Child Abuse in South Africa: Rights and Wrongs

In a country in which human rights feature prominently in our discourse about who we are, as well as in the South African constitutional and legal framework, so many wrongs continue to be done to children. One category of wrongs is abuse, but it is not the only one. Poverty, patriarchy and gender violence, as well as the socialised obedience, dependency and silence of women and children, create conditions in which abuse can occur, often with few consequences. South Africa has extremely high rates of both physical and sexual abuse of children. Progressive, rights-based legislation exists to protect children, but it is not adequately supported or resourced by services to fulfil their provisions. Child abuse and neglect will not be significantly reduced in South Africa, without simultaneous improvements in the social and economic conditions in which very large numbers of children live.

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KEY WORDS: child abuse; South Africa; child rights; poverty

South Africa is regarded as having an exemplary child rights environment. Yet the abuse and maltreatment of children are shockingly high—a fact forcibly brought home and broadcast abroad by the widely reported rape of several infants and toddlers in 2001 (Bird and Spurr, 2004; Richter, 2004).

The policy of Apartheid—discrimination against people of colour—which was enacted, informally and later formally, in South Africa for four centuries, has resulted in deep-rooted inequalities across all spheres of life, as well as the marginalisation and impoverishment of the majority of African people. However, since the unification of the country and the first democratic elections in 1994, the government has introduced a comprehensive set of policies aimed at achieving equitable development, human rights for all, and a non-sexist and non-discriminating society.

The goals and principles of this are enshrined in the South African Constitution, which was adopted in 1996. Unique in the world, the Bill of Rights of the Constitution contains a specific section that defines the rights of children to education, shelter, health and freedom from maltreatment, amongst others. The Bill

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A wide range of commitments to children’s rights and well-being were made by the post-Apartheid government. These include the implementation of a National Programme of Action for children in 1995, overseen by a National Steering Committee, specifically to ensure that the concerns of children were included in broader social development strategies. In 1998, the Office on the Rights of the Child was established in the President’s Office. A number of development programmes (such as free healthcare for women and pre-school children and a national school feeding scheme) were introduced. Several laws relating to children’s rights have been passed. For example, a comprehensive new Children’s Act (2005) and an associated Children’s Amendment Bill (2006) are based on commitment to fulfilling the rights of children and ensuring their protection. A large number of other laws also address the rights and well-being of children. These include the Prevention of Family Violence Act (1993), the Schools Act (1996) which bans corporal punishment and the Domestic Violence Act (1998). Designed to protect children in the justice and correctional systems, the Child Justice Bill (drawn up in 2002) awaits finalisation.

Civil society is also visibly active in calling attention to the rights of children, abuses of child rights and violence perpetrated against children, as well as against women. There are several civil society organisations dedicated to the fulfilment of children’s rights, such as Resources Aimed at the Prevention of Child Abuse and Neglect (http://www.rapcan.org.za/), the Children’s Rights Centre in Durban (http://www.childrensrightscentre.co.za), the Centre for Child Law in Pretoria (http://www.childlawsa.com) and services to support children when their rights have been violated (for example, Childline http://www.childlinesa.org.za). The Children’s Institute at the University of Cape Town produces an annual South African Child Gauge, a report on children’s access to basic services (http://www.ci.org.za/site/includes/content/general/gauge2006.html). There is extensive media coverage of the abuse of children, and the Media Monitoring Project (http://www.mediamonitoring.org.za/) regularly appraises media representations of children’s issues. Each year, South Africans participate actively, with marches, events and extensive media coverage, in the 16 Days of Activism (http://www.southafrica.info/public_services/citizens/your_rights/16days.htm). The campaign, which runs from the 25 November (the International Day Against Violence Against Women) to the 10 December (International Human Rights Day), aims to create global awareness, to address policy and legal issues, to campaign for the protection of survivors of violence and to call for the
elimination of all forms of gender violence. There is also increasing awareness of the roles and obligations of non-state actors in addressing children’s rights, including through market-based strategies and corporate social investment (Dhliwayo, 2007).

