

No 1 (2) 2016



JUST AFRICA

All - Africa Journal of Criminal Justice

ACJUS

All Africa Criminal Justice Society

EDITORIAL BOARD

Associate Professor Rajendra Parsad Gunpath, University of Mauritius
Professor Cornelis J. Roelofse, University of Limpopo
Mr. Roopchand Mahadew, University of Mauritius
Associate Professor (Dr) Vikas Gandhi, Gujarat National Law University, India
Associate Professor (Dr) Anupam Jha, University of New Delhi, India
Dr. Charles Oliver, University of Limpopo
Mr. David Kgosimore, University of Limpopo
Mr. Gideon Joubert, University of Venda
Mr. Ephraim Kevin Sibanyoni, Walter Sisulu University
Mr. M. Tuba, UNISA
Mr. Demelash Kassaye, Addis Ababa University, Ethiopia
Associate Professor (Dr) Doraval Govender, UNISA
Mr. Leon Holtzhausen, University of Cape Town
Mrs. Sarah Simons, Seafarers International Research Centre
Mr. S. Hungwe, Cape Peninsula University of Technology
Mrs. Jeanette Smit, Southern Business School, South Africa
Mrs. S. Sandenberg, Stop Trafficking of People
Mrs. Joey Berning, UNISA

ISBN assigned
978-0-620-61063-6
Just Africa
print

978-0-620-61064-3
Just Africa
e-book

© Copyright reserved

The views and opinions expressed by the author(s) are not necessarily those of the journal's editor(s) nor reflect the policies or views of the Editorial Board or of CRIMSA. Authors are solely responsible for the content of their articles.

THE ALL AFRICA CRIMINAL JUSTICE ASSOCIATION

JUST AFRICA JOURNAL.

AIM AND SCOPE

The Journal for Just Africa is a bi-annual journal published by the All Africa Criminal Justice Association. It is an independent, impartial and neutral journal dealing with organized crimes. Its aims and missions are to promote reflection on issues such as organized crimes, police brutality, prostitution and drugs, maritime piracy, policing, syndicates and crimes, justice systems, ritual murder, rural and urban safety, penology, and victims of human trafficking in Africa. The journal specializes in organized crimes and its endeavours are to promote knowledge, reflection, critical analysis and the development of remedies and solutions relating to organized crime to prevent the unnecessary sufferings of victims of organized crimes for a better Africa. The association also serves as a forum for discussion about contemporary organized crimes so as to inform, strengthen and promote security - especially on the African continent.

EXECUTIVE BOARD MEMBERS OF THE ALL AFRICA CRIMINAL JUSTICE SOCIETY

President: Mr. Justice Raulinga. Justice of the High Court, Northern Gauteng, South Africa. E-mail address: JRaulinga@justice.gov.za

Deputy President: Professor Dr. Cornelis J. Roelofse. University of Limpopo, South Africa. E-mail: Cornelis.roelofse@ul.ac.za

Chairperson: Mrs. Sarah Simons. Cardiff University, Wales. E-mail: sagnelasimons@gmail.com

Secretary: Mr. David Kgosimore, University of Limpopo, South Africa. E-mail: david.kgosimore@ul.ac.za

Treasurer: Mrs Jeanette Smit. Southern Business School, South Africa. E-mail: jsmit@sbs.ac.za

Deputy Treasurer: Dr. Charles Oliver. University of Limpopo, South Africa. E-mail: charles.oliver@ul.ac.za

Courts Portfolio: Magistrate S.C. Kotze. Magistrate's court Seshego, Polokwane, South Africa. E-mail: S.Kotze@justice.gov.za

Councils Portfolio: Adv. Tharin van der Walt. University of Venda, South Africa.

Police Portfolio: Lt. Gen. S.G. Lebeya. South African Police Service. E-mail: Lebeya@saps.gov.za

Prisons Portfolio: Dr. L. Holtzhausen. University of Cape Town, South Africa. E-mail: leon.holtzhausen@uct.ac.za

Eastern Africa Portfolio: Mr Demelash Kassaye. Addis Ababa University. Ethiopia. E-mail: zmekdelawit@gmail.com

Southern Africa Portfolio: Prof J Barkhuizen. E-mail:jaco.barkhuizen@ul.ac.za
UNISA, South Africa.

Central Africa Portfolio: Maxwell Nkole. Home Affairs Permanent Secretary
(ret.). Zambia

GUIDELINES FOR REVIEWERS

ALL AFRICA CRIMINAL JUSTICE SOCIETY (AACJUS)



EDITORIAL POLICY AND GUIDELINES FOR AUTHORS

JUST AFRICA is a peer-reviewed academic journal that promotes academic and professional discourse and the publishing of research results on the subject of crime and criminal justice and other crime-related phenomena in the broad Criminological Sciences and applied field of criminal.

JUST AFRICA is a journal published regularly by the **ALL AFRICA CRIMINAL JUSTICE SOCIETY (ACJUS)** (first published in 2013). Annual paid-up members of AACJUS will automatically be subscribed to **JUST AFRICA** (e-journal). An article contribution to the editor/s will be considered provided it has been edited and is **ready for processing in terms of:** Language, stylistically polished, careful proofreading and provision has been made for the technical format and referencing guidelines as provided below. Manuscripts not following the journalistic style, referencing techniques, technical format and language edited will be returned to author/s for correction and re-submission before being sent out for refereeing. In submitting an article author/s acknowledge that it is their own original work and that all content sourced from other authors and/or publications have been fully recognised and referenced according to the guidelines for authors. The Editor/s will submit article contributions to referees (in a double blind review process) for evaluation and may alter or amend the manuscript in the interests of stylistic consistency, grammatical correctness and coherence. The refereeing process is always anonymous and the identity of referees will remain confidential. It remains the prerogative of the editors to accept or reject for publication any submission and their decisions are final. They will not enter into any debate or correspondence regarding any decision made. Evaluators agreeing to referee articles are requested to provide, where possible, critical and constructive feedback on the work of their peers. They are requested to make a recommendation based on the following:

- i. Accept for publication in its present form;
- ii. Accept with minor revisions as indicated;
- iii. Resubmit with major revisions in accordance with critical and constructive feedback; or
- iv. Reject (unlikely to be accepted even after revision). In this instance it would be senseless to provide feedback and the decision of the editors would be final.

Apart from scientific shortcomings or inconsistencies, the following evaluative criteria are considered:

- The theme is academically significant (timely, important, in need of being dealt with);
- The theme contributes to an existing (professional) body of knowledge (the knowledge component is useful);
- Author/s' goals and objectives are clearly stated;
- The article addresses (unpacks) themes logically, consistently and convincingly;
- The article demonstrates an adequate understanding of the literature in the field;
- The research design is built on adequate understanding, evidence, and informational input;
- The interpretative potential of the data has been realised;
- The article demonstrates a critical self-awareness of the author's own perspectives and interests;
- Holistically, the article is properly integrated and clearly expresses its case measured against the technical language of the field (theory, data and critical perspectives are well structured and the presentation is clear);
- Conclusions are clearly stated and adequately tie together the elements of the article;
- The standard of writing (including spelling and grammar) is satisfactory.
- JUST AFRICA adopted the APA reference technique and it must therefore be consistently applied throughout the article;
- Sources consulted are sufficiently acknowledged (included in a list of references) and consistently cited to:
 - supply academically sound evidence on which the authors base their observations;
- Effective and detailed source referencing is of paramount importance. Articles will be scrutinised and checked for bibliographic references and any proven evidence of plagiarism will result in non-publication.

The authors bear full responsibility for the accuracy of the factual content of their contributions and indemnify ACJUS or its agent/s against any loss, damage, cost, liability or expense, including legal and/or professional fees arising out of legal action against ACJUS or its agent/s with regard to actual or alleged infringement of copyright or the intellectual property rights of any natural or legal person. Copyright of all published material is vested in ACJUS. Please note that the views and opinions expressed by the authors are not necessarily those of the editor or ACJUS and do not necessarily reflect the policies or views of ACJUS. Authors are solely responsible for the content of their articles.

1. A publication fee may be levied at the discretion of the editors for every article published in the Journal. NGOs, unaffiliated authors, international scholars, etc., who do not have access to research grants to fund expenses of this nature, may be exempted.

2. Where substantial changes are deemed necessary, contributions may be referred back to authors for finalisation. Alternatively, where articles which exceed the prescribed length are accepted for publication, an additional fee per page may be levied. In instances where submissions are not satisfactory (i.e. ready for processing) and require additional attention from the editors, an additional fee may also be levied, notwithstanding the authors' status as members.

3. Manuscripts for publication or enquiries pertaining to Just Africa should be directed to: The Editor-in-Chief: Prof. (Dr.) Rajendra Parsad Gunputh at email: rpgunput@uom.ac.mu

REFERENCING GUIDELINES

Notes: References and citations should be prepared in accordance with the Just Africa adapted APA format (see examples of various reference listing types below). The „in-text“ referencing format is followed by the Journal with full source referencing information listed under the heading: LIST OF REFERENCES (uppercase), which has to appear at the end of the article. All sources in the List of References must be listed alphabetically by authors' surnames, according to the following examples. Footnotes and endnotes are also acceptable for submissions with a predominantly legal context Please note the indenting of the second and additional lines of a reference listing when longer than two lines.

The use of full stops in listing: In general each separate piece of information is standardly followed by a full stop.

LIST OF REFERENCES [EXAMPLES]

Books

Ratcliffe, J. (2008). *Intelligence-led policing*. Devon: Willan Publishing.

Chapters in books

Strydom, H. & Venter, L. (2002). Sampling and sampling methods (Pp. 56-67). In A.S. de Vos, H. Strydom, C.B. Fouche & C.S.L. Delpont (eds.). *Research at grassroots: For the social sciences and human service professions*. Pretoria: Van Schaik.

Journals

Nakison, E.D. (2010). Teachers' disciplinary approaches to students' discipline problems in Nigerian secondary schools. *International NGO Journal*, 5(6): 144-151.

Interviews

Riekertze, M.C. (2013). Director, Security. ABC Company. Pretoria. Personal interview. 21 May.

Newspapers

Khosa, F. (2010). Zuma must reign in our cowboy police. *Sunday Times*, 10 July.

Websites

Carter, B. (2012). Clever Politics. Available from: [http://what-when-how.com/Theories of policing \(police\)](http://what-when-how.com/Theories of policing (police)). Accessed on: 28 February 2013.

Legislation

Republic of South Africa. (2001). Financial Intelligence Centre Act 38. Pretoria: Government Printers.

Case Law

Mohunram v National Director of Public Prosecutions and Another (Law Review Project as Amicus Curiae). 2007 (4) SA 222 (CC).

Notes on examples:

Source references in the text are indicated by the surname/s of the author/s and the year of publication as well as the page number from where the reference is cited/sourced, for example (Foster, 2007:7) or Foster (2007:7). If you are generally referencing some information (ideas, concepts interpretations) drawn from a publication and paraphrased them, i.e. no specific page number, this can be referenced as: (cf Porter, 2012: 57-72). It would not be acceptable to merely list this reference as (Porter, 2012) without page numbers. A reader must be able to go to the Porter's publication and see where you obtained the general information being referred to from, even if from a number of pages.

Secondary referencing: For example: ...Mac (1999) (as cited in Minnaar, 2001:14)... This is generally not acceptable in academic terms. Author/s should preferably go to the primary source, i.e. Mac (1999), and reference the information used directly from the relevant page numbers in the Morrison publication. However, sometimes in a newspaper or journal article a specific person is quoted, i.e. such person does not have a primary publication from which the information is being quoted but was interviewed. In such circumstances the person so quoted can be referenced accordingly by name as, for example, National Police Commissioner Phiyega (as cited in Brown, 2012) said that the SAPS must not compromise on service delivery.....

If more than three authors are used then all authors' names are to be indicated in the reference the first time it is used in the text, thereafter only the first author name and the term "et. al." For example: Botha et. al., 2009: 17. "et. al." is not used in the List of References. If no author is identified the appellation: Anon., must be used. If newspaper articles are cited, and if there is no author listed for the particular article, then the news source should then be used as the author, e.g. SAPA, Reuters or Africa Eye News, etc. In the List of References a month date is always added after the newspaper title, e.g. 22 May (year date appears after author), followed by the newspaper page number (if available) where the cited article appeared.

All multiple initials are separated by full stops without any spaces in-between. The Date of Publication is placed in brackets followed by a full stop. Titles of articles, chapters or documents being referenced only have the first letter of the first word (unless a proper noun) as a capital. This rule also applies to the first

word after a colon in the title. However, all words in the title of a journal (except pronouns) have the first letter as a capital. Place of publication is followed by a colon and then the publisher's name. Only book, journal and newspaper titles (not chapters or article titles) are italicised. The volume and/or edition numbers are not part of the Journal title, i.e. are therefore not italicised. Note that the volume number is followed by the issue/edition number in brackets followed by a colon and the journal page numbers of the specific article. No use is made of abbreviations: Vol. or No. Journal titles are not abbreviated or given acronyms when referenced in the text for the first time, e.g. IJCJ is written out as: International Journal of Criminal Justice, the first time it is used as a reference in the text (and in the List of References) with the acronym in brackets after the full title (when used in the text), and thereafter you can use the acronym in the subsequent reference listings to this journal in the text. Please note the specific listing for a chapter in a publication, as well as the insertion after the chapter title of the page numbers in which it appears in the publication. If only one editor for the publication this is indicated in brackets as: (Ed.), while multiple editors will be the abbreviation: (eds). [small "e" and no full stop after the abbreviation, only after the bracket]. Note editor/s initials come before their surname in the listing of a chapter.

Referencing information from the internet: This is treated exactly the same as if it is a publication, i.e. look for an author, sometimes this is merely the organisation on whose website such information has been found; then a date for when the downloaded document was placed on the website or the report published – if none then use the appellation: (nd). You must indicate a title for the document – this can be the first heading of the document, then a publisher, usually the website organisation, e.g. Women against Drugs (WAD). No place of publication is needed unless indicated in the report/document downloaded. Then the use of the terms: „Available at:“ followed by the URL web address for the downloaded document. This is followed (in brackets) with the terms: „accessed on:“ or alternately the term „retrieved on:“ followed by the date when such internet document was downloaded, e.g. 06/03/2012 – the date can also be written out as 6 March 2012 (required date format to be: ddmmyy). Wikipedia references are not a primary source for referencing and are not academically acceptable in this journal's articles.

If necessary, content references in the form of footnotes/endnotes may be used to provide referencing style.

TECHNICAL AND FORMATTING REQUIREMENTS

Articles that are submitted for consideration should adhere to the following minimum standards and technical and formatting requirements before submission:

1. An **electronic copy** (computer disk or document sent by e-mail (to the Editor-in-Chief) in MS Word (or Word compatible software programme). If not e-mailed, the file name of the manuscript must be specified on an accompanying computer disk.

2. **Length:** Contributions must be submitted in English and should preferably not exceed **20** typed A4 pages (electronically minimum word count should not be less than **7 000** words (approx. **15** pages) or exceed **10 000** words (approx. **20** pages). (Extra page fees will be charged if the 20 page limit is exceeded).
3. The **title** of the article (in uppercase) and the **author's full first name and surname**, designation, institutional affiliation, address & contact email should appear on the first page.
4. A **summary/ABSTRACT** of approximately 150-300 words on the first page of the submitted article must also be included. The ABSTRACT to be **italicised**.
5. **Key words:** Directly below the ABSTRACT paragraph insert **Key Words** (maximum of **TEN** (10) – approximately **TWO** (2) lines).
6. If **funding** has been received from your University/Organisation or external funders for the research on which this article is based, such support funding can be acknowledged in the first footnote.
7. **Line spacing:** The document should be typed in A4 format using **SINGLE** (1) line spacing. No double spacing between words or after full stops and commas. Only single spacing throughout text.
8. Font: Arial 12
9. **Page numbers:** are also **TNR 12** font and centred in the **footer** section of each page.
10. **Spelling:** Please make use (choose this as your default option) of the UK spellcheck and NOT the USA one. For example, replace the „z“ in organization (US spelling) with an „s“ = organisation (UK spelling).
11. **Paragraphs** are indicated by a single line space before and after each paragraph (exception first paragraph after a heading, see below) and not the automated „space after a paragraph“ or „space before a paragraph“ function in MSWord. No indentation of the first line of paragraphs (see below exception for long quotes format).
12. **Use of quotes and italics:** Long quotes are placed in a separate paragraph and must be indented from both sides, (see below for short quotes usage) like the following:
Quotes that are 45 words long or longer (three lines and more) should be indented from both sides (of the paragraph) as in this example. If the quote is shorter than it needs to be imbedded in the text of a paragraph and set in between double quotation marks, i.e. “inverted commas”. Quotes from published information are generally not italicised. However, actual words of interviewed respondents are recommended to be italicised.
13. **Single quotation marks:** Single inverted commas are only used when you want to emphasise a term or a common saying especially when it is not a direct use of words from another author. e.g. „Zero Tolerance“ or ... a „live-and-let-die“ approach, etc. Single quotation marks are also used for a quote within a quote, for e.g. “It was patently obvious from the research that police officers use of force was not following the regulations. As indicated by one interviewee: „they

shoot wildly in a crime situation". This indicated that they needed to be trained to follow the set rules (Mistry, 2003: 6).

14. **Text justification:** Text is always full justified (squared), except for article title (left justified) and author/s name (right justified) and the heading: ABSTRACT (centered) on first page.

15. **Headings and sub-headings:** All headings and sub-headings must be bold. There is no use of numbering or underlining of headings in this journal. Only three levels of headings" format to be used, namely: Main heading which is UPPERCASE (CAPS); 2nd level, i.e. sub-heading, only the first letter of the first word in the heading is a CAP unless it is a proper noun, e.g.: Crime in Cape Town's informal settlements. 3rd level sub-sub-heading is indicated in bold and italicised with the same CAPS convention for 2nd level heading. E.g. Crime findings from the Crossroads informal settlement. All headings do not to have a full stop at the end. Note that there is no line spacing between a heading and the immediate following paragraph.

16. **Use of dates in text:** As follows – 11 September 2001 and not September 11, 2001. Also no use of abbreviations as in 1st, 2nd or 3rd just 1, 2, 3 etc. In the text do not use the date format of 11-09-2001 or 11/09/2011.

17. **Use of tables, figures, graphs and diagrams in text:** These render the layout difficult and should be used sparingly. All diagrams and tables must be numbered sequentially and referred to in the text, e.g. In Table 2 the falling statistics for the crime of murder can be discerned over the period 2000/01 to 2005/06. The use of such diagrams or tables must have a heading (also to be made bold) before the table or diagram and not after it.

18. **Use of bulleted lists:** when bullets (list of things or ideas not full sentences) are used, each bullet is closed with a semi-colon, except the second last one and the last one that have respectively a semi-colon followed by an „and“, and a full stop at their end. Format wise with bulleted lists, if each bullet or bullet number is only one or possibly two lines, no spacing, but if all bullets in list are consistently longer than two-three lines put in a space in between each bullet. A line space is also inserted before the whole bulleted list and after at the end to create a space between the paragraphs and the list. In your bulleted list please use the symbol:

• and not symbols such as: », $\sqrt{\quad}$,*,#, Δ , \diamond , ■, etc. If your list is numbered please use the numbering format as follows: 1. and not 1).

19. **Use of footnote/endnote numbers in text:** Footnote/endnote reference numbers must be placed in the text after the full stop and not before it, with no space between the two. The same applies after a comma (in the middle of a sentence), i.e. not before but after the comma. Technically footnote/endnote text is TNR10 font, single spacing, square justified with no space after the footnote text paragraph.

20. **Use of numbers/figures in text:** At the start of a sentence any number is also always written out, e.g. Thirty-three. Also percentages at the beginning of a sentence as: Seventy-five per cent.... Note the use of per cent and not % when a

percentage is written out. Double figure numbers when written out in the text always have a hyphen, e.g. twenty-five or thirty-six or one-hundred-and-six. No comma is used to indicate thousands – only a space e.g. 100 000 or 12 000 or USD\$1 000 000 etc. and not 100,000 or 12,000 or USD\$1,000,000. Commas or full stops are only used to indicate fractions (as in percentages) in numbers of a decimal, e.g. 76,25% or 76.25%. Spacing: no spacing after currency denominator, e.g. USD\$ sign and the figure (amount), e.g. \$5 000 or R1 250. In addition, there is no space between a number and the percentage sign (e.g. 80% and not 80 %). Other use of spaces: No space before a colon but a space after it. For e.g.: The title of the chapter is: Analysis of research findings....and NOT....The title of the chapter is : Analysis of research findings....

21. **Titles of persons:** if part of a person's name should be abbreviated, e.g. Lt-Gen. Gerber, and not as Lieutenant- General. Note the hyphen and the full stop at the end of the abbreviation. For abbreviations a full stop is always used unless the abbreviation ends in the same letter as the long version. E.g. Dr for Doctor; Mr for Mister; etc. Other examples: Prof. = Professor; Dir = Director; Capt. = Captain; Maj. = Major.

23. **Use of abbreviations and acronyms:** When used in the text for the first time they are placed in brackets after the full term, e.g. The African Union (AU). Thereafter the abbreviation or acronym can be used. All abbreviations or acronyms are uppercase. Each letter in the abbreviation or acronym does not have a full stop in between or after each letter, e.g. Not A.U.

28. A **legislative Act** always has a capital letter „A“ even when used on its own to refer to or describe a specific Act, e.g. The Act clearly states that it is illegal to trade in illegal drugs..... First letter of Acts title also has a capital letter, e.g. The Criminal Procedure Act.

29. **Use of „and“ and ampersand (&):** The ampersand symbol „&“ is not used in the text at all. For example: According to Maason and Clerque (2011: 102) these types of crime were.....; whereas & will be used when authors are placed in brackets as a text reference, e.g.: An analysis of incidents showed that these types of crime were becoming more prominent over the last two years (Maason & Clerque, 2011: 102). The ampersand is also used when listing multiple authors in your List of References.

SUBMISSION OF MANUSCRIPTS

The All-African Criminal Justice Association was born in the cold winter of Polokwane, South Africa, in 2012. Members to this association had a dream: To fight against organized crimes in all its many diversified forms for a just and a better Africa - not for us - but for our elders, women and children. Our aims and objectives were three-fold: To inform, to be informed, and to come to a better understanding of organized crimes in a very transparent way and to search for solutions for better security for us all. The dream came true with the publication of a journal to reflect the same.

To support these initiatives the Just Africa Journal therefore welcomes the submission of articles from scholars, academicians, researchers and law students from both within Africa and abroad. The submissions may be on any contemporary national or international criminological issue in the English language.

Submissions must not have been published, submitted or accepted elsewhere. The final decision is taken by the All-African Criminal Justice Association and members of its Editorial Board. The Editorial Board reserves the right to edit articles.

Electronic copies of the manuscripts must be e-mailed to rpgunput@uom.ac.mu. Submissions should be between 5,000 to 7,000 words in length but shorter contributions would also be considered for publication. We may accept articles UP to 10,000 words to the satisfaction of the Editorial Board.

For further information, please consult the Submission Guidelines and Editorial Policy, available on the website of the Journal for Just Africa:

www.cyberdefenseresearch.com/acjus/

Authorisation to reprint or republish any articles published in the Just Africa Journal must be obtained first from the All-African Criminal Justice Association and its Editorial Board.

CALL FOR CONTRIBUTIONS

Contributions to the Just Africa Journal is welcomed and can be sent to the Editor-in-Chief at rpgunput@uom.ac.mu in electronic format, using MS Word or a word-processing program compatible with MS Word. Respected authors are earnestly requested to adhere to the guidelines set out below. Contributions that fail to do so may be returned to authors for revision before being considered for publication.

1. Authors are required to provide their names, surnames and details of their current employment.
2. Articles should be between 5,000-7,000 words long.
3. Articles that are submitted must not have been published elsewhere.
4. All articles are submitted to referees who will determine the suitability of articles for publication and whether they fit the scope of the journal.
5. Authors are requested to submit their articles in the house style as it appears on the website.
6. Headings must be in bold and subheadings in italics but must not be numbered.
7. Footnotes must be used instead of endnotes.
8. All quotations should be put in double quotation marks and in italics.
9. The titles of statutes and legislations are not in italics.
10. References are in italics.
11. References appear at the end of the article in the Harvard style with all relevant details such as details of publications, publishers of books, page references and years of publication.
12. An ABSTRACT of 300 words must accompany the full article and the introduction must not exceed 15 lines.

CONTENTS

Preface by the Editor in Chief	xv
1. Restorative Justice – an instrument for improved protection of crime victims Chankova, D., Anzova, D., Klecherova, M., Mladenova, I.	1
2. A victimological study of the extent and the nature of physical non- penetrative sexual victimisation of females at Ga-Makanye community Roelofse, C. J., Motsepa, M. J., Barkhuizen, J.	10
3. Digital evidence in criminal investigations: A South African Perspective Doraval Govender	29
4. Blame it on the global community: Policing illicit drugs in South Africa Shikwambana, D., Mofokeng, J.T.	37
5. Challenges of policing fraud syndicates within Ritavi Policing Area Mofokeng, J., Ramakgokgoa, F.	54
6. Boko Haram and the threat to regional peace and security: A critical survey. Anupam Jha, Bamisaye Olawaye Oyetola & Rajendra Parsad Gunpath.....	79

A Preface by the Editor-in-Chief



Here starts another episode in the life of all Africans most especially at a time where this new year 2017 is another era of terror, murder, manslaughter, rape, drug trafficking just to name a few. I am grateful to all authors of this new volume who contributed relevant papers coupled with research and knowledge to stop violence in Africa for a more just and fair Africa and all its citizens, individuals, civil societies, public institutions and governments to take into cognizance of what eminent professors wrote to alleviate crime and poverty for a modern Africa. The task is heavy and the burden is on the shoulders of all Africans to take their responsibility to disseminate peace, wisdom and natural justice for one and all. Most probably, if we put shoulders together we may overcome terrorism in all its forms, fight against lord warriors, and encourage the police to take the right action at the right time and without bloodshed.

This is the message in the form of writings and we say that the pen is mightier than the sword we will have enough time to reflect upon same. As an illustration, Professor C.J. Roelofse, of the University of Limpopo and M.J. Motsepa started this new volume, *inter alia*, with violence in at the Ga-Makanye Community and they reflect the degree of violence in South Africa and how to curb violence. But if terrorism is still high in most countries of the world, we must join our efforts to combat same for the new generations to come. At a time, where there is turmoil, chaos, frictions and disorder in most communities and among ethnics most respected authors of this new volume are striving hard to share their wisdom and knowledge for a safer Africa.

Violence and crimes are not on the streets only. They get through our own doors and windows. True is it that there is new form of violence among students, rape among members of the same family or theft among brothers and sisters. Unemployment, frustration and an insane society also account for this. This being said, there is no mere word to explain the situation actually with more and more drug addicts, fraud and corruption. However, our respected authors have diligently made an effort to show the reality. Indeed, there is more truth and reality to what we see in our daily life than science fiction.

It is time for us to stand together, hands in hands to enhance security and to denounce people who commit rape, fraud and violence in all its form. This new volume tries to give guidance, support and help of how we may overcome violence and crime but though it is a small contribution like the tip of a needle each word and line of this journal would probably like a candle enlighten all readers, researchers, students and academics how we may disseminate our voice in the form of simple contributions in the form of research articles. Do not close

your eyes and ears to our words of wisdom. Violence and hatred not happen to others only...

