

# **Now we have Nothing: Exploring the impact of maternal imprisonment on children whose mothers killed an abusive partner**

by

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## **Dedication**

We dedicate this study to the children we interviewed. Their strength and resilience in spite of their experience is both inspiring and humbling.

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### **About this Study**

This study shows that long-term imprisonment for a mother who has killed her abusive partner is not in her children's best interests. To substantiate this we explain and demonstrate the complex and serious consequences for children who live in the context of domestic violence, whose fathers are killed by their mothers, and who subsequently lose their mothers to long-term imprisonment. Our study draws on the life experiences of 16 children whose mothers are serving long prison sentences at Johannesburg Central Prison for killing their partners.

These children had already experienced ongoing trauma through witnessing domestic violence against their mothers in their homes. The impact of this is intricately linked to the abuse many of them also experienced at the hands of their fathers. The effect of both

witnessing and experiencing abuse is mediated by many factors such as age, gender, and available support systems. But as our literature review and interviews show, the severely negative impact on the children's lives cannot be denied.

This negative impact is gravely compounded by the life-shattering event of their father's death, and their mothers' subsequent imprisonment. It heralds deep emotional trauma and confusion for any child trying to make sense of a tragic set of circumstances. Our findings are that the practical consequences are also extreme. Children are suddenly thrust into completely new life circumstances. Their familiar life-styles, homes, neighbourhoods, schools and friends are lost.

The children's level of care and emotional and physical support seems to depend on whether they are cared for by their maternal or paternal relatives. Those living with paternal relatives – their father's relatives – are much more likely to experience neglect, or emotional or physical abuse than those living with their mother's relatives.

The children's relationship with their mothers is fraught with difficulties. Particularly common is very poor, sometimes non-existent contact during her imprisonment. Resistant family, financial constraints, and bureaucratic and resistant institutions all block adequate access. Even if visits do take place, the process is an extremely difficult and unpleasant one.

We provide recommendations that relate to South Africa's policy and legal framework which, if adopted, will help to improve the lives of children caught in such complex and tragic circumstances.

### **Thembi's Story**

Pule – a police officer – started regularly assaulting Thembi's mother, Tshidi, when Thembi<sup>1</sup> was just four years old. He had already stopped Tshidi from working outside the home, and discouraged her from visiting other people or having friends. Pule had many extra-marital affairs which did not bother Tshidi at first. But when he began bringing his mistresses home, using the spare bedroom, it did. Once she came home to find Pule in bed with his mistress. Whenever confronted about it, he assaulted her. Pule did not confine his abuse to his wife. Thembi and her brothers received regular doses of physical and emotional abuse too.

The children witnessed their father threatening to shoot their mother with his service revolver. He once hit her so badly on her head and across her face with the butt of his gun she needed stitches. She reported the violence to Pule's station commander. He would talk to Pule and sometimes confiscate his service pistol. Pule would then beg Tshidi to tell the station commander that he was behaving and it was safe to return his pistol to him. Then the abusive behaviour began all over again.

There were times when Thembi's mother had to flee her home for safety, often taking her children with her because they were also in danger. All the abuse and humiliation left Thembi's mother emotionally disturbed. She was not always able to be the mother that her children needed. She was treated with a range of anti-depressants and other medications. Barely a teenager, Thembi was propelled into adult responsibilities. She managed the entire

household, including cooking and cleaning, as well as doing her father's laundry and ironing when her mother could not.

Thembi felt powerless to help her mother when the beatings began. She and her brothers would scream in distress, often bringing neighbours to their assistance. When 13, Thembi began having seizures that left her unconscious whenever she witnessed the domestic abuse or experienced stress. She too received both medical and traditional care. A doctor diagnosed her with epilepsy. The beatings she received were also bad. Once Thembi's father assaulted her so badly she was hospitalised, and missed her exams. Not surprisingly, her school performance declined, causing her teachers' concern. At 15 years old, Thembi was diagnosed with depression and somatisation. Her young and traumatic journey through life was made harder because she did not have many friends.

When Thembi was 16, her father's violence towards her mother got worse. He shot at Tshidi, and began threatening to sell their home and send them all to his parents in the rural area so that he could start a new life with another woman. Thembi's mother was not willing to go. It would mean further financial hardship and abuse. Pule's family had already assaulted Tshidi once. Tshidi's parents said she and her children were her in-law's responsibility. She had nowhere to go. Tshidi approached a man to help her kill her husband. Pule was shot that weekend, and Tshidi was arrested later that week, and was not released from prison again.

On Tshidi's imprisonment, life for Thembi and her brothers fell apart further and more deeply. Her paternal relatives took her brothers away to live in a rural area. Thembi did not see them for three years, and when she did was distressed at their deprived condition. Her paternal relatives blamed her for helping her mother to murder her father, and refused to have anything to do with her. Her maternal relatives did the same. Thembi, at sixteen years old and feeling totally insecure, was left to fend for herself. Her paternal relatives took all the family's belongings. She was left homeless, without a support system, and separated from her siblings.

Since her mother's imprisonment, Thembi has not had a fixed place to stay, living with friends, acquaintances and her maternal uncle. Having no money to offer towards her upkeep, she has had to keep moving on – in one three-year period since her mother's imprisonment she had to change her living arrangements at least ten times. Thembi was at the mercy of other people for accommodation and as a result she was sexually abused by different people she lived with. These people used Thembi's inability to pay for her lodging as an excuse to sexually abuse her. Having no stable home severely disrupted her schooling. On top of that her peers teased her because she had no place to stay, and was an 'orphan' whose mother had killed her father.

Her paternal relatives squandered the maintenance due to her from her father's estate. When Thembi was older and enquired about the money, they threatened to kill her. She had to leave school, as she could not afford all its costs. Feeling cheated in life, Thembi talks bitterly about how deprived and envious she felt of other girls her age.

Like Tshidi, Thembi became a teenage mother. Now 21 years old, she lives with the stresses of being young, single, unemployed and without support of any kind. Her baby's father has absconded. Thembi worries about her brothers. She misses her mother and

wishes Tshidi could be released so they could be a family again, no matter how difficult it would be. Visits to the prison don't come often, and are hard. They cost money, and despite the happiness of seeing her mother, leave Thembi very depressed.

Living with deep insecurity and deprivation in all facets of her life, Thembi is severely depressed, has poor self-esteem and thinks of ways to commit suicide. She has tried twice, once by hanging and the other time by overdosing on pills.

## **Introduction**

I haven't seen my father for a long time. [My sister] says he is dead but when I ask her why or how he died, she cries and won't tell me. (Boy, age 13)

My father was horrible to my mother. He didn't treat her like a wife. That's why I always say: Who killed who first? (Girl, age 16)

What is the fate of children whose violent and abusive fathers die at the hands of their mother who is subsequently imprisoned for a long time? How can we quantify their loss, their grief and their trauma? Who takes care of them? Moreover, how can we ensure them every opportunity to be heard and to heal?

In South Africa, as in other countries, children are affected by spousal killing mainly because of their father killing their mother. It is much rarer that women kill their spouses. This is usually preceded by the woman enduring severe abuse at the hands of their male partners (Dobash and Dobash, 1998; Donziger, 1996; Hendriks et al, 1993; [Robertson and Donaldson, 1997](#)). A study of sentencing and conviction patterns in three Gauteng courts found that the ratio of men killing their female partners, as opposed to the other way around, was 4:1 (Vetten and Ngwane, in progress). In both scenarios, a history of domestic violence preceded the killings (Vetten and Ngwane, in progress). Abused women who kill their partners are very unlikely to be generally violent or dangerous (Hendriks et al, 1993). Inevitably, children are left behind when one parent is killed and another is imprisoned for the act. Almost always, these children have either witnessed the violence, been abused themselves by the father or both. This study thus argues that imprisoning the mother is not in her children's best interests, or in society's in the long-term.

## **What happens to the children?**

The earliest reference to child victims of spousal murder in South African writing seems to be in the mid-1990s (Robertson and Donaldson, 1997). Policy and services offer scant provision for the life-shattering effect of spousal murder on children, which is what this study begins to try to change.

This study is the product of ongoing work by the Gender Unit at the Centre for the Study of Violence and Reconciliation with women imprisoned at Johannesburg Central Prison for killing their abusive partners.<sup>2</sup> The impact of their imprisonment clearly extends far beyond their own lives, and particularly to their children's. This study is a preliminary investigation into the impact on children of both witnessing and experiencing domestic violence. It describes the impact of forced separation of mother and child as a result of long-term

imprisonment. The impact of the following are impossible to untangle, and are intricately related:

- the impact of witnessing domestic violence;
- the child's own experience of abuse;
- the violent death of the father;
- the effect of their mothers' imprisonment.

The mother is usually the child's primary caregiver. Her imprisonment exacerbates already difficult circumstances in the child's life. The cumulative effect is deeply damaging and long-term.

### **Methodology of our Study**

This report refers to 16 children of five different mothers who are serving prison sentences for killing their abusive partners. Fourteen children were interviewed. One child refused an interview and one child could not be traced, but information on both was acquired from family members. The sample included children from White, African, and Indian race groups. They belong to different language, ethnic, and religious categories, and they live in rural and urban areas of four of South Africa's provinces.

Each child was interviewed alone by one of the researchers, both of whom are registered social workers. Current caregivers and the children themselves gave permission. An interpreter was used where necessary. The interviews took place between November 2000 and February 2001 in the child's current home. Only in the case of one family were interviews held in an office setting.

We used a semi-structured interview schedule. However, the information we gathered was of a qualitative nature, and so little statistical analysis can be made. The children were asked open-ended questions about their current lives, their lives before their mother's imprisonment, and how they understood the circumstances that led to the separation. Interviews were verbal, although some techniques involving drawing were used with the younger children. We also held interviews with the children's mothers, relevant caregivers, relatives, neighbours, acquaintances, and other professionals. All the interviews were tape-recorded and transcribed to ensure accuracy.

We offered each child further counselling and assistance after the interview. In one case the family was referred to the local child protection agency because of concerns about the children's long-term safety.

Our study's most obvious limitation is that its sample is small and not random, and so generalisations cannot be made. However, this is the first study of its kind in South Africa that we are aware of and thus themes that have been drawn from the findings may have broader implications than would otherwise be the case. This is mainly because we know so little about this issue.

## Contextualising the Issues

Children who lose their mother to long-term imprisonment for her killing an abusive partner live in a complex web of circumstances. This section attempts to explain this from the children's perspective.

### Domestic violence and child abuse

Domestic violence is generally understood to mean a man's abusive behaviour towards his intimate partner. It can include one or more of the following: physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation and threats, harassment, stalking, damaging of property, entry into the residence of the woman without consent, or any other controlling or abusive behaviour towards the woman where such conduct harms, or may cause imminent harm to her safety or well-being (Domestic Violence Act, 1998).

The rate of domestic violence in South Africa is difficult to accurately establish, mainly because we do not have reliable methods of capturing this data. Because our law does not define domestic violence as a crime in itself, there are no police records on its incidence. However, the following estimates and studies give an indication of its extent:

- a study conducted in three provinces found that over 50% of women in the Eastern Cape and Mpumalanga, and nearly 40% in the Northern Province had been emotionally and financially abused in the previous year. Over 26% of women in the Eastern Cape and Mpumalanga, and over 19% in the Northern Province had been physically abused in their lifetimes by an intimate partner (Jewkes et al, 1999, in [Vetten and Bhana, 2001](#):3).
- at least one woman in Gauteng is killed by her male partner every six days ([Vetten, 1995](#)). This, called intimate femicide, is the ultimate form of domestic violence.
- nearly 45% of approximately 1 400 male Cape Town municipal workers interviewed admitted to abusing their female partners (Abrahams et al, 1999, in [Vetten and Bhana, 2001](#):3).
- rape in marriage has only recently been widely acknowledged as a problem, even though 2% of women interviewed in a Western Cape study admitted they had experienced marital rape. And a further 12% stated their partners had sexually assaulted them (Maconachie et al, 1994, in [Vetten and Bhana, 2001](#):4).