Despite the protection intended by this constitutional, legislative and civic environment to safeguard children’s rights, wrongs are perpetrated against a large number of South African children every day. These wrongs are at, one extreme, the tragic abuse of individual children and, at the other, the denial of many children basic food, family care, health services and education. Cases of child abuse often display disturbing levels of complicity by families, the police and other services. When admitted to hospital an hour before she died, Thendo Nenzhele, two years old, was found to have septic buttocks, a severely damaged anus and her abdominal cavity was visible through the gaping hole created by her injuries (Sunday Times, 2002). She had been vomiting and was dehydrated. The child repeatedly told the family that the perpetrator had hit her with a stone. The chronic nature of the child’s injuries and her dehydration at the time of her death indicated that, apart from her subjection to repeated sexual penetration by a lodger in the house, her caregivers, for unknown reasons, did not observe or act on her distress and poor condition. The police examination and investigation following her death were incorrect, incomplete and incompetent. She was apparently only one of close to 300 children treated for rape or sexual abuse at a rural district hospital in the impoverished Limpopo province in 2002 (Richter and Higson-Smith, 2004).

**Child Abuse in South Africa**

Child abuse and neglect takes many forms, including physical and mental abuse, sexual abuse, exploitative work, trafficking and the like. Children are abused in a wide range of settings—in their family, at school, on the streets and in statutory care. All such instances are defined in South Africa under the Children’s Act No. 38 of 2005 as ‘children in need of care and protection’.

Estimates of the extent of child abuse depend on who provides the definitions and what forms of assault are counted. It is not uncommon for professional definitions of abuse to differ from those that prevail in communities (CASE, 2005; Finkelhor and Korbin, 1988), and for cultural groups to vary in their understandings of abuse. For example, in many societies physical punishment is accepted as an appropriate form of discipline, but the same behaviour is regarded as abuse from a rights perspective (Save the Children Sweden, 2005). A recent Indian survey across 13 states reported that more than half of all children in India were subject to
one or other form of sexual abuse, the vast majority of which were perpetrated by parents. Every second child had experienced emotional abuse; again, in the majority of cases the parents were the abusers (The Times of India, 2007). Definitions that encompass the majority of all children point to extreme social problems on an unimaginable scale and/or to serious mismatches between formal and community definitions of abuse.

The National Department of Social Development (2004) defines abuse as

‘...all forms of physical and or emotional ill-treatment, sexual abuse, neglect or negligent treatment, or commercial or other exploitation resulting in actual harm to the child’s health, survival, development or dignity in the context of a relationship of responsibility, trust or power’ (p. 113).

This definition is based on that used by the International Society for the Prevention of Child Abuse and Neglect (Dawes and Mushwana, 2007). As has been pointed out, though, the definition rests on actual harm done to children resulting from abusive acts. For one, this confuses acts of abuse with the consequences of abusive behaviour (Straus and Kantor, 2005). Secondly, harm done to children by abusive behaviour may not be evident, or may not be evident for many years (Putnam, 2003).

It is difficult to establish the size of ‘the problem’ of child abuse in South Africa, partly because, as noted above, it is an omnibus category, it is illicit and therefore often hidden, and there are complexities and variation in definition, community understanding and reporting levels. There are, for example, differences in understandings of children, work, abuse, neglect, sexual behaviour and the like—all of which can be approached from legal, research and community perspectives that may be more or less commensurate with one another (Bray and Dawes, 2007).

For example, the 1999 Survey of Activities of Young People (SAYP) conducted by Statistics South Africa on commission to the Department of Labour indicated that the majority of children reported to be engaged in labour were doing work in the context of family and community—domestic chores, cleaning schools, and helping to run family livelihoods, farms and businesses (Statistics South Africa, 2001, p. 57). Many of these children worked for less than an hour a day, and every indication is that their work was not incompatible with school attendance. Many communities do not see such work as either child labour or abuse of children. At the other extreme though are clearly exploitative and illegal forms of child labour. For example, 12% of working children were labouring on commercial farms, and about the same number of all working children were reported to be doing more than 12 hours a week of economic work. In between are many nuanced situations of child

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Child sexual abuse also presents definitional problems, in this case with respect to variations in the laws under which such abuse may fall. In terms of the South African Constitution and the Children’s Act, a child is anyone under 18 years of age. Consensual heterosexual relations are permissible in law under the Sexual Offences Act of 1957 at 16 years of age, while for homosexual relations, the age is 19 years. In the case of abduction, a child is anyone under the age of 21 years.