Prof Dr R.P. Gunpath,
October 2016

1. RESTORATIVE JUSTICE – AN INSTRUMENT FOR IMPROVED PROTECTION OF CRIME VICTIMS

Prof. Dobrinka Chankova, PhD

Desislava Anzova, PhD Candidate

Mihaela Klecherova, PhD Candidate

Iskra Mladenova, Student

Faculty of Law and History

South-West University “Neofit Rilski”,

Blagoevgrad, Bulgaria

ABSTRACT

Restorative justice puts focus on recovery of damages caused to the crime victim by the perpetrator in general, not on repression and punishment. It is seen as a new model or even an alternative to criminal justice. It is a new way of thinking, a new paradigm of dealing with crime.

Crime concerns both victim and offender, and society as a whole. Restorative justice provides a greater role for victims and requires offenders to take responsibility for their actions and for any damage they cause. It makes the community to undertake various preventive and reactive to crime initiatives to bridge the gap between people, to build their sense of safety and strengthen relations in society.

This article aims to clarify the benefits of restorative justice as an instrument for improved protection of crime victims.

Keywords: Restorative Justice; victims; offenders; community; restoration.

INTRODUCTION

Restorative Justice seeks to reframe the way we conventionally think about wrongdoing and justice: away from our preoccupation with lawbreaking, guilt and punishment, toward a focus on harms, needs and obligations. This is a

new paradigm of criminal justice. A justice process should seek to “put things right” by addressing harms and causes¹.

Restorative justice (RJ) is based on the old traditional practices of Maori, Native Indians of America, Africans and Aborigines. The new Western wave of RJ began with the first Victim-Offender Reconciliation Programme - an experiment in Kitchener, Ontario, Canada, in the early 1970s' when a youth probation officer convinced a judge that two youths convicted of vandalism should meet the victims of their crimes. At the end of 1980s Family group conferences were developed in New Zealand. Since then there has been a proliferation of new and varied models of Restorative justice. Now Restorative justice is truly on the world map.

Crime has its origins in social conditions and relationships in the community. The criminal justice is not capable to assure peace in social life. According to Nils Christie² the state and the lawyers “have stolen” the conflicts from the parties involved and have deprived them of any possibility to reach resolution independently. Hence, the conflicts should be returned back to their proper owners.

International legal regulation of restorative justice is extensively presented. It has been taken seriously by the United Nations, the Council of Europe, and the European Union as well as by many non-governmental organizations. Declaration of Basic Principles on Justice for Victims of Crime and Abuse of Power -1985 is known as *Magna Carta on victims' rights*. According to her provisions «informal mechanisms for the resolution of disputes, including mediation, arbitration and customary justice or indigenous practices, should be utilized where appropriate to facilitate conciliation and redress to victims». The Declaration from 1985 of the United Nations was followed by many other instruments. One of the latest is the UN Handbook on Restorative Justice Programmes³ which provides a good guidance to restorative justice. Council of Europe also has a long lasting interest to Restorative justice. Recommendation No R (85) 11 on the position of the victim in the framework of criminal law and procedure recommends the governments to examine the possible advantages of mediation and conciliation schemes. Very innovative and complete document is the Recommendation No R (99)19 on mediation in penal matters which deals with the need for a good policy and legislative framework, the relation to the criminal justice system and legal safeguards, ensuring the quality of practice, etc. Guidelines for a Better Implementation of the Existing Recommendation Concerning Mediation in Penal Matters were adopted in 2007. The newest and most powerful European Union's document is a Directive 2012/29/EU of the European Parliament and of the Council establishing minimum standards on the

¹ Zehr, H.(2002) *Little book on restorative justice*, Intercourse, PA, Good Books

² Christie, N. (1977) “Conflicts as Property”, *British Journal of Criminology*, vol.17, N 1

³ *Handbook on Restorative Justice Programmes* (2006), United Nations

rights, support and protection of victims of crime, and replacing Council Framework Decision 2001/220/JHA⁴. It recognizes that Restorative justice services can be of great benefit to the victim. Victims' Directive requires safeguards to prevent secondary and repeat victimization, intimidation and retaliation. Restorative justice services should have as a primary consideration the interests and needs of the victim, repairing the harm done to the victim and avoiding further harm.

According to the widely accepted definition of Restorative justice⁵ it is a process whereby all the parties with a stake in a particular offence come together to resolve collectively how to deal with the aftermath of the offence and its implications for the future. Core processes often include an encounter between victims, offenders, the families of each and community members to understand the harm and accompanying obligations, and together to find a response. The meetings are led by a facilitator. He/she is a neutral person with the skills: to prepare people for the restorative process; to ensure that it progresses in a safe and civilized manner; to guide parties through difficult phases. These meetings ensure the material well-being or satisfaction of the victim and attention to the victim's emotional needs. Basic principles of Restorative justice are: voluntary participation, based on informed consent; neutrality and impartiality of RJ practitioners; confidentiality; respect for the rights and dignity of persons; promotion of community safety and social harmony. Operative principles of Restorative justice programs are: equal treatment; equal access to RJ services; individualization of the facilitator's style.

ROLE OF RESTORATIVE JUSTICE

Restorative justice gives the offender a chance to absolve his/her own feelings of guilt through apology and reparation. For the future often is produced a plan for rehabilitation and agreement among the family and community members on a system of support for the offender to ensure that he/she is able to adhere to the plan. The key word is RESTORATION. Restorative justice provides an expanded role for victims and requires offenders to take responsibility for their actions and for the harm they have caused. A restorative process gives the victim a forum to ask questions, receive answers, gain understanding, explain the impact of the crime on them and contribute to the outcome of the process. The process may result in the victim receiving an apology, restitution, services or some other form of reparation. A restorative justice process encourages the offender to gain insight into the causes and effects of their behaviour on others, to change that behaviour and to be accepted back into the community. Restorative justice is a

⁴ L 315/57 Official Journal of the European Union, 14.11.2012

⁵ Marshall, T. (1999) *Restorative Justice. An Overview*. Home Office

forward looking problem-solving and involve the community in prevention programs.⁶

According to Howard Zehr, Criminal justice and Restorative justice represent two different paradigms⁷.

	Old Paradigm Retributive justice	New Paradigm Restorative justice
1	<i>Crime defined as violation of the state</i>	<i>Crime defined as violation of one person by another</i>
2	<i>Focus on establishing blame, on guilt, on past (did he/she do it ?)</i>	<i>Focus on problem-solving, on liabilities and obligations, on future (what should be done?)</i>
3	<i>Adversarial relationships and process normative</i>	<i>Dialog and negotiation normative</i>
4	<i>Imposition of pain to punish and deter / prevent</i>	<i>Restitution as a means of restoring both parties, reconciliation / restoration as goal</i>
5	<i>One social injury replaced by another</i>	<i>Focus on repair of social injury</i>
6	<i>Community on sideline, represented by state</i>	<i>Community as facilitator in restorative process</i>
7	<i>Encouragement of competitive, individualistic values</i>	<i>Encouragement of mutuality</i>
8	<i>Action directed from state to offender:</i> <i>-victim ignored</i> <i>-offender passive</i>	<i>Victim's and offender's roles recognized</i>

⁶ Wright, M. (1991) *Justice for Victims and Offenders*, Open University Press; Van Ness, D. and Strong, K. (2007) *Restoring Justice. An Introduction to Restorative Justice*, 3rd edn., Anderson Publishing; Johnstone, G. (2002) *Restorative Justice. Ideas, values, debates*, Willan Publishing; Dussich, J. & Schellenberg, J. (eds.) (2010) *The Promise of Restorative Justice. New Approaches for Criminal Justice and Beyond*. Boulder/London: Lynne Rienner Publishers; Chankova, D. (2011) *Restorative Justice. A comparative Analysis*, Avangard Prima, etc.

⁷ Zehr, H.(1985) *Restorative Justice, Retributive Justice. New Perspectives on Crime and Justice*, Akron, PA, N 4, p.18

9	<i>Offender accountability defined as taking punishment</i>	<i>Offender accountability defined as understanding impact of action and helping decide how to make things right</i>
10	<i>Offence defined in purely legal terms, devoid of moral, social, economic, political dimensions</i>	<i>Offence understood in whole complex: moral, social, economic, political</i>
11	<i>Stigma of crime irremovable</i>	<i>Stigma of crime removable through restorative action</i>
12	<i>No encouragement of repentance and forgiveness</i>	<i>Possibilities for repentance and forgiveness</i>
13	<i>Dependence upon proxy professionals</i>	<i>Direct involvement by participants</i>

Table 1: Paradigms of Restorative Justice

We see that restorative justice determines a central position for the victims' needs - material, financial, emotional and social, prevents re-victimization of victims and stigmatization of offenders. It allows offenders to assume active responsibility for their actions. Restorative justice recreate a working community that supports the rehabilitation of offenders and victims and is active in preventing crime. This is an opportunity for victims, offenders and community members who want to do so to meet to discuss the crime and its aftermath.

Restorative justice is a value-based model. Key values are reintegration and inclusion. Other restorative justice values are mutual respect; acknowledgment; openness; empowerment; connectedness; tolerance; integrity; encouragement; sharing ideas; importance of feelings, needs and rights. Basic skills needed in restorative meetings are remaining impartial and non-judgmental, active, empathic listening, respecting the perspective of all involved, empowering participants. Each shows compassion, patience, sensitivity, acute observation of participant body-language, warmth.

DOCTRINE AND INFLUENCE OF RESTORATIVE JUSTICE

Analyzing the legal concept, principles, objectives and key values of restorative justice, several distinguishing features of this relatively new approach to crime could be mentioned: Restorative justice invites full participation and consensus. This means that victims and offenders are involved, but it also “opens the door” to others who feel that their interests have been affected - relatives, neighbors, colleagues, etc. Restorative justice seeks to heal what is broken. The

victim needs to recover, physically, emotionally, psychologically, financially, and to regain the sense of safety; often they may need to express anger, and want answers to questions. Offenders, too, may need healing. They need release from guilt, resolution of underlying conflicts or problems that led to the crime, opportunity to make things right and reintegration back into community. With regard to communities - they may need empowerment and reinvigoration of civil society and the self-repairing of social relationships. The next important characteristic that restorative justice seeks is full and direct accountability. Accountability does not simply mean that offenders must face the fact that they have broken the law- they also face the people they have harmed and see how their actions have damaged others. They are expected to take steps to repair that harm. Crime causes division between people and within communities. Restorative processes work toward reconciliation of the victim and the offender, and reintegration of both into the community. And finally, restorative justice seeks to strengthen the community in order to prevent further harms⁸.

Restorative justice is a concept, doctrine. It is functioning through a variety of practices.

MODEL OF RESTORATIVE JUSTICE

The terms Restorative practices, Restorative process, Restorative models etc. are usually used interchangeably. Restorative justice practices are most fully embody the ideals of communicativeness, sociability and reconciliation. Restorative justice models are Victim-offender mediation, Family group conferencing, Community conferencing, Sentencing circles (sometimes called “peacemaking circles”), Restorative cautioning, Restorative conferencing, Truth and reconciliation commissions, etc.

The main reasons, led to the emergence of RJ models, confirmed by numerous surveys, are summarized in the following diagram:

⁸ Zehr, H. and Mika, H. (1998) “Fundamental Concepts of Restorative Justice”, *Contemporary Justice Review*, N 1; Johnstone, G. & Van Ness, D. (eds.) (2007) *Handbook of Restorative Justice*, Willan Publishing; Aertsen, I., Mackay, R., Pelikan, C., Willemsens, J. and Wright, M. (2004) *Rebuilding community connections - mediation and restorative justice in Europe*. Strasbourg: Council of Europe Publishing, etc.

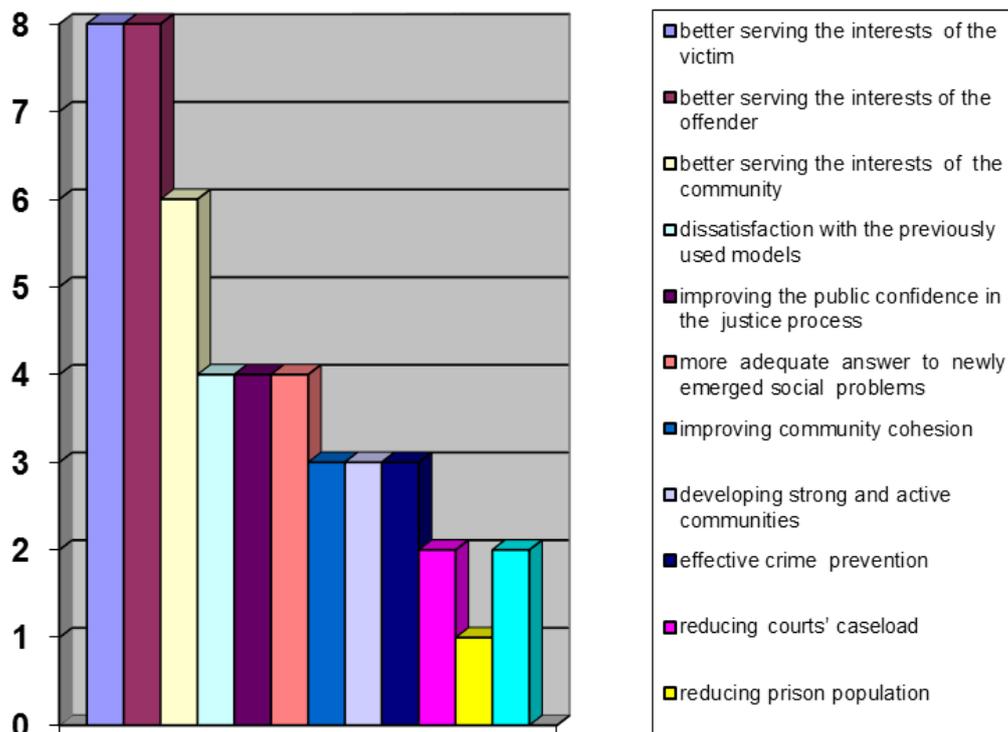


Diagram 1

These programmes are designed to address the needs of crime victims while ensuring that offenders are held accountable for their offending. Victim-offender mediation (VOM) is widely accepted as a basic and a universal model of restorative justice with broad application. Most restorative approaches strive to achieve a specific interactive dynamic among the parties involved. The goal is to create a non-adversarial, non-threatening environment in which the interests and needs of the victim, the offender, the community and society can be addressed. The focus of the conferencing process is somewhat broader than that of regular VOM programmes. It involves bringing together the family and friends of both the victim and the offender, and sometimes also other members of the community to participate in a professionally facilitated process to identify desirable outcomes for the parties, address the consequences of the crime and explore appropriate ways to prevent the offending behaviour from reoccurring. The models are concerned with eliciting a genuine commitment from the parties to live up to the agreement that they have articulated.

According to some views⁹ the newest European instrument in the field - Victims' Directive – does not promote Restorative justice in the best way. It is considered, *inter alia*, as something we should worry about. Victim support organizations long time are claiming that they consider restorative justice as

⁹ Hartmann, A. and Haas, M. "The Victim's Directive and Restorative Justice in Germany". In: Gavrielides, T. (ed.) *A victim-led criminal justice system: Addressing the paradox*, London, 2014; Chankova, D. (2013) „Who is Afraid of Restorative Justice?“ In: Aristotle University of Thessaloniki, Pitsela, A. and Symeonidou-Kastanidou, E. (Eds.) *Restorative Justice in Criminal Matters: Towards a New European Perspective*. International Conference, 16-17 May 2013, Thessaloniki, Greece, Sakkoulas Publications: Athens-Thessaloniki, pp. 277-280

primarily offender-oriented. Some representatives of judiciary still claim that the right to defense of the accused is not guaranteed enough /despite of the numerous safeguards and compensatory mechanisms/. Misuse of victims it is not a genuine manifestation of restorative justice. It is simply poor implementation, and is contrary to restorative principles. Such a position not only includes the risk of being dragged down into extreme right populist rhetoric. It is also not supported by the available evidence. Our understanding is that both movements - victims' and restorative, can unite for better serving victims' needs.

Restorative justice is not just an idea, not just a doctrine. Restorative justice is a new lifestyle. Restorative practices may have good application in schools, in community matters, in prison settings, at work places etc. However, the "boom" of using RJ practices is still forthcoming.

CONCLUSION

Restorative justice is not a panacea. Not all offences, problems and difficult situations could be successfully solved through it. If in a given environment a given model produces good results it should not be taken for granted that it will happen everywhere. Some risks always exist and the outcomes from the application of the same method in a similar situation in a different context could be controversial.

There are many different ways of introducing Restorative justice. There have been trials and errors. But definitely this approach could transform the way in which many societies are currently organized, promote the restorative climate and make them safer, happier places!

REFERENCES

Aertsen, I., Mackay, R., Pelikan, C., Willemsens, J. and Wright, M. (2004) *Rebuilding community connections - mediation and restorative justice in Europe*. Strasbourg: Council of Europe Publishing.

Chankova, D. (2011) *Restorative Justice. A comparative Analysis*, Avangard Prima, etc.

Chankova, D. (2013) Who is Afraid of Restorative Justice? In: Aristotle University of Thessaloniki, Pitsela, A. and Symeonidou-Kastanidou, E. (Eds.) *Restorative Justice in Criminal Matters: Towards a New European Perspective*. International Conference, 16-17 May 2013, Thessaloniki, Greece, Sakkloulas Publications: Athens-Thessaloniki, pp. 277-280.

Christie, N. (1977) "Conflicts as Property", *British Journal of Criminology*, vol.17, N 1.

Dussich, J. & Schellenberg, J. (eds.) (2010) *The Promise of Restorative Justice. New Approaches for Criminal Justice and Beyond*. Boulder/London: Lynne Rienner Publishers; L 315/57 Official Journal of the European Union, 14.11.2012.

Hartmann, A. and Haas, M. (2014) "The Victim's Directive and Restorative Justice in Germany". In: Gavrielides, T. (ed.) *A victim-led criminal justice system: Addressing the paradox*, London.

Johnstone, G. (2002) *Restorative Justice. Ideas, values, debates*, Willan Publishing.

Johnstone, G. & Van Ness, D. (eds.) (2007) *Handbook of Restorative Justice*, Willan Publishing.

Marshall, T. (1999) *Restorative Justice. An Overview*. Home Office.

United Nations. (2006) *Handbook on Restorative Justice Programmes* (2006), United Nations.

Wright, M. (1991) *Justice for Victims and Offenders*, Open University Press; Van Ness, D. and Strong, K. (2007) *Restoring Justice. An Introduction to Restorative Justice*, (3rd ed). Anderson Publishing.

Zehr, H.(1985) *Restorative Justice, Retributive Justice. New Perspectives on Crime and Justice*, Akron, PA, N 4, p.18.

Zehr, H. (2002) *Little book on restorative justice*, Intercourse, PA, Good Books.

Zehr, H. and Mika, H. (1998) *Fundamental Concepts of Restorative Justice*, *Contemporary Justice Review*, N 1.

A VICTIMOLOGICAL STUDY OF THE EXTENT AND THE NATURE OF PHYSICAL NON-PENETRATIVE SEXUAL VICTIMISATION OF FEMALES AT GA-MAKANYE COMMUNITY

Roelofse, C. J.
Motsepa, M. J.
Barkhuizen, J.
University of Limpopo

ABSTRACT

Women of all ages are potential victims of sexual crimes. Research often focuses on rape while non-penetrative sexual victimisation is neglected. This is even more applicable to women in rural and deep rural areas. This quantitative study is a self-survey amongst a group of rural women in South Africa's Limpopo province. Aspects such as the scope and nature of non-penetrative sexual victimisation have been researched in Ga-Makanye. The age of first victimisation as well as single or multiple events have been put into focus.

Keywords: non-penetrative, sexual victimisation, groping, fondling

INTRODUCTION

Physical, non-penetrative sexual victimisation is a pervasive social problem with devastating effects for victims and society in general (Lee, Pomeroy; & Rheinboldt, 2005; Sable, Danis, Mavzy, & Gallagher, 2006). Physical, non-penetrative sexual victimisation, unlike other crimes, involves not only victimisation but also attitudes toward sex-role behaviour and sexuality. There are several forms of physical non-penetrative sexual victimisation *inter alia*, unwanted sexual contact (touching); fondling; and groping. Victimisation is experienced by many women of all ages and social classes, all races, religions and nationalities, all over the world. It is overwhelmingly perpetrated by men (Krug; Dahlberg; Mercy; Zwi; & Lozano, 2002).

The victims of sexual victimisation often suffer secondary victimisation as they are blamed by the society and police officers. Rape Crisis (2013:1) states that victims of rape feel disempowered due to a number of flaws within the Criminal Justice System, of which one such flaw is that, "Officials are often biased against survivors and treat them insensitively or inappropriately, causing secondary trauma". They are accused of inviting the process of victimisation to take place, because females are believed to be dressing provocatively (e.g. wearing miniskirts). When females wear revealing clothes consequently they create a certain idea in the minds of the men. Men are looking for defence mechanism for their wrong-doing and decide to blame women for their acts. These same biased attitudes prevail in instances of sexual harassment and non-penetrative sexual victimisation.

Respondents were informed about the purpose of the study and they were not forced to participate. The respondent's rights and wishes to remain anonymous were respected. The researchers were sensitive to the emotional and psychological well-being of the respondents throughout the study. Only the female member of the research team engaged with the respondents to ensure the best rapport with respondents.

OPERATIONAL DEFINITIONS

The following operational definitions were used for this study.

Physical non-penetrative sexual victimisation

Refers to any physical activity of a sexual nature in which an individual of any age is unwilling, or any activity which involves being touched in such a way that is not acceptable (World Health Organisation, 2007). In this study, physical non-penetrative sexual victimisation is based on physical sexual victimisation introduced via bodily contact of the victim by the assailant and not on penetrative sexual victimisation.

Unwanted sexual contact

Unwanted sexual touching is the act of making unwanted and sexually offensive contact (clothed or unclothed) with an intimate body part of another person or action which causes immediate apprehension that sexual touch will occur (National Crime Victimization Survey, 1996). Intimate body parts include sexual organs but further include the anus, groin, breasts or buttocks of any person. Sexual situations include situations in which the accused engages in the contacts described with a person incapable of giving consent or resisting due to alcohol or drugs or other weakness that is exploited by the assailant.

This type of behaviour usually consists of one person touching another person in a way that is inappropriate and unsolicited (Wiesen, 2012). While touching a person who does not wish to be touched is generally considered rude or impolite. When this type of activity occurs in a way that is unwanted by the person being touched it is considered a form of non-penetrative sexual victimisation in this research project.

Groping

According to Wiesen (2012) groping is a form of sexual victimisation that typically consists of physical touching, such as pinching of inappropriate areas on another person's body. This type of behaviour is generally unwanted, though some sexual touching that is consensual can be referred to as groping if it occurs in a public location. Depending on where this type of behaviour occurs, and how intense it is, this can be grounds for civil action or criminal charges against the assailant. Groping is generally considered inappropriate. According to Wiesen (2012), groping can also be used to refer to public displays of affection considered inappropriate or unnecessary. A couple in a relationship may, for example, touch each other in a way that is suggestive in a restaurant or other public place. While

this is not necessarily a form of sexual victimisation, since the behaviour is likely to be desired by both people involved, it can still be described as groping. The term has also been generalised somewhat beyond a sexual context as well, and may be applied to any type of grabbing, especially grabbing that seems unnecessarily forceful.

Fondling

Fondling refers to touching of the genital organs of another person's body without his or her consent (The Encyclopedia of Child abuse, 2007). Fondling may be prelude to more extensive sexual activity or an end in itself. Men are more likely to be reported for fondling than women. Men are also the most frequent sexual aggressors who victimise women to show their masculinity and to relieve their anger (Sexual Assault Prevention and Awareness Centre, 2014).

STATEMENT OF THE PROBLEM

Sexual victimisation of women is a pervasive social problem world-wide (Schuler, 1992:1). According to Strebel and Foster (2000:11) victimisation of women is so widespread in the country that it may be regarded as endemic to South African life. Women of all ages are sexually victimised each and every day by men. Women at Ga-Makanye community experience all forms of sexual victimisation by assailants they know, as well as strangers.

Aim of the study

The aim of the study was to describe the extent and nature of sexual victimisation at Ga-Makanye community. In order to achieve this, the following objectives are forwarded:

Objectives of the study

- To determine the age ranges of sexual victimisation directed towards women at Ga-Makanye community;
- To determine the marital status of females that are been victimised;
- To determine the frequency of sexual victimisation;
- To determine the nature of sexual victimisation experienced by female's at Ga-Makanye;
- To help the community find the solutions to sexual victimisation.

RESEARCH DESIGN AND APPROACH

The research is quantitative at the exploratory/ descriptive level. This was deemed appropriate in the context of the sensitivity of the study. The researchers felt that respondents would enjoy better privacy by completing a questionnaire than being interviewed. Amongst the participants were those who are illiterate and relatively older ones who had difficulty with English. The researcher managed the problem by explaining the questions in their vernacular (Sepedi) and also assisting those who asked to complete the questionnaires.

Target population

The population comprised of female residents between the ages of 18 and older from Ga-Makanye community. Ga-Makanye area is located approximately 32 km to the west of the city of Polokwane in the Limpopo Province. Ga-Makanye is a very large area, but only hundred (100) participants participated due to time and financial constraints..

Sampling

This study was limited to females at Ga-Makanye community. The sampling method applied, is non-probability sampling, namely availability sampling. Availability sampling was relevant for this study because it enabled the researcher to take subjects who were available or easy to find. The findings are therefore not generalised but constrained to the group of women selected for the study.

Data collection methods

Data was collected through quantitative method. Questionnaires were used to gather information from the respondents. The use of questionnaires was appropriate for this study because it enabled the researcher to create a non-threatening environment, and the respondents felt comfortable to share their views about the sexual victimisation. Illiterate respondents were assisted separately, on an individual basis, to ensure privacy.

Data analysis

Since the research was quantitative in nature, the data was analysed using Statistical Package for Social Science (SPSS). The descriptive statistics was used to analyse data. Pie charts and bar graphs were used to explain the findings.

Validity and reliability

To ensure that the research was valid and reliable, a pilot study was performed at Turfloop in Zone1. Five respondents were requested to complete the questionnaire so as to determine if there were questions that might not be clear in order to revise the questions. No difficulties were encountered with the questionnaire.

Delimitation of the study

To achieve the feasibility, the researcher delimits the research in terms of time and geographic area. The geographical area was limited in such that not the whole community of Ga-Makanye formed part of the research. Only females over the age of 18 years formed part of the research.

THEORETICAL FRAMEWORK

Feminist Theory has been selected for this study as it clearly articulates then gender power relations in society. Feminist theory emerged in 1892 in the United States and is a broad theoretical perspective that draws their ideas from a number of different theories, notably Marxism, Neo- Marxism and Ecological theory. Feminist perspectives include liberal, socialist, radical anti-racist, psychoanalytic and post-modern feminism. Feminist theories also differ in their focus, which ranges from political, cultural, economic, racial, ethical and sexual dimensions. Feminists insist that a critical stance should be taken on gender relations that have been taken for granted. They present the social construction of gender relation as

problematic; and also challenge the idea that sexual differences about men and women are an unbiased and objective truth.

Historically, the feminist movement is referred to as the first, and second and third waves (Rampton 2008). The first wave or generally referred to as the “woman movement” started mainly in the United States during the first half of the 19th century and continued into the early twentieth century. Women did not have voting rights and the issue of slavery that still existed, became the focus of the movement. The movement sort of ended with the 19th amended to the United States constitution the granted women the right to vote. Although the women’s movement did not start the American civil war, slavery was also a focal point of women’s rights. America fought a civil war between North (abolitionist) and South (pro-slavery). The second wave (see Evans 1979; Hooks 1981) emerged in the 1960’s. This movement actually focussed on the equality rights, mainly in public life. Protests were held all over America and Europe. Women burnt their bras in public and held marches in all the main cities in America and Western Europe. This movement is going on and can be labelled as contemporary and post-modern feminism. What Rampton (2008) calls the third wave is described as follows:

The third wave of feminism began in the late twentieth century and is informed by post-colonial and post-modern thinking.

