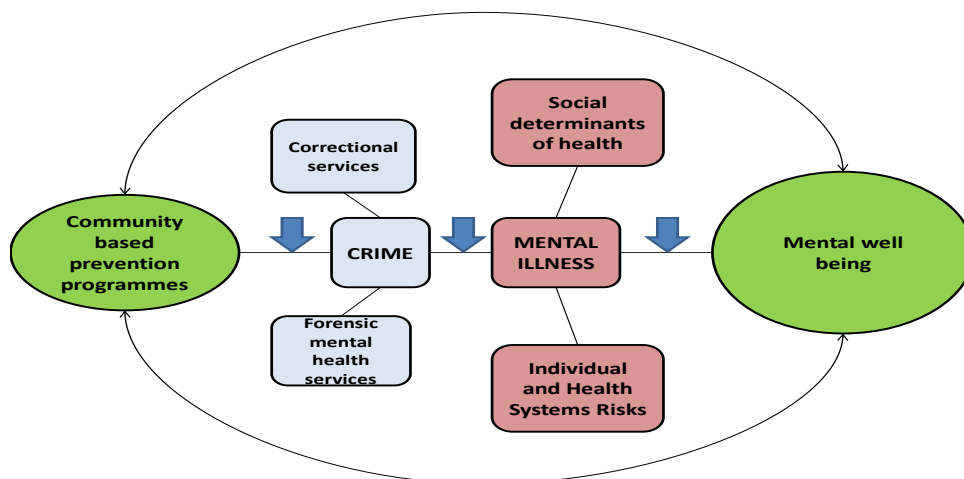


Figure 23: Proposed Forensic Mental Health Integration Model. FB Sokudela

Like with some aspects of primary, secondary and tertiary prevention of disease approaches as done in the model above, the public health approach of prevention is aimed at population level interventions rather than efforts at individual level. Perry offers explanations as thus:

“Primary prevention relies heavily on population-based strategies and in the context of violence refers mainly to societal-level measures such as tackling poverty and educational exclusion, urban planning for health and security, and legislation restricting access to firearms and alcohol.”... “Secondary prevention refers to interventions targeted at high-risk individuals and settings and includes programmes targeted at children exposed to intimate partner violence and child abuse.” “Tertiary prevention refers to measures taken in the management of individuals

who have committed violent crime, which are designed to reduce the risk of reoffending”... (Perry 2009:375).

As supported by Perry and others, prevention models need to not just overemphasise tertiary level efforts but prioritise primary and secondary levels to, to be cost-effective. In the current example also, prevention would work best if efforts would be focused at all levels of intervention both in the medical model of prevention as well as the public health model. Prioritisation of population based approaches and a focus on directing resources at all levels of prevention, but with an emphasis on the primary level, may be the most cost-effective for low – and – middle income (LAMIC) countries like South Africa and its neighbours. The South African national mental health policy framework and its strategic plan may need further revision to emulate work done in some provinces (Matzopoulos and Myers 2014) to achieve tangible change in the trajectory of violence prevention including sexual violence within the country.

7.3.6 VULNERABILITY: THE PROPOSED EXPLANATORY AND PREVENTION OF SEXUAL VIOLENCE THEORETICAL FRAMEWORK

The discussion below is a presentation of theory as it emerged from the current study and how it embraces existing theory on the explanation and prevention of violence including sexual violence (Figure 24). Some of the psychiatric and psychosocial factors that are proposed to contribute significantly to the current study’s findings on sexual violence are also discussed, as well as the implications thereof. The biggest theoretical underpinnings that are linked to the discussion are the socio-ecological and public health frameworks as discussed above.

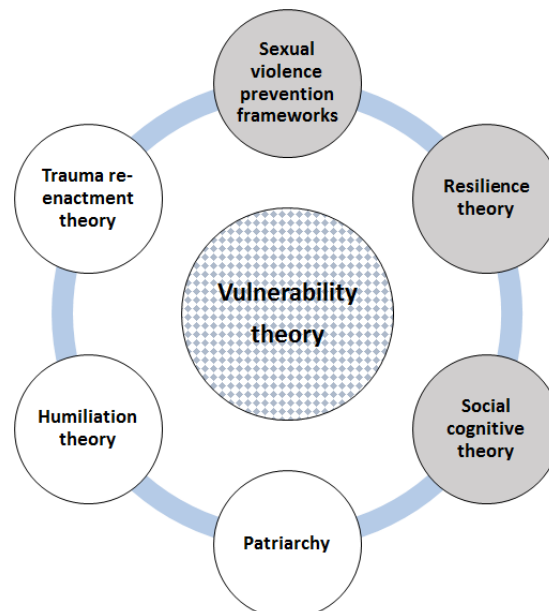


Figure 24: Vulnerability: theoretical underpinnings

7.3.6.1 Sexual violence as an extension of communal / collective violence

As far as collective violence is concerned, the current researcher, based on the findings, proposes that if trauma is seen from the perspective of gender differentiation and sexual violence and not just socio-economic differentiation (a Von Holdt et al concept) (2011), then the explanation of collective violence can be transferred to sexual violence. There would then be a sexual violence victim and perpetrator pair that would not be just defined along gender lines (as victims within the South African context include all genders and sexual orientations) but would be seen as a product of collective violence. The adversaries in conflict would be patriarchal and inequality-promoting systems versus the vulnerable victim and perpetrator pair and their groups of origin. The vulnerable groups would include both victims and perpetrators as has been proposed in the current thesis. Gender inequality within a patriarchal framework and an unstable self-esteem (Mogapi 2011) with or without mental illness would be the explanatory narrative. The collective component would be encased in trauma and violence linked to patriarchy by itself as well as when linked to socio-political conditions that have and continue to promote trauma and division in society. As a link to prevention, the current author proposes, as emphasised in the findings of the current study, that beyond the explanatory model of collective violence that manifests in various forms including sexual violence, communal solutions of prevention will have to be sought. Von Holdt et al (2011) and Mogapi (2011) propose addressing social inequality by zooming in on socio-economic frameworks of inequality as a vehicle of redress, as proposed in other political contexts of upheaval (Fox and Hoelscher 2010). The current author proposes these as well.

At individual level, forms of repair are proposed and include the use of resilience theory and social cognitive learning models that can be integrated into local learning vehicles in educational, health and social development spheres. Bandura's social cognitive theory on learning holds that children emulate those around them in how they express their social skills including aggressive behaviour that may culminate in sexual violence (CDC 2017; Bandura 1998). As was proposed in the chapter on 'Ways of relating', nurture can add to the theoretical model of prevention, through the role of the extended family and community around a family nucleus (Collin-Vézina et al 2013). In that chapter, the role of substitute parents was demonstrated to be important and alluded to known applications of the 'attachment theory' as well as 'resilience theory' models (Grady, Levenson and Bolder 2015; Arthur, Hickling, Robertson-Hickling, Haynes-Robinson, Abel and Whitley 2010). Grady et al proposed a model linking Adverse Childhood Experiences (ACEs) to later sexual offending through a process that is mediated by poor attachment in the context of 'attachment theory'. Individuals who have poor attachment to primary caregivers may experience their environment and future relationships as threatening and thus develop poor interpersonal ways of relating intimately that may culminate in acts of aggression including sexual violence. Attachment has also been applied to forensic mental health facility settings and can thus be explored further as a useful tool for the containment of those who may be mentally ill (Adshead 2002) whether accused of a sexual offence or not.

Resilience theory, on the other hand, was perceived as an evolving subject. Resilience may generally refer to individual and communities' ability to withstand adversity. Scholars have agreed that, in its definition, it would be important to describe resilience as either a trait, a process or an outcome that exists in a continuum (Southwick, Bonanno, Masten, Panter-Brick and Yehuda 2014). Whether at individual, communal or societal level, in the South African context, the identification of target individuals and groups, their specific vulnerabilities and how they can be addressed using multiple approaches in multiple long-term inter-generational socio-political systems may be the approach. The 'how' part is promising future research work. Other scholars over time have also emphasised prevention of violence in general (Seedat, Ratele, Van Niekerk, Suffla and Jewkes 2009).

7.3.6.2 From collective/communal violence to Bystander community approaches: Turning swords into plough-shears

The preceding section referred to the proposal by the current researcher to extend collective violence theory to include sexual violence that is encouraged by systems-based structural forms of trauma and aggression against both potential victims and potential perpetrators, at the hands of society. Further, it is now proposed that to utilise approaches that are most aligned to South African societal values, the collective approach to violence could perhaps be trained to go the opposite direction and address communal prevention of sexual and other forms of violence through peaceful collective actions. The proposal to harness the same spirit of collective forms of action that have proven to be resilient beyond apartheid into the democratic state, might yield positive results if used against the 'common enemy' of violence including sexual violence. The current study revealed social situations that showed that isolation was a risk. In a manner akin to the 'impempe' (whistle-blowing) phenomenon then, when an isolated person is attacked, both the young and the old may need to be coached that alerting bystanders in times of need is important and necessary for protection. Whether the current use of 'impempe' for instance can be transformed from being used in meting out 'community justice' (a current collective violence intervention) to more peaceful, sustainable and just collective forms of crime prevention would need further exploration. Also, the coaching of what an 'impempe' call of help means in terms of bystander-theory interventions (Nickerson et al. 2014) would be appropriate for both sides of the gender divide in terms of collective sexual and other forms of violence prevention.

According to the bystander theory, there is possible inaction by bystanders in the face of interpersonal violence including sexual violence. In the context of communities in South Africa too, there may be 'pluralistic ignorance' when the urgency of intervening during an observed act of aggression is underestimated (Nickerson, Aloe, Livingston and Feeley 2014). According to Nickerson et al too, there may also be 'diffusion of responsibility' when onlookers become unsure whether they or others will take responsibility and act (2014). Borrowing from the CDC theoretical frameworks and 'what works' approaches, the bystander theory has revived notions of moving from individual to community levels

of intervention when acts of bullying or other forms of violence including sexual violence are taking place (Banyard, Weber, Grych and Hamby 2016; Moynihan, Banyard, Arnold, Eckstein and Stapleton 2011). The bystander approach needs further testing in the South African context in order to encourage community involvement, the current study proposes.

7.3.6.3 Patriarchy as an explanation of sexual violence

When some of the emerging assertions or theories were considered, it became important to apply the theory of patriarchy that was interpreted by the researcher to be partly responsible for the sustainability of some of the attitudes towards females and males exposed to sexual violence in society. Patriarchy in the context of the study referred to the social system of male domination over females that resulted in the vulnerability of women, children and men themselves to social angst and ultimately violence. The definition is premised in the context of sexual violence and how patriarchal systems affect its prevention negatively (Jewkes 2002). This includes what has emerged and is reported on in various sections of this thesis. As drawn out of the current study and elsewhere, it seems that judiciary and society, have displayed minimization of the sexual violence problem generally as illustrated in recent reports including those of a South African (Judge Camp) who was working as a judge in Canada and had to resign after the unfair treatment of a female victim in a court of law (Kassam 2017). Gender-based violence minimization in court systems and the contribution of that to the escalation of sexual violence is also discussed in the 'Life in the hands of justice' chapter. In that chapter the minimization of gender-based violence by the courts and thus the escalation sexual violence and other types of violence are then solved by society via alternative unsolicited routes of meting out justice – community justice / collective violence.

Arguments for separating sexual offending from mental illness versus linking it need to be explored. Evidence from the study that there may be a need to explore other underlying linkages to sexual offending in relation to mental illness or disability rather than to blame mental illness alone is as follows:

- In terms of the co-occurrence of other contact crimes with sexual offending, the goalpost seems to move away from the direct link between mental illness and sexual offending as a primary outcome of a mental capacity affected by a mental disorder or disability and will need further exploration.
- Also, being affected by a diagnosable form of mental illness or disability did not change some aspects of the profiles of those who were identifiable victims. When juxtaposed, most of the cases, whether with 'diagnoses' or 'no diagnoses', were linked with the victim age group of less than the age of consent. The diagnosis of intellectual disability was observed more with the youngest group but was crudely not very different from the rest of the diagnostic groups. It may well be a need to do an inferential study over a longer period of time to tease the links out.