Similarly, child abuse seems to be occurring at extremely distressing rates in South Africa. Child abuse can include emotional, physical, sexual, financial abuse and neglect.

There is no criminal category of 'child abuse' in South Africa. The South African Police's crime information services provide the following national statistics on violence against children between January and June 2001:

- 1 267 cases of reported cases of cruelty and ill-treatment of children. This number excludes sexual abuse, assault and murder.
- 236 cases of reported child rape. This number includes sexual intercourse with mentally disabled adult women who are unable to appreciate the nature of a sexual act;

- 2 411 cases of kidnapping.

Cases of assault of children are recorded under the general categories of assault and are difficult to disaggregate from crimes against adults. Even with these frightening numbers of child abuse cases, it is very likely that the real figures are higher. The abuse that children experience in a home where their mother is being abused may rarely be reported to police. The statistics certainly do not reflect the child's witnessing of violence in the home.

The interrelationship between wife abuse and child abuse is fairly unexplored, particularly in South Africa. The literature seems to indicate that the connections are much more significant than previously thought. But these links have remained hidden for far too long. This is because of the sectoral nature of our social services, and the fact that activists, policies, and treatment programmes for women and children have tended to focus on the victim rather than develop a holistic picture of the perpetrator (Schechter and Edleson, 1994). We need to conceptualise the relationship between domestic violence and child abuse by understanding that power and control underscore all violence in families in one way or another.

Child abuse can be seen as an extension of overall ongoing violence in the home. Literature shows convincingly that there is a strong association between child abuse and wife abuse. It is also consistent in showing that the child abuser is far more likely to be the father than the mother (Jafee et al, 1990; Schechter and Edleson, 1994; Stark and Flitcraft, 1996; Peled, 1996; Kelly, 1997; Dobash and Dobash, 1998; Park and Khan, 2000). Statistics from the USA and the UK show that the links between child and wife abuse are powerful. One extensive study in the USA showed that "50% of the men who frequently assaulted their wives also frequently abused their children" (Straus and Gelles, 1990, in Schechter and Edleson, 1994:3).

The two abuses are not entirely separate issues that may frequently co-exist. Indeed, one act can often be *intended* to elicit both outcomes (Kelly, 1997). For example, a man may intend his children to witness him battering their mother as a method of control over the whole household. Or he may threaten to or actually harm the children to control and abuse his wife. Witnessing domestic violence can be described as a form of emotional abuse of children (Kelly, 1997).

We don't have a systematic study of this link in South Africa. But taking into account the experiences in other parts of the world, and considering the epidemic proportions of both child abuse and domestic violence here, this correlation undoubtedly exists in South Africa (Park and Khan, 2000). The impact of child abuse can be devastating in the extreme, and not only in the particularly serious cases of physical and sexual abuse. Recognising the damage caused to children who witness their fathers regularly abuse their mothers is important in understanding the connections between wife and child abuse. This is a complex issue with many components, discussed in more detail below.

#### **Experiencing domestic violence: a form of complex trauma**

There is still a very common assumption that the troubles of childhood [will] pass, that children are resilient, that they forget. The truth is that children's lives are continuous. The scars of early childhood do enormous emotional damage in



the present to the child (Hendriks *et al*, 1993:172).

A person who experiences or witnesses an event/s where there is actual or threatened death, serious injury, or a threat to the physical integrity of one's self or others, is considered to be exposed to trauma. The person's response involves intense fear, helplessness or horror. Children express this in their emotional state and their behaviour (DSM-IV, 1994).

Writers have distinguished between the impact that a single event or simple trauma, and multiple-event or complex trauma, has on survivors (Johnson, 1998; Groves *et al.*, 1996, [Robertson and Donaldson, 1997](#); Wilson, 1997; Terr 1991; Herman, 1992; Hendriks *et al.*, 1993; Pynoos and Eth, 1986). These writers agree that complex trauma, commonly understood to include experiences such as war or repeated natural disasters, has long-term consequences that are detrimental to a child's developing personality and character, psychological functioning, and behaviour.

Experiencing domestic violence is a form of complex trauma. There are usually repeated cycles of violence and the women tend to leave and return to the abusive partner with their children in tow. This has a detrimental effect on the women's and the children's mental health and personality. Children who grow up in homes where their mother is being abused are usually exposed to multiple rather than single events of trauma. Not only may the children be in danger of being abused themselves, but witnessing their mother being repeatedly abused by their father over a period of time exposes them to ongoing complex trauma (Sternberg *et al*, 1993). Children endure the direct experience of and exposure to violence. And they also have to cope with factors such as the separation of parents, having to flee the home for fear of violence, frequent moves, and the involvement of others in their family's life, such as the police, welfare workers, and extended family.

What does being a witness to violence mean in the context of children living in violent homes? It means children:

- overhear violent incidents;
- directly witness their mother being emotionally, physically, and less frequently, sexually abused;
- are exposed to the results of the violence, such as seeing their mother's injuries;
- are used as a tool in the father's abuse of the mother, such as being encouraged or forced to take part in emotionally degrading her, or their behaviour being used in some way as the excuse for a battering incident;
- try to intervene during a violent incident to protect their mother (Elbow, 1982; Jaffe *et al*, 1990; Padayachee, 1994; O'Keefe, 1994; Kelly, 1997; Park & Khan, 2000).

Because these events occur repetitively, the child does not have adequate time and space, or conducive conditions, to recover from the trauma of witnessing and/or experiencing violence. These abusive events become imprinted on the child's memory in ways that ordinary events are not. A child may struggle to cope with the thoughts, feelings and visual images of the abuse long after the actual event is over.

### **The impact on children**

We need rigorous studies to investigate the effects of domestic violence on children, as this

is not an area we know enough about (Kelly, 1997; Padayachee, 1994).

Attachment theorists such as John Bowlby say that growing up in a safe and secure home environment with a strong, positive parent-child attachment is a key factor in a child's normal and healthy emotional development. In particular, parental relationships early on in the child's life must be characterised by consistency, nurturing, safety and trust. This helps the child to learn to develop close and healthy relationships in the future. Witnessing family violence and having to cope with its effects on the family (living in an unpredictable, violent and dangerous environment, and having a mother who is often emotionally unavailable) has grave implications for a child's ability to develop healthy, trusting relationships in the future (McKay and Adlam, 2001).

It is widely accepted in psychological theory that children's development goes through phases. In each phase they have to develop in core areas for them to move easily and healthily onto more mature developmental tasks. This is illustrated in the following table.

**Table 1: Childhood developmental tasks**

<b>Life Stage</b>	<b>Task to resolve</b>	<b>Problems likely if task remains unresolved</b>
Infancy	Trust vs. mistrust	Hopelessness, dependency, anxiety, withdrawal, mistrust in relationships
Play age	Autonomy vs. shame and doubt	Overcontrol, impulsiveness, problems with order and structure, helplessness
Younger school age	Initiative vs. shame	Guilt, loss of security, need for protectors, loss of purpose
Older school age	Industry vs. inferiority	Sense of futility, work paralysis, incompetence
Adolescence	Identity vs. identity confusion	Self-consciousness, lack of commitment to relationships and life goals. Lack of a core identity.

*Adapted from Johnson, 1998:78*

Repeated trauma in childhood forms and deforms an emerging personality (Herman, 1992). The child trapped in an abusive environment has to find ways of adapting to an unpredictable situation, where trust and safety is repeatedly violated. This results in a pervasive feeling of being unsafe and powerless. Repeated trauma can manifest in a number of ways, and depends on the child's age and developmental stage. Most children who experience domestic violence display symptoms of post-traumatic stress (PTS). This could include an inability to concentrate, hyper-vigilance, irritability or tearfulness (Wilson, 1997). Some children develop post-traumatic stress disorder (PTSD). This is when the symptoms of trauma persist and seriously impair a child's daily functioning.

Children who experience trauma may initially be in a state of shock, numbness, detachment, and may withdraw. Adults may take these symptoms to mean that children have not been badly affected. Children who are numb, and thus do what they are told, are

much easier to cope with than children who are aggressive or weepy when violence or death affects a family. Adults, who themselves are struggling to cope with violence or death of a loved one, may tacitly encourage the former (Johnson, 1998; Hendriks *et al.*, 1993).

Healthy development is difficult, or impossible, in an insecure, unpredictable or disrupted environment. The trauma is likely to disrupt a different developmental task depending on the age or development phase that children are in. Of course, some children who have had years of witnessing violence may miss out on many opportunities for resolving a number of different developmental stages. Their emotional maturity and ability to form and keep relationships is negatively affected.

If a child is in early childhood (3-5 years) or adolescence she or he may be particularly vulnerable to the effects of trauma. In these developmental stages the child negotiates independence from parents, and develops an identity distinct from his or her parent ([Robertson and Donaldson, 1997](#)). Trauma may delay or interrupt these normal developmental processes. It can be permanently detrimental (Johnson, 1998).

Children who witness domestic violence are more likely to develop chronic physical, social/behavioural, and emotional/psychological problems (Padayachee, 1989; Terr 1991, Groves *et al.*, 1996; Schecter and Edleson, 1994, O' Keefe, 1994, Pynoos and Eth, 1986; Johnson, 1998).

### **Physical impact**

A fairly common way children express their distress in violent households is through somatic complaints. Younger children who cannot express their feelings verbally are particularly prone to getting otherwise unexplained stomach aches, headaches and asthma (Park & Khan, 2000). This comes from post trauma adjustment resulting in a physical display of psychological distress. Children commonly regress to earlier levels of functioning as a way of mastering a difficult situation, and finding a comfort zone (Johnson, 1998). Such regression commonly includes bedwetting and thumb sucking.

To cope with a constantly threatening environment, or as a way of keeping attachments with their parents, children may develop psychological defence mechanisms such as dissociation. Dissociation is a defensive disruption in the normally-occurring connections amongst feelings, thoughts, behaviours, and memories. It can take physical forms, such as epileptic seizures whenever the child feels in danger or frightened. Dissociation can also take the form of amnesia, becoming unresponsive to external events (detachment) or perceiving events happening as an observer (observation) instead of an active participant (Briere, 1992).

### **Behavioural impact**

Children growing up in violent homes exhibit more behavioural problems than do other children. Such problems include hyper-activity, aggression, rebelliousness and delinquency (Hendriks *et al.*, 1993). Many authors say that these children learn aggressive behaviour as it is the only method of conflict resolution or communication they see in their homes. They learn that violence is a means to control situations, maintain power, and that it invariably works. Not only is this detrimental to the individual, it also has "potentially serious criminal implications for their future as adults and their prospective families ... [and] ... may be the training ground for violence in society" (Pretorius, 1991:115; Gelles and Conte, 1990).

This is particularly related to children developing their gender identities. Boys tend to model aggressive or violent behaviour from their fathers more readily than girls. Girls tend rather to learn to be submissive, compliant, withdrawn or anxious by modelling their mother's role in the family. Boys and girls may well experience the same degree of distress, but this is mediated by socially accepted gender roles and is thus expressed differently (Hendriks *et al*, 1993). These children have a deficit in problem-solving skills: they learn to respond to stressful situations and resolve conflict in a stylised way. They are either passive (where the impact of violence is internalised) or aggressive (where the impact of violence is externalised) (O'Keefe, 1994; Jaffe *et al*, 1990). However, exceptions to this have been found. Thus gender stereotyping in responses to domestic violence cannot be considered inevitable (Kelly, 1997).

Acting out behaviour is a common expression of distress caused by trauma, particularly in the adolescent years (Johnson, 1998). This may ultimately be self-destructive. It could include substance abuse, premature sexual activity, delinquency, suicidal expressions and attempts, and running away from home.