In this phase many constructs have been destabilized, including the notions of "universal womanhood," body, gender, sexuality and heteronormativity [sic]. An aspect of third phase feminism that mystifies the mothers of the earlier feminist movement is the re-adoption by young feminists of the very lip-stick, high-heals, and cleavage proudly exposed by low cut necklines that the first two phases of the movement identified with male oppression (Rampton, 2008:1).

It is however important to know that there are different perspectives. Some are dealt with hereunder:

Feminist explanations of sexual victimisation emphasise power imbalances in society related to gender differences. Sexual victimisation against women is viewed as rooted in power inequalities related to hierarchal gender relations (Jewkes, 2002). Gender is conceptualised as a system of social classification that influences access to power, status and material resources (Sanday, 1981). Victimisation and the fear of being sexually victimised serves as a mechanism of social control in a system of male supremacy.

Brown Miller, one of the pioneers of feminist theory, does not perceive sexual victimisation as an act of nature and an evolutionary triumph but rather as an act of power and domination (Watson-Franke, 2002). Feminist theory also explains sexual victimisation as an exercise of power due to the social control in patriarchal societies (Kelly, 1999). Most societies are patriarchal where females are regarded as being of less value and have less status than males. Feminist theory holds that sexual victimisation is a direct result of female’s political and

economic powerlessness (Kelly, 1999). This is evident from Vogelmann's (1990a) study, in which he argues that women are restricted in their movements, their behaviour and dress as they are dictated by attempts to escape victimisation. In other words, feminist theories view sexual victimisation to be primarily motivated by male dominance.

THE NATURE OF PHYSICAL NON-PENETRATIVE SEXUAL VICTIMISATION

Literature on sexual victimisation provided by Wiesen (2012); The Encyclopedia of Child abuse (2007); and National Crime Victimization Survey (1996), identified the following forms of non-penetrative sexual victimisation:

The extent of physical non-penetrative sexual victimisation

According to Victims Of Crime Survey (2011) about 38,4% of sexual victimisation victims were victimised by a known community member(s) in the area of residence. A third (33,6%) of sexual victimisation (including unwanted sexual contact, fondling and groping) occurred in a field or in parks, followed by 29,8% that took place at home. It was recorded that 18,5% of sexual victimisation incidents took place at someone else's home and 15,2% took place in the streets outside offices/shops. Physical force was reported to have been used for almost all (96,1%) sexual victimisation cases and (22,0%) of the cases, no weapons were used. The response rate of the survey was 94,5%, with the lowest response in Gauteng (81,2%) and the highest in Limpopo (98,9%).

FACTORS WHICH CONTRIBUTE TO WOMEN BEING SEXUALLY VICTIMISED

Alcohol consumption

Alcohol has both physiological and learned effects (Mohler-Kuo, Dowdall, Koss, & Wechsler, 2004). As a person becomes more intoxicated, alcohol's physiological effects result in a decreased ability to process information and make judgments, impaired motor control, slurred speech, deterioration of reaction time, and ultimately loss of consciousness. When a woman becomes severely debilitated from excessive drinking, she cannot effectively resist an assault (Mohler-Kuo, Dowdall, Koss, & Wechsler, 2004). Most of the women have been raped when they are unconscious from alcohol consumption. Predatory men look for vulnerable women to rape, and drinking women are often viewed as sexually available.

Women are often sexually assaulted after drinking in bars or at parties, especially by men who are relatively unknown to the victim (Testa, Livingston, & Vanzile-Tamsen, 2003). Settings that promote heavy drinking may encourage lack of

restraint in other areas as well, including sexually. This may partially account for the connection between the numbers of sex partners a woman has had and an increased risk for being sexually assaulted when intoxicated (Parks et al., 2008). Since intoxication may increase women's exposure to potential assailants. Frequency of drinking alcohol before sex is associated with the result of sexual assault. According to Krebs (2007) many men believe that getting a woman drunk is just an easy way to increase their chances of having sex .

Poverty

Poverty is among the root causes of sexual violence and has a daily presence in the lives of many victims and survivors. People living in poverty experience daily stressors in meeting the basic needs such as obtaining food, shelter, and keeping themselves and their families safe (Browne, Salomon, Bassuk, Dawson, & Huntington, 2004). For many women, the lack of economic resources has devastating consequences on their abilities to alter their environments or to live in safety, particularly if they have dependent children. Poverty can make the daily lives of women and children more dangerous and make them more dependent on others for survival, and therefore, less able to control their own sexuality to consent sex, to recognize their own victimisation or to seek help when victimised. Poverty can also necessitate high-risk survival activities (CDC, 2007).

Age

Generally, young people have higher rates of victimisation than older people, usually due to their lifestyle. Young people are more receptive to promises of fabulous bargains and spectacular opportunities (Titus, Heinzelman & Boyle, 2000: 217). They also lack life experience and are more careless than elderly people. A victimisation rate diminishes rapidly after the age of 25 (Siegel, 2004: 86), with victimisation for robbery and assault typically declining with an increase in age, but for rape everyone in all ages are raped.

Unemployment and work dissatisfaction

Work is an important part of a person's life. Unemployment threatens a man's sense of self because society expects him to be strong, independent and the breadwinner (Jewkes & Abrahams, 2002:8). Many employed men are also dissatisfied because they are paid poor wages, they work in dangerous conditions, they experience racism or they do not get promoted. This dissatisfaction grows and makes them feel angry and powerless if they are unable to change their work situation. If a man gets angry about his work situation, the target for his anger is women, especially a woman he has control over at home. She is someone whom he can overpower and dominate, and who cannot challenge his physical strength. In this way the man regains some of his power and therefore his masculine and self-esteem.

AREAS WHERE SEXUAL VICTIMISATION OCCURS

Sexual victimisation can occur anywhere; however, it usually happens in isolated locations where a victim has little or no control of the environment, and the setting is away from the view of law enforcement (Sobsey and Mansell, 1994). Institutional settings are risk locations for persons with disabilities because multiple episodes of physical and sexual violence, emotional abuse, neglect, or violence may be committed against them by staff or other residents and yet go undetected or unreported (Sobsey and Mansell, 1994; Turk and Brown, 1993).

SOLUTIONS TO PHYSICAL NON-PENETRATIVE SEXUAL VICTIMISATION

Educational sessions

Educational sessions are perhaps the most commonly recognised form of sexual victimisation prevention work, and there are a wide variety of prevention curricula (CDC, 2004). The goal of primary prevention education sessions is to prevent first-time victimisation by improving knowledge and attitudes towards sexual victimisation. For example, adherence to societal norms; supportive of sexual violence, male superiority, and male sexual entitlement, build skills for respectful interactions; and empower participants to become agents of change. The primary sexual victimisation prevention education addresses the attitudes about the impact of gender roles, healthy relationships, consent to sexual activities, conflict resolution, and respecting personal boundaries (CDC, 2004).

Community prevention strategies

Community mobilisation is a participatory process focused on changing community norms, basic patterns of social interaction, values, customs, and institutions in ways that will significantly improve the quality of life in a community. Effective implementation of any community mobilisation requires promoting positive changes in community norms. The process of community mobilisation is as important as the output (Lofquist, 1994:4). This means that, community members participate in activities regarding the prevention of sexual victimisation.

Changing social norms

The social norms approach asserts that peer pressures is the primary influence on shaping people's behaviour (Berkowitz, 2003). However, many behaviours are influenced by incorrect perceptions of how peers think and act. Based on research conducted by Berkowitz with college age populations, the social norms approach

can be applied to the preventing of sexual victimisation by correcting these misperceptions of group norms to decrease problem behaviours. According to Berkowitz (2003), “a key to effective sexual victimisation prevention is the fact that most males are uncomfortable when people witness harassment and other forms of violence.”

There is a cluster of adolescent sexual violence prevention initiatives that expose young men to the pressures exerted upon them by traditional ideas about masculinity. The prevention methods aimed at showing them how to resist these pressures to find their own positive identities, and build their skills as peer leaders to show others the link between the norms these pressures create and sexual victimisation. In short, these initiatives empower young people, particularly young men, to shift the behaviours of their peers. “Men of Strength Clubs” and Mentors in Violence Prevention” bystander programs (Lee & Lemmon, 2006; Katz, 1995) are examples of such initiatives.

Summary of the findings from literature review

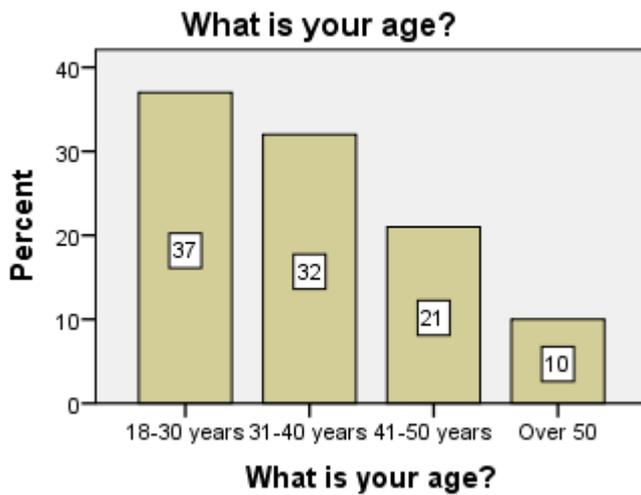
- Physical non-penetrative sexual victimisation has three forms such as unwanted sexual contact, fondling and groping.
- Cultural norms have an impact in the rate of sexual victimisation of females
Because men believe that they are more superior and masculine than females, and victimise them to express their masculinity.
- The victims are afraid to report the incidents as they are blamed by the society and the police officials.
- Counselling and support for the victims is regarded as the best solution to solve physical non-penetrative sexual victimisation.

ANALYSIS AND INTERPRETATION OF EMPIRICAL FINDINGS

The data was collected on September 2012. Statistical Package for Social Sciences (SPSS) was used to analyse the responses. The bar graphs and pie charts have been utilised for the presentation of data. The interpretation of data regarding the personal life, the nature and extent of physical non-penetrative sexual victimisation, and prevention measures are discussed below.

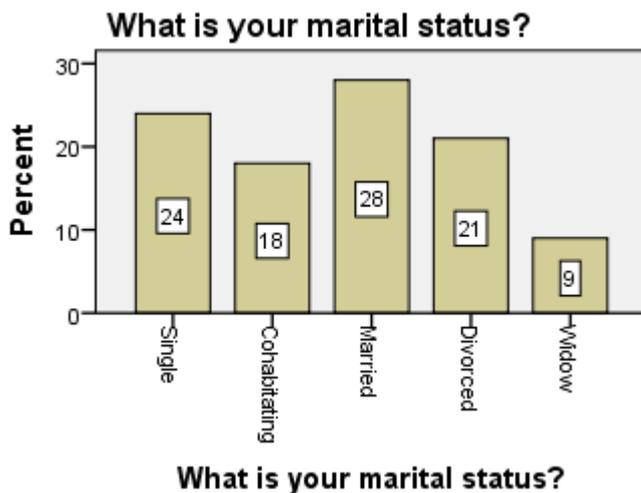
Demographic characteristics

Bar graph 1: Age distribution



The sample had an almost equal number of respondents in the age intervals of 18 – 30 and 31 – 40 years, with 37 and 32 respectively while the next two intervals had 21 and 10 respondents each.

Bar graph 2: marital status



Bar graph 1 indicates that 28% of respondents were married, followed by 24% of respondents who were single, 21% of divorced

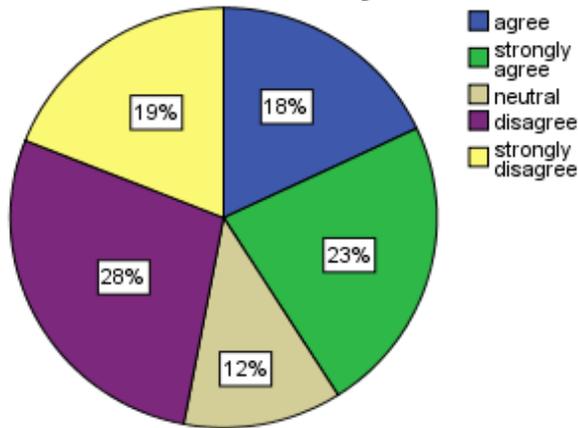
The extent of physical non-penetrative sexual victimisation

Pie chart 1: I experienced sexual victimisation while I was less than 12 years old.

The researchers were interested to ascertain whether participants experienced

victimization in their childhood. This was formulated as a question that asked respondents about victimization when they were under 12 years of age.

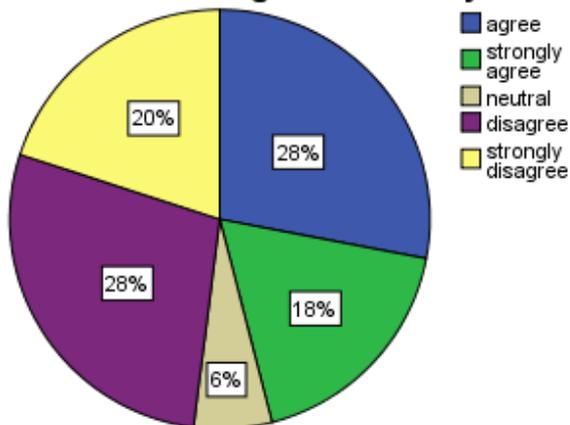
I experienced sexual victimisation while I was less than 12 years old.



A total of 41% of participants reported that they strongly agree/agree with this. Those who were unsure came to 12%.

Pie chart 2: I experienced sexual victimisation between the ages 13 and 16 years.

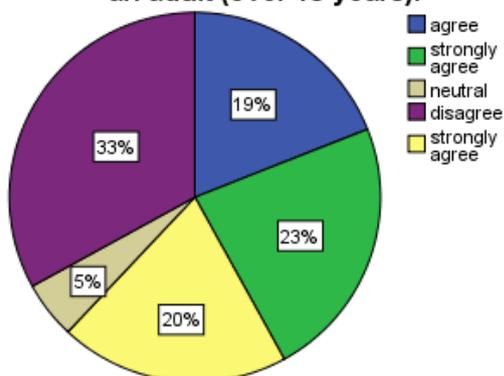
I experienced sexual victimisation between the ages 13 and 16 years.



Twenty eight percent (28%) of the respondents agree and 18 % strongly agree that they have been victimized during this age interval. It is 5% higher than the under 12 age interval.

Pie chart 3: I have experienced sexual victimisation as an adult (over 18 years).

I have experienced sexual victimisation as an adult (over 18 years).



A total of 42% of respondents agree/strongly agree that they have been victimised as adults.

If we compare the age intervals, victims in the three age groups which experienced some form of non-penetrative sexual victimisation, there is virtually no difference. The age interval from 13 – 16 years is 5% higher than the other two which are equal at 41.

The frequency of physical non-penetrative sexual victimisation

Thirty six (36%) per cent of the respondents indicated that they have been victimised only once as a child under the age of 12.

Of the respondents, 22% reported victimization only once between the age of 12 -16.

Of the respondents 7% strongly agree and 4% agree (11%) for both) that they experienced sexual victimisation regularly when they were under the age of 12 years. This is significantly lower than those who report that they have been victimised once only (36%).

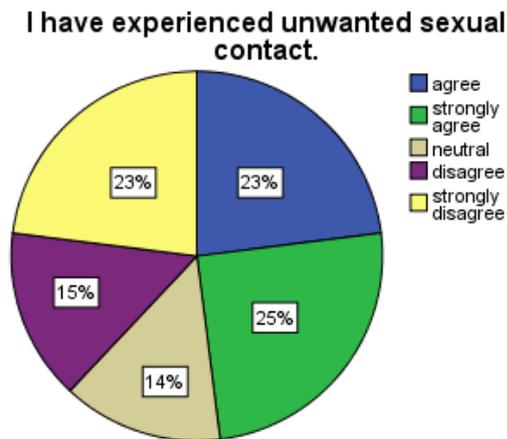
The survey, 29% of respondents indicated that they were regularly victimised as minors between the ages of 12 – 16 years. Again this is significantly higher than the interval under 12.(11%).

Results show that 30% of respondents experience regular sexual victimisation as adults as opposed to 19% that experienced it only once.

Interpretation about the frequency of victimization.

In the next section data on the nature of victimization are presented. The nature of physical non-penetrative sexual victimisation

1 Pie chart 11: I have experienced unwanted sexual contact.



Almost half (48%) have experienced unwanted sexual contact.

From those that confirmed that they have experienced unwanted sexual contact, the researchers wanted to know what type of contact they experienced.

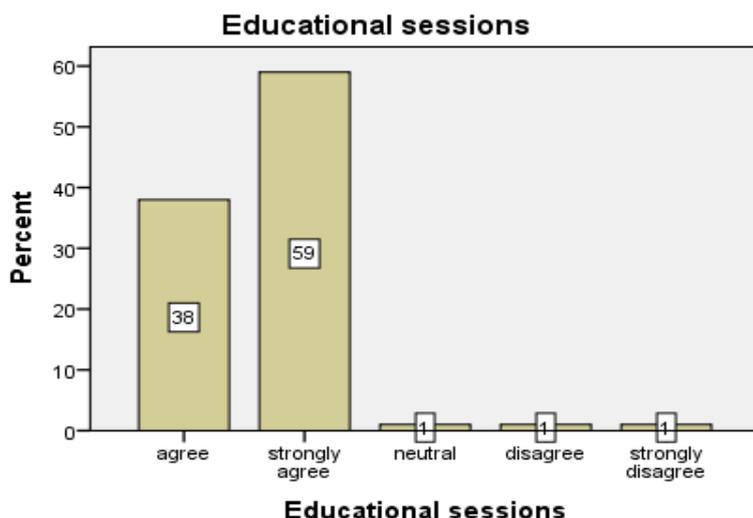
Twenty seven percent (27%) of the respondents agree that they had been groped, 21% strongly agree,

Thirty two per cent (32%) of respondents strongly agree that they have been fondled, 24% agree for a total of 56% in the two categories. .

Prevention strategies

Respondents were also asked about possible prevention strategies an then following data emerged.

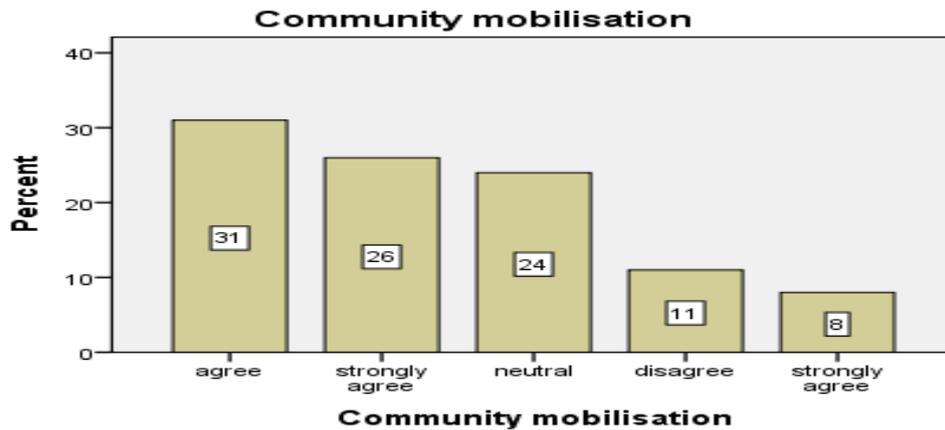
Bar graph 3: Educational sessions



Fifty nine percent (59%) of the respondents strongly agree that educational sessions can work as a prevention strategy at their community, 38% agree, 1% neutral, 1% disagree and 1% strongly disagree. Educational sessions are seen to be an effective method to reduce sexual victimisation at Ga-Makanye as the

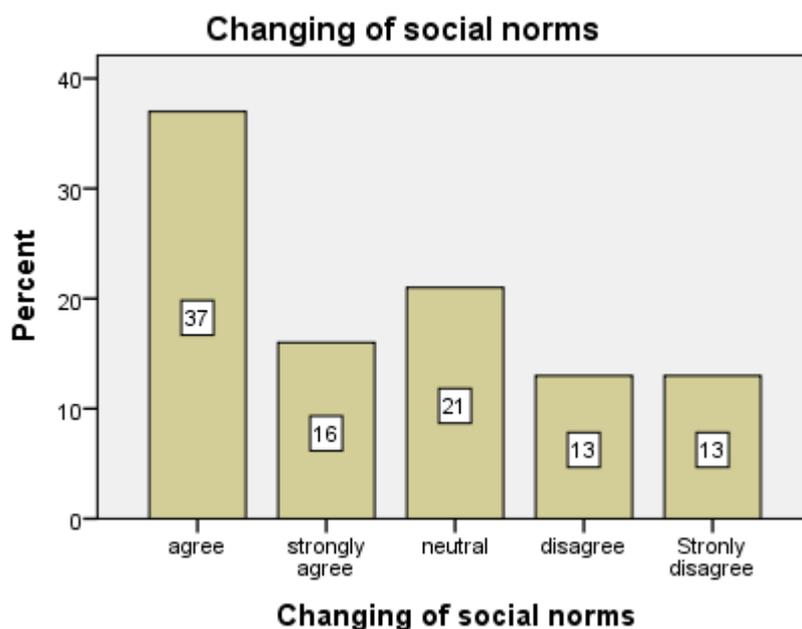
researcher views education as the best way of alerting the community with the problem of sexual victimisation. Many people do not even know what sexual victimisation is, but through education many community members can have an idea of what is meant by it. The respondents have a hope that education is the best key to their problems in their community.

Bar graph 4: Community mobilisation



Twenty six percent (31%) of the respondents are very certain (agree) that community mobilisation can be implemented as a strategy to solve sexual victimisation problems in their community. 26% of the participants strongly agree, 24 % neutral, 11% disagree and 8% strongly disagree. The respondents believe that working together as a community can assist them in reducing sexual victimisation.

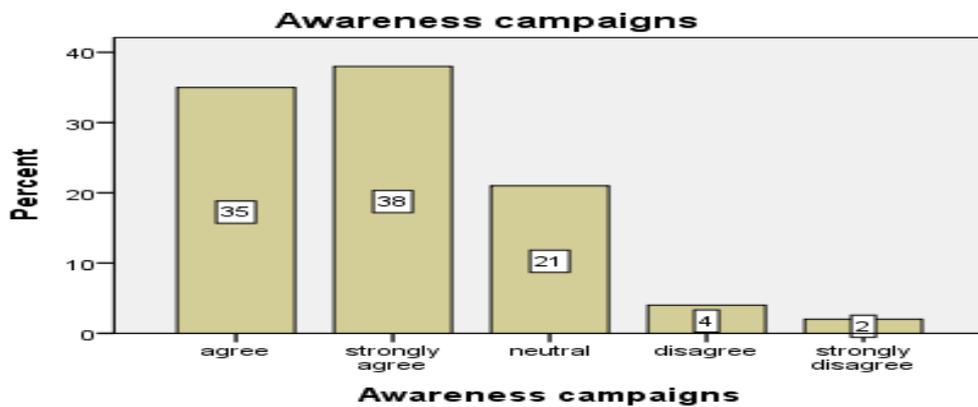
Bar graph 5: Changing of social norms



Thirty seven percent (37%) that changing of the social norms is the best solution

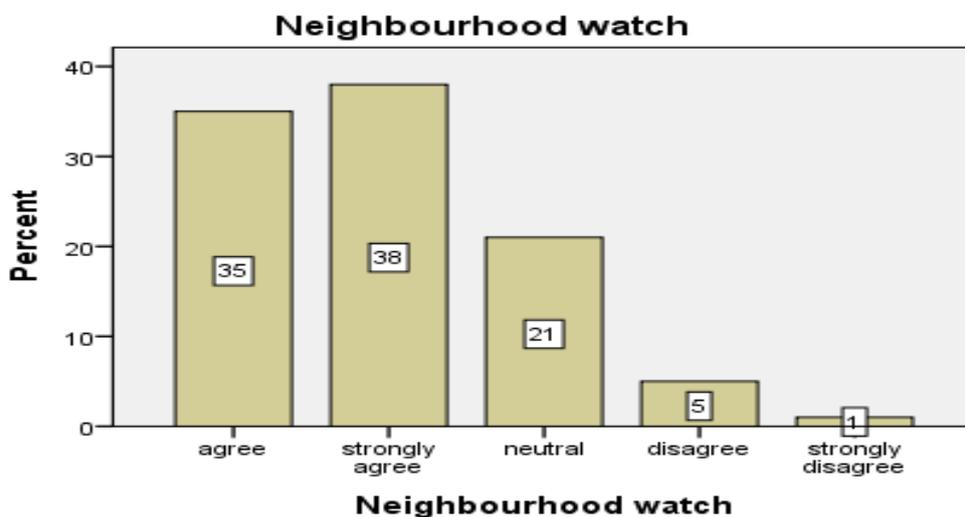
in eradicating sexual victimisation. 21% of the respondents are neutral, 16% strongly agree, 13% disagree and 13% strongly disagree. Most of the respondents saw the changing of the community norms as the best solution to their problems as most of the perpetrators are not law abiding citizens.

Bar graph 6: Awareness campaigns



Awareness campaigns are given a serious consideration by almost 38% of the respondents who strongly agree that it can help in solving their problems, 35% agree, 21% neutral, 4% disagree and 2% strongly disagree. The researcher believes that awareness campaigns are the best strategies in assisting members of the community to reduce sexual victimisation of females, as the majority of respondents strongly agree with thirty eight per cent (38%) that they can work.

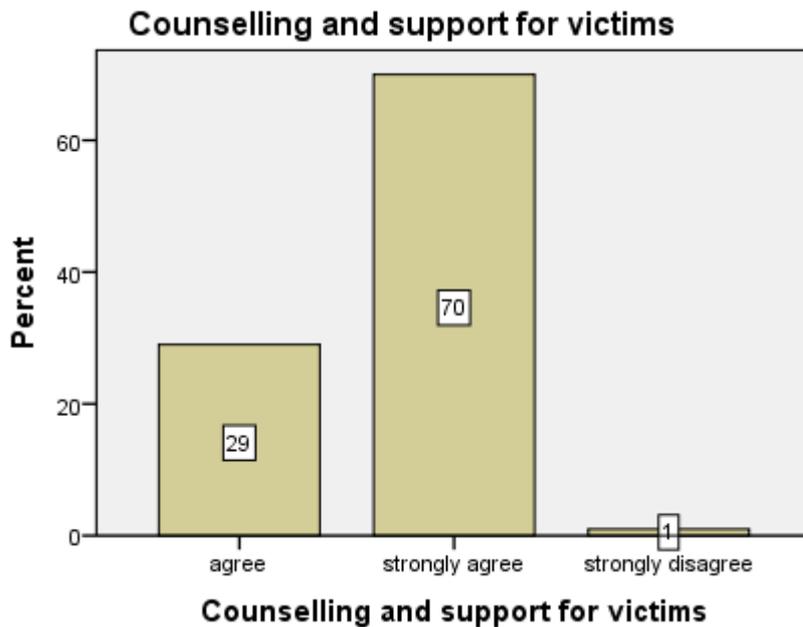
Bar graph 7: Neighbourhood watch



Thirty eight percent (38%) of the respondents who participated in the study strongly agree that neighbourhood watch as strategy can be effective in reducing sexual victimisation. The other 35% of the respondents agree, 21% neutral, 5% disagree and 1% strongly disagree. The finding shows that the majority of females at Ga-Makanye community agrees that neighbourhood watch can work as a tool to solve their problem, although even some are not sure whether the strategy will work or not. Most of the respondents have a hope that assistance might come

from it.