The notion that sexual violence can be an opportunistic crime at times refers to the issue of sexual violence being perennial enough that even when it is not the intended criminal activity, it seems to be easy for some individuals to use it to intimidate or violate exposed vulnerable individuals (SAPS 2016; Bruce et al 2008). The use of sexual violence against women as a general means to dominate or wage a power struggle in patriarchal systems (Walker 2005) and in conflict / war zones has been reported (Neill 2011). In the South African context, sexual offending may be a function of a society and its violent tendencies and is seen in that light in the context of the current study's findings, rather than it being a function of mental illness, purely.

7.3.6.4 Vulnerability as an overarching explanatory and prevention model

Vulnerability defined means the following:

- At individual level: vulnerability to mental health assaults
- At communal level: vulnerable 'others' and environmental issues
- At societal level: Inequality as an explanation: money, gender, employment, health, social development, socio-economic status and patriarchy

There are various actors that are proposed to be affected by the sentiment of vulnerability at different societal levels (see Figure 25). In terms of the current discussion those affected include both potential victims of sexual violence; perpetrators (alleged and proven); vulnerable collective groups in society e.g. the youth and the elderly; as well as victims of 'structural' (societal) violence. Richter, Dawes and Higson-Smith, in their work on the sexual abuse of children under age 12, contend that older children and women may experience sexual violence in a manner that may differ from the experience of younger children in that 'all instances of sexual violence are perpetrated by more powerful individuals and groups (men), against those who are less powerful – women and (older) children.' (2004: 452). In the current thesis it is proposed that the notion that the men are 'powerful' should be seen from a relative perspective. It is proposed that despite the fact that the 'male group' may be contextually protected by patriarchy, they may still be vulnerable to long-standing social fragmentation and violence themselves because of the very same patriarchy and other social factors (Mogapi 2011; Van Niekerk, Tonsing, Seedat, Jacobs, Ratele and McClure 2015). The result may be that in the feeling of 'powerlessness' and their perceived oppression, they may lash out and then use their relative power on vulnerable victims – whilst being vulnerable themselves. The difference between the current proposal and what Richter et al (2007) and others may have observed is that the seeming power is interpreted as not being that deep. There may be underlying 'instability of self-esteem' (Mogapi 2011) instead which the current author refers to as 'low self-esteem'. This renders the would-be perpetrator or perpetrator vulnerable to offend.

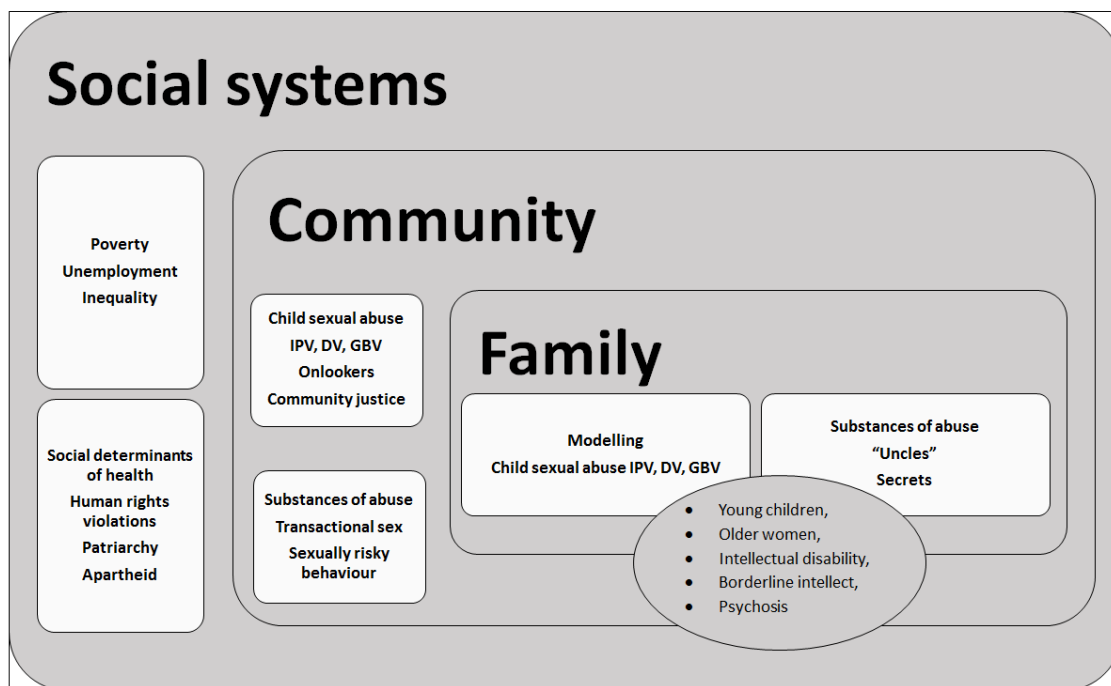


Figure 25: Vulnerability theory model

The tentative 'vulnerability' model (Figure 25) proposed from the current study suggests that the main actors in the victim-perpetrator relationship need to be defined from a relative power position and also from a contextualised framework that renders them both vulnerable. Unlike in the concept of men being vulnerable to being victims of violence themselves and how this seems to be unfairly downplayed by society as observed by Van Niekerk et al (2015) at the SAMRC in their assessment of vulnerability of men to violence in South Africa, the current research proposes that males may also be vulnerable not just as victims but in their status as perpetrators. They may be victims, as perpetrators, through structural acts of violence in law enforcement systems like policing, handling by correctional systems and lack of mental health support that may lead to them offending more. They may be victims of a society that has through its adverse socio-political factors produced both victims and perpetrators of violence including sexual violence. They seem to be prone to offend because of various constellations at societal level. They may not be protected by society from the brutality of patriarchy itself either. Patriarchy may be perceived to be favouring males but, because it is a system designed to perpetuate inequality, inevitably it worsens outcomes of the very group set to be superior as it removes them from possible equal-footed and nurturing ways of relating, it is proposed. Some may overcome:

In addition, their vulnerability or sensitivity to any given experience of shame—the likelihood that they will be so overwhelmed by it as to become violent—is strongly influenced, to a statistically significant degree, by whether or not they possess internal sources of pride and self-esteem, such as education, or external sources of esteem from others, such as wealth or other sources of high social status. (Gilligan 2000:1802)

Further, in the conceptualisation of the perceived ‘oppression of men’ from a point of view of the predominantly-male study participants, the term ‘oppression’ has to be defined as relative between men and women. It can be seen as oppression that is a systemic form of discrimination that is not just a ‘feeling’ but may represent the way in which males in society feel treated differently as individuals and as a group. They perceive hostility towards them, from societal systems that favour women, and they in turn mete out more aggression towards the women whom they perceive to be favoured.

7.3.7 CONCEPTUAL FRAMEWORK AND MODEL ON THE ‘VULNERABILITY’ THEORY OF SEXUAL OFFENDING

A public health approach that is amended to embrace principles of forensic mental health in prevention has been adopted and is depicted on Figure 26. Locally, there seems to be scanty details on existing theory on forensic mental health specifically and sexual offending allegations versus mental capacity. The conceptual framework and emerging models include factors that have emerged from the study and are matched with existing literature that concurs with the current findings. The framework /model seeks to mirror the concept of containment of ‘vulnerability’. The model moves from the individual to society – the so-called ‘Village’- and links all levels to the central concept of minimisation of ‘vulnerability’. All levels are contained within the ‘Village’ as represented by the solid perimeter line. High-risk groups susceptible to vulnerability viz. the very young and the very old, the mentally ill and intellectually disabled individuals are represented on a special focus point. The group that carries a high risk to and susceptibility to vulnerability and thus to offend in society are further defined in Figure 27.

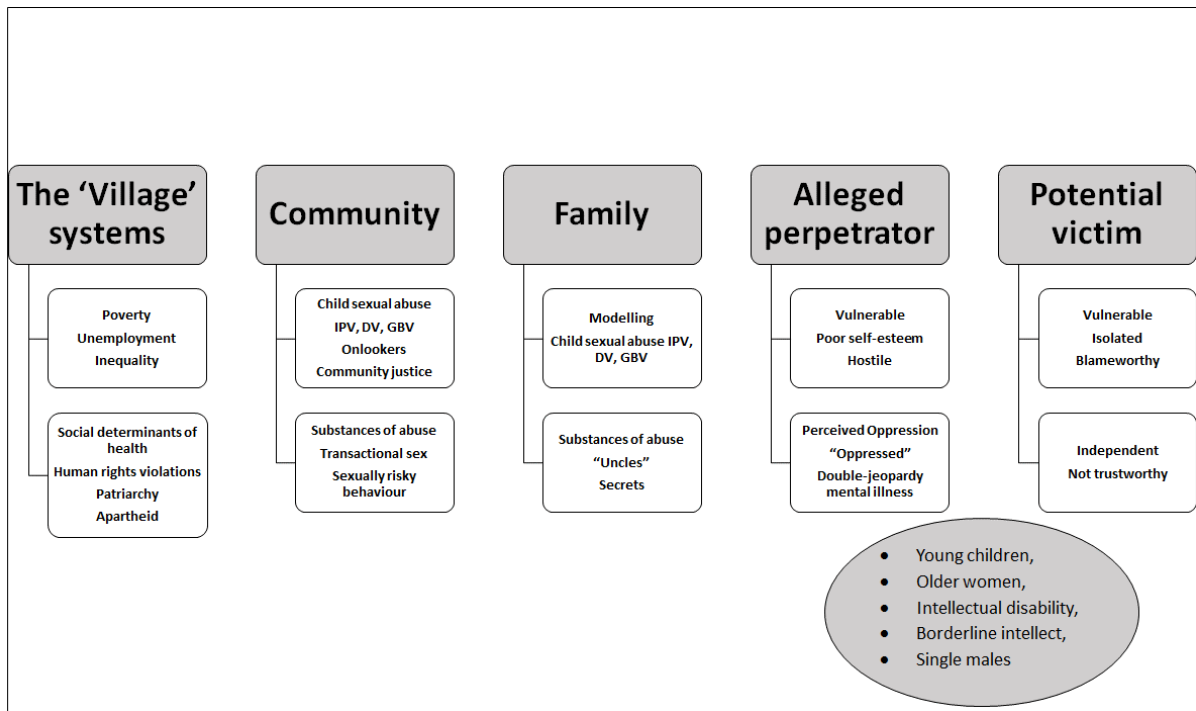


Figure 26: Conceptual framework of the socio-ecological theory on 'vulnerability' and sexual violence in the 'Village'

Vulnerability actors:

- Young children, older women
- Intellectual disability
- Borderline intellectual functioning
- Psychosis
- Single males



Figure 27: Vulnerability model, the perpetrator and life in the hands of the ‘Village’

7.4 SUMMARY OF THE THEORETICAL UNDERPINNINGS SECTION:

Some of the highlights of the transformative advocacy issues that had to be kept in focus during the building of the theoretical framework on sexual violence in the context of forensic mental health were as follows:

- the protection of vulnerable (potential) victims that may be related to mentally ill people who offend sexually
- the rights of those who were accused of sexual offending and were mentally ill in terms of ‘double-stigma’ as members of society, stigma in the legal and medical system (through lack of adequate prevention approaches and minimisation of risks to offend, given the high rates of sexual offending in South Africa)
- the entire group of those who were accused of any offence in terms of their treatment by society, the legal system and forensic mental health system, before, during and after arrest

The study has contributed to the transformation of each of the problems or advocacy issues listed above. Factors associated with victims have been drawn out quantitatively. Also, there seems to be no difference in the description of victims that are linked to the individuals who had been assessed during the period of the study in as far as their vulnerabilities are concerned. In terms of psychiatric features,

those who are found to be capable vs. those found not capable do have distinguishing factors in terms of their diagnoses though, with the group representing ‘other psychotic disorders’ and intellectual disability being the most vulnerable to not have mental capacity at the time of an alleged offence and to stand trial according to the Criminal Procedure Act (1977). Despite the descriptive differences, the entire group of both the mentally affected and those who were not affected according to records, as well as those with and without psychiatric diagnosis seemed to target the same kind of victim who was physically isolated and younger than the age of consent according to the Sexual Offences Act (2007) in the majority of cases. Evidence pointing towards the lack of a relationship between mental illness in the accused and the victim age is an important finding especially if corroborated by further studies in the South African context.