Role reversal is a common behavioural effect of witnessing violence in the home, especially among older girls (Elbow, 1982; Johnson, 1998). The oldest female child often takes over basic family care functions in a chaotic family environment where the mother is emotionally unavailable to parent, and often in need of care herself, such as when she is physically injured after a violent incident. The care ranges from 'babysitting' younger siblings to running the household. Girls from as young as eight years old can end up in role reversal. It is inappropriate for a young girl to have to do this because it requires skills and resources she could not possibly yet possess. She has to give up her childhood. Since her role is premature, it also has detrimental effects on those she is caring for, as their needs are probably not adequately met.

Adolescents who take on adult responsibilities too soon often are reluctant to come to terms with past experiences. They attempt to flee them by becoming autonomous (Johnson, 1998). They develop lifestyles years in advance of their age and may enter into early marriage and parenthood when circumstances clearly dictate otherwise. Such teens expect a joyless existence, given past experience. Their life choices often confirm their expectations.

Behaviour problems, particularly aggression, are likely to have negative effects on children's social adjustment and their ability to make and keep friends. This is exacerbated by repeated moves in some families, disrupting children's social development.

It is widely accepted that witnessing violence in the home has a negative impact on schooling. This correlation is particularly strong when combined with neglect or abuse of the child (Eckenrode *et al*, 1993). Witnessing domestic violence can also possibly cause poor academic performance, poor concentration in class, withdrawn or aggressive behaviour in the school environment, and insecure social relationships.

### **Emotional/Psychological impact**

Children who live in a home situation of constant 'surveillance' and hyper-arousal – so as never to be caught out by a violent incident at home – live under continuously stressful circumstances (Herman, 1992). They have to cope with constant anxiety, and can find playing or truly relaxing impossible. Girls in particular seem to respond with increased

levels of childhood anxiety and clinging behaviour (Jaffe *et al*, 1990), whereas boys are socialised to not show fear, anxiety or nervousness. Healthy gender identification is very difficult when the choice is between the violence of the abuser and the helplessness of the victim (Elbow, 1982). This constant anxiety and hyper-arousal can also contribute to an acute sense of powerlessness, especially in children's own lives and circumstances (Padayachee, 1994).

Guilt and self-blame is particularly common among younger children who witness violence in the home (Padayachee, 1994; Wilson, 1997). Children under eight years old understand what goes on around them in relation to themselves (Specht and Craig, 1987). They therefore tend to be unable to separate themselves from the causes of their father's anger and their mother's experience of violence. This sense of guilt is a huge burden for young children to bear. It often goes unresolved as responsibility and blame becomes confused in violent households.

Witnessing violence increases the risks of children experiencing depression. Children who are also being abused themselves are significantly more likely to be depressed and suicidal (Sternberg *et al*, 1993).

Further, shame is an enormous issue for children in violent homes. They fear the stigma associated with family conflict and violence. This is particularly strong in South Africa where, despite the high prevalence of families experiencing some kind of problem, a happy harmonious home is seen as the 'norm'. Any deviation from this is seen to be shameful (Pretorius, 1991; Padayachee, 1994).

Some children, especially older ones, are constantly angry at being caught in the situation, and have poor relationships with everyone in their families. They often experience intense ambivalence about their parents. And they can often have a longing to remove themselves completely from the family environment. Younger children, on the other hand, often harbour a fantasy being able to 'mend' the family tensions and stop the violence. Feelings of rage and murderous revenge fantasies are common responses to abusive treatment.

Sadly, some children from violent households seem to find difficulty in being empathic towards others and lack interpersonal sensitivity (Jaffe *et al*, 1990; Padayachee, 1994; Hendriks *et al*, 1993). This could be because they learn that they have to always be on guard, and to protect themselves from emotional hurt. These children do not have the opportunity to be emotionally open and to share feelings with others. Some children therefore develop an indifference towards others, and an emotional hardness that lasts as a character trait into adulthood.

Children coming from violent homes experience emotional damage and stress. But there are also cognitive implications of witnessing violence. Jaffe *et al* (1990) mention that one of the more 'subtle symptoms' of witnessing violence is the kind of attitudes children begin to hold about responsibility and blame for that violence. Their research indicates that children who are exposed to repeated reinforcement of men being in control and women being blamed for the violence – without any significant environmental factor to negate this process – can grow up unable to hold their fathers (and other men) accountable for their actions. They blame their mothers (and other women) for bringing violence upon themselves (Elbow, 1982). This is a cause for great concern regarding how these particular

children negotiate their own childhood and eventually their adult relationships. And it is among these children that there is a risk (but not a certainty) of repeated abusive patterns (Gelles and Conte, 1990).<sup>3</sup>

Many children develop resilience in the face of repeated trauma, and learn to cope with the effects. However, this is mostly due to the loving and affectionate links they develop with a primary caregiver, often the mother. For many survivors of trauma the quality and reliability of a primary relationship will be crucial to their future well-being and adjustment (Hendriks et al., 1993; Jaffe, 1990). But many children do not have this type of relationship if their primary caregivers, their mothers are forcibly separated from them on arrest and imprisonment. The children are left in the care of extended family who become parents by default, often unprepared for this huge responsibility.

#### **In the context of domestic violence, can adults be effective parents?**

There is extensive evidence from the literature and from practitioners' accounts that children living with family violence receive less than perfect parenting (Kelly, 1994; Elbow, 1982; Dobash & Dobash, 1998; Park and Khan, 2000). Even if they are not being physically or sexually abused by the father figure, he is seldom an adequate parent because he needs to be completely in control of the family functioning. He commonly uses children as a tool to abuse their mother (Kelly, 1994; Park and Khan, 2000). This is immeasurably emotionally damaging for them. Even in non-violent households men usually leave the day to day parenting of children to mothers. In an abusive situation it has been shown to be very unlikely that fathers are involved and positively emotionally engaging parents (Elbow, 1982). In many cases, the father or father figure chooses to have very little to do with the children in the home. Clearly if he is also actively abusing the children his parenting is not so much ineffective, as exceptionally damaging (Kelly, 1994; Peled, 1996; Dobash and Dobash, 1998).

In most cases the mother is the children's primary caregiver. However, women in abusive relationships use enormous amounts of energy on staying safe and avoiding abuse. They have overwhelming emotional needs as a result of their abuse (Jaffe et al, 1990; Elbow, 1982). Consequently, they often have little energy and emotional resources left to give their children. The quality of their parenting inevitably suffers (Elbow, 1982; Padayachee, 1994; Kelly, 1997). Many have lost confidence in their own ability to parent adequately because of a lack of self-esteem and their own emotional problems stemming from sometimes years of victimisation (Park & Khan, 2000). Women may actively try to protect their children from abuse or knowledge of their experience of violence. But they face contradictory consequences when they discover that this just engenders an unhealthy culture of silence, which is emotionally damaging for the children in the long-term (Kelly, 1997). A complex relationship between abused women and their children results, which can be both caring and conflictual at once. This does not necessarily mean that these mothers are 'unfit' to care for their children. It means they often need assistance with healing their own wounds while at the same time offering adequate emotional care to their children (Park & Khan, 2000). It certainly means that it may be very difficult to achieve an uncomplicated close relationship with their children.

In some cases abused women may be violent towards their children. Some connections have been made between a women's experience of severe abuse and abusing her children as

a means of displacing frustration or revenge (Padayachee, 1994; Stark and Flitcraft, 1996; Peled, 1996; Park & Khan, 2000). But the literature does not excuse this behaviour. It recommends that children be protected from their mother's abuse (for example, see Park & Khan, 2000). However, it is important to note that no deterministic links have been made between women experiencing abuse and her abuse of her own children. The fact that she is being abused does not necessarily make her an unfit, poor or abusive mother. Rather, a myriad of complex factors will influence her ability to parent adequately. Abused women who abuse their own children are in a small minority (Peled, 1996; Stark & Flitcraft, 1996).

#### **Impact on children of the violent killing of father by mother**

Most literature on children and how they cope with the violent death of a parent assumes the safety of the child within the home. It also assumes that the killing took place outside of the family system. This literature may capture the grief and loss these children go through. But it does not capture the ambivalence, relief, fear, confusion, and deep anger that occur when one parent has been killed by another in the context of domestic violence. The literature around domestic violence concentrates on intimate femicide – where the man kills his woman partner – as the ultimate form of domestic violence. It recognises the immense trauma of this experience for children, especially when the child witnesses the murder. The discussion tends to revolve around childcare concerns where a violent father is the sole custodian of very vulnerable children.

However, there is almost nothing written about abused women who kill their husbands, and even less on the emotional responses that children may have to this. "The reality is that the lives of these children are literally shattered by their experiences" ([Robertson and Donaldson, 1997:2](#)).

There definitely is a different context – and thus a different impact – on children depending on whether it is their abused mother or abusive father who killed the other parent. If children are abused, the evidence shows that in all likelihood the father is the abuser. Further, their primary caregiver is invariably their mother, especially when their father is living separate from the family at the time of the killing. Their mother's death, in the case of intimate femicide, would mean that they are left in the sole care of a man who is possibly responsible for their own abuse. And they would have lost, through their mother's death, their primary attachment and source of care. "The loss of a mother is much more significant and may be more immediately traumatic than the loss of a father" (Hendriks et al, 1993:100).

The implication of this is that children are much better off being left in the care of mothers who kill than fathers who kill.<sup>4</sup> But there are obviously serious consequences for those children who are subsequently separated from their mothers through long prison sentences. "By imprisoning [the mothers], we punish not only the killer, but the innocent children who lose both parents suddenly, traumatically, and simultaneously. The children's fate is dire." (*Ibid.* 1993:100).

One of the issues most tinged with anguish is the divided loyalty that children in this situation feel ([Robertson and Donaldson, 1997](#); Peled, 1996). A child most commonly loves both parents, despite their possible abusive behaviour. Although they may be relieved not to have to live in a constant state of fear due to the father's potential for violence, losing him

in a violent way triggers deep loss, regret and grief, and often guilt for feeling relief. The child may experience disbelief at the mother's actions and struggle to reconcile the act with the mother they love and trust. Making sense of these confusing feelings requires extensive emotional work, a luxury that is often unaffordable when children lose both parents and have to negotiate a completely new life. Living with the stigma of having their mother labelled as a murderer means these children's social and community supports are often minimal (Robertson and Donaldson, 1997).

To cope with these losses children need to understand the reality of the death. They need factual information appropriate to their age and level of understanding. Often caregivers explicitly forbid or discourage discussion about the death of the father and the whereabouts of the mother. Children may be prevented from attending the father's funeral, and not told why the mother is not with them. They may interpret this as maternal abandonment, or begin to believe that the mother is an evil person. This behaviour by caregivers – whether intended to protect the child or not – is counterproductive to the child being able to resolve his or her trauma.

The practical impact on children of the killing of one parent and the loss of another to imprisonment is profound. Their everyday lives have been irrevocably altered, and they lose most of what is familiar and comforting. The kind of care the children receive either helps or hinders their healing.

#### **Mothers inside, children outside – the impact of imprisonment**

In South Africa, there is a total of 3 786<sup>5</sup> adult women in prison (Department of Correctional Services, 2001). There is no indication of how many dependent children these women are responsible for.

A mother's imprisonment has more far-reaching consequences on children than a father's (Woodrow, 1996; Shaw, 1996; Donziger, 1996; Hendriks, 1993). Despite this, the effects on children of a mother's imprisonment have not been given as much consideration as when a father has been imprisoned.

A study on the impact on children of their mother's imprisonment was conducted by the Howard League for Penal Reform<sup>6</sup> in 1993. The mothers were all imprisoned for less than two years. The study found that children's lives were affected by the loss of their primary caregiver in a multitude of ways. The most significant was that children immediately experienced a change in caregiver, neighbourhood as well as separation from siblings. This affected them both emotionally and behaviourally.

The children were asked about how their behaviour had changed after the imprisonment of their mothers. They reported changes that included abusing drugs, feeling depressed, feeling a sense of aloneness with no-one to speak to about their problems, playing truant from school, and having to take on adult responsibilities. The Howard League emphasises that although the impact of the separation changes with time, the hardship and damage to the children generally gets worse.