With widely differing definitions and approaches, our current estimates of child abuse and neglect, narrowly defined, is derived from reported crimes from police records, conviction rates from the judicial system, incidents of abuse and neglect reported to child welfare agencies, data from children’s phone-in crisis services, and case reports from specialised health and social services for abuse survivors. Each is collected for a different purpose and each leads to different estimates (Dawes and Mushwana, 2007).

One gauge of the problem is to examine crimes against children reported to the police, and summarised in the annual reports of the national Department of Police Services. It is well known that such figures are a gross underestimation of the total number of such incidents that occur (Finkelhor and Ormrod, 2001). The proportion of contact crimes against children in South Africa for 2004–05 are shown in Table 1, the latest information available. As is clear from the table, children are victims in half of all reported cases of indecent assault, and close to half of all reported rapes. One in ten cases of common assault is against a child, and one in 16 murders and attempted murders are of a child. Both rape and the ‘neglect and ill-treatment of children’ are highest in the Northern Cape Province (156 per 100,000 and 29 per 100,000, respectively, in 2005–06). This is a sparsely populated area, newly demarcated as a province in democratic South Africa, with no historical infrastructure or capacity, and very high levels of unemployment and poverty. However, it has to be acknowledged that police figures on child rape are

<table>
<thead>
<tr>
<th>Contact crime</th>
<th>Total number of crimes</th>
<th>No. of children</th>
<th>% children</th>
</tr>
</thead>
<tbody>
<tr>
<td>Murder</td>
<td>18,528</td>
<td>1,075</td>
<td>5.8</td>
</tr>
<tr>
<td>Attempted murder</td>
<td>20,571</td>
<td>1,378</td>
<td>6.7</td>
</tr>
<tr>
<td>Rape</td>
<td>54,926</td>
<td>23,453</td>
<td>42.7</td>
</tr>
<tr>
<td>Assault with grievous bodily harm</td>
<td>226,942</td>
<td>20,879</td>
<td>9.2</td>
</tr>
<tr>
<td>Indecent assault</td>
<td>9,805</td>
<td>4,726</td>
<td>48.2</td>
</tr>
<tr>
<td>Common assault</td>
<td>227,553</td>
<td>25,941</td>
<td>11.4</td>
</tr>
</tbody>
</table>

‘Children are victims in half of all reported cases of indecent assault, and close to half of all reported rapes’
not reliable. In a recent study in the Western Cape, for 2005, in 82% of police rape reports the age of the victim was not recorded (Dawes et al., 2006).

Data from the previous year, on the activities of the Family Violence, Child Protection and Sexual Offences (FCS) units, show how narrow the funnel is from police reports to convictions. During that period, 2003–04, the FCS opened 40,732 dockets, of which 3031 (7%) were concluded with convictions. Of the 2377 convictions in crimes against children, a gross estimate of the average sentence was five years (South African Police Service, 2005, p. 41).

A new Human Sciences Research Council study of HIV incidence (Rehle et al., 2007) suggests a probable link between HIV infection and child abuse, among other factors. The relative incidence among children two to 14 years was found to be 0.5%, which translates into 69,000 new infections per year. As the immunoassay used in the study detects recent infection, vertical or mother-to-child transmission can, in the main, be excluded as the source of infection. This HIV transmission in pre-adolescent children is most likely due to some combination of child sexual abuse, scarification, lack of adequate protection of children involved in the care of AIDS-sick people in the home and transmission through healthcare services.

Why Such High Rates of Abuse?

There have been few large-scale or systematic studies of child abuse in South Africa, and many of them are based on young adult recall (for example, Madu, 2001). However, child abuse, in South Africa and elsewhere, is generally approached from a biopsychosocial perspective (Tolan and Guerra, 1998; Townsend and Dawes, 2004). That is, individual adult and child characteristics predisposing to abuse are seen to be nested within social and interpersonal contexts which, in turn, are part of the macrosystemic socio-cultural and economic context.