In terms of psychosocial features, the group including those that have a previous or a known psychiatric diagnosis has given similar narratives of their lives in the community, in the legal and in the corrective system irrespective of the presence of a psychiatric diagnosis or not. Life in each of these systems has been demonstrated to be difficult and may have led to further trauma. Forensic mental health services may be a reprieve. There seems to be no vast difference in the perceptions of the groups that have or do have a psychiatric condition in terms of their psychosocial features. Further, there is a dominating perception that men are oppressed and the pendulum has swung to favour women in the democratic state of South Africa – an injustice according to men. This goes against the popular contemporary flow that identifies misogyny and child abuse as an injustice in the current country context and thus depicts two oppositional stances in one space and leads to ‘conceptual tensions’ or ‘metaphors of opposition’ in grounded theory terms (Charmaz 2009:157). In terms of critical theory transformation models though, the challenging issue is the tension between emancipatory groups for whom advocacy work has to be done - women and girls and males who are victims on the one end and alleged perpetrators (remand detainees) on the other - especially those who are mentally ill. The research design might have landed itself on a path of new findings, methodologically, where advocacy groups are explored interchangeably to do research on issues that may concern those who may be at polar ends of a spectrum. This will need to be reflected upon for future research.

Conceptually the research seems to have yielded perspectives on the enactment of sexual violence and although the research design would need different approaches in other contexts, it promises to advance research in the area of bridging explanatory and preventative models of violence including sexual offending. The proposed theoretical models attempted to map out a path beginning at risk factor identification that then crossed over to identifying modes of enactment of sexual violence through studying of specific local actors and observers as recommended for local contexts (Bowman et al 2015). Understanding the process of and mapping out the enactment of sexual violence moves theoretical concepts beyond the causal and epidemiological descriptions into the realm of locally relevant interventions – one of the aims of the study.

Chapter 8

8 REFLECTIONS ON THE RESEARCH PROCESSES

8.1 RESEARCH PROCESS FINDINGS

8.1.1 PROLOGUE

*We are mere sojourners charting our paths through lifetimes that leave us feeling bereft and yet intellectually and spiritually born anew. Have we reached a point of no return? **“Sivuthelwe phakathi njengevatala, okanye... amasi abekwe elangeni?”* ¹⁸(Dowling 2012) (See footnote for translation)*

The following section describes the research process in the context of how different role-players negotiated their way through the study environment. The process and reflection are imperative components of qualitative research, especially grounded theory approaches (Creswell 2013). The role-players that are discussed include the participants, the co-observer / interpreters and the researcher. The intention of this section is to share reflections from the researcher of how the various categories of role-players worked or affected the researcher and the research process to yield the findings that have been shared. Later, and resting upon this reflective work, the quality and validity of the research work done will be tested and defended using known methodological markers as recommended in literature on mixed research methods. The ‘strengths and limitations’ discussions will be used to illustrate the rigour with which the work is appraised too. Ethical considerations that stood out and future implications of the work - the bulk of which have been mentioned in the standalone findings chapters- will then be summarised as well.

As a preamble to the role-player discussions, the transcriber who transcribed the audio recordings of all the in-depth interviews will be mentioned now as her role as a non-clinical person was in the background but is deemed important. She could speak eight (8) of the eleven (11) South African languages and transcribed conversations verbatim in the languages described in the introductory chapters. What was significant about her participation also is that, although she was not directly involved with the study, she was based at the mental health facility and was accessible in terms of reflections related to the transcription of the work. This angle, as far as the researcher is aware, is not often mentioned in research studies of this nature. It is mentioned here though because even through the transcriber, the researcher’s insights grew in dimensions not anticipated before. During her time of reflection with the researcher, the transcriber could describe what listening to the interviews did to her emotionally. The matter of sexual offending as a social problem made it easy for her to relate to the subject matter from her

¹⁸ **“Uvuthelwe phakathi njengevatala (S/He is ripe inside like a watermelon), which means, “Wow, this person is like a watermelon – you cannot tell what cleverness is going on inside them by just looking at their skin”... Amasi abekwe elangeni (The sour milk has been placed before the sun), meaning the die is cast, there is no turning back!” (IsiZulu /English translation). Tessa Dowling 14 November 2012. Getting to grips with our languages... Cited on 17 March 2017 from <http://www.ieducation.co.za/getting-to-grips-with-our-languages-6/>*

perspectives as a being in a society. The non-technical aspects of transcribing material that was emotionally difficult to digest were thus gleaned upon through the experience of the transcriber. In future and in other study contexts, there may be room to go beyond counselling similar to what the transcriber received in the current study. The counselling and other forms of support may become a way of ensuring that no emotional harm is unintentionally done to those who are transcribers in fields that are emotionally taxing – an ethical imperative. On a lighter note though, the transcriber came out with some humour especially about some of the longer interviews as she got to know the material intimately: “That (one) talks too much!”... (Referring to an audio file). Perhaps this reflection is material in itself as it is in sync with what the study has reflected in terms of use of humour in shielding off emotive work. The rest of the processes and role-players are discussed in the sections below.

8.1.2 THE PROCESS OF DOING THE RESEARCH WORK

As previously described, the study’s research approach was emergent, iterative and inductive (Srivastava and Hopwood 2009). Reflexivity, introspection and the signature of the researcher as reflected in how the researcher was both the subject and the object of the research were displayed (Creswell 2013). The research process also involved the use of questions that were known of and had been heard of in the researcher’s context initially. The questions evolved from semi-structured questions to become organic and study-derived as opposed to being set from elsewhere. The aims of the study had been set and for the quantitative part of the study were focused upon in terms of mapping out the psychiatric features of those referred as well as the victims’ profiles. However, in terms of the qualitative components of the study in the form of in-depth interviews and qualitative analysis of quantitative data, the responses of the participants, co-observers and assessors who were from diverse backgrounds became important. The researcher asked the same questions using different methods and got responses from different angles.

For the write-up the researcher had to allow the findings to come through the voices of the participants and of the victims (through the records), “so that their voice is not silenced, disengaged, or marginalized” (Creswell 2013:256). The researcher (whilst memoing during analysis and write-up)¹⁹ had to be patient with the huge amounts of codes and themes that were emerging and would later be sequentially reduced into themes, concepts and categories from which tentative assertions could be derived. The analysis of the work at some stage felt like it would keep on going and would never end, in a similar fashion that coding and analysis experts like Saldana assert (2013).

¹⁹ Memoing during analysis: The temptation is to reduce them to linear unidimensional figures but the material refuses to be treated that way – it keeps on spewing out complex shades that cannot be reduced to simplicity. The discipline of writing a thesis vs. the freedom of writing a story is forever on my mind as I write. Prof also mentions this. A balance between scientific writing processes and storifying is essential at this final stage.

Knowledge creation

As knowledge exploration was key to the current study, the researcher's attention was attuned to receiving matters not held before and was enriched in that regard, with time. For the purposes of the current discussion, knowledge creation means arriving at perspectives not previously encountered and when previously held paradigms are challenged. The researcher often faced encounters through spending time with participants and/or co-observers. At such moments it felt as if treasures were being mined as notes-to-self at times reflected such. Gratitude for the opportunities often accompanied the encounters. Independent knowledge creation (IKS) is currently topical in South African academic settings and might become more important with time as the nature of curricula in socio-political systems undergo appraisal (Green 2007).

Method process learnings and discoveries – ‘the anticipated and the unanticipated’

When the research study was first conceptualised, the idea was to consider the position of victims of sexual violence in relation to those accused of such acts of violence – especially where forensic mental health issues were of concern. The consideration was in terms of the relative positions and proximity of victims to accused individuals in society – what the researcher dubbed the ‘Village’ (see the ‘Ways of relating’ chapter). Patterns that emerged would be reviewed. From a perspective of a transformative advocacy position, there was a need to highlight potentially preventive measures against violence in general and sexual violence in particular. It was hoped that the research study would aid in advancing the violence and sexual violence prevention theoretical frameworks in mental health and other fields. The identification of psychiatric and psychosocial features would perhaps help in drawing out theories about sexual violence prevention in general and in relation to mental illness. The transformative advocacy perspective was about research bringing about change in the vulnerable group being studied or for whom the study research was designed. Initially the vulnerable group focus was on victims of sexual violence and those who were mentally ill and were accused (not convicted) of a sexual offence. (There had been no research aim to verify guilt in any case.) Through the course of the first few interviews though, it emerged that accused individuals in general (whether with a diagnosis of mental illness or not and irrespective of the nature of the charges against them) also had concerns regarding their rights in society. The regard and focus on their rights as remand detainees (awaiting-trial prisoners) brought in a new perspective in the advocacy narrative. Whose advocacy was it anyway - the victims’ or the accused individuals or both? Ethical considerations, fairness and justice in involving remand detainees in the design of the study had to prevail. That those who were part of the population in the study design (the accused) showed up strongly in the advocacy narrative ought not to have come as a surprise, it seemed, in hind sight. They were talking about sexual offending and victimization issues in the context of their own lives and what they had seen of society - the ‘Village’. Their stories of victimization would not remain outside the narrative process.

Also, in terms of the research aims, the study started off seeking to reflect on comparative groups but with time and with the exploration of the qualitative components, it became clear that there were negligible qualitative differences. The focus of the study instead began to shift towards the problem of sexual offending in the South African context irrespective of perceived mental illness or not. In the end, what had seemed to be less emphasised in the study aims, gained more focus in the findings and their implications – a process lesson for the researcher.

Also, the widening of the focus to include general remand detainee perspectives resulted in the focus being spread across three (3) types of perspectives. The explored perspectives were thus made up of victims (record-based data), the accused who may have turned out to have been mentally ill at the time of the offence and accused individuals in general - whether guilty or not. The widening of the focus signalled the beginning of change in the transformative advocacy journey for the researcher in turn. The participants in the early interviews were highlighting a focus point that had been anticipated and had been included in the protocol and motivation for the study but had not been anticipated to come out strongly in the research narrative. Focus on the plight of victims had been high up on the list of factors aligned with the study motivations initially. Focus on the plight of remand detainees in law enforcement systems for instance had not been brought to as much a focus as the plight of victims and those with mental illness. This however shifted in the course of the research process. A need for the consideration of the rights of the accused from their own perspectives became prominent. The accused group were not just reflecting on sexual offending with the victim and mentally ill, in mind. The participant group reflected on their own vulnerability and became a strong focus in the research transformative advocacy narrative. The researcher's reflexivity and awareness processes as this was unravelling are discussed under 'the researcher' section herein.

Another peculiarity about the research design in relation to research processes was that the study was designed around answering questions about those accused of sexual offending in relation to their forensic mental health, psychosocial features as well as the nature of their relationship to identified victims. Victims were one of the vulnerable groups in focus and yet unlike in other forms of transformative advocacy research, they were not directly involved in in-depth interviews in the study. They were included in the conversations with the accused individuals in terms of the above described perspectives. They were also a significant part of the material covered in the more quantitative component of the study (see findings chapter on 'psychiatric features'). The victim group was not going to be interviewed directly because of the difficulty in accessing that sample group geographically, temporally and jurisdiction-wise (see previous discussion in the 'forensic observation' section in the 'Psychiatric features and forensic observation' chapter regarding the geographical layout of the referral system). Sampling victims was generally not logistically practical and would be a challenge too big for the scope of the current study. The question was whether one could advocate for victims without speaking to the group. It was felt that the current design through the use of methodological techniques

like triangulation (see ‘validation’ section) had covered for the relevant details of the victim group in other ways. That the other group of vulnerable individuals namely those who were referred for forensic observation as accused individuals were interviewed about factors related to victims of sexual offending was still an important part of the study design. The conversations had to start somewhere and had to include victims albeit through a record-based component. Studying the topic through research seemed to be as complex as the societal problem of sexual offending itself.

8.1.3 THE PARTICIPANTS: ‘THE ART OF MAKING CONVERSATION WHEN “IT IS COMPLICATED” – WADING THROUGH SOCIAL TRAUMA AND FAMILY SECRETS.’

Q. How many children are you at home? A. “It is complicated”... 4568. C04

[In the room: Seems to have hit a sensitive note: The interviewer lets it go for now...]

As had been stated in the ‘Findings’ chapters, the material shared about their psychosocial lives did not differ between the sexual offence (SO) and the nonsexual offence (NSO) accused individuals, nor between those who may have been labelled as mentally ill versus not. The presence of a psychiatric condition was not directly related to loss of ability to reason about life stories and perceptions. It seemed that life was complex whichever group you fell into and if you could provide informed consent, then you could talk about your life. The NSO group in the end had mostly been charged for acts of aggression against women: some for intimate partner violence (IPV) or general domestic violence (DV) or acts involving the household – except for two of the participants. In the end, the conversations became about degrees of trauma lived through degrees of alleged violence and as experienced in past lives. The current section will not be a repetition of what has essentially been covered in the preceding chapters. It will be about the interaction of the researcher and co-observer / interpreters with and from an observed participant perspective. The observation of the participant – especially in non-verbal ways and how the researcher and at times the co-observer / interpreters responded in making the research process transparent are covered.