There are only eight prisons for female prisoners in South Africa (Department of



Correctional Services, 2001). This means mothers may be imprisoned a distance away from where their children live, making the costs of visiting prohibitive. Often the visiting time is too short for quality time with the mother, and the visiting environment is child-unfriendly, hampering meaningful contact – and vital relationship maintenance – between mother and child.

Children also experience a range of emotions both before and after visiting their mothers (Woodrow, 1996). Children who take time off from school have to explain their absence to peers. Visits are also often traumatic for children who do not see their mothers often, and then do not want to leave them.

Visits mean long waits at the prison in child-unfriendly conditions. In South African prisons, the quality of the visit depends on which group an inmate belongs to. This is based on the prisoner's conduct in prison.<sup>7</sup> Each year A-group visitors are allowed 45 contact visits, each 45 minutes long. B- and C-group visitors are allowed 36 non-contact visits a year, each 30 minutes long. The Head of the Prison can lengthen visits or allow contact visits for humanitarian reasons.

In South Africa the Department of Correctional Services considers to some degree the impact of maternal deprivation on very young children and infants. Officially, women with young children may be permitted to have a child with them until the child is five years old, within a mother and child unit where possible (Dissel and Du Plessis, 2000). But the Department of Correctional Services actually only allows a child to remain with the mother up to age two (Department of Correctional Services submission to the Parliamentary Committee on the Status and Quality of Life of Women, 2001).

In 2001 there were 224 children with their mothers in prison in mother and baby units in eight provinces (Department of Correctional Services, 2001). Johannesburg Central Prison has pioneered the 'Babies Behind Bars' project. This focuses on providing children in prison with their mothers' optimal conditions for their normal development. Unfortunately, this understanding of the effect of a mother's imprisonment on children has not been extended to the children who are left on the outside.

#### **Alternative care: the dicey road**

When men are imprisoned, their children's primary caregiver generally continues to take care of them (Woodrow, 1996; Hendriks, 1993; NACRO, 1994; Howard League, 1991). In South Africa, this is usually the mother, but can be a grandmother. When women are imprisoned their children experience a change in primary caregiver, home environment, and may in fact become parentless. Even when the biological father is alive they rarely take care of the children (Woodrow, 1996; NACRO, 1994). These dramatic changes include a change in school, loss of friends, separation from siblings, and a loss of family relationships. Children are isolated from their support networks. Notions of stability and security are taken from them at a time when they need it the most.

When mothers are imprisoned children often go into the care of the extended family – often maternal grandmothers and aunts (Woodrow, 1996; NACRO, 1994, Howard League, 1991). Children have "on average four or five different carers before their mother is released, with

homelessness, poverty, unemployment and stigma, and if she has been away for a substantial time she may be unsuccessful ... [in getting] the children back" (Hendriks et al, 1993:100). New caregivers are thrust into the role by default, when they least expect it, and when they have few resources to cope with the task. Caregivers are usually elderly grandparents or single parents who themselves face difficulties including ill health, financial constraints, and fitting children into their own schedules. Woodrow (1996) and Hendriks (1993) highlight that substitute caregivers often have to deal with the negative emotional and social problems that children have because of their separation from the mother. Caregivers may not understand the children's reactions, nor do they have the skills for dealing with traumatised children.

Family alliances are important when looking at the quality of care or placement for the children (Hendriks et al, 1993). Strong loyalties emerge within the extended families after these tragic events. Conflict between kin is common and affects the care children receive. How close the children and the eventual caregivers were before the killing can indicate the quality of care they can expect to receive. It will also influence the children's capacity to cope with their trauma after the effective loss of both parents (Hendriks et al, 1993). The carer's own response to the violent death of the father is going to influence the way they respond to the children.

Paternal family relatives caring for the children have to go through their own grieving, and resolve their ambivalence or anger about their son/brother/relative's death. The man's children symbolise the grief. They also represent the source of the grief (the mother). It is impossible under these circumstances for the carer families not to feel at least some ambivalence. Hendriks et al (1993) identify a common pattern in their work on families who say they will protect the children yet at the same time emotionally reject them. The children never feel they belong and are not completely accepted into their new home.

Sometimes this rejection is obvious. Relatives can feed the children a "diet of hatred" (Hendriks *et al*, 1993:97) about one of the parents. This can happen whether the paternal or maternal relatives care for them. With paternal relatives, rage is vented against the children's mother who killed their son/brother/relative. The maternal relatives speak extremely negatively of the children's abusive father. This makes it hard for the children to resolve their own profound ambivalent feelings about both parents. It is unrealistic to expect children, whose livelihoods now depend entirely on their relatives, to be able to construct a rounded picture of their dead or imprisoned parent so they can resolve their own deeply confused identity.

Children need to be able to recall balanced and rounded memories of their dead parent and their imprisoned parent. This makes it possible for them to grieve fully. But this is "often denied them by protective adults who 'do not wish to remind them of their loss'" (Hendriks et al, 1993:38). This is strongly linked to what children were told about the events. Hendriks et al (1993) have found that few children are given clear information on what happened to either of their parents. Many children are never told the fate of their fathers or mothers. Even fewer are given an opportunity to grieve and mourn. Often relatives do not know how to tell the children what happened, or they feel it is better for the children not to know. The extended family most often does not recognise how severe the trauma is for children. Nor do they have any idea of the short and long-term impact this will have on the child ([Robertson and Donaldson, 1997](#)). The children may then display compensatory

behaviour to make up for their loss and unwanted changes. This may be an attempt to reverse and deny the traumatic event and may take the form of fantasy in play. Common themes of such behaviour include undoing the damage and acting as if nothing has changed.

Woodrow (1996) highlights that the eldest children bear a greater burden of a mother's imprisonment as often they take on the role of the mother in looking after younger siblings. They are also more likely to know the truth about their mother's absence. But they have to keep up the pretence for younger children who are told untruths about it.

The profound effect of placement on children whose fathers have been killed, and their mothers imprisoned, is largely unrecognised. Where they are placed influences their opportunity for and assistance with healing. It also influences how their emotional and nurturing needs are dealt with, and whether they get the chance – and encouragement – to maintain a positive relationship with their mother in prison. Their placement dictates the quality of their everyday care.

The decision about the children's placement is usually made on an ad hoc basis. Some placements are temporary arrangements that drag on for years. According to Hendriks *et al*, (1993), most children live with relatives. Only a small proportion are fostered or placed in a children's home. Because of a strong sense of family and community in South African society it is unlikely that, when relatives do actually exist, children will be placed elsewhere. The ideal in traditional Southern African society is that in times of stress and change, people draw from their cultural resources as a way of finding meaning in their new circumstances (Speigal and McAllister, 1991). African customary law (which needs to be recognised as a more modern construction of previous cultural mores) emphasises that in marriage, a woman becomes a part of a man's family. The children too are considered to belong to the father (Kubayi, 1998). It is likely, then, that children who have lost both their parents, would automatically be seen to be the father's family's responsibility. This cannot be stated as an absolute rule, nor is it necessarily a reflection of what actually happens. Further, even if paternal relatives do take over the care of children, cultural traditions may not be quite as prescriptive about how they may go about resolving their own ambivalence about the care of the children.

Prisoners' families are generally stigmatised and ostracised in the wider community (NACRO, 1994). Families who have suffered an imprisonment because of spousal murder face issues on top of this. Children and their caregivers also have to cope with the stigma and ostracism of having a mother in prison for killing their father. Hendriks *et al*. (1993) found that children of fathers imprisoned for killing their mothers often concealed the truth of the father's whereabouts from neighbours, friends and school teachers. Caregivers and children may invent stories of the mother working away from home in cases where a mother is imprisoned for killing a father.

More importantly, a mother's imprisonment disrupts the relationship between mother and child and often with siblings as well. It has been shown that the relationship and parent/child bond changes over time, with the parent and child finding less in common with each other, especially when a long-term sentence is served (Howard League, 1991). Where a woman is serving a short sentence realistic plans for the future can be made. With long-term prisoners this is difficult, if not impossible. Women serving long-term sentences have

only a partial view of their children's development from childhood to adolescence and early adulthood. They do not have the opportunity to pass through these developmental milestones with their children (Vogler, 1996). Time has the effect of standing still. This, together with the actual circumstances that led to imprisonment, can damage family relationships with children and the extended family. It may be much harder to rebuild them after the woman's release from prison.

## Our Study's Findings

### The Children's Age Range and Gender

The majority (10) of children in our sample were under 16 years old at the time of the interviews, completed between November 2000 and February 2001. Their mothers had already spent at least three years, and in some cases, up to eight years in prison.

**Table 2. Children's gender and age as at 31/03/2001**

Age (in years)	Gender	
	Male	Female
6-10	2	1
11-15	3	3
16-20	1	3
21-25	0	3
<b>Total</b>	<b>6</b>	<b>10</b>

Two children were at a crucial stage of early bonding and attachment when their mother was imprisoned. None were adults. They therefore all still needed emotional and physical parenting. The separation also made worse an already difficult situation, since the children had directly experienced and witnessed domestic violence. The forced separation from their mother, their primary caregiver, was a traumatic event at a time when their lives were in turmoil because of their father's death. The separation from their mothers in most of the cases caused a host of post-traumatic stress symptoms. The children's young age at the time of their mother's imprisonment means that they will be dependent on caregivers for a long time.

**Table 3. Children's age at time of mother's imprisonment**

Age (in years)	Gender	
	Male	Female
0-5	1	1
6-10	3	5
11-15	2	0

16-20	0	4
<b>Total</b>	<b>6</b>	<b>10</b>

**"I just want to see her": years separated from mother, and its impact on the children**

**How children feel about their mother's incarceration**

I can't spend time and play and be near mummy. I cry about it sometimes – but I stop crying and keep quiet and pretend like I am playing computer games so that my granny will not be worried. (Boy - age 10)

All the children are distressed, angry, and ashamed by their mother's imprisonment. Some see the imprisonment as fair given the deed. But they do not like seeing their mother in prison and would rather have her home. Some maintain their mother could not be guilty.

I never used to believe that my mother could have done it [killed my father], but everyone is saying it is true so it must be. And if it is true it's a terrible thing so she should be in jail. (Girl - age 17)

Some children, especially the younger ones, have constructed their mother's return as the central theme in their lives. Some of the older children feel very bitter about her incarceration. They don't like to be disappointed, and so they don't think actively of her return especially given the long period of separation many of them have endured. Many of the children long for the day their mothers are released from prison to just be physically close to her. When asked what they most looked forward to when their mothers are released, many replied, "Just to be with her, and see her everyday and do stuff".

It hurts being separated. I'm not happy here and would be happy if I was with my mother. (Boy - age 11)

**Table 4: Number of years separated from mother as at 31/03/2001**

Family	Number of children		Length of separation
	Male	Female	
A	0	2	3 years 9 months
B	1	1	3 years 9 months
C	2	2	4 years 3 months
D	2	2	6 years 7 months
E	1	3	7 years 10 months
<b>Total</b>	<b>6</b>	<b>10</b>	<b>26 years 2 months</b>

The median length of separation from the mother is five years – a very long time for children who were very young at the time of their mother's imprisonment (see Table 3).

Some of the children have been separated from their mothers for more than seven years. Many of these children and mothers have lost touch with each other's lives, a gap worsened by poor family support for many of the women. The literature suggests that the longer a woman is imprisoned, the more likely it is that conditions for the children deteriorate and get worse. Some children are not being allowed to visit their mothers because they are in the care of paternal relatives who want them sever ties with their mothers. This intensifies the children's separation from their mothers as many long to see their mothers but are simply unable to. This has detrimental effects on the children and on the mother's capacity to continue a relationship. In one family, the children were not allowed to speak about their mother. Their paternal uncle was adamant that the children did not miss her. However, the child confided in the interviewer:

I miss my mother ... I just want to see her. Sometimes I dream about her and she would be taking me shopping for clothes. I want her to come home and take care of us. I just want to see her. (Boy - age 11)

**Table 5. Frequency of prison visits with mother\* during imprisonment as at 31/03/2001\***

<b>Frequency of visit (approximate)</b>	<b>Children (number)</b>
Never	5
Once in the length of imprisonment	2
Twice in the length of imprisonment	5
Once a year	1
Once a month	2
Once a week	1
<b>Total</b>	<b>16</b>

\* At this stage the mothers had spent approximately between 3 and 8 years in prison.