Bar graph 8: Counselling and support for victims



The most rated strategy for reducing sexual victimisation by females at Gama-kanye community is counselling and support for victims with seventy percent (70%) of the respondents strongly agrees, 29% agree and 1% strongly disagrees. The majority of respondents put their faith on this strategy because they are of the belief that through counselling the victims can be able to overcome their trauma of the sexual victimisation incidents.

SUMMARY OF THE EMPIRICAL FINDINGS

- Among respondents, thirty seven percent were in the age category of 18-30 years, thirty two percent in the 31-40 years, twenty one percent in 41-50 years and the least number of ten percent were more than 50 years.
- The majority of the respondents were married women with twenty eight percent, single with twenty four, divorced with twenty one, cohabitating with eighteen percent and the least is widowed with nine percent.
- The majority of the respondents never experienced sexual victimisation when they were old and the majority of the females also became the victims when they were young.
- Thirty two percent of the respondents had experienced fondling in their lives, twenty seven percent had been groped, and lastly about twenty five percent of the respondents agreed that they experienced unwanted sexual contact.
- The respondents rated counselling and support for victims with seventy percent as the best strategy to start solving the problem of sexual

victimisation, followed by the educational sessions with fifty nine percent.

CONCLUSIONS AND RECOMMENDATIONS

This study aimed at describing the extent and the nature of physical non-penetrative sexual victimisation at Ga-Makanye community. The quantitative approach was used to gather data. Questionnaires were given to residents by the researcher herself. The aim was to give the respondents assistance if they experienced any problem with completing questionnaires. The research title was a victimological study of the extent and the nature of physical non-penetrative sexual victimisation of females at Ga-Makanye community. The research design was descriptive in nature. The sample for research consisted of residents of Ga-Makanye community, in Limpopo Province.

The data was collected by the use of questionnaires. The sampling that was used was availability sampling where the researcher took available residents of Ga-Makanye community, in Limpopo Province. The Statistical Method for Social Science (SPSS) computer programme was used to analyse data. Pie charts and bar graphs were used to explain the findings.

The following are the core findings of the study:

- Physical non-penetrative sexual victimisation is experienced mostly when females are younger than when they are older.
- Forty two percent of the respondents agreed that they experienced sexual victimisation, and 33% disagreed.
- Thirty two percent of the respondents accepted that they had been fondled.
- Counselling and support for the victims is believed by the respondents to be the best strategy to begin with the problem of sexual victimisation in their community with the rate of 70 percent.

Conclusions

The researcher concludes by saying there is a high rate of females who experienced and who did not experienced physical non-penetrative sexual victimisation. The findings indicates that 42% of the respondents agree that they experienced sexual victimisation I their lives, 32% accepted that they had been fondled, and 70% of the respondents have a believe that their problems can effectively be reduced by starting with counselling and support for the victims.

Recommendations

Based on the study, the following recommendations are made:

The members of the community need to take this problem serious and the police must be included since they cannot work alone in the prevention of crime.

- The police must collaboratively assists the victims and not to blame them (secondary victimisation).
- More meetings are needed for education about crime and members of the community should be urged to attend.

- A good relationship between the community and the police is needed so that underreported cases of sexual victimisation will be reduced.
- The formation of the victim's empowerment shelter.

REFERENCES

- Elliot, M., & Mandell, N. 1995. *Feminist issues: Race, class and sexuality*. Canada: Prentice Hall.
- Evans, S. 1979 *Personal Politics*. New York Knopf.
- Jewkes, R. 2002. Preventing sexual violence: A rights-based approach. *The Lancet*, 360 (9339), 1092.
- Jewkes, R., & Abrahams, N. (2002). The epidemiology of rape and sexual coercion in South Africa: An overview. *Social Science & Medicine*, 55, 1231-1244.
- Kelly, L. 1999. *A central issue: Sexual violence and feminist theory*. New York: Oxford University Press.
- Krug, E; Dahlberg, L; Mercy, J; Zwi, A and Lozano, R. 2002. *World report on violence and health*. Geneva: World Health Organisation.
- Lee, J; Pomeroy, E.C and Rheinboldt, K.T. 2005. Attitudes towards rape: A comparison between Asian and Caucasian college students. *Violence against Women*, 11, 177-196.
- Radford, J; Friedberg, M and Harne, L. (eds) .2000. *Women, violence and strategies for action: feminist research, policy and practice*. Buckingham: Open University Press.
- Rampton, M. (2008) *The Three Waves of Feminism*. Pacific. Vol. 41 No. 2, Fall 2008 available at.
http://www.pacificu.edu/magazine_archives/2008/fall/echoes/feminism.cfm.
 Accessed on 5 September 2013.
- Rape Crisis (2013) *Rape in South Africa*. Available at: <http://rapecrisis.org.za/rape-in-south-africa/> Accessed on 30 January 2014.
- Sable, M.R; Danies, F; Mausy, D.L and Gallagher, S.K. 2006. Barriers to reporting sexual assault for women and men: Perspectives of college students. *Journal of American College Health*, 55.157-162.
- Sanday, P.R. 1981. The socio-cultural context of rape: A cross-cultural study. *Journal of Social Issues*, 37(4), 5-27.
- Schuler, M. 1992. *Violence against women: an international perspective*. New York: Women Developmental International.
- Sexual Assault Prevention and Awareness Centre, (2014). *Understanding the perpetrator*. Available at: <http://sapac.umich.edu/article/196> Accessed on 11 December 2014.
- Siegel, L.J. 2004. *Criminology: theories, patterns, and typologies*, 8th ed. Victoria, Australia: Thompson/Wadsworth.

- Sobsey, D and Mansell, S. 1994. An international perspective on patterns of sexual assault and abuse of people with disabilities. *International Journal of Adolescent Medicine & Health*; 7(2):153–78.
- Strebel, A and Foster, D. 2000. “So women submit to it...” Discourses of power and violence in students talk in heterosexual negotiation. *South African Journal of Psychology*, 30 (2):11-19.
- Titus, R.M., Heinzelman, F.& Boyle, J.M. 2000. Victimization of persons by fraud. In Tobolowsky, P.M. (ED). *Understanding victimology*. Cincinnati, OH: Anderson.
- Turk, V and Brown, H. 1993. The sexual abuse of adults with learning disabilities: results of a two year incidence survey. *Mental Handicap Research*; 6 (3):193–216.31.
- Victims Of Crime Survey. 2011. Published by the Statistics South Africa.
- Vogelman, L. 1990a. Violent crimes: Rape. In B. McKendrick & W.C. Hoffman (Eds.). *People and the violence in South Africa*. Cape Town: Oxford University Press.
- Watson-Franke, M. 2002. A world in which women move freely without fear of men: An anthropological perspective on rape. *Women’s Studies International Forum*, 25 (6), 599-606.

3. DIGITAL EVIDENCE IN CRIMINAL INVESTIGATIONS: A SOUTH AFRICAN PERSPECTIVE

Doraval Govender¹⁰

ABSTRACT

Criminals in South Africa are becoming more and more effective and efficient than ever before. They operate in a world of cyberspace using on-line digital and social media communications. More and more criminals now commit crimes electronically, by using digital devices. They feel that the police do not know enough to catch them. To track the cybercriminal, investigators need to understand that a digital device may be used as a target for criminal activity, or it may be used as a component for the commission of cybercrime, or it may provide evidence in the commission of any crime. This article provides knowledge of digital devices and digital evidence, and the knowledge and skills to investigate such crimes. The purpose of this article is to empower criminal investigators with basic knowledge and skills to track criminals. Further, this article introduces a new perspective to the 'Routine Activity Theory'.

Keywords: Cybercrime, Computer crime, crime investigation, digital devices, electronic data, digital evidence

Introduction

Chasing a crook through cyberspace in South Africa is not anything like the classic chase in a "James Bond" movie. All an investigator needs to do is ask the right questions, understand what clues, leads and evidence to look for and to collect and preserve the evidence. The 21st century businesses, industry, commerce and academia in South Africa have brought about a revolution in digital technology by making it an important part of their daily activities. This rapid adoption of digital technology, have provided for cybercrime opportunities. This has also given rise for a computer forensic investigator to be part of every investigation team, be it in law enforcement or private security. Computer forensic investigators assist to collect, analyse and report their findings to their team leaders.

According to Patterson and Pollock (2011,p. 12), the 'Routine Activity Theory' encourages an understanding of crime causation, where three factors leading to a criminal act taking place includes a motivated offender, a potential victim, and the absence of a capable guardian. The simultaneous existence of these three factors will result in a crime taking place. The three factors determine the where, when and how of criminal action and often ignores the why. To secure a successful prosecution investigators need to trace the offender, determine the

¹⁰ DLitt et Phil in Criminology, Associate Professor, Programme Security Management, Department of Criminology & Security Science, School of Criminal Justice, College of Law, University of South Africa.

motive for the criminal act and ensure that the scene of crime is protected for the collection, examination and analysis of the digital evidence.

Unfortunately the tracing of the cybercriminal in South Africa is not easy, because most digital device users know how to send false trails. Investigating digital technology requires clear defining laws, knowledge and skills to successfully prosecute offenders. There is presently software in the market which assists computer forensic investigators to detect only points of access and not the identity of the perpetrators. This study will provide an understanding of the steps to be followed in the collection, examination and analysis of digital evidence in criminal investigations.

Methodology

Unlike a quantitative researcher who adheres to strict rules, the author was his own epistemologist. He obtained qualitative knowledge on common digital devices, and on the gathering, analysis and interpretations of digital evidence in criminal investigations, using literature review and experience.

The world of digital technology

In the world of digital technology, digital devices include any type of computer, any computer storage media such as stiffly disks, CD-ROM disks, DVD discs, hard drive, portable storage devices or any other electronic digital device (Van Rooyen, 2008, p.199). Digital evidence is any information or fragment of information stored in digital format, or any computer storage media such as stiffly disks, CD-ROM disks, DVD discs, hard drive, or any other electronic digital device which may be used to prove that a specific crime has been committed (Marshall, 2008, p. 10,66-67, Van Rooyen, 2004, p.94;. Fischer, Halibozeck, Green, 2008, p. 438-441, 452; Jain & Kasana, 2011, p.116).

There are many places to visit in the world of digital technology, similar to places tourists look forward to visit in any country. Just as we have crime hot spots in a country, crime hotspots also exist in the world of digital technology. One of the main crime hotspot in the world of digital technology where crimes occur daily is the '**internet**'. To connect to the internet, you need a computer, a modem, and a telephone line. In addition to that hardware you need software that allows your digital device to communicate with other online digital devices. Most people connect through an Internet Service Provider (ISP). They offer a connection to the Internet as well as other online services available to clients. These additional on-line services are similar to what is available on the Internet (Spiropoulos, 1999; Minnaar, 2008, p.92).

The role of digital devices in crime

Developments with the internet and portable storage devices makes it possible to disseminate more complex data in the form of music, photographs and video (Marshall, 2008,p. 32; Perks, 2011,p. 89-90). Some of the more common digital devices include MP3 music players, CD players, DVD players, mobile phones,

CCTV cameras, personal digital assistants and smart phones. We use digital technology to manage our personal affairs, to do purchases, schedule transport and other activities. Mobile phones, laptop and notebook computers are used to communicate from any location of entertainment and business 24hours a day, 7 days a week. No matter how the technology is used, however, it always records some detail of what it is doing and when it is done, examples range from Closed Circuit Television (CCTV), which records to a hard disc and to network management devices which may have records of traffic passing through them (South African Toll gates) (Marshall, 2008, pp. 5, 6, 13). Our technological devices are therefore referred to as *witnesses* (Marshall, 2008, p.7; Perks, 2011, p. 89). *Victims* in the world of digital technology are the targets against whom the attack takes place. In reality the attack on the device is used as a means to attack the entity or human beings associated with it (Marshall, 2008, p. 14; Newburn, Williamson, & Wright, 2008, p. 438-440).

Because society is so much embraced with technology, investigators of crime need to continuously look out for digital devices at scenes of crime and need to ask suspected persons and witnesses the right questions regarding the possible use of digital devices. To ask the right questions for the purpose of obtaining evidence, the investigator must also have a good working knowledge of the different devices and its functions (Stelfox, 2009,p.114-116). According to Marshall, (2008, p. 10), digital devices fall into two categories namely; *open and closed systems*. Closed system refers to any device that has never been connected to the internet. It only exists in a controlled and known environment as an isolated entity. Open system on the other hand refers to a digital device that has some sort of connection to the internet (wireless or by using storage devices). An example that comes to mind in South Africa is the Oscar Pistorious case, where the body of the victim was found inside a house (open system). In the Pistorious case, the initial investigator failed to consider the cellular phone as a digital device with digital evidence (Mooki, 2013, p.4). According to Marshall, (2008, p. 16), the victim and the killer in a Murder case may have communicated prior to the murder. In a modern world it is common for them to have communicated using a cellular phone or email or some other digital device. Expert forensic investigators usually start by looking for six common digital devices at murder scenes. These include a cellular phone of the victim, victims home computer, victims work computer, the killers cellular phone, the killers work computer and the killers home computer.

In criminal investigations, the locality of the offence needs to be determined. At the start of the investigation it may not be possible to accurately determine which countries are involved in the activity, if this cannot be done, we will not know which laws are applicable. Without knowing the countries and the laws of the related countries we will not be able to determine which types of crimes are considered offences and are punishable in terms of that country's laws. Even though the countries are sometimes identified, the local law may not define the activity under investigation as illegal. Internationally, the locality of the offence

is usually recognised to be in the country where the attack originated. Without the harmonisation of laws in different countries it will be difficult to reach agreements on investigations which cross national boundaries (Marshall, 2008, p. 12).

The use of digital devices in the commission of violent crimes in South Africa is on the increase. These devices have been found to be used to commit cash-in-transit heists, bank robberies, residential robberies, business robberies and a host of other crimes. In many criminal investigations conducted in South Africa, digital evidence has helped to bring the crime scene into court, by placing the suspects at the scene of crime (Lochner, Benson and Horne, 2012,p. 79). It will therefore be appropriate to address all crimes involving digital evidence in this study.

Legal measures to address digital evidence in South Africa

The ineffectiveness of our common-law to combat computer related crimes, led to the promulgation of the Electronic Communications and Transactions Act 25 of 2002 (ECT Act). In South Africa. The “ECT Act” defines any conduct on the Internet or connected with the Internet or Internet usage which constitutes a crime in terms of the South African criminal law, including any conduct punishable in terms of Chapter XIII of Act 25 of 2002. In terms of the Electronic Communications and Transactions Act 25 of 2002, data message is defined by the legislature as any data generated, sent, received or stored electronically. The admissibility of data messages may not be disputed on the grounds that it is data message (South Africa, 2002a). The Regulation of Interception of Communications and Provision of Communications Information Act 70 of 2002 (RICA) was introduced to provide law enforcement with digital evidence in tracing criminal offenders (South Africa, 2002b).

Digital evidence in criminal investigations

Forensic investigators use the terms ‘electronic evidence’ and ‘digital evidence’ interchangeably as they both constitute evidence accrued during cybercrime investigations. Digital evidence includes any information of probative value that is either stored or transmitted using any type of digital device (Volonino, 2003; Witcomb, 2002).

Crime scenes

Since online crime is committed using digital devices. There are two scenes of crime: both the victims digital device as well as the criminal’s digital device. There may be evidence in each device. In addition there is a trail of evidence between the two devices. Some of the evidence may be in the records of the ISP, the victims ISP the criminals ISP , or both. Digital evidence may be located in the victims digital device, the victim’s ISP records, the criminal’s ISP records, the criminal’s digital device and at other locations in Cyberspace (Spiropoulos, 1999). According to Ferraro and Spain, (2006,p.2-13), before a crime scene of

an incident is searched, the investigator should engage with the investigation team to work out a pre-search preliminary plan. It is essential that the team members are adequately briefed in respect of the information, logistics of the search, specific digital devices and operating systems.

Proper records should be kept of the sketch map of the scene, details of all persons present where the digital devices are located, details of the digital devices – make, model and serial numbers, display details and connected peripherals, remarks/ comments/ information offered by user(s) of computer(s) and actions taken at the scene showing exact time (Van Rooyen, 2004, p. 173). A basic tool-kit should be considered for use in the proper dismantling of digital devices as well as for their packaging and removal of the digital evidence (Coyne, 2005, p. 418).

There are many digital devices that may be encountered whilst searches are being conducted during investigations. These are often valuable sources of evidence, which if dealt with in an evidentially acceptable manner, may help the investigation. Care must be taken to ensure that any seizure at the scene is justified, appropriate and proportionate. It would be unfair for an investigator to seize equipment which is vital to a business as a result of suspicions of the activity of a few employees. Anything seized must have the potential to contain evidence relating the illegal activity. At the time of seizure, it would be advisable to consider the environment to be a crime scene and approach it using conventional crime scene procedures (Marshall, 2008,p.21; Coyne, 2005,p. 419).

Gathering of digital evidence

According to Perks, (2011,p.89) the recovery of evidence from digital devices is now firmly part of criminal investigation practices. Digital evidence is valuable evidence it should be treated in the same manner as any other forensic evidence with the necessary circumspection. The methods of recovering digital evidence whilst maintaining evidential continuity and integrity may seem complex and costly, but experience has shown that, if dealt with correctly, it will produce evidence that is both compelling and cost effective. To show objectivity and integrity to a court, computer forensic experts should be used rather than internal computer specialists.

The investigator must have knowledge of the type of digital evidence he will need to prove his case, its location and the digital device in which it is held (Nelson, Phillips, Enfinger & Stewart, 2006, p.34). Digital evidence can become admissible in a court of law provided it is submitted by the investigator as real evidence. The evidence must be accompanied by an affidavit certifying it as such and being a correct representation of the original information. The investigator must have seized the digital device where subsequent forensic examination of the digital device reveals digital evidence relevant to the investigation (Lochner et al., 2012: 76).The obtaining of digital evidence from cloud computing systems is likely to be more complex and time consuming due to the encryption of digital data before processing it, and in some cases storing the data and having it processed in different jurisdictions within the cloud. Unless a cloud computing

application provides an audit trail, it may be difficult to extract digital evidence in an admissible manner from such applications, and in some cases, there may be little evidence available to extract (Tayloy &Haggerty 2007).

Evidence recovery

The main functions of digital forensics are the collection, examination and analysis of digital evidence obtained from digital devices (Nelson et al., 2006,p. 46).

The *collection phase* involves the search for, recognition of, collection of, and documentation of digital evidence. This phase involves real-time and stored information that may be lost unless precautions are taken at the scene (Nelson et al., 2006,p. 46; Van Rooyen, 2008,p. 207).

This *examination phase* helps to make the evidence visible and explain its origin and significance and it should accomplish several things. First it should document the content and state of the evidence in its totality (Van Rooyen, 2008,p. 208).

During the *analysis phase*, the analyst recovers data. If users have deleted or overwritten files on a disk, the files that were deleted still remain on the disk until a new file is saved to the same physical location, overwriting the original file. In the meantime those files can be retrieved. Most forensics tools can retrieve deleted files to be used as evidence (Nelson et al., 2006, p.58-59).

Once the digital evidence is collected, examined and analysed, the computer forensic investigator should write a final report. The report should include, how the storage media was acquired, from which digital device was the evidence retrieved, the policies applied, the criminal action recommended based on the available evidence and if there are any other items that need to be considered for analysis (Nelson et al., 2006,p. 67).

FINDINGS

The literature study lays a theoretical foundation for criminal investigators to professionally conduct investigations where digital devices are involved. This study also brings a new perspective to the 'Routine activity Theory' where it is suggested that a criminal and the victim must be in the same vicinity for a crime to take place or they have to travel to a common point for a crime to take place (Patterson & Pollock, 2011,p.12). Digital evidence does not require the criminal and the victim to be in the same place for the commission of a crime. It provides a new theoretical framework for investigators in law enforcement and the private security who are involved in investigations.

Conclusion

In any investigation, the types of digital devices found at a scene of crime or in possession of the suspected persons, may make a big difference in the investigation. The methods used to gather the digital evidence from the digital devices will determine whether an investigator will be successful with his

investigation or not. Therefore it is necessary for investigators to have the knowledge and skills in digital forensics.

LIST OF REFERENCES

- Coyne, H.F.(2005). Computer Forensics. Pp 415-424. In Montgomery, R.J., Majeski, W.J. 2005. Corporate Investigations. Second edition. Arizona: Lawyers & Judges Publishing Company.
- Ferraro, E.F. & Spain, N. M. (2006). *Investigations in the workplace*. New York: Auerbach Publishers.
- Fischer, R.J, Halibozeck, E. Green, G. (2008). Introduction to Security. (8th ed) edition.USA: Butterworths Heinemann.
- Jain, N. & Kasana, R.S. (2011).Cyber Crime-Prevention, detection and prosecution. Pp99-100. In Jaishankar, K., Ronel, N. 2011. *First International Conference of the South Asian Society Crimnology and Victimology (SASCV)*.Tirunelveli: Moanonmaniam Sundarana University.
- Lochner,H.,Benson,B.and Horne, J.(2012). Making the Invisible Visible: The presentation of electronic (cell phone) evidence as real evidence in a court of law. *Acta Crimniolgica. Southern African Journal of Criminology: CRIMSA* 25(2)69-82.
- Marshall, A. (2008). *Digital Forensics: Digital evidence in Criminal Investigation*. UK. John Wiley.
- Minnaar, A. 2008, 'You're received a greeting e-card from...': the changing face of Cybercrime e-mail spam scams *Acta Criminologica Southern African Journal of Criminology* 92-116
- Mooki,O. (2013).Magistrate keeps Pistorius in suspense.*Saturday Star*. 23 February:4
- Nelson, B. Phillips, A. Enfinger, F. & Stewart, C. (2006).Guide to Computer forensics and investigations. (2nd ed). Boscon: Course technology.
- Newburn, T. Williamson, T. & Wright, A. (2008). *Handbook of criminal investigation*, Cullompton: Willan.
- Perks, J. (2011). Computers and Computer Crime. Pp 89-108. In *Dealing with White Collar Crime*, 2011. Pietermaritzburg: Intrepid Printers.
- Patterson, C., Pollock, E. (2011). Policing and Criminology. Policing Matters. Devon: Learning Matters Ltd.
- South Africa.(2002a). *Electronic Communications and Transactions Act 25 of 2002*. Pretoria: Government printers.
- South Africa. (2002b).*Regulation of Interception of Communication and Provision of Communication Related Information Act 70 of 2002*. Pretoria: Government printers

- Spiropoulos, J. (1999). *Cyber Crime Fighting. The law enforcement officer's guide to online crime*. Fairmont: The National Cybercrime Training Partnership.
- Stelfox, P. (2009). *Criminal Investigation. An introduction to principles and practice*. Devon: Willan Publishing.
- Taylor M, Haggerty J, Gresty, D. (2007). The legal aspects of corporate computer forensic investigations. UK: *Computer Law and Security Report* 23:562.
- Van Rooyen, H.J.N. (2004). *Investigation the A-Z guide for Forensic Private and corporate Investigators*. Pretoria: Crime solve.
- Van Rooyen, H.J.N. (2008). *The Practitioners Guide to Forensic Investigations in South Africa*. Pretoria: Henmar Publications.
- Volonino, L. (2003) 'Electronic evidence and computer forensics' *Communications of the Association for Information Systems* 457 at 459.
- Whitcomb , CM. (2002)'A historical perspective of digital evidence: A forensic scientist's view' *International Journal of Digital Evidence* 1-4.

4. BLAME IT ON THE GLOBAL COMMUNITY: POLICING ILLICIT DRUGS IN SOUTH AFRICA

D Shikwambana

JT Mofokeng

Tshwane University of Technology

ABSTRACT

Since the South African democratic dispensation, a new euphoria engulfed the inhabitants of the country especially from those in the private sector as globalisation brought great expectations to operate in the new global market. Yet, as plethora of literature review points out, globalisation has a more sinister dimension as, to a great extent stretch law enforcement agencies due to challenges amongst others such as human trafficking; transportation of illicit drugs; arms; illegal aliens; and contraband of all kinds.

Against this backdrop, this article explores the views of the South African Police Service (SAPS) officials regarding the challenges posed by illicit drugs in South Africa as well as their perceptions on how SAPS responds to these challenges. In order to capture the multifaceted nature of these challenges, interviews with key experts from SAPS, officials from the SA National Council on Alcoholism and Drug Dependence (SANCA), Justice and Correctional Services departments were also conducted from Free State; Gauteng; Western Cape and Kwazulu-Natal provinces.

The findings amongst others indicate that SAPS is overstretched to adequately deal with illicit drugs due to diversity of challenges such as shortage of manpower, inadequate training related to drug identification as well as police corruption.

Keywords: organized crime, illicit drugs, borders, partnership, case workload

INTRODUCTION

According to the South African National Drug Master Plan (1999:1) South Africa is, for a number of reasons, experiencing an unacceptable increase in substance abuse (the age of first experimentation has also dropped) and its associated problems. Principal among them is the social and political transformation which has taken place on the domestic front, and the re-emergence as a member of the international community. The rapid expansion of international air links, combined with the country's geographic position on major trafficking routes between East Asia and the Middle East, the Americas and Europe; a well-developed transportation infrastructure; modern international telecommunications and banking systems; long, porous borders and weak border control have made South Africa a natural target for drug traffickers. *“South Africa is not alone in its fight against drugs. The rapid globalisation of the drug trade over the past decade has virtually assured that no country is immune to the threat, and a growing number are developing long-term strategies to deal with the problem. The successes of these strategies, however, necessarily imply the*

increased threat to the South Africa's borders, as drug traffickers are forced to find markets further afield in which to ply their wares" (National Drug Master Plan , 1999:1).

Engvall (2006: 827) asserts that traditionally, organized crime and the illicit drug trade have not been perceived as international security issues. Among scholars, as well as policymakers, the long-dominant realist approach to security studies provided a thematic focus on military competition among sovereign states. Issues concerning drugs and crime were reserved for criminology or sociological studies, not political science or security studies. However, since the end of the Cold War this has been gradually changing. There is an increased acceptance of studying the implications of the drug trade from a policing perspective (Shelley 1995; Griffith 1997; Maiden, 1998; Matthew & Shambaugh 1998; Thachuk 2001; Levitsky 2003).

Ehrenfeldt (2003) postulates that while globalization has facilitated transnational licit activity, the opening up of borders has also been advantageous to those with illicit interests. Organized crime groups are clearly among those actors who have adjusted most effectively to transnational conditions. According to the United Nations (2002:1) globalization and growing economic interdependence have encouraged and promoted the transformation of crime beyond borders in all parts of the world. Improved communications and information technologies, increased blurring of national borders, greater mobility of people, goods and services across countries, and the emergence of a globalized economy have moved crime further away from its domestic base. The nature of organized crime in the contemporary world then cannot be understood separately from the concept of globalization.

The United Nations Educational, Scientific and Cultural Organization (UNESCO, 1999:9) asserts that more than two centuries ago, Africa was not seen as having a drug problem. Williams and Milani argue that this has changed. *"...But the circumstances of consumption and production in Africa do not mirror the European experience. Africans have for example geographically defined access to particular drugs. ... Meanwhile the produce is smuggled by taxi into South Africa, where it is transported from Cape Town to Durban to Europe. Lagos, Nairobi, Kinshasa, Daar el Salaam and Cairo are other major gateways for the drug industry on the continent"*.