There were participants that were outliers in terms of their experiences and perspectives but the ultimate outcome was that of a common voice when it came to matters labelled as emergent in the ‘Findings’ and ‘Final’ sections. When the researcher first interacted with the participants, most of the nonverbal work was about adjusting the semi-structured interview schedule and approaches to the research observation and data collection processes. The use of a questionnaire versus free-flowing conversation that set participants at ease was debated. Once that step was overcome, and with time, the interactions became more about analysis and applying what was emerging through cyclical processes of analysis in the background as described in the ‘Introductory’ chapters. Data analysis thus started somewhere in the middle and went backwards to the first few participants’ data sets. It turned out that the first and the second participants (P01 and P02) in particular, after first cycle analysis, had been saying what later

participants would be saying. This retrospective corroboration of themes and concepts helped to confirm categories that had seemed to emerge later but were discovered to have been present all along. The first participant was revealed to be the sentinel case from whom major categories viz. life before; life during; and life after arrest would be derived. He was also the first to walk away from the research process – providing a cataclysmic hiatus that helped the researcher to reflect on research processes that did not go according to plan – a growth point. The first participant was also used as a test case to explore interviewing approaches with and without the semi-structured interviewing schedule and in-depth interview schedule.

In terms of transparency and truth-telling, the way the questions and approaches to information-gathering were constructed, made it difficult to come up with generic superficial answers (See Addenda C and D: Initial interview schedule and In-depth interview schedule, respectively). The participants were experienced as generally open and volunteered details of their lives as if out of a need to offload the difficulties they had had up to the time of the study inquiry. Eagerness to participate was understood by the researcher to imply the need perhaps for the participants to talk about their distresses and their rights for some reprieve. Some saw it as a way of helping the researcher advance knowledge about their experiences or even to help the researcher on her personal journey as in the cases of C02 and C05. There also seemed to be anger and in some instances regret and sadness²⁰. There was also a sense of self defence or explanation of behaviour or denial of the charges if the matter did arise. There were also those who after giving informed consent to proceed, became reluctant to delve into some matters that were encroaching on sexual offending in details that may have been similar to their charges (P01²¹ and P04). Enough ‘general information’ had been gathered as well as information explaining the ‘attrition’ (specific details are covered in relevant sections in the preceding ‘Findings’ chapters).

8.1.4 THE CO-OBSERVER / INTERPRETERS

Co-observers / interpreters who were nurses and had a mental health background and experience of forensic observations and forensic mental health practice from a professional expertise perspective were invited randomly according to their availability at the time of the initiation of the study. Informed consent was gathered from them and confidentiality and other ethical considerations were emphasised. The separation of the ordinary forensic observation from the research process was emphasised, also.

²⁰ Process: Tissues are out as the participant is getting worked up some more... [Note-to-self: It is getting emotional in here.]... 2022. C02

²¹ Journal: I feel disappointed, have had a difficult day and now this. It started well but I should have expected reluctance. The mood changed when we started talking about the charges against the accused... [Recap months later: Perhaps his (P01) reaction follows the theme of “self-interest” = “self-absorption”... He found an opportunity to ask for something (cigarettes) from me and when I wouldn’t give, he walked away... Theme: Transference = what goes on in the room...]

Avoidance of dual roles was prioritised in that, once a co-observer / interpreter was involved with a participant at research level, they would be compelled to not get involved in sitting in at ordinary forensic observation interviews with ordinary assessors – unless it could not be helped due to service delivery challenges. If it could not be helped, confidentiality and separation of roles would then be emphasised. Ordinarily under forensic observation circumstances, the nurse sitting in plays multiple roles that include forensic nursing observation, feedback on the observandus adjustment and functioning in the ward; assisting with interpretation and translation for those in need (although that role is rejected by certain schools of thought – a nurse cannot perform this role).

In terms of the research process and their interaction with the researcher and the participants, the co-observer / interpreters played several differing roles from the ordinary including that of assisting with translation, interpretation of data and confirmation of emerging themes. Some went as far as sharing their life experiences in corroboration of evidence that was emerging from the research process. At times they shared experiences from the perspective of being men in society and those of being men who may have had differing or similar perceptions to the participants. At times they played the role of being buffer-zones between the researcher and participants especially when gender-differentiation matters emerged (see ‘In the room’ section). At times there would be a need to create a comfort gap due to the sexual content of the conversation when participants preferred talking to the male counterpart in the room. This was infrequent but material to the conversations.

The effect of the research work on them was also varied and for some translated into a growing interest in research practices in their contexts. For some it meant a belonging to what the researcher dubbed ‘the research elite’ in the forensic unit that probably needed to be developed further to strengthen the unit’s research arm. For others it meant ‘going back to school’ for further studies and continued professional development (INT01 and INT03).

A focus group with some of the co-observers was held as part of verification of the findings yielded by the data analysis, during the write-up phase. The group of three (3) co-observers sat together for the first time and got to appreciate the convergence of the ideas that had come not only from their co-observer group but from the participants as well at times. They had not met in the context of a focus group before but, because they had been intricately involved in reflecting back on the work with the researcher directly at the time of data collection and first cycle analysis, there seemed to be a pre-existing sense of rapport and a thread of cohesion of ideas. The core emerging assertions and possible theories were discussed with them during the focus group and the experience was enriching for both them and the researcher. There seemed to be a sense of nostalgia and banter in the room - a room full of trust.

Notwithstanding the emergent trust ‘in the room’, it has to be disclosed that the researcher did not always agree with the interpreters and may have even been as uncomfortable as when busy with the

participants, at times. This helped sharpen the questioning of the assumptions that the researcher may have had that needed to be evaluated. Some sentiments were also experienced from a patriarchal framework.

In terms of the strengthening of the validity of the research process, the co-observer / interpreters assisted with triangulation. They also played the important role of member-checking as depicted in the 'Research process validity testing section' herein and through the verification of findings via the focus group as mentioned above. In essence, the co-observers assisted with the internal and external validation of the qualitative data component. The rest of the process findings in relation to interactions is discussed in section on 'The environment' below.

8.1.5 THE RESEARCHER

From the outset it has to be confirmed that the role of the research supervisor in the study is implied throughout the thesis. The supervisor was intimately aware of the inner processes taking place through most of the study. Regular meetings and exchange of materials for review were part of the foundation for all the steps beginning with the research proposal, and then data collection, analysis and finally, the write-up. The research supervisor looked at both the quantitative and qualitative data summaries and drew his own reflections which were then shared with the researcher and at times included the revision of emerging codes, thematic analysis, categories and assertions. This strengthened the rigour of the methodology. The one area not fully discussed, but to which the research supervisor was exposed in part, was some of the journaling and memoing that the researcher used for inner-reflection through the various stages of the work. Some parts were shared with the supervisor in order to reflect deeply and to gain a different perspective of analysis. Other parts of the journaling and memoing processes were not shared as they became part of the researcher's personal journey. This use of journaling and memoing is as recommended (Creswell 2013). Some of the inner works, as has been demonstrated in the current thesis, were shared openly as they were significant to the exercise of transparency and reflexivity and to the linking of the reader to the inner workings of the research process as invoked by qualitative research methodologies (Creswell 2013), as discussed below. Beyond the research supervisor's role other role-players including the 'sojourners' were significant but are discussed in specific sections in the preceding chapters as and when deemed relevant. The role of the co-supervisor will be touched upon in the validity section below.

The journey into the researched world was about the researcher, the researched and the co-observer / interpreter in their shared environment. As a researcher, throughout the process, I knew the journey I was embarking on was unique and had not been taken before. Once it was done, it could not be repeated and, anyone who had taken the journey could not be the same again. Transformation of the researcher as alluded to by transformative research methodologies discussed in the introductory chapters, was

inevitable (Creswell 2009) in hind sight. When I was nearing what I thought was the end of the research journey, I had a surprise. I discovered that I had arrived at a place where the journey would not end but continue - a 'point of no return'. I came to 'the verge', to the precipice. The preceding journey could not be repeated even in the same shoes, with the same participants, and with the same sojourners, even if we all returned to the same place at the same time. It could not be repeated because whoever we were, we could not go back to our selves. The work had transformed us – at least had transformed me, if not the 'other'. Designing a study with certain ideals and questions in mind did not get you ready for what you would encounter, ultimately. You entered with research questions and emerged with some answers but more questions.

How you addressed yourself would evolve, also. When I started I was referring to myself as the researcher, the author... and then the 'we' encroached later but, even later, the 'I' reference has emerged. The research process has led to the recognition that different aspects of the research journey touched on different aspects of the 'researcher', the 'we' and the 'I'. The 'researcher' reference was used in an attempt to cocoon the author from the reality of the study subject. The 'we' reference was used to represent a communal dialogue between the researcher, the researched world and the reader. 'We' had a communal responsibility tag as well – 'we' were collectively working on or contributing to the emerging picture as opposed to the neutral and cocooned 'researcher'. 'I' was about the researcher facing reality in the context of the emerging theories. 'I' was personal and embraced vulnerability – the opposite of the protected 'researcher'. The 'vulnerability theory' had become one of the central themes, was transcendent and present even in the research process.

The 'researcher' was wary of getting her hands into certain sensitive aspects of the work initially but with time, and because of the participants, she could not keep sensitive aspects of the work outside 'the room'. She had to carry on with conversations that would evaluate the problem of sexual offending. It could be argued that she continuously had to balance the 'bracketing' of her prior knowledge against the process of bringing herself into the room. Bracketing, as defined in phenomenological qualitative research terms (Creswell 2013), was applied mostly during the data collection phase of the research study so as not to contaminate the field with prescient researcher bias on the one hand. The 'bringing of self into the room' in grounded theory terms, on the other hand applied, especially during the data analysis, interpretation and theory formulation phases. (See 'data validation' section and Addendum 'O'). In 'bringing herself into the room' the researcher acknowledged that she came in not as a 'clean slate' but, irrespective of preformed ideas on the subject matter of sexual offending, would have to be receptive of emerging transformative ideas and concepts.

So what was transformed in the perspective of the researcher? Prison, punishment and retribution were perceived as scary phenomena before the research started but have now become scarier, for a different and a new set of reasons. Before the commencement of the research process, the phenomena were scary

because of the perceived ‘badness’ of the people that were associated with them. Now prison, punishment and retribution are perceived as scary because of the scary society that has maintained these social phenomena in and outside of prison walls. We, as society, have created the victims, those accused but are not yet convicted and the convicted perpetrators. We continue doing so under our constitutionally correct rules and regulations, some might say. The research study focused on the accused remand detainee and not on convicted detainees. The remand detainee may seem unsafe but, I am now more scared of us as a society than I am of those living inside prison. They live in prison because they have been accused but are not convicted, and yet we treat them, in ways that are far from the constitutional rights ideal we all deserve. The convicted individuals may be held elsewhere in prison, and may not have been part of the research process, but there is a suspicion that they are not better off. The victims are known not to be better off through evidence in the current study and elsewhere. And so, if none of those involved in the circle of sexual offending come out better off after societal interventions, who is society serving then, the question has to be asked.

8.1.6 THE ENVIRONMENT

The notion that remand detainees referred by the courts were, upon their arrival at the forensic observation unit, being approached to participate in a research study became a challenge to overcome. The notion was initially met with bemusement at best and skepticism at worst. When the research context was being described and informed consent was being obtained, that the participants were highly unlikely to face any harm during the research process was emphasised to offset any sense of incredulity. A balanced view may have then started setting in at that stage because, over time, the phenomenon of active research work in a forensic observation unit brought in a different atmosphere. In terms of the research process, that each encounter was made up of a core unit of three members made up of a participant, a co-observer / interpreter and the researcher held its own experience. Each experience was unique and yet similar to others in the universality of some of the concepts and themes that began to emerge.

8.1.6.1 *The ‘in the room’ concept*

As soon as the interviews started, transformation began to take place ‘in the room’ where interviews were held. Although it was never in one single room every time, the physical space that was defined whenever a room was occupied turned into a cocoon within which sentiments falling a great distance outside the forensic assessment realm emerged. The sense of belonging to the ‘research group’ spread over to the nursing personnel that were co-observers too in that only specific individuals among staff were participants. Soon enough they would be tagged as being different. The creation of a perceived

'elitism' had not been anticipated. It seemed that there was a need and a curiosity from a scholarly perspective for those interested in research in a forensic psychiatry nursing context too.