When I see her I feel good and feel like I could stay with her forever, bring her home and stay with her like old times. (Boy - age 10)

Often the one thing that children look forward to most is visiting their mother. Sadly, as Table 5 shows, they don't get to visit much. Very few women's prisons in South Africa cater for long-term prisoners, so women are imprisoned far away from their families, making the cost of the journey too high. Many of the older caregivers face severe financial constraints, compounded by having an extra child or children to care for, let alone money to afford journeys to prison. Children, who are generally quite young, cannot travel such distances alone and need the supervision of an adult. This increases the costs of visiting their mothers.

Children's contact with their mothers after her imprisonment depends on whether they are being taken care of by their maternal or paternal relatives. Children who are taken care of by maternal relatives have regular contact with their mothers after her imprisonment.

Because of their feelings towards the mother, paternal relatives caring for children hardly ever – sometimes never – facilitated prison visits. In some cases, paternal relatives have actively tried to alienate the children from their mothers.

Your mother is a witch and when she comes out [of prison] she'll kill you just like she killed your father. (Paternal caregiver)

In one case, the children have never seen their mother since her arrest and have not even had telephone contact with her. These children have lost all sense of a realistic relationship with their mother.

The visiting conditions in prison are not conducive for quality time together. The children usually face long waits in overcrowded waiting areas before the visit. After a long journey this is taxing for both the children and their caregivers.

Waiting by the gates is boring and we have to wait a long time until they call us. (Girl - age 6)

Furniture is bolted down in a sterile, concrete environment. There are no activities or basic play areas for mothers to spend quality fun-time with their children. The visits are usually only an hour – too short for a mother to spend time with even one child, let alone having time to discuss important issues with the child's caregiver. Visits are generally noisy and lack privacy. As a result, children overhear information that they find disturbing.

I can't talk to my mum when I visit her because it's noisy and there are far too many people listening. (Girl - age 11)

What I don't like about visiting my mum is seeing other women who are also in jail, and hearing their sad and scary stories. Also I am not happy when I see how dirty it is and the food is disgusting. (Girl - age 11)

### **Psychological/Emotional effects**

All the children we interviewed experienced depression, anxiety and insecurity. One child had attempted suicide twice since her mother's imprisonment, and still had suicidal ideation – thinking of ways in which she could kill herself. Pervasive feelings of anger, and of having been cheated were common.

When I watch the girls of my age walking by, dressed up in nice clothes, going to restaurants, I remember the time our father used to give us money to eat at Wimpy. (Girl - age 20)

Children's fear of abandonment was a common theme in all interviews. The children linked this to having felt abandoned by their mother.

If my husband leaves me now, who do I have left to rely on?(Girl - age 19)

### **Coping with their mother's absence**

People often use psychological coping mechanisms to protect themselves from the hurt and pain of an event. Commonly, these children used fantasy, denial and anger.

Many children fantasise about everything becoming better or 'the same' when the mother is released from prison. Idealisation of the mother was also common as children often accentuated only the good things about feeling secure and protected.

When my mom comes out everything will go back to the way it was before and we will be happy. (Girl-age 11)

Avoidance and/or denial were also common. Some children would not talk in detail about the mother, or ask any questions. Some had stopped visiting their mother in prison. Some children showed deep anger as a way of protecting themselves against missing the mother during her absence.

Why did she kill my father? ... if she did not do it, she would not be in prison. (Girl - age 11)

Two children seemed to cope by increasing their religious observance.

#### **Unresolved issues for the children**

Many children experience real confusion and ambivalence about their father's death. They are relieved that they do not have to endure more abuse from him. But they miss a father figure, especially the younger children. Some older children did not display ambivalent feelings about their father's death and said they were glad he is dead.

All the children have unresolved trauma regarding their own experience of abuse from their fathers, as well as the circumstances of his death. They have to deal with the violent nature of their father's death and their mother's role in it. Many of the children have a profound sense of disbelief about their mother's role in their father's death. They cannot reconcile the loving image they have of her with such a violent action. What makes it worse is that the majority of the mothers have not had an opportunity to explain their actions to their children. This situation is exacerbated because a majority of the children do not have any contact with their mothers. These children are left suspended, unable to resolve their ambivalence. This is destructive for their identities as well as their relationship with their mothers.

#### ***Behavioural effects***

##### **Stealing and lying**

A few children stole periodically, which seems related to their need for nurturing, care and attention and not necessarily related to material need. One child stole money to buy a gift for the mother – the money had been taken near Christmas or the mother's birthday, with the stated intention of buying her a nice present. However, there are two cases where stealing seems to have been motivated by deprivation, for example where clothes were stolen, and money to buy food. Lying is common among many of the children.

##### **Aggression and regression**



Fighting at school and aggressive behaviour among the younger children occurs. In some cases this has resulted in suspension from school. One of the older children has comparatively recently been found guilty of assault in a court of law. It is impossible to say whether this is directly related to the mother's absence, or whether it might have been encouraged by the child's witness to years of serious violence in the home.

One child very strongly regresses whenever she visits her mother. She begins to talk and act about five years younger than her chronological age. This is probably because she needs care and to recapture her past relationship with the mother. Other regression includes bedwetting, crawling even when able to walk, and an inability to sleep alone at night for many of the children who had previously mastered this stage of development.

### **Performance at school**

Most children's school performance was mediocre to very poor – a direct impact of having to change schools frequently. It is also clearly related to emotional stress and inability to perform optimally under those conditions. Commonly children were repeating grades.

I failed my standard eight and I had to repeat it and that was the hardest moment of my life. I started to remember everything, thinking about the time I was living with my parents, how my aunties treated me after my father died. They were always telling me that I helped my mother to kill him and they said I am not their brother's daughter. So I started to think whether he is or not. It started to affect me, even when I am reading, I don't know what I am reading because I can't concentrate. (Girl - age 16)

One child had to drop out of school because she did not have the practical means to continue, and was concerned with basic survival.

### **Family Life Before the Father's Death**

#### *Impact of domestic violence*

I remember the time when my daddy punched my mummy in the nose and she started bleeding. There was so much blood. My brother ran to the bathroom to fetch toilet paper and forgot to tear off a piece. The toilet paper followed him to the kitchen." (Girl - age 6)

Family life before the death of the father<sup>8</sup> was characterised by chronic violence and abuse in all the families. All the children witnessed the violence that their mothers were subjected to. In most cases, they were also subjected to abuse. They were thus both direct and indirect victims of domestic violence. The children's experiences varied in the extent and range of abuse they were exposed to or experienced. In some families, the children saw their mother's being repeatedly and severely beaten and sustaining physical injury. Often, some of the older children played care-giving functions for their younger siblings and their mothers. In all of the cases the children wanted to help their mothers from suffering abuse at the hands of their fathers. But they felt powerless to do so because of their age and lack of power in the household.

The children were subjected to the abusive circumstances under which their mothers lived.

If their father chose to deprive the mother of basic necessities such as food and clothing, the children suffered the neglect as well. Fathers drew the children into their abusive behaviour by asking them to monitor and report on their mother's activities, visitors, and phone calls.

In the majority of families, the trauma of witnessing violence was compounded by the children's own experiences of emotional, physical and/or sexual abuse by their fathers.

**Table 6. Children's experience of paternal abuse**

Age (in years at time of father's death)	Total children (in age range)	Type of Abuse				
		Physical	Sexual	Emotional	Witness to parental violence	Neglect
0-5	4	2	0	4	4	3
6-10	6	4	1	6	6	3
11-15	4	3	2	4	3	0
16-20	2	2	0	2	1	1
<b>Total</b>	<b>16</b>	<b>11</b>	<b>3</b>	<b>16</b>	<b>14</b>	<b>7</b>

Table 6 shows that most of the children witnessed parental violence, and that all were emotionally abused by their fathers. Emotional abuse included verbal abuse, insults, emotional cruelty, and drawing some of the children into abusive behaviour. Many fathers neglected their children, both emotionally and physically. Most often, even though they had the means, the fathers would stop buying necessities such as food and clothing for the children. Most of the men stopped the women from working outside of the home, and the children also suffered the adverse consequences.

The physical abuse the children experienced differed widely in severity and frequency. Some were beaten severely, resulting in physical injury requiring medical treatment or hospitalisation. Others suffered less physical injury. The father-figure sexually abused a small percentage of the children in our study. This ranged from one incident to ongoing rape and sexual molestation. None of the sexually abused children were the biological children of the father figure. None of the male children reported sexual abuse.

Table 6 shows that most of the children experienced abuse and trauma during the 3-5 year and adolescent developmental stages. This, the literature suggests, is when children are more vulnerable to the effects of the abuse. These repeated traumatic events, even if brief in nature, in many cases was imprinted on the children's memories. It is something they have to struggle to come to terms with over a long period of time.

It was like my parents were stubborn together because they were always fighting and arguing all the time. There was no time that you could see them laughing, playing together, going out or be happy at home. (Girl - age 16)

## *The children's psychological reactions to living in an abusive home*

### **Defence mechanisms**

Children who are abused or witness domestic violence develop defence mechanisms so they can continue living in a constantly threatening environment. In our sample two of the children experienced epileptic seizures either while witnessing parental abuse, or when such violence was imminent. It is likely that these seizures are the product of disassociation.

### **Depression**

Most of the children showed features of depression or were diagnosed as depressed by doctors. Some of the symptoms included insomnia, poor concentration, difficulty in concentrating at school, and thinking about how to commit suicide (suicidal ideation). One child was hospitalised for depression and was prescribed anti-depressants. Her doctor found her condition to be linked to her parents' conflict.

All the time I feel sad I feel like keeping it a secret. I try not to think about it [being sad] and start to play. Sometimes I look around the garden or play with my hula-hoop. (Girl -age 6)

### **Anxiety and impaired self-esteem**

Some of the children developed an intense fear of their fathers. In some cases this was then generalised to all men. This reaction is common for children who are abused.

I don't like Oupa so much. I don't want to play with him. I don't like playing with men. (Girl – age 11)

Most children shared experiences and feelings that indicated impaired self-esteem and a high level of anxiety resulting from experiencing and witnessing abuse. Some of the children experienced post-traumatic stress symptoms such as flashbacks of violent events, being preoccupied with thoughts of the abusive parental home, nightmares, or being hyper-vigilant. In some cases the children were afraid of all men and raised voices, as this caregiver observed:

Sometimes I would raise my voice and scold them. They would find the smallest corner and hide themselves for hours, quietly and shiver. I would call for them but they would not come out until I looked for them and reassured them. (Caregiver of a four- and a six-year old)

### **Somatisation**

Somatisation or developing health problems such as headaches, stomachaches or other medical problems, which required medical attention, was common.

### **The children's behavioural reactions to living in an abusive home**

Some of the children, particularly older girls who at the time were barely ten years old, had to take on adult responsibilities at an early age. As outlined in the literature review, children who experience domestic violence often perform care-giving roles for younger siblings and their mothers. This is because their mothers are incapacitated through injury and pre-occupied with dealing with the violence in their lives.

We found evidence of children's declining performance at school because of poor concentration. We also found evidence of children's attempts to block out abuse. We noted a range of social problems, including suspected drug use and playing truant from school.

Some of the children became passive and withdrawn (internalising symptoms) while others exhibited increased aggression (externalising symptoms) – with both siblings and with peers at school. This is a feature of being both a direct victim of and witnessing domestic violence.