Highlighting the effect of transitional drug trafficking it has in Africa, Wyler and Cook (2010:2) point out that Africa has historically held a peripheral role in the transnational illicit drug trade, but in recent years has increasingly become a locus for drug trafficking, particularly of cocaine. *"Recent estimates suggest that in recent years, apart from late 2008 and 2009, between 46 and 300 metric tons of South American cocaine may have transited West Africa en route to Europe.. Africa's emergence as a trafficking nexus appears to have resulted from*

structural shifts in international drug trafficking patterns, including heightened European demand for cocaine, international counternarcotics pressure driving drug traffickers away from traditional trafficking routes, and the operational allure for traffickers of low levels of law enforcement capacity and high rates of corruption in many African countries” (Wyler & Cook, 2010:2).

LITERATURE REVIEW

In nearly every country the market for illicit drugs remains pervasive, despite long running attempts to restrict such activities. Around the globe a variety of policy approaches have been tried, ranging from punitive approaches as manifested in the United States (US) ‘war on drugs’, to more liberal law enforcement strategies, such as those in Holland or Portugal, that lead to the decriminalization or depenalization of the possession of some forms of illicit drug, most notably cannabis (Adda, McConnell & Rasul, 2011: 1).

Maiden (1998:1) asserts that South Africa had problems with drugs in the past, but the birth of a new democracy and the adoption of a new regime together with the lifting of sanctions opened South Africa up to the world and contributed to greater exposure to illicit substances. Illicit drug trafficking is a global occurrence, and South Africa is part of the problem. Illicit drug use has a serious impact for all South African citizens because drug abuse contributes to serious crime, family violence, gangsterism, and social problems. The South African government recognized the complexity of the illicit drug trade in South Africa, and tried to give a plan of action with the formulation of the National Drug Master Plan.

Responses by the SAPS

The SAPS is the only law enforcement agency in South Africa that is charged with the responsibility or duty to fight crime and ensuring order. Section 205 (3) of the Constitution Act 108 of 1996 describes the objectives and duties of the South African Police Service as those to combat and investigate crime, maintain public order and prevent crime. It is widely argued that purely the SAPS responses are simply inadequate to deal with the problem the problem of illicit drugs and crime in general (Shaw, 1995; Burger, 2006). The dynamics of illegal markets, the activities of criminal enterprises, and the reach of criminal networks all militate in favour of multilateral responses. So too does the lack of capacity of the SAPS to respond adequately, the challenges brought by instability within SAPS due to lack of resources and unwillingness of corrupt police officials to take decisive action against indigenous criminal organizations, makes South Africa a haven for criminals.

Marsh (1999:112) is of the view that most of the drug syndicates operating in South Africa are able to carry on their activities with virtual impunities, whilst

other national governments has paid lip service to the drug problem, but had made little or no attempt to provide the urgent resources like increased manpower. Marsh further asserts that there is no drug that is not available anywhere else in the world that is now not available in South Africa. This author further say that with the opening of our borders following the 1994 democratic elections and the focus that subsequently fell on the Republic of South Africa, it was realised by drug dealers worldwide that the country was an untapped market for their products.

The problem of drugs in South Africa is very enormous and the war is far from being won, as Marsh (1999:108) points out that drug addicts can do anything to satisfy their habits, which includes lying, cheating, robbery or even killing. Marsh (1999:109) postulates that often violent crimes and drug abuse go hand in hand. Addicts are rarely able to hold down a steady job so crime becomes the only way they can support their habit. Most addicts, the lucky ones go to rehab centers, those not so lucky that get caught up in crime gets into trouble with the law and gets sentence to serve time in a correctional service.

The biggest question may be that, is the South African Police Service winning the fight on drugs? The problem of illicit drugs in South Africa is big and is very much challenging to detect and even to successfully prosecute them. Mackay (2012:8) reports that the residents of Joe Slovo had been complaining of more drugs as being sold in the local tavern and the police are said to have failed to resolve the problem which have led the residents to protest against the high rate of drugs in the area.

The drug problem faced by the rest of the world and the globalization of crime has further contributed to an increase in drug trafficking and drug use. Reason for a greater exposure to drugs includes the opening of international borders to South Africa. South Africa had already become a market for substances such as crack, cocaine, heroin and ecstasy. It was also a transit route for drug trafficking. According to Rao (1997:2) high rates of unemployment and underemployment contribute to individuals becoming involved in drug dealing. The same can be said in South Africa, especially with the current high rate of unemployment. Joubert (2008:162) concurs that the high rates of unemployment in South Africa also contribute to the increase in drug distribution.

Marsh (1999:113) points out that in 1995, South Africa hosted a joint Southern African Development Community and European Union conference on drug trafficking in Mmabatho, however there has been little evidence to suggest that the protocol has amounted to anything more than words on paper. It would thus seem as if that most initiatives such as conferences and workshops conducted in South Africa with an attempt to reduce the scourge of illicit drugs, had not yielded any positive results as means of fighting the use and possession of illicit drugs. Ragon (2005:4) states that law enforcement agencies spend millions of money per year combating drugs and drug related crimes. Macfarlane, Macfarlane and

Robson (1996:126) further suggest that the role of the police to drugs can be two fold, that is, police have been dealing with the supply for years, mainly successful and alternatively, if police could also deal with the demand part of it, police could have a much more positive effect on the whole scene.

Murji (1998:11) asserts that the value of 'high level' enforcement strategies has however been called into question. A common response to the perceived or actual shortcomings of drug enforcement is the call for some form of decriminalization or legalization of drugs. Another response is an interest in 'low level' enforcement aimed at street or retail drug markets. This is not to say that street-level enforcement as such is new. More significant is the attention that has been paid to it and the support for it from particular individuals from across the political spectrum. Murji (1998:11). Marsh (1999:112) is of the view that most of the drug syndicates operating in South Africa are able to carry on their activities with virtual impunities, whilst other national governments has paid lip service to the drug problem, but had made little or no attempt to provide the urgent resources like increased manpower.

It is clearly evident that drug abuse in South Africa is a major problem, although official records in the form of recorded statistics do offer some indication as to the challenge faced by the SAPS in responding to this "war on drugs", the extent of the problem is difficult to determine. The problem extends over the whole country, affecting each of the nine provinces, and is highly segmented along ethnic, class and regional lines. Simply put, "*Substance abuse occurs at all levels of society. Substance abusers may be rich or poor, young or old*" (Bezuidenhout, 2011:341). Yet, how SAPS responds to the challenge, is mission impossible. "A National survey found that most secondary school pupils reported that it was easy to get illegal substances in their neighborhoods" (Burton, 2008:52).

Gilbert (2010:381) states "*the investigation of narcotics and dangerous drugs is often a long and difficult procedure of investigation....drug terminology must be known along with patterns of speech and behaviour....drug inquiry often involves production, sales and distribution in many different areas and jurisdictions....low suspect visibility risk compared to other types of crime. Narcotics transactions occur in clandestine locations and often among very few individuals.*"

The challenges of drug investigation as identified by Gilbert can be applied to the South African environment where the SAPS police battle in the fight against drug investigation and prosecution. Drug investigation is a prolonged period of investigation that can take years to identify all syndicate members in a specific investigation. In order to conduct a successful investigation on illicit drugs, the investigating officials must have up to date knowledge of all the drug terminology. There are certain speech patterns used by drug users and a manner of behaviour that is only known to drug users. This is a simple but effective way of protection used by drug users and dealers in order to try and avoid undercover police officials to enter the drug society and arrest and prosecute the drug users and dealers.

The police have a difficult task at hand in conducting drug investigations since drug production, sales and distribution is not limited to a single area and jurisdiction. Drugs are produced in South Africa and exported to other countries. Drugs are also imported to South Africa from other countries. Over the border investigations are done in co-operation with foreign Police Departments and exchange of information between foreign Police Departments is necessary in order to build a database of drug syndicates. Success in investigation and prosecution cannot be achieved by any Police Department without the co-operation from other Police departments and the community.

While South African law does distinguish between possession, the use and dealing in drugs, Snyman (1993:413-415) argues that it is necessary first to understand and distinguish between the use and possession before one can really be able to understand the concept and implication of a charge of dealing in illicit substance. English and English (2000:464) argue that the most difficult problem which faces the operational police officer is the impossibility of recognizing substance found in the possession of person suspected of drug offences as being particular drugs of certain classes. Suggested would be a simple matter to reproduce coloured representations of the common forms of controlled drugs in an effort to assist identification. Recognizing that a detailed analysis will have to be carried out by forensic scientists before the type of drug can be identified, on of the substance cannot be taken as the starting point of a police officer's investigation. For example, a police officer will become suspicious of persons observed to be tablets or capsule to one another in café. but it will not be easy for an officer to arrest a person for such an offence, because power to arrest it require a suspicion on the part of the arresting officer, and this must be so because of the impossibility of the positive recognition of controlled drugs. Additionally, most persons who take drugs may be in the high risk category in relation to AIDS or hepatitis.

According to Monk (1995:340-341) stated that the local and state police in several states have been arrested for bringing drugs into the united states through country airports, roads, and harbours.as well as protecting the dealers. Federals drug enforcers formerly characterized as being untouchable, are routinely caught participating in the international drug trade. Similarly, in South Africa we found the police officials protecting drug dealers or participating in the drug smuggling which become difficult for prosecuting deal with such cases having find that people to prosecuted are government officials or police official who have been trained to deal with illicit drug ,but doing the opposed. A mention can be made for an example, the typical case of the Brett Kebble and the then Commissioner of the Police, Jackie Selebi which drag very long to be finalized because Jackie Selebi was top cop.

Borders

While globalisation has facilitated transnational licit activity, the opening up of borders has also been advantageous to those with illicit interests. Organised crime

groups are clearly among those actors who have adjusted most effectively to transnational conditions (Ehrenfeldt 2003). The leading branch in transnational crime is the drug trade, which is estimated to be the second largest business in the world (after the weapons trade).

Roelofse (2011:8) asserts that the advent of democracy in South Africa heralded an increase in organised criminal activity. Shaw as cited by Roelofse (2011:8) claims that when apartheid ended, border controls were weakened, thus creating new potential areas of operation for organized crime. Roelofse further points out that the challenges experienced by weaker border control has been reinforced by the observation made by the Parliamentary Portfolio Committee for Home Affairs. The Committee as cited by Roelofse (2011:8) reported that “*Criminals exploit border control measures are not sufficient to stop, smuggling...or the movement of illegals (sic.) across SADC borders*”.

It is clear that the South Africa’s border protection is in not as effective as it should be. If thousands of illegal immigrants still cross the South African borderline from neighbouring countries, it goes without saying that the weaker border control measures make a way for potential drug dealers into the country. Regardless of the existence of the National Drug Master Plan, South Africa due to its inadequate border control will not be able to implement any drug action plan if the air borders, land borders and sea borders are not effectively controlled and patrolled to seize illicit drugs.

Atkins (1997:2) points out that long, porous borders and weak border control, including undermanned ports and numerous secondary airports, give traffickers nearly unlimited access to South Africa. The growing presence of illicit drugs in South Africa is indirectly a result of the dramatic increase in the number of international flights to the country, relaxed visa requirements for South Africans to travel overseas, movement of large numbers of legal and illegal people across the borders, poorly monitored borders, and ill-equipped customs. All of these create a highly attractive market for influx of drugs and a growing reputation as a ‘paradise’ emerging market and transit point for illicit drugs.

Atkins further argues that although little available evidence to substantiate it, the growth of organized crime and lack of adequate resources to deal with it, contribute among others, to an increase in accessibility and availability of illicit drugs in South Africa, a corresponding increase in consumption is probable. South Africa is, for a number of reasons, experiencing an unacceptable increase in substance abuse and its associated problems. Principal among them is the social and political transformation which has taken place on the domestic front, and our re-emergence as a member of the international community. Desperate and unemployed South Africans are being lured by syndicates with promises of easy money into becoming drug couriers and the overflow of drugs transshipped through South Africa is also finding its way onto the local market.

The growing presence of illicit drugs in South Africa is indirectly a result of the dramatic increase in the number of international flights to the country, relaxed visa requirement for South Africans to travel overseas, movement of large numbers of legal and illegal people across the borders, poorly monitored borders, and ill-equipped customs, South Africa now gaining a reputation as a “paradise” emerging market and transit point for illicit drugs (Ryan, 1997: 1-25)

RESEACH METHODS

An empirical research design was used for the purpose of this research following a qualitative research approach, as explained by Mouton (2001:144) with an attempt to gain information on the elements of drug trafficking that will assist the SAPS to respond adequately to this crime. For the purpose of this study a purposive non-probability sampling technique was applied. In order to understand the challenges of detecting and prosecuting illicit drug dealing in South Africa several focus groups interviews were conducted with an official from the SA National Council on Alcoholism and Drug Dependence (SANCA), officials from the departments of Correctional Services (DCS), National Prosecution Agency, the SAPS, and a representative from the community. The aim of these interviews was to obtain the perspective of a variety of people who directly deals with illicit drug abuse in some or other way. For the purpose of complementing data gathering method in addition to the literature study, three focus group discussions were conducted: (1) with SAPS personnel, (2) with DCS officials and; (3) with SANCA officials.

FINDINGS AND DISCUSSION

In order to gain a better understanding of the challenges brought by the illicit drugs in South Africa, the following questions directed the study:

- What possible strategies needed to support the implementation of a National Drug Master Plan?
- In your opinion, does SAPS has an adequate capacity to respond to challenges brought by illicit drugs in South Africa?

In most of the focus groups interviews the researchers observed that participants from SANCA were mostly clued up or knowledgeable about the existence of the National Drug Master Plan compared with the SAPS and DCS officials.

The emerging themes from the focus groups amongst others were that drugs are a global challenge that needs to be fought in co-operation with the SAP’s international counterparts. The participants agreed that the SAPS is also working with other departments such Social development and Basic Education to deal with the scourge of drugs in a multidisciplinary approach.

When asked if the SAPS has an adequate capacity to deal illicit drugs, some of the comments were as follows:

“Quite frankly, the police still have a lot to do... the business of drugs grows daily and everyone needs and wants some cash, so if they will stick and rely on one strategy while drug trafficking develops every day, and then they’d better think again... maybe that is why SAPS and the government are struggling with this issue but it is not an excuse for them to be lazy and ineffective. They need to come up with other strategies and maybe involve other countries for help” (Focus group 2).

One participant agreed that SAPS does not have a capacity. The comments were as follows:

“No, it does not. My reason is that not change has occurred since the problem of drugs was introduced. It is like they are sinking in the problem. They seem to be part of the problem instead of solving or solution to it. From the look of things, it seems as if the drug crime rate keeps on increasing instead of decreasing. In this case I’m not talking about drug users because they cannot stop them but I am referring to the drug lords and drug mules. These people are like mushrooms and they are thriving in the proceeds of their criminal activities. I’m starting to suspect that the police are facing this challenge because there are some connections and sort of partnership between them and the criminals. Don’t get me wrong, I’m not saying the police are drug dealers themselves, I am not accusing them but I’m just suspicious how come drug dealers are so advanced, how do they get access to the information and operational system of the police service? I am just curious that’s all and maybe the executives or senior managers within SAPS need to run this in their brains.”

“No SAPS are under resourced and they seem as if they are not coping based on the number of people turning up for rehabilitation. The current strategy is also irrelevant to the problem. Drug usage is more of a psychological problem than a crime problem. The problem about the safety and security agencies is that they want to deal with the results of the problem than with the causes...the focus is too much on the symptoms that is why it is a huge challenge for them to overcome this issue. Based on our patients’ profiles, it would seem as if there is more demand for drugs, easy distribution thereof and on the other hand, less of police to intercept the transaction” (SANCA focus group, Gauteng).

“The police are not seen as making any serious impact in addressing this issue. I don’t think they are winning at all. It is rare when you hear about the police making any significant impact to these people who are dealing in illicit drugs... South Africa is way too far from being able to detect and combat drugs, most of the police personnel are not that much educated about drugs and that is why after the drug dealer has been arrested, he

does not go through prosecution but only get fine and goes out and continue selling drugs” (Department of Correctional Services focus group, Gauteng).

“Yes indeed we do have the capacity to respond to these challenges, we are trained, aren’t we? We just need more advance training as we work in a changing environment. If we did not have the ability we wouldn’t have been able to be aware of this social and security issue, our arrests rates are evident of our capacity” (SAPS focus group, Gauteng).

Mixed reactions from participants regarding the question were noted by the research team. Some of individuals’ comments from focus groups were as follows:

“Yes, a little they do and I believe they can do even much better as time goes on. I’m saying this because more programmes have been developed to educate people about what the police are about. The police have been available to the media to alert people and some of crime scenes have been captured and shown to the police to reveal their progress. If you can read a newspaper every day, you will recognise that drug crime scenes are there”.

“Yes I think they do, it’s just that they are not effective and efficient enough. It is their duty to deal with such problems relating to illicit drug sale and distribution. It is part of their mandate...they are efficient and capable.”

“The SAPS have the capacity to deal with drugs in principle. The challenges lie with getting other role players to bring their part in the prevention of drug trafficking. When prevention fails, SAPS capacity has to detect this problem, starting with the implementation of border control measures is of utmost importance. State of the art technology and skills shared with foreign agencies in recent years have improved. Sharing of intelligence with other agencies is the key to success. The challenges faced by SAPS relate to the need for a more focused approach to drug trafficking. With each station precinct work in isolation, this leads to valuable information getting lost” (SAPS focus group, Kwazulu-Natal).

“Yes and No. Yes we do have same technology in tracing this illicit drugs entering our country, we also have the manpower, but when the answer is No, there is a lack of education or experience in the police service for recognising these illicit drugs. Intelligence sharing is not really taking place and other departments including other specialised units within SAPS are not coming together in sharing knowledge on how to combat this evil in South Africa. Once collaboration would be realised, there would be a

massive decrease on these illicit drugs entering our country” (SAPS focus group, Gauteng).

“Whether they (SAPS) do or not solve drug problem adequately, one just can’t see their impact. Crime rates are high and so are their salaries but no work is no done, no positive results. For argument sake...they do not have the ability or the skill to deal with drug problem. Perhaps their training needs to be revisited in order to be aligned with challenges of the 21st century” (Department of Correctional Services focus group, Western Cape).

One participant made the following comments: *“Not really, I can say they have some of the abilities such as arresting suspect, but to convict these criminals is quite a challenge. Capacity in terms of effective detection and prosecution is lacking behind. However, one should consider a broad spectrum of challenges bedevilling the SAPS rather than just using a tunnel vision to determine their effectiveness to deal with this challenge. Other government departments such as education, courts and corrections should also come to the table so as to address this issue”.*

When asked what possible strategies needed to support the implementation of a National Drug Master Plan, some of the comments were as follows:

“This is a difficult one to answer. Firstly, this is not about what ideal strategies could be implemented the Safety and Security. What is critical is about the choices and decisions that the users/addicts think are rational. Secondly, as long as there is the need or excuse for substance abuse, no strategy or method could be adequate enough to deal with problems of drug abuse... This is a social problem that has to be brought in the attention of the community parties such as churches, schools, traditional healers, community leaders, chiefs and so on and so forth. The SAPS is the last party to be contacted. On the other hand I’m not saying the law enforcement should turn a blind eye on this issue, they must also contribute as part of their duties. Up to so far we are trying our best to rehabilitate drug addicts and families need to bring their people to us so that the police will not need to face more unnecessary challenges with the users” (SANCA focus group, Kwazulu-Natal).

The majority of SAPS participants agreed that crime related to drugs have increase and the police have stepped up their efforts and made it their priority to crack the back bone of the drug syndicates. This focus group also confessed that some police are corrupt as they were aware of their colleagues who were in the payroll of criminals as to look the other way and, to provide drug syndicates with intelligence to avoid possible arrest by the police.

“Firstly there need to be tighter control over our ports of entry. Increase technology and skills development of personnel at border post. The most important consideration will be to stamp out corruption from grass root levels to upper management in all agencies task with the protection of our borders. Tougher legislations need to be implemented. Tougher sentences on dealers and couriers by the courts could act as deterrent to potential drug traffickers... We are already doing so much; we just need more time, not much but some. The best we can do at the moment is to improve our cooperation and communication with the communities so that they would feel free to report to us, we need to improve that relationship, we need to ensure them that they will not be exposed when giving us information as we know that dealers can be dangerous too.” (SAPS focus group, Kwazulu-Natal).

Most of the participants from various focus groups agreed that the most important factor that would have a lasting effect on current strategies by the police to reduce the scourge of illicit drugs is the active involvement of the community (the public) and other role players. The participants agreed that most communities are not adequately mobilized by SAPS to become active in crime prevention.

“Adequate partnership to reduce the illicit drug market amongst government departments should be encouraged by those in strategic positions...and SAPS should be capacitated to increase their intelligence in order to counter any measures brought by drug traffickers. A whole cycle of prevention, detection, prosecution and rehabilitation can effectively work if all role players put their weight once they see the illicit drug market as a national priority. Also the Criminal Justice in entirety should be revisited, in order to have successful convictions of drug dealers and mules. Currently, only the consumers receive harsh sentences. This system simply does not work” (Department of Correctional Services focus group, Western Cape).

One participant made the following comments: *“The SAPS is already in their process but parties of the community are left behind. The way I see it, community members/parties are ignorant and I have not seen any effort towards the issue. We cannot expect the police to do everything on their own while these incidents happen right in front of our eyes, in our presence.”*

Another participant made the following comments: *“The police need to report back to the community... the community gets discouraged when they report crime and they do not get the feedback. The community need to know what is happening behind the closed doors of the offices, they should be informed of the progress so that they would know if they are helpful or not.*

One participant from SANCA made the following comments: *“For me is not about what the police do should but about what should the police NOT do. The police must stop doing the job of other people...they should stop dealing with victims of substance abuse and drug addicts, that is not their job. They must transfer that responsibility to relevant people or organisations. Drug users are considered as sick people that are why we are here? We are here for drug users, to help them. The police must just deal with the dealers”*.

“There are many roles the SAPS can play, starting from being visible to eliminate the opportunity to do or sell drugs. They should initiate effective patrols that will focus on social groupies, personal interactions and gangsters. And most importantly, they must be visible in taverns, night clubs and other social places.”

“In order to support and implement a successful drug master plan the most important factor needed would be a society that realises that we have a massive problem in the form of drug trafficking and abuse, and not just playing an ostrich or look the other way as if we as a nation, we don't have this challenge...On the other side, one cannot be selective and fight the war on heroin but in the same breath want to fight for the legislation on dagga.....Yes, we need an effective police service that listens to the concerns of the public. There has an outcry for the re-establishment of specialized units with dedicated resources and skill to fight fire with fire” (SANCA focus group, Kwazulu-Natal).

Most of the participants agreed that adequate training, resources and partnerships with other role players would make a difference in dealing with illicit drug market in South Africa. It was agreed by the participants that South Africa's port of entry is the weakest link in the prevention of illicit drugs entering the country and communities. There was a consensus that the SAPS strategic planning should look at some of these inhibiting factors.

“Our ports of entry are easy to enter and this make the smuggling of drugs into the country easier. SAPS, South African Defense Force (SANDF) should be seen working together to protect border gates...the SANDF cannot conduct border safeguarding in isolation as it is not a one department show. It requires the cooperation of various government departments...The SAPS, SANDF, SARS and other relevant role players should work together in safeguarding all the ports of entry of South Africa. Safeguarding is not mere patrolling the borders; it is about confiscating illicit drugs and prosecuting all persons in possession of illicit drugs. Illegal immigrants should not be merely exported to their country of origin, because they will simply find another access route to bring illicit drugs into our country Politics of who should do what rather than what would not take us anywhere. This evil of drug trafficking has taken over the country

and communities like a pandemic. Too much politics have polarized the essence of policing and this has led to the community become fed up with government response to the drug trade and has led to the formation of mob justice and kangaroo courts, who often turn to vigilantism as a method of curbing drug trafficking. Tougher legislation needs to be implemented to suit the situation in the country rather than the current practices where criminals seem to have more rights than law abiding citizens” (SAPS focus group, Kwazulu-Natal).

As highlighted earlier, the interviews with the SANCA officials were by far the interviewees that gave researchers best insight into the subject of illicit drugs, the on-going daily battle they fight to help children and adults in rehabilitation programmes, and the frustration with the government of the day that seems to lack political will to implement stricter action plans and heavier jail sentences to convicted drug dealers. It was noticeable however that the Department of Correctional Services is fighting a losing battle against illicit drugs and the distribution and use thereof in the prisons. Even though visitors and prisoners are searched for drugs, drugs still find their way into a supposedly controlled and secure environment. The rehabilitation programs within prisons are not successful and not an on-going programme. The only claimed successes are in the Johannesburg jail amongst female prisoners.

Parry (2005:1) states that the South African government has recently implemented several changes in policy and practice, including setting up programmes to better monitor the importation and manufacturing of precursor chemicals, tightening up on banking procedures to make money laundering more difficult, and pursuing persons involved in organized crime more vigorously by using asset forfeiture provisions. The forfeiting unit is currently the biggest threat to illicit drug dealers since their assets are seized and disposed of by the State. It makes it more difficult for a drug dealer to continue with his “job” as a drug dealer if all his/her property, furniture, vehicles and money in bank accounts are seized by the State.

RECOMMENDATIONS

From the analysis of responses from the participants, it was observed that the National Drug Master Plan and the content thereof are not well known to the majority of interviewees. It is the view of the researchers that relevant departments should be capacitated to implement action plans outlined in the Plan in the form of adequate financial funding and resources to achieve some the desired objectives of the Plan. Awareness campaigns by relevant role players should be launches amongst communities; especially the townships where there is a higher tendency of illicit drug use amongst the youth.

The education of children on the dangers of drug abuse should start at an early age at schools and be integrated as part of the curriculum. SANCA should also be involved in the education seminars presented to children to ensure that the

correct information are conveyed and that the questions from the children are answered correctly.

All the interviewees called for the re-instatement of the SANAB units within the SAPS. This is a valid call. Even police members themselves feel that they are not experienced enough to deal with illicit drug investigations.

CONCLUSION

Based on the analyses of responses from the focus group interviews, it was apparent that there is an urgent need for a strategic approach to governance that includes forging agreement on the problem; sharing information about its major manifestations; initiating comprehensive law enforcement attacks on transnational criminal organizations, their leadership, structures, and profits; and developing a broader approach designed to create barriers to illicit markets and thereby reduce their profitability. Because the problem is multidimensional, it is partly about criminal organizations, but also about illegal markets and corrupt processes effective action requires attacking organizations and markets as well as reducing corruption. This is an essential component of a strategic vision for making real progress. Unfortunately, not only is such a perspective lacking, but the realities of practical cooperation also leave a great deal to be desired.

In conclusion, illicit drugs know no boundaries between races, households and social classes. Once a family member is involved in illicit drug use, there is a long and difficult road ahead until rehabilitation is successful or the person dies of a drug overdose. Illicit drug use, break families apart and leads to further crime. Eventually all citizens in South Africa will be affected in some negative way due to the continued and progressive invasion of illicit drug dealers in our country. The government needs to take a tougher stance on prosecution of drug dealers with harsher jail sentences.

BIBLIOGRAPHY

- Adda, J., McConnell, B. & Rasul, I. 2011. Crime and the Depenalization of Cannabis Possession: Evidence from a Policing Experiment. Online. Available at: <http://www.eui.eu/Personal/Adda/crime.pdf>.
- Atkins, A. 1997. *The illegal drugs trade and development in South Africa: some observations*. London: Catholic Institute for International Relations.
- Bezuidenhout, C. 2011. A South African perspective on fundamental criminology. Cape Town. Pearson Education publishers.
- Burger, J. 2006. Crime Combating in Perspective: A Strategic Approach to Policing and the Prevention of Crime in South Africa. *Acta Criminologica* 19 (2) 2006, pp. 105-118.
- Burton, P. 2008. *Dealing with School Violence*. Cape Town: CJCP Issue Paper No 4.