A sense of openness in the cocoon described above was important for a good qualitative research endeavour. Under the circumstances of the study, however, given the topic of sexual offending and that the researcher was a woman, the researcher had to openly declare that intimacy was not wanted initially though. In as far as opening up conversations, intimacy was important for data collection, but in as far as the research topic content was concerned, the researcher was wary. The wariness became prominent especially when it was noted that often when painting a scenario of a relationship between a man and a woman, some of the participants would use the researcher in their examples.

To go back to the matter of gender 'in the room', in the design of the research procedure the researcher had to plan an approach to deal with the fact that she was a woman interviewing men about sexual offending. So the old notion of external appearances had to be considered. How does one dress when one is about to interview a person accused of a sexual offence? Walking-in in a position of control and yet wanting to develop trust and a space that was free enough for honest conversations to take place had to be balanced. Besides the dress code which is described further, below, the gender-differentiation went further and in a couple of instances meant that some participants avoided describing some 'manly' concepts because the researcher was a woman. The researcher got a sense that there were certain things that 'women ought not to hear'. The messages that came across at times may have been meant for the researcher as a neutral inquirer and at other times for the researcher as a woman – a conveyancer of stories from the 'other side'.

8.1.6.2 Strategies used to cope 'in the room'

Power relations:

One of the strategies used to ease up conversations in the room was the balancing of power relations. Reflexivity ordinarily reflected the power of the researcher and what verbal and nonverbal means of communication got used in study setting (Creswell 2013). Power-relations were continually undergoing negotiation 'in the room'. The power of the researcher as the driver in the research context was elusive and not guaranteed at best. The participant had some power in the research room even though not initially overt. The rate and the content of the research process were not entirely up to the observer and the co-observer but depended on the participant's verbal and nonverbal engagement. The observer was at times observed too²². This meant that the focus at times would be turned from the participant to the researcher. Although that was generally short-lived, it did bring scrutiny to the decision to keep the

²² Process: Reflexivity: In the room: Our breaths are held as the participant refers to the researcher's interest in his story...

researcher out of the room as far as possible in relation to some of the conversations. Another strategy that had to be observed was the fact that the participants may have felt compelled to put their best foot forward and portray themselves in a favourable light to the researcher and co-observer. Much of the conversation though became about matters that could not be groomed – even though it is acknowledged that the risk was still there when the researcher applied reflexivity and truthfulness (Schurink 2009).

Rolling eyes:

There were times when the researcher had to stifle a groan and not express shock at the material that was being presented. One of the more lasting strategies was the exercise of not ‘rolling the internal eyes’ once an odd and seemingly outlandish idea especially about women in society came up. The researcher was open with herself enough to realise, as described in relevant chapters that the ‘rolling of eyes’ was not always going to be helpful to the conversations. When certain stereotypes emerged, the researcher had to learn to resist initially. Later it became about listening to what was both being said and not being said. It eventually got to a place where the researcher had to admit whilst memoing during data analysis and write-up that: “I have since stopped rolling my eyes because I realise that this (perceived ‘oppression of men’) is not for show. The participants are genuinely experiencing this perception and ours is to see how we re-engineer this narrative and end up with both sides ‘not rolling their eyes’.” There were moments of weakness though: “I surprise myself when I still get surprised by the things that were said directly to me. The idea of controlling the victims in order to control the perpetrators is still running through... and leaves me speechless at times ... but fortunately I’m no longer rolling my eyes.”

Dress code:

“As a lady when you dress nicely and you put on shorts... If you ran out of money you’ll ask a guy to buy for you.”... 6497 – 6500. C07 [In the room: The participant is referring to the interviewer and includes her in his example and indicates the mark of short pants with gestures. This results in slight discomfort for the interviewer... 6498. C07]

As remarked upon earlier, how the researcher introduced herself to the participants was important in aiding openness and authenticity in the research process. How the researcher would dress and present herself became important as a strategy not to allow certain outward factors to interfere with the research process. It seems though despite efforts to keep the dress code out of the way, comments in keeping with research findings on the issue of the dress code and sexual harassment as discussed in some of the preceding chapters were unavoidable at times:

As the interviewer walks out of the ward, the participant asks: “Dr, what is the occasion after work? You look like you are dressed for an occasion?” [Note-to-self: A bit intrusive and inappropriate in this context? 2185 – 2189. C02]

The comment on the dress code may not be too dissimilar to how women in society are measured and their dress code is used as a pivotal point of control, as previously discussed in the 'Findings' chapters. The researcher had to live with these contradictions throughout the research period.

Comfort and discomfort zones:

We are sitting in the main interviewing room, with water dripping down the concrete ceiling above... and buckets on the floor to collect the drip... The participant does not seem affected by the slow drip of the water as it hits the red bucket. 3608 – 3613. C03

Besides from the temporary physical discomfort described above, more occasions led to discomfort because of the context of the discussions. These have been described in previous chapters but were frequent enough that the researcher became aware that an allowance had to be made for participants to be made to feel as comfortable as possible. At times anger would also be expressed as well as the use of humour to diffuse tension. As has been noted in the preceding 'Findings' chapters, humour played a central role in creating a space where tough conversations could be held. The usual response in a formal assessment is to avoid to engage at that level but in the research context the approach was different. It felt different for the researcher too...

The researcher had to keep a 'straight face' during several intense interviews that were bordering on being threatening or explicit:

“‘She’ was (HIV) positive because of (her). I had to take revenge. She was killing me (she was killing me with HIV and so I had to kill her)... I left her there.”(To die)... [It’s cold in the room. Straight-face mode all around. It may be a mixture of shock and even sorrow all around?].

Language processes:

The use of various languages and matters related to linguistics in the forensic observation context are touched upon in the 'Psychiatric features and forensic observation' chapter. As far as research processes are concerned language had a big impact on the study in several ways. Firstly the multiplicity of the languages and their dialects in the local context had to be respected – and thus the use of co-observers and interpreters who did not just understand local languages but also understood the mental health context and terminology being used.

Another point to appreciate was that the group that was involved in the interviews used mainly Tsotsitaal (Molamu 1995). Molamu expounds to describe Tsotsitaal ('Tsotsi' 'language') as a compound word made up the term 'tsotsi' as describing “a style of narrow bottomed trousers which became particularly popular amongst the black urban youth during the 1940s” (1995:144). The evolution of the language from the so-called American-style 'zoot' pants to include elements of

‘gangsterism’ in the area now referred to as Gauteng was also described (Molamu 1995). In the current study Tsotsitaal seemed to be a language culture borrowed from prison. It was also part of the languages spoken ‘in the room’ and was also used to convey humour. In as far as the researcher was concerned though, there was a further consideration in that she herself was not originally from the Tshwane area and so spoke the local languages with an accent that had been coined ‘#isiZuthu’ (speaking in a mixture of SeSotho and isiZulu) by those around her – even outside of the research process. In terms of methodological advances and culture, doing research work in language-intense settings where one ended up at any given time using three (3) or four (4) languages in one sitting would have to be evaluated in future research. The added advantage of having a transcriber who could capture all those languages then confirms the diversity within which the current research study took place.

8.2 RESEARCH PROCESS VALIDITY TESTING

Most of the discussion covered here is based mostly on work done by Creswell (2013) in the chapter ‘Standards of validation and evaluation’ p.243 – 268.

As encouraged by research practitioners like Creswell, each researcher has to find strategies of ensuring validity and understanding of their interpretative research reports that are comfortable to them (Creswell 2013). The strategies listed below begin to approximate the work done during the current study and approximate examples of how some strategies were used by the current researcher. Each term used is defined within the context of its application in the rest of the section below. Validation summarised in the sections below (underlined highlights) was illustrated via the eight validation strategies by Creswell (2013:250-253) viz.:

- a. Prolonged engagement and persistent engagement
- b. Triangulation
- c. Peer review or debriefing
- d. Negative case analysis
- e. Clarifying researcher bias
- f. Member checking
- g. Rich thick description
- h. External audits

Lincoln and Guba, as referred to by Schurink (2009), also have four (4) strategies that are widely used and are also included by Creswell (2013) viz.: credibility; transferability; dependability and confirmability. Credibility (internal validation) was strengthened by spending a lot of time in the field and by making use of triangulation of data sources. The researcher collected data over a period of a year due to the structure of the study environment and because she was embedded in the same system. This

and prior work in the same environment gave her an opportunity to not only engage participants through in-depth interviews but to observe them in a naturalistic setting. The same applied with the record-based part of the study, the researcher through the archiving centre could spend time searching for information from various sources in order to corroborate emerging data especially where material had to be verified during the data cleaning process.

Transferability (external validation) to make sure that the findings are transferable between the researcher and the participants and other role-players material to the findings e.g. the co-observer / interpreters rich thick description in places was used and reflected upon with the co-observers or an assessor as seen in the chapter on ‘Psychiatric features and forensic observation’ where an assessor is taken through some of the findings and reflects together with the researcher. Later the same assessor is given an opportunity to review the summary of the findings in order to confirm some of the emerging assertions especially about forensic observations.

Dependability (reliability) and confirmability (objectivity) via an external audit-like exercise with a co-supervisor co-opted specifically to review the work and some of the co-observers as endeavoured in the proposal to the current thesis and as Schurink concurs (2009) was done. Prof Willem Schurink himself as an expert in the current field of research was consulted at the time of research design and data collection. Workshops facilitated by him as an expert in qualitative research presented at the department of psychiatry had also been attended in 2013. (The researcher had also attended a qualitative data analysis course (ATLAS TI) offered by the University of Pretoria in September 2013 as part of preparation for the work). And, to borrow from Creswell, Eisner’s approach of consensual validation (an agreement among competent others that the interpretation and conclusions drawn were in keeping with the data and findings) was sought with co-observers and at times with sojourners (Creswell 2013:246).

The crystal analogy was used to draw and to identify ‘critical elements’ and write ‘plausible interpretations for them’ (Creswell 2013:249).

To balance the above described criteria, Angen refers to ethical validation that implies moral assumptions, political and ethical implications, and equitable treatment of diverse voices in a research context (2000). Ethical validation implies that there was equitable attention paid to different and differing voices and that the research agenda was set clear to participants (Creswell 2013). This in the current study was illustrated by the use of voices that were considered from different perspectives for instance in the question of the perception of oppression of men. There were varied responses to this concept that meant that the researcher had to first acknowledge and clarify her initial bias as set by her historical positionality of being a woman in a mostly patriarchal society. The exercise was then to bracket this knowledge of self and deal with internal reflections of ‘rolling eyes’ whilst opening up to the external reality that whether it was news or not, the perception of oppression was believed by those

who expressed it. It was believed by a diverse set of role-players including participants and co-observers. It caused the rolling of eyes initially with the researcher and later with sojourners via peer debriefing. The central phenomenon of ‘the perceived oppression of men’ became prominent in that sub-phenomena linked to it could be drawn out in grounded theory analytical style but also brought in the interpretive understanding of the participants’ voices as encouraged by Charmaz (2008). Further, Angen has talked about substantive validation where the work done is understood in the context of the work done by others too as has been done in the current study (2000). In the current study, an extensive literature review on perspectives on sexual and other forms of violence are compared to the current findings and commonalities are discussed. The ‘theoretical gap’ that is proposed viz. the ‘vulnerability theory’ is then tentatively forwarded as a substantive and localised preventative and explanatory theory (framework) upon which local transformative lenses can be applied on violence including sexual violence. This can be done from various perspectives ranging from victim-related issues to accused individuals as well as those who are potential victims of law enforcement systems and stigma on mental health. In the spirit of substantive validation too, the researcher’s interaction and interpretation of emerging concepts is also acknowledged and the work is “documented for others to judge the trustworthiness of the meanings” as encouraged by Creswell (2013:248). The researcher’s interpretive function is emphasised at all times.

8.3 EVALUATING STRENGTHS

8.3.1 DESIGN: MIXED RESEARCH METHODS

In terms of the study design, the quantitative component’s internal as well as external validation rest on the reproducibility of a stable sample over a set period of time using a data collection tool that can be applied in different settings. The data collection tool was also designed for a typical forensic mental health unit with information that was institution based, could be verified through internal (hospital) and external (court) records. The data could also be collected from multiple sources from within the same establishment. The research procedures as well as the descriptive analysis were also set.