When the fathers denied the children and their mother's basic necessities, children would resort to fulfilling their needs elsewhere. As a result some of the children would ask for food from neighbours because of paternal neglect.

In some cases the abuse also impacted on relationships with the extended family, where the children blamed others, like the paternal grandmother, for being complicit in and causing their mother to be abused. This damaged the relationship in the long-term and was an added burden to children when the same relatives took care of them in the aftermath of their father's death and mother's imprisonment.

All of the children experienced emotional and physical insecurity due to the abuse. They endured the repeated cycles of fleeing their homes with their mothers to escape the abuse, then returning to the abusive father, and experiencing a sense of divided loyalties between the parents.

*The quality of mothering before her imprisonment*

**Table 7. Primary care-giving responsibilities prior to mother's imprisonment**

<b>Gender</b>	<b>Both parents</b>	<b>Other</b>
Male	6	0
Female	8	2
<b>Total</b>	<b>14</b>	<b>2</b>

Before the death of the father and the imprisonment of the mother, all except two of the children were living in a nuclear family unit –children with their parents. Both parents were superficially providing care. However our interviews with the children showed that the mother was providing almost all the emotional and physical care.

In all cases the mother was caring, protective, and wanted the best for her children – even when it put her at risk in some way. This included, for example, prosecuting her husband for sexual abuse of the children, and shielding children from witnessing or experiencing paternal abuse.

The quality of mothering varied. In general though, and consistent with the theory in the literature, the mother was a consistent figure and not abusive towards the children. In just two of our cases the mother was allegedly abusive on occasion towards a particular child. These two children are now independent young adults and their safety should no longer be

an immediate concern on the release of the mother. We found no evidence of any of the mothers being generally violent or abusive towards the children. The mother did find mothering difficult in the chaos and conflict in the home. The mothering was thus not 'perfect', but in many cases certainly 'good enough'.

#### **Impact of Father's Death and Imprisonment of the mother**

The father's eventual death at the hands of the mother after her enduring years of abuse, was a major crisis and shock for all of the children. Sadly, most did not have access to full information about what happened, and some still do not. So the event was, for the children, unclear and intensely confusing. Misinformation is common, as relatives do not know how or chose not to tell the children. Because they do not have factual information the children construct their own stories of their father's whereabouts. This makes them vulnerable to learning potentially devastating news from friends and others. Because adults do not know how and what to tell children, the oldest children are often by default left with the job of briefing their siblings – an enormous responsibility for a child.

I haven't seen my father for a long time. [My sister] says he is dead but when I ask her why or how he died, she cries and won't tell me. (Boy - age 11)

She killed my father ... my sisters told me. I thought my father was alive. I thought he was working somewhere. It's a long time ago. (Girl - age 11)

#### **Change in lifestyle**

When we lived with my parents we had bicycles. Now we don't even have food and clothes. (Boy - age 11)

I would like to stay with my sister and my younger brother next year. We are not living very well here and we missed our mother and sister since we came here. They do not buy us food and clothes. They always eat the money they come with. They do not do anything with us. We are just dolls here. I miss my mother, father and sister. I wish we could stay with our sister so that the money that comes here, our sister can buy us food and clothes. (Boy - age 15)

All children living in the family home had an immediate change in lifestyle and accommodation after their mother went to prison. And then they often experienced further changes until a more long-term solution was set up. This meant that the children experienced huge physical changes. This included for most the loss of their home environment and neighbourhood, local friends, often their school, and a drop in living standards.

Thembi, whose story introduces our study, changed accommodation at least ten times in three years. She was abandoned and virtually became homeless. She had to fend for herself and her basic survival needs, forcing her to leave school with an incomplete education.

#### **Change in caregivers: paternal vs. maternal family care**

In our study, paternal relatives care for the majority of the children. This does not follow

the trend emerging from the literature on the care of children after a mother's imprisonment. This difference can be attributed to South Africa's patrilineal culture, where children are thought to belong to their father's family, and are seen as the paternal relatives' responsibility. This has definite implications for the children's standard of care.

**Table 8: Current caregivers as at 31/03/2001**

Gender	Paternal relative	Maternal relative	Independent
Male	4	1	1
Female	5	2	3
<b>Total</b>	<b>9</b>	<b>3</b>	<b>4</b>

Children cared for by maternal relatives received the best care by far. Paternal caregivers displayed very clear ambivalence, and at times outright hostility, towards the children.

Caregivers were mostly of the older generation (i.e. grandparents). Some were much younger e.g. one caregiver was only 21 years old when she began taking care of four children, the oldest of which was only 13 years old. The age of the caregiver has definite implications for the care of the children. They were at a time in their lives when they were not prepared to be parental figures for such young children, and so parent by default. They have neither the physical stamina nor the requisite skills to cope with traumatised children. In the case of very young caregivers, the boundaries between parent and friend was often blurred, resulting in ineffective and sometimes negligent parenting.

Being very old or very young also means that these caregivers are bound to be experiencing financial strain themselves. Fitting dependent children into their lifestyles is both an added physical and financial burden.

#### **Emotional care**

There is a huge range in emotional care, from good (found in maternal caregivers) to non-existent (in paternal caregivers). Those children staying with the paternal family are most likely to be emotionally neglected. They may have adequate food, shelter and educational provision. But they have almost no communication with the caregivers and certainly no emotional input or support from them.

#### **Presence of abuse**

The hostility (or at least the ambivalence) that the paternal family feels in caring for the children of the woman who killed their relative is played out in active physical and emotional abuse of some of the children. One of the caregivers acknowledged this abuse.

**Table 9. Children's experience of abuse after mother's imprisonment**

Type of abuse	Total
Physical	8
Sexual	0

Emotional	9
Neglect	8
Abandonment	1
Financial	8
No abuse	4

The thing I am most scared of is coming home from school because I know my uncle will beat me. (Boy - age 11)

### **Caregivers' misuse of children's funds/grants**

The children's financial care is a major issue as there is no breadwinner left in the immediate family. In all carer families there was a struggle to incorporate the children into the budget. However, there is also evidence of misuse and abuse of children's funds in paternal families. In one case the money received from the father's estate was never used to maintain the children. The children went without clothes, food and schooling. In another case, a paternal relative with an alcohol dependency squandered the money from the father's estate.

Children living with maternal relatives received good care but these relatives also experienced a great deal of ambivalence about their daughter/sister/relative's actions. Many feel guilty about not intervening in the abusive relationship and so possibly preventing the abusive husband's murder. All experienced adjustment difficulties in having to care for such young children especially children bringing with them a host of psychological and behavioural problems requiring, in some cases, intensive care and commitment to a counselling programme. Many caregivers were themselves of an older generation and so struggled to re-adjust to parenting very young children, although paternal relatives were less ready to acknowledge this.

### *Children's adjustment to their new caregiver/s*

He was being very naughty kicking the back door. So I told him that if he continued all his naughty mischief the police would catch him and put him in jail. He stopped immediately and asked if they could put him with his mother. (Maternal caregiver)

Children, being dependent, often had to make emotional and physical adjustments to the new caregiver. But there was very little accommodation from the caregiver's side, especially with paternal relatives. We found that maternal caregivers made significant changes in both their living arrangements and lifestyles to accommodate the children. One maternal caregiver noted:

In the beginning it was very tough because the children were afraid to sleep alone. My husband and I did not even share the same bedroom, because the children were afraid of any man. I would sleep in the middle of the bed, facing up with a child on either side of me, one arm each for one of them. (Maternal caregiver)

### **Change in roles and relationships**

There is evidence of major role changes experienced after the mothers' imprisonment, especially for the older girls. Some took over the care of their siblings and became parental figures.

In one case the oldest girl child was barely ten years old when she had to take over the major responsibility of running a household. At the same time her grandfather was actively abusing her. This child began to understand the impact of being abused, and her mother's actions.

My grandfather used to always beat me and call me names, like snake and witch and stuff like that. Especially when he was drunk. Wherever he came from he wanted food, and he said to me that when he came home he wanted to find food ready for him to eat. So when I come home from school I have to cook and do all the stuff and have to read my books. I even had a knife that I kept under my pillow and I used to think the next time he beats me I am going to kill him. I understood how my mother felt when she was being beaten. (Girl - age 16)

At least two of the older girls we interviewed had assumed adult roles and responsibilities earlier than the norm. They were both mothers before turning twenty years old. One was already married. This may also be the result of wanting and longing for emotional nurturing denied them for long.

### ***Ambivalent relationship with mother***

Many children are deeply angry with their mother, partly regarding her role in the death of the father (or father figure). But they are especially angry around their perception that mother abandoned them. At the same time, almost all truly wanted and needed their mother with them. This ambivalence remains unresolved while the mother is in prison, which is very destructive for their future relationship.

Some children have had no, or very limited, contact with their mother since her imprisonment. This makes it difficult to maintain their relationship, causing them to lose touch with the realities and happenings in one another's lives.

Most of the children see their mother as an idealised figure that can mend all their problems. This has serious implications for deep emotional disappointment for when their mother is finally released.

### ***Children's difficulty in forming relationships***

I don't know how long I will stay married as marriages never last. (Girl - age 19)

All the children have major issues around trust in relationships, both as a result of experiencing domestic violence and of being separated from their primary caregiver (mother) at such a tender age. As a result they have major difficulty in both forming and



sustaining relationships. This is true of relationships with current caregivers, peers and, in the older children, in relationships with the opposite sex. Those married or in a longer-term relationships acknowledged having difficulties related to trust and betrayal. They had little faith in marriages lasting. For them, issues of dependency, reliance, unconditional love and care all remain elusive and difficult to recreate in other relationships. Views on their own likelihood of marriage ranged from fantasy of a wonderful, caring husband to extreme negativity around marriage and relationships. Some said they never want to marry.

### *Impact of stigma on the children*

All the children experienced deep shame about the events in their lives. They did not all experience active stigma, but there was a universal perception that they will meet stigma 'out there'. Telling others, such as peers, about their circumstances poses a huge problem for all the children. So many have not disclosed to friends where their mothers are, opting instead for creating 'cover stories', such as their mother working away from home. In some cases their peers' negative comments about their mothers, was the direct cause of the children's aggression.

### *Relationship with siblings and caregiver*

All the children have an antagonistic, unhealthy relationship with their paternal relatives. These relatives displace the animosity they feel towards the mother onto the children. In at least two of the families, the oldest daughters were accused of assisting their mother to murder their father. This has damaged the relationship significantly. The accusations leave these children at the fringes of the paternal families.

An older girl child, now in the care of paternal relatives, who was accused of being complicit in her father's murder was told that she was not her father's biological daughter. They began actively abusing her. This has been intensely confusing for her, an adolescent trying to make sense of her identity. She is still unsure of her paternity, despite her mother's reassurance that she is the biological daughter of her father. As a result of this allegation she once ran away from home in an attempt to find her 'real' father.

Relationships between siblings are generally healthy, except where there is a pseudo-mothering relationship between two siblings, where it is unusually close. This was most evident in children who are taken care of by paternal relatives, where the oldest child has assumed a pseudo-parenting role. Some children have been separated as a result of their mother's imprisonment. In these cases the siblings long to recreate a family unit, similar to the one they had before.

## **Conclusions**

All children with a parent (s) in prison face particular challenges and difficulties. But there are unique features that make these particular children more vulnerable to the effects of their mother's imprisonment than in other cases where the parents are imprisoned:

- these children have lost both parents at once in traumatic circumstances, and their primary caregivers are in prison. Almost all the children have extreme issues of loss, fear of abandonment, and difficulty forming and maintaining relationships.