- Ehrenfeldt, R. 2003. Funding Evil: How Terrorism is Financed and How to Stop it. *In* Engvall, J. (2006). The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- English, J., English, B. 2006. Police Training Manual. New York: McGraw-Hill Publishing Company.
- Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- Gilbert, J.N. 2010. Criminal Investigation. 8th ed. New Jersey: Prentice Hall.
- Griffith, I. 1997. Drugs and Security in the Caribbean: Sovereignty under Siege (Pennsylvania, Pennsylvania State University Press. *In* Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- Joubert, S.J. 2008. Crime Risk Perspectives. Pretoria. University of South Africa.
- Levitsky, M. 2003. 'Transnational Criminal Networks and International Security', *Syracuse Journal of International Law and Commerce*, 30, 2. *In* Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- Macfarlane, A. Macfarlane, M. & Robson, P. 1996. The User: the truth about drugs- what they do, how they feel and why people take them. *Oxford University Press. New York*.
- Mackay, M. *Protests over drugs, cops*. Sowetan, March 15, 2012.
- Maiden, R.P. 1998. Alcohol and other drug problems in the new South Africa. *Alcoholism Treatment Quarterly* 16(1). 7-27.
- Marsh, R. 1999. With Criminal Intent: the changing face of crime in South Africa. *Amparsand Press*.
- Matthew, R. & Shambaugh, G. 1998. 'Sex, Drugs and Heavy Metal: Transnational Threats and National Vulnerabilities', *Security Dialogue*, 29, 2. *In* Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- Monk, R. 1995. Criminology and Criminology: Takes Sides. New York: McGraw-Hill Publishing Company.
- Mouton, J. 2001. How to succeed in your Master's and Doctoral studies: A South African guide and resource book. Pretoria: Van Schaik.
- Murji, K. 1998. Policing Drugs. Ashgate Publishing: USA.
- Parry, C.D.H., 2005. South Africa: Alcohol today. *Addiction*, 100, 426-429.
- Ragon, B. 2005. *The truth about drugs*. Book Builders LLC. USA.
- Rao, S. 1997. The Asian experience. Paper presented at the workshop organized by The South African Institute of International Affairs on the Illegal Drug Trade in South Africa, Johannesburg, 5-6 June.

- Roelofse, C.J. 2011. The Investigation of Human Trafficking: An Impossible Mission without Elemental Identification of Crime. *Acta Criminologica*, 24(3), 1-19.
- Shaw, M. 1995. Partners in crime? Crime, political transition and changing forms of policing control, Research Report no 39, , June. Centre for Policy Studies: Johannesburg.
- Shelley, L.I. 1995. ‘Transnational Organised Crime: An Imminent Threat to the Nation-State?’, *Journal of International Affairs*, 48, 2. *In* Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- Snyman, C.R.1993. Criminal law. Durban: Butterworth. Inciardi, JA.1981.The drug-crime connection. Beverly Hills. Sage Publications.
- South Africa. Kwa-Zulu Natal *Annual Report 2008 / 2009*. SAPS Communications and Liaison.
- South Africa. 1999. National Drug Master Plan. Department of Welfare of South Africa: Pretoria.
- Thachuk, K. 2001. ‘Transnational Threats: Falling Through the Cracks?’, *Low Intensity Conflict & Law Enforcement*, 10, 1. . *In* Engvall, J. 2006. The State under siege: The Drug Trade and Organised Crime in Tajikistan. *Europe-Asia Studies*,. 58(6): 827-854.
- United Nations Educational, Scientific and Cultural Organization, 1999. The Globalization of the Drug Trade. Available at: <http://www.unesco.org/most/sourdren.pdf>.
- Wylter, L.S. & Cook, N. 1999. Illegal Drug Trade in Africa: Trends and U.S. Policy. Congressional Research Service (CRS) Report for Congress - Prepared for Members and Committees of Congress. Online. Available at: <http://www.fas.org/sgp/crs/row/R40838.pdf>.

5. CHALLENGES OF POLICING FRAUD SYNDICATES WITHIN RITAVI POLICING AREA

J Mofokeng and F Ramakgokgoa

ABSTRACT

The purpose of this paper was to solicit the views of the South African Police Service (SAPS) both at local police and the Commercial Crime Branch as well as wider representatives from the community regarding their views on the weaknesses of the SAPS Commercial Crime Branch strategies in terms of responding to syndicate activities; what modifications might be introduced to overcome the weaknesses; and what might be ideal strategic interventions to improve the current investigation and detection system. Focus groups interview sessions were conducted resulting in the realisation of the following three groups within Limpopo province: Focus Group 1 – Business community around Limpopo and Ritavi policing area; Focus Group 2 – SAPS members from the local police stations including the Commercial Crime Unit and Focus Group 3 – Faith based and CPFs leaders. In-depth semi-structured interviews were also conducted with some of the key informants from Business Against Crime (BAC) as well as SAPS personnel within Limpopo province.

From these focus groups, the research team was able to assess relevant issues that could be used to adequately identify the new modus operandi of incidents in Ritavi and the linkages with those committed elsewhere in Limpopo, as well as possible gaps in the strategies used to respond to these challenges brought by the fraud syndicate operating within Ritavi policing area.

Keywords: Investigation, syndicates, commercial crime, Community Policing Forums, business

INTRODUCTION

According to du Plessis and Louw (2005:427-446) one of the first challenges facing the new government of South Africa post 1994 was the arduous task of aligning the country's law (both common and statutory) with the values and principles enunciated in the new Constitution. While the Constitutional Court was hard at work declaring unconstitutional law invalid, policy makers were busy drafting policies and laws that were urgently required for the development of the new democratic order. Near the top of the list of priorities was the development of a comprehensive and effective crime prevention strategy for the country. Legislation dealing with specific types of crime was developed to complement the government's broader crime prevention initiative.

Du Plessis and Louw (2005) further assert that many important new laws addressing specific crime problems have been developed, all of which have the

potential to contribute to the prevention of crime and victimization. These cover amongst others, organized crime. The Prevention of Organised Crime Act (No. 121 of 1998) addresses this growing phenomenon in South Africa. Its enactment coincided with the establishment in the National Prosecuting Authority of specialized units to address organized crime and corruption and to retrieve the proceeds of criminal activity (du Plessis and Louw, 2005:427-446).

It is argued that the globalisation of markets and commerce has opened up opportunities to sophisticated commercial crime and to transnational crime groups. The connection between politics, business and organised crime has been extensively dealt with by Roelofse (2015) in the Encroachment Theory. Organised crime groups are exploiting the increasing integration and complexity of the global economy, and the differences in national regulatory and enforcement regimes. De Villiers (2008: 1-2) asserts that on dealing with commercial crime, a Business Against Crime Task Group (BACTG) raised a concern that '*...while all crime give rise to concern, it is particularly those crimes involving dishonesty which are really eating away at the very fabric of business and government ethics and which are threatening the foundations upon which our economic system is built*' (Heath, 2000:373 - 376). Camerer (1998:S.a) notes that faced with the more immediate challenges of controlling violent crime, efforts to address commercial crime in South Africa have largely been invisible. However, in the light of renewed calls to tackle the culture of corruption, the effectiveness of the Commercial Crime Branch of the SAPS, in particular, to increase the risk of being caught, is crucial.

PURPOSE OF THE RESEARCH

Maxfield and Babbie (1995:70) point out that the criminal justice research serves many purposes, such as exploration, description, explanation and application of criminal justice issues. Oates (2006:17-21), on the other hand, explains that the purpose of research is to add to the body of knowledge, to solve a problem, to find out what happens, to find the evidence to inform practice, to develop a greater understanding of people and their world, to predict, plan and control, to contribute to other people's well-being, to contribute to personal needs, to test or disprove a theory, to come up with a better way, to understand another person's point of view and to create more interest in the research.

Leedy (1993:11) asserts that the aim of research is to discover new facts and their correct interpretations, to revise accepted conclusions, theories, or laws in the light of newly discovered facts, or the practical application of such a conclusion. Mouton (1996:103) concurs that the aim of research is to establish facts, gather new data, and to determine whether there are new data and to determine whether there are interesting patterns contained in the data. Against this background, the purpose of this study was threefold:

- To evaluate the existing problem and establish the weaknesses of commercial crime investigations;
- To fill the gap on how to effectively link the modus operandi with new emerging trends of commercial crime groups to enhance criminal detection; and
- To assist SAPS and other law enforcement agencies with knowledge that would make investigations more effective and efficient.

RESEARCH QUESTIONS UNDER INVESTIGATION

Research questions specify exactly what is to be investigated. They are not the broad goals of the research that are directly investigated by the research, but are specific things that are to be observed, measured, or interrogated, in order to shed light on the broader topic (Denscombe, 2002:31). The research question expresses the relationship between two or more variables (Welman, Kruger & Mitchell, 2005:35). According to Maree (2007:3), a research question specifies what intrigues one, and focuses on what one will study. It further becomes a beacon that guides the research team during the period of research, to find answers to that question. The research questions for this research are as follows:

- Is coordination between relevant stakeholders in addressing commercial crime adequate?
- Is the SAPS Commercial Branch in Limpopo effective in responding to commercial crime incidents?
- How willing is the public to report incidents of perceived commercial crime to the SAPS?
- How can new modus operandi incidents be linked by means of docket analysis with those committed elsewhere?

RESEARCH METHODOLOGY

Research design and approach

The qualitative method was used in the study conducted because the research was exploratory-descriptive and aimed at providing an understanding of the phenomenon to investigate linkages of new commercial crimes activities in Ritavi, Limpopo Province. Mouton (2001:55) asserts that a research design is a plan or blue print of how one intends conducting the research, by focusing on the end product. Maree (2007:50) elaborates that qualitative research is a research that attempts to collect rich descriptive data in respect of a particular phenomenon or context with the intension of developing an understanding of what is being observed or studied.

Welman and Kruger (2001:191) are of the view that a qualitative research is not concerned with the methods and techniques to obtain appropriate data for investigating the research hypothesis, as in the case of quantitative research. Qualitative data are based on meanings expressed through words and other

symbols or metaphors, which can be used successfully in the description of groups, small communities and organisations by studying cases that do not fit into particular theories. This approach became necessary, due to the limited information available on the issue of organised crime in Ritavi. Thus, the interviews therefore assisted by closing the gap in constructing a picture specifically at Limpopo regarding organised crime activities, areas of shortcomings on how SAPS respond to the challenges, and the opportunities available to address some of these shortcomings. The study was one of the few if not the first of its kind and a critical evaluation in the form of using interviews to gather data was required to enable future studies to produce more accurate and reliable data. The research team therefore gained knowledge by means of interviewing key informants to see what was happening in practice.

For the initial data collection, the research team conducted an individual interview with key informants from BAC as well as from SAPS Commercial Branch including a focus group discussion. The focus group discussion interview was conducted with the involvement from prominent business people, Community Policing Forums (CPFs) chairpersons as well as leaders from local faith based organisations from Ritavi policing area. Focus groups can be used both during the preliminary or exploratory stages of a research project, where questions are explored and hypotheses generated (Litosseliti, 2003). Data from both collection methods were triangulated to get a better understanding of the research problems.

For the purpose of this study a purposive non-probability sampling technique was applied. The reason for this choice was to identify key Commercial Branch investigators, the BACTG officials, sector managers, chairpersons of the CPFs as well as leaders from faith based organisations that were aware of commercial crime activities and who interacted with relevant stakeholders on a month-to-month basis at community forums or information sessions to address commercial crime related issues within Ritavi policing area. This implies that the rest of the entire population within Commercial Branch, BACTG and others who were performing support service functions (such as Public Service Act Personnel and Personnel Assistants) were excluded from the focus group interviews.

Data collection

For the purpose of this study, unstructured interviews were formulated. Questions that relate to the participants' experiences, feelings and beliefs and convictions about the concept in question were asked to all participants. Biographical information at the time the interviews were conducted was also taken into consideration with an attempt to validate the information provided by other focus groups. All relevant information regarding the title of the study was conducted through the use of available literature, focus group interviews and docket

analysis. According to McNiff, Lomax and Whitehead (2003:116), the use of data, regarding an event, from more than one source is called triangulation. McNiff *et al.*, (2003:69) suggest that the aim of triangulation is:

- To triangulate the data that is collected from more than one source to use as evidence to support a particular explanation.
- To show how the data from these different sources all goes towards supporting the explanation given of one's situation.

For the purpose of this study, all the above mentioned steps were followed by the research team. The following data collection methods were used in this research:

- Literature study;
- Focus group interviews; and
- Docket analysis.

According to Creswell as cited by Mofokeng (2010:27), the concept of triangulation is based on the assumption that any bias inherent in a particular data source, or in the investigator and the research method, would be neutralised when used in conjunction with other data sources, investigators and methods. A combination of a literature review, focus group interviews and docket analysis was conducted and hence followed in this study by using data triangulation through the use of a variety of sources as outlined hereafter.

Literature Study

Birley and Moreland (1998:90) point out that all written reports of research, whether dissertations or articles in research journals, contain a review of previous work relates to the topic under investigation. The study made use of an extensive literature review from policing literature amongst others in the fields of policing, investigation of crime, commercial crime, criminology, and psychology that was available at the Tshwane University of Technology (TUT), University of Pretoria as well as University of South Africa branch libraries and other local libraries as well as from the Emerald database.

Focus Group Interviews

A focus group is, according to Thomas, MacMillan, McColl, Hale and Bond (1995: 206–219), is a technique involving the use of in-depth group interviews in which participants are selected because they are a purposive, although not necessarily representative, sampling of a specific population, this group being focused on a given topic. Participants in this type of research are, therefore, selected on the criteria that they would have something to say on the topic, are within the age-range, have similar socio-characteristics and would be comfortable talking to the interviewer and each other (Richardson & Rabiee, 2001:3–6). This approach to selection relates to the concept of 'applicability', in which subjects are selected because of their knowledge of the study area (Burrows & Kendall, 1997:244-253). One of the distinct features of focus-group interviews is its group dynamics, hence the type and range of data generated through the social

interaction of the group are often deeper and richer than those obtained from one-to-one interviews (Thomas *et al.*, 1995:206-219).

For the purpose of complementing data gathering method in addition to the literature study, three focus group discussions were conducted: (1) with SAPS personnel attached to Commercial Branch as well as local SAPS, (2) with BACTG officials; (3) with diverse participants from the local community (sector managers), chairpersons of local CPFs, as well as leaders from local faith based organisations.

In order to invite participants to the focus group interviews, information sessions were held as outlined (as outlined in the bigger study), open calls by means of e-mail and telephone communications were also sent to the Focus Group 1 – BAC and local business community around Limpopo and Ritavi policing area, Focus Group 2 – SAPS members from the local police stations including Commercial Crime Unit within Limpopo Province as well as Focus Group 3 – Community and CPFs leaders (More detailed processes was discussed in the bigger study).

The Business community (Focus group 1, 18 participants) interview schedule was based on assessment of intelligence from the business groups. Further, the intention was amongst others, to understand the extent of best practices to promote and support effective business crime information/intelligence sharing between the BAC, local police and the Limpopo business community, as well as to determine the whether strategies in place by the police as well as business community are adequate to reduce the harm caused by serious organised crime syndicates and to make Limpopo a hostile environment for organised criminals groups.

The SAPS Commercial Branch (Focus group 2, 13 participants) interview schedules that were used in the study addressed participants' perceptions of the challenges facing investigators in responding to commercial crime incidents, amongst others such as crime analysis and criminal intelligence, mechanisms to ensure safety and protection of witnesses testifying in court, as well as effectiveness of collaboration between role-players with regard to trust and information sharing issues. Leaders from diverse community organisations including local SAPS (Focus group 3, 25 participants) interview schedule was based on assessment of more or less with issues addressed with Focus group 1. Additional questions addressed with Focus group 3 were to determine if efforts to address commercial crime in Limpopo were adequate/visible. Whether in the light of new surge of commercial crime incidents, were there any renewed calls from entire SAPS within the Province to tackle the culture of corruption, with local summit planned, *Indaba*, or meetings as a form of awareness strategies and information sharing with local communities, in particular, to reduce the risk of being a victim of crime.

From these focus groups, the research team was able to assess relevant issues that could be used to probe perceptions about new modus operandi incidents and the linkages with those committed elsewhere in Limpopo, as well as possible gaps in the intelligence, analysis and planning phase of Commercial Branch to counter these challenges. The focus group meetings took place between February 2009 and July 2011. Wimmer and Dominick as cited by Mofokeng (2010:90-91) point out that there are two types of sampling methods: probability (where the probability of selection is known or the universum's boundaries are known); and non-probability sampling techniques (where the probability of sampling is unknown or the universum's boundaries are not known). According to Hagan as cited by Mofokeng (2010:91), there are seven types of non-probability sampling techniques. These are convenience, purposive (judgemental), quota, theoretical, snowball, partial and the saturation non-probability sampling techniques.

For the purpose of this study a purposive non-probability sampling technique was applied. The reason for this choice was to identify key participants active with investigating commercial crimes, those who were involved in leadership positions from community based organisation including faith based and CPFs. Data were analysed according to the descriptive approach of Tesch (1990:142-145), following an eight-step approach. This method helped the research team to reduce data into themes, sub-themes and categories. During the focus group interviews, the research team assisted by fieldworkers, including undergraduate policing students, made use of audio recordings of the data by means of a tape recorder. The recorded data were transcribed *verbatim*, which facilitated the process of data reduction (that is, production into themes and sub-themes).

Apart from the tape recording strategy of the interview, the research team made use of field process notes, referred to as field notes, to enhance and supplement information gathering during the interviews. To ensure validity and reliability for the study, the research team ensured that cognisance was taken of four main criteria used in evaluating the validity and reliability of qualitative studies as pointed out by Seidman as cited by Mofokeng (2010:22) and Marshall and Rossman as cited by Mofokeng (2010:22). These are truth-value, applicability, consistency and neutrality (Mofokeng, 2010:22). The findings of this study were controlled by means of consulted literature.

▪ **Information Sessions/ Workshops**

The research team assisted by an experienced facilitator solicited stakeholders' views, visited individuals believed to have insights into the study under discussion, and conducted brainstorming workshops with stakeholders and innovative thinkers. Focus groups were also held with larger pool of participants on a sample of emerging recommendations. These processes are described in this section.

▪ **Solicited Stakeholders' Views**

Stakeholder representatives from both BAC, local business people, prominent leaders from faith based organisations, CPFs managers were initially identified through contacts provided by members of the BAC steering committee. These stakeholders were contacted by telephone, email or in writing and were given details of the intended study and offered an opportunity to contribute their views either in writing, over the phone, or in person. A letter was subsequently sent to thank those who had provided views.

It was explained to stakeholders that the research team was conducting an exploratory study into the fraud syndicate operating in Ritavi policing area. The stakeholders were asked for their views on the weaknesses of the Commercial Crime Branch strategies in terms of responding to syndicate activities; what modifications might be introduced to overcome the weaknesses; and what might be ideal strategic interventions to improve the current investigation and detection system. They were reassured that no individual sources would be quoted, and that a summary of the report would be available at the conclusion of the work.

Three brainstorming workshops were conducted with stakeholders and other interested parties covering each of the identified topics. The participants were identified through earlier contacts with stakeholders, through contacts provided by steering committee/task team members, and through own research initiatives. Individuals from a number of relevant organisations were contacted and asked if they would like to participate in the brainstorming workshops or to suggest possible participants. It was explained to those contacted that creative individuals were required for the workshops and that individual input was being sought, not the views of their particular organisation.

Finally, one focus group was held with members of the public to establish preliminary feedback on the potential solutions that had been identified. The focus group participants were recruited by a both a station commissioner from Ritavi police station. In order to obtain some measure of diverse population, both urban and rural views one focus group was undertaken in Limpopo and Ritavi. A small number of participants were recruited for each focus group and were either business owners or community leaders, and responsible, or partly responsible for crime prevention activities.

From the list of ideas generated during the first series of workshops, a small number of issues were selected by the facilitator in collaboration with the research team to be used as stimuli in all focus groups. The selected material was presented to each of the groups by the group facilitator during the course of a semi-structured discussion of fraud syndicate activities and the challenges posed such actions.

▪ **Limitations**

Firstly, a concern with the approach used for the purpose of this research was that it relied heavily on respondents' ability to accurately remember what happened the last time based on the following criterion: (1) witnessing a crime of fraud committed; (2) how they experienced the crime as victims, (3) the information gained by participants through various platforms or structures where challenges brought by fraud syndicate against business community and general public within formal or informal structures (such as Business Against Crime or Community Policing Forums); and (4) when general and Commercial Branch detectives investigated, profiled and how they were cross-examined in court.

A further limitation was that respondents' views could not be generalised as the views of all business community, the police members and the public within the Limpopo Province. However, the views by the focus groups and key informants provided useful insight as to why SAPS Commercial Branch were seen as not able to reduce and successfully prosecute syndicate activities as well unable to link new emerging modus operandi activities in Ritavi with those already reported within the Limpopo Province.

Case Docket Analysis

The collection of data from case dockets was the last source utilised to gather data on the topic. A total of 13 commercial crime cases were reported for the period 1 January 2003 to December 2011 in Ritavi policing area. Suspects identified as a result of their involvement in respective enquiries or case dockets reported or referred to Commercial Branch in Limpopo Province.

The research team focussed on the specific time frame, based on the total of cases reported and that all of them were filed in the archives. The research team would not have been able to have access to these cases if they were still to be finalized. This information was retrieved from the Business Intelligence (BI) system of SAPS. All reported cases were registered on the Crime Administration System (CAS) and then later 'drawn' to the BI system for monitoring purposes. Du Plessis and Louw (2005:428–429) indicate that for crime to appear on the official police crime records, two things need to happen: victims or witnesses must report it to the police, and the crime must be recorded by the police on their database. They continue to say that an increase in recorded crime is likely to be a result of increased reporting to the police. The cases identified were all reported cases identified from the databases of SAPS.

For the purpose of this study, the number of cases reported was in a region of 168 and a sample of 33 case dockets were identified as appropriate. Once the case dockets were selected, they were analysed. This was done by means of evaluating the information in the case dockets against the specific questions, formulated by the research team to retrieve information from the case dockets.

During the analysis the same questions were applied to each identified case docket. The researcher identified the most relevant questions to elicit information from the dockets, as follows:

- When was the crime reported (the times of attack, including month and day of week)?
- Where did it happen (the location of attack, e.g. residential private home, commercial entities)?
- How was the victim approached by the offender?
- How did the crime occur (all possible information, including method of operation)?

All these questions enabled the researchers to group certain information retrieved from these dockets. The purpose of this information is indicated at a later stage. For the purpose of the study the questions were put in perspective of the methods of operation, time frames when incidents took place, location and the outcome of those cases.

GEOGRAPHIC PROFILING

Geographic profiling is based on the theory of pattern living, or the fact that everyone has a pattern to his or her life, especially when the geographical areas they frequent are examined. As people typically travel a limited distance in their daily lives, insight can be gained by linking crime to living quarters. Traditionally, crime prevention theory focused upon where crimes were most likely to occur in the future, based on where criminals lived. Geographic profiling reverses the concept by seeking to discover where the offender might live, based on the locations of the crimes committed (Weiss & Davis, 2004:33-38).

▪ Geographical Profiling of Limpopo Province

According to Provinces (2008/2009:60-61), in the extreme North of South Africa, Limpopo is a Province of dramatic contrasts: bush, mountains, indigenous forests and plantations. The Province is well situated for economic growth and trade with other parts of Southern Africa, between 1995 and 2001 the Province recorded the highest real economic growth rate in South Africa (Provinces, 2008/2009:60-61). Table 2.1(a) depicts commercial crime statistics in the Limpopo Province and Table 2.1(b) depicts the Province demographics.

Table 1: Commercial crime in the Limpopo Province from April to March: 2003/2004 - 2008/2009

Reported Cases						
Crime Category	April 2003 to March 2004	April 2004 to March 2005	April 2005 to March 2006	April 2006 to March 2007	April 2007 to March 2008	April 2008 to March 2009

Commercial crime	1,992	1,984	1,950	2,316	2,367	2,827
Crime Ratio per 100 000 of the population						
	37.3	37.4	36.5	43.2	43.8	53.6
Percentage difference on reported cases						
	-0.4%	-1.7%	18.8%	2.2%	19.4%	41.9%

Source: Adapted from Mofokeng, 2010

Table 1 above shows that commercial crime in Limpopo Province has been escalating since the beginning of March 2005.

OFFENDER / CRIMINAL PROFILING

The use of offender profiling during investigations is not entirely a new technique within SAPS. Sivnarain (2010:20) asserts that the profiling of suspects using modus operandi data has been in existence in the SAPS for many years. However, the word “profiling” was not used. The information obtained from offenders was called crime information, and this information was available to investigators for use in their investigations (Sivnarain, 2010:20). Ainsworth as cited by Sivnarain (2010:20) explains that offender profiling has a short history, in which the past thirty years have seen a serious attempt to develop profiling. Hesselink-Louw as cited by Sivnarain (2010:20) points out that criminal profiling has been known by various names, such as offender profiling, behavioural profiling, crime-personality profiling, crime scene profiling and psychological profiling. Criminal profiling or offender profiling is an investigative medium, whereby the investigator focuses on the investigation, crime scene analysis and geographical profiling.

DOCKET ANALYSIS AND FINDINGS

The team of researchers analysed 33 fraud case dockets and below are the findings.

▪ Types of modus operandi cases perpetrated by fraud syndicate

Table 2 below reflects that the most the common modus operandi used during 2003/4, was false deposit slip and payment through stolen cheque. Internet cash withdraw and card skimming was not yet in place until few years later. Forged government order was emerging gradually as years progressed and was at the highest peak during 2006. During 2007/8 fraud syndicate abandoned false deposit slip payment and adopted stolen cheque. From stolen cheques the syndicate ventured more into new trends of committing fraud through internet cash withdrawal and through skimming cards.

Table 2: common modus operandi used during 2003/4 to perpetuate payment through false deposit slips and stolen cheques

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Account take over	0	1	1	1	0	0	0	0	0

False deposit slip	8	3	0	2	2	3	4	0	0
Forged government orders	13	6	11	11	14	27	14	7	2
Stolen cheque	4	3	0	5	4	6	0	0	0
Internet cash withdrawal	4	2	1	0	7	47	4	17	9
Skimming card	5	3	0	1	3	33	0	3	126
TOTAL	41	28	14	21	27	136	22	27	137

(Source: SAPS Polokwane Commercial Crime records: 2003 - 2011)

Based on the changing or evolving patterns adopted by fraud syndicate as reflected in Table 2.2 above, research confirms this behaviour displayed as a normal practice or surviving tactics. Ganapathy and Broadhurst (2008:1-12) point out that the structural forms and modus operandi of organized crime, serious criminal networks and syndicates keep changing as they capitalize on the opportunities provided by diverse socio- economic, political and global conditions. Nevertheless, their materialist goals and deadly behaviour remain constant. These changing conditions, especially the cross-border context of criminal enterprises, contribute to the difficulties faced by modern law enforcement agencies in effectively countering the corrosive impact of organized crime.

▪ **Regions/ Areas mostly targeted by the fraud syndicate**

Table 3 below reflects that although there were other places in Limpopo Province where deposit slips, forged document, or illegal bank card transactions were made. Case dockets analysis indicates that Tzaneen, Letsitele, Phalaborwa and Ritavi were most common places where these activities took place.