Other aspects that made the design strong were the mixing of the data collection in a concurrent manner. The in-depth interview approach was used after the initial interviewing schedule was introduced to break the ice. More-over, the pre-set record-based quantitative data collection component of the tool was already familiar to the researcher as it had been used as part of the forensic unit’s database resource.

The use of a researcher who was multilingual and supplemented her language with other multilingual individuals who used English, isiZulu, seTswana, sePedi, isiSwati, isiXhosa, Afrikaans – in descending order of hierarchy, enhanced the study design.

Also, that the researcher was the opposite gender but supplemented with males with an understanding of local perspectives may have been a strength in that certain gender and cultural barriers were anticipated and accommodated to ease sensitive conversations.

The use of memoing and journal keeping helped the researcher to keep track of developments within herself about and in the research proceedings. Memoing during write-up: Simultaneously code the section of including the interviewer in narrative for: Validity and Process: Reflexivity section; Dress code section; Process: The researcher

The use of story-telling meant that in the write-up most of the narrative would be depicted by not showing the questions that were asked but the focus would be kept mostly on the participant's responses. Even where questions were asked the story was told from the voice of the participant. The voice of the researcher and interviewer is set in the background to illustrate the emphasis on the participant rather than the 'cleverness of the questions'.

8.3.2 FOUR (4) INTERPRETIVE STANDARDS BY RICHARDSON (CRESWELL 2013:257):

- a. Substantive contribution to the understanding of life – the preceding chapters and their summaries stand to the test and may be evaluated as substantive only by the reader. The researcher has tried to bring in the research problem and questions in focus throughout but had to be led by the content as it emerged from the participants as well – to be authentic.
- b. Aesthetic merit – the use of creative, artistic, and colourful complex analytical practices was in tension with the more conservative iterations of quantitative research styles of reporting. The work is littered by these contradictions and tensions in each of the preceding chapter especially the work remarked upon in footnotes. The researcher took to using footnotes so as an attempt not to detract too much from the main focus of the study.
- c. Reflexivity is demonstrated in that the researcher's subjectivity are demonstrated throughout the work as a "producer and product" (Creswell 2013:257) of the work who exposes and is aware of self.
- d. Impact: emotional and intellectual impact generating new questions or move others to write, research or act is hoped for although it was a complex story to tell.

8.3.3 EVALUATION STANDARDS ACCORDING TO CRESWELL

Creswell's evaluation standards as applied to the current research study taking the pragmatic and eclectic approach are illustrated in Table 30. They combine some phenomenological (lives lived in the context of violence including sexual violence) and grounded theory (generation of concepts related to violence and sexual violence explanation and prevention) approaches are as illustrated:

Table 30: Research evaluation standards according to Creswell (2013:260, 262)

Creswell's phenomenological study evaluation standards	Y	Creswell's grounded theory evaluation standards	Y
1.Understand philosophy of phenomenology	n/a	1.Study of a process or an interaction with systems	Y
2.Clear phenomenon to study	Y	2.Coding from the data to a larger theoretical model / framework	Y
3.Data analysis as recommended		3.Theoretical model diagram	Y
4.Overall essence of the experience of the participants conveyed	Y	4.Story line that connects categories in the theoretical model	Y
5.Author reflexive throughout	Y	5. The use of memoing and reflexivity and self-disclosure	Y

8.4 LIMITATIONS

One of the study's limitations was that the length of the study-time restricted quantitative generalisations to the period that was sampled and that naturally meant the size of the sample was limited to descriptive statistical analysis instead of further inferential statistical analysis. The wide variance gap that resulted in wide standards of deviation also meant that any comparative analysis beyond the descriptive would not yield more confirmatory results without a bigger sample size. The size of the sample depended on external factors and the number of referrals in a period of a year. All the records of the individuals that were referred were sampled and that balanced the limitation of the sample size.

Another limitation in terms of the qualitative component of the study was that the remand detainees could not be followed up beyond the initial verification process within the admission period but, to recover and to make up from that, the co-observers were then consulted and could corroborate the findings. Months later a focus group with some of the co-observers was constituted and the findings were explored for confirmation or rebuttal.

The study could not get a separate account of the process of mental illness and sexual offending accusations to triangulate the accused individuals' narratives. Future research designs could include interviews / focus groups with family members of those accused who are identified to have been mentally ill at the time of a sexual offence, instead of using social reports at the time of forensic observation, as was done in the current study. This might enrich the design of locally relevant models on early detection and monitoring programmes.

8.5 ETHICAL CONSIDERATIONS DISCUSSION

At any given time, research work is grounded on ethical principles. Ethical principles govern the reasons and motivations of a study, the methodology and how the findings are presented and disseminated. Authentic and rigorous methods are about protecting participants and society from harm and to approximate the virtue of truth-telling in as humane a manner as possible. The preceding sections and the methodology chapter were used to demonstrate principles that are important including the surety of the quality and validity of the study. What is mentioned below are closing remarks on what is pertinent to the study, for emphasis.

Sensitivity: ‘do no harm’ and confidentiality

The idea of keeping the identities of the participants confidential did not end with just their identifying data and names but included subtle details of their stories that may have been recognisable to others. These were altered. That individuals were coming in with cases that may have been publicised was kept in mind.

Informed consent was the mainstay of participation and at times meant that some participants would withdraw when they felt they could not proceed further. Consent to proceed with the gathered material would then be sought. Co-observers or other members of staff were always involved and present at the time of recruitment and subsequent informed consent gathering so as to minimise any chances of coercion. The co-observer / interpreters as well as the transcriber were also requested to give informed consent and confidentiality was emphasised.

8.6 FINAL IMPLICATIONS AND STUDY CONTRIBUTIONS

Aside from the extensive discussions within the ‘Findings’ chapters, the following summarise some succinct take-home messages:

As has been called upon, the current research study has demonstrated the need for not just quantitative but qualitative and mixed research methods of exploring the complex nature of sexual offending and ways to prevent it. The field of forensic mental health in the South African context may well benefit from such approaches and in turn contribute to the societal prevention of sexual violence at primary, secondary and tertiary levels. The researcher took what may have been deemed a ‘big bite’ in a small setting at the time but is now hoping that as Campbell and Wasco said, more than a decade ago:

“Given the complex nature of violence-related trauma, the development of point-and-click statistical software has been a major innovation that has allowed researchers to model complicated

relationships among many variables using multivariate quantitative statistics. However, qualitative work may be equally important as it can shed new light on old problems... Qualitative approaches may be particularly helpful when trying to answer why and how questions. Such process questions are the next step in many areas of sexual assault research, and expanding the methodological diversity of the trauma literature is needed. As the field of rape research moves forward, mixed method approaches may be able to address difficult questions regarding treatment, intervention, and prevention... Such collaborative research may help uncover answers to today's most elusive questions." 2005:130-131

Future research will probably benefit from a longer study period e.g. a time-series analysis or a cross-sectional design where quantitative forms of comparisons can be strengthened and yield more causal links between the accusation of a sexual offence and certain psychiatric features including diagnoses like intellectual disability and other variables. Studies involving convicted individuals would probably be even stronger.

With respect to the co-observer / interpreters' inputs in specialised research areas like forensic mental health, translation for translation sake may not be good enough, the process findings of the study have illustrated. Training of translators and interpreters who are well-versed in mental health concepts and in multiple languages including local dialects and hybrid languages like Tsotsitaal is important in terms of accessing local knowledge systems. The use of translators, interpreters and transcribers who are familiar with terminology used in a specialised research area, and understand the emotional tax it takes to do such work, seems critical especially in diverse contexts like South Africa. The study has started drawing on that reality in aspects of collection, organising and ultimately data analysis and interpretation.

Primary, secondary and tertiary prevention of sexual offending in those who are mentally ill may be strengthened by drawing out models of sexual offending prevention programmes that include early identification and reporting of risky and sexually inappropriate behaviour related to mental illness where applicable. Reporting systems at community level are deemed necessary. Family interventions too at community level would enhance the outcomes of such prevention programmes.

The study design and the research setting, meant that accused individuals under the age of 18 were not included. However, if the definition of 'youth' is taken as it is in some socio-political contexts, then the youth age span is up to 35 and that implies that the youth was well represented in the current study. The youth age group is important for future study designs as it seems that there may be a different set of variables that may be derived if in focus. The plight of younger males in society is under a spotlight as an area of intervention as they seem vulnerable to offend in the current country context.

In as far as human rights perspectives are concerned, systemic approaches will probably have to take into account how law enforcement systems need to be reviewed drastically in order to match wider societal needs in as far as violence prevention is concerned.

In as far as vulnerability is concerned, more responsibility seems to be directed at societal systems to prevent and turn the escalation of violence around by not exposing more potential victims and potential perpetrators to trauma. So far the focus of prevention and intervention programmes may have been at individual levels of intervention, but it seems a spread of the focus onto societal levels is necessary.

In the process of forensic observation, whilst remaining focused on the observation and whilst they avoid dual agency, mental health care practitioners may need to take trauma into context and to refer traumatised and vulnerable individuals for mental health care where deemed necessary – this may have an impact in terms of regulations and legislative frameworks.

8.7 FINAL SUMMARY

The study aimed at exploring the psychosocial and psychiatric features of individuals that were deemed to be in need of forensic observation and were accused of sexual offending and others. The findings reflect a group of individuals whether mentally ill or not, who are aligned to the society from which they emerge. Their psychosocial features tend to explain the phenomenon of sexual offending as it occurs in society. The psychiatric features reflect a group of individuals who, even though they may be suffering from diagnosable conditions, are generally more aligned with society than they are to a typology signifying mental disorders. Even when intellectual disability is implicated, there is not much difference between those who are affected by mental illness or intellectual disability and those who are not, except perhaps in the degree of how young a victim may be.

The psychosocial features reveal alignments to various theoretical frameworks that explain sexual offending. It emerges that sexual offending may be a means to an end, ultimately. It may not be an end in itself except for some psychiatrically affected individuals whose sexual impulse control may be impaired. Sexual offending may be deemed a tool used to entrench patriarchy and societal systems of control in the current and other study contexts. It does not seem to be about psychiatric conditions like paraphilic disorders and others - even when children are victims. It is deemed to be about social control of vulnerable groups – children, women, men, the young and the elderly.

The vehicles that seem to facilitate or bring matters to a head are the socio-economic conditions from which men, as the most represented in the current study, emerge and to which victim / survivors especially women and children are exposed in the specific study context. Men may be feeling disempowered and threatened and vulnerable themselves and thus may be lashing out at society. Moreover, systems of social control and law enforcement may be perpetuating and at times precipitating

sexual offending and other forms of gender-based interpersonal violence. The thesis focuses on sexual violence even though it is acknowledged that sexual violence is embedded in other forms of societal violence. Systemic forms of violence as discussed in the build-up of theoretical frameworks shift from individual and interpersonal forms, to those perceived as community forms and ultimately to institutionalised and structural forms of violence.

The findings seem to suggest that sexual offending may be independent of mental illness largely, in those accused of the deed. The metaphor for sexual offending maybe moves beyond gender and becomes about vulnerability – of potential victims as well as potential perpetrators. The victims are vulnerable to perpetrators known to them and patriarchal and unequal societal systems at large. Would-be perpetrators are vulnerable to a patriarchal society and adverse social and justice systems. Prevention interventions at primary, secondary and tertiary levels of forensic and public mental health systems need strengthening. Violence and sexual violence prevention approaches will need to continuously keep societal systems, community and family values systems in sight for the problem of sexual offending to be transformed ultimately. The study renders as urgent the need to review societal and research-based approaches that will move beyond explanatory and towards locally-relevant preventative frameworks, in solving the problem of sexual offending.

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ADDENDUM A: PARTICIPANT'S INFORMATION LEAFLET & INFORMED CONSENT FORM FOR A NON-INTERVENTION STUDY

TITLE OF STUDY: A comparison of psychosocial and psychiatric features of individuals referred by the courts for forensic psychiatric observation and who are found to be mentally incapacitated vs. those found to be mentally capable in relation to an alleged sexual offence

Dear Mr. / Mrs.

date/...../.....