- the quality of these children's social supports, social networks and care are usually conditional on whether the paternal or maternal family cares for them. Paternal relatives provide care in a negative context, ranging from general ambivalence to active hostility towards the children. This can include:
  - Stopping the child from visiting the mother;
  - Contaminating the child's relationship with the mother through exhibiting a hostile and conflictual attitude towards her;
  - Active emotional, financial or physical abuse of the children.
- These children have major unresolved relationship issues with their mothers. In particular, they have not resolved the role of their mother in the death of their father. All of them are aware of the abuse their mother suffered. But on some level a few children believe imprisonment is just. At the same time they all feel her loss keenly and are hoping for her release.
- Some of these children have been accused by their paternal family of having been complicit in their father's murder. This is very distressing for the children. It also has serious negative implications for the level of care that they might receive;
- All these children have had to, and continue to, re-cast their own identities. They have to deal with and make sense of who they are in relation to their abusive fathers who then died violently. And they also have to deal with their mother's role in it, her subsequent imprisonment, and what this means for them. In some cases this process is made much harder by family forces which commonly either claim or disown the children's identity;
- When family ambivalence and conflict is present, children have a diminished likelihood of positive reconstitution and reconstruction of their family when the mother is released. This is exacerbated by:
  - external constraints, such as paternal family not wanting to have anything at all to do with child's mother;
  - the mother and children having, in the main, completely lost touch with the day to day reality of each other's lives. Most children have developed a distorted (usually idealised) version of their mother that is impossible for her to live up to;
  - the family's loss of their material possessions including their homes (sometimes to paternal relatives)
- These children face long-term insecurity and confusion because they have been given little information, or most often misinformation, about the context of losing their father and mother.
- On top of their previous life of trauma through living in a home characterised by domestic violence, these children are further traumatised by their mother's imprisonment.

- These children do not get the emotional space they need to resolve their trauma – trauma resulting from both from living in an abusive home environment (in some cases even after the imprisonment of their mother) and from being separated from their mother.
- These children are usually put in the care of the older generation, like grandparents, who are less able emotionally, physically, and financially to care for them properly.

### **Framework for our recommendations**

The law grants children a special legal status which should ensure them certain protections and rights. Children become adults at 21 years old under some laws, and at 18 years old according to international law and our Constitution. Our recommendations are made within the following international and South African legal and policy framework.

### **The International and Regional Framework for Children's Rights**

#### **The United Nations Convention on the Rights of the Child (CRC)**

South Africa ratified this convention on 16 June 1995. It sets standards and universal principles for the status of children. Upon ratification the state took upon itself an obligation to the international community to honour the spirit and letter of the rights of the child. All South African laws and administrative policies now have to conform to these norms. The CRC reaffirms that children need special care, including legal and other protections. It emphasises the family's role in caring for children, and respecting the cultural values of a child's community.

The convention outlines articles that serve to ensure children's survival, developmental, protection, and participation rights. Some of the articles are of special relevance to children who live in situations of domestic violence and are affected by maternal imprisonment as a result of spousal murder:

- Article 3: All actions concerning the child must take into account the best interest of the child.
- Article 9. The child has a right to live with his/her parents unless deemed to be incompatible with the child's best interest. The child also has the right to maintain contact with parents if separated from one or both.
- Article 19. The state has a duty to protect the child from all forms of maltreatment by parents or others responsible for the care of the child. And it has a duty to establish appropriate programmes for the prevention of abuse and treatment of victims [of abuse].
- Article 25. A child who is placed by the state for reasons of care, protection or treatment is entitled to have that placement evaluated regularly.
- Article 37. Torture, cruel treatment or punishment, and deprivation of liberty is prohibited by the CRC.
- Article 39. The state is obliged to ensure that children who have suffered neglect, torture, or maltreatment receive appropriate treatment for their physical and psychological recovery and social re-integration.

The convention places a responsibility on the state to consider the best interest of the child in all actions concerning the child. This may imply a duty to ensure that the impact on a child because of maternal imprisonment be fully appreciated before passing sentence. Further it places obligations on the state to develop policy and services which protect children from harm and to provide services for children who come from abusive homes. It also holds the state accountable for ensuring that when children are placed in the guardianship of other people other than the caregiver (when they lose a primary caregiver as a result of spousal murder), this placement is regularly evaluated to ensure that the children are being properly cared for.

#### **African Charter on the Rights and Welfare of the Child**

South Africa ratified this charter in January 2000. The charter embraces the same norms contained in the CRC. But it includes a more collective focus on rights. The Organisation of African Unity wrote it to better reflect African cultural concerns, and to address issues not covered in the CRC. For the charter to be enforced, 15 member states need to ratify it. By 2001, 19 OAU States ratified the Charter (Department of Foreign Affairs, 2001), which means the Charter now comes into force. By ratifying the Charter, South Africa "... undertook to faithfully observe and fulfil the stipulations contained therein" (Department of Foreign Affairs, 2001:2).

Article 30 specifically addresses the needs of children whose mothers are imprisoned, and protection of children from harmful social and cultural practices. It outlines that: States should undertake to provide special treatment to expectant mothers and mothers of infants and young children who have been accused, or found guilty of a criminal offence. In particular it should:

- ensure that a non-custodial sentence will always be first considered when sentencing mothers;
- establish and promote measures alternative to institutional confinement for the treatment of mothers;
- establish special alternative institutions for holding such mothers;
- ensure that a mother shall not be imprisoned with her child;
- see that the essential aim of the penitentiary system will be the reformation, the integration of the mother to the family, and social rehabilitation.

This Charter's strength is that it recognises that the judicial process affects men and women (and their dependants) differently. It takes into account the social realities of women who are the primary caregivers of children, and it acknowledges the detrimental effects on the child of the mother's imprisonment.

#### **The South African Legal and Policy Framework**

##### **Children's rights in the Constitution**

The South African Constitution provides protection for children. It requires that all matters concerning children be guided by what is in the child's best interests. Section 28 draws on international conventions and treaties on the protection of children. Some of them include children's right to:

- family care or parental care, or to appropriate alternative care when removed from the family environment;
- be protected from maltreatment, neglect, abuse or degradation;
- Have a legal practitioner assigned to the child by the state, at state expense in civil proceedings affecting the child, if substantial injustice would otherwise result.

These provisions provide the state with an opportunity to carefully consider whether or not to impose custodial sentences on mothers in circumstances where this would not be in the child's best interests. It also makes provision for children to have legal representation when deciding issues of custody and guardianship. Given the family alliances after the death of one parent at the hand of another, children's assets need protection. Their independent wishes need to be considered to prevent injustice and further abuse.

#### **The Child Care Act of 1983 and Child Care Amendment Act of 1996**

This act describes a child who has no parent or guardian, no visible support, or living in circumstances where they are abused or may suffer harm as "children in need of care". Chapter 8 of the Child Care Act details the State's responsibility in preventing the ill-treatment of children. It prescribes that:

- any person (parent, guardian or any other person who has custody of a child) who ill-treats a child or allows the child to be ill-treated, or abandons a child is guilty of an offence;
- a person who is legally responsible for maintaining a child, and is able to do so but fails to provide the child with adequate food, clothes and medical care is guilty of an offence;
- a person convicted of these offences is liable to a fine not exceeding R20 000, or imprisonment not exceeding five years, or both.

The Child Care Amendment Act of 1996 makes provision for the appointment of a legal representative for children, at the state's expense, in children's court proceedings. Prior to this, no mechanism existed for the appointment of a legal representation for children who were the subject of children's court inquiries, even when there was a clear conflict between children and caregivers which necessitated child advocacy (Nielsen and Van Heerden, 1998). The amendment is especially useful given the circumstances under which children find themselves after the imprisonment of their mother, whereby they are left vulnerable to further financial and other abuse by caregivers. It also asserts that the children's voices must be heard.

The act provides for special attention to be given to children in especially difficult circumstances. This includes children who experience violence. A further regulation of the Act calls for family reunification services. Permanency planning is also provided for. This means that the child should be given the opportunity to grow up in his/her own family. Where this is not possible, or not in the child's best interest, a time-limited plan should be instituted which works towards lifelong relationships in the family.

The act provides for the creation of a national child protection register, as well notification by dentists, teachers, doctors and social workers of the ill-treatment or deliberate injury of a child. As such, and to prevent further abuse, teachers and other care workers who come into

contact with children who experience active abuse from any relative are by law obliged to report it.

The White Paper for Social Welfare identifies children of divorcing parents as a vulnerable group. But what is worrying is that it does not give the same recognition to either children of imprisoned parents, or those who experience domestic violence.

#### **The Domestic Violence Act (1998)**

The Domestic Violence Act provides for children to obtain a protection order without the aid of an adult.

Children may obtain a protection order against physical abuse, sexual abuse, emotional, verbal and psychological abuse, economic abuse, intimidation and threats, harassment, stalking, damaging of property, or any other controlling or abusive behaviour towards the child where such conduct harms or may cause imminent harm to the child's safety or well-being (Domestic Violence Act, 1998).

It should be noted that even for adult women, obtaining a protection order is complicated and mediated by such factors as literacy, geographic location, language and financial status (see Parenzee et. al 2001). For children this may be an even more difficult process.

#### **The White Paper for Social Welfare**

The state's approach is to promote family life, survival, protection and development of children within a developmental welfare approach. This white paper identifies children who experience abuse and neglect as a constituency in need of welfare intervention.

It does not draw specific links between the interrelationship of domestic violence and child abuse. So there is no specific clause or approach for intervening on behalf of children who witness domestic violence or experience it directly. Families in need of immediate and special support are thought to be those where children have disabilities, the elderly or those who have chronic illnesses. There is no specific reference made to provide assistance to families where children experience domestic violence.

The section on women delineates violence against women as an area for welfare intervention. The guidelines for the strategy neglect the inter-relationship between the welfare needs of women and their children. As in the section that deals with violence and abuse of children, services isolated are trauma management for women survivors of domestic violence, to the exclusion of child witnesses and victims. Thus in both the specific sections on children and women the needs of child witness and survivors of domestic violence are neglected – and so omitted.

The policy provision for dealing with crime prevention and restorative justice include providing services to the families of prisoners, as well as those awaiting trial. Specific policy provision is aimed at preserving family life through facilitating contact between prisoners and their families, and facilitating meeting the social needs of the prisoner's family. These guidelines also advocate for imprisonment as a last resort, with community

sentences to be considered as a first option. None of these guidelines are currently being implemented. The strength of these guidelines is in the commitment to maintaining family relationships for the duration of a mother's imprisonment, and providing social assistance to the prisoner's family. Should this provision be adopted in a protocol for children who are affected by maternal imprisonment, it would circumvent the visiting difficulties faced by children who are taken care of by embittered relatives.

#### **National Programme of Action for Children and the Children's Charter of South Africa**

The National Programme of Action (NPA) framework for South Africa was launched by the State in May 1996. It is a policy framework that is conceptualized as the instrument through which the State's commitment to children, as identified in the convention on the Rights of the Child, and the Constitution of South Africa is given life. The NPA is centrally co-ordinated from the Office of the President. The vision of the NPA is to 'Put Children First' and to advance the best interest of the child in all matters affecting them (National Programme of Action Steering Committee, 2000). There are seven priority policy areas contained within the NPA: infrastructure, special protection measures (including children in difficult circumstances and those affected by violence), education, child and maternal health, nutrition, leisure and recreation and peace and non- violence.

Essentially the NPA framework seeks to mainstream and integrate children's issues into all government departments. Mainstreaming implies that each government department incorporates issues concerning children into their work and this should be reflected by a corresponding budgetary commitment. This approach requires the various government departments to work in an integrated and holistic manner in all matters affecting children. One of the general challenges has been the absence of the NPA in contributing to and reviewing government White Papers, or other policies. This is an area that the NPA has to become actively involved in, to ensure that issues affecting children are taken into account when developing policy. The NPA's vision of putting children first has many implications. One of these is the Department of Justice should always consider the impact on children before imposing prison sentences on women who have killed abusive partners. It also strengthens the recommendation for the development of an inter- sectoral protocol to provide services to children affected by spousal murder, as this is the essence of the approach of the NPA.