Table 3: Regions/areas targeted by fraud syndicate

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Modjadjiskloof	0	1	1	1	0	0	1	0	0
Litsitele	8	3	0	2	2	3	0	1	1
Tzaneen	13	6	11	11	14	27	2	6	12
Polokwane	4	3	0	5	4	6	2	3	3
Ritavi	4	2	1	0	7	47	15	5	8
Phalaborwa	5	3	0	1	3	33	1	0	2
Within Limpopo Province	3	4	0	1	2	15	2	1	4
Outside Limpopo Province	5	5	1	0	1	11	1	4	2
TOTAL	41	28	14	21	27	136	24	20	32

(Source: SAPS Polokwane Commercial Crime records: 2003 - 2011)

Based on the analysis of the case dockets, it seems as if Table 3 above paints a picture that certain regions have perhaps an unjustified notoriety for fraud syndicate either because of the longstanding reputation of the inefficiency of the local police to detect these emerging fraud trends or the victims of fraud were not adequately made aware by both the Business Against Crime or the local police to take precautions in terms of making business deals. Further analysis according to the researcher is that the members of the larger community in affected regions have never taken the threat as that serious due to the lack of media attention and romanticism about the challenges brought by fraud syndicate. The geographical proximity of the affected regions and the role of the black market where other businesses benefit out of illegal sales of stolen goods defrauded from other businesses might serve in stimulating the growth of criminal activities and thus, have also played a key role.

It would seem as if the regions targeted by the fraud syndicate, economically and socially dynamic and diverse and can be viewed as providing varied examples of social transition from legitimate business to illicit criminal activities. The team of researchers was aware that fraud syndicate operating in the regions identified above does have a market as the goods defrauded from other businesses are in demand as they are sold at a very low price compared with the legitimate price these goods will normally cost if bought through legitimate transactions. Thus, it seems as if the blurring between legitimate business transactions and illicit criminal activities offered a wide range of social and cultural contexts for the proliferation of organized crime.

The implications for the SAPS Commercial Branch as well as the local police are that through this study, the findings should serve as a platform to examine existing conceptual models and rethink empirical inquiries in an effort to better understand new emerging modus operandi activities in the regions which, hitherto, have been predominantly dictated and determined by lawlessness and business victimization. Thus, an important motivation for the contributors of this study is to not only to assist the SAPS management with more insight to fill the gap on the weaknesses of the current strategies employed by the SAPS Commercial Branch in Limpopo and Ritavi policing area, but also to develop recommendations that would serve as alternatives to act as buffers on the weaknesses of the current strategies employed by the SAPS Commercial Branch.

▪ **Means of communication**

Table 4 below reflects that most offenders or fraud syndicate made use of cellular phones mostly during 2003 to defraud their victims as well as a means to communicate with potential market/buyers to the illicit goods. During 2008 the syndicate dropped the practice possibly due to the risk of being tracked by the Commercial Crime Branch. The use of a public phone as a means of communication was also favoured mostly during 2003 as well as targeting victims

directly by entering into business deals over the counter where possibly, the victims were not yet aware of the syndicate activities. From fear of being traced as highlighted above, from 2004 the syndicate started made use of cellular phones with caution and rather resorted to the use of and resolve to public phone/fax facility as well as internet café's.

Table 4: Means of communication by fraud syndicate

	2003	2004	2005	2006	2007	2008	2009	2010	2011
Land Line	0	5	0	1	0	2	1	0	0
Cellular	20	8	6	11	0	8	5	1	0
Internet/E-mail	0	5	0	0	17	120	12	15	14
Public Phone	13	7	3	4	7	2	1	2	1
Public Fax line	0	3	4	5	3	4	5	5	3
Over the Counter	8	0	1	0	0	0	0	0	0
TOTAL	41	28	14	21	21	136	24	23	18

(Source: Polokwane Commercial Crime records: 2003 - 2011)

The analysis from Table 4 above also reflects that Information and Communications Technology (ICT), including the Internet, provided avenues that assist fraud syndicate offending mostly around 2008 and forward. It would seem as if the online identity crime activity, currently based around phishing, account compromise and credit card fraud, is often committed against Ritavi and Limpopo communities by fraud syndicate exploiting the benefits of ICT. It would also seem as if many items facilitating the commission of fraudulent activities such as the production of false identity documents, purchasing of skimming machines are widely available on the Internet, including card readers, card encoders, card printers and over-laminates used to produce cloned credit cards.

Nkala (2005:52-69) asserts that of particular concern today is the menacing danger of organised criminals operating in increasingly ruthless syndicates. Globalisation and advances in information technology seem to have given organised crime a new lease of life. Although technology has aided and reinforced social advancement, there is a general consensus that it has benefited organised criminals considerably. Various scholars and commentators, although welcoming technology as an essential element in the detection of, and fight against, organised crime, concur that the very tools that are employed to combat illicit activities are often used to commit crimes. Thus, technology developed for beneficial purposes often has unintended uses. In the African Development Community (SADC) region crime may not be as sophisticated or prevalent as in the developed world, but it is a cause for growing concern.

▪ **Conviction rate**

Table 5 below reflects how each case study would be arrested committing a particular crime and yet within the same day or week later depending on the process it would take to bring the suspect before a court of law, the majority of cases would be either withdrawn or the suspects will be acquitted. Very few will result with a mere fine whilst those who were found not guilty were significantly higher. Even if there is a saying that says “crime does not pay”, to the fraud

syndicate operating within Ritavi and greater Limpopo area, it can be argued that the opposite is true. The case dockets analysis indicates that case studies/offenders 1; 5; 7; 9; 10; 12 and 13 majored mostly with committing credit and debit cards skimming, internet cash withdrawals and illegitimate use of government orders, yet with little or no positive conviction at all.

Table 5: Conviction rate

CASE STUDY	ARRESTS	BAIL	WITHDRAWN BEFORE COURT	WITHDRAWN IN COURT	NOT GUILTY	GUILTY	FINED WITH SUSPENDED FINE	PRISON SENTENCE
1	18	--	4	10	5	3	3	NONE
2	5	--	--	4	1	--	--	NONE
3	4	--	--	4	--	--	--	NONE
4	5	--	--	2	1	1	1	NONE
5	22	--	--	11	5	7	7	NONE
6	7	--	--	5	2	-	--	NONE
7	4	--	--	3	1	--	--	NONE
8	5	--	--	3	2	--	--	NONE
9	5	--	--	5	--	--	--	NONE
10	4	--	--	2	2	--	--	NONE
11	5	--	--	4	2	--	--	NONE
12	6	--	--	3	1	2	2	NONE
13	8	--	--	2	1	5	5	NONE
14	7	--	--	3	1	3	3	NONE

(Source: Polokwane Commercial Crime records: 2003 - 2011)

From the analysis of Table 5 above, it would seem as if positive convictions carry a greater burden of proof as witnesses, public prosecutors and the police find it difficult yield required results of building a solid case based on accurate profiling of modus operandi linked with other emerging trends committed elsewhere. The findings from the docket analysis paints a bleak picture as it would seem as while the raw numbers of both withdrawn and not guilty cases versus those resulted with a mere fine were on the rise, the proportion of arrested individuals who were later paid a fine decreased; this may suggest that organized crime was perhaps growing at a rate faster than the Criminal Justice System (CJS) was able to handle. The other observations made by the researcher based on the above Table 5 are that number of arrests made against the syndicate was quite high but most of the cases were withdrawn in court due to insufficient evidence because arrests were often affected by visible police members. Some of the syndicate members were found guilty, paid fine and only one positive conviction resulting in imprisonment were imposed.

FINDINGS OF FOCUS GROUPS INTERVIEW

The analyses were conducted by pursuing a three-tier strategy that was aimed at drawing upon respondents' attitudes, feelings, beliefs, experiences and reactions regarding their perceptions of detectives' performance. The first approach in this strategy was to canvas judicial officials' views regarding the overall quality of investigations into alleged cases of fraud. The second approach was to provide an in-depth analysis of what respondents identified and described as obstacles hindering and inhibiting detectives' performance in relation to their day-to-day activities. Thirdly, the approach was an in-depth analysis of what respondents proposed as strategies to address and enhance the capacity of general detectives at station level.

Emerging Themes

▪ ***Theme 1 – Inadequate collaboration and partnership amongst stakeholders***

When asked if the coordination between relevant stakeholders in addressing commercial crime adequate; participants in all of the focus groups identified a wide range of problems which contribute to the problem of inadequate collaboration and partnership amongst the stakeholders. The most striking theme that emerged from most of the respondents was that contrary to the successful linking of new modus operandi activities with those already reported, the major issues have been those of proving, of securing evidence, of producing evidence, of the duration of investigations and criminal proceedings, as well as the collaboration with local SAPS as well as general public.

It was clear from their perceptions that this challenge was crippling the performance of the SAPS Commercial Branch, thus negatively influencing how the public view the performance of the SAPS in general. One focus group indicated that one of the reasons for a perceived lack of collaboration is that either relations or rather delimitations in the field of investigation and prosecution turned out to be very "unstable" or rather specialization or better collaboration between key stakeholders was not made an official prerequisite, i.e. crime prevention were left to local police and to some extent relegated to visible policing and CPFs as inferior levels or were dismissed as being single phenomena and thus not worth regarded as having the same weight like dealing with commercial crime. To drive the point home, one participant responded:

"...It seems as if our law enforcement agencies resemble house divided on the issue of information sharing, do you then expect others to bring their side to fight crime? To win this war against criminal networks, crime analysis at station level and criminal intelligence will need to be merged to create a more functional structure that would really crack the criminal environment, and greater information sharing is essential from all parties. It remains to be seen if certain sectors of the police resistance to sharing information, especially if from confidential sources, can be overcome to help fulfill this holistic objective" (Focus Group 1).

One participant responded: *“We are confronted with an enemy who plans operations strategically and exploits our vulnerabilities creatively. We are not sure what safest methods to conduct business are. Whilst the criminal networks function in a manner our police are not designed to respond, it is imperative that we improve relations and trust when coming to information sharing...It doesn't seem like we are winning in that area”*. *“...It would seem as several innovative changes need to be introduced to our current inadequate intelligence and profiling system...amongst others, we are unable to discuss certain information with our own colleagues due to several reasons. If the trust level amongst us is questionable, we can't convince the public to partner with us...Certain things should be revisited to change the current practices and perceptions between specialized units and crime prevention units...These should include an increased emphasis on collaboration and integration, as well as exploitation of how we obtain intelligence within the ambit of the law, in ways the SAPS had not previously pursued. As we cannot convince some other sectors \from the public to forge partnership with us, it is clear that vertical collaboration between the police and the community is not just a one-way street. While Commercial Branch can benefit from sharing intelligence information with the Interpol, a local police station should also be kept into the loop. We are all in the business of preventing and detecting crime together”* (Focus Group 3).

To cement a true collaboration, all stakeholders must engage in true collaboration to identify, prioritize, and address problems facing a community. Research indicates that cooperation between police and some public authorities is strictly regulated by the law. This is particularly true for cooperation with judicial bodies and somewhat true for cooperation with attorneys-in-law and communities. Cooperation with other public authorities such as social centres, and non-government organizations is not regulated strictly by law. Considering the fact that police is in fundament a repressive body, with a main task of chasing perpetrators of criminal actions this seems somewhat understandable. Sadly we can say that cooperation with local communities and social centres is more or less left to internal guidelines given to by management of police and is affected by the level of affection that these managers feel towards this two types of organization (Gorenak, 2006:416-424).

From the above analysis it seems as if coordination between relevant stakeholders is indeed not that adequate to wage war towards fraud syndicate within Limpopo Province. It is the view of the researcher that the nature of the intelligence functions requires that the SAPS enter into partnerships with all relevant role players to complement their stretched human resources. While the SAPS has considerable opportunities for gathering and collecting information and intelligence, there are also large stores of data held by other public and private interests all of which have a potential value for police purposes. Working in

partnership with others increases the number of potential sources of information. Indeed, there may be situations in which a key stakeholder is the only possible source of a particular item of information. It would seem as if the SAPS officers often feel more comfortable when exchanging information through personal informal networks. It is often the case that informal contact is faster and more efficient. However, there are inherent dangers in obtaining information without the safeguards, checks and balances in the formal procedure not least of which is the question of admissibility of the information in court.

An effective and properly functioning mechanism for exchanging information (especially within Ritavi and neighbouring places) gives less cause for an investigator to “call a friend” and allows that officer to act with confidence on the basis of information received. However, it is not always easy to establish partnerships with other role players as highlighted above. Sometimes this is because there are legal constraints restricting the sharing of data (especially personal data), or because of concerns about one’s identity being disclosed by corrupt police officials.

For the purpose of ensuring maximum sharing of intelligence information between role players, critical information should be shared through collaboration, typically firstly within SAPS, as well as with a range of other organizations from business sector, general public, private security companies to non-law enforcement government organisations (NGOs). These various relationships have different dynamics related to needs, responsibilities, and limitations on access to information. As such, the parameters of each formal partnership should be articulated in a formal partnership agreement.

▪ ***Theme 2 – Increased Case Workload affects the performance of the Commercial Branch.***

During the focus groups discussions it emerged that the increased workload due to diversity of challenges such as, staff shortages, a lack of skills, low morale, and inadequate training to certain extent hampers the performance of the Commercial Branch to adequately respond to the incidents of fraud syndicate within Ritavi policing area. Participants were of the view that a variety of capacity challenges had hampered the performance of Commercial Crime Branch and the coding of their responses showed that the following were being experienced as challenges in the respective departments:

- Huge workload
- Skills development and training
- Vacant posts needing to be filled and additional posts created
- Retention of personnel

One participant respondent: “...*Efforts are in place to deal with the increased the capacity for the Commercial Branch to adequately deal with fraud syndicate.*”

Another participant respondent: “*Among other things, the efficiency of the Commercial Crime Branch is suffocated by the bureaucratic requirements of interdepartmental coordination ...which means that when the pressure on government to act decisively increased, the Commercial Branch has little to show, hence the decline in public feelings of safety is bad news*”.

This views of participants revealed that there was a serious skills and experience deficit within Commercial Branch to adequately respond to fraud syndicate. From these views, it seems as some of the detectives are simply not being adequately trained to perform certain functions such as profiling of modus operandi. The implications from SAPS are that it is vital for the management to facilitate and support the continuous in-service training to alleviate the skills shortage. Camerer (1998) concurs with the responses from the focus groups by highlighting that in part, the Commercial Crime Branch’s poor performance in controlling crime is the result of a number of human resource factors including: shortage of skills; work overload; lack of planning; random changes in priority; reallocation of resources to other policing duties; and conflicts of interest between national objectives and local operations. Investigators are also leaving the police because of work overload; few incentives to achievement recognition; no career path; loss of moral; and to take up positions in the private sector which offer better salary packages, work environments and career opportunities.

Camerer (1998) further points out that a closer look at the situation within the Commercial Branch warrants the urgency by the Government of South Africa to take decisive action against general crime as well as other categories of crimes so as to inspire confidence from the public. Generally 25 cases per qualified investigator are considered the upper limit for effective policing. In South Africa during 1997 more than 58000 cases were reported to the 860 investigators in the commercial branch (an average of more than 60 cases per investigator). Of these investigators, it would seem as if a bigger margin not adequately trained. There is also a significant imbalance in the deployment of staff across various regions. For instance while Gauteng has the most reported cases of commercial crime only few investigators have been allocated to deal with hundreds of commercial crime cases at other provinces. Although the study conducted by Camerer is ages old, but the focus groups interview results confirm that something is not working.

- ***Theme 3 – Weaknesses in intelligence gathering as well as lack of awareness from victims and possible victims perpetuate the problem***

During the focus groups discussions it emerged that there was a need to make better use of SAPS intelligence gathering and analysis capability. It emerged from discussions that there are a number of industry, government and SAPS fraud

intelligence assessments which are not brought together to give one common, authoritative picture. Tactical intelligence/ data sharing within sectors and between the public and private sectors are not sufficiently efficient or widespread, meaning that proactive prevention opportunities are lost.

One respondent indicated: “...*our intelligence picture is too focused on present threats and does not look sufficiently ahead to emerging trends and threats...fraud syndicates around here and elsewhere are always step ahead and our intelligence gathering strategies seriously needed to be revisited if we are serious to make a mark against criminal networks*”.

Another respondent added that business sector and the public seem as if they do not understand how fraud affects them and what they can do. “...*Our collective fight against fraud syndicate needs to engage with those industry sectors and parts of the larger community where all the evidence points to considerable fraud losses but little coordinated action to reduce them. We need to make all role players aware of both the challenges brought by the fraud syndicates but also how we can quickly learn best practices from the experience from those communities which are more advanced.*”

It also emerged from focus groups discussion that there were also wider societal attitudes which allow fraud to fester and be tolerated. There are those who do not view fraud as criminal behavior due to high level of unemployment and some sectors of the community remains silent. Some idolized criminals as “Robin Hoods” of their communities distributing resources from the ‘haves’ to the ‘have not’. There are also some victims who can become complicit in a scam who justify to themselves that they are not helping to facilitate the crime of fraud. Other victims can feel that it was their fault for falling for a scam and take no action to report it. Indeed the very word ‘scam’ implies something slightly less serious than a crime. This tolerance of operations of fraud syndicates signals how collaboration is seen as ineffective by focus groups. Some of the challenges highlighted were as follows:

“Fraudulent transactions mostly occur outside Ritavi policing area and goods bought with false information are delivered around Nkowankowa and yet the local police and community does not question suspicious delivery of goods” (Focus Group 1).

“Fraud syndicates have various methods of committing crime before crime intelligence personnel discover modus operandi ... potential local witnesses are not willing to give statements to investigators thus protect perpetrators.. Local police does not cooperate with commercial crime investigators to curb fraudulent activities” (Focus Group 2).

“When meetings are held no items are mentioned on the agenda about commercial crime (fraud)... When goods bought with false information from the

unknown victims, and the perpetrator sold it to local businesses, it is justified because victims will claim from their insurance companies” (Focus Group 3).

“Some local businesses are not affected because they do not know about the commercial crime...others view the challenges brought by fraud syndicate as their survival mechanisms as most of them buy goods from perpetrators” (Focus Groups 2 and 3).

One respondent indicated: *“Last week stolen goods worth of approximately around R5 million were brought into Nkowankowa... Don’t tell me that the SAPS is unable to track these fraudulent practices. I don’t blame those who gave up reporting these things because they end up being targeted by the same criminals roaming our streets”.*

One respondent indicated that the local police also benefits from proceeds of crime. *“Perpetrator assist local police financially especially during funerals”.*

It is clear, based on the responses by the participants that beyond the initiatives that revolve around educating, empowering, and involving business community as well as general public to prevent victimization are intelligence-based enforcement measures undertaken by the local role players and the police that can potentially identify, detect, deter, and prevent fraud. Just as technology has helped facilitate syndicate fraud, it can also be used to reduce fraud. A comprehensive nation-wide communication /education strategy must be developed. This campaign must rival that of the fraudsters. Innovative ways must be found to reach the public and greater resources must be invested in education and awareness.

RECOMMENDATIONS

▪ *Intelligence-Led Operations are Essential*

Based on the focus groups interviews, one area that still needs improvement is that of using the information gathered through intelligence, and enforcement to provide a better understanding of the causes and consequences of criminal syndicate fraud in within Limpopo Province by the SAPS. the implications for the SAPS are that it would be very useful for the Provincial Commissioner within Limpopo Province to use amongst others, the information gathered from intelligence and investigations from scholarly research that would be geared toward a theoretical and empirical understanding of the causes of fraud within the Limpopo Province, including an understanding of one-time or chronic offenders and the risk factors that fostered their criminality as well as the risk factors that created the opportunities for such crimes to occur.

▪ *Closer Collaboration, Interaction and Information Exchange are Required*

Intelligence-led operations currently employed by the Commercial Crime Branch require a radical new approach, involving more close collaboration, interaction

and information exchange of all role players within the Limpopo Province. It is the view of the research team that this radical approach will call for the establishment of intelligence function that produces operational and tactical intelligence within SAPS Commercial Crime where it is inadequate /absent.

▪ *Promoting greater Awareness within the Province*

It is essential for SAPS Commercial Crime Branch in collaboration with the local SAPS as well as the Business Against Crime promote greater awareness of fraud risks and actions and instigating the behaviours that individuals, businesses and public services can change to enable self-protection and help to change the culture which tolerates a certain level of fraud in our society. Greater awareness and investment in stronger fraud control mechanisms will reduce fraud, but not all frauds can be prevented. The most determined and organised criminals have the resources to beat even the strongest counter fraud controls.

▪ *Improving analytical analysis knowledge , and putting it to effective use*

It is of the utmost importance that SAPS Commercial Crime personnel are consistently exposed to relevant and advanced training that will develop their knowledge where it can harness their investigation and analytical skills. Both the local SAPS as well as Commercial Crime to a certain extent, should be encouraged to share and co-ordinate their intelligence gathering and analysis capabilities better and establish a unified common strategic view of the syndicate fraud threat.

▪ *Strengthening the enforcement response*

SAPS Commercial Crime Branch need to rise to the challenge of constraints on police resources by developing innovative, partnership solutions working across intelligence sectors such as private institutions, commercial banks, other law enforcement agencies, the Hawks, the South African Social Security Agency (formerly known as the National Intelligence Agency) and Non-Government Organisations. SAPS Commercial Crime should seek to collate and disseminate good practice on the prevention and disruption of syndicate fraud which has been pioneered by individual law enforcement organisations elsewhere but has not been embedded within the SAPS provincial and the national response.

CONCLUSION

The emerging themes from the data show that three themes were identified by the focus groups as well as key informants as being crucial for the effective detection and prosecution of the fraud syndicates within Limpopo province. Therefore, in conclusion, the Provincial Commissioner should revisit current strategies of profiling fraud syndicates. The success is very much depending on how SAPS Commercial Branch intelligence and analysis strategies will be tailored and changed with the current situation and future demands. For future study, it can be expanded to understand how local police stations in Limpopo could be integrated

into a bigger picture of partnering with specialized units to reduce the incidents of crime. The scope of the study should also cover the other provinces to determine extend and impact of fraud syndicate groups in South Africa as well as how SAPS is responding to these challenges.

BIBLIOGRAPHY

- Birley, G. & Moreland, N. 1998. *A practical guide to academic research*. London: Kogan Page.
- Burrows D & Kendall, S. 1997. Focus groups: What are they and how can they be used in nursing and health care research ? *Social Sciences in Health* 3, 244–253.
- Camerer, L. 1998, "Commercial Crime: Addressing the Inefficiencies", Nedcor/ISS Crime Index, September, Vol 2, Issue 5.
- Creswell, J.W. 1994. *Research design: qualitative and quantitative approaches*. London: SAGE publishers.
- Denscombe, M. 2002. *Ground rules for good research*. Philadelphia: Open University Press.
- Du Plessis, A & Louw, A 2005 Crime and crime prevention in South Africa: 10 years after. *Canadian journal of criminology and criminal justice*, 47 (2), April: 427-446.
- Ganapathy, N. & Broadhurst, R. 2008. Organized Crime in Asia: A Review of Problems and Progress. *Asian Journal of Criminology* 3(1), 1-12.
- Gorenak, I. 2006. Correlation between Communication Styles of Detectives and their Cooperation with Representatives of other Organizations. *Organizacija, Razprave številka 7, letnik 39*, 416-424.
- Heath, W. 2000. "South Africa: Public Sector Corruption", *Journal of Financial Crime*, 7 (4), 373 – 376.
- Leedy, P.D. 1993. *Practical research planning and design*. 5th edition New Jersey: Macmilan publishing company.
- Litosseliti, L. 2003. *Using Focus Groups in Research*. London: Continuum.
- Maxfield, M.G & Babbie, E. 1995. *Research Methodology for criminal justice and criminology*. Wadsworth: Boston.
- Maree, K, 2007. *First step in research*. Pretoria: Van Schaik.
- Mofokeng, J.T. 2010. Anti-fraud training in the South African Police Service (SAPS): a strategic perspective. Unpublished D.Tech Thesis. Pretoria: Tshwane University of Technology.
- Mouton, J. 1996. *Understanding Social Research*. Pretoria: Van Schaik Publishers.
- Oates, B.J. 2006. *Researching information systems and computing*. SAGE Publication Ltd.
- Richardson C.A & Rabie, F. 2001. 'A Question of Access' – an exploration of the factors influencing the health of young males aged 15–19 living in Corby and their use of health care services. *Health Education Journal*, 60, 3–6.

Roelofse, C.J. 2015. . Encroachment: A theoretical explanation of organized crime, business and governance. *Internal Security Journal*. 1-2015. pp 123 – 142.

Sivnarain, R. 2010. The value of Investigative Profiling of Fraud Offenders by Forensic Investigators. Unpublished M.Tech: Forensic Investigation: University of South Africa.

South African Police Service. 2003-2004. SAPS Profile: Strategic Framework - Annual Report 1 April 2003 to March 2004 [Online]. Available at: http://www.saps.gov.za/saps_profile/strategic/framework/annual_report/index.htm.

South African Police Service. 2005-2006. SAPS Profile: Strategic Framework - Annual Report 1 April 2005 to March 2006 [Online]. Available at: http://www.saps.gov.za/saps_profile/strategic/framework/annual_report/index.htm.

South African Police Service. 2007-2008. SAPS Profile: Strategic Framework - Annual Report 1 April 2007 to March 2008 [Online]. Available at: http://www.saps.gov.za/saps_profile/strategic/framework/annual_report/index.htm.

South African Police Service. 2009-2010. SAPS Profile: Strategic Framework - Annual Report 1 April 2009 to March 2010 [Online]. Available at: http://www.saps.gov.za/saps_profile/strategic/framework/annual_report/index.htm.

South African Police Service. 2010-2011. SAPS Profile: Strategic Framework - Annual Report 1 April 2010 to March 2011 [Online]. Available at: http://www.saps.gov.za/saps_profile/strategic/framework/annual_report/index.htm.

Thomas, L., Macmillan, J., McColl, E., Hale, C. & Bond, S. 1995. Comparison of focus group and individual interview methodology in examining patient satisfaction with nursing care. *Social Sciences in Health*, 1, 206–219.

Welman, C., Kruger, F. & Mitchell, B. 2005. Research Methodology, (3rd edition). Cape Town: Oxford University Press.

6 BOKO HARAM AND THE THREAT TO REGIONAL PEACE AND SECURITY: A CRITICAL SURVEY

Anupam Jha¹¹, Bamisaye Olawaye Oyetola¹² & Rajendra Parsad Gunputh¹³

ABSTRACT

Emergence of Boko haram as a jihadi religious organization in Nigeria and its connections with terrorist organizations across its borders has posed a threat to civilized society in the African neighborhood. Ever since the country transitioned from the military to civilian rule, it has consistently tried to put an end to insurgency in Muslim dominated north east part of its territory. However, Nigeria's potential to effectively combat the illegal activities of this organization has allegedly failed, as the civilians, government officials, United Nations officials, foreign journalists and non-Muslims are being attacked by the militias of Boko haram. As a result, it has become a rising concern for the wider international community for their safety and security as Nigeria possesses not only a huge reserve of mineral oil, but it has been the role model of many other African nations. So far, Boko haram's involvement in taking away more than twelve thousand lives of individuals, including bombing, kidnapping and abduction has caused anxiety at the regional and international level. Recently, it killed many innocent persons in neighboring Cameroon. Acting on the increased threat on the regional and international peace and security, the United Nations Security Council's Al-Qaida Sanctions Committee approved the addition of Boko haram to its list of individuals and entities subject to the targeted financial sanctions and the arms embargo set out in the relevant resolutions in May 2014. To what extent would these measures thwart the aims of Boko haram is yet to be examined in detail, yet the efforts of the United Nations are significant to be examined in detail. One of the aims of Boko haram's ideology is said to be ethnic cleansing of Christians and protecting Islam and Sharia in the region. The Office of the Prosecutor (OTP) of the International Criminal Court, as a result, released a preliminary investigation in August 2013 finding that there is a reasonable basis to believe the Nigerian organization Boko haram is responsible for committing crimes against humanity, namely acts of murder and persecution beginning since July of 2009. Information gathered by the OTP indicates that there has been a sharp increase in the frequency and intensity of attacks attributed to Boko haram since 2014, including a significant increase in alleged abduction of women and girls and of sexual slavery. Some of Boko haram's alleged crimes would also amount to war crimes, as the Prosecutor concluded that the situation constitutes a non-international armed conflict. However, the

¹¹ Reader, Law Centre-II, University of Delhi, India, jhaanupamlaw@gmail.com

¹² LLM Candidate, Human Rights and Democratisation In Africa, University of Pretoria, South Africa, bamisayeoyetola@yahoo.com

¹³ Associate Professor of Law and International Humanitarian Law, Univ of Mauritius, Mauritius, rpgunput@uom.ac.mu

start of ICC proceedings is not yet considered due to the application of an important threshold of the principle of complementarity. How far and in what ways would the principle of complementarity be adhered to by the ICC is a critical question, yet to be determined. In the backdrop of these issues, this article would examine the role of the United Nations and the International Criminal Court to deal with the Boko Haram threat to the peace of security of the world and explore the possibility of more meaningful legal actions to be taken in future.