1) INTRODUCTION

You are invited to volunteer for a research study. This information leaflet is to help you to decide if you would like to participate. Before you agree to take part in this study you should fully understand what is involved. If you have any questions, which are not fully explained in this leaflet, do not hesitate to ask the investigator. You should not agree to take part unless you are completely happy about all the procedures involved. In the best interests of your rights, it is strongly recommended that you discuss with or inform your next of kin of your possible participation in this study, wherever possible.

2) THE NATURE AND PURPOSE OF THIS STUDY

You are invited to take part in a research study. The aim of this study is to evaluate the social conditions and mental health conditions that affect those that are accused of sexual offences. By doing so, we wish to learn more about the lives of those who have been accused (not convicted) of this kind of offence and to help bring down the number of such cases. We are not saying that you have committed the offence but that we would like to understand the lives of those who are accused of this kind of offence. You have been selected to be part of this scientifically designed research study so that we can gather information from people referred by the courts after a charge is laid against them.

3) EXPLANATION OF PROCEDURES TO BE FOLLOWED

The research information collected from you will not be used in any court of law and will not be part of the court documents related to your current admission. The doctor(s) who are doing your observation as per court referral will not know anything about the study. Your name will not appear in any material to be published or discussed in an academic setting.

This study involves answering some questions with regard to your life circumstances, your understanding of how it came about for you to get arrested, your life since the arrest, your rights as an arrested person accused of this charge, how you feel about the arrest and the charges against you, whether you know the person who is said to have been a victim in your case, how you are related to the victim if at all known to you. In a manner that is not related to the charges against you, you will be asked about your opinions regarding topical social situations, romantic relationships and sexuality in general. A clinical psychologist will also come to talk to you about how your life has been, what your likes and dislikes are and how you see your life now.

As you are admitted to Weskoppies Hospital for your court observation, you will still go through all the steps that are required by the court that sent you here. The doctor and psychologist involved with the research will not be involved at all with your observation process. A doctor, nursing staff and other members of the team that are not involved with the research will carry on with your observation as usual and will be responsible for that part of your stay at Weskoppies Hospital. Should you require any medical assistance during your stay, the nursing personnel in the ward and the doctors that are assigned to be on duty to assist you in case of emergency will attend to you. As part of the research study, your observation file will be looked at to gather information that will help describe your life and the circumstances of your arrest but the contents of that and any other material received during the research study will not be discussed with you by the researcher. This is in order to stick to the rules of the court and to the rules of the University of Pretoria. To ensure that you understand all the proceedings of the research, you will be addressed by the researcher, the psychologist or a person assigned to assist you with communication in a language that you understand.

4) RISK AND DISCOMFORT INVOLVED.

There are no risks and discomforts that we are aware of in participating in the study. People who are not involved with the study will not know about the findings related to your participation. The study will not influence your court referred observation process at all.

5) POSSIBLE BENEFITS OF THIS STUDY.

It is possible that after the study is conducted the lives of those who are accused of sexual offending and are sent to a hospital by the court for observation will be understood better. The lives of those awaiting trial may be understood better. The lives of those who are victims of sexual offending may be understood better. Also, it is possible that by understanding how mental illness affects individuals in terms of sexual offending, there may be ways of helping those who are affected by mental illness not to find themselves in situations where they are accused of a sexual offence. This does not mean you, necessarily.

6) I UNDERSTAND THAT IF I DO NOT WANT TO PARTICIPATE IN THIS STUDY, I WILL STILL RECEIVE STANDARD MANAGEMENT AS ANYONE REFERRED BY THE COURTS FOR OBSERVATION.

7) I MAY AT ANY TIME WITHDRAW FROM THIS STUDY.

8) HAS THE STUDY RECEIVED ETHICAL APPROVAL?

This Protocol was submitted to the Faculty of Health Sciences Research Ethics Committee, University of Pretoria and written approval has been granted by that committee. The study has been structured in accordance with the Declaration of Helsinki (last update: October 2008), which deals with the recommendations guiding doctors in biomedical research involving human/subjects. A copy of the Declaration may be obtained from the investigator should you wish to review it.

9) INFORMATION If I have any questions concerning this study, I should contact:

Dr Sokudela Tel: 012 319 9500 /9741 or cell: 073 012 4441

10) CONFIDENTIALITY

All records obtained whilst in this study will be regarded as confidential. Results will be published or presented in such a fashion that participants' remain unidentifiable.

11) CONSENT TO PARTICIPATE IN THIS STUDY.

ADDENDUM B: ASSENT FORM FOR NON- INTERVENTION RESEARCH

(WHERE THE INDIVIDUAL IS WILLING TO PARTICIPATE BUT IS CLINICALLY NOT FULLY ABLE TO GIVE INFORMED CONSENT)

Assent form for Protocol Title:

A comparison of psychosocial and psychiatric features of individuals referred by the courts for forensic psychiatric observation and who are found to be mentally incapacitated vs. those found to be mentally capable in relation to an alleged sexual offence

1) INTRODUCTION

You are invited to volunteer for a research study. This information leaflet is to help you to decide if you would like to participate. Before you agree to take part in this study you should fully understand what is involved. If you have any questions, which are not fully explained in this leaflet, do not hesitate to ask the investigator. You should not agree to take part unless you are completely happy about all the procedures involved. In the best interests of your rights, it is strongly recommended that you discuss with or inform your next of kin of your possible participation in this study, wherever possible.

2) THE NATURE AND PURPOSE OF THIS STUDY

You are invited to take part in a research study. The aim of this study is to evaluate the social conditions and mental health conditions that affect those that are accused of sexual offences. By doing so, we wish to learn more about the lives of those who have been accused (not convicted) of this kind of offence. We are not saying that you have committed the offence but that we would like to understand the lives of those who are accused of this kind of offence.

3) EXPLANATION OF PROCEDURES TO BE FOLLOWED

The research information collected from you will not be used in any court of law and will not be part of the court documents related to your current admission. The doctor(s) who are doing your observation as per court referral will not know anything about the study. Your name will not appear in any material to be published or discussed in an academic setting.

This study involves answering some questions with regard to your life circumstances, your understanding of how it came about for you to get arrested, your life since the arrest, your rights as an arrested person accused of this charge, how you feel about the arrest and the charges against you, whether you know the person who is said to have been a victim in your case, how you are related to the victim if at all he/she is known to you. In a manner that is not related to the charges against you, you will be asked about your views about your opinions regarding topical social situations, romantic relationships and sexuality in general. A clinical psychologist will also come to talk to you about what kind of person you are, what your likes and dislikes are and how you see your life.

As you are admitted to Weskoppies Hospital for your observation, you will still go through all the steps that are required by the court that sent you here. The doctor and psychologist involved with the research will not be involved at all with your observation process. A doctor, nursing staff and other members of the team that are not involved with the research will carry on with your observation as usual and will be responsible for that part of your stay at Weskoppies hospital. Should you require any medical assistance during your stay, the nursing personnel in the ward and the doctors that are assigned to be on duty to assist you in case of emergency will attend to you.

As part of the research study, your observation file will be looked at to gather information that will help describe your life and the circumstances of your arrest but the contents of that and any other material received during the research study will not be discussed with you by the researcher in order to stick to the rules of the court and to the rules of doing this study.

To ensure that you understand all the proceedings of the research, you will be addressed by the researcher, the psychologist or a person assigned to assist you with communication in a language that you understand.

4) RISK AND DISCOMFORT INVOLVED.

There are no risks and discomfort involved in participating in the study that are known. No one outside of the study will know about the findings related to your participation. The study will not influence your observation process at all.

5) POSSIBLE BENEFITS OF THIS STUDY.

It is possible that after the study is conducted the lives of those who are accused of sexual offending and are sent to a hospital by the court for observation will be understood better. The lives of those awaiting trial may be understood better. The lives of those who are victims of sexual offending may be understood better. Also, it is possible that by understanding how mental illness affects individuals in terms of sexual offending, there may be ways of helping those who are affected by mental illness not to find themselves in situations where they are accused of a sexual offence. This does not mean you, necessarily.

If you do not want to take part any more you may decide at any time during the study, not to carry on. No-one will force you to carry on. No-one will be cross or upset with you if you don't want to, and your doctor will. You don't have to give us your answer now, take your time and read the rest of this form before you decide. If you sign at the bottom it will mean that you have read this paper, and that you would like to be in this study.

INFORMATION: If you have any questions concerning this study, you should contact:

Dr Sokudela Tel: 012 319 9500 /9741 or cell: 073 012 4441

Your Name

Person Obtaining Consent

Parent / Next of kin / Guardian / Nurse As Witness

Name

Please Print

Signature

Date

Adapted from PIC 1 (c)

ADDENDUM C: DATA COLLECTION SHEET / INITIAL INTERVIEWING SCHEDULE

(An access database was created for the quantitative parts of the data for ease of analysis)

1. Assigned code of experimental unit
2. Observation code for evaluator
3. Name of Accused
4. Code allocated to accused
5. Date of birth of accused
6. Hospital number and case number of accused
7. Referring court
8. Date on J138 court order
9. Charge on J138 [Details: nature; weapon used; single/multiple charges]
10. Date of arrest
11. Date of admission for observation
12. Date of completion of official observation report if matter concluded
13. Date of informed consent where applicable
14. Date of data collection questionnaire
15. Date of in- depth interview [do not declare upfront official findings of report as has confidentiality and court order restrictions]
16. Demographic and Social background information of the accused
 - a. Age
 - b. Education [none, primary, secondary, tertiary; skilled]
 - c. Income [<R3k, R3 – 5k, >R5k]
 - d. First Language
 - e. Home Address (area code and province)
 - f. Religious activities
 - g. Crime activities [Reported to the police, detained or jailed or been in a fight at work or neighbourhood, involved with a gang]
 - h. Alcohol and drug use [alcohol, drugs, dagga, specify quantities reflecting excessive use or use CAGE questionnaire Or other screening tool]
 - i. Sexual orientation
17. Childhood experiences
 - a. Physical punishment as a child,
 - b. Sexual abuse as a child ,
 - c. Emotional and
 - d. Verbal abuse as a child] [give examples of this to help in the interview]
 - e. Witnessed mother's abuse by father/boyfriends,
 - f. Witnessed sisters' abuse by her husband / boyfriend,
18. Work situation of the accused [Details: Type of work, not ever worked, unemployed, unskilled, skilled, professional work]
19. Perceptions of themselves
20. Perceptions of women [or males depending on sexual orientation]
21. Identify important intimate partners [current and previous partners in the last 10years]. For each partner:
 - a. Type of relationship
 - b. Age of partner at time of initiation of relationship
 - c. Age of accused at time of initiation of relationship [calculate the difference in the analysis]
 - d. Occupation of partner during the relationship
 - e. Income level of partner during the relationship
 - f. Income level of accused during the relationship [calculate the difference between e and f in the analysis]
 - g. Number of children borne out of the relationship if any

- h. Conflict management during arguments
 - i. use of physical threats,
 - ii. emotional,
 - iii. verbal and
 - iv. financial tactics
 - i. Emotional abuse if any
 - i. ignore her/him,
 - ii. leave the house,
 - iii. threaten to leave her,
 - iv. stay away the night/weekends
 - j. Verbal abuse if any
 - i. shout,
 - ii. swear at, use dirty language and rude names
 - k. Reasons for conflict
 - i. household finances,
 - ii. about children,
 - iii. she sits on his head,
 - iv. she answers him back,
 - v. she wants him to spend more time with her,
 - vi. she talks to other men,
 - vii. she does not want to have sex,
 - viii. he has drunk alcohol,
 - ix. she has drunk alcohol
 - x. she suspects him of having affairs,
 - xi. he suspects her of having affairs
 - xii. about relatives
 - l. Patriarchal / control issues in the relationship
 - m. History of psychiatric/psychological illness of partner
22. Life history of psychiatric/psychological diagnosis or illness or symptoms of the accused
23. History related to the current observation
- a. History of use of substance(s) of abuse at the time of the alleged offence;
 - b. The use of weapons and/or physical assault on the alleged victim;
 - c. Previous psychiatric observation of the accused for the same alleged sexual offence (Second Opinion report)
 - d. Previous psychiatric observation of the accused for another alleged sexual offence
 - e. Previous record of sexual offending by the accused without referral for psychiatric observation
 - f. Previous criminal record of the accused (including nonsexual offences)
24. Current observations details [Details of the forensic psychiatric report]
- a. Psychiatric Diagnosis of the accused on the report;
 - b. Other diagnoses of the accused reported to the court;
 - c. Opinions on whether the accused was / was not capable of understanding court proceedings and was / was not able to contribute meaningfully to his / her defence;
 - d. Opinions on whether, at the time of the alleged offence, the accused did / did not suffer from a mental disorder or mental defect that affected / did not affect his / her ability to distinguish between the rightful or wrongful nature of his / her deeds.
 - e. Opinions on whether, at the time of the alleged offence, the mental illness or mental defect did / did not affect the accused's ability to act in accordance with the said appreciation of the rightful or wrongful nature of his / her deeds
25. Victim details
- a. The nature of the relationship of the accused with the alleged victim;
 - b. the age of the alleged victim,
 - c. the age gap between the accused and the alleged victim;

- d. the gender of the alleged victim;
 - e. psychiatric diagnosis of the alleged victim (if available)
 - f. proximity of victim's place of stay to accused
 - g. complainant to the police
 - h. date of complaint
26. Social report to cover all the above from the family's perspective [for the sake of uniform application to each 'experimental unit' questions to be covered by this Social Report will not deviate from the ordinary essence of a routine social report which looks at factors described above; describe the normal psychosocial report]
27. Psychological scale/ instrument scoring (MCMI III)

ADDENDUM D: IN-DEPTH OPEN-ENDED INTERVIEW SCHEDULE

At this stage an open-ended question approach will be used during the interview.