South Africa is regarded as a violent society. Prior to the current rights-based legislative environment, physical punishment of children and youth was institutionalised in the justice system and in schools as the primary method of discipline. The South African Schools Act of 1996 outlawed corporal punishment in schools and the 1997 Abolition of Corporal Punishment Act outlawed caning as a sentence. During discussions for the drafting of the Children’s Bill, banning physical punishment in the home was seriously considered. This option was ultimately rejected by the South African Law Commission because of the difficulty of policing the private space of the home, as well as the fact that
Strong resistance by certain cultural and religious groups was anticipated. Despite several laws protecting the rights of children, high levels of violence persist in the domestic environment, the educational system and the community. Child abuse is seen to occur within this ‘culture of violence’ (Loffell, 2004).

Large parts of South Africa are patriarchal, in which system men are accorded power over women and children, which some assume includes the power to beat women and children, and take sexual advantage of them. Combined with cultural beliefs and practices, patriarchy can both protect children and expose them to long-term harm. For example, the Nguni have a custom of requiring men to pay reparation to a woman’s father for a child borne out of wedlock as a token of good faith and responsibility towards the woman and the child. However, similar reparation, paid for non-consensual sexual relations between a man and a child can exonerate the man and justify the continued abuse of the child (Magwaza, 1997). Men are assumed to have a biologically driven sexual appetite that demands release. Thus, abuse of children can be justified by ‘the force of men’s nature’ (Meursing et al., 1995; Townsend and Dawes, 2004). There is also a suggestion, not well supported by evidence, that men may rape children as a result of a belief that sex with a virgin can either prevent or cure HIV/AIDS (Jewkes, 2004; Madu and Peltzer, 2000; Richter, 2004).

Ideological and cultural constructions of children, the family, patriarchy and so on, create conditions for the behaviour of the male and female adults and children towards each other, which are perpetuated through socialisation (Townsend and Dawes, 2004). Guma and Henda (2004) point out that in many African societies, children are considered to be a gift from ancestors and God. As a consequence, responsibility to nurture children and ensure their wellbeing is shared by a large number of people. ‘This nurturing, however, is not devoid of what other societies would regard as maltreatment’ (p. 98), such as scarification, the chopping off of part of a finger and the like. In their analysis, Guma and Henda refer to consequences of the language for describing, and understanding, affinity, in specific social and cultural contexts. This refers to the bounds and conditions of relationships, whether in the family or beyond. As one example, they point to the particular vulnerability of children born outside of formalised marriage arrangements, as occurs between women and migrant labourers. Such children are not always deemed worthy of the same nurturance and protection as that accorded to the father’s children in his rural home. As a consequence, these children may be exposed to sexual exploitation by other men.

South Africa is an extremely unequal society. Poverty is widespread, with some 11 million children living in households in which less than a $1-a-day equivalent is spent on their wellbeing.
Seventy-one per cent of children live in households in which no adult is employed; 17% in households that live in a single room; 18% don’t have access to tapped water; and 15% of children are reported to go hungry sometimes (General Household Survey 2005 (Statistics South Africa)—own calculations). Under conditions of such widespread disadvantage, protective mechanisms for children are put under great strain. Despite the fact that abuse is reported among all socio-economic levels (Marshall and Herman, 2000), poverty is regarded as the primary distal cause of high levels of child abuse, for example, Pelton (1994) states categorically that

‘... after years of study and research, there is no single fact about child abuse and neglect that has been better documented and established than their strong relationship to poverty and low income’ (p. 131).

Several features of poverty are considered particularly salient to child abuse in South Africa. High levels of unemployment result in family stresses which can lead to punitive behaviour towards children, as well as abuse (Richter, 1994). Unemployment also results in large numbers of men at home and in the community during the day, with time on their hands. Long hours of parental work and long distances to sources of employment leave some children unsupervised for long periods of time. In addition, overcrowding precludes the necessary level of separation of sexually active adults, teenagers and children. Children living in these conditions are thus aware of the sexual activity of adults, and co-sleeping with older children and adults may give rise to circumstances in which sexual abuse can occur (Townsend and Dawes, 2004).

Parental attitudes and norms about physical punishment influence levels of abuse. Dawes and colleagues included questions on the corporal punishment of children into a national social attitudes survey (2005), and found that 57% of the surveyed adults with children had smacked their children in the past year. The rest, 43%, stated that they had never smacked their children, a figure lower than some reports from the USA and Britain (Bartholdson, 2001).