Keywords: Boko Haram, Nigeria, Jihad, terrorist(s)

Introduction

The Boko Haram insurgence which began like a child's play or what was thought to be a mere violence has in recent times become a threat to both regional and world peace. As members of the sect have not stop killing, maiming, kidnapping and bombing both religious, private and government buildings. Till date countless number of persons has lost their lives to this dreaded group. According to Femi Falana

Notwithstanding the sacrifice of the ill-equipped members of the armed forces, the Boko Haram sect appears to have gained the upper hand in the war on terror. Large towns like Bama, Gwoza, Mubi and Michika and hundreds of villages have been captured by the terrorists. Hundreds of thousands of people have been displaced while not less than 13,000 have been killed by the criminal gang. Not less than 16 local governments in Borno, Yobe and Adamawa States have been annexed while the combined land mass of the occupied areas is said to be 21,545 square kilometres of territory. The terrorists have hoisted their flags in the occupied territory which has been named the "Caliphate Republic".¹⁴

The Nigerian government seem to be overwhelmed by the act of terrorism by this sect, as their military officers keep dissenting from the battlefield to neighboring countries; on the account that the Boko Haram sect weaponries are superior to their. However, the whole world was alarmed in April 2014, when they kidnapped over 200 school girls from a school in a town in one of the North-eastern states of Nigeria, Maiduguri known as Chibok.¹⁵ The Chibok's girl's abduction by the sect made the whole to rethink the threat being posed by the sect to both regional and world peace; this made several countries to promise to send troops and technical assistance to rescue the girls and ultimately conquer Boko Haram. It is sad that despite these promises, several months down the line, the girls are yet to be released. Just recently, a suicide bomber from the sect disguised a pupil of one of the schools in Maiduguri and denoted the bomb on himself at

¹⁴ Femi Falana 'Let's talk about the legal challenges of insurgency' available at <http://ynaija.com/femi-falana-lets-talk-about-the-legal-challenges-of-insurgency/> (accessed 31 December 2014)

¹⁵ http://en.wikipedia.org/wiki/Chibok_schoolgirls_kidnapping (accessed 20 November 2014)

the assembly ground, leaving not fewer than forty-seven (47) students dead and several injured.¹⁶ Nigeria and the world is yet to see the worst of the Boko Haram sect, as their continuous heinous acts of wanton killings of innocent civilians remain a grave source of worry to both regional and international peace. This article examines some of the activities of the Boko Haram sect, the security threat it poses to Nigeria and West African Countries, how the international community can assuage this pathetic situation and concludes on the way forward.

Literature review

Emergence of *Boko haram* (Western education is forbidden) as a *jihadi* religious organization in Nigeria and its connections with terrorist organizations across its borders has posed a threat to civilized society in the African neighborhood. This organization was born in the year 2002 out of the regional violence and tension between Northern Nigeria and the central government and was founded by a cleric Mohammed Yusuf, who could not complete his liberal secondary school education, had four wives, and twelve children (Salaam 2013). Its mission is to overthrow the Nigerian State, impose strict Islamic *Sharia* Law throughout the entire country, denounce the United States, and the whole Western influences (Paden 2005). It wants to “sanitize the Nigerian system, which is spell-bound by western education and ideals”. (Onuoha 2012). Its members are motivated by the conviction that the Nigerian State is filled with social depravities, and, thus, “the best thing for a devout Muslim to do was to migrate from the morally bankrupt society to a secluded place and establish an ideal society devoid of political corruption and moral deprivation”. (Akanji 2009). Organizational structure of *Boko Haram* is highly centralized. The Supreme leader appoints *Amir* (commander or leader) for each State. *Amirs* administer the State as well as the local government areas (LGA). Below the local governments are the followers of the sect. These followers are drawn mainly from unemployed youths, disaffected youths, and former *Almajiris* (known as street children), mostly in Northern Nigeria (Babalola 2013).

Contrary to wide speculation about the organization being faceless, the reality is different. The group has known membership and the support of some notable Nigerians including Alhaji Buji Fai, an ex-commissioner in Borno State; Kadiru Atiku, a former University lecturer; and Bunu Wakil, a Borno based contractor (Onouha 2012). This group is alleged to cross 280,000 members across the 19 States of Northern Nigeria, Niger Republic, Chad, and Sudan (Oyegbile & Lawal 2009). Members have to pay a daily levy of 100 naira (equivalent to US \$ 0.60) to their leader, which provides basic source of funding for the group (Aghedo & Osumah 2012).

¹⁶ The Punch 11 November 2014 ‘Anger as suicide bomber kills 47 schoolchildren’ available at <http://www.punchng.com/news/anger-as-suicide-bomber-kills-47-schoolchildren/> (accessed 20 November 2014)

In July 2009, Yusuf led a bloody insurrection against the Government by carrying out attacks on police stations and other government buildings in Maiduguri (Campbell 2011). It is alleged that since July 2009, *Boko Haram* launched a widespread and systematic attack against Christian and Muslim civilians in different locations throughout Nigeria. After the incidents of that year, the Nigerian security forces seized the group's headquarters, capturing its fighters and leader, Mohammed Yusuf, who was brutally murdered in what appeared to have been an extrajudicial killing. In the aftermath of the incidents, though the State television service and security forces declared *Boko Haram* finished, its fighters regrouped under a new leader, Abubakar Shekau, who is considered to pursue a more radical, violent and jihadist agenda going beyond the establishment of an Islamic system in Nigeria. In 2010, it attacked a prison in Bauchi State, freeing hundreds of the group's supporters. *Boko haram's* fighting trademark has been the use of gunmen on motor bikes, killing police, politicians, Muslim and Christian clerics, anyone who criticizes their actions (BBC News 2012).

Not only have they targeted Nigerian civilians, but also the foreigners, especially American, present in the country. In 2011, it launched a sophisticated attack using suicide car bomb against the United Nations building in Abuja killing 23 people. UN Secretary General Ban-ki-Moon said the attack was "an assault on those who devote their lives to helping others...We condemn this terrible act utterly" (Dubey 2011). He started looking for possibilities to term this organization as "terrorist", to arrive at a consensus on the issue and tried to persuade the USA. However, the USA could not be convinced as many scholars and diplomats believed that there is no Al-Qaida linkages of Boko Haram and that it was a domestic problem of Nigeria (Campbell 2011). In 2012, a *Boko Haram* splinter group, *Ansaru*, claimed responsibility for the kidnapping of foreigners in Northern Nigeria. Since 2009, *Boko Haram* has shown signs of transitioning into a globalized *Salafi-jihadi* group, having links with *Al-Qaida* of the Islamic Maghreb (AQIM), *Al-Shabab* of Somalia, and has attracted international attention in particular by launching suicide attacks (Cook 2011, Zenn 2012). The Nigerian President Goodluck Jonathan called Boko Haram the "*Al Qaida* of West Africa" (Mantel 2014). In fact, Mohammad Yusuf and Mohammad Bello Damagun (a Muslim cleric who supposedly belonged to the 'Nigerian Taliban') were arraigned in Abuja Federal High Court for receiving monies from *Al-Qaeda* operatives to recruit and train terrorists in Nigeria (Onouha 2010).

The problem statement: Boko Haram Threat to National Security

The security situation in Nigeria, particularly the North-Eastern part of Nigeria is highly worrisome. As Boko Haram members keep on instilling fears in the minds of residents of that part of the country by their incessant act of terror. Their member bomb, mosques, churches, market places, and keep on claiming

communities.¹⁷ The loss of confidence in the security situation in that part of Nigeria is aggravated as officials of the Nigeria Army desert from the battlefield while trying to fight the insurgence.¹⁸ Countless Nigerians are fleeing the various communities in the regions as they don't want to be killed by members of Boko Haram, notwithstanding the promise of the Nigerian Army of guaranteeing their safety.¹⁹

While Nigerian Army keeps on fighting Boko Haram, reports have it that their weapons are either in sufficient or inferior to that of members of Boko Haram. The failure of the Nigerian Army to sufficiently weaken this terrorist group is apparent in the face of their unabated killings of civilians despite heavy military presence. It was reported that 300 soldiers technically manoeuvre their way to Cameroon while fighting Boko Haram.²⁰

In order to ensure total overhauling of this region as far as its security challenges are concerned; the Federal Government of Nigeria declared a state of emergency in the affected states (Borno, Yobe, Adamawa all the North-Eastern region of Nigeria) earlier on 14 May 2013 for six months. The state of emergency was further extended by another six months. The Presidency has recently written to the National Assembly for a further and final extension of the state of emergency in those states.²¹ While some members of the National Assemblies are opposed to the extension, due to the fact that the previous state emergencies put in place had yielded no productive results, others believe that it should be granted since the security situation in the region is still in a calamitous state. It is highly doubtful whether the new extension being sought by the President will lead to the end of Boko Haram in Nigeria. This because, the Nigerian Federal government has not shown the world what it intends to do new if this extension is granted. Obviously, the extension of emergency rule without the requisite commitment on the part of government to end the barbaric onslaughts by the members of Boko Haram will amount to motion without movement in the fight against terrorism in Nigeria.

Since the Nigerian Army has seemingly failed to protect and ensure the security of lives and property in that region of Nigeria; the people dwelling in that part of

¹⁷ 'Boko Haram kills 45 villagers in Borno' *The Nation* 21 November 2014 available at <http://thenationonlineng.net/new/boko-haram-kills-45-villagers-in-borno/> (22 November 2014)

¹⁸ Mubi battle: Army arrests six senior officers for fleeing *The Punch* 3 November 2014 available at <http://www.punchng.com/news/mubi-battle-army-arrests-six-senior-officers-for-fleeing/>; '54 Nigerian Soldiers Sentenced to Death for Mutiny' available at <http://www.voanews.com/content/nigerian-soldiers-sentenced-death-mutiny/2563715.html> (accessed 31 December 2014).

¹⁹ 'Thousands flee as Boko Haram seizes northeast Nigerian town' available at <http://www.reuters.com/article/2014/10/30/us-nigeria-violence-idUSKBN0IJ21820141030> (accessed 31 December 2014).

²⁰ '300 Nigerian soldiers 'technically manoeuvre into Cameroon' available at <http://ynaija.com/300-nigerian-soldiers-technically-manoevre-into-cameroon/> (accessed 3 November 2014)

²¹ Jonathan writes National Assembly, requests extension of emergency rule in Borno, Adamawa, Yobe, available at <http://dailypost.ng/2014/11/18/jonathan-writes-national-assembly-requests-extension-emergency-rule-borno-adamawa-yobe/> (accessed 31 December 2014).

the country have taken the issue of their security into their own hands. It has been reported that local hunters and vigilante groups have not only succeeded in killing over 70 of Boko Haram members, but have reclaimed some villages taken over by the sect.²² Notwithstanding, the officers of the Nigerian Army have not failed totally, as they have been able to recover some towns from the hands of Boko Haram.²³

The main opposition party in Nigeria, the All Progressive Congress (APC) Members believe that the attitude of the federal government toward ending terrorism in the region is not right.²⁴ This they claim is leading to the elongation of terrorism in the region. They accused it of covering up those alleged to be sponsor of Boko Haram by an Australian negotiator, who was negotiating for the release of the abducted 'Chibok girls'. APC claims that the current administration is allowing the security situation to worsen in that region so as to prevent elections from being held there, as the affected states are believed to be the stronghold of the APC. To show its solidarity toward ending terrorism in Nigeria and its support the fight by the federal government; the APC released a paper on ways to winning the war against terrorism in Nigeria.²⁵ Among the various suggestion contained in the papers are that the federal government should develop and publish counter terrorism strategies, improve intelligence, improve contingency and other viable steps to end terrorism.

The Nigerian government is trying to procure both hard and soft ammunitions in order to combat and win the war against terrorism. However, this has not sailed through as some countries are refusing to sell ammunition to Nigeria on the ground of high human rights violations by government officials in their fights against members of Boko Haram.²⁶ Nevertheless, the government at the moment is negotiating with Russia on arm procurement deals.²⁷

The threat Boko Haram poses to the National security of Nigerian state is apparent as there have been pocket of arrest of suspected members of the sect in

²² Local Hunters Kill 80 Boko Haram Members, Recapture Maiha *Thisday* 12 November 2014 available at <http://www.thisdaylive.com/articles/local-hunters-kill-80-boko-haram-members-recapture-maiha/193850/> (accessed 31 December 2014).

²³ Boko Haram: Troops reclaim three Adamawa towns *The Nation* 20 November 2014 <http://thenationonlineng.net/new/boko-haram-troops-reclaim-three-adamawa-towns/> (accessed 20 November 2014)

²⁴ APC accuses Jonathan of sabotaging anti-Boko Haram war, *The Nation* 21 November 2014, available at <http://thenationonlineng.net/new/apc-accuses-jonathan-of-sabotaging-anti-boko-haram-war/> (accessed 21 November 2014)

²⁵ 'APC Proffers 10-Point Solution To End Boko Haram Insurgency... Says Nigeria Now On Auto Pilot' available at <file:///C:/Users/Bamisaye/Desktop/MODULE%209/APC%20Proffers%2010-Point%20Solution%20To%20End%20Boko%20Haram%20Insurgency%E2%80%A6Says%20Nigeria%20Now%20On%20Auto%20Pilot%20%E2%80%93%20iREPORTS-NG.com%20%E2%80%93%20Latest%20News,%20Breaking%20News,%20Nigeria%20News%20Online.htm> (accessed 31 December 2014).

²⁶ 'Boko Haram crisis: Nigeria fury over US arms refusal' available at <http://www.bbc.com/news/world-africa-30006066> (accessed 31 December 2014).

²⁷ Boko Haram: Russia to supply Nigeria arms *The Punch* 28 September 2014 available at <http://www.punchng.com/news/boko-haram-russia-to-supply-nigeria-arms/> (accessed 31 December 2014).

some state in the southern part of Nigeria. Just recently members of the sect blew up a mosque in Kano state (a state which is outside the North-eastern states where the activities of Boko Haram are known for); the bombing resulted in loss of lives several worshippers.²⁸

RESULTS AND FINDINGS

Ethnic cleansing

One of the aims of *Boko haram*'s ideology is said to be ethnic cleansing of Christians and protecting Islam and Sharia in the region, which is a crime under international criminal law falling under the jurisdiction of International Criminal Court. The Office of the Prosecutor (OTP) of the International Criminal Court, as a result, released a new report on the on-going preliminary examination of the situation in Nigeria in August 2013 finding that there is a reasonable basis to believe the Nigerian organization *Boko haram* is responsible for committing crimes against humanity, namely acts of murder and persecution beginning since July of 2009 (OTP Article 5 Report, 2013). Information gathered by the OTP indicates that there has been a sharp increase in the frequency and intensity of attacks attributed to *Boko haram* since 2014, including a significant increase in alleged abduction of women and girls and of sexual slavery. Some of *Boko haram*'s alleged crimes would also amount to war crimes, as the Prosecutor concluded that the situation constitutes a non-international armed conflict. On the basis of these findings, the OTP has decided that the preliminary examination in Nigeria should advance to the third phase to determine its admissibility before the Court. They must now determine whether the Nigerian authorities are conducting general proceedings against the responsible parties for the crimes committed (Spicer 2013). However, the start of ICC proceedings is not yet considered due to the application of an important threshold of the principle of complementarity.

A terrorist organisation

Ever since the country transitioned from the military to civilian rule in the year 1999, it has consistently tried to put an end to insurgency in Muslim dominated north east part of its territory. However, Nigeria's potential to effectively combat the illegal activities of this organization has arguably failed, as the civilians, government officials, United Nations officials, foreign journalists, non-Muslims and western educated Muslims are being attacked by the militias of *Boko haram*. As a result, it has become a rising concern for the wider international community for their safety and security as Nigeria possesses not only a huge reserve of mineral oil, but it has been the role model of many other African nations in the past. So far, *Boko haram*'s involvement in taking away more than 12,000 lives of individuals in bombing, kidnapping and abduction has caused serious anxiety at

²⁸ 'Out of Control Boko Haram Kills Dozens in Kano Mosque' *Thisday* 29 November 2014 available at <http://www.thisdaylive.com/articles/out-of-control-boko-haram-kills-dozens-in-kano-mosque/195347/> (31 December 2014).

the regional and international level. Many human rights activists and scholars pleaded for designating *Boko Haram* as a “terrorist organization” in the USA (Nees 2012, Zenn 2012). After consistent pressure from home and by the Nigerian Government, the State Department of the USA designated *Boko Haram*’s top commanders as Specially Designated Global Terrorists under Section 1 (b) of Executive Order 13224 in June 2012. In June 2013, the State Department added Abubakar Shekau, *Boko Haram*’s official leader, to Rewards for Justice Program and offered up to \$7 million for information leading to his capture (White House Fact Sheet 2014). In November 2013, it designated *Boko Haram* and *Ansaru* as Foreign Terrorist Organizations under Section 219 of the Immigration and Nationality Act and as Specially Designated Global Terrorists under Section 1 (b) of Executive Order 13224. This designation empowers U.S. law enforcement and the Treasury Department to pursue these violent extremist organizations.

Recently, it killed many innocent persons in neighboring Cameroon and most notoriously kidnapped roughly 300 girls in north east Nigeria’s Borno State (US News World Report 2014). These victims of abductions are innocent women and girls, who suffer abuses of all kinds during their captivity by these militants (Human Rights Watch, 2014). Acting on the increased threat on the regional and international peace and security, the United Nations Security Council’s Al-Qaida Sanctions Committee approved the addition of *Boko haram* to its list of individuals and entities subject to the targeted financial sanctions and the arms embargo set out in the relevant resolution and committees set up under it.

In December 2012, the Security Council adopted a resolution by which it urged all Member States to participate actively in maintaining and updating the “Al Qaida Sanctions List” and if there is any conflict of interest, to resolve it with the establishment of the Office of the Ombudsperson. Many measures are taken by the Member States once a group is added to this list, for instance, freezing the funds and any financial assets, preventing the entry and transit of any individual associated with the group etc. (SC Council Res. 2083). In May 2014, the Security Council’s *Al Qaida* Sanctions Committee approved the addition of *Boko Haram* to its list of individuals and entities subject to the targeted financial sanctions and the arms embargo set out in its Resolution 2083. Giving reasons, it stated that *Boko Haram* was associated with Al Qaida for “participating in the financing, planning, facilitating, preparing, or perpetrating of acts in conjunction with *Al Qaida* (Narrative Summary, Al Qaida Committee 2014). As a result of the new listing, any individual or entity that provides financial or material support to *Boko Haram*, including the provision of arms or recruits, is eligible to be added to the *Al Qaida* Sanctions List and subject to the sanctions measures. To what extent would these measures thwart the aims of *Boko haram* is yet to be examined in detail, yet the efforts of the United Nations are significant.

Boko Haram threat to regional security

It is no longer news that Nigeria is biggest economy in Africa and the most populous black nation in the world. It may be arguably said that what affect Nigeria may have some level on impact on other African countries. Therefore, a threat to Nigeria security may just mean a threat to Africa security. On the regional level, Nigeria key player both in economic and military/security issues. Its role in restoring peace to war ravaged Sierra Leone and Liberia is very fresh and recent in our memory. Similarly, free flow of persons and good among West African Countries, which Nigeria happens to be one call for serious concern to any threat of terrorism facing it.

Boko Haram which started is undoubtedly posing a great threat to the whole of West Africa Sub-region; as neighbouring countries to Nigeria such as Cameroun, Lake Chad and Niger are among countries where some Boko Haram members are either using as hideout or training ground for their foot soldiers. In a bid to confront the terrorism challenges posed by Boko Haram to its state, the Cameroonian government has recently expanded its military by twenty thousand (20 000) in size.²⁹ However, the Nigerian President has had cause to meet with the President of Chad and Niger on how to put an end of terrorism being perpetuated by Boko Haram.³⁰

While the insurgency has not spread to other part of West Africa, there is an urgent need for the West African Countries to come together and wage war against this group of terrorist if the Sub-region is to experience true peace and security. This is based on the fact that, if the sect is not conquered as soon as possible, they may start looking for more members from other West African Countries which have no traces of their members at present. Just recently Boko Haram killed at least 23 people in the Northern Cameroon.³¹

The role of international community in assuaging the effects of Boko Haram

The fact that the world is now a global village presupposes that terrorism threat to a particular part of the world is a threat to world peace. After the kidnapping of the 'Chibok girls' by members of the Boko Haram sect in April 2014, there was a meeting held in France by African leaders on how to combat the threat of Boko Haram.³² Similarly, the leaders of the Economic Community of West African States (ECOWAS) have held series of meeting to see for a common solution to the threat posed by Boko Haram, both to the region, Africa and the

²⁹ <http://www.voanews.com/content/cameroon-says-20000-more-troops-needed-to-fight-boko-haram/2542151.html> (accessed 4 December 2014).

³⁰ Jonathan Meets Chadian President Over Reported Links With Boko Haram *Leadership* 24 November 2014 available at <http://leadership.ng/news/391572/jonathan-meets-chadian-president-reported-links-boko-haram> (accessed 31 December 2014).

³¹ 'BOKO HARAM INVADES NORTHERN CAMEROON, KILLS 23 PERSONS' available at <http://www.news.nom.co/boko-haram-invades-northern-14437190-news/> (31 December 2014).

³² African leaders pledge 'total war' on Boko Haram after Nigeria kidnap *The Guardian* 17 May 2014 available at <http://www.theguardian.com/world/2014/may/17/west-african-countries-must-unite-fight-boko-haram-nigeria> (accessed 31 December 2014).

world at large.³³ The efforts of the international community in bringing an end to the endless terror being perpetuated by Boko Haram seem not to have paid off, as the onslaught of the sect on hapless civilians remain a common place all throughout 2014. Unlike the kind of world support which was shown in the fight against the threat of terrorist of the Islamic State of Iraq and Syria (ISIS), Nigeria seems not to have gotten the much needed support from the international community, as the its government has been unable to purchase arms and ammunition from several western countries, which have refused to sell arms to Nigeria. If the efforts of the International community have drastic as the kind of approach that was utilized in combatting the ISIS, while the sect might not have been wiped out completely, their activities would certainly have been substantially curtailed and degraded. It was reported on 19 December 2014 that the dreaded sect kidnapped no fewer than 185 women in Borno State, one of the states in the south-eastern part of Nigeria.³⁴ The need for international community to rise to the occasion in a more drastic way, is based on the fact that ISIS group is said to have joined forces with Boko Haram, as they have sent some militant to them.³⁵

CONCLUSION

For Boko Haram threat to regional and global peace to be become a thing of the past, there will be great need for there to be a concerted effort from the international community toward defeating Boko Haram. As despite the efforts of the Nigerian state, the sect seems to be waxing stronger and causing more havoc as the day goes by. Possibly, there will be need for the US to take the lead, as it is currently doing in the fight against ISIS, which is yielding some commendable results. It is our believe that Boko Haram is a threat to both regional and world peace, and such threat can only be put behind us when the threat is given the required world –class intervention that it deserves

REFERENCES

- Aghedo, I. & O. Osumah (2012). “The Boko Haram Uprising: How Should Nigeria Respond?”. *Third World Quarterly* 33 (5) 853-869
- Akanji, O. (2009). The Politics of Combating Terrorism in Nigeria. In W.Okumu, & A. Botha, (Eds.), *Domestic Terrorism in Africa: Defining, Addressing and Understanding its Impact on Human Security*, (55). Pretoria: Institute for Security Studies

³³ ECOWAS Chairman summons head of states over Boko Haram available at <http://www.spyghana.com/ecowas-chairman-summons-head-of-states-over-boko-haram/> (accessed 31 December 2014).

³⁴ The Punch ‘B’Haram abducts 185 children, women near Chibok’ 19 December 2014 available at <http://www.punchng.com/news/bharam-abducts-185-children-women-near-chibok/> (accessed 31 December 2014)

³⁵ Available at <http://naijagists.com/isis-militants-hv-joined-boko-haram-fighters-in-nigeria-ahmad-salkida-gives-chilling-revelation/> (accessed 3 November 2014)

- Babalola, O. (2013). *Combating Violent Exremism and Insurgency in Nigeria: A Case Study of the Boko Haram Scourge*, Unpublished Disseration, Lawrence: University of Kansas
- Campbell, J. (2011). *Nigeria: Dancing on the Brink*. Lanham: Rowman & Littlefield
- Cook, D. (2011). “*Boko Haram: A Prognosis.*” *James A. Baker III Institute for Public Policy*. 16 December 2011
- Dubey, A. (Ed.) (2011). “*Boko Haram’s Violence in Nigeria*”. *African Studies Association of India News* 4(3) 13
- Human Rights Watch (2014). “*Those Terrible Weeks in Their Camp: Boko Haram Violence Against Women and Girls in Northeast Nigeria.*” New York
- Mantel, B. (2014). “*Assessing the Threat From Al-Qaida: Is the Militant Islamist group still a Danger to the West?*” *CQ Researcher* (24) 553-576
- Nees, A. (2012-13). “*Boko Haram: A Text Book Case for Designation as a Terrorist Organization and its Terroristic Threat to International Religious Freedom.*” *Rutgers Journal of Law and Religion* (14) 498-513
- Office of the Prosecutor Report (2013). *Situation in Nigeria: Article 5 Report*. Rome: International Criminal Court
- Onouha, F.C. (2010). “*The Islamist Challenge: Nigeria’s Boko Haram crisis explained.*” *African Security Review* 19 (2) 54-67
- Onuoha, F.C. (2012). *The Audacity of the Boko Haram: Background, Analysis and Emerging Trend*. *Security Journal*, 25 (2), 134-151
- Oyegbile, O., & Lawal, A. (2009, August 17). “*Shielding Patrons of Boko Haram*”. *Tell* (Lagos), 67-71
- Paden, J. N.(2005), *Muslim Civic Cultures and Conflict Resolution: The Challenge of Democratic Federalism in Nigeria*. Wahington D.C.: Brooking Institution Press
- Security Council Resolution (2012). *Threats to International Peace and Security Caused By Terrorist Acts*. S/RES/2083 New York (17 December 2012)
- Spicer, M. (2013). “*ICC Office of the Prosecutor Finds Reasonable Basis for Crimes Against Humanity in Nigeria.*” *ILSA Quarterly* 21 (3) 6-8
- Salaam, A. (2013). “*The Psychological Make-Up of Muhammad Yusuf*” in I. Mantzikos (ed.). *Boko Haram: Anatomy of a Crisis.*” Bristol: E-International Relations
- Zenn, J. (2012). *Northern Nigeria’s Boko Haram: The Prize in Al-Qaida’s African Strategy*. Washington DC: Jamestown Foundation