- This interview will be used to gather information on the attitudes of the participants towards their alleged victims and the nature of their relationship.
- Their attitudes towards sexual offending not related to their charges and their specific cases will be reviewed in a series of questions.
- Their attitude on the process of court observation for an alleged sexual offence will also be gleaned upon.
- The focus will not be on whether the accused accept responsibility of the charges against them or not and this will be declared upfront. The predetermined outline will be discarded in favour of an emerging outline dependent on the flow the conversation takes.

ADDENDUM E: QUALITATIVE ANALYSIS OF QUANTITATIVE DATA (FILES) ANALYSIS RESULTS

WHERE DOES SEXUAL OFFENDING OCCUR?

- Code = Place of offence
 - Category = Location
 - Subcategory
 - Inside a home
 - Victim's home
 - Accused's home
 - Shared home
 - Outside home
 - Bar or tavern
 - Elsewhere

Theme: Places that are typically unsafe for women to be found at - taverns

Where can women go where they can be safe?

“I did not give anyone permission to have sexual intercourse with me without my consent and so I want the police to investigate this matter further.”

UNDER WHAT CIRCUMSTANCES DOES SEXUAL OFFENDING TAKE PLACE

1. Socially sanctioned ways of relating to neighbours and family are now under review
 - a. It takes a ‘Village’ to raise a child... [malume effect]
 - b. Malume cannot be trusted anymore
 - c. Can any adult including blood relatives be trusted?
 - d. When others will avoid confronting the perpetrator who is known to be a rapist and turn a blind eye [serial rape case where friend does not intervene]
 - e. Incest-like matters – a son attacking a mother, HIV myth and the role thereof?
 - f. Family secrets
2. Women alone
 - a. Numerous encounters building up to sexual assault of a woman alone in her house. No SAPS involvement prior to sexual assault. [quanti 49]
 - b. He performed rituals on her and the raped her. [quanti 59]
3. Elderly people alone

4. Children not safe

a. At home

- i. The girls were raped by their mother and father and two older brothers. [quanti 56]
- ii. He said he doesn't know what made him do it; maybe it was the work of the devil. [quanti 36]
- iii. The victim was left alone with the stepfather - the accused. [quanti 50]
- iv. She was crying loudly but he never had the heart to stop [quanti 50]
- v. He says she forced herself on him instead. [quanti 58]
- vi. She was 10 and home alone after school. [quanti 58]

b. At neighbours

- i. Victim was routinely left at the home of the accused to be looked after whilst her mom was at work [quanti 45]. She reports that she was raped every time whilst the babysitter was in a different part of the house.

c. At sleep over

- i. He told the victim he's the devil's child. [quanti 51]

d. Playing

e. Walking on the streets

- i. Six year old girl walking back from school with her friends [quanti 31]
- ii. Children walking alone to school [quanti 48]
- iii. She was sent to buy bread alone and did not return. She is known to be a 'slow-learner'. [quanti 55]

5. Money + sex

a. Exploitation in both directions

- i. Accused owed money by victim's family
- ii. Family of the alleged victim benefits from the accused' disability grant / money
- iii. The young girl seduced him." [quanti 33]
- iv. She knows him and she does that to other people
- v. She says he told her not to cry because he is going to give her a baby and R200... [quanti 33]
- vi. R2 [quanti 31]
- vii. He said the two kids asked him for R1. [quanti 37]
- viii. He said she consented to sexual relations when she didn't have the money he asked of her. [quanti 41]
- ix. Had tea with the only victim that survived to tell. He wanted her for a girlfriend she said. [quanti 43]

- x. He said he went to her as she was a known sex worker whose services he had used before. This time he didn't have money to pay her and instead wanted money from her. [quanti 43]
 - xi. The victims state that they took R20 and R10 at different times from the accused and ran off before and/or complied with his requests. [quanti 42]
 - xii. He requested them to sit on him and to touch him. [quanti 42]
 - b. Grooming of a minor according to the Sexual Offences Act
 - i. He gave them food [quanti 17]; [quanti 27]; [quanti 48]
 - ii. He promised them games on a PlayStation. [quanti 52]
 - iii. He promised them balloons. [quanti 52]
 - iv. He enticed a boy with a bicycle. [quanti 57]
 - c. Exploitation of children for money
 - i. The accused sold her children to be sex-workers for the benefit of others. [quanti 56]
 - d. Sexual offending and robbery
 - i. She was assaulted whilst together with her boyfriend by a group of 5 men. They took her phone and shoes.

Two of the group raped her. [quanti 54]
- 6. Alcohol + sex
 - a. He bought drinks for her
 - i. At a shebeen / tavern
 - ii. At her / his home
 - iii. Elsewhere
 - b. He says she asked him to buy alcohol for her in exchange for sex
 - c. He thought by buying alcohol for her she would become intimate with her
 - d. He pretended to be drunk.
 - e. Accused admits to the charges but says he was drunk [quanti 33]
He says he sexually assaulted her because he was very drunk. [quanti 53]

He was drunk and so is not sure what happened during the alleged sexual offending incident. [quanti 60]
 - f. The mother of the victim was out drinking at the shebeen / tavern and left her alone with her husband – the victim's stepfather [quanti 50]
- 7. Consensual sex
 - a. He says she agreed and later the police came
 - i. [Ref earlier on in the list]

- ii. He says she agreed to have sex with him. She goes to a special school implying intellectual difficulties. [quanti 55]
 - b. He says she agreed but then reported to the police when he could not give her money
 - i. in the morning “amavuso”
 - ii. for hair
 - iii. for airtime
- 8. Accused was sexually abused as a child
- 9. He said he went to the complainant's home because he wanted to Sexual offending her. [quanti 40]
- 10. He does not know why he did it. [quanti 44] compare to another “I do not know why I did it” [quanti 36]
- 11. Stalking
 - a. From the superficial analysis of the case it looks like he stalked her and traced her movements and social situation although he remained a stranger. Was there obsession here? Wonder how many other charges of a similar nature went undetected with this accused? [quanti 49]
- 12. Miscellaneous:
 - a. He offered to remove her bad luck by performing rituals as he knew how. [quanti 59]
She may have been drugged as she felt confused. [quanti 59]

He performed rituals on her and then raped her (age 25). [quanti 59]

MOTIVE FOR OFFENCES

- 1. Sexual satisfaction
 - a. He performed rituals on her and then raped her for sexual satisfaction according to the court documents. [quanti 59]
- 2. Revenge
 - a. Witness reported that the accused can be spiteful sometimes. [quanti 44]
 - b. He said she liked to interfere and influence other girls not to fall in love with him because he is older. [quanti 54]
- 3. Y interviews established anger and revenge were stated as motives after the accused says he was infected with HIV by one of his girlfriends and subsequently affecting his regular partner. He states that he started drinking when he found out he had infected his regular partner. [Confirmed in social report. This is mixed analysis] [quanti 43]
- 4. He said she consented to sexual relations when she didn't have the money he asked (demanded) of her [quanti 41]
- 5. He does not know why he did it. [quanti 36], [quanti 44]

6. He was teaching them what the teachers failed to teach them at school. [quanti 48]
7. Past Sexual offending not confirmed but there is a high index of suspicion according to the researcher. The researcher is coming into the expert area [Add to PROCESS section]. Psychosis is a separate issue and is probably linked to substance abuse. [quanti 49]
8. She was assaulted whilst together with her boyfriend by a group of 5 men.
They took her away from the boyfriend to a sports field.

They took her phone and shoes.

Two of the group raped her at knife and gun point. [quanti 54]

OUTCOMES OF OFFENCES

- Arrest by police SAPS
- Arrested by the community. [quanti 48]
- The community assaulted him and burnt his house. Community Justice [quanti 48]
- Community justice – “mob justice”.... “safer in prison” [quanti 11] [quanti 48]
- The charges were dropped because the victim’s team did not come to court... [quanti 22]
- The investigating officer does not believe the accused did it but the person is referred for observation anyway – the outcome is usually the same if you are affected – you become a state patient – no justice in the world? [quanti 35]
- Family secrets withheld: The granny / aunt / mother / friend who will not tell:
 - a. When others will avoid confronting the perpetrator who is known to be a rapist and turn a blind eye [serial sexual offending case where friend does not intervene] [quanti 18]
 - b. The mother of the accused asked her not to go to the clinic
 - c. The family was upset with the step-granny for taking the victim to the clinic [quanti 50]
 - d. The babysitter told her not to lie about her son raping her and slapped her on the face. [quanti 45]
 - e. The granny warned her son to stop but he said he will not stop according to court documents. [quanti 50]
- Men assault woman in the presence of her ‘man’, men rescue her and report on her behalf.
 - a. She ran to a nearby house and was assisted by men who walked her home. One of these men then came back to report to her family and SAPS a day later. [The role men play in the face of sexual violence] [quanti 54] [Need to break it down further]
 - b. What happens to the boyfriend afterwards?
- ‘I’m sorry, I’ll never do it again....’

When accused confronted about sexual offending [quanti 55]

The Research Ethics Committee, Faculty Health Sciences, University of Pretoria complies with ICH-GCP guidelines and has US Federal wide Assurance.

- FWA 00002567, Approved dd 22 May 2002 and Expires 20 Oct 2016.
- IRB 0000 2235 IORG0001762 Approved dd 13/04/2011 and Expires 13/04/2014.



UNIVERSITEIT VAN PRETORIA
UNIVERSITY OF PRETORIA
YUNIBESITHI YA PRETORIA

Faculty of Health Sciences Research Ethics Committee

21/11/2013

**Approval
Certificate New
Application**

Ethics Reference No.: 472/2013

Title A comparison of psychosocial and psychiatric features of mentally capable versus mentally incapable individuals referred by the courts for forensic psychiatric observation in relation to an alleged sexual offence

Dear Dr. Funeka B Sokudela

The **New Application** as supported by documents specified in your cover letter for your research received on the 13/11/2013, was approved by the Faculty of Health Sciences Research Ethics Committee on the 20/11/2013.

Please note the following about your ethics approval:

- Ethics Approval is valid for 3 years
- Please remember to use your protocol number (**472/2013**) on any documents or correspondence with the Research Ethics Committee regarding your research.
- Please note that the Research Ethics Committee may ask further questions, seek additional information, require further modification, or monitor the conduct of your research.

Ethics approval is subject to the following:

- The ethics approval is conditional on the receipt of 6 monthly written Progress Reports, and
- The ethics approval is conditional on the research being conducted as stipulated by the details of all documents submitted to the Committee. In the event that a further need arises to change who the investigators are, the methods or any other aspect, such changes must be submitted as an Amendment for approval by the Committee.

The Faculty of Health Sciences Research Ethics Committee complies with the SA National Act 61 of 2003 as it pertains to health research and the United States Code of Federal Regulations Title 45 and 46. This committee abides by the ethical norms and principles for research, established by the Declaration of Helsinki, the South African Medical Research Council Guidelines as well as the Guidelines for Ethical Research: Principles Structures and Processes 2004 (Department of Health).

We wish you the best with your research.

Yours sincerely

Dr R Sommers; MBChB; MMed (Int); MPharMed.

Deputy Chairperson of the Faculty of Health Sciences Research Ethics Committee, University of Pretoria

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