The Children's Charter, although not legally binding, was adopted in June 1992. Children, at the International Summit on The Rights of Children in South Africa, drew up this Charter. Article 6 of the Charter, specifies that children need to be protected from domestic violence and where children are abandoned or orphaned because of such violence need to be placed in a safe and secure 'family'. The NPA recommends that children need to be active participants in the development of the NPA process. The needs of children affected by domestic violence as identified in the Children's Charter should thus be given expression in national policy development as one way of demonstrating commitment to the participation of children in the NPA process. The needs of children affected by domestic violence as identified in the Children's Charter should thus be given expression in national policy development as one way of demonstrating commitment to the participation of children in the NPA process.

## Recommendations

### **Recommendation 1: Consider non-custodial sentences, like correctional supervision, as a first option for abused women who kill their partners.**

We are not recommending that women should not be punished for crimes they commit. But long-term imprisonment of the women, especially in the context of having endured domestic violence, is patently not in the children's best interests. The stipulations of the African Charter on the Rights and Welfare of the Child should be honoured, ensuring a more creative balance between imprisonment and correctional supervision. The women we are referring to are not habitual criminals; they are not a danger to society. Their long-term incarceration does not serve society, when we take into consideration the serious emotional and environmental problems it causes their children.

The Howard League (1991) contends that the state is obliged, in terms of the United Nations Convention on the Rights of the Child (CRC), to protect children from *all forms of discrimination or punishment 'on the basis of the status, activities, expressed opinions or beliefs of the child's parents, legal guardians, or family members'*.

This means that the state must take steps to ensure that children of imprisoned parents do not consequently suffer punishment: material, emotional, or psychological. The Howard League (1991) argues that the mother's imprisonment is usually not in the child's best interest. It therefore contravenes Article 9 of the CRC, which states that children have the right to live with their parents, unless it is deemed not to be in the child's best interest.

Seeking to provide alternatives to imprisonment, the sentence of correctional supervision was introduced in South Africa in 1992. Correctional supervision is a community-based sentence which can be given for any crime, even for serious offences such as murder ([Disse, 1997](#)). Given this sentence, women could either be released immediately to serve their sentence in the community, or serve an initial period of imprisonment and the remainder of their sentence as correctional supervision. Correctional supervision allows for rehabilitation within the community, and so it preserves the vital links between the woman and her family. We suggest that a social worker's report on the possible impact on children of a mothers' imprisonment be a requirement and consideration for the passing of sentences.

If imprisonment is necessary, we recommend the effect on the family be considered when deciding where women are held. Sending a woman to a prison far from her home and children makes it far more difficult to maintain family relationships.

### **Recommendation 2: The Department of Correctional Services and Department of Social Development must make adequate visitation arrangements for children of imprisoned mothers.**

The Correctional Services Act 111 of 1998 and the White Paper on Social Development (1997) identifies responsibility for maintaining contact between a sentenced prisoner (and those awaiting trial) and their community and family. The White Paper on Social Development makes a commitment to facilitating this. We suggest the following.

- children need more time with their mothers to maintain a realistic and meaningful



relationship. Mothers serving long-term prison sentences must have increased and extended visitation rights so they can spend quality time with their families. One hour a week is not enough to maintain a proper relationship with even one child, let alone more than one and their caregiver;

- the Department of Social Development, in conjunction with the Department of Correctional Services, should ensure that children from families with limited financial means, or from families reluctant to encourage visits, are not prevented from visiting their mothers and facilitate such visits;
- the visiting environment in prison should be more conducive for mothers to develop and maintain their maternal relationship with their child. This could, for example, mean providing a basic play centre for mothers and children. This will help foster a positive parent/child relationship. It will offer mothers, their children, and the caregivers more privacy to discuss important matters and also minimise the negative environmental impact on the children.

**Recommendation 3: Provide family reconstruction services.**

Long-term imprisonment damages the mother and child relationship. When women do leave prison, they cannot simply pick up where they left off. When women are released from prison they face a multitude of difficult issues to deal with such as poor financial circumstances, no housing, and the stress of re-adjustment (Woodrow, 1996). Children too experience a range of problems both emotionally and psychologically. Mother and child may also have lost touch with the realities of each other's lives. The women will need assistance in parenting again after missing out on their children's development stages. Family reconstruction services should be provided, perhaps by the Department of Social Development, to ensure a smoother transition in rebuilding a family unit.

**Recommendation 4: Develop policy.**

The legal and policy framework on children's rights needs to make explicit links between the abuse of a woman and her children within the context of domestic violence, and spousal killing as a result of the abuse. These links need to be expressed through developing policy and guidelines for providing services to these children.

**A. National Policy**

While children of divorcing parents are seen as a vulnerable group within the White Paper on Social Welfare, equal attention is not given to children who live in homes where they are both direct and indirect victims of domestic violence. Arguably, being exposed to direct abuse and/or witnessing parental violence has more severe and longer term effects than divorce.

Children who are affected by spousal murder should be classified as children in especially difficult circumstances. This will afford these children the care, protection, and services previously not received. Where children have lost both parents/caregivers on the imprisonment of a mother, the type of care these children subsequently receive must be closely monitored.

The Department of Social Development should monitor whether the children are neglected or being physically or emotionally abused. The Department of Social Development should also assist children and their caregivers in meeting their social needs, as identified in the White Paper on Social Welfare. Social workers need to actively use the issue of permanency planning – whereby the children have an opportunity to grow up in their own family– as this will resolve children's living arrangements and caregivers in the event of long-term imprisonment.

Financial mismanagement of the children's assets, including inheritance of property or money needs to be stymied. The Child Care Act could be applied creatively through appointing a legal representative to ensure that the child's best interests are kept foremost in all respects when guardianship is decided. The child's wishes may also be taken into consideration under the rubric of this act.

**B: Develop an inter-sectoral protocol to provide services to children affected by spousal murder.**

To meet the needs of children affected by spousal murder, a protocol for the Departments Safety and Security and Social Development should be developed. Hendriks et al (1993) suggests a useful framework for workers who deal with domestic violence:

- protect children, especially young ones, from frightening, distressing sights and sounds that will affect them, like police sirens, and witnessing the arrest of a parent;
- keep all children, especially those under five years, with familiar caretakers wherever possible. This could be a familiar family member, neighbour or family friend. Siblings should be kept together to minimise the trauma of loss;
- where a familiar caretaker is not available, the state should appoint a caretaker/social worker to the children. This person needs to be able to keep the child informed of developments, and be able to answer any of their questions;
- screen all children involved, including those not present at the time but affected by the death and imprisonment, for psychological problems immediately, and over the next two to three months. Make arrangements for appropriate help for the children;
- offer group or individual debriefing for children as soon as possible and offer bereavement counselling for those who require it;
- offer the children group counseling;

In addition to these tasks, social workers need to actively assist children and their new caregivers during the initial aftermath of the death of a parent and imprisonment of the mother. This needs to be done through the medium and long-term. Here are some suggested steps:

- assistance with the immediate physical security needs and accommodation of the child/children should be given. Social workers can also assist caregivers to provide children with age-appropriate factual information which will minimise long-term difficulties;
- in the medium term, where mothers are arrested and standing trial, the children and caregivers need support in dealing with the upheavals in their lives, and be prepared for the possibility of a prison sentence. They also play a vital role in minimising the negative psychological/emotional, behavioural and physical impact upon children;
- where a mother is sentenced to a prison term, the appointment of new guardians

should be done quickly, ensuring the child's best interest is always considered. Where children are old enough, their wishes about who takes care of them must be respected and taken into account as far as possible. Social workers need to assist caregivers (especially those of the older- and younger generation, who are not equipped to care for traumatised children) with the period of adjustment. They need to assist caregivers to understand and cope with anticipated psychological and behavioural physical impact of a mother's imprisonment, and so better cater for children's needs. Social workers could also assist children to adjust if placed in new schools, and help teachers understand the child's situation;

- the children need to be monitored at intervals to ensure they are not exposed to further abuse. Social workers need to be available to help families cope with the evolving pattern of the children's needs in relation to a mother's long-term imprisonment.

### **C: Train personnel who come into contact with children affected by spousal murder.**

Many state employees come into contact with children who are affected by their parent's imprisonment, and who experience abuse in the home. We have spoken extensively of social workers' role. However, we must also consider teachers, police and, to a lesser extent, magistrates, as having a fundamental role to play in ensuring the welfare of these children.

These children are likely to display their trauma through being disruptive, aggressive, and/or unable to concentrate in class. Teachers are bound to be at the receiving end of this. They are instrumental in detecting possible signs of a child in distress because of abuse, or because of emotional stress related to their mother's imprisonment. **Teachers** should be given information about, and trained to deal compassionately and effectively with the impact the imprisonment of a parent, as well as the effects of abuse or witnessing domestic violence has on a learner. The Child Care Amendment Act of 1996 says teachers have a duty to report any suspected abuse of children. The Department of Education needs to make teachers aware of this obligation, and provide support and guidelines for teachers. This will be an important way of detecting and intervening earlier in domestic violence.

**Police** should understand what impact their presence can have on children who have experienced multiple trauma such as the death of a parent, and the subsequent arrest of another. Where possible police should ensure that a parent is arrested under child- friendly conditions. Children should not have to witness the arrest of a parent as it leaves them deeply scarred. Police should therefore be as unobtrusive as possible, without flashing lights, sirens, and handcuffs. This will spare children some anxiety and panic. If an arrest is imminent, the police should liaise with the Department of Social Development to have a social worker present. Where the arrest will leave children without a caregiver, they need to be appropriately assisted and looked after immediately.

Magistrates should be alerted to the possibility of children's interests being compromised by conflicting family alliances. Where children's guardianship is being decided the court should consider appointing children with legal representation to ensure that their interests are safeguarded, and their wishes taken into account.

### **Recommendation 5: Research.**

Further investigation into the links between violence against women in the home and child abuse is essential in order to guide policy and service provision. Specifically, the impact of spousal murder on children in South Africa requires attention.

#### **Notes:**

<sup>1</sup> All the names in this true story have been changed.

<sup>2</sup> This work involves an advocacy campaign for the women, called the Justice for Women Campaign. The campaign seeks to bring the unique circumstances of these women to the attention of both government and civil society to ensure that the conviction and sentencing of women who kill their abusive partners is responsive to their very particular circumstances.

<sup>3</sup> Both Kelly (1997) and Morley and Mullender (1997) assert strongly that the merits of the cycle of violence theory (or the intergenerational transmission of violence hypothesis) have been seriously overstated in the literature. The theory needs extensive further research, and it is unlikely that we will ever confidently be able to say that children who witness violence will definitely become violent themselves once backed up by reliable research findings.

<sup>4</sup> It must be noted that Hendriks et al (1993) do have some misgivings about the ability of any parent who has killed their partner from then being able to provide adequate emotional care to children in the long-term (see page 101).

<sup>5</sup> As at 31 March 2001. This figure comprises 2 719 sentenced prisoners and 1 067 unsentenced prisoners. Excluded from this number are 484 female juvenile prisoners, with 233 sentenced and 251 unsentenced prisoners respectively.

<sup>6</sup> The Howard League for Penal Reform is a non-governmental organisation in Britain. The League lobbies for changes in the penal system with specific reference to prisoners, especially women and prisoners of colour. One of the League's key achievements, together with Save the Children Fund, was facilitating a regular whole-day visit in a child friendly environment for children whose mothers were imprisoned in Holloway Prison. Many prisons in Britain then took up this initiative.

<sup>7</sup> Personal communication, Mr Groenewald, head of social work department at the Johannesburg Central Prison, 29/10/2001.

<sup>8</sup> In all cases in our study the 'mother' is the biological mother of the children, and is the woman who has been imprisoned for killing her partner. 'Father' is used to denote the man who was abusive and who was killed by the women. In most cases it also refers to the children's biological father. Please note that the 'father' is not the biological parent of four of the children.

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Domestic Violence Act, 116 of 1998

Domestic Violence Act, 116 of 1998