Of the parents who had smacked, 60% said they had used a belt or another object to beat one of their children in the past year (33% of the national sample). The most common age of children who were smacked with a hand was three years, and the most common age of children who were beaten with an object was four years. As with studies in other parts of world, women tend to smack and beat children more frequently than men (70%, as compared to 30% in the South African study). There was some indication that parents younger than 35 were less likely to beat their children than older parents.

Alcohol and substance abuse results in disinhibition and poor impulse control, and is recognised as a common ingredient of
child abuse (September, 2004). Netshiombo (2001) also claims that adults may vent their frustrations about poverty and joblessness on children, resulting in abuse. While parents and teachers are the most common perpetrators of physical abuse, a large proportion of cases of child sexual abuse involve teenagers and young adults, many of whom live in the household with the child or nearby, and are known to the child. For example, Childline notes that close to half of all cases of sexual assault reported to the agency are committed by children under 18 years of age (van Niekerk, 2004). On the whole, though, there are few distinguishing personal characteristics of abusers, apart from the fact that they are more likely than non-abusers to have experienced physical or sexual violence as a young child, or witnessed violence, especially violence directed at their mother (Townsend and Dawes, 2004).

The physical and emotional abuse of children is almost always directed at a specific child, distinguished by his or her characteristics, their relationship with the perpetrator, and prevailing social and material circumstances. In contrast, child sexual abuse in South Africa is often opportunistic and non-specific. Although the child is frequently known to the perpetrator, the abuse occurs not because of particular features of the child, but because a specific set of circumstances present themselves, the child is not able to offer resistance to the will and/or strength of the adult, and the risk of exposure is minimised by the obedience of the child and intimidation (Richter and Higson-Smith, 2004). Both the India study referred to earlier, and work in South Africa, emphasises how unquestioning obedience and subservience to, especially men, enables child abuse to remain undetected (Magwaza, 1997; Meursing et al., 1995).

**What Then Is To Be Done?**

It has been argued that we need better specification, the use of common definitions, and more complete reporting to improve our currently imprecise understanding of, and response to, child abuse and neglect in South Africa.

South African legislation (the Care Act 1983, Children’s Act 2005, the Children’s Bill 2006 and the Prevention of Violence Act 1993) obliges and mandates persons in particular professions (such as doctors) and persons in a position of responsibility for a child to report suspicions of abuse to child protection authorities, such as social services or the police. However, Child Protection Registers are not functional in many areas of the country, nor is it clear who has responsibility for their maintenance, financing and links to services and quality control (September and Blankenberg, 2004; Dawes et al., 2006).
South Africa followed Western countries in the introduction of reporting requirements (Dawes and Mushwana, 2007). In addition, Article 19(2) of the Convention of the Rights of the Child obliges signatory states to implement a system for the identification, reporting, referral and investigation of child abuse and neglect, and to develop effective procedures for the establishment of social programmes to provide necessary support for the child and those who care for the child.

However, even in well-resourced societies, considerable planning and management are needed to ensure that registers result in more benefits than costs. For example, from experience in the United States, Melton (2005) advised that the scale of the burden on social services of investigation was neither anticipated nor sufficiently compensated. Given that two thirds of reports are not substantiated for one reason or another, there is a danger that limited social service capacity is diverted from family support to investigation (Loffell, 2004).

For these reasons, Dawes and Mushwana (2007) caution that efforts to install mandatory reporting need to avert a number of negative effects. Most of these arise from poorly resourced services, including those surrounding welfare. For example, delays in investigations due to a lack of capacity may increase risks to affected children and deter witnesses. Loffell (2004), in particular, has warned against the construction of a system that focuses on law enforcement without simultaneous resourcing and capacity building of the currently weak welfare infrastructure and services. In the Children’s Act (2005), provision is made for data on child abuse and neglect to be captured through a Child Protection Register at the local level. It is then intended to traverse to the district, provincial and, ultimately, the national level to render information about individual children and individual cases, as well as to determine patterns and trends of child abuse to support budgetary and planning processes.

Clearly, swift action to protect children and prosecute perpetrators is required. Systems to do this should be informed by and work in concert with a comprehensive framework for the monitoring and evaluation of child rights and wellbeing, including access to good quality services. A system of reporting limited to the social welfare, police and justice systems may fail to include child abuse and neglect that comes to attention through hospitals, schools, and foster and residential care. Dawes and his colleagues have, over several years, developed a child rights and wellbeing monitoring and evaluation framework that aims to promote feasibly collected and useful indicators at the level of the child, the family, the neighbourhood or community, service access and service quality (Dawes et al., 2007). It is within such a framework that child abuse and neglect must be recorded, reported, responded to and prevented.
Mandatory reporting and registers may give the sense that something is being done about a large and disturbing problem. But there are many sceptics of legalistic ‘case-by-case’ solutions. As Loffell has noted, given the scale at which child abuse occurs in South Africa, we need to address predisposing social and economic conditions. There is an obvious need for welfare services for affected children, perpetrators and families, as well as for effective policing and prosecution of individuals and groups who commit wrongs against children. However, child abuse in South Africa will not be effectively dealt with by registering, ‘seeking out and rescuing abused children one by one, or by pursuing and punishing individuals who engage in victimising behaviour’ (Loffell, 2004, p. 260). Child abuse and neglect are not only the concern of the police, the courts and the welfare services. Such an approach focuses only on reaction rather than prevention. We also need to give impetus to the effective implementation of child- and family-friendly laws, policies and services, as well as support for communities in their endeavours to promote the safety and well-being of children.

In order to seriously address the problem, South Africa needs to embrace evidence-based policy and solutions to its child abuse pandemic, and prevention must be a priority for policy makers. Such an approach draws attention to the importance of the following points if we are to increase our ability to prevent abuse and improve services for affected children.

First, we need to understand the factors that are associated with the problem, using an ecological approach that considers the interaction of factors at the individual, family, community and societal levels (World Health Organisation and ISPCAN, 2006). This information can be used to inform the risk factors that must be monitored as well as to assess whether programmes are appropriately targeted.

Second, we need to determine the scale of the problem, where it occurs, and the factors that are responsible for its occurrence, using appropriate scientific methods such as epidemiological and incidence surveillance studies. No surveillance studies on child abuse have been conducted in South Africa and we need commitment to a national child abuse research agenda if we are to improve understanding and design appropriate interventions.

Third, we need to determine what interventions are currently in place and the evidence for their effectiveness in preventing abuse, neglect and commercial sexual exploitation. Knowledge of interventions and programmes provides information to populate service input indicators, including budgetary allocations for child protective services.

Fourth, we need to work towards the improvement of collaboration between the various sectors that provide preventive, rehabilitative
and legal services, as is anticipated in existing South African law and child protection strategies. All indications are that the levels of collaboration are poor, the resources for child protection are far lower than needed, and insufficient attention is paid to preventive services.

This last point is crucial. Given the deep levels of family vulnerability in South Africa, programmes designed to support vulnerable groups to reduce the probability of abuse are essential. Furthermore, what limited evidence there is, indicates that many children are exposed to abuse and violence in their neighbourhoods. The creation of safe communities is necessary if we are to reduce the assault of children (Dawes et al., 2006).

Finally, the eight elements of a protective environment for children formulated by UNICEF provide a useful set of markers for judging our progress (UNICEF, 2006). Each may be used as the focus of research questions, for policy and strategic interventions, and for monitoring outcomes. They are:

1. governmental commitment to fulfilling protection rights;
2. protective legislation and enforcement;
3. ensuring protective attitudes, traditions, customs, behaviour and practices;
4. open discussion and engagement with child protection issues, including ensuring that children are free to speak up, and there is media attention and civil society involvement in the issues;
5. improved capacity to protect children, especially amongst families, health and social workers, teachers, police and others;
6. children’s life skills, knowledge and participation;
7. monitoring and reporting, particularly participatory systems that are locally based; and
8. services for recovery and reintegration.

South Africa embraced a developmental social welfare model at the time of the transition from Apartheid (Patel, 2005). While this had many merits in encouraging a positive sense of empowerment and action among formerly oppressed and poverty-stricken communities, it did not take sufficient account of the substantial resources—financial, human and organisational—that would be required to improve service delivery. Social work services for maltreated children are hopelessly overloaded, as is the case in many parts of the world. In order to improve rehabilitation and prevent secondary victimisation, there is no doubt that further resources must be provided to child abuse services.

There are clearly many challenges. However, there is hope in the concern and commitment among many sectors of society and in government to substantially improve our efforts to both prevent and address the emergency of child abuse that confronts South Africa.
References


